

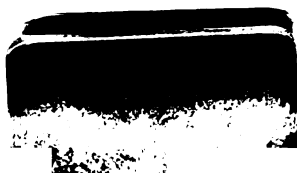








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THE  
PUBLIC GENERAL ACTS  
AND CHURCH ASSEMBLY MEASURES  
1964

*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

LONDON  
HER MAJESTY'S STATIONERY OFFICE  
1965

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**The Public General Acts  
and Church Assembly Measures  
which received the Royal Assent in 1964  
in which year ended the TWELFTH  
and began the THIRTEENTH YEAR  
of the Reign of HER MAJESTY  
QUEEN ELIZABETH THE SECOND  
and  
ended the Fifth Session of the Forty-second Parliament  
and began the First Session  
of the Forty-third Parliament of the  
United Kingdom of Great Britain  
and Northern Ireland**



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which received the Royal Assent during the year 1964*

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- No. 2. Incumbents and Churchwardens (Trusts) Measure 1964.
- No. 3. Churchwardens (Appointment and Resignation) Measure 1964.
- No. 4. Holy Table Measure 1964.
- No. 5. Faculty Jurisdiction Measure 1964.
- No. 6. Clergy (Ordination and Miscellaneous Provisions) Measure 1964.
- No. 7. Vestures of Ministers Measure 1964.
- No. 8. Church Commissioners Measure.

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## THE PUBLIC GENERAL ACTS OF 1964

# Consolidated Fund Act 1964

### 1964 CHAPTER 1

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on 31st March 1964.  
[6th February 1964]

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 1964 the sum of £40,084,000.

Issue of £40,084,000 out of the Consolidated Fund for the year ending 31st March 1964.

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 £40,084,000.

Power for the Treasury to borrow.

A

40 & 41 Vict.  
c. 2.

(2) The date of payment of any Treasury Bills issued under this section shall be a date not later than 31st March 1964, and section 6 of the Treasury Bills Act 1877 (which relates to the renewal of bills) shall not apply with respect to those bills.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with 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 1964.





# Air Corporations Act 1964

## 1964 CHAPTER 2

An Act to extend the powers of the British Overseas Airways Corporation and the British European Airways Corporation to borrow from the Minister of Aviation sums required by them for financing any accumulated deficits of theirs on revenue account.

[6th February 1964]

**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. Subsection (3) of section 8 of the Air Corporations Act 1949 as amended by subsequent enactments (which subsection empowers the British Overseas Airways Corporation and the British European Airways Corporation, subject to the limits imposed by section 12 of that Act as so amended, to borrow respectively from the Minister of Aviation sums required by them for financing any accumulated deficit of theirs on revenue account which has accrued at any time not later than the end of March 1964, but only to the extent to which the deficit does not exceed one hundred million pounds in the case of the former Corporation and ten million pounds in the case of the latter, and also to borrow from that Minister sums required for repaying any money borrowed under that subsection) shall have effect with the substitution, for the reference to the end of March 1964, of a reference to the end of March 1966 and, for the reference to one hundred million pounds, of a reference to one hundred and twenty-five million pounds.

Extension of power of British Overseas, and British European, Airways Corporations to borrow for financing accumulated deficits on revenue account.

12, 13 & 14  
Geo. 6. c. 91.

2.—(1) This Act may be cited as the Air Corporations Act 1964.

(2) This Act and the Air Corporations Acts 1949 to 1962 may be cited together as the Air Corporations Acts 1949 to 1964.

Short title and citation.



# Post Office (Borrowing Powers) Act 1964

## 1964 CHAPTER 3

An Act to increase the limits imposed by section 10(2) of the Post Office Act 1961. [6th February 1964]

**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:—

Extension of borrowing powers.

1. In section 10(2) of the Post Office Act 1961 (under which the power of the Postmaster General to borrow by way of Exchequer advances is limited by reference to the aggregate of certain amounts outstanding) for the words "eight hundred and eighty million pounds or such greater sum, not exceeding nine hundred and sixty million pounds" there shall be substituted the words "£1,120 million or such greater sum, not exceeding £1,320 million".

Short title.

2. This Act may be cited as the Post Office (Borrowing Powers) Act 1964.



# Trustee Savings Banks Act 1964

## 1964 CHAPTER 4

An Act to make provision concerning the undertaking by a trustee savings bank of a service comprising the operation of current accounts for depositors of money with the bank, and for matters connected therewith.

[27th February 1964]

**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 provisions of the Trustee Savings Banks Act 1954 (hereafter in this Act referred to as “the principal Act”) shall not be construed as preventing a trustee savings bank from having the benefit of that Act by reason only of the acceptance by the bank of ordinary deposits, as defined by that Act, of money to be placed in the books of the bank to the credit of an account (in this Act referred to as a “current account”) opened on the terms that—

- (a) the money is to be available for payment of any cheque drawn on, or against any other written order given to, the bank by the person in whose name the account stands; and
- (b) no interest shall be paid by the bank on money standing to the credit of the account.

(2) The matters for which, under section 2 of the principal Act, the rules of a trustee savings bank must expressly provide shall, in the case of a bank by which a service consisting of the operation of current accounts for depositors of money with the bank is provided, include the matters set out in Schedule 1 to this Act.

## (3) Hereafter in this Act—

“current account deposit” means an ordinary deposit, as defined by the principal Act, accepted by a trustee savings bank as mentioned in subsection (1) above;

“savings account deposit” means an ordinary deposit as so defined, not being a current account deposit.

“current account service” means such a service as is mentioned in the last foregoing subsection.

Conditions of opening and maintaining current accounts.

2.—(1) A current account shall not be opened in the books of a trustee savings bank in the name of a person except upon a written application by him, and no such application shall be granted unless—

(a) it appears to the bank, after undertaking such inquiries as appear to the bank to be necessary, that the applicant is a suitable person to operate a current account; and

(b) the applicant has, immediately before the application is granted, a savings account deposit with the bank of not less than such amount as the rules of the bank may provide, or has had, throughout a period ending with the granting of the application and of not less than such length as the said rules may provide, a savings account deposit with the bank.

(2) An application for the opening of a current account in the books of a trustee savings bank must contain a declaration by the applicant that he will not operate the account either wholly or partly as a trade or business account.

(3) A trustee savings bank shall have the right at any time, after giving reasonable notice of its intention so to do, to close any current account standing in the books of the bank; and, if at any time the person in whose name a current account stands in the books of a trustee savings bank operates that account either wholly or partly as a trade or business account, or ceases to have a savings account deposit at the bank, no sums shall after that time be debited by the bank to the current account except in pursuance of instructions to the bank the giving of which appears to the bank to have been initiated before that time, and the bank shall, after giving reasonable notice of its intention so to do, close the current account.

(4) The rules of a bank made for the purposes of paragraph (b) of subsection (1) of this section may provide for different amounts and periods of different lengths for different classes of person.

Operation of current accounts.

3.—(1) No sum shall, in pursuance of instructions in that behalf, be debited to the current account of a person at a trustee savings bank, if, on the date on which the instructions are given, the amount of the sum is not ascertained.

(2) No sum shall, in pursuance of instructions in that behalf, be debited to the account of the savings account deposits of a person or the special investments of a person and credited to the current account of that or any other person at the bank, if, on the date on which the instructions are given, the amount of the sum is not ascertained.

(3) No sum, other than a sum due to the bank in respect of a charge duly imposed by virtue of a charges scheme made by the bank under the following provisions of this Act, shall be debited to the current account of a person at a trustee savings bank at any time unless there then stands to the credit of that account an amount not less than that sum.

(4) Section 53(2) of the Bills of Exchange Act 1882 (which provides that in Scotland presentment of a bill of exchange operates as an assignment in favour of the holder of the bill of funds held by the drawee) shall not have effect in relation to funds being savings account deposits or special investments of a person at a trustee savings bank.

4.—(1) A trustee savings bank shall not provide a current account service unless there is for the time being in force a scheme (hereafter in this Act referred to as a “charges scheme”) made by the bank and approved by the Commissioners for the purpose of securing contributions towards the expenses incurred by the bank in providing that service which are defrayable under this Act.

Charges schemes for contributing to defrayal of expenses of current account service.

(2) A trustee savings bank may, by virtue of a charges scheme, impose on persons in whose names current accounts stand in its books charges of such amounts and in respect of such matters as may be specified in the scheme, including, without prejudice to the generality of the provisions of this subsection,—

- (a) the issue of cheque forms;
- (b) the use of any instrument requiring the bank to pay sums from moneys standing to the credit of a current account;
- (c) the carrying out of any transaction made in compliance with an instrument requiring the bank to debit to a current account sums of specified amounts at different times;
- (d) the maintenance of a current account.

(3) A charges scheme may be varied or revoked by a subsequent scheme made by the bank and approved by the Commissioners.

(4) Before approving a charges scheme made by a bank, the Commissioners must be satisfied that it is reasonable to expect that the aggregate of the following amounts that is to say—

- (a) the amounts received by the bank in respect of charges imposed by virtue of the scheme;
- (b) the amount of the interest credited to the account of the bank in the books of the Commissioners under section 3

of the Trustee Savings Banks Act 1958 (hereafter in this Act referred to as "the Act of 1958") in respect of moneys paid into the Fund for the Banks for Savings (hereafter in this Act referred to as "the Fund") and representing current account deposits; and

- (c) the amount of any other sums paid or credited to the bank so far as, in the opinion of the Commissioners, they represent produce of such deposits;

will be not less than sufficient to meet the expenses mentioned in subsection (1) of this section, taking one year with another.

(5) Approval under this section of a charges scheme may be given subject to such limitations or conditions as the Commissioners think fit.

(6) If a trustee savings bank by which a current account service is provided ceases to provide that service, any sums which, after payment in accordance with the provisions of this Act of the expenses incurred by the bank in providing that service, stand in the books of the bank and represent amounts received by the bank in respect of charges imposed by virtue of a charges scheme made by the bank shall be deemed to be moneys forming part of the assets of the bank in respect of ordinary deposits.

Power of Commissioners to require variation of charges scheme or cesser of current account service.

5. If, at any time, in the case of a trustee savings bank which provides a current account service, the aggregate of the amounts mentioned in section 4(4) of this Act is not sufficient to meet the expenses mentioned in section 4(1) of this Act, and it appears to the Commissioners that the aggregate of those amounts will not be sufficient to defray those expenses, taking one year with another, the Commissioners—

- (a) unless it appears to them that the charges scheme for the time being in force cannot be so varied as to satisfy them that it will be reasonable to expect that the aggregate of those amounts will be so sufficient taking one year with another, may direct the bank to vary, within such period as may be specified in the direction, that charges scheme so as so to satisfy them; or
- (b) if it so appears to them, may direct the bank to cease, within such period as may be specified in the direction, to provide a current account service.

Defrayal of expenses of, or ancillary to, current account service.

6.—(1) The expenses incurred by a trustee savings bank during each year ending with the 20th November in providing a current account service, being expenses which in the opinion of the Commissioners are properly so incurred, shall be defrayed,—

- (a) if those expenses are less than the amounts obtained by way of charges imposed by virtue of a charges scheme made by the bank and not expended by them under this section, out of those amounts; and

(b) in any other case, to the extent of those amounts, by means thereof, and, to the extent, if any, by which those amounts are insufficient to defray those expenses, as part of the necessary expenses of the bank within the meaning of section 1 of the principal Act.

(2) For the purposes of this Act, there shall be included among the expenses incurred by a bank in providing a current account service—

- (a) so much of any expenses incurred by the bank which are attributable both to the provision of that service and to other matters as is, in the opinion of the Commissioners, attributable to that service; and
- (b) any expenses incurred by the bank which, in the opinion of the Commissioners, are calculated to further the effectiveness of that service.

7.—(1) Sums of money representing current account deposits which, by virtue of section 25 of the principal Act, the trustees of a trustee savings bank are required to invest under section 26 of that Act, shall be paid into the Fund separately from any other sums so paid for the bank; and the declaration required by the said section 26 to be produced by persons applying to make a payment for a bank into the Fund shall, where the money represents current account deposits, contain a statement of that fact.

Investment  
of current  
account  
deposits.

(2) The Commissioners shall keep a separate account of sums of money representing current account deposits paid for a bank into the Fund as mentioned in the foregoing subsection.

(3) The power of the Treasury to make an order under section 27(2) of the principal Act fixing the rate of interest carried by a receipt for a payment into the Fund shall include power to fix a rate for a receipt in respect of a payment of a sum of money representing current account deposits different from, but not greater than, that for the time being fixed by such an order for a receipt in respect of a payment of money representing savings account deposits.

(4) In that part of section 1(2) of the Act of 1958 which provides that the rate fixed under section 27(2) of the principal Act shall not apply to banks qualified to participate but not participating in such a scheme as is therein described for mutual assistance between trustee savings banks in the United Kingdom the reference to the rate so fixed shall be construed as a reference to any rate so fixed under the said section 27(2), whether as originally enacted or as extended by the foregoing subsection; and in the case of any such bank as is first mentioned in this subsection the rate of interest to be carried by a receipt for sums of money placed to the credit of the separate account mentioned in subsection (2) above shall, instead of being that directed under the said section 1(2), be such

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rate, not exceeding the rate having effect in relation to any such receipt under the said section 27(2) as originally enacted or as so extended as aforesaid, as the Treasury may from time to time direct, having regard in particular to the expenses of the provision by that bank of a current account service.

(5) The fixing of a rate of interest by virtue of either of the two last foregoing subsections shall not be taken to affect—

- (a) the rate at which interest is to be credited to the Mutual Assistance Account under section 53(2) of the principal Act (which requires such interest to be the like interest as that carried by the account of a trustee savings bank in the books of the Commissioners); or
- (b) the terms on which assets of a superannuation reserve are to be invested with the Commissioners in pursuance of section 68(3) of the principal Act (which requires such assets to be invested on the same terms as assets invested under section 26 of the principal Act); or
- (c) the rate at which interest is to be paid by the Commissioners to the account of the Minister of Transport on moneys representing deposits in seamen's savings banks under section 149(2) of the Merchant Shipping Act 1894 (which requires interest to be paid at the same rate as on the money received from trustee savings banks).

**Enforcement.**

8.—(1) Section 49 of the principal Act (which provides for the appointment by the Inspection Committee of persons to examine, ascertain and report, with respect to each trustee savings bank, whether the bank has complied with the requirements of the principal Act and as to other matters, and confers on the Commissioners powers therein mentioned in the event of a default by a trustee savings bank in complying with any of those requirements) shall have effect in relation to the requirements of this Act as it has effect in relation to the requirements of the principal Act, but with the modification that the power conferred by subsection (3) thereof to close the account of a bank shall, in the case of default in complying with a requirement of this Act, be limited to the closing of the separate account of the bank of moneys representing current account deposits mentioned in subsection (2) of the last foregoing section.

(2) If—

- (a) a trustee savings bank fails to comply with a direction given under section 5 of this Act; or
- (b) the Inspection Committee report to the Commissioners under section 49(2) of the principal Act that a trustee savings bank has failed to remedy a default in complying with a requirement of this Act;

the Commissioners may close the separate account of the bank of moneys representing current account deposits mentioned in



subsection (2) of the last foregoing section and may direct that no further sums of money representing current account deposits shall be accepted at the Bank of England or the Bank of Ireland from the trustees of that bank to the Commissioners' account until such time as the Commissioners think fit.

(3) The last foregoing subsection, in so far as it relates to the matters mentioned in paragraph (b) thereof, shall have effect in substitution for section 70(1) of the principal Act; and section 70(2) of the principal Act (which authorises the Commissioners, in the circumstances therein mentioned, to reopen an account which has been closed under that section) shall have effect where an account is closed under the last foregoing subsection as it has effect where an account is closed under the said section 70(1).

(4) The powers of closing the account of a trustee savings bank conferred by the said section 49, as it has effect in relation to the requirements of the principal Act, and by the said section 70(1), shall be construed as extending to the closing of the separate account of a bank of moneys representing current account deposits mentioned in subsection (2) of the last foregoing section.

9. The principal Act and the Act of 1958 shall have effect subject to the modifications specified in Schedule 2 to this Act, being minor modifications necessitated by, or consequential on, the foregoing provisions of this Act. Minor modifications of principal Act and Act of 1958.

10.—(1) There shall be paid into the Exchequer any increase attributable to this Act in the sums so payable under section 36 of the principal Act. Increase in amounts payable to Exchequer

(2) 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 the said section 36. and amounts charged on Consolidated Fund.

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

“ Act of 1958 ” means the Trustee Savings Banks Act 1958;

“ charges scheme ” has the meaning assigned to it by section 4(1) of this Act;

“ current account ” has the meaning assigned to it by section 1(1) of this Act;

“ current account deposit ” has the meaning assigned to it by section 1(3) of this Act;

“ current account service ” has the meaning assigned to it by the said section 1(3);

“ the Fund ” means the Fund for the Banks for Savings;

“ principal Act ” means the Trustee Savings Banks Act 1954;

“ savings account deposit ” has the meaning assigned to it by the said section 1(3).

(2) Expressions used in this Act and in the principal Act have the same meanings in this Act as in that Act.

**Savings.**

**12.** Nothing in the foregoing provisions of this Act shall affect the operation of—

(a) any enactment whereby a power is conferred on any person to invest in ordinary deposits in a trustee savings bank; or

(b) section 9(3) of the Finance Act 1956 (which provides for the extension to deposits with a savings bank maintained under a local Act of the relief given to an individual by that section from income tax on ordinary deposits with a trustee savings bank in a case where the Treasury are satisfied that the deposits with the savings bank so maintained correspond with ordinary deposits in a trustee savings bank);

and accordingly in any such enactment and in the said section 9(3) any reference to an ordinary deposit in a trustee savings bank shall be construed as a reference to a savings account deposit in such a bank.

**Short title,  
citation  
and extent.**

**13.—**(1) This Act may be cited as the Trustee Savings Banks Act 1964, and this Act and the Trustee Savings Banks Acts 1954 to 1958 may be cited together as the Trustee Savings Banks Acts 1954 to 1964.

(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.

## SCHEDULES

### SCHEDULE 1

#### MATTERS TO BE COVERED BY THE RULES OF A BANK PROVIDING A CURRENT ACCOUNT SERVICE

The rules of a trustee savings bank which provides a current account service must expressly provide for the following matters.

1. That, except for such salaries and allowances or other expenses or such part thereof as may, according to the rules of the bank and the provisions of this and the principal Act be defrayed therefrom, neither the treasurer, trustees, managers or other persons having direction of the management of the bank shall, directly or indirectly, have any salary, allowance, profit or benefit whatsoever from any current account deposits or their produce or any amounts obtained under any charges scheme.

2. That a current account of a person shall be kept in the books of the bank separately from the account of the savings account deposits, or the special investments, of that person.

3. That, as soon as possible after the end of each accounting period in relation to a current account, that is to say the period beginning with the opening of the account and ending with such day falling not later than six months later as the bank may determine, and any subsequent period of not more than six months from the end of the previous accounting period, which the bank may determine, the bank shall cause to be delivered to the person in whose name the account stands a statement of each sum credited and debited to that account during that period and of the balance on the account at the end of that period.

### SCHEDULE 2

#### MINOR MODIFICATIONS OF PRINCIPAL ACT AND ACT OF 1958

1. Section 1(3)(c) of the principal Act shall not be construed as requiring a trustee savings bank to return the produce of current account deposits to depositors.

2. In section 12(1) of the principal Act the reference to the amount received by way of ordinary deposit shall be construed as a reference to the amount received by way of savings account deposit; but the Treasury may by order limit the amount which may be received by a trustee savings bank from any person by way of current account deposit in any one year, or the amount which at any time may stand in its books to the credit of the current account of a person, and subsections (2) and (3) of section 12 of the principal Act shall have effect in relation to an order under this paragraph as they have effect in relation to an order under that section.

3. Regulations made under section 21(1) of the principal Act may require different declarations from a depositor on opening an account in respect of savings account deposits and on opening a current account.

## SCH. 2

4. Section 21(4)(d) of the principal Act and section 22 thereof shall not have effect in relation to transactions concerning current accounts.

5. In section 43(1) any reference to an ordinary deposit shall be construed as a reference to a savings account deposit.

6. Any reference in section 49(4) or 56(4) of, or in Schedule 1 to, the principal Act to a pass-book or a deposit book shall be construed as a reference to a pass-book or deposit book in use by the bank for the purpose of savings account deposits or special investments, as the case may require.

7. In paragraph 1(2) of the said Schedule, the reference to the benefit of deposits and the produce thereof shall be construed as not including a reference to the benefit of current account deposits or the produce thereof.

8. In paragraph 3 of the said Schedule, the reference to a transaction of repayment shall not include a reference to a transaction of repayment of moneys standing to the credit of a current account.

9. In paragraph 6 of the said Schedule, the reference to an extracted list of the depositors' balances shall be construed as a reference to an extracted list of the balances of the depositors standing to the credit of the accounts of their savings account deposits and special investments, and paragraph 7 of that Schedule shall be construed accordingly.

10. In section 3(2) of the Act of 1958 for the words "the account of a trustee savings bank" there shall be substituted the words "an account of a trustee savings bank", and for the words "(at the rate for the time being fixed for such of those sums as represent payments under section 26 of the principal Act)" there shall be substituted the words "(at the rate for the time being fixed for such of the sums credited to that account as represent payments under section 26 of the principal Act)".

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Bills of Exchange Act 1882 ... ..	45 & 46 Vict. c. 61.
Merchant Shipping Act 1894 ... ..	57 & 58 Vict. c. 60.
Trustee Savings Banks Act 1954 ... ..	2 & 3 Eliz. 2. c. 63.
Finance Act 1956 ... ..	4 & 5 Eliz. 2. c. 54.
Trustee Savings Banks Act 1958 ... ..	6 & 7 Eliz. 2. c. 8.



# International Headquarters and Defence Organisations Act 1964

## 1964 CHAPTER 5

An Act to make provision as to certain international headquarters and defence organisations.

[27th February 1964]

**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) Where in pursuance of any arrangements for common defence to which Her Majesty's Government in the United Kingdom are for the time being a party any international headquarters or defence organisation has been or is about to be set up, Her Majesty may by Order in Council designate the headquarters or organisation for the purposes of this Act and confer on it the legal capacity of a body corporate and, to such extent as may be specified in the Order,—

International headquarters and defence organisations.

(a) immunity from suit and legal process;

(b) the like privileges as respects the inviolability of official archives as are accorded to an envoy of a foreign sovereign power accredited to Her Majesty.

(2) Where any headquarters or organisation is designated by an Order in Council under this section the Visiting Forces Act 1952 shall have effect with the adaptations set out in the Schedule to this Act, being adaptations for extending certain provisions of that Act to the headquarters or organisation and certain persons connected with it.

(3) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

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(4) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft thereof has been laid before Parliament and approved by a resolution of each House of Parliament.

Extension  
of Act to  
colonies and  
dependencies.

2.—(1) Her Majesty may by Order in Council direct that the provisions of this Act shall extend, subject to such adaptations, modifications or exceptions as may be specified in the Order, to any of the following territories, that is to say—

(a) the Channel Islands and the Isle of Man;

(b) any colony;

(c) any protectorate or protected state within the meaning of the British Nationality Act 1948; and

(d) any territory consisting of two or more such territories as are mentioned in paragraphs (b) and (c) of this subsection.

(2) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

Short title.

3. This Act may be cited as the International Headquarters and Defence Organisations Act 1964.

## SCHEDULE

### ADAPTATIONS OF VISITING FORCES ACT 1952

#### *Interpretation*

1.—(1) In this Schedule—

- “civilian member of a headquarters” has the meaning assigned to it by paragraph 2 of this Schedule;
- “headquarters” means a headquarters or organisation designated by an Order in Council under section 1 of this Act;
- “member of a headquarters” means military member or civilian member of a headquarters;
- “military member of a headquarters” means a member of any country’s forces who is for the time being appointed to serve in the United Kingdom under the orders of a headquarters, except that it does not include a member of the home forces.

(2) Any reference in this Schedule to a section is a reference to that section of the Visiting Forces Act 1952, and any expression used in this Schedule and in that Act has the same meaning in this Schedule as in that Act, except that the expression “dependant” does not include any person who is a citizen of the United Kingdom and Colonies or is ordinarily resident in the United Kingdom.

(3) References in this Schedule to a member of a headquarters belonging to any country are references, in the case of a military member, to his being a member of that country’s forces and, in the case of a civilian member, to his being employed by that country’s forces.

2.—(1) In this Schedule “civilian member of a headquarters” means a person who for the time being holds such a passport as is mentioned in paragraph (a) of subsection (1) of section 10, being a passport containing—

(a) an uncancelled entry made by or on behalf of an authority appointed for the purposes of this paragraph by any country outside the United Kingdom or by the headquarters stating that he is a civilian member of the headquarters; and

(b) an uncancelled mark or indication made on behalf of the Secretary of State signifying that the entry has been noted and approved;

and whose recognition as a civilian member of the headquarters has not been withdrawn by a notice in writing given to the said authority by or on behalf of the Secretary of State.

(2) Subsections (3) and (4) of section 10 (which contain supplementary provisions as to the passports mentioned in that section) shall with the necessary modifications apply for the purposes of this paragraph.

#### *Powers of service courts*

3.—(1) Subject to sub-paragraph (2) of this paragraph, a military member of a headquarters who belongs to a country to which section 2 applies shall be included among the persons who are subject to

SCH.

the jurisdiction of the service courts and service authorities of that country in accordance with that section, and subsection (6) of that section shall apply in relation to him as it applies in relation to members of a visiting force.

(2) Sub-paragraph (1) of this paragraph does not apply to a military member of a headquarters who became (or last became) a member of the forces of the country to which he belongs while he was in the United Kingdom, unless it is shown that he did so with his consent.

*Restriction of trial by United Kingdom courts*

4.—(1) Section 3 shall apply in relation to a person charged with an offence who at the time the offence is alleged to have been committed was a member of a headquarters and belonged to a country to which that section applies as it applies to a person who at that time was a member of a visiting force of that country or was a member of a civilian component of such a force, according as the first-mentioned person was then a military or civilian member of the headquarters; and, as so applying, shall be further adapted as follows:—

- (a) the reference in paragraph (a) of subsection (1) to his duty as a member of that force or component shall be construed as a reference to his duty as a member of the headquarters;
- (b) the references in paragraphs (b) and (c) of that subsection to a person having a relevant association with a visiting force of that country shall be construed as including references to any person who at the said time was, or was a dependant of, a member of a headquarters belonging to that country;
- (c) the references in the said paragraph (c) to property of the sending country shall be construed as references to property of the country to which the person charged belonged, to property of the headquarters, to such property of any other country to which the section applies as was used or to be used for the purposes of the headquarters, and to such property of any other headquarters as was used or to be used for those purposes;
- (d) the references in subsection (2) and in paragraph (a) of subsection (3) to the sending country shall be construed as references to the country to which the person charged belonged.

(2) In relation to a person to whom section 3 applies apart from sub-paragraph (1) of this paragraph, that is to say, a person charged with an offence who at the time the offence is alleged to have been committed was a member of a visiting force of any country or a member of a civilian component of such a force, that section shall have effect subject to the adaptation that references in paragraphs (b) and (c) of subsection (1) to a person having a relevant association with a visiting force of the same country shall be construed as including references to any person who at the said time was, or was a dependant of, a member of a headquarters belonging to that country.



*Restriction on proceedings in respect of service as  
member of headquarters*

SCH.

5. The references in section 6 to service as a member of a visiting force or as a member of a civilian component of such a force shall include references to service as a member of a headquarters.

*Coroners' inquests and removal of bodies*

6. The references in section 7 to a deceased person who at the time of his death had a relevant association with a visiting force shall include references to a deceased person who at the time of his death was a member of a headquarters and belonged to a country to which that section applies or a dependant of such a member.

*Application of law relating to home forces and settlement of claims*

7. Sections 8 and 9 shall apply in relation to a headquarters and its members and property and persons connected with it as they apply in relation to a visiting force and its members and property and persons connected with it.

*Evidence*

8. For the purposes of the Visiting Forces Act 1952 as adapted by this Schedule—

- (a) a certificate issued by or on behalf of an authority appointed by a headquarters for the purposes of paragraph 2 of this Schedule stating that at a time specified in the certificate a person so specified either was or was not a military or civilian member of that headquarters and, if he was, belonged to any country so specified;
- (b) a certificate so issued stating that an alleged offence, if committed by a person so specified, arose out of and in the course of his duty as a member of that headquarters;

shall be sufficient evidence of the fact so stated unless the contrary is proved.

9. Subsection (3) of section 16 shall apply in relation to any document purporting to be any such certificate as is mentioned in paragraph 8 of this Schedule, and to the authority issuing such a certificate, as it applies in relation to such a certificate and authority as are mentioned in that section.



# Export Guarantees Act 1964

## 1964 CHAPTER 6

An Act to amend the Export Guarantees Acts 1949 to 1961. [27th February 1964]

**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:—

Raising of limits on guarantees etc.

12 & 13 Geo. 6. c. 14.  
7 & 8 Eliz. 2. c. 63.

1.—(1) In subsection (4) of section 1 of the Export Guarantees Act 1949 (which, as amended by the Export Guarantees Act 1959, imposes a limit of one thousand million pounds in respect of guarantees given by the Board of Trade under that section and of related transactions) for the words "one thousand million pounds" there shall be substituted the words "one thousand five hundred million pounds".

10 & 11 Eliz. 2. c. 3.

(2) In subsection (2) of section 2 of the said Act of 1949 (which, as amended by the Export Guarantees Act 1961, imposes a limit of eight hundred million pounds in respect of guarantees given by the Board of Trade under that section and of related transactions) for the words "eight hundred million pounds" there shall be substituted the words "one thousand three hundred million pounds".

Extension of powers of Board to Isle of Man and Channel Islands.

5 & 6 Eliz. 2. c. 23.

2. Sections 1 and 2 of the said Act of 1949 and section 2(1) of the Export Guarantees Act 1957 (which extends the powers conferred by the said section 2) shall have effect as if the Isle of Man and the Channel Islands were part of the United Kingdom.

Short title, citation and repeals.

3.—(1) This Act may be cited as the Export Guarantees Act 1964, and this Act and the Export Guarantees Acts 1949 to 1957 may be cited as the Export Guarantees Acts 1949 to 1964.

(2) The Export Guarantees Act 1959 and the Export Guarantees Act 1961 are hereby repealed.



# Shipbuilding Credit Act 1964

## 1964 CHAPTER 7

An Act to enable the Minister of Transport to make loans for the purpose of providing finance for the construction or alteration of ships in shipyards situated in the United Kingdom, any of the Channel Islands or the Isle of Man and the equipment of the resulting ships.  
[27th February 1964]

**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) Subject to this section the Minister may with the consent of the Treasury, and after consultation with an advisory committee appointed by the Minister, lend to any person who is qualified to receive loans under this section such a sum as may be agreed between the Minister and that person for the purpose of the carrying out to that person's order in a shipyard situated in the United Kingdom, any of the Channel Islands or the Isle of Man of one of the following projects, that is to say—

Power to make loans for construction or alteration of ships.

- (a) the construction of a ship of not less than one hundred tons gross tonnage, or
- (b) the alteration of such a ship, whether the alteration is designed to convert it into a different kind of ship or not,

and for the purpose, in either case, of the equipment of the resulting ship.

(2) A person is qualified to receive loans under this section if, and only if, he is an individual resident in, or a body corporate established under the law of, any part of the United Kingdom, any of the Channel Islands or the Isle of Man.

(3) A loan shall not be made under this section to a person—

(a) in respect of the construction of a ship, if under the enactments relating to the sea fishing industry there is (whether by virtue of any scheme for the time being in force thereunder or otherwise) power to make any grant or loan to him in respect of the provision or acquisition of that ship; or

(b) in respect of the alteration of a ship, if under the said enactments there is (whether by virtue of any such scheme or otherwise) power to make any grant or loan to him in respect of the alteration or anything proposed to be done as part of the alteration.

(4) Any number of loans under this section may be made to the same person.

(5) Every loan made by the Minister under this section shall carry interest at such rate as the Treasury may direct and, subject to that, shall be made on such terms and conditions, and subject to payment to the Minister in connection therewith of such costs or fees (if any), as may with the approval of the Treasury be agreed (or as may, with the like approval, have before the passing of this Act been agreed) between the Minister and the person to whom it is made.

(6) Loans made under this section shall not together exceed the sum of seventy-five million pounds, and no such loan shall be made under this section after 31st May 1964 in respect of a ship unless on or before that date an application for a loan in respect of the construction or alteration of that ship in a shipyard situated as mentioned in subsection (1) above has been made (whether before or after the passing of this Act) to the Minister or to any person authorised by the Minister to receive such applications on his behalf.

57 & 58 Vict.  
c. 60.

(7) In this section “gross tonnage” means gross tonnage ascertained in accordance with section 77 of the Merchant Shipping Act 1894, any reference to the construction of a ship includes a reference to the completion of a partially constructed ship, and any reference to the equipment of a ship is a reference to the installation on or in it, or the provision for it, of fixed or moveable equipment, apparatus or furnishings of any kind.

Financial  
provisions.

2.—(1) The Treasury shall issue out of the Consolidated Fund to the Minister such sums as are necessary to enable him to make loans under section 1 of this Act.

(2) For the purpose of providing sums to be issued out of the Consolidated Fund under subsection (1) above, or providing for the replacement of sums so issued, the Treasury may at any time, if they think fit, raise money in any manner in which they

are authorised to raise money under the National Loans Act 2 & 3 Geo. 6. 1939, and any securities created and issued to raise money under c. 117. this subsection shall be deemed for all purposes to be created and issued under that Act.

(3) Any sums received by the Minister by way of interest on, or repayment of, loans made under section 1 of this Act shall be paid into the Exchequer and shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is—

- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit, and
- (b) so much thereof as represents interest shall be applied towards meeting such part of the annual charges for the National Debt as represents interest.

(4) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to him under subsection (1) above, and of the sums received by him by way of interest on, or repayment of, loans made by him under section 1 of this Act, and of the disposal by him of those sums respectively; and the Minister shall, not later than the end of November following the year, send the account to the Comptroller and Auditor General who shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

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

- (a) any administrative expenses incurred for the purposes of this Act by the Minister; and
- (b) any sums required by the Minister for making repayments of fees received by him in connection with loans made or to be made under section 1 of this Act.

(6) Any sums received by the Minister in connection with loans made or to be made under section 1 of this Act, other than sums falling under subsection (3) above, shall be paid into the Exchequer.

3.—(1) This Act may be cited as the Shipbuilding Credit Act 1964. Short title and interpretation.

(2) In this Act “the Minister” means the Minister of Transport, and “ship” includes every description of vessel used in navigation.



# New Towns Act 1964

## 1964 CHAPTER 8

An Act to make fresh provision respecting the limits on the amount of the advances which may be made to development corporations under section 12(1) of the New Towns Act 1946 and the Commission for the New Towns under section 3(1) of the New Towns Act 1959. [27th February 1964]

**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:—

New limit on advances to development corporations and Commission for the New Towns.  
9 & 10 Geo. 6.  
c. 68.

1.—(1) The sum of the following amounts, that is to say,—

- (a) the aggregate amount of the advances made, whether before or after the commencement of this Act, to development corporations under section 12(1) of the New Towns Act 1946 (which authorises advances to be made to development corporations for defraying expenditure properly chargeable to capital account) including advances made under that subsection in its application to Scotland; and
- (b) the aggregate amount of the advances made, whether before or after the commencement of this Act, to the Commission for the New Towns under section 3(1) of the New Towns Act 1959 (which authorises advances to be made to that Commission for defraying expenditure properly chargeable to capital account),

shall not exceed £550,000,000.

(2) The proviso to the said section 12(1) (which as amended by the said Act of 1959 limits the aggregate amount of advances made under that subsection to £400,000,000 less the amount of

7 & 8 Eliz. 2.  
c. 62.

any advances made to the said Commission for purposes therein mentioned) and so much of section 3(1) of the said Act of 1959 as provides that the aggregate amount outstanding at any time of advances made under that subsection shall not exceed £5,000,000 shall cease to have effect.

2.—(1) This Act may be cited as the New Towns Act 1964, and the New Towns Acts 1946 to 1959 and this Act may be cited together as the New Towns Acts 1946 to 1964. Short title, citation and repeals.

(2) The Acts specified in columns 1 and 2 of the Schedule to this Act are hereby repealed to the extent specified in column 3 thereof.

## SCHEDULE

### ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 68.	The New Towns Act 1946.	In section 12, in subsection (1), the words from " Provided that " to the end of the subsection.
7 & 8 Eliz. 2. c. 62.	The New Towns Act 1959.	In section 3, in subsection (1), the words from " but, subject to " to the end of the subsection. Section 11. In Schedule 2, paragraph 5(2).



# Public Works Loans Act 1964

## 1964 CHAPTER 9

An Act to make further provision with respect to loans out of the Local Loans Fund, with respect to temporary borrowing by local authorities in Scotland and with respect to the re-borrowing powers of public authorities; to authorise an increase in the loans which may be made to the Government of Northern Ireland; and for connected purposes. [27th February 1964]

**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:—

Grants for  
public works.

1.—(1) There may be issued by the National Debt Commissioners for the purposes of local loans by the Public Works Loan Commissioners (in this Act referred to as “the Loan Commissioners”) any sum or sums not exceeding in the whole the sum of six hundred and fifty million pounds.

(2) The sums so issued shall be issued during the period beginning with the passing of this Act and ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act 1887.

(3) The period aforesaid shall be an issue period for the purposes of section 2(1) of the Public Works Loans (No. 2) Act 1946 (which enables the Loan Commissioners to undertake to grant loans which include loans falling to be advanced after the expiration of the current issue period), but the aggregate of—

(a) the commitments of the Loan Commissioners outstanding at any time during that period in respect of undertakings entered into by them (whether during or before the beginning of that period) to grant local loans; and



- (b) the advances in respect of local loans made by the Loan Commissioners during that period up to that time,

shall not exceed the sum of seven hundred and fifty million pounds.

2.—(1) Any sums borrowed from the Local Loans Fund after the passing of this Act shall bear interest at such rates— Interest on loans.

- (a) as may be fixed by the Treasury from time to time having regard to the length of time for which those sums are borrowed ; and
- (b) as in the opinion of the Treasury are sufficient to enable those sums to be borrowed without loss to that Fund or the Exchequer ;

and different rates may be fixed in respect of different sums borrowed for the same length of time.

(2) In the case of sums borrowed as aforesaid otherwise than on the security of local rates—

- (a) the rates of interest may differ from those which would be applicable if those sums had been borrowed on such security ;
- (b) in fixing the rate of interest in respect of any sum borrowed the Treasury may take into account the nature and value of the security on which that sum is borrowed.

(3) Any reference in any Act passed, or in any other document made, before the date of the passing of this Act to the rate which at a particular time was the rate fixed by the Treasury under section 1 of the Public Works Loans Act 1897 in respect of loans of a particular class shall be construed, where that time falls after that date, as a reference to the rate which at that time was the rate fixed by the Treasury under this section in respect of loans of that class made on the security of local rates or, where there is more than one rate so fixed, to such of those rates as the Treasury may from time to time direct either generally or with respect to particular Acts or other documents.

(4) The Treasury shall cause—

- (a) the rates of interest fixed from time to time under this section in respect of sums borrowed on the security of local rates ; and
- (b) any direction given under subsection (3) of this section, to be published in the London and Edinburgh Gazettes as soon as may be after the fixing of those rates or, as the case may be, the giving of that direction.

(5) 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.

Enactments to  
cease to have  
effect.

3. Without prejudice to the provisions of any other enactment, the following enactments shall cease to have effect, that is to say—

- (a) so much of section 9 of the Public Works Loans Act 1875 as requires the Loan Commissioners, in considering the propriety of granting a loan, to determine whether the work or purchase of land for which the loan is asked would be such a benefit to the public as to justify a loan out of public money, having regard to the amount of money placed at their disposal by Parliament ;
- (b) in section 11 of the said Act of 1875—
  - (i) so much of the first paragraph thereof as requires the repayment of a loan by the Loan Commissioners to be made by instalments in the form of an annuity or otherwise ;
  - (ii) the fourth paragraph thereof (which specifies certain matters to which the Loan Commissioners, or the Loan Commissioners and the Treasury, are to have regard in considering certain questions relating to the duration of such a loan) ;
  - (iii) the fifth paragraph thereof (which relates to the first instalment for the repayment of such a loan) ;
- (c) section 36 of the said Act of 1875 (which charges the Minister of Housing and Local Government with the duty of satisfying himself as to the application of any such loan advanced on the security of a rate) ;
- (d) section 9 of the Public Works Loans Act 1881 (which relates to the application of surplus balances of such loans on the security of a rate) ;
- (e) section 8 of the Public Works Loans Act 1882 (which requires a separate account to be kept in connection with any such loan on the security of a rate) ;
- (f) so much of section 4(1) of the Local Authorities Loans Act 1945 as requires the authority of the said section 11 for the grant of a longer period not exceeding five years

for the repayment of the first instalment of such a loan than would otherwise be permitted ;

- (g) in section 260(1) of the Local Government (Scotland) Act 1947, paragraph (i) of the proviso (which restricts temporary borrowing by local authorities in Scotland).

4. Whereas it is expedient that the principal of the local loans specified in the Table contained in Schedule 1 to this Act should, to the extent specified in the third column of that Table, not be reckoned as assets of the Local Loans Fund: Debts not to be reckoned among assets of Local Loans Fund.

Now therefore the principal of the said loans to the extent aforesaid shall be written off from the account of assets of the Local Loans Fund, and the provisions of section 15 of the National Debt and Local Loans Act 1887 shall, so far as applicable, apply thereto.

5. Whereas the principal of the local loans specified in the Tables contained in Schedule 1 and Schedule 2 to this Act is irrecoverable to the extent of the sums specified in the third column of those Tables and, in the case of the loans specified in the said Schedule 2, has been written off from the account of assets of the Local Loans Fund by the enactments respectively specified in the fourth column of the Table in that Schedule: Remission of balance of principal and interest on certain local loans.

Now therefore the principal of the said loans shall, to the extent aforesaid, be extinguished, and all arrears of interest thereon shall be remitted.

6.—(1) The provisions of this section shall have effect notwithstanding anything in any of the following enactments (which relate to the re-borrowing powers of local authorities), that is to say, section 216(1) of the Local Government Act 1933, section 140(1) and (2) of the London Government Act 1939 and section 277(1) of the Local Government (Scotland) Act 1947 (including any of those enactments as applied by or under any other enactment), or any other enactment with respect to the re-borrowing powers of any other public authority. Re-borrowing powers of public authorities.

(2) Where a local authority or other public authority have borrowed moneys in pursuance of powers conferred by or under any Act and the loan is repayable by instalments or annual payments, any power of the authority to borrow under any of the enactments referred to in subsection (1) of this section shall be exercisable in connection with the repayment of that loan, but, subject to subsection (4) of this section, shall be so exercisable only—

- (a) for the purpose of repaying forthwith, and before they would otherwise become due for repayment, all sums for the time being outstanding by way of principal on the loan ; or

(b) where the authority borrowed the moneys for a period less than the maximum period for which they were authorised so to do, for the purpose of the payment of any amount by which any instalment or annual payment exceeds what it would have been if it had been calculated by reference to that maximum period.

(3) Where a local authority or other public authority have borrowed moneys in pursuance of powers conferred by or under any Act, not being a loan repayable by instalments or annual payments, and payments towards the repayment of the loan have been made by the authority into any sinking or other fund maintained by the authority wholly or partly for the purpose of that repayment, any power of the authority to borrow under any of the enactments referred to in subsection (1) of this section shall be exercisable with respect to that loan, but, subject to subsection (4) of this section, shall be so exercisable only for the purpose of the repayment of the amount, if any, by which the principal of the loan exceeds the aggregate amount of those payments.

(4) Any power of a local authority or other public authority to borrow under any of the enactments referred to in subsection (1) of this section shall be exercisable for the purpose of replacing moneys which, during the preceding twelve months, have been temporarily applied from other moneys of the authority in making such a repayment or payment as is authorised by subsection (2) or (3) of this section, and which at the time of that repayment or payment it was intended to replace by borrowed moneys.

Loans to  
Government  
of Northern  
Ireland.

7.—(1) In the proviso to section 2(1) of the Miscellaneous Financial Provisions Act 1950 (which, as amended by section 3 of the Miscellaneous Financial Provisions Act 1955, restricts to thirty million pounds the total principal amount outstanding in respect of advances to the Exchequer of Northern Ireland under the said section 2 for the purposes of loans for public work in Northern Ireland), for the words “thirty million pounds” there shall be substituted the words “forty million pounds.”

(2) In section 2(5) of the said Act of 1950, the reference to the Government Loans Act (Northern Ireland) 1939 shall be construed as including, and as having always included, a reference to any subsequent enactment of the Parliament of Northern Ireland re-enacting that Act with or without modifications (and, in particular, to the Government Loans Act (Northern Ireland) 1957) or amending that Act or any such subsequent enactment.

**8.** There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate-deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland. **Expenses.**

**9.—(1)** This Act may be cited as the Public Works Loans Act 1964. **Short title, repeals and extent.**

(2) The enactments set out in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The following provisions only of this Act shall extend to Northern Ireland (being the only such provisions capable of operating there), that is to say—

- (a) section 5 so far as it relates to the loan to the Carlingford Lough Improvement Commissioners referred to in Schedule 2 ;
- (b) section 7 ;
- (c) the repeals effected in the Military Lands Act 1892 and the Miscellaneous Financial Provisions Act 1955.

## SCHEDULES

## SCHEDULE 1

## LOANS TO BE WRITTEN OFF AND EXTINGUISHED

*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
	£	£ s. d.
Mevagissey Harbour Trustees ... ..	22,000	21,524 10 0
Mousehole Harbour Improvement Commissioners ... ..	5,500	4,124 2 3
St. Ives Corporation ... ..	29,800	22,440 7 4

NOTE.—The Loan to the Mevagissey Harbour Trustees referred to in the Table above consists of sums advanced to those Trustees after the passing of s. 2 of the Public Works Loans (No. 2) Act 1893.

## SCHEDULE 2

## LOANS ALREADY WRITTEN OFF TO BE EXTINGUISHED

*Loans by Loan Commissioners under the Harbours  
and Passing Tolls, &c. Act 1861*

Name of Borrower	Amount of loan	Amount of principal previously written off and now to be extinguished	Enactment under which principal written off
	£	£ s. d.	
Carlingford Lough Improvement Commissioners	80,000	79,166 0 0	S. 3 of Public Works Loans Act 1887.
Mevagissey Harbour Trustees	22,000	22,000 0 0	S. 2 of Public Works Loans (No. 2) Act 1893.

## SCHEDULE 3

## ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
38 & 39 Vict. c. 89.	The Public Works Loans Act 1875.	Section 9 from "and" onwards. Section 10. In section 11, the words "by instalments (in the form of an annuity or otherwise)" and the words from "The Loan Commissioners in considering" onwards. Section 36. Section 4.
41 & 42 Vict. c. 18.	The Public Works Loans Act 1878.	
42 & 43 Vict. c. 77.	The Public Works Loans Act 1879.	The whole Act.
44 & 45 Vict. c. 38.	The Public Works Loans Act 1881.	Sections 8 and 9.
45 & 46 Vict. c. 62.	The Public Works Loans Act 1882.	Section 8.
55 & 56 Vict. c. 43.	The Military Lands Act 1892.	Section 7(2) from "and shall" onwards.
55 & 56 Vict. c. 61.	The Public Works Loans Act 1892.	Section 2.
56 & 57 Vict. c. 40.	The Public Works Loans (No. 2) Act 1893.	The whole Act.
59 & 60 Vict. c. 42.	The Public Works Loans Act 1896.	Section 2 from "Provided" onwards.
60 & 61 Vict. c. 51.	The Public Works Loans Act 1897.	Sections 1, 11 and 12(1) to (3).
8 Edw. 7. c. 23.	The Public Works Loans Act 1908.	Section 6(2) from "and" onwards.
8 Edw. 7. c. 36.	The Smallholdings and Allotments Act 1908.	In section 52(2), paragraph (a) of the proviso.
7 & 8 Geo. 5. c. 32.	The Public Works Loans Act 1917.	The whole Act.
8 & 9 Geo. 5. c. 27.	The Public Works Loans Act 1918.	The whole Act.
26 Geo. 5. & 1 Edw. 8. c. 5.	The Public Works Loans Act 1935.	Section 5(1).
1 & 2 Geo. 6. c. 7.	The Public Works Loans (No. 2) Act 1937.	Section 3(1) from "and" onwards.
8 & 9 Geo. 6. c. 18.	The Local Authorities Loans Act 1945.	In section 4(1), the words from "authorised" to "a period". Section 6.
9 & 10 Geo. 6. c. 75.	The Public Works Loans (No. 2) Act 1946.	In section 2(1), the words "subject to the provisions of this section". Section 2(2) to (4).
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act 1947.	In section 260(1), paragraph (i) of the proviso.
11 & 12 Geo. 6. c. 13.	The Public Works Loans Act 1947.	The whole Act.

SCH. 3

Chapter	Short Title	Extent of Repeal
11 & 12 Geo. 6. c. 48.	The Public Works Loans Act 1948.	The whole Act.
12, 13 & 14 Geo. 6. c. 82.	The Public Works Loans Act 1949.	The whole Act.
14 Geo. 6. c. 34.	The Housing (Scotland) Act 1950.	Section 135.
14 & 15 Geo. 6. c. 5.	The Public Works Loans Act 1950.	The whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2. c. 5.	The Public Works Loans Act 1951.	The whole Act.
1 & 2 Eliz. 2. c. 3.	The Public Works Loans Act 1952.	The whole Act except sections 6 and 7.
2 & 3 Eliz. 2. c. 6.	The Public Works Loans Act 1953.	The whole Act.
3 & 4 Eliz. 2. c. 9.	The Public Works Loans Act 1955.	The whole Act.
4 & 5 Eliz. 2. c. 6.	The Miscellaneous Financial Provisions Act 1955.	Section 3.
4 & 5 Eliz. 2. c. 65.	The Public Works Loans Act 1956.	The whole Act.
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	Section 139.
6 & 7 Eliz. 2. c. 4.	The Public Works Loans Act 1957.	The whole Act.
6 & 7 Eliz. 2. c. 42.	The Housing (Financial Provisions) Act 1958.	Sections 47(7) and 54(4)(u).

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Public Works Loans Act 1875 ... ..	38 & 39 Vict. c. 89.
Public Works Loans Act 1881 ... ..	44 & 45 Vict. c. 38.
Public Works Loans Act 1882 ... ..	45 & 46 Vict. c. 62.
National Debt and Local Loans Act 1887	50 & 51 Vict. c. 16.
Military Lands Act 1892 ... ..	55 & 56 Vict. c. 43.
Public Works Loans Act 1897 ... ..	60 & 61 Vict. c. 51.
Local Government Act 1933 ... ..	23 & 24 Geo. 5. c. 51
London Government Act 1939 ... ..	2 & 3 Geo. 6. c. 40.
Local Authorities Loans Act 1945 ... ..	8 & 9 Geo. 6. c. 18.
Public Works Loans (No. 2) Act 1946 ... ..	9 & 10 Geo. 6. c. 75.
Local Government (Scotland) Act 1947 ... ..	10 & 11 Geo. 6. c. 43.
Miscellaneous Financial Provisions Act 1950 ... ..	14 Geo. 6. c. 21.
Miscellaneous Financial Provisions Act 1955 ... ..	4 & 5 Eliz. 2. c. 6.





# Family Allowances and National Insurance Act 1964

## 1964 CHAPTER 10

An Act to extend the meaning of the word “ child ” in the Family Allowances Acts, the National Insurance Acts and the National Insurance (Industrial Injuries) Acts, to increase widowed mother’s allowance and certain other benefits under the National Insurance Acts and the National Insurance (Industrial Injuries) Acts paid in respect of or by reference to children, to require the disregard of part of any such benefit in arriving at the amount of a national assistance grant, and for certain other purposes, and to relax the earnings rules relating to widow’s benefit and retirement pensions, and for connected purposes. [27th February 1964]

**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 Family Allowances Acts 1945 to 1961, the National Insurance Acts 1946 to 1963, the National Insurance (Industrial Injuries) Acts 1946 to 1963 and this Act shall have effect as if in section 2(1)(b) of the Family Allowances Act 1945 (which defines “ child ” as including a person under eighteen who is undergoing full-time instruction in a school or who is an apprentice) for the words “ eighteen years ” there were substituted the words “ nineteen years ”.

Extension of allowances, benefits and grants by increase of age limits from 18 to 19.

(2) In section 17(1)(b)(ii) of the National Insurance Act 1946 and section 19(3)(d) of the Industrial Injuries Act (under which widowed mother’s allowance or industrial injuries death benefit is payable in certain cases to a woman who has a person under

eighteen residing with her) for the words “ eighteen years ” there shall be substituted the words “ nineteen years ”.

(3) In section 22(3) of the National Insurance Act 1946 (under which death grant is payable in the case of certain persons under eighteen) for the words “ eighteen years ” there shall be substituted the words “ nineteen years ”.

Increase of widow's allowance, widowed mother's allowance, child's special allowance and industrial injuries death benefit for widow with children.

2.—(1) Subject to this section, the weekly rates of widow's allowance, widowed mother's allowance and child's special allowance shall be those set out in the following Table, which shall be inserted in Schedule 2 to the National Insurance Act 1946 after Part I of that Schedule.

PART IA

*Rates of widow's allowance, widowed mother's allowance and child's special allowance*

1 Description of benefit	2 Weekly rate	3 Increase for only child or elder or eldest child	4 Increase for second child	5 Increase for third and each additional child
Widow's allowance ... ..	s. d. 95 0	s. d. 37 6	s. d. 29 6	s. d. 27 6
Widowed mother's allowance ... ..	67 6	37 6	29 6	27 6
Child's special allowance ... ..	37 6	—	29 6	27 6

(2) Section 6(4) of the National Insurance Act 1957 (which makes benefits for a child not living with the beneficiary dependent on equivalent contributions being made to the cost of providing for the child) shall be amended by substituting in paragraph (b) for the words

“ or a widow's allowance ”

the words

“ a widow's allowance or a widowed mother's allowance ”, and if as a result of that amendment the increase in a widowed mother's allowance under section 17(1)(b)(i) of the National Insurance Act 1946 in respect of the child, or the elder or eldest of the children, mentioned in that sub-paragraph is not payable, and no increase of the allowance is payable in respect of any other child, the widow shall not be entitled to the widowed mother's allowance.

(3) Schedule 1 to this Act (which makes amendments as respects death benefit for children under section 21 of the

Industrial Injuries Act corresponding to the amendments affecting widowed mother's allowance made by subsections (1) and (2) of this section) shall have effect.

(4) The Acts mentioned in Schedule 2 to this Act shall have effect subject to the amendments there specified, being amendments consequent on the provisions of subsection (1) of this section.

3.—(1) In paragraph 5(2) of Schedule 2 to the National Assistance Act 1948 (which, as amended by the National Assistance (Disregard of Assets) Order 1959, requires the disregard of certain weekly payments up to an aggregate of thirty shillings) after paragraph (d) there shall be added the following paragraphs:—

Benefit excluded from computation of resources in connection with national assistance grants.

“(e) the first seven shillings and sixpence a week of any payment in respect of a child, being—

(i) an increase of widow's allowance or widowed mother's allowance under the third or fourth column of Part IA of Schedule 2 to the National Insurance Act 1946, or

(ii) child's special allowance under the second column, or an increase of child's special allowance under the fourth column, of the said Part IA, or

(iii) an increase of death benefit under the first or second column of Part II of the Table in section 21(1) of the National Insurance (Industrial Injuries) Act 1946;

(f) the first five shillings and sixpence a week of any payment in respect of a child, being—

(i) an increase of widow's allowance, widowed mother's allowance or child's special allowance under the fifth column of the said Part IA, or

(ii) an increase of death benefit under the third column of Part II of the said Table.”

(2) The following provisions, being provisions which reproduce the said paragraph 5, that is—

(a) paragraph 3 of Schedule 2 to the Legal Aid and Advice Act 1949, and

(b) paragraph 5 of Schedule 2 to the Legal Aid and Solicitors (Scotland) Act 1949,

and any provisions reproducing the said paragraph 5 which are contained in regulations made under section 4 of either of those Acts, shall all be amended in the manner in which the said paragraph 5 is amended by the foregoing subsection.

(3) This section shall come into force so as to apply in relation to benefit payable under the National Insurance Act 1946 and the Industrial Injuries Act in respect of periods on or after the date appointed for the coming into force of section 2 of this Act (with Schedule 1 to this Act).

Relaxation of earnings rules for widow's benefit and retirement pensions.

**4.—(1)** For section 17(3) of the National Insurance Act 1946 (earnings rule for widow's benefit) there shall be substituted the following subsection—

“ (3) Where the earnings of the widow have exceeded—

(a) one hundred and forty shillings for the calendar week ending last before any week for which she is entitled to a widowed mother's allowance, or

(b) one hundred shillings for the calendar week ending last before any week for which she is entitled to a widow's pension,

the weekly rate of the allowance or pension shall for the week for which she is so entitled be reduced by sixpence for each complete shilling of the excess and a further sixpence for each complete shilling by which the earnings exceeded, in the case of a widowed mother's allowance, one hundred and sixty shillings, or, in the case of a widow's pension, one hundred and twenty shillings.”

(2) For section 20(5) of the said Act (earnings rule for retirement pensions) there shall be substituted the following subsection—

“ (5) Where the earnings of a beneficiary who is less than five years over pensionable age have exceeded one hundred shillings for the calendar week ending last before any week for which he is entitled to a retirement pension, the weekly rate of his pension shall for the last mentioned week be reduced by sixpence for each complete shilling of the excess and a further sixpence for each complete shilling by which the earnings exceeded one hundred and twenty shillings :

Provided that this subsection shall not affect the rate of the pension for the first week after the date of the beneficiary's retirement.”

(3) The National Insurance (Earnings) Regulations 1963 made in exercise of the power conferred by section 2 of the National Insurance Act 1956 (which are superseded by the foregoing subsections) shall be revoked but this section shall not prejudice the further exercise of that power.

(4) This section shall have effect as respects any week commencing on or after the date of the coming into force of this section.

**5.** There shall be defrayed out of moneys provided by Parliament— General financial provisions.

(a) any increase attributable to section 1 of this Act in the sums payable out of moneys provided by Parliament under the Family Allowances Act 1945 whether on account of allowances or of the expenses of the Minister,

(b) subject to the provision made by section 38 of the National Insurance Act 1946 for reimbursement out of the National Insurance Fund or by section 60 of the Industrial Injuries Act for reimbursement out of the Industrial Injuries Fund, any increase attributable to this Act in the expenses of the Minister or of any other Government department which are payable out of moneys so provided under either of those sections,

and for the purposes of this section the expenses of the Minister shall include sums paid by the Minister under section 19(2) of the Post Office Act 1961 which, in accordance with section 13 of the Family Allowances and National Insurance Act 1961, are treated for the purposes of the Family Allowances Act 1945, the National Insurance Act 1946 or the Industrial Injuries Act as expenses of the Minister in carrying those Acts into effect.

**6.—(1)** This Act may be cited as the Family Allowances and National Insurance Act 1964. Citation, commencement, repeals, extent, etc.

(2) This Act, so far as it relates to the subject matters of those Acts respectively, may be cited—

(a) together with the Family Allowances Acts 1945 to 1961, as the Family Allowances Acts 1945 to 1964, and

(b) together with the National Insurance Acts 1946 to 1963, as the National Insurance Acts 1946 to 1964, and

(c) together with the National Insurance (Industrial Injuries) Acts 1946 to 1963, as the National Insurance (Industrial Injuries) Acts 1946 to 1964.

(3) Schedule 3 to this Act shall have effect with respect to the commencement of this Act and to the transitional and other matters there dealt with.

(4) Subject to any transitional provision in Schedule 3 to this Act, the enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

(5) Without prejudice to the operation, in relation to any matters arising out of this Act, of any provisions relating to

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Act 1964*

Northern Ireland of the Acts referred to in subsection (2) above, this Act shall not extend to Northern Ireland.

(6) In this Act “the Industrial Injuries Act” means the National Insurance (Industrial Injuries) Act 1946.

(7) 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 any other enactment including this Act.

SCHEDULES

SCHEDULE 1

Section 2.

DEATH BENEFIT IN RESPECT OF CHILDREN UNDER INDUSTRIAL  
INJURIES ACT

1. For section 21(1) of the Industrial Injuries Act there shall be substituted the following subsections—

“ (1) Where at his death the deceased had a family which included a child or children then—

- (a) for any period during which a person has a family which includes that child or one or more of those children, that person shall be entitled in respect of the child or the elder or eldest of those children to death benefit by way of an allowance at the weekly rate specified in the first column of Part I of the following Table, and
- (b) for any such period during which the family includes two or more of those children, that person shall be entitled to death benefit by way of an allowance at the weekly rate specified in the second column of the said Part I in respect of the second of those children, and
- (c) for any such period during which the family includes more than two of those children, that person shall be entitled to death benefit by way of an allowance at the weekly rate specified in the third column of the said Part I in respect of each of those children other than the first two.

TABLE  
PART I

*Weekly rates of allowances in respect of children*

Allowance for only or elder or eldest qualifying child	Allowance for second qualifying child	Allowance for third and each additional qualifying child
s. d. 20 0	s. d. 12 0	s. d. 12 0

PART II

*Increase where the family is that of the widow of the deceased*

17 6	17 6	15 6
------	------	------

(1A) Where the person having the family is the widow of the deceased and is for the time being also entitled to death benefit (other than a gratuity) under section 19 of this Act,

B\*

SCH. 1

the weekly rates of the allowances in Part I of the said Table shall be increased respectively by the corresponding amounts in Part II of that Table.

(1B) The foregoing subsections shall have effect subject to the provisions of the Fourth Schedule to this Act limiting the benefit payable in respect of any death."

2.—(1) Section 6(4)(f) of the National Insurance Act 1957 (which makes certain benefits for a child not living with the beneficiary dependent on equivalent contributions being made to the cost of providing for the child) shall apply to all death benefit under the said section 21, and accordingly the words from "otherwise" to the end of the paragraph shall be omitted.

(2) In the case of an allowance which would, but for the said section 6(4)(f), be payable in respect of a child not living with the beneficiary at a weekly rate increased under Part II of the Table in the foregoing paragraph, the said paragraph (f) shall apply separately to the amount of the allowance without the increase, and to the amount of the increase, but in applying that paragraph to the amount of the increase the contribution required under paragraph (ii) of the said section 6(4) shall be over and above that required under that paragraph as a condition of payment of the allowance without the increase.

Section 2.

## SCHEDULE 2

### AMENDMENTS CONSEQUENT ON SECTION 2(1)

1.—(1) In section 10(2)(a) of the National Insurance Act 1946 after the words "Part I" there shall be inserted the words "and Part IA".

(2) In section 23(1) of the said Act for the words "a retirement pension or a widow's allowance" there shall be substituted the words "or a retirement pension".

(3) In section 23 of the said Act, after subsection (1) there shall be added the following subsections—

"(1A) The weekly rate of a widow's allowance shall, for any period for which the beneficiary has a family which includes a child or children, be increased—

- (a) in respect of that child or the elder or eldest of those children, by the amount specified for that allowance in the third column of Part IA of the Second Schedule to this Act, plus
- (b) for any period for which the family includes two of those children, the amount so specified in the fourth column of the said Part IA, plus
- (c) for any period for which the family includes more than two of those children, the amount so specified in the fifth column of the said Part IA in respect of the third and each additional child.



(1B) The weekly rate of a widowed mother's allowance shall, if payable under sub-paragraph (i) of section 17(1)(b) of this Act,—

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- (a) be increased, in respect of the child, or the elder or eldest of the children, mentioned in that sub-paragraph by the amount specified for widowed mother's allowance in the third column of the said Part IA, and
- (b) for any period during which the widow has two children of her family such as are mentioned in that sub-paragraph, be increased by the amount specified for that allowance in the fourth column of the said Part IA, and
- (c) for any period during which the widow has more than two such children of her family, be increased in respect of the third and each additional child by the amount so specified in the fifth column of the said Part IA."

2. In section 5(3) of the National Insurance Act 1957 (child's special allowance) for paragraph (b) (down to but not including the proviso) there shall be substituted the words—

"the amount specified for the said allowance in the second column of Part IA of the Second Schedule to the principal Act increased—

- (a) if there are two such children by the amount so specified in the fourth column of the said Part IA, and
- (b) if there are more than two such children by the amount so specified in the fifth column of the said Part IA in respect of the third and each additional child."

3. For paragraphs (ii) and (iii) of section 2(1)(b) of the National Insurance Act 1963 there shall be substituted the following paragraph—

"(ii) any increase in the allowance under section 23(1B) of the said Act of 1946".

### SCHEDULE 3

Section 6.

#### COMMENCEMENT, TRANSITIONAL PROVISIONS, ETC.

##### *General provision for appointed days*

1.—(1) Sections 1, 2 and 4 of this Act and Schedules 1, 2 and 4 to this Act shall not come into force until such date as the Minister may by order appoint, and different dates may be appointed for different purposes of this Act or for the same purposes in relation to different cases or classes of case.

(2) Any such order may—

- (a) if the date thereby appointed is appointed for some only of the purposes of this Act or in relation only to some cases or classes of case, contain such incidental or supplementary provisions as appear to the Minister to be necessary or expedient as respects the period or any part of the

## SCH. 3

period when this Act is to have a partial operation only and, in particular, provisions modifying and supplementing, in relation to the period to which the order is to apply, the provisions of this Act or any Act amended by this Act,

(b) be varied or revoked by a subsequent order under this sub-paragraph.

(3) Any statutory instrument containing an order under this paragraph shall be laid before Parliament after being made.

*Transitional provisions for section 1*

2.—(1) Except in such cases as the Minister may direct, no payment shall be made under any enactment by virtue of section 1 of this Act in respect of, or by reference to, any person who had before the date appointed for the coming into force of section 1 of this Act (in this and the next two paragraphs referred to as “the appointed date”) attained the age of eighteen years, unless a claim therefor has been made on or after the appointed date in accordance with the requirements of, or of any instrument made under, the enactment in question.

(2) No payment shall be made under any enactment by virtue of section 1 of this Act in respect of any period falling, or by way of a lump sum benefit in respect of any event occurring, before the appointed date.

(3) An award of an allowance or benefit under the Family Allowances Acts 1945 to 1961, the National Insurance Acts 1946 to 1963 or the National Insurance (Industrial Injuries) Acts 1946 to 1963 made in the period between the making of an order under this Schedule appointing the date for the coming into force of section 1 of this Act, and the date so appointed may (so far as relates to an allowance or benefit for periods on and after that date) be made so as to take account of the effect of section 1 of this Act.

3.—(1) Where a person who attains the age of nineteen after the passing of this Act would at the date of the death of some other person, being a death before the appointed date, have been treated as a child of that other person’s family if section 1 of this Act had come into force before the date of death, the entitlement of any person to any payment under the National Insurance Acts 1946 to 1963 or the National Insurance (Industrial Injuries) Acts 1946 to 1963 in respect of any period after the beginning of the appointed date shall be determined as if that person had at the date of death been a child of that other person’s family.

(2) If on any day in the period between the passing of this Act and the appointed date a woman would have been entitled—

(a) to a widowed mother’s allowance under section 17(1)(b) of the National Insurance Act 1946, or

(b) to an allowance by way of death benefit as described in section 19(3)(a) of the Industrial Injuries Act, or

(c) to a pension by way of death benefit under section 19(3)(d) of the Industrial Injuries Act,

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if section 1 of this Act had come into force at the passing of this Act so as, notwithstanding paragraph 2(2) of this Schedule, to authorise the paying of allowances or pensions in respect of periods falling between the passing of this Act and the appointed date, it shall be assumed for the purposes—

(i) of section 18(1) of the National Insurance Act 1946 (qualification for widow's pension), and

(ii) of section 19(3)(b) of the Industrial Injuries Act (qualification for pension by way of death benefit) and so much of section 19(3)(d) of that Act as authorises the payment of a pension where the widow has attained the age of forty at the expiration of a period for which such a pension is payable under the other provisions of that paragraph,

that the widow ceased to be entitled to widowed mother's allowance or, as the case may be, to allowance or pension by way of death benefit on the day, or the latest of the days, on which she would have been entitled to such an allowance (but, in accordance with paragraph 2(2) of this Schedule, not so as to authorise any payment in respect of any period falling before the appointed date.)

4.—(1) Where immediately before the appointed date a person is entitled in respect of a dependant, not being that person's spouse or a child, to an increase in the weekly rate of a benefit—

(a) under section 24(2) of the National Insurance Act 1946 (unemployment benefit and sickness benefit), or section 24(2A) of that Act (retirement pension), or

(b) under section 18 of the Industrial Injuries Act (injury benefit and disablement pension), or

(c) under section 8 of the National Insurance Act 1953 (maternity allowance),

and that dependant becomes a child by virtue of section 1 of this Act on the appointed date, then, during any period during which, had this Act not been passed, that person would have continued without a break to be entitled to that or another such benefit at a weekly rate increased by the like amount in respect of that dependant, he may be treated as being so entitled; and for any period during which he is so treated the dependant shall be treated as not being a child for any purpose of the National Insurance Acts 1946 to 1963 or the National Insurance (Industrial Injuries) Acts 1946 to 1963 except as mentioned below.

(2) Where apart from sub-paragraph (1) above the dependant would be treated as the elder or eldest child, or other child, of a person's family, that sub-paragraph shall not prevent his being so treated for the purpose of determining what benefit, if any, is payable in respect of other children of the family.

(3) Where apart from sub-paragraph (1) above a widow would become entitled to a widowed mother's allowance by reason of the dependant's having become a child as mentioned in that sub-paragraph, that sub-paragraph shall not prevent his being treated

SCH. 3 as a child for the purpose of that allowance, except so far as payable under section 23(1B) of the National Insurance Act 1946.

(4) Where apart from sub-paragraph (1) above a widow would be entitled in respect of the dependant as being a child of her family to death benefit under section 21 of the Industrial Injuries Act, that sub-paragraph shall not prevent her being treated as so entitled for the purpose of determining the rate of any widow's pension payable to her under section 19 of that Act.

*Transitional provisions for section 2 and Schedule 1*

5.—(1) Where an award of any benefit under the National Insurance Act 1946 or the Industrial Injuries Act has been made, whether before or after the passing of this Act, before the date appointed or prescribed for the payment of benefit of the description to which the award relates at a higher weekly rate by virtue of section 2 of and Schedule 1 to this Act or any regulations made in consequence thereof, then, subject to such exceptions or conditions as may be prescribed by regulations made by the Minister, the benefit shall, without any claim being made therefor, become payable (except as respects any period falling before that date) at the higher weekly rate, and the award shall have effect accordingly.

(2) Where any such award—

(a) is made after a date has been appointed or prescribed for the payment of benefit of the description to which the award relates at a higher weekly rate or within a higher maximum weekly rate by virtue of this Act or any regulations made in consequence thereof, and

(b) is made before that date,

the award may provide for the benefit to be paid, as from that date, at the higher weekly rate, or as the case may be, at any weekly rate within the higher maximum rate.

6.—(1) This paragraph shall apply so far as, in the application of section 6(4) of the National Insurance Act 1957 to any payment under paragraphs (a) to (f) of that subsection for a period beginning on or after the date appointed for the coming into force of section 2 of this Act and Schedule 1 to this Act, account is to be taken under paragraph (ii) of the said subsection (4) of contributions to the cost of providing for the child in question for a period before that date.

(2) Where the payment is a widowed mother's allowance or an increase of an allowance under section 21 of the Industrial Injuries Act, the weekly rate of any such contributions satisfying the said paragraph (ii) shall be a weekly rate of not less than thirty shillings.

(3) In any other case, it shall be assumed in applying the said paragraph (ii) to any such contributions that the amount of the payment with which the weekly rate of contribution is to be compared is what it would have been if this Act had not passed.

*General transitional provision as to regulations*

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7. Section 77 of the National Insurance Act 1946 (which requires a preliminary draft of regulations to be submitted to the National Insurance Advisory Committee before the regulations are made or, in certain cases, before a draft is laid before Parliament) and section 61(2) of the Industrial Injuries Act (which requires any proposal to make regulations to be referred to the Industrial Injuries Advisory Council for consideration and advice) shall not apply to any regulations made, or to any draft of regulations laid before Parliament, before the expiration of the period of six months beginning with the date of the passing of this Act if the instrument containing the regulations or, as the case may be, the draft of that instrument states that the regulations are made in consequence of this Act.

*Construction*

8. This Act—

- (a) in so far as it relates to the subject matter of the National Insurance Acts 1946 to 1963 shall be construed as one with the National Insurance Act 1946, and
- (b) in so far as it relates to the subject matter of the National Insurance (Industrial Injuries) Acts 1946 to 1963 shall be construed as one with the Industrial Injuries Act.

SCHEDULE 4  
REPEALS

Section 6.

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 67.	The National Insurance Act 1946.	In section 17(1)(b)(i) the words from "and who" to the end of the said sub-paragraph (i), excluding the word "or". In section 17(1)(b)(ii) the words "while not having such a family as aforesaid". In section 23(1) the words from "and the weekly rate of a widowed mother's allowance" to the end of the subsection. In Schedule 2 Part I, the entries relating to widow's allowance, widowed mother's allowance and child's special allowance.
14 & 15 Geo. 6. c. 34.	The National Insurance Act 1951.	Section 2(3). Section 3(5).
4 & 5 Eliz. 2. c. 47.	The National Insurance Act 1956.	Section 1. In section 2 the words "as amended by the National Insurance Act, 1951, and this Act".

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Chapter	Short Title	Extent of Repeal
4 & 5 Eliz. 2. c. 50.	<b>The Family Allowances and National Insurance Act 1956.</b>	In the Schedule, in paragraph 1, the repeals in section 17(1)(b)(i) and section 17(1)(b)(ii) of the National Insurance Act 1946 as set out above, in paragraph 5 the words from "and at the end" to the end of the paragraph, and paragraph 10.
5 & 6 Eliz. 2. c. 26.	<b>The National Insurance Act 1957.</b>	In section 6(4)(f) the words from "otherwise" to the end of paragraph (f).
9 & 10 Eliz. 2. c. 5. 1963 c. 7.	<b>The National Insurance Act 1960. The National Insurance Act 1963.</b>	In Schedule 4, paragraph 5. Section 2(2). In Schedule 2 the entries relating to widow's allowance, widowed mother's allowance and child's special allowance. In Schedule 3, Part II and Part III, the entries relating to section 21(1) of the Industrial Injuries Act.

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
National Assistance Act 1948 ... ..	11 & 12 Geo. 6. c. 29.
Legal Aid and Advice Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 51.
Legal Aid and Solicitors (Scotland) Act 1949 ...	12, 13 & 14 Geo. 6. c. 63.
Post Office Act 1961 ... ..	9 & 10 Eliz. 2. c. 15.



# Navy, Army and Air Force Reserves Act 1964

## 1964 CHAPTER 11

An Act to make further provision with respect to navy, army and air force reserves.

[27th February 1964]

**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) In relation to any national serviceman or national service volunteer within the meaning of the Navy, Army and Air Force Reserves Act 1954 whose whole-time and part-time service within the meaning of the National Service Acts 1948 to 1950, or service treated under those Acts as performed in lieu thereof or as equivalent thereto, was completed after 31st December 1962, section 1 of the said Act of 1954 as amended by the Navy, Army and Air Force Reserves Act 1959 (under which such a person becomes a member of the appropriate reserve until the last day of June 1964) shall have effect as if for references to 1964 there were substituted references to 1969.

Extension of reserve liability of certain persons.

(2) The said Act of 1959 is hereby repealed.

2.—(1) This section applies to any person who—

- (a) having enlisted under section 2 of the Army and Air Force Act 1961 after the day on which this Act was passed ; and
- (b) not having been discharged in respect of that enlistment under section 14 of the Army Act 1955 ; and
- (c) not having been granted a commission ; and
- (d) not being a woman,

Liability of certain former soldiers to recall for service.

is for the time being under the age of forty-five and neither a member of the armed forces of the Crown apart from this section,

nor liable to be recalled to service under the Recall of Army and Air Force Pensioners Act 1948, nor such a person as is mentioned in paragraphs 1 to 3 of the Schedule to the said Act of 1948 as amended by Schedule 4 to the Mental Health (Scotland) Act 1960.

(2) Any person to whom this section applies may be recalled for service by the Secretary of State by notice in writing at any time when men of the army reserve are called out on permanent service under section 5 or 6(1)(a) of the Army Reserve Act 1950.

(3) A notice to any person under subsection (2) of this section shall specify the time and place at which he is to present himself for service in accordance with the notice and may be revoked or varied by a subsequent notice thereunder, and any such notice shall be deemed to have been duly served on the person to whom it is directed if—

(a) it is delivered to him personally, or

(b) it is sent by registered post or the recorded delivery service addressed to him at his latest address known to the military authorities ;

but any such notice shall cease to have effect if before the time so specified he ceases to be a person to whom this section applies.

(4) A person recalled for service by such a notice as aforesaid shall be deemed to be enlisted in the regular forces within the meaning of the Army Act 1955 for the period beginning with the time specified in the notice and ending, unless he is previously discharged, with such date as Her Majesty may by Order in Council declare to be the end of the emergency which was the occasion of the calling out of the army reserve ; and nothing in the provisions of the Army and Air Force Act 1961 as to the term for which a person may be enlisted shall prejudice the operation of the foregoing provisions of this subsection.

(5) Every person to whom this section applies shall from time to time furnish such information in such manner and within such period as the Secretary of State may by regulations made by statutory instrument require with a view to enabling service to be made on that person of any notice under subsection (2) of this section ; and—

(a) any person who without reasonable excuse fails to comply with any such regulations shall be liable on summary conviction to a fine not exceeding ten pounds ;

(b) any person who, in giving any information required by any such regulations, knowingly or recklessly makes



a statement false in any material particular shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both ;

and proceedings against any person for an offence under paragraph (a) or (b) of this subsection may be taken at any place at which he is for the time being.

(6) The provisions of the Reinstatement in Civil Employment Act 1950 shall apply to any person who is, or is liable to be, recalled under this section as they apply to a person who has entered, or, as the case may be, may be required to enter, upon a period of whole-time service in the armed forces of the Crown in the circumstances mentioned in section 1(a) of that Act; and any service rendered by virtue of this section shall be relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

(7) Any person who, on the day on which this Act was passed, was—

(a) a warrant officer, non-commissioned officer or man of the regular forces within the meaning of the Army Act 1955, not being a person serving in the Royal Marines ;  
or

(b) a member of the first class of the army reserve in consequence of his transfer to that reserve under the Army Act 1955 or the Army and Air Force Act 1961, may give his consent in writing (which may be revoked at any time by three months' notice in writing but shall not cease to be in force until the expiration of that notice) to be subject to this section; and while that consent remains in force the foregoing provisions of this section shall have effect in relation to that person as if for paragraphs (a) and (b) of subsection (1) of this section there were substituted the words "having consented to be subject to this section under subsection (7) thereof, and".

3.—(1) In the case of a person enlisting in the regular forces within the meaning of the Army Act 1955 after the day on which this Act was passed, the Army Reserve Act 1950 shall have effect as if for section 6(1)(b) thereof, as amended by paragraph 13(1) of Schedule 2 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 and by Schedule 2 to the Army and Air Force Act 1961, there were substituted the following :—

Liability of certain army or air force reservists to be called out on permanent service for overseas service.

“(b) any man who has been transferred to the army reserve in pursuance of the Army Act 1955 or the Army and Air Force Act 1961 shall, if on his transfer he was

designated by the competent military authority as subject to this paragraph for a specified period not exceeding three years beginning with the beginning of his service in the first class of the army reserve, be liable to be called out on permanent service for overseas service at any time during that period ”.

(2) In the case of a person enlisting in the regular air force within the meaning of the Air Force Act 1955 after the day on which this Act was passed, the Air Force Reserve Act 1950 shall have effect as if for section 6(1)(b) thereof, as amended by paragraph 14(1) of Schedule 2 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 and by Schedule 2 to the Army and Air Force Act 1961, there were substituted the following :—

“ (b) any man who has been transferred to the air force reserve in pursuance of the Air Force Act 1955 or the Army and Air Force Act 1961 shall, if on his transfer he was designated by the competent air force authority as subject to this paragraph for a specified period not exceeding three years beginning with the beginning of his service in that reserve, be liable to be called out on permanent service for overseas service at any time during that period ”.

Short title  
and extent.

4.—(1) This Act may be cited as the Navy, Army and Air Force Reserves Act 1964.

(2) Section 2(6) of this Act shall extend to the Isle of Man.

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
National Service Acts 1948 ... ..	11 & 12 Geo. 6. c. 64 12 & 13 Geo. 6. c. 6
Recall of Army and Air Force Pensioners Act 1948	12 & 13 Geo. 6. c. 8
National Service Act 1950 ... ..	14 Geo. 6. c. 30
Army Reserve Act 1950 ... ..	14 Geo. 6. c. 32
Air Force Reserve Act 1950 ... ..	14 Geo. 6. c. 33
Reinstatement in Civil Employment Act 1950 ...	14 & 15 Geo. 6. c. 10
Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951	14 & 15 Geo. 6. c. 65
Navy, Army and Air Force Reserves Act 1954 ...	2 & 3 Eliz. 2. c. 10
Army Act 1955 ... ..	3 & 4 Eliz. 2. c. 18
Air Force Act 1955 ... ..	3 & 4 Eliz. 2. c. 19
Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955	3 & 4 Eliz. 2. c. 20
Navy, Army and Air Force Reserves Act 1959 ...	7 & 8 Eliz. 2. c. 10
Mental Health (Scotland) Act 1960 ... ..	8 & 9 Eliz. 2. c. 61
Army and Air Force Act 1961 ... ..	9 & 10 Eliz. 2. c. 52



# Episcopal Church (Scotland) Act 1964

## 1964 CHAPTER 12

An Act to remove a disability restricting the Clergy of the Episcopal Church in Scotland in the exercise of their office in England. [27th February 1964]

**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:—

Repeal of s. 6 of Episcopal Church (Scotland) Act 1864.

1.—(1) It shall be lawful for a person admitted into Holy Orders by a Bishop of the Episcopal Church in Scotland, whether or not he holds or has held any benefice or preferment in England, to officiate in England in a church or chapel belonging to the Church of England, if invited to do so by the Minister having the cure of souls of the church or chapel, without notifying the Bishop of the Diocese in which the church or chapel is situate for the same period and subject to the same conditions as would be applicable to him if he had been admitted into Holy Orders by the Bishop of a Diocese in the Church of England.

(2) Section 6 of the Episcopal Church (Scotland) Act 1864 is hereby repealed.

Short title and extent.

2.—(1) This Act may be cited as the Episcopal Church (Scotland) Act 1964.

(2) This Act shall not extend to Northern Ireland, or to any part of Wales or Monmouthshire, which is subject to the provisions of the Welsh Church Acts 1914 and 1919.



# International Development Association Act 1964

## 1964 CHAPTER 13

An Act to enable effect to be given to a resolution of the board of governors of the International Development Association. [12th March 1964]

**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) In this Act “the Association” means the International Development Association established by the Agreement, and “the Agreement” means the articles of agreement of the International Development Association dated 29th January 1960 and accepted on behalf of Her Majesty's Government in the United Kingdom on 14th September 1960. The resolution.

(2) In this Act “the resolution” means any resolution (whether adopted before or after the passing of this Act) of the board of governors of the Association in the terms set out in Annex A to the Report, dated 9th September 1963, of the Executive Directors to the Board of Governors on Additions to IDA Resources and Membership of Belgium and Membership of Luxembourg (copies of which report, including the Annexes thereto, were laid before Parliament by command of Her Majesty on 17th December 1963).

2.—(1) There shall be paid out of the Consolidated Fund of the United Kingdom all sums required for the purpose of making payments on behalf of Her Majesty's Government in the United Kingdom as follows, that is to say— Financial provisions.

- (a) the payment of additional contributions in accordance with paragraphs (b) to (d) of the resolution, and

- (b) any payment under paragraph (a) of section 2 of Article IV of the Agreement (which relates to falls in the par or foreign exchange value of currencies of members), as applied by the resolution, which may become payable in respect of any such additional contributions.

(2) Subsection (2) of section 2 of the International Development Association Act 1960 (which relates to the raising of money required under subsection (1) of that section) shall have effect in relation to sums to be paid out of the Consolidated Fund under subsection (1) of this section as it has effect in relation to sums to be so paid under subsection (1) of that section.

(3) In subsection (3) of section 2 of that Act (which relates to sums received by Her Majesty's Government in pursuance of the Agreement) the reference to the Agreement shall include a reference to any provisions of the Agreement as applied by the resolution; and in subsection (4) of that section (which relates to the issue of non-interest-bearing and non-negotiable notes or other obligations as provided for by paragraph (e) of section 2 of Article II of the Agreement) the reference to the said paragraph (e) shall include a reference to that paragraph as applied by the resolution.

Short title and citation.

3. This Act may be cited as the International Development Association Act 1964; and the International Development Association Act 1960 and this Act may be cited together as the International Development Association Acts 1960 and 1964.



# Plant Varieties and Seeds Act 1964

## 1964 CHAPTER 14

An Act to provide for the granting of proprietary rights to persons who breed or discover plant varieties and for the issue of compulsory licences in respect thereof; to establish a tribunal to hear appeals and other proceedings relating to the rights, and to exclude certain agreements relating to the rights from Part I of the Restrictive Trade Practices Act 1956; to confer power to regulate, and to amend in other respects the law relating to, transactions in seeds and seed potatoes, including provision for the testing of seeds and seed potatoes, the establishment of an index of names of varieties and the imposition of restrictions as respects the introduction of new varieties; to control the import of seeds and seed potatoes; to authorise measures to prevent injurious cross-pollination; and for connected purposes. [12th March 1964]

**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:—

### PART I

#### PLANT BREEDERS' RIGHTS

1.—(1) Rights, to be known as plant breeders' rights, may be granted in accordance with this Part of this Act in respect of plant varieties of such species or groups as may be prescribed by a scheme made by the Ministers under this Part of this Act. Grant of plant breeders' rights.

(2) Subject to this Part of this Act, plant breeders' rights shall be granted to an applicant by the Controller of the Plant Variety Rights Office established under this Part of this Act (hereafter

## PART I

in this Act referred to as “the Controller”) on being satisfied that the conditions laid down in the next following section are fulfilled.

(3) Schedule 1 to this Act shall have effect for the protection of an applicant pending the decision to allow or refuse his application for the grant of plant breeders’ rights.

(4) An appeal shall lie to the Tribunal established under this Part of this Act (hereafter in this Act referred to as “the Tribunal”) against the decision of the Controller to allow or refuse an application for the grant of plant breeders’ rights.

(5) Before making a scheme under this Part of this Act the Ministers shall consult the Controller and representatives of such interests as appear to the Ministers to be concerned, and any scheme under this Part of this Act—

(a) may make different provision for different species or groups of plant varieties,

(b) may contain such supplemental, incidental and transitional provisions as appear to the Ministers to be appropriate, and

(c) may be varied or revoked by a subsequent scheme, so, however, that the variation or revocation of a scheme shall not prejudice a grant of plant breeders’ rights made before the variation or revocation takes effect.

(6) A scheme 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.

Conditions  
for grant  
of rights.

2.—(1) The conditions laid down in this section must be fulfilled as respects an applicant for plant breeders’ rights and the plant variety to which the application relates.

(2) The applicant must be the person who bred or discovered the variety, or his successor in title, and the provisions of Part I of Schedule 2 to this Act shall have effect as respects priorities between two or more persons who have independently bred or discovered a variety.

(3) The variety must conform to the rules in Part II of Schedule 2 to this Act.

(4) References in this section and Schedule 2 to this Act to the discovery of a plant variety are references to the discovery of a plant variety, whether growing in the wild or occurring as a genetic variant, whether artificially induced or not.

Period for  
which rights  
are exercisable.

3.—(1) A scheme under this Part of this Act shall prescribe the period, being a period not exceeding 25 years, for which plant breeders’ rights are to be exercisable.



**PART I**

(2) As respects fruit trees and their root-stocks, forest and ornamental trees and grape vines the period so prescribed shall be not less than 18 years, and a statement in a scheme under this Part of this Act to the effect that a species or group of plant varieties falls under this subsection shall be conclusive.

(3) As respects plant varieties not falling under the last foregoing subsection the period so prescribed shall be not less than 15 years.

(4) Subject to the following provisions of this section, the period for which plant breeders' rights are exercisable shall be the relevant period prescribed by a scheme under this Part of this Act, beginning with the date on which the grant of the plant breeders' rights by the Controller takes effect.

(5) If on the application of the holder of any plant breeders' rights the Controller is satisfied that, for reasons beyond the control of the applicant, the holder has not been adequately remunerated by the grant of the rights, the Controller may extend the period for which his plant breeders' rights are exercisable, subject to such restrictions, conditions and other provisions, if any, as may be directed by the Controller so, however,—

- (a) that the period as extended shall not exceed 25 years, and
- (b) where the period as extended is less than 25 years, no further extension shall be made under this subsection.

An appeal shall lie to the Tribunal against the decision of the Controller to allow or refuse an application under this subsection.

(6) The holder of plant breeders' rights may at any time make an application to the Controller offering to surrender his rights and if, after notice of the application has been given in the manner prescribed by regulations under this Part of this Act, and after the procedure so prescribed for hearing any person on whom the right to object is conferred by such regulations has been followed, the Controller is satisfied that the rights may properly be surrendered, he may accept the offer and terminate the period for which the rights are exercisable.

An appeal shall lie to the Tribunal from any decision of the Controller under this subsection.

(7) The Controller shall terminate the period for which any plant breeders' rights are exercisable if at any time he is satisfied—

- (a) that any information submitted in the application for the grant of the rights, or any information submitted by or on behalf of the applicant in connection with

## PART I

the application, was incorrect and that, if the Controller had known before the grant that it was incorrect, he would have refused the grant, or

- (b) that facts have been discovered which, if known before the grant, would have resulted in the grant being refused on the grounds that rule 1 or rule 2 in Part II of Schedule 2 to this Act was not satisfied in respect of the plant variety.

(8) The Controller shall revoke or, if it has begun, terminate any extension under subsection (5) of this section of the period for which any plant breeders' rights are exercisable if at any time he is satisfied that any information submitted in the application under that subsection, or any information submitted by or on behalf of the applicant in connection with the application, was incorrect and that, if the Controller had known before deciding to allow the application that it was incorrect, he would have refused the application.

(9) An appeal shall lie to the Tribunal against any decision of the Controller to act under subsection (7) or subsection (8) of this section.

**The nature  
of the rights.**

4.—(1) Subject to this Part of this Act, the holder of plant breeders' rights in a plant variety shall have the exclusive right to do, and to authorise others to do, as follows—

- (a) to sell the reproductive material of the plant variety ;  
 (b) to produce the reproductive material of the plant variety in Great Britain for the purpose of selling it ; and  
 (c) in the circumstances described in Schedule 3 to this Act, to exercise the other rights there specified,

and, subject to this section, infringements of plant breeders' rights shall be actionable at the suit of the holder of the rights, and in any proceedings for such an infringement all such relief, by way of damages, injunction, interdict, account or otherwise, shall be available as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

(2) Paragraph (a) of the foregoing subsection shall not apply to the sale of reproductive material which is not in Great Britain when it is sold ; but if any person purchases the reproductive material of the plant variety which is not in Great Britain when it is sold and uses it in Great Britain as reproductive material, the purchase and subsequent use shall together constitute an infringement of the plant breeders' rights and the purchaser shall be liable to be proceeded against in respect of the infringement.

References in this subsection to using the reproductive material of a plant variety as reproductive material in Great

Britain include references to so disposing of that material (otherwise than by way of sale) while it is in Great Britain as to make it available for use in Great Britain as reproductive material.

(3) There shall be no right to damages in respect of an infringement of plant breeders' rights—

(a) if the person infringing the rights was not aware, and had no reasonable grounds for suspecting, that the plant variety in question was the subject of plant breeders' rights, or

(b) in a case where the infringement consists of a breach of conditions attached to a licence, if that person had no notice of any of those conditions,

but the person who would, but for the foregoing provisions, be entitled to damages shall be entitled to an account of profits in respect of the infringement (and to payment of any amount found due on the account) whether any other relief is granted under this section or not.

(4) The holder of plant breeders' rights may, in authorising other persons to exercise his exclusive rights, impose any conditions, limitations or restrictions which may be imposed by the holder of any other kind of proprietary rights, and plant breeders' rights shall be assignable like other kinds of proprietary rights.

(5) A sale of the reproductive material of a plant variety which is the subject of plant breeders' rights, being a sale by the holder of the rights (or by any other person authorised to grant a licence in respect of those rights)—

(a) shall not imply that the seller authorises the purchaser to produce the reproductive material of the plant variety for the purpose of selling it, but

(b) subject to any terms or conditions imposed by the seller, shall imply that the seller authorises the purchaser to sell the reproductive material sold to him.

(6) In this section and in Schedule 3 to this Act references to selling reproductive material include references to any transaction effected in the course of business—

(a) under which the property in the reproductive material passes from one person to another, or

(b) under which the reproductive material is made over by one person to another in pursuance of a contract under which he will use the reproductive material for growing further reproductive material or other crops,

and paragraph (b) of this subsection shall apply irrespective of whether the contract provides that the property in the crop will

## PART I

the application, was incorrect and that, if the Controller had known before the grant that it was incorrect, he would have refused the grant, or

- (b) that facts have been discovered which, if known before the grant, would have resulted in the grant being refused on the grounds that rule 1 or rule 2 in Part II of Schedule 2 to this Act was not satisfied in respect of the plant variety.

(8) The Controller shall revoke or, if it has begun, terminate any extension under subsection (5) of this section of the period for which any plant breeders' rights are exercisable if at any time he is satisfied that any information submitted in the application under that subsection, or any information submitted by or on behalf of the applicant in connection with the application, was incorrect and that, if the Controller had known before deciding to allow the application that it was incorrect, he would have refused the application.

(9) An appeal shall lie to the Tribunal against any decision of the Controller to act under subsection (7) or subsection (8) of this section.

**The nature  
of the rights.**

4.—(1) Subject to this Part of this Act, the holder of plant breeders' rights in a plant variety shall have the exclusive right to do, and to authorise others to do, as follows—

- (a) to sell the reproductive material of the plant variety ;
- (b) to produce the reproductive material of the plant variety in Great Britain for the purpose of selling it ; and
- (c) in the circumstances described in Schedule 3 to this Act, to exercise the other rights there specified,

and, subject to this section, infringements of plant breeders' rights shall be actionable at the suit of the holder of the rights, and in any proceedings for such an infringement all such relief, by way of damages, injunction, interdict, account or otherwise, shall be available as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

(2) Paragraph (a) of the foregoing subsection shall not apply to the sale of reproductive material which is not in Great Britain when it is sold ; but if any person purchases the reproductive material of the plant variety which is not in Great Britain when it is sold and uses it in Great Britain as reproductive material, the purchase and subsequent use shall together constitute an infringement of the plant breeders' rights and the purchaser shall be liable to be proceeded against in respect of the infringement.

References in this subsection to using the reproductive material of a plant variety as reproductive material in Great

Britain include references to so disposing of that material (otherwise than by way of sale) while it is in Great Britain as to make it available for use in Great Britain as reproductive material.

(3) There shall be no right to damages in respect of an infringement of plant breeders' rights—

- (a) if the person infringing the rights was not aware, and had no reasonable grounds for suspecting, that the plant variety in question was the subject of plant breeders' rights, or
- (b) in a case where the infringement consists of a breach of conditions attached to a licence, if that person had no notice of any of those conditions,

but the person who would, but for the foregoing provisions, be entitled to damages shall be entitled to an account of profits in respect of the infringement (and to payment of any amount found due on the account) whether any other relief is granted under this section or not.

(4) The holder of plant breeders' rights may, in authorising other persons to exercise his exclusive rights, impose any conditions, limitations or restrictions which may be imposed by the holder of any other kind of proprietary rights, and plant breeders' rights shall be assignable like other kinds of proprietary rights.

(5) A sale of the reproductive material of a plant variety which is the subject of plant breeders' rights, being a sale by the holder of the rights (or by any other person authorised to grant a licence in respect of those rights)—

- (a) shall not imply that the seller authorises the purchaser to produce the reproductive material of the plant variety for the purpose of selling it, but
- (b) subject to any terms or conditions imposed by the seller, shall imply that the seller authorises the purchaser to sell the reproductive material sold to him.

(6) In this section and in Schedule 3 to this Act references to selling reproductive material include references to any transaction effected in the course of business—

- (a) under which the property in the reproductive material passes from one person to another, or
  - (b) under which the reproductive material is made over by one person to another in pursuance of a contract under which he will use the reproductive material for growing further reproductive material or other crops,
- and paragraph (b) of this subsection shall apply irrespective of whether the contract provides that the property in the crop will

**PART I**

Controller shall, unless it appears to him that there is good reason for refusing the application, grant to the applicant in the form of a compulsory licence any such rights as respects the plant variety as might have been granted to the applicant by the holder of the plant breeders' rights.

(2) A scheme under this Part of this Act may, for any species or group of plant varieties, prescribe for the purposes of this subsection a period of a length specified in the scheme, and a compulsory licence granted as respects a plant variety which falls within the species or group of plant varieties specified in the scheme shall not have effect during a period beginning with the date of grant of the rights and equal in length to the period so prescribed by the scheme.

The prescribed period may be different for different species or groups.

(3) In entertaining applications and settling the terms of compulsory licences under this section the Controller shall endeavour to secure that the plant variety is available to the public at reasonable prices, that it is widely distributed, that it is maintained in quality and that there is reasonable remuneration for the holder of the plant breeders' rights.

(4) A compulsory licence under this section may include terms obliging the holder of the plant breeders' rights to make reproductive material available to the holder of the compulsory licence.

(5) Without prejudice to the following provisions of this Part of this Act requiring provision to be made by regulations as to proceedings before the Controller, where—

- (a) the holder of the plant breeders' rights to which an application under subsection (1) of this section relates is, or is represented by, a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting of licences to exercise plant breeders' rights, either as the holder of the rights or as agent for holders, and
- (b) an organisation (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the Controller for an opportunity of making representations concerning the application, and the Controller is satisfied that the organisation or person has a substantial interest in the application and that the application involves issues which may affect other applicants for compulsory licences under this section, and

- (c) if the applicant under paragraph (b) of this subsection is an organisation, the Controller is satisfied that it is reasonably representative of the class of persons which it claims to represent,

PART I

the Controller shall afford to the organisation or person applying under paragraph (b) of this subsection an opportunity of making representations to the Controller and of being heard by the Controller or by a person appointed by the Controller for the purpose.

(6) The Controller before granting a compulsory licence shall satisfy himself that the applicant is financially and otherwise in a position, and intends, to exploit the rights to be conferred on him in a competent and businesslike manner.

(7) Without prejudice to the remedies available to the holder of a compulsory licence by the taking of proceedings in any court, the Controller may, if it is represented to him by any applicant that the holder of the plant breeders' rights has failed to meet any obligation imposed on him by a compulsory licence under this section, and he is satisfied that the representations are correct, terminate the period for which the plant breeders' rights are exercisable.

(8) The Controller may at any time on representations made by any applicant extend, limit or vary in any other respect, or revoke, a compulsory licence.

(9) A compulsory licence under this section may be granted to an applicant whether or not the holder of the plant breeders' rights has granted licences to the applicant or any other person, and shall not be an exclusive licence.

(10) If and so far as any agreement purports to bind any person not to apply for a compulsory licence under this section, it shall be void.

(11) An appeal shall lie to the Tribunal against the decision of the Controller to allow or refuse any application under subsection (1), subsection (7) or subsection (8) of this section.

8. Part I of the Restrictive Trade Practices Act 1956 (registration and judicial investigation of restrictive trading agreements) shall not apply—

Exclusion from Restrictive Trade Practices Act 1956.

- (a) to any licence granted by a holder of plant breeders' rights or by any other person authorised to grant a licence in respect of such rights, or
- (b) to any assignment of plant breeders' rights or of the title to apply for the grant of such rights, or

C

## PART I

(c) to any agreement for such a licence or assignment,

being a licence, assignment or agreement under which no such restrictions as are described in section 6(1) of that Act are accepted except in respect of goods which are plants or parts of plants of the plant variety which is the subject of those plant breeders' rights, or will be the subject of them if granted.

Regulations,  
as to  
applications,  
fees, etc.

9.—(1) Regulations may be made under this section by the Ministers as respects the manner in which the Controller is to discharge his functions under this Part of this Act, and in particular as respects—

(a) applications for the grant of plant breeders' rights and other applications to the Controller under this Part of this Act, and

(b) the charging of fees, including periodical fees payable by persons holding plant breeders' rights,

and regulations concerning fees charged by the Controller shall be separate regulations made with the approval of the Treasury.

(2) Regulations under this section may authorise the Controller—

(a) in the case of a failure to pay any fees payable in connection with any application to him under this Part of this Act, to refuse the application, and

(b) in the case of a failure by a holder of plant breeders' rights to pay any fees payable in connection with those rights, to terminate the period for which the rights are exercisable,

with or without, in any case, a right of appeal against the Controller's decision, and may provide for the restoration of the application or the rights if the failure to pay fees is made good.

(3) The regulations shall provide for affording, before the Controller makes a decision to which this subsection applies, both to the person entitled to appeal to the Tribunal against that decision, and to persons of such other descriptions as may be prescribed by the regulations, an opportunity of making representations to the Controller and of being heard by the Controller or by a person appointed by the Controller for the purpose.

This subsection applies to any decision of the Controller against which, under the provisions contained in this Part of this Act, an appeal lies to the Tribunal.

(4) The regulations may, in addition to the rights of appeal conferred by the provisions contained in this Part of this Act,



confer a right of appeal to the Tribunal against any decision of the Controller under regulations made under section 5 of this Act or this section.

(5) Regulations under this section may in particular—

- (a) prescribe the information and facilities to be afforded by an applicant and the reproductive material and other plant material to be submitted at the time of the application or subsequently,
- (b) prescribe the tests, trials, examinations and other steps to be taken by the applicant or the Controller before any application is granted, and the time within which any such steps are to be taken,
- (c) restrict the making of repeated applications on the same subject,
- (d) prescribe the circumstances in which representations may be made regarding any decision on any application,
- (e) make provision as to the keeping of registers and records by the Controller and their rectification, and prescribe the circumstances in which they may be inspected by members of the public,
- (f) make provision for the publication or service of notice of applications and of the Controller's decisions,
- (g) prescribe the manner of dealing with objections to applications.

(6) Subject to the provisions of this section requiring the approval of the Treasury for regulations concerning fees, any regulations under this section shall be made by the Ministers by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

**10.—**(1) There shall be a Plant Variety Rights Tribunal in relation to which the provisions of Schedule 4 to this Act shall apply.

(2) Subject to this section, section 9 of the Tribunals and Inquiries Act 1958 (appeals on questions of law) shall apply as if the Tribunal were included among the tribunals mentioned in subsection (1) of that section and, subject to that section, the decisions of the Tribunal shall be final and conclusive.

(3) The Tribunal shall, in addition to their jurisdiction under this Part of this Act, hear and determine any matters agreed to be referred to the Tribunal by any arbitration agreement relating to the infringement of plant breeders' rights, or to matters which include the infringement of plant breeders' rights, but subsection (2) of this section shall not apply in relation to any jurisdiction conferred on the Tribunal by this subsection.

## PART I

(4) The fees payable to the Tribunal for acting under any arbitration agreement shall be such as the Tribunal may determine, and nothing in section 4 of the Arbitration (Scotland) Act 1894 (power to name oversman) or in section 9 of the Arbitration Act 1950 (agreements for reference to three arbitrators) shall be taken as applying to the Tribunal.

(5) Regulations may be made by the Ministers under this section as respects any appeal to the Tribunal under this Act, or under regulations made under this Act for all or any of the following purposes, that is—

- (a) to provide for determining in which part of Great Britain any appeal is to be heard ;
- (b) to authorise persons other than the appellant and the Controller or other authority whose decision is appealed against to appear and be heard as parties to any appeal ;
- (c) to provide for suspending, or authorising or requiring the suspension of, the operation of a decision pending final determination of an appeal against a decision, and
- (d) to provide for the publication of notices or the taking of other steps for securing that the persons affected by the suspension of the operation of a decision appealed against will be informed of its suspension.

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.

(6) In the application of this section to England and Wales "arbitration agreement" has the meaning given by section 32 of the Arbitration Act 1950.

The Plant  
Variety  
Rights Office.

11.—(1) For the purposes of this Part of this Act there shall be an office to be known as the Plant Variety Rights Office which shall be under the immediate control of an officer appointed by the Ministers, to be known as the Controller of Plant Variety Rights.

(2) The Controller shall in the exercise of his functions, other than the taking of any decision from which an appeal lies to the Tribunal, act under the general direction of the Ministers.

(3) The Ministers may, in addition to the Controller, appoint a deputy controller and such other officers and servants to act in the Plant Variety Rights Office as the Ministers may with the consent of the Treasury determine, and there shall be paid to the Controller and any other officers and servants appointed under this section such remuneration and allowances as the Treasury may determine.

(4) Without prejudice to the Controller's general discretion as to the manner in which he performs his duties under this Act, and subject to subsection (2) of this section, the Controller—

- (a) in carrying out the tests and trials which he considers expedient for the purposes of this Part of this Act, and in assessing the results of any tests and trials (whether carried out by him or not) which he considers relevant for those purposes, may use the services of persons who are not officers or servants appointed under this section and may pay to such persons in respect of their services fees in accordance with such a scale as he may with the approval of the Treasury determine, and
- (b) may establish and maintain reference collections of plant material, and
- (c) may by means of grants of such amounts as he may with the approval of the Treasury determine defray or contribute towards the expenses incurred by any other person in maintaining any reference collection of plant material.

(5) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorised by the Ministers, and prima facie evidence, or in Scotland sufficient evidence, of any document issued by the Controller may be given in all legal proceedings by the production of a copy or extract certified to be a true copy or extract by an officer appointed under this section and authorised to give a certificate under this subsection.

(6) There shall be an official seal for the Plant Variety Rights Office, which shall be officially and judicially noticed, and shall be authenticated by the signature of the Controller or of an officer appointed under this section and authorised to authenticate the seal.

(7) Any document purporting to be certified or sealed in accordance with subsection (5) or subsection (6) of this section shall, unless the contrary is proved, be deemed to have been duly certified or sealed without proof of the official character or handwriting of the person appearing to have certified the document or authenticated the seal.

12.—(1) Subject to this section, Part I of Schedule 1 to the Application of Tribunals and Inquiries Act 1958 shall have effect as if—

- (a) the Controller and any officer authorised to exercise the functions of the Controller under section 11(5) of this Act, and

of Tribunals and Inquiries Act 1958.

## PART I

## (b) the Tribunal

were specified therein.

(2) Notwithstanding the foregoing subsection, section 5 of that Act (which makes it necessary to obtain the concurrence of the Lord Chancellor and of certain judicial officers in Scotland and Northern Ireland to dismissals in certain cases) shall not apply to the Controller or any such officer as is mentioned in paragraph (a) of the foregoing subsection.

(3) References in that Act, as applied by this section, to the working or a decision of, or procedural rules for, the Controller shall not include references to his working, decisions or procedure in the exercise of executive functions.

## False

representations  
as to rights  
and false  
information.

**13.—**(1) If a person falsely represents that he is entitled to exercise any plant breeders' rights, or rights derived from plant breeders' rights, whether or not the variety as respects which the representation is made is the subject of plant breeders' rights, and he knows that the representation is false or makes the representation recklessly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

## (2) If—

(a) any information submitted in an application to the Controller for a decision against which an appeal lies to the Tribunal, or any information submitted by or on behalf of the applicant in connection with such an application, or

(b) any information given in pursuance of a request under section 6(3) of this Act,

is false in a material particular and the person giving the information or making the statement knows that it is false or gives the information or makes the statement recklessly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

Application  
of Part I to  
the Crown.

**14.—**(1) If any servant or agent of the Crown infringes any plant breeder's rights or makes himself liable to civil proceedings under section 5 of this Act, and the infringement or wrong is committed with the authority of the Crown, then civil proceedings in respect of the infringement or wrong shall lie against the Crown.

(2) Subject to the foregoing subsection, no proceedings shall lie against the Crown by virtue of the Crown Proceedings Act 1947 in respect of the infringement of plant breeder's rights or of any such wrong.

PART I

(3) This section shall have effect as if contained in Part I of the Crown Proceedings Act 1947.

15.—(1) References in this Part of this Act to reproductive material are references to reproductive material of plant varieties, and include references—

Interpretation  
of Part I.

- (a) to seeds for sowing,
- (b) to seed potatoes and other vegetative propagating material,
- (c) to whole plants, as well as parts of plants, where whole plants may be used as reproductive material, and
- (d) to ornamental plants and parts of ornamental plants when used commercially as propagating material in the production of ornamental plants and cut flowers.

(2) References in this Part of this Act to an applicant for plant breeders' rights, or to the holder of plant breeders' rights, include, where the context allows, references to his predecessors in title or his successors in title.

## PART II

### SEEDS AND SEED POTATOES

#### *Regulation of sales*

16.—(1) The Minister, after consultation with representatives of such interests as appear to him to be concerned, may by statutory instrument make such regulations as appear to him to be necessary or expedient for the purpose—

Seeds  
regulations.

- (a) of ensuring that reliable and adequate information is afforded as to the nature, condition and quality of seeds which are sold or are for sale,
- (b) of preventing the sale of seeds which are deleterious, and of preventing the sale of seeds which have not been tested for purity and germination, or which are of a variety the performance of which has not been subjected to trials,
- (c) of preventing the spread of plant disease by the sale of seeds,

## PART II

(d) of regulating the descriptions under which seeds are sold, and

(e) of prescribing anything which, under this Part of this Act, is authorised or required to be prescribed,

and regulations under this section shall be known as seeds regulations.

(2) Seeds regulations may include provisions as to the packets, bags, trays or other containers in which seeds may be sold or delivered to purchasers, and requirements as to the marking of such containers.

(3) Seeds regulations may in particular—

(a) require information to be given in the prescribed manner (which may include the giving of it on any label, container or package) as regards seeds which are sold or offered or exposed for sale and, in particular, require the seller of any seeds to deliver a statement containing the prescribed particulars to the purchaser within the time limited by the regulations,

(b) require any of the particulars contained in a statement to be delivered to a purchaser or other person under seeds regulations to be particulars ascertained on a test of the seeds,

(c) prohibit the selling, or the offering or exposing for sale, of seeds which contain more than a prescribed proportion of weed seeds, or of weed seeds of a prescribed kind,

(d) prohibit persons from using, in relation to seeds which are sold, or are offered or exposed for sale, a prescribed name or designation or description except where the seeds have been grown or selected under the prescribed conditions,

(e) require persons who deal in seeds to supply the Minister with information as to, and to keep records of,—

(i) transactions in seeds,

(ii) statutory statements given or received by them, and other statements or invoices given or received by them in connection with the sale of seeds,

(iii) processes or treatments applied to seeds, and

(iv) the results of tests of seeds,

and authorise officers of the Minister and other persons to call for production of the records,

- (f) where persons who deal in seeds also grow seeds, require those persons to supply the Minister with information as to, and to keep records of—
- (i) acreages sown, and
  - (ii) the yields of the crops,
- and authorise officers of the Minister and other persons to call for production of the records,
- (g) regulate the procedure to be observed at, and the conduct of, official testing stations and other establishments at which tests may be carried out for the purposes of the regulations,
- (h) regulate the manner in which any tests are to be made for the purposes of this Part of this Act,
- (i) provide for the licensing by the Minister of establishments for the testing of seeds, other than official testing stations, and authorise the Minister to charge a fee for, and to attach conditions to, any such licence, and to make the conditions enforceable by withdrawal of the licence or by making a breach of any of the conditions an offence against seeds regulations.
- (4) In prescribing the manner in which samples are to be taken for the purposes of any provision in this Part of this Act or for the purposes of seeds regulations, the regulations—
- (a) may impose conditions as to the persons authorised to take samples and the places where they may be taken,
  - (b) may require the person taking a sample to give part of it to the owner of the seeds or to some other person, may prescribe the manner in which the sample is to be divided into parts and may impose duties as respects the marking or labelling and the preservation of the parts of the sample, and
  - (c) may provide for the identification, by the labelling or marking of their container or by some other method, of seeds from which a sample has been taken.
- (5) Seeds regulations—
- (a) may exempt, or authorise the Minister to exempt, any person or class of persons, or persons generally, from compliance with any of the provisions of the regulations, and may provide that the exemptions are to be, or may be made, subject to conditions, and
  - (b) may contain such transitional provisions consequent on the repeal of the Seeds Act 1920 by this Act as may appear to the Minister to be expedient.
- (6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## PART II

(7) If any person—

- (a) in a statutory statement includes anything which is false in a material particular, or
- (b) contravenes any provision contained in seeds regulations which concerns the use of a name or designation or description in relation to any seeds,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

(8) If a person contravenes any provision contained in seeds regulations, and the contravention does not fall under subsection (7) of this section, he shall be liable on summary conviction—

- (a) in the case of a first offence under this subsection, to a fine not exceeding twenty pounds, and
- (b) in the case of a second or subsequent offence under this subsection, to a fine not exceeding fifty pounds.

Civil  
liabilities  
of sellers  
of seeds.

17.—(1) If and so far as seeds regulations provide that a statutory statement shall constitute a statutory warranty for the purposes of this section, the statutory statement, when received by the purchaser, shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained in the statutory statement are correct.

(2) If and so far as seeds regulations apply this subsection to the particulars in a statutory statement and prescribe limits of variation in relation to those particulars, those particulars shall, for the purposes of any legal proceedings on a contract for the sale of the seeds to which the statutory statement relates, be deemed to be true except so far as there is a mis-statement in the statutory particulars which exceeds the limits of variation so prescribed.

(3) If and so far as seeds regulations apply this subsection to the particulars in a statutory statement, the particulars in the statutory statement shall, for the purposes of any legal proceedings on a contract for the sale of the seeds to which the statutory statement relates, be deemed to be true unless it is made to appear on a test carried out at an official testing station, and made on a sample taken in the manner, and within the period, prescribed by seeds regulations, that the particulars were untrue.

(4) Where a purchaser intends to obtain a test of seeds for the purposes of subsection (3) of this section, the seller of the



seeds shall be given written notice of the purchaser's intention not more than the prescribed period after delivery to the purchaser of the seeds under the sale, and seeds regulations shall prescribe a procedure for taking a sample of seeds to be tested for the purposes of that subsection which will afford to the seller of the seeds or his agent an opportunity of being present when the sample is taken, and of obtaining part of the sample.

PART II

(5) A contravention of seeds regulations shall not affect the validity of a contract for the sale of seeds, or the right to enforce such a contract.

(6) In Scotland a contract for the sale of seeds may not be treated as repudiated by reason only of a breach of a written warranty having effect by virtue of subsection (1) of this section.

18.—(1) If and so far as seeds regulations for the purposes of this section prescribe limits of variation in relation to the particulars in a statutory statement, it shall be a defence to proceedings under this Act for including in a statutory statement any false particulars to prove that the mis-statements in the particulars alleged to be false do not exceed the limits of variation so prescribed.

Defences in proceedings for offences against seeds regulations.

(2) Subject to the provisions of this section, it shall be a defence—

- (a) to proceedings under this Part of this Act for including false particulars in a statutory statement,
- (b) to proceedings under this Part of this Act for an offence against seeds regulations relating to the nature, condition or quality of any seeds, and
- (c) to proceedings under this Part of this Act for an offence against seeds regulations relating to a prescribed name or designation or description,

to prove—

- (i) 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
- (ii) where the accused obtained the seeds 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

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## PART II

the name and address of that other person, and with respect to any statutory statement or other document in his possession or power relating to the seeds, and the contract of sale.

(3) If in any such proceedings as are mentioned in subsection (2)(a) of this section any of the particulars alleged to be false are particulars which, by seeds regulations, are to be particulars ascertained by means of a test made in accordance with the regulations, the defence under subsection (2) of this section shall not be available unless it is proved—

(a) that those particulars were ascertained on such a test and that the test was made not earlier than the date, if any, prescribed by seeds regulations for the purpose, or

(b) that—

(i) the accused purchased the seeds from another person who, in connection with the sale, duly delivered to the accused a statutory statement giving particulars of the seeds which were the same as the particulars alleged to be false, and

(ii) the accused had no reason to believe that paragraph (a) of this subsection did not apply in relation to those particulars.

Presumption as respects statutory statements under seeds regulations.

**19.** For the purposes of this Part of this Act and of any seeds regulations, any statutory statement made as respects seeds which are in distinct portions shall be presumed to be made both as respects the seeds as a whole and also as respects each portion taken separately.

*The Index*

Index of names of plant varieties.

**20.—**(1) The Ministers may in accordance with this section prepare an index of names of plant varieties for use in connection with the sale of seeds of those varieties (in this Part of this Act referred to as “the Index”).

(2) The Index shall be compiled in sections, and each section shall define the class of plant varieties to which it relates in such terms as to make it possible to determine whether any plant variety belongs to the class or not, irrespective of whether that variety is for the time being in the Index.

(3) Different sections of the Index may be prepared, and may come into force, at different times.

(4) Notice of the coming into force of a section of the Index, and of all additions, corrections and erasures in a section of the Index after it has come into force, shall be published by the Ministers in the gazette to be issued under Part IV of this Act,

and in such other manner as appears to the Ministers to be appropriate for ensuring that persons particularly concerned with the Index, or with the class of plant varieties to which the section of the Index relates, have their attention drawn to it.

(5) After a section of the Index has come into force any person who in selling seed of a plant variety for which a name is given in that section of the Index, or in offering or exposing for sale any such seed, uses some name not given in the Index for that plant variety, being a name which serves or is intended by him to serve to distinguish the seed from seed of other plant varieties within the class to which the section relates, shall be guilty of an offence under this section.

(6) The Ministers may for the purposes of this section establish, or arrange for the establishment of, a reference collection of plant material.

(7) Schedule 5 to this Act shall have effect as to the procedure for compiling the Index and the other matters there mentioned.

(8) In this and the three next following sections, and in Schedule 5 to this Act—

“ class ” means a class of plant varieties to which a section of the Index relates ;

“ name ” includes any designation,

and for the purposes of those provisions a plant variety shall not be regarded as distinct from another plant variety unless it is clearly distinguishable by one or more important morphological, physiological or other characteristics.

**21.**—(1) Subject to this section, after a section of the Index has come into force it shall be an offence under this section for any person in selling seed of a plant variety which is within the class to which the section of the Index relates, but which is not in the Index, or in offering or exposing for sale any such seed, to use a name which serves or is intended by him to serve to distinguish the seed from seed of other plant varieties within that class.

Restrictions on sales of seeds of unindexed plant varieties.

(2) Subsection (1) of this section shall not apply—

(a) to a person who reasonably believes that the seed is to be used for scientific purposes or for the purposes of research, or

(b) to a person who reasonably believes that the seed will be used outside Great Britain.

(3) Where any person makes, or proposes to make, arrangements under which some other person uses seed under the control of the first-mentioned person for the purpose of increasing

## PART II

the first-mentioned person's stock, or of carrying out tests or trials, and under which the whole of the material produced, directly or indirectly, from the seed, and any unused seed, becomes or remains the property of the first-mentioned person, subsection (1) of this section shall not apply—

- (a) to a sale, or offer for sale, of the seed by the first-mentioned person to the other person as part of the arrangements, or
- (b) to a sale by that other person to the first-mentioned person of seed produced, directly or indirectly, from that seed.

(4) Except as provided by paragraph 3(3) of Schedule 5 to this Act, the Ministers shall not refuse an application for the inclusion of a plant variety in the appropriate section of the Index after it has come into force on any ground other than that in their opinion the plant variety is not distinct from a plant variety which is for the time being in the Index.

(5) If at any time it appears to the Ministers that they will not be able to give a decision on such an application within two years from the time when the applicant has complied with the conditions prescribed under Schedule 5 to this Act for making the application, they shall make an entry in the Index giving to the plant variety such provisional name as appears to them appropriate; and when the decision has been given they shall make such corrections as may be required to give effect to the decision.

(6) The applicant may appeal to the Tribunal against the refusal by the Ministers of such an application, and the Tribunal may at any time before the final determination of the appeal require the Ministers to make an entry in the Index giving a provisional name for the plant variety to which the application relates pending the determination of the appeal.

Performance trials and reports for new varieties within a section of the Index.

**22.—**(1) If the Ministers by order bring this section into force for any class of plant varieties in the Index, this section shall apply to any new plant variety within the class.

An order under this subsection may be revoked by a subsequent order, but without prejudice to liability for any offence before the revocation takes effect; and any order under this subsection shall be made by statutory instrument after consultation with representatives of such interests as appear to the Ministers to be concerned and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) For the purposes of this section a plant variety shall be a new variety if it was not in the Index when the order

under the foregoing subsection came into force unless it has been exempted under the next following subsection.

(3) The Ministers may on an application from any person, and on being satisfied that seed of a plant variety, although unindexed, was in commercial use in Great Britain before the order under subsection (1) of this section took effect, exempt that plant variety from the provisions of this section.

An appeal shall lie to the Tribunal against the refusal of an application under this subsection.

(4) Subject to this section, it shall be an offence under this section—

- (a) to sell seed of a new plant variety to which this section applies, or
- (b) to offer or expose for sale any such seed, or
- (c) to advertise for use any such seed,

until seed of that plant variety has been submitted for the purpose of performance trials of that plant variety in accordance with this section, and until a report on the result of the performance trials has been published in the manner prescribed by regulations under this section; and paragraphs (b) and (c) of this subsection shall apply whether or not the offer for sale or advertisement relates only to sales after the performance trials and report.

(5) Paragraphs (a) and (b) of the last foregoing subsection shall not apply to a sale or offer for sale of seed which is not in Great Britain when the sale or offer for sale is made; but, subject to this section, where a person has acquired seed of a new plant variety to which this section applies, being seed which was not in Great Britain when he acquired it, it shall be an offence under this section for him in the course of business—

- (a) to use any of that seed in Great Britain as reproductive material at any time when under the last foregoing subsection it is unlawful to sell seed of that plant variety there; or
- (b) at any such time so to dispose of any of that seed (otherwise than by way of sale) while it is in Great Britain as to make it available for use there as reproductive material.

(6) Subsection (4) of this section shall not apply to any sale or offer for sale of the kind described in subsection (3) of the last foregoing section, and subsection (5) of this section shall not apply to the use of seed for the purpose of carrying out tests or trials.

**PART II**

(7) If it appears to the Ministers that a new plant variety to which this section applies has undergone performance trials and that an adequate report of the result of those performance trials is generally available, or that there is any other sufficient reason for dispensing with the requirements of subsections (4) and (5) of this section, they may direct that those subsections shall cease to apply to seed of that plant variety, but without prejudice to liability for any offence previously committed.

(8) For all new plant varieties to which this section applies there shall be a time limit by which (so far as practicable) the report on the result of the performance trials is to be published in accordance with this section; and if the report on the result of the performance trials of a new plant variety to which this section applies is not published within the time limit, subsections (4) and (5) of this section shall cease to apply to seed of that plant variety, but without prejudice to liability for any offence committed before the time limit ran out.

Except so far as regulations under this section otherwise provide for a class or part of a class, the time limit shall be two years from the date on which the performance trials begin.

(9) The Ministers shall in making entries in a section of the Index after an order under subsection (1) of this section has taken effect—

(a) employ a method which will distinguish those entries from the earlier entries and indicate which of the later entries relate to plant varieties exempted under subsection (3) of this section, and

(b) make additional entries showing when subsections (4) and (5) of this section have ceased to apply to seeds of a new plant variety.

(10) The Ministers may by statutory instrument make regulations for the purposes of this section and, in particular, may by those regulations provide—

(a) for the manner of making applications under subsection (3) of this section, and applications for submitting plant varieties for performance trials,

(b) for the information to be afforded by an applicant and the materials to be submitted at the time of application or subsequently,

(c) for the manner in which the reports are to be published and brought to the attention of those concerned,

(d) for the compiling of a register of applications for the submission of seeds for performance trials, of the reports of the results of those trials, and of the dates of publications of the reports, and for including entries

which will show the date when the time limit under subsection (8) of this section will fall,

- (e) for requiring the Ministers to publish notice of any direction under subsection (7) of this section, and of any case where a report is not published within the time limit under subsection (8) of this section,

and regulations under this subsection made with the approval of the Treasury may authorise the charging of fees to applicants for the submission of seeds for performance trials.

A statutory instrument under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) References in this section to advertising are references to advertising in any medium, including sound and television broadcasting ; but for the purposes of this section the communication of information in any publication for scientific purposes or purposes of research shall not be regarded as advertising.

**23.**—(1) A person guilty of an offence under any of the three last foregoing sections 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.

Punishment for offences in connection with the Index.

(2) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952 or section 23 of the Summary Jurisdiction (Scotland) Act 1954 (time limit for proceedings), proceedings for an offence under any of the three last foregoing sections may be brought at any time not more than two years from the time when the offence was committed.

(3) It shall be a defence to proceedings for an offence under any of the three last foregoing sections 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 seeds 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 statutory statement or other document in his possession or power relating to the seeds, and the contract of sale.

(4) If any information submitted to the Ministers by or on behalf of—

- (a) a person making an application or representations as respects any matter connected with the compilation or alteration of the Index, or

## PART II

(b) an applicant under subsection (3) of the last foregoing section,

is false in a material particular and the person giving the information knows that it is false or gives the information recklessly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

*Official testing stations*

Official testing stations and certificates of test.

24.—(1) Subject to this section, the Minister of Agriculture, Fisheries and Food and the Secretary of State shall respectively continue to maintain the official seed testing stations established for England and Wales and for Scotland under the Seeds Act 1920.

(2) The Ministers may unite in establishing and maintaining, on such terms as may be agreed between them, a common official seed testing station for the whole of Great Britain.

(3) Either or both of the Ministers may at any time alter the arrangements made by them for official seed testing stations for England and Wales and for Scotland respectively, and any official seed testing station established by either or both of them may be established in conjunction with any other bodies or persons.

(4) The Minister or Ministers concerned may, subject to the approval of the Treasury, authorise the charging of fees for the services given at an official seed testing station.

(5) A certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of this Part of this Act shall be in the form prescribed by seeds regulations.

(6) A certificate of the result of a test at an official seed testing station of a sample taken for the purposes of this Act, and purporting to be issued by an officer of an official seed testing station,—

- (a) if the sample was taken by an authorised officer, shall, if a copy of the certificate has been served on the accused with the summons or complaint, be sufficient evidence of the facts stated in the certificate in any proceedings for an offence under this Part of this Act, and
- (b) if the sample was taken by a person other than an authorised officer in order to obtain the test for the purposes of section 17(3) of this Act, shall be sufficient evidence of the facts stated in the certificate in any such legal proceedings as are mentioned in that subsection,



unless, in either case, either party to the proceedings requires that the person under whose direction the test was made be called as a witness; and in that event, in the case of proceedings in Scotland, the evidence of that person shall be sufficient evidence of the facts stated in the certificate.

(7) In any proceedings for an offence under this Part of this Act in which a copy of a certificate of the result of a test has been served with the summons or complaint in pursuance of paragraph (a) of the last foregoing subsection, the accused, unless the court otherwise directs, shall not be entitled to require that the person under whose direction the test was made be called as a witness unless he has, at least three clear days before the day on which the summons is returnable or, in Scotland, the case proceeds to trial, given notice to the prosecutor that he intends to do so.

### *Supplemental*

25.—(1) The powers of entry conferred by subsections (3) and (4) of this section may be exercised for the purpose of exercising—

- (a) the further powers conferred by subsections (5) and (6) of this section, or
- (b) any powers of calling for, inspecting or taking copies of records or other documents conferred by seeds regulations,

or for the purpose of ascertaining whether there is, or has been, on or in connection with the premises (including any vehicle or vessel) any contravention of any provision contained in this Part of this Act or in seeds regulations.

(2) This section shall not authorise entry into any premises which are used exclusively as a private dwelling.

(3) Any person duly authorised by the Minister in that behalf may, on production if so required of his authority, at all reasonable hours enter any premises which he has reasonable cause to believe to be used for any purpose of a business in the course of which seeds are sold, whether the sale is by wholesale or retail, and whether the person conducting it acts as principal or agent.

(4) Any person duly authorised by the Minister in that behalf may, on production if so required of his authority, at all reasonable hours enter any premises on which he has reasonable cause to believe that there are any seed potatoes which have been sold and which are to be delivered, or are in the course of delivery, to the purchaser, and the power of entry under this subsection may be exercised when the seed potatoes are in transit in the course of delivery to the purchaser, and in particular when they are in any vehicle or vessel in the course of delivery.

**PART II**

(5) A person may, on any premises (including any vehicle or vessel) which he has power under this section to enter for the purpose of exercising the powers conferred by this subsection, examine any seeds which he finds there and may without payment take samples of any seeds so found.

(6) The owner of any seeds which are offered or exposed for sale, or are stored for purposes of sale, or any person authorised to sell those seeds, may be required by a person duly authorised by the Minister in that behalf to deliver to him such a statement, if any, as the person selling them would by seeds regulations be obliged to deliver to a purchaser of those seeds, and to deliver it within the time prescribed for such a statement.

(7) If any person fails to comply with a requirement under subsection (6) of this section he shall be liable on summary conviction—

(a) in the case of a first offence under this subsection, to a fine not exceeding twenty pounds, and

(b) in the case of a second or subsequent offence under this subsection, to a fine not exceeding fifty pounds,

and references in this Part of this Act to a statutory statement shall include references to a statement delivered under subsection (6) of this section.

(8) This section shall apply as respects—

(a) all kinds of seeds in respect of which an offence may under any circumstances be committed under seeds regulations as for the time being in force, and

(b) seeds of all plant varieties which are within any class to which a section of the Index which has come into force relates.

(9) A person who obstructs or impedes any person acting in the exercise of the powers conferred by this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

Use of  
samples in  
criminal  
proceedings.

**26.**—(1) Evidence shall not be adduced in proceedings for an offence under this Part of this Act respecting a sample taken by an authorised officer unless the sample was taken in the manner prescribed by seeds regulations.

(2) Seeds regulations shall provide for the sample being divided into at least two parts, and for one of the parts being given to the owner of the seeds or to such other person as may be prescribed by seeds regulations, and shall provide for a third part of the sample to be retained for production in all cases where use of it may be made by the court under this section.

## PART II

(3) A certificate in the form prescribed by seeds regulations purporting to be issued by an authorised officer and stating that a sample was taken in the prescribed manner shall be sufficient evidence of the facts stated in the certificate.

(4) If part of a sample taken by an authorised officer is sent to the chief officer of an official testing station, it shall be so sent as soon as practicable after the sample is taken, and the person to whom any other part of the sample is given shall be informed before the first-mentioned part is sent.

(5) A copy of a certificate issued by an official testing station stating the result of a test of part of a sample taken by an authorised officer shall be sent to the person to whom any other part of the sample is given.

(6) In any proceedings for an offence under this Part of this Act in respect of seeds which have been sampled by an authorised officer, the summons shall not be made returnable, and, in Scotland, the case shall not proceed to trial, less than fourteen days from the day on which the summons or complaint is served, and a copy of any certificate of an official testing station which the prosecutor intends to adduce as evidence shall be served with the summons or complaint.

(7) In proceedings for including in a statutory statement false particulars concerning matters which are under seeds regulations to be ascertained, for the purpose of the statement, by a test of the seeds, if any sample of the seeds has been taken by an authorised officer, the third part of that sample required by seeds regulations to be retained as mentioned in subsection (2) of this section shall be produced at the hearing.

(8) The court may, if it thinks fit, on the request of either party, cause the part so produced to be sent to the chief officer of an official testing station, who shall transmit to the court a certificate of the result of a test of that part of the sample.

(9) If, in a case where an appeal is brought, no action has been taken under the last foregoing subsection the provisions of that subsection shall apply also to the court by which the appeal is heard.

(10) A sample taken before the coming into force of this Part of this Act in accordance with section 4 of the Seeds Act 1920 shall be regarded as taken in the prescribed manner for the purposes of subsection (1) of this section.

27.—(1) If any person—

(a) tampers with any seeds so as to procure that a sample taken in the manner prescribed by seeds regulations for any purpose does not correctly represent the bulk of the seeds, or

(b) tampers with any sample so taken, or

Tampering  
with samples.

## PART II

(c) with intent to deceive sends, or causes or allows to be sent to any official testing station or licensed testing establishment, to be tested for any purpose, a sample of seeds which to his knowledge does not correctly represent the bulk of the seeds,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

(2) In this section "licensed testing establishment" means an establishment licensed under seeds regulations for the testing of seeds.

Institution  
of criminal  
proceedings.

**28.**—(1) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952 or section 23 of the Summary Jurisdiction (Scotland) Act 1954 (time limit for proceedings), where a part of a sample has been tested at an official testing station proceedings for including in a statutory statement false particulars concerning the matters which are under seeds regulations to be ascertained, for the purposes of the statement, by a test of the seeds, being proceedings relating to the seeds from which the sample was taken, may be brought at any time not more than six months from the time when the sample was taken.

(2) If at any time before a test is begun at an official testing station to ascertain whether a part of a sample of seeds is of a specified variety or type, and not more than six months after the sample was taken, the person to whom any other part of the sample was given, or any other person, is notified in writing by an authorised officer that it is intended so to test the seeds and that, after the test, proceedings may be brought against that person for including in a statutory statement a false statement that seeds were of a specified variety or type, then notwithstanding anything in the said section 104 or 23, any such proceedings relating to the seeds from which the sample was taken may be brought against the person so notified at any time not more than two years from the time when the sample was taken.

A certificate purporting to be issued by an authorised officer and stating that a person was so notified shall be sufficient evidence of that fact.

(3) Proceedings for an offence under this Part of this Act relating to a statutory statement which has been delivered to a purchaser of seeds, or relating to seeds which have been sold and delivered to the purchaser, may be brought before a court having jurisdiction at the place of delivery of the statement or seeds.

**29.** This Part of this Act applies to seed potatoes as it applies to seeds, and accordingly, except where the context otherwise requires, references in this Part of this Act to seeds include references to seed potatoes.

**PART II**  
Application  
of Part II to  
seed potatoes.

**30.—**(1) In this Part of this Act, unless the context otherwise requires,—

Interpretation  
of Part II.

“authorised officer” means an officer of the Minister or a person authorised by the Minister to execute this Part of this Act ;

“official testing station” means an official seed testing station maintained by the Minister or Ministers under this Part of this Act ;

“seeds” includes agricultural and horticultural seeds, vegetable seeds, flower seeds, seeds of grasses, whether used for agricultural purposes or other purposes, and seeds of trees ;

“statutory statement” means a statement given in pursuance of seeds regulations, whether the statement be in the form of a notice or other document, or in the form of particulars given on any label or container or package, or in any other form, and includes a statement delivered under section 25(6) of this Act.

(2) In this Part of this Act references to a contravention of any provision contained in this Act or in seeds regulations include references to a failure to comply with such a provision, and references to a contravention of any provision contained in seeds regulations include references to anything which, by the regulations, is expressed to be an offence against a provision contained in the regulations and also include references to any failure to comply with a condition subject to which an exemption is granted by or under seeds regulations.

(3) In this Part of this Act any reference to an offence under this Part of this Act includes, unless the context otherwise requires, a reference to a contravention of any provision contained in seeds regulations.

**31.—**(1) The enactments mentioned in Schedule 6 to this Act (which include certain enactments which were obsolete before the passing of this Act) shall, except for the purposes of proceedings for offences thereunder committed before the coming into force of this Part of this Act, be repealed to the extent specified in the third column of that Schedule.

Repeals and  
consequential  
amendment.

(2) In section 2(1)(a) of the Merchandise Marks Act 1953 (exception for statutory descriptions of agricultural produce) for the words from “the Seeds Act 1920” to the end of the paragraph there shall be substituted the words “seeds regulations ; or”.

**PART III****CONTROL OF IMPORTS AND PREVENTION OF  
CROSS-POLLINATION**

Control of imports of potentially deleterious seeds.

**32.—(1)** If it appears to the Ministers that it is necessary or expedient that they should be able to exercise the powers conferred by this section for the purpose of preventing the importation into the United Kingdom—

(a) of seeds which, if used as reproductive material in the United Kingdom, will or may cause deterioration of domestic types or varieties of plants by cross-pollination, physical admixture or other means, or

(b) of seeds which are unsuitable for use in the United Kingdom because they are of a type or variety which has been developed in countries with different climates, different hours of daylight or other different conditions, they may by order apply this section to seeds of any type or variety specified in the order.

(2) An order under this section may provide for excepting from a type or variety so specified any description of seeds defined in any manner and, in particular, any description of seeds defined by reference to the country or territory where they were grown or from which they have been consigned to the United Kingdom.

(3) Without prejudice to the powers of exemption conferred by the last foregoing subsection, where it is shown to the satisfaction of the Commissioners of Customs and Excise that any seeds are being imported into the United Kingdom solely with a view to their re-exportation after transit through any part of the United Kingdom, or by way of trans-shipment, the Commissioners may, subject to such conditions as they think fit to impose for securing the re-exportation of the seeds, allow those seeds to be imported as if this section did not apply to them.

(4) Subject to any exceptions prescribed under subsection (2) of this section and to the last foregoing subsection, all seeds to which this section applies are prohibited to be imported into the United Kingdom except under the authority, and in accordance with the terms, of a licence granted by the Minister of Agriculture, Fisheries and Food.

(5) A licence under this section may be, to any degree, general or specific and may be modified or revoked by the Minister of Agriculture, Fisheries and Food at any time.

(6) An officer of Customs and Excise may require any person possessing or having control of any seeds to which this section applies which are being or have been imported to furnish proof that the importation of the seeds is or was not unlawful by virtue of this section; and if such proof is not furnished to the satisfaction of the Commissioners of Customs and Excise, then,

unless the contrary is proved, the goods shall be deemed to be prohibited goods and shall be liable to forfeiture under the Customs and Excise Act 1952.

(7) An order under this section—

- (a) may include provision as to the methods by which importers may be required to prove whether consignments of seeds fall within any exception specified in such an order,
- (b) may prescribe the form and manner in which applications are to be made for licences and the form of licences,
- (c) may contain such other transitional, supplemental and incidental provisions as appear to the Ministers to be expedient, and
- (d) may be varied or revoked by a subsequent order under this section ;

and any order under this section shall be made by statutory instrument after consultation with representatives of such interests as appear to the Ministers to be concerned, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this section “the Ministers” means the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State concerned with agriculture in Northern Ireland, acting jointly.

(9) This section shall extend to Northern Ireland and be construed as one with the Customs and Excise Act 1952.

33.—(1) This section shall have effect for the purpose of maintaining the purity of seed of any types and varieties of plants of any species of the genus *Allium*, *Beta* or *Brassica*.

Measures to prevent injurious cross-pollination affecting crops of seeds.

(2) The Minister may by order bring this section into force in an area in any part of Great Britain in which persons are engaged in growing crops of seeds of any type or variety of plant mentioned in subsection (1) of this section if he is satisfied that in that area satisfactory arrangements (whether legally enforceable or not) have been made for locating such crops so as to isolate them from crops or plants which might cause injurious cross-pollination.

(3) An order under this section—

- (a) shall be made after consultation with the persons responsible for the arrangements mentioned in subsection (2) of this section, and with persons representative of such other interests as appear to the Minister to be concerned, and

## PART III

(b) shall be made by statutory instrument and may be varied or revoked by a subsequent order so made.

(4) An order under this section—

(a) shall state which of the types and varieties of plants mentioned in subsection (1) of this section are protected by the order, and

(b) shall specify the kinds of crops and plants which are to be controlled in the area to which the order relates, and

(c) may relate to more than one area and, if so, may make different provision under paragraphs (a) and (b) of this subsection in respect of the different areas to which it relates ;

and in this section, in relation to an area to which an order under this section relates—

(i) “protected crop” means a crop of a type or variety of plant which is protected by the order in that area, being a crop grown for the purpose of producing seeds, and

(ii) “controlled crops or plants” means crops, grown for any purpose, of the types or varieties of plants which are protected by the order in that area, and such additional kinds of crops or plants, whether grown or self-sown and whether of those or any other types or varieties, as may be specified in the order for the purposes of this definition in that area.

(5) If in an area where this section is in force controlled crops or plants are growing and, on an application made in accordance with Schedule 7 to this Act, the Minister is satisfied—

(a) that they are causing or may cause injurious cross-pollination in a protected crop which is being grown in the area, and

(b) in the case of controlled crops or plants which are not self-sown, that the person growing them did not give to the persons responsible for the arrangements mentioned in subsection (2) of this section such notice of his intention to grow those crops or plants to the flowering stage as would have enabled them to take any appropriate steps for altering the arrangements,

the Minister may serve a notice on the occupier of the land where the controlled crops or plants are growing requiring him to take such steps as may be specified in the notice for the purpose of preventing any of the controlled crops or plants from causing or continuing to cause injurious cross-pollination in the protected crop.



(6) If the person served with a notice under this section does not comply with any requirement in the notice, the Minister may enter and do what that person has failed to do or, if in the opinion of the Minister that would no longer serve the purpose for which the notice was served, may take such other action as appears to the Minister appropriate for that purpose; and where, when the default occurs, further obligations remain under the notice, the Minister may also take such action as appears to him appropriate to meet the purposes for which those further obligations were imposed.

The Minister may recover from the person on whom the notice was served a sum equal to the reasonable cost incurred by the Minister in taking any action under this subsection.

(7) Without prejudice to the power of proceeding under the last foregoing subsection, a person who unreasonably fails to comply with any requirement in a notice under this section shall be liable on summary conviction—

(a) in the case of a first offence under this subsection, to a fine not exceeding twenty pounds, and

(b) in the case of a second or subsequent offence under this subsection, to a fine not exceeding fifty pounds.

(8) A person duly authorised by the Minister may, on production if so required of his authority, at all reasonable hours enter on any land (but not into any dwellinghouse) in an area where this section is in force for the purpose of ascertaining whether controlled crops or plants are growing on the land or of inspecting and taking samples of any controlled crops or plants growing on the land.

(9) A notice under this section or Schedule 7 to this Act may be served by leaving it at, or sending it by post addressed to, the last known address of the person on whom it is to be served, and if it is not practicable after reasonable inquiry to ascertain his name and address, the notice may be served by addressing it to him as “the occupier” of the land and affixing it or a copy of it to some conspicuous object on the land.

(10) A person who obstructs or impedes a person acting in the exercise of the powers conferred by subsection (6) or subsection (8) of this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

(11) In this section, and in the said Schedule—

“the occupier” means, in the case of unoccupied land, the person entitled to occupy the land;

“protected crop” and “controlled crops or plants” have the meanings respectively assigned by subsection (4) of this section.

PART IV  
GENERAL

The *gazette*.

**34.**—(1) The Ministers shall from time to time publish a *gazette* (in this Act referred to as “the *gazette*”), and shall use the *gazette* as one of the means of publishing notice of matters to be published under this Act.

(2) It shall be no defence in civil or criminal proceedings to show that at any time a person did not know of an entry in the register under section 5 of this Act, or in the Index under Part II, or did not know that a section of the Index had come into force, if before that time notice of that entry or fact had been published in the *gazette*.

General provisions as to offences.

**35.**—(1) Where an offence punishable 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.

(2) Proceedings for any offence punishable under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a person before the appropriate court in Great Britain having jurisdiction in the place where that person is for the time being.

Supplemental provisions as to regulations.

**36.** Regulations under this Act—

- (a) may make different provision for different types or classes of plant varieties, for different seasons of the year and for other different circumstances, and
- (b) may contain such supplemental, incidental and transitional provisions as may appear to the Minister or Ministers making the regulations to be expedient.

Departmental expenses and payments into Exchequer.

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

- (a) the remuneration and allowances of the Controller and other officers and servants appointed under section 11 of this Act,
- (b) the remuneration and allowances of members of the Tribunal and of the officers and servants of the Tribunal appointed by the Ministers, and such other expenses of the Tribunal as the Treasury may determine,
- (c) to such extent as the Treasury may approve, any expenses incurred by the Controller in the discharge of his functions under this Act (including any sums paid by way of fees or grants under section 11(4) of

this Act), and any other expenses incurred in the operation of the Plant Variety Rights Office,

PART IV

(d) (so far as not falling under the foregoing paragraphs) any expenses incurred by a Minister in the execution of this Act, and

(e) any increase attributable to this Act in the sums payable out of money so provided under the Superannuation Acts 1834 to 1960.

(2) Any fees received by virtue of this Act by a Minister or the Controller or the Tribunal shall be paid into the Exchequer.

**38.**—(1) In this Act—

Interpretation.

“the Controller” means the Controller of Plant Variety Rights;

“the Minister” means, as respects England and Wales, the Minister of Agriculture, Fisheries and Food and, as respects Scotland, the Secretary of State; and “the Ministers” means, except as otherwise expressly provided, the said two Ministers acting jointly;

“plant variety” means any clone, line, hybrid or genetic variant;

“the Tribunal” means the Tribunal established under Part I of this Act;

“variety”, unless the context otherwise requires, means a plant variety.

(2) References in this Act to seeds are references to seeds for sowing.

(3) 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.

**39.**—(1) This Act, so far as not expressly extended to Northern Ireland by any provision contained in this Act or by any Order in Council under the next following subsection, shall not extend to Northern Ireland; but no limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act 1920 shall apply in relation to legislation for purposes similar to the purposes of Part II or this Part of this Act so as to preclude that Parliament from enacting a provision similar to some provision in those Parts of this Act.

Extension of Act to Northern Ireland.

(2) Her Majesty may, by an Order in Council made under this subsection in pursuance of resolutions passed by the two Houses of the Parliament of Northern Ireland, direct that—

(a) the provisions of Part I of this Act, and

(b) any of the provisions of Part II or this Part of this Act specified in the Order,

shall (whether as originally enacted or as they have effect by virtue of any Order in Council under the next following section)

## PART IV

extend to Northern Ireland ; and any such Order in Council may be varied or revoked by a subsequent Order in Council made under this subsection in pursuance of such resolutions as aforesaid.

(3) While any of the provisions of this Act extend to Northern Ireland by virtue of an Order in Council under subsection (2) of this section, they shall (without prejudice to the validity of anything previously done under this Act)—

(a) have effect as if—

(i) any reference to Great Britain were a reference to the United Kingdom ; and

(ii) any reference to “ the Ministers ” included the Secretary of State concerned with agriculture in Northern Ireland ; and

(b) in their application to Northern Ireland, have effect as if—

(i) references to sections 9 and 32 of the Arbitration Act 1950 were respectively references to sections 12 and 30 of the Arbitration Act (Northern Ireland) 1937 ;

(ii) references to section 104 of the Magistrates' Courts Act 1952 were references to any corresponding provision of the law of Northern Ireland ;

(iii) in section 10(6), for the reference to England and Wales there were substituted a reference to Northern Ireland ;

(iv) after paragraph 3 of Schedule 4 there were inserted the following paragraph—

“ 3A. In relation to proceedings before the Tribunal in Northern Ireland—

(a) paragraphs 1 and 2 of this Schedule shall have effect as if for the references to the Lord Chancellor there were substituted references to the Lord Chief Justice of Northern Ireland, and

(b) references in paragraphs 5 and 8 of this Schedule to the chairman or deputy chairman shall be construed respectively as references to the chairman or deputy chairman appointed for such proceedings ” ;

and

(v) in paragraph 9(1) of Schedule 4, for the words from “ in the county court ” to the end of that sub-paragraph there were substituted the words “ by the taxing master of the Supreme Court of Judicature of Northern Ireland according to such of the

## PART IV

scales provided for equity suits or proceedings in the county courts under the County Courts Act (Northern Ireland) 1959 as may be directed by the order or, if the order gives no direction, by the taxing master ”.

(4) While any provisions of this Act extend to Northern Ireland by virtue of an Order in Council under subsection (2) of this section, they shall have effect subject to such exceptions, adaptations and modifications as may be specified in the Order ; and in the application of those provisions to Northern Ireland any reference to any enactment of the Parliament of Northern Ireland shall be construed as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modification.

(5) If the Parliament of Northern Ireland pass legislation amending or repealing the Seeds Act 1920, Her Majesty may by Order in Council made under this subsection direct that that legislation (and any related enactments forming part of the law of Northern Ireland), and any provisions in Part II or this Part of this Act, shall have effect subject to such exceptions, adaptations and modifications as may appear to Her Majesty to be expedient for the purpose of securing that the two systems of legislation operate, to such extent as may be specified, as a single system ; and any such Order in Council may be varied or revoked by a subsequent Order in Council under this subsection.

(6) An Order in Council under subsection (2) or subsection (5) of this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.

40. Her Majesty may by Order in Council direct that any of the provisions of this Act specified in the Order shall (whether as originally enacted or as they have effect by virtue of any Order in Council under the last foregoing section) extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands ; and any such Order in Council may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may be varied or revoked by a subsequent Order in Council.

Extension of Act to Isle of Man and Channel Islands.

41.—(1) This Act may be cited as the Plant Varieties and Seeds Act 1964.

Short title and commencement.

(2) Parts II and III of this Act shall come into force on such day as the Minister of Agriculture, Fisheries and Food and the Secretary of State may by order contained in a statutory instrument appoint, and orders under this subsection may appoint different dates for different provisions or different purposes.

## SCHEDULES

### Section 1.

### SCHEDULE 1

#### PROTECTION OF APPLICANT FOR RIGHTS WHILE APPLICATION IS PENDING

1.—(1) An applicant for the grant of plant breeders' rights shall in his application state whether he is also applying for a direction by the Controller under this Schedule (in this Schedule referred to as "a protective direction") as respects the plant variety to which the application relates.

(2) An applicant applying for a protective direction shall include in the application an undertaking to the effect that, subject to the exceptions in the next following sub-paragraph, in the period between the making of the application and the time when the question whether the application is to be allowed or refused is finally determined (or, if the undertaking is discharged under this Schedule at an earlier time, until that earlier time) no plants of the plant variety, and no material forming part of, or derived from, plants of that variety, will be offered or exposed for sale or sold in the United Kingdom by the applicant or with his consent.

(3) An undertaking under this paragraph shall not prevent the applicant from making any offer for sale or sale which in the period before the application would be permitted by sub-paragraphs (3), (4) or (5) of paragraph 2 of Part II of Schedule 2 to this Act, or the exposure for sale of material where an offer for sale of that material would be so permitted.

(4) If the Controller is satisfied that the applicant has duly given the undertaking, and that he has furnished to the Controller all such information, facilities and material as the Controller may require for the purposes of the application for the grant of plant breeders' rights, the Controller may, if he thinks fit, give a protective direction.

(5) The Controller shall not give a protective direction if there is any evidence before him which tends to show that the applicant, or the person whose successor in title the applicant claims to be, is not the person who bred or discovered the plant variety to which the application relates.

(6) An appeal shall lie to the Tribunal against a decision to give or refuse a protective direction.

2.—(1) While a protective direction is in force, anything which, if the plant breeders' rights to which the application in question relates had been granted, would have constituted an infringement of those rights, or would under section 5(6) of this Act have been actionable in proceedings by the holder of those rights, may be the subject of proceedings under this paragraph.

(2) Proceedings may be brought under this paragraph by the applicant in whose favour the protective direction is made against any person for an injunction or interdict requiring that person, while the protective direction is in force, not to do any of the things which

may be the subject of proceedings under this paragraph, and the court may if it thinks fit grant an injunction or interdict accordingly on such terms as appear to the court to be just.

(3) An undertaking not to institute or prosecute proceedings under this paragraph, whether or not any consideration is given for the undertaking, shall be void, and if the Controller is satisfied that an applicant in whose favour a protective direction is made has given such an undertaking, whether or not the undertaking be enforceable at law, he shall withdraw the protective direction.

(4) A protective direction shall cease to be in force when the question whether the application for the grant of plant breeders rights is to be allowed or refused is finally determined, or at such earlier time as is provided under the following provisions of this Schedule.

3.—(1) The Controller may at any time, if in all the circumstances it appears to him to be just, withdraw a protective direction, and shall withdraw a protective direction if he is satisfied that there has been a breach of the undertaking given under paragraph 1 of this Schedule by the applicant.

(2) An appeal shall lie to the Tribunal against a decision to withdraw a protective direction.

(3) The undertaking given by the applicant under paragraph 1 of this Schedule shall cease to be binding when the protective direction is withdrawn.

4.—(1) If at any time the Controller is satisfied that there has been a breach of the undertaking given under paragraph 1 of this Schedule, he may refuse the application for the grant of plant breeders' rights or, as the case may be, may terminate the period for which plant breeders' rights are exercisable.

(2) If there is a breach of an undertaking under paragraph 1 of this Schedule given by an applicant, the applicant shall be guilty of an offence and shall be liable on summary conviction—

- (a) in the case of a first offence under this sub-paragraph, to a fine not exceeding fifty pounds, and
- (b) in the case of a second or subsequent offence under this sub-paragraph, to a fine not exceeding one hundred pounds.

## SCHEDULE 2

Section 2.

### PART I

#### PRIORITIES BETWEEN APPLICANTS FOR RIGHTS

1.—(1) If the variety was independently bred or discovered by two or more persons, the first of those persons who makes an application relating to the variety in the form prescribed for the purposes of this Schedule by regulations under section 9 of this Act shall be the person entitled to a grant of plant breeders' rights.

D

## SCH. 2

(2) As between two persons making applications on the same date, the one who was first in a position to make a valid application for the grant of plant breeders' rights (or would have been first in that position if Part I of this Act and the relevant scheme had always been in force) shall be the person entitled to a grant of plant breeders' rights.

2.—(1) For the purposes of the foregoing paragraph an application duly made in a country to which this paragraph applies when the application is made shall be treated as if duly made under this Act if the conditions in this paragraph are satisfied.

(2) No account shall be taken under this paragraph of an application made in a country outside the United Kingdom at a time when the plant variety to which the application relates was not one falling within a species or group prescribed by a scheme under this Act as a species or group in respect of which plant breeders' rights may be granted.

(3) Not more than 12 months after the application duly made in that country the applicant must make his application under this Act in the form prescribed for the purposes of this Schedule by regulations under section 9 of this Act, being a form which includes a claim in respect of the priority of the application in the said country.

(4) Within 3 months of the application under this Act a copy of the documents constituting the application in the said country, certified as correct by the authority in that country to whom the application is made, must be submitted to the Controller.

(5) If applications have been made in more than one country to which this paragraph applies, and have been so made at different dates, the period of 12 months mentioned in sub-paragraph (3) of this paragraph shall be taken from the earlier or earliest of those applications, and sub-paragraph (4) of this paragraph shall be construed accordingly.

(6) If priority is established for an application by virtue of this paragraph after a grant of plant breeders' rights has been made in pursuance of an application against which priority is established, the Controller shall terminate the period for which the rights under the grant are exercisable.

An appeal shall lie to the Tribunal against a decision of the Controller to act under this sub-paragraph.

(7) The Ministers may by order contained in a statutory instrument from time to time designate any country or territory outside the United Kingdom as a country to which this paragraph applies, and from time to time vary or revoke any such order, but not so as to prejudice applications already made in the United Kingdom or elsewhere.

3. Regulations under section 9 of this Act may provide for the forfeiture of any priority obtained under the foregoing provisions of this Schedule if the person making the application does not within a period prescribed by the regulations satisfy all the requirements



which are to be satisfied by an applicant before a grant of plant breeders' rights can be made.

SCH. 2

**PART II**  
**RULES FOR GRANT OF RIGHTS**

*Distinctness*

1.—(1) The variety must be clearly distinguishable by one or more important morphological, physiological or other characteristics from any other variety whose existence is a matter of common knowledge at the time of the application.

(2) For the purposes of the foregoing sub-paragraph common knowledge may be established by reference to plant varieties already in cultivation or exploited for commercial purposes, or those included in a recognised commercial or botanical reference collection, or those of which there are precise descriptions in any publication.

*Previous commercialisation*

2.—(1) Subject to this Schedule, in the period before the scheme by virtue of which the application is made came into force, no plants of the variety, and no material forming part of, or derived from, plants of the variety may have been offered for sale or sold by any person in the United Kingdom or elsewhere.

(2) Subject to this Schedule, in the period beginning with the date when the said scheme came into force and ending with the date of the application no plants of the variety, and no material forming part of, or derived from, plants of the variety, may have been offered for sale or sold by or with the consent of the applicant in the United Kingdom or elsewhere:

Provided that the restriction imposed by this sub-paragraph shall not apply to sales or offers made outside the United Kingdom during the period of four years ending with the date of the application.

(3) Sub-paragraphs (1) and (2) of this paragraph shall not apply—

(a) to an offer for sale of a stock of material of any plant variety in connection with an offer for sale of the title to apply for the grant of plant breeders' rights in respect of that plant variety, or

(b) to any sale of material of any plant variety if at the time of the sale or subsequently the purchaser becomes the person entitled to make an application for the grant of plant breeders' rights in respect of that plant variety.

(4) Where an applicant makes, or proposes to make, arrangements under which some other person uses reproductive material of the plant variety under the control of the applicant for the purpose of increasing the applicant's stock, or of carrying out tests or trials, and under which the whole of the material produced, directly or indirectly, from that reproductive material, and any unused reproductive material, becomes or remains the property of the applicant, the said sub-paragraphs (1) and (2) shall not apply—

(a) to a sale or offer for sale of the reproductive material by the applicant to any such other person as part of such arrangements, or

SCH. 2

(b) to a sale by the other person to the applicant of the material produced, directly or indirectly, from that reproductive material.

(5) The said sub-paragraphs (1) and (2) shall not apply to an offer for sale or sale of material, not being reproductive material, which, having been produced in the course of—

(a) the breeding of the plant variety, or

(b) increasing the applicant's stock of material of the plant variety, or carrying out tests or trials of the plant variety,

has been found to be in excess of what was required for those purposes.

3.—(1) Where an application in the form prescribed for the purposes of this Schedule by regulations under section 9 of this Act is made at a time not later than 11th May 1965, and the applicant does not ask for a protective direction, sub-paragraphs (1) and (2) of the last foregoing paragraph shall not apply to any offer for sale or sale in the period beginning with 12th November 1963 and ending with that time if the Controller is satisfied that the applicant took all steps reasonably open to him to ensure that any person to whom material of the plant variety has been offered or sold during the said period has been informed in writing that an application for a grant of plant breeders' rights may be made in respect of the variety.

(2) Where an application is allowed by virtue of this paragraph, section 7(2) of this Act shall not apply to any compulsory licence granted as respects the plant variety to which the application relates.

#### *Uniformity*

4. The variety must be sufficiently uniform or homogeneous having regard to the particular features of its sexual reproduction or vegetative propagation.

#### *Stability*

5. The variety must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation or, where the application prescribes a particular cycle of reproduction or multiplication, at the end of each cycle.

Section 4.

### SCHEDULE 3

#### PLANT BREEDERS' RIGHTS IN SPECIAL CASES

##### *Sale of cut blooms, fruit, etc.*

1.—(1) If it appears to the Ministers that, in the case of any species or group of plant varieties, plant breeders will not receive adequate remuneration unless they have control over the production or propagation of the plant variety in Great Britain for the purpose of sales of cut blooms, fruit or some other part or product of plants

of the variety, and that the control will be of substantial benefit to the plant breeders, they may by a scheme under Part I of this Act provide that, as respects any plant variety of the species or group prescribed by the scheme, plant breeders' rights shall include the exclusive right to do, and to authorise others to do as follows, that is to produce or propagate the variety for the purpose of selling such parts or products of the variety as may be prescribed by the scheme.

(2) A scheme conferring any such rights may also provide that plant breeders' rights shall include the exclusive right to do, and to authorise others to do, as follows, that is to sell the parts or products of the variety in relation to which the rights are extended in so far as they are obtained by the seller from plants of the variety which the seller has himself produced or propagated.

(3) References in this paragraph to parts or products of a plant variety include references to whole plants of that plant variety.

*Use of reproductive material for production of certain other plant varieties*

2. Plant breeders' rights shall include the exclusive right to do, and to authorise others to do, as follows, that is to use the reproductive material of the plant variety to which the rights relate for the purpose of producing, in order to sell it, the reproductive material of another plant variety if (but only if) the nature of that other variety is such that repeated production of the reproductive material of that other variety is not possible without the repeated use of reproductive material of the plant variety to which the rights relate.

SCHEDULE 4

Section 10.

THE PLANT VARIETY RIGHTS TRIBUNAL

*The Chairman*

1.—(1) The Lord Chancellor shall appoint a chairman for the Tribunal, who shall be a barrister or solicitor of not less than seven years' standing.

(2) The appointment of the chairman shall be for such term as may be determined by the Lord Chancellor before his appointment, and a person who ceases to hold office as chairman of the Tribunal shall be eligible for re-appointment.

(3) The chairman may resign his office by notice in writing to the Lord Chancellor.

(4) If the Lord Chancellor is satisfied that the chairman is unfit to continue in office or incapable of discharging his duties, he may revoke the appointment of the chairman.

2. In the case of the temporary absence or inability to act of the chairman, the Lord Chancellor may appoint any other person who is a barrister or solicitor of not less than seven years' standing to act as deputy for the chairman, and the person so appointed shall, when so acting, have all the functions of the chairman.

SCH. 4

3. In relation to proceedings before the Tribunal in Scotland—

- (a) paragraphs 1 and 2 of this Schedule shall have effect as if for the references to the Lord Chancellor and to a barrister there were substituted respectively references to the Lord President of the Court of Session and to an advocate ; and
- (b) references in paragraphs 5 and 8 of this Schedule to the chairman or deputy chairman shall be construed respectively as references to the chairman or deputy chairman appointed for such proceedings.

4.—(1) 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) shall have effect as if the words “ Any Chairman of the Plant Variety Rights Tribunal ” were inserted—

- (a) in the said Part III as it applies to the House of Commons of the Parliament of the United Kingdom, after the entry “ Chairman or Deputy Chairman of the National Parks Commission ” ; and
- (b) in the said Part III as it applies to the Senate and the House of Commons of Northern Ireland, before the entry “ Clerk of Assize ”.

(2) This paragraph shall extend to Northern Ireland.

#### *The two panels*

5.—(1) The Ministers shall draw up and from time to time revise—

- (a) a panel of persons who have wide general knowledge in the field of agriculture, of horticulture or of forestry ; and
- (b) a panel of persons who have specialised knowledge of particular species or groups of plants,

and the members of the Tribunal (other than the chairman and deputy chairman) shall be selected from those panels in accordance with this Schedule.

(2) The power to revise the said panels shall include power to terminate a person's membership of either of them, and shall accordingly to that extent be subject to section 5 of the Tribunals and Inquiries Act 1958 (which makes it necessary to obtain the concurrence of the Lord Chancellor and of certain judicial officers in Scotland and Northern Ireland to dismissals in certain cases).

#### *Remuneration of members of Tribunal*

6. The Ministers may pay to members of the Tribunal such remuneration and such allowances as the Ministers may with the approval of the Treasury determine.

#### *Officers and servants*

7.—(1) The Ministers may appoint such officers and servants of the Tribunal as the Ministers may with the approval of the Treasury determine.

(2) There shall be paid to the officers and servants appointed under this paragraph such remuneration and allowances as the Treasury may determine.

SCH. 4

#### *Procedure*

8.—(1) The jurisdiction of the Tribunal shall be exercised by three members consisting of the chairman and a member selected from each of the two panels; and references in this Act to the Tribunal shall be construed accordingly.

(2) The member from the panel of those with specialised knowledge shall be selected for his knowledge of the subject matter of a particular case or class or group of cases.

(3) The members of the panels who are to deal with any case shall be selected as follows—

(a) the Ministers may select a member or members to deal with that particular case or class or group of cases, or

(b) the Ministers may select for a class or group of cases members from amongst whom members to deal with any particular case shall be selected, and the selection from amongst those members of a member or members to deal with the particular case shall then be made either by the Ministers, or, if they so direct, by the chairman.

(4) Any decision of the Tribunal in exercise of their jurisdiction shall be taken, in the event of a difference between members dealing with the case, by the votes of the majority.

(5) If, after the commencement of the hearing of any proceedings before the Tribunal, one of the three members of the Tribunal becomes incapable of continuing to hear the proceedings on account of sickness or for any other reason, the proceedings may, with the consent of all parties to the proceedings, be continued before the remaining two members of the Tribunal and heard and determined accordingly, but if the two members differ in opinion the case shall, on the application of any party to the proceedings, be re-argued and determined by the Tribunal as ordinarily constituted.

(6) A decision of the Tribunal shall not be questioned on the ground that a member was not validly appointed or selected.

(7) The Tribunal may sit to hear any proceedings in any place in Great Britain.

9.—(1) The Tribunal in exercising their statutory jurisdiction may order any party to the proceedings to pay to any other party to the proceedings either a specified sum in respect of the costs incurred by the second-mentioned party in the proceedings, or the taxed amount of those costs; and any costs required by an order under this sub-paragraph to be taxed may be taxed in the county court according to such of the scales prescribed by county court rules for proceedings in the county court as may be directed by the order or, if the order gives no direction, by the county court.

(2) The Lord Chancellor may by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make rules as to the procedure in connection

D 4

**SCH. 4** with proceedings brought before the Tribunal in exercise of their statutory jurisdiction and, subject to the approval of the Treasury, as to the fees chargeable in respect of those proceedings, and the rules may in particular make provision—

- (a) as to the circumstances in which the Tribunal need not sit, or is not to sit, in public,
- (b) as to the form of any decision of the Tribunal,
- (c) as to the time within which any proceedings are to be instituted,
- (d) as to the evidence which may be required or admitted in any proceedings,
- (e) as to the examination of the parties, and of witnesses, on oath or affirmation in any proceedings,
- (f) as to the procedure for securing the attendance of witnesses and the production of documents in any proceedings.

(3) In this paragraph “statutory jurisdiction” means any jurisdiction of the Tribunal exercisable by or under this Act, except for their jurisdiction in any reference under an arbitration agreement.

(4) In relation to proceedings in Scotland this paragraph shall have effect as if for sub-paragraph (1) there were substituted the following—

“(1) The Tribunal in exercising their statutory jurisdiction may order that the expenses of any proceedings before it incurred by any party shall be paid by any other party, and may tax or settle the amount of any expenses to be paid under any such order or direct in what manner they are to be taxed.”

Section 20.

**SCHEDULE 5**

**PROCEDURE FOR COMPILING AND AMENDING INDEX**

1.—(1) As a first step in compiling a section of the Index, the Ministers shall, after consultation with representatives of such interests as appear to them to be concerned, prepare a provisional list of plant varieties which are within the class of plant varieties to which the section of the Index will relate, and the seeds of which are in commercial use as reproductive material in Great Britain.

(2) The Ministers shall publish the list in the gazette to be issued under this Act and in such other manner as appears to them appropriate for ensuring that the persons particularly concerned have their attention drawn to the list, and shall publish with the list a notice giving the necessary information as to the manner in which and time within which applications seeking additions, corrections or erasures in the list may be made to the Ministers.

(3) The Ministers may bring a section of the Index into force notwithstanding that the section is incomplete because the Ministers have not come to a determination as respects any particular plant varieties.

2. The Ministers may at any time after a section of the Index comes into force entertain applications from persons seeking additions, corrections or erasures in a section of the Index, and may make such additions, corrections or erasures as appear to them to be called for of their own initiative, and without receiving representations.

3.—(1) If at the time when a name, or more than one name, is being selected for a plant variety for the purposes of the Index, there are one or more names which are for the time being in use for that plant variety, that name, or names from among those names, shall be preferred unless the Ministers are satisfied that there are special circumstances calling for the choice of a name or names not in use as aforesaid.

(2) The Ministers may require a person making an application for the inclusion of a plant variety in a provisional list, or in a section of the Index after the section has come into force, to submit a name for the plant variety.

(3) If it appears to the Ministers that no name in use or submitted to them is suitable, they may refuse to include the plant variety in the Index until a name has been submitted to them which is in their opinion suitable.

4. The Ministers may require persons making applications which involve the question whether two or more plant varieties are distinct to supply the Ministers with information, and with material for carrying out examinations, trials and tests.

5.—(1) The Ministers, after consultation with representatives of such interests as appear to them to be concerned, may by statutory instrument make regulations—

- (a) governing the form and manner in which applications may be made under this Schedule,
- (b) prescribing the period within which a person making applications under this Schedule is to supply material or information in support of the representations,
- (c) prescribing the quantity and kind of material to be supplied in support of an application under this Schedule, and
- (d) providing for the manner of making applications as respects any matter connected with the alteration of the Index and for the information to be afforded, and the materials to be submitted, by the applicant in connection with any such application.

(2) Regulations under this paragraph made with the approval of the Treasury may prescribe the fees to be charged by the Ministers for carrying out examinations, tests and trials and the fees to be charged by the Ministers to persons making searches in the Index.

Section 31.

**SCHEDULE 6**  
**REPEALS OF SEEDS ENACTMENTS**

Chapter	Short Title	Extent of Repeal
32 & 33 Vict. c. 112	The Adulteration of Seeds Act 1869	The whole Act.
41 & 42 Vict. c. 17	The Adulteration of Seeds Act 1878	The whole Act.
10 & 11 Geo. 5 c. 54	The Seeds Act 1920.	The whole Act.
15 & 16 Geo. 5 c. 66	The Seeds (Amendment) Act 1925.	The whole Act.
2 & 3 Eliz. 2 c. 39	The Agriculture (Miscellaneous Provisions) Act 1954.	Section 12.
1963 c. 11	The Agriculture (Miscellaneous Provisions) Act 1963.	Section 24.

Section 33.

**SCHEDULE 7**

**CROSS-POLLINATION INJURING PROTECTED CROPS**

1. An application under section 33 of this Act seeking the issue of a notice under that section shall be in writing.

2. Before deciding whether to issue a notice in accordance with the application the Minister shall serve a notice on the occupier of the land giving him particulars of the application, and of his right to make representations in accordance with the next following paragraph.

3. The Minister shall, if requested within such time as may be specified in the notice under paragraph 2 above, afford to the applicant, and to the occupier of the land, an opportunity of appearing before and making representations to a person appointed by the Minister for the purpose.

4. In deciding whether to issue a notice in accordance with the application, and in deciding the terms of any such notice, the Minister shall have regard—

- (a) to the need to maintain, in the interests of the public, the purity of the seed in question,
- (b) to the degree to which the injurious cross-pollination will or may diminish the value of the protected crop or disturb arrangements made for the purpose of maintaining the purity of the seed in question, and
- (c) to the value, if any, of the controlled crops or plants and the inconvenience or disturbance involved in complying with a notice.



*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Arbitration (Scotland) Act 1894 ... ..	57 & 58 Vict. c. 13.
Seeds Act 1920 ... ..	10 & 11 Geo. 5. c. 54.
Government of Ireland Act 1920 ... ..	10 & 11 Geo. 5. c. 67.
Crown Proceedings Act 1947 ... ..	10 & 11 Geo. 6. c. 44.
Arbitration Act 1950 ... ..	14 Geo. 6. c. 27.
Customs and Excise Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.
Magistrates' Courts Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Merchandise Marks Act 1953 ... ..	1 & 2 Eliz. 2. c. 48.
Summary Jurisdiction (Scotland) Act 1954 ... ..	2 & 3 Eliz. 2. c. 48.
Restrictive Trade Practices Act 1956 ... ..	4 & 5 Eliz. 2. c. 68.
House of Commons Disqualification Act 1957 ... ..	5 & 6 Eliz. 2. c. 20.
Tribunals and Inquiries Act 1958... ..	6 & 7 Eliz. 2. c. 66.



# Defence (Transfer of Functions) Act 1964

## 1964 CHAPTER 15

An Act to facilitate the making of new arrangements for the central organisation of defence, and to provide for matters consequential thereon. [12th March 1964]

**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:—

Transfer to, and discharge by, Secretary of State and Defence Council of certain statutory functions.

1.—(1) If Her Majesty is pleased to make arrangements—

- (a) for one of Her principal Secretaries of State to be charged with general responsibility for defence; and
- (b) for the establishment of a Defence Council having powers of command and administration over Her Majesty's armed forces, and of an Admiralty Board, an Army Board and an Air Force Board to be charged (under the Defence Council) with the administration of matters relating to the naval, military and air forces respectively;

then on such day as Her Majesty may by Order in Council appoint for those arrangements to take effect (in this Act referred to as "the appointed day") the statutory functions below mentioned shall be transferred to a Secretary of State or to the Defence Council as provided by this section.

(2) There shall be transferred to a Secretary of State the functions conferred by any enactment on the Minister of Defence, or on the Secretary of State for War or for Air (however styled), or on the Admiralty, except such functions of the Admiralty as are by subsection (3) below transferred to the Defence Council.

(3) There shall be transferred to the Defence Council the functions conferred by any enactment on the Army Council or on the Air Council, and the functions conferred on the Admiralty—

- (a) by any enactment by which similar functions are conferred on the Army Council or on the Air Council ;  
or
- (b) by any enactment contained in the Naval Discipline Act 1957 except as specified in subsection (4) below, or by Schedule 7 (Provisions as to Royal Marines) of the Army Act 1955 ; or
- (c) by the following enactments (which provide for the discharge, training, posting etc., of naval personnel), that is to say, the Naval Enlistment Acts 1835 to 1884 and sections 2, 3, 5 and 14 of the Royal Naval Reserve (Volunteer) Act 1859.

(4) There shall be transferred to a Secretary of State by subsection (2) above, and not to the Defence Council by subsection (3), any power to make or delegate the making of orders, regulations or rules which is conferred on the Admiralty by the following sections of the Naval Discipline Act 1957, that is to say, sections 50, 58, 64, 79, 81, 82 and 110 (which relate to the practice and procedure etc., of disciplinary courts and courts-martial, to the execution of their sentences, and to matters connected therewith).

(5) The functions of the Defence Council under any enactment (including any function of reviewing the findings or sentences of courts-martial and other functions of a judicial nature) may, subject to any directions of the Defence Council, be discharged by the Admiralty Board, the Army Board or the Air Force Board ; and for the purposes of any enactment (including any other provision of this Act) anything done by or in relation to any of those Boards in or in connection with the discharge of any such functions of the Defence Council shall be of the same effect as if done by or in relation to the Defence Council.

This subsection shall apply to functions conferred by enactments passed after this Act, except in so far as its application is expressly or impliedly excluded.

(6) A certificate purporting to be given under the hand of the secretary (or person acting as secretary) to the Defence Council that any person was at a time specified in the certificate a member of the Defence Council, the Admiralty Board, the Army Board or the Air Force Board shall be evidence of the fact certified.

(7) Subsections (2), (3) and (5) above shall have effect in relation to any order, regulation, rule or other instrument having effect under any enactment as they have effect in relation

to an enactment, except that Her Majesty may by Order in Council direct that any functions which are conferred by such an instrument on the Admiralty and would apart from the order be transferred to the Secretary of State shall be transferred to the Defence Council.

(8) As from the appointed day Part II of the Air Force (Constitution) Act 1917 (which provided for the establishment of an Air Council) shall cease to have effect, and is hereby repealed.

Incorporation  
of Secretary  
of State for  
Defence, and  
vesting etc.  
of property,  
rights and  
liabilities.

2.—(1) If Her Majesty is pleased to make the arrangements described in section 1(1) above, the person appointed Secretary of State with general responsibility for defence and his successors shall be, by the name of the Secretary of State for Defence, a corporation sole (with a corporate seal) for all purposes relating to the acquisition, holding, management or disposal of property, but so that anything done by or in relation to any other Secretary of State for the Secretary of State for Defence as a corporation sole shall have effect as if done by or in relation to the Secretary of State for Defence.

(2) On the appointed day the Secretary of State for Defence shall succeed to all property, rights and liabilities in the United Kingdom or elsewhere of the Minister of Defence, or of the Admiralty, or of the Secretary of State for War or for Air, or of the Army or Air Council, including property, rights and liabilities held or incurred by any of them jointly with any other person.

(3) The purposes for which land, or rights in or over land, may be taken, purchased or used by the Secretary of State for Defence under the Defence Acts 1842 to 1935 or section 7 of the Lands Clauses Consolidation Acts Amendment Act 1860 shall include any purpose of his department, or of any of Her Majesty's naval, military or air forces; and Part II of the Military Lands Act 1892 (which provides for the making of byelaws in connection with the use of land for military purposes) shall apply in relation to land under the management of the Secretary of State as if any such purpose were a military purpose within the meaning of the said Part II.

In this and the next following subsection any reference to the Defence Acts 1842 to 1935, to section 7 of the Lands Clauses Consolidation Acts Amendment Act 1860 or to Part II of the Military Lands Act 1892 shall include any enactment amending or extending any provision thereof in its application to the Secretary of State for War.

(4) The Defence Acts 1842 to 1935 shall apply for the management, use and disposal of all lands in the United Kingdom and rights in or over land in the United Kingdom which are by

subsection (2) above vested in the Secretary of State for Defence as if they had been acquired by him under those Acts :

Provided that this subsection shall not apply to any land so as to alter the purposes for which the land is held under any enactment relating specially to that land, or any restriction affecting the use of the land and arising under any such enactment or under any stipulation agreed to on the acquisition of the land for the public service, or any right of pre-emption in respect of the land to which any person may be entitled under any such enactment or stipulation or under the Lands Clauses Acts.

(5) The corporate seal of the Secretary of State for Defence shall be authenticated by the signature of a Secretary of State or of an Under-Secretary of State in the Ministry of Defence or of any person authorised by a Secretary of State to act in that behalf ; and—

- (a) the seal shall be officially and judicially noticed ; and
- (b) every document purporting to be an instrument made or issued by the Secretary of State for Defence and to be sealed with the said seal authenticated in the manner provided by this subsection, or to be signed by an Under-Secretary of State in the Ministry of Defence or any person authorised as aforesaid, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown.

3.—(1) Her Majesty may by Order in Council make further provision for incidental, consequential and transitional matters arising out of the making of the arrangements described in section 1(1) above or out of the transfers effected by this Act, including provision for adapting thereto or (in so far as they are no longer required) repealing the provisions of any enactment or legislative instrument, and including also provision for savings of a transitional nature in relation to the operation of this Act. Consequential and transitional.

Any provision made under the powers of this subsection may be varied or revoked by a further Order in Council, and any Order in Council containing any provision so made shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Subject to any provision made under the powers of subsection (1) above or made otherwise than under this Act, any enactment or instrument shall have effect, so far as may be necessary for or in consequence of the transfers effected by this Act or any transfer of functions under the said arrangements, as if references to any of the existing service authorities (includ-

ing any reference which is to be construed as such a reference) were references to the Secretary of State or, as regards functions of the Defence Council, to the Defence Council, and as if references to the Admiralty department, the War Office or the Air Ministry or to officers of those departments (including any reference which is to be construed as such a reference) were references to the Ministry of Defence or to officers of that department, as the case may be.

(3) This Act shall not invalidate anything done before the appointed day ; and, subject to any provision made under the powers of subsection (1) above, anything which at that day is in process of being done by or in relation to any of the existing service authorities (including in particular any legal proceeding to which any of them is a party) may be continued by or in relation to the Secretary of State or, if it relates to functions of the Defence Council, by or in relation to the Defence Council.

(4) Subject to any provision made under the powers of subsection (1) above, any order, regulation, rule, direction, authority, appointment, authentication, approval or other instrument or act effective at the appointed day as that of any of the existing service authorities shall continue to have effect as that of the Secretary of State or the Defence Council, as the case may require.

(5) Where at the appointed day any existing service authority is in process of acquiring land in the United Kingdom or rights in or over such land, and the acquisition is by virtue of this section completed by the Secretary of State for Defence, section 2(4) above shall apply as if the land or rights had been vested in the Secretary of State for Defence by subsection (2) of that section.

(6) In this section, except in so far as the context otherwise requires,—

- (a) “existing service authority” means the Minister of Defence, the Admiralty, the Secretary of State for War or for Air or the Army or Air Council ; and
- (b) “instrument” (without prejudice to the generality of that expression) includes in addition to legislative instruments and instruments of any description mentioned in subsection (4) above, judgments, decrees, awards, contracts and other documents.

**Supplementary.** 4.—(1) This Act may be cited as the Defence (Transfer of Functions) Act 1964.

(2) In this Act “enactment” includes an enactment of the Parliament of Northern Ireland.

(3) Nothing in this Act shall prejudice any power exercisable by virtue of the prerogative of the Crown.

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Royal Naval Reserve (Volunteer) Act 1859 ...	22 & 23 Vict. c. 40.
Lands Clauses Consolidation Acts Amendment Act 1860 ... ..	23 & 24 Vict. c. 106.
Military Lands Act 1892 ... ..	55 & 56 Vict. c. 43.
Air Force (Constitution) Act 1917 ... ..	7 & 8 Geo. 5. c. 51.
Army Act 1955 ... ..	3 & 4 Eliz. 2. c. 18.
Naval Discipline Act 1957... ..	5 & 6 Eliz. 2. c. 53.



# Industrial Training Act 1964

## 1964 CHAPTER 16

An Act to make further provision for industrial and commercial training; to raise the limit on contributions out of the National Insurance Fund towards the expenses of the Minister of Labour in providing training courses; and for purposes connected with those matters.  
[12th March 1964]

**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:—

Establishment  
of industrial  
training  
boards.

1.—(1) For the purpose of making better provision for the training of persons over compulsory school age (in Scotland school age) for employment in any activities of industry or commerce the Minister may make an order specifying those activities and establishing a board to exercise in relation to them the functions conferred on industrial training boards by the following provisions of this Act.

(2) In this Act—

“ industrial training board ” means a board established under this section ;

“ industrial training order ” means an order under this section ;

“ the industry ”, in relation to an industrial training board, means the activities in relation to which it exercises functions ; and

“ the Minister ” means the Minister of Labour.

(3) The provisions of the Schedule to this Act shall have effect with respect to industrial training boards.



(4) Before making an industrial training order the Minister shall consult any organisation or association of organisations appearing to him to be representative of substantial numbers of employers engaging in the activities concerned and any organisation or association of organisations appearing to him to be representative of substantial numbers of persons employed in those activities ; and if those activities are carried on to a substantial extent by a body established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, shall also consult that body.

(5) An industrial training order may provide for any incidental or supplementary matter for which it appears to the Minister to be necessary or expedient to provide.

(6) The power to make an industrial training order shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**2.—(1) An industrial training board—**

- (a) shall provide or secure the provision of such courses and other facilities (which may include residential accommodation) for the training of persons employed or intending to be employed in the industry as may be required, having regard to any courses or facilities otherwise available to such persons ;
- (b) may approve such courses and facilities provided by other persons ;
- (c) shall from time to time consider such employments in the industry as appear to require consideration and publish recommendations with regard to the nature and length of the training for any such employment and the further education to be associated with the training, the persons by and to whom the training ought to be given, the standards to be attained as a result of the training and the methods of ascertaining whether those standards have been attained ;
- (d) may apply or make arrangements for the application of selection tests and of tests or other methods for ascertaining the attainment of any standards recommended by the board and may award certificates of the attainment of those standards ;
- (e) may assist persons in finding facilities for being trained for employment in the industry ;
- (f) may take part in any arrangements made by the Minister under section 2(2) of the Employment and Training

Functions of  
industrial  
training  
board.

Act 1948 with respect to the industry or in similar arrangements made by a local education authority (or, in Scotland, an education authority) under section 10 of that Act ;

(g) may carry on or assist other persons in carrying on research into any matter relating to training for employment in the industry.

(2) An industrial training board may enter into contracts of service or apprenticeship with persons who intend to be employed in the industry and to attend courses or avail themselves of other facilities provided or approved by the board.

(3) An industrial training board may, at the request of another industrial training board, provide courses and other facilities for the training of persons employed or intending to be employed in the industry for which that other board is established.

(4) An industrial training board may—

(a) pay maintenance and travelling allowances to persons attending courses provided or approved by the board ;

(b) make grants or loans to persons providing courses or other facilities approved by the board ;

(c) pay fees to persons providing further education in respect of persons who receive it in association with their training in courses provided or approved by the board.

(5) An industrial training board shall exercise its functions under this section in accordance with proposals submitted to the Minister and approved by him under section 7 of this Act.

(6) An industrial training board shall give to the Minister such information or facilities for obtaining information with regard to the exercise of its functions, in such manner and at such times as he may reasonably require.

Establishment  
of committees.

3.—(1) An industrial training board may, in accordance with proposals submitted to and approved by the Minister under section 7 of this Act,—

(a) appoint committees (which need not include members of the board) ;

(b) join with one or more other industrial training boards in appointing joint committees consisting of such persons (whether or not members of an industrial training board) as may be determined by the boards ;

and delegate to any such committee, to such extent as may be stated in the proposals, all or any of the functions conferred on the board by section 2 of this Act.

(2) An industrial training board may pay or, as the case may be, join in paying, to the members of such a committee such travelling, subsistence and other allowances as the board or boards may determine, and to the chairman such remuneration as the board or boards may with the approval of the Minister and the Treasury determine.

(3) Subject to any directions of the board or boards which appointed it, a committee appointed under this section may regulate its own procedure and fix a quorum for its proceedings.

4.—(1) For the purpose of raising money towards meeting its Levies. expenses an industrial training board shall from time to time impose, in accordance with an order made by the Minister (in this section referred to as a levy order), a levy on employers in the industry, other than such (if any) as may be exempted by the levy order or the industrial training order.

(2) A levy order shall give effect to proposals submitted to and approved by the Minister under section 7 of this Act, and such proposals may provide for the amendment of a previous levy order and may make different provision in relation to different classes or descriptions of employer.

(3) A levy order may contain provisions as to the evidence by which a person's liability to the levy or his discharge of that liability may be established and as to the time at which any amount payable by any person by way of the levy shall become due and recoverable by the industrial training board, and shall give any person assessed to the levy a right of appeal to an appeal tribunal constituted under this Act.

(4) The power to make a levy order shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

5.—(1) The Minister may with the approval of the Treasury Grants and make grants and loans to an industrial training board out of loans, etc. moneys provided by Parliament.

(2) An industrial training board may, with the consent of the Minister or in accordance with the terms of any authority given by him, borrow temporarily from any other person by way of overdraft or otherwise such sums as it may require.

(3) The aggregate of the grants and loans made under subsection (1) of this section shall not exceed £50 million or such greater amount as the Minister may from time to time by order made by statutory instrument determine; but no such order shall be made unless a draft thereof has been laid before and approved by each House of Parliament.

(4) An industrial training board may give security for any money borrowed by it, and any such security given to the Minister shall be expressed to be in favour of the Minister of Labour for the time being and shall take effect accordingly.

(5) An industrial training board shall not invest any money otherwise than in such manner as the Minister may approve.

Power to obtain information from employers.

6.—(1) Where an industrial training board has been established, the Minister may require employers in the industry to furnish such returns and other information and to keep such records and produce them for examination on his behalf as appear to the Minister to be necessary for the purposes of this Act.

(2) An industrial training board and any person assessing and collecting a levy on behalf of the board may require employers in the industry to furnish such returns and other information of a kind approved by the Minister and to keep such records of a kind approved by him and produce them for examination on behalf of the board as appear to the board to be necessary for carrying out its functions.

(3) Subject to subsection (4) of this section, returns and other information furnished in pursuance of the preceding provisions of this section and any information obtained on an examination made in pursuance thereof shall not, without the consent of the employer to whose business the returns or information relate, be disclosed otherwise than to the Minister or one of his officers, or to an industrial training board or a committee appointed by such a board, or an officer of such a board or committee or any person entitled to take part in the proceedings of such a board.

(4) Subsection (3) of this section shall not apply—

(a) to the disclosure of returns or information in the form of a summary of similar returns or information furnished by or obtained from a number of employers, if the summary is so framed as not to enable particulars relating to any individual business to be ascertained from it ;

(b) to any disclosure of information made for the purposes of any legal proceedings pursuant to this Act or any criminal proceedings, whether pursuant to this Act or not, or for the purposes of any report of any such proceedings.

(5) A certificate purporting to be issued by or on behalf of the Minister and stating that he has approved any kind of information, return or record for the purposes of subsection (2)

of this section shall in any legal proceedings be evidence, and in Scotland sufficient evidence, of the facts stated in the certificate.

(6) If any person fails to comply with any requirement made under subsection (1) or subsection (2) of this section he shall be liable on summary conviction to a fine not exceeding one hundred pounds, or on a second or subsequent conviction two hundred pounds.

(7) If any person—

- (a) knowingly or recklessly furnishes, in pursuance of any requirement made under subsection (1) or subsection (2) of this section, any return or other information which is false in a material particular; or
- (b) wilfully makes a false entry in any record required to be produced under either of those subsections or, with intent to deceive, makes use of any such entry which he knows to be false; or
- (c) discloses any information in contravention of subsection (3) of this section;

he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

(8) 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, 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 be liable to be proceeded against and punished accordingly.

7.—(1) An industrial training board shall from time to time, and whenever directed by the Minister, submit to him for his approval—

- (a) proposals for the exercise of the functions conferred on it by section 2 of this Act and for the establishment of committees under section 3 thereof and the delegation to them of all or any of those functions; and
- (b) proposals for the raising and collection of a levy.

Proposals for exercise of board's functions and for levies.

(2) Where an industrial training board—

- (a) has failed to comply within a reasonable time with a direction of the Minister under subsection (1) of this section to submit to him such proposals as are mentioned in paragraph (a) or paragraph (b) thereof; or

(b) has submitted to him such proposals which appear to him unsatisfactory ;

the Minister may direct the board to submit such proposals or, as the case may be, fresh proposals, within a specified time, and if he directs the board to submit fresh proposals he shall specify in the direction in what respects the proposals already submitted appear to him unsatisfactory ; and if the board fails to comply with the direction or the proposals submitted in pursuance of it appear to the Minister unsatisfactory he may make an order declaring the board to be in default.

(3) On the making of an order under subsection (2) of this section the members of the industrial training board shall forthwith vacate their office and the order may contain such provisions as seem to the Minister expedient for authorising any person to act in the place of the members of the board during such period, not exceeding six months, as may elapse before new members are appointed.

(4) While an order under subsection (2) of this section is in force with respect to an industrial training board paragraph 3 of the Schedule to this Act and any provision of the industrial training order made by virtue of paragraph 7(a) of that Schedule shall not apply in relation to it, and accordingly (without prejudice to any provision made under subsection (5) of this section) paragraph 5 of that Schedule shall not apply.

(5) An order under subsection (2) of this section may contain such incidental or supplementary provisions as appear to the Minister to be necessary or expedient, and may be varied or revoked by a subsequent order.

(6) The Minister may out of moneys provided by Parliament defray the expenses of any person acting in the place of the members of an industrial training board in pursuance of subsection (3) of this section and recover from the board any expenses so defrayed.

Reports and accounts of industrial training boards.

8.—(1) An industrial training board shall keep proper accounts and other records in relation to the accounts and prepare in respect of each of its financial years a statement of account in such form as the Minister may, with the approval of the Treasury, determine.

(2) The accounts of an industrial training board shall be audited by auditors appointed by the board and no person shall be qualified to be so appointed unless he is a member of one or more of the following bodies :—

(a) the Institute of Chartered Accountants in England and Wales ;

(b) the Institute of Chartered Accountants of Scotland ;

- (c) the Association of Certified and Corporate Accountants ;
- (d) the Institute of Chartered Accountants in Ireland ;
- (e) any other body of accountants established in the United Kingdom and for the time being recognised, for the purposes of paragraph (a) of section 161(1) of the Companies Act 1948, by the Board of Trade ;

but a Scottish firm may be so appointed if each of the partners is qualified to be so appointed.

(3) An industrial training board shall for each of its financial years make a report of its activities to the Minister and that report shall include a statement of the accounts of the board for that year together with a copy of any report made by the auditors on the accounts.

(4) The Minister shall lay a copy of every such report before Parliament.

9.—(1) The Minister may by order—

- (a) amend an industrial training order ; or
- (b) revoke such an order.

Amendment or revocation of industrial training order.

(2) Before making an order under subsection (1) of this section the Minister shall consult the industrial training board and such organisations, associations or bodies as would, by virtue of section 1(4) of this Act, be required to be consulted before the making of an industrial training order for the industry.

(3) An order under subsection (1)(b) of this section shall provide for the winding up of the industrial training board and may provide for the imposition of a levy on employers in the industry, other than such (if any) as may be exempted by the order, for the purpose of raising any amount by which the assets of the industrial training board may be insufficient to meet its liabilities and the expenses of the winding up, and for the application for specified purposes of any amount by which those assets may exceed those liabilities and expenses.

(4) Subsection (3) of section 4 of this Act shall apply to an order under subsection (1)(b) of this section making provision for the imposition of a levy as it applies to an order under that section.

(5) An order under subsection (1) of this section may provide for any incidental, transitional or consequential matter for which it appears to the Minister to be necessary or expedient to provide.

(6) The power to make an order under this section shall be exercisable by statutory instrument and includes power to amend or revoke such an order by a subsequent order ; and any

statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Accidents happening in connection with training provided or approved by industrial training board.

**10.—(1)** In relation to accidents happening to insured persons (within the meaning of the National Insurance (Industrial Injuries) Act 1946) who attend courses or avail themselves of other facilities provided or approved by an industrial training board, sections 8 to 10 of that Act (which make provision for treating certain accidents as arising out of and in the course of an insured person's employment) shall have effect subject to the following modifications.

(2) For the purposes of section 8, any act done by the insured person for the purposes of and in connection with his training shall, if it is not done for the purposes of and in connection with his employer's trade or business, be deemed to be so done.

(3) For the purposes of section 9, any vehicle (within the meaning of that section) which is operated by or on behalf of an industrial training board or some other person by whom it is provided in pursuance of arrangements made with an industrial training board shall, if not operated and provided as mentioned in subsection (1)(b)(i) of that section, be deemed to be so operated and provided.

(4) For the purposes of section 10, any premises at which an insured person is for the time being employed for the purposes of his training shall, if they are not premises at which he is for the time being employed for the purposes of his employer's trade or business, be deemed to be such premises.

Central Training Council.

**11.—(1)** The Minister shall appoint a council, to be known as the Central Training Council, which shall have the duty of advising him on the exercise of his functions under this Act and on any other matter relating to industrial or commercial training which he may refer to it.

(2) The Central Training Council shall consist of a chairman and—

- (a) six members appointed after consultation with any organisation or association of organisations representative of employers ;
- (b) six members appointed after consultation with any organisation or association of organisations representative of employed persons ;
- (c) two members appointed after consultation with bodies established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking ;
- (d) not more than six chairmen of industrial training boards ; and



(e) twelve other members, of whom six shall be appointed after consultation with the Secretary of State and the Minister of Education.

(3) The Central Training Council shall from time to time, and whenever directed by the Minister, make to him a report of its activities, and the Minister shall lay a copy of every such report before Parliament.

(4) The Minister may out of moneys provided by Parliament pay to the members of the Central Training Council such travelling, subsistence and other allowances as he may with the consent of the Treasury determine.

12.—(1) The Minister shall by regulations provide for the establishment of a tribunal or tribunals to determine appeals by persons assessed to any levy imposed under this Act and such regulations may include—

- (a) provision as to the procedure to be followed on such an appeal; and
- (b) provision for summoning persons to attend and give evidence and produce documents and for authorising the administration of oaths to witnesses.

(2) If, on an appeal, the appellant satisfies such a tribunal that he ought not to have been assessed to the levy or ought to have been assessed in a smaller amount, the tribunal shall rescind or, as the case may be, reduce the assessment, but in any other case shall confirm it.

(3) The Minister may out of moneys provided by Parliament pay to members of tribunals established in accordance with regulations under this section such fees and allowances, and to persons giving evidence before such tribunals such allowances, as he may with the consent of the Treasury determine.

(4) 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.

13.—(1) If the activities which are to be or are for the time being specified in an industrial training order are the same as those which under the Industrial Organisation and Development Act 1947 are designated as constituting the industry in relation to which the Cotton Board exercises functions under that Act, the industrial training order may be so made or amended as to provide for the exercise by the Cotton Board, instead of by an industrial training board, of the functions of an industrial training board in relation to those activities.

Special provisions for cotton industry.

(2) Any functions exercisable by the Cotton Board by virtue of this section shall be exercisable by it through a committee (in this section referred to as the "industrial training committee") consisting of a chairman, who shall be appointed by the Minister

as a person appearing to him to have industrial or commercial experience, and—

- (a) the members of the Board who are not independent members within the meaning of the said Act of 1947 ; and
- (b) persons appointed by the Minister after consultation with the Secretary of State and the Minister of Education ;

and, subject to the following provisions of this section, references in this Act, except in sections 1 and 15 and the Schedule, to an industrial training board shall be construed as including references to the Cotton Board acting through the industrial training committee.

(3) The chairman of the industrial training committee and the persons appointed under paragraph (b) of the preceding subsection shall not vote on any matter relating to the imposition of a levy.

(4) Any accounts and records to be kept and reports to be made under section 8 of this Act which are to be so kept or made by the Cotton Board by virtue of this section shall relate only to its functions under this Act ; and those functions shall not be dealt with in the report and statement made by it under the said Act of 1947 ; and—

- (a) the reference in section 4(1) of this Act to the expenses of an industrial training board shall not include any expenses of the Cotton Board which are not attributable to this Act ;
- (b) any sums borrowed by the Cotton Board for the purposes of its functions under this Act shall be in addition to the total amount of the borrowings permitted for other purposes, shall be charged on the assets attributable to this Act and shall be repayable (together with any interest thereon) out of those assets and not otherwise, and section 5(5) of this Act shall apply only to money held by the Cotton Board in pursuance of this Act ; and
- (c) the references in section 9(3) of this Act to the winding up of an industrial training board shall not apply to the Cotton Board and the references therein to assets and liabilities shall not include any assets and liabilities which are not attributable to this Act.

(5) The Cotton Board—

- (a) shall pay to the chairman of the industrial training committee such remuneration (if any) as the Minister

may from time to time with the approval of the Treasury determine ;

- (b) may pay to the members of the industrial training committee such travelling, subsistence and other allowances as the Cotton Board may determine.

(6) The Cotton Board may appoint such officers and servants for the purposes of the functions exercisable by it under this section, upon such terms as to remuneration, pension rights and other conditions of service, as the Cotton Board may determine and, in the case of pension rights, the Minister may approve.

(7) Paragraphs 6 to 9 of the Schedule to this Act shall apply in relation to the industrial training committee and its members as they apply in relation to an industrial training board and its members.

(8) If an order is made under section 7 of this Act declaring the Cotton Board to be in default the references in subsection (3) of that section to the members of the industrial training board shall be construed as referring to members of the industrial training committee and subsection (4) of that section shall not apply, except in so far as it excludes paragraph 7(a) of the Schedule as applied by subsection (7) of this section.

14.—(1) If the Minister so requests, an industrial training board may exercise such functions in connection with the training for employment in any activity of industry or commerce carried on outside Great Britain of persons temporarily in Great Britain as are exercisable by it under subsections (1) and (4) of section 2 of this Act in connection with the training of persons employed or intending to be employed in the industry for which the board is established.

Power of industrial training board with respect to training for employment overseas.

(2) An industrial training board may delegate any power exercisable by it by virtue of this section to a committee (which need not include members of the board) appointed for that purpose or to any committee appointed under section 3 of this Act.

(3) An industrial training board shall keep separate accounts—

- (a) with respect to its functions under this section ; and  
(b) with respect to its other functions under this Act ;

and no money raised by a levy imposed under this Act shall be carried to an account kept in pursuance of paragraph (a) of this subsection, and any expenses and liabilities incurred by the board under this section shall be disregarded for the purposes of sections 4(1) and 9(3) of this Act.

Disqualification for membership of House of Commons.

**15.** 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, after the entry relating to the chairman, vice-chairman and a salaried member of the Dental Estimates Board, there shall be inserted the words—

“Paid chairman of an industrial training board constituted under the Industrial Training Act 1964 or of a committee appointed under that Act or paid deputy chairman of such a board”.

Powers of education authorities.

**16.** The facilities for further education that may be provided by a local education authority under section 41 of the Education Act 1944 or by an education authority in Scotland under section 1 of the Education (Scotland) Act 1962 shall be deemed to include and always to have included facilities for vocational and industrial training.

Contributions out of National Insurance Fund towards Minister's expenses in connection with certain courses.

**17.** In the proviso to section 3(6) of the Employment and Training Act 1948 (which limits to half a million pounds in any year the contributions out of the National Insurance Fund which may be made under that section towards expenses incurred by the Minister in providing training courses) for the words from “shall not exceed” to the end of the subsection there shall be substituted the words “shall not in any year exceed one million pounds or such greater amount as the Minister of Pensions and National Insurance may from time to time by order made by statutory instrument determine; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament”.

Financial provisions.

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

- (a) any administrative expenses incurred by the Minister for the purposes of this Act; and
- (b) any increase attributable to this Act in the sums payable under any other enactment out of moneys so provided.

Short title and extent.

**19.—**(1) This Act may be cited as the Industrial Training Act 1964.

(2) This Act, except section 15, does not extend to Northern Ireland.

## SCHEDULE

Section 1.

## INDUSTRIAL TRAINING BOARDS

1. An industrial training board shall be a body corporate, by such name as may be specified in the industrial training order.

2. The members of an industrial training board shall be appointed by the Minister.

3. An industrial training board shall consist of a chairman, who shall be a person appearing to the Minister to have industrial or commercial experience, and—

(a) an equal number of persons appointed after consultation with such organisations or associations of organisations representative of employers engaging in the industry and of persons employed in the industry respectively as appear to the Minister to be appropriate ;

(b) persons appointed after consultation with the Secretary of State and the Minister of Education ;

and, if the Minister thinks fit to appoint as deputy chairman a person appearing to him to have industrial or commercial experience, the deputy chairman so appointed ; and references in the following provisions of this Schedule to a chairman shall include a deputy chairman.

4. An industrial training board shall pay to its chairman such remuneration (if any) as the Minister may from time to time with the approval of the Treasury determine.

5. The chairman and the members appointed as mentioned in paragraph 3(b) of this Schedule shall not vote on any matter relating to the imposition of a levy.

6.—(1) The Minister, the Secretary of State, the Minister of Education and, if the Minister thinks fit in a particular case, such other Ministers in charge of government departments as he may specify may each appoint one person to attend the meetings of an industrial training board, and any person so appointed shall be entitled to take part in the proceedings of the board and receive copies of all documents distributed to its members, but shall have no vote.

(2) If the Minister thinks fit in any particular case he may authorise the Iron and Steel Board to appoint one person under this paragraph in addition to the persons so appointed by the Ministers mentioned therein.

7. An industrial training order may make provision with respect to—

(a) the tenure of office of the members of the board ;

(b) the quorum and, subject to paragraphs 5 and 6 of this Schedule, the proceedings and meetings of the board ;

(c) the execution of instruments by and on behalf of the board and the proof of documents purporting to be executed, issued or signed by the board or a member, officer or servant thereof ;

SCH. 1 and any provision made by virtue of sub-paragraph (b) of this paragraph may enable votes to be cast by proxy.

8. Subject to paragraphs 5 and 6 and to any provision made by virtue of paragraph 7 of this Schedule, a board shall have power to regulate its own procedure.

9. The proceedings of an industrial training board shall not be invalidated by any vacancy in the membership of the board or by any defect in the appointment of any member.

10. A board may appoint such officers and servants, upon such terms as to remuneration, pension rights and other conditions of service, as the board may determine and, in the case of pension rights, the Minister may approve.

11. A board may pay to its members such travelling, subsistence and other allowances as the board may determine.

12. For the purposes of this Schedule any body established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking shall be treated as if it were an organisation representative of employers.

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Education Act 1944 ... ..	7 & 8 Geo. 6. c. 31
National Insurance (Industrial Injuries) Act 1946 ...	9 & 10 Geo. 6. c. 62
Industrial Organisation and Development Act 1947	10 & 11 Geo. 6. c. 40
Companies Act 1948 ... ..	11 & 12 Geo. 6. c. 38
Employment and Training Act 1948 ... ..	11 & 12 Geo. 6. c. 46
House of Commons Disqualification Act 1957 ...	5 & 6 Eliz. 2. c. 20
Education (Scotland) Act 1962 ... ..	10 & 11 Eliz. 2. c. 47



# Consolidated Fund (No. 2) Act 1964

## 1964 CHAPTER 17

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on 31st March 1963, 1964 and 1965. [25th March 1964]

Most Gracious Sovereign,

**W**E, 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 1963 and 1964, the sum of £60,602,610. Issue of £60,602,610 out of the Consolidated Fund for the years ending 31st March 1963 and 1964.
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 1965, the sum of £2,542,649,100. Issue of £2,542,649,100 out of the Consolidated Fund for the year ending 31st March 1965.
- 3.—(1) The Treasury may borrow from any person by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sums, any sum or sums not exceeding in the whole £2,603,251,710. Power for the Treasury to borrow.

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40 & 41 Vict.  
c. 2.

(2) The date of payment of any Treasury Bills issued under this section shall be a date not later than 31st March 1965, and section 6 of the Treasury Bills Act 1877 (which relates to the renewal of bills) shall not apply with respect to those bills.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with 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.

4. This Act may be cited as the Consolidated Fund (No. 2) Act 1964.





# Rating (Interim Relief) Act 1964

## 1964 CHAPTER 18

An Act to make provision with respect to England and Wales for grants to rating authorities by reference to the proportion of elderly persons in the population of their areas and for the mitigation of hardship to residential occupiers attributable to the increase in the level of rates; and for connected purposes. [25th March 1964]

**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:—

### *Relief for rating authorities*

1.—(1) If in the year 1964-65 or any subsequent year, not being later than the year 1967-68, the number of persons over the age of sixty-five estimated to be included in the population of any rating authority's area exceeds one-tenth of the estimated total of that population, the Minister shall pay to that authority a grant in respect of that year at a rate of five pounds per head of the excess.

Grants by reference to proportion of elderly persons in population.

(2) Any grant payable to any authority under this section shall be paid at such times as the Minister may with the consent of the Treasury determine, and shall be payable in aid of the revenues of the authority generally.

### *Relief for residential occupiers*

2.—(1) Subject to subsection (4) of this section, where in the case of any dwelling—

Relief for residential occupiers of dwellings.

(a) the rates attributable to that dwelling for the year 1964-65 exceed the rates so attributable for the year

1962-63 increased by one-quarter or five pounds, whichever is the greater ; and

- (b) the rating authority are satisfied with respect to any rate period beginning after 31st March 1964 and ending not later than 31st March 1968 that the residential occupier of that dwelling will suffer hardship attributable to the increase since 31st March 1963 in the level of rates,

the rating authority shall have power to grant the residential occupier of that dwelling relief in accordance with the provisions of this section.

(2) Any relief granted under this section to the residential occupier of a dwelling shall be afforded in the following manner, that is to say—

(a) if—

(i) the residential occupier is rated as the occupier or owner of the hereditament which consists of or includes the dwelling ; and

(ii) where he is rated as the occupier, no agreement is for the time being in force under section 11(2) of the Rating and Valuation Act 1925 for the payment or collection of the rates on that hereditament by some other person as the owner of the hereditament,

either by the remission, or by the refund, of part of any rate or instalment of a rate demanded ;

- (b) in any other case, by the making by the rating authority to the residential occupier of such periodical payments as that authority may think fit.

(3) The following provisions shall have effect with respect to any relief granted under this section in respect of any dwelling, that is to say—

- (a) the relief shall not be granted in respect of more than one rate period at a time ;

- (b) the annual rate of the relief in respect of, or of part of, any rate period shall exceed neither of the following amounts, that is to say—

(i) the amount of the excess referred to in subsection (1)(a) of this section ;

(ii) the amount, if any, by which the rates attributable to the dwelling for the year in which that period falls exceed the rates so attributable for the year 1962-63 increased as mentioned in the said subsection (1)(a) ;

- (c) if the person granted relief is the residential occupier for part only of the rate period in respect of which the

relief is granted, the amount of relief afforded shall not exceed an amount bearing the same proportion to the annual rate of the relief as that part of that rate period bears to a year.

(4) This section shall not apply to any dwelling which constitutes or forms part of a hereditament to which section 11(4) or 12(4) of the Rating and Valuation Act 1961 for the time being applies.

3.—(1) Subject to subsections (2), (6) and (7) of this section, the rates attributable to any dwelling for the year 1962-63 for the purposes of section 2(1)(a) of this Act shall be calculated by multiplying the rateable value of the dwelling on 31st March 1963 by the rate (expressed as a fraction of a pound) made for that year for the parish in which the dwelling was situated on that date. Calculation of rates attributable to dwelling.

(2) If in the case of the parish in question separate rates were made for separate rate periods in the year 1962-63, the reference in subsection (1) of this section to the rate made for that year for that parish shall be construed as a reference to the aggregate of those separate rates.

(3) Subject to subsections (5) and (6) of this section, the rates attributable to any dwelling for the year 1964-65 for the purposes of section 2(1)(a) of this Act shall be calculated by multiplying the rateable value of the dwelling on 1st April 1964, or the first day thereafter on which the hereditament for the time being consisting of or including that dwelling appears in any valuation list, by the rate (expressed as a fraction of a pound) made for the rate period beginning with 1st April 1964 for the parish in which the dwelling or the site thereof was situated on that date.

(4) Subject to subsections (5) and (6) of this section, the rates attributable to a dwelling for the purposes of section 2(3)(b)(ii) of this Act for the year in which any rate period or part of a rate period falls shall be calculated by multiplying the rateable value of the dwelling on the first day in that period on which the rate for that period became leviable on that dwelling by the rate (expressed as a fraction of a pound) made for that rate period for the parish in which the dwelling was situated on that day.

(5) Any reference in subsection (3) or (4) of this section to the rate made for any period shall, if that period is a period of less than a year, be construed as a reference to an amount bearing the same proportion to the amount of that rate as a year bears to that period.

(6) For the purposes of any calculation under subsection (1), (3) or (4) of this section, references in this section to the rateable value of a dwelling on a particular date shall be construed as references to that value after any alteration to the valuation list which, at the time when the calculation is made, is deemed to have had effect on that date; and the rateable value of a dwelling which on the date in question formed part only of a hereditament shall be taken to be an amount equal to such part of the rateable value of the hereditament on that date as appears to the rating authority to be appropriate having regard to all the circumstances and, in particular, in the case of a dwelling which was on that date the subject of a tenancy to which the Rent Acts apply or a statutory tenancy, to any relevant agreement or determination such as is mentioned in the definition of "rates" contained in section 25(1) of the Rent Act 1957.

(7) If, in the case of any dwelling, the hereditament for the time being consisting of or including that dwelling did not appear in any valuation list on 31st March 1963, then, for the purposes of any calculation with respect to that dwelling under subsection (1) of this section, the valuation officer shall, if but only if the rating authority request him so to do, notify that authority as to what in the opinion of that officer the rateable value of that hereditament would have been on 31st March 1963 if it had fallen to be valued on that date in accordance with the provisions then in force with respect to valuation for rating, but with the substitution in section 2(3) of the Valuation for Rating Act 1953 for references to the time of valuation of references to the time of the request; and—

- (a) the value so notified shall be deemed to be the rateable value of that hereditament on 31st March 1963; and
- (b) the said subsection (1) shall have effect as if after the word "dwelling" in the last place where it occurs in that subsection there were inserted the words "or the site thereof".

Variation or  
termination  
of relief, etc.

4.—(1) The rating authority by whom any relief is granted under section 2 of this Act may at any time, if it appears to them just so to do by reason of a material change of circumstances, vary or terminate that relief.

(2) Where, in the case of a hereditament consisting of or including a dwelling in respect of which such relief has been granted which falls to be afforded in the manner provided by section 2(2)(a) of this Act, an alteration is made in the valuation list with respect to that hereditament, being an alteration which is deemed to have had effect on 1st April 1964 or the first day thereafter on which that hereditament appeared in that list, the rating authority by whom the relief was granted shall review that

grant ; and, for the purposes of determining the amount, if any, which is to be repayable or allowable or, as the case may be, payable and recoverable under section 42(3) of the Local Government Act 1948, there shall be taken into account—

- (a) any amount by which any such relief afforded exceeded the maximum relief which could have been afforded if the alteration had been made before the relief was granted ; and
- (b) if the rating authority decide to vary or rescind the grant, any further amount over-paid by way of relief under section 2 of this Act.

5.—(1) In respect of any year for which any rating authority affords relief under section 2 of this Act, the Minister shall pay to that authority a grant equal to half the aggregate amount of that relief plus one-sixth of the amount, if any, by which that aggregate amount exceeds three per cent. of the gross rate income of the authority's area for that year.

Grants towards relief under s. 2.

(2) Any grant payable to any authority under this section shall be paid at such times as the Minister may with the consent of the Treasury determine.

6.—(1) Any relief afforded under section 2 and any grant paid under section 5 of this Act shall be disregarded in calculating the product of a rate of one penny in the pound for any area for the purposes of section 5 of the Local Government Act 1958 (which relates to rate-deficiency grants) ; and any grant paid under section 5 of this Act shall also be disregarded in calculating for the purposes of that section the gross rate income of any area.

Treatment of, and of grants towards, relief under s. 2 for other purposes.

(2) Subject to the foregoing subsection—

- (a) the amount of relief afforded as aforesaid in any year shall be treated as loss on collection for the authority's area for that year ;
- (b) the amount of any such grant as aforesaid paid in any year shall be included in the gross rate income of the authority's area for that year as if received under section 100 of the Local Government Act 1948.

(3) Where in any year section 1(7) of the Rating and Valuation (Miscellaneous Provisions) Act 1955 for the time being applies to any hereditament and relief under section 2 of this Act in respect of a dwelling constituting or forming part of that hereditament falls to be afforded in the manner provided by section 2(2)(a) of this Act, the amount recoverable in respect of rates levied on that hereditament for that year shall not be reduced by virtue of the said section 1(7) by an amount greater

than the amount, if any, by which the reduction which would have fallen to be made under the said section 1(7) if that relief had not been granted exceeds the annual rate of that relief.

*General*

Regulations.

7. The Minister may by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make provision with respect to—

- (a) the manner in which and the date at which the population of, and the number of persons over the age of sixty-five in, any area are to be estimated for the purposes of section 1 of this Act ;
- (b) the calculation and correction of estimates of any grants payable under section 1 or 5 of this Act ;
- (c) the adjustment of payments of such grants by reference to later estimates and calculations ;
- (d) the recovery by the Minister of any such grants overpaid to any authority, whether by way of deduction from grants payable to that authority or otherwise.

Interpretation.

8.—(1) In this Act, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

“dwelling” means—

(a) a hereditament which is a dwelling-house within the meaning of the Valuation for Rating Act 1953 ; or

(b) a hereditament in the case of which, on 31st March 1963, its gross value for rating purposes fell or would have fallen to be ascertained in accordance with section 4, or that section as modified by section 5, of the said Act of 1953, except so much of that hereditament as consists of premises not used wholly for the purposes of a private dwelling or private dwellings ; or

(c) any part of any such hereditament as is mentioned in paragraph (a) or (b) of this definition which is used wholly for the purposes of a private dwelling for himself and any other members of his household by a person for the time being entitled so to use that part only of the hereditament ;

“gross rate income” and “loss on collection” have the meanings respectively assigned by the Rate-product Rules 1959 or the Rate-product (County Boroughs) Rules 1959, as the case may require ;

“the Minister” means the Minister of Housing and Local Government ;

“parish” has the meaning assigned by section 68 of the Rating and Valuation Act 1925 ; and for the purposes of this definition, as respects any period before 1st April 1965, paragraph 13 of Schedule 15 to the London Government Act 1963 shall be deemed to have come into force with the substitution for any reference therein to Greater London of a reference to the administrative county of London ;

“rate”, “hereditament” and “owner” have (as respects any period before 1st April 1965 in relation to the administrative county of London as well as the remainder of England and Wales) the meanings respectively assigned by section 68 of the Rating and Valuation Act 1925 ;

“rate period” means a period, being a year or part of a year, for which a rate is made ;

“rating authority” means—

(a) the council of any county borough or county district, the Common Council of the City of London and the Council of the Isles of Scilly ; and

(b) as respects the year 1964-65, the council of any metropolitan borough ; and

(c) as respects the year 1965-66 and subsequent years, the council of any London borough ;

“residential occupier” in relation to a dwelling means the person by whom that dwelling is used as a private dwelling for himself and any other members of his household ;

“year” means a period of twelve months beginning with 1st April in any calendar year.

(2) References in this Act to any enactment or instrument shall be construed as references to that enactment or instrument as amended, extended or applied by or under any other enactment or instrument.

**9.** There shall be defrayed out of moneys provided by Expenses. Parliament—

(a) any expenses of the Minister of Housing and Local Government incurred in paying grants under section 1 or 5 of this Act ;

(b) any increase attributable to this Act in the sums payable out of moneys so provided under any other Act.

E\*

Short title  
and extent.

**10.—(1) This Act may be cited as the Rating (Interim Relief) Act 1964.**

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

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*Table of Statutes referred to in this Act*

Short Title	Chapter
Rating and Valuation Act 1925 ... ..	15 & 16 Geo. 5. c. 90.
Local Government Act 1948 ... ..	11 & 12 Geo. 6. c. 26.
Valuation for Rating Act 1953 ... ..	1 & 2 Eliz. 2. c. 42.
Rating and Valuation (Miscellaneous Provisions) Act 1955 ... ..	4 & 5 Eliz. 2. c. 9.
Rent Act 1957 ... ..	5 & 6 Eliz. 2. c. 25.
Local Government Act 1958 ... ..	6 & 7 Eliz. 2. c. 55.
Rating and Valuation Act 1961 ... ..	9 & 10 Eliz. 2. c. 45.
London Government Act 1963 ... ..	1963, c. 33.





# Married Women's Property Act 1964

## 1964 CHAPTER 19

An Act to amend the law relating to rights of property as between husband and wife. [25th March 1964]

**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. If any question arises as to the right of a husband or wife to money derived from any allowance made by the husband for the expenses of the matrimonial home or for similar purposes, or to any property acquired out of such money, the money or property shall, in the absence of any agreement between them to the contrary, be treated as belonging to the husband and the wife in equal shares. Money and property derived from housekeeping allowance.

2.—(1) This Act may be cited as the Married Women's Property Act 1964. Short title and extent.

(2) This Act does not extend to Northern Ireland.



# Uganda Act 1964

## 1964 CHAPTER 20

An Act to make provision as to the operation of the law in relation to Uganda as a Commonwealth Country not within Her Majesty's dominions. [25th March 1964]

**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:—

Operation of  
existing law.

1.—(1) Subject to this Act, all law which whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever, was in force on 9th October 1963 (being the date on which Uganda ceased to be part of Her Majesty's dominions), or, having been passed or made before that day, comes or has come into force thereafter, shall, unless and until provision to the contrary is made by Parliament or some other authority having power in that behalf, have the same operation in relation to Uganda, and persons and things belonging to or connected with Uganda, as it would have apart from this subsection if Uganda had not ceased to be part of Her Majesty's dominions.

(2) This section applies to law of or of any part of the United Kingdom, the Channel Islands and the Isle of Man and, in relation only to any enactment of the Parliament of the United Kingdom or any Order in Council made by virtue of any such enactment whereby any such enactment applies in relation to Uganda, to law of any other country or territory to which that enactment or Order extends.

(3) This section shall be deemed to have had effect from 9th October 1963.

2.—(1) Her Majesty may by Order in Council make such adaptations in any Act of Parliament passed before 9th October 1963 as appear to Her Majesty necessary or expedient in consequence of Uganda having ceased to form part of Her Majesty's dominions. Power to make consequential adaptations.

(2) Any Order in Council made under subsection (1) of this section, and any Order in Council or other instrument made under any other enactment which varies or revokes a previous Order in Council or instrument in consequence of Uganda having ceased to form part of Her Majesty's dominions, may be made so as to have effect from 9th October 1963.

(3) Any Order in Council under subsection (1) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent Order in Council.

3.—(1) Her Majesty may by Order in Council confer on the Judicial Committee of the Privy Council such jurisdiction in respect of appeals to Her Majesty in Council from the Court of Appeal for Eastern Africa on appeal from a court or judge in Uganda, being appeals which were pending immediately before 9th October 1963 and in which the records had been registered in the Office of the Privy Council before that day, as appears to Her to be appropriate for giving effect to any arrangements between Her Majesty's Government in the United Kingdom and the Government of Uganda for any such appeals to be continued before and disposed of by that Committee. Appeals from Uganda.

(2) An Order in Council under this section may determine the practice and procedure to be followed on any appeal in which the said Committee have jurisdiction under this section, and in particular may provide for the form of any report or recommendation to be made by that Committee in the exercise of that jurisdiction, and for its transmission to such authority in Uganda as may be specified in the Order, and may contain such other incidental and supplemental provisions as appear to Her Majesty to be desirable.

(3) An Order in Council under this section may be made so as to have effect from 9th October 1963, and may be varied or revoked by a subsequent Order in Council.

(4) Except so far as otherwise provided by an Order in Council under this section, and subject to such modifications as may be so provided, the Judicial Committee Act 1833 shall apply in relation to appeals in which the Judicial Committee of the Privy Council have jurisdiction under this section as it applied before 9th October 1963 in relation to appeals to Her Majesty in Council from Uganda. 3 & 4 Will. 4. c. 41.

(5) Except as provided by an Order in Council under this section or by the law of Uganda, no appeal from Uganda shall be entertained by the Judicial Committee of the Privy Council.

**Short title.**      **4.** This Act may be cited as the Uganda Act 1964.



# Television Act 1964

## 1964 CHAPTER 21

An Act to consolidate the Television Acts 1954 and 1963.  
[25th March 1964]

**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:—

### *The Independent Television Authority*

1.—(1) There shall be an authority, to be called the Independent Television Authority (in this Act referred to as “the Authority”) which shall consist of a Chairman, a Deputy Chairman and such other members, not being less than five, as the Postmaster General may from time to time determine: Constitution and functions of Authority.

Provided that unless and until the Postmaster General otherwise determines by notice in writing to the Authority, a copy of which shall be laid before each House of Parliament, the number of the said other members shall be eight.

(2) The provisions of Schedule 1 to this Act (which relate to the appointment and remuneration of members of the Authority and to the procedure of and other similar matters concerning the Authority) shall have effect with respect to the Authority.

(3) The function of the Authority shall be to provide, in accordance with the provisions of this Act, and until 31st July 1976, television broadcasting services, additional to those of the British Broadcasting Corporation and of high quality, both as to the transmission and as to the matter transmitted, for so much of the United Kingdom, the Isle of Man and the Channel Islands as may from time to time be reasonably practicable.

(4) It shall be the duty of the Authority—

(a) to provide the television broadcasting services as a public service for disseminating information, education and entertainment ;

(b) to ensure that the programmes broadcast by the Authority in each area maintain a high general standard in all respects, and in particular in respect of their content and quality, and a proper balance and wide range in their subject-matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are broadcast ; and

(c) to secure a wide showing for programmes of merit.

(5) Without prejudice to the powers conferred on the Authority by this Act, the programmes broadcast by the Authority shall, so far as may be consistently with the observance of the requirements of this Act, be provided not by the Authority but by persons (hereafter in this Act referred to as “programme contractors”) who, under contracts with the Authority, have, in consideration of payments to the Authority and subject to the provisions of this Act, the right and the duty to provide programmes or parts of programmes to be broadcast by the Authority, which may include advertisements.

(6) It is hereby declared that the Authority are not to be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.

Powers of  
Authority.

2.—(1) The Authority shall, subject to the provisions of this Act, have power to do all such things as are in their opinion necessary for or conducive to the proper discharge of their function as described in section 1(3) of this Act, and, in particular and without prejudice to the generality of the foregoing provision, they shall for the purpose of discharging that function have power—

(a) to establish, install and use stations for wireless telegraphy ;

(b) to arrange for the provision and equipment of, or, if need be, themselves to provide and equip, studios and other premises for television broadcasting purposes ;

(c) by arrangements made for the purpose with the Postmaster General and persons carrying on broadcast relay stations, to provide for the distribution from broadcast relay stations of programmes broadcast by the Authority.

(2) Notwithstanding section 1(5) of this Act the Authority may—

- (a) arrange for the provision of parts of programmes otherwise than by programme contractors for the purpose of securing the inclusion in the programmes broadcast by the Authority of items of particular classes which in their opinion are necessary for securing a proper balance in the subject-matter of the programmes and cannot, or cannot as suitably, be provided by programme contractors ;
- (b) apart from the provision of such items, arrange for the provision (by programme contractors or otherwise) of, or (if need be) themselves provide, programmes or parts of programmes so far as may be necessary by reason of any temporary lack of suitable persons able and willing to become or continue as programme contractors on suitable terms and to perform their obligations as such, or by reason of any interval between the expiration or termination of one contract with a programme contractor and the commencement of another contract with that or another programme contractor ; and
- (c) with the consent of the Postmaster General, arrange for the provision, otherwise than by programme contractors, of educational broadcasting services of an experimental nature to be broadcast in addition to educational programmes provided for the purpose of the public service referred to in section 1(4)(a) of this Act by programme contractors,

and may, for the purpose of so providing programmes or parts of programmes or putting themselves into a position to do so if necessity arises, make such arrangements for obtaining the necessary material, enter into such contracts, employ such persons, acquire such property and do such things as may appear to them to be necessary or expedient.

(3) Without prejudice to the generality of the preceding provisions of this section, the powers of the Authority shall extend to the carrying on of such businesses and the doing of such things as arise out of the other activities of the Authority or are necessary or expedient for the purpose of turning to account any property or rights of the Authority.

(4) Notwithstanding anything in this section the Authority shall not carry on business as sellers of, or, except with the approval of the Postmaster General, themselves engage in the manufacture or sale of, apparatus for wireless telegraphy or any other telegraphic equipment.

(5) Notwithstanding anything in this section, the Authority shall not have power to provide broadcasting services other than television services or (except as provided by this section) to acquire any exclusive or other rights in respect of the broadcasting of any matters in sound only:

Provided that nothing in this subsection shall be construed as precluding the inclusion in any programme broadcast by the Authority of matter transmitted in sound only—

- (a) by way of relays of any of the British Broadcasting Corporation's party political broadcasts which is so transmitted;
- (b) in compliance with a notice given to the Authority under section 18(1) of this Act; or
- (c) by way of news items, announcements or other items incidental or ancillary to the television services provided by the Authority,

or the acquisition by the Authority of rights in respect of any matter to be so transmitted.

(6) Nothing in this section shall be construed as authorising the Authority to do, otherwise than under and in accordance with a licence under section 1 of the Wireless Telegraphy Act 1949 or section 5 of the Telegraph Act 1869, anything for the doing of which such a licence is requisite under those Acts respectively, and those Acts shall have effect in relation to the Authority accordingly.

#### *Provisions applying to all programmes*

General provisions with respect to content of programmes.

3.—(1) It shall be the duty of the Authority to satisfy themselves that, so far as possible, the programmes broadcast by the Authority comply with the following requirements, that is to say—

- (a) that nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
- (b) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality;
- (c) that proper proportions of the recorded and other matter included in the programmes are of British origin and of British performance;
- (d) that the programmes broadcast from any station or stations contain a suitable proportion of matter calculated to appeal specially to the tastes and outlook



of persons served by the station or stations and, where another language as well as English is in common use among those so served, a suitable proportion of matter in that language ; and

- (e) that due impartiality is preserved on the part of the persons providing the programmes as respects matters of political or industrial controversy or relating to current public policy.

In applying paragraph (e) of this subsection, a series of programmes may be considered as a whole.

(2) Without prejudice to the generality of subsection (1) of this section, it shall be the duty of the Authority to secure the exclusion from the programmes broadcast by them of all expressions of their own opinion as to any of the matters referred to in paragraph (e) of that subsection, or of the opinion as to any such matters—

- (a) of any of their members or officers, or
- (b) of any programme contractor, or
- (c) in the case of a programme contractor being a firm, of any partner therein, or
- (d) in the case of a programme contractor being a body corporate, of any director or officer thereof or person having control thereof.

(3) It shall be the duty of the Authority to satisfy themselves that the programmes broadcast by the Authority do not include, whether in an advertisement or otherwise, any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware, or fully aware, of what has been done.

(4) Nothing shall be included in any programme broadcast by the Authority, whether in an advertisement or not, which offers any prize of significant value, whether competed for or not, or any gift of significant value, being a prize or gift which is available only to persons receiving that programme, or in relation to which any advantage is given to such persons.

(5) Except with the previous approval of the Authority, there shall not be included in any programme broadcast by the Authority—

- (a) any religious service or any propaganda relating to matters of a religious nature ;
- (b) any item, whether an advertisement or not, which gives or is designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes.

(6) For the purpose of maintaining supervision and control over the programmes (including advertisements) broadcast by them the Authority may make visual and sound records of those programmes or any part thereof ; and the making and use by the Authority of any such record exclusively for that purpose—

- (a) shall not constitute an infringement of the copyright in any work, sound recording or cinematograph film ; and
- (b) shall not constitute an offence under any of the provisions of the Performers' Protection Acts 1958 and 1963.

*Provisions applying to programmes other than advertisements*

Code for  
programmes  
other than  
advertisements.

4.—(1) The Authority—

(a) shall draw up, and from time to time review, a code giving guidance—

(i) as to the rules to be observed in regard to the showing of violence, particularly when large numbers of children and young persons may be expected to be watching the programmes, and

(ii) as to such other matters concerning standards and practice for programmes (other than advertisements) broadcast by the Authority as the Authority may consider suitable for inclusion in the code,

and in considering what other matters ought to be included in the code in pursuance of sub-paragraph (ii) shall have special regard to programmes broadcast when large numbers of children and young persons may be expected to be watching ; and

(b) shall secure that the provisions of the code are observed in relation to all programmes (other than advertisements) broadcast by the Authority.

(2) The Authority may, in the discharge of their general responsibility for programmes other than advertisements, impose requirements as to standards and practice for such programmes which go beyond, or relate to matters not covered by, the provisions of the code ; and the methods of control exercisable by the Authority for the purpose of securing that the provisions of the code are observed, and for the purpose of securing compliance with such requirements which go beyond, or relate to matters not covered by, the code, shall include a power to give directions to a programme contractor (or any other person providing such programmes) imposing prohibitions or restrictions as respects items of a specified class or description or as respects a particular item.

5.—(1) In the case of programmes other than advertisements, the methods by which the Authority discharge their duties under section 1(4) and section 4 of this Act shall include the consideration of programme schedules submitted by programme contractors to the Authority for approval in accordance with this section; and, subject to subsection (5) of this section, no such programme provided by a programme contractor shall be broadcast by the Authority unless it forms part of a programme schedule so approved.

Submission of programme schedules for Authority's approval.

(2) A programme schedule—

(a) shall be drawn up in consultation with the Authority; and

(b) shall be for a period determined by the Authority,

and the Authority may give to programme contractors such directions as appear to the Authority expedient for the purpose of ensuring that the Authority have sufficient time to discharge their responsibilities in the consideration of programme schedules.

(3) The Authority may give directions, which may be, to any degree, either general or specific and qualified or unqualified—

(a) as to the exclusion of any item from a programme schedule;

(b) as to the inclusion in, or in a particular part of, a programme schedule of an item, or items, of a particular category; or

(c) as to the inclusion in a particular part of a programme schedule of a particular item,

and the Authority shall not approve a programme schedule until they are satisfied that it conforms with any directions given under this section.

(4) Without prejudice to the Authority's power to approve for the purposes of this section a revised or amended version of a programme schedule previously approved by them, the Authority may, if they think fit to do so in view of any change of circumstances occurring after a programme schedule has been approved by them, permit the programme contractor to make such alterations in that programme schedule as the Authority may approve, being alterations proposed to them in any convenient manner; and a programme schedule in which alterations have been made by virtue of this subsection shall, as so altered, be treated as having been approved by the Authority in accordance with this section.

(5) The Authority may give directions, which may be, to any degree, either general or specific and conditional or unconditional, authorising the making of alterations in any approved programme schedule without prior reference to the Authority—

(a) where it is difficult or impracticable for the programme contractor to communicate with the Authority in the time available ; or

(b) in the event of a technical breakdown ;

and the programmes contained in a programme schedule in which alterations are made by virtue of this subsection may be broadcast by the Authority notwithstanding those alterations.

(6) The Authority's approval under this section may be given subject to such exceptions, reservations and qualifications as the Authority think fit, and the Authority may at any time call for further particulars of a programme schedule submitted to them, or of any item in the programme schedule.

Programme prizes.

6.—(1) Without prejudice to the provision as to prizes and gifts in section 3(4) of this Act, a programme (other than an advertisement) broadcast by the Authority—

(a) shall not include anything which offers any prize of significant value (whether competed for or not) or any gift of significant value unless—

(i) the value of the prize or gift does not exceed an amount previously approved by the Authority for that prize or gift in relation to that programme, and

(ii) the aggregate value of all such prizes and gifts offered in the programme does not exceed an amount previously approved by the Authority for that programme ; and

(b) shall not include anything which offers any prize or gift of significant value in connection with a game, competition or test of any kind unless the rules governing the conduct of the game, competition or test have been previously approved by the Authority.

(2) Subsection (1) of this section shall not be taken to apply to a programme by reason only that in it there is broadcast a sporting or other event or competition not organised for the purposes of the programme.

#### *Advertisements*

Advertisements.

7.—(1) The programmes broadcast by the Authority may, so long as the provisions of this Act are complied with in relation thereto, include advertisements inserted therein in consideration

of payments to the relevant programme contractor or, in the case of an advertisement included in a programme or part of a programme provided under section 2(2)(b) of this Act, to the Authority.

(2) Orders for the insertion of the said advertisements may be received either through advertising or other agents or direct from the advertiser, but neither the Authority nor any programme contractor shall act as an advertising agent.

(3) It shall be the duty of the Authority to secure that the provisions of Schedule 2 to this Act are complied with in relation to the advertisements included in the programmes broadcast by the Authority.

(4) After consultation with the Authority the Postmaster General may make regulations by statutory instrument amending, repealing, or adding to the provisions of the said Schedule.

(5) Without prejudice to any of the duties incumbent on the Authority otherwise than under this subsection in relation to advertisements, it shall be the duty of the Authority to consult from time to time with the Postmaster General as to the classes and descriptions of advertisements which must not be broadcast and the methods of advertising which must not be employed, and to carry out any directions which he may give them in those respects.

(6) Subject to subsections (7) and (8) of this section, nothing shall be included in any programmes broadcast by the Authority, whether in an advertisement or not, which states, suggests or implies, or could reasonably be taken to state, suggest or imply, that any part of any programme broadcast by the Authority which is not an advertisement has been supplied or suggested by any advertiser; and, except as an advertisement, nothing shall be included in any programme broadcast by the Authority which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the relevant programme contractor or the Authority.

(7) Nothing in subsection (6) of this section shall be construed as prohibiting the inclusion, in any part of a programme broadcast by the Authority which is not an advertisement, of any of the following matters, that is to say—

(a) items designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes;

(b) reviews of literary, artistic or other publications or productions, including current entertainments;

- (c) items consisting of factual portrayals of doings, happenings, places or things, being items which in the opinion of the Authority are proper for inclusion by reason of their intrinsic interest or instructiveness and do not comprise an undue element of advertisement ;
- (d) announcements of the place of any performance included in the programme, or of the name and description of the persons concerned as performers or otherwise in any such performance, announcements of the number and description of any record so included, and acknowledgments of any permission granted in respect of any such performance, persons or record ;
- (e) items inserted at the request, or under the authority, of a Minister of the Crown (including a Minister of Northern Ireland) ;
- (f) such other matters (if any) as may be prescribed by regulations made by the Postmaster General by statutory instrument after consultation with the Authority,

or as prohibiting the inclusion of an advertisement in any programme broadcast by the Authority by reason only of the fact that it is related in subject-matter to any part of that programme which is not an advertisement.

(8) So much of subsection (6) of this section as prohibits the inclusion in programmes (other than advertisements) broadcast by the Authority of anything which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the Authority shall not apply to any programme so broadcast in an educational service provided under section 2(2)(c) of this Act.

(9) Before making any regulations under this section the Postmaster General shall lay a draft thereof before each House of Parliament, and shall not make the regulations until a resolution has been passed by each House of Parliament approving the draft.

Code for  
advertisements.

**8.—(1)** It shall be the duty of the Authority—

- (a) to draw up, and from time to time review, a code governing standards and practice in advertising and prescribing the advertisements and methods of advertising to be prohibited, or prohibited in particular circumstances ; and
- (b) to secure that the provisions of the code are complied with as regards the advertisements included in the programmes broadcast by the Authority.

(2) The Authority may, in the discharge of their general responsibility for advertisements and methods of advertising, impose requirements as to advertisements and methods of advertising which go beyond the requirements imposed by the code; and the methods of control exercisable by the Authority for the purpose of securing that the provisions of the code are complied with, and for the purpose of securing compliance with requirements which go beyond the requirements of the code, shall include a power to give directions to a programme contractor with respect to the classes and descriptions of advertisements and methods of advertising to be excluded, or to be excluded in particular circumstances, or with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.

(3) The Authority may give directions to a programme contractor with respect to the times when advertisements are to be allowed.

(4) Directions under this section may be, to any degree, either general or specific, and qualified or unqualified, and directions under subsection (3) of this section may, in particular, relate to—

- (a) the greatest amount of time to be given to advertisements in any hour or other period;
- (b) the minimum interval which must elapse between any two periods given over to advertisements and the number of such periods to be allowed in any programme or item in a programme or in any hour or day;
- (c) the exclusion of advertisements from a specified broadcast,

and may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.

#### *Advisory committees*

9.—(1) The Authority may appoint, or arrange for the assistance of, advisory committees to give advice to the Authority and programme contractors on such matters as the Authority may determine; and a general advisory council may be appointed under this subsection.

(2) Without prejudice to the generality of the preceding subsection, the Authority shall in particular appoint, or arrange for the assistance of—

- (a) a committee representative of the main streams of religious thought in the United Kingdom, the Isle of

Man and the Channel Islands, to give advice to the Authority as to the exercise of their functions in relation to any such items as are mentioned in section 3(5)(a) of this Act, and on any other matters of a religious nature included in the programmes broadcast by the Authority, or in any publications issued by the Authority ;

(b) a committee so constituted as to be representative of both—

(i) organisations, authorities and persons concerned with standards of conduct in the advertising of goods and services (including in particular the advertising of goods or services for medical or surgical purposes), and

(ii) the public as consumers,

to give advice to the Authority with a view to the exclusion of misleading advertisements from the programmes broadcast by the Authority, and otherwise as to the principles to be followed in connection with the advertisements included in such programmes or in any publications issued by the Authority ; and

(c) a committee consisting of persons who have, or are representative of authorities or organisations who have, special interest and experience in education, to give advice to the Authority, and in particular advice on the policy for, and planning of, broadcasts intended for reception by schools and other educational establishments.

(3) The functions of the committee referred to in paragraph (b) of subsection (2) of this section shall include the duty of keeping the code referred to in section 8 of this Act under review and submitting to the Authority recommendations as to any alterations which appear to them to be desirable.

(4) Before appointing a person to be the chairman of the committee referred to in the said paragraph (b), the Authority shall satisfy themselves that that person—

(a) will have no financial or other interest in any advertising agency ; and

(b) will have no such other financial or other interest in advertising as is in the opinion of the Authority likely to prejudice his independence as chairman ;

and the Authority shall also satisfy themselves from time to time that the chairman of the said committee has no such interest as is described in paragraph (a) or (b) of this subsection.



(5) The Authority shall, after consultation with such professional organisations as the Postmaster General may require and such other bodies or persons as the Authority think fit, appoint, or arrange for the assistance of, a medical advisory panel to give advice to the Authority as to—

- (a) advertisements for medicines and medical and surgical treatments and appliances ;
- (b) advertisements for toilet products which include claims as to the therapeutic or prophylactic effects of the products ;
- (c) advertisements for medicines and medical and surgical treatments for veterinary purposes,

and such other advertisements as the Authority may think fit to refer to the panel.

(6) The Authority shall consult the panel before drawing up the code referred to in section 8 of this Act and in the course of any review of that code.

(7) The Authority shall ensure that, before the first occasion on which they broadcast an advertisement which in their opinion falls under paragraph (a), (b) or (c) of subsection (5) of this section, the advertisement is, in accordance with arrangements approved by the Authority, referred to a member or members of the panel for advice :

Provided that this subsection shall not apply to an advertisement first broadcast by the Authority on or before 29th July 1964.

#### *Contracts for programmes*

**10.—(1)** The Authority shall not enter into any contract with a programme contractor for the provision of programmes for a period of more than six years, but that shall not preclude the Authority from entering into successive contracts with the same programme contractor. Duties of Authority in relation to contracts for programmes.

(2) It shall be the duty of the Authority to do all that they can to secure—

- (a) that persons who are disqualified persons as defined in subsection (3) of this section do not become or continue as programme contractors, either alone or in partnership with other persons ;
- (b) that there is adequate competition to supply programmes between a number of programme contractors independent of each other both as to finance and as to control ; and
- (c) that no programme contractor acquires any exclusive or other rights in respect of the broadcasting of any

matter in sound only from stations in the United Kingdom, the Isle of Man or the Channel Islands, other than matter which is to be so broadcast in a programme or part of a programme provided by him under this Act.

(3) In subsection (2)(a) of this section “disqualified person” means a person who—

- (a) being an individual, is not ordinarily resident in the United Kingdom, the Isle of Man or the Channel Islands, or being a body corporate, is incorporated under the laws of any country outside the United Kingdom, the Isle of Man and the Channel Islands; or
- (b) being an individual or a body corporate, carries on business as an advertising agent (whether alone or in partnership), or has control over any body corporate which carries on business as an advertising agent, or is a director or officer of any such body corporate, or is employed by any person who carries on business as an advertising agent; or
- (c) being a body corporate, is under the control of any such person as is mentioned in paragraph (a) or (b) of this subsection, or of any two or more such persons together, or has among its directors, officers or servants any person who is a disqualified person otherwise than by virtue of paragraph (a) of this subsection.

(4) No contract and no interest in a contract between a programme contractor and the Authority shall be assignable either in whole or in part without the previous consent in writing of the Authority.

Provisions to be included in contracts for programmes.

**11.—**(1) The contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient to be inserted for complying and securing compliance with the provisions of this Act and any restrictions or requirements imposed thereunder in relation to the programmes provided by the programme contractors.

(2) Without prejudice to the preceding subsection, every contract between the Authority and a programme contractor—

- (a) shall, subject to the following paragraph, contain a provision reserving to the Authority an absolute right, if, in view of any breaches by the programme contractor of his obligations under his contract with the Authority, the Authority, after giving the programme contractor a reasonable opportunity of making representations with respect to the matter, think it necessary to do so, to serve on the programme contractor a

notice in writing, taking effect forthwith or on a date stated in the notice, to determine or suspend for such period as may be specified in the notice, or until a further notice is given, the Authority's obligation to transmit the programmes supplied by the programme contractor (without prejudice, however, to the programme contractor's obligations as to the supply of programmes up to the date when the notice takes effect); and

- (b) shall be such as to secure that no notice can be given in pursuance of a right reserved in accordance with the preceding paragraph unless the programme contractor has broken the contract on at least three occasions and, in respect of each of those breaches of contract, has received from the Authority written particulars of the breach within one month from the time when the breach came to the notice of the Authority;

and where a notice is given in pursuance of a right reserved in accordance with this subsection, the programme contractor shall not be entitled to any compensation from the Authority, or to any refund of any sum previously paid by him, or to any relief from any liability which has accrued at the date when the notice takes effect for any sums payable by him to the Authority.

(3) Without prejudice to the power of the parties to agree upon any wider form of arbitration provision, every such contract shall be such as to secure that any dispute—

- (a) whether an alleged breach of which the programme contractor has received written particulars is a breach of the contract for the purposes of the provisions included in the contract in pursuance of paragraph (b) of subsection (2) of this section; or
- (b) whether the written particulars were received from the Authority within one month from the time when the breach came to the notice of the Authority,

shall be determined by arbitration.

(4) Every contract concluded between the Authority and a programme contractor shall, where the programme contractor is a body corporate, contain all such provisions as the Authority think necessary or expedient to ensure that if any change affecting the nature or characteristics of the body corporate, or any change in the persons having control over or interests in the body corporate, takes place after the conclusion of the contract, which, if it had occurred before the conclusion of the contract, would have induced the Authority to refrain from entering into the contract, the Authority may by notice in writing to the programme contractor, taking effect forthwith or on a date specified in the notice, determine the contract.

(5) Every contract concluded between the Authority and a programme contractor shall contain all such provisions as the Authority for the purposes of the discharge of their functions think necessary or expedient to ensure that the programme contractor—

- (a) if so required, will provide the Authority in advance with scripts and particulars of the programmes or any part thereof (including advertisements) and of full details of the technical arrangements for obtaining visual images and sounds which are to form the programmes or any part thereof ;
- (b) if so required, will make visual and sound records of the programmes or any part thereof (including advertisements) and produce them to the Authority for examination or reproduction ;
- (c) will provide the Authority with such declarations, returns, documents and other information as the Authority may require ;
- (d) in particular, if so required, will provide the Authority with information as to the costs incurred by the programme contractor in providing the programmes or any part thereof (including advertisements) and his receipts from advertisers ;
- (e) if so required, will give reasonable facilities to the Authority for inspecting the books, accounts, records and other documents kept by the programme contractor for the purposes of any business carried on by him, and for taking copies of, or of any part of, any such documents.

(6) The contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient to ensure—

- (a) that there is at all times at least one body or organisation effectively equipped and adequately financed to provide news for broadcasting in the programmes supplied to the Authority by the respective programme contractors, and that in so far as any such body or organisation supplies to programme contractors other programmes which it can suitably provide, it is effectively equipped and adequately financed for the purpose ; and
- (b) that each of the programme contractors is afforded opportunities of obtaining a financial interest in that body or organisation or, if there is more than one such body or organisation, in such of them as the Authority may in his case direct ; and

(c) that the appointment of the manager, editor or other chief executive of any such body or organisation is approved by the Authority.

(7) The provisions of this section relating to breaches of contract on the part of programme contractors shall be without prejudice—

- (a) to the right of the Authority to accept as a repudiation by a programme contractor any breach of contract by the programme contractor going to the root of the contract; and
- (b) to any other remedies of the Authority for the enforcement of their rights in respect of contracts with programme contractors,

and shall not, except as expressly provided therein, affect the jurisdiction of any court in respect of such contracts.

12.—(1) Every contract concluded between the Authority and a programme contractor shall, where the programme contractor is a body corporate, contain all such provisions as the Authority think necessary or expedient to ensure that if at any time there are newspaper shareholdings in the programme contractor, and it appears to the Authority that the existence of those shareholdings has led or is leading to results which are contrary to the public interest, the Authority may, with the consent of the Postmaster General, by notice in writing to the programme contractor, taking effect forthwith or on a date specified in the notice, determine or suspend for such period as may be so specified or until a further notice is given, the Authority's obligation to transmit the programmes supplied by the programme contractor.

Newspaper shareholdings in programme contractors.

(2) Without prejudice to any such provisions as aforesaid in a contract between the Authority and a programme contractor, if at any time there are newspaper shareholdings in the programme contractor, and it appears to the Postmaster General that the existence of those shareholdings has led or is leading to results which are contrary to the public interest, he may, after consultation with the Authority, by order made by statutory instrument—

- (a) determine on a date specified in the order the Authority's obligation to transmit the programmes supplied by the programme contractor; or
- (b) suspend that obligation for such period as may be so specified, or during a period beginning with a date so specified and continuing so long as the order remains in force; and
- (c) whether or not the order provides for the determination or suspension of the said obligation, direct that, while

the order remains in force, the Authority shall not enter into any further contract with the programme contractor for the supply of programmes.

An order under this subsection may be revoked by a subsequent order thereunder.

(3) Before making any order under subsection (2) of this section the Postmaster General shall lay a draft thereof before each House of Parliament, and shall not make the order until a resolution has been passed by each House of Parliament approving the draft:

Provided that this subsection shall not apply to an order the sole purpose of which is to rescind, postpone commencement of, or terminate a period of suspension or cancel a direction.

(4) The determination or suspension in accordance with this section of the Authority's obligation to transmit the programmes supplied by the programme contractor, whether effected by a notice or by an order, shall not affect the programme contractor's obligation as to the supply of programmes up to the date when the determination or suspension takes effect; and where such a determination or suspension takes effect, the programme contractor shall not be entitled to any compensation from the Authority or to any refund of any sum previously paid by the programme contractor or to any relief from any liability which has accrued at the date when the determination or suspension takes effect for any sums payable by the programme contractor to the Authority.

(5) For the purposes of this section there are newspaper shareholdings in a body corporate if shares in that body corporate are held by any individual or body corporate being either—

- (a) the proprietor of any newspaper, whether national or local; or
- (b) a person who has control over any body corporate which is a proprietor of such a newspaper.

Rental  
payments by  
programme  
contractors.

13.—(1) The contracts between the Authority and the various programme contractors shall provide for payments to be made by the programme contractors to the Authority under two heads, namely—

- (a) payments representing what appear to the Authority to be the appropriate contributions of the respective programme contractors towards meeting the sums which the Authority regard as necessary in order to discharge their duty under section 21(1) of this Act; and

(b) additional payments (hereafter in this and the next following section referred to as “additional payments”) of amounts determined by reference to advertising receipts as defined in this section.

(2) The additional payments shall not form part of the revenue of the Authority and, when received by the Authority, shall be paid into the Exchequer of the United Kingdom or the Exchequer of Northern Ireland as provided by section 14(3) of this Act.

(3) The additional payments which a programme contractor is to make for any accounting period as defined by this section shall be of an amount which, subject to any order under this section, shall be that determined by subsections (4) and (5) of this section.

(4) If the accounting period is a period of 12 months, the amount of the additional payments for the accounting period shall be that given by the following Table.

**TABLE**  
**RATES FOR A 12-MONTH PERIOD**

	<i>Appropriate rate for determining amount of additional payment</i>
For the first one-and-a-half million pounds of the advertising receipts of the programme contractor for the 12-month accounting period ... ..	Nil
For the next six million pounds of those advertising receipts ... ..	25 per cent.
For the amount by which those advertising receipts exceed the aggregate of the said sums of one-and-a-half million and six million pounds ... ..	45 per cent.

(5) If the accounting period is a period of less than 12 months, the Table in subsection (4) of this section shall apply with the substitution for the sums specified in column 1 of sums which, to the nearest one hundred pounds, and ignoring an odd sum of fifty pounds or less, are equal to the sums in the Table multiplied by the fraction represented by the number of whole weeks in the accounting period divided by 52.

(6) The Postmaster General may with the approval of the Treasury, and after consultation with the Authority, by order amend subsection (4) of this section in all or any of the following respects, that is, by increasing or reducing any rate, or the number of different rates, or the amount to which any rate

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applies ; and the references in this subsection to a rate include the case where the rate is nil.

The power of making orders under this subsection shall include power to vary or revoke a previous order and shall be exercisable by statutory instrument ; but no such statutory instrument shall be made unless a draft thereof has been laid before Parliament and approved by a resolution of each House.

An order under this subsection shall have effect as respects all additional payments to be computed by reference to advertising receipts for any period after the order comes into force, whether the contracts under which the additional payments are due were executed before or after the making of the order.

(7) In this and the next following section—

- (a) the expression “ advertising receipts ” means, in relation to a programme contractor, and in relation to any period, the payments received or to be received by the programme contractor in consideration of the insertion of advertisements in programmes provided by the programme contractor and broadcast in the United Kingdom by the Authority in the period ; and
- (b) the expression “ payment ” includes any valuable consideration ;

and for the purposes of the definition in paragraph (a) above—

- (i) if, in connection with the insertion of advertisements which are paid for by payments constituting advertising receipts, any payments are made to the programme contractor to meet any additional payments due from the programme contractor under this and the next following section, those payments shall be regarded as made in consideration of the insertion of the advertisements in question ; and
- (ii) in the case of an advertisement inserted in a programme under arrangements made between a programme contractor and a person acting as advertising agent, the amount of any receipt by the programme contractor which represents a payment by the advertiser from which the advertising agent has deducted any amount by way of commission shall be the amount of the payment by the advertiser after the deduction of the commission, so, however, that if the amount so deducted exceeds fifteen per cent. of the payment by the advertiser, the amount of the receipt shall be the amount of that payment less fifteen per cent.

(8) For the purposes of this and the next following section, each period of 12 months during which a programme contractor provides programmes for broadcasting by the Authority shall



be an accounting period, and where the total period for which a programme contractor provides programmes under any one contract is not an exact number of years, the last part of that total period shall be an accounting period :

Provided that—

- (a) a contract which varies another contract under which a programme contractor provides programmes for broadcasting by the Authority may modify the preceding provisions of this subsection, but not so as to create an accounting period of more than 12 months ; and
- (b) if part of an accounting period falls before, and part after, the date on which an order under subsection (6) of this section takes effect, the two parts shall be treated for the purposes of this and the next following section as separate accounting periods.

14.—(1) The contracts between the Authority and the programme contractors—

Provisions supplemental to s. 13.

- (a) shall provide for ascertaining the advertising receipts for any accounting period at monthly intervals in that period, for the computation of the amount, if any, of the additional payments due by reference to the advertising receipts for the part of the accounting period down to the latest date of which account is taken in the computation, and for the making of additional payments in accordance with the computations (and after giving credit for any payments already made) not later than four weeks from the said latest date ; and
- (b) shall authorise the Authority, in a case where a programme contractor fails to make a return required by the contract, or makes a return appearing to the Authority to be incomplete or inaccurate, to estimate the amount of the additional payments due, and shall provide that the amount estimated shall be treated as payable, unless the contrary is proved ; and
- (c) shall provide that where for any insertion of an advertisement a programme contractor receives or is entitled to an entire consideration not solely referable to that insertion, the advertising receipts shall be calculated by reference to so much only of the consideration as is referable to that insertion according to an apportionment made in such manner as any such contract may provide,

and it shall be the duty of the Authority in framing the contracts with the various programme contractors to include such terms

as are in their opinion necessary or expedient to ensure that the amount of the additional payments required under this and the last preceding section are paid promptly and in full.

(2) Every contract between the Authority and a programme contractor which provides for the supply of programmes to be broadcast from stations of which some are in Great Britain and some in Northern Ireland shall provide that, as regards his advertising receipts for any period, the programme contractor shall give to the Authority such information as they may require for the purpose of ascertaining the proportions in which those receipts derive from the broadcasting of advertisements from stations in Great Britain and stations in Northern Ireland respectively.

(3) On receipt of any additional payments the Authority shall deal with them as follows:—

- (a) if they were paid under a contract for the supply of programmes to be broadcast from stations all of which are in Great Britain, the Authority shall pay them into the Exchequer of the United Kingdom ;
- (b) if they were paid under a contract for the supply of programmes to be broadcast from stations all of which are in Northern Ireland, the Authority shall pay them into the Exchequer of Northern Ireland ;
- (c) if they were paid under such a contract as is mentioned in subsection (2) of this section, the Authority shall pay them into those Exchequers respectively in the proportions in which, according to the information supplied by the programme contractor, the advertising receipts for the relevant accounting period derive from the broadcasting of advertisements from stations in Great Britain and stations in Northern Ireland respectively, or, if the programme contractor has failed to supply the necessary information, or the payments became due as the result of an estimate made by the Authority, in such proportions as the Authority estimate to be appropriate.

(4) The Authority shall prepare in respect of each financial year an account showing the additional payments received under all their contracts with programme contractors and of the sums paid into the Exchequers of the United Kingdom and of Northern Ireland respectively under subsection (3) of this section and shall send the account to the Comptroller and Auditor General not later than the end of November following the 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.

(5) The contracts between the Authority and the various programme contractors shall include such terms as are in the opinion of the Authority necessary or expedient to ensure that, except for deduction of commission by persons acting as advertising agents, the amount of the advertising receipts of a programme contractor is not reduced under arrangements by which any part of the consideration for the insertion of advertisements in programmes provided by the programme contractor is receivable by any person other than the programme contractor, whether that other person is under the control of the programme contractor or not.

15.—(1) The Authority may give directions to any programme contractor requiring him to supply to another programme contractor for inclusion in his programmes any item supplied or originated by the first programme contractor; and the contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient for ensuring—

Buying and selling of programmes by programme contractors.

- (a) that each programme contractor will take all reasonable steps to put himself in a position to comply with any directions which may be given to him under this subsection and, when any such directions have been given to him, to enable the other programme contractor to include the item to which the directions relate in his programmes; and
- (b) that if financial and other arrangements for the supply of any item in respect of which directions have been given under this subsection are not agreed between the two programme contractors, or when so agreed do not receive the approval of the Authority required by virtue of subsection (2) of this section, the item will be supplied in accordance with such financial and other arrangements as may be determined by the Authority.

(2) The contracts between the Authority and the various programme contractors shall provide that, where items to be included in the programmes of a programme contractor are not originated by that programme contractor, the financial and other arrangements between the programme contractor and the supplier shall require the approval of the Authority—

- (a) in all cases where the supplier is another programme contractor; and
- (b) in such other cases as the Authority may from time to time direct;

and directions given for the purposes of this subsection may apply to programme contractors generally or may be different for different programme contractors.

Wages and conditions of employment of persons employed by programme contractors.

**16.—(1)** The wages paid by any programme contractor to persons employed by him in connection with his business as such and the conditions of employment of persons so employed shall, unless agreed upon by the programme contractor or any organisations representative of programme contractors and by organisations representative of the persons employed, be no less favourable to the person employed than the wages which would be payable, and the conditions which would have to be observed, under a contract which complies with the requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government departments; and if any dispute arises as to what wages ought to be paid, or what conditions ought to be observed, in accordance with this section, it shall, if not otherwise disposed of, be referred by the Minister of Labour to the industrial court for settlement.

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

(3) In relation to employment in Northern Ireland, the references in this section to the House of Commons, Government departments, the Minister of Labour and the industrial court shall be construed as references to the House of Commons of Northern Ireland, departments of the Government of Northern Ireland, the Minister of Labour and National Insurance for Northern Ireland and the industrial court in Northern Ireland.

*Powers of Government in relation to Authority*

Government control over Authority as to hours of broadcasting.

**17.—(1)** The Postmaster General may from time to time by notice in writing give directions to the Authority—

- (a) as to the maximum or minimum time, or both the maximum and the minimum time, which is to be given in any day, week or other period to broadcasts from any of the television broadcasting stations used by them; and
- (b) as to the hours of the day in which such broadcasts are or are not to be given,

and it shall be the duty of the Authority to comply with the notice.

(2) A direction under this section may be framed in any way, and in particular—

- (a) may be confined to broadcasts from those television broadcasting stations which transmit, or usually transmit, the same programme, or may be different for different television broadcasting stations, or for different programmes broadcast from the same station ;
- (b) may make special provision for annual holidays and other special occasions ;
- (c) may be confined to a specified day in the week, or may be different for different days in the week ;
- (d) in imposing a maximum number of hours for any purpose, may allow for programmes or items of specified kinds being left out of account in determining the maximum, whether in all circumstances or depending on the fulfilment of specified conditions as regards programmes or items so specified.

(3) The Postmaster General may, whether or not a direction under this section provides for exemptions, exempt the Authority from any requirement of such a direction on any occasion or in any circumstances.

(4) Nothing in the preceding provisions of this section shall be taken as authorising the Postmaster General to give directions which make different provision for the parts of programmes consisting of advertisements and the other parts of programmes.

(5) The powers conferred by this section are in addition to any powers specifically conferred on the Postmaster General by any other provisions of this Act.

18.—(1) The Postmaster General and any other Minister of the Crown may, if it appears to him to be necessary or expedient to do so in connection with his functions as such, at any time by notice in writing require the Authority to broadcast, at such times as may be specified in the notice and from such of the stations used by them as may be so specified, any announcement so specified, with or without visual images of any picture, scene or object mentioned in the announcement, and it shall be the duty of the Authority to comply with the notice.

Government control over Authority as to certain other matters.

(2) Where the Authority broadcast any announcement in pursuance of a notice under the preceding subsection they may, if they think fit, announce that they are doing so in pursuance of such a notice.

(3) Subject to subsection (4) of this section, the Postmaster General may at any time by notice in writing require the Authority to refrain from broadcasting any matter or classes of matter specified in the notice, and it shall be the duty of the Authority to comply with the notice.

(4) If under subsection (3) of this section the Postmaster General by notice in writing requires the Authority to refrain from broadcasting anything, the Authority may, if they think fit, broadcast an announcement of the notice or of the revocation or expiration of the notice.

(5) The Postmaster General may at any time, after consultation with the Authority, by notice in writing require the Authority—

- (a) to adopt or use, or refrain from adopting or using, technical measures or processes specified in the notice ;
- (b) to install, establish, maintain or use any such additional station, stations or apparatus as may be so specified, situate in such places and complying with such requirements as may be so specified ;
- (c) to broadcast such test or experimental transmissions from such station or stations, and at such times and for such periods, as may be so specified,

and it shall be the duty of the Authority to comply with the notice.

(6) A copy of any notice served on the Authority under subsection (5) of this section shall be laid by the Postmaster General before each House of Parliament.

(7) The powers conferred by this section are in addition to any powers specifically conferred on the Postmaster General by any other provisions of this Act.

(8) In relation to any television broadcasting station in Northern Ireland, the reference in subsection (1) of this section to a Minister of the Crown shall be deemed to include a reference to any Minister of Northern Ireland.

Prevention of exclusive arrangements for televising events of national interest.

**19.—**(1) With a view to preventing the making of exclusive arrangements for the broadcasting of sporting or other events of national interest, the Postmaster General may make regulations as to the grant to the Authority and programme contractors and to the British Broadcasting Corporation respectively of television broadcasting facilities in respect of such events.

(2) Regulations made under this section shall not apply to the broadcasting of a record of any event specified therein unless the visual images are transmitted within seven days after the happenings represented by those images respectively.

(3) The power to make regulations under this section shall be exercisable by statutory instrument, and before making any such regulations the Postmaster General shall lay a draft thereof before each House of Parliament, and shall not make the regulations until a resolution has been passed by each House of Parliament approving the draft.

**20.**—(1) The Postmaster General may at any time by notice in writing—

- (a) require the Authority to radiate such of their broadcast transmissions as may be specified in the notice from a mast, tower or other installation belonging to the British Broadcasting Corporation (hereafter in this section referred to as “the Corporation”); or
- (b) require the Authority to permit such of the Corporation’s broadcast transmissions as may be so specified to be radiated from a mast, tower or other installation belonging to the Authority; or
- (c) require the Authority to co-operate with the Corporation in providing and using an installation and to radiate such of the Authority’s broadcast transmissions as may be so specified from that installation,

Co-operation of Authority with British Broadcasting Corporation in use of broadcasting installations.

and it shall be the duty of the Authority to comply with any such notice.

(2) Before giving a notice under this section to the Authority the Postmaster General shall consult the Authority and the Corporation.

(3) If, after a notice is given under this section to the Authority, a dispute between the Authority and the Corporation arising out of the matters to which the notice relates is referred to the Postmaster General by either body, or it appears to the Postmaster General that there is such a dispute, he may give such directions to the Authority as he may think expedient for determining the dispute, and it shall be the duty of the Authority to comply with any such directions.

#### *Financial and other duties of Authority*

**21.**—(1) It shall be the duty of the Authority so to conduct their affairs as to secure that their revenues become at the earliest possible date, and thereafter continue, at least sufficient—

Finances of Authority.

- (a) to meet all sums properly chargeable to revenue account (including sums required for the repayment of loans and interest thereon, for provision for depreciation and for the establishment and maintenance of their reserve fund); and
- (b) to make provision towards, and as soon as practicable for, necessary capital expenditure.

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(2) The Authority shall establish and maintain a reserve fund; and the management of the said fund, the sums to be carried from time to time to the credit thereof, and the application thereof shall be as the Authority may determine:

Provided that—

- (a) no part of the said fund shall be applied otherwise than for the purposes of the Authority;
- (b) the Postmaster General may, with the approval of the Treasury, give to the Authority such directions as he thinks fit as to any matter relating to the establishment or management of the said fund, the carrying of sums to the credit thereof, or the application thereof, and the Authority shall comply with the directions.

(3) Any excess of the revenues of the Authority for any financial year over the total sums properly chargeable by the Authority to revenue account for that year, including in such sums (without prejudice to the generality of that expression) sums credited under subsection (2) of this section to the reserve fund of the Authority, shall be applied by the Authority in such manner as the Postmaster General, with the approval of the Treasury and after consultation with the Chairman (or in his absence the Deputy Chairman) of the Authority, may direct.

(4) Any direction given under subsection (3) of this section may require the whole or any part of any such excess as aforesaid to be paid into the Exchequer.

Accounts,  
audit and  
reports.

**22.—**(1) The Authority shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as the Postmaster General with the approval of the Treasury may direct, being a form which shall conform with the best commercial standards.

(2) The accounts of the Authority shall be audited by auditors to be appointed by the Authority with the approval of the Postmaster General, and a person shall not be qualified to be so appointed unless he is a member of one or more of the following bodies—

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;

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 by the Board of Trade.



(3) As soon as may be after the end of every financial year, the Authority shall prepare a general report of their proceedings during that year, and transmit it to the Postmaster General who shall consider it and lay copies of it before each House of Parliament.

(4) The said report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditor on that statement and shall also include such information relating to the plans, and past and present activities, of the Authority, and the financial position of the Authority, as the Postmaster General may from time to time direct.

(5) The Authority shall at all reasonable times upon demand made by the Postmaster General or by any person authorised by him in that behalf—

- (a) afford to him or them full liberty to examine the accounts of the Authority; and
- (b) furnish him or them with all forecasts, estimates, information and documents which he or they may require with respect to the financial transactions and engagements of the Authority.

**23.—**(1) Except so far as the Authority are satisfied that adequate machinery exists for achieving the purposes of this section, it shall be the duty of the Authority to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the Authority and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for—

Machinery for settling terms and conditions of employment of Authority's staff, etc.

- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the Authority, with provision for reference to arbitration, in default of such settlement, of such cases as may be determined by or under the agreements; and
- (b) the promotion and encouragement of measures affecting the safety, health, training and welfare of persons employed by the Authority, and the discussion of other matters of mutual interest to the Authority and such persons.

(2) The Authority shall send to the Postmaster General and the Minister of Labour copies of any such agreement as aforesaid and of any instrument varying the terms of any such agreement.

(3) In relation to any agreement affecting employment in Northern Ireland, the reference in subsection (2) of this section

to the Minister of Labour shall be construed as including a reference to the Minister of Labour and National Insurance for Northern Ireland.

*Miscellaneous and general*

Audience  
research.

**24.** The functions of the Authority shall include the making of arrangements for bringing the programmes (including advertisements) broadcast by the Authority and the other activities of the Authority under constant and effective review, and in particular for ascertaining the state of public opinion concerning the programmes (including advertisements) broadcast by the Authority and for encouraging the making of useful comments and suggestions by members of the public; and the arrangements shall include provision for full consideration by the Authority of the facts, comments and suggestions so obtained.

Second  
television  
service  
provided by  
Authority.

**25.** If at any time the Authority are broadcasting more than one programme for reception in any one area, the Authority shall in carrying out their duties under this Act ensure that, so far as possible, the same kind of subject-matter is not broadcast at the same time in the different programmes.

Approvals by  
Authority.

**26.** The Authority may—

(a) for the purposes of any provision in this Act which makes anything subject to the approval of the Authority; or

(b) for the purposes of provisions included in the contracts between the Authority and the various programme contractors in pursuance of section 15(2) of this Act,

give an approval in general terms applying to all cases within the terms in which the approval is given.

Variation and  
revocation of  
directions and  
notices.

**27.—(1)** Any direction or notice given by the Postmaster General or by the Authority under any provision in this Act may be varied or revoked by a subsequent direction or notice under that provision.

(2) This section shall apply as respects the variation or revocation of directions and notices given before or after the commencement of this Act (including any given before the passing of the Television Act 1963).

Interpretation.

**28.—(1)** In this Act, unless the context otherwise requires—

“broadcast relay station” means a station for the re-transmission by cable or wire, to the customers of the persons maintaining the station, of broadcast programmes which those persons receive either by cable

or wire or by wireless from the persons who broadcast the programmes ;

“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 ;

“financial year” means the twelve months ending with 31st March ;

“programme contractor” has the meaning assigned to it by section 1(5) of this Act ;

“wireless telegraphy”, “station for wireless telegraphy” and “apparatus for wireless telegraphy” have the same meanings as in the Wireless Telegraphy Act 1949.

(2) For the purposes of this Act—

(a) a person shall not be regarded as carrying on business as an advertising agent, or as acting as such an agent, unless he carries on a business involving the selection and purchase of advertising space or time for persons wishing to advertise ;

(b) a person who carries on such a business shall be regarded as carrying on business as an advertising agent irrespective of whether he is in law the agent of those for whom he acts ;

(c) a person who is the proprietor of a newspaper shall not be regarded as carrying on business as an advertising agent by reason only that he makes arrangements on behalf of advertisers whereby advertisements appearing in the newspaper are also to appear in one or more other newspapers ; and

(d) a company or other body corporate shall not be regarded as carrying on business as an advertising agent by reason only that its objects or powers include or authorise that activity ;

and any reference in this Act to an advertising agency shall be construed accordingly.

29.—(1) The Television Acts 1954 and 1963 are hereby repealed. Repeals,  
consequential  
amendment  
and savings.

(2) In section 3(2) of the Post Office Act 1961 (which, as extended by the Television Act 1963, provides for payment into

the Post Office Fund of sums provided by Parliament for paying the Postmaster General for discharging his functions under the Television Act 1954 or the Television Act 1963) for the reference to the Television Act 1954 there shall be substituted a reference to this Act:

Provided that, in relation to sums so provided for paying the Postmaster General for discharging his said functions before the commencement of this Act, the said section 3(2) shall have effect as if the preceding provisions of this section had not been enacted.

(3) Any Order in Council, order, regulation, notice, code, programme schedule or other instrument or document whatsoever made, given, drawn up or issued, any contract entered into, and any other thing done, under or in pursuance of any of the enactments repealed by this Act shall be deemed for the purposes of this Act to have been made, given, drawn up, issued, entered into or done, as the case may be, under or in pursuance of the corresponding provision of this Act; and anything begun under any of the said enactments may be continued under this Act as if begun under this Act.

(4) So much of any document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the context permits, be construed as referring to this Act or the corresponding enactment therein.

(5) Nothing in this section shall be taken as affecting the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals.

Short title,  
extent and  
commence-  
ment.

**30.—(1)** This Act may be cited as the Television Act 1964.

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

(3) Her Majesty may by Order in Council direct that all or any of the provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such adaptations and modifications, if any, as may be specified in the Order; and any Order in Council under this subsection may be revoked or varied by a subsequent Order in Council.

(4) This Act shall come into operation on 31st July 1964.

## SCHEDULES

## SCHEDULE 1

Section 1

## PROVISIONS AS TO THE INDEPENDENT TELEVISION AUTHORITY

*Appointment and removal of members*

1.—(1) All the members of the Authority (including the Chairman and Deputy Chairman who shall be appointed as such) shall be appointed by the Postmaster General from among persons appearing to him to be qualified for the office, and of the members of the Authority other than the Chairman and Deputy Chairman three shall be persons who appear to the Postmaster General to be suited to make the interests of Scotland, the interests of Wales and Monmouthshire and the interests of Northern Ireland, respectively, their special care.

(2) A person shall be disqualified for being appointed, or being, a member of the Authority so long as he is a Governor of the British Broadcasting Corporation.

(3) Before appointing a person to be a member of the Authority, the Postmaster General shall satisfy himself that that person will have no such financial or other interest (and, in particular, no such financial or other interest in any advertising agency or in any business concerned with the manufacture or sale of apparatus for wireless telegraphy or other telegraphic equipment or in any business consisting or intended to consist in whole or in part in entering into or carrying out contracts with the Authority for the provision of programmes or parts of programmes) as is likely to affect prejudicially the discharge by him of his functions as member of the Authority; and the Postmaster General shall also satisfy himself from time to time with respect to every member of the Authority that he has no such interest.

(4) Any person who is, or whom the Postmaster General proposes to appoint to be, a member of the Authority shall, whenever requested by the Postmaster General to do so, furnish to him such information as the Postmaster General considers necessary for the performance by the Postmaster General of his duties under subparagraph (3) above.

(5) Subject to sub-paragraphs (6) and (7) of this paragraph, every member of the Authority shall hold office for such period, not exceeding five years, as may be fixed at the time of his appointment, and shall, on ceasing to be a member, be eligible for re-appointment.

(6) The Postmaster General may at any time direct by notice in writing, a copy of which shall be laid before each House of Parliament, that any member of the Authority shall cease to hold office, and any member of the Authority may at any time by notice in writing to the Postmaster General resign his office.

(7) If any member of the Authority dies or ceases to hold office before the expiration of the term for which he was appointed, the term of office of his successor shall be so fixed as to expire at the

SCH. 1 end of the first-mentioned term, but the Postmaster General may, if he thinks fit to do so, defer the making of an appointment until the expiration of the said first-mentioned term.

#### *Remuneration of members*

2.—(1) The Authority shall pay to each of their members, in respect of his office as such, such remuneration (whether by way of salary or fees) and such allowances as the Postmaster General may, with the approval of the Treasury, determine in the case of those members respectively; and in determining the remuneration and allowances to be paid under this sub-paragraph, different provision may be made as regards the Chairman, the Deputy Chairman and the other members.

(2) If any member of the Authority, other than the Chairman thereof, is employed about the affairs of the Authority otherwise than as a member thereof, the Authority shall pay to that member such remuneration, if any (in addition to any remuneration to which he may be entitled in respect of his office as a member) as the Postmaster General may, with the approval of the Treasury, determine.

(3) If any determination by the Postmaster General under this paragraph of the remuneration and allowances that are to be paid to the members of the Authority involves any departure from the terms of the original statement of the remuneration and allowances of the members of the Authority laid by him before Parliament under section 1(10) of the Television Act 1954, the Postmaster General shall, as soon as possible after determination, lay a statement thereof before each House of Parliament.

#### *Incorporation and capacity of Authority*

3.—(1) The Authority shall be a body corporate with perpetual succession and a common seal.

(2) The Authority may act notwithstanding a vacancy among their members.

(3) It shall be within the capacity of the Authority as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the exercise and performance of their powers and duties under this Act, including the borrowing of money.

#### *Quorum of Authority*

4.—(1) The quorum of the Authority shall be four or such number not being less than four as the Authority may from time to time determine.

(2) Nothing in this paragraph shall affect the validity of anything done by the Authority before 31st August 1963 (the date on which the quorum of the Authority was raised from three to four by the Television Act 1963).

*Duty of members to disclose interest in contracts*

SCH. 1

5.—(1) A member of the Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(2) Any disclosure made under sub-paragraph (1) of this paragraph shall be recorded in the minutes of the Authority, and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Authority with respect to that contract ; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

*Power of Authority to regulate own procedure*

6. Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure.

*Officers and employees of Authority*

7.—(1) The Authority may appoint a secretary and such other officers, and take into their employment such other persons, as they may determine.

(2) The Authority shall, as regards any officers or persons employed in whose case it may be determined by the Authority with the approval of the Postmaster General so to do, pay to or in respect of them such pensions, or provide and maintain for them such pension schemes (whether contributory or not), as may be so determined.

(3) If any officer of or other person employed by the Authority, being a participant in any pension scheme applicable to his office or employment, becomes a member of the Authority, he may be treated for the purposes of the pension scheme as if his service as a member of the Authority were service as an officer of or person employed by the Authority.

*Authentication of Authority's seal*

8. The application of the seal of the Authority shall be authenticated by the signatures—

- (a) of the Chairman or Deputy Chairman of the Authority or some other member of the Authority authorised by the Authority to authenticate the application of the Authority's seal , and
- (b) of the secretary of the Authority or some other officer of the Authority authorised by the Authority to act in that behalf.

SCH. 1 *Presumption of authenticity of documents issued by Authority*

9. Any document purporting to be an instrument issued by the Authority and to be sealed as aforesaid or to be signed on behalf of the Authority shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

Section 7

SCHEDULE 2

RULES AS TO ADVERTISEMENTS

1.—(1) The advertisements must be clearly distinguishable as such and recognisably separate from the rest of the programme.

(2) Successive advertisements must be recognisably separate.

(3) Advertisements must not be arranged or presented in such a way that any separate advertisement appears to be part of a continuous feature.

(4) Audible matter in advertisements must not be excessively noisy or strident.

2. The standards and practice to be observed in carrying out the requirements of the preceding paragraph shall be such as the Authority may determine either generally or in particular cases.

3. The amount of time given to advertising in the programmes shall not be so great as to detract from the value of the programmes as a medium of information, education and entertainment.

4. Advertisements shall not be inserted otherwise than at the beginning or the end of the programme or in natural breaks therein.

5.—(1) Rules (to be agreed upon from time to time between the Authority and the Postmaster General, or settled by the Postmaster General in default of such agreement) shall be observed as to the classes of broadcasts (which shall in particular include the broadcast of any religious service) in which advertisements may not be inserted, and the interval which must elapse between any such broadcast and any previous or subsequent period given over to advertisements.

(2) The Postmaster General may, after consultation with the Authority, impose rules as to the minimum interval which must elapse between any two periods given over to advertisements, and the rules may make different provision for different circumstances.

6. In the acceptance of advertisements there must be no unreasonable discrimination either against or in favour of any particular advertiser.

7.—(1) The charges made by any programme contractor for advertisements shall be in accordance with tariffs fixed by him from time to time, being tariffs drawn up in such detail and published in such form and manner as the Authority may determine.



(2) Any such tariffs may make provision for different circumstances, and, in particular, may provide, in such detail as the Authority may determine, for the making, in special circumstances, of additional special charges.

**SCH. 2**

8. No advertisement shall be permitted which is inserted by or on behalf of any body the objects whereof are wholly or mainly of a religious or political nature, and no advertisement shall be permitted which is directed towards any religious or political end or has any relation to any industrial dispute.

9. If, in the case of any of the television broadcasting stations used by the Authority, there appears to the Authority to be a sufficient local demand to justify that course, provision shall be made for a reasonable allocation of time for local advertisements, of which a suitable proportion shall be short local advertisements.



# British Nationality Act 1964

## 1964 CHAPTER 22

An Act to facilitate the resumption or renunciation of citizenship of the United Kingdom and Colonies.

[25th March 1964]

**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:—

Resumption of citizenship.

1.—(1) A person who has ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation, whether made before or after the commencement of this Act, shall be entitled to registration under this section as a citizen of the United Kingdom and Colonies on making application therefor in the prescribed manner, if he is of full capacity and satisfies the Secretary of State—

- (a) that at the time he made the declaration he was or was about to become a citizen of a country mentioned in section 1(3) of the principal Act and either could not have remained or become such a citizen but for the declaration or had reasonable cause to believe that he would be deprived of his citizenship of that country unless he made the declaration; and
- (b) that he has a qualifying connection with the United Kingdom and Colonies or with a protectorate or protected state or, if a woman, has been married to a person who has or would, if living, have such a connection;

and the Secretary of State may so register any person who would be entitled thereto if he had such a connection.

(2) A person has a qualifying connection with the United Kingdom and Colonies if he, his father or his father's father—

- (a) was born in the United Kingdom or a colony; 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.

(3) A person has a qualifying connection with a protectorate or protected state if—

- (a) he was born there; or
- (b) his father or his father's father was born there and is or at any time was a British subject.

(4) Subject to subsection (5) of this section, the reference in subsection (2)(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 principal Act, have become a person naturalised in the United Kingdom and Colonies by virtue of section 32(6) of that Act (local naturalisation).

(5) Any reference in this section to any country, or to countries or territories of any description, shall be construed as referring to that country or description as it exists at the date on which application under this section is made to the Secretary of State; and subsection (2) of this section does not apply to any person by virtue of any certificate of naturalisation granted or registration effected by the Governor or Government of a country or territory outside the United Kingdom which is not at that date a colony, protectorate or protected state.

(6) Section 8 of the principal Act (registration in Commonwealth countries and territories) and section 9 of that Act (effect of registration as a citizen) shall apply in relation to this section as they apply in relation to section 6 of that Act.

2.—(1) A declaration of renunciation of citizenship of the United Kingdom and Colonies may be made under section 19 of the principal Act by a person who is not a citizen or national of any other country and shall, if so made, be registered under that section if, but only if, the Secretary of State is satisfied that that person will after the registration become a citizen or national of some other country; and if that person does not become such a citizen or national within six months from the date of registration he shall be, and be deemed to have remained, a citizen of the United Kingdom and Colonies notwithstanding the registration. Renunciation  
of citizenship.

(2) The Secretary of State may make arrangements for the exercise in any country mentioned in section 1(3) of the principal Act of any of his functions under the said section 19 by the High Commissioner or acting High Commissioner for Her Majesty's Government in the United Kingdom.

Short title,  
citation and  
supplemental  
provisions.

3.—(1) This Act may be cited as the British Nationality Act 1964, and this Act and the British Nationality Acts 1948 and 1958 may be cited together as the British Nationality Acts 1948 to 1964.

11 & 12 Geo. 6  
c. 56.

(2) In this Act "the principal Act" means the British Nationality Act 1948, and Part III of that Act (supplementary 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 Act.

(3) This Act shall come into force at the expiration of a period of two months beginning with the date on which it is passed.



# Fireworks Act 1964

## 1964 CHAPTER 23

An Act to exempt fireworks consigned for export from the requirements of the Fireworks Act 1951 as to marking. [25th March 1964]

**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. Nothing in section 5(1) or (2) of the Fireworks Act 1951 (which impose requirements as to the marking of fireworks and their containers) shall apply to fireworks consigned from a factory for transmission to a place outside the United Kingdom, the Channel Islands and the Isle of Man. Exemption of fireworks for export from requirements as to marking. 14 & 15 Geo. 6 c. 58.
2. This Act may be cited as the Fireworks Act 1964. Short title.



# Trade Union (Amalgamations, etc.) Act 1964

## 1964 CHAPTER 24

An Act to amend the law relating to the amalgamation of trade unions, the transfer of engagements from one trade union to another, and the alteration of the name of a trade union. [25th March 1964]

**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:—

Conditions  
necessary for  
amalgamations  
and transfers  
of engage-  
ments of  
trade unions.

1.—(1) Subject to this section—

- (a) two or more trade unions may amalgamate and become one trade union, with or without a division or dissolution of the funds of any one or more of those unions, but shall not do so unless, in the case of each of the amalgamating unions, a resolution which approves an instrument of amalgamation approved by the Registrar has been passed on a vote taken in a manner which satisfies the conditions specified in subsection (2) of this section ;
- (b) a trade union may transfer its engagements to any other trade union which undertakes to fulfil those engagements, but shall not do so unless, in the case of the transferor union, a resolution which approves an instrument of transfer approved by the Registrar has been passed on a vote taken in a manner which satisfies the said conditions.

(2) The conditions referred to in the foregoing subsection are the following, that is—

- (a) every member of the union must be entitled to vote on the resolution ;
- (b) every member of the union must be allowed to vote without interference or constraint and must, so far as is reasonably possible, be given a fair opportunity of voting ;
- (c) the method of voting must involve the marking of a voting paper by the person voting ;
- (d) all reasonable steps must have been taken by the union to secure that, not less than seven days before voting on the resolution begins, every member of the union is supplied with a notice in writing approved for the purpose by the Registrar.

(3) The notice referred to in subsection (2)(d) of this section—

- (a) shall either set out in full the instrument of amalgamation or transfer to which the resolution relates, or give an account of it sufficient to enable those receiving the notice to form a reasonable judgment of the main effects of the proposed amalgamation or transfer ; and
- (b) if it does not set out the instrument in full, shall state where copies of the instrument may be inspected by those receiving the notice ;

and both the instrument and the notice shall comply with the requirements of any regulations for the time being in force under this Act.

(4) Before a resolution to approve an instrument of amalgamation or transfer is voted on by the members of a trade union—

- (a) that instrument, and
- (b) the notice proposed to be supplied to members of the union in accordance with subsection (2)(d) of this section,

shall be submitted to the Registrar, and the Registrar shall approve them respectively on being satisfied that they comply with the requirements of subsection (3) of this section.

(5) An instrument of amalgamation or transfer shall not take effect before it has been registered by the Registrar under this Act, and shall not be so registered before the expiration of a period of six weeks beginning with the date on which an application for its registration is sent to the Registrar.

(6) No such amalgamation or transfer as is mentioned in subsection (1) of this section shall prejudice any right of any creditor of any trade union party thereto.

Manner of voting on, and majority required for, resolution.

2.—(1) Section 1 of this Act shall apply in relation to every amalgamation or transfer of engagements notwithstanding anything in the rules of any of the trade unions concerned or in the following provisions of this section.

(2) For the purposes of the passing of a resolution to approve an instrument of amalgamation or transfer, the committee of management or other governing body of a trade union shall, unless the rules of that union expressly provide that this subsection shall not apply in relation to that union, have power, notwithstanding anything in the rules of the union, to arrange for a vote of the members of that union to be taken in any manner which that body think fit.

(3) Where, in the case of a trade union, a vote is taken (whether under arrangements made under subsection (2) of this section or under provisions in the rules of the union) on a resolution to approve an instrument of amalgamation or transfer, a simple majority of the votes recorded shall be sufficient to pass the resolution, notwithstanding anything in the rules of the union and, in particular, notwithstanding anything in those rules which, but for this subsection, would require the resolution—

- (a) to be passed by a majority greater than a simple majority, or
- (b) to be voted on by not less than a specified proportion of the members of the union :

Provided that the foregoing provisions of this subsection shall not apply in the case of a union whose rules expressly provide that this subsection shall not apply in relation to that union.

Power to alter rules of transferee union for purposes of transfer of engagements.

3. Where a trade union proposes to transfer its engagements to another trade union, and an alteration of the rules of the transferee union is necessary to give effect to provisions in the instrument of transfer, the committee of management or other governing body of the transferee union shall, unless the rules of that union expressly provide that this section shall not apply in relation to that union, have power, notwithstanding anything in the rules of that union, by memorandum in writing to alter the rules of that union so far as is necessary to give effect to those provisions ; but an alteration of the transferee union's rules under this section shall not take effect unless or until the instrument of transfer takes effect.



4.—(1) A member of a trade union which passes or purports to pass a resolution approving an instrument of amalgamation or transfer may complain to the Registrar on one or more of the following grounds, that is—

Complaints to Registrar as regards passing of resolution.

- (a) that the manner in which the vote on the resolution was taken did not satisfy the conditions specified in section 1(2) of this Act ; or
- (b) where that vote was taken under arrangements made under section 2(2) of this Act, that the manner in which it was taken was not in accordance with the arrangements ; or
- (c) where that vote was taken under provisions in the rules of the union, that the manner in which it was taken was not in accordance with those rules ; or
- (d) that the votes recorded did not have the effect of passing the resolution.

(2) A complaint under this section may be made at any time before, but shall not be made after, the expiration of a period of six weeks beginning with the date on which an application for registration of the instrument of amalgamation or transfer is sent to the Registrar ; and where a complaint is made under this section, the Registrar shall not register the instrument under this Act before the complaint is finally determined.

(3) Where a complaint is made under this section the Registrar may either dismiss it or, if after giving the complainant and the trade union an opportunity of being heard he finds the complaint to be justified, may either—

- (a) so declare, but make no order under this subsection thereon, or
- (b) make an order specifying the steps which must be taken before he will entertain any application to register the instrument of amalgamation or transfer, as the case may be.

(4) It shall be the duty of the Registrar to furnish a statement, either written or oral, of the reasons for any decision which he gives on a complaint under this section.

(5) The Registrar may from time to time by order vary any order made under subsection (3) of this section, and after making an order under that subsection in relation to an instrument of amalgamation or transfer shall not entertain any application to register that instrument unless he is satisfied that the steps specified in the order (or, where the order has been varied, in the order as varied) have been taken.

(6) Schedule 1 to this Act shall apply in relation to complaints under this section.

(7) Subject to subsection (8) of this section, the validity of a resolution approving an instrument of amalgamation or transfer shall not be questioned in any legal proceedings whatsoever (except proceedings before the Registrar under this section or any proceedings arising out of such proceedings) on any ground on which a complaint could be, or could have been, made to the Registrar under this section.

(8) In the course of proceedings on a complaint under this section the Registrar may, if he thinks fit, at the request of the complainant or of the trade union, state a case for the opinion of the High Court on any question of law arising in the proceedings.

The decision of the High Court on a case stated under this subsection shall be final.

(9) It is hereby declared that the Arbitration Act 1950 does not apply to proceedings on a complaint under this section.

(10) For the purposes of this section a complaint which is withdrawn shall be deemed to be finally determined at the time when it is withdrawn.

(11) In relation to proceedings in Scotland, subsection (8) of this section shall have effect with the substitution of references to the Court of Session for references to the High Court.

Disposal of property on amalgamation or transfer.

5.—(1) Subject to this section, where an instrument of amalgamation or transfer takes effect, the property held—

- (a) for the benefit of any of the amalgamating unions or for the benefit of a branch of any of those unions, by the trustees of the union or branch, or
- (b) for the benefit of the transferor trade union or for the benefit of a branch of the transferor trade union, by the trustees of the union or branch,

shall without any conveyance, assignment or assignation vest, on the instrument taking effect, or on the appointment of the appropriate trustees, whichever is the later, in the appropriate trustees.

(2) The foregoing subsection shall not apply—

- (a) to property excepted from the operation of this section by the instrument of amalgamation or transfer, or
- (b) to stocks and securities in the public funds of the United Kingdom or Northern Ireland.

(3) In this section “ the appropriate trustees ” means—

- (a) in the case of any property to be held for the benefit of a branch of the amalgamated union or for the benefit of a branch of the transferee union, the trustees of that branch, unless the rules of the amalgamated or transferee union provide that the property to be so held shall be held by the trustees of the union, and
- (b) in any other case, the trustees of the amalgamated or transferee union.

(4) For the removal of doubt it is hereby declared that if, in the case of an amalgamation of two or more trade unions each qualified under section 3 of the Trade Union Act 1913 to operate such a fund as is mentioned in subsection (1)(a) of that section, the rules of the amalgamated union in force immediately after the amalgamation include such rules as are required by that section, that union is to be treated for the purposes of that section as having immediately after the amalgamation passed such a resolution as is mentioned in subsection (1) of that section, with power to rescind it under subsection (4) thereof.

6.—(1) Subject to this section, a trade union may change its name by any method of doing so expressly provided for by its rules or, if its rules do not expressly provide for a method of doing so, by adopting in accordance with its rules an alteration of the provision in them which gives the union its name. Change of name of trade union.

(2) In the case of a registered trade union, a change of name shall not take effect until it is registered by the Registrar under this Act; and the Registrar shall not register a change of name if it appears to him that registration of the union under the proposed new name would be contrary to section 13(3) of the Trade Union Act 1871 (which prohibits registration under a name identical with, or too nearly resembling, that of another registered trade union).

(3) Where a trade union changes its name, the change of name shall not affect any right or obligation of the union or of any of its members, and any pending legal proceedings may be continued by or against the trustees of the union or any other officer of the union who can sue or be sued on its behalf, notwithstanding its change of name.

7.—(1) The Minister of Labour may make regulations as respects—

- (a) applications to the Registrar under this Act;
- (b) the registration under this Act of any document or matter;

(c) the inspection of documents kept by the Registrar or by any assistant registrar under this Act ;

(d) the charging of fees in respect of such matters, and of such amounts, as may with the approval of the Treasury be prescribed by the regulations,

and generally for carrying this Act into effect.

(2) Regulations under this section may in particular—

(a) require any application for the registration of an instrument of amalgamation or transfer or a change of name to be accompanied by such statutory declarations or other documents as may be specified in the regulations ;

(b) make provision as to the form or content of any document required by this Act or by the regulations to be sent or submitted to the Registrar and the manner in which any such document is to be signed or authenticated ;

(c) authorise the Registrar to require notice to be given or published in such manner as he may direct of the fact that an application for registration of an instrument of amalgamation or transfer has been or is to be made to him.

(3) Regulations under this section may make different provision for different circumstances and, in particular, different provision with respect to cases where a Northern Ireland union is, and cases where a Northern Ireland union is not, party to an amalgamation or transfer of engagements.

(4) Any regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Power of Registrar to delegate functions.

8. Anything which is required or authorised to be done by or to the Registrar under this Act or under any regulations made thereunder may be done by or to any assistant registrar whom he may appoint for the purpose.

Interpretation.

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

“the amalgamating unions” and “the amalgamated union”, in relation to a proposed amalgamation, mean respectively the trade unions proposing to amalgamate and the trade union which is to result from the proposed amalgamation ;

“assistant registrar” means any assistant registrar of friendly societies appointed under section 1 of the Friendly Societies Act 1896 ;

“Northern Ireland union” has the meaning assigned by section 10 of this Act ;

“registered trade union” means a trade union registered under the Trade Union Acts 1871 to 1913 ;

“the Registrar” means the Chief Registrar of Friendly Societies ;

“trade union” means a trade union within the meaning of the Trade Union Act 1913, whether registered or not, other than a Northern Ireland union ;

“the transferor trade union” and “the transferee trade union”, in relation to a proposed transfer of engagements, mean respectively the trade union proposing to transfer its engagements and the trade union proposing to accept them.

(2) References in this Act to any other enactment are references to that enactment as amended or applied by or under any other enactment.

10.—(1) This Act, except subsection (4) of this section, shall not extend to Northern Ireland. Provisions as to Northern Ireland.

(2) This Act shall have effect in relation to amalgamations and transfers of engagements to which both a trade union and a Northern Ireland union are parties subject to the modifications specified in Schedule 2 to this Act.

(3) In so far as any provision of this Act is capable of applying, as part of the law of England and Wales or of Scotland, to persons or property in Northern Ireland, subsection (1) of this section shall not affect the operation of that provision, as part of that law, in relation to persons or property in Northern Ireland.

(4) No limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act 1920 shall apply in relation to legislation for purposes similar to the purposes of this Act so as to preclude that Parliament from enacting a provision similar to some provision in this Act.

(5) In this Act “Northern Ireland union” means a trade union within the meaning of the enactments relating to trade unions in Northern Ireland, being either—

(a) a union which is, or for the purpose of any of those enactments is deemed to be, registered in Northern Ireland, or

(b) an unregistered union whose principal office is situated in Northern Ireland.

(6) In this section “the enactments relating to trade unions in Northern Ireland” means all or any of the following enactments, that is to say, the Trade Union Acts 1871 to 1917, as for the time being in force in Northern Ireland, and any enactments of the Parliament of Northern Ireland (whether passed before or after the passing of this Act) whereby those Acts or any provisions thereof were or are amended or superseded.

Short title,  
citation,  
repeals,  
saving and  
commence-  
ment.

11.—(1) This Act may be cited as the Trade Union (Amalgamations, etc.) Act 1964, and may be cited together with the Trade Union Acts 1871 to 1913 as the Trade Union Acts 1871 to 1964.

(2) Subject to subsection (3) of this section, the Acts mentioned in Schedule 3 to this Act shall be repealed to the extent specified in the third column of that Schedule.

(3) If, before the coming into force of the provisions of this Act relating respectively to amalgamations, transfers of engagements and changes of name—

- (a) two or more trade unions have taken steps for the purpose of amalgamating, and a ballot for the purpose has been taken by any of them, or
- (b) a trade union has taken steps for the purpose of transferring its engagements to another trade union, and has passed a resolution for their transfer, or
- (c) a trade union has taken steps for the purpose of changing its name, and has obtained from its members the necessary consent,

the amalgamation, transfer of engagements or change of name, as the case may be, if not completed before the coming into force of the said provisions of this Act, may, notwithstanding the foregoing provisions of this Act, be proceeded with and completed under the enactments repealed by this Act, so far as applicable thereto, as if this Act had not been passed.

(4) This Act shall come into force on such date as the Minister of Labour 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.

## SCHEDULES

### SCHEDULE 1

Section 4.

#### PROVISIONS SUPPLEMENTAL TO S. 4

1. On a complaint made under section 4 of this Act the Registrar may—

- (a) require the attendance of the complainant or of any officer of the trade union, and may, on the application of the complainant or any such officer, require the attendance of any person as a witness ;
- (b) require the production of any documents relating to the matters complained of ;
- (c) administer oaths and take affirmations, and require the complainant, any officer of the trade union or any person attending as a witness to be examined on oath or affirmation ;
- (d) grant to the complainant or to any officer of the trade union such discovery as to documents and otherwise, or such inspection of documents, as might be granted by the county court ;
- (e) order the whole or any part of the expenses of hearing the complaint, as certified by the Registrar, to be paid either out of the funds of the trade union or by the complainant ; and
- (f) order the trade union to pay to the complainant out of the funds of the union, or the complainant to pay to the union, either a specified sum in respect of the costs incurred by the complainant or the union, as the case may be, or the taxed amount of those costs.

2. A person who, on the application of any person, is required to attend before the Registrar as a witness in proceedings on a complaint under section 4 of this Act shall be entitled to be paid by the person on whose application he is so required—

- (a) such sum in respect of loss of time and travelling expenses as he would be entitled to on being served with a summons to attend as a witness in the county court, and
- (b) if he duly attends, a sum equal to the further allowances, if any, to which he would be entitled if attending as a witness in proceedings in the county court.

3. If any person without reasonable excuse fails or refuses to comply with any requisition of the Registrar under sub-paragraphs (a) to (c) of paragraph 1 of this Schedule or any order of the Registrar made in pursuance of sub-paragraph (d) of that paragraph, he shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both :

Provided that a person shall not be convicted of an offence under this paragraph by reason of failure or refusal on his part

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SCH. 1 to comply with a requisition to attend as a witness before the Registrar unless any sum to which he is entitled under paragraph 2(a) of this Schedule has been paid or tendered.

4. Any costs required by an order under paragraph 1(f) of this Schedule to be taxed may be taxed in the county court according to such of the scales prescribed by county court rules for proceedings in the county court as may be directed by the order or, if the order gives no direction, by the county court.

5. Any sum payable by virtue of an order under paragraph 1(e) or (f) of this Schedule shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if payable under an order of that court.

6. In relation to proceedings in Scotland this Schedule shall have effect subject to the following modifications—

(a) in paragraph 1(d), for the references to discovery as to documents and to the county court there shall be substituted respectively references to recovery of documents and to the sheriff court ;

(b) for paragraph 1(f) there shall be substituted the following—

“(f) order that the expenses of the proceedings incurred by the complainant or by the trade union shall be paid by the trade union out of its funds or by the complainant, as the case may be, and may tax or settle the amount of any expenses to be paid under any such order or direct in what manner they are to be taxed” ;

(c) in paragraph 2, for sub-paragraphs (a) and (b) there shall be substituted the following—

“(a) such sum as he would be entitled to on being cited as a witness in civil proceedings in the sheriff court, and

(b) if he duly attends, a sum equal to the fees and further allowances to which he would be entitled if attending as a witness in civil proceedings in the sheriff court.” ; and

(d) paragraphs 4 and 5 shall not apply.

## Section 10.

### SCHEDULE 2

#### MODIFICATIONS OF ACT AS APPLYING TO AMALGAMATIONS AND TRANSFERS OF ENGAGEMENTS INVOLVING NORTHERN IRELAND UNIONS

1. Subject to this Schedule, any reference to a trade union (except in section 6) shall include a reference to a Northern Ireland union.

2.—(1) The requirements of section 1 of this Act as to the approval of the instrument of amalgamation or transfer by a resolution of the trade union or trade unions concerned shall not apply to any Northern Ireland union, but the Registrar shall not



under section 1(5) of this Act register the instrument unless he is satisfied that the instrument will be effective under the law of Northern Ireland.

SCH. 2

(2) In accordance with the foregoing sub-paragraph, nothing in section 2 or section 4 of this Act shall apply in relation to the passing of a resolution by a Northern Ireland union.

3. Nothing in section 3 of this Act shall apply in relation to the alteration of the rules of a Northern Ireland union.

4. Where an instrument of amalgamation or transfer is submitted to the Registrar for his approval under section 1(4) of this Act, the Registrar shall not give his approval unless the instrument states which of the bodies concerned is a Northern Ireland union, and, in the case of an instrument of amalgamation, shall not give his approval unless the instrument also states whether the resultant body is to be a trade union or a Northern Ireland union.

## SCHEDULE 3

Section 11.

## REPEALS

Chapter	Short Title	Extent of Repeal
39 & 40 Vict. c. 22.	The Trade Union Act Amendment Act 1876.	Sections 11, 12 and 13.
7 & 8 Geo. 5. c. 24.	The Trade Union (Amalgamation) Act 1917.	The whole Act.
3 & 4 Geo. 6. c. 19.	The Societies (Miscellaneous Provisions) Act 1940.	Section 6. In section 10(1), the definition of "Trade union" and, in the definition of "Society", the words "trade union".

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Trade Union Act 1871 ... ..	34 & 35 Vict. c. 31.
Friendly Societies Act 1896 ... ..	59 & 60 Vict. c. 25.
Trade Union Act 1913 ... ..	2 & 3 Geo. 5. c. 30.
Government of Ireland Act 1920 ... ..	10 & 11 Geo. 5. c. 67.
Arbitration Act 1950 ... ..	14 Geo. 6. c. 27.



# War Damage Act 1964

## 1964 CHAPTER 25

An Act to make provision for expediting the completion of payments under the War Damage Act 1943, the War Damage (Public Utility Undertakings, &c.) Act 1949 and the War Damage (Clearance Payments) Act 1960; to dissolve the War Damage Commission and transfer to the Commissioners of Inland Revenue, or, in the case of payments under section 71 of the said Act of 1943, to the Minister of Transport or the Secretary of State, the functions of the War Damage Commission and any functions which remain to be performed under those Acts by the Board of Trade; and for purposes connected with the matters aforesaid. [25th March 1964]

**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:—

General provisions as to payments in respect of war damage to land.

1.—(1) No person shall by virtue of Part I of the War Damage Act 1943 (in this Act referred to as “the principal Act”) have a right to receive a payment of cost of works in respect of any war damage unless a claim for the payment has been made before the commencement of this Act, or is made before the end of the period of four years beginning with the commencement of this Act (in this Act referred to as “the terminal period”).

(2) No person shall by virtue of Part I of the principal Act have a right to receive a value payment, or a share of a value payment, in respect of any war damage unless either—

(a) a determination that a value payment shall be paid in respect of that war damage has been made by the

War Damage Commission before the commencement of this Act, or is made before the end of the terminal period by the Commissioners of Inland Revenue (in this Act referred to as "the Commissioners") in the performance of the functions transferred to them by virtue of this Act, or

- (b) an application for the making of such a determination has been made to the War Damage Commission before the commencement of this Act, or is made to the Commissioners before the end of the terminal period:

Provided that this subsection shall not apply to any payment, or share of a payment, under section 14 of the principal Act (which provides for payments in certain cases where land is acquired in the exercise, directly or indirectly, of compulsory powers).

(3) The risk period referred to in paragraph (a) of section 1 (1) of the principal Act shall come to an end at the commencement of this Act; and accordingly in that paragraph, for the words from "continuing until such date" to "Commons House of Parliament", there shall be substituted the words "ending with the commencement of the War Damage Act 1964".

(4) In section 13(1) of the principal Act (which provides for the making of a value payment, or of a value payment and a payment of cost of works, in certain cases, and, in particular, where the War Damage Commission are satisfied that the circumstances are such that the war damage or part of it will not in fact be made good), after the words "will not in fact be made good" there shall be inserted the words "before the end of the terminal period as defined by section 1(1) of the War Damage Act 1964".

(5) In subsection (1) of this section the reference to Part I of the principal Act includes a reference to the War Damage (Clearance Payments) Act 1960, and any reference to a payment of cost of works includes a reference to a payment under section 1 of that Act; and in this section—

- (a) any reference to a payment of cost of works includes a reference to any payment as specified in paragraph (a) of section 13(1) of the principal Act and to any payment as specified in that paragraph but limited in accordance with section 15(b) or section 20(3)(b) of the principal Act, and
- (b) (without prejudice to the proviso to subsection (2) of this section) any reference to a value payment includes a reference to a payment as specified in paragraph (b) of section 13(1) of the principal Act (including any such payment which is payable by virtue of section 11 of the War Damaged Sites Act 1949).

Dissolution of War Damage Commission and transfer of functions to Commissioners of Inland Revenue.

2.—(1) The War Damage Commission is hereby dissolved.

(2) Subject to the next following subsection, all the functions of the War Damage Commission are hereby transferred to the Commissioners; and any reference to the War Damage Commission in any enactment, or in any instrument having effect by virtue of an enactment, shall, in relation to anything done or falling to be done after the commencement of this Act, be construed as a reference to the Commissioners.

(3) The last preceding subsection shall not apply to any such functions of the War Damage Commission as are mentioned in section 5 of this Act.

(4) All such functions as, apart from this Act, would fall to be performed by the Board of Trade under the principal Act or under the War Damage (Public Utility Undertakings, &c.) Act 1949, or under any instrument having effect by virtue of either of those Acts, are hereby transferred to the Commissioners; and, in relation to anything done or falling to be done after the commencement of this Act, any reference in either of those Acts, in section 2 of the Miscellaneous Financial Provisions Act 1946 or in any such instrument to the Board of Trade shall be construed accordingly:

Provided that this subsection shall have effect subject to the provisions of section 8 of this Act.

(5) The provisions of Schedule 1 to this Act shall have effect with respect to functions transferred to the Commissioners by virtue of this Act; and the transitional provisions contained in Schedule 2 to this Act shall have effect in connection with the transfer of those functions and the dissolution of the War Damage Commission.

Termination of temporary works payments.

3.—(1) No person shall have a right to receive any payment by virtue of section 6 (2) of the principal Act (which relates to works executed temporarily to meet the circumstances created by war damage) unless a claim for that payment has been made before the commencement of this Act.

(2) No payment shall be made after the commencement of this Act in respect of any works by virtue of paragraph (c) of section 69(4) of the principal Act (which relates to temporary works payments in respect of land held for certain charitable purposes) unless an application for the payment has been made to the War Damage Commission before the commencement of this Act.

Land held for charitable purposes.

4.—(1) This section applies to any land in respect of which the Commissioners are satisfied that the conditions specified in paragraphs (a) and (b) of section 69(2) of the principal Act are fulfilled.

(2) In respect of war damage to land to which this section applies—

- (a) no payment shall be made by the Commissioners in accordance with the special arrangements relating to war damage to church buildings (in this section referred to as “the church scheme”) unless an application for a payment under the church scheme in respect of that war damage has been made to the War Damage Commission before the commencement of this Act, or is made to the Commissioners before the end of the terminal period ;
- (b) in so far as the war damage does not fall within the church scheme, no payment shall be made by the Commissioners under section 69(4) of the principal Act unless an application for such a payment to be made in respect of the war damage has been made to the War Damage Commission before the commencement of this Act, or is made to the Commissioners before the end of the terminal period.

5.—(1) The functions of the War Damage Commission under section 71 of the principal Act are hereby transferred, in relation to England and Wales, to the Minister of Transport, and, in relation to Scotland, to the Secretary of State ; and accordingly, in relation to anything done or falling to be done after the commencement of this Act for the purposes of that section or of the highways scheme, references to the War Damage Commission in that section or that scheme, or in any other enactment or instrument having effect by virtue of any enactment, shall be construed as references to that Minister or the Secretary of State, as the case may be. Payments in respect of highways.

(2) Paragraphs 3 and 5 of Schedule 2 to this Act shall have effect in relation to functions transferred by virtue of this section, as if in those paragraphs any reference to the Commissioners were a reference to the Minister of Transport or the Secretary of State, as the case may require.

(3) In this section “the highways scheme” means the scheme having effect by virtue of the War Damage (Highways Scheme) Order 1943.

6.—(1) This section applies to any payment which, apart from this Act, would fall to be made— Payments under certain provisions of War Damage (Public Utility Undertakings, &c.) Act 1949.

- (a) by the War Damage Commission or the Board of Trade under section 18 of the War Damage (Public Utility Undertakings, &c.) Act 1949 (which provides for the

making of payments in respect of war damage causing obstruction in certain waterways), or

- (b) by the War Damage Commission under paragraph 2(1) or paragraph 3 of Schedule 3 to that Act (which provide for the making of certain payments in respect of works of which the cost has been incurred by a person other than the body carrying on the relevant public utility undertaking).

(2) No person shall by virtue of the said Act of 1949 have a right to receive any payment to which this section applies unless a claim for the payment has been made to the War Damage Commission or, in appropriate cases, the Board of Trade before the commencement of this Act, or is made to the Commissioners before the end of the terminal period.

Final  
termination of  
war damage  
payments.

7.—(1) No person shall by virtue of any of the Acts specified in the next following subsection have a right to receive from the Commissioners any payment in respect of any war damage after the end of the period of ten years beginning with the commencement of this Act.

(2) The Acts referred to in the preceding subsection are the principal Act, the War Damage (Public Utility Undertakings, &c.) Act 1949 and the War Damage (Clearance Payments) Act 1960.

(3) Subsection (1) of this section shall not be construed as preventing the Commissioners from making any payment after the end of the period mentioned in that subsection in a case where they are satisfied—

- (a) that a right to receive the payment would subsist apart from this section, and
- (b) that the delay in making the payment is not attributable to any default on the part of the person claiming the payment.

(4) Subsection (1) of this section shall have effect without prejudice to any other limitation imposed by this Act, or by any other enactment, on the right to receive any payment.

Winding up of  
unclaimed  
balances  
account.

8.—(1) As soon as practicable after the commencement of this Act, the Board of Trade shall wind up the War Damage (Mutual Insurance Funds Unclaimed Balances) Account (in this Act referred to as “the unclaimed balances account”).

(2) Any right which any person may have in respect of moneys paid into the unclaimed balances account is hereby extinguished.

9.—(1) The enactments specified in the next following subsection shall not have effect so as to require any notification to be given thereunder after the end of the terminal period.

Termination of notifications under certain enactments.

(2) The said enactments are—

- (a) section 4 of the Acquisition of Land (Authorisation Procedure) Act 1946 and section 4 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which require notification to be given of certain transactions relating to the acquisition of war-damaged land);
- (b) section 74(3) of the Town and Country Planning Act 1962 and section 36(3) of the Town and Country Planning (Scotland) Act 1947 (which require notification to be given of an order containing a direction for expedited completion of a compulsory acquisition of war-damaged land); and
- (c) section 53 of the Town and Country Planning Act 1944 and section 51 of the Town and Country Planning (Scotland) Act 1945, as applied respectively by the New Towns Act 1946 (which make similar provision where the order providing for expedited completion is for the acquisition of land under the said Act of 1946).

10.—(1) Any sums required for paying remuneration or allowances under Schedule 1 to this Act shall be paid out of moneys provided by Parliament.

Financial provisions.

(2) Section 2 of the Miscellaneous Financial Provisions Act 1946 (which provides for the charging of sums on the Consolidated Fund) shall not apply to any sums required for the making of payments by the Minister of Transport or the Secretary of State under section 71 of the principal Act; and any expenditure incurred by that Minister or the Secretary of State in making any such payments shall be defrayed out of moneys provided by Parliament.

(3) The Treasury may at any time direct, or if they think fit may by regulations made by statutory instrument provide, that any payments which fall to be made on or after such date as may be specified in the direction or regulations and are payments to which section 2 of the said Act of 1946 applies shall be made out of moneys provided by Parliament, instead of being charged on the Consolidated Fund.

(4) Any moneys which, on the completion of the winding up of the unclaimed balances account, remain standing to the credit of that account shall be paid into the Exchequer.

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**Interpretation.** 11.—(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:—

“ the Commissioners ” means the Commissioners of Inland Revenue ;

“ functions ” includes powers and duties, and any reference to the performance of functions shall be construed accordingly ;

“ the principal Act ” means the War Damage Act 1943 ;

“ the terminal period ” has the meaning assigned to it by section 1(1) of this Act.

(2) Expressions used in this Act to which meanings are assigned by the principal Act have the same meanings in this Act as in that Act.

(3) 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.

**Repeals.** 12. The enactments specified in Part I of Schedule 3 to this Act are hereby repealed to the extent specified in relation thereto in the third column of that Part of that Schedule ; and the enactments specified in Part II of that Schedule are hereby repealed as from the end of the terminal period to the extent specified in relation thereto in the third column of that Part of that Schedule.

**Northern Ireland.** 13.—(1) The provisions of this section shall have effect for the purposes of the application of this Act to Northern Ireland.

(2) “ Enactment ” in this Act includes an enactment of the Parliament of Northern Ireland.

(3) The following provisions of this Act, that is to say, the proviso to section 1(2), section 2(3) and sections 5 and 9 shall not apply.

(4) In Part I of Schedule 3 to this Act, the repeal relating to the House of Commons Disqualification Act 1957 shall have effect for the purposes of that Act in its application to the Senate and House of Commons of Northern Ireland as well as in its application to the House of Commons of the Parliament of the United Kingdom.

**Short title,  
citation and  
commence-  
ment.**

14.—(1) This Act may be cited as the War Damage Act 1964.

(2) The War Damage Act 1943, the War Damage (Public Utility Undertakings, &c.) Act 1949, the War Damage (Clearance Payments) Act 1960 and this Act may be cited together as the War Damage Acts 1943 to 1964.

(3) This Act shall come into operation on 1st October 1964.



## SCHEDULES

### SCHEDULE 1

#### PERFORMANCE OF FUNCTIONS OF COMMISSIONERS

1. This Schedule applies to any functions transferred to the Commissioners by virtue of this Act.

2. Any functions of the Commissioners to which this Schedule applies may be performed by such officer of the Commissioners as may for the time being be authorised by them to act (either generally or for the particular purpose in question) in the performance of those functions.

3. The Commissioners may make such arrangements as they think fit for securing that determinations made, in the performance of those functions, by officers of the Commissioners acting in any locality are subject to review either—

(a) by superior officers of the Commissioners, or

(b) by other persons appointed by the Commissioners for the purpose, who shall be known as “War Damage Reviewing Commissioners”;

and any determination made in pursuance of those arrangements (whether it confirms, varies or reverses the decision of the officer whose determination is reviewed) shall have effect as a determination of the Commissioners.

4. Any document purporting to be an instrument made or issued by or on behalf of the Commissioners, in the performance of any functions to which this Schedule applies, and to be signed by a secretary or assistant secretary of the Commissioners or by any other person authorised to act in that behalf, shall be received in evidence, and shall, unless the contrary is proved, be deemed to be an instrument made or issued by or on behalf of the Commissioners in the performance of those functions; and prima facie evidence of any such instrument may, in any legal proceedings (including arbitrations), be given by the production of a document purporting to be certified to be a true copy of the instrument and to have been so signed.

5. The last preceding paragraph shall have effect without prejudice to the generality of section 24 of the Inland Revenue Regulation Act 1890 (which relates to evidence of acts of the Commissioners).

6. There shall be paid to War Damage Reviewing Commissioners such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.

### SCHEDULE 2

#### TRANSITIONAL PROVISIONS

1. The War Damage Commission shall not be required to prepare an account under subsection (2) of section 2 of the Miscellaneous Financial Provisions Act 1946 in respect of—

(a) any sums issued out of the Consolidated Fund under that section which were received by them after 31st March 1964, or

## SCH. 2

(b) any payments made by them after that date out of sums issued under that section.

2. In respect of the financial year 1964-65, the Commissioners shall be required to prepare an account under subsection (2) of that section if either—

(a) any sums have been received or payments made as mentioned in the preceding paragraph, or

(b) any sums issued out of the Consolidated Fund under that section are received by them in that year, or any payments are made by them in that year out of sums so issued ;

and any account prepared by the Commissioners under the said subsection (2) in respect of that year shall include any sums received or payments made as mentioned in either sub-paragraph (a) or sub-paragraph (b) of this paragraph.

3. Neither the transfer of functions to the Commissioners effected by this Act, nor the dissolution of the War Damage Commission, shall invalidate any determination made, or other thing done, before the commencement of this Act in the performance by the War Damage Commission or the Board of Trade of the functions transferred to the Commissioners by virtue of this Act ; and every determination or thing so made or done, in so far as it could have been made or done by the Commissioners if it had fallen to be made or done after the commencement of this Act, shall have effect as from the commencement of this Act as if it had been made or done by the Commissioners.

4. If any appeal under section 32(3) of the principal Act is pending at the commencement of this Act, the Commissioners shall be entitled to appear and to be heard on the appeal.

5. If at the commencement of this Act any proceedings are pending by or against the War Damage Commission, or are pending by or against the Board of Trade in respect of any matter arising out of functions of the Board transferred to the Commissioners by virtue of this Act, the proceedings may be continued on and after the commencement of this Act by or against the Commissioners.

## SCHEDULE 3

## ENACTMENTS REPEALED

## PART I

## ENACTMENTS REPEALED AS FROM COMMENCEMENT OF ACT

Chapter	Short Title	Extent of Repeal
6 & 7 Geo. 6. c. 21.	The War Damage Act 1943.	Section 3.
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	Paragraphs 1 to 8 of Schedule 1. In Schedule 1, in Part II, the words "the War Damage Commission".

## PART II

SCH. 3

## ENACTMENTS REPEALED AS FROM END OF TERMINAL PERIOD

Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 6. c. 47.	The Town and Country Planning Act 1944.	Section 53 as applied by the New Towns Act 1946.
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	Section 51 as applied by the New Towns Act 1946.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	Section 4.
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.	Section 4.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Section 36(3).
10 & 11 Eliz. 2. c. 38.	The Town and Country Planning Act 1962	Section 74(3).

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Inland Revenue Regulation Act 1890 ... ..	53 & 54 Vict. c. 21.
War Damage Act 1943 ... ..	6 & 7 Geo. 6. c. 21.
Town and Country Planning Act 1944 ... ..	7 & 8 Geo. 6. c. 47.
Town and Country Planning (Scotland) Act 1945 ...	8 & 9 Geo. 6. c. 33.
Miscellaneous Financial Provisions Act 1946 ...	9 & 10 Geo. 6. c. 40.
Acquisition of Land (Authorisation Procedure) Act 1946.	9 & 10 Geo. 6. c. 49.
New Towns Act 1946 ... ..	9 & 10 Geo. 6. c. 68.
Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.	10 & 11 Geo. 6. c. 42.
Town and Country Planning (Scotland) Act 1947 ...	10 & 11 Geo. 6. c. 53.
War Damage (Public Utility Undertakings &c.) Act 1949.	12, 13 & 14 Geo. 6. c. 36.
War Damaged Sites Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 84.
House of Commons Disqualification Act 1957 ...	5 & 6 Eliz. 2. c. 20.
War Damage (Clearance Payments) Act 1960 ...	8 & 9 Eliz. 2. c. 25.
Town and Country Planning Act 1962 ... ..	10 & 11 Eliz. 2. c. 38.





# Licensing Act 1964

## 1964 CHAPTER 26

An Act to consolidate certain enactments relating to the sale and supply of intoxicating liquor in England and Wales and to matters connected therewith; with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949.  
[25th March 1964]

**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:—

### PART I

#### THE GENERAL LICENSING SYSTEM

##### *Justices' licences and provisions as to licensing justices*

1.—(1) In this Act and the Customs and Excise Act 1952 <sup>Justices'</sup> "justices' licence" means a licence under this Part of this Act <sup>licences.</sup> authorising the holder to hold an excise licence for the sale by retail of intoxicating liquor (and also, in the case of a licence granted to a club for club premises, for its supply to or to the order of members otherwise than by way of sale).

(2) In this Act "justices' on-licence" and "justices' off-licence" mean respectively—

- (a) a justices' licence authorising the holding of a retailer's on-licence (within the meaning of the said Act of 1952) that is to say, a licence authorising sale for consumption either on or off the premises for which the licence is granted; and
- (b) a justices' licence authorising the holding of a retailer's off-licence (within the meaning of that Act) that is to

## PART I

say, a licence authorising sale for consumption off those premises only.

(3) A justices' licence shall be in such form as the Secretary of State may prescribe and may authorise the person to whom it is granted to hold as many excise licences as the justices' licence may specify.

## Licensing justices and districts.

2.—(1) The licensing districts for the purposes of this Act shall be—

- (a) in the administrative county of London, the City of London and each of the petty-sessional divisions of the rest of the administrative county ;
- (b) outside the administrative county of London, every borough having a separate commission of the peace and every other petty sessions area.

(2) The licensing justices shall be—

- (a) for the City of London, a committee of the justices for the City ;
- (b) for a borough having a separate commission of the peace, a committee of the borough justices (which shall be known as the borough licensing committee) ;
- (c) for any other petty sessions area, a committee (which shall be known as the divisional licensing committee) of the county justices acting for that area or, if the county is not divided into petty-sessional divisions, of the county justices.

(3) For the purpose of carrying out their functions under this Act the licensing justices for each district shall hold licensing sessions as follows, that is to say,—

- (a) a general annual licensing meeting, and
- (b) not less than four nor more than eight transfer sessions, in the twelve months beginning with February in every year.

(4) Except where this Act otherwise provides, all powers exercisable by licensing justices under this Act may be exercised at any licensing sessions, but this subsection shall not affect the operation of any enactment in so far as it expressly authorises licensing justices to act otherwise than at a licensing sessions.

(5) Part I of Schedule 1 to this Act shall have effect with respect to the constitution and procedure of licensing committees and Part II thereof with respect to the holding of licensing sessions.

*Grant of justices' licence*

## PART I

3.—(1) Licensing justices may grant a justices' licence to any such person, not disqualified under this or any other Act for holding a justices' licence, as they think fit and proper. Grant of justices' licence.

(2) A justices' licence may be granted as a new licence or by way of renewal, transfer or, subject to section 93(4) of this Act, removal.

(3) In this Act—

- (a) renewing a justices' licence means granting a justices' licence for any premises to the holder of a similar licence in force for those premises ;
- (b) removing a justices' licence means taking it from the premises for which it was granted and granting it for other premises ;
- (c) transferring a justices' licence means granting it for any premises to a person in substitution for another person who holds or has held a licence for those premises.

(4) Schedule 2 to this Act shall have effect with regard to the procedure to be followed in relation to applications for the grant of a justices' licence.

4.—(1) Subject to the provisions of Part IV of this Act, licensing justices granting a new justices' on-licence, other than a licence for the sale of wine alone or British wine alone, may attach to it such conditions governing the tenure of the licence and any other matters as they think proper in the interests of the public ; but no payment may be required in pursuance of a condition attached under this subsection. New licences.

(2) Subject to section 113 of this Act, licensing justices shall not grant a new justices' on-licence for premises unless the premises are in their opinion structurally adapted to the class of licence required.

5.—(1) Subject to the following provisions of this Act, licensing justices shall have the same power to grant a removal of a justices' licence as they have to grant a new licence. Removals.

(2) Licensing justices may grant an ordinary removal to premises in their licensing district from any other premises, whether in that district or not.

(3) An application for a removal shall be made by the person wishing to hold the licence after the removal.

(4) Subject to sections 113, 122 and 126 of this Act, licensing justices shall not grant the removal of a justices' on-licence to

**PART I** any premises unless in their opinion the premises are structurally adapted to the licence.

(5) Licensing justices shall not grant an ordinary removal unless they are satisfied that no objection to the removal is made—

(a) where the licence is a justices' on-licence, by the owner of the premises from which it is sought to remove the licence or by the holder of the licence,

(b) where the licence is a justices' off-licence, by the holder of the licence,

or by any person other than the owner of the said premises and the holder of the licence or, as the case may be, other than the holder of the licence, whom the justices consider to have a right to object to the removal.

(6) In this Act, "ordinary removal" means a removal which is neither a special removal (as defined in section 15(2) of this Act) nor a planning removal or temporary premises removal (as defined in sections 121(2) and 126(2) of this Act respectively).

Provisional  
grant of new  
licence or  
removal.

**6.—(1)** Where licensing justices are satisfied, on application made by a person interested in any premises which are—

(a) about to be constructed or in the course of construction for the purpose of being used as a house for the sale of intoxicating liquor (whether for consumption on or off the premises); or

(b) about to be altered or extended or in the course of alteration or extension for that purpose (whether or not they are already used for that purpose);

that the premises, if completed in accordance with plans deposited under this Act, would be such that they would have granted a justices' on-licence or a justices' off-licence for the premises, they may make a provisional grant of such a licence for those premises.

(2) Any such application may be made either for the provisional grant of a new licence or for a provisional removal of a licence to the premises, and the grant may be made accordingly.

(3) On an application by the holder of a provisional licence, licensing justices may consent to any modifications of the deposited plans where, in their opinion, the premises, if completed in accordance with the modified plans, will be fit and convenient for their purpose.



(4) Licensing justices shall, after such notice has been given as they may require, declare a provisional grant final on being satisfied—

- (a) that the premises have been completed in accordance with the plans deposited, or in accordance with those plans with modifications consented to under the preceding subsection ; and
- (b) that the holder of the provisional licence is not disqualified by this or any other Act for holding a justices' licence and is in all other respects a fit and proper person to hold a justices' licence ;

and until the provisional grant has been declared final it shall not be valid.

(5) If on an application for the provisional grant of a justices' licence the applicant deposits, instead of plans of the premises, a plan sufficient to identify the site of the premises, together with such description of the premises as will give a general indication of their proposed size and character (with reference in particular to the sale of intoxicating liquor), then—

- (a) the licensing justices shall deal with the application as if the site plan and description deposited instead were the deposited plans, and shall assume that the premises will be fit and convenient for their purpose ; but
- (b) any provisional grant of a licence made on the application shall become ineffective unless affirmed under subsection (6) of this section in pursuance of an application made at a licensing sessions held within the twelve months following the date of the grant (or, where there is an appeal, the date the appeal is disposed of).

(6) Where licensing justices make a provisional grant of a licence by virtue of subsection (5) of this section the holder of the provisional licence may apply for the grant to be affirmed, and shall give notice of the application and deposit plans, as if he were applying (otherwise than under that subsection) for the grant of the licence ; and the licensing justices shall affirm the provisional grant if satisfied that the premises, if completed in accordance with the plans deposited, will be fit and convenient for their purpose.

7.—(1) Licensing justices may not renew a justices' licence at transfer sessions, except where the licence was due for renewal at the preceding general annual licensing meeting and the justices are satisfied that the applicant had reasonable cause for not applying for renewal at that meeting. Renewals.

## PART I

(2) A person intending to oppose an application for the renewal of a justices' licence shall give notice in writing of his intention to the applicant, specifying in general terms the grounds of the opposition, not later than seven days before the commencement of the licensing sessions at which the application is to be made, and unless notice has been so given the licensing justices shall not entertain the objection, except as provided by subsection (3) of this section.

(3) Where notice has not been given as required by subsection (2) of this section, the justices may, on objection being made to the renewal, adjourn consideration of the application to a day of which they shall give notice to the applicant and the objector, and shall on that day hear the application and the objection as if notice of intention to oppose had been given.

(4) Evidence given on an application for the renewal of a justices' licence shall be given on oath.

(5) Where the holder of a justices' licence fails to apply for its renewal at the general annual licensing meeting at which it is due for renewal, and the licence expires in consequence of his failure, an application by him for a similar licence for the same premises shall be treated as an application for renewal, and the grant of the licence applied for shall be treated as a renewal of the expired licence, if the application is made not later than the next general annual licensing meeting and the licensing justices are satisfied that he had reasonable cause for his failure.

## Transfers.

8.—(1) Subject to sections 138 and 145 of this Act, licensing justices shall not grant a transfer of a justices' licence except in the following cases and to the following persons, that is to say—

- (a) where the holder of the licence has died, to his representatives or the new tenant or occupier of the premises ;
- (b) where the holder of the licence becomes incapable through illness or other infirmity of carrying on business under the licence (and notwithstanding that the licence may have ceased to be in force before the transfer), to his assigns or the new tenant or occupier of the premises ;
- (c) where the holder of the licence is adjudged bankrupt, or a trustee is appointed in pursuance of a composition or scheme within the meaning of the Bankruptcy Act 1914 to administer the property or manage the business of the holder of the licence, or a trustee is appointed under a deed of arrangement within the meaning of the Deeds of Arrangement Act 1914 for the benefit of the creditors of the holder of the licence,

- to his trustee or the new tenant or occupier of the premises ;
- (d) where the holder of the licence has given up or is about to give up, or his representatives have given up or are about to give up, occupation of the premises, to the new tenant or occupier of the premises or the person to whom the representatives or assigns have, by sale or otherwise, bona fide conveyed or made over the interest in the premises ;
  - (e) where the occupier of the premises, being about to quit them, has wilfully omitted or neglected to apply for the renewal of the licence, to the new tenant or occupier of the premises ;
  - (f) where the owner of the premises or some person on his behalf has been granted a protection order under section 10(3) of this Act and application for the transfer is made at the first or second licensing sessions begun after the making of that order, to the owner or person applying on his behalf.

(2) For the purposes of paragraph (d) of the preceding subsection, a person occupying premises for the purpose of carrying on business under a licence shall be treated as giving up occupation on his giving up the carrying on of the business, notwithstanding that he remains temporarily in occupation of the premises or part of them.

(3) The foregoing provisions of this section, except paragraphs (e) and (f) of subsection (1), shall apply in relation to the transfer of a provisional licence as if the licence were in force, and shall, as so applying, be construed as if "occupation" included intended occupation, and similarly as respects other expressions.

(4) Licensing justices may, at their general annual licensing meeting, make regulations determining the time that must elapse after the hearing of an application for transfer before another such application may be made in respect of the same premises ; but licensing justices may in any particular case dispense with the observance of regulations made under this subsection.

9.—(1) Without prejudice to the provisions of this or any other Act whereby a person may be disqualified for holding a justices' licence, the following persons shall be so disqualified, that is to say—

- (a) a sheriff's officer or officer executing the legal process of any court ;
- (b) a person convicted, whether under this Act or otherwise, of forging a justices' licence or making use of a forged justices' licence knowing it to have been forged ;

Persons and premises disqualified for holding or receiving justices' licence.

## PART I

(c) a person convicted, whether under this Act or otherwise, of permitting to be a brothel premises for which at the time of the conviction he held a justices' licence.

(2) Where within a period of two years two persons severally holding a justices' licence for any premises forfeit their licences, the premises shall be disqualified for receiving a justices' licence for a period of twelve months following the second forfeiture.

(3) Premises shall be disqualified for receiving a justices' licence if they are situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes).

(4) For the purpose of subsection (3) of this section—

(a) "special road" and "special road authority" have the same meanings as in the Highways Act 1959, except that "special road" includes a trunk road to which by virtue of section 19 of that Act the provisions of that Act apply as if the road were a special road; and

(b) "class I" means class I in Schedule 4 to that Act as varied from time to time by any order under section 12 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (3) of this section to traffic of class I so as to take account of the additional class.

(5) The provisions of subsections (2) and (3) of this section shall be without prejudice to the disqualification under any other Act of premises for receiving a justices' licence.

(6) A justices' licence purporting to be held by any person disqualified for holding a licence, or attached to premises disqualified for receiving a licence, shall be void.

#### *Protection orders*

#### Protection orders.

10.—(1) A person who proposes to apply for the transfer of a justices' licence for any premises may apply to justices of the peace acting for the petty sessions area in which the premises are for the grant of an authority, in this Act referred to as a "protection order", to sell intoxicating liquor on the premises, and the justices may grant the protection order if they are satisfied that the applicant is a person to whom the licensing justices could grant a transfer of the licence.

(2) The authority conferred by a protection order in respect of any premises shall be the same as that conferred by the justices' licence in force (or last in force) for those premises; and, while the order is in force, the enactments relating to the sale of intoxicating liquor and to licensed premises (other than those relating to the renewal or transfer of licences or to protection orders) shall apply to the person granted the order as if he were the holder of that licence and the holder also, until the expiration of the term for which it was granted, of any excise licence taken out for the premises before the making of the protection order.

(3) Where—

- (a) a justices' licence for any premises is forfeited for the first time by virtue of a second or subsequent conviction under section 160 of this Act or of a conviction under section 184 thereof, or
- (b) a justices' licence for any premises is forfeited by order of a magistrates' court made on complaint under section 20(3) of this Act, or
- (c) a justices' licence for any premises is forfeited by order of a court under section 169(8) of this Act, or
- (d) a justices' licence for any premises is forfeited by virtue of a disqualification order made under section 100 of this Act, or
- (e) the holder of a justices' licence for any premises becomes disqualified for the first time for holding such a licence by reason of being convicted as mentioned in section 9(1) of this Act,

justices of the peace may grant a protection order to any owner of the premises or any other person authorised by an owner of the premises, notwithstanding the forfeiture or the previous licence holder's disqualification; but not more than one protection order may be granted under this subsection on any such forfeiture or disqualification.

(4) A protection order shall remain in force until the conclusion of the second licensing sessions begun after the date of the order (and until any application made at the sessions for a transfer of the justices' licence has been disposed of) except that it shall cease to have effect before that time on the coming into force of a justices' licence granted by way of transfer or removal of the licence for the premises, or the coming into force of a further protection order for the premises.

(5) Where the holder of a justices' licence dies, or is adjudged bankrupt, or a trustee is appointed in pursuance of a composition or scheme within the meaning of the Bankruptcy Act 1914 to administer the property or manage the business of the holder

**PART I** of a justices' licence, or a trustee is appointed under a deed of arrangement within the meaning of the Deeds of Arrangement Act 1914 for the benefit of the creditors of the holder of a justices' licence, the personal representatives or trustee shall be in the same position as regards carrying on business under the licence as a person to whom a protection order had been validly granted on the date of the death, adjudication in bankruptcy or appointment of a trustee as aforesaid.

Supplementary provisions relating to protection orders.

**11.—(1)** A protection order may be made for any premises so as to supersede a previous protection order (other than one made under section 10(3) of this Act), if the justices making the order are satisfied that the person granted the previous protection order consents to its being superseded, or that he no longer proposes to apply for a transfer of the licence or is not qualified to do so, or that he is for any reason unable to carry on business under the protection order.

(2) Justices of the peace to whom application is made for a protection order may examine on oath the applicant or any person giving evidence before them.

(3) Justices of the peace shall not grant a protection order unless the applicant has, not less than seven days before the application, given notice in writing to the chief officer of police, signed by the applicant or his authorised agent, and stating his name and address and his trade or calling during the six months preceding the giving of the notice ; or, in an urgent case, unless the applicant has given such notice to the police as the justices think reasonable.

(4) Justices of the peace granting a protection order shall cause a memorandum of the order to be endorsed on the licence, or, where a copy of the licence is admissible in evidence, on a copy of the licence ; and a majority of the justices shall sign the memorandum or the justices shall cause the clerk to the justices to seal or stamp it with the official seal or stamp of the magistrates' court of which he is clerk and to verify the seal or stamp by his signature.

(5) A memorandum purporting to be made under subsection (4) of this section shall be received in evidence.

(6) Where a protection order has been granted to any person, the proper officer of Customs and Excise shall endorse a memorandum of the order on the excise licence.

(7) The power of justices of the peace to grant protection orders shall be exercisable by the number of justices, and in the place, required by the Magistrates' Courts Act 1952 for the hearing of a complaint.

*Old on-licences*

## PART I

## 12.—(1) In this Act—

“old on-licence” means a justices’ on-licence, other than one for the sale of wine alone or British wine alone, granted by way of renewal from time to time of a licence in force on 15th August 1904, or of a licence that before that day had been provisionally granted and confirmed under section 22 of the Licensing Act 1874 where the grant and confirmation have been subsequently declared final, except that it does not include a licence varied under section 37 of this Act or granted by way of renewal from time to time of a licence so varied ; and

Restricted power of licensing justices to refuse renewal or transfer of old on-licences.

“old beerhouse licence” means an old on-licence for the sale of beer or cider, with or without wine, granted by way of renewal from time to time of a licence for premises for which a corresponding excise licence was in force on 1st May 1869 ;

no account being taken of any transfer nor, except for the purpose of determining whether a licence is an old beerhouse licence, of any removal.

(2) Subject to any disqualification of the applicant or of the premises to which the application relates, licensing justices shall not refuse an application for the renewal of an old on-licence except on one or more of the following grounds, that is to say—

- (a) in the case of an old beerhouse licence, those specified in subsection (3) of this section ;
- (b) in the case of any other old on-licence, those specified in subsection (4) of this section ;

and, in either case, the ground that there has been entered in the register of licences a conviction of bribery or treating made in pursuance of section 146(6) of the Representation of the People Act 1949.

(3) The renewal of an old beerhouse licence may be refused on the ground—

- (a) that the applicant has failed to produce satisfactory evidence of good character ; or
- (b) that the house or shop to which the application relates, or any adjacent house or shop owned or occupied by him, is of a disorderly character, or frequented by thieves, prostitutes or persons of bad character ; or
- (c) that a licence previously held by the applicant for the sale of wine, spirits, beer or cider has been forfeited for his misconduct, or that he has previously been adjudged for his misconduct disqualified for receiving such a licence or for selling wine, spirits, beer or cider.

## PART I

(4) The renewal of an old on-licence other than an old beer-house licence may be refused on the ground—

(a) that the applicant is not a fit and proper person to hold the licence ; or

(b) that the licensed premises have been ill-conducted or are structurally deficient or structurally unsuitable,

and for the purposes of paragraph (b) of this subsection, premises shall be deemed to have been ill-conducted if, among other things, the holder of the licence has persistently and unreasonably refused to supply suitable refreshment, other than intoxicating liquor, at a reasonable price, or has failed to fulfil any reasonable undertaking given to the justices on the grant of the licence.

(5) Where an application is made for the renewal of an old on-licence and the licensing justices ask the applicant to give an undertaking, they shall adjourn the hearing of the application and cause notice of the undertaking for which they ask to be served on the registered owner of the premises and shall give him an opportunity of being heard.

(6) Licensing justices refusing to renew an old on-licence shall specify to the applicant in writing the grounds of their refusal.

(7) Subsections (2) to (6) of this section shall apply to the transfer of an old on-licence as they apply to the renewal of such a licence, except that the transfer of an old beerhouse licence may also be refused on the ground that the applicant is not a fit and proper person to hold the licence.

Reference of application for renewal or transfer to compensation authority.

**13.**—(1) Subject to section 125 of this Act, where the licensing justices, on consideration in accordance with this Act of an application for the renewal or transfer of an old on-licence, are of opinion that the question of renewal or transfer requires consideration on grounds other than those on which they can refuse it, they shall refer the matter to the compensation authority together with their report thereon.

(2) The compensation authority shall consider all reports made to them under this section and may refuse the renewal or transfer of any licence to which any such report relates, but shall not do so without giving an opportunity to be heard—

(a) to the persons interested in the licensed premises ; and

(b) unless it appears to the compensation authority unnecessary, to any other persons appearing to them to be interested in the question of the renewal or transfer, including the licensing justices.

Compensation on refusal to renew or transfer an old on-licence.

**14.**—(1) If the compensation authority refuse to renew or transfer an old on-licence, they shall pay as compensation to the persons interested in the licensed premises the difference between the value of those premises as licensed and their value as unlicensed.



(2) For the purposes of subsection (1) of this section the licence shall be assumed to be subject to the same conditions of renewal as were applicable immediately before 15th August 1904 ; and there shall be assumed to be included in the value of the licensed premises the amount of the depreciation of the trade fixtures arising by reason of the refusal to renew or transfer the licence.

(3) The amount to be paid as compensation shall, in default of agreement between the several persons appearing to the compensation authority to be interested in the licensed premises and the authority, be determined by the Commissioners of Inland Revenue in the same manner, and subject to the same appeal under section 10 of the Finance Act 1894 to the High Court, as on the valuation of an estate for the purpose of estate duty ; and the amount of compensation shall be divided among the persons interested in the licensed premises, including the holder of the licence, in such shares as the compensation authority may determine.

(4) For the purposes of subsection (3) of this section regard shall be had not only to the legal interest of the holder of the licence in the premises or trade fixtures, but also to his conduct and the length of time that he has held the licence ; and, notwithstanding any agreement to the contrary, a tenant who is the holder of a justices' licence shall not receive less than he would be entitled to as tenant from year to year of the licensed premises.

(5) The compensation authority may refer to the county court any question arising on the division of the compensation that the authority consider can be more conveniently determined by that court.

(6) Any costs incurred by the Commissioners of Inland Revenue on an appeal from their decision to the High Court under this section shall be paid out of the amount of the compensation unless the High Court orders those costs to be paid by some other party to the appeal.

**15.**—(1) Where application is made for the special removal of an old on-licence from any premises in a licensing district to premises in the same district on the ground—

Special removals of old on-licences.

- (a) that the premises for which the licence was granted are or are about to be pulled down or occupied under any Act for the improvement of highways, or for any other public purpose ; or
- (b) that the premises for which the licence was granted have been rendered unfit for use for the business carried on there under the licence by fire, tempest or other unforeseen and unavoidable calamity ;

the provisions of sections 12 to 14 of this Act shall apply as they apply to a renewal, subject to the restrictions on removals

**PART I** imposed by Parts VI and VII of this Act and subject to subsections (3) and (4) of this section.

(2) A removal to which those provisions apply as aforesaid is in this Act referred to as a special removal.

(3) In the application of those provisions to the special removal of a licence section 12 of this Act shall have effect as if the words "that the premises to be licensed" were inserted in subsection (4)(b) before the words "are structurally deficient or structurally unsuitable".

(4) Where the occasion for an application for a special removal is the pulling down of the licensed premises or those premises having been rendered unfit by fire, tempest or other calamity, any compensation for the refusal of the grant shall be determined as if the premises were in the same condition as at the last renewal or transfer of the licence.

(5) Notwithstanding anything in section 6 of this Act, no provisional grant shall be made of a special removal.

(6) Section 8(4) of this Act shall apply in relation to applications for special removals as it applies in relation to applications for transfers.

Compensation  
authorities.

**16.—(1)** The following shall be the compensation authority for the purposes of this Act, that is to say,—

- (a) for a county borough, it shall be a committee of the borough justices, which shall be known as the borough compensation committee;
- (b) for the City of London, it shall be a committee of the justices for the City; and
- (c) for any other licensing district, it shall be a committee, which shall be known as the county compensation committee, of the court of quarter sessions for the county which is or includes that licensing district;

and compensation committees shall be constituted and their procedure regulated in accordance with Schedule 3 to this Act.

(2) A compensation authority shall in each year make such returns to the Secretary of State as he may require about their proceedings as compensation authority and the proceedings of licensing justices in referring to the compensation authority the question of the renewal, transfer or special removal of old on-licences.

17.—(1) A compensation authority shall in each year impose charges to be payable in respect of—

PART I  
Compensation  
fund.

- (a) the renewal of old on-licences for premises in their area ; and
- (b) the transfer of such licences and the removal of old on-licences to premises in their area, in any case where the duration of the licence is extended by the transfer or removal ;

except in a year in which they certify to the Secretary of State that it is unnecessary to do so.

(2) In imposing those charges the compensation authority shall fix a sum not exceeding one hundred pounds as the maximum amount of such a charge ; and the charge payable in respect of any licence shall be an amount which bears to the sum so fixed the same proportion as the charge in respect of a renewal of that licence in 1958 bore (or, as the case may be, would, if payable, have borne) to the maximum charge which was or might have been imposed in that year.

(3) Charges payable under this section on the renewal, transfer or removal of a licence shall be levied and paid together with, and as part of the duties on, the corresponding excise licence ; and the Commissioners shall keep a separate account of the amount produced by the charges in the area of any compensation authority and pay the amount over in each year to the authority in accordance with rules made by the Treasury.

(4) The holder of a licence paying a charge under this section may, notwithstanding any agreement to the contrary, make a deduction from rent equal either to the percentage of the charge specified in Schedule 4 to this Act or to one half of the rent, whichever is the less ; and a person receiving rent from which a deduction has been made under this subsection may make the same deduction from rent payable by him.

(5) The compensation authority shall pay the moneys received by them on account of charges under this section, or received by them from any other source for the payment of compensation under this Act, into a separate account under their management, in this Act referred to as the " compensation fund " .

(6) The compensation authority shall pay out of the compensation fund—

- (a) the expenses of the authority in paying compensation under this Act or incurred otherwise by them in the exercise of their functions as compensation authority ;

## PART I

(b) such expenses of the licensing justices incurred in referring to the authority any question of the renewal, transfer or special removal of old on-licences as the compensation authority may allow;

(c) such expenses of the licensing justices incurred in the grant of new justices' on-licences as the compensation authority may allow;

and the compensation authority in the exercise of their powers shall have regard to the funds available for the purpose.

(7) The compensation authority may, with the consent of the Secretary of State, borrow on the security of the compensation fund for the purpose of paying any compensation under this Act.

Provisions applicable to purchase under certain statutory powers of premises to which old on-licence is attached.

18.—(1) Subject to section 125(1) of this Act, where land purchased under Part III of the Housing Act 1957, Part IV of the Town and Country Planning Act 1947, or Part V of the Town and Country Planning Act 1962 comprises premises for which an old on-licence is in force, the following provisions shall have effect:—

(a) a purchasing authority, before purchasing the premises, may undertake that if renewal of the licence is refused they will pay to the compensation authority towards the compensation payable on the refusal under this Part of this Act such contribution as may be specified in the undertaking; and any sum payable by the purchasing authority in pursuance of such an undertaking shall be treated as part of their expenses in purchasing the land;

(b) if, after purchasing or contracting to purchase the premises, the purchasing authority intimate to the licensing justices that they are willing to surrender the licence, the licensing justices may refer the matter to the compensation authority; and that authority, on being satisfied that they might properly under section 13 of this Act have refused to renew the licence, if not surrendered, shall contribute out of the compensation fund towards the compensation paid by the purchasing authority for the purchase of the premises a sum not exceeding the compensation that would have been payable under this Part of this Act on refusal to renew the licence.

(2) In this section "purchasing authority" means a local authority purchasing under Part III of the Housing Act 1957 or a Minister, local authority or any statutory undertakers purchasing under Part V of the Town and Country Planning Act 1962 and, in subsection (1)(b), includes a Minister, local authority or statutory undertakers having purchased under Part IV of the Town and Country Planning Act 1947.

**Control of licensing justices over structure of licensed premises** PART I

**19.—**(1) On an application for the renewal of a justices' on-licence the licensing justices may require a plan of the premises to be produced to them and deposited with their clerk, and on renewing such a licence the licensing justices may order that, within a time fixed by the order, such structural alterations shall be made in the part of the premises where intoxicating liquor is sold or consumed as they think reasonably necessary to secure the proper conduct of the business.

Power to require structural alterations on renewal of on-licence.

(2) The clerk to the licensing justices shall serve on the registered owner of the premises notice of any order made under this section.

(3) Where an order under this section is complied with, licensing justices shall not make a further order under this section within the five years following the first-mentioned order.

(4) If the holder of the licence makes default in complying with an order under this section he shall be guilty of an offence; and he shall be guilty of a further offence for every day on which the default continues after the expiration of the time fixed by the order.

(5) A person guilty of an offence under this section shall be liable to a fine not exceeding twenty shillings.

(6) The preceding provisions of this section shall apply in relation to a transfer whereby the duration of the licence is extended as they apply in relation to a renewal.

**20.—**(1) No alteration shall be made to premises for which a justices' on-licence is in force if the alteration—

Consent required for certain alterations to on-licensed premises.

- (a) gives increased facilities for drinking in a public or common part of the premises; or
- (b) conceals from observation a public or common part of the premises used for drinking; or
- (c) affects the communication between the public part of the premises where intoxicating liquor is sold and the remainder of the premises or any street or other public way;

unless the licensing justices have consented to the alteration or the alteration is required by order of some lawful authority.

(2) Before considering an application for their consent under this section, the licensing justices may require plans of the proposed alteration to be deposited with their clerk at such time as they may determine.

(3) If subsection (1) of this section is contravened, a magistrates' court may by order on complaint declare the licence to

## PART I

be forfeited or direct that within a time fixed by the order the premises shall be restored to their original condition.

(4) The clerk of the court that makes an order under subsection (3) of this section shall, if he is not the clerk to the licensing justices, serve notice of the order on the clerk to the licensing justices; and the clerk to the licensing justices shall serve notice of the order on the registered owner of the premises.

(5) A person aggrieved by an order under subsection (3) of this section may appeal to a court of quarter sessions.

(6) In this section—

- (a) “public part” means a part open to customers who are not residents or guests of residents; and
- (b) “common part” means a part open generally to all residents or to a particular class of them.

*Appeals*

## Appeals.

**21.**—(1) Subject to subsection (2) of this section, any person aggrieved by any of the following decisions of licensing justices, that is to say—

- (a) a decision granting or refusing to grant a new justices’ licence or an ordinary removal of a justices’ licence;
  - (b) a decision refusing the renewal, transfer or special removal of a justices’ licence;
  - (c) a refusal to declare a provisional grant final or to affirm a provisional grant or to give consent, on the application of the holder of a provisional licence, to a modification of plans;
  - (d) the making of an order under section 19 of this Act;
  - (e) the refusal of a consent required under section 20 of this Act; or
  - (f) any decision as to the conditions of a justices’ on-licence;
- may appeal to quarter sessions against that decision.

(2) A person may not appeal against the grant of a justices’ licence unless he has appeared before the licensing justices and opposed the grant; and no person may appeal against a refusal to attach conditions to a licence or to vary or revoke conditions previously attached, except the person (if any) whose application or request is required for the justices to have jurisdiction to attach or to vary or revoke the conditions.

(3) The quarter sessions having jurisdiction to hear an appeal under subsection (1) of this section shall be the quarter sessions for the county in which the premises (that is to say, in the case of a removal, the premises to which the licence is to be removed)

are situated or, if they are situated in a county borough, the quarter sessions for the county in which the borough is deemed to be situated; except that an appeal under paragraph (d) or paragraph (e) of that subsection may, if the premises are situated in a borough having a separate court of quarter sessions, be made either to the quarter sessions for the said county or to the quarter sessions for the borough.

In this subsection "county" includes the City of London.

**22.**—(1) An appeal under section 21 of this Act shall be commenced by notice of appeal given by the appellant to the clerk to the licensing justices within fourteen days after the decision appealed against. Procedural provisions as to appeals.

(2) On an appeal against the grant of a justices' licence the applicant for the licence and not the licensing justices shall be respondent, and notice of appeal must be given to him as well as to the clerk to the licensing justices.

(3) On an appeal against a refusal to grant a justices' licence, or against a decision as to conditions given on the grant of a justices' licence, any person who appeared before the licensing justices and opposed the grant shall be respondent in addition to the licensing justices; but no order for costs shall be made by virtue of this subsection against any person unless he appears at the hearing of the appeal and opposes the appeal.

(4) On any appeal under section 21 of this Act the clerk to the licensing justices shall transmit the notice of appeal to the clerk of the peace, and the appeal shall be entered and notice thereof given by the clerk of the peace, as in a case where the justices' clerk is required to transmit the notice of an appeal from a magistrates' court; and section 85(2) of the Magistrates' Courts Act 1952 shall apply accordingly with respect to the abandonment of the appeal.

(5) Where a person appears before licensing justices and opposes the grant of a justices' licence, his name and address shall be recorded by the clerk to the licensing justices and, in the event of an appeal against a refusal of the grant or against a decision as to conditions given on the grant, shall be transmitted to the clerk of the peace with the notice of appeal.

(6) Where the same application to licensing justices gives rise to more than one appeal to quarter sessions, quarter sessions may give such directions as they think fit for the appeals to be heard together or separately, and where two or more appeals are heard together, quarter sessions may deal with the costs of the appeals, so far as those costs are in their discretion, as if they were a single appeal.

## PART I

(7) A justice shall not act in the hearing or determination of an appeal under section 21 of this Act from any decision in which he took part.

Powers of  
quarter  
sessions  
on appeals.

**23.—**(1) On an appeal under section 21 of this Act quarter sessions may by their order confirm or reverse the decision appealed against and make any grant in the same way as the licensing justices might have done or, as the case may be, make any order which the licensing justices might have made under section 19 of this Act.

(2) Where on any such appeal quarter sessions grant or confirm the grant of a licence or where such an appeal is against a decision as to the conditions of a licence, quarter sessions may by their order make any provision as to the attachment of conditions which the licensing justices might have made.

(3) The judgment of quarter sessions on any such appeal shall be final.

Award of  
costs against  
appellant.

**24.—**(1) Subject to subsection (2) of this section, on determining an appeal under section 21 of this Act the court of quarter sessions may make such order for costs as it thinks fit.

(2) If such an appeal, other than an appeal against the grant of a justices' licence, is dismissed the court shall order the appellant to pay to the justices against whose decision he has appealed, or such person as those justices may appoint, such sum by way of costs as is in the opinion of the court sufficient to indemnify the justices from all costs and charges whatever to which they have been put in consequence of his having served notice of appeal.

(3) Where a court of quarter sessions is satisfied that the appellant, after giving notice of appeal to the court, has failed to prosecute the appeal, the court shall make an order under the preceding subsection as if the appeal had been dismissed.

(4) Costs ordered to be paid under this section shall be recoverable summarily as a civil debt.

Award of  
costs of  
licensing  
justices  
out of local  
funds.

**25.—**(1) Where—

- (a) an appeal under section 21 of this Act, other than an appeal against the grant of a justices' licence, is allowed, or
- (b) quarter sessions have, under section 24(2) of this Act, awarded costs against the appellant and are satisfied



that the licensing justices cannot recover those costs from him,

the court shall order payment out of local funds of such sums as appear to the court sufficient to indemnify the licensing justices from all costs and charges whatever to which they have been put in consequence of the appellant's notice of appeal.

(2) Costs payable out of local funds under this section shall be paid—

- (a) if the licensing district for which the licensing justices acted is a borough having a separate court of quarter sessions, out of the general rate fund of the borough ; and
- (b) in any other case, out of the county fund of the county in which the licensing district is situated.

(3) Sections 8(1) and 11(1) of the Costs in Criminal Cases Act 1952 (which make provision for the payment out of local funds of costs ordered to be paid under that Act) shall apply to costs ordered to be paid under this section as if any reference therein to a county borough were a reference to a borough having a separate court of quarter sessions.

(4) An order of a court of quarter sessions under this section may be made either at the sessions at which the appeal is heard, or at which it would have been heard if the appeal had been prosecuted or at the next following sessions ; and the costs may be taxed either in or out of sessions.

#### *Duration of Licences*

26.—(1) Subject to the following provisions of this section and to sections 27, 133(3) and 142(3) of this Act, a justices' licence—

- (a) shall be granted to have effect from the time of the grant until the end of the licensing year or, if it is granted in the last three months of a licensing year, until the end of the following licensing year ; but
- (b) shall be superseded on the coming into force of a licence granted by way of renewal, transfer or removal of it.

(2) A justices' licence granted by way of transfer or removal may be granted to have effect from a time specified in the grant (not being earlier, where it is granted before the coming into force of the licence transferred or removed, than the time of the coming into force of that licence).

(3) In the case of a licence granted provisionally, subsection (1) of this section shall apply as if the licence were granted

## PART I

at the time when it is declared final, but a transfer of such a licence may be granted so as to have effect for the purpose of superseding that licence from a date before it is declared final, and, if so granted, shall as regards its duration and coming into force be subject to the same provisions as if it were the licence transferred.

(4) Where on the renewal or transfer of a licence the licensing justices attach new conditions (whether in addition to or in substitution for any conditions previously attached) the justices may, on such terms as they think just, suspend the operation of those conditions in whole or in part pending the determination of any appeal against the decision to attach them or pending the consideration of the question of bringing such an appeal.

(5) In this section "licensing year" means the twelve months beginning with 5th April in any year.

Effect on  
duration of  
opposition to  
grant of  
licence.

**27.**—(1) The provisions of this section shall have effect where on an application to licensing justices for the grant of a new justices' licence, or for the grant of a licence by way of ordinary removal of a justices' licence, a person appears before the licensing justices and opposes the grant, but the justices grant the licence.

(2) Until the expiry of the time for bringing an appeal against the grant and, if such an appeal is brought, until the appeal has been disposed of,—

(a) the licence granted shall not come into force ;

(b) where the grant is by way of ordinary removal and the licence which it is sought to remove is in force at the time of the grant, the licence shall not expire unless the licensing justices otherwise direct.

(3) If on appeal the grant is confirmed or if the appeal is abandoned, the time when the appeal is disposed of shall be substituted for the time of the grant for the purpose of determining the period for which the licence is to have effect, and quarter sessions shall (if need be) amend the licence accordingly.

(4) If there is an appeal against the grant of an ordinary removal, and the licence which it is sought to remove is in force on the day when notice of appeal is given to the applicant for the removal, then—

(a) he may within seven days of that day give notice in writing to the clerk of the peace of his desire that the expiry of that licence shall be postponed for a specified period (not exceeding three weeks) after the

appeal is disposed of, and if he does so, subsection (2) of this section shall apply until the expiry of that period ;

- (b) whether or not he gives such a notice, quarter sessions, if they confirm the grant and if he so requests, may by their order direct that that subsection shall continue to apply for such further period as they think fit ;
- (c) if quarter sessions refuse to confirm the grant, and at the time of their decision it is too late to renew that licence at the general annual licensing meeting at which it was due for renewal, then—

- (i) the holder of the licence shall be treated as having had reasonable cause for not applying for renewal at that meeting, and the licence may be renewed at transfer sessions accordingly ; and

- (ii) if notice has been given under paragraph (a) of this subsection, and within the period for which the licence is continued in force by that paragraph notice is given to the clerk to the licensing justices of an application for the renewal of the licence at the first licensing sessions held not less than twenty-one days after the notice is given, the licence shall not expire until the application is disposed of or those sessions end without its being made.

#### *Clerk to licensing justices and fees*

**28.**—(1) The clerk to the justices acting for a petty sessions area shall be clerk to the licensing justices for the licensing district consisting of that area. Clerk to licensing justices.

(2) Section 118 (2) of the Magistrates' Courts Act 1952 (which provides for the case where there is more than one clerk to the justices for a petty sessions area) shall apply for the purposes of subsection (1) of this section as it applies for the purposes of that Act.

(3) A clerk to licensing justices shall not himself or by his partner or clerk act as solicitor to, or agent for, any person—

- (a) at any licensing sessions ; or

- (b) before justices of the peace in proceedings under this Act, the Licensing Act 1872, or the Licensing Act 1902 ;

and any person who contravenes this subsection shall be liable to a fine not exceeding one hundred pounds.

## PART I

(4) Where the clerk to licensing justices for any district was appointed before 1st April 1953, nothing in the preceding subsection shall prohibit him from acting at a licensing sessions for another licensing district or before justices acting for a petty sessions area other than that licensing district, or from preparing notices or forms.

Fees chargeable in licensing matters.

29.—(1) Subject to subsection (3) of this section, there may be charged by justices' clerks in respect of matters arising under this Act such fees as may be provided for by order of the Secretary of State and no others.

(2) This section shall apply to the fees chargeable in any stipendiary magistrate's court, and to those chargeable by a justices' clerk acting as clerk to licensing justices or in any other capacity, as it applies to fees chargeable by a justices' clerk acting as such.

(3) This section shall not affect the court fees chargeable (under the Magistrates' Courts Act, 1952 or otherwise) in connection with prosecutions or with the enforcement of orders of a magistrates' court, nor the fees chargeable by a justices' clerk acting as secretary to a licensing planning committee.

(4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Register of Licences*

Register of licences.

30.—(1) The clerk to the licensing justices for a licensing district shall keep a register of licences in such form as the justices may prescribe, containing particulars of all justices' licences granted in the district, the premises for which they were granted, the names of the owners of those premises, and the names of the holders of the licences.

(2) If in any licensing district there are more persons than one holding the office of clerk to the licensing justices, the licensing justices shall determine which of those persons shall keep the register of licences.

(3) Licensing justices may cause a register of licences to be divided into parts and assign a part of the register to any part of their licensing district.

(4) A register of licences shall be received in evidence of the matters required by this or any other Act to be entered in it, and any document purporting to be certified by a clerk to licensing justices to be a true copy of an entry in the register of licences kept by him shall be received in evidence of any such matters contained in the entry.

**31.**—(1) The clerk to the licensing justices shall enter in the register of licences, in such form as may be prescribed by the Secretary of State, notice of any conviction of the holder of a justices' licence of an offence committed by him as such, including an offence against the provisions of any Act relating to the adulteration of drink; and the clerk of the court before whom the holder of a justices' licence is so convicted shall, if he is not the clerk to the licensing justices, forthwith send notice of the conviction to that clerk.

**PART I**  
Convictions, forfeitures and disqualifications to be entered in register.

(2) The clerk to the licensing justices shall enter in the register of licences any forfeiture of a justices' licence granted in the licensing district, any disqualification of premises under any enactment and any other matter relating to the licences in the register.

(3) The provisions of this and the preceding section shall be in addition to those of any other enactment requiring entries to be made in the register of licences.

**32.**—(1) Every person applying for a new justices' licence, or the renewal of a justices' licence, shall state the name of the person for the time being entitled to receive, either on his own account or as mortgagee or other incumbrancer in possession, the rack-rent of the premises for which the licence is granted; and the clerk to the licensing justices shall enter that name in the register of licences as the name of an owner of the premises, and endorse the name on the licence.

Registration of owner, etc.

(2) The clerk to the licensing justices shall also, on the application of any person whose name is not entered under the preceding subsection, and who has an estate or interest in the premises, whether as owner, lessee or mortgagee, prior or paramount to that of the occupier, enter that person's name in the register of licences as an owner of the premises.

Where any such estate or interest is vested in two or more persons jointly, one only of those persons shall be registered as representing that estate or interest.

(3) Any reference in this Act to the registered owner of premises shall be construed as a reference to any person whose name is for the time being entered in the register of licences under this section.

**33.**—(1) Where the conviction of the holder of a justices' licence is entered in the register of licences under section 31(1) of this Act, the clerk to the licensing justices shall serve notice of the conviction on the registered owner of the premises.

Notice of conviction of licence holder to be given to registered owner.

(2) A notice served under subsection (1) of this section shall, if served by post, be served by registered post or recorded delivery service; and for the purposes of section 26 of the Inter-

## PART I

pretation Act 1889 a letter containing the notice shall be deemed to be properly addressed if it is addressed to any place that the owner has specified to the clerk as his address, or, if the owner has not specified any place, to any place that the clerk believes to be the owner's address.

(3) Where the conviction of the holder of a justices' licence involves the disqualification of the licensed premises, the court before which the conviction takes place shall cause notice of the disqualification to be served on any registered owner of the premises who is not the occupier.

Inspection  
of register.

**34.**—(1) The following persons shall be entitled at any reasonable time to inspect the register of licences for a licensing district on payment of the fee chargeable, that is to say—

- (a) any person rated in respect of a hereditament in the district ;
- (b) any owner of licensed premises situated in the district ;
- (c) any holder of a justices' licence granted in the district.

(2) Any constable or any officer of Customs and Excise shall, without payment, be entitled at any reasonable time to inspect the register of licences.

(3) If the clerk to the licensing justices or any other person refuses inspection of the register of licences under this section or obstructs any person attempting to inspect the register under this section or receives or demands any unauthorised charge for permitting the register to be inspected under this section, he shall be liable to a fine not exceeding five pounds.

Duty of  
licensing  
justices to  
have regard  
to entries in  
register.

**35.** On an application for the grant of a justices' licence the licensing justices shall have regard to any entries in the register of licences relating to the person by whom, or the premises for which, the licence is to be held.

#### *Miscellaneous*

Proof of  
justices'  
licence and  
provisions  
as to forgery  
thereof.

**36.**—(1) Any document purporting to be a justices' licence and—

- (a) to be signed by the majority of the justices present when the licence was granted, or
- (b) to be sealed or stamped with an official seal or stamp affixed or impressed under the authority of the licensing justices and to contain a certificate signed by the clerk to the licensing justices verifying that authority,

shall be received in evidence.

(2) Any document purporting to be a copy of a justices' licence certified under the hand of the clerk to the licensing justices by whom the licence was granted to be a true copy shall be received in evidence—

- (a) by licensing justices on an application for the renewal, transfer or removal of the licence, and
- (b) by justices of the peace on an application for a protection order,

if the justices are satisfied by evidence that the original has been lost or unlawfully withheld.

(3) If any person forges a justices' licence or tenders a justices' licence knowing it to have been forged, he shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding twenty pounds.

(4) Any excise licence granted in pursuance of a forged justices' licence shall be void.

**37.**—(1) Subject to sections 112(4) and 123(3) of this Act, on an application by the holder of a justices' on-licence, or on the renewal or transfer of a justices' on-licence and at the request of the person applying for the renewal or transfer, the licensing justices, if satisfied that the application or request is made with the consent of the registered owner, shall vary the licence so as to add to the descriptions of intoxicating liquor authorised to be sold on the licensed premises. Power to extend existing on-licence to additional types of liquor.

(2) On the variation of a licence under this section the licensing justices shall have the like power to attach conditions as they would have if they were granting the licence (with the variation) as a new justices' on-licence, and any conditions attached may be in addition to or in substitution for any conditions previously attached to the licence.

**38.** The Secretary of State may make rules for carrying into effect the provisions of this Act about the renewal, transfer or removal of old on-licences and the payment of compensation for not renewing, transferring or removing such licences and about the attachment of conditions to new justices' on-licences, and may by those rules among other things— Rules.

- (a) provide for the provisional renewal, transfer or removal of old on-licences which are referred by the licensing justices to the compensation authority under section 13 of this Act, and for consultation between the compensation authority and the licensing justices on the reports of the justices thereon, and for the time and manner of the consideration of those reports and for the time and manner of the payment of compensation, and

## PART I

- (b) provide for the manner in which the compensation authority may borrow on the security of the compensation fund, and
- (c) provide for the enforcement of any security given for money borrowed by the compensation authority, and for the time, not exceeding fifteen years, within which money borrowed is to be repaid, and
- (d) regulate the management and application of the compensation fund and the audit of the accounts of the compensation authority, and
- (e) provide for the constitution, where requisite, of committees of quarter sessions as standing committees, and for the employment of officers for the purposes of the provisions of this Act authorising the reference to the compensation authority of the question of the renewal, transfer or removal of old on-licences and the payment of compensation on refusal to renew, transfer or remove such licences, and authorising the attachment of conditions to new justices' licences, and
- (f) regulate the procedure of the compensation authority on the consideration of the reports of licensing justices under the said section 13 and on any hearing under this Act for the purpose of determining whether to renew, transfer or remove an old on-licence or the amount or division of the compensation payable on refusal to renew, transfer or remove, and
- (g) provide for the authentication of any documents on behalf of compensation authorities.

## PART II

## SALE AND SUPPLY OF INTOXICATING LIQUOR IN CLUB PREMISES

*Conditions for supply of intoxicating liquor by clubs*

Conditions  
for supply of  
intoxicating  
liquor by  
clubs.

**39.**—(1) No intoxicating liquor shall on any club premises be supplied by or on behalf of the club to a member or guest, unless the club is registered under this Act in respect of those premises or the liquor is supplied under the authority of a justices' licence held by the club for the premises.

(2) No intoxicating liquor shall, on any premises in respect of which a club is registered, be supplied by or on behalf of the club for consumption off the premises except to a member in person.

(3) Intoxicating liquor shall not be supplied by or on behalf of a registered club to a member or guest except at premises



in respect of which the club is registered or at any premises or place which the club is using on a special occasion for the accommodation of members and to which persons other than members and their guests are not permitted access; and at any premises or place other than premises in respect of which the club is registered intoxicating liquor shall be so supplied only for consumption in the premises or place.

(4) A person supplying or authorising the supply of intoxicating liquor in contravention of subsection (1) of this section shall be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred pounds, or to both; and a person supplying or obtaining intoxicating liquor in contravention of subsection (2) or subsection (3) of this section shall be liable to a fine not exceeding ten pounds.

(5) If intoxicating liquor is kept in any premises or place by or on behalf of a club for supply to members or their guests in contravention of this section, every officer of the club shall be liable to a fine not exceeding ten pounds, unless he shows that it was so kept without his knowledge or consent.

(6) In this Act "club premises" means premises which are occupied by and habitually used for the purposes of a club.

### *Registered clubs*

40.—(1) A club is registered, within the meaning of this Act, in respect of any premises if and so long as it holds for those premises a certificate under this Part of this Act of a magistrates' court (in this Act referred to as a registration certificate).

(2) Subject to the provisions of this section and of section 50(4) of this Act, a registration certificate shall have effect for twelve months, but may be from time to time renewed, and may at any time be surrendered by the club.

(3) Any renewal of a registration certificate shall be for one year from the expiry of the period for which the certificate was issued or last renewed, except that on the second or any subsequent renewal the certificate may, if the court thinks fit, be renewed for such number of years, not exceeding ten, from the expiry of that period as may be requested in the application for renewal or for any less number of years.

(4) An application by a club for the issue or renewal of a registration certificate shall be made to a magistrates' court and shall comply with the requirements of Schedule 5 to this Act; and the provisions of Schedule 6 to this Act shall have effect as regards the procedure for registration and related matters.

## PART II

(5) Where an application for the renewal of a registration certificate is made not less than twenty-eight days before the certificate is due to expire, the certificate shall continue in force until the application is disposed of by the magistrates' court or the court otherwise orders under paragraph 10 of Schedule 6 to this Act.

(6) Where an application is duly made in accordance with this Part of this Act for the issue or renewal of a registration certificate, the magistrates' court shall not, in the absence of an objection duly made in accordance with this Part of this Act, refuse the application except as provided by the following provisions of this Part of this Act; and a magistrates' court shall state in writing the grounds of any refusal to issue or renew a registration certificate.

Qualifications  
for  
registration.

**41.—(1)** A club shall only be qualified to receive a registration certificate (whether in the first instance or by way of renewal), if under the rules of the club—

- (a) persons may not be admitted to membership or be admitted as candidates for membership to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission; and
- (b) persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.

(2) A club shall be qualified to receive a registration certificate for any premises (whether in the first instance or by way of renewal), only if—

- (a) it is established and conducted in good faith as a club and has not less than twenty-five members; and
- (b) intoxicating liquor is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club; and
- (c) the purchase for the club, and the supply by the club of intoxicating liquor (so far as not managed by the club in general meeting or otherwise by the general body of members) is managed by an elective committee, as defined in Schedule 7 to this Act; and
- (d) no arrangements are or are intended to be made—
  - (i) for any person to receive at the expense of the club any commission, percentage or similar payment on or with reference to purchases of intoxicating liquor by the club; or

(ii) for any person directly or indirectly to derive any pecuniary benefit from the supply of intoxicating liquor by or on behalf of the club to members or guests, apart from any benefit accruing to the club as a whole and apart also from any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

(3) Subject to subsection (4) of this section, in determining whether a club is established and conducted in good faith as a club a magistrates' court may have regard—

- (a) to any arrangement restricting the club's freedom of purchase of intoxicating liquor ; and
- (b) to any provision in the rules, or arrangement, under which money or property of the club, or any gain arising from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes ; and
- (c) to the arrangements for giving members proper information as to the finances of the club, and to the books of account and other records kept to ensure the accuracy of that information ; and
- (d) to the nature of the premises occupied by the club.

(4) Subject to section 49(2) of this Act, where the rules of a club applying for the issue or renewal of a registration certificate conform with Schedule 7 to this Act, the court shall assume, as regards any matters not raised by an objection duly made in accordance with this Part of this Act, that the club satisfies the conditions of paragraphs (a) to (c) of subsection (2) of this section and, in the case of a renewal, also the conditions of paragraph (d) of that subsection, except that the court may, if it sees fit, inquire whether there is any such arrangement or provision in the rules as is referred to in paragraph (a) or (b) of subsection (3) of this section, and, if so, whether it is such that the club ought not to be treated as established and conducted in good faith as a club.

**42.**—(1) In the case of a club which is a registered society within the meaning of the Industrial and Provident Societies Act 1893 or the Friendly Societies Act 1896—

- (a) any requirement of paragraph (c) of subsection (2) of section 41 of this Act that a matter shall be managed by an elective committee shall be treated as satisfied so long as the matter is under the control of the members or of a committee appointed by the members

Modification of registration qualifications for certain clubs.

## PART II

(and references in this Act to that subsection shall be taken as referring to it as modified by this paragraph); and

- (b) the rules of the club shall be treated as conforming with Schedule 7 to this Act so long as they conform with that Schedule as regards voting at general meetings and as regards election or admission to membership.

(2) Where the rules of a club make provision for a class of members to have limited rights or no rights of voting in relation to the affairs of the club, any question whether the requirements of the said paragraph (c) are satisfied in relation to the club, or whether the rules of the club conform with Schedule 7 to this Act shall, if the court determining the question so directs, be determined as if the exclusion of that class from voting to the extent provided for by the rules were authorised by the provisions of that Schedule as to voting at general meetings or elections; but the court shall not so direct unless satisfied that the provision so made by the rules is part of a bona fide arrangement made in the interests of the club as a whole and of that class of members for facilitating the membership of persons who are precluded by distance or other circumstances from making full use of the privileges of membership, and is not designed to secure for a minority of the members an unfair measure of control over the affairs of the club.

Disqualification for and refusal of registration certificate.

**43.—**(1) A registration certificate shall not be issued or renewed, nor have effect, for premises disqualified by an order under section 47 of this Act for use for the purposes of a registered club, nor for licensed premises, nor for premises which include or form part of premises so disqualified or licensed premises; but this subsection does not prevent the issue or renewal for any premises of a registration certificate to take effect on their ceasing to be, include or form part of premises so disqualified or licensed premises.

(2) A magistrates' court may refuse an application for the issue or renewal of a registration certificate, if it is proved that a person who, if a certificate is granted, will or is likely to take any active part in the management of the club during the currency of the certificate, is not a fit person, in view of his known character as proved to the court, to be concerned in the management of a registered club.

(3) A magistrates' court may refuse an application for the issue or renewal of a registration certificate—

- (a) if the premises or any premises including or forming part of them have been licensed premises within the twelve months preceding the making of the application

but have ceased to be licensed premises by the forfeiture of the licence or by the refusal of an application to renew it ; or

- (b) if the club has other club premises which are licensed premises and the court is of opinion that the issue or renewal of the registration certificate is likely to give occasion for abuse by reason of any difference in the permitted hours in the premises or otherwise.

44.—(1) Objection to an application for the issue or renewal of a registration certificate for any premises may be made by the chief officer of police, by the local authority or by any person affected by reason of his occupation of or interest in other premises, and may be made on any one or more of the following grounds, that is to say—

Objections to and cancellation of registration certificate.

- (a) that the application does not give the information required by this Part of this Act, or the information is incomplete or inaccurate, or the application is otherwise not in conformity with this Part of this Act ;
- (b) that the premises are not suitable and convenient for the purpose in view of their character and condition and of the size and nature of the club ;
- (c) that the club does not satisfy the conditions of subsections (1) and (2) of section 41 of this Act, or that the application must or ought to be refused under section 43 of this Act ;
- (d) that the club is conducted in a disorderly manner or for an unlawful purpose, or that the rules of the club are habitually disregarded as respects the admission of persons to membership or to the privileges of membership or in any other material respect ;
- (e) that the club premises or any of them (including premises in respect of which the club is not registered or seeking registration) are habitually used for an unlawful purpose, or for indecent displays, or as a resort of criminals or prostitutes, or that in any such premises there is frequent drunkenness, or there have within the preceding twelve months been illegal sales of intoxicating liquor, or persons not qualified to be supplied with intoxicating liquor there are habitually admitted for the purpose of obtaining it ;

and the court, if satisfied that the ground of objection is made out, may refuse the application and, in the case of an objection made on any of the grounds mentioned in paragraphs (a) to (c) of this subsection, shall do so unless in the case of an objection made on the ground mentioned in paragraph (b) the court thinks it reasonable not to, having regard to any steps taken or proposed to be taken to remove the ground of objection.

## PART II

(2) A complaint against a club for the cancellation of a registration certificate held by the club for any premises may be made in writing to a magistrates' court by the chief officer of police or by the local authority, and may be made on any ground on which objection might be made under paragraph (c), (d) or (e) of the preceding subsection to an application for the renewal of the certificate; and the court, if satisfied that on such an objection the application for renewal must or ought to be refused on that ground, shall cancel the certificate.

Inspection  
of premises  
before first  
registration.

45.—(1) Where a club applies for the issue of a registration certificate in respect of any premises, an officer of the local authority authorised in writing by that authority may, on giving not less than forty-eight hours' notice to the person signing the application and, if the premises are not occupied by the club, to the occupier, and on production of his authority, enter and inspect the premises at any reasonable time on such day, not more than fourteen days after the making of the application, as may be specified in the notice; and a constable authorised in writing by the chief officer of police shall have the like right to enter and inspect the premises, but a chief officer of police shall not so authorise a constable unless in his opinion special reasons exist making it necessary that the premises should be inspected for the proper discharge of his functions in relation to the registration of clubs.

(2) Any person obstructing a constable or officer of a local authority in the exercise of the power conferred by this section shall be liable to a fine not exceeding five pounds.

(3) If on an application by the chief officer of police or by the local authority it is made to appear to a magistrates' court that, after reasonable steps had been taken by and on behalf of the applicant to inspect the premises in good time under subsection (1) of this section, it was not possible to do so within the time allowed, the court may extend the time allowed.

(4) Where a club applies for the renewal of a registration certificate in respect of different, additional or enlarged premises, the foregoing subsections shall have effect as if the application were, so far as relates to those premises, an application for the issue of a registration certificate.

Rights of fire  
authorities in  
connection  
with  
registration  
of clubs.

46.—(1) As regards any matter affecting fire risks the local authority, if they are the fire authority, shall have the like rights in relation to the inspection of premises under section 45 of this Act on any application for the renewal of a registration certificate for the premises as they have in the case of an application for the issue of a certificate.

(2) Where the local authority is not the fire authority, the clerk to the justices shall as soon as may be give the fire authority written notice of the making of an application for the issue or renewal of a registration certificate for any premises.

(3) As regards any matter affecting fire risks a fire authority other than the local authority shall have the like rights—

(a) in relation to the inspection of premises under section 45 of this Act, and

(b) in relation to the making of objections, on the ground mentioned in paragraph (b) of section 44(1) of this Act, to the issue or renewal of a registration certificate, as the authority would have if they were the local authority.

(4) In this section “fire authority” means, in relation to any premises, the authority discharging in the area where the premises are situated the functions of fire authority under the Fire Services Act 1947.

47.—(1) Subject to the following provisions of this section, where a club is registered in respect of any premises, and a magistrates’ court cancels or refuses to renew the registration certificate for those premises on any ground mentioned in paragraph (c), (d) or (e) of section 44(1) of this Act, the court may order that, for a period specified in the order, the premises shall not be occupied and used for the purposes of any registered club. Power to order disqualification of premises.

(2) The period specified in an order under this section shall not exceed one year unless the premises have been subject to a previous order under this section or to a similar order under any previous enactment about clubs, and shall not in any case exceed five years.

(3) At any time while an order under this section is in force, a magistrates’ court, on complaint made by any person affected by the order, may revoke the order or vary it by reducing the period of disqualification specified in it.

(4) Any summons granted on a complaint under subsection (3) of this section for the revocation or variation of an order as respect any premises shall be served on the chief officer of police and on the local authority.

(5) The foregoing provisions of this section do not apply where the premises in respect of which the club is registered are situated in the city of Oxford and the club is mainly composed of past or present members of the University of Oxford.

PART II  
Notification  
of alteration  
in rules of  
registered  
club.

**48.—(1)** Where any alteration is made in the rules of a club registered in respect of any premises, the secretary of the club shall give written notice of the alteration to the chief officer of police and to the clerk of the local authority.

(2) If the notice required by this section is not given within twenty-eight days of the alteration, the secretary shall be liable to a fine not exceeding ten pounds.

(3) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, proceedings under this section for failing to give notice of an alteration of rules may be brought at any time within the twelve months following the date on which the alteration is made.

Sale of  
intoxicating  
liquor by  
registered  
clubs.

**49.—(1)** Notwithstanding anything in any enactment, where a club is registered in respect of any premises, and the rules of the club provide for the admission to the premises of persons other than members and their guests and for the sale of intoxicating liquor to them by or on behalf of the club for consumption on the premises, then subject to the following provisions of this section the authority of a licence shall not be required for such a sale, and intoxicating liquor may be supplied to those persons and their guests for consumption on the premises as it may to members and their guests.

(2) In determining for the purposes of this Part of this Act whether a club is established and conducted in good faith as a club, a magistrates' court may, notwithstanding anything in subsection (4) of section 41 of this Act, have regard to any provision made by the rules for the sale of intoxicating liquor by or on behalf of the club, and to the use made or intended to be made of any such provision; and paragraphs (c) and (d)(ii) of subsection (2) of that section shall apply in relation to the sale of intoxicating liquor by or on behalf of a club as they apply in relation to its supply to members of the club.

(3) Subject to subsection (4) of this section, a magistrates' court, on the issue or renewal of a registration certificate for any premises, may attach to the certificate such conditions restricting sales of intoxicating liquor on those premises as the court thinks reasonable (including conditions forbidding or restricting any alteration of the rules of the club so as to authorise sales not authorised at the time of the application to the court), and subsection (1) of this section shall not authorise a sale in breach of any such condition.

(4) No condition shall be attached to a registration certificate under subsection (3) of this section so as to prevent the sale of intoxicating liquor to a person admitted to the premises as being a member of another club, if—

(a) the other club is registered in respect of premises in the locality which are temporarily closed; or



- (b) both clubs exist for learned, educational or political objects of a similar nature ; or
- (c) each of the clubs is primarily a club for persons who are qualified by service or past service, or by any particular service or past service, in Her Majesty's forces and are members of an organisation established by Royal Charter and consisting wholly or mainly of such persons ; or
- (d) each of the clubs is a working men's club (that is to say, a club which is, as regards its purposes, qualified for registration as a working men's club under the Friendly Societies Act 1896 and is a registered society within the meaning of that Act or of the Industrial and Provident Societies Act 1893).

(5) A registration certificate may, at the time of its renewal, or on the application of the club, or on complaint in writing made against the club by the chief officer of police or the local authority, be varied by imposing, varying or revoking any conditions authorised by subsection (3) of this section.

(6) At the hearing of an application for the issue or renewal of a registration certificate, or of an application by a club under subsection (5) of this section, the chief officer of police or the local authority shall be entitled, on giving written notice of intention to do so, to make representations as to the conditions which ought to be attached to the certificate under this section.

(7) Where the rules of a club registered in respect of any premises are altered so as to authorise at those premises sales of intoxicating liquor not authorised by the rules at the time of the application or last application by the club for the issue or renewal of a registration certificate for those premises, the alteration shall not be effective for the purposes of subsection (1) of this section until notice of it has been given in accordance with section 48 of this Act.

50.—(1) A club may appeal to quarter sessions against any decision of a magistrates' court refusing to issue or renew a registration certificate, or cancelling a registration certificate, or against any decision of a magistrates' court as to the conditions of a registration certificate relating to sales of intoxicating liquor, or against any order of a magistrates' court under section 47 of this Act. Appeal to quarter sessions.

(2) Where the decision appealed against relates to two or more premises, the appeal may be brought in respect of any of those premises without the others.

## PART II

(3) Where the decision appealed against was given on an application to the magistrates' court by the club, no person shall be made a party to the appeal except a person who appeared before the magistrates' court to make an objection to or representations on the application, but any such person shall be a party to the appeal, whether or not his objection related to the same premises as the appeal.

(4) Where a magistrates' court refuses an application for the renewal of a registration certificate, the court may, on such conditions as it thinks fit, order that the certificate (as in force at the time of the application) shall continue in force pending the determination of an appeal against the refusal, or pending the consideration of the question of bringing such an appeal.

Register  
of clubs.

51.—(1) The clerk to the justices for any petty sessions area shall keep a register of clubs holding registration certificates for premises in the area.

(2) The register shall show for the premises in respect of which a club is registered the hours, if any, fixed as the permitted hours by or under the rules of the club (as notified to the clerk to the justices), and shall contain such other particulars, and shall be in such form, as may be prescribed by regulations of the Secretary of State.

Any regulations under this subsection shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The register shall at all reasonable times be open to inspection on payment of the appropriate fee (if any) by any person, and without payment by any officer of police, by any officer of Customs and Excise, or by any officer of the local authority who is authorised in writing to inspect it on their behalf.

(4) Written notice, signed by the chairman or secretary of the club, shall be given to the clerk to the justices of any change in the particulars of the club which are contained or required to be contained in the register by virtue of regulations under this section; and if the notice required by this subsection is not given within forty-two days of the change, the chairman and secretary shall each be liable to a fine not exceeding fifty pounds.

Provisions as  
to different  
premises of  
same club.

52.—(1) A single registration certificate may relate to any number of premises of the same club, and on an application duly made a registration certificate may, at the time of renewal or otherwise, be varied as regards the premises to which it relates.

(2) Where a variation of a registration certificate would result in the club being registered in respect of different, additional or enlarged premises, and is to be made otherwise than at the time of renewal, the provisions of this Act shall apply as they apply in the case of a renewal, except that the variation shall not extend the duration of the certificate.

(3) Where a club seeks or holds a registration certificate for two or more premises not contiguous to one another, the court on an objection to the issue or renewal of the certificate or complaint for its cancellation may refuse to issue or renew it or may cancel it for some only of the premises, if the ground of objection or complaint relates only to those premises or is only made out for those premises, and the court is of opinion that it is in the circumstances reasonable for the club to be or remain registered in respect of the other premises.

(4) No order shall be made under section 47 of this Act in relation to any premises unless the ground of objection or complaint relates to and is made out for those premises or contiguous premises.

**53.** If an application by a club for the issue or renewal of a registration certificate or for the variation of a registration certificate, or a notice under section 51(4) of this Act, contains any statement known to the person signing it to be false in a material particular, or if a person recklessly signs any such application or notice containing a statement which is false in a material particular, the person signing the application or notice shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both. Penalty for false statements.

**54.** If a justice of the peace is satisfied by information on oath that there is reasonable ground for believing— Search warrants.

- (a) that there is ground for cancelling in whole or in part a registration certificate held by a club, and that evidence of it is to be obtained at the club premises or any of them ; or
- (b) that intoxicating liquor is sold or supplied by or on behalf of a club in club premises for which the club does not hold a registration certificate or a justices' licence, or is kept in any club premises for sale or supply in contravention of this Part of this Act ;

he may issue a search warrant under his hand to a constable authorising him at any time or times within one month from the date of the warrant to enter the club premises, or any of them, by force if need be, and search them and seize any documents relating to the business of the club.

## PART II

*Licensing of club premises*Licensing  
of club  
premises.

**55.—(1)** The authority to sell any intoxicating liquor which is conferred by an excise licence taken out for club premises by the club shall include authority for the club to supply that liquor to or to the order of members, notwithstanding that in law the supply is not and does not involve a sale.

(2) Any excise licence for the sale of intoxicating liquor in club premises which is to be taken out by the club, and any justices' licence for club premises which is to be granted to a club, shall be taken out or granted in the name of an officer of the club nominated for the purpose by or on behalf of the club; and in relation to any premises for which a licence is so taken out or granted—

(a) the rights and obligations of the holder of the licence under the enactments relating to the sale of intoxicating liquor and to licensed premises shall attach to the person in whose name the licence is, and those enactments shall apply as if he were, as holder of the licence, in occupation of the premises; and

(b) for the purposes of those enactments any supply of intoxicating liquor by or on behalf of the club to a member as such or to any person on the order of a member shall be treated as a sale of the liquor to the member, and references to a trade or trader shall apply accordingly.

(3) Where a justices' licence is granted to a club for any club premises, then, notwithstanding that the club is registered in respect of other club premises, section 39(3) of this Act shall not apply to the supply of intoxicating liquor under the authority of the licence.

(4) Where a club is registered in respect of any club premises, and application is made for the grant (whether to the club or to another) of a justices' licence for other club premises of the club, the licensing justices shall not grant the licence unless they are satisfied that the purposes of the licence would not be served by the club being registered in respect of the other premises also and that the grant of the licence is not likely to give occasion for abuse by reason of any difference in the permitted hours in the premises or otherwise.

(5) Where a justices' licence granted for club premises is subject to conditions forbidding or restricting the sale to non-members of intoxicating liquor, the licensing justices may insert in the licence a provision relieving the holder, if and in so far as the justices think appropriate in view of those conditions, from compliance with any provision of this Act which requires

notices to be displayed in or on licensed premises but does not apply to premises in respect of which a club is registered. PART II

(6) Any such conditions as are mentioned in subsection (5) of this section may be attached under section 4(1) of this Act to a new justices' on-licence for club premises, notwithstanding that the licence is for the sale of wine alone or British wine alone.

#### *Miners' welfare institutes*

56.—(1) A miners' welfare institute may be registered under this Part of this Act as a club subject to and in accordance with subsection (2) of this section, and in relation to such an institute while so registered this Act and any other enactment relating to the sale or supply of intoxicating liquor shall have effect, subject to that subsection, as if—

Application of Part II to miners' welfare institutes.

- (a) the institute were a club occupying the premises of the institute and having for members the persons from time to time enrolled as members of the institute; and
- (b) intoxicating liquor supplied or kept for supply by or on behalf of the trustees or managers in carrying on the institute to members or others were the liquor of the club supplied or kept for supply on behalf of the club.

(2) In relation to the registration of a miners' welfare institute in respect of any premises of the institute sections 40 to 53 of this Act shall apply as they apply in the case of a club and premises occupied by the club, except that the following provisions and so much of any other provision as refers to any of them shall not apply, that is to say, subsections (2) to (4) of section 41, section 42 and paragraphs 5(c) and 6 to 8 of Schedule 5 to this Act.

(3) In this section "miners' welfare institute" means an association organised for the social well-being and recreation of persons employed in or about coal mines (or of such persons in particular); but nothing in this section shall apply in relation to a miners' welfare institute unless either—

- (a) it is managed by a committee or board of which not less than two-thirds consists partly of persons appointed by or on the nomination of, or appointed or elected from among persons nominated by, the National Coal Board and partly of persons appointed by or on the nomination of, or appointed or elected from among persons nominated by, an organisation or organisations representing persons so employed; or

## PART II

(b) the premises of the institute are held on trusts to which section 2 of the Recreational Charities Act 1958 applies.

*Supplemental*

Applications to magistrates' court under Part II.

**57.**—(1) Subject to the following provisions of this section, where this Part of this Act provides for an application to be made with respect to any premises to a magistrates' court, the application shall be made to a magistrates' court acting for the petty sessions area in which the premises are.

(2) In relation to premises in the metropolitan stipendiary court area the metropolitan stipendiary court division shall be deemed for the purposes of this Part of this Act to be the petty sessions area, and the clerk to the metropolitan stipendiary court to be the clerk to the justices.

(3) In relation to premises situated in the city of Oxford and occupied by a club mainly composed of past or present members of the University of Oxford, the magistrates' court for the purposes of this Part of this Act shall be the court of the Chancellor of the university sitting and acting under the Oxford University (Justices) Act 1886, and the clerk to the justices shall be the registrar of that court.

Interpretation of Part II.

**58.**—(1) In this Part of this Act—

(a) "local authority" means the Common Council of the City of London, or the council of the county borough, London borough or county district, according to the situation of the premises in question; and

(b) "clerk of the local authority" means, in the City of London or a borough, the town clerk.

(2) References in this Part of this Act to the chief officer of police shall be construed as referring to the chief officer of police for the police area in which the premises in question are, but anything required or authorised by this Part of this Act to be done by or to a chief officer of police may be done by or to any officer of police designated by the chief officer.

PART III

PERMITTED HOURS

*Prohibition of sale, etc. of intoxicating liquor outside permitted hours*

**59.**—(1) Subject to the provisions of this Act, no person shall, except during the permitted hours—

(a) himself or by his servant or agent sell or supply to any person in licensed premises or in premises in respect of which a club is registered any intoxicating liquor, whether to be consumed on or off the premises; or

(b) consume in or take from such premises any intoxicating liquor.

Prohibition of sale, etc. of intoxicating liquor outside permitted hours.

(2) If any person contravenes this section he shall be liable to a fine not exceeding one hundred pounds.

(3) This section does not apply in relation to intoxicating liquor sold under an occasional licence.

*General provisions as to permitted hours*

**60.**—(1) Subject to the following provisions of this Part of this Act, the permitted hours in licensed premises shall be—

(a) on weekdays, other than Christmas Day or Good Friday, the hours from eleven in the morning to half past ten in the evening, with a break of two and a half hours beginning at three in the afternoon; and

(b) on Sundays, Christmas Day and Good Friday, the hours from twelve noon to half past ten in the evening, with a break of five hours beginning at two in the afternoon.

Permitted hours in licensed premises.

(2) In relation to the metropolis, and to any licensing district wholly or partly outside the metropolis for which this subsection is adopted, subsection (1)(a) of this section shall have effect as if the hours specified therein ended at eleven in the evening.

(3) The licensing justices for a licensing district wholly or partly outside the metropolis may by order adopt subsection (2) of this section if satisfied that the requirements of the district make it desirable.

(4) The licensing justices for any licensing district, if satisfied that the requirements of the district make it desirable, may by order modify for the district the hours specified in subsection (1)(a) of this section, within the following limits—

(a) the total number of hours on any day shall be nine (ending at half past ten in the evening), or, where

## PART III

subsection (2) of this section applies or is adopted, nine and a half (ending at eleven in the evening), and the hours shall not begin earlier than ten in the morning; and

(b) there shall be a single break of not less than two hours in the afternoon.

(5) In this Act "the general licensing hours" means, in relation to any licensing district, the hours specified in paragraphs (a) and (b) of subsection (1) of this section, with any modification applying in the district by virtue of subsections (2) to (4) of this section.

(6) In premises licensed for the sale of intoxicating liquor for consumption off the premises only the permitted hours on weekdays, other than Christmas Day or Good Friday, shall begin at half past eight in the morning and there shall be no afternoon break.

(7) References in this Act to the permitted hours shall, except in so far as the context otherwise requires, be construed in relation to any licensed premises where the permitted hours are restricted by any conditions attached to the licence, as referring to the hours as so restricted.

Orders  
varying  
permitted  
hours.

61.—(1) The power of licensing justices to make orders under subsections (3) and (4) of section 60 of this Act shall be exercised by them at their general annual licensing meeting in accordance with such procedure as may be prescribed by rules made by the Secretary of State.

(2) An order under either of those subsections may make different provision for different periods of the year or for different weekdays in every week of the year or of any such period, or may make provision to take effect for particular periods only, or for particular weekdays in every week of the year or of any such period, but no alteration of the general licensing hours shall take effect within eight weeks of another.

(3) The power of licensing justices to make an order under either of those subsections shall include power to vary or revoke an order so made by a subsequent order.

(4) An order made under either of those subsections shall be published in such manner as the Secretary of State may direct.

(5) A document purporting to be an order made by licensing justices under either of those subsections and to be issued by them shall be received in evidence.



**62.**—(1) The permitted hours in premises in respect of which a club is registered shall be fixed by or under the rules of the club in accordance with the following conditions:—

PART III  
Permitted  
hours in  
clubs.

- (a) subject to subsection (2) of this section, the hours fixed shall not on any day be longer, nor begin earlier or end later, than the general licensing hours; and
- (b) there shall be a break in the afternoon of not less than two hours; and
- (c) on Sundays, Christmas Day and Good Friday the break shall include the hours from three to five and there shall not be more than three and a half hours after five.

(2) Where by an order under subsection (3) or (4) of section 60 of this Act the general licensing hours are so altered that the permitted hours previously fixed for any premises under subsection (1) of this section begin before or end after the general licensing hours, the alteration shall not affect those permitted hours until the end of six weeks from the date of the order, but thereafter those hours shall be treated as not including any period falling before the beginning or after the end of the general licensing hours as altered.

(3) Written notice (signed by the chairman or secretary of the club) of the hours fixed as the permitted hours for any club premises by or under the rules of the club shall be given to the clerk to the justices for the petty sessions area in which the premises are; and no decision fixing those hours shall be effective until notice is so given, but the hours previously fixed and notified, if any, shall continue to apply.

#### *Exceptions*

**63.**—(1) Where any intoxicating liquor is supplied in any premises during the permitted hours, section 59 of this Act does not prohibit or restrict—

Exceptions  
from  
prohibition  
of sale, etc. of  
intoxicating  
liquor outside  
permitted  
hours.

- (a) during the first ten minutes after the end of any period forming part of those hours, the consumption of the liquor on the premises, nor, unless the liquor was supplied or is taken away in an open vessel, the taking of the liquor from the premises;
- (b) during the first half hour after the end of such a period, the consumption of the liquor on the premises by persons taking meals there, if the liquor was supplied for consumption as an ancillary to their meals.

(2) Section 59 of this Act does not prohibit or restrict—

- (a) the sale or supply to, or consumption by, any person of intoxicating liquor in any premises where he is residing;
- (b) the ordering of intoxicating liquor to be consumed off the premises, or the despatch by the vendor of liquor so ordered;

## PART III

- (c) the sale of intoxicating liquor to a trader for the purposes of his trade, or to a registered club for the purposes of the club ; or
- (d) the sale or supply of intoxicating liquor to any canteen or mess.

(3) Section 59 of this Act does not prohibit or restrict as regards licensed premises—

- (a) the taking of intoxicating liquor from the premises by a person residing there ; or
- (b) the supply of intoxicating liquor for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of intoxicating liquor by persons so supplied ; or
- (c) the supply of intoxicating liquor for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

(4) In subsection (2) of this section, as it applies to licensed premises, and in subsection (3) of this section, references to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

Seasonal  
licences.

*Restrictions on permitted hours in licensed premises*

64.—(1) The licensing justices for any licensing district, if satisfied that the requirements of the district make it desirable, may at the request of the person applying for the grant of a justices' on-licence, or on an application by the holder of such a licence, insert in the licence a condition that, during such part or parts of the year as may be specified in the condition, there shall be no permitted hours in the premises.

(2) A licence in which such a condition is inserted is in this Act referred to as a seasonal licence.

(3) Licensing justices may vary or revoke such a condition either on an application by the holder of the licence or on the renewal, transfer or removal of the licence and at the request of the person applying for the renewal, transfer or removal.

Six-day and  
early-closing  
licences.

65.—(1) Licensing justices shall, at the request of the person applying for the grant of a justices' on-licence, insert in the licence—

- (a) a condition that on Sundays there shall be no permitted hours in the premises ; or

(b) a condition that the permitted hours shall end one hour earlier in the evening than the general licensing hours.

(2) A licence in which a condition is inserted under subsection (1) of this section is in this Act referred to as a six-day licence if the condition is as mentioned in paragraph (a), and as an early-closing licence if the condition is as mentioned in paragraph (b) of that subsection.

(3) On the renewal, transfer or removal of a six-day licence or early-closing licence, the licensing justices shall at the request of the person applying for the renewal, transfer or removal revoke the six-day or early-closing condition.

**66.**—(1) There shall be no permitted hours on any Sunday in licensed premises in Wales and Monmouthshire, except in a county or county borough in which this subsection does not apply. Sunday closing in Wales and Monmouthshire.

(2) Subsection (1) of this section does not, at the commencement of this Act, apply in any county or county borough in which, immediately before the commencement of this Act, section 111 of the Licensing Act 1953 did not apply.

(3) If the local government electors for a county or county borough in which subsection (1) of this section applies determine by a majority, on a poll held in accordance with this and the next following section, that that subsection shall not apply, it shall not apply in that county or county borough; and if the local government electors for a county or county borough in which that subsection does not apply determine by a majority on a poll so held that that subsection shall apply, it shall apply in that county or county borough.

(4) There shall be no poll under this section for a county or county borough unless it is requisitioned by not less than five hundred local government electors for the county or county borough, and a requisition shall not be effective unless—

(a) it is contained in one or more requisition papers in the form in the appendix to Schedule 8 to this Act, signed by the requisitioning electors and giving the particulars of them required by that form; and

(b) the requisition papers are delivered to the clerk of the county council or town clerk of the county borough within the two months following 3rd August 1968, or within the same period seven or any multiple of seven years thereafter, and each requisition paper is accompanied by a statutory declaration verifying the signatures on it or by two or more statutory declarations between them verifying those signatures.

## PART III

(5) Subject to subsection (6) of this section, the date for a poll under this section in any year shall be the same for all counties and county boroughs and shall be such day as the Secretary of State may direct, being not more than six weeks after the end of the period allowed under subsection (4) of this section for delivering requisition papers for the poll.

(6) If polling day at a general election for Parliament falls within the eight weeks after the end of the period allowed under subsection (4) of this section for delivering requisition papers, the date for the poll under this section may be more than six, but not more than twelve, weeks after the end of that period, and if Parliament is dissolved after the date has been fixed by a direction under subsection (5) of this section, the Secretary of State may revoke that direction and give a new direction fixing a later date.

(7) On receipt of a requisition for a poll under this section the clerk of the county council or town clerk shall forthwith notify the Secretary of State, and after satisfying himself that the requisition complies with subsection (4) of this section (for which purpose he shall assume that the papers are signed by the persons by whom they purport to be signed) shall as soon as may be give public notice in the county or county borough in such manner as he thinks sufficient of the holding of the poll, and if the date for the poll is afterwards altered under subsection (6) of this section shall again give public notice accordingly.

Supplementary  
provisions  
for Welsh  
Sunday polls.

67.—(1) The following provisions of this section shall apply in relation to a poll under section 66 of this Act—

(2) Subject to the provisions of Schedule 8 to this Act—

(a) the poll shall be conducted, and the expenses thereof paid, in all respects as if polls were being held throughout the county or county borough at an ordinary election of county or county borough councillors; and

(b) all persons having any duties in connection with the conduct of such an election shall have the like duties in connection with the poll.

(3) When the number of votes cast on either side has been ascertained for the whole of any county or county borough, the chairman of the county council or mayor shall declare the result of the poll, and shall deliver a certificate of the result, signed by him, to the clerk of the county council or town clerk.

(4) If the decision on the poll is that subsection (1) of section 66 of this Act shall not apply where it applied before, or shall

apply where it did not apply before, the decision shall take effect with the first Sunday not earlier than the fourth day after the date of the poll; and if the decision is that that subsection shall not apply where it applied before, any condition in a licence previously granted for premises in the county or county borough under which the licence is a six-day licence shall be void (but without prejudice to the right to have such a condition re-inserted on the next or any subsequent application for a licence).

(5) The following provisions of the Representation of the People Act 1949 shall apply as if the poll were a poll at an ordinary election of county or county borough councillors, that is to say—

- (a) section 47, section 48 except subsections (1) and (4), and in section 52 subsection (1), except paragraph (a), and subsection (5) (which relate to personation, plural voting and other frauds in connection with voting);
- (b) section 53 (which contains provision for preventing disclosure of the candidate for whom a person votes and generally for securing the secrecy of the ballot);
- (c) sections 99 to 101 (which make bribery, treating and undue influence corrupt practices);
- (d) sections 146 to 148 and 151, so far as they relate to offences under any provision mentioned in the foregoing paragraphs prosecuted on indictment or in a magistrates' court;

but as if—

- (i) in section 53 for the words "the candidate for whom" and for the words "the name of the candidate for whom" there were substituted the words "the result for which" and paragraph (b) of subsection (1) (which relates to the obligations of candidates and their agents) were omitted; and
- (ii) in section 99 for the references to procuring the return of any person at an election there were substituted references to procuring one or other result of the poll.

(6) If, with intent to influence persons to give or refrain from giving their votes at the poll, any person, after the end of the period allowed for delivering requisition papers, publishes an advertisement in a newspaper or other periodical or procures an advertisement to be so published, he shall be guilty of an illegal practice, and sections 147 and 151 of the Representation of the People Act 1949 shall apply so far as they relate to offences prosecuted in a magistrates' court; but the court before whom a person is convicted under this subsection may,

**PART III** if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 151.

*Extension of permitted hours in licensed premises and clubs*

Extension of permitted hours in restaurants, etc.

**68.**—(1) In any premises to which either of the following paragraphs applies there shall be added to the permitted hours (so far as not otherwise comprised in them) for the purpose and in the part of the premises mentioned in subsection (2) of this section—

- (a) where this paragraph applies, the period (if any) between the first part of the general licensing hours and three in the afternoon ;
- (b) where this paragraph applies, the hour following the general licensing hours ;

but for other purposes, or in other parts of the premises, the permitted hours shall be the same as if that paragraph did not apply to the premises.

(2) The addition shall be for the purpose of the sale or supply to persons taking table meals in the premises, and the consumption, of intoxicating liquor which is supplied—

- (a) in a part of the premises usually set apart for the service of such persons ; and
- (b) for consumption by such a person in that part of the premises as an ancillary to his meal.

(3) Either or both paragraphs of subsection (1) of this section may be applied, in accordance with section 69 of this Act, to licensed premises or to premises in respect of which a club is registered, if the licensing justices for the district in which the licensed premises are situated are satisfied or, in the case of premises in respect of which a club is registered, the magistrates' court is satisfied, that the premises are structurally adapted and bona fide used, or intended to be used for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment to which the sale and supply of intoxicating liquor is ancillary.

Application of paragraph (a) or (b) of s. 68(1).

**69.**—(1) Each paragraph of section 68(1) of this Act may be applied by the holder of the licence or, as the case may be, the secretary of the club, as from such day as he may fix by notice to the chief officer of police served not less than fourteen days before that day and, if so applied, shall continue to apply until its application is terminated under subsection (2) of this section or—

- (a) in the case of licensed premises, the licensing justices cease to be satisfied as mentioned in subsection (3) of the said section 68 ;

(b) in the case of premises in respect of which a club is registered, the magistrates' court declares that it is no longer so satisfied.

(2) The holder of the licence or, as the case may be, the secretary of the club may terminate the application of either or both of the said paragraphs on 4th April in any year by notice to the chief officer of police served not less than fourteen days before that day.

**70.**—(1) Subject to the provisions of this section, where any licensed premises or premises in respect of which a club is registered are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing, for the accommodation of persons frequenting them, musical or other entertainment as well as substantial refreshment, and the sale and supply of intoxicating liquor is ancillary to that refreshment and entertainment, then if—

Extended hours in restaurants, etc. providing entertainment.

(a) paragraph (b) of section 68(1) of this Act applies to the premises, and

(b) an order under this section is in force with respect to them,

the time added by the said section 68(1) to the permitted hours on weekdays on which the entertainment is provided and the purpose for which the time is added shall, in any part of the premises habitually set apart for the provision of the refreshment and entertainment, be as mentioned in subsection (2) of this section.

(2) In any such part of the premises the time so added shall, except on Good Friday, Maundy Thursday or Easter Eve, extend until one o'clock in the morning following, but shall not be affected on Good Friday, and shall on Maundy Thursday and Easter Eve extend until midnight; and the purpose for which it is added shall be—

(a) the sale and supply, before the provision of the entertainment or the provision of substantial refreshment has ended, of intoxicating liquor for consumption in any such part of the premises; and

(b) the consumption of intoxicating liquor so supplied; but this section does not authorise any sale or supply to a person admitted to the premises either after midnight or less than half an hour before the entertainment is due to end, except in accordance with subsection (2) of section 68 of this Act.

(3) Where in any premises or part of premises the time added to the permitted hours by section 68(1) of this Act is so added for the purpose mentioned in subsection (2) of this section, section 59 of this Act does not restrict the consumption in the

## PART III

premises or part, during the first half hour after the entertainment ends, of intoxicating liquor supplied before it ends.

(4) In this section "entertainment" does not include any form of entertainment given otherwise than by persons actually present and performing; and, subject to the provisions of this Act, no premises or part shall be treated for the purposes of this section as used or intended to be used for the purpose of habitually providing refreshment and entertainment or as habitually set apart for that purpose, unless it is used or intended to be used, or is set apart, for the purpose of providing them after, and for a substantial period preceding, the end of the general licensing hours on every weekday or on particular weekdays in every week, subject to any break for a period or periods not exceeding two weeks in any twelve successive months or on any special occasion or by reason of any emergency.

(5) The power to make an order under this section shall be exercisable—

- (a) with respect to licensed premises, by licensing justices in accordance with section 71 of this Act; and
- (b) with respect to premises in respect of which a club is registered, by the magistrates' court in accordance with section 72 of this Act.

Orders of  
licensing  
justices  
under s. 70.

71.—(1) Licensing justices may make an order under section 70 of this Act with respect to any premises on the application of a person applying for or holding a justices' licence for the premises.

(2) Any such order shall lapse when the licence is superseded on renewal or transfer or otherwise ceases to be in force, but may be renewed or varied by a further such order.

(3) Before making an application for an order under section 70 of this Act to be made otherwise than by way of renewal of a previous order (without variation), a person shall give notice of the application to the persons, in the manner and at the times required by Schedule 2 to this Act on an application for a new justices' licence for the premises; but if through inadvertence or misadventure he fails to do so paragraph 7 of that Schedule shall apply.

(4) Where licensing justices make an order under section 70 of this Act with respect to any premises, the holder of the justices' licence for the premises shall within fourteen days give notice of the making of the order to the chief officer of police, and shall send with the notice a copy of the order; and if he fails to do so he shall be liable to a fine not exceeding ten pounds.



**72.**—(1) The magistrates' court may make an order under section 70 of this Act with respect to any premises on the application of the club which is registered in respect of the premises.

**PART III**  
Orders of  
magistrates'  
court under  
s. 70.

(2) Any such order shall lapse on the club's registration certificate ceasing to be in force or on the date from which the certificate is next renewed after the date of the order or, where that certificate has been renewed for a period exceeding a year, on such earlier date (if any) as may be specified in the order, but may be renewed or varied by a further such order.

(3) Where the magistrates' court makes an order under section 70 of this Act with respect to any premises the secretary of the club which is registered in respect of the premises shall within fourteen days give written notice of the making of the order to the chief officer of police, and shall send with the notice a copy of the order; and if he fails to do so he shall be liable to a fine not exceeding ten pounds.

**73.**—(1) An order under section 70 of this Act shall not be made unless it is shown that the condition of subsection (1) of that section as to the use or intended use of the premises is satisfied in relation to the premises or part of the premises, to the periods, to the weekdays and to the times for which the order is to have effect, and that the premises or part of the premises is structurally adapted for the purpose; but in making an order by way of variation or renewal of a previous order licensing justices or the magistrates' court may assume, unless they see reason to the contrary, that the conditions for the making of the previous order were and still are satisfied.

Supplementary  
provisions  
as to orders  
under s. 70.

(2) Licensing justices or the magistrates' court may refuse to make an order under the said section 70, or may in such an order limit the operation of that section to a particular part of the premises or to particular periods of the year or to particular weekdays or to a time earlier than one o'clock in the morning (and may impose different limitations in relation to different parts of the premises, different periods or different weekdays), if it appears to them reasonable to do so having regard to all the circumstances and in particular to the comfort and convenience of the occupiers and inmates of premises in the neighbourhood.

(3) Where the use of any premises or part of premises for the purpose specified in subsection (1) of section 70 of this Act is, or is intended to be, limited to a particular period or periods of the year, an order under that section may be made to have effect for the whole or part of the period or periods in question, but excluding any period of less than four weeks.

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(4) Licensing justices or, as the case may be, the magistrates' court shall revoke an order under section 70 of this Act if they are satisfied on an application made by or on behalf of the chief officer of police for the police area in which the premises are situated, either—

- (a) that use has not been made for the purpose specified in subsection (1) of that section of the premises or part of the premises for which the order has effect; or
- (b) that it is expedient to revoke the order either by reason of the occurrence of disorderly or indecent conduct in the premises or part, or by reason of the conduct of persons resorting to the premises and any annoyance resulting or likely to result from it to the occupiers or inmates of premises in the neighbourhood, or by reason of the premises having been in any way ill-conducted.

## Exemption orders.

74.—(1) Subject to the following provisions of this section, justices of the peace may—

- (a) on an application by the holder of a justices' on-licence for premises situated in the immediate neighbourhood of a public market or place where people follow a lawful trade or calling, or
- (b) on an application by the secretary of a club registered in respect of any premises so situated,

make an order (in this Act referred to as a general order of exemption) adding, either generally or for such days as may be specified in the order, such hours as may be so specified to the permitted hours in those premises.

(2) Justices of the peace shall not make a general order of exemption unless satisfied, after hearing evidence, that it is desirable to do so for the accommodation of any considerable number of persons attending the public market, or following the trade or calling.

(3) Justices of the peace may revoke or vary a general order of exemption; but, unless it is proved that the holder of the justices' on-licence or, as the case may be, the secretary of the club had notice of the revocation or variation, a person shall not be guilty of an offence under section 59 of this Act in doing anything that would have been lawful had the revocation or variation not been made.

(4) Justices of the peace may—

- (a) on an application by the holder of a justices' on-licence for any premises, or
- (b) on an application by the secretary of a club registered in respect of any premises,

make an order (in this Act referred to as a special order of exemption) adding such hours as may be specified in the order

to the permitted hours in those premises on such special occasion or occasions as may be so specified.

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(5) Any power conferred by this section to add to the permitted hours in any premises may be exercised in either or both of the following manners, that is to say, by adding to them any hour not comprised in them or by adding to them for all purposes any hour comprised in them for limited purposes by virtue of section 68 or section 70 of this Act.

(6) In its application to premises in the City of London or the metropolitan police district this section shall have effect as if for references to justices of the peace there were substituted—

- (a) if the premises are in the City of London, references to the Commissioner of Police for the City of London acting with the approval of the Lord Mayor;
- (b) if the premises are in the metropolitan police district, references to the Commissioner of Police for the Metropolitan area acting with the approval of the Secretary of State.

75.—(1) Any power of justices of the peace under section 74 of this Act shall be exercisable by justices acting for the petty sessions area in which the premises are situated, and by the number of justices, and in the place, required by the Magistrates' Courts Act 1952 for the hearing of a complaint.

Procedural provisions as to exemption orders outside metropolitan area.

(2) Subject to subsection (3) of this section, the justices may, if they see fit, make a special order of exemption without a hearing, if written application for the order is made by lodging two copies of the application with the clerk to the justices not less than one month before the day or earliest day for which application is made.

(3) Where such an application is made—

- (a) the clerk on receipt of the application shall serve notice of it on the chief officer of police by sending him a copy of the application; and
- (b) if, not later than seven days after the day he sends it, written notice of objection is given by or on behalf of the chief officer to the clerk by lodging two copies with him, the application shall not be granted without a hearing, unless the objection is afterwards withdrawn by a further notice given in the same way; and
- (c) the clerk, on receipt of any such notice of objection or notice withdrawing an objection, shall send a copy to the applicant.

## PART III

*Special hours certificates*

Permitted hours where special hours certificate in force.

**76.**—(1) This section applies to licensed premises or premises in respect of which a club is registered, or part of any such premises, during the time that—

- (a) there is in force for the premises or part a special hours certificate granted under the following provisions of this Part of this Act ; and
- (b) the section is applied, under subsection (7) of this section, to the premises or part, by the holder of the licence or, as the case may be, the secretary of the club.

(2) Subject to the following provisions of this section, the permitted hours on weekdays other than Good Friday in any premises or part of premises to which this section applies shall be the periods between half past twelve and three o'clock in the afternoon and between half past six in the evening and two o'clock in the morning following, except that—

- (a) the permitted hours shall end at midnight on Maundy Thursday and Easter Eve and on any day on which music and dancing is not provided after midnight ; and
- (b) on any day that music and dancing end between midnight and two o'clock in the morning, the permitted hours shall end when the music and dancing end.

(3) In relation to premises which are situated in any part of the metropolis outside the City of London which is specified for the purposes of this subsection by an order of the Secretary of State, subsection (2) of this section shall have effect with the substitution of references to three o'clock in the morning for the references to two o'clock in the morning.

(4) Where the permitted hours are fixed by this section, section 63(1) of this Act shall apply to the consumption of liquor on the premises as if in paragraph (a) thereof half an hour were substituted for ten minutes and paragraph (b) thereof were omitted.

(5) Nothing in this section applies in relation to any bar in premises or a part of premises to which this section applies, and any such bar shall accordingly be treated as if it were a part of the premises to which this section does not apply.

(6) Where a special hours certificate for any premises or part of premises is limited to particular days in every week, this section does not affect the permitted hours in the premises on days on which the certificate does not apply.

(7) The holder of the licence or, as the case may be, the secretary of the club, may apply this section, or terminate its

application, from such day as he may fix by notice in writing to the chief officer of police served not less than fourteen days before that day.

PART III

**77.** If, on an application made to the licensing justices with respect to licensed premises in any area which is subject to statutory regulations for music and dancing, the justices are satisfied— Special hours certificates for licensed premises.

- (a) that a music and dancing licence is in force for the premises, and
- (b) that the whole or any part of the premises is structurally adapted, and bona fide used, or intended to be used, for the purpose of providing for persons resorting to the premises music and dancing and substantial refreshment to which the sale of intoxicating liquor is ancillary,

the licensing justices shall grant a special hours certificate for the premises or, if they are satisfied that part only of the premises is adapted or used or intended to be used as mentioned in paragraph (b) of this section, for that part.

**78.** If, on an application made to the magistrates' court with respect to premises in respect of which a club is or is to be registered and which are in any area which is subject to statutory regulations for music and dancing, the court is satisfied— Special hours certificates for clubs.

- (a) that a certificate granted under section 79 of this Act is in force for the premises, and
- (b) that the whole or any part of the premises is structurally adapted, and bona fide used, or intended to be used, for the purpose of providing for the members of the club music and dancing and substantial refreshment to which the supply of intoxicating liquor is ancillary,

the court shall grant a special hours certificate for the premises or, if the court is satisfied that part only of the premises is adapted or used or intended to be used as mentioned in paragraph (b) of this section, for that part.

**79.—**(1) If, on an application by the secretary of a club with regard to any premises in respect of which the club is or proposes to be registered and which are situated in any area which is subject to statutory regulations for music and dancing, the licensing authority under those regulations are satisfied that the premises (whether or not they are kept or intended to be kept for dancing, music or other public entertainment of the like kind) in all other respects fulfil the authority's requirements for the Licensing authority's certificate of suitability of club premises for music and dancing.

**PART III** grant of a music and dancing licence, the authority may grant a certificate for the premises under this section.

(2) The authority may grant a certificate under this section on such terms, and subject to such conditions or restrictions, as they think fit; and, subject to the following provisions of this section, the certificate shall remain in force for such period as may be specified therein.

(3) The authority may, on the application of the secretary of the club, from time to time renew a certificate granted under this section; and subsections (1) and (2) of this section shall apply to the renewal as they apply to the grant of a certificate.

(4) The authority may, on the application of the secretary of the club, waive or modify any condition or restriction subject to which a certificate has been granted or renewed under this section.

(5) If, while a certificate under this section is in force, it appears to the authority—

(a) that any condition or restriction subject to which the certificate was granted or last renewed, as the case may be, has not been complied with or, in the case of a condition or restriction that has been modified under subsection (4) of this section, that the condition or restriction as so modified has not been complied with, and

(b) that the condition or restriction has not been waived under that subsection,

the authority may give the secretary of the club notice in writing that they propose to revoke the certificate, specifying the ground upon which they propose to revoke it, and shall give him an opportunity of being heard by a person appointed by the authority for the purpose.

(6) The authority may, not less than seven days after the giving of a notice under subsection (5) of this section and, if the secretary avails himself of the opportunity of being heard, after considering the report of the person appointed to hear the secretary, revoke the certificate.

(7) Where the licensing justices are the licensing authority under the statutory regulations for music and dancing, the preceding provisions of this section shall have effect with the omission in subsection (5) of the words “by a person appointed by the authority for the purpose” and with the substitution in subsection (6) for the words “after considering the report of the person appointed to hear the secretary” of the words “after hearing the secretary”.

**80.**—(1) Where a special hours certificate is granted for any premises or part of premises which are used or intended to be used only on particular weekdays for the provision of music and dancing and substantial refreshment the certificate shall be limited to those days in the week on which it is shown to the satisfaction of the licensing justices or magistrates' court granting it that music and dancing and refreshment are, or are intended to be, provided as required by section 77 or 78 of this Act.

**PART III**  
Special hours certificates limited to particular days or parts of the year

(2) Where on an application for a special hours certificate the licensing justices or, as the case may be, the magistrates' court are satisfied that the premises or part of the premises to which the application relates are used, or intended to be used, as mentioned in section 77 or 78 of this Act during parts only of each year, the justices or court may grant a certificate limited so as to be in force during those parts only.

(3) So long as the justices' licence in force for any premises is a seasonal licence, any special hours certificate for those premises or any part of them shall be taken, except in so far as it is granted for a more restricted period under subsection (2) of this section, to extend, but only to extend, to the season during which there are permitted hours in the premises under the condition attached to the licence under section 64 of this Act.

(4) On the variation or revocation of the condition referred to in subsection (3) of this section, the licensing justices shall, if need be, vary the special hours certificate so as to secure that it does not operate except as respects any period or periods during which it is shown to their satisfaction that it is intended to use the premises or part in question as mentioned in section 77 of this Act.

**81.**—(1) If at any time while a special hours certificate is in force no music and dancing licence or, as the case may be, no certificate under section 79 of this Act is in force for the premises to which or part of which the special hours certificate relates that certificate shall thereby be revoked.

Revocation of special hours certificates.

(2) At any time while a special hours certificate for any premises or part of premises is in force, the chief officer of police may apply to the licensing justices or, if it was granted under section 78 of this Act, to the magistrates' court, for the revocation of the certificate on the ground that, while the certificate has been in force—

- (a) the premises have not, or the part has not, been used as mentioned in section 77 or, as the case may be, section 78 of this Act; or
  - (b) a person has been convicted of having at those premises or that part contravened section 59 of this Act;
- or that on the whole the persons resorting to the premises or part are there, at times when the sale or supply of intoxicating

## PART III

liquor there is lawful by virtue only of the certificate, for the purpose of obtaining intoxicating liquor rather than for the purpose of dancing or of obtaining refreshments other than intoxicating liquor; and if the licensing justices or magistrates' court are satisfied that the ground of the application is made out they may revoke the certificate.

(3) Where a special hours certificate is revoked under subsection (2) of this section in consequence of a contravention of section 59 of this Act, no special hours certificate shall be valid in relation to the premises or part in question, if it is issued on an application made earlier than two months after the date of the revocation or made earlier than such later time, if any (not being more than twelve months after that date) as may be specified in the order revoking the certificate.

(4) At any time while a special hours certificate granted under section 78 of this Act is in force, the chief officer of police may apply to the magistrates' court for the revocation of the certificate on the ground that the revocation is expedient by reason of the occurrence of disorderly or indecent conduct in the premises or part to which the certificate relates; and if the court is satisfied that the ground of the application is made out, it shall revoke the certificate.

Special hours certificate and extension or exemption orders in respect of same premises.

**82.**—(1) Where section 76 of this Act applies to part only of any premises the part to which it applies and the part to which it does not apply shall be treated as separate premises for the purposes of section 68(1)(b) of this Act and for the purpose of general and special orders of exemption.

(2) Section 68(1)(b) and section 76 of this Act may both be applied to the same premises or part of premises, so that section 68(1)(b) has effect on days on which the permitted hours are not affected by section 76.

Supplementary provisions as to special hours certificates.

**83.**—(1) In sections 76 to 81 of this Act "music and dancing licence" means a licence granted by the licensing authority under the statutory regulations for music and dancing and authorising the keeping or using of any premises for public dancing, singing, music or other public entertainment.

(2) References in those sections to providing music and dancing and refreshment shall be construed as references to providing them on every weekday or on particular weekdays in every week, subject to any break for a period or periods not exceeding two weeks in any twelve successive months or on any special occasion or by reason of any emergency; and references in those sections to providing dancing shall be construed as references to providing facilities for dancing



that are adequate having regard to the number of persons for whose reception in the premises or part of premises in question provision is made.

PART III

*Parties organised for gain*

84.—(1) It shall be unlawful before the beginning or after the end of the general licensing hours to supply or consume intoxicating liquor at any party organised for gain and taking place in premises kept or habitually used for the purpose of parties so organised at which intoxicating liquor is consumed; but this subsection does not prohibit anything done at a party taking place in licensed premises or at any party for which an occasional licence has been granted nor anything done as part of the activities of a canteen, mess or club at the canteen, mess or the premises in respect of which the club is registered.

Prohibition of consumption of intoxicating liquor outside general licensing hours at parties organised for gain.

(2) If any person—

- (a) supplies intoxicating liquor in contravention of subsection (1) of this section, or
- (b) being the occupier of any premises, permits them to be used for a party, and that subsection is contravened at the party, or
- (c) being a person concerned in the organisation of a party, permits any person to supply or consume intoxicating liquor at the party in contravention of that subsection, or
- (d) being a person licensed to sell intoxicating liquor, delivers such liquor before the beginning or after the end of the general licensing hours to any premises kept or habitually used as mentioned in that subsection or permits it to be so delivered,

he shall be liable, on a first conviction to a fine not exceeding fifty pounds, and on a subsequent conviction to imprisonment for a term not exceeding three months or a fine not exceeding one hundred pounds or both.

(3) Any person who consumes intoxicating liquor in contravention of subsection (1) of this section shall be liable, on a first conviction to a fine not exceeding five pounds, and on a subsequent conviction to a fine not exceeding thirty pounds.

(4) For the purposes of this section, a party shall be deemed to have been organised for gain if any pecuniary advantage accrued or was intended to accrue to any person concerned in its organisation as a result of the party; and in determining whether any such advantage so accrued or was intended to

**PART III** accrue no account shall be taken of any expenditure incurred in connection with the party; but a party shall not be deemed to have been organised for gain by reason only that any person concerned in its organisation took part or intended to take part in the playing of any game, or made or intended to make bets on any game, if the arrangements were such as to give him no greater chance of winning than any other person.

(5) For the purposes of this section, a person shall be deemed to have been concerned in the organisation of a party if he took any part in procuring the assembly of the party or in acting as host or assisting the host at the party.

(6) Nothing in this section shall affect the delivery or supply of intoxicating liquor to, or the consumption of intoxicating liquor by, a person in premises in which he is for the time being residing; and in determining for the purposes of this section whether a party is being held in any premises, or whether any premises are kept or habitually used for the purpose of holding parties, the presence of persons residing in the premises shall be disregarded.

(7) The reference in subsection (1) of this section to licensed premises shall be construed as including a licensed canteen.

Supplemental provisions as to parties organised for gain.

**85.**—(1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for believing that any premises in the county or borough for which he is justice are kept or habitually used for the holding of parties at which the provisions of subsection (1) of section 84 of this Act are contravened, he may issue a search warrant under his hand to a constable authorising him at any time or times within one month from the date of the warrant to enter those premises, which shall be named in the warrant, by force if need be, and search them and to seize and remove any intoxicating liquor found there that the constable has reasonable grounds for supposing to be on the premises for the purpose of being supplied or consumed in contravention of the provisions of that section.

(2) If any person found on premises in which intoxicating liquor is seized under subsection (1) of this section, on being asked by a constable for his name and address, refuses to give them or gives a false name or address, he shall be liable to a fine not exceeding five pounds.

(3) If any person is convicted of an offence under section 84 of this Act in respect of the premises in which any liquor is seized under this section, the liquor so seized and the vessels containing it shall be forfeited.

*Miscellaneous*

## PART III

**86.**—(1) If licensing justices are of opinion, in the case of any premises for which a justices' on-licence is to be or has been granted, that a specified part of the premises is structurally adapted for the sale of intoxicating liquor for consumption off the premises, they shall at the request of the person applying for the licence or on an application by the holder insert in the licence a condition that the specified part shall not be used for the sale or supply of intoxicating liquor for consumption on the premises ; and while—

Permitted hours in off-sales department of on-licensed premises.

(a) the licence is subject to the condition ; and

(b) the specified part is not connected by any internal communication open to customers with a part of the licensed premises used for the sale or supply of intoxicating liquor for consumption on the premises ;

the permitted hours in the specified part shall be the same as in premises licensed for sales for consumption off the premises only, whatever the permitted hours in any other part of the licensed premises may be.

(2) Licensing justices may vary or revoke any such condition either on an application by the holder of the licence or on the renewal or transfer of the licence and at the request of the person applying for the renewal or transfer.

**87.**—(1) At an airport where this section is in operation section 59 of this Act shall not apply to licensed premises which are within the examination station approved for the airport under section 16 of the Customs and Excise Act 1952.

International airports.

(2) This section is, at the commencement of this Act, in operation at any airport at which, immediately before that commencement, the Licensing (Airports) Act 1956 was in operation, and the Minister of Aviation may by order bring this section into operation at any airport which appears to him to be one at which there is a substantial amount of international passenger traffic ; and may revoke any such order, and any order under the said Act of 1956, by a subsequent order under this section.

(3) Before the Minister makes an order bringing this section into operation at an airport, he shall satisfy himself that arrangements have been made for affording reasonable facilities on licensed premises within the said examination station at the airport for obtaining hot and cold beverages other than intoxicating liquor at all times when intoxicating liquor is obtainable on those premises, and if it appears to him that at any airport where this section is in operation such arrangements

## PART III

are not being maintained, he shall revoke the order with respect to that airport, but without prejudice to his power of making a further order with respect to that airport.

Saving as to Sunday observance.

**88.** Where, by virtue of section 70 of this Act or under a special hours certificate, the permitted hours on a Saturday in any licensed premises or part of licensed premises extend beyond midnight, nothing in the Sunday Observance Act 1780 shall apply—

- (a) where section 70 of this Act applies to the premises or part, by reason of the provision there of entertainment (in addition to substantial refreshment),
- (b) where a special hours certificate is in force for the premises or part, by reason of the provision there of music and dancing,

before the end of those permitted hours.

*Supplementary provisions*

Duty of licensee to post notice where permitted hours modified.

**89.**—(1) Where the permitted hours in any licensed premises or part of licensed premises depend to any extent on a general order of exemption or on any provision of section 68, 70 or 76 of this Act, the holder of the licence shall keep posted in some conspicuous place there a notice stating the effect of the order or provision applying and, if it applies on certain days only, stating the days on which it applies.

(2) A person contravening this section shall be liable to a fine not exceeding ten pounds.

Opening during permitted hours not obligatory.

**90.** Nothing in this Act shall be taken to require licensed premises to be open for the sale of intoxicating liquor or for any other purpose during the permitted hours, except in so far as they are so required by any conditions attached to the licence.

Procedure of licensing justices.

**91.** The Secretary of State may make rules prescribing the procedure on applications to licensing justices under section 77 or 81 of this Act and the procedure for the exercise of the powers of licensing justices under sections 68 and 70 to 73 of this Act.

Meaning of "the magistrates' court" in relation to clubs, and procedure on applications to magistrates' courts.

**92.**—(1) In this Part of this Act "the magistrates' court" means, in relation to any club premises, a magistrates' court having jurisdiction in relation to the issue and renewal of the club's registration certificate for the premises.

(2) The following applications to a magistrates' court under this Part of this Act shall be made by way of complaint against the club, that is to say,—

- (a) an application for a declaration under section 69(1)(b) of this Act;

- (b) an application for the revocation of an order under section 70 of this Act made by a magistrates' court ;
- (c) an application for the revocation of a special hours certificate granted under section 78 of this Act.

PART III

(3) Subject to paragraph 18 of Schedule 6 to this Act, paragraphs 13 and 14 of that Schedule shall apply in relation to any complaint made by virtue of subsection (2) of this section as they apply in relation to a complaint for the cancellation or variation of a registration certificate.

(4) In relation to any application relating to club premises made to a magistrates' court under this Part of this Act, other than an application mentioned in subsection (2) of this section, section 46(2) of this Act and paragraphs 1 to 10, 11(1) and 16 of Schedule 6 to this Act shall (subject to paragraph 18 of that Schedule) apply with any necessary modifications as they apply in relation to applications for the issue of a registration certificate, except that paragraph 5 of that Schedule shall not apply on an application for an order under section 70 of this Act to be made by way of renewal of a previous order (without variation).

## PART IV

## RESTAURANTS AND GUEST HOUSES

**93.**—(1) In this Act "Part IV licence" means a justices' on-licence which—

(a) is granted for such premises and is subject to such conditions as are mentioned in section 94 of this Act ; and

(b) is not subject to any other condition, except—

(i) conditions required to be attached to it under section 95 or 96 of this Act, or

(ii) a condition by virtue of which it is a six-day licence, early-closing licence or seasonal licence, or

(iii) in the case of a licence for club premises, conditions prohibiting or restricting sales of intoxicating liquor to non-members.

(2) A Part IV licence is a restaurant licence, a residential licence or a residential and restaurant licence, according as it falls within subsection (1), (2) or (3) of section 94 of this Act.

(3) Licensing justices shall not refuse an application duly made for the grant of a new Part IV licence or for the renewal or transfer of a Part IV licence, except on one or more of

Provisions as to grant of certain licences for restaurants, guest houses, etc.

**PART IV** the grounds specified in section 98 of this Act ; but this subsection shall not affect—

- (a) the operation of any enactment relating to the disqualification of persons or premises for holding or receiving a justices' licence ; or
- (b) the application to any club premises of section 55(4) of this Act.

(4) No licence shall be granted by way of removal of a Part IV licence.

(5) Nothing in section 4(1) of this Act shall be taken to prevent the granting of a licence for wine alone or British wine alone as a Part IV licence.

Conditions attached to Part IV licences for restaurants, guest houses, etc.

**94.—(1)** In this Act “restaurant licence” means a Part IV licence which—

- (a) is granted for premises structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at mid-day or in the evening, or both, for the accommodation of persons frequenting the premises ; and
- (b) is subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

(2) In this Act “residential licence” means a Part IV licence which—

- (a) is granted for premises bona fide used, or intended to be used, for the purpose of habitually providing for reward board and lodging, including breakfast and one other at least of the customary main meals ; and
- (b) is subject to the condition that intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons residing there or their private friends bona fide entertained by them at their own expense, and for consumption by such a person or his private friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.

(3) In this Act “residential and restaurant licence” means a Part IV licence which—

- (a) is granted for premises falling within both paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of this section ; and

(b) is subject to the condition that intoxicating liquor shall not be sold or supplied otherwise than as permitted by the conditions of a restaurant licence or by those of a residential licence.

PART IV

(4) The conditions as to the sale and supply of intoxicating liquor set out in subsection (1)(b) and subsection (2)(b) of this section—

- (a) shall not extend to the supply for consumption on the premises of intoxicating liquor (whether inside or outside the permitted hours) in any case in which section 59 of this Act does not prohibit liquor being so supplied outside the permitted hours ;
- (b) shall not extend to the sale of intoxicating liquor, or supply of liquor, sold on the premises under the authority of an occasional licence ;
- (c) subject to paragraph (b) of this subsection, shall extend to all sales of intoxicating liquor, whether or not requiring the authority of a justices' licence.

(5) It shall be an implied condition of any Part IV licence that suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

95.—(1) Where licensing justices grant a restaurant licence or a residential and restaurant licence, but as regards the use of the premises for the provision of the customary main meals it appears to them that it is only for a midday meal or only for an evening meal that the premises fall within paragraph (a) of section 94(1) of this Act, the justices shall attach to the licence a condition restricting the permitted hours in the premises so as to exclude any time after the afternoon break, or any time before it, as the case requires.

Permitted hours in premises for which restaurant or residential and restaurant licence is in force.

(2) On the renewal or transfer of such a licence and at the request of the person applying for the renewal or transfer, or on an application by the holder, licensing justices shall revoke any such condition previously attached, if satisfied that it is no longer required by subsection (1) of this section.

(3) Except where by such a condition the time before the afternoon break is excluded from the permitted hours, paragraph (a) of section 68(1) of this Act shall apply to any premises for which a restaurant licence or residential and restaurant licence is for the time being in force.

**PART IV**  
Requirement of sitting accommodation for residential licence or residential and restaurant licence.

**96.**—(1) Where licensing justices grant a new residential licence or residential and restaurant licence, they shall, unless it appears to them that in the particular circumstances of the case there is good reason not to do so, attach to the licence a condition that there shall be afforded in the premises, for persons provided with board and lodging for reward, adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment or for the supply or consumption of intoxicating liquor.

(2) Where such a licence is granted without the condition required by subsection (1) of this section, licensing justices shall, on the renewal or transfer of the licence, attach the condition if by reason of any change of circumstances it appears to them that the requirement ought no longer to be dispensed with.

Restrictions concerning justices' licences for restaurants and guest-houses, etc.

**97.**—(1) Licensing justices shall not attach to any new justices' on-licence—

(a) any conditions calculated to restrict the sale or supply of intoxicating liquor to a sale or supply in connection with the service of meals, other than such condition as is required to be attached to a restaurant licence (modified, if need be, to allow for any sale or supply which it is desired to authorise in addition to the sale or supply in connection with the service of table meals); or

(b) any conditions calculated to restrict the sale or supply of intoxicating liquor to a sale or supply to persons residing in the licensed premises, other than such condition as is required to be attached to a residential licence (modified, if need be, to allow for any sale or supply which it is desired to authorise in addition to a sale or supply to persons residing in the premises).

(2) No justices' licence other than a restaurant licence shall be granted for a restaurant carried on under the powers of the Civic Restaurants Act 1947.

(3) Paragraphs (a) to (c) of subsection (4) of section 94 of this Act shall apply also to any conditions which are in the same terms as those set out in subsection (1)(b) or subsection (2)(b) of that section but are attached to a justices' licence which is not a Part IV licence.

Grounds for refusing applications for Part IV licences.

**98.**—(1) Licensing justices may refuse an application for the grant of a Part IV licence on any of the following grounds, that is to say,—

(a) that the applicant is not of full age, or is in any other respect not a fit and proper person to hold one;



## PART IV

- (b) that the premises do not fall within paragraph (a) of subsection (1), (2) or (3), as the case may be, of section 94 of this Act, or are not suitable and convenient for the use contemplated by that paragraph, having regard to their character and condition, to the nature and extent of the proposed use and (where it applies) to the condition as to sitting accommodation required by section 96 of this Act or as to the supply of intoxicating liquor for consumption as an ancillary to a table meal only ;
- (c) that within the twelve months preceding the application—
- (i) a justices' on-licence for the premises has been forfeited ; or
  - (ii) the premises have been ill-conducted while a justices' on-licence or a licence under the Refreshment Houses Act 1860 was in force for them ; or
  - (iii) the condition as to sitting accommodation required by section 96 of this Act has been habitually broken while a residential licence or a residential and restaurant licence, or other licence with the like condition, was in force for the premises ; or
  - (iv) the condition implied by section 94(5) of this Act as to the availability of beverages other than intoxicating liquor has been habitually broken while a Part IV licence, or other licence with the like condition, was in force for the premises.

(2) Licensing justices may also refuse an application for the grant of a restaurant licence or residential and restaurant licence on the ground that the trade done in the premises in providing refreshment to persons resorting there (but not provided with board and lodging) does not habitually consist to a substantial extent in providing table meals of a kind to which the consumption of intoxicating liquor might be ancillary.

(3) Licensing justices may also refuse an application for the grant of a Part IV licence on the ground that the sale or supply of intoxicating liquor on the premises is undesirable either because it would be by self-service methods, that is to say, methods allowing a customer to help himself on payment or before payment, or because—

- (a) in the case of a residential licence or a residential and restaurant licence, a large proportion of the persons provided with board and lodging for reward ;
- (b) in the case of a restaurant licence or a residential and restaurant licence, a large proportion of the persons

## PART IV

resorting to the premises but not provided with board and lodging ;

is habitually made up of persons under the age of eighteen who are not accompanied by others (whether parents or persons of full age) who pay for them.

(4) If on an application for the grant of a Part IV licence for any premises it is made to appear to the licensing justices on behalf of any such authority as is mentioned in subsection (5) of this section—

(a) that the authority or an officer designated in that behalf by the authority desired in connection with the application to have the premises inspected as to the matters mentioned in paragraph (b) of subsection (1) of this section ; and

(b) that after reasonable steps had been taken by or on behalf of the authority or officer for the purpose it was not possible to have the premises so inspected ;

the licensing justices may refuse the application.

(5) The authorities referred to in subsection (4) of this section are—

(a) (according to the situation of the premises) the Common Council of the City of London or the council of the county borough, London borough or county district ; and

(b) the authority (if not included in paragraph (a) of this subsection) discharging in the area where the premises are situated the functions of fire authority under the Fire Services Act 1947 ; and

(c) the chief officer of police for the police area where the premises are situated.

(6) Licensing justices refusing an application for the grant of a Part IV licence shall specify in writing to the applicant the grounds of their refusal.

Application for Part IV licence in place of other on-licence.

99.—(1) Where licensing justices refuse an application duly made for the grant of a new justices' on-licence other than a Part IV licence, they shall at the request of the applicant treat him as having also duly made an alternative application for such Part IV licence, relating to such descriptions of intoxicating liquor, as he may specify in the request.

(2) Where on appeal quarter sessions refuse to confirm the grant of a new justices' on-licence other than a Part IV licence, they shall at the request of the holder of the licence treat the appeal as an appeal against the grant of such Part IV licence, relating to such descriptions of intoxicating liquor, as he may specify in the request and, if they dismiss that appeal, shall, on

confirming the grant, attach to the licence the conditions required by the foregoing provisions of this Part of this Act.

PART IV

(3) On the renewal, transfer or removal of a justices' on-licence licensing justices may, at the request of the applicant made with the consent of the registered owner (if any) of the licensed premises, vary the licence by attaching the conditions required for it to be granted as a Part IV licence of the description specified in the request (in substitution for any conditions previously attached), and the renewal, transfer or removal of a justices' on-licence with such a variation shall not be refused except on the grounds on which a renewal may be refused of a licence of the description so specified.

(4) Where under subsection (3) of this section conditions are attached to a justices' on-licence, the applicant for the renewal, transfer or removal may appeal notwithstanding that it is done at his request.

**100.**—(1) Where a person is convicted of an offence committed in respect of any premises, and—

Power of court to disqualify for Part IV licences on conviction of certain offences.

- (a) the offence is one to which this paragraph applies ; or
- (b) the offence is one to which this paragraph applies, and the premises are premises for which, at the time of the offence, he held a Part IV licence ;

the court by or before which he is convicted may make a disqualification order under this section.

(2) A disqualification order may, at the discretion of the court, be either—

- (a) an order disqualifying the person convicted, for such period as may be specified in the order (but not exceeding five years from the date the order comes into force), from holding or obtaining Part IV licences or licences under the Refreshment Houses Act 1860 ; or
- (b) an order prohibiting such licences from being held or granted within such period as aforesaid by or to any person in respect of the premises at which the offence in question was committed ; or
- (c) an order imposing both such a disqualification and such a prohibition ;

and, if such an order is made, any licence within the disqualification or prohibition, if previously obtained, shall be forfeited or, if subsequently obtained, shall be null and void.

(3) Paragraph (a) of subsection (1) of this section applies to the following offences, that is to say :—

- (a) offences under sections 9, 18 and 32 of the Refreshment Houses Act 1860 ;

## PART IV

- (b) offences under section 160 of this Act committed by the keeper of a refreshment house ;
- (c) offences under section 84 (2) of this Act committed by the keeper of a refreshment house in connection with parties at the refreshment house.

(4) Paragraph (b) of subsection (1) of this section applies to the following offences, that is to say,—

- (a) offences under sections 161, 172 and 177 of this Act ;
- (b) offences under sections 175 and 176 of this Act and any other offence of permitting the premises to be a brothel ;
- (c) offences under section 1(1) of the Betting, Gaming and Lotteries Act 1963 ;
- (d) offences under section 10 of the Prevention of Crimes Act 1871.

Supplementary provisions as to disqualification orders.

**101.**—(1) The court making a disqualification order under section 100 of this Act may, on such conditions as it thinks just, suspend the operation of the order with a view to enabling a licence to remain in force pending an appeal against the conviction or against the making of the disqualification order, or pending the consideration of the question of bringing such an appeal ; but, unless so suspended, a disqualification order under that section shall come into force on the day on which it is made.

(2) A court shall not make such a disqualification order containing a prohibition on the holding or grant of licences in respect of premises specified in the order, unless an opportunity has been given to any person interested in the premises and applying to be heard by the court to show cause why the order should not be made.

(3) At any time while such a disqualification order is in force, a magistrates' court, on complaint made by any person affected by the order, may revoke the order or vary it by reducing any period of disqualification or prohibition specified in the order ; and any person who has made a complaint under this section and is aggrieved by the decision of the court on that complaint may appeal to quarter sessions.

(4) Where on complaint made under subsection (3) of this section the relief asked for is or includes the revocation or variation of a prohibition imposed by the order on the holding or grant of licences in respect of any premises, any summons granted on the complaint shall be served on the chief officer of police for the police area in which the premises are.

(5) References in any enactment, including this Act, to a person disqualified for holding a justices' licence, or to premises disqualified for receiving a justices' licence, shall for the purposes of Part IV licences apply, but for other purposes shall not apply, to persons or premises disqualified only by a disqualification order under section 100 of this Act.

PART IV

(6) The powers of the court under section 100 of this Act may be exercised on a conviction in addition to any other powers which the court is required to or does exercise on the conviction.

## PART V

## THE CARLISLE DISTRICT

102.—(1) The following provisions of this section shall have effect with respect to the powers exercisable by the Secretary of State for the purposes of state management of the liquor trade in the district specified in Part I of Schedule 9 to this Act (in this Part of this Act referred to as "the Carlisle district").

Powers of  
Secretary  
of State  
in relation  
to Carlisle  
district.

(2) The Secretary of State may in the Carlisle district sell intoxicating liquor for consumption on or off the premises where it is sold, and may, subject to subsection (3) of this section, carry on any of the activities specified in Part II of Schedule 9 to this Act in accordance with the provisions of that Part; and the provisions of Part III of that Schedule shall apply to the carrying on by him of those activities.

(3) Nothing in subsection (2) of this section or in Part II of Schedule 9 to this Act shall authorise the Secretary of State, at any premises where he carries on a business of selling intoxicating liquor for consumption off the premises only, to carry on any other business except the sale of mineral waters or other non-intoxicating drinks for consumption off the premises, or of tobacco or matches.

(4) The local advisory committee appointed under any scheme for the Carlisle district having effect immediately before the commencement of this Act by virtue of section 76(3) of the Licensing Act 1953 shall assist the Secretary of State in the exercise of his functions relating to the district; and the provisions of the scheme having effect immediately before the commencement of this Act shall continue to have effect subject to any provision in the scheme for its variation or duration, and subject to any provision in the scheme for the making of a new scheme to take effect on the expiry of the previous scheme.

(5) The Secretary of State shall cause such accounts to be kept in relation to the Carlisle district as the Treasury may direct and shall cause an annual report to be presented to Parliament about his procedure in connection with the management of the liquor trade in that district.

**PART V**  
Restriction  
of sale and  
supply,  
otherwise than  
by Secretary  
of State, of  
intoxicating  
liquor in  
Carlisle  
district.

**103.**—(1) Subject to the following provisions of this section, no person, other than a person acting on behalf of the Secretary of State, shall sell intoxicating liquor by retail in the Carlisle district or supply intoxicating liquor in any licensed premises in the district.

(2) Subsection (1) of this section does not apply—

- (a) to anything done in premises that were licensed premises when state management came into operation in the district and have continued to be licensed premises since that time ;
- (b) to anything done under the authority of a Part IV licence ;
- (c) to anything done under the written authority of the Secretary of State and in accordance with such terms and conditions as he may specify ;
- (d) to anything done in premises of a class specified by order of the Secretary of State ;

and does not restrict the supply of intoxicating liquor by or on behalf of a registered club.

(3) If any person contravenes subsection (1) of this section he shall be liable to a fine not exceeding thirty pounds.

Acquisition  
of land.

**104.**—(1) For the purposes of his functions under this Part of this Act, the Secretary of State may—

- (a) by agreement purchase or take on lease any land whether in the Carlisle district or elsewhere ;
- (b) subject to the provisions of the next following section, acquire by compulsory purchase any licensed premises in the Carlisle district and any land in that district required for the erection or extension of or otherwise for use in connection with, any premises in that district in which the sale of intoxicating liquor by retail is, or is to be, carried on on behalf of the Secretary of State.

(2) Before acquiring any land in a new town, whether by agreement or compulsorily, the Secretary of State shall consult with the development corporation.

(3) After the service of a notice to treat for the compulsory acquisition under this Part of this Act of licensed premises in the Carlisle district, no ordinary or special removal may be granted of the licence.

(4) For the purposes of this section a licence shall be treated as being in force notwithstanding that it may be in suspense by virtue of section 132 of this Act ; and references in this section to licensed premises shall be construed accordingly, and as including the site of licensed premises.

(5) So much of section 2 of the Ordnance Board Transfer Act 1855 as provides that, where a Secretary of State ceases to hold office, the land mentioned in that section shall by virtue of that Act be transferred to and vested in his successor as therein provided shall apply to the Secretary of State in relation to land vested in him for the purposes of his functions under this Part of this Act.

(6) In this section "new town" means any area designated as the site of a proposed new town under section 1 of the New Towns Act 1946 by an order that has become operative, but does not include any such area after the development corporation established for the area has been dissolved.

**105.**—(1) The powers of compulsory purchase conferred on the Secretary of State by section 104 of this Act shall be exercisable in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) Act 1946; and that Act shall apply accordingly in relation to the authorisation of a compulsory purchase under that section as it applies in relation to such an authorisation as is mentioned in section 1 of that Act. Supplementary provisions as to compulsory purchase.

(2) The power of compulsory purchase conferred by section 104 of this Act shall not extend to the purchase of any interest in land which is an interest belonging to a development corporation; but nothing in this subsection or in section 2(2) or section 5 of the New Towns Act 1946 (which relate to the powers of a development corporation to dispose of land) shall be taken to limit the power of such a corporation, with any consent of the Minister requisite under the said section 5, to dispose under that section of any such interest on a purchase by agreement under paragraph (a) of section 104(1) of this Act or to limit the power of the Minister to give any such consent.

(3) Subject to subsection (4) of this section, any officer of the Valuation Office of the Inland Revenue Department, or any other person if authorised by the Secretary of State, may at any reasonable time enter upon land for the purpose of surveying it in connection with any proposal for the compulsory purchase of the land, or any adjacent land, under section 104 of this Act.

(4) A person proposing to exercise a power of entry conferred under this section—

- (a) shall, if required to do so, produce some duly authenticated document showing his authority;
- (b) shall not demand admission as of right to any land that is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

## PART V

(5) Any person who wilfully obstructs a person acting in the exercise of a right of entry conferred under this section shall be liable, on a first conviction to a fine not exceeding five pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

Provision of alternative accommodation where licensed premises acquired.

**106.**—(1) The Secretary of State shall so far as is practicable secure that a resident tenant or manager of licensed premises acquired by the Secretary of State under section 104 of this Act shall have the opportunity, if the business previously carried on in the premises is continued by the Secretary of State, of being employed in carrying it on on terms not less favourable than those appropriate to a manager employed in a business such as was carried on in the premises before their acquisition.

(2) In this section the expression “resident tenant or manager”, in relation to premises acquired by the Secretary of State, means a person who immediately before the acquisition was residing in the premises and was either the holder or one of joint holders of the justices’ licence for the premises or was employed as manager of the premises by the holder of the licence.

Licences in suspense in Carlisle district.

**107.**—(1) Where a justices’ licence is in suspense under Part VIII or Part IX of this Act, and the premises for which it was last in force for all purposes are, or the site of those premises is, in the Carlisle district, then, subject to subsection (2) of this section, the Secretary of State on the application of the holder of the licence shall direct that as from the date of the direction, or such later date as may be agreed by the Secretary of State and the holder of the licence, the licence shall be extinguished.

(2) A direction under the preceding subsection shall not be given where a justices’ licence is in suspense under Part VIII of this Act, if—

- (a) a notice to treat has been served for the compulsory acquisition under section 104 of this Act of any interest in the premises or site, or
- (b) such an interest has been acquired under that section by agreement.

(3) The Secretary of State shall pay to the holder of a licence extinguished under this section such compensation for the extinguishment as may be agreed or, in default of agreement, as the Lands Tribunal may determine.

(4) For the purposes of any reference to the Lands Tribunal under subsection (3) of this section, section 4 of the Land Compensation Act 1961 (which relates to costs) shall have effect with



the substitution for the references to the acquiring authority of references to the Secretary of State.

PART V

(5) Compensation under this section shall be determined without regard to the fact that by reason of section 103 of this Act the revival or removal of the licence would or might be prevented.

## PART VI

## NEW TOWNS

**108.**—(1) For the purpose of determining the number, nature and distribution of licensed premises in new towns there shall be a committee for each new town or, if it appears to the Secretary of State that by reason of the proximity of any two new towns it is expedient that one committee should be constituted for them and the Secretary of State by order so directs, for those two new towns.

Committee to determine distribution of licensed premises in new town.

(2) It shall be the duty of every such committee to consider from time to time, having regard to the existing circumstances of the area for which the committee is constituted and of the proposed development of that area, what licensed premises the area requires, what accommodation and amenities should be provided in those premises and what facilities should be available in them for obtaining both intoxicating liquor and meals and other refreshments, including the provision of accommodation in which beverages other than intoxicating liquor may be consumed and in which the consumption of intoxicating liquor is prohibited.

(3) Such committees shall be constituted and their procedure regulated in accordance with Schedule 10 to this Act.

(4) Where a committee is constituted for two new towns, references in this Part of this Act and in Schedule 10 to this Act to the area for which the committee is constituted shall be construed as references to the aggregate of the areas of the new towns.

**109.**—(1) In the light of its consideration of the matters mentioned in subsection (2) of section 108 of this Act, a committee constituted under that section shall from time to time formulate proposals specifying—

Formulation and submission to Minister of proposals by committee.

(a) the places in the area for which the committee is constituted at which licensed premises should be established; and

(b) what description of excise licence for the sale of intoxicating liquor should be authorised to be held for each of the licensed premises established in accordance with the proposals.

## PART VI

(2) Any such proposals shall contain supplementary provisions for the type of accommodation, amenities and services to be provided in premises which are or include such licensed premises, including, unless the committee in any particular case otherwise decides, provision for the service of meals and of refreshments other than intoxicating liquor.

(3) The committee shall submit proposals formulated under this section to the Minister, together with such plans and other matter explanatory of the nature and effect of the proposals as the committee thinks fit or the Minister may in any particular case require.

(4) Where a committee has submitted proposals to the Minister under this section it shall publish by advertisement, in each of two successive weeks, in one or more local newspapers circulating in the area for which the committee is constituted, and may publish in such manner as it may determine, a notice that it has submitted the proposals, naming a place at which copies of the proposals and of the plans and explanatory matter submitted to the Minister may be seen at all reasonable hours, and stating the time, which shall not be less than twenty-eight days, within which and the manner in which objections to the proposals may be made to the Minister.

Objections to and confirmation of proposals and power to revoke or vary.

**110.**—(1) If no objection to proposals submitted under section 109 of this Act is made to the Minister within the time and in the manner stated in the notice published under subsection (4) of that section, or if all objections so made are withdrawn, the Minister may confirm the proposals.

(2) If objection is made as mentioned in subsection (1) of this section and not withdrawn, the Minister shall afford to any person making an objection an opportunity of appearing before and being heard by a person appointed for the purpose by the Minister or, if it appears to him that the matters to which the objection relates are such as to require investigation by public local inquiry, he shall cause such an inquiry to be held; and after considering any objection not withdrawn and the report of the person before whom the objector appeared or of the person holding the inquiry, as the case may be, the Minister may confirm the proposals.

(3) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (which relate to the summoning of witnesses and the production of documents before, and the costs incurred at, local inquiries under that section) shall apply to an inquiry held under this section as they apply to inquiries held under that section, but with the substitution for references to a department of references to the Minister.

(4) The power of the Minister under this section to confirm proposals shall include power—

- (a) where the proposals relate to the establishment of licensed premises at more than one place, to confirm the proposals, but without prejudice to the next following paragraph, so far as they relate to one or some only of the places in question;
- (b) to confirm the proposals subject to modifications so far as they relate to the situation of proposed licensed premises;
- (c) to confirm the proposals subject to the modification of any supplementary provisions contained in the proposals or to the addition of any supplementary provisions that the committee could have included in the proposals;

and references in this Part of this Act to proposals that have been confirmed shall be construed accordingly.

(5) Proposals of a committee under section 109 of this Act may be varied or revoked by subsequent proposals formulated by the committee and submitted to and confirmed by the Minister in like manner as the original proposals; and references in this Part of this Act to proposals under that section that have been confirmed shall be construed as references to such proposals as they have effect having regard to any subsequent variation or revocation of them.

**111.**—(1) Where application is made for the grant of a new justices' licence for, or for the removal of a justices' licence to, premises in a new town which are situated in a place specified in that behalf by proposals under section 109 of this Act that have been confirmed, then, if the effect of the grant would be that the premises would be licensed in accordance with the proposals, the licensing justices shall make the grant if they are satisfied that—

Grant of new licences and removals in new towns.

- (a) the premises are fit and convenient for the purpose; and
- (b) the applicant is not disqualified by this or any other Act for holding a justices' licence and is in all other respects a fit and proper person to hold a justices' licence; and
- (c) effect has been or will be given to any supplementary provisions contained in the proposals.

(2) Where an application such as is mentioned in subsection (1) of this section is for the provisional grant under section 6(1) of this Act of a new licence or of the removal of a licence, paragraph (a) of subsection (1) of this section shall have effect

**PART VI** as if the reference to the premises were a reference to them as they would be if constructed in accordance with the plans submitted to the justices.

(3) Subsections (5) and (6) of section 6 of this Act shall not apply to any such application as is mentioned in subsection (1) of this section for the provisional grant of a licence.

(4) Nothing in this section shall limit the powers and duties of licensing justices to impose conditions on the grant of a new justices' licence.

**Restriction on grant or variation of justices' licence for premises in new towns.**

**112.**—(1) The provisions of subsection (2) or subsection (3) of this section have effect with respect to the grant of new justices' licences, other than Part IV licences, for premises in new towns, and the removal of justices' licences to such premises, as follows:—

(a) subsection (2) applies where—

(i) the licence is a justices' on-licence and the premises are not on-licensed premises, or

(ii) the licence is a justices' off-licence and the premises are not licensed premises ;

(b) subsection (3) applies where—

(i) the licence is a justices' on-licence and the premises are on-licensed premises ; or

(ii) the licence is a justices' off-licence and the premises are licensed premises ;

but the effect of the grant or removal would be to add to the descriptions of intoxicating liquor authorised to be sold in the premises or to abolish a limitation that intoxicating liquor should only be sold for consumption with a meal in a restaurant.

(2) Where this subsection applies the new licence or removal shall not be granted unless—

(a) the premises are situated in a place specified in that behalf by proposals under section 109 of this Act that have been confirmed ; and

(b) the effect of the grant would be that the premises would be licensed in accordance with the proposals ; and

(c) the licensing justices are satisfied that effect has been or will be given to any supplementary provisions contained in the proposals.

(3) Where this subsection applies the new licence or removal shall not be granted unless the committee constituted under section 108 of this Act for the new town notifies the licensing justices that it has no objection to the grant.

(4) A justices' licence for premises in a new town shall not be varied under section 37 of this Act so as to add to the descriptions of intoxicating liquor authorised to be sold in the premises unless the licensing justices are satisfied that the committee constituted for the new town under section 108 of this Act has no objection to the variation.

(5) In this section "on-licensed premises" means premises for which a justices' on-licence is in force; and in determining for the purposes of this section whether any premises are on-licensed premises or licensed premises, a justices' licence for the premises shall be treated as being in force if it would be in force but for the fact that its grant for or removal to the premises was provisional and has not been declared final.

113.—(1) Proposals under section 109 of this Act may include provision whereby during such period (in this section referred to as "the interim period") as may be specified in the proposals subsection (2) of this section shall apply to any place specified in the proposals for the situation of licensed premises. Temporary licensed premises.

(2) While, by virtue of proposals under section 109 of this Act that have been confirmed, this subsection applies to any place, premises situated at that place shall not be treated for the purposes of section 4(2) or section 5(4) of this Act as not being structurally adapted to the class of licence required or, as the case may be, to the licence by reason only of the materials of which the premises are constructed or to be constructed or of the fact that the premises were constructed or have been used for other purposes.

(3) Nothing in subsection (2) of this section shall require justices to grant a new justices' licence for, or the removal of a justices' licence to, premises situated at the said place if in their opinion the premises are not proper to be used for the purpose.

(4) Where licensing justices grant a new justices' licence or the removal of a justices' licence by virtue of subsection (2) of this section they shall certify that they have so granted it; and unless a licence so granted is previously removed, otherwise than by virtue of that subsection, to other premises at the same place or removed to premises at a different place, it shall become void on the expiry of the interim period.

(5) Where proposals under section 109 of this Act include such provision as is authorised by subsection (1) of this section, proposals of the committee for other places at which licensed premises should be established may include provision whereby the proposals shall not have effect until the expiry of the interim period or such earlier date as the committee may from time to time determine.

**PART VI**  
**Membership of committee not to disqualify licensing justice.**

**114.** A person shall not be disqualified for acting as a licensing justice in relation to any matter by reason only that, as a member of a committee constituted under section 108 of this Act, he was concerned with the matter in question.

**Development corporation to provide services for, and pay expenses of, committee.**

**115.—(1)** The development corporation for the new town for which a committee is constituted under section 108 of this Act shall provide for the committee such accommodation and secretarial and other services as may be requisite for enabling the committee to exercise its functions, and shall pay any expenses incurred by the committee in the exercise of its functions or in the payment of travelling and other allowances to its members, so far as those expenses are incurred with the agreement of the development corporation or, in default of such agreement, with the approval of the Secretary of State; and any such agreement or approval may be given either before or after the expenses are incurred.

(2) Where a committee is constituted for two new towns—

(a) the accommodation and services mentioned in subsection (1) of this section shall be provided by such one of the development corporations concerned, or partly by one and partly by the other, as the corporations may from time to time agree or, in default of agreement, as the Secretary of State may determine; and

(b) the expenses mentioned in that subsection shall be defrayed by the development corporations in such proportions as may be so agreed or determined;

and references in that subsection to the development corporation shall be construed accordingly.

**Effect of transfer of development corporation's property to Commission for the New Towns.**

**116.—(1)** The following provisions of this section shall apply on the coming into operation of an order under section 6 of the New Towns Act 1959 providing in relation to any new town for a transfer of the development corporation's property to the Commission for the New Towns.

(2) If under section 108 of this Act a committee was constituted for that new town only, the committee shall cease to exist.

(3) If under the said section 108 a committee was constituted for that and another new town—

(a) the committee shall cease to exercise its functions as respects the first-mentioned new town, and thereafter this section shall apply as if under the said section 108 the committee had been constituted for the said other new town only; and

(b) the Secretary of State shall vary any order made by him under that section in such manner as appears to him requisite in consequence of the coming into operation of the order mentioned in subsection (1) of this section.

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(4) Sections 111 and 112 of this Act shall cease to apply to the new town, but without prejudice to the operation of the said section 111 as respects any application made before the date on which the order mentioned in subsection (1) of this section came into operation or made at the licensing sessions next held after that day.

117.—(1) In the foregoing provisions of this Part of this Act “new town” means an area designated as the site of a proposed new town under section 1 of the New Towns Act 1946 by an order that has become operative.

Meaning of “new town” and effect of revocation or variation of order designating site of proposed new town.

(2) If an order designating the site of a proposed new town is revoked, section 116 of this Act shall with the necessary modifications apply as if at the time of the revocation of the order an order had come into force under section 6 of the New Towns Act 1959 providing in relation to the new town for a transfer of the development corporation’s property to the Commission for the New Towns.

(3) Where, by reason of the variation of an order designating the site of a proposed new town, land ceases to be comprised in such a site, the variation shall not affect the operation of section 111 of this Act as respects an application made before the variation took effect or at the next licensing sessions held thereafter, but the land excluded from such a site by the variation shall not otherwise be treated for the purposes of this Part of this Act as comprised in a new town.

PART VII

LICENSING PLANNING AREAS

118.—(1) The Secretary of State may by order declare a licensing planning area any area consisting of—

Licensing planning areas.

- (a) a licensing district or county district the whole or part of which has sustained extensive war damage ; or
- (b) two or more such districts which are contiguous and the whole or part of each of which has sustained extensive war damage ;

if he is satisfied that it is desirable to do so by reason of the war damage and the consequences of that damage, including redevelopment that has taken place or is likely to take place in the area.

## PART VII

(2) Before declaring an area a licensing planning area, the Secretary of State shall consult with the licensing justices for the licensing district or districts comprising, or included in whole or in part in, the area and with any local planning authority having jurisdiction therein.

(3) In this section "war damage" has the meaning assigned to it by section 2 of the War Damage Act 1943.

Licensing  
planning  
committees.

**119.**—(1) For every licensing planning area there shall be a licensing planning committee.

(2) It shall be the duty of every licensing planning committee to review the circumstances of its area and to try to secure, after such consultation and negotiation as it may think desirable, and by the exercise of the powers conferred on it by this Part of this Act, that the number, nature and distribution of licensed premises in the area, the accommodation provided in them and the facilities given in them for obtaining food, accord with local requirements, regard being had in particular to any redevelopment or proposed redevelopment of the area.

(3) A licensing planning committee shall comply with such general or special directions as the Secretary of State may from time to time give it about consultation with such authorities or bodies as he may specify in the directions.

(4) Licensing planning committees shall be constituted and their procedure regulated in accordance with Schedule 11 to this Act.

(5) A licensing planning committee may pay to its secretary, and to the secretary of any sub-committee appointed under that Schedule, such remuneration as the Secretary of State may approve.

(6) In such circumstances as the Secretary of State may approve, a licensing planning committee may defray expenses incurred in travelling by its secretary, or the secretary of any such sub-committee.

(7) Any expenses properly incurred by a licensing planning committee shall be defrayed by the local planning authority having jurisdiction in the area, or, where there are two or more such authorities, by those authorities in such proportions as the Secretary of State may direct.

Variation and  
abolition of  
licensing  
planning  
areas.

**120.**—(1) The Secretary of State may, on the application of the licensing planning committee for any licensing planning area, and after such consultation with other authorities as he may think desirable, by order include in the area any licensing district or part of a licensing district, whether contiguous with the existing area or not, to which there has been, or is in his opinion likely to be, a substantial transfer of population, or of industry or other activities from the existing area.



(2) The Secretary of State may, after consultation with the licensing planning committee for any licensing planning area, by order exclude from the area any licensing district or part of a licensing district included in the existing area.

(3) An order under either of the two preceding subsections may make such variations in the provisions of the order constituting the area as appear to the Secretary of State to be expedient in consequence of the inclusion in, or exclusion from, the existing area of any district or part of a district.

(4) If it appears to the Secretary of State that it is no longer expedient that an area should be a licensing planning area, he may, after consultation with the licensing planning committee for the area, by order revoke the order constituting the area.

121.—(1) The licensing planning committee for any area may from time to time—

Submission and confirmation of proposals.

(a) formulate proposals for the removal, subject to and in accordance with the provisions of this Part of this Act relating to removals, and subject to such conditions, if any, as the proposals may specify, of justices' licences from premises in the area to other premises in the area specified in the proposals or to premises on sites in the area so specified ;

(b) formulate with the agreement of the persons interested in the premises in question proposals for the surrender, subject to such conditions, if any, as the proposals may specify, of existing justices' licences for premises in the area, other than licences in suspense under this Act ; and

(c) formulate with the agreement of the persons interested in the premises in question proposals for the extinguishment of existing justices' licences for premises in the area which are in suspense under this Act ;

and shall submit any such proposals to the Minister, together with such plans and other matter explanatory of the nature and effect of the proposals as may be prescribed or as the Minister may in any particular case require.

(2) Any such removal as is mentioned in paragraph (a) of the preceding subsection is in this Act referred to as a " planning removal ".

(3) Where a licensing planning committee has submitted proposals to the Minister under this section it shall publish in the prescribed manner a notice that it has submitted the proposals, naming a place at which copies of the proposals and of the plans

**PART VII** and explanatory matter submitted to the Minister may be seen at all reasonable hours, and stating the time within which and the manner in which objections to the proposals may be made to the Minister.

(4) If no objection to proposals submitted under this section is made to the Minister within the time and in the manner stated in the notice, or if all objections so made are withdrawn, the Minister may confirm the proposals with or without modification.

(5) If objection is so made and not withdrawn, the Minister shall afford to any person making an objection an opportunity of appearing before and being heard by a person appointed for the purpose by the Minister or, if it appears to him that the matters to which the objection relates are such as to require investigation by public local inquiry, he shall cause such an inquiry to be held; and after considering any objection not withdrawn and the report of the person before whom the objector appeared or of the person holding the inquiry, as the case may be, the Minister may confirm the proposals with or without modification.

(6) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (which relate to the summoning of witnesses and the production of documents before, and the costs incurred at, local inquiries under that section) shall apply to an inquiry held under this section as they apply to inquiries held under that section, but with the substitution for references to a department of references to the Minister.

(7) Proposals under this section may be varied by subsequent proposals formulated and submitted to and confirmed by the Minister in like manner as the original proposals; and references in this Part of this Act to proposals that have been confirmed shall be construed as references to such proposals as they have effect having regard to any subsequent variation of them.

Planning  
removals.

**122.**—(1) Where proposals of a licensing planning committee that have been confirmed provide for a planning removal, and application is made to the licensing justices for the licensing district in which the premises to which it is intended to make the removal are situated, the justices shall grant the removal if they are satisfied that—

- (a) the premises are fit and convenient for the purpose;
- (b) the applicant is not disqualified by this or any other Act for holding a justices' licence and is in all other respects a fit and proper person to hold a justices' licence; and
- (c) any conditions specified in the proposals as confirmed have been complied with.

(2) If the application is for the provisional grant of a planning removal, any plans submitted to the licensing justices shall be treated for the purposes of section 6 of this Act as plans deposited under this Act, but subsections (5) and (6) of that section shall not apply, and if the provisional grant is made it shall not be declared final unless the licensing justices are satisfied, in addition to the matters mentioned in subsection (4) of that section, that any conditions specified in the proposals as confirmed have been complied with.

(3) Any such application to licensing justices as is mentioned in the preceding provisions of this section, and any application for a provisional grant of a planning removal to be declared final may be made or dealt with at any meeting of the licensing justices specially called for the purpose as well as at licensing sessions.

(4) Sections 21 to 25 of this Act shall apply, with the necessary modifications, to a decision of licensing justices refusing to grant a planning removal (including a refusal to make a provisional grant) as they apply to a decision refusing a special removal.

**123.**—(1) No new justices' licence, other than a Part IV licence, shall be granted for any premises in a licensing planning area unless the licensing justices are satisfied that the licensing planning committee have no objection to the grant. Limitations on power to grant or vary licences in licensing planning areas.

(2) No ordinary or special removal of a justices' licence shall be granted to any premises in a licensing planning area unless the premises are licensed premises and the licensing justices are satisfied that the licensing planning committee have no objection to the grant.

(3) A justices' licence for premises in a licensing planning area shall not be varied under section 37 of this Act so as to add to the descriptions of intoxicating liquor authorised to be sold in the premises unless the licensing justices are satisfied that the licensing planning committee has no objection to the variation.

**124.**—(1) Where proposals of a licensing planning committee that have been confirmed provide for the surrender of a justices' licence for premises in its area, then, if such conditions as the proposals may specify have been complied with, the licence shall, by virtue of this Part of this Act, be extinguished as from such date as the proposals may specify, or such later date as the licensing planning committee may allow. Extinguishment of licences in licensing planning areas.

(2) Where the proposals of a licensing planning committee provide for the extinguishment of a justices' licence in suspense under this Act, then, on confirmation of the proposals, the licence shall be extinguished.

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Old on-licences  
in licensing  
planning  
areas.

**125.**—(1) The renewal of an old on-licence for premises in a licensing planning area shall not be refused on any grounds other than those on which licensing justices may refuse it under section 12 of this Act ; and accordingly sections 13, 18 and 136 of this Act, and section 144 of this Act so far as it relates to the said section 136, shall not apply to an old on-licence for premises in a licensing planning area ; but where licensing justices have decided, at a time when any premises were not in a licensing planning area, to refer to the compensation authority the question of the renewal or extinguishment of an old on-licence for the premises, the like proceedings may be had by virtue of that decision as if the premises had continued not to be in a licensing planning area.

(2) No charge shall be imposed under section 17 of this Act on the renewal or transfer of an old on-licence for premises in a licensing planning area, or on the removal of an old on-licence to such premises ; and no charge imposed under that section shall be levied for premises which, at the date when the charge would, apart from this provision, fall to be levied, are in a licensing planning area, notwithstanding that when the charge was imposed they were not in such an area.

Temporary  
premises.

**126.**—(1) A licensing planning committee may, on the application of a person intending to make an application under subsection (2) of this section in respect of a justices' licence for premises in its area, certify, in the prescribed form, that for such period as may be specified in the certificate the committee has no objection to the business of the holder of the licence being carried on in such temporary premises in the area as may be so specified.

(2) Where such a certificate is given, then, subject to the following provisions of this section,—

(a) an application may be made to the licensing justices for the removal of the licence to the temporary premises so specified, and

(b) a subsequent application may be made to licensing justices for the removal of the licence from those premises to premises on the site of the premises to which the licence related before the removal to the temporary premises,

in all respects as if those removals (in this Act referred to as "temporary premises removals") were planning removals for which proposals had been confirmed under this Part of this Act ; and section 122 of this Act shall apply accordingly.

(3) Where, before such a certificate is given, proposals for the planning removal of the licence have been confirmed under this Part of this Act, but the licence has not been removed, paragraph (b) of subsection (2) of this section shall have effect

as if for the reference to premises on the site of the premises to which the licence related before the removal to the temporary premises there were substituted a reference to the premises to which the licence is to be removed in pursuance of the planning removal.

(4) Subject to section 141(6) of this Act, where a licence is removed to temporary premises by virtue of a temporary premises removal, the licence shall, at the expiry of the period specified in the certificate of the licensing planning committee, or such longer period, if any, as the committee may allow, become void unless it has previously been removed to other premises.

(5) Where a certificate is given under subsection (1) of this section, the temporary premises specified in the certificate shall be treated for the purposes of section 5 of this Act as structurally adapted to the licence; but nothing in this subsection shall require justices to grant a removal to, or to renew a licence for, any premises which in their opinion are not proper to be used, for the period specified in the certificate or, as the case may be, for the further period allowed by the committee, for the purposes of the business of the holder of the licence.

(6) Nothing in this section shall limit the powers conferred by this Part of this Act as to the granting of planning removals; and in the provisions of this Part of this Act conferring those powers, and in the preceding provisions of this section, references to removals include references to removals to or from temporary premises from or to other premises on the same site.

(7) In this section "temporary premises" includes all premises, whether temporary in their nature or not, which it is not intended to use permanently for the purposes of the business in question.

**127.**—(1) The administrative county of London shall be a licensing planning area; and subject to subsection (2) of this section and to section 128 of this Act, this Part of this Act shall apply to that area as if it had been constituted by order of the Secretary of State under section 118 of this Act. London.

(2) This Part of this Act, except section 123(3), shall not apply to justices' licences for premises in the administrative county of London which, under any enactment, authorise the sale of intoxicating liquor only for consumption with a meal in a restaurant.

**128.**—(1) This section applies—

- (a) to proposals for planning removals within, and
- (b) to proposals for the surrender or extinguishment of justices' licences for premises in,

Proposals  
for planning  
removals and  
surrender of  
licences in  
London.

**PART VII** the administrative county of London, exclusive of any area for the time being designated by order of the Minister as an area of large-scale redevelopment.

An order under this subsection may be varied or revoked by a subsequent order thereunder.

(2) Any proposal to which this section applies shall be formulated by the appropriate sub-committee of the licensing planning committee instead of by that committee and shall be submitted to that committee instead of to the Minister; and accordingly references in subsections (1) to (3) and (7) of section 121 of this Act to the licensing planning committee and to the Minister shall be construed, in relation to such proposals, as referring respectively to the appropriate sub-committee of that committee and to that committee, and sections 122, 124 and 129 of this Act shall be construed accordingly.

(3) In its application to proposals to which this section applies section 121 of this Act shall have effect as if for subsections (4) to (6) there were substituted the following subsection:—

“(4) If no objection to the proposals is made to the licensing planning committee within the time and in the manner stated in the notice, or if all objections so made are withdrawn, the committee may confirm the proposals with or without modifications; but if objection is so made, the licensing planning committee shall afford to any person making an objection an opportunity of appearing before or being heard by the committee; and after considering any objection not withdrawn, the committee may confirm the proposals with or without modification.”

(4) The coming into force of an order under subsection (1) of this section, or of an order varying or revoking such an order, shall not affect the proceedings in relation to any proposals submitted for confirmation before the coming into operation of the order.

**Regulations.**

**129.** The Secretary of State may make regulations—

- (a) about the procedure to be followed on and in connection with applications under this Part of this Act to licensing justices,
- (b) about the procedure, including quorum, of licensing planning committees and of sub-committees appointed under Schedule 11 to this Act,
- (c) for fixing the time within which and the manner in which objections to proposals of a licensing planning committee may be made to the Minister,

- (d) about the keeping and auditing of accounts of the expenditure of licensing planning committees and the furnishing by those committees of estimates of expenses to the authorities by whom the expenses of the committees fall to be defrayed, and
- (e) for prescribing anything that by this Part of this Act is required or authorised to be prescribed.

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**130.** A person shall not, by reason of his membership of, or anything done by him in the course of his duties as a member of, a licensing planning committee or a sub-committee of a licensing planning committee, be held to be disqualified for acting as a licensing justice in relation to any matter falling to be decided by the licensing justices for the licensing planning area or any part of it, whether under this Part of this Act or otherwise.

Membership of licensing planning committee not to disqualify licensing justice.

**131.—**(1) This Part of this Act shall continue in force until the end of March 1965 and shall then expire.

Duration of Part VII.

(2) On the expiry of this Part of this Act section 38(2) of the Interpretation Act 1889 (which relates to the effect of repeals) shall have effect as if this Part of this Act had been repealed by another Act.

## PART VIII

### SUSPENSION OF LICENCES BY REASON OF WAR CIRCUMSTANCES

**132.—**(1) Where the Commissioners are satisfied, on application made to them for a certificate under this section, that a business for the purposes of which or in connection with which a justices' licence was granted has been temporarily discontinued by reason of war circumstances, they shall certify accordingly, and shall state in the certificate whether or not those circumstances include the destruction of the premises or serious damage to them.

Suspension of licence where business discontinued owing to war circumstances.

(2) As from the date of a certificate under this section, the justices' licence for the premises shall be in suspense by virtue of this section until it is again in force for all purposes by virtue of this Part of this Act or until it is extinguished either by virtue of this Part of this Act or of section 107 or section 124(2) of this Act.

(3) While a justices' licence is in suspense by virtue of this section—

- (a) it may be transferred or removed in accordance with the provisions in that behalf of Parts I and VII of this Act;

## PART VIII

(b) it may be extinguished under section 107 or section 124(2) of this Act ;

but, except so far as is requisite for giving effect to those provisions and the other provisions of this Part of this Act, and except as provided by section 104(4) of this Act, it shall not be in force for any purpose.

(4) Notwithstanding the grant of a certificate under this section, a licence shall not be in suspense by virtue of this section if an event has occurred before the grant which would have brought the suspension to an end.

(5) For the purposes of this Part of this Act—

(a) “ war circumstances ” means circumstances directly or indirectly attributable to any war in which Her Majesty may be or has been engaged ;

(b) the destruction of the premises or serious damage to them, though not caused by enemy action or other causes arising from war, shall be deemed, in relation to a business carried on in those premises, to be war circumstances if the execution of works necessary to enable the business to be carried on is prevented by war circumstances ;

and any reference in this Part of this Act to a licence in suspense is a reference to a licence in suspense by virtue of this section.

Restoration to full force of licence in suspense.

**133.**—(1) Where the holder of a licence for the time being in suspense wishes to resume the business carried on in the premises for which the licence was granted, he may give notice in writing to that effect to the clerk to the licensing justices ; and, subject to subsection (2) of this section, from the time of his giving the notice the licence shall be in force for all purposes.

(2) Where the licence is an on-licence, and the certificate granted under section 132 of this Act states that the war circumstances include destruction of the premises or serious damage to them, then, unless plans of such works as are reasonably necessary to secure the proper conduct of the business have been submitted to the licensing justices and approved by them, and the licensing justices have signified their satisfaction that the works have been executed in accordance with those plans, a notice under subsection (1) of this section shall have no effect.

(3) A licence in force for all purposes after being in suspense shall, unless previously forfeited or becoming void under this Act, be in force until 5th April next following the first day of the general annual licensing meeting after the time when it ceased to be in suspense.

(4) Where a licence in suspense is removed the licence granted by way of removal shall not be in suspense and the provisions of this Act shall apply in relation to it as they apply in relation to a licence granted by way of removal of a licence in force.



**134.**—(1) Where a licence is in suspense and the licensing justices are satisfied that there are no longer any war circumstances that justify its continuing to be in suspense, they may order it to be extinguished at the expiry of such period as may be specified in the order unless it is again in force for all purposes by virtue of section 133 of this Act before the expiry of that period.

PART VIII  
Extinguishment of licence in suspense when suspension no longer justified.

(2) If Her Majesty by Order in Council declares that there are in general no longer any war circumstances that justify justices' licences continuing to be in suspense, every licence in suspense at the date of the Order shall be extinguished at the expiry of such period as may be specified in the Order unless it is again in force for all purposes by virtue of section 133 of this Act before the expiry of that period.

(3) Licensing justices may, on application made to them in that behalf, extend the period specified in an order under subsection (1) of this section, or, in relation to a particular licence, the period specified in an Order in Council under subsection (2) of this section.

**135.**—(1) Where at a general annual licensing meeting objection to the continuance of a licence that is for the time being in suspense is made on grounds relating to the conduct of the holder of the licence or his fitness to hold it, then if, had the licence been in force for all purposes, the licensing justices would have had jurisdiction to refuse its renewal on those grounds and would have done so had the licence holder applied for its renewal at that meeting, they may order the licence to be extinguished.

Extinguishment of licence in suspense on grounds of conduct or fitness.

(2) Notwithstanding the making of such an order, licensing justices may grant a transfer of the licence to which the order relates on an application made at the same general annual licensing meeting or at the first transfer sessions thereafter; and if a transfer of the licence is so granted the order for extinguishment shall not have effect.

**136.**—(1) Subject to section 125 of this Act, where licensing justices are of opinion, with reference to an old on-licence which is in suspense at the time of their general annual licensing meeting, that, if the licence had then been in force for all purposes and an application for its renewal had been made at that meeting, the question of renewal would have required consideration on grounds other than those on which they could have refused it, they shall refer to the compensation authority the question of the extinguishment of the licence together with their report thereon.

Extinguishment of old on-licence in suspense on reference to compensation authority.

(2) The compensation authority shall consider any report made to them under this section and may extinguish the licence

**PART VIII** to which any such report relates, but shall not do so without giving an opportunity to be heard—

- (a) to the persons interested in the licensed premises ; and
- (b) unless it appears to the compensation authority unnecessary, to any other persons appearing to them to be interested, including the licensing justices.

(3) On the extinguishment of an old on-licence under this section the like compensation shall be paid as would have been payable if the compensation authority had refused to renew the licence ; and sections 14, 17(6) and 38 of this Act shall apply with the requisite modifications in relation to the extinguishment of old on-licences under this section as they apply in relation to the refusal of the renewal of such licences by the compensation authority.

Discontinuance of business taking place during proceedings for renewal.

**137.**—(1) If the discontinuance of business occasioning the suspension of a licence by virtue of section 132 of this Act occurs on or after the first day of a general annual licensing meeting and before 5th April next following and—

- (a) in proceedings taken in relation to any objection to the renewal of the licence made at that meeting on grounds relating to the conduct of the holder of the licence or his fitness to hold it, or
- (b) in proceedings taken in relation to any reference to the compensation authority of the question of the renewal of the licence at that meeting,

the renewal of the licence is refused, the licence shall be extinguished, but without prejudice to the payment of compensation under section 14 of this Act.

(2) If a justices' licence subsisting by virtue of a provisional renewal pending a reference to the compensation authority becomes a licence in suspense it shall be extinguished upon a refusal of the renewal by the compensation authority.

Transfer of licence in suspense to owner of licensed premises.

**138.** Licensing justices may grant a transfer of a justices' licence to the owner of the licensed premises or to a person applying on his behalf in the following cases, as well as in those mentioned in section 8 of this Act, that is to say,—

- (a) where the holder of the licence has wilfully omitted or neglected to take steps requisite for preventing its extinguishment under subsection (1) or subsection (2) of section 134 of this Act ;
- (b) where an order has been made under section 135 of this Act in relation to the licence, or the renewal of the licence has been refused in such circumstances as are mentioned in section 137 of this Act on grounds

relating to the conduct of the holder of the licence or his fitness to hold it ; PART VIII

- (c) where the licence has been forfeited, or the holder thereof disqualified, while the licence was in suspense, in circumstances in which a protection order could have been granted under section 10(3) of this Act if the business had not been discontinued ;
- (d) where the holder of the licence has, or his representatives have, given up occupation of the licensed premises whilst the licence was in suspense.

**139.** Sections 21 to 25 of this Act shall apply with the necessary modifications— Appeals to quarter sessions.

- (a) to a refusal of licensing justices to approve plans submitted to them for the purposes of subsection (2) of section 133 of this Act, or to signify their satisfaction under that subsection ;
- (b) to the making of an order under section 134(1) of this Act ;
- (c) to a refusal of licensing justices to grant an application under section 134(3) of this Act ;
- (d) to the making of an order under section 135 of this Act.

**140.** The Secretary of State may make such rules, prescribe such forms and generally do such things as he thinks expedient for regulating the practice under this Part of this Act, including the service of documents. Rules, etc.

### PART IX

#### SUSPENSION OF LICENCES BY REASON OF COMPULSORY ACQUISITION, ETC.

**141.—(1)** Where the Commissioners are satisfied on an application made to them for a certificate under this sub-section— Suspension of justices' licence where licensed premises compulsorily acquired or temporary premises cease to be available.

- (a) that a business is temporarily discontinued by reason of the compulsory acquisition, or the proposed compulsory acquisition, of licensed premises in which the business was carried on, other than acquisition or proposed acquisition by the Secretary of State under section 104 of this Act, and
- (b) that the removal of the licence to other premises, not being temporary premises, reasonably satisfactory to the person by whom the business was carried on

## PART IX

would be prevented by the restriction on removals imposed by section 123(2) of this Act, or by its being otherwise impracticable to provide such other premises as aforesaid,

they shall certify accordingly.

(2) Where the Commissioners are satisfied on an application made to them for a certificate under this subsection—

(a) that a business carried on in licensed premises which are temporary premises has been temporarily discontinued on account of those premises ceasing to be available or on account of the expiry of the period specified in the certificate of the licensing planning committee under section 126 of this Act relating to the premises and of any extension of that period under subsection (4) of that section, and

(b) that the circumstances are as mentioned in paragraph (b) of subsection (1) of this section,

they shall certify accordingly.

(3) Where a licence granted for any premises is in suspense by virtue of section 132 of this Act, and the Commissioners are satisfied on an application made to them for a certificate under this subsection—

(a) that the premises have been compulsorily acquired otherwise than by the Secretary of State under section 104 of this Act, or that it is proposed that they shall be compulsorily acquired otherwise than as aforesaid, and

(b) that the circumstances are as mentioned in paragraph (b) of subsection (1) of this section,

they shall certify accordingly.

(4) As from the date of a certificate under this section, the justices' licence in force for the premises immediately before the discontinuance mentioned in subsection (1) or (2) of this section or, as the case may be, the licence in suspense as mentioned in subsection (3) of this section, shall be in suspense by virtue of this section until it is again in force for all purposes by virtue of this Part of this Act or until it is extinguished, either by virtue of this Part of this Act or of section 107 or section 124(2) of this Act; and, if it is such a licence as is mentioned in subsection (3) of this section, shall no longer be in suspense by virtue of section 132 of this Act.

(5) While a justices' licence is in suspense by virtue of this section—

(a) it may be transferred or removed in accordance with the provisions in that behalf of Parts I and VII of this Act,

(b) it may be extinguished under section 107 or section 124(2) of this Act ; PART IX

but, except so far as is requisite for giving effect to those provisions and the other provisions of this Part of this Act, it shall not be in force for any purpose.

(6) Where a certificate has been granted under subsection (2) of this section, the provisions of section 126(4) of this Act avoiding a licence on the expiry of such periods as are mentioned therein—

(a) shall, if the relevant period expired before the granting of the certificate, be deemed not to have avoided the licence, and

(b) shall not avoid the licence during the period of its suspension.

(7) In this Part of this Act—

(a) references to compulsory acquisition of premises include references—

(i) to acquisition by agreement by an authority or persons, and for a purpose, such that the authority or persons could be authorised to acquire the premises compulsorily ; and

(ii) to the taking possession of premises by a local authority by virtue of a lease or authorisation under the War Damaged Sites Act 1949 ;

(b) references to premises include references to the site of premises ; and references to a licence granted for premises in any district or area include references to a licence granted for premises the site of which is in that district or area ;

and, unless the context otherwise requires, any reference in this Part of this Act to a licence in suspense is a reference to a licence in suspense by virtue of this section.

**142.**—(1) Where a licence is in suspense and it is proposed to resume on the same site the business formerly carried on in the premises for which the licence was granted, the holder of the licence may apply to the licensing justices for the district in which the premises are situated for their approval of his fitness to hold the licence and, if the justices approve his fitness, he may give notice in writing to the clerk to the licensing justices of the proposal to resume the business ; and, subject to subsection (2) of this section, from the time of his giving the notice the licence shall be in force for all purposes. Restoration to full force of licence in suspense.

(2) Where a notice under this section relates to an on-licence then, unless plans of such works as are reasonably necessary to secure the proper conduct of the business have been submitted to the licensing justices and approved by them, and the

## PART IX

justices have signified their satisfaction that the works have been executed in accordance with those plans, the notice shall have no effect.

(3) A justices' licence in force for all purposes after being in suspense shall, unless previously forfeited or becoming void under this Act, be in force until 5th April next following the first day of the general annual licensing meeting after the time when it ceased to be in suspense.

(4) Where a licence in suspense is removed the licence granted by way of removal shall not be in suspense and the provisions of this Act shall apply in relation to it as they apply in relation to a licence granted by way of removal of a licence in force.

Extinguishment of licence in suspense when suspension no longer justified.

**143.**—(1) Where a licence is in suspense and the licensing justices are satisfied—

(a) that a removal of the licence as mentioned in paragraph (b) of subsection (1) of section 141 of this Act would no longer be prevented as mentioned in that paragraph, or

(b) that, in a case where it is proposed to resume the business in question on the same site, it would be reasonably practicable to carry out any such works as are mentioned in subsection (2) of section 142 of this Act,

they may order the licence to be extinguished at the expiry of such period as may be specified in the order unless it is again in force for all purposes before the expiry of that period.

(2) If Her Majesty by Order in Council declares that the removal of licences as mentioned in paragraph (b) of subsection (1) of section 141 of this Act is in general no longer prevented as mentioned in that paragraph, every licence in suspense at the date of the Order shall be extinguished at the expiry of such period as may be specified in the Order unless it is again in force for all purposes before the expiry of that period.

(3) Licensing justices may, on application made to them in that behalf, extend the period specified in an order under subsection (1) of this section, or, in relation to a particular licence, the period specified in an Order in Council under subsection (2) of this section.

Extinguishment of licence in suspense on other grounds.

**144.** Sections 136 and 137 of this Act shall apply to a licence in suspense by virtue of section 141 of this Act as they apply to a licence in suspense by virtue of section 132 of this Act.

**145.** Without prejudice to the power to transfer a licence in suspension in the cases mentioned in section 8 of this Act, if licensing justices are satisfied, with respect to a licence in suspense, that any person other than the holder has an interest in it or that the holder has no interest in it, they shall, on an application by any person appearing to them to have such an interest, transfer the licence to the person or persons appearing to them to have such an interest.

**PART IX**  
Transfer of  
licence in  
suspense.

**146.** Sections 21 to 25 of this Act shall apply with the necessary modifications—

Appeals to  
quarter  
sessions.

- (a) to a refusal of licensing justices to approve the fitness of a holder of a licence, on an application under subsection (1) of section 142 of this Act ;
- (b) to a refusal of licensing justices to approve plans submitted to them for the purposes of subsection (2) of that section, or to signify their satisfaction under that subsection ;
- (c) to the making of an order under section 143(1) of this Act ;
- (d) to a refusal of licensing justices to grant an application under section 143(3) of this Act.

**147.** The Secretary of State may make such rules, prescribe such forms and generally do such things as he thinks expedient for regulating the practice under this Part of this Act, including the service of documents.

Rules, etc.

## PART X

### SEAMEN'S CANTEENS

#### *Canteen licences*

**148.**—(1) If a body approved by the Minister of Transport have provided or propose to provide a seamen's canteen the need for which has been certified by that Minister, after consultation with the Merchant Navy Welfare Board, the licensing justices may grant a licence under this Part of this Act (in this Act referred to as a "canteen licence") authorising the person who is the manager of the canteen to hold a retailer's on-licence to sell intoxicating liquor in the canteen ; and an excise licence may be granted to him accordingly notwithstanding that he does not hold a justices' licence.

Licences for  
seamen's  
canteens  
authorising  
the holding of  
retailer's  
on-licences.

(2) In this Part of this Act, "canteen" includes a part of a hostel where food or drink is supplied, whether or not the food or drink is separately paid for.

**PART X**  
Grant of  
canteen  
licences.

**149.**—(1) The licensing justices shall not refuse to grant a canteen licence except under subsection (2) of this section or on one or more of the following grounds, that is to say—

- (a) that the applicant is disqualified by this or any other Act for holding a justices' licence or is in other respects not a fit and proper person to hold a canteen licence ; or
- (b) that the premises are not fit and convenient for the purposes of the canteen ; or
- (c) in a case where objection has been made to the situation of the canteen, on the ground specified in the objection ; or
- (d) that the applicant or body providing the canteen has entered into an agreement limiting the sources from which the intoxicating liquor or the mineral waters to be sold in the canteen may be obtained,

but nothing in this subsection shall prevent the licensing justices from specifying in a canteen licence a kind of retailer's on-licence other than that requested by the applicant.

(2) Before application is made for the grant of a canteen licence draft rules as to the persons entitled to use the canteen shall be prepared for submission with the application and the licensing justices shall refuse to grant the licence unless the body providing the canteen undertake to make rules for the canteen in the form of the draft, with the modifications, if any, required by the licensing justices, and not to vary those rules without their consent.

(3) A canteen licence shall provide that at all times at which intoxicating liquor is sold food and beverages other than those of an intoxicating character shall also be provided for sale.

(4) An applicant for the grant of a canteen licence shall give the notices and serve the documents required in that behalf by Schedule 12 to this Act.

Provisional  
canteen  
licences.

**150.**—(1) In a case where it is proposed to construct or convert premises for a seamen's canteen, a canteen licence may be a provisional licence to be made final after the proposal has been carried out.

(2) In the application of section 149 of this Act to a provisional canteen licence—

- (a) paragraph (a) of subsection (1) shall be omitted ; and
- (b) the reference in paragraph (b) of that subsection to the premises shall be taken as a reference to those premises after the proposed construction or conversion has been carried out.



(3) On an application by the holder of a provisional canteen licence, the licensing justices may consent to any modification of the plan served on the clerk to the licensing justices where, in their opinion, the premises, if completed in accordance with the modified plan, will be fit and convenient for the purposes of the canteen.

(4) Licensing justices shall not refuse an application to make a provisional canteen licence final except on either or both of the following grounds, that is to say—

- (a) that the canteen has not been constructed or converted in accordance with the plan served on the clerk to the licensing justices or in accordance with that plan with modifications consented to under the preceding subsection ;
- (b) that the person who is to hold the licence is disqualified by this or any other Act for holding a justices' licence or is in other respects not a fit and proper person to hold a canteen licence ;

and until a provisional licence has been made final it shall not come into force.

(5) An applicant for a provisional canteen licence to be made final shall give such notices as the licensing justices may require.

**151.**—(1) A canteen licence shall, unless renewed under this section, expire on 4th April next after the date on which it comes into force. Renewal of  
canteen  
licences.

(2) If the Minister of Transport has, in the calendar year in which the licence would otherwise expire, certified that the canteen is still needed, the licensing justices may renew the licence for a further period of twelve months.

(3) The power of licensing justices to renew a canteen licence shall be exercisable only at a general annual licensing meeting.

(4) Licensing justices shall not refuse an application for the renewal of a canteen licence except under section 153(1) of this Act or on one or more of the following grounds, that is to say,—

- (a) that the manager is disqualified by this or any other Act for holding a justices' licence or is in other respects not a fit and proper person to hold a canteen licence ;  
or
- (b) that the rules as to the persons entitled to use the canteen have not been observed or that the canteen has in other respects been improperly conducted ; or
- (c) that the manager or the body providing the canteen has entered into an agreement of the kind mentioned in paragraph (d) of section 149(1) of this Act.

**PART X**

(5) If the applicant for the renewal of a canteen licence has given such notices as the licensing justices may require and so requests, the licensing justices may, at their discretion, in renewing the licence vary the kind of retailer's on-licence to be authorised by the licence so renewed.

(6) A person intending to oppose an application for the renewal of a canteen licence shall, not later than five days before the hearing of the application, give notice in writing to the holder of the licence specifying the ground of his objection.

**Transfer of  
canteen  
licences.**

**152.**—(1) A canteen licence shall not authorise the grant or transfer of a retailer's on-licence to a manager of the canteen who is not the person to whom the canteen licence was granted unless the canteen licence has been transferred to him ; but where the holder of a canteen licence has in pursuance of this Part of this Act been granted an excise licence and subsequently ceases to be the manager of the canteen, the person for the time being in charge of the canteen may, during the period of fourteen days from the date on which the holder of the licences ceased to be the manager, sell intoxicating liquor in the canteen as if those licences had been transferred to him.

(2) A canteen licence may be transferred either by the licensing justices or by justices of the peace for the petty sessions area in which the canteen is situated.

(3) A licence transferred under this section by justices of the peace shall become void at the expiry of three months from the date on which the transfer takes effect, unless—

- (a) within that period the transfer has been confirmed by the licensing justices, or a further transfer has been made under this section ; or
- (b) the transfer is to a person resuming the management of the canteen after an interval not exceeding four weeks.

(4) A transfer of a canteen licence and the confirmation of such a transfer shall not be refused except on the ground that the applicant is disqualified by this or any other Act for holding a justices' licence or is in other respects not a fit and proper person to hold a canteen licence.

(5) An applicant for the transfer or confirmation of the transfer of a canteen licence shall give the notices required in that behalf by Schedule 12 to this Act.

(6) The power of justices of the peace to transfer a canteen licence shall be exercisable by the number of justices, and in the place, required by the Magistrates' Courts Act 1952 for the hearing of a complaint.

**153.—**(1) On renewing a canteen licence the licensing justices may by order, to be served on the holder, direct that, within a time fixed by the order, such structural alterations shall be made in the premises comprising the canteen as they think reasonably necessary to secure the proper conduct of the canteen; and if, when application for renewal of the licence is next made after the time fixed by the order has expired, it is not shown to the satisfaction of the licensing justices that the order has been complied with, the justices may refuse to renew the licence.

**PART X**  
Alterations  
to canteen  
premises.

(2) If an order under subsection (1) of this section is complied with, the licensing justices shall not make a further order within the five years following the first-mentioned order.

(3) Section 20 of this Act shall apply in relation to premises for which a canteen licence is in force as it applies in relation to premises for which a justices' on-licence is in force.

**154.—**(1) Where licensing justices—

Rights of  
appeal.

- (a) refuse to grant, renew or transfer a canteen licence, or
- (b) refuse to make a provisional canteen licence final or to give consent, on the application of the holder of such a licence, to a modification of the plan served on the clerk to the licensing justices, or
- (c) on an application for the grant of a canteen licence do not authorise the kind of retailer's on-licence duly requested by the applicant, or
- (d) on an application for the renewal of a canteen licence do not comply with the applicant's request duly made for a change in the kind of retailer's on-licence to be authorised, or
- (e) require modifications in the rules proposed to be made as to the persons entitled to use the canteen, or withhold their consent to a variation of those rules, or
- (f) make an order under section 153(1) of this Act, or
- (g) refuse to give a consent required under section 20 of this Act as applied by section 153(3) of this Act,

any person aggrieved may appeal to quarter sessions.

(2) The quarter sessions having jurisdiction to hear an appeal under this section shall be those specified, in relation to appeals under subsection (1) of section 21 of this Act, by subsection (3) of that section; and that subsection shall have effect, in relation to appeals under this section, as if the references therein to paragraphs (d) and (e) of subsection (1) of that section were references to paragraphs (f) and (g) of subsection (1) of this section.

## PART X

(3) Sections 22 to 25 of this Act shall, with the necessary modifications, apply in relation to appeals under this section and, in the case of an appeal under paragraph (a), (c), (d) or (e) of subsection (1) of this section, subsections (3) and (5) of section 22 shall so apply as they apply in the case of a refusal to grant a licence.

*Sale and supply of intoxicating liquor in licensed canteens*

Prohibition of sale, etc. of intoxicating liquor in canteens outside permitted hours.

**155.**—(1) Subject to subsection (2) of this section, no person shall, except during the permitted hours,—

- (a) himself or by his servant or agent sell or supply intoxicating liquor to any person in a licensed canteen; or
- (b) consume intoxicating liquor in a licensed canteen.

(2) Where any intoxicating liquor is supplied in a licensed canteen during the permitted hours, subsection (1) of this section does not prohibit or restrict—

- (a) the consumption of the liquor during the first ten minutes after the end of any period forming part of those hours;
- (b) the consumption of the liquor during the first half hour after the end of such a period by persons taking meals on the premises, if the liquor was supplied for consumption as an ancillary to their meals.

(3) If any person contravenes subsection (1) of this section he shall be liable to a fine not exceeding one hundred pounds.

Permitted hours in licensed canteen.

**156.**—(1) Subject to the following provisions of this section, the permitted hours in a licensed canteen shall be the general licensing hours.

(2) Paragraph (a) of section 68(1) of this Act shall apply to every licensed canteen.

(3) Subsections (4) to (6) of section 74 and section 75 of this Act shall apply in relation to a licensed canteen and the holder of the canteen licence as they apply in relation to premises for which a justices' on-licence is in force and the holder of that licence.

Prohibition of sale or supply of intoxicating liquor in canteens for consumption off the premises.

**157.** In a licensed canteen intoxicating liquor shall not be sold or supplied for consumption outside the canteen, and if any person—

- (a) himself or by his servant or agent sells or supplies intoxicating liquor in a licensed canteen for consumption outside the canteen, or
- (b) takes intoxicating liquor from a licensed canteen for consumption outside the canteen,

he shall be liable to a fine not exceeding thirty pounds.

## Supplementary

## PART X

**158.** A hostel which includes a licensed canteen shall be exempt from any byelaws made under section 214 of the Merchant Shipping Act 1894 and from any Order in Council under that section requiring that only persons duly licensed under such byelaws shall keep seamen's lodging houses or let lodgings to seamen.

Exemption of licensed canteens from restrictions under s. 214 of Merchant Shipping Act 1894.

**159.**—(1) If any person forges a canteen licence or tenders a canteen licence knowing it to have been forged, he shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding twenty pounds.

Forgery of canteen licence.

(2) Any excise licence granted in pursuance of a forged canteen licence shall be void.

## PART XI

## GENERAL PROVISIONS REGULATING SALE, ETC., POSSESSION AND DELIVERY OF INTOXICATING LIQUOR

**160.**—(1) Subject to the provisions of this Act, if any person—

Selling liquor without licence.

(a) sells or exposes for sale by retail any intoxicating liquor without holding a justices' licence or canteen licence authorising him to hold an excise licence for the sale of that liquor, or

(b) holding a justices' licence or a canteen licence sells or exposes for sale by retail any intoxicating liquor except at the place for which that licence authorises him to hold an excise licence for the sale of that liquor,

he shall be guilty of an offence under this section.

(2) Where intoxicating liquor is sold in contravention of this section on any premises, every occupier of the premises who is proved to have been privy or consenting to the sale shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds, or to both.

(4) The holder of a justices' licence or a canteen licence shall, on his second or subsequent conviction of an offence under this section, forfeit the licence.

(5) The court by or before which a person is convicted of an offence under this section committed after a previous conviction of such an offence may order him to be disqualified for holding a justices' licence—

(a) on a second conviction, for a period not exceeding five years ;

## PART XI

(b) on a third or subsequent conviction, for any term of years or for life.

(6) The court by or before which the holder of a justices' licence or a canteen licence is convicted of an offence under this section may declare all intoxicating liquor found in his possession, and the vessels containing it, to be forfeited.

Selling liquor in breach of conditions of licence.

**161.**—(1) If the holder of a justices' on-licence knowingly sells or supplies intoxicating liquor to persons to whom he is not permitted by the conditions of the licence to sell or supply it he shall be guilty of an offence under this section.

(2) If the holder of a Part IV licence knowingly permits intoxicating liquor sold in pursuance of the licence to be consumed on the licensed premises by persons for whose consumption there he is not permitted by the conditions of the licence to sell it, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both.

Keeping on premises of liquor of kind not authorised by licence.

**162.** If without reasonable excuse the holder of a justices' licence or a canteen licence has in his possession on the premises in respect of which the licence is in force any kind of intoxicating liquor which he is not authorised to sell, he shall be liable—

(a) on a first conviction, to a fine not exceeding ten pounds,

(b) on a subsequent conviction, to a fine not exceeding twenty pounds,

and shall forfeit the liquor and the vessels containing it.

Delivery from vehicles, etc.

**163.**—(1) A person shall not, in pursuance of a sale by him of intoxicating liquor, deliver that liquor, either himself or by his servant or agent, from any van, barrow, basket or other vehicle or receptacle unless the quantity, description and price of the liquor and the name and address of the person to whom it was to be supplied had been entered, before the liquor was dispatched—

(a) in a day book kept on the premises from which the liquor was dispatched, and

(b) in a delivery book or invoice carried by the person delivering the liquor.

(2) A person shall not, himself or by his servant or agent—

(a) carry in any van, barrow, basket or other vehicle or receptacle, while in use for the delivery of intoxicating

liquor in pursuance of a sale by that person, any intoxicating liquor that is not entered in a day book and delivery book or invoice under subsection (1) of this section ;

(b) deliver in pursuance of a sale by him any intoxicating liquor at any address not entered as aforesaid.

(3) A person shall not, himself or by his servant or agent, refuse to allow a constable to examine any van, barrow, basket or other vehicle or receptacle while in use for the distribution or delivery of any intoxicating liquor or to examine a delivery book or invoice carried, or day book kept, under subsection (1) of this section.

(4) The holder of a justices' licence shall not be guilty of an offence under this section committed by his servant or agent if he proves that the offence was committed without his knowledge or consent.

(5) Nothing in this section shall prohibit or restrict the delivery of intoxicating liquor to a trader for the purposes of his trade, or to a registered club for the purposes of the club.

(6) If any person contravenes this section he shall be liable to a fine not exceeding thirty pounds.

**164.**—(1) Where a person, having purchased intoxicating liquor from the holder of a justices' licence which does not cover the sale of that liquor for consumption on the premises, drinks the liquor— Penalty for breach of terms of off-licence.

(a) in the licensed premises, or

(b) in premises which adjoin or are near the licensed premises and which belong to the holder of the licence or are under his control or used by his permission, or

(c) on a highway adjoining or near those premises,

then, if the drinking is with the privity or consent of the holder of the licence, the holder of the licence shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

(2) If the holder of a justices' off-licence, with intent to evade the terms of the licence, takes, or suffers any other person to take, any intoxicating liquor from the licensed premises for the purpose of its being sold on his account or for his benefit or profit, he shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

(3) For the purposes of subsection (2) of this section, if liquor is taken for the purpose of its being drunk in any house, tent, shed or other building belonging to the holder of the licence, or

## PART XI

hired, used or occupied by him, the burden of proving that he did not intend to evade the terms of the licence shall lie upon him.

Long pull  
prohibited.

**165.** If any person, in licensed premises, a licensed canteen or the premises of a registered club, himself or by his servant or agent sells or supplies to any person as the measure of intoxicating liquor for which he asks an amount exceeding that measure, he shall be liable to a fine not exceeding thirty pounds.

Restriction on  
credit sales.

**166.**—(1) Subject to the following provisions of this section, a person shall not in any licensed premises, licensed canteen or the premises of a registered club—

- (a) himself or by his servant or agent sell or supply intoxicating liquor for consumption on the premises, or
- (b) consume intoxicating liquor,

unless it is paid for before or at the time when it is sold or supplied; and if any person contravenes this subsection he shall be liable to a fine not exceeding thirty pounds.

(2) Subsection (1) of this section does not apply—

- (a) if the liquor is sold or supplied for consumption at a meal supplied at the same time, is consumed with the meal and is paid for together with the meal; or
- (b) if, in the case of licensed premises, the liquor is sold or supplied for consumption by a person residing in the premises or his guests and is paid for together with his accommodation.

(3) Nothing in this section shall prohibit or restrict the sale or supply of intoxicating liquor to any canteen or mess.

Saving for  
liqueur  
chocolates.

**167.**—(1) No provision of this Act as to the sale, supply, purchase, delivery or consumption of intoxicating liquor, except subsection (2) of this section, and no enactment requiring the authority of an excise licence for the sale or supply of intoxicating liquor, shall have effect in relation to intoxicating liquor in confectionery which—

- (a) does not contain intoxicating liquor in a proportion greater than one fiftieth of a gallon of liquor (computed as proof spirit) per pound of the confectionery; and
- (b) either consists of separate pieces weighing not more than one and a half ounces or is designed to be broken into such pieces for the purposes of consumption.

(2) Intoxicating liquor in confectionery shall not be sold to a person under sixteen, and if any person knowingly contravenes



this subsection he shall be liable on a first conviction to a fine not exceeding ten pounds and on a subsequent conviction to a fine not exceeding twenty-five pounds.

PART XI

## PART XII

PROTECTION OF PERSONS UNDER EIGHTEEN AND OTHER PROVISIONS AS TO CONDUCT OF LICENSED PREMISES AND LICENSED CANTEENS.

*Persons under eighteen*

**168.**—(1) The holder of a justices' licence shall not allow a person under fourteen to be in the bar of the licensed premises during the permitted hours. Children prohibited from bars.

(2) No person shall cause or procure, or attempt to cause or procure, any person under fourteen to be in the bar of licensed premises during the permitted hours.

(3) Where it is shown that a person under fourteen was in the bar of any licensed premises during the permitted hours, the holder of the justices' licence shall be guilty of an offence under this section unless he proves either—

- (a) that he used due diligence to prevent the person under fourteen from being admitted to the bar, or
- (b) that the person under fourteen had apparently attained that age.

(4) No offence shall be committed under this section if the person under fourteen—

- (a) is the licence-holder's child, or
- (b) resides in the premises, but is not employed there, or
- (c) is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

(5) No offence shall be committed under this section if the bar is in any railway refreshment-rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of a justices' licence is merely ancillary.

(6) If any person contravenes this section he shall be liable, on a first conviction to a fine not exceeding forty shillings, and on a subsequent conviction to a fine not exceeding five pounds.

(7) A local education authority may institute proceedings for an offence under this section.

(8) Where in any proceedings under this section it is alleged that a person was at any time under fourteen, and he appears to the court to have then been under that age, he shall be

**PART XII** deemed for the purposes of the proceedings to have then been under that age, unless the contrary is shown.

Serving or delivering intoxicating liquor to or for consumption by persons under 18.

**169.**—(1) Subject to subsection (4) of this section, in licensed premises the holder of the licence or his servant shall not knowingly sell intoxicating liquor to a person under eighteen or knowingly allow a person under eighteen to consume intoxicating liquor in a bar nor shall the holder of the licence knowingly allow any person to sell intoxicating liquor to a person under eighteen.

(2) Subject to subsection (4) of this section, a person under eighteen shall not in licensed premises buy or attempt to buy intoxicating liquor, nor consume intoxicating liquor in a bar.

(3) No person shall buy or attempt to buy intoxicating liquor for consumption in a bar in licensed premises by a person under eighteen.

(4) Subsections (1) and (2) of this section do not prohibit the sale to or purchase by a person who has attained the age of sixteen of beer, porter, cider or perry for consumption at a meal in a part of the premises usually set apart for the service of meals which is not a bar.

(5) Subject to subsection (7) of this section, the holder of the licence or his servant shall not knowingly deliver, nor shall the holder of the licence knowingly allow any person to deliver, to a person under eighteen intoxicating liquor sold in licensed premises for consumption off the premises, except where the delivery is made at the residence or working place of the purchaser.

(6) Subject to subsection (7) of this section, a person shall not knowingly send a person under eighteen for the purpose of obtaining intoxicating liquor sold or to be sold in licensed premises for consumption off the premises, whether the liquor is to be obtained from the licensed premises or other premises from which it is delivered in pursuance of the sale.

(7) Subsections (5) and (6) of this section do not apply where the person under eighteen is a member of the licence holder's family or his servant or apprentice and is employed as a messenger to deliver intoxicating liquor.

(8) A person guilty of an offence under this section, other than an offence under subsection (2), shall be liable, on a first conviction to a fine not exceeding twenty-five pounds, and on a second or subsequent conviction to a fine not exceeding fifty pounds; and on a person's second or subsequent conviction of such an offence the court may, if the offence was committed by him as the holder of a justices' licence, order that he shall forfeit the licence.

(9) A person guilty of an offence under subsection (2) of this section shall be liable to a fine not exceeding twenty pounds. PART XII

**170.**—(1) If any person under eighteen is employed in any bar of licensed premises at a time when the bar is open for the sale or consumption of intoxicating liquor, the holder of the licence shall be liable on a first conviction to a fine not exceeding five pounds and on a subsequent conviction to a fine not exceeding twenty pounds. Persons under 18 not to be employed in bars.

(2) For the purposes of this section a person shall not be deemed to be employed in a bar by reason only that in the course of his employment in some other part of the premises he enters the bar for the purpose of giving or receiving any message or of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

(3) For the purposes of this section a person shall be deemed to be employed by the person for whom he works notwithstanding that he receives no wages for his work.

(4) Where in any proceedings under this section it is alleged that a person was at any time under eighteen, and he appears to the court to have then been under that age, he shall be deemed for the purposes of the proceedings to have then been under that age unless the contrary is shown.

**171.** References in the foregoing provisions of this Part of this Act to a bar do not include a bar at any time when it is usual in the premises in question for it to be, and it is,— Exclusion from sections 168 to 170 of bars while in regular use for service of table meals.

(a) set apart for the service of table meals; and

(b) not used for the sale or supply of intoxicating liquor otherwise than to persons having table meals there and for consumption by such a person as an ancillary to his meal.

#### *Preservation of order*

**172.**—(1) The holder of a justices' licence shall not permit drunkenness or any violent, quarrelsome or riotous conduct to take place in the licensed premises. Licence holder not to permit drunkenness, etc.

(2) If the holder of a justices' licence is charged under subsection (1) of this section with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the licence holder and the persons employed by him took all reasonable steps for preventing drunkenness in the premises shall lie upon him.

(3) The holder of a justices' licence shall not sell intoxicating liquor to a drunken person.

## PART XII

(4) If any person contravenes this section he shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

Procuring  
drink for  
drunken  
person.

**173.**—(1) If any person in licensed premises procures or attempts to procure any intoxicating liquor for consumption by a drunken person he shall be guilty of an offence under this section.

(2) If any person aids a drunken person in obtaining or consuming intoxicating liquor in licensed premises he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding forty shillings.

Power to  
exclude  
drunkards,  
etc., from  
licensed  
premises.

**174.**—(1) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, the holder of a justices' licence may refuse to admit to, or may expel from, the licensed premises any person who is drunken, violent, quarrelsome or disorderly, or whose presence in the licensed premises would subject the licence holder to a penalty under this Act.

(2) If any person liable to be expelled from licensed premises under this section, when requested by the holder of the justices' licence or his agent or servant or any constable to leave the premises, fails to do so, he shall be liable to a fine not exceeding five pounds.

(3) Any constable shall, on the demand of the holder of a justices' licence or his agent or servant, help to expel from the licensed premises any person liable to be expelled from them under this section, and may use such force as may be required for the purpose.

Prostitutes  
not to be  
allowed to  
assemble on  
licensed  
premises

**175.**—(1) The holder of a justices' licence shall not knowingly allow the licensed premises to be the habitual resort or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution; but this section does not prohibit his allowing any such persons to remain in the premises for the purpose of obtaining reasonable refreshment for such time as is necessary for that purpose.

(2) If the holder of a justices' licence contravenes this section he shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

**176.**—(1) If the holder of a justices' licence permits the licensed premises to be a brothel, he shall be liable to a fine not exceeding twenty pounds. PART XII  
Permitting  
licensed  
premises to  
be a brothel.

(2) If the holder of a justices' licence is convicted, whether under this section or under any other enactment, of permitting his premises to be a brothel, he shall forfeit the licence.

**177.**—(1) If the holder of a justices' licence suffers any game to be played in the premises in such circumstances that an offence under Part II of the Betting, Gaming and Lotteries Act 1963 is committed or a requirement or restriction for the time being in force under section 35 of that Act is contravened, he shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds. Gaming on  
licensed  
premises.

(2) The conviction of the holder of a justices' licence of an offence in connection with the licensed premises under section 1(1) of the Betting, Gaming and Lotteries Act 1963 shall for the purposes of this Act be deemed to be a conviction of an offence under this section.

*Offences in relation to constables*

**178.** If the holder of a justices' licence— Offences in  
relation to  
constables.

(a) knowingly suffers to remain on the licensed premises any constable during any part of the time appointed for the constable's being on duty, except for the purpose of the execution of the constable's duty, or

(b) supplies any liquor or refreshment, whether by way of gift or sale, to any constable on duty except by authority of a superior officer of the constable, or

(c) bribes or attempts to bribe any constable,

he shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

*Application to seamen's canteens and occasional licences*

**179.**—(1) This Part of this Act shall apply in relation to a licensed canteen— Application  
of Part XII  
to seamen's  
canteens and  
premises  
for which  
occasional  
licence is  
in force.

(a) as if references to a justices' licence included references to a canteen licence and references to licensed premises or a bar in licensed premises included references to a licensed canteen ; and

(b) as if subsections (4) to (7) of section 169 and section 171 were omitted.

## PART XII

(2) In the application of this Part of this Act to licensed premises which are licensed premises by reason of being a place where intoxicating liquor is sold under an occasional licence, references in sections 172 to 178 to the holder of a justices' licence shall be construed as references to the holder of the occasional licence.

## PART XIII

## MISCELLANEOUS

Consent to  
grant of  
occasional  
licence.

**180.**—(1) The appropriate consent for the purposes of section 151 of the Customs and Excise Act 1952 (which provides for the grant of occasional licences to holders of retailer's on-licences who have obtained the appropriate consent) is a consent granted by justices of the peace under this section.

(2) Subject to the following provisions of this section, the justices shall not hear an application for consent unless satisfied that the applicant has served on the chief officer of police at least twenty-four hours' notice of his intention to apply for the consent, stating the name and address of the applicant, the place and occasion for which the occasional licence is required, the period for which he requires it to be in force, and the hours to be specified in the consent.

(3) Subject to subsection (4) of this section, the justices may, if they see fit, grant their consent without a hearing if written application for the grant is made by lodging two copies of the application with the clerk to the justices not less than one month before the day or earliest day for which application is made, and the application gives the particulars required for a notice under subsection (2) of this section.

(4) Where written application is made in accordance with subsection (3) of this section—

- (a) the clerk on receipt of the application shall serve notice of it on the chief officer of police by sending him a copy of the application ; and
- (b) if, not later than seven days after the day he sends it, written notice of objection is given by or on behalf of the chief officer to the clerk by lodging two copies with him, the application shall not be granted without a hearing, unless the objection is afterwards withdrawn by a further notice given in the same way ; and
- (c) the clerk, on receipt of any such notice of objection or notice withdrawing objection, shall send a copy to the applicant.

(5) Where written application is made in accordance with subsection (3) of this section but the application is not granted without a hearing, the application may be heard without the applicant having served notice on the chief officer of police under subsection (2) of this section.

(6) Justices shall not grant consent under this section to an applicant who holds a retailer's on-licence in pursuance only of a residential licence; and, if he holds it in pursuance only of a restaurant licence or residential and restaurant licence, they shall not grant the consent unless satisfied that the sale of intoxicating liquor under the authority of the occasional licence is to be ancillary to the provision of substantial refreshment.

(7) The power of justices of the peace to grant consent under this section shall be exercisable by justices acting for the petty sessions area in which the place to which the application relates is situated, and by the number of justices and in the place required by the Magistrates' Courts Act 1952 for the hearing of a complaint.

**181.**—(1) Notwithstanding anything in this Act or section 150(1) of the Customs and Excise Act 1952, the holder of a dealer's licence under section 146 of that Act in respect of spirits or of wine may be granted a retailer's off-licence in respect of the same liquor and the same premises without a justices' licence, if the premises are exclusively used for the sale of intoxicating liquor and mineral waters or other non-intoxicating drinks, and have no internal communication with the premises of any person who is carrying on any other trade or business.

(2) A retailer's off-licence granted in pursuance of this section shall not authorise a sale by retail except—

- (a) to a person holding an excise licence for the sale of intoxicating liquor; or
- (b) to a mess or registered club; or
- (c) for delivery outside Great Britain; or
- (d) to a person engaged, at the premises in question or elsewhere, in any business carried on by the holder of the licence.

**182.**—(1) No statutory regulations for music and dancing shall apply to licensed premises so as to require any licence for the provision in the premises of public entertainment by the reproduction of wireless (including television) broadcasts, or of public entertainment by way of music and singing only which is provided solely by the reproduction of recorded sound, or by not more than two performers, or sometimes in one of those ways and sometimes in the other.

(2) Notwithstanding anything in section 13 of the Gaming Act 1845, in any licensed premises (within the meaning of this

## PART XIII

Act), including premises for which a billiard licence is also required under that Act, play on a public billiard table, bagatelle board or instrument used in any game of the like kind, may be allowed on Sundays, Christmas Day and Good Friday, and on any day appointed for public fast or thanksgiving at the same times as it may be allowed on other days.

Name of holder of licence, etc., to be affixed to licensed premises.

**183.**—(1) Subject to section 55(5) of this Act, the holder of a justices' licence, other than a residential licence, shall keep painted on or affixed to the licensed premises in a conspicuous place, and in such form and manner as the licensing justices may direct, his name, and after the name the word "licensed" followed by words sufficient to express the business for which the licence is granted, and in particular—

- (a) words expressing whether the licence is an on-licence or an off-licence;
- (b) if the licence is a six-day licence or an early-closing licence, words indicating that the licence is such.

(2) In the case of a restaurant licence or a residential and restaurant licence the nature of the business for which the licence is granted is sufficiently indicated for the purposes of subsection (1) of this section, so far as relates to the restrictions imposed by the conditions as to the sale and supply of intoxicating liquor, if the words express that the holder of the licence is licensed to sell for consumption on the premises with meals.

(3) A person shall not have on his premises words or letters importing that he is authorised, as the holder of a licence, to sell any intoxicating liquor that he is not authorised to sell.

(4) If any person contravenes this section he shall be liable, on a first conviction to a fine not exceeding ten pounds, and on a subsequent conviction to a fine not exceeding twenty pounds.

Communication between licensed premises and places of public resort.

**184.**—(1) If any person makes or uses, or allows to be made or used, any internal communication between licensed premises and any premises, other than licensed premises, used for public resort, or as a refreshment house, he shall be guilty of an offence, and shall be guilty of a further offence for every day on which the communication remains open.

(2) A person guilty of an offence under this section shall be liable to a fine not exceeding ten pounds and, if he is the holder of a justices' licence, he shall on conviction forfeit the licence.

Licence or exemption order to be produced on demand.

**185.** If the holder of a justices' licence, a canteen licence or a general or special order of exemption, on being ordered by a justice of the peace, constable or officer of Customs and Excise to produce it for examination, fails to do so within a reasonable time he shall be liable to a fine not exceeding ten pounds.



**186.**—(1) A constable may at any time enter licensed premises, a licensed canteen or premises for which or any part of which a special hours certificate is in force under section 78 of this Act, for the purpose of preventing or detecting the commission of any offence against this Act, other than an offence under section 155 or section 157 thereof. PART XIII  
Right of  
constables  
to enter  
premises.

(2) If any person, himself or by any person in his employ or acting with his consent, fails to admit a constable who demands entry to premises in pursuance of this section he shall be liable, on a first conviction to a fine not exceeding five pounds, and on a subsequent conviction to a fine not exceeding ten pounds.

**187.**—(1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for believing that any intoxicating liquor is sold by retail or exposed or kept for sale by retail at any place in the county or borough for which he is justice, being a place where that liquor may not lawfully be sold by retail, he may issue a search warrant under his hand to a constable authorising him at any time or times within one month from the date of the warrant to enter that place, which shall be named in the warrant, by force if need be, and search the place for intoxicating liquor and seize and remove any intoxicating liquor that the constable has reasonable grounds for supposing to be in the place for the purpose of unlawful sale there or elsewhere, and the vessels containing the liquor. Search  
warrant.

(2) If the owner or occupier of the place from which any intoxicating liquor has been removed under the preceding subsection is convicted of selling by retail, or of exposing for sale by retail, any intoxicating liquor that he is not authorised to sell by retail, or is convicted of having in his possession intoxicating liquor that he is not authorised to sell, any intoxicating liquor so removed, and the vessels containing it, shall be forfeited.

(3) Where a constable seizes any intoxicating liquor in pursuance of a warrant issued under this section, any person found in the place shall, unless he proves that he is there for a lawful purpose, be liable to a fine not exceeding forty shillings.

(4) Where a constable seizes any liquor as aforesaid, and any person so found, on being asked by a constable for his name and address—

- (a) refuses to give them, or
- (b) gives a false name or address, or
- (c) gives a name or address that the constable has reasonable grounds for thinking to be false, and refuses to answer satisfactorily any questions put by the constable to ascertain the correctness of the name or address given,

he shall be liable to a fine not exceeding five pounds.

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(5) A constable may arrest without warrant any person whom he suspects of having committed an offence under subsection (4) of this section.

Closing of licensed premises in case of riot.

**188.**—(1) Where a riot or tumult happens or is expected to happen in any county or borough, any two justices of the peace for the county or borough may order every holder of a justices' licence for premises in or near the place where the riot or tumult happens or is expected to happen to close his premises for such time as the justices may order.

(2) If any person keeps premises open for the sale of intoxicating liquor during the time that justices have ordered them to be closed under this section he shall be liable to a fine not exceeding fifty pounds.

(3) Any person acting by the order of a justice of the peace may use such force as may be necessary for the purpose of closing premises ordered to be closed under this section.

Temporary licence pending appeal against conviction.

**189.** Where on conviction of an offence a justices' licence or a canteen licence is forfeited, either by the court or by virtue of the conviction, and the person convicted appeals against the conviction, the convicting court may, on such conditions as it thinks just, grant a temporary licence to be in force until the appeal is determined or ceases to be prosecuted.

Magistrates' courts, etc. not to sit in licensed premises.

**190.**—(1) Licensed premises shall not be used as a petty-sessional court house or an occasional court house.

(2) No licensing sessions shall be held in licensed premises.

(3) A coroner's inquest shall not be held in licensed premises or in a room in a building part of which is licensed premises, if any other suitable place is provided.

Procedure for amending certain rules of clubs established before 3rd August 1961.

**191.**—(1) Subject to subsection (2) of this section, where in the case of a club established before 3rd August 1961 there is no power, except with the agreement of all the members, to amend the rules of the club with respect to any matter mentioned in subsection (3) of this section, a resolution passed at a general meeting of the club by a majority of not less than two-thirds of the votes cast and (if the members have unequal voting rights) not less than two-thirds of the members voting shall be as effective to amend the rules with respect to that matter as if unanimously agreed to by all the members.

(2) A resolution shall not have effect under this section unless—

(a) notice of the intention to propose a resolution for the purpose under this section was given to all members entitled to receive notice of the meeting, and the

length of notice given was not less than twenty-one days nor less than that required for summoning the meeting; and

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- (b) the amendments are designed to adapt the rules to the provisions of Parts II and III of this Act in a manner and for a purpose specified in the resolution (whether by facilitating an application for a registration certificate or justices' on-licence for any club premises, or by altering or facilitating the alteration of the permitted hours in any club premises, or otherwise).

(3) The matters with respect to which the rules of a club may be amended under this section are the sale or supply of intoxicating liquor in club premises (including the permitted hours), the purchase of intoxicating liquor for the club, the admission of persons to membership of the club or to any of the privileges of membership, the constitution of any committee entrusted with the management of the whole or any part of the affairs of the club, general meetings of the club, and any provision made by the rules as to the application otherwise than for the benefit of the club as a whole of any money or property of the club or gain arising from the carrying on of the club.

## PART XIV

### SUPPLEMENTAL

**192.**—(1) Any function vested by this Act in licensing Jurisdiction justices or the justices acting for any petty sessions area shall of justices. be exercisable by a majority of the justices present at a meeting assembled for the purpose.

(2) Without prejudice to section 3 of the Magistrates' Courts Act 1952, any river or water lying between, or forming the boundary between, two or more petty sessions areas shall for the purposes of this Act be deemed to be in each of those areas.

**193.**—(1) No justice shall act for any purpose under this Act Disqualifica- in any county, county borough or borough having a separate tion of commission of the peace, or be capable of being appointed or justices. or being a member of any committee therein for any such purpose, who is, or is in partnership with, a brewer, distiller, maker of malt for sale or retailer of malt or of any intoxicating liquor, in that county or borough.

(2) No justice who holds any share or stock in a company which is such a brewer, distiller, maker of malt or retailer as aforesaid in any county, county borough or borough having a separate commission of the peace shall be capable of being

**PART XIV** appointed or being a member of a licensing committee or compensation authority in that county or for that borough unless before his appointment as a member thereof he has disclosed to the justices appointing him the fact that he holds the share or stock ; but where a member of any such committee or authority is disqualified for being a member thereof by acquiring any such share or stock he may be re-appointed if before his re-appointment he has disclosed to the justices re-appointing him the fact that he has acquired the share or stock.

(3) A person who is the beneficial owner of any such share or stock as aforesaid held by him (whether his beneficial ownership extends to the whole holding or to a part of it or an interest in it only) shall not be appointed or re-appointed a member of any such committee or authority as aforesaid unless the justices appointing or re-appointing him are satisfied that the extent to which the company in question carries on or is interested in the business of brewing, distilling, making of malt for sale or retailing of malt or of any intoxicating liquor is so small in comparison with its whole business that the fact that the said person is interested in the company affords no reasonable ground for suggesting that he is not a proper person to be a member of the committee or authority.

(4) Subject to subsection (5) of this section, no justice shall act for any purpose under this Act in a case that concerns any premises in the profits of which he is interested, or of which he is wholly or partly the owner, lessee, or occupier, or for the owner, lessee, or occupier of which he is manager or agent ; but a justice shall not be disqualified under this provision by reason of his having vested in him a legal interest only, and not a beneficial interest, in the premises concerned or the profits of them.

(5) A justice having an interest in the profits of any premises shall not be thereby disqualified under subsection (4) of this section or otherwise from acting under this Act, if he would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body having an interest in those profits, and if his beneficial interest in the shares of the company or body does not extend to shares of a total nominal value greater than twenty-five pounds, or to more than one-hundredth in nominal value of its issued share capital or of any class of its issued share capital.

In this subsection "share" includes stock, and "share capital" shall be construed accordingly.

(6) No act done by any justice disqualified by this section shall be invalid by reason only of that disqualification, and no act done by any justice who by virtue of this section has ceased

to be a member of any licensing committee or compensation authority shall be invalid by reason only of the cessation of membership.

PART XIV

(7) If any justice, knowing that the circumstances are such that under this Act he is disqualified for acting for any of the purposes of this Act, acts as a justice for that purpose he shall be liable to a penalty not exceeding one hundred pounds, to be recovered by action in the High Court; but a justice proceeded against for more than one contravention of this section committed before the institution of the proceedings shall not be liable in respect of all such contraventions to an aggregate penalty exceeding one hundred pounds.

(8) No objection shall be allowed to any justices' licence on the ground that it was granted by justices not qualified to grant it.

**194.**—(1) Offences under this Act shall be punishable on summary conviction.

Prosecution of offences and disposal of forfeited goods.

(2) For the purposes of any provision of this Act imposing a penalty or forfeiture on a second or subsequent conviction, any conviction that took place more than five years previously shall be disregarded.

(3) Liquor or vessels forfeited under this Act shall be sold or otherwise disposed of as the court imposing the forfeiture may direct; and the proceeds shall be applied as if they were a fine.

**195.** Subsections (1) and (2) of the preceding section shall apply to offences under section 12 of the Licensing Act 1872, and the said subsection (2) also to offences under section 6 of the Licensing Act 1902.

Application of s. 194 to offences under Licensing Act 1872 and Licensing Act 1902.

**196.**—(1) Evidence that a transaction in the nature of a sale of intoxicating liquor took place shall, in any proceedings relating to an offence under this Act, be evidence of the sale of the liquor without proof that money passed.

Proof of sale or consumption of intoxicating liquor.

(2) Evidence that consumption of intoxicating liquor was about to take place shall in any such proceedings be evidence of the consumption of intoxicating liquor without proof of actual consumption.

(3) Evidence that any person, other than the occupier of licensed premises or a servant employed in licensed premises, consumed or intended to consume intoxicating liquor in the premises shall be evidence that the liquor was sold by or on behalf of the holder of the justices' licence to that person.

**PART XIV**  
Service of  
notices, etc.

**197.** Subject to any express provision in this Act or in rules under section 140 or section 147 of this Act, any notice or document, other than a summons, required or authorised to be given under this Act may be served by post.

Orders, rules  
and  
regulations.

**198.—(1)** Any power of the Treasury or of a Minister of the Crown under this Act to make orders, rules or regulations, except the power of the Secretary of State to make orders under Part VI of this Act, shall be exercisable by statutory instrument.

(2) Any power to make orders conferred on the Secretary of State by any provision of this Act other than section 118, section 120 or Schedule 11 includes power to vary or revoke an order made in the exercise of that power.

Exemptions  
and savings.

**199.** Nothing in this Act shall—

- (a) affect any privilege enjoyed by the University of Cambridge or by any person to whom any such privilege has been transferred in pursuance of any Act ;
- (b) affect the exemption from the requirement to take out a justices' licence enjoyed by the Company of the master, warden and commonalty of Vintners of the City of London ;
- (c) affect the exemption from the requirement to take out a justices' licence conferred on the proprietors of theatres by section 150(2) of the Customs and Excise Act 1952 ;
- (d) affect the exemption from the requirement to take out a justices' licence conferred in respect of passenger aircraft, passenger vessels and railway passenger vehicles by section 155 of that Act, or apply to the sale of intoxicating liquor in such aircraft, vessels or vehicles ;
- (e) prohibit the sale of medicated or methylated spirits ;
- (f) prohibit the sale by registered medical practitioners or registered pharmacists of spirits made up in medicine ;
- (g) prohibit the sale of intoxicating liquor by wholesale ;
- (h) affect any penalties recoverable by or on behalf of the Commissioners, or, except where the context requires it, any laws relating to excise ; or
- (i) apply to the sale or consumption of intoxicating liquor in canteens.

**200.**—(1) Any reference in this Act to licensed premises shall, unless the context otherwise requires, be construed as a reference to premises for which a justices' licence is in force and as including a reference to any premises or place, other than a licensed canteen, where intoxicating liquor is sold by retail under a licence and, except in section 103, any premises where the Secretary of State carries on a business of selling liquor by retail in the exercise of powers conferred on him by Part V of this Act.

PART XIV  
Meaning of  
"licensed  
premises"  
in this Act  
and s. 12 of  
Licensing Act  
1872.

(2) In section 12 of the Licensing Act 1872 the expression "licensed premises" shall include any place where intoxicating liquor is sold under an occasional licence.

**201.**—(1) In this Act, unless the context otherwise requires—

"bar" includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor;

"canteen", except in Part X of this Act and in the expressions "canteen licence" and "licensed canteen", means a canteen in which the sale or supply of intoxicating liquor is carried on under the authority of the Secretary of State;

"canteen licence" has the meaning assigned to it by section 148(1) of this Act;

"club premises" has the meaning assigned to it by section 39(6) of this Act;

"the Commissioners" means the Commissioners of Customs and Excise;

"compensation fund" has the meaning assigned to it by section 17(5) of this Act;

"development corporation" has the same meaning as in the New Towns Act 1946;

"early-closing licence" has the meaning assigned to it by section 65(2) of this Act;

"enactment" includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act;

"the general licensing hours" has the meaning assigned to it by section 60(5) of this Act;

"general order of exemption" has the meaning assigned to it by section 74(1) of this Act;

"grant" in relation to a justices' licence includes a grant by way of renewal, transfer or removal and "application" shall be construed accordingly;

"intoxicating liquor" means spirits, wine, beer, porter, cider, perry, and British wine and any fermented, distilled or spirituous liquor that cannot for the time

Interpretation  
of other  
expressions.

## PART XIV

being be sold without an excise licence ; but does not include beer or porter for the sale of which an excise licence is not required ;

“ licensed canteen ” means a canteen within the meaning of Part X of this Act in respect of which a canteen licence is in force ;

“ mess ” means an authorised mess of members of Her Majesty’s naval, military or air forces ;

“ the metropolis ” means the administrative county of London together with any area outside that county but within the four-mile radius from Charing Cross ;

“ the Minister ” means the Minister of Housing and Local Government ;

“ occasional licence ” means an excise licence granted under section 151 of the Customs and Excise Act 1952 ;

“ old on-licence ” has the meaning assigned to it by section 12(1) of this Act ;

“ ordinary removal ” has the meaning assigned to it by section 5(6) of this Act ;

“ Part IV licence ” has the meaning assigned to it by section 93 of this Act ;

“ planning removal ” has the meaning assigned to it by section 121(2) of this Act ;

“ registered ”, in relation to a club, has the meaning assigned to it by section 40(1) of this Act ;

“ registered owner ” has the meaning assigned to it by section 32(3) of this Act ;

“ residential licence ”, “ residential and restaurant licence ” and “ restaurant licence ” have the meanings assigned to them by section 94 of this Act ;

“ sale by retail ”, in relation to any intoxicating liquor, has the meaning assigned to it by section 148(4) of the Customs and Excise Act 1952 ;

“ seasonal licence ” has the meaning assigned to it by section 64(2) of this Act ;

“ secretary ”, in relation to a club, includes any officer of the club or other person performing the duties of a secretary and, in relation to a proprietary club where there is no secretary, the proprietor of the club ;

“ six-day licence ” has the meaning assigned to it by section 65(2) of this Act ;

“ special hours certificate ” means a certificate granted under section 77 or section 78 of this Act ;



- “special order of exemption”** has the meaning assigned to it by section 74(4) of this Act ;
- “special removal”** has the meaning assigned to it by section 15(2) of this Act ;
- “statutory regulations for music and dancing”** means—
- (i) section 51 of the Public Health Acts Amendment Act 1890 ; or
  - (ii) the Home Counties (Music and Dancing) Licensing Act 1926 ; or
  - (iii) Schedule 12 to the London Government Act 1963 ; or
  - (iv) any local Act or part of a local Act regulating by means of licences the provision of music and dancing in places of public resort ;
- “table meal”** means a meal eaten by a person seated at a table, or at a counter or other structure which serves the purpose of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purpose of a table ;
- “temporary premises removal”** has the meaning assigned to it by section 126(2) of this Act.

(2) For the purposes of this Act a person shall be treated as residing in any premises, notwithstanding that he occupies sleeping accommodation in a separate building, if he is provided with that accommodation in the course of a business of providing board and lodging for reward at those premises and the building is habitually used for the purpose by way of annexe or overflow in connection with those premises and is occupied and managed with those premises.

(3) Any reference in this Act to the administrative county of London shall, on and after 1st April 1965, be construed as a reference to the area which immediately before that date was comprised in that county.

(4) Any provision in this Act requiring or authorising notice to be given to the chief officer of police shall be construed as requiring or authorising the notice to be given—

- (a) if the premises to which the notice relates (that is to say, in the case of an application for a licence, the premises to be licensed) are in the City of London, to the Commissioner of Police for the City ;
- (b) if the premises are in the metropolitan police district, to the Commissioner of Police of the Metropolis ;

## PART XIV

(c) if the premises are in any other police area to the chief constable for that area.

(5) Except where the context otherwise requires, references in this Act to any enactment are references to that enactment as amended, and include references thereto as extended or applied, by any other enactment, including this Act.

Application  
to Isles of  
Scilly.

**202.**—(1) The Secretary of State may by order made in relation to the Isles of Scilly provide—

(a) for substituting, for the provisions of this Act other than Part X prohibiting the sale or supply of intoxicating liquor except as authorised by or under those provisions, a prohibition of the sale or supply of intoxicating liquor except as authorised by annual or occasional permits granted by the joint police committee for the Isles of Scilly and in accordance with such conditions as the permits may specify ;

(b) for the exercise by that committee of the functions of licensing justices under Part III of this Act and under section 35 of the Betting, Gaming and Lotteries Act 1963 and of the functions of justices of the peace under section 74 of this Act.

(2) An order under this section may contain such supplemental and consequential provisions as appear to the Secretary of State expedient for the purposes of the order, including supplemental or consequential provisions excluding, modifying, or adapting any enactment relating to the sale or supply of intoxicating liquor in its application to the Isles of Scilly.

Amendments,  
transitional  
provisions  
and repeals.

**203.**—(1) The enactments mentioned in Schedule 13 to this Act shall have effect subject to the amendments specified therein.

(2) This Act shall have effect subject to the transitional provisions contained in Schedule 14 to this Act.

(3) The enactments specified in Schedule 15 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

Short title,  
commence-  
ment and  
extent.

**204.**—(1) This Act may be cited as the Licensing Act 1964.

(2) This Act shall come into force on 1st January 1965.

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

## SCHEDULES

### SCHEDULE 1

Section 2.

#### CONSTITUTION AND PROCEDURE OF LICENSING JUSTICES

##### PART I

###### LICENSING COMMITTEES

1. A licensing committee shall be appointed in the month of October, November or December for the year beginning with the following 1st January.

2. A licensing committee shall consist of such number of members as the justices appointing the committee may determine, not being less than five nor more than fifteen.

3. A casual vacancy arising in a licensing committee from death, resignation or otherwise may be filled by the justices by whom the committee is appointed.

4. The quorum of a licensing committee shall be three.

5. The members of the committee retiring at the end of a year may be re-appointed; and, if members are not appointed in any year to succeed the retiring members, the retiring members may continue to act until their successors are appointed.

6. Notwithstanding anything in section 2 (2) of this Act, where, in the case of any licensing district other than a borough having a separate commission of the peace, the total number of justices acting for the petty sessions area forming the district (excluding any who are disqualified under subsections (1) to (3) of section 193 of this Act) is less than ten, the committee for that district may, if the justices so determine, consist of all of them.

##### PART II

###### LICENSING SESSIONS

7. The licensing sessions of each twelve months beginning with February shall be held at as nearly regular intervals as may be, and the general annual licensing meeting shall be held in the first fortnight of February.

8. The licensing justices shall appoint the day, time and place for holding the licensing sessions of each twelve months at a meeting held not less than twenty-one days before the day appointed for the general annual licensing meeting or, in the case of the transfer sessions, either at that meeting or at the general annual licensing meeting.

9. The licensing justices may for the general annual licensing meeting appoint different days for different parts of the licensing district, and, if they do, may appoint different places also.

10. A licensing sessions may, for the purpose of dealing with business not disposed of, be from time to time continued by adjournment beyond the day appointed for the holding of the sessions; but no new application may be made at any adjourned sessions and

**SCH. 1** references in this Act or any other enactment (in whatever terms) to the day or first day of a licensing sessions and to the conclusion of a licensing sessions shall be taken as referring to the day appointed for holding the sessions and to the conclusion of the proceedings on that day (and, in the case of a general annual licensing meeting for which different days are appointed for different parts of the licensing district, as having reference to the one appointed for the relevant part of the district).

11. When licensing justices have appointed the time and place for the holding of any licensing sessions, the clerk shall advertise notice of it in a newspaper circulating in the licensing district, and shall send notice of it—

- (a) to every member of the licensing committee ;
- (b) to every holder of a justices' licence or canteen licence in the licensing district ;
- (c) to every person who gives or has previously given the clerk notice of his intention to apply for such a licence at those sessions ;
- (d) to the chief officer of police for the police area or each of the police areas in which the licensing district or any part of it is situated.

Sections 3, 71.

## SCHEDULE 2

### APPLICATIONS FOR JUSTICES' LICENCES

1. A person proposing to apply at a licensing sessions for the grant of a new justices' licence, or for the ordinary or special removal or the transfer of a justices' licence, shall give the following notices :—

- (a) not less than twenty-one days before the day of the licensing sessions he shall give notice in writing to the clerk to the licensing justices, the chief officer of police and the proper local authority ;
- (b) in the case of a transfer he shall give the like notice to the holder of the licence (if any), and in the case of a removal he shall give the like notice to the registered owner of the premises from which it is sought to remove the licence and the holder of the licence (if any) unless he is also the applicant ;
- (c) except in the case of a transfer, he shall—
  - (i) not more than twenty-eight days before the day of the licensing sessions display notice of the application for a period of seven days in a place where it can conveniently be read by the public on or near the premises to be licensed (or, in the case of an application for a provisional grant, on or near the proposed site of those premises) ; and
  - (ii) not more than twenty-eight days nor less than fourteen days before the day of the licensing sessions (and, if the licensing justices so require, on some day or days outside that period but within such other period as

they may require) advertise notice of the application in a newspaper circulating in the place where the premises to be licensed are situated.

2. A person proposing to apply at transfer sessions for the renewal of a justices' licence shall give notice in accordance with sub-paragraph (a) of paragraph 1 of this Schedule.

3. With the notice given under sub-paragraph (a) of paragraph 1 of this Schedule to the clerk to the licensing justices there shall be deposited a plan of the premises to be licensed, if the application is—

- (a) for the grant of a new justices' on-licence or of an ordinary removal of a justices' on-licence; or
- (b) for the provisional grant of a new justices' off-licence or of an ordinary removal of a justices' off-licence;

and is not an application made in accordance with section 6(5) of this Act.

4. A notice under this Schedule—

- (a) shall be signed by the applicant or his authorised agent;
- (b) shall state the name and address of the applicant and, except in the case of a removal of a licence held by him or of a renewal, his trade or calling during the six months preceding the giving of the notice;
- (c) shall state the situation of the premises to be licensed and, in the case of a removal, the premises from which it is sought to remove the licence;
- (d) in the case of a new licence, shall state the kind of licence for which application is to be made.

5. The notice required by sub-paragraph (a) of paragraph 1 of this Schedule to be given to the proper local authority shall be given—

- (a) if the premises to be licensed are in an urban parish, to the clerk to the rating authority;
- (b) if those premises are in a borough included in a rural district, to the town clerk (as well as to the clerk to the rating authority);
- (c) if those premises are in a rural parish, to the clerk to the parish council or, where there is no parish council, to the chairman of the parish meeting;

and, in the case of a new licence or a removal, shall also be given to the authority discharging in the area where those premises are situated the functions of fire authority under the Fire Services Act 1947.

6. The clerk to the licensing justices shall for each licensing sessions keep a list of the persons giving notice under this Schedule of their intention to apply for the grant of a justices' licence; and the list shall show the name and address of the applicant, the nature of the application and the situation of the premises to be licensed, and for the fourteen days preceding the sessions shall at all reason-

SCH. 2      able times be open to inspection, by any person on payment of the appropriate fee (if any) and, without payment, by any officer of Customs and Excise.

7. Where the applicant for the grant of a justices' licence has, through inadvertence or misadventure, failed to comply with the requirements of the preceding paragraphs of this Schedule, the licensing justices may, upon such terms as they think fit, postpone consideration of his application; and, if on the postponed consideration they are satisfied that any terms so imposed have been complied with, they may deal with the application as if the applicant had complied with those requirements.

8. On the consideration of an application for a justices' licence the applicant shall, if so required by the licensing justices, attend in person, and licensing justices may postpone consideration of an application until the applicant does so attend; but he shall not be required to attend in the case of a renewal unless objection is made to the renewal.

9. Subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952 (which provide for compelling the attendance of witnesses, etc.) shall apply in relation to licensing justices and to an application for the grant of a justices' licence as if they were a magistrates' court for the petty sessions area constituting the licensing district and the application were a complaint.

Section 16.

### SCHEDULE 3

#### COMPENSATION AUTHORITIES

##### *County Compensation Committee*

1.—(1) A county compensation committee shall be appointed in such manner as shall be determined by rules made by quarter sessions with the approval of the Secretary of State; and, subject to sub-paragraph (2) of this paragraph, the number and quorum of the committee shall be such as shall be so determined.

(2) The justices for any non-county borough in the county shall be entitled to appoint one of their number to be an additional member of the committee.

2. Quarter sessions may, if they think fit, make rules for the procedure of the county compensation committee (so far as not otherwise provided for).

3. Where quarter sessions are customarily held separately by adjournment or otherwise for any part of a county, the Secretary of State may on the application of the justices sitting at each such separate sessions by order constitute any part of the county for which quarter sessions are so separately held a separate county for the purposes of the execution of the functions of a county compensation committee and of quarter sessions in relation to that committee, and the justices usually sitting at those separate sessions a separate quarter sessions for those purposes, and may make all necessary provision for the exercise of those functions in such a case.

4. Quarter sessions may, for the purposes of the functions of a county compensation committee, divide their area into districts; and if they do so—

SCH. 3

- (a) the preceding provisions of this Schedule shall have effect as if, for the purposes of those functions, each of those districts were a separate county having the same quarter sessions; but
- (b) the same committee shall for the purposes of those functions be the compensation authority for each of the districts.

*Borough Compensation Committee*

5. A borough compensation committee shall be appointed in the month of October, November or December for the year beginning with the following 1st January.

6. A borough compensation committee shall consist of not less than nine nor more than fifteen justices; and not more than one-third of the members of the committee shall be members of the borough licensing committee.

7. A casual vacancy arising in a borough compensation committee from death, resignation or otherwise may be filled by the borough justices.

8. The quorum of a borough compensation committee shall be three.

9. The members of the committee retiring at the end of a year may be re-appointed; and, if members are not appointed in any year to succeed the retiring members, the retiring members may continue to act until their successors are appointed.

10. The borough justices may, if they think fit, make rules for the procedure of the borough compensation committee (so far as not otherwise provided for).

*Compensation committee for City of London*

11. Paragraphs 5 to 10 of this Schedule shall apply to the compensation committee for the City of London as if the City were a county borough.

SCHEDULE 4

Section 17(4).

DEDUCTIONS FROM RENT

<i>Unexpired term of holder of licence not exceeding</i>	<i>Percentage of charge deductible</i>
1 year ... ..	100
2 years ... ..	88
3 " ... ..	82
4 " ... ..	76
5 " ... ..	70
6 " ... ..	65
7 " ... ..	60
8 " ... ..	55

SCH. 4	<i>Unexpired term of holder of licence not exceeding</i>	<i>Percentage of charge deductible</i>
	9 years ... ..	50
	10 " ... ..	45
	11 " ... ..	41
	12 " ... ..	37
	13 " ... ..	33
	14 " ... ..	29
	15 " ... ..	25
	16 " ... ..	23
	17 " ... ..	21
	18 " ... ..	19
	19 " ... ..	17
	20 " ... ..	15
	21 " ... ..	14
	22 " ... ..	13
	23 " ... ..	12
	24 " ... ..	11
	25 " ... ..	10
	30 " ... ..	7
	35 " ... ..	6
	40 " ... ..	5
	45 " ... ..	4
	50 " ... ..	3
	55 " ... ..	2
	60 " ... ..	1

## Section 40.

## SCHEDULE 5

**REQUIREMENTS TO BE COMPLIED WITH BY CLUB'S APPLICATION FOR REGISTRATION CERTIFICATE**

1. The application shall specify the name, objects and address of the club, and shall state that there is kept at that address a list of the names and addresses of the members.

2. The application shall state, in terms of subsections (1) and (2) of section 41 of this Act, that the club is qualified under those subsections to receive a registration certificate for the premises, or will be so qualified if, as regards any provision of the rules specified in the application, the court sees fit to give a direction under section 42(2) of this Act.

3. The application shall set out, or shall incorporate a document annexed which sets out, the names and addresses of the members of any committee having the general management of the affairs of the club, and those of the members of any other committee concerned with the purchase for the club or with the supply by the club of intoxicating liquor, and those of other officers of the club.

4.—(1) The application shall state, or shall incorporate a document annexed which states, the rules of the club or, in the case of an application for renewal, the changes in the rules made since the last application for the issue or renewal of the certificate.



(2) If, in the case of an application for renewal, there has been no such change as aforesaid, the application shall so state. SCH. 5

5. The application shall—

- (a) identify the premises for which the issue or renewal of the registration certificate is sought ; and
- (b) state that those premises are or are to be occupied by and habitually used for the purposes of the club, the times at which they are or are to be open to members and the hours (if any) fixed by or under the rules of the club as the permitted hours there ; and
- (c) state the interest held by or in trust for the club in those premises and, if it is a leasehold interest or if the club has no interest, the name and address of any person to whom payment is or is to be made of rent under the lease or otherwise for the use of the premises.

6.—(1) The application shall give, or shall incorporate a document annexed which gives—

- (a) particulars of any property not comprised in paragraph 5 of this Schedule which is or is to be used for the purposes of the club and not held by or in trust for the club absolutely, including the name and address of any person to whom payment is or is to be made for the use of that property ;
- (b) particulars of any liability of the club in respect of the principal or interest of moneys borrowed by the club or charged on property held by or in trust for the club, including the name and address of the person to whom payment is or is to be made on account of that principal or interest ;
- (c) particulars of any liability of the club or of a trustee for the club in respect of which any person has given any guarantee or provided any security, together with particulars of the guarantee or security given or provided, including the name and address of the person giving or providing it.

(2) An application for renewal, or document annexed to it, may give the particulars required by this paragraph by reference to the changes (if any) since the last application by the club for the issue or renewal of the registration certificate.

(3) If there is no property or liability of which particulars are required by any paragraph of sub-paragraph (1) of this paragraph, the application shall so state.

(4) In this paragraph, “liability” includes a future or contingent liability.

7.—(1) The application shall give, or shall incorporate a document annexed which gives, particulars of any premises not comprised in paragraph 5 of this Schedule, which have within the preceding twelve months been occupied and habitually used for the purposes of the club, and shall state the interest then held by or in trust for the club in those premises and, if it was a leasehold interest

SCH. 5 or if the club had no interest, the name and address of any person to whom payment was made of rent under the lease or otherwise for the use of the premises.

(2) If there are no premises of which particulars are required by this paragraph, the application shall so state.

8. Where the interest held by or in trust for the club in any land of which particulars are required by paragraph 5, 6 or 7 of this Schedule is or was a leasehold interest, and the rent under the lease is not or was not paid by the club or the trustees for the club, the application shall state the name and address of the person by whom it is or was paid.

Sections 40, 44,  
92.

## SCHEDULE 6

### PROCEDURE ON APPLICATIONS AND COMPLAINTS RELATING TO REGISTRATION CERTIFICATES

#### PART I

#### ISSUE, RENEWAL AND SURRENDER OF REGISTRATION CERTIFICATES

##### *Applications, etc.*

1.—(1) An application by a club for the issue, renewal or variation of a registration certificate shall be made by lodging the application, together with the number of additional copies required under paragraph 4 of this Schedule, with the clerk to the justices.

(2) The court may, on such conditions as the court thinks fit, allow such an application to be amended.

(3) An amended application shall be made by lodging with the clerk to the justices the original application or the relevant parts of it altered so as to show the amendments, together with the number of additional copies required under paragraph 4 of this Schedule.

2. A registration certificate shall be surrendered by lodging with the clerk to the justices a notice of surrender, together with the certificate and such number of additional copies of the notice as is required under paragraph 4 of this Schedule.

3.—(1) Any such application or amended application and any such notice shall be signed by the chairman or by the secretary of the club.

(2) In the absence of objection the court shall not require proof that an application or amended application purporting to be so signed is duly signed.

4. On receipt of any such application or amended application or of any such notice the clerk to the justices shall forthwith send a copy to any chief officer of police concerned and to the clerk of any local authority concerned, and the number of additional copies required to be lodged with the clerk is the number necessary to provide the copies the clerk needs for this purpose.

5. A club applying for the issue of a registration certificate for any premises, or for the renewal of a registration certificate in respect of different, additional or enlarged premises, shall give public

notice of the application (identifying those premises and giving the name and address of the club) either—

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- (a) by displaying the notice on or near the premises, in a place where it can conveniently be read by the public, for the seven days beginning with the date of the application ; or
- (b) by advertisement on one at least of those days in a newspaper circulating in the place where the premises are situated.

*Objections, etc.*

6.—(1) Subject to sub-paragraph (2) of this paragraph, an objection to an application for the issue or renewal of a registration certificate shall be made by lodging with the clerk to the justices two copies in writing of the objection not later than twenty-eight days after the making of the application or, if the application is amended, after the making of the amended application.

(2) If a magistrates' court extends the time allowed under section 45 of this Act to the chief officer of police, fire authority or local authority for inspecting premises to which the application relates, that court shall also extend the time in which the chief officer or authority may make objections to the application.

7. On receipt of an objection to an application for the issue or renewal of a registration certificate the clerk to the justices shall forthwith send a copy to the person signing the application at any address furnished by him for communications relating to the application or, in default of such an address, at the address given in the application as that of the club.

8. Paragraphs 6 and 7 of this Schedule shall apply in relation to any notice of intention, on an application for the issue, renewal or variation of a registration certificate, to make representations as to conditions relating to the sale of intoxicating liquor as they apply to objections to an application for the issue or renewal of a registration certificate (with the substitution of references to giving the notice for references to making the objection).

9. Where any such objection is made or any such notice is given, the magistrates' court may make such order as it thinks just and reasonable for the payment of costs to the club by the person making the objection or giving the notice or by the club to that person ; and for purposes of enforcement the order shall be treated as an order for the payment of a sum enforceable as a civil debt.

10. Where a club applies for a renewal of a registration certificate, and the magistrates' court under paragraph 6(2) of this Schedule extends the time for any person to make objection to the application, the court may order that the certificate to be renewed shall not continue in force by virtue of section 40(5) of this Act beyond a date specified in the order.

11.—(1) Subject to sub-paragraph (2) of this paragraph, an objection to an application for the issue or renewal of a registration certificate shall specify the ground of objection with such particulars as are sufficient to indicate the matters relied on to make it out.

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(2) Where objection is made to an application for the issue or renewal of a registration certificate on the ground that the application does not give the information required by this Act, or the information is incomplete or inaccurate, or the application is otherwise not in conformity with this Act, it shall be sufficient for the objection to state the ground as a matter of suspicion, and to indicate the reasons for the suspicion.

12. Where, on an objection to an application for the issue or renewal of a registration certificate, there appears to the court to be good reason to suspect that the application does not give the information required by this Act, or that the information is incomplete or inaccurate, or the application is otherwise not in conformity with this Act, it shall be for the applicant to satisfy the court that the ground of objection cannot be made out, unless the applicant desires and is permitted to amend the application so as to remove the ground of objection.

## PART II

### COMPLAINT FOR CANCELLATION OR VARIATION OF REGISTRATION CERTIFICATE

13.—(1) A summons issued on a complaint made against a club for the cancellation or variation of a registration certificate shall be served on the chairman or secretary of the club or the person who signed the last application for the issue or renewal of the certificate, and that service shall be treated as service on the club.

(2) Any such summons shall, in addition to being served on the club, be served on such persons, if any, as the justices issuing the summons may direct.

14. Where it appears to a magistrates' court having jurisdiction to deal with any such complaint that the summons cannot be served on the club in accordance with paragraph 13 of this Schedule, or not without undue difficulty or delay, the court may order that service on the club may be effected by serving the summons on a person named in the order, being a person who appears to the court to have, or to have had, an interest in the club, or to be, or to have been, an officer of the club.

15. A complaint may be made against a club for the cancellation of a registration certificate on the ground that the club has not twenty-five members, notwithstanding that the complainant's case is that the club does not exist.

## PART III

### GENERAL

16.—(1) A magistrates' court may deal with an application by a club for the issue, variation or renewal of a registration certificate without hearing the club, but—

- (a) before refusing such an application, or renewing a registration certificate for a shorter time than is requested in the application, shall give the club an opportunity to be heard; and

(b) before renewing a registration certificate for a longer period than one year, may invite any chief officer of police or local authority concerned to make representations.

SEC. 6

(2) In relation to any such application sub-sections (1) and (3) of section 77 and section 98 of the Magistrates' Courts Act 1952 shall apply as they apply in relation to a complaint.

17. On any application or complaint made to a magistrates' court by or against a club under Part II of this Act, and on any appeal by a club under section 50 of this Act, the club, if not represented by counsel or a solicitor, shall be heard by the chairman or secretary, by any member of the committee having the general management of the affairs of the club or by any officer of the club duly authorised.

18. This Schedule, in so far as it relates to matters about which there is power to make rules under section 15 of the Justices of the Peace Act 1949, shall have effect subject to any rules so made after 3rd August, 1961.

## SCHEDULE 7

Sections 41, 42.

### PROVISIONS AS TO CLUB RULES

#### *Management of club*

1. The affairs of the club, in matters not reserved for the club in general meeting or otherwise for the decision of the general body of members, must, under the rules, be managed by one or more elective committees; and one committee must be a general committee, charged with the general management of those affairs in matters not assigned to special committees.

#### *General meetings*

2.—(1) There must, under the rules, be a general meeting of the club at least once in every year, and fifteen months must not elapse without a general meeting.

(2) The general committee must be capable of summoning a general meeting at any time on reasonable notice.

(3) Any members entitled to attend and vote at a general meeting must be capable of summoning one or requiring one to be summoned at any time on reasonable notice, if a specified number of them join to do so; and the number required must not be more than thirty nor more than one-fifth of the total number of the members so entitled.

(4) At a general meeting the voting must be confined to members, and all members entitled to use the club premises must be entitled to vote, and must have equal voting rights, except that—

(a) the rules may exclude from voting, either generally or on particular matters, members below a specified age (not greater than twenty-one), women if the club is primarily a men's club, and men if the club is primarily a women's club, and

(b) if the club is primarily a club for persons qualified by service or past service, or by any particular service or past service.

## SCH. 7

in Her Majesty's forces, the rules may exclude persons not qualified from voting, either generally or on particular matters ; and

- (c) if the rules make special provision for family membership or family subscriptions or any similar provision, the rules may exclude from voting, either generally or on particular matters, all or any of the persons taking the benefit of that provision as being members of a person's family, other than that person.

*Membership*

3.—(1) Ordinary members must, under the rules, be elected either by the club in general meeting or by an elective committee, or by an elective committee with other members of the club added to it for the purpose ; and the name and address of any person proposed for election must, for not less than two days before the election, be prominently displayed in the club premises or principal club premises in a part frequented by the members.

(2) The rules must not make any such provision for the admission of persons to membership otherwise than as ordinary members (or in accordance with the rules required for ordinary members by sub-paragraph (1) of this paragraph) as is likely to result in the number of members so admitted being significant in proportion to the total membership.

*Meaning of "elective committee"*

4.—(1) In this Schedule "elective committee" means, subject to the following provisions of this paragraph, a committee consisting of members of the club who are elected to the committee by the club in accordance with sub-paragraph (2) of this paragraph for a period of not less than one year nor more than five years ; and paragraph 2(4) of this Schedule shall apply to voting at the election as it applies to voting at general meetings.

(2) Elections to the committee must be held annually, and if all the elected members do not go out of office in every year, there must be fixed rules for determining those that are to ; and all members of the club entitled to vote at the election and of not less than two years' standing, must be equally capable of being elected (subject only to any provision made for nomination by members of the club and to any provision prohibiting or restricting re-election) and, if nomination is required, must have equal rights to nominate persons for election.

(3) Except in the case of a committee with less than four members, or of a committee concerned with the purchase for the club or with the supply by the club of intoxicating liquor, a committee of which not less than two-thirds of the members are members of the club elected to the committee in accordance with sub-paragraphs (1) and (2) of this paragraph shall be treated as an elective committee.

(4) A sub-committee of an elective committee shall also be treated as an elective committee if its members are appointed by the committee and not less than two-thirds of them (or, in the case of a sub-committee having less than four members, or concerned with

the purchase for the club or with the supply by the club of intoxicating liquor, all of them) are members of the committee elected to the committee in accordance with sub-paragraphs (1) and (2) of this paragraph who go out of office in the sub-committee on ceasing to be members of the committee.

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(5) For the purposes of this paragraph a person who on a casual vacancy is appointed to fill the place of a member of an elective committee for the remainder of his term and no longer shall, however appointed, be treated as elected in accordance with sub-paragraphs (1) and (2) of this paragraph if the person whose place he fills was so elected or is to be treated as having been so elected.

## SCHEDULE 8

Sections 66, 67.

## POLLS IN WALES AND MONMOUTHSHIRE

1. The local election rules set out in Schedule 2 to the Representation of the People Act 1949, and any regulations made under section 42 of that Act, shall, in their application to polls under section 66 of this Act, have effect subject to the following paragraphs of this Schedule.

2. Part I of the rules (except in so far as by rule 3 it fixes the hours of the poll), Part II and Part IV shall not apply, nor in Part III rules 20, 26, 32, 36, 42 and 45.

3. The remaining rules shall apply with the omission of any passage relating to candidates or their election, polling or counting agents, or to other matters not relevant to a poll under section 66 of this Act; and no person's agreement shall be required to a returning officer interrupting the counting of the votes between eight o'clock in the evening and nine o'clock on the following morning.

4. Forms B to E in the appendix to this Schedule shall be substituted for the corresponding passages in the local election rules or the appendix thereto; and where, in accordance with rule 27, subsections (1), (2), (3) and (6) of section 53 of the Representation of the People Act 1949 are to be read to a person before he makes the declaration of secrecy, they shall be read with the modifications provided for by section 67(5)(i) of this Act.

5.—(1) Regulations made under section 42 of the Representation of the People Act 1949 may, so far as they relate to voting by proxy or by post or to matters connected therewith, make special provision in connection with polls under section 66 of this Act; but subject to any such provision the regulations shall apply—

(a) with the omission of any passage relating to candidates or their agents or to other matters not relevant to such a poll; and

(b) with the substitution for any reference to the last day for the delivery of nomination papers of a reference to the last day for delivery of requisition papers under section 66 of this Act; and

## SCH. 8

- (c) as if any provision requiring section 53(4) of the Representation of the People Act 1949 to be read to a person making a declaration of secrecy required it to be read with the modification provided for by section 67(5)(i) of this Act ;

and any form prescribed by any such regulations in connection with voting by proxy or by post shall be used with such modifications (if any) as may be approved by the Secretary of State as necessary to adapt it for the purposes of a poll under section 66 of this Act.

(2) If the date for the poll is altered after any postal ballot papers have been issued, then—

- (a) on any later issue the covering envelopes enclosed for the return of declarations of identity and ballot papers shall be readily distinguishable from those enclosed on the previous issue (that is to say, the issue before the alteration of the date), and there shall be enclosed a notice calling attention to the change of date and stating that documents sent out on the previous issue are not to be used ;
- (b) any covering envelopes of the previous issue sent to the returning officer shall on receipt be dealt with in the same way as covering envelopes of later issues, but, on the opening of the ballot boxes provided for covering envelopes, those of the previous issue shall be marked "rejected", shall be set aside unopened, and thereafter shall be dealt with in the same way as other rejected votes ;
- (c) save as aforesaid, the previous issue shall be disregarded for all purposes.

6.—(1) In a county the county returning officer, and in a county borough divided into wards the mayor, may make arrangements for the votes to be counted not by electoral areas, but for the county or county borough as a whole or by such divisions of it as he thinks most convenient, and where arrangements are so made, the counting for the county or county borough as a whole or for each division of it, as the case may be, shall be carried out as it would be if that were the electoral area for which an election were being held, except that in a county borough the mayor shall act as returning officer in relation to the counting of the votes, but shall have the like powers in relation to the appointment of deputies as a county returning officer has.

(2) Where the votes are counted otherwise than for the county or county borough as a whole, then on the completion of the counting or any recount for an electoral area or other division the person acting as returning officer for the purpose (if he is not the county returning officer or mayor) shall forthwith notify the county returning officer or mayor of the number of votes counted on either side, but no other step shall be taken (except proper steps for the security of the ballot papers and other documents) unless or until it is ascertained that there is not to be a recount or further recount.

(3) Where it appears to the county returning officer or mayor, on the completion of the counting for the whole county or county



borough, that the number of votes counted does not show a majority of more than one hundred for either side, he shall cause the votes to be re-counted and, if the decision on the poll according to the recount would differ from the decision according to the original count, to be again re-counted, and the recount or, if there is one, second recount shall be treated as determining the number of votes cast on either side.

(4) The number of votes cast on either side shall in a county be notified by the county returning officer to the chairman of the county council.

7.—(1) At a poll in a county or county borough any local government elector for the county or county borough may claim to attend the counting of the votes as an observer, by giving to the county returning officer or mayor within seven days of the end of the period allowed for delivering requisition papers a written notice signed by the elector and stating his address, and subject to sub-paragraph (2) of this paragraph he shall then have the same rights and obligations and be in all respects in the same position (as nearly as may be) in relation to the counting as a counting agent appointed by a candidate at an election of a councillor for the county or borough, except that his agreement shall not be required to any interruption of the counting.

(2) There shall not be allowed to attend the counting of the votes at any place a greater number of observers under this paragraph than the number of clerks employed there in the counting, or any observer not duly notified of the time and place of counting; and the persons to be allowed to attend as observers in any case shall be designated by the county returning officer or mayor.

(3) Where on any poll a greater number of persons claim to attend the counting as observers than is allowed under sub-paragraph (2) of this paragraph, the county returning officer or mayor in choosing between them shall have regard to their opinions about Sunday opening (if known to him) with the aim of designating, as far as he can, those for and those against Sunday opening in equal numbers.

(4) A local government elector may in like manner claim to attend the proceedings on the issue and receipt of postal ballot papers, as well as or instead of the counting of the votes, and the foregoing sub-paragraphs shall apply with the necessary modifications of the references to the counting or to a counting agent; but the number to be allowed to attend on any occasion shall be restricted to such number as the county returning officer or mayor may decide to be reasonable in the circumstances.

## APPENDIX OF FORMS

### A. *Form of requisition paper*

We, the subscribers hereto, being local government electors for the [county of                   ] [county borough of                   ] do hereby demand a poll under section 66 of the Licensing Act 1964

SCH. 8

on the question whether licensed premises in the county [borough] should open on Sundays for the sale of intoxicating liquor.

Signature	Name in full	Qualifying address on register of local government electors	No. on register (including distinctive letter of parliamentary polling district)

*B. Form of, and directions for printing, ballot paper*

*(a) Front of ballot paper*

Are you for or against the opening of licensed premises in the [county of ] [county borough of ] on Sundays for the sale of intoxicating liquor?

FOR Sunday opening.....|  
 AGAINST Sunday opening.....|

*(b) Back of ballot paper*

No.

Ballot on Sunday opening of licensed premises in the [county of ] [county borough of ], the day of , 19 .

*(c) Directions for printing ballot paper*

1. Nothing is to be printed on the ballot paper except in accordance with these directions, and in so far as practicable—
  - (a) no word shall be printed on the face, except as provided by the form given above;
  - (b) no rule shall be printed on the face except the rules separating from one another the words “FOR Sunday opening”, the words “AGAINST Sunday opening” and the corresponding spaces for the vote to be marked.
2. The number on the back of the ballot paper is to correspond with that on the counterfoil, and shall be printed in small characters.

*C. Form of directions for the guidance of voters in voting*

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1. The voter should see that the ballot paper, before it is handed to him, is stamped with the official mark.

2. The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross X on the right-hand side either in the space opposite the words "FOR Sunday opening", if he wishes to vote that way, or in the space opposite the words "AGAINST Sunday opening", if he wishes to vote that way.

3. The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith leave the polling station.

4. If the voter inadvertently spoils a ballot paper he can return it to the officer who will, if satisfied of such inadvertence, give him another paper.

5. If the voter places any mark on the paper by which he may afterwards be identified, his ballot paper will be void and will not be counted.

6. If the voter fraudulently takes a ballot paper out of a polling station or fraudulently puts into the ballot box any paper other than the one given to him by the officer, he will be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding twenty pounds or to both such imprisonment and such fine.

*D. Form of declaration to be made by the companion of a blind person*

I, A.B., of \_\_\_\_\_, having been requested to assist C.D. (in the case of a blind person voting as proxy add "voting as proxy for M.N.") who is numbered \_\_\_\_\_ on the register of local government electors for the [ \_\_\_\_\_ ] electoral division of the county of \_\_\_\_\_ [county borough of \_\_\_\_\_] [county borough of \_\_\_\_\_] [ \_\_\_\_\_ ] [ \_\_\_\_\_ ] ward of the county borough of \_\_\_\_\_ ] [ \_\_\_\_\_ ] to record his vote at the poll now being held under the Licensing Act 1964 in the said county [borough], do hereby declare that [I am entitled to vote as an elector at this poll] [I am the (*state relationship*) of the said voter and have attained the age of twenty-one years], and that I have not previously assisted any blind person [except E.F. of \_\_\_\_\_], to vote at this poll.

(Signed), A.B.

day of \_\_\_\_\_, 19 .

I, the undersigned, being the presiding officer for the polling station for the [ \_\_\_\_\_ ] electoral division of the county of \_\_\_\_\_ [county borough of \_\_\_\_\_] [ \_\_\_\_\_ ] ward of the county borough of \_\_\_\_\_ ], do hereby certify that the

SCH. 8 above declaration, having been first read to the above named declarant, was signed by the declarant in my presence.

(Signed), G.H.

day of \_\_\_\_\_, 19 .  
at \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock.  
[a.m.] [p.m.]

NOTE.—If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence.

*E. Questions which may be put to voters*

(a) In the case of a person applying for a ballot paper as an elector—

- (i) are you the person registered in the register of local government electors now in force as follows (*read the whole entry from the register*)?
- (ii) have you already voted at the present poll here or elsewhere in the [county of \_\_\_\_\_] [county borough of \_\_\_\_\_], otherwise than as proxy for some other person?

(b) In the case of a person applying for a ballot paper as proxy—

- (i) are you the person whose name appears as A.B. in the list of proxies for this poll as entitled to vote as proxy on behalf of C.D.?
- (ii) have you already voted at the present poll here or elsewhere in the [county of \_\_\_\_\_] [county borough of \_\_\_\_\_] as proxy on behalf of C.D.?

Section 102.

## SCHEDULE 9

### THE CARLISLE DISTRICT

#### PART I

#### EXTENT OF THE DISTRICT

The City of Carlisle, the petty-sessional division of Cumberland Ward (except so much of the old parish of Castle Sowerby as is comprised in the parish of Dalston), so much of the old parish of Dalston as is comprised in the parish of Skelton in the petty-sessional division of Penrith, the petty-sessional division of Maryport, so much of the petty-sessional division of Wigton as lies to the north-west of a line drawn parallel to and one-quarter of a mile south-east of the main road from Carlisle to Cockermouth, the petty-sessional division of Longtown (except the parishes of Nichol Forest, Solport, and Bewcastle, and the old parish of Bellbank), and the parishes of Bothel and Threapland, Plumbland, Gilcrux and Broughton Moor and the old parishes of Tallentire and Dovenby, in the petty-sessional division of Cockermouth, all in the county of Cumberland.

In this Part of this Schedule the expression "old parish" means a parish as existing immediately before the coming into operation of the Cumberland Review Order 1934.

## PART II

SCH. 9

## ANCILLARY FUNCTIONS EXERCISABLE BY SECRETARY OF STATE

1. The provision and maintenance in the Carlisle district of hotels and inns where accommodation and meals are provided and intoxicating liquor is sold.

2. The provision and maintenance in the Carlisle district of premises where meals and refreshments may be obtained, whether or not intoxicating liquor is sold in the premises.

3. The provision of entertainment or recreation at premises in the Carlisle district provided by the Secretary of State for the sale of intoxicating liquor, meals or refreshments.

4. The brewing of beer (as defined in section 307 of the Customs and Excise Act 1952), the blending, reducing or bottling of any intoxicating liquor and the manufacture of table waters, that is to say, aerated waters and beverages sold or kept for sale in bottles, other than—

(a) liquors for the sale of which an excise licence is required, or

(b) syrups or other liquors intended to be consumed only in a diluted form,

for sale in, or to persons in, the Carlisle district.

5. The provision and maintenance of storage accommodation, and the provision of transport, in connection with the carrying on of any activity referred to in the preceding provisions of this Part of this Schedule.

6. The carrying on of any business which, by reason of being carried on outside the Carlisle district, does not fall within section 102 of this Act or the preceding provisions of this Schedule, so long as the business is carried on in the premises in which immediately before 30th July 1949 it was being carried on on behalf of the Secretary of State in pursuance of any of the provisions of Part II of the Licensing Act 1921 or Schedule 3 to that Act.

7. The carrying on of such activities and the doing of such things (including, without prejudice to the generality of this paragraph, the purchase of the whole or any part of any business and the assets and liabilities thereof) incidental to any of the activities specified in section 102 of this Act and the preceding provisions of this Schedule as appear to the Secretary of State expedient.

## PART III

## SUPPLEMENTAL PROVISIONS AS TO THE EXERCISE OF FUNCTIONS OF SECRETARY OF STATE

8. Notwithstanding anything in the enactments relating to the sale and supply of intoxicating liquor, to the sale of tobacco and to entertainment and recreation, any of the activities specified in section 102 of this Act and Part II of this Schedule may be carried on by or on behalf of the Secretary of State, in premises occupied by him, without the need for any licence, and shall not be subject to any restrictions imposed by law on the carrying on of such activities ;

## SCH. 9

but any person engaged in any such activity on behalf of the Secretary of State shall be subject to any statutory provisions affecting the holders of licences, and the occupiers of premises licensed, for that activity in like manner as if he were the holder of the appropriate licence, and to any restrictions imposed by law on persons carrying on that activity.

9.—(1) Any instrument in connection with the acquisition, management or disposal of any land or other property in the exercise of the functions of the Secretary of State relating to the Carlisle district, being an instrument to which the Secretary of State is expressed to be a party, shall be deemed to be validly executed by him if it is executed on his behalf by an Under-Secretary of State or any other person authorised in that behalf by the Secretary of State; and any such instrument purporting to have been executed as aforesaid on behalf of the Secretary of State shall, until the contrary is proved, be deemed to have been so executed on his behalf.

(2) The method provided by sub-paragraph (1) of this paragraph for the execution of such an instrument as is mentioned in that sub-paragraph shall be in addition to any other method available by law for the execution of such an instrument on behalf of the Secretary of State; and this paragraph shall not be construed as affecting the validity of any method by which other instruments may be executed on behalf of the Secretary of State.

## Section 108.

## SCHEDULE 10

## COMMITTEE FOR NEW TOWN

1.—(1) Subject to sub-paragraph (2) of this paragraph, a committee appointed under section 108 of this Act shall consist of—

- (a) a chairman appointed by the Secretary of State as being an independent person;
- (b) members appointed by the development corporation for the new town for which the committee is constituted, or, if the committee is constituted for two new towns, by the development corporations for those new towns in such proportions as the Secretary of State may by order specify;
- (c) members appointed from among their number by the licensing justices for the licensing district in which is situated the area for which the committee is constituted, or, if that area is situated in more than one licensing district, by the licensing justices for those districts in such proportions as the Secretary of State may by order specify.

(2) Where the area for which a committee is constituted comprises part only of a licensing district, and it appears to the Secretary of State that, by reason of the small extent of that part of the district and having regard to its nature, the licensing justices have insufficient interest in the working of the committee to justify their representation on it, it shall not be necessary for the committee to include any licensing justice for that district.

2. The members of a committee appointed under sub-paragraphs (b) and (c) of paragraph 1 of this Schedule shall be equal in number; but subject thereto the number of members shall be determined by order of the Secretary of State.

3. The appointment of a member of any such committee shall be for such term, not exceeding three years, as may be determined by or under an order of the Secretary of State, with or without eligibility for reappointment, as may be so determined, and shall be subject to such conditions as may be so determined.

4. The quorum of any such committee shall be such as the Secretary of State may by order determine.

5. If the votes are equal on any question the chairman shall have a casting vote; but subject thereto the chairman shall not vote.

6. Subject to paragraphs 4 and 5 of this Schedule, the procedure of any such committee shall be such as the committee may determine.

7. The proceedings of any such committee shall not be invalidated by reason of any vacancy in the committee or any defect in the appointment of a member of the committee.

## SCHEDULE 11

Section 119.

### LICENSING PLANNING COMMITTEES

#### *General provisions*

1. A licensing planning committee shall consist of—

- (a) a chairman appointed by the Secretary of State;
- (b) members appointed from among their number by the licensing justices having jurisdiction in the area;
- (c) members appointed by the local planning authorities having jurisdiction in the area.

2.—(1) The members of a licensing planning committee appointed under sub-paragraphs (b) and (c) of paragraph 1 of this Schedule shall be equal in number; but subject thereto the number of members of any such committee shall be determined by the order constituting the area.

(2) Where there is more than one body of licensing justices or more than one local planning authority having jurisdiction in a licensing planning area, the order constituting the area shall specify how many members are to be appointed by each body of justices or local planning authority.

3. The appointment of a member of a licensing planning committee shall be for a term of three years, and shall be subject to such conditions as the Secretary of State may determine, except that a member appointed to fill a casual vacancy shall hold office only until the end of the term of office of the person in whose place he was appointed.

4. The provisions of paragraph 3 of this Schedule shall be subject to the termination of the appointment by the expiry of

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SCH. 11 Part VII of this Act, by the variation under section 120 of this Act of the licensing planning area or by the revocation under that section of the order constituting the area.

5. If the votes are equal on any question the chairman shall have a casting vote ; but subject thereto the chairman shall not vote.

6. The proceedings of a licensing planning committee shall not be invalidated by reason of any vacancy in the committee or any defect in the appointment of a member of the committee.

7. The clerk to the licensing justices for the licensing district constituting or including the area, or, where the area includes the whole or part of two or more licensing districts, the clerk to the licensing justices for such one of those licensing districts as may be specified in the order, shall, by virtue of his office, be the secretary of the committee.

8. An order constituting a licensing planning area may provide—

- (a) for the appointment of sub-committees of the licensing planning committee for the area ;
- (b) for authorising or requiring such matters as the order may specify to be referred by the committee to those sub-committees.

9. Where an order under section 120 of this Act adds a licensing district or part of a licensing district to a licensing planning area, and the order provides for the appointment of additional members of the licensing planning committee by the licensing justices or a local planning authority having jurisdiction in the added district or part, the order may vary the provisions of the original order constituting the district so as to limit the right of the additional members to vote as members of the licensing planning committee to such matters relating to the added district or part of a district as the order may specify.

10. So far as any order makes any provision authorised by paragraph 8 or 9 of this Schedule, it may be varied or revoked by a subsequent order of the Secretary of State made after consultation with the licensing planning committee for the area in question.

#### *London*

11. Paragraphs 1, 2 and 7 to 10 of this Schedule shall not apply to a licensing planning area that consists of or includes the administrative county of London.

12. The licensing planning committee for such a licensing planning area shall consist of—

- (a) a chairman appointed by the Secretary of State as being an independent person ;
- (b) twelve members appointed from among their number by the court of quarter sessions for the county of London ;
- (c) twelve members, appointed one each by the councils of the inner London boroughs ;
- (d) such number of members as the Secretary of State may by order prescribe, appointed from among their number by the licensing justices for the City of London and an equal



number of members appointed by the Common Council of the City of London ;

- (e) such persons appointed to a sub-committee under paragraph 15(c) of this Schedule and nominated by authorities or bodies concerned with a part of the area outside the administrative county of London as the Secretary of State may by order prescribe.

13.—(1) If, after consultation with the court of quarter sessions for the county of London and the councils of the inner London boroughs, it appears to the Secretary of State expedient to do so by reason of the reduction under any enactment (whether passed before or after the commencement of this Act) of the number of petty-sessional divisions in London, the Secretary of State may by order direct that sub-paragraphs (b) and (c) of paragraph 12 of this Schedule shall have effect as if for the number twelve, in each place where it occurs, there were substituted such lower number as the order may specify.

(2) Where an order under this paragraph lowers the number of members under sub-paragraph (c) of paragraph 12 of this Schedule, the order may specify the manner in which that lower number of members is to be appointed by the councils of the inner London boroughs.

14. The clerk of the peace for the county of London shall, by virtue of his office, be the secretary of the licensing planning committee for any licensing planning area that consists of or includes the administrative county of London.

15. The Secretary of State may by order—

- (a) provide for the appointment of sub-committees of the licensing planning committee referred to in paragraph 12 of this Schedule ;
- (b) authorise or require the reference by the committee to those sub-committees of such matters as the order may specify ;
- (c) provide for the addition to those sub-committees, for the purpose of considering and reporting on such matters as may be specified in the order, of persons nominated by such authorities or bodies concerned with the area or any part of it as may be so specified ; and
- (d) limit the right to vote as members of the committee referred to in paragraph 12 of this Schedule of the persons mentioned in sub-paragraph (e) of that paragraph to such matters relating to the part of the area so mentioned as the order may specify.

16. An order under paragraph 13 or paragraph 15 of this Schedule may be varied or revoked by a subsequent order thereunder.

## SCHEDULE 12

Sections 149,  
152.

### APPLICATIONS FOR GRANT AND TRANSFER OF CANTEN LICENCES

#### *Applications for grant of licences*

1.—(1) A person proposing to apply for the grant of a canteen licence shall—

- (a) not less than twenty-one days before the hearing of the application, give notice in writing of the application to the clerk

## SCH. 12

to the licensing justices and the chief officer of police, and serve both of them with a copy of—

- (i) the certificate of the Minister of Transport ; and
  - (ii) the draft rules which it is proposed to make as respects the persons entitled to use the canteen ; and
  - (iii) a plan of the canteen and particulars of the means of access to the canteen and of the sanitary accommodation for persons using the canteen ;
- (b) not more than twenty-eight days before the hearing of the application, cause notice of the application to be kept affixed, between ten in the morning and five in the afternoon on two consecutive Sundays, to a conspicuous part of the premises comprising the canteen ;
- (c) not more than twenty-eight days nor less than fourteen days before the hearing of the application (and, if the licensing justices so require, on some day or days outside that period but within such other period as they may require) advertise notice of the application in a newspaper circulating in the area where the canteen is situated.

(2) In the case of an application for the grant of a provisional licence—

- (a) the references in paragraph (a) of sub-paragraph (1) of this paragraph to the canteen shall be taken as references to the proposed canteen after the construction or conversion has been carried out ; and
- (b) the notice to be affixed in pursuance of paragraph (b) of that sub-paragraph shall be affixed to the premises on the land where the canteen is to be.

2. A notice under paragraph 1 of this Schedule shall state the kind of retailer's on-licence which is desired, the situation of the canteen and, except in the case of an application for a provisional licence, the name and address of the person who is to be the holder of the licence.

*Applications for transfers and confirmation of transfers*

3. A person proposing to apply to the licensing justices for the transfer or confirmation of the transfer of a canteen licence shall, not less than fourteen days before the hearing of the application, give notice in writing to the chief officer of police and the clerk to the licensing justices.

4. A person proposing to apply to justices of the peace for the transfer of a canteen licence shall, not less than seven days before the hearing of the application, give notice in writing to the chief officer of police.

5. A notice under paragraph 3 or paragraph 4 of this Schedule shall state the name and address of the person to whom the licence is proposed to be transferred and his trade or calling during the six months preceding the giving of the notice.

*General*

SCH. 12

6. Where an applicant for the grant of a canteen licence or for the transfer or confirmation of the transfer of such a licence has, through inadvertence or misadventure, failed to comply with the requirements of the preceding paragraphs of this Schedule, the justices may, upon such terms as they think fit, postpone consideration of his application ; and, if on the postponed consideration they are satisfied that any terms so imposed have been complied with, they may deal with the application as if the applicant had complied with the requirements of this Schedule.

## SCHEDULE 13

Section 203.

## CONSEQUENTIAL AMENDMENTS

1. In sections 9, 18 and 32 of the Refreshment Houses Act 1860 (as amended by the Licensing Act 1961) there shall be substituted, for the words from " shall be liable " to the end of each of those sections, the words " shall be liable on summary conviction to a fine not exceeding twenty pounds or, if before the commission of the offence and within the five years preceding his conviction of it he had been convicted of any of the offences mentioned in subsection (3) of section 100 of the Licensing Act 1964, then to a fine not exceeding fifty pounds ".

2. Section 150(3) of the Customs and Excise Act 1952 shall have effect as if the references to a justices licence included references to a licence granted under Part X of this Act.

3. In the proviso to section 151(1) of the Customs and Excise Act 1952 the reference to Sunday shall in England and Wales apply only in an administrative county or county borough in Wales and Monmouthshire in which section 66(1) of this Act for the time being applies.

4. In section 4 of the Finance Act 1959—

- (a) the references to premises habitually used for the purposes of the club shall be construed as references to premises in respect of which the club is registered ;
- (b) subsection (3) shall have effect as if the reference to the club being struck off the register of clubs were a reference to the club ceasing to hold a registration certificate for the premises ; and
- (c) subsection (5) shall have effect as if the references to the club being struck off the register were references to its ceasing to hold a registration certificate for the premises on a cancellation of or refusal to renew its certificate, and as if the reference to the club ceasing to be required to be registered were a reference to the club ceasing to hold a registration certificate otherwise than on a cancellation or refusal to renew.

## Section 203.

**SCHEDULE 14****TRANSITIONAL PROVISIONS**

1. Any reference in any enactment or document, whether expressed or implied, to any enactment repealed by this Act or to any provision contained in any such enactment, or having effect as such a reference, shall be construed as a reference to this Act or, as the case may be, to the corresponding provision of this Act.

2. Any regulation, order, rule, licence, appointment, direction, certificate or notice made or given, or other thing done, or having effect as being made, given or done under any provision contained in an enactment repealed by this Act shall have effect as if it had been made, given or done under the corresponding provision of this Act.

3. A conviction of an offence under an enactment repealed by this Act or by an enactment so repealed shall be treated, for the purposes of this Act and of sections 9, 18 and 32 of the Refreshment Houses Act 1860, as a conviction of an offence under the corresponding provision of this Act.

4. Without prejudice to paragraph 3 of this Schedule, for the purposes of section 169(8) of this Act a conviction of an offence under section 21 of the Licensing Act 1961, section 128 or subsection (1), (4) or (5) of section 129 of the Licensing Act 1953 (or under any of those enactments as applied by the Licensing (Seamen's Canteens) Act 1954 or by the Occasional Licences and Young Persons Act 1956) shall be taken into account in the same way as a conviction of an offence under section 169 of this Act other than an offence under subsection (2) of that section.

5. Any disqualification order made before 1st November 1961 under section 26 of the Licensing Act 1949 shall have effect in relation to Part IV licences as it is expressed to have effect in relation to licences under the Refreshment Houses Act 1860; and subsections (3) to (5) of section 101 of this Act shall apply to any such order as they apply to disqualification orders under section 100 of this Act.

6.—(1) Where at the commencement of this Act a justices' licence granted for a term other than twelve months is in force or in suspense, the following provisions of this paragraph shall apply.

(2) Any licence granted by way of transfer (directly or indirectly) of the licence shall be granted to have effect for a period ending with the term for which the licence was granted.

(3) An application for the regrant of the licence shall be treated as an application for a new licence and not as an application for the renewal of the licence, but section 123(1) of this Act shall not apply to the regrant.

(4) The circumstances in which the licence may be forfeited shall include the following, that is to say, it may be forfeited—

(a) by an order of a magistrates' court made on complaint, where the court is satisfied that a condition attached, under a previous enactment corresponding to section 4(1) of this Act, to the grant of the licence has not been complied with;

(b) by order of any court by or before which the holder of the licence is convicted of any offence committed by him as such.

(5) A person aggrieved by an order of a magistrates' court under sub-paragraph (4) of this paragraph may appeal to a court of quarter sessions.

(6) Section 10(3) of this Act shall have effect, in relation to the licence, as if the cases mentioned therein as enabling justices of the peace to grant a protection order included any forfeiture of the licence under this Act.

(7) In relation to the licence sections 133(3) and 142(3) of this Act shall have effect as if the 5th April mentioned therein were the 5th April next following the first day of the general licensing meeting after a period beginning on the last day of the term for which the licence was granted and equal to the time during which the licence was in suspense (whether by virtue of section 132 of this Act or a corresponding enactment previously in force or by virtue of section 141 of this Act or a corresponding enactment previously in force or partly by virtue of the one and partly by virtue of the other).

7.—(1) Until 1st April 1965 this Act shall have effect subject to the following provisions of this paragraph.

(2) In section 58(1), in paragraph (a), there shall be substituted for the words "London borough" the words "metropolitan borough" and, in paragraph (b) after the words "borough" there shall be inserted the words "or metropolitan borough".

(3) In section 98(5)(a), for the words "London borough" there shall be substituted the words "metropolitan borough".

(4) In section 201, in the definition of "statutory regulations for music and dancing, for paragraph (iii) there shall be substituted the following paragraph:—

"(iii) section 2 of the Disorderly Houses Act 1751; or"

(5) In Schedule 11—

(a) in paragraph 12(c) for the words from "one each" to the end of the paragraph there shall be substituted the words "by the London County Council";

(b) in paragraph 12(d) for the words "by the Common Council of the City of London" there shall be substituted the words "after consultation with the Common Council of the City of London, by the London County Council";

(c) in paragraph 13(1) for the words "the councils of the inner London boroughs" there shall be substituted the words "the London County Council";

(d) paragraph 13(2) shall be omitted.

8. The mention of particular matters in this Schedule shall be without prejudice to the general application of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

## SCHEDULE 15

## REPEALS

Chapter	Short title	Extent of Repeal
1 & 2 Eliz. 2. c. 46.	The Licensing Act 1953.	The whole Act, except section 130.
2 & 3 Eliz. 2. c. 11.	The Licensing (Seamen's Canteens) Act 1954.	The whole Act.
4 & 5 Eliz. 2. c. 37.	The Licensing (Airports) Act 1956.	The whole Act.
7 & 8 Eliz. 2. c. 58.	The Finance Act 1959.	In Schedule 2, the entry relating to the Licensing Act 1953.
7 & 8 Eliz. 2. c. 62.	The New Towns Act 1959.	Section 9(6).
9 & 10 Eliz. 2. c. 61.	The Licensing Act 1961.	The whole Act.
1963 c. 2 ...	The Betting, Gaming and Lotteries Act 1963.	Section 35(5). In section 40, the words " and section 141(1) of the Licensing Act 1953 " In section 56, subsections (2) and (3). In section 57(5), the words " or in section 56(3) of this Act "
1963 c. 33 ...	The London Government Act 1963.	In Schedule 17, paragraphs 14 and 24.
1963 c. 58 ...	The Expiring Laws Continuance Act 1963.	In the Schedule, the entry relating to the Licensing Act 1953.

Table of Statutes referred to in this Act

Short Title	Chapter
Disorderly Houses Act 1751 ... ..	25 Geo. 2. c. 36
Sunday Observance Act 1780 ... ..	21 Geo. 3. c. 49.
Gaming Act 1845 ... ..	8 & 9 Vict. c. 109
Ordnance Board Transfer Act 1855 ... ..	18 & 19 Vict. c. 117
Refreshment Houses Act 1860 ... ..	23 & 24 Vict. c. 27
Prevention of Crimes Act 1871... ..	34 & 35 Vict. c. 112
Licensing Act 1872 ... ..	35 & 36 Vict. c. 94
Licensing Act 1874 ... ..	37 & 38 Vict. c. 49
Oxford University (Justices) Act 1886 ... ..	49 & 50 Vict. c. 31
Interpretation Act 1889 ... ..	52 & 53 Vict. c. 63
Public Health Acts Amendment Act 1890 ... ..	53 & 54 Vict. c. 59
Industrial and Provident Societies Act 1893 ... ..	56 & 57 Vict. c. 39
Finance Act 1894 ... ..	57 & 58 Vict. c. 30
Merchant Shipping Act 1894 ... ..	57 & 58 Vict. c. 60
Friendly Societies Act 1896 ... ..	59 & 60 Vict. c. 25
Licensing Act 1902 ... ..	2 Edw. 7. c. 28
Deeds of Arrangement Act 1914 ... ..	4 & 5 Geo. 5. c. 47
Bankruptcy Act 1914 ... ..	4 & 5 Geo. 5. c. 59
Licensing Act 1921 ... ..	11 & 12 Geo. 5. c. 42
Home Counties (Music and Dancing) Licensing Act 1926.	16 & 17 Geo. 5. c. 31
Local Government Act 1933 ... ..	23 & 24 Geo. 5. c. 51
War Damage Act 1943 ... ..	6 & 7 Geo. 6. c. 21
Acquisition of Land (Authorisation Procedure) Act 1946.	9 & 10 Geo. 6. c. 49
New Towns Act 1946 ... ..	9 & 10 Geo. 6. c. 68
Civic Restaurants Act 1947 ... ..	10 & 11 Geo. 6. c. 22
Fire Services Act 1947 ... ..	10 & 11 Geo. 6. c. 41
Town and Country Planning Act 1947 ... ..	10 & 11 Geo. 6. c. 51
Licensing Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 59
Representation of the People Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 68
War Damaged Sites Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 84
Justices of the Peace Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 101
Customs and Excise Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.
Costs in Criminal Cases Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 48.
Magistrates' Courts Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Licensing Act 1953 ... ..	1 & 2 Eliz. 2. c. 46
Licensing (Seamen's Canteens) Act 1954 ... ..	2 & 3 Eliz. 2. c. 11
Licensing (Airports) Act 1956 ... ..	4 & 5 Eliz. 2. c. 37
Occasional Licences and Young Persons Act 1956.	4 & 5 Eliz. 2. c. 42
Housing Act 1957 ... ..	5 & 6 Eliz. 2. c. 56
Recreational Charities Act 1958 ... ..	6 & 7 Eliz. 2. c. 17
Highways Act 1959 ... ..	7 & 8 Eliz. 2. c. 25
Finance Act 1959 ... ..	7 & 8 Eliz. 2. c. 58
New Towns Act 1959 ... ..	7 & 8 Eliz. 2. c. 62
Land Compensation Act 1961 ... ..	9 & 10 Eliz. 2. c. 33
Licensing Act 1961 ... ..	9 & 10 Eliz. 2. c. 61
Town and Country Planning Act 1962 ... ..	10 & 11 Eliz. 2. c. 38
Betting, Gaming and Lotteries Act 1963 ... ..	1963, c. 2
London Government Act 1963 ... ..	1963, c. 33
Expiring Laws Continuance Act 1963 ... ..	1963, c. 58



# Salmon and Freshwater Fisheries Act 1923 (Amendment) Act 1964

1964 CHAPTER 27

An Act to amend section 6 of the Salmon and Freshwater Fisheries Act 1923 with respect to the mode of working nets.  
[25th March 1964]

**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:—

Amendment  
of section 6 of  
Salmon and  
Freshwater  
Fisheries  
Act 1923.  
13 & 14 Geo. 5.  
c. 16.

1. Section 6(1) of the Salmon and Freshwater Fisheries Act 1923 shall have effect with the omission of the words from "or within" to the end (which restrict the shooting or working of a seine or draft net for salmon or migratory trout in proximity to another seine or draft net already shot or being worked), and accordingly those words are hereby repealed.

Short title  
and citation.

2.—(1) This Act may be cited as the Salmon and Freshwater Fisheries Act 1923 (Amendment) Act 1964, and the Salmon and Freshwater Fisheries Acts 1923 to 1935 and this Act may be cited together as the Salmon and Freshwater Fisheries Acts 1923 to 1964.

(2) This Act shall come into force on 1st April 1965.





# Agriculture and Horticulture Act 1964

## 1964 CHAPTER 28

An Act to make provision for and in connection with the maintenance of minimum price levels for imports affecting the market for agricultural or horticultural produce of descriptions produced in the United Kingdom; to make further provision for assisting by the payment of grants the production and marketing of horticultural produce; to impose requirements as to the grading of horticultural produce when dealt in in bulk and as to the mode of packing and transporting such produce; and for purposes connected with the matters aforesaid.

[15th April 1964]

**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:—

### PART I

#### PRICE STABILITY OF IMPORTED PRODUCTS

1.—(1) In the interest of maintaining in the United Kingdom a stable market for agricultural or horticultural produce of any description produced in the United Kingdom, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with agriculture in Scotland and Northern Ireland acting jointly may by order specify produce of that description or any of its related products or both as commodities in relation to which the powers conferred by subsection (2) below may be exercised; and for the purposes of this section “specified commodity” means any description of produce or

Price stability of imported products.

## PART I

related product in relation to which those powers are for the time being exercisable by virtue of such an order.

(2) In relation to any specified commodity the Ministers aforesaid may by order prescribe a minimum price level for imports into the United Kingdom ; and with a view to maintaining the level so prescribed for any commodity or to allowing for the effect for that or other specified commodities of its maintenance, they may by order direct that on any specified commodity imported into the United Kingdom there shall be charged for the use of Her Majesty such levy as may be prescribed by or determined in accordance with the order.

(3) Where in the case of any specified commodity a minimum price level is prescribed or levy is imposed under subsection (2) above, the Ministers aforesaid may by order provide for the granting, in such circumstances and subject to such conditions as may be provided for in the order,—

- (a) of allowances or reliefs in respect of the levy (if any) chargeable on the imported commodity ; and
- (b) in connection with the exportation of any goods from the United Kingdom, of such other allowances on or relating to the commodity (whether or not imported or subject to any levy) as appear to the Ministers aforesaid to be proper by reason of the effects of the minimum price level or levy ;

and orders under this subsection may require the payment to the Ministers aforesaid or any of them of fees or other charges in connection with applications made to them or him with a view to the granting of any allowance or relief under this subsection.

(4) No order shall be made under subsection (2) or (3) above without the approval of the Treasury, unless the order deals only with the rates of any levy, allowance or relief which is provided for by a previous order.

(5) The Minister of Agriculture, Fisheries and Food acting alone shall have the like powers as the Ministers aforesaid have under subsections (2) and (3) above to make orders dealing only with the rates of levies, allowances and reliefs provided for by previous orders.

(6) Orders under subsection (2) or (3) above may make different provision for any specified commodity by reference to quality, origin or otherwise ; and in exercising their powers under this section the Ministers aforesaid may have regard to the interests of agricultural or horticultural producers in the Commonwealth and elsewhere overseas.

(7) Any power to make orders under this section shall include power to vary or revoke any order made in the exercise of the power, and shall be exercisable by statutory instrument.

(8) Orders under this section, other than orders made after a draft has been laid before Parliament and approved by resolution of each House, shall be subject to the following provisions:—

- (a) any order by virtue of which a commodity not for the time being a specified commodity becomes a specified commodity shall cease to have effect at the end of the forty days beginning with that on which it is made (but without prejudice to anything previously done under the order or to the making of a new order), unless the order is within those forty days approved by resolution of each House of Parliament; and
- (b) any other order, not being an order dealing only with the rates of any levy, allowance or relief which is provided for by a previous order, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

In reckoning for the purposes of paragraph (a) above any period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(9) Subject to the provisions of this section and of any order made under it, the provisions set out in the Schedule to this Act shall have effect for the administration of and other purposes relating to levies, allowances and reliefs under this section.

(10) For the purposes of this section “produce” includes anything (whether live or dead) produced in the course of agriculture or, as the case may be, horticulture; and “related product”, in relation to produce of any description, means—

- (a) any product of a description which is obtained from that produce or from any related product, with or without any process of manufacture, or is obtained by the use of that produce or by that of any related product as a material, component or ingredient; and
- (b) any substance or article of a like nature or use to the produce or to any related product.

(11) The Government of Ireland Act 1920 shall have effect as if any levy imposed under this section were a duty or tax included among those mentioned in section 22(1) of that Act (which relates to reserved taxes).

(12) Section 2 of the Isle of Man Act 1958 (which relates to the division of customs revenues between the United Kingdom and the Isle of Man) and any other enactments relating to customs in the Isle of Man shall have effect in relation to levies under this section and any corresponding levies imposed in the Isle of Man as if they were duties of customs.

## PART II

## FURTHER GRANTS FOR HORTICULTURAL IMPROVEMENTS

*Extension of system of grants under Part I of Horticulture Act 1960*

Grants for improving efficiency of small production businesses.

2.—(1) The appropriate Minister may with the approval of the Treasury make a scheme containing provision for the making by him of a grant in connection with the carrying out by any person of a programme designed to increase the efficiency of a small horticultural production business and submitted to and approved by that Minister in accordance with the scheme.

(2) A scheme under this section (hereinafter referred to as “a scheme”) may—

- (a) provide for the payment of grants by instalments over such period as is specified in the scheme ;
- (b) make the payment of grants, or of instalments of grants, subject to compliance with such conditions, whether as to the capacity of the business (determined in accordance with the scheme), the security of tenure of land on which the business is carried on, the period within which or the manner in which the programme or any part thereof is to be carried out, or any other matter, as are specified in or under the scheme ;
- (c) provide for a programme approved by the appropriate Minister under the scheme to be modified from time to time with his approval, and thereafter to have effect for the purposes of the scheme as so modified ;
- (d) contain such incidental and supplemental provisions as appear to the appropriate Minister expedient for the purposes of the scheme.

(3) Subject to subsection (4) below, where the appropriate Minister has approved a programme for the purposes of a scheme he may revoke the approval if, at any time before the carrying out of the programme is completed, it appears to him—

- (a) that the business has ceased to be carried on or has ceased to be a small horticultural production business ;  
or
- (b) that any condition imposed in connection with the payment of a grant or instalments thereof under this section in relation to the programme has not been, or will not be, complied with ; or
- (c) that in connection with an application for approval of the programme or of any modification of the programme the applicant gave information on any matter which was false or misleading in a material respect ;

and if before the revocation any payment is made by way of grant under the scheme in respect of the programme, the appropriate Minister may recover the payment or so much thereof as he may think fit.

(4) Before revoking an approval under subsection (3) above the appropriate Minister—

- (a) shall give to any person to whom any payment by way of grant in relation to the programme would be payable, or from whom any such payment would be recoverable, a written notification of the reasons for the proposed revocation ; and
- (b) shall accord to each such person an opportunity, either in person or by counsel, solicitor or agent, of appearing before and being heard by a person appointed for the purpose by that Minister ; and
- (c) shall consider the report of a person so appointed and supply a copy of the report to each person who was entitled to appear before the person submitting it.

(5) A scheme 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 may be varied or revoked by a subsequent scheme.

(6) In this section “ small horticultural production business ” means, in relation to any scheme, a horticultural production business which is conducted on land not exceeding in extent such area as is specified in that behalf in the scheme, and which satisfies such other requirements (whether as to minimum area or otherwise) as may be so specified :

Provided that a horticultural production business shall not, so far as concerns a programme relating to the business submitted at any time for approval under a scheme, be treated as ceasing to be a small horticultural production business by reason only of any increase after that time in the area of the land on which the business is conducted.

3.—(1) The appropriate Minister may, in such manner and subject to such conditions as he may with the approval of the Treasury determine, make a grant to the owner or occupier of any agricultural land of an amount equal to one-third of expense reasonably incurred by him in clearing, by the removal of fruit trees and other vegetation, any part of that land bearing an orchard, being a part which when cleared is intended to be used as agricultural land. Grants for clearing orchards.

(2) Section 3 of the Horticulture Act 1960 (which allows standard costs to be fixed) shall apply for the purposes of this section as it applies for the purposes of sections 1 and 2 of that Act.

## PART II

## (3) In this section—

“ agricultural land ” means land used for agriculture (within the meaning of the Agriculture Act 1947, the Agriculture (Scotland) Act 1948 or the Agriculture Act (Northern Ireland) 1949, as the case may require) which is so used for the purposes of a business ;

“ owner ”, in relation to any land, includes any person for the time being entitled to receive the rents and profits of the land.

Grants for improvement or initial operation of co-operative marketing businesses.

4.—(1) Subject to section 6 of this Act where the appropriate Minister approves a programme making provision for expanding, or increasing the efficiency of, an existing horticultural producers' marketing business or for the initial operation of a newly-established horticultural producers' marketing business he may, in such manner and subject to such conditions as with the approval of the Treasury he may determine, make to the person carrying on or proposing to carry on the business a grant towards the expense of carrying out the programme not exceeding one-third of an amount specified in the programme as being the estimated amount of that expense.

(2) The reference in subsection (1) above to the initial operation of a business shall be construed, in relation to any matter dealt with by a programme, as a reference to its operation during such period ending not later than two years after the establishment of the business as is specified in relation to that matter in the programme.

(3) Subject to subsection (4) below, where the appropriate Minister has approved a programme under this section relating to a horticultural producers' marketing business he may revoke the approval if, at any time before the carrying out of the programme is completed, it appears to him—

- (a) that the business has ceased to be carried on, or has ceased to be a horticultural producers' marketing business ; or
- (b) that any condition imposed by him in relation to the programme has not been, or will not be, complied with ; or
- (c) that in connection with an application for approval of the programme the applicant gave information on any matter which was false or misleading in a material respect ;

and if before the revocation any payment is made by way of grant under this section in respect of the programme, the appropriate Minister may recover the payment or so much thereof as he may think fit.

(4) Subsection (4) of section 2 of this Act shall apply in relation to a revocation of approval under subsection (3) above as it applies in relation to a revocation of approval under subsection (3) of the said section 2.

PART II

**5.**—(1) In section 1(2) of the Horticulture Act 1960 (which authorises the making of grants to persons carrying on horticultural producers' marketing businesses in respect of expenditure on specified facilities for the storage, preparation for market or transport of horticultural produce in the course of the business) there shall be inserted at the end the words "or for conducting a market for the sale of horticultural produce in the course of the business, being a market wholly or mainly for transactions by wholesale". Grants for co-operative markets.

(2) As respects grants in relation to the provision of facilities for conducting markets, references in the said section 1(2) as so amended to a horticultural producers' marketing business shall include references to a business which—

(a) is carried on by an association the members of which are persons carrying on horticultural producers' marketing businesses or consist of one or more such persons together with another person or other persons, and which answers the description set out in paragraph (a) or (b) of the definition of "co-operative association" contained in section 8(4) of the Horticulture Act 1960, and

(b) consists of the marketing of horticultural produce produced in the course of horticultural production businesses by persons—

(i) who are members of the association, or

(ii) who are members of a co-operative association (within the meaning of the said section 8(4)) which is itself a member of the association, or

(iii) where the Land Settlement Association Limited is a member of the association, who are occupiers of land under the management of that Association;

and shall also include references to so much of a larger business so carried on as consists of the marketing of horticultural produce so produced.

**6.**—(1) A grant under section 4 of this Act or section 1(2) of the Horticulture Act 1960 (as amended by section 5 of this Act) shall not be made to an association whose business comprises the marketing of horticultural produce grown by its members unless the appropriate Minister is satisfied that the constitution of the association contains provision designed to Supply of produce to co-operative marketing businesses.

**PART II**

secure that a sufficient proportion of the horticultural produce grown by a member is made available by him for marketing by the association.

(2) Subsection (1) above shall not apply to a grant under the said section 1(2) where application was made for the grant before the commencement of this Act.

Aggregate amount of grants, and time for application therefor.

7.—(1) The aggregate amount of the grants under the provisions of sections 1 and 4 of the Horticulture Act 1960 and sections 2 to 5 above shall not exceed twenty-four million pounds or, if the Minister and the Secretary of State acting jointly (in this Act referred to as “the Ministers”) by order made with the approval of the Treasury so direct, twenty-seven million pounds.

(2) No grant shall be payable under any of the said provisions unless the application therefor was made, or, in the case of a grant in respect of the carrying out of an approved programme, the programme was submitted to the appropriate Minister for his approval, before the expiration of ten years from the commencement of this Act.

(3) Section 5 of the Horticulture Act 1960 (which restricts the aggregate amount of grants under the said sections 1 and 4 and imposes time limits on applications) is hereby repealed.

Construction of sections 2 to 7.

8. Sections 2 to 7 above shall be construed as one with Part I of the Horticulture Act 1960.

*Other grants*

Grants towards fulfilling guarantees of bank loans.

9.—(1) The Minister may, in such manner and subject to such conditions as he may with the approval of the Treasury determine, make a grant to any person in respect of expenditure incurred by that person in fulfilling a guarantee given by him, during the period of five years beginning on 1st April 1964, as security for a loan made in the course of a banking business to a person requiring the loan for the purposes of a horticulture business carried on by him.

(2) The aggregate of sums paid by way of grant under this section in a year shall be subject to a limit of one hundred thousand pounds increased, where the aggregate of sums so paid in the last preceding year fell short of the limit for that year, by the amount of the difference or two hundred thousand pounds, whichever is the less.

(3) The Minister may from time to time, by order made by statutory instrument with the approval of the Treasury, extend or further extend the period mentioned in subsection (1) above by such additional period, not exceeding five years, as may be



specified in the order ; but an order under this subsection shall be of no effect unless approved by resolution of the Commons House of Parliament.

(4) In this section—

“ horticulture business ” means either—

(a) a horticultural production business as defined by section 8(2) of the Horticulture Act 1960, or

(b) a horticultural producers' marketing business as defined by section 8(3) and (4) of that Act,

but in the application of the said section 8(4) for the purposes of this definition “ the appropriate Minister ” shall in all cases mean the Minister ;

“ year ” means a period of twelve months beginning on 1st April.

10.—(1) The appropriate Minister may, with the approval of the Treasury and in such manner and subject to such conditions as he may with that approval determine, make a grant of an amount not exceeding one-third of the amount of expenditure reasonably incurred by any person in, or in connection with, the provision, reconstruction or extension of a market for the sale of horticultural produce by wholesale, being a market which, having regard to the volume of business transacted or expected to be transacted therein, appears to the Ministers to be, or to be likely to become, of major importance in the national system of distribution of horticultural produce.

Grants for wholesale markets of national importance.

(2) As respects the making in relation to a market of a grant to a local authority under this section—

(a) where expenditure in, or in connection with, the provision, reconstruction or extension of the market is reasonably incurred by the authority in the execution of works on land neither purchased by the authority (whether compulsorily or by agreement) for the purpose of the market nor previously used by the authority for that purpose, the authority shall be treated as having incurred in the acquisition of the land for that purpose expenditure equal to an amount calculated as follows, that is to say—

(i) where the land was appropriated by the authority for the purpose of the market, the amount shall be equal to such amount as, on the adjustment of the accounts of the authority following the appropriation, was treated as being the then value of the land, or

(ii) where the land became vested in the authority under any enactment as the direct or indirect successor to another local authority by whom the land

## PART II

was purchased (whether compulsorily or by agreement) for the purpose of the market or was appropriated for that purpose, the amount shall be equal to the expenditure incurred by that authority in carrying out the purchase or, as the case may be, to such amount as, on the adjustment of the accounts of that authority following the appropriation, was treated as being the then value of the land ;

(b) a condition imposed under subsection (1) above may require the local authority to establish a reserve fund for the market, to pay into the fund such receipts from the market as may be specified by the condition, and to administer the fund in such manner, and apply it towards meeting such expenditure, as may be so specified ; and notwithstanding any enactment the authority shall have power to comply with the condition.

(3) For the purposes of this section, expenditure in relation to a market which in part is used or intended to be used for or in connection with transactions other than the sale by wholesale of horticultural produce shall be treated as reduced by an amount equal to so much thereof as is referable to that use or intended use.

(4) No payment by way of grant under this section shall be made after the end of the period of ten years beginning with the commencement of this Act except in relation to a market the provision, reconstruction or extension of which is completed before the end of that period in accordance with any conditions imposed by the appropriate Minister in making the grant ; and where before the end of that period any such payment is made in relation to a market the provision, reconstruction or extension of which is not so completed, that Minister may recover the payment or so much thereof as he may think fit.

(5) The aggregate amount of grants under this section shall not exceed twenty million pounds.

(6) The Ministers may by order made by statutory instrument with the approval of the Treasury—

(a) extend the period mentioned in subsection (4) above by not more than two years ;

(b) increase the aggregate amount mentioned in subsection (5) above by not more than five million pounds ;

but an order under this subsection shall be of no effect unless approved by resolution of the Commons House of Parliament.

(7) In this section—

“ the appropriate Minister ” means the Minister in relation to a market in England or Wales or Northern Ireland

and the Secretary of State in relation to a market in Scotland ; PART II

“ horticultural produce ” means—

(a) fresh fruit, dried fruit, frozen fruit and fruit preserved in airtight containers ;

(b) fresh vegetables, dried vegetables, frozen vegetables and vegetables preserved in airtight containers ;

(c) fresh herbs and dried herbs ;

(d) fresh edible fungi, dried edible fungi and edible fungi preserved in airtight containers ;

(e) nuts ;

(f) cut flowers ;

(g) dried flowers ;

(h) decorative foliage ;

(i) Christmas trees ;

(j) pot plants, bedding plants and herbacious plants ;

(k) shrubs and flowering trees ;

(l) fruit trees, fruit bushes and fruit plants ; and

(m) seeds, bulbs, corms, tubers and seed potatoes.

### PART III

#### GRADING AND TRANSPORT OF FRESH HORTICULTURAL PRODUCE

##### *Grading of produce*

**11.**—(1) The Ministers may in relation to any description of fresh horticultural produce by regulations designate and define grades of quality, and prescribe for each grade the form of a label for indicating that produce in connection with which the label is used falls within that grade. Power to prescribe grades.

(2) Regulations under subsection (1) above may provide that a label recognised under the law of any country outside Great Britain as indicating that produce in connection with which it is used is of a quality not inferior to that required for a grade prescribed under that subsection shall be treated for the purposes of this Part of this Act as if it were in the form so prescribed for that grade.

**12.**—(1) Except in such circumstances as are mentioned in subsection (2) below, a person shall not sell any fresh horticultural produce of a description in relation to which grades of quality are designated and defined under section 11(1) above Duties as to grading of produce.

**PART III**

(in this Part of this Act referred to as “regulated produce”) unless the produce falls within a prescribed grade and is packed in a container to which is affixed a label in the form prescribed for that or any lower grade or, if not packed in a container, has affixed to it such a label.

(2) The circumstances referred to in subsection (1) above are as follows:—

- (a) a sale of the produce by retail ;
- (b) a sale where the produce is to be transported to a country outside the United Kingdom by, or to the order of, the buyer ;
- (c) a sale where the produce is to be used by the buyer in manufacturing or producing any commodity for sale or other disposal by him ;
- (d) a direct sale by the producer of any produce to a person who undertakes—

(i) that before any sale by him of any of the produce, not being a sale such as is mentioned in paragraph (b) or (c) above, the produce will be sorted into the prescribed grades and produce the quality of which is inferior to that required for the lowest prescribed grade will be separated from other produce, and

(ii) that on any sale by him of any of the produce falling within a prescribed grade, not being a sale such as is mentioned in paragraph (b) or (c) above, the produce will be packed in a container to which is affixed a label in the form prescribed for that or any lower grade or, if not packed in a container, will have affixed to it such a label ; or

- (e) a direct sale by the producer of any produce where the produce is, or is to be, delivered at premises, or at any stall or vehicle, from which it is to be sold by retail.

(3) The Ministers may if they think fit by order provide that subsection (2) above shall have effect, in relation to such sales as are described in the order, as if paragraph (e) were omitted ; and an order made under this subsection may be varied or revoked by a subsequent order made by the Ministers.

(4) In this section “direct sale” means a sale where negotiations on behalf of the vendor are not conducted by any agent other than a person employed by him under a contract of service.

Powers as to entry of premises and regrading of produce.

13.—(1) A person authorised in that behalf either by the Minister or the Secretary of State (in this Part of this Act referred to as an “authorised officer”), on producing, if so

required, a duly authenticated document showing his authority, shall have a right—

- (a) to enter, at any reasonable time, any premises (other than a building used only as a private dwelling-house) which he has reasonable cause to believe to be premises where regulated produce is grown for sale, graded or packed, or on which regulated produce intended for sale otherwise than by retail is to be found, and
- (b) to inspect and take samples of any regulated produce found on the premises and to seize and detain any label (together with any container to which the label is affixed) used in connection with such produce.

(2) Where, on premises which he has a right to enter under the foregoing subsection, an authorised officer finds any regulated produce—

- (a) which has affixed to it a label in the form prescribed for any prescribed grade or is in a container to which such a label is affixed, but
- (b) which he has reasonable cause to believe to be of a quality inferior to the quality required for that grade,

he may, in such manner as may be prescribed by regulations made by the Ministers, cancel that label and affix to the produce or, as the case may be, the container a label, in such form as may be so prescribed, indicating what appears to him to be the correct grade or, where it appears to him that the quality of the produce is inferior to that required for the lowest prescribed grade, indicating that fact.

(3) If a justice of the peace, on sworn information in writing, is satisfied—

- (a) that an authorised officer has been refused admission to any premises which he has a right to enter under subsection (1) above, or that such a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier ; or
- (b) that an application for admission to the premises, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied or the occupier temporarily absent ;

the justice may by warrant under his hand, which shall continue in force for a period of one month, give authority to an authorised officer to enter the premises by force if need be.

In the application of this subsection to Scotland, the expression “a justice of the peace” shall be construed as including the sheriff and, in relation to premises in a burgh, a magistrate of the burgh.

(4) An authorised 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.

## PART III

(5) On leaving any premises which he has entered by virtue of this section, being premises which are unoccupied or the occupier of which is temporarily absent, an authorised officer shall leave them as effectively secured against unauthorised entry as he found them.

(6) If any authorised officer or other person who enters any work-place by virtue of this section discloses to any person any information obtained by him in the work-place with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(7) The foregoing provisions of this section shall apply in relation to a stall or vehicle as they apply in relation to premises, but nothing in this section shall authorise a person to stop any vehicle on a highway.

## Offences in connection with grading.

14.—(1) A person shall be guilty of an offence if he sells any regulated produce in contravention of section 12 above or, with intent to sell any such produce in circumstances such that the sale would contravene that section, he—

- (a) offers or exposes the produce for sale, or
- (b) not being the producer thereof, has the produce in his possession for sale, or
- (c) being the producer thereof, consigns the produce for sale.

(2) A person shall be guilty of an offence if, on behalf of the owner of any regulated produce,—

- (a) he carries out a sale of the produce in circumstances such that the sale contravenes section 12 above, or
- (b) with intent to carry out a sale of the produce in such circumstances, he offers or exposes it for sale or has it in his possession for sale.

(3) A person shall be guilty of an offence if, having given an undertaking such as is mentioned in section 12(2)(d) of this Act, he fails to comply with the undertaking.

(4) A person shall be guilty of an offence if—

- (a) he wilfully represents, whether by affixing an incorrect label to the container of any regulated produce or in any other manner, that regulated produce the quality of which is inferior to that required for a prescribed grade falls within that grade, or
- (b) without lawful authority he affixes to the container of any regulated produce, or to the produce itself, a label in a form prescribed for the purposes of section 13(2) above or for the purposes of any corresponding provision of an enactment of the Parliament of Northern Ireland for the time being in force, or

- (c) where under the said section 13(2) or any such corresponding provision a label has been affixed to the container of any regulated produce, or to the produce itself, he, with intent to deceive, removes, alters, defaces or conceals the label.

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15.—(1) A person shall be guilty of an offence if—

Obstruction.

- (a) he wilfully obstructs an authorised officer acting in the execution of this Part of this Act ; or
- (b) without reasonable cause he fails to give to any authorised officer acting as aforesaid any assistance or information which the authorised officer may reasonably require of him for the purposes of the performance by the authorised officer of his functions under this Part of this Act.

(2) A person shall be guilty of an offence if, in giving to an authorised officer any such information as is mentioned in the foregoing subsection, he gives any information which he knows to be false.

(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.

16. Where the commission by any person of an offence under section 14(1), (2) or (3) above was due to an act or default of another person occurring in Great Britain, then, whether proceedings are taken against the first-mentioned person or not, that other person may be charged with and convicted of the offence, and shall on conviction be liable to the same punishment as that to which the first-mentioned person is, on conviction, liable.

Penalty for act or default leading to commission of offence by another.

17.—(1) Subject to the provisions of this section, where in proceedings for an offence in relation to any produce under section 14(1) or (2) above it would have been a defence for the person charged to prove that the produce conformed to a prescribed grade, it shall be a defence for him to prove—

Pleading of warranty as defence.

- (a) that he bought or took delivery of the produce as being of a quality falling within that grade, and with a written warranty to that effect ; and
- (b) that at the time of the commission of the offence he had no reason to believe the statement contained in the warranty to be inaccurate, that he then did believe in its accuracy and that he had taken such steps (if any) as were reasonably practicable to check its accuracy ; and
- (c) that he took all reasonable steps to ensure that the quality of the produce was the same at the time of the commission of the offence as when it left the possession of the person by whom the warranty was given.

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(2) Where the proceedings are in respect of an offence committed by the person charged in the course of his employment, it shall be a defence for him to prove—

- (a) that if his employer had been charged the employer would have had a defence under subsection (1) above in respect of a warranty, and
- (b) that at the time of the commission of the offence the person charged had no reason to believe the statement contained in the warranty to be inaccurate.

(3) Where the person charged intends to set up a defence under this section he shall, not later than three days before the date of the hearing,—

- (a) send to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person by whom it is alleged to have been given, and
- (b) send to the last-mentioned person a notice giving the date and place of the hearing and stating that he intends to rely on the warranty.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and give evidence.

(5) If the person charged in any such proceedings as aforesaid wilfully attributes to any produce a warranty given in relation to any goods not including that produce, he shall be guilty of an offence.

(6) For the purposes of this section a grade designation entered in an invoice relating to any produce or indicated by a label affixed to the produce or the container thereof shall be deemed to be a written warranty that the produce conforms to the grade indicated by that designation.

Pleading of mistake, act of third party, etc. as defence.

18. In proceedings for an offence in respect of any produce under section 14(1), (2) or (3) above it shall be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of some other person, or to a mistake, or to 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 in respect of that produce by himself or any person under his control.

Offences by corporations.

19.—(1) Where an offence under any of the foregoing provisions of this Part of this Act which has been 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 deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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(2) In the foregoing subsection, "director", in relation to any board established under the Agricultural Marketing Act 1958 or 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 board or body corporate.

**20.—(1)** A person guilty of an offence under section 15(1) of this Act shall be liable on summary conviction to a fine not exceeding twenty pounds. Punishment of offences.

(2) A person guilty of an offence under any of the foregoing provisions of this Part of this Act other than section 15(1) shall be liable on summary conviction to a fine not exceeding one hundred pounds (or, in the case of a second or any subsequent offence under the same provision, two hundred and fifty pounds), or to imprisonment for a term not exceeding three months, or to both.

(3) Proceedings in England or Wales for an offence under any of the foregoing provisions of this Part of this Act may be instituted only by or with the consent of the Minister or with the consent of the Attorney General.

#### *Transport of produce*

**21.—(1)** With a view to reducing the risk of deterioration of or damage to produce while in transit or promoting efficiency in the transport and handling of produce, the Ministers may make regulations imposing a duty on any person carrying on a horticultural production business to secure that such containers, pallets and other articles as may be prescribed by the regulations are used for the transport of fresh horticultural produce from premises where that business is carried on to any such market or other premises as may be so prescribed. Power to require use of prescribed containers etc.

(2) Regulations under this section may confer powers of entry, inspection and sampling, may provide for the punishment of offences against the regulations and may contain such other provisions as the Ministers consider expedient for the purposes of the regulations:

Provided that—

(a) the regulations shall not confer power to enter any building used only as a private dwelling-house or to

## PART III

stop any vehicle on a highway, and in relation to any power of entry conferred thereby shall include provisions to the like effect as section 13(5) and (6) of this Act; and

(b) the penalty for an offence under the regulations shall be limited to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence thereunder, not exceeding one hundred pounds.

(3) In this section "horticultural production business" has the same meaning as in Part I of the Horticulture Act 1960.

*Miscellaneous*

## Miscellaneous amendments.

**22.**—(1) The Agricultural Produce (Grading and Marking) Acts 1928 and 1931 shall cease to apply to fresh horticultural produce.

(2) Neither a label in a form prescribed under this Part of this Act, or under corresponding provisions of any enactment of the Parliament of Northern Ireland for the time being in force, nor a grade designation so prescribed shall for the purposes of the Merchandise Marks Acts 1887 to 1953 or any enactment for the time being amending or supplementing those Acts be treated, when applied to any fresh horticultural produce, as a trade description within the meaning of section 2 of the Merchandise Marks Act 1887.

(3) Notwithstanding anything in section 7 of the Agricultural Marketing Act 1958, a scheme under that Act shall not empower the board administering the scheme—

(a) to grade, or regulate the grading or marking of, any produce to which regulations under section 11(1) of this Act apply, or

(b) to pack or transport, or regulate the packing or transporting of, any produce to which regulations under section 21 of this Act apply,

otherwise than in conformity with the regulations under the said section 11(1) or 21, as the case may be.

In relation to the doing of any act in Northern Ireland, references in the foregoing provisions of this subsection to section 11(1) or 21 of this Act shall be construed as references to the corresponding provisions of any enactment of the Parliament of Northern Ireland for the time being in force.

## Regulations and orders.

**23.**—(1) Before the making of any regulations or order under this Part of this Act the Minister or the Secretary of State shall consult with such organisations as appear to either of them to be representative of interests affected by the regulations or order.

(2) Any power conferred by this Part of this Act to make regulations or orders shall be exercisable by statutory instrument, and a statutory instrument containing regulations or an order so made shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART III

24. In this Part of this Act—

Interpretation  
of Part III.

“authorised officer” has the meaning assigned to it by section 13(1) of this Act ;

“container” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed ;

“fresh horticultural produce” means—

(a) fruit, vegetables, herbs, nuts and edible fungi, whether freshly-gathered or stored or taken from store, but not including maincrop potatoes or hops or any dried, frozen, bottled, canned or preserved produce ;

(b) cut flowers and decorative foliage ;

(c) pot plants, bedding plants and herbaceous plants ;

(d) shrubs and flowering trees ;

(e) fruit trees, fruit bushes and fruit plants ; and

(f) bulbs, corms and tubers ;

“label” includes any device for conveying information by written characters or other symbols, and any characters or symbols stamped or otherwise placed directly on to any produce or container, and references to the affixing of a label shall be construed accordingly ;

“prescribed grade”, in relation to regulated produce of any description, means a grade of quality designated and defined in relation to produce of that description under section 11(1) of this Act ;

“regulated produce” has the meaning assigned to it by section 12(1) of this Act.

## PART IV

## SUPPLEMENTAL

25.—(1) There shall be defrayed out of moneys provided by Parliament— Expenses  
and receipts.

(a) any expenses incurred by the Minister on account of any allowance or relief granted under section 1 of this Act ;

(b) any payments made by way of grant under Part II of this Act, and any increase attributable to that Part in the expenses incurred by the Minister or the Secretary of State under Part I of the Horticulture Act 1960 ;

## PART IV

(c) the administrative expenses of the Minister and the Secretary of State under this Act.

(2) There shall be paid into the Exchequer—

(a) any fees or charges received by a Minister under section 1 of this Act ;

(b) any sums recovered by the Minister or the Secretary of State under section 2(3), 4(3) or 10(4) of this Act.

Short title,  
interpretation  
and extent.

**26.**—(1) This Act may be cited as the Agriculture and Horticulture Act 1964.

(2) In this Act—

“ the Minister ” means the Minister of Agriculture, Fisheries and Food ;

“ the Ministers ” means the Minister and the Secretary of State acting jointly.

(3) The provisions of Part III of this Act (other than section 22(2) and (3)) shall not extend to Northern Ireland, but notwithstanding anything in the Government of Ireland Act 1920 the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of any of those provisions.

## SCHEDULE

Section 1.

## PRICE STABILISATION LEVIES (SUPPLEMENTARY PROVISIONS)

1.—(1) The general provisions of the Customs and Excise Act 1952 (as for the time being amended, whether before or after the passing of this Act), and any other statutory provisions for the time being in force and relating to customs generally, shall have effect, subject to the provisions of this paragraph, in relation to levies imposed under section 1 of this Act (in this paragraph, referred to as “price stabilisation levies”), to any relief in respect of such levies and to specified commodities of any description as if the levies were duties of customs and all imports of any such commodity were liable to such a duty.

(2) For the purposes of sub-paragraph (1) above, section 10 of the Finance Act 1901 (which relates to changes in customs import duties in their effect on contracts) shall be taken as relating to customs generally; but that sub-paragraph shall not extend the operation of section 259 (charge of duty on manufactured or composite articles) of the Customs and Excise Act 1952 nor the operation of the Provisional Collection of Taxes Act 1913.

(3) In their application by virtue of sub-paragraph (1) above,—

(a) section 46 of the Customs and Excise Act 1952 (which relates to the prevention of smuggling in Northern Ireland) shall have effect as if references to the importation of goods were references to the importation of them in circumstances such that a price stabilisation levy is chargeable on them; and

(b) section 257 of that Act (which relates to forfeiture of goods if the goods are relieved from duty on certain conditions and the conditions are not observed) shall apply in relation to any provision of an order under section 1 of this Act and to any condition on which relief is allowed under such a provision as it applies in relation to a provision of an Act of Parliament and to any such conditions as are mentioned in the said section 257.

(4) The Commissioners of Customs and Excise may by regulations made by statutory instrument provide for any further exceptions from or adaptations of the statutory provisions which are to apply for any purpose by virtue of sub-paragraph (1) above; but any statutory instrument containing regulations made under this sub-paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this paragraph “statutory provisions” means provisions contained in an enactment or having effect by virtue of an enactment; and in sub-paragraph (1) above the reference to any relief in respect of price stabilisation levies shall include any allowance or relief for which provision is made by an order under section 1 of this Act.

SCH. 2. Where any question affecting the operation in relation to imported goods of an order under section 1 of this Act depends on the country in which they were grown, produced or manufactured or on that from which they were consigned to the United Kingdom, the Commissioners of Customs and Excise may require the importer of the goods to furnish to them, in such form as they may require, proof of any statement made to them as to any fact necessary to determine that question; and if such proof is not furnished to their satisfaction, the question may be determined without regard to that statement.

3. If, for the purpose of an application made to a Minister with a view to the granting of any allowance or relief for which provision is made by an order under section 1 of this Act, a person makes any statement or produces any document which is false in a material particular, then—

- (a) any decision allowing the application shall be of no effect; and
- (b) if the statement was made or the document was furnished knowingly or recklessly, that person shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both, or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both.

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Merchandise Marks Act 1887 ... ..	50 & 51 Vict. c. 28.
Finance Act 1901 ... ..	1 Edw. 7. c. 7.
Provisional Collection of Taxes Act 1913 ... ..	3 & 4 Geo. 5. c. 3.
Government of Ireland Act 1920 ... ..	10 & 11 Geo. 5. c. 67.
Agriculture Act 1947 ... ..	10 & 11 Geo. 6. c. 48.
Agriculture (Scotland) Act 1948 ... ..	11 & 12 Geo. 6. c. 45.
Customs and Excise Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.
Isle of Man Act 1958 ... ..	6 & 7 Eliz. 2. c. 11.
Agricultural Marketing Act 1958 ... ..	6 & 7 Eliz. 2. c. 47.
Horticulture Act 1960 ... ..	8 & 9 Eliz. 2. c. 22.
Covent Garden Market Act 1961 ... ..	9 & 10 Eliz. 2. c. 49.



# Continental Shelf Act 1964

## 1964 CHAPTER 29

An Act to make provision as to the exploration and exploitation of the continental shelf; to enable effect to be given to certain provisions of the Convention on the High Seas done in Geneva on 29th April 1958; and for matters connected with those purposes.

[15th April 1964]

**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) Any rights exercisable by the United Kingdom outside territorial waters with respect to the sea bed and subsoil and their natural resources, except so far as they are exercisable in relation to coal, are hereby vested in Her Majesty. Exploration and exploitation of continental shelf.

(2) In relation to any coal with respect to which those rights are exercisable the Coal Industry Nationalisation Act 1946 shall apply as it applies in relation to coal in Great Britain, but with the modification that the National Coal Board shall not engage in any operations for the purpose of working or getting the coal without the consent of the Minister of Power, which may be given on such terms and subject to such conditions as he thinks fit.

(3) In relation to any petroleum with respect to which those rights are exercisable sections 2 and 6 of the Petroleum (Production) Act 1934 (which relate to the granting of licences to search and bore for, and get, petroleum) shall apply as they apply in relation to petroleum in Great Britain, and section 3 of that Act (which enables persons holding licences under that Act to acquire

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ancillary rights) and section 5 of that Act (which makes provision as to receipts and expenditure under that Act) shall have effect as if this subsection were part of that Act.

(4) Model clauses prescribed under section 6 of the Petroleum (Production) Act 1934 as applied by the preceding subsection shall include provision for the safety, health and welfare of persons employed on operations undertaken under the authority of any licence granted under that Act as so applied.

(5) The Minister of Power shall for each financial year prepare and lay before Parliament a report stating—

- (a) the licences under the said Act of 1934 granted in that year in respect of areas beyond low-water mark and the persons to whom and the areas in respect of which they were granted, and the like information as respects such licences held at the end of that year;
- (b) the total amount of natural gas and of other petroleum gotten in that year in pursuance of licences held in respect of such areas; and
- (c) the method used for arriving at the amounts payable by way of consideration for such licences.

(6) The general duty of the Minister of Power of securing the effective and co-ordinated development of such resources in Great Britain as are mentioned in section 1(1) of the Ministry of Fuel and Power Act 1945 shall extend to any such resources outside Great Britain with respect to which the said rights are exercisable.

(7) Her Majesty may from time to time by Order in Council designate any area as an area within which the rights mentioned in subsection (1) of this section are exercisable, and any area so designated is in this Act referred to as a designated area.

(8) In this section “coal” has the same meaning as in the Coal Industry Nationalisation Act 1946 and “petroleum” has the same meaning as in the Petroleum (Production) Act 1934.

**Protection of installations in designated areas.**

2.—(1) The Minister of Power may for the purpose of protecting any installation in a designated area by order made by statutory instrument prohibit ships, subject to any exceptions provided by the order, from entering without his consent such part of that area as may be specified in the order.

(2) If any ship enters any part of a designated area in contravention of an order under this section its owner or master shall be liable—

- (a) on summary conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both;



(b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding one year, or to both; unless he proves that the prohibition imposed by the order was not, and would not on reasonable inquiry have become, known to the master.

(3) Any order under this section may be varied or revoked by a subsequent order, and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

3.—(1) Any act or omission which—

(a) takes place on, under or above an installation in a designated area or any waters within five hundred metres of such an installation; and

(b) would, if taking place in any part of the United Kingdom, constitute an offence under the law in force in that part, shall be treated for the purposes of that law as taking place in that part.

Application  
of criminal  
and civil law.

(2) Her Majesty may by Order in Council make provision for the determination, in accordance with the law in force in such part of the United Kingdom as may be specified in the Order, of questions arising out of acts or omissions taking place in a designated area, or in any part of such an area, in connection with the exploration of the sea bed or subsoil or the exploitation of their natural resources, and for conferring jurisdiction with respect to such questions on courts in any part of the United Kingdom so specified.

(3) Any jurisdiction conferred on any court under this section shall be without prejudice to any jurisdiction exercisable apart from this section by that or any other court.

(4) Any Order in Council under this section may be varied or revoked by a subsequent Order in Council and any statutory instrument containing such an Order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4.—(1) Part II of the Coast Protection Act 1949 (which requires the consent of the Minister of Transport to the carrying out of certain works on the sea shore if obstruction or danger to navigation is likely to result) except section 34(1)(b) (which restricts the deposit of materials) shall apply in relation to any part of the sea bed in a designated area as it applies in relation to the sea shore; and section 46 of that Act (local inquiries) shall extend to any matter arising under this section.

(2) Any person guilty of an offence under the said Part II as applied by this section shall be liable, on summary conviction to a fine not exceeding one hundred pounds, and on conviction on indictment to a fine.

Discharge  
of oil.

5.—(1) If any oil to which section 1 of the Oil in Navigable Waters Act 1955 applies or any mixture containing not less than one hundred parts of such oil in a million parts of the mixture is discharged or escapes into any part of the sea—

(a) from a pipe-line; or

(b) (otherwise than from a ship) as the result of any operations for the exploration of the sea bed and subsoil or the exploitation of their natural resources in a designated area,

the owner of the pipe-line or, as the case may be, the person carrying on the operations shall be guilty of an offence unless he proves, in the case of a discharge from a place in his occupation, that it was due to the act of a person who was there without his permission (express or implied) or, in the case of an escape, that he took all reasonable care to prevent it and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

(2) A person guilty of an offence under this section shall be liable, on summary conviction to a fine not exceeding one thousand pounds, and on conviction on indictment to a fine.

Wireless  
telegraphy.

6. An Order in Council under section 3 of this Act may make provision for treating for the purposes of the Wireless Telegraphy Act 1949 and any regulations made thereunder any installation in an area or part with respect to which provision is made under that section and any waters within five hundred metres of such an installation as if they were situated in such part of the United Kingdom as may be specified in the Order.

Radioactive  
substances.

7. An Order in Council under section 3 of this Act may make provision for treating for the purposes of the Radioactive Substances Act 1960 and any orders and regulations made thereunder any installation in an area or part with respect to which provision is made under that section and any waters within five hundred metres of such an installation as if they were situated in such part of the United Kingdom as may be specified in the Order, and for modifying the provisions of that Act in their application to such an installation or waters.

Submarine  
cables and  
pipe-lines.

8.—(1) Section 3 (punishment for damaging cables) of the Submarine Telegraph Act 1885 and Article IV and paragraph 1 of Article VII (liability to pay compensation for damage to cables and for loss of gear sacrificed to avoid such damage) of the Convention set out in the Schedule to that Act (which by virtue of section 2 thereof has the force of law) shall apply in relation to all submarine cables under the high seas (and not only to those to which that Convention applies) and to pipe-lines under the high seas; and the said section 3 shall be construed as referring to telephonic as well as telegraphic communication,

and, in relation to high-voltage power cables and to pipe-lines, as if the words from "in such manner" to the end of subsection (1) were omitted.

(2) Sections 6(3) (limitation of proceedings) and 13 (cesser of Act on cesser of Convention) of that Act are hereby repealed.

9.—(1) The following provisions of this section shall have effect with respect to the use and supply of any natural gas gotten in pursuance of a licence under the Petroleum (Production) Act 1934 as applied by section 1(3) of this Act, and section 52 of the Gas Act 1948 shall not apply to any such gas. Use and supply of natural gas.

(2) The holder of the licence shall not without the consent of the Minister of Power use the gas in Great Britain and no person shall without that consent supply the gas to any other person at premises in Great Britain.

(3) The Minister of Power shall not give his consent under this section to the supply of gas at any premises unless satisfied—

(a) that the supply is for industrial purposes and that the Area Board in whose area the premises are situated has been given an opportunity of purchasing the gas at a reasonable price; or

(b) that the supply is for such purposes as are mentioned in subsection (4) of this section;

but shall give his consent under this section to the supply or use of any gas if satisfied that it is for the purposes mentioned in that subsection.

(4) The said purposes are industrial purposes which do not consist of or include the use of the gas as a fuel except in so far as the gas is used to provide heat or other energy required—

(a) for a process in which the gas is used otherwise than as a fuel; or

(b) where such a process is one of a series, for any further process in the same series, not being a process in which a bulk product is converted into manufactured articles;

and in determining whether any industrial purposes are as mentioned in this subsection the use of any gas derived, otherwise than as a by-product, from any natural gas shall be treated as the use of that natural gas.

(5) For the purposes of this section gas provided by a company for the use of any subsidiary or holding company thereof, or of any subsidiary of such a holding company shall be deemed to be used by that company.

(6) This section shall not affect the supply of gas by any person otherwise than through pipes or the supply of gas by or to an Area Board.

(7) In this section “Area Board” has the same meaning as in the Gas Act 1948 and “holding company” and “subsidiary” have the same meanings as in the Companies Act 1948.

**Modification  
of National  
Insurance  
Acts.**

**10.—(1)** The Minister of Pensions and National Insurance may by regulations make provision—

- (a) for treating as insurable employment for the purposes of the National Insurance (Industrial Injuries) Acts 1946 to 1963 any prescribed employment which is employment in connection with the exploitation of the resources mentioned in section 1(1) of this Act or with the exploration of the sea bed and subsoil in any designated area; and
- (b) for modifying the provisions of those Acts in their application in relation to persons who are insured persons by virtue of this subsection and in particular, but without prejudice to the generality of this paragraph, for treating accidents arising out of and in the course of any such employment as happening while those persons are in Great Britain and for treating as accidents so arising accidents happening while those persons are proceeding to or from their work or in any other prescribed circumstances.

(2) The Minister of Pensions and National Insurance may by regulations make provision for modifying the provisions of the National Insurance Acts 1946 to 1963 in their application in relation to persons in any prescribed employment (whether under a contract of service or not) in connection with the exploitation or exploration mentioned in subsection (1) of this section, and in particular, but without prejudice to the generality of this subsection, for the insurance under those Acts of persons in such employment notwithstanding that they do not fulfil the conditions of section 1 of the National Insurance Act 1946.

(3) Subsection (1) of this section shall be construed as one with the National Insurance (Industrial Injuries) Act 1946 and subsection (2) of this section as one with the National Insurance Act 1946.

**Prosecution  
of offences,  
etc.**

**11.—(1)** Proceedings for any offence under this Act (including an offence under another Act as applied by or under this Act and anything that is an offence by virtue of section 3(1) of this Act) may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(2) Where a body corporate is guilty of such an offence and the offence 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 the offence and shall be liable to be proceeded against and punished accordingly.

In this subsection, "director" in relation to a body corporate established 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 its members, means a member of that body corporate.

(3) A constable shall on any installation in a designated area have all the powers, protection and privileges which he has in the area for which he acts as constable.

12. Nothing in this Act shall be taken to restrict the powers Northern of the Parliament of Northern Ireland to make laws; and Ireland. any laws made by that Parliament with respect to any matter with respect to which it has that power shall have effect notwithstanding anything in this Act.

13. This Act may be cited as the Continental Shelf Act 1964. Short title



# Legal Aid Act 1964

## 1964 CHAPTER 30

An Act to provide for the payment out of the legal aid funds of costs incurred by successful opponents of legally aided litigants. [15th April 1964]

**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:—

Power to award costs out of legal aid fund.

1.—(1) Where a party receives legal aid in connection with any proceedings between him and a party not receiving legal aid (in this Act referred to as “the unassisted party”) and those proceedings are finally decided in favour of the unassisted party, the court by which the proceedings are so decided may, subject to the provisions of this section, make an order for the payment to the unassisted party out of the legal aid fund of the whole or any part of the costs incurred by him in those proceedings.

(2) An order may be made under this section in respect of any costs if (and only if) the court is satisfied that it is just and equitable in all the circumstances that provision for those costs should be made out of public funds; and before making such an order the court shall in every case (whether or not application is made in that behalf) consider what orders should be made for costs against the party receiving legal aid and for determining his liability in respect of such costs.

(3) Without prejudice to subsection (2) above, no order shall be made under this section in respect of costs incurred in a court of first instance, whether by that court or by any appellate court, unless—

(a) the proceedings in the court of first instance were instituted by the party receiving legal aid; and

- (b) the court is satisfied that the unassisted party will suffer severe financial hardship unless the order is made.

(4) An order under this section shall not be made by any court in respect of costs incurred by the unassisted party in any proceedings in which, apart from this Act, no order would be made for the payment of his costs.

(5) Without prejudice to any other provision restricting appeals from any court, no appeal shall lie against an order under this section, or a refusal to make such an order, except on a point of law.

(6) In this section "costs" means costs as between party and party; but the costs in respect of which an order may be made under this section include the costs of applying for that order.

2.—(1) Provision may be made by regulations under Part I of Supplementary provisions.  
the Legal Aid and Advice Act 1949—

- (a) for determining the proceedings which are or are not to be treated as separate proceedings for the purposes of this Act, or as having been instituted by the party receiving legal aid for the purposes of section 1(3)(a) of this Act; 12 & 13 Geo. 6  
c. 51.
- (b) for modifying section 1(3)(b) of this Act in its application to an unassisted party who is concerned in proceedings only in a fiduciary, representative or official capacity; and
- (c) for regulating the procedure to be followed in connection with orders under this Act.

(2) Regulations made by virtue of subsection (1)(c) of this section may in particular make provision—

- (a) for the reference of applications for orders under this Act, or of any questions of fact relevant to such applications, for inquiry and report by a master, a registrar or a district registrar, as the case may be;
- (b) for the exercise by a master, a registrar or a district registrar of the powers under this Act of a judge of the High Court or a county court;
- (c) for enabling the Law Society to be heard in connection with any order under this Act.

(3) For the purposes of this Act proceedings shall be treated as finally decided in favour of the unassisted party—

- (a) if no appeal lies against the decision in his favour;
- (b) if an appeal lies against the decision with leave, and the time limited for applications for leave expires without leave being granted; or

- (c) if leave to appeal against the decision is granted or is not required, and no appeal is brought within the time limited for appeal;

and where an appeal against the decision is brought out of time, the court by which the appeal (or any further appeal in those proceedings) is determined may make an order for the repayment by the unassisted party to the legal aid fund of the whole or any part of any sum previously paid to him in respect of those proceedings under this Act.

(4) Where a court decides any proceedings in favour of the unassisted party and an appeal lies (with or without leave) against that decision, the court may, if it thinks fit, make or refuse to make an order under this Act forthwith, but any order so made shall not take effect—

- (a) where leave to appeal is required, unless the time limited for applications for leave to appeal expires without leave being granted;
- (b) where leave to appeal is granted or is not required, unless the time limited for appeal expires without an appeal being brought.

(5) Where a party begins to receive legal aid in connection with any proceedings after those proceedings have been instituted, or ceases to receive legal aid before they are finally decided, or otherwise receives legal aid in connection with part only of any proceedings, the reference in subsection (1) of section 1 of this Act to the costs incurred by the unassisted party in those proceedings shall be construed as a reference to so much of those costs as is attributable to that part.

Application  
to Scotland.

3.—(1) In the application of this Act to Scotland, for any reference to costs there shall be substituted a reference to expenses; for references to regulations under Part I of the Legal Aid and Advice Act 1949 there shall be substituted references—

- (a) in relation to matters described in section 2 (1)(b), to regulations made by the Secretary of State subject to the provisions of subsections (4) and (5) of section 12 of the Legal Aid (Scotland) Act 1949;
- (b) in relation to any other matters, to acts of sederunt made under section 13 of the last mentioned Act;

and section 2(2)(a) and (b) shall be omitted.

(2) References in this Act, in its application to Scotland, to proceedings shall be construed as references to civil proceedings only.

12 & 13 Geo. 6  
c. 63.



4. No limitation 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, in relation to proceedings in the House of Lords or the Judicial Committee of the Privy Council on any appeal or reference from Northern Ireland, provisions corresponding to provisions of this Act.

Powers of Parliament of Northern Ireland.  
10 & 11 Geo. 5 c. 67.

5. There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums so payable under the Legal Aid and Advice Act 1949 or the Legal Aid (Scotland) Act 1949.

Expenses.

6.—(1) This Act may be cited as the Legal Aid Act 1964.

Short title, commencement, construction, citation and extent.

(2) Section 4 of this Act shall come into force on the passing of this Act, and the remaining provisions of this Act shall come into force, as regards England and Wales, on such day as the Lord Chancellor may by statutory instrument appoint and, as regards Scotland, on such day as the Secretary of State may by statutory instrument appoint.

(3) This Act, in its application to England and Wales, shall be construed as one with Part I of the Legal Aid and Advice Act 1949, and may be cited with the Legal Aid and Advice Acts 1949 and 1960 as the Legal Aid Acts 1949 to 1964.

(4) This Act, in its application to Scotland, shall, subject to section 3(2) of this Act, be construed as one with the Legal Aid (Scotland) Act 1949, and may be cited with the Legal Aid (Scotland) Acts 1949 and 1960 as the Legal Aid (Scotland) Acts 1949 to 1964.

(5) The provisions of this Act, other than section 4, do not extend to Northern Ireland.



# Elections (Welsh Forms) Act 1964

## 1964 CHAPTER 31

An Act to authorise the use, in connection with elections in Wales and Monmouthshire, of translations of statutory forms into the Welsh language.

[10th June 1964]

**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:—

Translations of statutory forms into the Welsh language.  
12, 13 & 14  
Geo. 6. c. 68.

1.—(1) The Secretary of State may by regulations made by statutory instrument prescribe a translation into the Welsh language of any form required to be used by the Representation of the People Act 1949 (whether it is a form set out in a Schedule to that Act or one prescribed by rules or regulations made under that Act); and where such a translation has been so prescribed it may be used, in place of the form, in connection with elections in Wales and Monmouthshire.

(2) Where in the case of a form so set out or prescribed the requirement as to its use may be satisfied by the use of a form to the like effect or of that form with adaptations, it may be so satisfied also in the case of a translation prescribed under this section.

(3) Nothing in this section shall be taken to prejudice the use of any translation in a case where its use is lawful apart from this Act.

Short title and citation.

2. This Act may be cited as the Elections (Welsh Forms) Act 1964 and shall be included among the Acts which may be cited as the Representation of the People Acts.



# National Health Service (Hospital Boards) Act 1964

## 1964 CHAPTER 32

An Act to make provision for changing the name of  
Regional Hospital Boards in England and Wales to that  
of Hospital Board. [10th June 1964]

**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) Any board constituted by an order under section 11(1) of the National Health Service Act 1946 shall, if any such order or an order varying any such order so provides, be called a Hospital Board without the addition of the word "Regional" and accordingly boards so constituted may be known as Hospital Boards or Regional Hospital Boards. Change of name of Regional Hospital Boards.  
9 & 10 Geo. 6.  
c. 81.

(2) An order varying an order under the said section 11(1) so as to change the name of a Regional Hospital Board may contain provisions substituting the new name in any enactment passed, instrument made or legal proceedings commenced before the date when the order takes effect.

(3) The name of the Welsh Regional Hospital Board is hereby changed to Welsh Hospital Board and the new name shall be substituted for the previous name in all enactments passed, instruments made and legal proceedings commenced before the commencement of this Act which refer to the Board.

(4) The power conferred by section 75(4) of the National Health Service Act 1946 to vary or revoke orders under that Act shall include power to amend or repeal the foregoing subsection.

*National Health Service  
(Hospital Boards) Act 1964*

Short title,  
citation,  
commence-  
ment and  
extent.

**2.—(1)** This Act may be cited as the National Health Service (Hospital Boards) Act 1964.

(2) This Act and the National Health Service Acts 1946 to 1961 may be cited together as the National Health Service Acts 1946 to 1964.

(3) This Act shall come into operation at the expiration of the period of one month beginning with the day on which it is passed.

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



# Burgh Police (Amendment) (Scotland) Act 1964

## 1964 CHAPTER 33

An Act to amend paragraph (36) of section 381 of the Burgh Police (Scotland) Act 1892 with regard to the laying down of salt on streets and footways in burghs in Scotland in time of snow or frost. [10th June 1964]

**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. It shall be lawful for any person to lay down salt on any street or footway in a burgh in Scotland in time of snow or frost to facilitate the passage of pedestrians and vehicles and to prevent accidents, and accordingly in paragraph (36) of section 381 of the Burgh Police (Scotland) Act 1892 the words from "or lays down" to "snow" shall cease to have effect.

Laying down  
of salt on  
streets in  
burghs in  
time of snow  
or frost.  
55 & 56 Vict.  
c. 55.

2.—(1) This Act shall be construed as one with the Burgh Police (Scotland) Act 1892.

Construction,  
short title  
and citation.

(2) This Act may be cited as the Burgh Police (Amendment) (Scotland) Act 1964, and the Burgh Police (Scotland) Acts 1892 to 1903 and this Act may be cited together as the Burgh Police (Scotland) Acts 1892 to 1964.



# Criminal Procedure (Right of Reply) Act 1964

## 1964 CHAPTER 34

An Act to amend the law relating to the prosecution's right of reply at trials on indictment.

[10th June 1964]

**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:—

Right of reply  
at trials on  
indictment.

1.—(1) Upon the trial of any person on indictment—

- (a) the prosecution shall not be entitled to the right of reply on the ground only that the Attorney General or the Solicitor General appears for the Crown at the trial; and
- (b) the time at which the prosecution is entitled to exercise that right shall, notwithstanding anything in section 2 of the Criminal Procedure Act 1865, be after the close of the evidence for the defence and before the closing speech (if any) by or on behalf of the accused.

28 & 29 Vict.  
c. 18.

(2) In section 3 of the Criminal Evidence Act 1898 the words from the beginning to “ for the defence ” are hereby repealed.

61 & 62 Vict.  
c. 36.

2.—(1) This Act may be cited as the Criminal Procedure (Right of Reply) Act 1964.

Short title,  
commence-  
ment and  
extent.

(2) This Act shall come into operation at the time of expiration of a period of one month beginning with the day on which it was passed, but shall not apply to any trial at which the accused was arraigned before that time.

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



# Pharmacy and Poisons (Amendment) Act 1964

## 1964 CHAPTER 35

An Act to make provision for increase of the fees payable by authorised sellers of poisons in connection with the registration of their premises, and for that purpose to amend the Pharmacy and Poisons Act 1933.

[10th June 1964]

**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. In subsection (3) of section 12 of the Pharmacy and Poisons Act 1933 (which provides that the fee which may be prescribed by byelaws in respect of the registration of any set of premises shall not exceed three pounds and that the fee which may be so prescribed in respect of the retention of premises on the register of premises in any subsequent year shall not exceed three pounds) there shall be substituted for the amount of three pounds in each case the amount of ten pounds.

Increase of permitted registration and retention fees.  
23 & 24 Geo. 5. c. 25.

2.—(1) This Act may be cited as the Pharmacy and Poisons (Amendment) Act 1964.

Citation and extent.

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



# Dangerous Drugs Act 1964

## 1964 CHAPTER 36

An Act to amend the Dangerous Drugs Act 1951; to create certain offences in connection with the drug known as cannabis and to penalize the intentional cultivation of any plant of the genus cannabis; and for purposes connected with the matters aforesaid.

[10th June 1964]

**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:—

### *Amendments of Dangerous Drugs Act 1951*

Substitution, for purposes of Part III of Dangerous Drugs Act 1951, of new list of drugs, &c., and provisions consequential thereon.  
14 & 15 Geo. 6. c. 48.

1.—(1) In section 8 (restriction on importation and exportation of drugs to which Part III of the Act applies) of the Dangerous Drugs Act 1951 (hereafter in this Act referred to as the “principal Act”), for the reference to a drug to which the said Part III applies there shall be substituted a reference to a substance for the time being specified in Part I of Schedule 1 to this Act, other than a preparation or other substance for the time being falling within Part II of that Schedule.

(2) In section 9 of the principal Act (power to control manufacture, sale, &c., of drugs to which Part III of that Act applies) for references to the said drugs and to any of them there shall be substituted references respectively to the substances for the time being specified in Part I of Schedule 1 to this Act and to any of them.

(3) In consequence of the enactment of the two foregoing subsections, section 10(1) of the principal Act (which specifies the drugs to which Part III of that Act applies) and section 10(2) of that Act (whereunder Her Majesty has, by Orders



in Council entitled respectively the Dangerous Drugs Act 1951 (Application) Order 1963 and the Dangerous Drugs Act 1951 (Application) (No. 2) Order 1963, applied the said Part III to certain drugs additional to those specified in section 10(1), being drugs falling within Part I of Schedule 1 to this Act) shall cease to have effect.

(4) Section 10(3) of the principal Act (whereunder Her Majesty has by the first-mentioned of the Orders in Council aforesaid applied Part III of that Act with modifications to two drugs, and their respective salts, which fall within Part I of Schedule 1 to this Act, that is to say, to codeine and ethylmorphine and their respective salts) shall cease to have effect; but, until such day as Her Majesty may by Order in Council appoint (hereafter in this Act referred to as the "appointed day"), the said Part III shall, in relation to those drugs and their respective salts, continue to have effect subject to the modifications specified in Schedule 2 to the said first-mentioned Order.

(5) Notwithstanding subsections (1) to (3) of this section, the following, namely,—

- (a) a preparation, admixture, extract or other substance containing less than 0.2 per cent. of morphine or a salt of morphine or less than 0.1 per cent. of cocaine or a salt of cocaine (not being a solution or dilution of morphine or cocaine or a salt of either of them in an inert substance, whether liquid or not); and
- (b) a preparation, admixture, extract or other substance containing less than 0.1 per cent. of ecgonine or any derivative of ecgonine from which it may be recovered industrially;

shall be excepted from the operation of Part III of the principal Act until the appointed day; and for the purposes of this subsection percentages, in the case of morphine or salts of morphine, shall be calculated as in respect of anhydrous morphine and, in the case of liquid preparations, shall be calculated on the basis that a preparation containing 1 per cent. of a substance means a preparation in which 1 gramme of the substance, if a solid, or 1 millilitre of the substance, if a liquid, is contained in every 100 millilitres of the preparation, and so in proportion for any greater or less percentage.

(6) Section 10(4) of the principal Act (by virtue whereof, in consequence of divers declarations of Her Majesty in Council and of a declaration of His late Majesty King George the Fifth in Council, Part III of that Act has ceased to apply to certain preparations containing drugs to which that Part applies) shall cease to have effect; but the preparations which, at the commencement of this Act, are by virtue of that subsection

excepted from the operation of the said Part III shall continue to be so excepted until the appointed day.

(7) In section 14 of the principal Act (entry and search of premises, &c., to obtain evidence of offences) and in the proviso to section 15(2) of that Act (restriction of punishment of persons committing certain offences through inadvertence), for any reference to drugs to which Part I, II or III of that Act applies or to drugs to which that Act applies there shall be substituted a reference to drugs to which Part I or II of that Act applies and substances for the time being specified in Part I of Schedule 1 to this Act; but until the appointed day the references so substituted shall be construed as not including references to preparations and other substances excepted from the operation of Part III of the principal Act by either of the two last foregoing subsections.

**2. If—**

- (a) it appears to Her Majesty that a decision of the Commission or of the Organisation to alter any of the Schedules to the Single Convention or to apply to a substance measures of control applicable under that Convention to substances specified in Schedule 1 thereto, requires the addition of a substance to, or the removal of a substance from, Part I or II of Schedule 1 to this Act or both the removal of a substance from Part I of that Schedule and the removal of a substance from Part II thereof; or
- (b) it appears to Her probable that there will be taken such a decision as aforesaid of the Commission or of the Organisation as will require the addition of a substance to Part I of Schedule 1 to this Act and that, in the circumstances of the case, it is expedient to anticipate the decision;

She may by Order in Council make the requisite modifications in the said Schedule 1.

**3.—(1)** Section 11 of the principal Act (by virtue whereof it is not lawful for a person in the United Kingdom to trade in, or manufacture for the purpose of trade, a product obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not being a product which was, on 13th July 1931, being used for medical or scientific purposes or a product of medical or scientific value specified in an Order in Council under that section) shall cease to have effect on the appointed day.

(2) Section 12 of the principal Act (power to apply Part III of that Act to products mentioned in section 11) is hereby repealed.

Power of Her Majesty in Council to amend Schedule 1 to this Act.

Repeal of Part IV of 1951 Act.

4. Section 4 (drugs to which Part I of the Act applies) of the principal Act shall be amended—
- (a) by the substitution, in subsection (1), for the words “Indian hemp, and resins obtained from Indian hemp and all preparations of which such resins form the base”, of the words “poppy-straw, cannabis, cannabis resin and all preparations of which cannabis resin forms the base”; and
  - (b) by the omission, in subsection (2), of the words from “and (d) the expression ‘Indian hemp’ means” to the end.

Addition of poppy-straw to Part I of 1951 Act, and renaming of certain drugs to which Part I applies.

5.—(1) In subsection (2) of section 9 of the principal Act and in the subsection which, by subsection (4) of that section, is substituted for the said subsection (2) in the application of section 9 to Northern Ireland, for the words “an offence under the enactments relating to the customs as applied by this Act or that Act”, there shall be substituted the words “an offence under the Customs and Excise Act 1952 or the enactments repealed thereby, being an offence in relation to a drug or other substance whose importation or exportation was prohibited or restricted by this Act or the said Act of 1920”.

Minor amendments relating to customs offences.

15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.

(2) In section 320(3) of the Customs and Excise Act 1952 (section 15 of the principal Act not to be deemed, for the purposes of proceedings under sections 45, 56 or 304 of the Act of 1952 for an offence in connection with the importation or exportation of drugs in contravention of the principal Act, expressly to provide a penalty for that offence), after the word “drugs” there shall be inserted the words “or other substances”.

6. In section 23(1) of the principal Act (which defines “corresponding law” for the purposes of sections 14 and 15 thereof), the reference to a law providing for the control and regulation in a country outside the United Kingdom of the manufacture, sale, use, export and import of drugs in accordance with the provisions of the Hague Convention, the Geneva Convention (No. 1) and the Geneva Convention (No. 2) shall be construed as including a reference to a law providing for the control and regulation in such a country of the manufacture, sale, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention.

Amendment of section 23(1) of 1951 Act.

7. Section 1(1) of the principal Act shall cease to have effect in so far as it provides that the importation or bringing into the United Kingdom of a drug to which Part I of that Act applies shall not be lawful except it be into a port approved by the Commissioners of Customs and Excise for the importation of drugs to which that Part of that Act applies, and section 2(1) of that Act shall cease to have effect in so far as it provides that the exportation from the United

Abolition of requirement of use of approved ports.

Kingdom of a drug to which the said Part I applies shall not be lawful except it be from a port so approved for the exportation of drugs to which that Part of that Act applies.

Repeal of unnecessary or spent provisions of 1951 Act, and amendment of references to certain Acts of Parliament of Northern Ireland.

8.—(1) The following words in, and provisions of, the principal Act (which are unnecessary or spent) shall cease to have effect, namely,—

- (a) the words “ or bring ” in sections 1(1), 5 and 8 (importation and exportation of drugs) ;
- (b) section 20 (destination of fines in certain cases) ; and
- (c) section 24(2) (imprisonment for non-payment of certain fines imposed in Northern Ireland).

(2) For the references to the Pharmacy and Poisons Acts (Northern Ireland) 1925 and 1945 in section 9(4) of the principal Act there shall be substituted references to the Pharmacy and Poisons Acts (Northern Ireland) 1925 to 1955.

*New Offences concerning Cannabis and the Cannabis Plant*

Penalization of permitting premises to be used for smoking cannabis, &c.

9.—(1) If a person—

- (a) being the occupier of any premises, permits those premises to be used for the purpose of smoking cannabis or cannabis resin or of dealing in cannabis or cannabis resin (whether by sale or otherwise) ; or
- (b) is concerned in the management of any premises used for any such purpose as aforesaid ;

he shall be guilty of an offence against the principal Act.

(2) The reference in section 14(1) of the principal Act to the execution of Parts I, II and III thereof shall be construed as including a reference to the execution of the foregoing subsection.

Penalization of intentional cultivation of cannabis plant.

10.—(1) A person who, except under a licence granted by a Secretary of State (or, in Northern Ireland, by the Ministry of Home Affairs), knowingly cultivates any plant of the genus cannabis shall be guilty of an offence against the principal Act.

(2) In section 21 of the principal Act (licences for the purposes of that Act may be issued on such terms and conditions as the issuing authority thinks proper) and in section 15(1)(b) thereof (which specifies, amongst those guilty of offences, a person who acts in contravention of, or fails to comply with, the conditions of a licence issued under that Act) the references to that Act shall include references to the foregoing subsection ; and the reference in section 15(1)(c) of that Act (which specifies, amongst those guilty of offences, a person who, for the purposes of procuring the issue of a licence or authority under the Act, makes a lying statement) to any such licence or authority as is mentioned in paragraph (b) shall be construed accordingly.

(3) The reference in section 14(1) of the principal Act to the execution of Parts I, II and III thereof shall be construed as

including a reference to the execution of subsection (1) of this section.

*Supplementary Provisions*

11.—(1) In this Act,—

Interpretation.

“the Commission” means the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations ;

“medicinal opium” has the same meaning as in section 4 of the principal Act ;

“the Organisation” means the World Health Organisation ;

“the principal Act” means the Dangerous Drugs Act 1951 ;

“the Single Convention” means the Single Convention on Narcotic Drugs signed at New York on 30th March 1961.

(2) For the purposes of this Act and the principal Act—

“cannabis” (except where used in the expression “cannabis resin”) shall mean the flowering or fruiting tops of any plant of the genus *cannabis* from which the resin has not been extracted, by whatever name they may be designated ;

“cannabis resin” shall mean the separated resin, whether crude or purified, obtained from any plant of the genus *cannabis* ;

“opium poppy” shall mean the plant of the species *Papaver somniferum L.* ;

“poppy-straw” shall mean all parts except the seeds of the opium poppy, after mowing.

(3) The specification in paragraph 1 of Schedule 1 to this Act of a substance shall, if the existence of isomers of that substance is possible within the specific chemical designation thereof, be taken to comprehend the specification of any isomer of that substance whose existence is possible as aforesaid ; and references in paragraphs 2, 3, 8, 13 and 14 of that Schedule to a substance for the time being specified in the said paragraph 1 shall be construed accordingly.

12. For the purposes of section 6 of the Government of Ireland Act 1920 (which relates to the 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.

Saving for powers of Parliament of Northern Ireland.  
10 & 11 Geo. 5.  
c. 67.

13.—(1) This Act may be cited as the Dangerous Drugs Act 1964, and the principal Act and this Act may be cited together as the Dangerous Drugs Acts 1951 and 1964.

Short title, citation and repeal.

(2) The provisions of the principal Act specified in column 1 of Schedule 2 to this Act are hereby repealed to the extent specified in column 2 of that Schedule.

## SCHEDULES

## SCHEDULE 1

SUBSTANCES DEALINGS IN WHICH ARE TO BE SUBJECT TO CONTROL UNDER PART III OF DANGEROUS DRUGS ACT 1951

## PART I

SUBSTANCES DEALINGS IN WHICH ARE TO BE SUBJECT TO CONTROL SUBJECT, AS REGARDS IMPORTATION AND EXPORTATION, TO THE EXCEPTIONS SET OUT IN PART II

1. The following substances, namely:—

Acetyldihydrocodeine.	Hydromorphinol.
Allylprodine.	Hydromorphone.
Alphacetylmethadol.	Hydroxypethidine.
Alphameprodine.	Isomethadone.
Alphamethadol.	Ketobemidone.
Alphaprodine.	Levomethorphan.
Anileridine.	Levomoramide.
Benzethidine.	Levophenaclymorphan.
Benzylmorphine (3-benzylmorphine).	Lavorphanol.
Betacetylmethadol.	Metazocine.
Betameprodine.	Methadone.
Betamethadol.	Methadyl acetate.
Betaprodine.	Methyldesorphine.
Clonitazene.	Methyldihydromorphine (6-methyldihydromorphine).
Cocaine.	Metopon.
Codeine.	Morpheridine.
Desomorphine.	Morphine.
Dextromoramide.	Morphine methobromide, morphine-N-oxide and other pentavalent nitrogen morphine derivatives.
Dextropropoxyphene.	Myrophine.
Diamorphine.	Nicocodine.
Diampromide (N-[2-(N-methylphenethylamino) propyl] propionanilide).	Nicomorphine (3,6-dinicotinoylmorphine).
Diethylthiambutene.	Noracymethadol.
Dihydrocodeine.	Norcodeine.
Dihydromorphine.	Norlevorphanol.
Dimenoxadole.	Normethadone.
Dimepheptanol.	Normorphine.
Dimethylthiambutene.	Oxycodone.
Dioxaphetyl butyrate.	Oxymorphone.
Diphenoxylate.	Pethidine.
Dipipanone.	Phenadoxone.
Ecgonine.	Phenampromide.
Ethylmethylthiambutene.	Phenazocine.
Ethylmorphine (3-ethylmorphine).	Phenomorphin.
Etonitazene.	Phenoperidine.
Etoxidine.	Pholcodine.
Furethidine.	
Hydrocodone (dihydrocodeinone).	

Piminodine.	4-Cyano-2-dimethylamino-4, 4-diphenylbutane.	SCH. 1
Proheptazine.		
Propriodine (1-methyl-4-phenyl-piperidine-4-carboxylic acid isopropyl ester).	4-Cyano-1-methyl-4-phenyl-piperidine.	
Racemethorphan.	1-Methyl-4-phenylpiperidine-4-carboxylic acid.	
Racemoramide.	2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid.	
Racemorphan.	4-Phenylpiperidine-4-carboxylic acid ethyl ester.	
Thebacon.		
Thebaine.		
Trimeperidine.		

2. Any ester (other than one expressly mentioned in paragraph 1 above) or ether (other than one so mentioned) of a substance for the time being specified in that paragraph.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 above.

4. Any derivative of ecgonine which is convertible to ecgonine or to cocaine.

5. Concentrate of poppy-straw (that is to say, the material arising when poppy-straw has entered into a process for the concentration of its alkaloids).

6. Medicinal opium.

7. Any extract or tincture of cannabis.

8. Any preparation, admixture, extract or other substance containing any proportion of a substance for the time being specified in paragraph 1 above or in any of paragraphs 2 to 7 above.

## PART II

### PREPARATIONS AND OTHER SUBSTANCES WHOSE IMPORTATION AND EXPORTATION ARE EXCEPTED FROM CONTROL

9.—(1) A preparation of not more than one of the substances to which this paragraph applies, when—

(a) compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse, and that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and

(b) containing not more than 100 milligrammes of the substance per dosage unit and with a concentration of not more than 2·5 per cent. in undivided preparations.

(2) The substances to which this paragraph applies are acetyldihydrocodeine, codeine, dextropropoxyphene, dihydrocodeine, ethylmorphine (3-ethylmorphine), norcodeine, pholcodine and their respective salts.

10. A preparation of cocaine containing not more than 0·1 per cent. of cocaine calculated as cocaine base, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse, and that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.

## SCH. 1

11. A preparation of medicinal opium or of morphine containing (in either case) not more than 0·2 per cent. of morphine calculated as anhydrous morphine base, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the opium or, as the case may be, the morphine, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.

12. Solid dose preparations of diphenoxylate containing, per dosage unit, not more than 2·5 milligrammes of diphenoxylate calculated as base and not less than 25 microgrammes of atropine sulphate.

13. *Pulvis Ipecacuanhae et Opii Compositus*:—

10 per cent. opium, in powder,  
10 per cent. ipecacuanha root, in powder,  
well mixed with

80 per cent. of any other powdered ingredient containing neither a drug to which Part I or II of the principal Act applies nor a substance for the time being specified in paragraph 1 of this Schedule or in any of paragraphs 2 to 8 thereof.

14. Mixtures containing not more than one of the preparations specified in paragraphs 9 to 13 above, being mixtures whereof none of the other ingredients is either a drug to which Part I or II of the principal Act applies or a substance for the time being specified in paragraph 1 of this Schedule or in any of paragraphs 2 to 8 thereof.

## SCHEDULE 2

## PROVISIONS OF DANGEROUS DRUGS ACT 1951 REPEALED

<i>Provision</i>	...	<i>Extent of Repeal</i>
Section 1	...	In subsection (1), the words "or bring" and the words "and into an approved port", and subsection (2).
Section 2	...	In subsection (1), the words "and from an approved port", and subsection (3).
Section 4	...	In subsection (2), the words from "and (d) the expression 'Indian hemp'" to the end.
Section 5	...	The words "or bring".
Section 8	...	The words "or bring".
Section 10	...	The whole section.
Section 12	...	The whole section.
Section 20	...	The whole section.
Section 22	...	Subsection (1).
Section 24	...	Subsection (2).
Section 25	...	In subsection (2), the proviso, and subsection (3).





# Income Tax Management Act 1964

## 1964 CHAPTER 37

An Act to amend the law relating to General Commissioners for the purposes of the income tax and their clerks and officers of Inland Revenue; to transfer from the General or other Commissioners to officers of Inland Revenue the powers of assessing income tax and related functions; to transfer from the Commissioners of Inland Revenue to inspectors of taxes the powers of assessing the profits tax; to make further provision as respects the jurisdiction of Special Commissioners and General Commissioners in appeals and other proceedings relating to income tax and the profits tax; to make further provision as respects such proceedings in Northern Ireland; to make further provision for the recovery of income tax or the profits tax charged by an assessment before the determination of an appeal against the assessment and in other cases; and to re-enact with consequential and minor amendments provisions of the Income Tax Acts concerning returns of income and the procedure on claims for relief from tax, and to make other minor amendments in the administrative provisions of those Acts, of the enactments relating to the profits tax and of other enactments relating to inland revenue. [10th June 1964]

**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:—

### *Administration*

**1.**—(1) For the purpose of exercising such powers relating to appeals and other matters as are conferred on them by the General Commissioners.

Income Tax Acts there shall be Commissioners for the general purposes of the income tax (in the Income Tax Acts referred to as "General Commissioners") who shall act for the same separate areas in Great Britain as heretofore (in the Income Tax Acts referred to as "divisions").

(2) General Commissioners for divisions in England and Wales shall be appointed by, and shall hold office during the pleasure of, the Lord Chancellor.

(3) General Commissioners for divisions in Scotland shall be appointed by, and shall hold office during the pleasure of, the appropriate local authority, but any such General Commissioner shall not be dismissed except with the consent in writing of the Lord President of the Court of Session.

In this subsection the appropriate local authority is—

- (a) in the case of a division wholly within a county or a county of a city, the county council or the town council of the county of the city, as the case may be, and
- (b) in the case of any other division, such county council or town council of a county of a city as the Secretary of State may from time to time determine,

and any appointments under this subsection shall be made at the request of the Commissioners of Inland Revenue (hereafter in this Act referred to as "the Board").

(4) In Scotland a sheriff shall be *ex officio* a General Commissioner for any division wholly or partly within his sheriffdom, and a salaried sheriff-substitute shall be *ex officio* a General Commissioner for any division wholly or partly within his district.

(5) General Commissioners shall be entitled to receive out of moneys provided by Parliament payments by way of travelling allowance or subsistence allowance of such amounts and in such circumstances as may be determined by the Treasury.

(6) The Lord Chancellor or, in Scotland, the Secretary of State may by order create a new division or abolish an existing division or alter in any other respect the divisions or their boundaries; and any such order may contain such consequential and transitional provisions as the Lord Chancellor or the Secretary of State, as the case may be, thinks fit and may be revoked or varied by a subsequent order under this subsection.

(7) A General Commissioner shall not continue in office after he attains the age of seventy-five years, but this subsection shall not apply to the term of office of a Commissioner appointed before the date on which this section comes into force until two years after that date.

(8) The validity of any proceedings of General Commissioners shall not be affected by a defect in the appointment of any of

them, or by a failure to observe the requirements of the last preceding subsection.

(9) This section shall come into force one month after the passing of this Act.

2.—(1) The General Commissioners for every division shall appoint a clerk and, if they think it necessary, an assistant clerk, and persons appointed under this subsection shall hold office during the pleasure of the Commissioners and act under their direction. Clerk to  
General Com-  
missioners.

(2) A clerk shall be paid such remuneration in respect of his services as the Board may with the consent of the Treasury determine.

(3) The Board may, in such cases as they may in their discretion determine, pay to or in respect of any full-time clerk such pension or gratuity, or make such provision for the payment of pension or gratuity to or in respect of any full-time clerk, as they may with the consent of the Treasury determine.

In this subsection "full-time clerk" means a clerk as regards whom the Board are satisfied that he is required to devote substantially the whole of his time to the duties of his office.

(4) Without prejudice to the power of any General Commissioners to dismiss their clerk or assistant clerk, the Lord Chancellor or, in Scotland, the Secretary of State may, after consulting the General Commissioners for any division, dismiss their clerk or assistant clerk.

(5) A clerk or assistant clerk shall not continue in office after he has attained the age of seventy years unless the General Commissioners for whom he acts think it desirable in the public interest and extend his term of office; and the term shall not be extended beyond the age of seventy-five years.

(6) The last preceding subsection shall not apply to the term of office of a person appointed before the date on which this section comes into force until two years after that date.

(7) This section shall come into force one month after the passing of this Act.

3.—(1) The Board shall appoint inspectors and collectors of taxes who shall act under the direction of the Board. Inspectors  
and collectors  
of taxes.

(2) In the Income Tax Acts and the enactments relating to the profits tax "inspector" and "collector" mean respectively any inspector of taxes and any collector of taxes, and any reference to a surveyor or assessor shall be taken as a reference to an inspector.

(3) Any legal proceedings or administrative act relating to income tax or the profits tax begun by one inspector or collector may be continued by another inspector or, as the case may

be, another collector; and any inspector or collector may act for any division or other area.

(4) This section shall come into force one month after the passing of this Act.

**Declarations.**

4.—(1) Every person who is appointed to be—

- (a) a General Commissioner or a Special Commissioner, or
- (b) a member of the Board of Referees appointed for the purposes of the Income Tax Act 1952, or
- (c) a member of a tribunal established under section 28 or section 68 of the Finance Act 1960 (cancellation of certain tax advantages),

shall make a declaration in the form set out in Part I of Schedule 1 to this Act before another person holding the same office, or before a General Commissioner.

(2) Every person who is appointed to be a clerk or assistant clerk to the General Commissioners for any division, or who assists any such clerk, shall make a declaration in the form set out in Part I of Schedule 1 to this Act.

A clerk or assistant clerk shall make the declaration before a General Commissioner for the division, and a person who assists any such clerk shall make the declaration before such a General Commissioner or the clerk.

(3) Every person who is appointed to be a member of the Board shall make a declaration in the form set out in Part II of Schedule 1 to this Act before another member of the Board.

(4) Every person who is appointed an inspector or collector, or who is appointed by the Board to serve in any other capacity, shall make a declaration in the form set out in Part III of Schedule 1 to this Act before such person as the Board may direct.

(5) A declaration under this section shall be made as soon as may be after first appointment to the office in question.

(6) This section (with Schedule 1 to this Act) shall come into force one month after the passing of this Act.

*Income tax assessments, returns, collection and claims*

**Assessments to be made by an inspector or the Board.**

5.—(1) Subject to any provision in the Income Tax Acts under which assessments to tax at the standard rate are to be made by the Board, all assessments to tax at the standard rate shall be made by an inspector, and—

- (a) if the inspector is satisfied that any return under the Income Tax Acts affords correct and complete information concerning income in respect of which tax is chargeable at the standard rate, he shall make an assessment accordingly, and

(b) if it appears to the inspector that there is any income in respect of which tax is chargeable at the standard rate and which has not been included in a return of income, or if the inspector is dissatisfied with any return of income, he may make an assessment to tax at the standard rate to the best of his judgment.

(2) All assessments to surtax shall be made by the Board and—

(a) if they are satisfied that a return of the income of an individual affords correct and complete information concerning the whole of his income computed in accordance with the provisions of the Income Tax Acts relating to surtax, they shall make an assessment accordingly, and

(b) if it appears to them that there has been a failure to make a return of the income of an individual, or if they are dissatisfied with a return of the income of an individual, they may make an assessment to surtax to the best of their judgment.

(3) If an inspector or the Board discover—

(a) that any income which ought to have been assessed to tax at the standard rate or to surtax has not been assessed, or

(b) that an assessment to tax at the standard rate or to surtax is or has become insufficient, or

(c) that any relief which has been given is or has become excessive,

the inspector or, as the case may be, the Board may make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged.

(4) All tax at the standard rate which is charged for any year on any person under subsection (3)(c) of this section may, notwithstanding that it was chargeable under more than one Schedule, be included in one assessment, and an appeal against an assessment under subsection (3)(c) of this section shall be to the Commissioners to whom an appeal would lie on a claim for the relief in connection with which the assessment is made.

(5) Notice of an assessment under this section shall be served on the person assessed and shall state the time within which any appeal against the assessment may be made.

(6) After the notice of assessment has been served on the person assessed the assessment shall not be altered except in accordance with the express provisions of the Income Tax Acts.

(7) Assessments to tax at the standard rate which are under any provision in the Income Tax Acts to be made by the Board

shall be made in accordance with this section, and as if in paragraphs (a) and (b) of subsection (1) of this section the references to the inspector were references to the Board.

(8) The Board may delegate any of their functions relating to the making of assessments to income tax to an officer of the Board.

(9) In this section—

“return of income” and “return of the income of an individual” mean a return under section 7 of this Act (including a return under that section as extended by section 144 or section 358(4) of the Income Tax Act 1952);

“return under the Income Tax Acts” includes any statement, declaration or list delivered under the Income Tax Acts,

and references to assessments of tax at the standard rate include references to assessments under section 170 of the Income Tax Act 1952 (payments not out of profits or gains already taxed, etc.).

Leave of  
General  
or Special  
Commissioners  
required  
for certain  
assessments.

6.—(1) An assessment to income tax made by virtue of any of the following enactments (which allow assessments out of time in cases of fraud, wilful default or neglect), that is—

(a) the proviso to section 47(1) of the Income Tax Act 1952;

(b) the proviso to section 229(3) of the Income Tax Act 1952;

(c) sections 51 and 52 of the Finance Act 1960 so far as they relate to an assessment for a year ending not earlier than six years before the end of the normal year mentioned in the said section 51;

(d) section 53 of the Finance Act 1960;

may only be made with the leave of a General or Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud or wilful default or neglect of any person.

(2) The General or Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.

Returns of  
income.

7.—(1) Any person may be required by a notice given to him by an inspector or other officer of the Board to deliver to the officer within the time limited by the notice a return of his income, computed in accordance with the Income Tax Acts and specifying each separate source of income and the amount from each source.

(2) Any person may be required by a notice given to him by an inspector or other officer of the Board to deliver to the officer within the time limited by the notice a return of income which is not his income, but in respect of which he is chargeable in any capacity specified in the notice, computed in accordance with the Income Tax Acts and specifying each separate source of income and the amount from each source.

(3) A notice under this section may require a return of income for a specified year of assessment, or a return which is, so far as relates to certain sources of income, a return of income for one year of assessment, and, so far as relates to the remaining sources of income, a return of income for the preceding year of assessment.

(4) So far as a notice under this section relates to income chargeable under Case I or Case II of Schedule D, or any other income which may be computed by reference to the profits or gains of a period which is not a year of assessment, the notice may require a return of profits or gains (computed in accordance with the Income Tax Acts) for a period for which accounts are made up or a period by reference to which income is to be computed.

(5) A notice under this section may require an individual to deliver a return of all his income computed in accordance with the provisions of the Income Tax Acts relating to surtax, or may require a return of his income which will afford the requisite information for computing his income both in accordance with the provisions of the Income Tax Acts relating to surtax and in accordance with the provisions of those Acts relating to tax at the standard rate.

(6) For the purpose of charging surtax a notice under this section may require a person liable to be charged to tax at the standard rate on the income of any incapacitated, deceased or non-resident person under Part XV (incapacitated persons, personal representatives, etc.) or Part XVI (non-residents) of the Income Tax Act 1952 to deliver a return of all the income of the incapacitated, deceased, or non-resident person, computed in accordance with the provisions of the Income Tax Acts relating to surtax, and made to the best of his knowledge.

(7) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

(8) Part III of the Finance Act 1960 (penalties) shall have effect as if this section were included in column 1 of Schedule 6 to that Act, but if the defendant (or, in Scotland, the defender) in proceedings under section 46 of that Act for failure to deliver

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a return under this section proves that there was no income to be included in the return, the penalty shall not exceed five pounds.

(9) In this section references to returns of income computed in accordance with the Income Tax Acts are references to returns which include, as well as all particulars relating to income from which tax has not been deducted, all particulars relating to income from which tax has been deducted before receipt, and relating to charges on income, which are required for computing total income for the purposes of the provisions of the Income Tax Acts relating to surtax or, as the case may require, to tax at the standard rate; and in this subsection the expression "charges on income" means amounts which fall to be deducted in computing total income for either or both of those purposes, or which would fall to be so deducted if the person to whose income the return relates were an individual.

(10) References in section 144 of the Income Tax Act 1952 (return of partnership income) to a statement of profits or gains shall be taken as references to a return of income under this section.

Recovery  
of tax in  
inferior courts.

8.—(1) Where the amount of income tax for the time being due and payable under any assessment does not exceed the limit specified in section 40(1)(b) of the County Courts Act 1959 (money recoverable by statute), as for the time being in force, the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings in a county court commenced in the name of a collector of taxes.

(2) A written statement as to the wages, salaries, fees and other emoluments paid for any period to the person against whom proceedings under this section are brought, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer, shall in proceedings brought by virtue of this section be prima facie evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.

(3) Any barrister who is an officer of the Board may appear in, conduct, defend and address the court in any legal proceedings under this section in a county court in England or Wales.

(4) In Scotland subsection (1) of this section shall not apply, but where the amount of income tax for the time being due and payable under any assessment does not exceed two hundred and fifty pounds the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged



therewith as a debt due to the Crown by proceedings commenced in the name of a collector of taxes in the sheriff court or in the sheriff's small debt court, whichever is appropriate.

(5) In the application of subsection (1) of this section to Northern Ireland, for the reference to section 40(1)(b) of the County Courts Act 1959 there shall be substituted a reference to section 10(1) of the County Courts Act (Northern Ireland) 1959, and in this section as it applies in Northern Ireland the expression "county court" shall mean a county court held for a division under that Act.

(6) It is hereby declared that in section 78(1) of the Income Tax Act 1952 (recovery of tax in summary proceedings) the expression "recoverable summarily as a civil debt" in respect of proceedings in Northern Ireland means recoverable in the manner provided by the Summary Jurisdiction Acts for the recovery of sums declared under enactments of the Parliament of Northern Ireland to be a debt recoverable summarily.

(7) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this section, and Part III of the County Courts Act (Northern Ireland) 1959 (general civil jurisdiction) shall apply for the purposes of this section in Northern Ireland.

9.—(1) This section applies—

- (a) to claims under the enactments specified in Schedule 2 to this Act, and
- (b) to claims to which this section is applied by any enactment passed after this Act.

Procedure  
for making  
claims.

(2) Schedule 2 to this Act shall apply for determining,—

- (a) according to column 2, whether the claim is to be made to an inspector or the Board, and
- (b) according to column 3, whether an appeal under this section on the claim lies to the General Commissioners or to the Special Commissioners.

(3) Where in Schedule 2 to this Act the General Commissioners and the Special Commissioners are both specified in column 3, the appeal shall lie to the General Commissioners unless the appellant elects (in accordance with section 12(2) of this Act) that it 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.

(4) A claim to which this section is applied by any enactment passed after this Act shall be made to the inspector unless it is expressly provided that it shall be made to the Board, and, subject to any provision to the contrary,—

- (a) if a claim to which this section is so applied is to be made to the inspector, an appeal under this section on the claim shall lie to the General Commissioners, and
- (b) if a claim to which this section is so applied is to be made to the Board, an appeal under this section on the claim shall lie to the Special Commissioners.

(5) An appeal may be brought against the decision of the inspector or the Board on a claim to which this section applies by giving written notice to the inspector or the Board as the case may be within thirty days of receipt of written notice of that decision:

Provided that the time for appealing against the Board's decision—

- (a) under section 227 of the Income Tax Act 1952, or
- (b) on a question of residence, ordinary residence or domicile, or
- (c) in the case of a claim under section 21 of the Finance Act 1961, on the question whether a fund is one to which that section applies,

shall be three months from receipt of notice of their decision.

(6) A claim to which this section applies shall be in such form as the Board may determine, and the form of claim—

- (a) shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person making the claim, and
- (b) may require a return of income to be made in support of the claim,

and, in the case of a claim made by or on behalf of a person who is not resident, or who claims to be not resident or not ordinarily resident or not domiciled, in the United Kingdom, the inspector or the Board may require a statement or declaration in support of the claim to be made by affidavit.

(7) A claim to which this section applies may be made on behalf of an incapacitated person by his trustee, guardian, tutor or curator; and a person who under Part XVI of the Income Tax Act 1952 (non-residents) has been charged with tax on the income of another person may make any such claim for relief by discharge or repayment of that tax.

(8) The inspector or the Board may give effect to any claim to which this section applies by discharge of tax or, on proof to the satisfaction of the inspector or the Board that any tax has been paid by the claimant by deduction or otherwise, by repayment of tax.

(9) Where a claim has been made under this section and the claimant subsequently discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.

(10) On an appeal on a claim to which this section applies, the Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.

(11) Where it is necessary, in order to give effect to a claim to which this section applies, or as a result of allowing such a claim, to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim.

For the purposes of this subsection, a claim shall not be deemed to be finally determined until the amount recoverable under the claim can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

(12) The Board may delegate any of their powers relating to claims to an officer of the Board.

#### *Profits tax*

10.—(1) Assessments to the profits tax shall be made by an inspector and, accordingly, in section 24(1) of the Finance Act 1937 for the words “assessed and collected” there shall be substituted the words “assessed by inspectors and collected”, and in paragraph 5 of Part I of Schedule 5 to that Act (estimated assessments) for the words “the Commissioners of Inland Revenue may make an assessment according to the best of their judgment” there shall be substituted the words “the inspector may make an assessment according to the best of his judgment”.

Profits tax  
assessments  
and appeals.

(2) An assessment to the profits tax made by virtue of any of the following enactments (which allow assessments out of time in cases of fraud, wilful default or neglect), that is—

(a) section 27(1)(a) of the Finance Act 1958 or (where an assessment to income tax cannot be made in respect of the same matter except under the proviso to section 47(1) or 229(3) of the Income Tax Act 1952 or section 51, 52 or 53 of the Finance Act 1960) section 27(3) of the said Act of 1958 ;

(b) paragraph 7 of Schedule 7 to the Finance Act 1960 ; may only be made with the leave of a General or Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for

believing that tax has or may have been lost to the Crown owing to the fraud or wilful default or neglect of any person.

The General or Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.

(3) Subject to the provisions of this Act relating to the bringing of appeals out of time, an appeal under paragraph 1 of Part II of Schedule 5 to the Finance Act 1937 against an assessment to the profits tax shall be brought by giving notice in writing to the inspector, and the notice must be given within thirty days from the date of the notice of the assessment and specify the grounds of appeal:

Provided that if on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice and the omission of that ground from the notice was, in the opinion of the Commissioners hearing the appeal, not wilful or unreasonable, those Commissioners shall not be precluded from allowing the appellant to go into that ground or taking it into their consideration.

(4) In paragraph 5 of the said Part II (recovery of tax not in dispute on appeal against an assessment)—

(a) for the words “an appeal is pending” there shall be substituted the words “an appeal to the General Commissioners or Special Commissioners is pending”, and

(b) for the words “Commissioners of Inland Revenue” there shall be substituted the words “General Commissioners or the Special Commissioners as the case may be”.

*Proceedings before Commissioners in income tax and profits tax cases*

Jurisdiction of Commissioners in income tax and profits tax proceedings.

11.—(1) Proceedings before the General Commissioners under the Income Tax Acts or the enactments relating to the profits tax shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the place given by the rules in Schedule 3 to this Act is situated.

(2) The parties to any proceedings under the Income Tax Acts or the enactments relating to the profits tax which are to be heard by any General Commissioners may if they think fit agree that, notwithstanding the said rules, the proceedings shall be brought before the General Commissioners for the division specified in the agreement, but an inspector or the Board shall not enter into any such agreement unless satisfied that the Commissioners concerned would be likely to see no objection to the agreement.

(3) In any case in which proceedings under the Income Tax Acts or the enactments relating to the profits tax may be brought at the election of any person before the Special Commissioners instead of before the General Commissioners, the Commissioners before whom the proceedings are to be brought or have been brought may, if they think fit, on an application made by the parties arrange with the other Commissioners concerned for the transfer of the proceedings to those other Commissioners; and the proceedings may be so transferred notwithstanding that the election has been exercised, or that the time for exercising the election has expired without its being exercised.

(4) No determination of any General Commissioners under the Income Tax Acts or the enactments relating to the profits tax shall be questioned, whether by a case stated under section 64 of the Income Tax Act 1952 or otherwise, on the ground that this section did not authorise those General Commissioners to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to those General Commissioners before or in the course of the proceedings leading to the determination.

12.—(1) Any appeal or other proceedings to which this subsection applies may be brought out of time if on an application for the purpose an inspector or other officer of the Board is satisfied that there was a reasonable excuse for not bringing the appeal or other proceedings within the time limited, and that the application was made thereafter without unreasonable delay, and gives his consent in writing; and the inspector or other officer of the Board, if not satisfied, shall refer the application for determination by the Commissioners.

Procedure on appeals and other proceedings before Commissioners in income tax and profits tax cases.

This subsection applies to proceedings before the General Commissioners or the Special Commissioners under the Income Tax Acts or the enactments relating to the profits tax being—

- (a) an appeal, or
- (b) proceedings which are to be heard and determined in the same way as an appeal against an assessment.

(2) A right to elect to bring an appeal or other proceedings under the Income Tax Acts or the enactments relating to the profits tax before the Special Commissioners instead of before the General Commissioners shall be exercised by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector or other officer of the Board within the time limited for bringing the proceedings, and if no such notice of election is given the appeal or other proceedings shall be brought before the General Commissioners.

If there is a right to elect to bring an appeal or other proceedings before the Special Commissioners instead of before the General Commissioners, the Commissioners to whom an application under the preceding subsection is to be referred shall be the General Commissioners unless the election has been exercised before the application is so referred.

(3) The General or Special Commissioners may at any time before the determination of an appeal or other proceedings to which subsection (1) of this section applies give notice to the appellant or other party to the proceedings (not being an inspector or the Board) requiring him within the time specified in the notice—

(a) to deliver to them such particulars as they may require for the purpose of determining the appeal or other proceedings, and

(b) to make available for inspection by them, or by any officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which, in the opinion of the Commissioners issuing the notice, contain or may contain information relating to the subject matter of the proceedings,

and any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under paragraph (a) of this subsection; and the Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts or other documents made available for their or his inspection under paragraph (b) of this subsection.

Part III of the Finance Act 1960 (penalties) shall have effect as if this subsection were included in column 2 of Schedule 6 to that Act, and in section 59 of that Act for the references to section 54 of the Income Tax Act 1952 there shall be substituted references to this subsection.

(4) Save as otherwise provided in the Income Tax Acts or the enactments relating to the profits tax the determination of the General Commissioners or the Special Commissioners in any proceedings under the Income Tax Acts or the enactments relating to the profits tax shall be final and conclusive.

(5) The following provisions of the Income Tax Act 1952, that is,

section 52 (procedure on appeals)

section 59 (witnesses)

section 64 (case stated)

shall apply to any appeal or other proceedings to which subsection (1) of this section applies subject, in the case of proceedings other than appeals against assessments, to the omission of section 64(10) and to any other necessary modifications.

(6) In the application of the said section 52 to proceedings to which the Board, or an officer of the Board other than an inspector, are parties, for the reference in that section to the surveyor there shall be substituted a reference to the Board or that officer, and in the application of the said section 59 to proceedings other than an appeal against an assessment the references in that section to the person to be charged shall be taken as references to the party or parties to the proceedings.

13.—(1) If on an appeal to which section 63(2) of the Income Tax Act 1952 or paragraph 5 of Part II of Schedule 5 to the Finance Act 1937 (recovery of tax not in dispute on an appeal against an assessment) applies the appellant and the inspector or other officer of the Board come to an agreement, whether in writing or otherwise, as to the amount of tax charged by the assessment which should be paid as if it were tax charged by an assessment in respect of which no appeal is pending, the like consequences shall ensue as would have ensued if the General Commissioners or the Special Commissioners, as the case may be, had come to a decision to that effect under the said section 63(2) or the said paragraph 5 on the date when the agreement was come to, but without prejudice to the making of a further agreement, or of a decision or further decision under the said section 63(2) or the said paragraph 5.

Agreements  
as to amount  
of tax not  
in dispute  
on an appeal  
against an  
assessment.

(2) The preceding subsection shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the inspector or other officer of the Board that he desires to repudiate or resile from the agreement.

(3) Where an agreement is not in writing—

- (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector or other officer of the Board to the appellant, or by the appellant to the inspector or other officer, and
- (b) references in the preceding provisions of this section to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.

(4) References in this section to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.

(5) The transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a decision by the General Commissioners or the Special Commissioners under the said section 63(2) or the said paragraph 5.

Proceedings in income tax and profits tax cases in Northern Ireland.

**14.—**(1) Subject to this section, all references in the Income Tax Acts and the enactments relating to the profits tax to the General Commissioners (however expressed, and including references in enactments conferring a right of appeal to the General Commissioners or, at the election of the appellant, to the Special Commissioners) shall, in relation to proceedings in Northern Ireland, be taken as references to the Special Commissioners or, in the cases provided for in the next following section, a county court in Northern Ireland.

(2) A case concerning income tax or the profits tax which is stated by the Special Commissioners under section 64 of the Income Tax Act 1952 in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Income Tax Acts and the enactments relating to the profits tax shall have effect as if that section applied in relation to such proceedings—

- (a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and
- (b) with the omission of subsections (4) and (5) of that section, and
- (c) with the omission in subsection (9) of that section of the reference to an appeal from the High Court to the Court of Appeal in Northern Ireland,

and the procedure relating to the transmission of the case to, and the hearing and determination of the case by, the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in exercise of its general jurisdiction.

(3) In relation to proceedings in Northern Ireland brought under the Income Tax Acts or the enactments relating to the profits tax, section 1 of the Northern Ireland Act 1962 (appeals to the House of Lords) shall have effect as if the commencement of this Act were the day appointed for the purposes of that section.



(4) For the purposes of this and the next following section—

- (a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland, and “proceedings in Great Britain” shall be construed accordingly;
- (b) proceedings under sections 143, 213 and 329 of the Income Tax Act 1952 (proceedings to which more than one tax-payer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland, and in relation to such proceedings the right of election to bring proceedings before a county court in Northern Ireland which is mentioned in subsection (1) of this section and the next following section shall be exercisable jointly by all the parties concerned in the proceedings,

and sections 21, 22 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this and the next following section.

(5) No determination of the Special Commissioners shall be questioned, whether by a case stated under the said section 64 or otherwise, on the ground that the place given by the rules in Schedule 3 to this Act was not in Northern Ireland, and accordingly that the proceedings ought to have been determined by some body of General Commissioners, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioners before or in the course of the proceedings leading to the determination.

**15.—(1) Proceedings in Northern Ireland—**

- (a) which are brought under the Income Tax Acts or the enactments relating to the profits tax by an appellant or other party who is not the Board or an officer of the Board, and
- (b) which, if they had been proceedings in Great Britain, might have been brought before the General Commissioners,

Election for county court in Northern Ireland.

shall, if the party bringing the proceedings by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector given within the time limited for bringing the proceedings, so elects, be brought before a county court in Northern Ireland instead of before the Special Commissioners.

(2) In relation to proceedings brought under this section—

- (a) section 12 (except subsection (2)) of this Act, and
- (b) section 510 of the Income Tax Act 1952 and section 51 of the Finance Act 1949 (settling of income tax and profits tax appeals by agreement), and
- (c) section 63(2) of the Income Tax Act 1952, paragraph 5 of Part II of Schedule 5 to the Finance Act 1937 and section 13 of this Act,

shall apply with the substitution for references to the Special Commissioners (however expressed) of references to the county court.

(3) Where proceedings are brought before a county court in Northern Ireland under this section—

- (a) the county court shall have and exercise the same powers and authority in relation to the assessment appealed against (if any), the proceedings, the determination, and all matters consequent thereon, as the Special Commissioners would have and exercise,
- (b) subject to county court rules, the practice and procedure in the proceedings shall be that followed in income tax cases in a county court in Northern Ireland before the commencement of this Act, and
- (c) the proceedings shall be heard and determined by a single judge sitting alone, and not in public, who may, for all the purposes of and incidental to the hearing and determination of the proceedings, exercise all the powers, authority and jurisdiction exercisable by a county court in Northern Ireland in relation to the hearing and determination of an appeal to which Part VI of the County Courts Act (Northern Ireland) 1959 (appeals to the county court) applies.

(4) Within thirty days after the determination by the county court of proceedings brought under this section any party to the proceedings may require the court to state a case on a point of law for the opinion of the Court of Appeal in Northern Ireland.

(5) The procedure relating to the statement of the case shall be that for the time being in force in Northern Ireland as respects cases stated under section 2 of the County Courts Appeals Act (Northern Ireland) 1964 or any enactment of the Parliament of Northern Ireland re-enacting the said section 2 with or without modification so, however, that notwithstanding anything in subsection (7) of the said section 2 or in any such re-enactment, an appeal, with leave as required by section 1 of

the Northern Ireland Act 1962 as applied by the last preceding section, shall lie to the House of Lords from any decision of the Court of Appeal in Northern Ireland upon a case stated to it pursuant to the last preceding subsection.

(6) On the determination by the county court under this section of an appeal against an assessment, tax shall be paid in accordance with the determination notwithstanding that a case has been required to be stated or is pending:

Provided that if the amount of the assessment is altered by the order or judgment of the Court of Appeal, then—

- (a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the Court of Appeal may allow, or
- (b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax, and shall be paid and recovered accordingly.

(7) Subject to the preceding provisions of this section the determination of the county court in proceedings under this section shall be final and conclusive.

(8) No determination of a county court under this section shall be questioned, whether by a case stated or otherwise, on the ground that the proceedings were not proceedings in Northern Ireland.

### *Supplemental*

**16.—**(1) In this Act “the Board” means the Commissioners of Inland Revenue. *Interpretation.*

(2) Any reference in the Income Tax Acts to the Board (whether referred to as such, or as “the Commissioners of Inland Revenue”) shall, so far as it relates to anything which may under this Act be delegated by the Board to an officer of the Board, include a reference to such an officer.

(3) 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.

**17.—**(1) This Act may be cited as the Income Tax Management Act 1964.

(2) 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 the profits tax, shall be construed as one with the enactments relating to the profits tax.

*Short title, construction, consequential amendments, transitionals, commencement and repeals.*

(3) The enactments mentioned in Schedule 4 to this Act shall have effect subject to the amendments there specified, being amendments consequent on the provisions of this Act, and minor amendments, and this Act shall have effect subject to the transitory provisions in Schedule 5 to this Act.

(4) Save as otherwise expressly provided, this Act shall come into force on 6th April 1965, and references in this Act to the commencement of this Act should be taken as references to that date.

(5) The enactments mentioned in Schedule 6 to this Act (which include enactments which were already obsolete or unnecessary before the passing of this Act) shall be repealed to the extent specified in the third column of that Schedule, and the repeals in Part I of that Schedule shall take effect one month after the passing of this Act.

**SCHEDULES**

**SCHEDULE 1**

Section 4.

**FORMS OF DECLARATIONS**

**PART I**

**GENERAL AND SPECIAL COMMISSIONERS AND OTHERS**

“ I, A.B., do solemnly declare that I will impartially and to the best of my ability execute my duties under the Income Tax Acts and the enactments relating to the profits tax ; and that I will not disclose any information received by me in the execution of my duties except for the purposes of my duties or for the purposes of any prosecution for an offence relating to income tax or the profits tax, or in such other cases as may be required by law.”

**PART II**

**COMMISSIONERS OF INLAND REVENUE**

“ I, A.B., do solemnly declare that I will not disclose any information received by me in the execution of my duties except for the purposes of those duties or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law ”.

**PART III**

**INSPECTORS, COLLECTORS AND OTHER OFFICERS**

“ I, A.B., do solemnly declare that I will not disclose any information received by me in the execution of the duties which may from time to time be assigned to me by the Board of Inland Revenue except for the purposes of my duties, or to the Board of Inland Revenue or in accordance with their instructions, or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law.”

**SCHEDULE 2**

Section 9

**CLAIMS**

Enactment	Claim to be made to	Appeal on claim to
Income Tax Act 1952 Section 65(2) ... ..	Board ...	Any of the bodies of Commissioners having jurisdiction to hear an appeal against the assessment, or the later of the assessments, to which the claim relates.

## SCH. 2

Enactment	Claim to be made to	Appeal on claim to
Section 66 ... ..	Board ...	Special Commissioners.
Part III ... ..	Inspector ...	General Commissioners.
Section 120 ... ..	Board ...	Special Commissioners.
Claims for repayment of tax under sections 127(3), 129(5) or 130(1)(a).	Inspector ...	General Commissioners or Special Commissioners.
Section 132(2)(a) ... ..	Board ...	Special Commissioners.
" 181 ... ..	Inspector ...	Special Commissioners.
" 190 ... ..	Board ...	Special Commissioners.
" 192 ... ..	Board ...	Special Commissioners.
" 193(3) ... ..	Board ...	Special Commissioners.
" 195 ... ..	Board ...	Special Commissioners.
" 200 ... ..	Inspector ...	Special Commissioners.
" 201 ... ..	Inspector ...	Special Commissioners.
" 206 ... ..	Inspector ...	General Commissioners.
Part VIII, except section 227(2).	Inspector ...	General Commissioners.
Section 227(2) ... ..	Board ...	Special Commissioners.
" 238 ... ..	Board ...	Special Commissioners.
" 239 ... ..	Board ...	Special Commissioners.
" 249(2)(c) ... ..	Board ...	Special Commissioners.
" 249(5) ... ..	Board ...	Special Commissioners.
" 262(5) ... ..	Board ...	Special Commissioners.
" 318 ... ..	Board ...	Special Commissioners.
" 324(1) ... ..	Inspector ...	General Commissioners or Special Commissioners.
Part XII ... ..	Inspector ...	General Commissioners or Special Commissioners.
Section 347(1)(a) (where Schedule 16, paragraph 13, does not apply).	Board ...	Special Commissioners.
Section 381 ... ..	Board ...	Special Commissioners.
" 385(2) ... ..	Board ...	Special Commissioners.
" 418(5) ... ..	Inspector ...	General Commissioners or Special Commissioners.
" 419(6) ... ..	Inspector ...	General Commissioners or Special Commissioners.
" 422 ... ..	Inspector ...	General Commissioners or Special Commissioners.
" 425 ... ..	Inspector ...	Special Commissioners.
" 427(2) ... ..	Inspector ...	Special Commissioners.
" 429(3) ... ..	Inspector ...	Special Commissioners.
" 438 ... ..	Inspector ...	Special Commissioners.
" 439 ... ..	Inspector ...	Special Commissioners.
" 440 ... ..	Inspector ...	Special Commissioners.
" 443 ... ..	Inspector ...	Special Commissioners.
" 445(3) ... ..	Inspector ...	General Commissioners or Special Commissioners.
" 447 ... ..	Board ...	Special Commissioners.
" 448 ... ..	Board ...	Special Commissioners.
" 449 ... ..	Board ...	Special Commissioners.
" 451 ... ..	Board ...	Special Commissioners.
" 455 ... ..	Inspector ...	Special Commissioners.
" 465(2) ... ..	Inspector ...	General Commissioners or Special Commissioners.

SCH. 2

Enactment	Claim to be made to	Appeal on claim to
Section 466(2) ... ..	Inspector ...	General Commissioners or Special Commissioners.
„ 470(1)(2) ... ..	Inspector ...	Special Commissioners.
„ 471 ... ..	Inspector ...	Special Commissioners.
„ 472 ... ..	Inspector ...	Special Commissioners.
Schedule 8, III, paragraph 8	Board ...	Special Commissioners.
Schedule 16, paragraph 13...	Inspector ...	Special Commissioners.
Section 27(1) of the Finance Act 1920 as set out in Part II of Schedule 18.	Board ...	Special Commissioners.
Schedule 18, III, paragraph 4(1).	Board ...	Special Commissioners.
Schedule 20, paragraph 10(2), except so far as it relates to the profits tax.	Inspector ...	General Commissioners or Special Commissioners.
Finance Act 1952		
Section 18 ... ..	Inspector ...	General Commissioners or Special Commissioners.
Finance Act 1953		
Section 19(5) ... ..	Inspector ...	General Commissioners or Special Commissioners.
Finance Act 1954		
Section 18 ... ..	Inspector ...	General Commissioners or Special Commissioners.
Claims for repayment of tax under Schedule 3, paragraph 7(1).	Inspector ...	General Commissioners or Special Commissioners.
Finance Act 1956		
Section 12 ... ..	Inspector ...	General Commissioners or Special Commissioners.
„ 40 ... ..	Board ...	Special Commissioners.
Finance Act 1957		
Section 26(2)(3) ... ..	Board ...	Special Commissioners.
Schedule 6, paragraph 1(1) (c) (ii).	Board ...	Special Commissioners.
Finance Act 1958		
Section 37 ... ..	Board ...	Special Commissioners.
Finance Act 1960		
Section 21(4) ... ..	Board ...	General Commissioners or Special Commissioners.
„ 38(4) ... ..	Inspector ...	General Commissioners or Special Commissioners.
Finance Act 1961		
Section 21 ... ..	Board ...	Special Commissioners.
Section 22 ... ..	Inspector ...	General Commissioners or Special Commissioners.
Finance Act 1962		
Section 16(6) ... ..	Inspector ...	General Commissioners or Special Commissioners.

SCH. 2

Enactment	Claim to be made to	Appeal on claim to
Finance Act 1963 Part II, Chapter II except Schedule 6. Schedule 6 in relation to surtax and, where the claimant is not resident in the United Kingdom, in relation to tax at the standard rate. Schedule 6 except as above...	Inspector ... Board ... Inspector ...	General Commissioners or Special Commissioners. Special Commissioners. General Commissioners.

Sections 11 and 14.

SCHEDULE 3

RULES FOR ASSIGNING PROCEEDINGS TO COMMISSIONERS

<i>Description of proceedings</i>	<i>Place given by these rules</i>
1. An appeal against an assessment under Case I or Case II of Schedule D.	The place where the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated.
2. Any other proceedings relating to a trade, profession or vocation the profits of which are assessable under Case I or Case II of Schedule D, or would be so assessable if there were any.	
3. An appeal against an assessment under Schedule E and any appeal in exercise of a right conferred by regulations under section 157 of the Income Tax Act 1952.	Subject to the right of election for place of residence, the place of employment or such other place as may be assigned instead by regulations under section 157 of the Income Tax Act 1952.
4. An appeal against an assessment under Schedule B and any proceedings concerning the annual value of land.	The place where the property is situated.
5. An appeal against an assessment under Schedule D, other than Cases I and II.	Subject to the right of election for place of residence,— (a) if the person assessed is carrying on a trade, profession or vocation, the place in which the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated, or



*Description of proceedings*

*Place given by these rules*

SCH 3.

6. Any proceedings under the Income Tax Acts not covered by the preceding rules.

(b) if the person assessed is employed, and does not carry on a trade, profession or vocation, the place of employment.

The place where the appellant or other party to the proceedings (not being an inspector or the Board) ordinarily resided in the year of assessment to which the proceedings relate.

If the party was resident or ordinarily resident outside the United Kingdom, the Board may give directions, which may be either general or addressed to a particular occasion, to meet the case.

7.—(1) An appeal against an assessment to the profits tax.

(2) Any other proceedings under the enactments relating to the profits tax.

The place where the trade or business is carried on, or in which the head office or principal place of business is situated.

Rules 3 and 5 have effect subject to rule 4 above.

Where a right of election for the place of residence is provided in column 2 above, the appellant may, by notice in writing to the inspector or the Board (given not later than the notice of appeal), elect for the place where he ordinarily resided in the year of assessment to which the proceedings relate.

The rules in this Schedule have effect subject to sections 143, 213 and 329 of the Income Tax Act 1952 (which relate to proceedings to which more than one taxpayer may be a party) and to any other express provisions in the Income Tax Acts.

SCHEDULE 4

Section 17.

CONSEQUENTIAL AND MINOR AMENDMENTS

*Translation of references to Commissioners*

(1) For references to the General Commissioners or the Special Commissioners (or to both, and however expressed) in the enactments listed in the Table set out at the end of this paragraph there shall be substituted—

- (a) in the enactments in Part I of the Table, references to the Board,
- (b) in the enactments in Part II of the Table, references to the Board or, for the purpose of charging tax at the standard rate, an inspector, and
- (c) in the enactments in Part III of the Table, references to an inspector.

SCH. 4 (2) The Board may delegate any of the functions conferred on them by this paragraph to an officer of the Board.

(3) On an appeal to the General Commissioners or Special Commissioners, the Commissioners shall have jurisdiction to review any relevant decision taken by an inspector or the Board in exercise of the functions transferred to the inspector or the Board by this Schedule.

**TABLE**

**PART I**

*Functions transferred to Board*

Income Tax Act 1952	Finance (No. 2) Act 1955
Section 119(1)(3)	Section 4(8)(c)
Section 188	Schedule 3, paragraphs
Part IX except sections 229(4),	2(1)(b)(2), 3(2) and 3(5)
247 and 248(3)	Finance Act 1957
Section 353(3)	Section 33(1)(2)(a)
Section 412(3)	Finance Act 1959
Schedule 8, III, paragraph 2	Section 23(2)(b)
Schedule 18, section 27(4) of	Finance Act 1960
the Finance Act 1920 as set	Section 33(4)(b)
out in Part II	Section 45(2)

**PART II**

*Functions transferred to Board or inspector*

**Income Tax Act 1952**

Section 394(1)  
 Section 400(1)  
 Section 402  
 Section 406(3)  
 Section 410(1)  
 Section 414(1)(3)  
 Section 422(4)

**PART III**

*Functions transferred to inspector*

Income Tax Act 1952	Finance Act 1952
Section 102	Schedule 5, paragraphs 3(1) and
Section 104	4(1)(b)
Section 125(3)	
Section 128(1)	
Section 135(2)	
Section 137(c)	
Section 137(i)	
Section 299	
Section 307(4)	
Section 308(4)	
Section 479(1)(b)(2)	
Schedule 18, Part III, paragraph 2(2)	

*Other amendments***Income Tax Act 1952**

(15 &amp; 16 Geo. 6 &amp; 1 Eliz. 2 c. 10)

**Section 25(1) (Form of return)**

For the words "by the preceding provisions of this Chapter" there shall be substituted the words "under the Income Tax Acts".

**Section 51 (Appeal against assessment)**

1. In subsection (1) for the words from "made" to "General Commissioners" there shall be substituted the words "to tax at the standard rate shall be entitled to appeal—

(a) except where the assessment was made by the Commissioners of Inland Revenue, to the General Commissioners, and

(b) where the assessment was made by the Commissioners of Inland Revenue, to the Special Commissioners".

2. The references in subsections (1) and (3) to the surveyor shall be taken as references to the inspector or officer of the Board by whom the notice of assessment was given.

**Section 52 (Procedure on appeals)**

In subsection (2) for the words "the surveyor and the assessor" there shall be substituted the words "any officer of the Commissioners of Inland Revenue".

In subsection (5) for the words "or surcharge the Commissioners shall abate or reduce the assessment or surcharge accordingly" there shall be substituted the words "the assessment shall be reduced accordingly".

In subsection (6) for the words "they shall charge him with the excess" there shall be substituted the words "the assessment shall be increased accordingly".

**Section 62(1) (Option to appeal to Special Commissioners)**

For the words "or a surcharge under Schedule D" there shall be substituted the words "or under Schedule E".

**Section 63(2) (Recovery of tax not in dispute on appeal)**

The subsection shall apply to assessments to surtax as well as assessments to tax under Schedule D.

**Section 64 (Case stated)**

In subsections (1) and (2) references to the surveyor shall include references to any officer of the Board.

In subsection (10) for the words "assessment of the Commissioners" there shall be substituted the words "determination of the Commissioners".

**Section 65(2) (Relief against double assessment)**

The subsection shall apply to assessments to surtax as well as assessments to tax at the standard rate.

**Section 66 (Relief for error or mistake)**

1. In subsection (1) for the words "the return or statement made by him for the purposes of the assessment" there shall be substituted the words "any return or statement".

**SCH. 4**

2. For subsections (4) and (5) there shall be substituted the following subsection—

“(4) If any appeal is brought from the decision of the Commissioners of Inland Revenue on the claim the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Commissioners of Inland Revenue in determining applications under this section ; and neither the appellant nor the Commissioners of Inland Revenue shall be entitled to require a case to be stated under section 64 of this Act otherwise than on a point of law arising in connection with the computation of profits or income.”

**Section 71(2) (Evidence that tax is due in proceedings for recovery of tax)**

The reference to the surveyor shall include a reference to any officer of the Board.

**Section 72 (Date of payment of tax)**

In subsection (1) and in the proviso to subsection (3) for the words “signed and allowed” (in each of the three places) there shall be substituted the word “made”.

**Section 73(3) (Receipt for payment of tax)**

For the words “without charge” to the end of the subsection there shall be substituted the words “if so requested give a receipt”.

**Section 118(1) (Tax under Schedule C)**

For the words “the Commissioners designated for that purpose by this Act” there shall be substituted the words “the Commissioners of Inland Revenue”.

**Section 127(3)**

**(Basis period for tax under Schedule D, Cases I and II)**

1. The decision whether or not to give a direction under the subsection shall be subject to an appeal to the General or Special Commissioners who shall grant such relief, if any, as is just.

Subject to paragraph 2 below, the appeal shall be brought within thirty days of receipt of notice of the decision.

2. If the decision is to give a direction, and an assessment is made in accordance with the direction, the appeal against the decision shall be by way of an appeal against the assessment.

**Section 127(5) (Computation under Cases I and II of Schedule D)**

For the words “subsections (2) to (4) of this section” there shall be substituted the words “subsections (2) and (3) of this section”.

**Sections 157 and 158 (Pay-as-you-earn)**

References in the sections to emoluments shall include all income assessable to tax under Schedule E.

**Section 170 (Payments not out of profits or gains already taxed)**

1. For subsections (2) and (3) there shall be substituted the following subsection—

“(2) Where any such payment as is mentioned in the preceding subsection is made by or through any person, that person—

- (a) shall forthwith deliver to the inspector an account of the payment, and
- (b) shall be assessable and chargeable with tax at the standard rate on the payment or on so much thereof as is not made out of profits or gains brought into charge to tax.”

2. An appeal under section 51 of the Income Tax Act 1952 against an assessment under section 170(2) shall lie to the Special Commissioners and not to the General Commissioners.

**Section 216 (Dependent relatives)**

1. The apportionment under subsection (2) may be effected as the persons entitled to claim the relief agree.

2. Subject to any such agreement, subsections (4) and (5) of section 213 of the Act shall apply to an apportionment under section 216(2), and as if in section 213(5) the reference to a claim under section 212 were a reference to a claim under section 216.

**Section 229(4) (Assessments to surtax)**

The right of appeal against an assessment to surtax shall be exercisable on giving notice in writing to the officer of the Board by whom the notice of assessment was given within thirty days after the date of the notice of assessment and the notice of appeal shall specify the grounds of appeal:

Provided that if on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice and the omission of that ground from the notice was, in the opinion of the Commissioners hearing the appeal, not wilful or unreasonable, those Commissioners shall not be precluded from allowing the appellant to go into that ground or taking it into their consideration.

**Section 232**

(Delivery of additional particulars for the purposes of surtax)

For the words from the beginning to “nineteen of this Act” there shall be substituted the words “The Commissioners of Inland Revenue may for the purpose of charging surtax require any individual”.

**Sections 238 and 239 (Relief from surtax)**

The limitations in the sections on the time for making a claim shall cease to have effect.

**SECT. 4**      **Section 247(1) (Company surtax: appeal against a direction)**

For the words "the clerk to the Commissioners" there shall be substituted the words "an officer of the Commissioners of Inland Revenue".

**Section 248(3) (Company surtax: appeal against apportionment)**

For the words "their clerk" there shall be substituted the words "an officer of the Commissioners of Inland Revenue".

**Section 249(2)(b) (Company surtax: Consequences of apportionment under Part IX of Income Tax Act 1952)**

For the words from "be included" to "require" there shall be substituted the words "form part of his total income".

**Section 251(3) (Company surtax: directors making statutory declaration of non-avoidance)**

After the words "the said statutory declaration" there shall be added the words "and any counter-statement which they may think fit to submit".

**Section 323(1) (Claim for capital allowances)**

For the words "annual statement required to be delivered under this Act of the profits or gains thereof" there shall be substituted the words "returns of income for income tax purposes".

**Section 341 (Relief for losses)**

1. In subsection (1) for the words from "apply" to the end of the subsection there shall be substituted the words "claim relief from tax on an amount of his income equal to the amount of the loss".

2. In subsection (5) for the words "repayment" in both places there shall be substituted the words "relief from tax", and for the word "made" there shall be substituted the word "given".

**Section 342 (Carry-forward of losses)**

A claim under the section, so far as it concerns the amount of the loss for any year of assessment, shall be made within six years after that year of assessment, but the question whether any and if so how much relief on that amount should be given under the section against tax for any year of assessment may be the subject of a separate claim made not later than six years after that year of assessment.

**Section 346 (Carry-forward of losses against tax under Case VI)**

A claim under the section, so far as it concerns the amount of the loss for any year of assessment, shall be made within six years after that year of assessment, but the question whether any and if so how much relief on that amount should be given under the section against tax for any year of assessment may be the subject of a separate claim made not later than six years after that year of assessment.

In subsection (2) for the words "as he would be required under this Act to include in a return of his total income for that year" there shall be substituted the words "as fall to be taken into account in computing his total income for that year".

**Section 365(1) (Chargeability of personal representatives)**

**SCH. 4**

For the word "charged" there shall be substituted the word "chargeable".

**Section 371 (Non-residents: charge on percentage of turnover)**

1. In subsection (1) for the words "Commissioners by whom the assessment is made" there shall be substituted the word "inspector", for the words "Commissioners may if they think fit" there shall be substituted the words "inspector or Commissioners may if he or they think fit" and for the words from "in such case" to "by the resident person" there shall be substituted the words "the inspector may by notice require the resident person to deliver a return".

2. In subsection (2) for the words "the Commissioners by whom the assessment on the percentage basis is made" there shall be substituted the words "the inspector or Commissioners".

3. In subsection (3) for the words "determined either in the first instance or" there shall be substituted the words "as confirmed or determined".

**Section 372 (Non-residents: charge on basis of  
merchandising profit)**

For the words from "if he thinks fit" to "made or amended" there shall be substituted the words "by notice included in a return of income delivered within six years from the end of the year of assessment for which he is chargeable elect to be assessed in respect of those profits or gains".

**Section 413(1) (Transfer of income abroad)**

The provision for assessment by the Special Commissioners shall cease to have effect but an appeal under section 51 of the Income Tax Act 1952 against an assessment to tax charged under the subsection shall lie to the Special Commissioners and not to the General Commissioners.

**Section 430(3) (Life assurance companies with head office  
outside the United Kingdom: charge by Special Commissioners)**

The subsection shall cease to have effect but an appeal under section 51 of the Income Tax Act 1952 against an assessment to tax charged under the section shall lie to the Special Commissioners and not to the General Commissioners.

**Section 507 (Time limit for claims for relief)**

1. For the words from "by any provision" to "under this Act" there shall be substituted the words "no claim for relief under the Income Tax Acts".

2. A claim (including a supplementary claim) to which section 9 of this Act applies which could not have been allowed but for the making of an assessment after the year of assessment to which

- SCH. 4 the claim relates may be made at any time before the end of the year of assessment following that in which the assessment was made notwithstanding that the claim would be out of time under section 507.

#### Schedule 8

##### (Public revenue dividends payable by public offices and departments)

1. In paragraph 1 of Part I for the words "Commissioners appointed to assess and charge the tax thereon" there shall be substituted the words "Commissioners of Inland Revenue".

2. In paragraph 1 of Part II for the words "Commissioners for Offices in the said public office or department" there shall be substituted the words "Commissioners of Inland Revenue".

3. In paragraph 3 of Part II for the words from the beginning to "payment, who" there shall be substituted the words "Where any payment is made of public revenue dividends charged under paragraph 1 of this Part of this Schedule the appropriate officer".

#### Schedule 18, Part III

##### (Double taxation—Republic of Ireland)

In paragraph 5, sub-paragraphs (1) and (2) shall cease to have effect and in sub-paragraph (3) for the words "any such claim" there shall be substituted the words "any appeal on a claim under section twenty-seven of the Finance Act 1920 (as set out in Part II of this Schedule)".

#### Finance Act 1953

(1 & 2 Eliz. 2. c. 34)

##### Section 15(1)(2) (Relief for losses)

For the word "adjustment" (in both places in both subsections) there shall be substituted the word "relief", and for the word "made" (in both subsections) there shall be substituted the word "given".

##### Section 20(4) (Subvention payments between associated companies)

1. For the reference to the Commissioners there shall be substituted a reference to an inspector.

2. Within thirty days of receipt of notice of the inspector's decision under the subsection an appeal may be brought against the decision either to the General Commissioners or to the Special Commissioners.

#### Finance Act 1961

(9 & 10 Eliz. 2. c. 36)

##### Section 28 (Assessments under Schedule E)

The reference in subsection (1) to emoluments, and the references in subsection (3) to emoluments chargeable to tax under Schedule E, shall include references to all income assessable to tax under Schedule E.



## Finance Act 1962

SCH. 4

(10 &amp; 11 Eliz. 2. c. 44)

## Section 24 (Sales of land by land-owning companies)

An appeal under section 51 of the Income Tax Act 1952 against an assessment to income tax charged under the section shall lie to the Special Commissioners and not to the General Commissioners.

## Finance Act 1963

(1963 c. 25)

## Section 16 (1) (Assessment under Case VIII of Schedule D)

For the words from "either" to the end of the subsection there shall be substituted the words "if they arise from more than one source, be assessed in one or more assessments, and in the latter case each assessment may relate to profits or gains from one or more sources".

## SCHEDULE 5

Section 17.

## TRANSITORY PROVISIONS

## PART I

## INCOME TAX AND THE PROFITS TAX

*General provisions as to continuity with law before commencement*

1.—(1) All the functions conferred on the Board and on inspectors and other officers of the Board by this Act may be exercised as respects periods before the commencement of this Act and tax for periods before the commencement of this Act, as well as respects later periods and tax for later periods; and this Act shall, save as otherwise expressly provided, apply in relation to events before the commencement of this Act as it applies in relation to events after the commencement of this Act.

(2) Except where the context otherwise requires, the provisions of this Act shall apply in relation to appointments made, notices given, returns delivered, assessments signed, decisions and determinations made, and other things done, under an enactment repealed by this Act, or under an enactment amended by this Act as it applied before amended, as if given, delivered, made or done under the corresponding provisions of this Act, or the enactment as amended by this Act.

(3) References in this Act, and in any Act passed after this Act which is to be construed with the Income Tax Acts or the enactments relating to the profits tax, shall be construed in accordance with the preceding provisions of this paragraph and, in particular, as if references to assessments made by the Board or an inspector included, as respects periods before the commencement of this Act, references to assessments signed by the General or Special Commissioners or any other Commissioners or officer.

(4) This paragraph has effect subject to the following provisions of this Schedule.

## SCH. 5

*Appointments*

2.—(1) Without prejudice to the general provisions of the preceding paragraph, the persons who were acting as General Commissioners for any division immediately before the coming into force of section 1 of this Act shall be deemed to be appointed under that section as General Commissioners for that division.

(2) The persons who immediately before the coming into force of section 1 of this Act were acting as Commissioners in relation to public offices or employments of profit in the City of London shall be deemed to be appointed under that section as General Commissioners for the City of London division.

*Declarations*

3.—(1) A declaration under subsection (1), subsection (2) or subsection (3) of section 4 of this Act by a person appointed to the office in question before the coming into force of that section shall be made as soon as may be thereafter.

(2) Section 4(4) of this Act shall not apply to a person who has before the coming into force of that section made a declaration in any of the forms set out in Schedule 2 to the Income Tax Act 1952, or a declaration of secrecy in a form approved by the Board.

*Leave of Commissioners for assessments out of time*

4. Section 6 and section 10(2) of this Act shall not apply to any assessment signed before the commencement of this Act.

*Returns of income*

5.—(1) Section 7 of this Act shall apply in relation to income for periods before or after the commencement of this Act.

(2) For the purposes of this Schedule sections 19, 20, 21, 144 and 231(3) of the Income Tax Act 1952, and the provisions of Schedule 6 to that Act relating to returns, are enactments corresponding to section 7 of this Act.

*Recovery of tax in county court or sheriff court*

6. Section 8 of this Act shall apply in relation to tax becoming payable before or after the commencement of this Act.

*Claims*

7.—(1) An appeal, or other proceedings in the nature of an appeal, instituted on a claim, or proceedings in the nature of a claim, made before the commencement of this Act under any of the enactments specified in Schedule 2 to this Act shall be continued before the same Commissioners notwithstanding that, under section 9 of this Act, an appeal on the claim should have been made to some other Commissioners.

(2) Section 9(9) of this Act shall apply in relation to claims, or proceedings in the nature of claims, made before the commencement of this Act under the enactments specified in Schedule 2 to this Act.

(3) Section 9(11) of this Act shall not apply in relation to a claim, or proceedings in the nature of a claim, to which effect was given before the commencement of this Act.

SCH. 5

*Choice of Commissioners to hear proceedings*

8. Neither section 11 of this Act nor any other provision in this Act shall apply to an appeal against an assessment signed, claim made, or other proceedings instituted, before the commencement of this Act so as to require the proceedings to be heard by Commissioners other than those who would have heard the proceedings if this Act had not passed.

*Agreements as to amount of tax not in dispute on an appeal against an assessment*

9.—(1) Section 10(4) and section 13 of this Act shall apply in relation to appeals instituted before or after the commencement of this Act.

(2) Without prejudice to paragraph 1(2) of this Schedule, the amendment made by section 10(4) of this Act in paragraph 5 of Part II of Schedule 5 to the Finance Act 1937 shall not affect any decision taken by the Commissioners of Inland Revenue under that paragraph before the commencement of this Act, and any such decision shall have effect after the commencement of this Act as if it were a determination of General or Special Commissioners under that paragraph.

*Northern Ireland*

10.—(1) There shall be no right of election under section 14(1) and section 15 of this Act for proceedings to be brought before a county court in Northern Ireland if the proceedings are—

- (a) an appeal brought before or after the commencement of this Act against an assessment to income tax or the profits tax signed before the commencement of this Act,
- (b) proceedings on a claim under the Income Tax Acts or the enactments relating to the profits tax made before the commencement of this Act, or
- (c) any proceedings under those Acts or enactments (not being an appeal against an assessment or proceedings on a claim) instituted before the commencement of this Act.

(2) The repeals in Schedule 6 to this Act of paragraph 4(2)(3) of Part I of Schedule 23 to the Income Tax Act 1952 (together with the amendment thereto made by Part II of Schedule 6 to the Finance Act 1958), of paragraph 3 of Part II of Schedule 5 to the Finance Act 1937 (appeal from Special Commissioners to recorder or county court judge) and of paragraph 4 of the said Part II so far as it relates to a statement of case by the recorder or county court judge shall not apply in relation to proceedings falling within paragraph (a), (b) or (c) of the foregoing paragraph.

(3) In relation to proceedings brought by virtue of the foregoing sub-paragraph to the recorder or county court judge—

## SCH. 5

- (a) section 510 of the Income Tax Act 1952 and section 51 of the Finance Act 1949,  
 (b) section 63(2) of the Income Tax Act 1952, paragraph 5 of Part II of Schedule 5 to the Finance Act 1937 and section 13 of this Act,

shall apply with the substitution for references to the Special Commissioners of references to the recorder or county court judge.

11.—(1) Section 14(2) of this Act shall apply in relation to any case stated under section 64 of the Income Tax Act 1952 after the commencement of this Act.

(2) Section 14(3) of this Act shall not apply in relation to any decision given by the Court of Appeal in Northern Ireland before the commencement of this Act.

*Election to make return to Special Commissioners*

12. On the repeal of section 231 of the Income Tax Act 1952 any election under that section to make a return to the Special Commissioners shall cease to have effect.

*Surtax relief*

13. No claim shall be brought under section 238 or 239 of the Income Tax Act 1952 for relief which has been the subject of an appeal to the Special Commissioners under section 240(2) of that Act, and any appeal pending under that section at the commencement of this Act may be continued and disposed of after the commencement of this Act.

*Relief for losses*

14. The amendments of section 342 and section 346 of the Income Tax Act 1952 made by Schedule 4 to this Act shall not restrict the time within which a claim may be made for relief in respect of a loss incurred in any year of assessment ending before the commencement of this Act.

*Translation of references to repealed enactments in existing Acts and documents*

15. So much of any enactment or document passed or made before the commencement of this Act as refers, whether expressly or by implication, to, or to things done or falling to be done under or for the purpose of, any provisions of the enactments mentioned in Schedule 6 to this Act shall, if and so far as the nature of the subject matter of the enactment or document permits, be construed as including, in relation to 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.

*Saving for Interpretation Act 1889*

16. The provisions of this Schedule shall be without prejudice to section 38 of the Interpretation Act 1889 (which relates to references to enactments repealed and re-enacted by any Act) or any other provision of that Act relating to repeals.

## PART II

SCH. 5

EXCESS PROFITS TAX, EXCESS PROFITS LEVY AND THE  
SPECIAL CONTRIBUTION

17. The reference in section 10(1) of this Act to paragraph 5 of Part I of Schedule 5 to the Finance Act 1937 and the reference in section 10(4) of this Act to paragraph 5 of Part II of the said Schedule 5 shall not include a reference to either of those paragraphs as applied to the excess profits tax or the excess profits levy.

18. The repeal in paragraph 1 of Part II of Schedule 5 to the Finance Act 1937 effected by Schedule 6 to this Act shall not apply in relation to an assessment signed, claim made or other proceedings instituted before the commencement of this Act under the enactments relating to the excess profits tax or the excess profits levy, and section 11(1) of this Act shall apply in relation to any assessment signed, claim made or other proceedings instituted after the commencement of this Act under those enactments.

19. Sections 14 and 15 of this Act (except section 15(2)(a) and section 15(2)(c)), and paragraphs 10 and 11 of this Schedule (except paragraph 10(3)(b)), shall apply in relation to the excess profits tax and the excess profits levy as they apply in relation to the profits tax.

20. In Part V of the Finance Act 1952 or any other enactment or instrument relating to the excess profits tax or the excess profits levy any reference to a surveyor shall be taken as a reference to an inspector of taxes.

21. Part V of the Finance Act 1948 (the special contribution) shall, except in relation to appeals, apply as if references to the Special Commissioners included references to the Commissioners of Inland Revenue.

## SCHEDULE 6

Section 17.

## REPEALS

## PART I

## REPEALS TAKING EFFECT ONE MONTH AFTER PASSING

Chapter	Short Title	Extent of Repeal
1 Edw. 8 & 1 Geo. 6. c. 54.	The Finance Act 1937.	In Schedule 5, in Part III, paragraph 6 but not so as to affect any oath of secrecy taken before the commencement of this Act.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	In section 5(2), the words from "and unless" to the end, and section 5(3)(4). Section 6(1)(2)(5). Section 7. Sections 13 to 16. Section 78(4). In section 125(2), the words "for the district". Section 360(4).

## SCH. 6

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	In section 439(2) proviso (b), the words “for the district in which the bank or branch is situate”. In section 443(4), the words “for the district in which its registered office is situate”. In section 526(1), the definitions of “city division”, “county division” and “surveyor”. Section 530(3). Schedules 1 and 2.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 33.	The Finance Act 1952.	Section 64(2) but not so as to affect any oath of secrecy taken before the commencement of this Act.
6 & 7 Eliz. 2. c. 66.	The Tribunals and Inquiries Act 1958.	Section 7.
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962.	In Schedule 9, paragraph 19(3).

## PART II

## REPEALS TAKING EFFECT ON 6TH APRIL 1965

Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 4. c. 17.	The Distress (Costs) Act 1827.	The whole Act as it relates to income tax.
53 & 54 Vict. c. 21.	The Inland Revenue Regulation Act 1890.	The following provisions of the Act of 1890 except as they apply to any matter as respects which the Parliament of Northern Ireland has power to make laws. Section 10. Sections 14 and 15. Section 23. Section 33. In section 35(1) the words from “and order” to the end of the subsection. Section 38(2). Section 40.
1 Edw. 8 & 1 Geo. 6. c. 54.	The Finance Act 1937.	In Schedule 5, in Part II, in paragraph 1 the words from “for the division” to “income tax”, paragraph 3 and in paragraph 4 the words from “and in the case” to the end of the paragraph and, except as applied to the excess profits tax or the excess profits levy, paragraph 2 and the remainder of paragraph 4.

SCH. 6

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 13.	The Finance (No. 2) Act 1945.	In Schedule 5 (except as it applies to the excess profits tax or the excess profits levy), in section 24 of the Finance Act 1923 as there set out, in subsection (1) the words "for the purposes of the assessment" and in subsection (5) the words from "under Schedule D" to "modifications".
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	<p>Section 6.</p> <p>In section 8(1), the words "the Commissioners of Inland Revenue together with", the word "other", the words "office and", and the word "respectively", and section 8(2)(3).</p> <p>Sections 9 to 11.</p> <p>In section 12(1), the words "or any other Commissioners" and the proviso, and section 12(2)(3)(5)(6).</p> <p>In section 17(1) the words from "on request" to the end of the subsection, in section 17(2) the words from the beginning to "in force" and the words from "all" to "and from", and section 17(3)(4).</p> <p>Sections 19 to 21.</p> <p>Section 25(2)(7).</p> <p>Section 26(1)(3).</p> <p>In section 32 the words from the beginning to "General Commissioners" where they first occur, the words "in any place within the limits for which they act", the words "or poor", and the words from "or to attend" to "to do so".</p> <p>Sections 34 to 46.</p> <p>In section 47(1), the words from "an additional" to "Schedule", the words "amended or", and the words from "as the case may be" to "Chapter", and the words from "or the year" to "charged".</p> <p>In the proviso to section 47(1) the words "additional assessments and surcharges" and the words "amended or".</p> <p>In section 47(3) the words "amending or", the words "additional assessment or surcharge" (in both places), and the words "amendment or".</p> <p>Section 50.</p> <p>Section 51(4).</p>

## SCH. 6

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	<p>In section 52(2)(b)(c) the words "or surcharge", in section 52(3) the words "from appealing in due time or", in section 52(5) the words "or surcharge" (in the third place), in section 52(6) the words "or surcharged" and the words "or surcharge" and section 52(7).</p> <p>Sections 54 to 58. Section 59(2). Sections 60 and 61. Section 62(2)(3). Section 64(8), in section 64(9) the words "or of any judge thereof" and in section 64(10)(b) the words "(except so far as any penalty is incurred on account of arrears)". Section 65(1)(3). Sections 67 to 70. Section 71(1)(3). In section 73(1) the words from "contained" to "assessments and". In section 74(1) the words from "without" to the end of the subsection, and in section 74(2) the words "and seals" and section 74(6). Section 78 as it applies in Scotland. In section 88(3) the words "to the Commissioners", and in section 88(5) the words "to the satisfaction of the Commissioners". In section 89(1)(b) the words "to the Commissioners" and in section 89(2) the words "to the satisfaction of the Commissioners". In section 96 the words from "before the General" to the end of the section. Section 101(6). Section 103(2). Section 116. In section 120(2) the words from "either" to the end of the subsection. Section 120(3)(4). In section 127(3) the words "or additional assessment". Section 127(4). In section 129(5) the word "additional".</p>



Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	<p>In section 130(1)(a)(b) and section 130(3) the word “additional”.</p> <p>Section 132(4)(5).</p> <p>Section 135(1)(3).</p> <p>In section 143(2)(c) the words from “and the provisions” to the end of the paragraph.</p> <p>Sections 150 and 151.</p> <p>In section 152 the words from “and he” to the end.</p> <p>In section 153(4) the words from “as certified” to the end.</p> <p>In section 153(5) the word “and” at the end of paragraph (a) and paragraph (b).</p> <p>Section 154.</p> <p>In section 157(6) the words from “including” to the end of the subsection.</p> <p>In section 170(4), paragraphs (b) and (d), the word “and” at the end of paragraph (c), and the words from “and the Special” to the end.</p> <p>In section 181(1) the words “to the satisfaction of the Special Commissioners” and paragraph (a) of the proviso.</p> <p>Section 181(2).</p> <p>In section 190(2) the words from “either” to the end of the subsection.</p> <p>Section 190(3)(4).</p> <p>In section 195(1) the words “in manner directed by the Treasury”.</p> <p>Section 195(2)(3).</p> <p>In section 200(1) the words from “on proof” to “Revenue”.</p> <p>In section 200(2) the words “on the like proof”, the words “in the opinion of the Commissioners of Inland Revenue”, the words “in the opinion of the said Commissioners” and the proviso.</p> <p>Section 200(3)(4)(5).</p> <p>In section 201(8) the words from “and the” to the end of the subsection.</p> <p>Section 201(9).</p> <p>In section 206(3) the words from “and effect” to “may require”.</p> <p>In section 208 the words from “in the manner” in paragraph (a) to the end of paragraph (b).</p> <p>In section 212(5) the words “on the request of the Income Tax Commissioners concerned”.</p>

## SCH. 6

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	<p>In section 213(6) the words from “ and the provisions ” to “ modifications ” and section 213(7). Section 218(5). In section 223 the words from “ to the satisfaction ” to “ are made ”. Section 224. Section 225(7)(8). In section 227(3) the words from “ in such form ” to the end of the subsection. Section 227(4)(5). In section 228 the words from “ on proof ” to “ Schedule to this Act ”. Section 229(2). In section 229(3) the words “ or additional assessment ” and the words “ and additional assessments ” (in both places). In section 229(4) paragraphs (b) and (d), the word “ and ” at the end of paragraph (c), the words following paragraph (d) down to “ Schedule D ” and the words from “ and the Special Commissioners ” to the end. Section 231. In section 238 the words from “ either at ” to “ him to surtax for that year ”. In section 239 the words from “ either at ” to “ him to surtax for that year ” and the words “ any assessment to ”. Section 240(2). In section 247(1) the words from “ and the Commissioners ” to the end of the subsection. In section 248(3) the words from “ and those Commissioners ” to the end of the subsection and section 248(4). In section 249(2)(c) the words “ by this Chapter ” and the following words “ to the Special Commissioners ” and in section 249(5) the words “ to the satisfaction of the Special Commissioners ”. In section 250(3) the words from the beginning to “ of this section ”. In section 251(3) the words from “ and shall ” to the end of the subsection. Section 251(4). Section 324(2). In section 329(1) the words from “ and the provisions ” to “ modifications ”.</p>

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	<p>Section 341(2).</p> <p>In section 342(4) the words from “ Any dispute ” to the end of the subsection.</p> <p>Section 343(1) proviso (b) and the word “ and ” at the end of paragraph (a).</p> <p>In section 347(3) the word “ additional ” in both places.</p> <p>In section 348(3) the word “ additional ” in both places.</p> <p>Section 355(2).</p> <p>Section 356(2).</p> <p>Section 358(5).</p> <p>In section 359(1)(b) the words from “ in the case ” (where they first occur) to “ assessment to surtax ” and in section 359(1) after paragraph (c) the words “ or as the case may be the Special Commissioners ”.</p> <p>In section 359(5) the words “ the Special Commissioners ”.</p> <p>In section 360(2)(a) the words “ and the Special Commissioners ”.</p> <p>Section 365(4).</p> <p>In section 367(1) and 367(2) the words from “ acting ” to “ on that person ”.</p> <p>In section 371(1) the words from “ in the same manner ” to the end of the subsection.</p> <p>In section 371(2) the words from “ subject ” to the end of the subsection.</p> <p>In section 372 the words from “ and on proof ” to the end.</p> <p>Section 381(3).</p> <p>Section 385(3).</p> <p>Section 410(2).</p> <p>In section 413(1) the words from “ and all assessments ” to the end of the subsection.</p> <p>Section 413(4)(5).</p> <p>Section 414(2).</p> <p>In section 418(5) the words “ to the satisfaction of the General or Special Commissioners ”.</p> <p>In section 419(6) the words “ to the satisfaction of the General or Special Commissioners ”.</p> <p>In section 422(1) and section 422(3) the words “ or additional assessment ”.</p> <p>In section 425(1) the words “ to the satisfaction of the Special Commissioners ”.</p>

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Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	<p>In section 425(8) the words from the beginning to "Provided that" and the words "by this subsection".</p> <p>In section 429(3) the words "the Special Commissioners are satisfied that".</p> <p>Section 430(3).</p> <p>In section 432 the words "to the satisfaction of the Special Commissioners".</p> <p>Section 441.</p> <p>Section 443(2)(3).</p> <p>In section 445(3) the words from "and the provisions of the Sixth" to the end of the subsection.</p> <p>Section 450.</p> <p>Section 451(2).</p> <p>In section 455 the words "to the satisfaction of the Special Commissioners".</p> <p>In section 458(3) the words "on the request of the Income Tax Commissioners concerned".</p> <p>In section 464(1) the word "additional" in both places and the words "under subsection (1) of section 41 of this Act".</p> <p>In section 470(1) (in the last paragraph) the words "are shown to the satisfaction of the Special Commissioners to".</p> <p>In section 470(2) the words "to the satisfaction of the Special Commissioners".</p> <p>Section 471(4)(5)(6)(7).</p> <p>Section 485.</p> <p>In section 500(1) the words from "and may order" to the end of the subsection, and section 500(3).</p> <p>Section 514(4).</p> <p>In section 515(5) the words "or the Additional Commissioners".</p> <p>Sections 516 to 519.</p> <p>Section 521.</p> <p>In section 522 the words from the beginning to "1925", and the words from "in England" to "High Court and".</p> <p>Section 523.</p> <p>Schedule 4.</p> <p>Schedule 6.</p> <p>In Schedule 8, in Part I, paragraphs 2, 3, 4 and 5, and in paragraph 7 the words from "and every such" to the end of the</p>

## SCH. 6

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 10— <i>cont.</i>	The Income Tax Act 1952— <i>cont.</i>	<p>paragraph; in Part II, paragraph 2; in Part III, in paragraph 1(1) the words “by the inspector authorised for that purpose” and the words “to him for the use of the Special Commissioners” and in paragraph 8 the words “the Special Commissioners are satisfied that”.</p> <p>In Schedule 9, paragraphs 3, 4, 6, 9, 13, 14, 16 and 17.</p> <p>In Schedule 16 paragraph 13(1) the words “to the surveyor” and the words from “and if” to the end of the sub-paragraph.</p> <p>In Schedule 18, in section 27(1) of the Finance Act 1920 as set out in Part II the words “to the satisfaction of the Special Commissioners” and in Part III paragraph 4(1) the words from “in such form” to “accordingly”, paragraph 4(2)(3) and paragraph 5 (1)(2).</p> <p>In Schedule 20, the word “additional” in paragraph 10(2), and paragraph 10(3).</p> <p>In Schedule 23, Part I.</p>
15 & 16 Geo. 6. & 1 Eliz. 2. c. 33.	The Finance Act 1952.	<p>In section 18(7) the word “additional”.</p> <p>Section 18(8).</p> <p>Section 31.</p> <p>In section 63(1) the words “for the division in which he is assessed to income tax”.</p> <p>In section 66(1), in the entry defining “General Commissioners” the words “and surveyor” and the words “and a surveyor”.</p> <p>In section 68(4) the words “or additional assessments” in both places.</p>
1 & 2 Eliz. 2. c. 34.	The Finance Act 1953.	<p>Section 15(4).</p> <p>In section 19(5) the word “additional”.</p> <p>In section 20(8) the word “additional”.</p> <p>In section 21(2) and 21(3) the word “additional”.</p> <p>In section 26(3) the word “additional”.</p>
2 & 3 Eliz. 2. c. 44.	The Finance Act 1954.	<p>In Schedule 2 paragraph 4(1) the word “additional”.</p> <p>In Schedule 3 paragraph 7(1) and 7(3)(a) the word “additional”.</p> <p>In Schedule 4 paragraph 6.</p>

## SCH. 6

Chapter	Short Title	Extent of Repeal
4 & 5 Eliz. 2. c. 54.	The Finance Act 1956.	In section 10(3) the words from "and all the provisions" to the end of the subsection. In section 12(7) the word "additional". Section 12(8). Section 21. In section 23(10) the word "additional". Section 40(2).
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957.	In section 23(4) the words from "All the provisions" to the end of the subsection. In section 26(2) and 26(3) the words from "and subsections (2)" to "that section". In section 30(4) the words from "All the provisions" to the end of the subsection. In Schedule 6 paragraph 1(1)(c)(ii) the words from "and subsections (2)" to "that section".
6 & 7 Eliz. 2. c. 56.	The Finance Act 1958.	In section 16(6) the words from "and the provisions" to "modifications". Section 37(2). In Schedule 6, in the first column of Table I from "425(8)" to "471(4)" and in Table III in the first column "66(4)", "200(4)", "450(2)", "471(5)" and "Schedule 18, Part III, paragraph 4(2)"; in the second column "and 251(4)"; and all the third column.
6 & 7 Eliz. 2. c. 66.	The Tribunals and Inquiries Act 1958.	In Schedule 1, in Part I, paragraph 20(c) and in Part II paragraph 35(b).
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960.	In section 17(3) the words "and (5)". In section 21(4) the words from "Any applicant" to the end of the subsection. In section 21(13) the words "the making of" and the words from "and the Commissioners" to the end of the subsection. In section 27(1) and (5) the words "and (3)" and in section 27(4) and (5) the words "to the satisfaction of the Special Commissioners". In section 33(3) the word "additional". In section 38(4) the words "by notice in writing to the surveyor" and the words from "and where" to the end of the subsection.

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Chapter	Short Title	Extent of Repeal
8 & 9 Eliz. 2. c. 44— <i>cont.</i>	The Finance Act 1960— <i>cont.</i>	In section 46(7) the words “the proviso to subsection (4) of section twenty and”. In Schedule 6, all of column 1 except the references to section 144 and section 358(4), and the reference to section 26 and section 54 in column 2.
9 & 10 Eliz. 2. c. 36.	The Finance Act 1961.	In section 21(3) the words from “and subsections” to the end of the subsection. In section 22(2) the words “in such form as the Commissioners of Inland Revenue may direct” and in section 22(3) paragraphs (b), (c) and (d). Section 28(5).
10 & 11 Eliz. 2. c. 30.	The Northern Ireland Act 1962.	In Schedule 1 the entry relating to the Income Tax Act 1952.
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962.	In section 16(6) the words “to the surveyor”, the words “by the Commissioners of Inland Revenue” and the proviso. Section 24(8) and in section 24(9) the words “on the Special Commissioners or”. In Schedule 9, in paragraph 17(3), the word “additional” (before the word “assessment”).
1963 c. 25.	The Finance Act 1963.	In section 16(2)(b) the word “additional”, and section 16(3). Section 19. Section 28(4). In section 29(7) the word “additional”. In section 30(1) the words from “for the division” to “elect” and the words from “and all the provisions” to the end of the subsection. In Schedule 6, paragraph 6. In Schedule 12, paragraph 16.

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Interpretation Act 1889 ... ..	52 & 53 Vict. c. 63.
Finance Act 1920 ... ..	10 & 11 Geo. 5. c. 18.
Finance Act 1937 ... ..	1 Edw. 8 & 1 Geo. 6. c. 54.
Finance Act 1948 ... ..	11 & 12 Geo. 6. c. 49.
Finance Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 47.
Income Tax Act 1952 ... ..	15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.
Finance Act 1953 ... ..	1 & 2 Eliz. 2. c. 34.
Finance Act 1958 ... ..	6 & 7 Eliz. 2. c. 56.
County Courts Act 1959 ... ..	7 & 8 Eliz. 2. c. 22.
Finance Act 1960 ... ..	8 & 9 Eliz. 2. c. 44.
Finance Act 1961 ... ..	9 & 10 Eliz. 2. c. 36.
Northern Ireland Act 1962 ... ..	10 & 11 Eliz. 2. c. 30.
Finance Act 1962 ... ..	10 & 11 Eliz. 2. c. 44.
Finance Act 1963 ... ..	1963 c. 25.





# Emergency Powers Act 1964

## 1964 CHAPTER 38

An Act to amend the Emergency Powers Act 1920 and make permanent the Defence (Armed Forces) Regulations 1939. [10th June 1964]

**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. In section 1(1) of the Emergency Powers Act 1920 (by Amendment of s. 1(1) of Emergency Powers Act 1920. 10 & 11 Geo. 5 c. 55.) virtue of which Her Majesty may by proclamation declare that a state of emergency exists if at any time it appears to Her that any action has been taken or is immediately threatened by any persons or body of persons of such a nature and on so extensive a scale as to be calculated, by interfering with the supply and distribution of food, water, fuel or light, or with the means of locomotion, to deprive the community, or any substantial portion of the community, of the essentials of life), for the words from "any action" to "so extensive a scale" there shall be substituted the words "there have occurred, or are about to occur, events of such a nature".

2. The Defence (Armed Forces) Regulations 1939 in the form set out in Part C of Schedule 2 to the Emergency Laws (Armed Forces) (Repeal) Act 1959 (which regulations enable the temporary employment in agricultural work or in other work, being urgent work of national importance, of members of the armed forces of the Crown to be authorised) shall become permanent. 7 & 8 Eliz. 2 c. 19.

3.—(1) This Act may be cited as the Emergency Powers Act 1964. Short title and extent.

(2) Section 1 of this Act shall not extend to Northern Ireland.



# Protection of Animals (Anaesthetics) Act 1964

## 1964 CHAPTER 39

An Act to amend the Protection of Animals (Anaesthetics)  
Act 1954. [10th June 1964]

**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:—

Enlargement  
of classes  
of operations  
in which  
anaesthetics  
must be used.

1.—(1) Schedule 1 to the Protection of Animals (Anaesthetics) Act 1954 (which lists operations which may be performed without an anaesthetic) shall be amended as follows.

(2) Paragraph 5 (castration of dogs and cats below certain ages) shall be repealed.

(3) For paragraph 6 (castration of horses, asses or mules, bulls, sheep, goats and pigs below certain ages) there shall be substituted the following paragraphs—

“ 6. The castration of a male animal specified in the following table before it has reached the age so specified, that is to say—

bull	...	...	...	3 months
sheep	...	...	...	3 months
goat	...	...	...	2 months
pig	...	...	...	2 months.

6A. The foregoing paragraph shall not apply to the castration of an animal by using a rubber ring or other device to constrict the flow of blood to the scrotum unless the device is applied within the first week of life.”

(4) Paragraphs 7 and 8 (minor operations which are customarily performed without an anaesthetic) shall not in any circumstances permit—

- (a) the castration of a male animal (but without prejudice to the circumstances in which castration is permitted by paragraph 6 of the Schedule as set out in subsection (3) of this section);
- (b) the de-horning of cattle;
- (c) the dis-budding of calves, except by means of chemical cauterisation applied within the first week of life; or
- (d) the docking of lambs' tails by using a rubber ring or other device to constrict the flow of blood to the tail, unless the device is applied within the first week of life.

(5) In this section “cattle” means bulls, cows, bullocks, heifers, calves, steers or oxen.

2.—(1) This Act may be cited as the Protection of Animals (Anaesthetics) Act 1964, and—

- (a) this Act and the Protection of Animals Acts 1911 to 1962 may be cited together as the Protection of Animals Acts 1911 to 1964; and
- (b) this Act and the Protection of Animals (Scotland) Acts 1912 to 1962 may be cited together as the Protection of Animals (Scotland) Acts 1912 to 1964.

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

(3) This Act shall come into operation at the expiration of the period of two months beginning with the date on which it is passed.

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# Harbours Act 1964

## 1964 CHAPTER 40

An Act to establish a National Ports Council; to provide for the control of harbour development and for giving financial assistance for the improvement of harbours; to make other provision respecting the construction, improvement, maintenance and management of harbours; to make provision with respect to charges of certain harbour authorities and lighthouse authorities; and for purposes connected with the matters aforesaid. [10th June 1964]

**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:—

### *The National Ports Council*

1.—(1) There shall be a Council to be called the National Ports Council (hereafter in this Act referred to as “the Council”) which shall be charged with the duty of formulating, and keeping under review, a national plan for the development of harbours in Great Britain and with the following duties, that is to say,—

Establishment of National Ports Council, and principal duties thereof.

- (a) formulating comprehensive plans for the improvement of existing, and the provision of new, harbours in Great Britain and of services and facilities provided at such harbours;
  - (b) promoting the execution of such plans (so far as they are approved by the Minister);
  - (c) encouraging harbour authorities in Great Britain to exercise and perform functions of theirs relating to harbours as efficiently as possible and assisting them in the exercise and performance of such functions;
- and

(d) tendering to the Minister advice with respect to the taking of action calculated to secure the improvement, maintenance and management of harbours in Great Britain in an efficient and economical manner and the provision of adequate means of access to such harbours by road and rail ;

and shall have such other duties, and such powers, as are imposed and conferred on them by the following provisions of this Act.

(2) In the discharge of the duties imposed on them by the foregoing subsection the Council shall seek consultation with such harbour authorities and other persons as appear to the Council to be directly concerned.

(3) In subsection (1) of this section "harbour" does not include a fishery harbour within the meaning of section 21 of the Sea Fish Industry Act 1951 or a marine work.

Constitution  
of the  
Council.

**2.—(1)** The Council shall consist of a chairman appointed by the Minister, and such number of other members so appointed, not being less than seven nor more than eleven, as the Minister may from time to time determine.

(2) The members of the Council shall be appointed from amongst persons appearing to the Minister to have wide experience of, and to have shown capacity in, the management of harbours, shipping, inland transport, industrial, commercial, financial or economic matters, applied science or the organisation of workers, to have wide experience as persons employed in doing work falling to be done in the course of the management of harbours or the carrying out of harbour operations and to have shown capacity as persons so employed, or to have, in some other respect (including, in particular, knowledge or experience of matters affecting the fishing industry), special knowledge or experience that would be of value to the Council in the exercise and performance of their functions.

(3) The Minister shall appoint one of the members of the Council to act as deputy chairman.

(4) The Council—

(a) shall pay to their members such remuneration (whether by way of salary or fees) and such allowances as the Minister may, with the approval of the Treasury, determine ; and

(b) in the case of such members as the Minister may with the approval of the Treasury determine, shall pay such pensions or make such payments towards the provision of pensions to or in respect of those members as he may, with the like approval, determine in the case of those members respectively.

(5) The Minister shall, as soon as possible after the passing of this Act, lay before each House of Parliament a statement of the remuneration and allowances that are or will be payable to the members of the Council under this section ; and, if a subsequent determination by him under this section involves a departure from the terms of the said statement or if a determination by him under this section relates to the payment of, or to payments towards the provision of, a pension to or in respect of a member of the Council, the Minister shall, as soon as possible after the determination, lay a statement thereof before each House of Parliament.

(6) The incidental provisions contained in Schedule 1 to this Act shall have effect with respect to the Council.

3.—(1) The Council may take such steps as appear to them to be practicable and desirable for the promotion of—

- Promotion by  
the Council of  
research,  
and training  
and education.
- (a) research into matters affecting the management, construction and improvement of harbours and the carrying out of harbour operations ; and
- (b) the training and education (except to do, or in the doing of, work that usually falls to be done by dock workers) of persons employed or to be employed in doing work falling to be done in the course of the management of harbours or the carrying out of harbour operations ;
- either by themselves prosecuting research, training and education or by their promoting it by others, or in both of those ways.

(2) It shall be the duty of the Council, if directed in writing by the Minister (after consultation with them) so to do, to promote research into any such matters affecting the management, construction or improvement of harbours or the carrying out of harbour operations as may be specified in the direction or, if so directed by him after such consultation so to do, to promote the training, of persons falling within subsection (1)(b) above of such class as may be so specified, to do, and their education in the doing of, work falling to be done in the course of the management of harbours or the carrying out of harbour operations, not being work that usually falls to be done by dock workers ; and a duty imposed on the Council by virtue of this subsection may be discharged in manner corresponding to that in which their powers under the foregoing subsection may be exercised.

(3) In the exercise of their powers under subsection (1) of this section and in the discharge of a duty imposed on them by virtue of subsection (2) of this section, the Council shall act in consultation with—

- (a) such harbour authorities and bodies appearing to the Council to be representative of harbour authorities ;

(b) such persons engaged in the carrying of goods or passengers in ships by sea and bodies appearing to the Council to be representative of persons so engaged ; and

(c) such persons and authorities engaged in education and research ;

as the Council think appropriate in the circumstances, and with any other person who appears to them to be concerned.

(4) Where the Council promote research, or training and education, by others, they may give assistance (including financial assistance) therefor.

(5) The Council may make, in or towards satisfaction of expenses incurred by them in promoting research into any matter at the instance or with the consent of any person or body, charges of such amounts as may be agreed between them and that person or body.

(6) The Council may make charges in respect of training and education of persons undertaken by them in exercise of their powers under subsection (1) of this section or in discharge of a duty imposed on them by virtue of subsection (2) of this section ; but shall not, in exercise of the power conferred by this subsection, exact a charge from a person in respect of his receiving any such training or education.

(7) In this section “ dock worker ” has the meaning assigned to it by section 6 of the Dock Workers (Regulation of Employment) Act 1946.

Provision of funds for the Council.

4.—(1) It shall be the duty of the Council to impose on harbour authorities, by means of a scheme or schemes made by the Council and submitted to and confirmed by the Minister in accordance with the following provisions of this section, such charges as will enable them to meet any expenditure incurred, or to be incurred,—

(a) in the exercise of their powers under subsection (1) of the last foregoing section or in the discharge of a duty imposed on them by virtue of subsection (2) of that section ;

(b) in the discharge of liabilities in respect of money borrowed by them ;

(c) in respect of remuneration or allowances to, or pensions to or in respect of, members of the Council ; or

(d) in respect of the administrative expenses of the Council ; in so far as it cannot be met by revenue accruing to them in consequence of the exercise of powers conferred by other provisions of this Act.

(2) A scheme under this section may be made so as to apply to all harbour authorities, to harbour authorities of a particular class or to particular harbour authorities.



(3) A scheme under this section may—

- (a) if provision is thereby made for imposing charges on all harbour authorities, provide for the levying of charges of different amounts on harbour authorities of different classes, and if provision is thereby made for imposing charges on harbour authorities of a particular class, provide for the levying of charges of different amounts on harbour authorities of different sub-divisions of that class ;
- (b) provide for imposing, as respects any period, a limit (of such amount as may be determined by or under the scheme) on the amount to be raised by the Council by means of charges under the scheme to meet expenditure incurred or to be incurred by them during that period in respect of all or any of the matters included in subsection (1) above ;
- (c) provide for requiring a harbour authority to whom the scheme relates to furnish to the Council such information as the Council may require for the purposes of the scheme, being information relating to any harbour which that harbour authority are engaged in improving, maintaining or managing, to any activities carried on by them at such a harbour or to any property used by them for the purposes of such a harbour, and for requiring the verification of any information furnished in pursuance of a requirement having effect by virtue of this paragraph ;
- (d) make provision for any incidental or supplementary matters for which it appears to the Council requisite or expedient to make provision for the purposes of the scheme including, but without prejudice to the generality of the foregoing words, provision for imposing penalties in respect of a failure to comply with a requirement having effect by virtue of the last foregoing paragraph to furnish information, so however that no provision imposing such a penalty shall be so framed so as to permit of a person's being punished otherwise than on his summary conviction, or as to permit of the infliction on him of a penalty other than a fine, or of the infliction on him of a fine exceeding £50 or, in the case of a second or subsequent conviction, of a fine exceeding £200.

(4) Immediately after they submit to the Minister a scheme made under this section for confirmation by him, the Council shall publish, in such manner as the Minister may approve, a notice stating that they have submitted the scheme to him and specifying a place where copies thereof may be obtained free of charge by harbour authorities affected by the scheme,

and further stating that a harbour authority who desire to make to the Minister objection to the scheme should do so in writing before the expiration of such period from the date of the publication of the notice (not being less than forty-two days) as may be specified in the notice, and shall send a copy of the scheme to each harbour authority known to them whom they believe to be affected by the scheme.

(5) The Minister shall consider any objections duly made to him with respect to a scheme submitted to him under the last foregoing subsection and may, if he thinks fit so to do, by order confirm the scheme either without modification or, after consultation with the Council, with such modifications as he thinks fit (but not including any that in any way increase the charges proposed in the scheme as submitted to him); and where he confirms it, it shall, as confirmed, come into force on such date as may be specified in the order.

(6) The amount of a charge payable by a harbour authority under a scheme made under this section shall be a debt due by them to the Council.

(7) A scheme made under this section may be revoked or varied by a subsequent scheme thereunder made, submitted and confirmed in like manner as the original scheme.

(8) No charges shall be levied under a scheme made under this section on a harbour authority in respect of any period during which no harbour being improved, maintained or managed by them is other than a fishery harbour or marine work.

(9) In this section "harbour authority" means a person engaged (whether or not in the exercise and performance of statutory powers and duties) in improving, maintaining or managing a harbour.

Temporary borrowings by the Council.

5. The Council may borrow temporarily, by way of overdraft or otherwise, such sums as they may require for exercising and performing their functions under this Act; but the aggregate of the amounts outstanding in respect of the principal of sums borrowed under this section shall not exceed such limit as the Minister may for the time being have imposed on the Council for the purposes of this section by a direction given to them in writing.

Exchequer assistance to the Council.

6.—(1) The Minister—

(a) may, out of moneys provided by Parliament, make to the Council a grant equal to the whole or a proportion of the amount of any expenses incurred by them in consequence of their complying with a direction given to

them under section 3(2) of this Act, being expenses which, in his opinion, ought not to fall to be defrayed or, as the case may be, to be wholly defrayed out of charges imposed under section 4 of this Act ;

- (b) subject to the following subsection, with the approval of the Treasury may, out of moneys which, by virtue of the following provisions of this Act, are issued to him for the purpose out of the Consolidated Fund, lend to the Council any sums which they have power to borrow under the last foregoing section.

(2) The aggregate of the amounts outstanding in respect of the principal of sums lent by virtue of the foregoing subsection shall not exceed £250,000.

7. The Council shall have power to invest, in such manner as they think fit, any moneys of theirs which are not for the time being required for any other purpose. Council's investment powers.

8.—(1) The Council shall, as soon as possible after the end of each of their accounting periods, make a report to the Minister on the exercise and performance of their functions during that period. Reports, accounts and returns by the Council.

(2) The Council shall keep proper accounts and proper records in relation to the accounts and prepare in respect of each accounting period a statement of accounts in such form as the Minister, with the approval of the Treasury, may direct ; and the accounts of the Council for each such period shall be audited by qualified auditors appointed by the Council with the approval of the Minister.

(3) For the purposes of the last foregoing subsection, “ qualified auditor ” means a person who is a member, or a firm all of the partners wherein are members, of one or more of the following bodies, that is to say,—

The Institute of Chartered Accountants in England and Wales ;

The Institute of Chartered Accountants of Scotland ;

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 by the Board of Trade.

(4) There shall be attached to the said report for each accounting period a copy of the statement of accounts in respect of that period and a copy of any report made on the statement by the auditors.

(5) It shall be the duty of the Council to furnish to the Minister any information required by him for the purposes of any of his functions under this Act which is in their possession or which it is within their power to obtain.

(6) The Minister shall lay before each House of Parliament a copy of each report made to him under subsection (1) of this section, of the statement of accounts attached thereto and of any report made on that statement by the auditors.

(7) The Council shall make available to the public at a reasonable price copies of, and make available for inspection at their offices a copy of, each report made under subsection (1) of this section to the Minister, the statement of accounts attached thereto and any report made on that statement by the auditors.

#### *Control of harbour Development*

Control of  
harbour  
development.

9.—(1) Subject to the provisions of this section, the Minister, with a view to securing the proper control in the national interest of schemes of harbour development that appear to him to involve expenditure of a capital nature, may by order prohibit, in such cases as may be defined in the order by reference to size, cost, relation to other projects, purpose or any other criterion appearing to him to be appropriate, all persons to whom this section applies, or all such persons of a particular class, or particular such persons, from undertaking, or securing the undertaking of, any of the following projects, that is to say—

- (a) the execution of works for the construction, reconstruction, improvement or repair of a harbour ;
- (b) the execution of works for the construction, reconstruction, improvement or repair of buildings or structures, being buildings or structures required for use or used wholly or mainly for the purpose of harbour operations ;
- (c) the acquisition or taking on hire of plant or equipment required for use in the execution of any such works as aforesaid or for use as mentioned in the last foregoing paragraph,

except under an authorisation in that behalf granted by the Minister.

(2) This section applies to persons engaged in, or proposing to become engaged in, the improvement, maintenance or management of a harbour, or the carrying out of harbour operations.

(3) An authorisation under this section shall not be granted except upon written application in that behalf made to the Minister, and the Minister shall take any such application into

consideration and may grant the authorisation either free from, or subject to, such conditions as he thinks fit, or he may refuse it.

(4) The Minister may vary an authorisation granted by him under this section—

(a) where the authorisation has effect without conditions, by attaching conditions thereto ;

(b) where the authorisation has effect subject to conditions, by revoking or varying any of them or by attaching thereto further conditions ;

and on varying any such authorisation the Minister shall give written notice thereof to the person to whom the authorisation was granted.

(5) A person undertaking, or securing the undertaking of, a project under an authorisation for the time being subject to any conditions having effect by virtue of subsection (3) or subsection (4) above shall comply with those conditions.

(6) The Minister shall not grant, refuse or vary an authorisation under this section except after consultation with the Council ; and the Council, in considering any proposed grant, refusal or variation which is the subject of such a consultation, shall themselves consult, in a case where the proposed grant, refusal or variation is of an authorisation relating to a project for whose undertaking the consent of the Iron and Steel Board is required under the Iron and Steel Act 1953, with that Board, and in any case, with such other persons, being persons appearing to the Council to be concerned, as the Council consider appropriate.

(7) An order under subsection (1) above shall not so define a case by reference to cost as to prohibit a person from undertaking, or securing the undertaking of, a project without the authorisation of the Minister in a case where the project complies with the following conditions, that is to say, its cost does not exceed the sum of £500,000 and it does not form part of a larger project the cost of which exceeds that sum, or of a series of projects the cost of which, in the aggregate, exceeds that sum ; and a person shall not, in a case defined in an order made under subsection (1) above otherwise than by reference to cost, be prohibited, by virtue of the order, from undertaking, or securing the undertaking of, a project without the authorisation of the Minister in a case where the project complies with the conditions aforesaid.

(8) An order under subsection (1) above shall be so framed as, in the opinion of the Minister, to secure that there is exempted from any prohibition thereby imposed the undertaking, and the securing of the undertaking, of the execution of works of the nature of routine maintenance and works of the nature of routine repair.

(9) An order under subsection (1) above may, for the purpose of subsection (7) above or any provision contained in the order defining a case by reference to the cost of a project, provide for the ascertainment of the cost of a project by reference to the actual or the estimated expenditure on the project, and that, in computing that cost, there shall be included a sum, ascertained in accordance with the provisions of the order, in respect of such other matters incidental to or consequential on that project as the order may provide, including, without prejudice to the generality of the foregoing provision, the value of any land acquired for, or appropriated to the purpose of, that project.

(10) Subsection (1) above shall not have effect in relation to a project in so far as the project comprises—

- (a) the execution of works for the construction, reconstruction or repair of a dry dock ; or
- (b) the execution of works for the construction, reconstruction or repair of buildings or structures, being buildings or structures required for use or used wholly or mainly for the purpose of the dry docking of a ship ; or
- (c) the acquisition or taking on hire of plant or equipment for use in a dry dock.

(11) Nothing in an order under this section shall be taken to prohibit an internal drainage board (within the meaning of the Land Drainage Act 1930) a river board, a river authority, a river purification authority, a district board, an improvement committee, the Conservators of the River Thames or the Lee Conservancy Catchment Board from undertaking any project in the exercise of river works powers or the performance of river works duties.

(12) The Minister may by order made under this subsection substitute for the sum of £500,000 mentioned in subsection (7) above such other sum as is specified in the order ; but no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(13) In this section “harbour” does not include a fishery harbour or marine work and “harbour operations” does not include operations carried out at a fishery harbour or marine work.

(14) Any power conferred by this section to make an order shall include power to vary or revoke the order.

**10.—**(1) No criminal proceedings shall lie in respect of a contravention of a prohibition imposed under section 9 of this Act, or a contravention of, or failure to comply with, a condition to which an authorisation granted under that section is for the

Enforcement  
of control  
of harbour  
development.

time being subject, but, without prejudice to the bringing of civil proceedings by the Attorney General in respect of a contravention, or an apprehended contravention, of, or a failure to comply with, any such prohibition or condition, any such prohibition or condition shall be enforceable by civil proceedings by the Minister for an injunction or for any other appropriate relief.

(2) Where it appears to the Minister that the exercise of powers under this subsection is necessary for the enforcement by the Minister of any prohibition or condition having effect by virtue of section 9 of this Act, the Minister may authorise in writing such person as may be specified in the authorisation to exercise those powers in relation to any undertaking which is so specified and whose activities comprise the improving, maintaining or managing of a harbour or the carrying out of harbour operations; and thereupon that person shall have the right, on production, if so required, of a duly authenticated document showing his authority, to inspect at any reasonable hour, at the premises where they are kept, books, records and other documents relating to the undertaking, but not including any books, records or documents solely relating to activities other than the improving, maintaining and managing of a harbour or, as the case may be, the carrying out of harbour operations; and it shall be the duty of the person in charge of any premises where such books, records and documents are kept to produce them for inspection and to provide facilities at the premises for the taking of copies thereof and the making of extracts therefrom by the person carrying out the inspection.

(3) If a person fails to comply with a duty imposed on him under the last foregoing subsection, or in any way obstructs the exercise of rights under that subsection, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £20.

(4) In relation to proceedings in Scotland, subsection (1) of this section shall have effect with the substitution, for the words after "subject, but", of the words "without prejudice to the bringing of any proceedings under section 91 of the Court of Session Act 1868 in respect of a contravention, or an apprehended contravention, of, or a failure to comply with, any such prohibition or condition, any such prohibition or condition shall be enforceable by civil proceedings by the Minister for an interdict or for any other appropriate remedy".

*Exchequer Assistance for Execution of harbour Works, &c.*

11.—(1) Subject to the provisions of this section, the Minister, with the approval of the Treasury and after consulting the Council, may, out of moneys which, by virtue of the following

Loans for execution of harbour works, &c.

provisions of this Act, are issued to him for the purpose out of the Consolidated Fund, give to a harbour authority assistance by way of loan—

(a) in respect of expenses incurred by them—

(i) in executing, at a harbour which in the exercise and performance of statutory powers and duties they are engaged in improving, maintaining or managing, works for the improvement, maintenance or management of the harbour ;

(ii) in acquiring plant or equipment required for the carrying out at the harbour of harbour operations ;

(iii) in acquiring land required for the purposes of the harbour or an extension thereof ;

(b) to enable them to repay the whole or part of the principal of, or to pay the whole or part of a sum due by way of the payment of interest on, a loan made to them by virtue of the foregoing paragraph,

provided that, in the case of assistance in respect of expenses incurred, he is satisfied that the expenses are such as ought properly to be regarded as being of a capital nature.

(2) Assistance given under the foregoing subsection in respect of expenses incurred in the execution of any works may include a sum in respect of costs in, or in connection with, the preparation of plans and specifications of the works, reports with respect thereto and estimates of the expenses to be incurred for the purposes of the execution thereof and a sum in respect of the remuneration of any architect, engineer or other person employed in an advisory or supervisory capacity in connection with the execution of the works.

(3) No assistance shall be given under subsection (1) of this section for the repayment of any such part of the principal of a loan as falls due for repayment more than five years from the date on which the loan was made or for the payment of interest on a loan for any period beginning more than five years from that date.

(4) No assistance shall at any time be given under subsection (1) of this section by the Minister to a harbour authority in respect of expenses incurred by them in relation to a harbour or to enable them to repay the principal of, or to pay interest on, a loan unless at that time the harbour is neither a fishery harbour nor a marine work.



**12.—**(1) Subject to the provisions of this section, the Minister, with the approval of the Treasury and after consulting the Council, may, out of moneys provided by Parliament, give to a harbour authority assistance by way of grant—

Grants for execution of harbour works, &c.

- (a) in respect of expenses incurred by them such as are mentioned in paragraph (a) of section 11(1) of this Act;
- (b) to enable them to pay the whole or part of a sum due by way of payment of interest on a loan made to them by virtue of that paragraph.

(2) Subsection (2) of the last foregoing section shall apply to assistance given under this section in respect of such expenses as are mentioned in that subsection.

(3) No assistance shall be given under subsection (1) of this section for the payment of interest on a loan for any period beginning more than five years from the date on which the loan was made.

(4) No assistance shall at any time be given under subsection (1) of this section by the Minister to a harbour authority in respect of expenses incurred by them in relation to a harbour or to enable them to pay interest on a loan unless at that time the harbour is neither a fishery harbour nor a marine work.

**13.—**(1) The aggregate amount of loans and of grants together made under the two last foregoing sections by the Minister shall not exceed £50,000,000 or, if so provided by a resolution of the Commons House of Parliament, £100,000,000.

Maximum amount of loans and grants under sections 11 and 12, and cesser of certain other powers to give financial assistance.

(2) No advance shall be made after the passing of this Act under section 17(1) of the Ministry of Transport Act 1919 by the Minister for the construction, improvement or maintenance of a harbour, dock or pier, and no advance or loan shall be made—

- (a) under section 3 of the Harbours and Passing Tolls, &c. Act 1861 or section 9 of the Public Works Loans Act 1875 by the Public Works Loan Commissioners for carrying any shipping purpose into effect at a harbour which is not for the time being a fishery harbour or marine work;
- (b) under the said section 9 by those Commissioners for the purposes of a dock or pier elsewhere than at a harbour which is for the time being a fishery harbour or marine work or for the purposes of a harbour which is not for the time being a fishery harbour or marine work;

unless those Commissioners have agreed before the passing of this Act to make it.

*Harbour Revision and Empowerment Orders*

Ministers' powers, on application of harbour authorities, or others, to make orders for securing harbour efficiency, &c.

**14.**—(1) Subject to the provisions of this section and to the following provisions of this Act, there may, in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, be made by the appropriate Minister an order (in this Act referred to as a “harbour revision order”) for achieving all or any of the objects specified in Schedule 2 to this Act.

(2) Subject to the next following section, a harbour revision order shall not be made in relation to a harbour by the appropriate Minister—

- (a) except upon written application in that behalf made to him by the authority engaged in improving, maintaining or managing it or by a person appearing to him to have a substantial interest or body representative of persons appearing to him to have such an interest ; and
- (b) unless the appropriate Minister is satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea.

(3) A harbour revision order may include all such provisions as appear to the appropriate Minister to be requisite or expedient for rendering of full effect a provision of the order framed to achieve any of the said objects and any consequential or incidental provisions appearing to him to be requisite or expedient for the purposes of the order, including, but without prejudice to the generality of the foregoing words, penal provisions and provisions incorporating, with or without modifications, any provision of the Lands Clauses Acts or any other enactment and provisions for repealing or amending any statutory provision of local application affecting the harbour to which the order relates ; but no penal provision of a harbour revision order shall be so framed as to permit of a person's being punished otherwise than on his conviction or as to permit—

- (a) on his being summarily convicted, of the infliction on him of a penalty other than a fine or of the infliction on him of a fine exceeding £100 ;
- (b) on his being convicted on indictment, of the infliction on him of imprisonment (whether in addition to, or in substitution for, a fine) for a term exceeding six months.

(4) In the case of a harbour revision order that provides for the establishment of a body as the harbour authority for the harbour to which the order relates in lieu of the existing one, references in paragraphs 2 to 17 of Schedule 2 to this Act to the authority (except in the case of the reference in paragraph 3 the references, other than the second, in paragraph 5 and the second reference in paragraph 11) shall be construed as referring to the body established by the order as the harbour authority, and in the said excepted case shall be construed as referring to the existing one.

(5) Where a harbour revision order includes provision for the compulsory acquisition of land, there must, in the case of each parcel of land proposed to be acquired compulsorily, be annexed to the order a large-scale map on which the boundaries of that parcel are plainly delineated.

(6) A harbour revision order shall be subject to special parliamentary procedure.

(7) In this section and in Schedule 2 to this Act "the appropriate Minister", in the case of an order to be made in relation to a harbour not being a fishery harbour or a marine work means the Minister, in the case of an order to be made in relation to a fishery harbour means the Minister of Agriculture, Fisheries and Food, and in the case of an order to be made in relation to a marine work means the Secretary of State.

15.—(1) If, with respect to a harbour, the appropriate Minister is satisfied, on a representation made to him by the Council, that a harbour revision order ought to be made for the purpose of achieving, in relation to the harbour, either or both of the following objects, namely,—

(a) reconstituting the harbour authority by whom the harbour is being improved, maintained or managed or altering their constitution ; and

(b) regulating (in whole or to a less extent) the procedure of, or of any committee of, the authority and fixing the quorum at a meeting of, or of any committee of, the authority ;

Ministers' powers to make, of their own motion, orders for limited purposes for securing harbour efficiency, &c.

he may, if he is satisfied as mentioned in subsection (2)(b) of the last foregoing section, make the order despite the fact that no application to him for the making of it is forthcoming from the authority engaged in improving, maintaining or managing the harbour or from any such person or representative body as is mentioned in subsection (2)(a) of that section.

(2) In the case of a fishery harbour and of a marine work subsection (1) of this section shall have effect with the omission of the words "on a representation made to him by the Council".

(3) In this section “ the appropriate Minister ”, in relation to a harbour not being a fishery harbour or a marine work means the Minister, in relation to a fishery harbour means the Minister of Agriculture, Fisheries and Food, and in relation to a marine work means the Secretary of State.

Ministers' powers, on application of intending undertakers, or others, to make orders conferring powers for improvement, construction, &c., of harbours.

16.—(1) In a case where a person is desirous of securing the achievement of any of the following objects, namely,—

- (a) the improvement, maintenance or management of a harbour (whether natural or artificial) navigated by sea-going ships (not being a fishery harbour or a marine work) or of a port, haven, estuary, tidal or other river or inland waterway so navigated (not being a fishery harbour or a marine work) ;
- (b) the construction of an artificial harbour navigable by sea-going ships or an inland waterway so navigable, other than a harbour or waterway which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work ; and
- (c) the construction, improvement, maintenance or management of a dock elsewhere than at a fishery harbour or marine work or of a wharf elsewhere than at such a harbour or work ;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Minister for the making by him of an order conferring on the applicant, some other designated person or a body to be constituted for the purpose by the order (according as may be specified in the application) all such powers (including, in particular, power to acquire land compulsorily and to levy charges other than ship, passenger and goods dues) as are requisite for enabling that object to be achieved.

(2) In a case where a person is desirous of securing the achievement of either or both of the following objects, namely,—

- (a) the improvement, maintenance or management of a fishery harbour ; and
- (b) the construction, improvement, maintenance or management of a dock at a fishery harbour or of a wharf at such a harbour ;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Minister of Agriculture, Fisheries and Food for the making by him of such an order as aforesaid.

(3) In a case where a person is desirous of securing the achievement of any of the following objects, namely,—

- (a) the improvement, maintenance or management of a marine work, being a harbour (whether natural or artificial) navigated by sea-going ships or being a port, haven, estuary, tidal or other river or inland waterway so navigated ;
- (b) the construction of an artificial harbour navigable by sea-going ships which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work or an inland waterway so navigable which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work ; and
- (c) the construction, improvement, maintenance or management of a dock at a marine work or of a wharf at such a work ;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Secretary of State for the making by him of such an order as is mentioned in subsection (1) of this section.

(4) An order under this section is in this Act referred to as a “harbour empowerment order”.

(5) Neither the Minister, nor the Minister of Agriculture, Fisheries and Food nor the Secretary of State shall make a harbour empowerment order unless he is satisfied that the making thereof is desirable in the interests of facilitating the efficient and economic transport of goods or passengers by sea.

(6) A harbour empowerment order may include all such provisions as appear to the Minister of the Crown by whom it is made to be requisite or expedient for giving full effect to any provision included in the order by virtue of the foregoing provisions of this section and any consequential or incidental provisions appearing to him to be requisite or expedient for the purposes of, or in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions and provisions incorporating, with or without modifications, any provision of the Lands Clauses Acts or any other enactment ; but no penal provision of a harbour empowerment order shall be so framed as to permit of a person's being punished otherwise than on his conviction or as to permit—

- (a) on his being summarily convicted, of the infliction on him of a penalty other than a fine or of the infliction on him of a fine exceeding £100 ;

- (b) on his being convicted on indictment, of the infliction on him of imprisonment (whether in addition to or in substitution for a fine) for a term exceeding six months.

(7) Where a harbour empowerment order includes provision for the compulsory acquisition of land, there must, in the case of each parcel of land proposed to be acquired compulsorily, be annexed to the order a large-scale map on which the boundaries of that parcel are plainly delineated.

(8) A harbour empowerment order shall be subject to special parliamentary procedure.

Procedure for making harbour revision and empowerment orders, and substitution thereof, in general, for provisional orders.

**17.**—(1) The provisions of Schedule 3 to this Act shall have effect as follows with respect to the procedure for making harbour revision and empowerment orders:—

- (a) Part I of that Schedule shall have effect with respect to the procedure for making harbour revision orders upon application therefor to the Minister ;
- (b) Part II of that Schedule shall have effect with respect to the procedure for the making of harbour revision orders by the Minister of his own motion ;
- (c) Part I of that Schedule shall, subject to the modifications specified in Part III thereof, have effect with respect to the procedure for making harbour revision orders upon application therefor to the Minister of Agriculture, Fisheries and Food ;
- (d) Part I of that Schedule shall, subject to the modifications specified in Part IV thereof, have effect with respect to the procedure for making harbour revision orders upon application therefor to the Secretary of State ;
- (e) Part II of that Schedule shall, subject to the modifications specified in Part V thereof, have effect with respect to the procedure for the making of harbour revision orders by the Minister of Agriculture, Fisheries and Food of his own motion ;
- (f) Part II of that Schedule shall, subject to the modifications specified in Part VI thereof, have effect with respect to the procedure for the making of harbour revision orders by the Secretary of State of his own motion ;
- (g) Part I of that Schedule shall, subject to the modifications specified in Part VII thereof, have effect with respect to the procedure for the making of harbour empowerment orders by the Minister ;

(h) Part I of that Schedule shall, subject to the modifications specified in Part VIII thereof, have effect with respect to the procedure for the making of harbour empowerment orders by the Minister of Agriculture, Fisheries and Food ;

(i) Part I of that Schedule shall, subject to the modifications specified in Part IX thereof, have effect with respect to the procedure for the making of harbour empowerment orders by the Secretary of State.

(2) Neither the Minister nor the Minister of Agriculture, Fisheries and Food nor the Secretary of State shall make a harbour revision or empowerment order including provision authorising the compulsory acquisition of land unless it also includes provision for the payment of compensation in respect of the acquisition.

(3) No application under the General Pier and Harbour Act 1861 for a provisional order, being an application made after the end of September 1964, shall be entertained by the Minister or the Minister of Agriculture, Fisheries and Food in a case where he is satisfied that the objects to be achieved by the order could be achieved by a harbour revision or empowerment order or by a harbour revision and a harbour empowerment order combined.

(4) No application for a harbour revision or empowerment order shall be entertained by the Secretary of State where he is satisfied that the objects to be achieved by the order could be achieved by an application for a provisional order under the General Pier and Harbour Act 1861 to which Part II of the Harbours, Piers and Ferries (Scotland) Act 1937 applies.

#### *Harbour Reorganisation Schemes*

18.—(1) With a view to securing the efficient and economical development of a group of harbours each of which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, a scheme (in this Act referred to as a “harbour reorganisation scheme”) with respect to the group, providing for all or any of the matters mentioned in subsection (2) below, may be submitted to the Minister by the Council or by all or any of the authorities who between them are engaged, in the exercise and performance of statutory powers and duties, in improving, maintaining or managing the several harbours comprised in the group (hereafter in this section referred to as “the relevant authorities”).

(2) The said matters are the following, that is to say,—

(a) transferring powers or duties conferred or imposed by a statutory provision of local application on any of the

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relevant authorities for the purpose of, or in connection with, the improvement, maintenance or management of a harbour comprised in the group to another of those authorities or to a body constituted by the scheme ;

- (b) transferring interests of any of the relevant authorities in fixed or movable property used by them for the purposes of the harbour in question and rights or liabilities enjoyed or incurred by them for those purposes to another of those authorities or to such a body as aforesaid ;
- (c) transferring powers or duties conferred or imposed by a statutory provision of local application on any of the relevant authorities (other than powers or duties falling within paragraph (a) above), or powers or duties so conferred or imposed in relation to a harbour comprised in the group on a local lighthouse authority who are not one of the relevant authorities, to another person (whether one of those authorities or not) or to such a body as aforesaid ;
- (d) transferring interests of any of the relevant authorities or of a local lighthouse authority in fixed or movable property used by them for the purposes of, or in connection with, the exercise or performance of any powers or duties transferred by a provision of the scheme having effect by virtue of paragraph (c) above to the person to whom the powers or duties are transferred, and transferring to that person rights or liabilities enjoyed or incurred by the authority from whom the powers or duties are transferred in, or in connection with, the exercise or performance of the transferred powers or duties ;
- (e) transferring to any of the relevant authorities or to a body constituted by the scheme interests of a person in fixed or movable property used by him for carrying out harbour operations at a harbour that is comprised in the group or is adjacent to any of the harbours so comprised, not being a person engaged in improving, maintaining or managing that harbour in the exercise and performance of statutory powers and duties ;
- (f) transferring to the service of a person or body to whom any powers, duties, interests, rights or liabilities are transferred by a provision of the scheme having effect by virtue of any of the foregoing paragraphs officers or servants employed by the person from whom the powers, duties, interests, rights or liabilities are transferred ;



- (g) dissolving any body of constables maintained by any of the relevant authorities, and transferring—
- (i) the members of that body to another such body or bodies (whether or not maintained by another or other of those authorities or by a body constituted by the scheme);
  - (ii) property, rights or liabilities vested for the purposes of the dissolved body in the authority by whom it was maintained to an authority by whom is or is to be maintained a body of constables to which any of the members of the dissolved body are transferred;
- (h) preserving (with or without adjustment) the rights, as respects pensions, gratuities or other like benefits, of persons transferred by the scheme and their spouses and dependents and of persons who are determined in accordance with the scheme to be such as would have been transferred thereby had they been serving when it comes into operation and their spouses and dependents;
- (i) making such provision as appears to the Minister necessary or expedient for rendering of full effect any provision of the scheme having effect by virtue of any of the foregoing paragraphs and such other consequential or incidental provision as appears to him necessary or expedient for any of the purposes of the scheme, including, but without prejudice to the generality of the foregoing words, provision for repealing or amending any statutory provision of local application affecting the group or any of the harbours comprised therein.

(3) Where a harbour reorganisation scheme provides for transferring interests in land, there must, in the case of each parcel of land interests in which are proposed to be transferred, be annexed to the scheme a large-scale map on which the boundaries of that parcel are plainly delineated.

(4) Schedule 4 to this Act shall have effect with respect to the submission and confirmation of harbour reorganisation schemes; and any such scheme, if confirmed, shall, as confirmed, be subject to special parliamentary procedure.

(5) The Minister shall not confirm a harbour reorganisation scheme containing such provision as is authorised by subsection (2)(e) above unless it also includes provision for the payment of compensation in respect of the transfer of the interests in question.

(6) The Minister shall not confirm a harbour reorganisation scheme if any harbour comprised in the group to which the scheme relates is a fishery harbour or marine work.

(7) If at any time it appears to the Minister that any such provision of a harbour reorganisation scheme having effect by virtue of subsection (2)(h) above as adjusts the rights of a person operates or is likely to operate so as to put that person in a worse position than he would have been in had the provision not been included in the scheme, he may by order amend the scheme in such manner as appears to him to secure that that person is or will be in no such worse position.

*Compensation for Loss of Office, &c.*

Compensation for loss of office, &c., in consequence of orders and schemes under foregoing provisions.

19.—(1) The Minister shall by regulations make provision requiring such person or body, being a person or body subject to any of the provisions of a harbour reorganisation scheme, as may be determined by or under the regulations to pay, subject to such exceptions or conditions as may be prescribed by the regulations, compensation to, or in respect of, persons who are or, but for any national service of theirs would be, the holders of any such situation, place or employment as may be so prescribed and suffer loss of employment or loss or diminution of emoluments or pension rights in consequence of any of the provisions of the scheme.

(2) Where it is proposed to make a harbour revision order or a harbour empowerment order, the Minister of the Crown by whom the order is to be made shall consider whether any person, who is, or but for any national service of his would be, holder of any situation, place or employment with a person or body subject to any of the provisions of the order, might if the order were made, suffer any loss of employment or loss or diminution of emoluments or pension rights in consequence of any of the provisions of the order; and if it appears to that Minister that such a person who is or would be the holder of such a situation, place or employment might suffer any such loss or diminution in consequence as aforesaid and that, if he does, compensation should be paid in respect thereof, that Minister shall not make the order unless he is satisfied that it secures that there will be paid to or in respect of that person, if he suffers any such loss or diminution in consequence as aforesaid, compensation corresponding, as near as may be, to that payable by virtue of regulations made under subsection (1) of this section to or in respect of the holder in similar circumstances of a similar situation, place or employment, in respect of similar loss or diminution suffered in consequence of any of the provisions of a harbour reorganisation scheme.

(3) Different regulations may be made under subsection (1) of this section in relation to different classes of persons, and

any such regulations may be so framed as to have effect from a date earlier than that on which they are made, so however that so much of any regulations as provides that any provision thereof is to have effect from a date earlier than that on which they are made shall not place any person other than a harbour authority 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 on which they are made.

(4) Regulations made under subsection (1) of this section may include provision as to the manner in which, and the person to whom, any claim to compensation is to be made, and for the determination of all questions arising under the regulations.

(5) In this section "national service" means any such service in any of Her Majesty's forces or other employment (whether or not in the service of Her Majesty) as may be prescribed by regulations under subsection (1) of this section.

#### *Control of Movement of Ships in Harbours*

**20.**—(1) Subject to the provisions of this section, there may, in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties or in relation to two or more adjacent harbours each of which is being so improved, maintained or managed, be established by an order (in this Act referred to as a "control of movement order") made by the Minister a scheme for securing, so far as is practicable, the safe and uninterrupted movement of ships in the harbour or harbours and the approaches thereto.

Orders for establishing schemes for control of movement of ships in harbours.

(2) A control of movement order shall not be made in relation to a harbour or harbours or the approaches thereto by the Minister except upon written application in that behalf made to him by the harbour authority or authorities by whom the harbour or harbours in question is or are being improved, maintained or managed.

(3) A control of movement order may contain provision for all or any of the following matters, that is to say,—

- (a) constituting or specifying the body or bodies by whom the scheme established by the order is to be administered ;
- (b) designating, or providing for designating, areas, routes or channels within the harbour or harbours to which the said scheme relates and the approaches thereto which (subject to any directions to the contrary given under a provision of the order having effect by virtue of the next following paragraph) ships, or ships of a

particular class or description, are to use, or refrain from using, for movement or anchoring at all times, at specified times or in specified circumstances ;

- (c) empowering such person as may be specified in the order to give directions for securing that ships within the harbour or harbours to which the scheme relates or the approaches thereto move only at specified times or during specified periods and to or from specified places, through specified areas, along specified routes or through specified channels ;
- (d) empowering such person as may be specified in the order, in a case in which it appears to him expedient so to do by reason of restriction of visibility by the weather or by the presence of dust or smoke, to prohibit a ship from entering the harbour (or, as the case may be, both or one of the harbours) unless the ship is fitted with such equipment as may be so specified, being—
  - (i) radio navigational aids (as defined by section 36 of the Merchant Shipping (Safety Convention) Act 1949) of a kind conforming to requirements or standards laid down or recommended by or under any international convention to which the United Kingdom is a party or to standards that have been recommended by any international conference and to which Her Majesty's Government in the United Kingdom have signified their approval ; or
  - (ii) apparatus of such a kind as aforesaid for transmitting information from the ship or receiving information transmitted thereto ;
- (e) specifying (unless the said scheme is expressed by the order to have effect at all times) the times at which, the periods during which and the circumstances in which it is to be put into effect ;
- (f) specifying the kind of equipment by means of which the said scheme is to be put into effect, and prohibiting the use of equipment as a means of putting the said scheme into effect unless it is of a type approved by the Minister ;
- (g) specifying the place at which the equipment by means of which the said scheme is to be put into effect is to be installed, if it is to be installed on land, or, if it is to be installed in a ship or vehicle, the place at which the ship or vehicle is to be moored or stationed ;
- (h) prohibiting the use of equipment by means of which the said scheme is put into effect except by persons

possessing such qualifications as may be specified in the order ;

- (i) providing (subject to subsection (4) below) for the punishment—

(i) of persons who fail to comply with directions given under a provision of the order having effect by virtue of paragraph (c) above ; and

(ii) in the event of failures, in the case of ships, to comply with a provision of the order having effect by virtue of paragraph (b) above or of contraventions, in the case of ships, of prohibitions imposed under a provision of the order having effect by virtue of paragraph (d) above, of the masters of the ships ; by the infliction, upon their conviction, of such penalties as may be specified in the order ;

- (j) authorising—

(i) in a case where the said scheme relates to a single harbour, or to two or more harbours both, or all, of which are being improved, maintained or managed by one harbour authority, the authority by whom that harbour is, or those harbours are, being improved, maintained or managed ;

(ii) in a case where that scheme relates to two or more harbours both, or all, of which are not being improved, maintained or managed by one harbour authority, such of the harbour authorities who between them are engaged in improving, maintaining or managing the harbours as may be specified in the scheme ;

to acquire compulsorily any land described in the order which is required as a site for any equipment by means of which that scheme will fall to be put into effect ;

- (k) making such provision as appears to the Minister requisite or expedient for rendering of full effect a provision of the scheme having effect by virtue of the last foregoing paragraph and any consequential or incidental provisions appearing to him to be requisite or expedient for the purposes of the scheme.

(4) The provisions of a control of movement order having effect by virtue of subsection (3)(i) above shall not be so framed as to permit—

- (a) on summary conviction of a person of an offence consisting in a failure to comply with any such direction as is mentioned in sub-paragraph (i) thereof or on summary conviction of the master of a ship by reason of such a failure or contravention as is mentioned in sub-paragraph (ii) thereof, of the infliction on him of a

penalty other than a fine or of the infliction on him of a fine exceeding £100 ;

(b) on conviction on indictment of a person of such an offence or of the master of a ship by reason of such a failure or contravention,—

(i) of the infliction on him of imprisonment, except in a case where the offence was committed recklessly or wilfully or, as the case may be, the failure or contravention was reckless or wilful ; or

(ii) in the said excepted case, of the infliction on him of imprisonment (whether in addition to, or in substitution for, a fine) for a term exceeding six months.

(5) Where a control of movement order includes provision for the compulsory acquisition of land, there must, in the case of each parcel of land proposed to be acquired compulsorily, be annexed to the order a large-scale map on which the boundaries of that parcel are plainly delineated.

(6) Schedule 5 to this Act shall have effect with respect to the procedure for making control of movement orders.

(7) The power conferred by this section on the Minister to make a control of movement order shall include power by order to vary or revoke such an order upon an application's being made to him so to do by the harbour authority or authorities by whom the harbour or harbours to which the scheme established by the original order relates are being improved, maintained or managed ; and Schedule 5 to this Act shall, with requisite modifications, have effect with respect to the procedure for making an order by virtue of this subsection as it has effect with respect to the procedure for making a control of movement order.

(8) The Minister shall not make an order under this section including provision authorising the compulsory acquisition of land unless it also includes provision for the payment of compensation in respect of the acquisition.

(9) References in this section to the master of a ship shall—

(a) except in the case of a seaplane or hover vehicle, be construed as including a reference to any other person (except a pilot) having command or charge of the ship ;

(b) in the said excepted case, be construed as referring to the person having command or charge of the seaplane or vehicle.

Association of pilots with schemes established by control of movement orders.

21.—(1) Where part of the area with respect to which the scheme established by a control of movement order relates coincides with part of a pilotage district (hereafter in this subsection referred to as the “ district concerned ”) but no part of that area coincides with part of another such district, the order shall be so framed as to secure (if it be practicable so to do)

that there shall be included amongst the members of the body by whom that scheme is to be administered (or, if it is to be administered by more bodies than one, amongst the members of each of them) a person nominated by the pilotage authority for the district concerned ; and where two or more parts of such an area as aforesaid severally coincide with parts of different pilotage districts, the order shall be so framed as to secure (if it be practicable so to do) that there shall be included as aforesaid a person nominated by the pilotage authority for one or other of those districts.

(2) For the purposes of the foregoing subsection, where a control of movement order relates to two or more harbours, the several areas with respect to which the scheme established by the order relates shall be treated as being a single area.

22.—(1) A harbour authority engaged in improving, maintaining or managing a harbour to which a scheme established by a control of movement order relates may make byelaws (subject to confirmation by the Minister) for securing that the putting into effect of the scheme is not prevented or impeded.

Byelaws for preventing interference with operation of schemes established by control of movement orders.

(2) Byelaws made by virtue of the foregoing subsection may include provision for the punishment of a person who contravenes, or fails to comply with, any of them, by the infliction, upon his being summarily convicted of an offence consisting in the contravention or failure, of a fine not exceeding £20.

(3) Sections 250(2) to (7) and 252 of the Local Government Act 1933 (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made under subsection (1) of this section by a harbour authority as if they were a local authority and their secretary or clerk were the clerk to a local authority.

(4) No power to make byelaws vested, by a statutory provision other than subsection (1) of this section, in a harbour authority engaged as therein mentioned shall be exercisable for the purpose so mentioned.

(5) In the application of this section to Scotland, for the references to subsections (2) to (7) of section 250 and to section 252 of the Local Government Act 1933 there shall be substituted respectively references to section 301(3), (4), (5), (7) and (11) to (13) and to section 303 (except paragraph (d) thereof) of the Local Government (Scotland) Act 1947.

23.—(1) A person authorised by the Minister for the purposes of this section, on producing if so required some duly authenticated document showing that he is so authorised,—

Powers of inspection, &c., in connection with schemes established by control of movement orders

(a) may at all reasonable times enter any premises or vehicle in which, or any ship or aircraft on board of which, equipment by means of which a scheme established by

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a control of movement order is, or will fall to be, put into effect is installed or is in course of installation, and inspect and test that equipment ;

- (b) may, in the case of a ship which is in, or is seeking to enter, a harbour in relation to which a control of movement order is in force or of a ship that he believes to have entered or sought to enter a harbour at a time at which such an order was in force in relation to the harbour, go on board of the ship and inspect it for the purpose of determining whether it is fitted with such equipment as is specified in such provision of the order as has effect by virtue of paragraph (d) of subsection (3) of section 20 of this Act or, as the case may be, was fitted with such equipment as, at that time, was so specified, and may inspect and test any equipment with which the ship is fitted, being equipment appearing to him to be of a kind then or at a previous time specified in such provision of such an order as has or, as the case may be, had effect by virtue of that paragraph,

but so that, in exercise of powers conferred by paragraph (b) above in the case of a ship, he does not unnecessarily detain or delay it.

(2) The Minister may by regulations require that, subject to any exceptions for which provision may be made by the regulations, there shall, in respect of an inspection or test carried out in exercise of powers conferred by the foregoing subsection, be payable to him by such person as may be specified in the regulations a fee of such amount as may be so specified ; and fees of different amounts may be so specified in relation to inspections or tests carried out in different circumstances.

(3) A person who obstructs a person acting in exercise of powers conferred by subsection (1) of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50.

(4) Any sums received under this section by the Minister shall be paid into the Exchequer.

**24. In any proceedings for an offence consisting—**

- (a) in a failure to comply with a direction given under a provision of a control of movement order having effect by virtue of paragraph (c) of subsection (3) of section 20 of this Act ; or
- (b) in a failure, in the case of a ship, to comply with a provision of such an order having effect by virtue of

Defence available to persons charged with offences under control of movement orders.



paragraph (b) of that subsection or a contravention, in the case of a ship, of a prohibition imposed under a provision of such an order having effect by virtue of paragraph (d) of that subsection ;

it shall be a defence for the person charged to prove that he had reasonable ground for supposing that compliance with the direction, provision or prohibition in question, would be likely to imperil the ship or to prove that in the circumstances compliance with the direction, provision or prohibition in question was impracticable.

**25.—(1)** Section 2 of the Merchant Shipping (Liability of Ship-owners and others) Act 1900 (which limits the liability of the owners of a dock or canal or of a harbour or conservancy authority as defined by the Merchant Shipping Act 1894 where, without their actual fault or privity, any loss or damage is caused to any vessel or to anything on board a vessel to damages up to an aggregate amount not exceeding one thousand gold francs for each ton of the tonnage of the largest registered British ship which, at the time of the loss or damage occurring, is, or within the period of five years previous thereto has been, within the area over which the dock or canal owner, or harbour or conservancy authority, performs any duty or exercises any power) shall apply for the purpose of limiting the liability of a body by whom a scheme established by a control of movement order is administered as it applies for the purpose of limiting the liability of such owners of a dock or canal or such a harbour or conservancy authority, with the following modifications, that is to say,—

Limitation of liability of bodies administering schemes established by control of movement orders.

- (a) for any reference (except in subsection (5)) to any such owner or authority, there shall be substituted a reference to the body ; and
- (b) for any reference to the area over which such owner or authority performs any duty or exercises any power there shall be substituted a reference to the harbour to which the scheme relates, or where the scheme relates to more than one harbour, to any of the harbours to which the scheme relates.

(2) A body by whom a scheme established by a control of movement order is administered, whether alone or jointly with another body, shall not be entitled to any exclusion or limitation of liability for loss, damage or injury arising out of the putting of the scheme into effect other than such exclusion or limitation as they are entitled to by virtue of the foregoing subsection.

*Harbour Charges*

Repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them.

26.—(1) Subject to the following provisions of this Act, any statutory provision made with respect to a particular harbour authority shall cease to have effect in so far as (otherwise than by way of expressly providing for freedom from dues or in any other manner prohibiting the levying of a due) it limits the discretion of the authority as to the ship, passenger and goods dues chargeable by them at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing (whether by specifying, or providing for specifying, the dues to be levied, or fixing or providing for fixing, dues, or otherwise).

(2) Subject to the following provisions of this Act and to any such statutory provision made with respect to them in particular as expressly provides for freedom from dues or in any other manner prohibits the levying of a due, a harbour authority shall have power to demand, take and recover such ship, passenger and goods dues as they think fit at such a harbour as aforesaid.

(3) Any such provision of the Harbours, Docks and Piers Clauses Act 1847 as incorporated in a statutory provision made with respect to a harbour authority as refers to rates shall, with any necessary modifications, apply to charges imposed by virtue of this section by that authority as if they were rates payable under a statutory provision made with respect to them, and any such enactment of a statutory provision made with respect to a harbour authority as refers (in whatever terms) to charges payable to them under a statutory provision made with respect to them or to charges so payable of a specified class shall (in so far as it does not cease to have effect by virtue of subsection (1) of this section) apply with any necessary modifications to charges imposed by that authority by virtue of this section or, as the case may be, to charges so imposed of that class as if they were charges so payable or, as the case may be, charges so payable of that class.

(4) Any ship, passenger and goods dues in force immediately before this section comes into operation which are exigible by a harbour authority at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, being dues imposed or deemed to have been imposed by or by virtue of a statutory provision made with respect to the authority, shall be deemed to have been imposed by virtue of this section.

(5) In this section “harbour authority” does not include—

(a) any of the Boards ;

- (b) a person carrying on an inland waterway undertaking to which provisions of section 43 of the Transport Act 1962 apply by virtue of section 52(2) of that Act ;
- (c) a person carrying on an undertaking all or any of the charges of which are, under the statutory provisions relating to the undertaking, subject to revision by the Minister and some other Minister acting together ;

and " statutory provision " includes an order made under Regulation 56 of the Defence (General) Regulations 1939 or under an order confirmed by the Minister of Agriculture and Fisheries or the Minister of Agriculture, Fisheries and Food in pursuance of section 2(3)(2) of the Fishery Harbours Act 1915.

27.—(1) In place of any limitation imposed, by a statutory provision made with respect to them in particular, on the discretion of a harbour authority as to charges (of any kind other than excepted charges) that may be made by them at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing (not being a limitation by way of expressly providing for freedom from charges or in any other manner prohibiting the making of a charge or by way of providing, by what form of words soever, that the charges shall be such as may be reasonable), there shall, by virtue of this subsection, be imposed the limitation that the charges shall be such as may be reasonable.

Certain charges of certain harbour authorities to be reasonable.

(2) For the purposes of the foregoing subsection the following shall be excepted charges, namely.—

- (a) ship, passenger and goods dues ;
- (b) charges ascribable to the running of a ferry service in or from a harbour ;
- (c) contributions which, by virtue of a provision included in an order under Part IV of the Salmon and Fresh-water Fisheries Act 1923 by virtue of section 38(1)(d) of that Act, fall to be assessed on several fisheries or the owners or occupiers thereof ;
- (d) duties on licences granted under section 61 of the said Act of 1923 to fish ;
- (e) charges in respect of licences under the Water Resources Act 1963 to abstract water or in respect of water authorised by such licences to be abstracted.

(3) In this section " harbour authority " has the same meaning as in the last foregoing section.

Repeal of provisions limiting discretion of nationalised transport bodies as to ship, passenger and merchandise dues chargeable at certain harbours owned or managed by them.

Repeal of provisions limiting discretion of local lighthouse authorities as to local light dues.

**28.** Schedule 9 to the Transport Act 1962 shall cease to have effect in so far as it limits the discretion of the Boards as to the ship, passenger and merchandise dues chargeable by them at the harbours specified in that Schedule.

**29.—(1)** Section 655(1) of the Merchant Shipping Act 1894 (which empowers Her Majesty in Council to fix the dues to be paid to a local lighthouse authority by whom a lighthouse, buoy or beacon is erected or placed, or is reconstructed, repaired or replaced, in respect of every ship which enters the port or harbour under the control of that authority or the estuary in which the light, buoy or beacon is situate, and which passes the lighthouse, buoy or beacon and derives benefit therefrom) shall cease to have effect, and any other statutory provision made with respect to a local lighthouse authority shall, if the authority are not a harbour authority, cease to have effect in so far as it limits the discretion of the authority as to the charges to be made by them.

(2) Subject to the following provisions of this Act, a local lighthouse authority who are not a harbour authority may demand, take and recover, in respect of every ship which enters or leaves a port, harbour or estuary wherein is situate a lighthouse, buoy or beacon wherever they have authority and which passes the lighthouse, buoy or beacon and derives benefit therefrom, such charges as they think fit.

(3) Any reference in sections 655 and 656 of the said Act of 1894 to local light dues shall be construed as referring to charges exigible by virtue of this section.

(4) Any dues fixed by virtue of the said section 655(1) or by or by virtue of any other statutory provision, being dues that are in force immediately before the coming into operation of this section and are to be paid to a local lighthouse authority who are not a harbour authority, shall, so far as they could be imposed by virtue of this section, be deemed to have been so imposed.

**30.—(1)** A list showing the ship, passenger and goods dues for the time being exigible—

- (a) by virtue of section 26 of this Act by a harbour authority at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing; or
- (b) by virtue of section 43 of the Transport Act 1962 by any of the Boards at a harbour specified in Schedule 9 to that Act;

shall be kept at the harbour office and shall be open there during reasonable hours for inspection by any person without charge,

Duty of harbour and local lighthouse authorities to make available for inspection, and to keep for sale, copies of lists of certain charges.

and copies of the list shall be kept for sale at that office at a price not exceeding one shilling for each copy.

(2) A list showing the charges for the time being exigible by virtue of section 29 of this Act by a local lighthouse authority who are not a harbour authority shall be kept at the authority's office and shall be open there during reasonable hours for inspection by any person without charge, and copies of the list shall be kept for sale there at a price not exceeding one shilling for each copy.

(3) No ship, passenger or goods due exigible as mentioned in paragraph (a) or (b) of subsection (1) above shall be levied by, as the case may be the harbour authority or Board concerned if, at the time at which it is exigible, the authority or Board are in default in compliance with the requirement of subsection (1) of this section with respect to the keeping of a list of dues at the harbour office or the due is not shown in the list kept there at that time in compliance with that requirement; and no charge exigible by virtue of section 29 of this Act by a local lighthouse authority shall be levied by the authority if, at the time at which it is exigible, either the authority are in default in compliance with the requirement of subsection (2) of this section with respect to the keeping of a list of such charges at the authority's office, or the charge is not shown in the list kept there at that time in compliance with that requirement.

(4) A copy of a list which, in pursuance of subsection (1) of this section, is for the time being kept by a harbour authority (other than any of the Boards) at the office of a harbour which is not a fishery harbour or marine work or by any of the Boards at a harbour specified in Schedule 9 to the Transport Act 1962, or, in pursuance of subsection (2) of this section, is for the time being kept by a local lighthouse authority at their office, shall be supplied by them to the Council without charge; a copy of a list which, in pursuance of the said subsection (1), is for the time being kept by a harbour authority at the office of a fishery harbour shall be supplied by them to the Minister of Agriculture, Fisheries and Food without charge; and a copy of a list which, in pursuance of the said subsection (1), is for the time being kept by a harbour authority at the office of a harbour which is a marine work shall be supplied by them to the Secretary of State without charge.

**31.**—(1) Subject to the following provisions of this Act, charges to which this section applies are ship, passenger and goods dues. Right of objection to ship, passenger and goods dues.

(2) Subject to subsections (10) to (12) below and to the provisions of the three next following sections, the provisions of subsections (3) to (6) below shall have effect where written

objection to a charge to which this section applies imposed by a harbour authority at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, is lodged with the Council by—

(a) a person appearing to them to have a substantial interest ; or

(b) a body representative of persons so appearing ;

and the objection is expressed to be made on all or any of the following grounds, namely,—

- (i) that the charge ought not to be imposed at all ;
- (ii) that the charge ought to be imposed at a rate lower than that at which it is imposed ;
- (iii) that, according to the circumstances of the case, ships, passengers or goods of a class specified in the objection ought to be excluded from the scope of the charge either generally or in circumstances so specified ;
- (iv) that, according to the circumstances of the case, the charge ought to be imposed, either generally or in circumstances specified in the objection, on ships, passengers or goods of a class so specified at a rate lower than that at which it is imposed on others.

(3) The Council shall, forthwith after the objection is lodged, send a copy thereof to the authority and shall give notice to the objector that, as a condition precedent to the taking by the Council of further steps in the matter of the objection, he must publish in specified newspapers a notice (which, if a form therefor is specified, must be in that form)—

(a) stating that he has lodged with them an objection to the charge (and specifying the ground or grounds on which it is expressed to be made) ; and

(b) stating that any such person or body as the following who desires to make to the Council representations in the matter, that is to say, a person having a substantial interest and a body representative of persons who have such an interest, should do so in writing within the time specified in the notice (which shall not be less than forty-two days from the publication or first publication thereof).

(4) Where the proper notice concerning the objection has been duly published, then so soon as practicable after the expiration of the time therein specified (but subject to the next following subsection), the Council shall, unless the objection has been withdrawn before the expiration of that time and no written representations in the matter have been made to them by any

such person or body as is mentioned in subsection (3)(b) above before the expiration of that time, proceed to consideration of the charge and any representations made and, unless they are satisfied that they can properly proceed to a decision in the matter without causing an inquiry to be held with respect to it, shall cause an inquiry to be so held.

(5) Where written representations are made as mentioned in subsection (4) above, the Council shall send copies thereof to the authority and (except where the objection has been withdrawn) to the objector, and shall not proceed to consideration of the charge until such period for consideration of, and comment upon, the representations by the authority and by the objector (if the objection has not been withdrawn) as the Council think reasonable has elapsed.

(6) The Council, after effect has been given to subsection (4) above, shall either—

- (a) approve the charge but set a limit (not being later than the expiration of twelve months from the date on which they approve it) to the period during which the approval is to be of effect, and give to the authority written notice that they have approved it, stating the limit set ; or
- (b) give to the authority such direction with respect to the charge as would meet objection thereto made on any of the grounds specified in subsection (2) above (whether that is or is not the ground, or is or is not included amongst the grounds, on which the objection whose lodging gives rise to the proceedings is expressed to be made).

(7) A direction given under the last foregoing subsection to an authority must be in writing and must specify a date for its coming into operation and the period from that date (which shall not exceed twelve months) during which it is to have effect, and the authority shall comply with it.

(8) If a harbour authority fail to comply with an obligation to which they are subject by virtue of the last foregoing subsection, they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £100.

(9) Forthwith after complying on any occasion with subsection (6) above, the Council shall publish, in the newspapers in which was published notice of the lodging of the objection the lodging whereof gave rise to the proceedings that resulted in the compliance on that occasion, the notice or direction given by them to the harbour authority concerned.

(10) Where, by virtue of this section, a charge imposed at a harbour is approved, subsections (3) to (6) above shall not have effect by virtue of the lodging of a further objection thereto during the period during which the approval is of effect; and where, by virtue of this section, a direction is given with respect to a charge so imposed, the said subsections shall not have effect by virtue of the lodging of a further objection to that charge during the period during which the direction has effect or of the lodging, during that period, of an objection to a charge that has come into existence by virtue of the direction.

(11) Where effect to subsections (3) to (5) above is in course of being given in consequence of the lodging with the Council of an objection to a charge and a further objection to that charge is lodged with the Council, subsections (3) to (6) above shall not have effect by virtue of the lodging of that further objection.

(12) If it appears to the Council that the White Fish Authority or the Herring Industry Board are, or may be, concerned with a charge, the Council shall not give effect to subsection (6) above in relation to that charge without having consulted the Authority or, as the case may be, the Board.

(13) In relation to charges to which this section applies imposed by a harbour authority at a fishery harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, the foregoing provisions of this section shall have effect with the substitution, for references to the Council, of references to the Minister of Agriculture, Fisheries and Food, and in relation to charges to which this section applies imposed by a harbour authority at a marine work which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, the foregoing provisions of this section shall have effect with the substitution, for references to the Council, of references to the Secretary of State.

Power of  
Minister to  
revise ship,  
passenger and  
goods dues at  
harbours other  
than fishery  
harbours or  
marine works.

**32.—**(1) Where, in the case of a harbour which, in the exercise and performance of statutory powers and duties, a harbour authority are engaged in improving, maintaining or managing (not being a fishery harbour or marine work), the Council are satisfied that, as regards the charges imposed at the harbour by that authority that constitute ship, passenger and goods dues, all or any of them ought to be revised, and are further satisfied that it is not possible to secure the revision thereof by agreement between them and the authority, they may submit to the Minister a scheme for revising those that they are satisfied ought to be revised (specifying precisely and in detail the manner



in which the revision is to be accomplished), accompanied by a statement of the reasons why they are satisfied that those charges ought to be revised.

(2) Where the Council submit under the foregoing subsection a scheme to the Minister, they shall forthwith send to the authority engaged in improving, maintaining or managing the harbour to which the scheme relates two copies of the scheme and two copies of the statement submitted to the Minister therewith, and of them one copy of each shall be kept at the harbour office until the expiration of the period specified in the notice published in pursuance of the next following subsection with reference to the scheme and, during that period, shall be open during reasonable hours for inspection by any person without charge.

(3) As soon as may be after submitting under subsection (1) of this section a scheme to the Minister, the Council shall publish in such newspapers as the Minister may require a notice—

- (a) stating that the scheme has been submitted to the Minister and specifying the harbour to which it relates ;
- (b) stating that a copy of the scheme and of the statement submitted therewith to the Minister may be seen at the harbour office at all reasonable hours ; and
- (c) stating that any such person or body as the following who desires to make to the Minister representations in the matter, that is to say, a person having a substantial interest and a body representative of persons who have such an interest, should do so in writing before the expiration of the period specified in the notice (which shall not be less than forty-two days from the date of the publication or first publication thereof).

(4) Where the proper notice has been duly published with reference to a scheme submitted to him under subsection (1) of this section, then, so soon as practicable after the expiration of the period specified in the notice (but subject to the next following subsection), the Minister shall proceed to consideration of the scheme, any representations made by the harbour authority concerned and any representations made by others and, unless he is satisfied that he can properly proceed to a decision in the matter without causing an inquiry to be held with respect to it, shall cause an inquiry to be so held.

(5) Where, in the case of a scheme submitted under subsection (1) of this section to the Minister, written representations are duly made to the Minister by any such person or body as is mentioned in subsection (3)(c) above, the Minister shall send

copies thereof to the Council and to the harbour authority concerned, and shall not proceed to consideration of the scheme until such period for consideration of, and comment upon, the representations by the Council and the authority as he thinks reasonable has elapsed.

(6) The Minister, after effect has been given, in the case of a scheme submitted to him under this section, to subsection (4) above, shall either by order confirm the scheme, with or without modifications, or reject it.

(7) An order under the last foregoing subsection shall set out in a schedule thereto the scheme thereby confirmed in the form in which it is confirmed and shall specify a date for the coming into operation of the scheme and the period from that date (which shall not exceed twelve months) which, for the purposes of the following provisions of this section, is to be the close period in relation to the scheme.

(8) Charges fixed by a scheme under this section in the case of a harbour shall—

(a) except in a case where the harbour is one specified in Schedule 9 to the Transport Act 1962, be deemed to have been imposed under section 26 of this Act ;

(b) in the said excepted case, be deemed to have been imposed under section 43 of the said Act of 1962 ;

and during the close period in relation to the scheme—

(i) the harbour authority engaged in improving, maintaining or managing the harbour shall not demand or take thereat in respect of a matter or thing in respect of which a charge is fixed by the scheme, a charge other than that so fixed ;

(ii) subsections (3) to (6) of the last foregoing section shall not, in the case of a charge so fixed, have effect by virtue of the lodging of an objection thereto.

(9) If a harbour authority fail to comply with an obligation to which they are subject by virtue of subsection (8)(i) above, they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £100.

(10) A harbour authority shall not be treated as having failed to comply with an obligation to which they are subject by virtue of subsection (7) of the last foregoing section if compliance therewith would have prevented compliance with an obligation to which they were subject by virtue of subsection (8)(i) above.

(11) Forthwith after complying on any occasion with subsection (6) above, the Minister shall publish, in the newspapers

in which was published notice of the submission to him of the scheme the submission whereof gave rise to the proceedings that resulted in the compliance on that occasion, notice stating what he has done under that subsection about the scheme.

33.—(1) Where, in the case of a fishery harbour or marine work which, in the exercise and performance of statutory powers and duties, a harbour authority are engaged in improving, maintaining or managing, the appropriate Minister is satisfied that, as regards the charges imposed at the harbour by that authority that constitute ship, passenger and goods dues, all or any of them ought to be revised, and is further satisfied that it is not possible to secure the revision thereof by agreement between him and the authority, the appropriate Minister may make proposals for revising those that he is satisfied ought to be revised and shall send to the authority two copies of the proposals together with two copies of a statement setting out the reasons why he is satisfied as aforesaid and, precisely and in detail, the manner in which the revision is to be accomplished, and of them one copy of each shall be kept at the harbour office until the expiration of the period specified in the notice published in pursuance of the next following subsection with reference to the proposals and during that period shall be open during reasonable hours for inspection by any person without charge.

Power of Minister of Agriculture, Fisheries and Food to revise ship, passenger and goods dues at fishery harbours and of Secretary of State to revise them at marine works.

(2) As soon as may be after sending under the foregoing subsection copies of proposals to a harbour authority, the appropriate Minister shall publish in such newspapers as he thinks proper a notice—

- (a) stating that he has made the proposals and specifying the harbour to which they relate ;
- (b) stating that a copy of the proposals and of the statement sent therewith to the authority may be seen at the harbour office at all reasonable hours ; and
- (c) stating that any such person or body as the following who desires to make to the appropriate Minister representations in the matter, that is to say, a person having a substantial interest and a body representative of persons who have such an interest, should do so in writing before the expiration of the period specified in the notice (which shall not be less than forty-two days from the date of the publication or first publication thereof).

(3) Where, in the case of proposals made under this section, written representations are duly made by any such person or body as is mentioned in subsection (2)(c) above, the appropriate Minister shall send a copy thereof to the harbour authority concerned.

(4) If, in the case of proposals made under this section, no representation is duly made by any such person or body as is mentioned in subsection (2)(c) above or is made by the harbour authority concerned, or if all representations so made are withdrawn, the appropriate Minister, after the expiration of the period specified in the notice published under that subsection with reference to the proposals, may by order give effect to the revision that is the subject of the proposals.

(5) If, in the case of proposals made under this section, representations are made as aforesaid and not withdrawn within such period as he thinks reasonable, the appropriate Minister shall proceed to consider them and any comments made by the harbour authority concerned upon such (if any) of them as are made by others and, unless he is satisfied that he can properly proceed to a decision in the matter without causing an inquiry to be held with respect to it, shall cause an inquiry to be so held.

(6) Where, in the case of proposals made under this section, effect has been given to the last foregoing subsection, the appropriate Minister may, unless he decides to proceed no further in the matter, by order give effect, with or without modifications, to the revision that is the subject of the proposals.

(7) An order under subsection (4) or (6) above shall specify a date for its coming into operation and the period from that date (but not exceeding twelve months) which for the purposes of the following provisions of this section is to be the close period in relation to the order.

(8) Charges fixed by an order under this section in the case of a harbour shall be deemed to have been imposed under section 26 of this Act, and during the close period in relation to the order—

(a) the harbour authority engaged in improving, maintaining or managing the harbour shall not demand or take thereat in respect of a matter or thing in respect of which a charge is fixed by the order, a charge other than that so fixed;

(b) subsections (3) to (6) of section 31 of this Act shall not, in the case of a charge so fixed, have effect by virtue of the lodging of an objection thereto.

(9) If a harbour authority fail to comply with an obligation to which they are subject by virtue of subsection (8)(a) above they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £100.

(10) A harbour authority shall not be treated as having failed to comply with an obligation to which they are subject by virtue

of section 31(7) of this Act if compliance therewith would have prevented compliance with an obligation to which they were subject by virtue of subsection (8)(a) above.

(11) Forthwith after the making of an order under subsection (4) or (6) above with reference to any proposals made under this section, or deciding to proceed no further in the matter of any proposals so made, the appropriate Minister shall publish, in the newspapers in which notice of the making of the proposals was published, notice stating, as the case may be, that he has made the order or that he has decided as aforesaid.

(12) In this section "the appropriate Minister" means, in relation to a fishery harbour, the Minister of Agriculture, Fisheries and Food and, in relation to a marine work, the Secretary of State.

**34.**—(1) Where, at the time when a scheme for revising charges imposed at a harbour by a harbour authority is submitted to the Minister under section 32 of this Act, effect to subsections (3) to (5) of section 31 of this Act is in course of being given in consequence of the lodging with the Council of an objection to a charge imposed at that harbour by that harbour authority, the Council shall, when they submit the scheme to the Minister, send therewith a copy of the objection and of any representations with respect thereto received by them and of any comments thereon so received, and a report of any inquiry completed with respect thereto, and, subject to the provisions of subsection (3) below, the operation in relation to the objection of subsections (3) to (6) of the said section 31 shall be suspended.

Provisions supplementary to sections 31 to 33.

(2) Where, after a scheme for revising charges imposed at a harbour by a harbour authority has been submitted to the Minister under section 32 of this Act but before the Minister has proceeded to a decision in the matter, there is lodged with the Council an objection to a charge imposed at that harbour by that harbour authority, being an objection which, apart from this subsection, would cause subsections (3) to (6) of section 31 of this Act to have effect, the Council shall forthwith send a copy of the objection to the Minister and the operation in relation to the said objection of the said subsections (3) to (6) shall be suspended.

(3) Where, at the time when an objection is sent to the Minister under subsection (1) above, an inquiry with respect to the objection is in course of being held, the inquiry shall, notwithstanding the suspension of the operation of subsections (3) to (6) of section 31 of this Act, be continued, and after its completion the Council shall send to the Minister a report thereof.

(4) Where, in relation to an objection, the operation of subsections (3) to (6) of section 31 of this Act is suspended in a case falling within subsection (1) of this section or, in a case falling within subsection (2) of this section where the Minister has not proceeded by the time he receives the objection to a decision on the scheme, the Minister—

- (a) may, if he is satisfied that the objection does not relate to a charge subject to revision by the scheme and that the scheme ought not to be modified as respects the charge to which the objection relates, direct that the suspension shall cease to have effect as from such date as may be specified in the direction ; and
- (b) if he does not give a direction under the foregoing paragraph, shall, before he proceeds to a decision on the scheme, consider the objection and, in the case of an objection falling within subsection (1) above, any representations and comments thereon that were sent with the scheme, and a report of any inquiry that was so sent, and—

- (i) subject to the next following subsection, if he is satisfied that the objection relates to a charge subject to revision by the scheme or that the scheme ought to be modified as respects the charge to which the objection relates, make in the scheme, if he decides to confirm it, such provision in relation to that charge as he thinks fit, or

- (ii) if he is not so satisfied or if he rejects the scheme, direct that the suspension shall cease to have effect as from such date as may be specified in the direction.

(5) The Minister shall not, under subsection (4)(b)(i) above, make in a scheme provision in relation to the charge to which an objection relates without causing an inquiry to be held with respect to the objection, unless—

- (a) in the case of an objection sent to him under subsection (1) above,—
  - (i) he has received a report of any inquiry held under section 31 of this Act in relation to the objection ; or
  - (ii) he is satisfied for any other reason that he can properly proceed to a decision in the matter without causing an inquiry to be held ;
- (b) in the case of an objection sent to him under subsection (2) above,—
  - (i) the objection was received by him after the expiration of the period specified in relation to the scheme under section 32(3)(c) of this Act ; or

(ii) he is satisfied that he can properly proceed to a decision in the matter without causing an inquiry to be held.

(6) Where the operation of subsections (3) to (6) of section 31 of this Act is suspended in a case falling within subsection (2) above and, by the time the Minister receives the objection, he has proceeded to a decision on the scheme, then—

- (a) if the Minister confirms the scheme, and the scheme fixes the charge to which the objection relates, the said subsections (3) to (6) shall have no further effect in relation to the objection ; and
- (b) if the Minister rejects the scheme, or if he confirms it but it does not fix the said charge, the suspension shall cease to have effect as from such date as the Minister may direct.

(7) Where the Minister makes provision in a scheme in pursuance of subsection (4)(b)(i) above, he shall give written notice to the objector that he has done so and shall include a statement of that fact in the notice published in pursuance of section 32(11) of this Act, and subsections (3) to (6) of section 31 of this Act shall have no further effect in relation to the objection in question.

(8) Where, after the appropriate Minister (within the meaning of section 33 of this Act) has sent, under subsection (1) of that section, to a harbour authority copies of proposals for revising charges imposed at a harbour by that harbour authority but before he has proceeded to a decision in the matter there is lodged with him an objection to a charge imposed at that harbour by that harbour authority, being an objection which, apart from this subsection, would cause subsections (3) to (6) of section 31 of this Act to have effect, the operation in relation to the said objection of the said subsections (3) to (6) shall be suspended, and subsections (4) to (7) above shall have effect as they have effect where the operation of the said subsections (3) to (6) is suspended in a case falling within subsection (2) above, but with the following modifications :—

- (a) for any reference in any of the said subsections (4) to (7) to the Minister there shall be substituted a reference to the said appropriate Minister ;
- (b) in subsection (4) above, for the words “ the scheme ”, in each place, except the last, where they occur, there shall be substituted the words “ the proposals ” ; for the words “ if he decides to confirm it ” there shall be substituted the words “ if he decides to give effect to the revision that is the subject of the proposals ” ; for the words “ if he rejects the scheme ” there shall be

substituted the words "if he decides to proceed no further in the matter";

- (c) in subsection (5) above, for the words "a scheme", there shall be substituted the word "proposals"; for the words "the scheme" there shall be substituted the words "the proposals"; and for the words "section 32(3)(c) of this Act" there shall be substituted the words "section 33(2)(c) of this Act";
- (d) in subsection (6) above, for the words "the scheme", in the first place where they occur, there shall be substituted the words "the proposals", for the words "confirms the scheme, and the scheme fixes the charge" there shall be substituted the words "gives effect to the revision that is the subject of the proposals, and the order by which such effect is given fixes the charge"; and for the words "rejects the scheme, or if he confirms it but it does not fix the said charge," there shall be substituted the words "decides to proceed no further in the matter, or gives effect to the revision that is the subject of the proposals, but the order by which such effect is given does not fix the charge";
- (e) in subsection (7) above, for the words "a scheme" there shall be substituted the word "proposals"; and for the words "section 32(11) of this Act" there shall be substituted the words "section 33(11) of this Act".

(9) Where, in relation to an objection, the operation of subsections (3) to (6) of section 31 of this Act comes into effect following a suspension having effect by virtue of the foregoing provisions of this section, then, in ascertaining the expiration of any period specified in the notice given under section 31(3)(b) of this Act in relation to the objection, there shall be disregarded any time falling within the period of the suspension.

Application of sections 31, 32 and 34 to local light dues.

**35.** Sections 31, 32 and 34 of this Act shall have effect for the purpose of securing to persons the like right of objection to charges exigible by virtue of section 29 of this Act, attended by the like consequences, as is secured to persons in relation to ship, passenger and goods dues and of securing that charges so exigible shall be subject to revision in like manner as such dues are subject to revision (and with the like consequences), subject to the following modifications:—

- (a) section 31(1) shall be omitted;
- (b) in section 31(2), for the words from "a charge" to "maintaining or managing" (both inclusive) there shall be substituted the words "a charge imposed under



- section 29 of this Act by a local lighthouse authority”, and the words “passengers or goods” (in both places where they occur) shall be omitted :
- (c) in section 31(6)(b), the reference to subsection (2) shall be construed as referring to that subsection as modified by the last foregoing paragraph ;
  - (d) in section 31(8) for the reference to a harbour authority there shall be substituted a reference to a local lighthouse authority ;
  - (e) in section 31(9), for the reference to the harbour authority concerned there shall be substituted a reference to the local lighthouse authority concerned ;
  - (f) in section 31(10), for the words “ a charge imposed at a harbour ” there shall be substituted the words “ a charge imposed by a local lighthouse authority who are not a harbour authority ” ;
  - (g) section 31(13) shall be omitted ;
  - (h) in section 32(1), for the words from the beginning to “ all or any of them ” (inclusive), there shall be substituted the words “ Where the Council are satisfied that all or any of the charges imposed under section 29 of this Act by a local lighthouse authority ” ;
  - (i) in section 32(2), for the references to the authority engaged in improving, maintaining or managing the harbour to which the scheme relates and to the harbour office there shall be substituted references respectively to the local lighthouse authority concerned and their office ;
  - (j) in section 32(3), for references to the harbour to which the scheme relates and to the harbour office, there shall be substituted references respectively to the local lighthouse authority to which the scheme relates and their office ;
  - (k) in section 32(4) and (5), for the references to the harbour authority concerned there shall be substituted references to the local lighthouse authority concerned ;
  - (l) for section 32(8) there shall be substituted the following subsection :—
    - “ (8) Charges fixed by a scheme under this section in the case of a local lighthouse authority who are not a harbour authority shall be deemed to have been imposed under section 29 of this Act, and during the close period in relation to the scheme—
      - (a) that authority shall not demand or take, in respect of a matter or thing in respect of which

a charge is fixed by the scheme, a charge other than that so fixed ;

(b) subsections (3) to (6) of the last foregoing section shall not, in the case of a charge so fixed, have effect by virtue of the lodging of an objection thereto ” ;

(m) in section 32(9) and (10), for the references to a harbour authority and to subsection (8)(i) there shall be substituted respectively references to a local lighthouse authority who are not a harbour authority and to subsection (8)(a).

(n) in section 34(1) and (2), for the words “ charges imposed at a harbour by a harbour authority ” there shall be substituted the words “ charges imposed under section 29 of this Act by a local lighthouse authority ”, and for the words “ a charge imposed at that harbour by that harbour authority ” there shall be substituted the words “ a charge so imposed by that authority ” ; and

(o) section 34(8) shall be omitted.

Sections 31 and 32 not to apply to charges at certain harbours.

**36.** Sections 31 and 32 of this Act shall not apply to charges—

(a) imposed by any of the Boards at a harbour not specified in Schedule 9 to the Transport Act 1962 ;

(b) imposed at a harbour owned or managed by a person carrying on an inland waterway undertaking to which provisions of section 43 of that Act apply by virtue of section 52(2) thereof ; or

(c) imposed at a harbour owned or managed by a person carrying on an undertaking all or any of the charges of which are, under the statutory provisions relating to the undertaking, subject to revision by the Minister and some other Minister acting together.

Special provisions with respect to certain aviation charges.

**37.** Section 26(2) of this Act and subsection (3) of section 43 of the Transport Act 1962 (as enacted in that section and as applied by section 52(2) of that Act) shall, so far as regards charges regulated by any such provision of an Order in Council under section 8(2) of the Civil Aviation Act 1949 as has effect by virtue of paragraph (o) (regulation of charges for use of licensed aerodromes and for services provided thereat) of that subsection, have effect subject to that provision ; and sections 27 and 31 to 33 of this Act shall not apply to any charges so regulated.

Repeal of certain enactments relating to harbour charges.

**38.—**(1) The following provisions shall cease to have effect, namely,—

(a) sections 30 (power to vary rates) and 47 (list of rates to be set up) of the Harbours, Docks and Piers Clauses

Act 1847 (both as originally enacted and as incorporated in any Act or order);

- (b) any statutory provision (other than the said section 47 or one in this Act) applying to a harbour authority in so far as (however it is expressed) it requires a list of charges imposed by the authority in the exercise of their powers as such to be published;
- (c) section 17 (rates to be equally levied) of the General Pier and Harbour Act 1861 Amendment Act and any other statutory provision applying to a harbour authority in so far as (however it is expressed) it prohibits the authority from discriminating in the matter of charges imposed as aforesaid against any person in favour of any other person.

(2) In the foregoing subsection "harbour authority" does not include any such person as is mentioned in section 26(5)(c) of this Act.

(3) The Shipping Dues Exemption Act 1867 (which precludes the according of certain exemptions from shipping dues and empowers the Minister to abolish dues from which an exemption exists) is hereby repealed.

**39.**—(1) In the definition of "inland waterway undertaking" in section 13(1) of the Transport Charges &c. (Miscellaneous Provisions) Act 1954, after the word "navigation" there shall be inserted the words "not navigated by sea-going ships" and after the word "water" there shall be added the words "not so navigated".

Amendments  
of Acts  
consequential  
on sections  
26 to 37.

(2) In section 12(7) of the Milford Haven Conservancy Act 1958, for the words "charges under section seven of the Transport Charges &c. (Miscellaneous Provisions) Act 1954" there shall be substituted the words "charges in respect of the aircraft".

(3) For paragraph 5 of Schedule 9 to the Transport Act 1962 there shall be substituted the following paragraph:—

" 5.—(1) The charges made by any of the Boards for the use of services or facilities provided in, or in connection with, a harbour specified in this Schedule (other than ship, passenger and goods dues, charges for the carriage of goods or passengers on any railway, charges for the use of a railway or charges in respect of railway wagons) shall be such as may be reasonable.

(2) In this paragraph the expression "ship, passenger and goods dues" has the meaning assigned to it by section 57(1) of the Harbours Act 1964";

and in paragraph 6(2) of that Schedule for the words "for which the charges are regulated by" there shall be substituted the words "specified in".

(4) An order under section 21(8) of the Sea Fish Industry Act 1951 declaring that a harbour has become or has ceased to be a fishery harbour may make such provision with respect to proceedings under the provisions of this Act relating to charges at the harbour which are uncompleted when the order is made and to the effect of any order or scheme made under those provisions with respect to any such charges as the Ministers making the order think requisite or expedient in view of the change of status of the harbour.

(5) In section 23 of the Harbours, Piers and Ferries (Scotland) Act 1937 the words " Part III of " shall be omitted.

*Conditions as to Use of harbour Services and Facilities  
provided by certain harbour Authorities*

Conditions as to use of harbour services and facilities provided by certain harbour authorities.

**40.**—(1) A harbour authority shall have power to make the use of services and facilities provided by them at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing subject to such terms and conditions as they think fit except with respect to charges as to which their discretion is limited by a statutory provision (whether by specifying, or providing for specifying, charges to be made, or fixing or providing for fixing charges, or otherwise).

(2) In this section " harbour authority " has the same meaning as in section 26 of this Act.

*Furnishing of Information*

Power of Council to obtain information and forecasts.

**41.**—(1) For the purpose of obtaining information and forecasts reasonably required by the Council for the exercise and performance of their functions under this Act, it shall be lawful for the Council,—

(a) by notice in writing served on a person engaged in improving, maintaining or managing a harbour, to require him to furnish to the Council such information or forecasts relating to harbour operations carried out, or provision for the carrying out of which is made, by him at the harbour as may be specified in the notice ; and

(b) by notice in writing served on a person carrying out at a harbour, harbour operations of a particular description, not being the person engaged in improving, maintaining or managing that harbour, to require him to furnish to the Council such information or forecasts relating to harbour operations of that description carried out by him at that harbour as may be so specified ;

and any such notice may require any such information or forecasts to be furnished in such manner and within such time as

may be specified in the notice, and either periodically or on one occasion or more.

(2) The Council shall comply with any written directions given to them by the Minister with respect to the exercise of the powers conferred on them by this section.

(3) A person who fails to satisfy an obligation to which he is subject by virtue of subsection (1) above shall, unless he proves that he had reasonable excuse for the failure, be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50, or in the case of a second or subsequent conviction to a fine not exceeding £200.

(4) No notice shall be served under subsection (1) above requiring a person to furnish information or forecasts concerning anything done or to be done at a fishery harbour or marine work; and a notice served under that subsection on a person requiring him to furnish any information or forecasts concerning anything done or to be done at a harbour shall, if the harbour becomes a fishery harbour or marine work, thereupon cease to have effect except in so far as it requires any information or forecast to be furnished before the date on which the harbour becomes a fishery harbour or marine work.

42.—(1) An annual statement of accounts which—

(a) relates to a statutory harbour undertaking (whether or not it relates also to another undertaking); and

(b) is, by virtue of a statutory provision made with respect to him, required to be prepared by the person by whom the undertaking is carried on;

shall, so far as it relates to the undertaking, be in such form, contain such particulars and be compiled in such manner as may be prescribed in relation to the undertaking by regulations made by the Minister.

Accounts, &c.,  
relating to  
harbour  
undertakings.

(2) The person by whom a statutory harbour undertaking is carried on shall be under an obligation to comply with such of the following requirements as he is not, by virtue of other statutory provision made with respect to him, under obligation to comply with, namely,—

(a) to prepare an annual statement of accounts relating to the undertaking;

(b) to send to the Minister a copy of each such annual statement;

(c) to send to the Minister a copy of the auditors' report upon each such annual statement.

(3) The person by whom a statutory harbour undertaking is carried on shall be under an obligation to send to the Council

a copy of each annual statement of accounts relating to the undertaking and a copy of the auditors' report thereon.

(4) This section shall not apply to the Boards.

(5) Subsection (1) of this section shall not be taken to impose an obligation as to the form, contents or manner of compilation of accounts relating to an undertaking the activities whereof consist wholly or mainly in the improvement, maintenance or management of a fishery harbour or marine work and subsection (2) of this section shall not be taken to impose an obligation on a person by whom such an undertaking is carried on so far as regards that undertaking.

(6) For the purposes of subsection (2) above a person shall not be taken not to be under an obligation, by virtue of other statutory provision made with respect to him, to prepare an annual statement of accounts or to send to the Minister a copy of, or of the auditors' report on, each such annual statement by reason only of the fact that that provision requires him to prepare an annual statement of accounts relating as well to other undertakings as to the undertaking in question or, as the case may be, to send to the Minister a copy of, or of the auditors' report on, each such annual statement; and the obligation imposed by that subsection—

- (a) so far as regards the requirement specified in paragraph (a), shall not be taken not to be satisfied by reason that an annual statement relates as well to other undertakings as to the undertaking in question,
- (b) so far as regards the requirements specified in paragraphs (b) and (c) respectively, shall not be taken not to be satisfied by reason of the sending to the Minister of a copy of such an annual statement as is mentioned in paragraph (a) above or, as the case may be, of the auditors' report upon such an annual statement.

(7) No regulation under subsection (1) of this section shall be taken to require the doing of anything in contravention of any requirement imposed by the Companies Act 1948 with respect to the form, contents or manner of compilation of accounts.

(8) Regulations under this section may be made so as to apply to all undertakings, to a class of undertakings or to a particular undertaking.

(9) The Minister shall consult the Council before making regulations under this section.

(10) In this section "statutory harbour undertaking" means an undertaking or part of an undertaking the activities whereof

consist wholly or mainly in the improvement, maintenance or management of a harbour in the exercise of powers vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order in the person by whom the undertaking is carried on (other than river works powers), in the performance of duties so vested in him (other than river works duties) or in the exercise and performance of powers so vested in him (other than river works powers) and duties so vested in him (other than river works duties).

### *Miscellaneous and General*

43.—(1) Any loans which the Minister makes under section 6 or 11 of this Act shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.

Provisions with respect to loans made under this Act by the Minister.

(2) The Treasury may issue out of the Consolidated Fund to the Minister such sums as are necessary to enable him to make loans under section 6 or 11 of this Act.

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

(4) Any sums received by the Minister under subsection (1) of this section shall be paid into the Exchequer and shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say,—

- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit, and
- (b) so much thereof as represents interest shall be applied towards meeting such part of the annual charges for the National Debt as represents interest.

(5) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to him under this section and of the sums to be paid into the Exchequer under subsection (4) of this section and of the disposal by him of those sums respectively, and send it to the Comptroller and Auditor General not later than the end of November following the year; and the Comptroller and

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Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

Limitation  
of right to  
challenge  
harbour  
revision  
orders, &c.,  
in legal  
proceedings.

**44.—(1)** A person who desires to question any such order as follows, namely, a harbour revision or empowerment order (not being one confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, or under section 2(4), as read with section 10, of that Act) or an order under section 20 of this Act, on the ground that a requirement of this Act was not complied with in relation to the order so far as regards the inclusion therein of a provision authorising the compulsory acquisition of a parcel of land may, within six weeks from the date on which the order becomes operative under the said Act of 1945 (or, in the case of an order under the said section 20, six weeks from the date on which it is made), make an application for the purpose to the High Court or the Court of Session, as the case may be.

(2) On an application under the foregoing subsection, the court—

- (a) may, by interim order, suspend the operation of the provision in question, either generally or so far as may be necessary for the protection of the interests of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that the interests of the applicant have been substantially prejudiced by failure to comply with a requirement of this Act so far as regards the inclusion in the order of that provision, may quash the order, or any provision thereof, either generally or so far as may be necessary as aforesaid.

(3) Except as provided by this section, a harbour revision or empowerment order or an order under section 20 of this Act shall not, either before or after it is made, be questioned in any legal proceedings whatever so far as regards the inclusion therein of a provision authorising the compulsory acquisition of a parcel of land.

(4) The foregoing provisions of this section shall apply to a harbour re-organisation scheme confirmed by the Minister as they apply to a harbour revision order, with the substitution, for references to the making of the order, to its being made and to a provision authorising the compulsory acquisition of a parcel of land, of references respectively to the confirmation of the scheme, to its being confirmed and to a provision transferring an interest in a parcel of land.



(5) In relation to proceedings in Scotland, subsection (2)(a) of this section shall have effect as if the words "by interim order" were omitted.

45. A person who—

- (a) for the purpose of obtaining the grant or variation of an authorisation under section 9 of this Act, or in purported compliance with a requirement imposed under section 4 or 41 of this Act, gives any information which he knows to be false in a material particular or makes a statement which he knows to be so false or recklessly gives any information which is so false or recklessly makes any statement which is so false ; or
- (b) with intent to deceive, produces for the purposes of section 10 of this Act a book, record or other document which is false in a material particular ;

Penalisation  
of furnishing  
false  
information.

shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £100, or to both ;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

46.—(1) No person shall disclose any information furnished to him in pursuance of a requirement imposed under section 4 or 41 of this Act or obtained by him in the exercise of rights under section 10 of this Act except—

Restriction of  
disclosure of  
information.

- (a) with the consent of the person by whom it was furnished or, as the case may be, carrying on the undertaking to which related the books, records or other documents from which it was obtained ; or
- (b) in the form of a summary of information so furnished by, or so obtained from documents relating to undertakings carried on by, a number of persons, being a summary so framed as not to enable particulars relating to the business of individual persons to be ascertained therefrom ; or
- (c) for the purpose of enabling the Council or the Minister to discharge their or his functions under this Act ; or
- (d) for the purposes of any legal proceedings (including arbitrations) or for the purposes of a report of any such proceedings as aforesaid ;

and no person shall disclose anything contained in a forecast furnished to him in pursuance of a requirement under the said section 41 except with the consent of the person by whom the forecast was furnished, in the form of a summary of forecasts

so furnished by a number of persons (being a summary framed as mentioned in subsection (1)(b) above), for such a purpose as is mentioned in subsection (1)(c) above or for such purposes as are mentioned in subsection (1)(d) above.

(2) If a person makes a disclosure in contravention of this section he shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £100, or to both ;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Provisions as  
to inquiries  
and hearings.

**47.—**(1) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (which provides for the holding of inquiries for the purposes of that Act)—

- (a) shall apply to an inquiry caused by the Minister or the Minister of Agriculture, Fisheries and Food to be held in England or Wales under any provision of this Act as they apply to an inquiry held under the said section 290, subject to the following modifications, namely,—
  - (i) for references to a department, there shall be substituted references to the Minister or, as the case may be, to the Minister of Agriculture, Fisheries and Food ;
  - (ii) subsection (4) shall have effect as if references therein to the payment of costs by a local authority not being a party to the inquiry had been omitted ; and
- (b) shall apply to an inquiry caused by the Council to be held in England or Wales under section 31 of this Act as they apply to an inquiry held under the said section 290, subject to the following modifications, namely,—
  - (i) for references to a department, there shall be substituted references to the Council ;
  - (ii) subsection (4) shall have effect as if references to the payment of costs by a local authority not being a party to the inquiry and to the recovery of an amount as a debt to the Crown had been omitted ;

and subsections (4) and (5) of the said section 290 shall, with the like modifications as those specified in paragraph (a)(i) and (ii) above, apply to any hearing caused by the Minister or the Minister of Agriculture, Fisheries and Food to take place in England or Wales in pursuance of any provision of this Act

(otherwise than by way of inquiry) as if the hearing were an inquiry caused by him to be held as aforesaid.

(2) Subsections (3) to (9) of section 355 of the Local Government (Scotland) Act 1947 (provisions as to local inquiries) shall, subject to the provisions of the next following subsection, apply to an inquiry caused by the Minister or the Secretary of State to be held in Scotland under any provision of this Act as they apply in relation to local inquiries under that section, and shall so apply to an inquiry caused by the Council to be held in Scotland under section 31 of this Act subject to the following modifications, namely—

- (a) for references to the Minister or to a government department there shall be substituted references to the Council ;
- (b) subsection (8) shall have effect as if references to the payment of expenses by a local authority not being a party to the inquiry and to the recovery of an amount as a debt to the Crown, had been omitted ;

and subsections (8) and (9) of the said section 355 shall, with the like modification in the case of subsection (8) as is specified in paragraph (b) above, apply to any hearing caused by the Minister or the Secretary of State to take place in Scotland in pursuance of any provision of this Act (otherwise than by way of inquiry) as if the hearing were an inquiry caused by him to be held as aforesaid.

(3) In relation to Scotland, any inquiry required by paragraph 4(3) or paragraph 8(3) of Schedule 3 or paragraph 3(3) of Schedule 4 to this Act shall, if the Minister or the Secretary of State so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936 ; and where any direction is so given—

- (a) it shall be deemed to have been given under section 2 as read with section 10 of the Statutory Orders (Special Procedure) Act 1945 ;
- (b) the publication and service of the proper notice required in connection with the making of the order or, as the case may be, the confirmation of the scheme which is the subject of the inquiry shall be deemed to be sufficient compliance with the requirements of the said section 2 with regard to the giving of notice by advertisement ;
- (c) the last foregoing subsection shall not apply to such an inquiry ; and
- (d) the said paragraphs shall have effect as if for any references therein to an inquiry and to the person who

held the inquiry there were substituted references to an inquiry by the Commissioners and to the Commissioners.

Service of documents.

**48.**—(1) Any document required or authorised by this Act to be given to or served on any person may be given or served either by delivering it to that person, or by leaving it at his proper address, or by post by means of the recorded delivery service.

(2) Any such document required or authorised to be given to or served on an authority or body being a corporation shall be duly given or served if it is given to or served on the secretary or clerk of the authority or body.

(3) For the purposes of this section and of section 26 of the Interpretation Act 1889 in its application to this section, the proper address of any person to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and in any other case be the last-known address of the person to be served, subject, however, to this qualification, that, where the person to or on whom the document is to be given or served has, in accordance with arrangements agreed, furnished an address for the giving or service of the document, being an address in the United Kingdom, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the name or the address of any owner, lessee or occupier of land to or on whom any such document as aforesaid is to be given or served cannot after reasonable inquiry be ascertained by the authority, body or person seeking to give or serve the document, the document may be given or served by addressing it to the person to or on whom it is to be given or served by the description of "owner", "lessee" or "occupier" of the land (describing it) to which the document relates, and by delivering it to some responsible person resident or appearing to be resident on the premises, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Provisions as to ecclesiastical property.

**49.**—(1) Where under this Act a document is required to be served on an owner of land, and the land is ecclesiastical property, a copy of the document shall be served on the Church Commissioners.

(2) Where the fee simple of any ecclesiastical property is in abeyance, it shall be treated for the purposes of an application to the Minister or the Minister of Agriculture, Fisheries and Food for any of the following orders in which provision for the compulsory acquisition of the property is proposed to be included,

namely, a harbour revision order, a harbour empowerment order and an order under section 20 of this Act, and of a compulsory acquisition of the property in pursuance of a provision for the compulsory acquisition thereof included in any such order, as being vested in the Church Commissioners, and (in the case of such an acquisition as aforesaid) any notice to treat shall be served accordingly.

(3) Where provision for the compulsory acquisition of land is included in such an order as aforesaid, the order must be so framed as to secure—

- (a) that if, at the time of the acquisition of any land in pursuance of that provision, the land is ecclesiastical property, any sum agreed upon or awarded for the acquisition of the fee simple of the land shall be paid to the Church Commissioners ; and
- (b) that any sum to be paid by way of compensation for damage sustained by reason of severance or injury affecting land that is ecclesiastical property (being severance or injury arising from the acquisition of land in pursuance of that provision) shall be so paid.

(4) Any sum which, in pursuance of a provision included in an order in compliance with the last foregoing subsection, is paid to the Church Commissioners with reference to any land shall, if the land is not consecrated, be applied by them for the purposes for which the proceeds of a sale by agreement of the fee simple of the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale, and if the land is consecrated, be applied by them in such manner as they may determine.

(5) In this section the expression “ecclesiastical property” means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject, or being or forming part of a burial ground so subject.

50. For the purposes of this Act, in reckoning any period which is therein, or in an order thereunder, expressed to be a period from a given date, that date shall be excluded. Reckoning of periods.

51.—(1) On the coming into operation of this section, for the definition of “marine work” in section 31(1) of the Harbours, Piers and Ferries (Scotland) Act 1937 there shall be substituted the following definition— Modification of Harbours, Piers and Ferries (Scotland) Act 1937.

“‘marine work’ means a marine work as defined in the Harbours Act 1964”.

(2) Where a harbour owing to the operation of the foregoing subsection has ceased to be a marine work the provisions of the two next following subsections shall have effect in relation to that harbour.

(3) Sections 16 and 18 of the Harbours, Piers and Ferries (Scotland) Act 1937 (deficiency in revenue and levying of rates to meet deficiency) shall continue to apply as they apply to a marine work ; and in relation to any works duly authorised for that harbour before the coming into operation of this section, Parts II, III and IV of the said Act of 1937 shall continue so to apply.

(4) Until the coming into operation of an order under this Act of corresponding effect to any provision of Parts II, III and IV of the said Act of 1937, that provision shall continue to apply.

Application  
of Act to  
Crown.

**52.**—(1) An interest in land in which there is a Crown or Duchy interest may, if the appropriate authority consent to the acquisition thereof, be acquired compulsorily by virtue of this Act, and a power (other than one to acquire land compulsorily) may, if the appropriate authority consent to its being so conferred, be conferred by a harbour revision or empowerment order in relation to land in which there is a Crown or Duchy interest.

(2) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department, and “the appropriate authority” has the same meaning as in section 199 of the Town and Country Planning Act 1962 ; and the provisions of subsection (6) of that section as to the determination of questions shall apply for the purposes of this section.

(3) In the application of this section to Scotland—

- (a) in subsection (1) for references to a Crown or Duchy interest there shall be substituted references to a Crown interest ;
- (b) subsection (2) shall not apply ; and
- (c) “Crown interest” means an interest 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, and the “appropriate authority”—
  - (i) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown

estate means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land; and

(ii) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.

(4) If any question arises as to what authority is the appropriate authority in relation to any land for the purposes of the last foregoing subsection, that question shall be referred to the Treasury, whose decision shall be final.

53. The reference in section 6 of the Telegraph Act 1878 (which empowers the Postmaster General to establish telegraphic lines on certain undertakings) to an Act of Parliament passed after 1st January 1878 shall be construed as including references to a harbour revision order and to a harbour empowerment order, and the reference in section 7 of that Act (which makes provision as to work done in the execution of certain undertakings which involves alteration in telegraphic lines) to an Act of Parliament shall be similarly construed. Saving for telegraphic lines.

54.—(1) Any power conferred by this Act on the Minister, the Minister of Agriculture, Fisheries and Food or the Secretary of State to make an order, or on the Minister to make regulations, shall be exercisable by statutory instrument. Orders and regulations.

(2) A statutory instrument containing an order under section 4, 9(1), 18(7), 20 or 60 of this Act or regulations under section 19, 23 or 42 thereof shall be subject to annulment in pursuance of a resolution of either House of Parliament.

55.—(1) Where an offence under this Act which has been 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, a 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 accordingly. Offences by corporations.

(2) In the foregoing subsection, the expression "director" in relation to a body corporate established by or under an enactment for the purpose of carrying on under national ownership an 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.

Modification  
of Statutory  
Orders  
(Special  
Procedure)  
Act 1945  
in its  
application  
to harbour  
revision  
orders, &c.

**56.** The Statutory Orders (Special Procedure) Act 1945 shall, in its application to an order or scheme to which it applies by virtue of section 14, 16 or 18 of this Act (not being an order or scheme relating to a harbour in Scotland) have effect as if, in section 4 of that Act (which relates to the proceedings upon an order or other instrument to which the Act applies after the reports of the Lord Chairman of Committees and the Chairman of Ways and Means relating to the instrument have, in pursuance of section 3 of the Act, been laid before Parliament), the proviso to subsection (1) were omitted and, for the proviso to subsection (2), there were substituted the following proviso:—

“ Provided that where any petition so certified has been certified as a petition of general objection, that petition shall not stand so referred, if during the resolution period, either House has resolved that the petition be not so referred ”.

Interpretation.

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

“ accounting period ” means the period beginning with the passing of this Act and ending with such day falling not more than fifteen months later as the Council may determine, or any subsequent period of not more than fifteen months, beginning with the end of a previous accounting period, which the Council may determine ;

“ the Boards ” means the British Transport Docks Board, the British Railways Board and the British Waterways Board ;

“ charges ” includes fares, rates, tolls and dues of every description ;

“ the Consolidated Fund ” means the Consolidated Fund of the United Kingdom ;

“ control of movement order ” has the meaning assigned to it by section 20(1) of this Act ;

“ the Council ” means the National Ports Council ;

“ district board ” has the same meaning as in the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 ;

“ dock ” means a dock used by sea-going ships ;

“ first local advertisement ” means, in relation to the publication of a notice as respects a harbour or group of harbours, the first publication of the notice in a local newspaper circulating in the locality where the harbour or group is situate ;

“ fish ” includes molluscs and crustaceans ;



- “fishery harbour” has the same meaning as in section 21 of the Sea Fish Industry Act 1951 ;
- “functions” includes powers and duties ;
- “Gazette and local advertisement” means, in relation to an application, proposed order, order or scheme relating to a harbour or group of harbours, publication in the Gazette and, in each of two successive weeks, in one or more local newspapers circulating in the locality where the harbour or group is situate ;
- “the Gazette” means—
- (a) in relation to publication of a notice as respects a harbour or group of harbours in England or Wales, the London Gazette ; and
  - (b) in relation to the publication of a notice as respects a harbour or group of harbours in Scotland, the Edinburgh Gazette ;
- “goods” includes fish, livestock and animals of all descriptions ;
- “harbour”, except where used with reference to a local lighthouse authority, means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships, and includes a dock, a wharf, and in Scotland a ferry or boatslip being a marine work, and, where used with reference to such an authority, has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894 ;
- “harbour authority” means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour ;
- “harbour empowerment order” has the meaning assigned to it by section 16(4) of this Act ;
- “harbour land” means land adjacent to a harbour and occupied wholly or mainly for the purposes of activities there carried on ;
- “harbour operations” means,—
- (a) the marking or lighting of a harbour or any part thereof ;
  - (b) the berthing or dry docking of a ship ;
  - (c) the warehousing, sorting, weighing or handling of goods on harbour land or at a wharf ;

(d) the movement of goods or passengers within the limits within which the person engaged in improving, maintaining or managing a harbour has jurisdiction or on harbour land ;

(e) in relation to a harbour (which expression for the purposes of this paragraph does not include a wharf)—

(i) the towing, or moving of a ship which is in or is about to enter or has recently left the harbour ;

(ii) the loading or unloading of goods, or embarking or disembarking of passengers, in or from a ship which is in the harbour or the approaches thereto ;

(iii) the lighterage or handling of goods in the harbour ; and

(f) in relation to a wharf,—

(i) the towing or moving of a ship to or from the wharf ;

(ii) the loading or unloading of goods, or the embarking or disembarking of passengers, at the wharf in or from a ship ;

“harbour revision order” has the meaning assigned to it by section 14(1) of this Act ;

“harbour reorganisation scheme” has the meaning assigned to it by section 18(1) of this Act ;

“improvement committee” has the meaning assigned to it by section 3(1) of the Land Drainage (Scotland) Act 1958 ;

“land” includes land covered by water ;

“large-scale” means, with reference to a map, a scale not less than that of twenty-five inches to the mile ;

“lighthouse” has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894 ;

“local lighthouse authority” means any person having by law or usage authority over local lighthouses, buoys or beacons ;

“marine work” means a harbour, ferry or boatslip in Scotland (other than a harbour, ferry or boatslip vested in any of the Boards or specified in Schedule 3 to the Harbours, Piers and Ferries (Scotland) Act 1937)—

(a) which, in the opinion of the Secretary of State and the Minister, is principally used or required for the fishing industry, or

(b) which, being situated in one of the following counties, namely, Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland, is, in the opinion of the Secretary of State and the Minister, principally used or required for the fishing or agricultural industries or the maintenance of communications between any place in those counties and any other place in Scotland ;

“ the Minister ” means the Minister of Transport ;

“ owner ”, in relation to any land, other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease or agreement the unexpired term of which exceeds three years, and in relation to any land in Scotland—

(a) unless the land is held on a long lease, means, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, the owner of the land ;

(b) if the land is held on a long lease, means the lessee under that lease ; and

(c) includes any other person who under the Lands Clauses Acts would be entitled to sell and convey or assign the land or the interest of lessee under such a long lease, as the case may be, to the promoters of an undertaking ;

and “ long lease ” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the Registration of Leases (Scotland) Act 1857 ;

“ plant or equipment ” includes vessels ;

“ port ”, where used with reference to a local lighthouse authority, includes place ;

“ provisional order ” means an order confirmed by an Act, by the Board of Agriculture and Fisheries, the Minister of Agriculture and Fisheries or the Minister of Agriculture, Fisheries and Food in pursuance of section 2(3)(2) of the Fishery Harbours Act 1915 or by the Secretary of State in pursuance of section 5(5)(ii) of the Harbours, Piers and Ferries (Scotland) Act 1937 ;

“ river purification authority ” has the meaning assigned to it by section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951 ;

“river works duties” means duties imposed by an Act to do things of the kinds authorised to be done in exercise of river works powers ;

“river works powers” means powers conferred by section 34 of the Land Drainage Act 1930 or corresponding provisions of a local Act or under section 67 or by section 69 of the Water Resources Act 1963 or by an improvement order under section 1 of the Land Drainage (Scotland) Act 1958 or by section 13 as read with section 41 of the Salmon Fisheries (Scotland) Act 1868 or by the Rivers (Prevention of Pollution) (Scotland) Act 1951 or by any local enactment relating to Scotland which confers powers corresponding to the powers conferred by an improvement order or which contains provisions corresponding to the provisions of the said Acts of 1868 and 1951 ;

“ship”, where used as a noun, includes every description of vessel used in navigation, seaplanes on the surface of the water and hover vehicles, that is to say, vehicles designed to be supported on a cushion of air ;

“ship, passenger and goods dues” means, in relation to a harbour, charges (other than any exigible by virtue of section 29 of this Act) of any of the following kinds, namely,—

(a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour ;

(b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them) ; and

(c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried) ;

“statutory duties” means, in relation to a harbour authority, duties vested in them under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order, other than river works duties ;

“statutory powers” means, in relation to a harbour authority, powers vested in them under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order, other than river works powers ;

“ statutory provision ” means a provision, whether of a general or a special nature, contained in, or in a document made or issued under, this Act or any Act (whether of a general or of a special nature) other than this Act ;

“ wharf ” means any wharf, quay, pier, jetty or other place at which sea-going ships can ship or unship goods or embark or disembark passengers.

(2) References in this Act to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties shall be construed as references to a harbour which is being improved, maintained or managed by such an authority in the exercise of statutory powers, in the performance of statutory duties or in the exercise and performance of statutory powers and statutory duties, and cognate references shall be similarly construed.

(3) Any reference in this Act to a buoy or beacon shall be construed as including a reference to any other mark or sign of the sea.

(4) Any reference in this Act (elsewhere than in the foregoing provisions of this section or in section 39) to ship, passenger and goods dues shall be construed as including a reference to charges payable by persons using a ferry which is a marine work.

(5) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any other Act.

**58.** For the purposes of this Act neither an internal drainage board (within the meaning of the Land Drainage Act 1930), a river board, a river authority, a river purification authority, a district board, an improvement committee, the Conservators of the River Thames nor the Lee Conservancy Catchment Board shall be taken to be a harbour authority if, apart from this provision, they would only be taken to be such by reason of the fact that river works powers or duties are vested in them ; and any reference in this Act to functions of a harbour authority relating to a harbour shall be construed as not including a reference to such powers or duties.

Drainage and river authorities not to be harbour authorities for purposes of this Act if not possessing exceptional powers.

**59.** Notwithstanding anything in the Government of Ireland Act 1920 the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of any provision of this Act.

Enlargement of powers of Parliament of Northern Ireland.

Power to  
amend Acts of  
local  
application.

**60.**—(1) The appropriate Minister may, subject to the provisions of this section, by order repeal or amend any provision relating to a harbour which is contained in a local Act passed before this Act or in a provisional order confirmed or made before this Act or any provision in the Milford Haven Conservancy Act 1958, where it appears to him that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.

(2) The appropriate Minister shall not make an order under this section repealing or amending any provision in a local Act the Bill for which was promoted, or in a provisional order which was applied for, by a harbour authority or by any body who became a harbour authority by virtue of the Act or order or whose functions under the Act or order have become exercisable by a harbour authority, except on the application of that authority.

(3) Before making an order under this section the appropriate Minister shall consult with any harbour authority who appear to him to be concerned, not being an authority by whom an application for the making of the order was made.

(4) An order under this section may contain such transitional, supplemental or incidental provisions as appear to the appropriate Minister to be expedient.

(5) In this section “the appropriate Minister”, except in the case of the repeal or amendment of a provision relating to a fishery harbour or marine work, means the Minister, in the case of the repeal or amendment of a provision relating to a fishery harbour means the Minister of Agriculture, Fisheries and Food, and in the case of the repeal or amendment of a provision relating to a marine work means the Secretary of State.

Expenses.

**61.** There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate-deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland.

Saving for  
private Bills  
and certain  
provisional  
orders.

**62.**—(1) For the purposes of the promotion of a Bill containing provision for achieving any object that might be achieved by a harbour revision or empowerment order, a harbour reorganisation scheme or an order under section 20 of this Act, it shall be deemed, notwithstanding the passing of this Act, that that object cannot be attained without new authority from Parliament.

(2) For the purposes of obtaining the issue of a provisional order under the Private Legislation Procedure (Scotland) Act

1936 containing any such provision as aforesaid, it shall be deemed, notwithstanding the passing of this Act, that the objects of that provision cannot be attained without an order confirmed by Parliament under the said Act of 1936.

**63.—(1)** This Act may be cited as the Harbours Act 1964.

Short title,  
extent, repeal  
and com-  
mencement.

(2) This Act (except section 59 and paragraph 7 of Schedule 1) shall not extend to Northern Ireland.

(3) The enactments specified in columns 1 and 2 of Schedule 6 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

(4) Sections 26 to 40 of this Act, and the last foregoing subsection, shall come into operation on such day as the Minister may by order appoint.

## SCHEDULES

Section 2.

## SCHEDULE 1

INCIDENTAL PROVISIONS WITH RESPECT TO THE NATIONAL  
PORTS COUNCIL

1. The Council shall be a body corporate with perpetual succession and a common seal.

2.—(1) Each member of the Council shall hold and vacate office in accordance with the terms of his appointment, but notwithstanding anything in those terms he may at any time resign his office by notice in writing.

(2) A person who has held office as a member of the Council shall be eligible for re-appointment.

3. The Council may act notwithstanding a vacancy amongst the members of the Council, and no act of the Council shall be deemed to be invalid by reason only of a defect in the appointment of any of the members.

4. In the case of an equality of votes at a meeting of the Council the chairman of the meeting shall have a second or casting vote.

5. The Council may appoint such committees consisting of members of the Council as the Council think fit and may delegate to a committee appointed under this paragraph any of their powers or duties.

6. Subject to the foregoing provisions of this Schedule, the Council may determine their own quorum and procedure and the quorum and procedure of committees appointed by them under the last foregoing paragraph.

7. Part II of Schedule 1 to the House of Commons (Disqualification) Act 1957 (which specifies certain commissions, tribunals and other bodies all members of which are disqualified under that Act) shall, in its application to the House of Commons of the United Kingdom, be amended by inserting, after the entry relating to the National Insurance Advisory Committee, the words "The National Ports Council".

8.—(1) The Council shall appoint a secretary and may appoint such other officers, and such servants, as the Council may determine.

(2) The Council shall—

(a) pay to their officers and servants such remuneration as they may determine, and

(b) as regards any officers or servants in whose case it may be determined by the Council with the approval of the Minister so to do, pay to or in respect of them such pensions, or provide and maintain for them such pension schemes (whether contributory or not) as may be so determined.



9. The application of the seal of the Council shall be authenticated by the signatures of the chairman of the Council or some other member thereof authorised by the Council to authenticate the application of the seal thereof and of the secretary or some person authorised by the Council to act in his stead in that behalf.

SCH. 1

## SCHEDULE 2

Section 14

OBJECTS FOR WHOSE ACHIEVEMENT HARBOUR REVISION ORDERS  
MAY BE MADE

1. Reconstituting the harbour authority by whom the harbour is being improved, maintained or managed or altering their constitution, or establishing, as the harbour authority, in lieu of the existing one, an existing body designated in that behalf or a body constituted for the purpose.

2. Regulating (in whole or to a less extent) the procedure of, or of any committee of, the authority and fixing the quorum at a meeting of, or of any committee of, the authority.

3. Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of—

- (a) improving, maintaining or managing the harbour ;
- (b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof ; or
- (c) regulating the carrying out by others in connection with the harbour of harbour operations or the carrying on by others of activities on harbour land.

4. Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above.

5. Transferring from the authority to another or to the authority from another all or any of the property vested in, as the case may be, the authority or that other and held for the purposes of the harbour and, so far as they relate to the transferred property, all or any of the duties and powers imposed and conferred on, as the case may be, the authority or that other by a statutory provision of local application affecting the harbour.

6. Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled.

## SCH. 2

7. Conferring on the authority power to acquire (whether by agreement or compulsorily) land described in the order, being land required by them for the purpose of its being used as the site of works that they have, or will by virtue of the order have, power to execute or for some other purpose of the harbour.

8. Authorising justices of the peace to appoint, on the nomination of the authority, persons to act as constables within any limits within which the authority have jurisdiction in relation to the harbour and within one mile outside any such limits, and to dismiss persons appointed by virtue of this paragraph, and conferring on persons so appointed, while acting within any such limits as aforesaid or within one mile outside any such limits, the powers which a constable has within his constablewick.

9. Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes.

10. Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.

11. Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than as aforesaid) levied by them at the harbour.

12. Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.

13. Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.

14. Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.

15. Securing the welfare of the authority's officers and servants and empowering the authority to provide, or secure the provision of, pensions, gratuities and other like benefits for or in respect of their officers and servants.

16. Extending the time within which anything is required or authorised by a statutory provision of local application affecting the harbour to be done in relation to the harbour by the authority or fixing a time within which anything authorised by the order to be so done must be done.

17. Any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour.

## SCHEDULE 3

Sections 17  
and 47.PROCEDURE FOR MAKING HARBOUR REVISION AND  
EMPOWERMENT ORDERS

## PART I

PROCEDURE FOR MAKING HARBOUR REVISION ORDERS ON APPLICATION TO THE MINISTER (AS SET OUT), TO THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD (SUBJECT TO PART III) OR TO THE SECRETARY OF STATE (SUBJECT TO PART IV), AND FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE MINISTER (SUBJECT TO PART VII), BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD (SUBJECT TO PART VIII) OR BY THE SECRETARY OF STATE (SUBJECT TO PART IX).

1. An application for a harbour revision order must be accompanied by not less than six copies of a draft of the proposed order and not less than six copies of any map or maps which, if the order is made in the form of the draft, will be required to be annexed to it.

2. Where an application for a harbour revision order is duly made to the Minister, he shall take it into consideration and shall give notice to the applicant of his decision either that he refuses the application or that it is (without prejudice, however, to subsequent refusal thereof) to be allowed to proceed.

3. Where an applicant for a harbour revision order is given notice under paragraph 2 above that his application is to be allowed to proceed, compliance with the requirement of sub-paragraph (a) below and with such of the requirements of sub-paragraphs (b) to (d) below as are applicable in the circumstances shall be a condition precedent to the taking by the Minister of further steps in the matter of the application, that is to say:—

- (a) there must be published by the applicant by Gazette and local advertisement and (if so required by the Minister) by such other means as the Minister may specify, a notice stating that application has been made to him for the making of the order, containing a concise summary of the proposed order and (if provision is proposed to be included therein authorising the execution of works or the compulsory acquisition of land) a general description of the nature of the works and the land on which their execution is proposed to be authorised or, as the case may be, of the land whose compulsory acquisition is proposed to be authorised, naming a place where a copy of the draft of the proposed order and (if the application for the order was accompanied by copies of a map or maps) a copy of that map or, as the case may be, copies of those maps may be seen at all reasonable hours and stating that any person who desires to make to the Minister objection to the application should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date (specifying it) of the first local advertisement ;

## SCH. 3

- (b) if provision is proposed to be included in the order authorising the compulsory acquisition of land, there must, in the case of each parcel of land whose compulsory acquisition is proposed to be authorised, be served by the applicant on every owner, lessee and occupier (except a tenant for a month or any period less than a month) of that parcel a notice stating that application has been made to the Minister for the making of the order with the inclusion therein of provision authorising the compulsory acquisition of that parcel (describing it), naming a place where a copy of the draft of the proposed order and a copy (on the like scale) of the map that accompanied the application therefor on which the boundaries of that parcel are delineated may be seen at all reasonable hours and stating that, if the person served desires to make to the Minister objection to the application so far as regards the inclusion in the order of provision authorising the compulsory acquisition of that parcel, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him ;
- (c) if the applicant is not the harbour authority, there must be served by the applicant on that authority a copy of the draft order together (if the application for the order was accompanied by copies of a map or maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to the Minister for the making of the order and that, if the authority desire to make to the Minister objection to the application, they should do so in writing (stating the grounds of their objection) before the expiration of the period of forty-two days from the date on which the notice is served on them ;
- (d) if the Minister so requires, there must, on any person specified by him, be contemporaneously served by the applicant the like documents as are required to be served in compliance with sub-paragraph (c) above where it applies.

4.—(1) Where the proper notices concerning an application for the making of a harbour revision order have been published under paragraph 3 above, and all persons required thereunder to be served in the case of the application with notices and other documents have been properly served therewith, and the time for the due making to the Minister of objection to the application has elapsed, the following provisions of this paragraph shall have effect.

(2) If no objections to the application were duly made to the Minister or if all objections to the application that were duly made to him have been withdrawn, the Minister, unless he decides that the application shall not proceed further, shall refer the draft order to the Council for consideration and report.

(3) If objections to the application were duly made to the Minister and have not been withdrawn, the Minister, unless he decides that the application shall not proceed further,—

- (a) in the case of an objection so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of a parcel of land, shall either cause an inquiry to be held with respect to the objection or afford to the objector an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose :
- (b) in the case of any other objection, shall cause an inquiry to be held with respect thereto, unless he is of opinion that it is frivolous or too trivial to warrant the holding of an inquiry with respect to it,

and, after effect has been given to the foregoing provisions of this sub-paragraph, shall, unless he decides that the application shall not proceed further, refer to the Council for consideration and report the draft order, the objections so made and not withdrawn and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector.

(4) Where an objector to the application avails himself of an opportunity of being heard afforded to him in pursuance of sub-paragraph (3)(a) above, the Minister shall afford to the applicant, and to any other persons to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.

(5) Where, in pursuance of the reference to them under sub-paragraph (2) or (3) above, the Council have reported to the Minister, he shall consider their report and the documents reported on, and, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.

(6) Where the Minister proposes to make the order applied for with modifications which appear to him substantially to affect the character of the order as applied for, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing the applicant and other persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modifications by the applicant and those other persons as he thinks reasonable has elapsed ; nor shall he, unless all persons interested consent, so make the order as to authorise the compulsory acquisition of any land that was not described in the draft submitted to him as being land subject to be acquired compulsorily.

(7) The Minister may disregard for the purposes of this paragraph an objection to the application unless it states the grounds on which it is made, and may disregard for those purposes such an objection

**Sec. 3** so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of land if he is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom compensation in respect of the acquisition will fall to be assessed in default of agreement.

5. So soon as may be after a harbour revision order has been made, the applicant for it—

- (a) shall publish by Gazette and local advertisement a notice stating that the order has been made and naming a place where a copy thereof (and, if a map or maps is or are annexed to the order, a copy of that map or, as the case may be, copies of those maps) may be inspected at all reasonable hours ;
- (b) shall, if not the harbour authority, serve on that authority a copy of the order, together (if a map or maps is or are annexed to it) with a copy of that map or, as the case may be, copies of those maps ;
- (c) shall serve a copy of the order, together (if a map or maps is or are annexed to it) with a copy of that map or, as the case may be, copies of those maps, on each person on whom, in compliance with a requirement imposed by virtue of paragraph 3(d) above, a copy of the draft of the order as submitted to the Minister was served.

6.—(1) Where application is made to the Minister for a harbour revision order which includes provision authorising the compulsory acquisition of land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the period of forty-two days from the date of the first local advertisement of notice that the application has been so made that Minister is satisfied—

- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
- (b) that an interest in any of the said land is held for those purposes,

the order shall not be so made as to authorise the acquisition of any land as to which that Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

- (i) that, without serious detriment to the carrying on of the undertaking, it can be acquired and not replaced, or
- (ii) that, if acquired, it can, without such detriment as aforesaid, be replaced by other land belonging to, or available for acquisition by, the undertakers,

and certifies accordingly.

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

“ statutory undertakers ” means any person authorised by an Act (whether public, general or local) or by any order or

scheme made under or confirmed by an Act to carry on any such undertaking as follows, that is to say,—

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(a) a railway, light railway, tramway or road transport undertaking ;

(b) an undertaking the activities whereof consist in—

(i) the maintenance of a canal ;

(ii) the conservation or improvement of a river or other inland navigation ;

(iii) the improvement, maintenance or management of a harbour (whether natural or artificial), port, haven or estuary, a dock (whether used by sea-going ships or not) or a wharf, quay, pier, jetty or other place at which ships (whether sea-going or not) can ship or unship goods or embark or disembark passengers ; or

(iv) the provision and maintenance of a lighthouse ;  
or

(c) an undertaking for the supply of electricity, gas, hydraulic power or water ;

“ the appropriate Minister ”—

(a) in relation to a railway, light railway, tramway, or road transport undertaking or an undertaking the activities whereof consist in—

(i) the maintenance of a canal ;

(ii) the conservation or improvement of a river or other inland navigation ;

(iii) the improvement, maintenance or management of any (except it be a fishery harbour or marine work) of the following, namely, a harbour (whether natural or artificial), port, haven or estuary, a dock (whether used by sea-going ships or not) and a wharf, quay, pier, jetty or other place at which ships (whether sea-going or not) can ship or unship goods or embark or disembark passengers ; or

(iv) the provision and maintenance of a lighthouse ;

means the Minister ;

(b) in relation to an undertaking for the supply of electricity, gas or hydraulic power (other than the undertakings of the boards established by the Electricity (Scotland) Acts 1943 to 1962), means the Minister of Power and, in relation to the undertakings of the said boards, means the Secretary of State ;

(c) in relation to an undertaking for the supply of water in England or Wales, means the Minister of Housing and Local Government and, in relation to any such undertaking in Scotland, means the Secretary of State ;

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(d) in relation to an undertaking the activities whereof consist in the improvement, maintenance or management of a fishery harbour, means the Minister of Agriculture, Fisheries and Food ;

(e) in relation to an undertaking the activities whereof consist in the improvement, maintenance or management of a marine work, means the Secretary of State.

## PART II

PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS BY THE MINISTER OF HIS OWN MOTION (AS SET OUT), BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD OF HIS OWN MOTION (SUBJECT TO PART V) OR BY THE SECRETARY OF STATE OF HIS OWN MOTION (SUBJECT TO PART VI).

7. Where the Minister proposes to make, of his own motion, a harbour revision order, he shall, before doing so—

- (a) publish by Gazette and local advertisement and by such (if any) other means as he thinks fit a notice stating that he proposes to make the order, containing a concise summary of the provisions to be embodied in it, naming a place where a copy of the draft of the proposed order may be seen at all reasonable hours and stating that any person who desires to make to him objection to the proposal should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date (specifying it) of the first local advertisement ;
- (b) serve on the harbour authority and on such (if any) other persons as he thinks ought to have notice of the proposal a copy of the draft of the proposed order together with a notice stating that he proposes to make the order and that if the person served desires to make to the Minister objection to the proposal he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him.

8.—(1) Where effect has been given to paragraph 7 above in the case of a proposal of the Minister to make, of his own motion, a harbour revision order, and the time for the due making to the Minister of objection to the proposal has elapsed, the following provisions of this paragraph shall have effect.

(2) If no objections to the proposal were duly made to the Minister, or if all objections to the proposal that were duly made to him have been withdrawn, the Minister, unless he decides to proceed no further in the matter, shall refer the draft of the order to the Council for consideration and report.



(3) If objections to the proposal that were duly made to the Minister have not been withdrawn, he shall, unless he decides to proceed no further in the matter, cause an inquiry to be held with respect to each objection so made and not withdrawn unless in his opinion it is frivolous or too trivial to warrant the holding of an inquiry with respect thereto and, after effect has been given to the foregoing provisions of this sub-paragraph, he shall, unless he decides to proceed no further in the matter, refer to the Council for consideration and report, the draft of the order, the objections so made and not withdrawn and the report of any person who held an inquiry.

(4) Where, in pursuance of the reference to them under sub-paragraph (2) or (3) above, the Council have reported to the Minister, he shall consider their report and the documents reported on, and, unless he decides not to make the order, may make it in the form of the draft or (subject to the restriction imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit.

(5) Where the Minister proposes to make the order subject to modifications which appear to him substantially to affect the character of the order as originally proposed to be made, he shall take such steps as appear to him to be reasonably practicable for informing persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modifications by those persons as he thinks reasonable has elapsed.

(6) The Minister may disregard for the purposes of this paragraph an objection to the proposal unless it states the grounds on which it is made.

9. So soon as may be after a harbour revision order has been made by the Minister of his own motion he shall publish by Gazette and local advertisement a notice stating that the order has been made and naming a place where a copy thereof may be inspected at all reasonable hours, and shall serve a copy of the order on every person on whom notice of the proposal to make the order was served in compliance with the requirement imposed by paragraph 7(b) above.

### PART III

#### MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR MAKING HARBOUR REVISION ORDERS UPON APPLICATION THEREFOR TO THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD

10.—(1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(c) of this Act, to have effect with respect to the procedure for making harbour revision orders on application therefor to the Minister of Agriculture, Fisheries and Food are those set out in the following provisions of this paragraph.

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(2) For references to the Minister (except in paragraph 6(2)), there shall be substituted references to the Minister of Agriculture, Fisheries and Food.

(3) In paragraph 4(2), for the words from "unless he decides" (inclusive) onwards, there shall be substituted the words "unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit".

(4) In paragraph 4(3), for the words from "shall, unless he decides" (inclusive) onwards, there shall be substituted the words "shall consider the objections so made and not withdrawn and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector and, having done so, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit".

(5) Paragraph 4(5) shall be omitted.

## PART IV

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH  
RESPECT TO PROCEDURE FOR MAKING HARBOUR REVISION ORDERS  
UPON APPLICATION THEREFOR TO THE SECRETARY OF STATE

11.—(1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(d) of this Act, to have effect with respect to the procedure for making harbour revision orders on application therefor to the Secretary of State are those set out in the following provisions of this paragraph.

(2) For references to the Minister (except in paragraph 6(2)), there shall be substituted references to the Secretary of State.

(3) In paragraph 4(2), for the words from "unless he decides" (inclusive) onwards, there shall be substituted the words "unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit".

(4) In paragraph 4(3), for the words from "shall, unless he decides" (inclusive) onwards, there shall be substituted the words "shall consider the objections so made and not withdrawn and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector and, having done so, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by

paragraph 6 below) in that form but subject to such modifications as he thinks fit”.

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(5) Paragraph 4(5) shall be omitted.

**PART V**

**MODIFICATIONS SUBJECT TO WHICH PART II IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD OF HIS OWN MOTION**

12.—(1) The modifications subject to which Part II of this Schedule is, by virtue of section 17(1)(e) of this Act, to have effect with respect to the procedure for the making of harbour revision orders by the Minister of Agriculture, Fisheries and Food of his own motion are those set out in the following provisions of this paragraph.

(2) For references to the Minister there shall be substituted references to the Minister of Agriculture, Fisheries and Food.

(3) In paragraph 8(2), for the words from “ unless he decides ” (inclusive) onwards, there shall be substituted the words “ unless he decides not to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ”.

(4) In paragraph 8(3), for the words from “ and, after effect has been given ” (inclusive) onwards, there shall be substituted the words “ and, if after considering the report of the person (or the reports of each of them if more than one) who held an inquiry, he then decides to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ”.

(5) Paragraph 8(4) shall be omitted.

**PART VI**

**MODIFICATIONS SUBJECT TO WHICH PART II IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS BY THE SECRETARY OF STATE OF HIS OWN MOTION**

13.—(1) The modifications subject to which Part II of this Schedule is, by virtue of section 17(1)(f) of this Act, to have effect with respect to the procedure for the making of harbour revision orders by the Secretary of State of his own motion are those set out in the following provisions of this paragraph.

(2) For references to the Minister there shall be substituted references to the Secretary of State.

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(3) In paragraph 8(2), for the words from “ unless he decides ” (inclusive) onwards there shall be substituted the words “ unless he decides not to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ”.

(4) In paragraph 8(3), for the words from “ and, after effect has been given ” (inclusive) onwards, there shall be substituted the words “ and, if after considering the report of the person (or the reports of each of them if more than one) who held an inquiry, he then decides to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ”.

(5) Paragraph 8(4) shall be omitted.

#### PART VII

##### MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE MINISTER

14.—(1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(g) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Minister are those set out in the following provisions of this paragraph.

(2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order.

(3) For the reference, in paragraph 3, to the requirements of sub-paragraphs (b) to (d), there shall be substituted a reference to the requirements of sub-paragraphs (b) and (c), and for sub-paragraphs (c) and (d) of that paragraph, there shall be substituted the following sub-paragraph :—

“(c) if the Minister so requires, there must, on any person specified by him, be served by the applicant a copy of the draft order together (if the application for the order was accompanied by a copy of a map or copies of maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to the Minister for the making of the order and that, if the person served desires to make to the Minister objection to the application, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him ”.

(4) Sub-paragraph (b) of paragraph 5 shall be omitted, and for the reference, in sub-paragraph (c) of that paragraph, to paragraph 3(d), there shall be substituted a reference to paragraph 3(c).

## PART VIII

## SCH. 3

**MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD**

15.—(1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(h) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Minister of Agriculture, Fisheries and Food are those set out in the following provisions of this paragraph.

(2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order and for references (except in paragraph 6(2)) to the Minister there shall be substituted references to the Minister of Agriculture, Fisheries and Food.

(3) For the reference, in paragraph 3, to the requirements of sub-paragraphs (b) to (d), there shall be substituted a reference to the requirements of sub-paragraphs (b) and (c), and for sub-paragraphs (c) and (d) of that paragraph, there shall be substituted the following sub-paragraph:—

“(c) if the Minister of Agriculture, Fisheries and Food so requires, there must, on any person specified by him, be served by the applicant a copy of the draft order together (if the application for the order was accompanied by a copy of a map or copies of maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to that Minister for the making of the order and that, if the person served desires to make to that Minister objection to the application, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him”.

(4) In paragraph 4(2) for the words from “unless he decides” (inclusive) onwards, there shall be substituted the words “unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit”.

(5) In paragraph 4(3) for the words from “shall, unless he decides” (inclusive) onwards, there shall be substituted the words “shall consider the objections so made and not withdrawn and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector and, having done so, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit”.

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(6) Paragraph 4(5) shall be omitted.

(7) Sub-paragraph (b) of paragraph 5 shall be omitted, and for the reference, in sub-paragraph (c) of that paragraph, to paragraph 3(d), there shall be substituted a reference to paragraph 3(c).

## PART IX

**MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE SECRETARY OF STATE**

16.—(1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(i) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Secretary of State are those set out in the following provisions of this paragraph.

(2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order and for references (except in paragraph 6(2)) to the Minister there shall be substituted references to the Secretary of State.

(3) For the reference, in paragraph 3, to the requirements of sub-paragraphs (b) to (d), there shall be substituted a reference to the requirements of sub-paragraphs (b) and (c), and for sub-paragraphs (c) and (d) of that paragraph, there shall be substituted the following sub-paragraph:—

“(c) if the Secretary of State so requires, there must, on any person specified by him, be served by the applicant a copy of the draft order together (if the application for the order was accompanied by a copy of a map or copies of maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to the Secretary of State for the making of the order and that, if the person served desires to make to the Secretary of State objection to the application, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him”.

(4) In paragraph 4(2) for the words from “unless he decides” (inclusive) onwards, there shall be substituted the words “unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit”.

(5) In paragraph 4(3) for the words from “shall, unless he decides” (inclusive) onwards, there shall be substituted the words “shall consider the objections so made and not withdrawn and the

reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector and, having done so, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit”.

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(6) Paragraph 4(5) shall be omitted.

(7) Sub-paragraph (b) of paragraph 5 shall be omitted, and for the reference, in sub-paragraph (c) of that paragraph, to paragraph 3(d), there shall be substituted a reference to paragraph 3(c).

#### SCHEDULE 4

Sections 18  
and 47.

##### SUBMISSION AND CONFIRMATION OF HARBOUR REORGANISATION SCHEMES

1. The submission to the Minister of a harbour reorganisation scheme shall be effected by depositing with him not less than six copies of the scheme together with not less than six copies of any map or maps which, if the scheme is confirmed in the form submitted, will be required to be annexed to it.

2. Where a harbour reorganisation scheme is submitted to the Minister he shall take it into consideration and, if he decides that it should proceed,—

- (a) he shall publish by Gazette and local advertisement and by such (if any) other means as he thinks fit a notice stating that the scheme has been submitted to him, containing a concise summary of it and, if it provides for transferring interests in land, a general description of the land interests in which are to be transferred, naming a place where a copy of the scheme and (if copies of a map or maps were deposited with it) a copy of that map or, as the case may be, copies of those maps may be seen at all reasonable hours and stating that any person who desires to make to him objection to the scheme should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date (specifying it) of the first local advertisement; and
- (b) if provision is included in the scheme for transferring interests in land, he shall, in the case of each parcel of land interests in which are to be transferred, serve on the owner of each interest to be transferred a notice stating that the scheme has been submitted to the Minister and includes provision transferring the interest in that parcel (describing it) of the person served, naming a place where a copy of the scheme and a copy (on the like scale) of the map deposited therewith on which the boundaries of that

S

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parcel are delineated may be seen at all reasonable hours, and stating that, if the person served desires to make to the Minister objection to the scheme so far as regards the inclusion therein of provision transferring his interest in that parcel, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him ; and

- (c) if the scheme is submitted by the Council, he shall serve on each of the harbour authorities who between them are engaged in improving, maintaining or managing the several harbours comprised in the group, and, if a local lighthouse authority who are not a harbour authority are affected by the scheme, on that authority, a copy of the scheme, together (if copies of a map or maps were deposited with it) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that the scheme has been submitted to the Minister and that, if the authority served desire to make to the Minister objection to the scheme, they should do so in writing (stating the grounds of their objection) before the expiration of the period of forty-two days from the date on which the notice is served on them ; but
- (d) if the scheme is submitted otherwise than by the Council, he shall on each (if any there be) of the harbour authorities who between them are engaged in improving, maintaining or managing the several harbours comprised in the group and are not parties to the submission of the scheme, and, if such a local lighthouse authority as aforesaid are affected by the scheme, on them, contemporaneously serve the like documents as would be required to be served in compliance with sub-paragraph (c) above had the scheme been submitted by the Council.

3.—(1) Where effect has been given to paragraph 2 above in the case of a harbour reorganisation scheme submitted to the Minister and the time for the due making to the Minister of objection to the scheme has elapsed, the following provisions of this paragraph shall have effect.

(2) If the scheme was submitted by the Council and no objections to the scheme were duly made to the Minister or all objections to the scheme that were duly made to him have been withdrawn, he may, if he then decides to confirm the scheme, by order confirm it without modifications or (subject to the restrictions imposed by sub-paragraph (7) below) with such modifications as he thinks fit.

(3) If the scheme was submitted by the Council and objections thereto that were duly made to the Minister have not been withdrawn, he shall, unless he decides that the scheme shall not proceed further, cause an inquiry to be held with respect to each objection so made and not withdrawn unless, in his opinion, it is frivolous or too trivial to warrant the holding of an inquiry with



respect thereto and, if after considering the report of the person (or the reports of each of them, if more than one) who held an inquiry, he then decides to confirm the scheme, may by order confirm it without modification or (subject to the restrictions imposed by sub-paragraph (7) below) subject to such modifications as he thinks fit.

(4) If the scheme was submitted otherwise than by the Council and no objections to the scheme were duly made to the Minister or all objections to the scheme that were duly made to him have been withdrawn, he shall, unless he decides that the scheme shall not proceed further, refer the scheme to the Council for consideration and report.

(5) If the scheme was submitted otherwise than by the Council and objections thereto that were duly made to the Minister have not been withdrawn, he shall, unless he decides that the scheme shall not proceed further, cause an inquiry to be held with respect to each objection so made and not withdrawn unless, in his opinion, it is frivolous or too trivial to warrant the holding of an inquiry with respect thereto and, after effect has been given to the foregoing provisions of this paragraph, shall, unless he decides that the scheme shall not proceed further, refer to the Council for consideration and report the scheme, the objections so made and not withdrawn and the report of any person who held an inquiry.

(6) Where in pursuance of the reference to them under sub-paragraph (4) or (5) above, the Council have reported to the Minister, he shall consider their report and the documents reported on and if he then decides to confirm the scheme, may by order confirm it without modifications or (subject to the restrictions imposed by sub-paragraph (7) below) with such modifications as he thinks fit.

(7) Where the Minister proposes to confirm the scheme with modifications which appear to him substantially to affect the character of the scheme as submitted to him, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing them that submitted the scheme to him, and other persons likely to be concerned, and shall not confirm the scheme until such period for consideration of, and comment upon, the proposed modifications by them that submitted the scheme and those other persons as he thinks reasonable has elapsed; nor shall he confirm the scheme subject to a modification that results in its including provision transferring an interest of a person in property that was not described in the scheme as submitted to him as being property in which interests of that person were subject to be transferred unless that person consents to its being so confirmed.

(8) The Minister may disregard for the purposes of this paragraph an objection to the scheme unless it states the grounds on which it is made, and may disregard for those purposes such an objection so far as regards the inclusion in the scheme of a provision transferring interests of a person in any property if

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4. So soon as may be after a harbour reorganisation scheme has been confirmed by the Minister, he shall publish by Gazette and local advertisement a notice stating that it has been confirmed and naming a place where a copy of it in the form in which it was confirmed (and, if a map or maps is or are annexed to the scheme, a copy of that map or, as the case may be, copies of those maps) may be inspected at all reasonable hours, and shall serve a copy of the scheme in the form aforesaid (and, if a map or maps is or are annexed to the scheme, a copy of that map or, as the case may be, copies of those maps) on each authority on whom a copy of the scheme as submitted to the Minister was served in compliance with a requirement imposed by paragraph 2(c) or (d) above (according as to which applied in the circumstances in which the scheme was submitted).

## Section 20.

## SCHEDULE 5

## PROCEDURE FOR MAKING CONTROL OF MOVEMENT ORDERS

1. An application for a control of movement order must be accompanied by not less than six copies of a draft of the proposed order and not less than six copies of any map or maps which, if the order is made in the form of the draft, will be required to be annexed to it.

2. Where an application for a control of movement order is duly made to the Minister, he shall take it into consideration and shall give notice to the applicant of his decision either that he refuses the application or that it is (without prejudice, however, to subsequent refusal thereof) to be allowed to proceed.

3. Where an applicant for a control of movement order is given notice under paragraph 2 above that his application is to be allowed to proceed, compliance with the requirement of subparagraph (a) below and with such of the requirements of subparagraphs (b) and (c) below as are applicable in the circumstances shall be a condition precedent to the taking by the Minister of further steps in the matter of the application, that is to say:—

(a) there must be published by the applicant by Gazette and local advertisement and (if so required by the Minister) by such other means as the Minister may specify, a notice stating that application has been made to him for the making of the order, containing a concise summary of the order and (if provision is proposed to be included therein authorising the compulsory acquisition of land) a general

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description of the land whose compulsory acquisition is proposed to be authorised, naming a place where a copy of the draft of the proposed order and (if the application for the order was accompanied by copies of a map or maps) a copy of that map or, as the case may be, copies of those maps may be seen at all reasonable hours and stating that any person who desires to make to the Minister objection to the application should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date (specifying it) of the first local advertisement ;

- (b) if provision is proposed to be included in the order authorising the compulsory acquisition of land, there must, in the case of each parcel of land whose compulsory acquisition is proposed to be authorised, be served by the applicant on every owner, lessee and occupier (except a tenant for a month or any period less than a month) of that parcel a notice stating that application has been made to the Minister for the making of the order with the inclusion therein of provision authorising the compulsory acquisition of that parcel (describing it), naming a place where a copy of the draft of the proposed order and a copy (on the like scale) of the map that accompanied the application for the order on which the boundaries of that parcel are delineated may be seen at all reasonable hours and stating that, if the person served desires to make to the Minister objection to the application so far as regards the inclusion in the order of provision authorising the compulsory acquisition of that parcel, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him ;
- (c) if the Minister so requires, there must, on any person specified by him, be served by the applicant a copy of the draft order together (if the application for the order was accompanied by a copy of a map or copies of maps) with a copy of that map or copies of those maps and, in any event, with a notice stating that application has been made to the Minister for the making of the order and that, if he desires to make to the Minister objection to the application, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him.

4.—(1) Where the proper notices concerning an application for the making of a control of movement order have been published under paragraph 3 above, and all persons required thereunder to be served in the case of the application with notices and other documents have been properly served therewith, and the time for the due making to the Minister of objection to the application has elapsed, the following provisions of this paragraph shall have effect.

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(2) If no objections to the application were duly made to the Minister or if all objections to the application that were duly made to him have been withdrawn, the Minister, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (5) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.

(3) If objections to the application were duly made to the Minister and have not been withdrawn, the Minister, unless he decides that the application shall not proceed further,—

(a) in the case of an objection so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of a parcel of land, shall either cause an inquiry to be held with respect to the objection or afford to the objector an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose ;

(b) in the case of any other objection, shall cause an inquiry to be held with respect thereto, unless he is of opinion that the application can properly be proceeded with without the holding of an inquiry with respect to the objection ;

and, after effect has been given to the foregoing provisions of this sub-paragraph, shall consider the objections so made and not withdrawn and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector and, having done so, unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (5) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.

(4) Where an objector to the application avails himself of an opportunity of being heard afforded to him in pursuance of sub-paragraph (3)(a) above, the Minister shall afford to the applicant, and to any other persons to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.

(5) Where the Minister proposes to make the order with modifications which appear to him substantially to affect the character of the order as applied for, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing the applicant and other persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modifications by the applicant and those other persons as he thinks reasonable has elapsed ; nor shall he, unless all persons interested consent, so make the order as to authorise the compulsory acquisition of any land that was not described in the draft submitted to him as being land subject to be acquired compulsorily.

(6) The Minister may disregard for the purposes of this paragraph an objection to the application unless it states the grounds on which it is made, and may disregard for those purposes such an

objection so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of land if he is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom compensation in respect of the acquisition will fall to be assessed in default of agreement.

5. So soon as may be after a control of movement order has been made, the applicant for it shall publish by Gazette and local advertisement a notice stating that the order has been made and naming a place where a copy thereof and of any map or maps annexed thereto may be inspected at all reasonable hours and shall serve a copy of the order (and, if a map or maps is or are annexed to it, a copy of that map or, as the case may be, copies of those maps) on each person on whom a copy of the draft of the proposed order was served in compliance with a requirement imposed by virtue of paragraph 3(c) above.

6.—(1) Where application is made to the Minister for a control of movement order which includes provision authorising the compulsory acquisition of land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the period of forty-two days from the date of the first local advertisement of notice that the application has been so made that Minister is satisfied—

- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
- (b) that an interest in any of the said land is held for those purposes,

the order shall not be so made as to authorise the acquisition of any land as to which that Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

- (i) that, without serious detriment to the carrying on of the undertaking, it can be acquired and not replaced, or
- (ii) that, if acquired, it can, without such detriment as aforesaid, be replaced by other land belonging to, or available for acquisition by, the undertakers,

and certifies accordingly.

(2) In this paragraph “statutory undertakers” and “the appropriate Minister” have the same meanings respectively as in paragraph 6 of Schedule 3 to this Act.

## Section 63.

## SCHEDULE 6

## ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
24 & 25 Vict. c. 47.	The Harbours and Passing Tolls, &c., Act 1861.	In section 2, the definition of "differential dues". Sections 10, 14, 15 and 16.
25 & 26 Vict. c. 19.	The General Pier and Harbour Act 1861 Amendment Act.	Section 17.
30 & 31 Vict. c. 15.	The Shipping Dues Exemption Act 1867.	The whole Act.
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	Section 655(1) and (3). In section 655(2), the words "dues fixed under this section (in this Act referred to as)". Section 657.
1 Edw. 8. & 1 Geo. 6. c. 28.	The Harbours, Piers and Ferries (Scotland) Act 1937.	Section 12. In section 23, the words "Part III of". Section 25.
2 & 3 Eliz. 2. c. 64.	The Transport Charges &c. (Miscellaneous Provisions) Act 1954.	In section 6(1), paragraphs (a) and (e), and in paragraph (c) the words "Part III of". Section 7(1), (2) and (3). In section 13, in subsection (1), the definitions of "harbour", "harbour undertaking", "excepted undertaking" and "ship".
6 & 7 Eliz. 2. c. 23.	The Milford Haven Conservancy Act 1958.	In section 1(6), the words from "and a harbour undertaking" to "1954". In section 11, in subsection (1), the words "not exceeding the appropriate rate specified in the Third Schedule to this Act", in subsection (2), the words from "but shall not give preference" onwards, and subsection (4). Schedule 3.
10 & 11 Eliz. 2. c. 31.	The Sea Fish Industry Act 1962.	Section 27 and Schedule 1.
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	In section 50, in subsection (1), the word "port", and subsection (3). Section 51.

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Chapter	Short Title	Extent of Repeal
10 & 11 Eliz. 2. c. 46— <i>cont.</i>	The Transport Act 1962— <i>cont.</i>	In Schedule 9, in paragraph 1, the words from the beginning to “Docks Board at” and the words from “shall not exceed” onwards; in paragraph 2, in sub-paragraph (1), the words from the beginning to “at”, and sub-paragraphs (2) and (3); in paragraph 3, in sub-paragraph (1), the words from the beginning to “at” (where first occurring), the words “and by the Railways Board at”, the words from “which is managed” to “1899” and the word “at” (where last occurring), and sub-paragraphs (2) and (3); and paragraphs 4 and 6(1).

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Harbours, Docks and Piers Clauses Act 1847...	10 & 11 Vict. c. 27.
Registration of Leases (Scotland) Act 1857 ...	20 & 21 Vict. c. 26.
General Pier and Harbour Act 1861 ...	24 & 25 Vict. c. 45.
Harbours and Passing Tolls, &c. Act 1861 ...	24 & 25 Vict. c. 47.
General Pier and Harbour Act 1861 Amend- ment Act ... ..	25 & 26 Vict. c. 19.
Shipping Dues Exemption Act 1867 ... ..	30 & 31 Vict. c. 15.
Public Works Loans Act 1875 ... ..	38 & 39 Vi t. c. 89.
Telegraph Act 1878 ... ..	41 & 42 Vict. c. 76.
Interpretation Act 1889 ... ..	52 & 53 Vict. c. 63.
Merchant Shipping Act 1894 ... ..	57 & 58 Vict. c. 60.
Merchant Shipping (Liability of Ship Owners and others) Act 1900 ... ..	63 & 64 Vict. c. 32.
Fishery Harbours Act 1915 ... ..	6 & 5 Geo. 5. c. 48.
Ministry of Transport Act 1919 ... ..	9 & 10 Geo. 5. c. 50.
Government of Ireland Act 1920 ... ..	10 & 11 Geo. 6. c. 67.
Salmon and Freshwater Fisheries Act 1923 ...	13 & 14 Geo. 5. c. 16.
Land Drainage Act 1930 ... ..	20 & 21 Geo. 5. c. 44.
Local Government Act 1933 ... ..	23 & 24 Geo. 5. c. 51.
Private Legislation Procedure (Scotland) Act 1936 ... ..	26 Geo. 5 & 1 Edw. 8. c.52.
Harbours, Piers and Ferries (Scotland) Act 1937	1 Edw. 8 & 1 Geo. 6. c. 28.
National Loans Act 1939 ... ..	2 & 3 Geo. 6. c. 117.
Statutory Orders (Special Procedure) Act 1945	9 & 10 Geo. 6. c. 18.
Dock Workers (Regulation of Employment) Act 1946 ... ..	9 & 10 Geo. 6. c. 22.
Local Government (Scotland) Act 1947 ...	10 & 11 Geo. 6. c. 43.
Companies Act 1948 ... ..	11 & 12 Geo. 6. c. 38.
Civil Aviation Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 67.
Sea Fish Industry Act 1951 ... ..	14 & 15 Geo. 6. c. 30.
Iron and Steel Act 1953 ... ..	1 & 2 Eliz. 2. c. 15.
Transport Charges &c. (Miscellaneous Provi- sions) Act 1954 ... ..	2 & 3 Eliz. 2. c. 65.
House of Commons Disqualification Act 1957	5 & 6 Eliz. 2. c. 20.
Milford Haven Conservancy Act 1958 ...	6 & 7 Eliz. 2. c. 23.
Town and Country Planning Act 1962 ...	10 & 11 Eliz. 2. c. 38.
Transport Act 1962 ... ..	10 & 11 Eliz. 2. c. 46.
Water Resources Act 1963 ... ..	1963. c. 38.





# Succession (Scotland) Act 1964

## 1964 CHAPTER 41

An Act to assimilate and amend the law of Scotland with respect to the succession to the heritable and moveable property of deceased persons; to amend the law in relation to the legal and other prior rights exigible out of such property, to the administration of deceased persons' estates and other property passing on death, to the capacity of minors to test, and to the presumption of survivorship; to provide for certain testamentary dispositions to be probative; to provide for adopted persons to be treated for certain purposes as children of their adopters; to make new provision as to the financial rights and obligations of the parties on the dissolution of a marriage; and for purposes connected with the matters aforesaid. [10th June 1964]

**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:—

### PART I

#### INTESTATE SUCCESSION

**1.**—(1) The whole of the intestate estate of any person dying after the commencement of this Act (so far as it is estate the succession to which falls to be regulated by the law of Scotland) shall devolve, without distinction as between heritable and moveable property, in accordance with—

Assimilation of heritage to moveables for purpose of devolution on intestacy.

(a) the provisions of this Part of this Act, and

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## PART I

- (b) any enactment or rule of law in force immediately before the commencement of this Act which is not inconsistent with those provisions and which, apart from this section, would apply to that person's moveable intestate estate, if any ;

and, subject to section 37 of this Act, any enactment or rule of law in force immediately before the commencement of this Act with respect to the succession to intestate estates shall, in so far as it is inconsistent with the provisions of this Part of this Act, cease to have effect.

(2) Nothing in this Part of this Act shall affect legal rights or the prior rights of a surviving spouse ; and accordingly any reference in this Part of this Act to an intestate estate shall be construed as a reference to so much of the net intestate estate as remains after the satisfaction of those rights, or the proportion thereof properly attributable to the intestate estate.

Rights of  
succession  
to intestate  
estate.

**2.—**(1) Subject to the following provisions of this Part of this Act—

- (a) where an intestate is survived by children, they shall have right to the whole of the intestate estate ;
- (b) where an intestate is survived by either of, or both, his parents and is also survived by brothers or sisters, but is not survived by any prior relative, the surviving parent or parents shall have right to one half of the intestate estate and the surviving brothers and sisters to the other half thereof ;
- (c) where an intestate is survived by brothers or sisters, but is not survived by any prior relative, the surviving brothers and sisters shall have right to the whole of the intestate estate ;
- (d) where an intestate is survived by either of, or both, his parents, but is not survived by any prior relative, the surviving parent or parents shall have right to the whole of the intestate estate ;
- (e) where an intestate is survived by a husband or a wife, but is not survived by any prior relative, the surviving spouse shall have right to the whole of the intestate estate ;
- (f) where an intestate is survived by uncles or aunts (being brothers or sisters of either parent of the intestate), but is not survived by any prior relative, the surviving uncles and aunts shall have right to the whole of the intestate estate ;
- (g) where an intestate is survived by a grandparent or grandparents (being a parent or parents of either parent

of the intestate), but is not survived by any prior relative, the surviving grandparent or grandparents shall have right to the whole of the intestate estate ;

- (h) where an intestate is survived by brothers or sisters of any of his grandparents (being a parent or parents of either parent of the intestate), but is not survived by any prior relative, those surviving brothers and sisters shall have right to the whole of the intestate estate ;
- (i) where an intestate is not survived by any prior relative, the ancestors of the intestate (being remoter than grandparents) generation by generation successively, without distinction between the paternal and maternal lines, shall have right to the whole of the intestate estate ; so however that, failing ancestors of any generation, the brothers and sisters of any of those ancestors shall have right thereto before ancestors of the next more remote generation.

(2) References in the foregoing subsection to brothers or sisters include respectively brothers and sisters of the half blood as well as of the whole blood ; and in the said subsection “ prior relative ”, in relation to any class of person mentioned in any paragraph of that subsection, means a person of any other class who, if he had survived the intestate, would have had right to the intestate estate or any of it by virtue of an earlier paragraph of that subsection or by virtue of any such paragraph and section 5 of this Act.

3. Subject to section 5 of this Act, where brothers and sisters of an intestate or of an ancestor of an intestate (in this section referred to as “ collaterals ”) have right to the whole, or, in a case to which subsection (1)(b) of the last foregoing section applies, to a half, of the intestate estate, the collaterals of the whole blood shall be entitled to succeed thereto in preference to the collaterals of the half blood ; but where the collaterals of the half blood have right as aforesaid they shall rank without distinction as between those related to the intestate, or, as the case may be, the ancestor, through their father and those so related through their mother. Succession of collaterals.

4.—(1) Notwithstanding anything in section 2 of this Act, where a woman dies intestate and is not survived by any issue within the meaning of this Act, but is survived by illegitimate children, the illegitimate children shall have right to the whole of the intestate estate. Succession in cases of illegitimacy.

(2) Notwithstanding anything in the said section 2, where an illegitimate person dies intestate and is not survived by any issue within the meaning of this Act, or, being a woman, by any

## PART I

person entitled to succeed to her intestate estate by virtue of the foregoing subsection or that subsection as read with section 5 of this Act, but is survived by his or her mother, the mother shall have right to the whole of the intestate estate.

(3) Except so far as otherwise provided in this section, or this section as read with the next following section, nothing in this Part of this Act shall be construed as importing any rule of succession through illegitimate relationship.

## Representation.

5.—(1) Subject to section 6 of this Act, where a person who, if he had survived an intestate, would, by virtue of any of the foregoing provisions of this Part of this Act, have had right (otherwise than as a parent or spouse of the intestate) to the whole or to any part of the intestate estate has predeceased the intestate, but has left issue who survive the intestate, such issue shall have the like right to the whole or to that part of the intestate estate as the said person would have had if he had survived the intestate.

(2) The right of any issue entitled to share in an intestate estate by virtue of the foregoing subsection to be appointed to the office of executor on the intestate estate shall be postponed to the right thereto of any person who succeeds to the whole or part of the intestate estate by virtue of the foregoing provisions of this Act apart from this section and who applies for appointment to that office.

## Division of intestate estate among those having right thereto.

6. If, by virtue of the foregoing provisions of this Part of this Act, there are two or more persons having right among them to the whole, or, in a case to which section 2(1)(b) of this Act relates, to a half, of an intestate estate, then the said estate, or, as the case may be, that half thereof, shall—

(a) if all of those persons are in the same degree of relationship to the intestate, be divided among them equally, and

(b) in any other case, be divided equally into a number of parts equal to the aggregate of—

(i) those of the said persons who are nearest in degree of relationship to the intestate (in this section referred to as “the nearest surviving relatives”) and

(ii) any other persons who were related to the intestate in that degree, but who have predeceased him leaving issue who survive him;

and, of those parts, one shall be taken by each of the nearest surviving relatives, and one shall be taken *per stirpes* by the issue of each of the said predeceased persons.

Saving of right of Crown as *ultimus haeres*.

7. Nothing in this Part of this Act shall be held to affect the right of the Crown as *ultimus haeres* to any estate to which no person is entitled by virtue of this Act to succeed.

PART II

LEGAL AND OTHER PRIOR RIGHTS IN ESTATES  
OF DECEASED PERSONS

8.—(1) Where a person dies intestate leaving a spouse, and the intestate estate includes a relevant interest in a dwelling house to which this section applies, the surviving spouse shall be entitled to receive out of the intestate estate—

Prior rights of surviving spouse, on intestacy, in dwelling house and furniture.

- (a) where the value of the relevant interest does not exceed £15,000—
  - (i) if subsection (2) of this section does not apply, the relevant interest ;
  - (ii) if the said subsection (2) applies, a sum equal to the value of the relevant interest ;
- (b) in any other case, the sum of £15,000 :

Provided that, if the intestate estate comprises a relevant interest in two or more dwelling houses to which this section applies, this subsection shall have effect only in relation to such one of them as the surviving spouse may elect for the purposes of this subsection within six months of the date of death of the intestate.

(2) This subsection shall apply for the purposes of paragraph (a) of the foregoing subsection if—

- (a) the dwelling house forms part only of the subjects comprised in one tenancy or lease under which the intestate was the tenant ; or
- (b) the dwelling house forms the whole or part of subjects an interest in which is comprised in the intestate estate and which were used by the intestate for carrying on a trade, profession or occupation, and the value of the estate as a whole would be likely to be substantially diminished if the dwelling house were disposed of otherwise than with the assets of the trade, profession or occupation.

(3) Where a person dies intestate leaving a spouse, and the intestate estate includes the furniture and plenishings of a dwelling house to which this section applies (whether or not the dwelling house is comprised in the intestate estate), the surviving spouse shall be entitled to receive out of the intestate estate—

- (a) where the value of the furniture and plenishings does not exceed £5,000, the whole thereof ;
- (b) in any other case, such part of the furniture and plenishings, to a value not exceeding £5,000, as may be chosen by the surviving spouse :

Provided that, if the intestate estate comprises the furniture and plenishings of two or more such dwelling houses, this

**PART II**

subsection shall have effect only in relation to the furniture and plenishings of such one of them as the surviving spouse may elect for the purposes of this subsection within six months of the date of death of the intestate.

(4) This section applies, in the case of any intestate, to any dwelling house in which the surviving spouse of the intestate was ordinarily resident at the date of death of the intestate.

(5) Where any question arises as to the value of any furniture or plenishings, or of any interest in a dwelling house, for the purposes of any provision of this section the question shall be determined by arbitration by a single arbiter appointed, in default of agreement, by the sheriff of the county in which the intestate was domiciled at the date of his death or, if that county is uncertain or the intestate was domiciled furth of Scotland, the sheriff of the Lothians and Peebles at Edinburgh.

(6) In this section—

- (a) “dwelling house” includes a part of a building occupied (at the date of death of the intestate) as a separate dwelling; and any reference to a dwelling house shall be construed as including any garden or portion of ground attached to, and usually occupied with, the dwelling house or otherwise required for the amenity or convenience of the dwelling house;
- (b) “furniture and plenishings” includes garden effects, domestic animals, plate, plated articles, linen, china, glass, books, pictures, prints, articles of household use and consumable stores; but does not include any article or animal used at the date of death of the intestate for business purposes, or money or securities for money, or any heirloom;
- (c) “heirloom”, in relation to an intestate estate, means any article which has associations with the intestate’s family of such nature and extent that it ought to pass to some member of that family other than the surviving spouse of the intestate;
- (d) “relevant interest”, in relation to a dwelling house, means the interest therein of an owner, or the interest therein of a tenant, subject in either case to any heritable debt secured over the interest; and for the purposes of this definition “tenant” means a tenant under a tenancy or lease (whether of the dwelling house alone or of the dwelling house together with other subjects) which is not a tenancy to which the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 apply.

**PART II**  
 Prior right of  
 surviving  
 spouse to  
 financial  
 provision on  
 intestacy.

9.—(1) Where a person dies intestate and is survived by a husband or wife, the surviving spouse shall be entitled to receive out of the intestate estate—

- (a) if the intestate is survived by issue, the sum of £2,500,  
 or
- (b) if the intestate is not survived by issue, the sum of £5,000,

together with, in either case, interest at the rate of 4 per cent. per annum on such sum from the date of the intestate's death until payment :

Provided that where the surviving spouse is entitled to receive a legacy out of the estate of the intestate (other than a legacy of any dwelling house to which the last foregoing section applies or of any furniture and plenishings of any such dwelling house), he or she shall, unless he or she renounces the legacy, be entitled under this subsection to receive only such sum, if any, as remains after deducting from the sum of £2,500 or the sum of £5,000, as the case may be, the amount or value of the legacy.

(2) Where the intestate estate is less than the amount which the surviving spouse is entitled to receive by virtue of subsection (1) of this section the right conferred by the said subsection on the surviving spouse shall be satisfied by the transfer to him or her of the whole of the intestate estate.

(3) The amount which the surviving spouse is entitled to receive by virtue of subsection (1) of this section shall be borne by, and paid out of, the parts of the intestate estate consisting of heritable and moveable property respectively in proportion to the respective amounts of those parts.

(4) Where by virtue of subsection (2) of this section a surviving spouse has right to the whole of the intestate estate, he or she shall have the right to be appointed executor.

(5) The rights conferred by the Intestate Husband's Estate (Scotland) Acts 1911 to 1959 on a surviving spouse in his or her deceased spouse's estate shall not be exigible out of the estate of any person dying after the commencement of this Act.

(6) For the purposes of this section—

- (a) the expression "intestate estate" means so much of the net intestate estate as remains after the satisfaction of any claims under the last foregoing section ; and

## PART II

- (b) the expression “ legacy ” includes any payment or benefit to which a surviving spouse becomes entitled by virtue of any testamentary disposition ; and the amount or value of any legacy shall be ascertained as at the date of the intestate’s death.

Abolition of  
terce and  
courtesy, and  
calculation of  
legal rights.

**10.**—(1) The right of courtesy of a surviving husband in his deceased wife’s estate and the right of terce of a surviving wife in her deceased husband’s estate shall not be exigible out of the estate of a person dying after the commencement of this Act.

(2) The amount of any claim to *jus relictii*, *jus relictæ* or legitim out of an estate shall be calculated by reference to so much of the net moveable estate as remains after the satisfaction of any claims thereon under the two last foregoing sections.

Representation  
in, and division  
of, legitim.

**11.**—(1) Subject to the next following subsection, where a person (hereinafter in this section referred to as “ the deceased ”) dies predeceased by a child who has left issue who survive the deceased, and the child would, if he had survived the deceased, have been entitled under any rule of law to legitim out of the deceased’s estate, such issue shall have the like right to legitim as the child would have had if he had survived the deceased.

(2) If, by virtue of the foregoing subsection or otherwise, there are two or more persons having right among them to legitim, then the legitim shall—

(a) if all of those persons are in the same degree of relationship to the deceased, be divided among them equally, and

(b) in any other case, be divided equally into a number of parts equal to the aggregate of—

(i) those of the said persons who are nearest in degree of relationship to the deceased (in this paragraph referred to as “ the nearest surviving relatives ”) and

(ii) any other persons who were related to the deceased in that degree and who (if they had survived him) would have been entitled to legitim out of his estate, but who have predeceased him leaving issue who survive him and are entitled to legitim out of his estate ;

and, of those parts, one shall be taken by each of the nearest surviving relatives, and one shall be taken *per stirpes* by the issue of each of the said predeceased persons, being issue who are entitled as aforesaid.



PART II

(3) Nothing in the last foregoing subsection shall be construed as altering any rule of law as to collation of advances ; and where any person is entitled to claim legitim out of the estate of a deceased person by virtue of subsection (1) of this section he shall be under the like duty to collate any advances made by the deceased to him, and the proportion appropriate to him of any advances so made to any person through whom he derives such entitlement, as if he had been entitled to claim such legitim otherwise than by virtue of the said subsection (1).

(4) For the avoidance of doubt it is hereby declared that where any person is entitled by virtue of subsection (1) of this section to legitim out of the estate of the deceased, and the deceased is not survived by any child, the proportion of the estate due to any surviving spouse in respect of *jus relictii* or *jus relictæ* shall be ascertained as if the deceased had been survived by a child.

12. Nothing in any ante-nuptial contract of marriage executed after the commencement of this Act shall operate so as to exclude, on the occurrence of the death of either party to the marriage, the right of any child of the marriage (or of any issue of his coming in his place by virtue of the last foregoing section) to legitim out of the estate of that party unless such child or issue shall elect to accept in lieu of legitim the provision made in his favour under the contract.

Legitim not to be discharged by ante-nuptial marriage contract.

13. Every testamentary disposition executed after the commencement of this Act by which provision is made in favour of the spouse or of any issue of the testator and which does not contain a declaration that the provision so made is in full and final satisfaction of the right to any share in the testator's estate to which the spouse or the issue, as the case may be, is entitled by virtue of *jus relictii*, *jus relictæ* or legitim, shall (unless the disposition contains an express provision to the contrary) have effect as if it contained such a declaration.

Equitable compensation.

PART III

ADMINISTRATION AND WINDING UP OF ESTATES

14.—(1) Subject to subsection (3) of this section the enactments and rules of law in force immediately before the commencement of this Act with respect to the administration and winding up of the estate of a deceased person so far as consisting of moveable property shall have effect (as modified by

Assimilation for purposes of administration, etc., of heritage to moveables.

## PART III

the provisions of this Act) in relation to the whole of the estate without distinction between moveable property and heritable property; and accordingly on the death of any person (whether testate or intestate) every part of his estate (whether consisting of moveable property or heritable property) falling to be administered under the law of Scotland shall, by virtue of confirmation thereto, vest for the purposes of administration in the executor thereby confirmed and shall be administered and disposed of according to law by such executor.

(2) Provision shall be made by the Court of Session by act of sederunt made under the enactments mentioned in section 22 of this Act (as extended by that section) for the inclusion in the confirmation of an executor, by reference to an appended inventory or otherwise, of a description, in such form as may be so provided, of any heritable property forming part of the estate.

(3) Nothing in this section shall be taken to alter any rule of law whereby any particular debt of a deceased person falls to be paid out of any particular part of his estate.

Provisions as  
to transfer of  
heritage.

15.—(1) Section 5(2) of the Conveyancing (Scotland) Act 1924 (which provides that a confirmation which includes a heritable security shall be a valid title to the debt thereby secured) shall have effect as if any reference therein to a heritable security, or to a debt secured by a heritable security, included a reference to any interest in heritable property which has vested in an executor in pursuance of the last foregoing section by virtue of a confirmation:

Provided that a confirmation shall not be deemed for the purposes of the said section 5(2) to include any such interest unless a description of the property, in accordance with any act of sederunt such as is mentioned in subsection (2) of the last foregoing section, is included or referred to in the confirmation.

(2) Where in pursuance of the last foregoing section any heritable property has vested in an executor by virtue of a confirmation, and it is necessary for him in distributing the estate to transfer that property—

- (a) to any person in satisfaction of a claim to legal rights or the prior rights of a surviving spouse out of the estate, or
- (b) to any person entitled to share in the estate by virtue of this Act, or
- (c) to any person entitled to take the said property under any testamentary disposition of the deceased,

the executor may effect such transfer by endorsing on the confirmation (or where a certificate of confirmation relating to

the property has been issued in pursuance of any act of sederunt, on the certificate) a docket in favour of that person in the form set out in Schedule 1 to this Act, or in a form as nearly as may be to the like effect, and any such docket may be specified as a midcouple or link in title in any deduction of title ; but this section shall not be construed as prejudicing the competence of any other mode of transfer.

**16.**—(1) This section applies to any interest, being the interest of a tenant under a lease, which is comprised in the estate of a deceased person and has accordingly vested in the deceased's executor by virtue of section 14 of this Act ; and in the following provisions of this section " interest " means an interest to which this section applies. Provisions relating to leases.

(2) Where an interest—

- (a) is not the subject of a valid bequest by the deceased, or
- (b) is the subject of such a bequest, but the bequest is not accepted by the legatee, or
- (c) being an interest under an agricultural lease, is the subject of such a bequest, but the bequest is declared null and void in pursuance of section 16 of the Act of 1886 or section 20 of the Act of 1949,

and there is among the conditions of the lease (whether expressly or by implication) a condition prohibiting assignation of the interest, the executor shall be entitled, notwithstanding that condition, to transfer the interest to any one of the persons entitled to succeed to the deceased's intestate estate, or to claim legal rights or the prior rights of a surviving spouse out of the estate, in or towards satisfaction of that person's entitlement or claim ; but shall not be entitled to transfer the interest to any other person without the consent of the landlord.

(3) If in the case of any interest—

- (a) at any time the executor is satisfied that the interest cannot be disposed of according to law and so informs the landlord, or
- (b) the interest is not so disposed of within a period of one year or such longer period as may be fixed by agreement between the landlord and the executor or, failing agreement, by the sheriff on summary application by the executor—
  - (i) in the case of an interest under an agricultural lease which is the subject of a petition to the Land Court under section 16 of the Act of 1886 or an application to that court under section 20 of the Act of 1949, from the date of the determination or withdrawal of the petition or, as the case may be, the application,

## PART III

(ii) in any other case, from the date of death of the deceased,

either the landlord or the executor may, on giving notice in accordance with the next following subsection to the other, terminate the lease (in so far as it relates to the interest) notwithstanding any provision therein, or any enactment or rule of law, to the contrary effect.

(4) The period of notice given under the last foregoing subsection shall be—

(a) in the case of an agricultural lease, such period as may be agreed, or, failing agreement, a period of not less than one year and not more than two years ending with such term of Whitsunday or Martinmas as may be specified in the notice ; and

(b) in the case of any other lease, a period of six months :

Provided that paragraph (b) of this subsection shall be without prejudice to any enactment prescribing a shorter period of notice in relation to the lease in question.

(5) Subsection (3) of this section shall not prejudice any claim by any party to the lease for compensation or damages in respect of the termination of the lease (or any rights under it) in pursuance of that subsection ; but any award of compensation or damages in respect of such termination at the instance of the executor shall be enforceable only against the estate of the deceased and not against the executor personally.

(6) Where an interest is an interest under an agricultural lease, and—

(a) an application is made under section 3 of the Act of 1931 to the Land Court for an order for removal, or

(b) a reference is made under section 27(2) of the Act of 1949 to an arbiter to determine any question which has arisen under section 25(2)(f) of that Act in connection with a notice to quit,

the Land Court shall not make the order, or, as the case may be, the arbiter shall not make an award in favour of the landlord, unless the court or the arbiter is satisfied that it is reasonable, having regard to the fact that the interest is vested in the executor in his capacity as executor, that it should be made.

(7) Where an interest is not an interest under an agricultural lease, and the landlord brings an action of removing against the executor in respect of a breach of a condition of the lease, the court shall not grant decree in the action unless it is satisfied that the condition alleged to have been breached is one which it is reasonable to expect the executor to have observed, having regard to the fact that the interest is vested in him in his capacity as an executor.

(8) Where an interest is an interest under an agricultural lease and is the subject of a valid bequest by the deceased, the fact that the interest is vested in the executor under the said section 14 shall not prevent the operation, in relation to the legatee, of paragraphs (a) to (h) of section 16 of the Act of 1886, or, as the case may be, subsections (2) to (7) of section 20 of the Act of 1949.

(9) In this section—

“ agricultural lease ” means a lease of a holding within the meaning of the Small Landholders (Scotland) Acts 1886 to 1931 or of the Act of 1949 ;

“ the Act of 1886 ” means the Crofters Holdings (Scotland) Act 1886 ;

“ the Act of 1931 ” means the Small Landholders and Agricultural Holdings (Scotland) Act 1931 ;

“ the Act of 1949 ” means the Agricultural Holdings (Scotland) Act 1949 ;

“ lease ” includes tenancy.

17. Where any person has in good faith and for value acquired title to any interest in or security over heritable property which has vested in an executor as aforesaid directly or indirectly from—

Protection of persons acquiring title.

(a) the executor, or

(b) a person deriving title directly from the executor,

the title so acquired shall not be challengeable on the ground that the confirmation was reducible or has in fact been reduced, or, in a case falling under paragraph (b) above, that the title should not have been transferred to the person mentioned in that paragraph.

18.—(1) On the death of the heir of entail in possession of any property subject to an entail, the entailed property shall, if the executor of the deceased is confirmed thereto, vest in the executor for the purpose of enabling it to be conveyed to the heir of entail next entitled thereto under the entail (if such conveyance is necessary) and for that purpose only.

Provisions as to entails and special destinations.

(2) On the death of a person entitled to any heritable property subject to a special destination in favour of some other person, being a destination which the deceased could not competently have, or in fact has not, evacuated by testamentary disposition or otherwise, the property shall, if the executor of the deceased is confirmed thereto, vest in the executor for the purpose of

**PART III** enabling it to be conveyed to the person next entitled thereto under the destination (if such conveyance is necessary) and for that purpose only.

(3) Section 14(2) of this Act shall apply in relation to property to which this section refers as it applies to property to which the said section 14(2) refers.

(4) Sections 15 and 17 of this Act shall apply to property which has vested in an executor by virtue of this section as they apply to property which has vested in an executor by virtue of section 14 of this Act, as if the person next entitled to the first mentioned property were a person entitled to share in the estate of the deceased.

**Estate Duty.**     **19.—(1)** The executor of a deceased person shall be accountable for all estate duty which may become leviable or payable on the death of the deceased in respect of heritable property which vests in such executor.

(2) For the purpose of raising the duty and the expenses of so doing, the executor shall have all the powers which are by any enactment conferred for raising the duty.

(3) Nothing in this Act shall alter any duty payable in respect of heritable property or impose any new duty thereon or affect the remedies of the Commissioners of Inland Revenue against any person or property.

(4) Nothing in this Act shall be held to require the payment of estate duty on any estate or any part of an estate at a date earlier than the date on which such payment would have been exigible if this Act had not passed.

(5) Notwithstanding that any estate duty is by this Act made payable by the executor, nothing in this Act shall affect the liability of the persons beneficially interested or their respective interests in respect of any duty and they shall accordingly account for or repay the duty and any interest and expenses attributable thereto to the Commissioners of Inland Revenue or to the executor, as the case may require.

(6) Nothing in this section shall impose on the executor as such any liability for payment of duty in excess of the assets (including any heritable property) which shall for the time being be available in his hand for the payment of the duty or which would have been so available but for his own neglect or default.

(7) The Commissioners of Inland Revenue, on being satisfied that the executor or other person accountable has paid or commuted or will pay or commute all estate duty for which he is accountable in respect of the heritable property vested in him or

any part thereof, shall, if required by him, give a certificate to that effect, which shall discharge from any further claim for estate duty the property to which the certificate extends. PART III

20. An executor dative appointed to administer the estate of a deceased person shall have in his administration of such estate the whole powers, privileges and immunities, and be subject to the same obligations, limitations and restrictions, which gratuitous trustees have, or are subject to, under any enactment or under common law, and the Trusts (Scotland) Acts 1921 and 1961 shall have effect as if any reference therein to a trustee included a reference to such an executor dative: Executor dative to have powers of a trustee.

Provided that nothing in this section shall exempt an executor dative from finding caution for his intromissions or confer upon him any power to resign or to assume new trustees.

21. Notwithstanding any rule of law or practice to the contrary, confirmation of an executor to property disposed of in a holograph testamentary disposition shall not be granted unless the court is satisfied by evidence consisting at least of an affidavit by each of two persons that the writing and signature of the disposition are in the handwriting of the testator. Evidence as to holograph wills in commissary proceedings.

22.—(1) The powers exercisable by the Court of Session by act of sederunt under section 18 of the Confirmation of Executors (Scotland) Act 1858, section 16 of the Sheriff Courts and Legal Officers (Scotland) Act 1927 and section 34 of the Administration of Justice (Scotland) Act 1933 (which empower the court to regulate *inter alia* procedure in proceedings in the sheriff court and in proceedings for the confirmation of executors) shall include power to regulate the procedure to be followed, and to prescribe the form and content of any petition, writ or other document to be used, in connection with the confirmation of executors in cases where, by virtue of this Act, heritable property devolves upon the executor. Court of Session may regulate procedure in commissary proceedings.

(2) Without prejudice to the generality of the powers conferred on the court by the said sections and by this section, the power conferred by the said section 34 to modify, amend or repeal by act of sederunt enactments relating to certain matters shall include power so to modify, amend or repeal any enactment relating to the procedure to be followed in proceedings for the confirmation of executors in such cases as aforesaid.

(3) The powers conferred by this section on the court shall be exercisable by statutory instrument, and the Statutory Instruments Act 1946 shall apply to a statutory instrument containing an act of sederunt made under this section by the court

**PART III** in like manner as if the act of sederunt had been made by a Minister of the Crown.

(4) Nothing in the foregoing provisions of this section shall affect the power conferred by section 8(14) of the Finance Act 1894 or otherwise on the Commissioners of Inland Revenue to prescribe the form of, or the particulars to be contained in, affidavits and other documents used for the purposes of Part I of that Act.

#### PART IV

##### ADOPTED PERSONS

Adopted person to be treated for purposes of succession etc. as child of adopter.

**23.—(1)** For all purposes relating to—

- (a) the succession to a deceased person (whether testate or intestate), and
- (b) the disposal of property by virtue of any *inter vivos* deed,

an adopted person shall be treated as the child of the adopter and not as the child of any other person.

In this subsection and in the following provisions of this Part of this Act any reference to succession to a deceased person shall be construed as including a reference to the distribution of any property in consequence of the death of the deceased person and any claim to legal rights or the prior rights of a surviving spouse out of his estate.

(2) In any deed whereby property is conveyed or under which a succession arises, being a deed executed after the making of an adoption order, unless the contrary intention appears, any reference (whether express or implied)—

- (a) to the child or children of the adopter shall be construed as, or as including, a reference to the adopted person ;
- (b) to the child or children of the adopted person's natural parents or either of them shall be construed as not being, or as not including, a reference to the adopted person ; and
- (c) to a person related to the adopted person in any particular degree shall be construed as a reference to the person who would be related to him in that degree if he were the child of the adopter and were not the child of any other person :

Provided that for the purposes of this subsection a deed containing a provision taking effect on the death of any person shall be deemed to have been executed on the date of death of that person.



(3) Where the terms of any deed provide that any property or interest in property shall devolve along with a title, honour or dignity, nothing in this section shall prevent that property or interest from so devolving.

(4) Nothing in this section shall affect any deed executed, or the devolution of any property on, or in consequence of, the death of a person who dies, before the commencement of this Act.

(5) In this Part of this Act the expression "adoption order" means an order made (whether before or after the commencement of this Act) under the Adoption Act 1958 or under the Adoption Act 1950 or any enactment repealed by that Act, or under any corresponding enactment of the Parliament of Northern Ireland, and "adopted" means adopted in pursuance of an adoption order.

24.—(1) For the purposes of the law regulating the succession to any property and for the purposes of the construction of any such deed as is mentioned in the last foregoing section, an adopted person shall be deemed to be related to any other person, being the child or the adopted child of the adopter or (in the case of a joint adoption) of either of the adopters,

Provisions supplementary to s. 23.

(a) where he or she was adopted by two spouses jointly and that other person is the child or adopted child of both of them, as a brother or sister of the whole blood ;

(b) in any other case, as a brother or sister of the half blood.

(2) Notwithstanding anything in the last foregoing section, a trustee or an executor may distribute any property for the distribution of which he is responsible without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of whose claim he has not had notice at the time of the distribution ; but (without prejudice to section 17 of this Act) nothing in this subsection shall affect any right of any such person to recover the property, or any property representing it, from any person who may have received it.

(3) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of the last foregoing section in relation to the devolution of any property on the death of any person dying after the date of the subsequent adoption order, and in relation to any deed executed after that date whereby property is conveyed or under which a succession arises.

(4) Subsections (2), (3) and (4) of section 18 of the Adoption Act 1958 shall cease to have effect.

## PART V

## FINANCIAL PROVISION ON DIVORCE

Amendment of law as to property rights arising on divorce.

25. The provisions of this Part of this Act shall have effect for the purpose of regulating the financial rights and obligations *inter se* of the parties to a marriage in respect of which decree of divorce on any ground other than that specified in section 1(1)(b) of the Divorce (Scotland) Act 1938 (divorce on the ground of incurable insanity) has been granted by the Court of Session in an action for such a decree commenced on or after the date of commencement of this Act; and any rule of law under which the person in whose favour such a decree has been granted is thereby entitled to claim from the defender the legal rights of courtesy, terce or *jus relictæ* shall cease to have effect, except in relation to actions commenced before the said date.

Orders for financial provision on divorce.

26.—(1) Where, after the commencement of this Act, an action such as is mentioned in the last foregoing section is brought—

- (a) the pursuer may, at any time prior to decree of divorce being granted, apply to the court for an order for the payment to him by the defender, or, in the event of the defender predeceasing him, by the defender's executor, of a capital sum or a periodical allowance or both;
- (b) either party to the marriage may apply to the court for an order varying the terms of any settlement made in contemplation of or during the marriage, so far as taking effect on or after the termination of the marriage.

(2) Where an application has been made under paragraph (a) or paragraph (b) of the foregoing subsection, the court, on granting decree of divorce, shall make with respect to the application such order, if any, as it thinks fit, having regard to the respective means of the parties to the marriage and to all the circumstances of the case, including any settlement or other arrangements made for financial provision for any children of the marriage.

(3) Where an application for an order for the payment of a periodical allowance under subsection (1)(a) of this section has been withdrawn or refused, or where no such application has been made, the pursuer may apply to the court for such an order after the date of the granting of decree of divorce, if since that date there has been a change in the circumstances of either of the parties to the marriage; and the

court shall make with respect to that application such order, if any, for payment of a periodical allowance as it thinks fit, having regard to the factors mentioned in the last foregoing subsection.

(4) An order made under subsection (2) or (3) of this section for the payment of a periodical allowance may, on an application by or on behalf of either party to the marriage (or his or her executor) on a change of circumstances, be varied or recalled by a subsequent order.

(5) Any order made under this section for payment of a periodical allowance shall cease to have effect on the remarriage or death of the pursuer, except in relation to any arrears due under it on the date of such remarriage or death.

(6) Section 16 of the Maintenance Orders Act 1950 (which specifies the orders which may be enforced under that Act) shall have effect as if in paragraph (b) of subsection (2) there were added at the end of head (i) the words "or under section 26 of the Succession (Scotland) Act 1964".

(7) Any reference in this section to a settlement shall be construed as including a settlement by way of a policy of assurance to which section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880 relates.

27.—(1) Where an application has been made under subsection (1)(a) or (3) or (4) of the last foregoing section, the pursuer may, at any time before the expiration of a period of one year from the disposal of such application, apply to the Court of Session for an order—

Orders relating to settlements and other dealings.

(a) reducing or varying any settlement or disposition of property belonging to the defender made by him in favour of any third party at any time after the date occurring three years before the making of the application under the said subsection (1)(a) or (3) or (4), as the case may be, being a time after the commencement of this Act, or

(b) interdicting the defender from making any such settlement or disposition, or transferring out of the jurisdiction of the court, or otherwise dealing with, any property belonging to the defender.

(2) On an application for an order under the foregoing subsection the court may make such an order if it is shown to its satisfaction that the settlement or disposition was made or is about to be made, or that the property is about to be transferred or otherwise dealt with, primarily for the purpose of defeating, wholly or partly, any claim which the pursuer has made or might make under subsection (1)(a) or (3) or (4), as the case may be, of the last foregoing section:

**PART V**

Provided that an order under this subsection shall not prejudice the rights (if any) in that property of any person who has in good faith acquired it or any of it from the defender for value, or who derives title to the property or any of it from any person who has done so.

**PART VI****MISCELLANEOUS AND SUPPLEMENTARY**

Power of minor to test on heritage.

**28.** A minor shall have the like capacity to test on heritable property as he has on moveable property.

Right of tenant to bequeath interest under lease.

**29.—(1)** A bequest by a tenant of his interest under a tenancy or lease to any one of the persons who, if the tenant had died intestate, would be, or would in any circumstances have been, entitled to succeed to his intestate estate by virtue of this Act shall not be treated as invalid by reason only that there is among the conditions of the tenancy or lease an implied condition prohibiting assignation.

(2) This section shall not prejudice the operation of section 16 of the Crofters Holdings (Scotland) Act 1886 or section 20 of the Agricultural Holdings (Scotland) Act 1949 (which relate to bequests in the case of agricultural leases).

Effect of testamentary dispositions on special destinations.

**30.** A testamentary disposition executed after the commencement of this Act shall not have effect so as to evacuate a special destination (being a destination which could competently be evacuated by the testamentary disposition) unless it contains a specific reference to the destination and a declared intention on the part of the testator to evacuate it.

Presumption of survivorship in respect of claims to property.

**31.—(1)** Where two persons have died in circumstances indicating that they died simultaneously or rendering it uncertain which, if either, of them survived the other, then, for all purposes affecting title or succession to property or claims to legal rights or the prior rights of a surviving spouse,

(a) where the persons were husband and wife, it shall be presumed that neither survived the other ; and

(b) in any other case, it shall be presumed that the younger person survived the elder unless the next following subsection applies.

(2) If, in a case to which paragraph (b) of the foregoing subsection would (apart from this subsection) apply, the elder person has left a testamentary disposition containing a provision, however expressed, in favour of the younger if he survives the elder and, failing the younger, in favour of a third person, and the younger person has died intestate, then it shall be presumed for the purposes of that provision that the elder person survived the younger.

**PART VI**  
 Certain  
 testamentary  
 dispositions  
 to be probative.

**32.—**(1) For the purpose of any question arising as to entitlement to any property by virtue of a testamentary disposition to which this section applies, the testamentary disposition shall (notwithstanding anything in any Act passed before this Act) be treated as probative.

(2) This section applies to any testamentary disposition (not being a testamentary disposition which would be treated as probative apart from this section) if—

- (a) confirmation of an executor to property disposed of in the disposition has been granted in Scotland, or
- (b) probate, letters of administration or other grant of representation issued outwith Scotland in respect of property disposed of in the disposition has been certified in Scotland under section 14 of the Confirmation of Executors (Scotland) Act 1858 or sealed in Scotland under section 2 of the Colonial Probates Act 1892.

Construction  
 of existing  
 deeds.

**33.—**(1) Subject to subsection (2) of this section, any reference in any deed taking effect after the commencement of this Act to *jus relictii*, *jus relictæ* or legitim shall be construed as a reference to the right to *jus relictii*, *jus relictæ* or legitim, as the case may be, as modified by Part II of this Act; and any reference in any such deed to courtesy or terce shall be of no effect.

(2) Any reference to legal rights in a marriage contract made before the commencement of this Act and taking effect in consequence of a decree of divorce granted in an action commenced after the commencement of this Act shall be construed as a reference to any right which the husband or the wife, as the case may be, might obtain by virtue of the provisions of section 26 of this Act.

Modification  
 of enactments  
 and repeals.

**34.—**(1) Subject to the provisions of section 37 of this Act, the enactments mentioned in Schedule 2 to this Act shall have effect subject to the modifications specified in that Schedule, being modifications consequential on the provisions of this Act.

(2) Subject to the provisions of section 37 of this Act, the enactments set out in Schedule 3 to this Act are hereby repealed to the extent specified in relation thereto in column 3 of that Schedule.

Transfer  
 of certain  
 jurisdiction  
 to Sheriff of  
 Chancery.

**35.—**(1) If at any time it appears to the Secretary of State expedient to do so he may by order transfer to the Sheriff of Chancery the jurisdiction of any other sheriff in relation to the service of heirs.

## PART VI

(2) An order made under this section may contain such consequential provisions as appears to the Secretary of State to be necessary, including provisions for the consequential repeal or consequential modification of any enactment relating to the matters dealt with in the order.

(3) Any order made under this section shall be made by statutory instrument.

**Interpretation.** 36.—(1) In this Act the following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say—

“ deed ” includes any disposition, contract, instrument or writing, whether *inter vivos* or *mortis causa* ;

“ an intestate ” means a person who has died leaving undisposed of by testamentary disposition the whole or any part of his estate, and “ intestate ” shall be construed accordingly ;

“ intestate estate ”, in relation to an intestate, means (subject to sections 1(2) and 9(6)(a) of this Act) so much of his estate as is undisposed of by testamentary disposition ;

“ issue ” means lawful issue however remote ;

“ Land Court ” means the Scottish Land Court ;

“ lease ” and “ tenancy ” include sub-lease and sub-tenancy, and tenant shall be construed accordingly ;

“ legal rights ” means *jus relictii*, *jus relictæ*, and legitim ;

“ net estate ” and “ net intestate estate ” mean respectively so much of an estate or an intestate estate as remains after provision for the satisfaction of estate duty and other liabilities of the estate having priority over legal rights, the prior rights of a surviving spouse and rights of succession, or, as the case may be, the proportion thereof properly attributable to the intestate estate ;

“ owner ” in relation to any heritable property means the person entitled to receive the rents thereof (other than rents under a sub-lease or sub-tenancy) ;

“ prior rights ”, in relation to a surviving spouse, means the rights conferred by sections 8 and 9 of this Act ;

“ testamentary disposition ”, in relation to a deceased, includes any deed taking effect on his death whereby any part of his estate is disposed of or under which a succession thereto arises.

(2) Any reference in this Act to the estate of a deceased person shall, unless the context otherwise requires, be construed as a reference to the whole estate, whether heritable or moveable, or partly heritable and partly moveable, belonging to the deceased

at the time of his death or over which the deceased had a power of appointment and, where the deceased immediately before his death held the interest of a tenant under a tenancy or lease which was not expressed to expire on his death, includes that interest :

Provided that—

- (a) where any heritable property belonging to a deceased person at the date of his death is subject to a special destination in favour of any person, the property shall not be treated for the purposes of this Act as part of the estate of the deceased unless the destination is one which could competently be, and has in fact been, evacuated by the deceased by testamentary disposition or otherwise ; and in that case the property shall be treated for the purposes of this Act as if it were part of the deceased's estate on which he has tested ; and
- (b) where any heritable property over which a deceased person had a power of appointment has not been disposed of in exercise of that power and is in those circumstances subject to a power of appointment by some other person, that property shall not be treated for the purposes of this Act as part of the estate of the deceased.

(3) Without prejudice to the proviso to section 23(2) of this Act, references in this Act to the date of execution of a testamentary disposition shall be construed as references to the date on which the disposition was actually executed and not to the date of death of the testator.

(4) 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.

**37.—**(1) Save as otherwise expressly provided, nothing in this Act shall—

Exclusion of certain matters from operation of Act.

- (a) apply to any title, coat of arms, honour or dignity transmissible on the death of the holder thereof or affect the succession thereto or the devolution thereof ;
- (b) apply to the tenancy of any croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955, or affect the succession thereto or devolution thereof ;
- (c) affect any right on the part of a surviving spouse to claim from the representatives of his or her deceased spouse payment of aliment out of the estate of that spouse ;

## PART VI

- (d) affect the administration, winding up or distribution of or the making up of title to any part of the estate of any person who died before the commencement of this Act or the rights of succession to such an estate or any claim for legal rights or terce or courtesy or any rights arising under the Intestate Husband's Estate (Scotland) Acts 1911 to 1959 out of such an estate or the right to take any legal proceedings with respect to any such matters ;
- (e) affect any claim for legal rights arising out of an action of divorce commenced before the commencement of this Act ;

and in relation to the matters aforesaid the law in force immediately before the commencement of this Act shall continue to have effect as if this Act had not passed.

(2) Nothing in this Act shall be construed as affecting the operation of any rule of law applicable immediately before the commencement of this Act to the choice of the system of law governing the administration, winding up or distribution of the estate, or any part of the estate, of any deceased person.

Citation,  
extent and  
commence-  
ment.

**38.**—(1) This Act may be cited as the Succession (Scotland) Act 1964.

(2) This Act shall extend to Scotland only.

(3) This Act shall come into operation on the expiration of the period of three months beginning with the date on which it is passed.



## SCHEDULES

## SCHEDULE 1

Section 15.

## FORM OF DOCKET

I, AB, being by virtue of the within confirmation [*or certificate of confirmation*] the executor on the estate of the deceased CD so far as specified in the confirmation [*or certificate or inventory attached hereto*] hereby nominate EF [*design*] as the person entitled—

- (a) in [part] satisfaction of his claim to prior rights, as a surviving spouse, on the death of the deceased,
- (b) in [part] satisfaction of his claim to legal rights on the death of the deceased,
- (c) in [part] satisfaction of his share in the said estate,
- (d) in [part] implement of a trust disposition and settlement, [*or will, or as the case may be*] of the deceased dated and registered in the Books of Council and Session

to the following item of estate, that is to say, [*short description*] being number of the items of the estate specified in the said confirmation [*or certificate or inventory*].

[*Signature of AB*]

[*To be attested by two witnesses*]

## SCHEDULE 2

Section 34.

## MODIFICATION OF ENACTMENTS

*General modifications*

1. Subject to the specific modifications made by the following provisions of this Schedule, references in any enactment to the heir-at-law of a deceased person in relation to any heritable property (other than the tenancy of any croft within the meaning of section 3 of the Crofters (Scotland) Act 1955) shall be construed as references to the persons who by virtue of this Act are entitled to succeed to such property on intestacy.

2. Subject as aforesaid references in general terms in any enactment to the heirs of a deceased person shall include—

- (a) the persons entitled by virtue of this Act to succeed on intestacy to any part of the estate of the deceased; and
- (b) so far as is necessary for the purposes of Part III of this Act, the executor of the deceased.

3. References in any enactment relating to the confirmation of executors or the administration of the moveable estates of deceased persons to the moveable or personal property or estate of a deceased person shall, except where the context otherwise requires, be construed as references to the whole estate of the deceased person.

4. References in any enactment (other than in this Act) to courtesy or terce shall be of no effect.

## SCH. 2

*Specific modifications*

## THE REGISTRATION OF LEASES (SCOTLAND) ACT 1857.

20 &amp; 21 Vict. c. 26.

5. In sections 8 and 9, and Schedules (C) and (F), for references to the heir or heirs or to the general disponee (other than a general disponee under an *inter vivos* deed) of a person in right of a lease to which the Act applies or of an assignation in security of such a lease there shall be substituted references to the executor of such a person; and for any reference to service there shall be substituted a reference to confirmation.

6. In Schedule (C), for the words from "court before which" to "retoured to Chancery" there shall be substituted the words "court by which confirmation has been granted".

7. In Schedule (F), for the words "court before which the heir has been served" there shall be substituted the words "court by which confirmation has been granted".

## THE TITLES TO LAND CONSOLIDATION (SCOTLAND) ACT 1868.

31 &amp; 32 Vict. c. 101.

8. In section 20, for the words from "equivalent to a general disposition" to "competent to a general disponee" there shall be substituted the words "valid as a settlement on a grantee or legatee of the lands to which it applies; and the executor of the grantor may complete title to such lands by expeding and recording a notarial instrument as aforesaid".

## THE CROFTERS HOLDINGS (SCOTLAND) ACT 1886.

49 &amp; 50 Vict. c. 29.

9. In section 16, for the words from "a member" to "case of intestacy" there shall be substituted the words "his son-in-law or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the Succession (Scotland) Act 1964".

10. In section 16, at end of paragraph (e) there shall be inserted the words "and shall be intimated by the landlord to the executor of the deceased tenant".

11. In section 16, in paragraph (f), after the word "legatee", where that word second occurs, there shall be inserted the words "with the consent of the executor in whom the tenancy is vested under section 14 of the Succession (Scotland) Act 1964".

12. In section 16, for paragraph (h) there shall be substituted the following paragraph:—

"(h) if the legatee does not accept the bequest, or if the bequest is declared to be null and void as aforesaid, the right to the holding shall be treated as intestate estate of the deceased tenant in accordance with Part I of the Succession (Scotland) Act 1964; and where a tenancy is transferred

under section 16 of the said Act of 1964, the executor of the deceased tenant shall as soon as may be furnish particulars of the transferee to the landlord who shall accept the transferee as tenant.”.

SCH. 2

**THE EXECUTORS (SCOTLAND) ACT 1900.**

63 & 64 Vict. c. 55.

13. In section 6—

- (a) the words “nominate” and “personal” wherever they occur shall be omitted ;
- (b) for the words “funds in Scotland standing or invested in his name” there shall be substituted the words “property (whether heritable or moveable) in Scotland vested in him” ; and
- (c) for any other reference to funds there shall be substituted a reference to property.

14. In section 7, after the words “estate contained therein”, there shall be inserted the words “and it shall be competent to specify such confirmation as a midcouple or link of title for the purposes of any deduction of title in relation to such estate from the former executors”.

**THE SMALL LANDHOLDERS (SCOTLAND) ACT 1911.**

1 & 2 Geo. 5. c. 49.

15. In section 21, for the words from “a member” to “case of intestacy” there shall be substituted the words “his son-in-law or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the Succession (Scotland) Act 1964”.

16. In section 31, after the words “whether as” there shall be inserted the words “a person to whom a tenancy is transferred under section 16 of the Succession (Scotland) Act 1964 or the executor or”.

**THE CONVEYANCING (SCOTLAND) ACT 1924.**

14 & 15 Geo. 5. c. 27.

17. In section 32, after the words “person be dead, the” insert the words “executor or”.

18. In section 33, after the words “then to the” insert the words “executor or”.

**THE AGRICULTURAL HOLDINGS (SCOTLAND) ACT 1949.**

12, 13 & 14 Geo. 6. c. 75.

19. In section 20, for subsection (1) there shall be substituted the following subsection :—

“(1) Subject to the provisions of this section, the tenant of an agricultural holding may, by will or other testamentary writing,

## SCH. 2

bequeath his lease of the holding to his son-in-law or daughter-in-law or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the Succession (Scotland) Act 1964."

20. In section 20(6), after the word "legatee", there shall be inserted the words "with the consent of the executor in whom the lease is vested under section 14 of the Succession (Scotland) Act 1964".

21. In section 20, for subsection (7) there shall be substituted the following subsection:—

"(7) If the legatee does not accept the bequest, or if the bequest is declared null and void as aforesaid, the right to the lease shall be treated as intestate estate of the deceased tenant in accordance with Part I of the Succession (Scotland) Act 1964."

22. For section 21 there shall be substituted the following section:—

"Right of landlord to object to acquirer of lease.

21.—(1) The acquirer of the lease of an agricultural holding shall give notice of the acquisition to the landlord of the holding within twenty-one days after the date of the acquisition, or, if he is prevented by some unavoidable cause from giving such notice within that period, as soon as possible thereafter, and unless the landlord gives a counter-notice under the next following subsection, the lease shall be binding on the landlord and on the acquirer, as landlord and tenant respectively, as from the date of the acquisition.

(2) Where notice as aforesaid has been given to the landlord he may, within one month after the giving of the notice, give to the acquirer a counter-notice intimating that he objects to receive him as tenant under the lease and not before the expiration of one month from the giving of the counter-notice the landlord may make application to the Land Court for an order terminating the lease.

(3) The Land Court, if they are satisfied that the landlord has established any reasonable ground of objection, shall make such an order to take effect as from such term of Whitsunday or Martinmas as they may specify.

(4) Pending any proceedings under this section, the acquirer, with the consent of the executor in whom the lease is vested under section 14 of the Succession (Scotland) Act 1964, shall, unless the Land Court on cause shown otherwise direct, have possession of the holding.

(5) The termination of the lease under this section shall be treated, for the purposes of the provisions of this Act with respect to compensation, as the termination of the acquirer's tenancy of the holding; but nothing in this section shall be construed as entitling him to any compensation for disturbance.

(6) In this section any reference in relation to the lease of an agricultural holding to an acquirer is a reference to any person to whom the lease is transferred under section 16 of the Succession (Scotland) Act 1964."

SCH. 2

THE AGRICULTURE ACT 1958.

6 & 7 Eliz. 2. c. 71.

23. In section 6(3), for the words " as the heir-at-law of the former tenant " there shall be substituted the words " by virtue of section 16 of the Succession (Scotland) Act 1964 ".

SCHEDULE 3

Section 34.

ENACTMENTS REPEALED

Year or Session and Chapter	Subject matter or Title	Extent of Repeal
1503, c. 22 ...	Act of the Parliament of Scotland " Anent the exceptioun aganis wedowis persewand thair brevis of terce that thai war not lauchfull wiffis ".	The whole Act.
1592, c. 11 ...	Act of the Parliament of Scotland " Aganis adulteraris ".	The whole Act.
1661, c. 88 ...	Act of the Parliament of Scotland " Act concerning appearand airs their payment of their oun and their predecessours debts ".	The whole Act.
1681, c. 12 ...	Act of the Parliament of Scotland " Act concerning wives Terces ".	The whole Act.
18 & 19 Vict. c. 23.	The Intestate Moveable Succession (Scotland) Act 1855.	The whole Act.
20 & 21 Vict. c. 26.	The Registration of Leases (Scotland) Act 1857.	Section 7. In section 8, the words " who shall have been served by general service ".
21 & 22 Vict. c. 56.	The Confirmation of Executors (Scotland) Act 1858.	Schedule (E). In section 4, the words from " along with the abstracts " to " special services ".

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## SCH. 3

Year or Session and Chapter	Subject matter or Title	Extent of Repeal
31 & 32 Vict. c. 101.	The Titles to Land Consolidation (Scotland) Act 1868.	<p>Section 19 except in relation to general dispositions by conveyance <i>inter vivos</i>.  Sections 27 to 50.  Section 58.  Sections 60 and 61.  Section 62 in so far as relating to any such decree as is therein mentioned obtained in relation to lands forming part of the estate of a deceased person.  Section 83 in so far as relating to Crown precepts and Crown writs of clare constat.  Sections 84 to 86.  Sections 101 to 103.  Sections 114 and 116 in so far as relating to writs of clare constat and writs of acknowledgement.  In section 117, the words "except in the cases herein-after provided", the words "except as herein-after provided", the words from "and shall belong after the death of such creditor" to "as provided by this Act: And further", and the words from "and as regards" to "any such creditor".  Section 119 in so far as relating to heritable securities from which executors are excluded.  Section 125.  In section 126, the words "from which executors shall not have been excluded".  Section 127, except in so far as providing for the completion of title by executors.  Section 128.  Section 129 so far as relating to actions of constitution and adjudication.  Section 130, except in so far as providing for the completion of title by executors and by disponees or assignees under a deed or conveyance <i>inter vivos</i>.</p>

Year or Session and Chapter	Subject matter or Title	Extent of Repeal
31 & 32 Vict. c. 101— <i>cont.</i>	The Titles to Land Consolidation (Scotland) Act 1868— <i>cont.</i>	Section 160. Schedules (P), (Q), (U), (W), (DD), (EE) and (II). In Schedule (FF), in Form No. 1, the words “ [or his heirs, excluding executors] ”. In Schedule (GG), the words “ [or heirs, excluding executors] ”. Schedules (JJ), (KK) and (MM) except in so far as relating to completion of title by executors and by disponees or assignees under a deed or conveyance <i>inter vivos</i> .
37 & 38 Vict. c. 94.	The Conveyancing (Scotland) Act 1874.	In section 4, in paragraph (1), the words “ or of clare constat or writs of acknowledgement ”. Sections 9 to 13. In section 30, the words from “ securities by way ” to “ provided also, that ”. Section 31. Section 43. Section 46. In section 47, the words from “ Subject to the limitation ” to “ the debts of his ancestor ”. Section 53 except in relation to general dispositions by conveyance <i>inter vivos</i> . Section 63. Schedule E.
49 & 50 Vict. c. 29.	The Crofters Holdings (Scotland) Act 1886.	In section 16, the proviso. In section 19, the words from “ In the event ” to the end of the section. The whole Act.
1 & 2 Geo. 5. c. 10.	The Intestate Husband's Estate (Scotland) Act 1911.	The whole Act.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act 1911.	Section 22.
7 & 8 Geo. 5. c. 58.	The Wills (Soldiers and Sailors) Act 1918.	Section 3 (2).
9 & 10 Geo. 5. c. 9.	The Intestate Husband's Estate (Scotland) Act 1919.	The whole Act.
9 & 10 Geo. 5. c. 61.	The Intestate Moveable Succession (Scotland) Act 1919.	The whole Act.

## SCH. 3

Year or Session and Chapter	Subject matter or Title	Extent of Repeal
9 & 10 Geo. 5. c. 97.	The Land Settlement (Scotland) Act 1919.	Section 13.
14 & 15 Geo. 5. c. 27.	The Conveyancing (Scotland) Act 1924.	<p>In section 5(2)(a), the words "from which executors are not excluded".</p> <p>In section 5(2)(b), the words "and from which executors are not excluded".</p> <p>Section 7(3).</p> <p>Section 21.</p> <p>In section 24, paragraph (4).</p> <p>Section 31 so far as relating to writs of acknowledgement and to section 125 of, and Schedule (II) to, the Titles to Land Consolidation (Scotland) Act 1868.</p>
16 & 17 Geo. 5. c. 60.	The Legitimacy Act 1926.	Section 9.
1 & 2 Geo. 6. c. 24.	The Conveyancing Amendment (Scotland) Act 1938.	Sections 5 and 10.
3 & 4 Geo. 6. c. 42.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1940.	Section 5.
6 & 7 Eliz. 2. c. 71.	The Agriculture Act 1958	Section 6(1), (2).
7 & 8 Eliz. 2. c. 5.	The Adoption Act 1958.	Section 18(2), (3), (4).
7 & 8 Eliz. 2. c. 21.	The Intestate Husband's Estate (Scotland) Act 1959.	The whole Act.
1963 c. 44.	The Wills Act 1963.	Section 5.



Table of Statutes referred to in this Act

Short Title	Session and Chapter
Registration of Leases (Scotland) Act 1857 ...	20 & 21 Vict. c. 26.
Confirmation of Executors (Scotland) Act 1858 ...	21 & 22 Vict. c. 56.
Titles to Land Consolidation (Scotland) Act 1868	31 & 32 Vict. c. 101.
Married Women's Policies of Assurance (Scotland) Act 1880.	43 & 44 Vict. c. 26.
Crofters Holdings (Scotland) Act 1886 ... ..	49 & 50 Vict. c. 29.
Colonial Probates Act 1892 ... ..	55 & 56 Vict. c. 6.
Finance Act 1894 ... ..	57 & 58 Vict. c. 30.
Executors (Scotland) Act 1900 ... ..	63 & 64 Vict. c. 55.
Small Landholders (Scotland) Act 1911 ... ..	1 & 2 Geo. 5. c. 49.
Conveyancing (Scotland) Act 1924 ... ..	14 & 15 Geo. 5. c. 27.
Sheriff Courts and Legal Officers (Scotland) Act 1927.	17 & 18 Geo. 5. c. 35.
Small Landholders and Agricultural Holdings (Scotland) Act 1931.	21 & 22 Geo. 5. c. 44.
Administration of Justice (Scotland) Act 1933 ...	23 & 24 Geo. 5. c. 41.
Divorce (Scotland) Act 1938 ... ..	1 & 2 Geo. 6. c. 50.
Statutory Instruments Act 1946 ... ..	9 & 10 Geo. 6. c. 36.
Agricultural Holdings (Scotland) Act 1949 ...	12, 13 & 14 Geo. 6. c. 75.
Adoption Act 1950 ... ..	14 Geo. 6. c. 26.
Maintenance Orders Act 1950 ... ..	14 Geo. 6. c. 37.
Crofters (Scotland) Act 1955 ... ..	3 & 4 Eliz. 2. c. 21.
Agriculture Act 1958 ... ..	6 & 7 Eliz. 2. c. 71.
Adoption Act 1958 ... ..	7 & 8 Eliz. 2. c. 5.





# Administration of Justice Act 1964

## 1964 CHAPTER 42

An Act to make provision with respect to the administration of justice in the metropolitan area; to provide for a lieutenant and deputy lieutenants for Greater London; to make fresh provision with respect to the indemnification of justices and their clerks, recorders and clerks of the peace; to make minor amendments of the law relating to the administration of justice in England and Wales and an amendment of section 8 of the Justices of the Peace Act 1949 extending to Scotland; and for connected purposes. [10th June 1964]

**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:—

### PART I

#### GREATER LONDON

##### *The Central Criminal Court*

1.—(1) The Central Criminal Court shall have jurisdiction to try and determine indictments for offences committed within Greater London, and accordingly Greater London shall be specified as the Court's area of jurisdiction in any commission of oyer and terminer and gaol delivery with respect to the Court instead of the area so specified before the passing of this Act. Jurisdiction and sessions of Central Criminal Court.

(2) Sessions of the Central Criminal Court shall be held at least four times in every year instead of twelve times in every year as required by section 15 of the Central Criminal Court Act 1834.

## PART I

(3) The provisions of Schedule 1 to this Act shall have effect with respect to the Central Criminal Court (being provisions re-enacting, with additions and modifications consequential on the foregoing provisions of this section, and with other minor modifications and omissions, the provisions of the Central Criminal Court Act 1834 and other enactments relating to the constitution, jurisdiction, proceedings and officers of that Court).

(4) Nothing in this section shall be construed as affecting the jurisdiction of the Central Criminal Court or any other court to try and determine any case brought before it by virtue of sections 11 and 14(2) of the Criminal Justice Act 1925, sections 9 to 11 of the Magistrates' Courts Act 1952 or any other enactment.

*Commissions and justices of the peace*

The London  
commission  
areas.

2.—(1) Subject to the provisions of section 3 of this Act, there shall be a separate commission of the peace for each of the following areas of Greater London, that is to say—

- (a) an area to be known as the inner London area, consisting of the inner London boroughs ;
- (b) an area to be known as the north-east London area, consisting of the London boroughs of Barking, Havering, Newham, Redbridge and Waltham Forest ;
- (c) an area to be known as the south-east London area, consisting of the London boroughs of Bexley, Bromley and Croydon ;
- (d) an area to be known as the south-west London area, consisting of the London boroughs of Kingston upon Thames, Merton, Richmond upon Thames and Sutton ;
- (e) an area to be known as the Middlesex area, consisting of the London boroughs of Barnet, Brent, Ealing, Enfield, Haringey, Harrow, Hillingdon and Hounslow ;

and any existing commission of the peace for a county or borough abolished by section 3 of the London Government Act 1963 shall cease to have effect.

(2) The areas specified in subsection (1) of this section are hereafter in this Act referred to as the London commission areas and the areas specified in paragraphs (b) to (e) of that subsection are hereafter in this Act referred to as the outer London areas.

(3) Subject to the provisions of this Act, a London commission area shall be deemed to be a county for all purposes of the law relating to commissions of the peace, justices of the peace, quarter sessions, magistrates' courts, the *custos rotulorum*, the clerk of the peace, justices' clerks and matters connected with any of those matters ; and references to a county in any

enactment passed or instrument made before the passing of this Act shall be construed accordingly.

PART I

(4) A separate commission of the peace shall not be granted to a London borough by virtue of section 156 of the Municipal Corporations Act 1882, and accordingly section 162 of that Act (separate court of quarter sessions) shall not apply to a London borough.

3.—(1) Her Majesty may by Order in Council substitute for any one or more of the areas specified in subsection (1) of section 2 of this Act any other area or areas comprising the whole or part of Greater London, or alter the boundaries of any area so specified ; but the City shall not by virtue of any such Order be included in an area for which a commission of the peace is issued under the said subsection (1).

Power to adjust London commission areas.

(2) An Order in Council under this section may contain such incidental, consequential, transitional or supplementary provisions as may be necessary or expedient for the purposes of the Order (including provisions amending this Act or any other enactment).

(3) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Quarter sessions*

4.—(1) Her Majesty may on the recommendation of the Lord Chancellor appoint for the court of quarter sessions for each London commission area a whole-time chairman and one or more whole-time deputy chairmen :

Whole-time chairmen and deputy chairmen.

Provided that the number of deputy chairmen appointed under this subsection for the courts of quarter sessions for all the London commission areas shall not exceed twenty-five.

(2) A person shall not be qualified to be appointed a whole-time chairman or deputy chairman under this section unless he is a barrister or solicitor of not less than ten years' standing.

(3) The following provisions shall apply to each whole-time chairman and deputy chairman, that is to say—

- (a) he shall by virtue of his office be a justice of the peace for each of the London commission areas and may act as deputy chairman of the court of quarter sessions for a London commission area other than the court for the area for which he was appointed ;

## PART I

- (b) he shall be paid by the Greater London Council a yearly salary at such rate as the Lord Chancellor may, after consultation with the Greater London Council and with the consent of the Treasury, determine ;
- (c) he shall not during his continuance in office practise as a barrister or solicitor ;
- (d) he may be removed from office by the Lord Chancellor for inability or misbehaviour ;
- (e) he shall vacate his office at the end of the completed year of service in the course of which he attains the age of seventy-two unless the Lord Chancellor considers it desirable in the public interest to retain him in office after that year, and in that event the Lord Chancellor may from time to time authorise him to continue in office to such age (not exceeding seventy-five years) as the Lord Chancellor thinks fit.

County court  
judges as  
deputy  
chairmen.

5.—(1) The Lord Chancellor may appoint any county court judge for a district wholly or partly situated in Greater London to act during such period or on such occasions as the Lord Chancellor thinks fit as deputy chairman of the court or courts of quarter sessions for one or more of the London commission areas.

(2) The limit imposed by section 4(1) of the County Courts Act 1959 on the total number of county court judges shall be increased from eighty to ninety and the number of judges who may be assigned to a district under section 4(4) of that Act shall, in the case of a district situated wholly or partly in a London commission area, be increased from two to three.

(3) Every county court judge for the time being assigned to a district wholly or partly situated in a London commission area shall by virtue of his office be a justice of the peace for each of those areas ; and section 11 of the County Courts Act 1959 (which provides for including county court judges in the commission of the peace for a county or borough in their district) shall not apply in relation to any of the London commission areas.

(4) The Greater London Council shall, subject to subsection (5) of this section, pay to the Lord Chancellor by way of contribution towards the salary of a county court judge who has been appointed to act as deputy chairman of a court or courts of quarter sessions under this section, and towards the pension and other benefits payable under the Administration of Justice (Pensions) Act 1950 in respect of the service as a county court

judge of a person who has so acted, such sums at such times as the Lord Chancellor may, after consultation with the Greater London Council and with the consent of the Treasury, determine.

(5) Contributions shall not be required to be made under subsection (4) of this section in respect of any county court judges in excess of the relevant limit for any period during which that limit is exceeded; and for the purposes of this subsection the relevant limit at any time is a number equal to the difference between twenty-five and the number of whole-time deputy chairmen at that time of all the courts of quarter sessions for the London commission areas.

6.—(1) If it appears to the Lord Chancellor that it is expedient to do so in order to avoid delays in disposing of the business of the court of quarter sessions for a London commission area, he may appoint a person qualified to be a deputy chairman of the court to act as such during such period or on such occasions as the Lord Chancellor thinks fit. Temporary  
deputy  
chairmen.

(2) The Greater London Council shall pay to any person appointed under this section such remuneration as the Lord Chancellor may, after consultation with the Greater London Council and with the consent of the Treasury, determine.

7.—(1) The court of quarter sessions for a London commission area may sit in more than one division simultaneously, and may sit at any place within Greater London or an adjoining county, notwithstanding that the place is not within the area for which the court is set up; and for the purposes of this subsection a county borough surrounded by or adjoining a county shall be treated as forming part of that county. Proceedings  
and  
jurisdiction  
of quarter  
sessions.

(2) Section 4(1) of the Criminal Justice Administration Act 1962 (times for holding quarter sessions) shall apply to the court of quarter sessions for a London commission area as it applies to a court of quarter sessions for a county elsewhere in England and Wales.

(3) For the purposes of section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1938 (extended jurisdiction of quarter sessions) and of this section a person shall be deemed to be a legally qualified chairman in relation to the court of quarter sessions for a London commission area if he is a whole-time chairman or deputy chairman of that or of another such court or is a person appointed to act as deputy chairman of that court under section 5 or 6 of this Act, and not otherwise.

(4) The court of quarter sessions for a London commission area shall not be properly constituted for the purpose of any

## PART I

sitting unless a legally qualified chairman of the court is present and presiding, and in the case of the court of quarter sessions for any such area the Lord Chancellor may direct that the court or any division of the court shall, for the purpose of dealing with persons committed to the court for trial, persons committed to the court under section 5 of the Vagrancy Act 1824 or persons committed to the court for sentence or order by any court other than a juvenile court, be held before a legally qualified chairman of the court sitting alone.

(5) Section 4(5) of the Criminal Justice Administration Act 1962 (power of legally qualified chairman to sit alone if no other members of the court are available) shall apply to the court of quarter sessions for a London commission area as it applies to a court of quarter sessions for a county elsewhere in England and Wales.

(6) Subject to subsection (4) of this section, and to any directions given thereunder, the court of quarter sessions for a London commission area when sitting for the purpose of—

(a) hearing appeals of any description ;

(b) hearing applications under section 21 of the Firearms Act 1937 ; or

(c) dealing with persons committed for sentence or order, shall be constituted in like manner and in accordance with the like arrangements as a court of quarter sessions for a county elsewhere in England and Wales when sitting for the like purpose ; and section 8 of the Summary Jurisdiction (Appeals) Act 1933 shall cease to have effect.

(7) The powers of the court of quarter sessions for a London commission area under section 84(3) of the Magistrates' Courts Act 1952 (extension of time for appealing) shall be exercised by a legally qualified chairman of the court.

Clerks of the  
peace and  
other officers.

8.—(1) It shall be the duty of the court of quarter sessions for each London commission area to appoint a clerk of the peace for that area, a deputy clerk of the peace for that area and such other officers of the court as may be determined by the court after consultation with the Greater London Council to be necessary.

(2) A person shall not be qualified to be appointed a clerk of the peace for a London commission area unless he is a barrister or solicitor of not less than five years' standing.

(3) The salaries and other terms and conditions of service of the clerk of the peace and the deputy clerk of the peace for a London commission area and the other officers of the court of quarter sessions for such an area, and the grades in which



those other officers are employed, shall be such as may from time to time be determined by the court after consultation with the Greater London Council.

(4) The sums payable by way of salary or expenses to the said clerks and other officers, together with any employer's contributions payable in respect of those officers under the National Insurance Acts 1946 to 1963, shall be paid by the Greater London Council.

(5) The salary paid to the clerk of the peace for a London commission area shall be deemed to be remuneration for all business which he may by reason of his office of clerk of the peace be called upon to perform, and all fees and costs payable to the clerk of the peace, except any fees and costs expressly excluded when his salary is determined, shall, in accordance with such directions as may be given by the Greater London Council, be accounted for and paid to the Council.

(6) If the Greater London Council are aggrieved by any determination of a court of quarter sessions under this section, or if the clerk of the peace for a London commission area is aggrieved by any such determination with respect to his salary, the Council or the clerk, as the case may be, may appeal to the Secretary of State.

(7) The clerk of the peace and the deputy clerk of the peace for a London commission area and the other officers of the court of quarter sessions for such an area shall be treated for the purposes of section 75 of the London Government Act 1963 as if they were whole-time officers of the Greater London Council.

(8) The Minister of Housing and Local Government may by regulations provide that the Local Government Superannuation Acts 1937 to 1953 and any regulations made thereunder shall apply, subject to such adaptations, modifications, and exceptions as may be prescribed by the regulations, to clerks of the peace and deputy clerks of the peace for a London commission area and other officers of the court of quarter sessions for such an area or to any class of such officers; and any such regulations may make different provision with respect to different classes of officers and may contain such incidental, consequential or supplementary provisions as appear to the Minister to be necessary or expedient.

(9) Any regulations under subsection (8) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) The Local Government (Clerks) Act 1931, except sections 4(5) and (7) and 5(2) and (3), shall not apply to a London commission area or the clerk or deputy clerk of the peace thereof.

## PART I

(11) The Recorders, Stipendiary Magistrates, and Clerks of the Peace Act 1906 shall not apply in relation to a London commission area.

*Summary jurisdiction in inner London*

Integration of jurisdiction of stipendiary and lay magistrates.

9.—(1) In the inner London area the jurisdiction conferred on justices of the peace by any enactment, by their commission or by the common law shall be exercisable both by metropolitan stipendiary magistrates and by justices of the peace for that area who are not metropolitan stipendiary magistrates (hereafter in this Act referred to as lay justices).

(2) Metropolitan stipendiary magistrates shall continue to exercise the jurisdiction conferred on them as such by any enactment, but the inner London area shall take the place of the metropolitan stipendiary courts area as the area for which magistrates' courts are to be held by metropolitan stipendiary magistrates.

(3) Lay justices for the inner London area may, in addition to exercising the jurisdiction mentioned in subsection (1) of this section, exercise the jurisdiction conferred on metropolitan stipendiary magistrates as such by any enactment except the following enactments:—

- (a) the Extradition Acts 1870 to 1935 ;
- (b) section 40 of the Pawnbrokers Act 1872 ;
- (c) the Fugitive Offenders Act 1881 ;
- (d) section 28 of the Pilotage Act 1913 ;
- (e) section 25 of the Children and Young Persons Act 1933 ;

but a magistrates' court consisting of lay justices for the inner London Area shall not by virtue of this subsection try an information summarily or hear a complaint except when composed of at least two justices.

(4) Without prejudice to subsection (1) of this section, sections 1 to 3 of the Stipendiary Magistrates Act 1858 (which enable a provincial stipendiary magistrate sitting alone to exercise the jurisdiction exercisable by two justices of the peace, except jurisdiction exercisable by quarter sessions) shall apply to metropolitan stipendiary magistrates.

Metropolitan stipendiary magistrates.

10.—(1) Metropolitan stipendiary magistrates shall be appointed by Her Majesty and Her Majesty shall from time to time appoint such number of persons as is necessary. but the number of metropolitan stipendiary magistrates shall not at any time exceed forty.

(2) A person shall not be qualified to be appointed a metropolitan stipendiary magistrate unless he is a barrister or solicitor of not less than seven years' standing.

(3) The Lord Chancellor shall designate one of the metropolitan stipendiary magistrates to be the chief metropolitan stipendiary magistrate.

(4) The following provisions shall apply to each metropolitan stipendiary magistrate, that is to say—

- (a) he shall by virtue of his office be a justice of the peace for each of the London commission areas and for the counties of Essex, Hertfordshire, Kent and Surrey ;
- (b) he shall not during his continuance in office practise as a barrister or solicitor ;
- (c) he may be removed from office by the Lord Chancellor for inability or misbehaviour.

(5) A metropolitan stipendiary magistrate who is by virtue of his office a justice of the peace for any area mentioned in paragraph (a) of subsection (4) of this section shall not by reason only of his being a justice of the peace for that area by virtue of that office—

- (a) act as a member of a court of quarter sessions for that area ; or
- (b) be qualified to be chosen under section 13(2) of the Justices of the Peace Act 1949 as chairman or deputy chairman of the justices for a petty sessional division of that area or to vote under that subsection at the election of any such chairman or deputy chairman.

(6) The Lord Chancellor may assign metropolitan stipendiary magistrates to petty sessional divisions constituted under section 14 of this Act and may alter any assignment under this subsection, but the assignment of a magistrate to a particular division shall not preclude him from exercising jurisdiction for any other division of the inner London area.

(7) Metropolitan stipendiary magistrates shall sit at such courthouses provided for the inner London area under the following provisions of this Act, on such days and at such times as may be determined by or in accordance with directions given by the Lord Chancellor from time to time.

(8) The chief metropolitan stipendiary magistrate shall cause to be held at least once in every quarter of a year a meeting of all the metropolitan stipendiary magistrates or such of them as are able to attend and, if present, shall preside over the meeting.

11.—(1) For the purpose of exercising jurisdiction to hear domestic proceedings a magistrates' court for an inner London petty sessions area shall be composed of—

- (a) a metropolitan stipendiary magistrate as chairman and one or two lay justices ; or

Composition  
of courts for  
domestic  
proceedings.

**PART I**

(b) two or three lay justices ;

or, if it is not practicable for such a court to be so composed, the court shall for that purpose be composed of a metropolitan stipendiary magistrate sitting alone ; and section 56(2) of the Magistrates' Courts Act 1952 (composition of magistrates' courts for hearing domestic proceedings) shall not apply to a magistrates' court for any such area.

(2) A domestic court for an inner London petty sessions area which includes lay justices shall, so far as practicable, include both a man and a woman.

(3) A domestic court for an inner London petty sessions area shall, in addition to hearing proceedings which (apart from the next following subsection) may be heard by a domestic court for that area, have jurisdiction to hear proceedings which could be heard before a domestic court for any other such area, but shall not exercise the jurisdiction conferred by this subsection except in such cases or classes of case as may be determined by the committee of magistrates.

(4) A magistrates' court for an inner London petty sessions area shall not hear any domestic proceedings if the committee of magistrates so determine.

(5) In this section—

“ domestic court ” means a magistrates' court when composed for the purpose of exercising jurisdiction to hear domestic proceedings ;

“ domestic proceedings ” has the same meaning as in the Magistrates' Courts Act 1952 ; and

“ inner London petty sessions area ” means the City or any petty sessional division of the inner London area.

**Composition  
of juvenile  
courts.**

**12.—**(1) Without prejudice to the general adaptations of enactments for which provision is made hereafter in this Act, Schedule 2 to the Children and Young Persons Act 1963 (constitution of juvenile courts) shall have effect as if for any reference to the metropolitan stipendiary court area there were substituted a reference to the inner London area, and Part II of that Schedule shall apply accordingly to the inner London area and the City subject to the following provisions of this section.

(2) In paragraph 15 of the said Schedule 2 for any reference to a justice or justices of the peace for the county of London there shall be substituted a reference to a lay justice or justices for the inner London area.

(3) The functions of the Secretary of State under the said Part II with respect to the nomination or selection of the chairmen and other members of the juvenile courts shall be transferred to the Lord Chancellor, and accordingly for any reference to the Secretary of State in paragraphs 15, 16 and 18 of the

said Schedule 2 there shall be substituted a reference to the Lord Chancellor.

PART I

**13.—(1)** No magistrates courts' committee shall be set up under section 16 of the Justices of the Peace Act 1949 for the inner London area, but instead a committee (to be known as the committee of magistrates) shall be set up for that area in accordance with the following provisions of this section with such functions in relation to—

The committee of magistrates.

- (a) the division of that area into petty sessional divisions,
- (b) the employment of clerks and other officers,
- (c) the division of work between the metropolitan stipendiary magistrates and lay justices,
- (d) the provision of courses of instruction for justices, and
- (e) other matters of a financial or administrative character,

as are or may be provided by or under this Act or as the committee may be authorised to undertake by the Secretary of State.

(2) The *custos rotulorum* for the inner London area, the chairman of the court of quarter sessions for that area and the chief metropolitan stipendiary magistrate shall each, by virtue of his office, be a member of the committee of magistrates.

(3) The committee of magistrates shall in addition to the members mentioned in subsection (2) of this section consist of the following members:—

- (a) one lay justice chosen from amongst themselves by the lay justices for each petty sessional division ;
- (b) three members of the juvenile court panel for the inner London area and the City, chosen jointly by the members of that panel and by any chairmen of juvenile courts for that area and the City who are not members of that panel ;
- (c) such number of metropolitan stipendiary magistrates nominated by the chief metropolitan stipendiary magistrate as is equal to the total number of members required to be chosen under paragraphs (a) and (b) of this subsection.

(4) The members of the committee of magistrates who are chosen or nominated under subsection (3) of this section shall hold office as such for the period of one year beginning on such date as the Secretary of State may direct, but may again be chosen or nominated as members of the committee.

(5) There shall be a chairman, a vice-chairman and a deputy chairman of the committee of magistrates, and the chairman of the court of quarter sessions for the inner London area shall be the chairman of the committee, the chief metropolitan

**PART I**

stipendiary magistrate shall be the vice-chairman and a person chosen from amongst themselves by the lay justices who are members of the committee shall be the deputy chairman.

(6) The chief metropolitan stipendiary magistrate shall, subject to and in accordance with any directions given by the committee of magistrates, carry on the day to day administration of the magistrates' courts in the inner London area (including domestic courts and including juvenile courts for that area and the City).

(7) Paragraphs 7 to 11 of Schedule 4 to the Justices of the Peace Act 1949 (which relate to the proceedings of a magistrates' courts committee), except so much of paragraph 9 of that Schedule as relates to the chairman of such a committee, shall apply to the committee of magistrates as it applies to a magistrates' courts committee.

**Establishment  
of petty  
sessional  
divisions.**

**14.**—(1) The Secretary of State may, on the recommendation of or after consultation with the committee of magistrates, by order make provision for the division of the inner London area or any part thereof into petty sessional divisions.

(2) It shall be the duty of the committee of magistrates from time to time and also when directed to do so by the Secretary of State to take into consideration the division of the inner London area into petty sessional divisions and to recommend to the Secretary of State (giving reasons for their recommendation) whether or not to make any changes in those divisions and, if changes are recommended, what changes; and the Secretary of State shall not act otherwise than in accordance with any recommendations under this subsection except after consultation with the committee.

(3) An order under this section may contain transitional and other consequential provisions.

**Appointment  
of justices'  
clerks and  
other officers.**

**15.**—(1) It shall be the duty of the committee of magistrates, subject to the following provisions of this section, to appoint—

(a) a principal chief clerk for the inner London area, one or more chief clerks for each petty sessional division of that area and one or more chief clerks for the juvenile courts for that area and the City; and

(b) such deputy chief clerks and other officers as may be necessary;

and the committee shall, where there is more than one chief clerk for such a division or for those courts, designate one of them to be the senior chief clerk for that division or all those courts, as the case may be.

(2) The officers mentioned in subsection (1)(a) of this section shall rank as justices' clerks and be treated as such for the purposes of the enactments relating to justices' clerks.

(3) The principal chief clerk shall assist the chief metropolitan stipendiary magistrate to perform the latter's duty under section 13(6) of this Act of carrying on the day to day administration of the magistrates' courts in the inner London area.

(4) The justices' clerks and deputy chief clerks mentioned in subsection (1) of this section shall not be appointed or dismissed by the committee of magistrates without the approval of the Secretary of State, and—

(a) the committee shall inform the Secretary of State of the age, qualification and experience of any person proposed to be appointed such a clerk and, if the Secretary of State so requires, of any other person offering himself for the appointment ;

(b) before approving the dismissal of any such clerk the Secretary of State shall consider any representations made to him by the clerk.

(5) The number of justices' clerks and of other officers employed by the committee of magistrates in each grade below that of principal chief clerk, the grades in which such officers below that of deputy chief clerk are to be employed and the terms and conditions of employment of all officers employed by the committee shall be such as may from time to time be determined by the committee.

(6) The following provisions of this subsection shall have effect with respect to determinations under subsection (5) of this section and related matters:—

(a) no such determination shall have effect unless confirmed with or without modifications, by the Secretary of State ;

(b) the committee of magistrates shall not make or refuse to make any such determination with respect to terms and conditions of employment except after consultation with persons appearing to the committee to represent the interests of the officers affected ;

(c) any refusal of the Committee to make any such determination with respect to any terms and conditions of employment may be reviewed by the Secretary of State and on the review the Secretary of State may confirm the refusal or make such determination with respect to those terms and conditions as he thinks fit ;

(d) in the case of any matter which falls to be determined under the said subsection (5) and affects officers employed by the committee who immediately before 1st April 1965—

(i) were clerks or other officers of metropolitan stipendiary courts ; or

## PART I

(ii) were justices' clerks or officers employed by the magistrates' courts committee for the county of London,

the functions of the Secretary of State under paragraphs (a) to (c) of this subsection shall be exercised in such manner as he thinks necessary for protecting the interests of those officers.

(7) The Secretary of State may by order amend subsection (1)(a) of this section by substituting for or adding to the offices therein mentioned such other offices as he thinks fit; and any such order—

(a) may contain transitional and other consequential provisions (including provisions amending the foregoing provisions of this section); and

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Sections 19 and 23 of the Justices of the Peace Act 1949 (appointment and conditions of service of justices' clerks) shall not apply to the inner London area.

**Other functions of the committee of magistrates.**

**16.—**(1) It shall be the duty of the committee of magistrates to keep under consideration the division of work in the inner London area between the metropolitan stipendiary magistrates and the lay justices and to give general directions as to the division of the work.

(2) It shall be the duty of the committee of magistrates, in accordance with arrangements approved by the Lord Chancellor, to make and administer schemes providing for courses of instruction for justices of the peace of the inner London area.

(3) In addition to exercising the functions conferred on them by or by virtue of the foregoing provisions of this Part of this Act, the committee of magistrates shall consider any matters referred to them by the Lord Chancellor or the Secretary of State and, if required to do so, shall make recommendations on any matter so referred.

**Administrative and financial provisions.**

**17.—**(1) The Receiver shall provide such courthouses and other accommodation, and such furniture, books and other things, as the committee of magistrates may determine to be proper for the due transaction of the business, and convenient keeping of the records and documents, of magistrates' courts in the inner London area (including domestic courts and including juvenile courts for that area and the City) or for enabling the justices' clerks for that area or for juvenile courts for that area and the City to carry out their duties; but any determination under this subsection shall not have effect unless confirmed, with or without modifications, by the Secretary of State.



(2) The Receiver shall pay out of the metropolitan police fund—

- (a) any expenses of the committee of magistrates, to such an amount and of such a nature as may be approved by the Secretary of State ;
- (b) the sums payable by way of salary or expenses to justices' clerks and other officers employed by the committee of magistrates, together with any employer's contributions payable in respect of those officers under the National Insurance Acts 1946 to 1963 ;
- (c) any superannuation benefits payable in respect of such clerks and other officers under the enactments and instruments applied to them under section 24 of this Act, other than benefits payable by the Greater London Council, and any superannuation contributions and other payments for which the committee of magistrates may be liable as their employer under those enactments and instruments.

(3) Any accommodation provided under this section for any magistrates' court or justices' clerk may be outside the area for which the court or clerk acts and, if outside that area, shall be deemed to be in that area for the purpose of the jurisdiction of the court.

(4) The Secretary of State may assign courthouses and other accommodation either to petty sessional divisions of the inner London area or to particular magistrates' courts for that area (including domestic courts and including juvenile courts for that area and the City) and may alter any assignment under this subsection, but after the committee of magistrates has been set up shall not exercise his powers under this subsection except after consultation with the committee.

(5) Sections 25 and 26 of the Justices of the Peace Act 1949 (which impose on councils of counties and certain boroughs duties similar to those imposed by this section on the Receiver) shall not apply to the inner London area.

#### *Lieutenant and Sheriff*

18.—(1) For the purposes of the Militia Act 1802, the Militia Act 1882, the Deputy Lieutenants Act 1918 and paragraph 1(c) and (d) of Schedule 1 to the Auxiliary Forces Act 1953 Greater London other than the City shall be treated as a county ; and the foregoing provision shall have effect notwithstanding the definition of "county" in section 48(1) of the said Act of 1882.

Lieutenant  
of Greater  
London.

(2) Subsection (1) of this section, so far as it relates to Schedule 1 to the Auxiliary Forces Act 1953, shall have effect subject to any order made by virtue of section 84(3) of the

**PART I** London Government Act 1963 (which relates to associations established under that Act for the whole or part of Greater London).

(3) The lieutenant of Greater London may with the approval of Her Majesty appoint not more than four deputy lieutenants of Greater London to be assistant lieutenants of Greater London for the purpose of discharging such of his functions as he may delegate to them.

Sheriff of  
Greater  
London.

**19.**—(1) For Greater London other than the City a sheriff, who shall be known as the sheriff of Greater London, shall be appointed in accordance with the enactments and customs applied by the following provisions of this section and for each London commission area an under-sheriff shall be so appointed.

(2) Subject to the following provisions of this section—

(a) for the purposes of the Sheriffs Act 1887 and the customs relating to the appointment of sheriffs Greater London other than the City shall be treated as a county ;

(b) any enactment not contained in the said Act of 1887 or the House of Commons Disqualification Act 1957 shall apply to the sheriff of Greater London as if Greater London other than the City were a county and shall apply to the under-sheriff of any London commission area as if that area were a county ;

(c) any reference in any enactment to the sheriff of the county of London or of Middlesex shall be construed as a reference to the sheriff of Greater London.

(3) Paragraphs (a) and (b) of subsection (2) of this section shall have effect notwithstanding the definition of “ county ” in section 38 of the said Act of 1887, but shall not apply to any reference to a county adapted by subsection (4) of this section or to any reference to a court of quarter sessions for a county.

(4) The Sheriffs Act 1887 shall, in its application to Greater London, the sheriff of Greater London and the under-sheriff of any London commission area, have effect subject to the following additional modifications:—

(a) in sections 7(1), 17, 23(3) and 26 any reference to a justice of the peace for a county shall be construed as a reference to a justice of the peace for any of the London commission areas ;

(b) the duty of the sheriff of Greater London to appoint an under-sheriff under section 23(1) shall be a duty to appoint an under-sheriff for each London commission area, and where the sheriff of Greater London appoints

different persons to be under-sheriffs for different London commission areas—

PART I

(i) he shall by the relevant instrument of appointment nominate one of them to execute the office of sheriff in accordance with section 25 in the event of his death ; and

(ii) section 25 shall have effect as if it empowered only the under-sheriff nominated for the purpose under this paragraph to execute the office of a deceased sheriff of Greater London, but as if it continued in office all the under-sheriffs nominated by the deceased sheriff ;

(c) the documents required by sections 6(3), 23(1) and 30 to be sent to the clerk of the peace shall be sent to the clerk of the peace for each London commission area.

#### *Miscellaneous and Supplementary*

20. A magistrates' court for a London commission area by which a person is tried for an offence shall have jurisdiction to try him for any summary offence for which he could be tried by a magistrates' court for any other London commission area. Extension of jurisdiction of magistrates' courts to try offences.

21.—(1) Without prejudice to section 2(3) of this Act but subject to the following provisions of this section, each of the London commission areas shall be treated as a county for the purposes of the Juries Acts 1825 to 1954 and any other enactment relating to juries or jurors ; and references in any such enactment to the body of a county shall be construed accordingly. Juries.

(2) The foregoing subsection shall not apply to any reference to a county adapted by any provision of this Act other than that subsection or section 2(3) of this Act and, in particular, shall not apply to any reference to the sheriff or under-sheriff of a county.

(3) Notwithstanding anything in section 1 of the Juries Act 1825, any person qualified and liable to serve as a juror for any of the London commission areas or the City shall be qualified and liable to serve as a juror for the trial in the High Court (within Greater London) or the Central Criminal Court of any issue other than one to be tried by a special jury ; and references in the enactments mentioned in subsection (1) of this section to a county or body of a county shall, in relation to jurors for the trial of such issues, be construed as references to Greater London.

(4) The judges of the Central Criminal Court may issue precepts to the sheriffs of the City and the sheriff of Greater

**PART I** London directing them to summon and return for the City or Greater London, as the case may be, a sufficient number of persons, qualified according to law, to serve as jurors at the Central Criminal Court.

(5) The Juries Act 1825 shall have effect subject to the following additional modifications:—

- (a) in section 1 for the reference to the county of Middlesex there shall be substituted a reference to Greater London other than the City;
- (b) sections 37 and 52 shall apply to Greater London as if it were a county;
- (c) a person who has served as a juror at the High Court or the Central Criminal Court shall be exempt under section 42 from jury service in the High Court and the Central Criminal Court for the same period as a person who has served as a juror at a court of assize in one of the counties not specified in that section is exempt from jury service in a court of assize in that county, and accordingly so much of that section as makes special provision for jurors at the High Court and the Central Criminal Court shall cease to have effect.

(6) In the application to a London commission area of section 1 of the Juries Act 1922 (jurors books), the references in subsections (7) to (9) of that section to the clerk of the county council shall be construed as references to the clerk of the peace.

(7) In section 4 of the Juries Act 1949 (which defines the appropriate local treasurer and the appropriate local fund for the purpose of making certain payments under that Act), for paragraph (c) there shall be substituted the following paragraph:—

- “(c) in relation to a payment in respect of jury service at the Central Criminal Court or the court of quarter sessions for a London commission area, the treasurer to the Greater London Council and the general fund of that Council;”

and in paragraph (d) after the words “quarter sessions” there shall be inserted the words “other than the court for a London commission area”.

(8) Any sum falling to be defrayed by virtue of subsection (7) of this section out of the general fund of the Greater London Council in respect of jury service at the court of quarter sessions for a London commission area shall be chargeable only on the London boroughs.

(9) Sections 112 and 113 of the Common Law Procedure Act 1852 (special jurors) shall cease to have effect. PART I

**22.**—(1) Paragraph 7(1) of Schedule 5 to the Criminal Justice Act 1948 (special provisions as to the probation system in the metropolitan police court area) shall cease to have effect; and subject to the following provisions of this section that Schedule shall apply in the inner London area as it applies outside Greater London. The probation service.

(2) The Secretary of State shall make provision by order under paragraph 1 of the said Schedule 5 for combining in one probation area all of the petty sessional divisions of the inner London area; and the probation committee for that area shall consist of the following members:—

- (a) such number of the judges of the Central Criminal Court, appointed in such manner, as may be prescribed by the order;
- (b) such number as may be so prescribed of persons holding office as whole-time chairman or deputy chairman of the court of quarter sessions for the inner London area, nominated by the chairman of the court;
- (c) such number as may be so prescribed of metropolitan stipendiary magistrates, nominated by the chief metropolitan stipendiary magistrate;
- (d) such number as may be so prescribed of lay justices for the petty sessional divisions of the area, chosen, in such manner as may be so prescribed, by the lay justices for those divisions;
- (e) such number as may be so prescribed of the members of the juvenile courts panel for the inner London area and the City, chosen in such manner as may be so prescribed.

(3) The provisions of the said Schedule with respect to the constitution, procedure and functions of case committees shall not apply to the inner London area except so far as applied by the following provisions of this subsection; but—

- (a) the probation committee may appoint such case committees, constituted in such manner and for such areas within the probation area, as the probation committee may determine, and shall pay the expenses of any case committee appointed under this subsection; and
- (b) any case committee so appointed shall exercise functions conferred on case committees for areas elsewhere than the inner London area by paragraph 3(6) of the said Schedule to such extent and in such cases as may be determined by the probation committee.

## PART I

(4) In the case of any probation committee for the inner London area, there shall be paid out of ~~the~~ metropolitan police fund such sums as the Secretary of State may direct to meet the expenses and contributions which, in the case of a probation area outside Greater London, would be payable by the local authority; and paragraph 5 of the said Schedule shall not apply to such expenses and contributions.

(5) Any expenditure incurred in relation to a probation area in any outer London area by the Greater London Council by virtue of the said paragraph 5 shall be chargeable only on the outer London boroughs.

Superannua-  
tion of  
chairmen of  
quarter  
sessions.

23.—(1) Section 22 of, and Schedule 4 to, the Administration of Justice (Pensions) Act 1950 shall apply to the whole-time chairman and deputy chairmen of the court of quarter sessions for a London commission area as they apply to the chairman and deputy chairmen of the existing court of quarter sessions for the county of London, but shall have effect subject to the following provisions:—

- (a) service as a salaried chairman or deputy chairman of the court of quarter sessions for the county of London or of Middlesex shall be treated for the purpose of determining whether any pension or other benefits are payable under or by virtue of the said section 22 in respect of service as chairman or deputy chairman of the court of quarter sessions for a London commission area, and of computing the amount of those benefits, as service in the latter capacity;
- (b) a chairman or deputy chairman of the court of quarter sessions for a London commission area who vacates his office at the end of the year of service in the course of which he attains the age of seventy-two years shall be treated for the purpose of the said section 22 as retiring after the end of that year;
- (c) in section 22(7) for the references to the London County Council there shall be substituted references to the Greater London Council.

(2) Schedule 2 to this Act shall apply to a whole-time chairman or deputy chairman of the court of quarter sessions for a London commission area who, immediately before his appointment to the office of chairman or deputy chairman of that court or the court of quarter sessions for another such area, was a stipendiary magistrate.

(3) A pension shall not be paid to any person in respect of his service as a stipendiary magistrate while serving as chairman or deputy chairman of the court of quarter sessions for a London commission area; and not more than one pension shall be paid

to the same person in respect of his service as chairman or deputy chairman of the court of quarter sessions for a London commission area and in respect of his service as a stipendiary magistrate.

(4) Subsection (3) of this section applies to any derivative benefit within the meaning of the Administration of Justice (Pensions) Act 1950 which depends upon eligibility for a pension as it applies to the pension.

(5) Any pension payable under section 395 of the Middlesex County Council Act 1944 to or in respect of a person who has been chairman or deputy chairman of Middlesex quarter sessions shall be paid by the Greater London Council.

**24.**—(1) The Secretary of State shall by regulations provide that one or other of the following codes, that is to say—

- (a) the Metropolitan Police Staff (Superannuation) Acts 1875 to 1931, any enactments applied thereby and any instruments made under those Acts or enactments; or
- (b) Schedule 3 to the Local Government Superannuation Act 1953 (which relates to the superannuation of justices' clerks and their staffs) and any regulations made thereunder,

shall apply, with any necessary modifications, in relation to justices' clerks for the inner London area and other officers employed by the committee of magistrates.

(2) Any regulations under this section may contain transitional and other consequential provisions (including provisions amending or repealing or revoking any enactment or any instrument made under an enactment), and in particular may make such transitional or other special provision as the Secretary of State thinks proper for preserving the rights of persons who, before the coming into operation of the regulations, were subject to enactments other than those applied by the regulations.

(3) Regulations under this section may be made with retrospective effect to any date not being earlier than 1st April 1965.

(4) No regulations shall be made under this section unless a draft thereof has been laid before Parliament and been approved by resolution of each House of Parliament.

**25.**—(1) Without prejudice to the power conferred by section 75 of the Supreme Court of Judicature (Consolidation) Act 1925 to hold a court of assize outside the county for which the court is held, a court of assize for any county adjoining Greater London may be held at any place in Greater London.

(2) For the purposes of commissions of assize and commissions of the peace and of the law relating to justices of the

## PART I

peace, quarter sessions, magistrates' courts, the *custos rotulorum*, lieutenants, sheriffs, juries, clerks of the peace and matters connected with any of those matters, the urban district of Potters Bar shall form part of the county of Hertfordshire and of the St. Alban division of that county and the urban districts of Staines and Sunbury-on-Thames shall form part of the county of Surrey.

(3) Subsection (2) of this section shall not be construed as derogating from any power of Her Majesty with respect to the issue of commissions of assize and the regulation of circuits.

(4) In this section "commission of assize" has the same meaning as in the Supreme Court of Judicature (Consolidation) Act 1925.

The Inner and Middle Temples.

26. It is hereby declared that the Inner Temple and the Middle Temple are included in the City of London, and in no other area, for the purposes of the law relating to county courts, commissions of the peace, justices of the peace, quarter sessions, magistrates' courts, lieutenants, sheriffs, juries and matters connected therewith.

## PART II

## GENERAL PROVISIONS

*Indemnification of justices and clerks*

General provision for indemnity.

27.—(1) Subject to the provisions of this section and of section 28 of this Act, a justice of the peace or justices' clerk may be indemnified out of local funds in respect of—

- (a) any costs reasonably incurred by him in or in connection with proceedings against him in respect of anything done or omitted in the exercise or purported exercise of the duty of his office, or in taking steps to dispute any claim which might be made in such proceedings;
- (b) any damages awarded against him or costs ordered to be paid by him in any such proceedings;
- (c) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim;

and shall be entitled to be so indemnified if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.

(2) Any question whether or to what extent a person is to be indemnified under this section shall be determined by the magistrates' courts committee for the area for which he acted at the material time; and a determination under this subsection with respect to any such costs or sums as are mentioned in paragraph (a) or paragraph (c) of subsection (1) of this section may, if the person claiming to be indemnified so requests,



be made in advance before those costs are incurred or the settlement made, as the case may be:

Provided that any such determination in advance for indemnity in respect of costs to be incurred shall be subject to such limitations, if any, as the committee think proper and to the subsequent determination of the amount of the costs reasonably incurred, and shall not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

(3) An appeal shall lie to a person appointed for the purpose by the Lord Chancellor—

- (a) on the part of the person claiming to be indemnified, from any decision of the magistrates' courts committee under subsection (2) of this section, other than a decision to postpone until after the conclusion of the proceedings any determination with respect to his own costs or to impose limitations on making a determination in advance for indemnity in respect of such costs;
- (b) on the part of the local authority, from any determination of the magistrates' courts committee under that subsection, other than a determination in advance for indemnity in respect of costs to be incurred by the person claiming to be indemnified.

(4) The Lord Chancellor may make rules prescribing the procedure to be followed in any appeal under this section; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section "justices' clerk" includes a clerk to a stipendiary magistrate, a person appointed by a magistrates' courts committee to assist a justices' clerk and any member of the staff of a part-time justices' clerk assisting the clerk in his duties as such; "local funds", in relation to a justice or a justices' clerk, means the fund out of which any salary or allowance to which he is entitled (or, if he is entitled to more than one, is entitled in the relevant capacity) is payable; and "local authority" means the authority responsible for the payment of any such salary or allowance.

(6) Subsection (5) of this section shall not apply to the inner London area, but in the application of the other provisions of this section to that area for any reference to local funds there shall be substituted a reference to the metropolitan police fund, for any reference to a magistrates' courts committee there shall be substituted a reference to the committee of magistrates set up under section 13 of this Act, for any reference to the local authority there shall be substituted a reference to the Receiver.

## PART II

and "justices' clerk" includes any officer employed by the committee of magistrates.

Prerogative proceedings and acts done in quarter sessions.

28.—(1) Section 27 of this Act shall not apply to proceedings for an order of prohibition, mandamus or certiorari, or to proceedings arising out of anything done or omitted by any person in his capacity as or as a member of a court of quarter sessions.

(2) The Lord Chancellor may, if he thinks fit, defray out of moneys provided by Parliament—

(a) any costs awarded against a justice, justices' clerk or clerk of the peace in proceedings for an order of prohibition, mandamus or certiorari, or any part of such costs;

(b) any such costs, damages or other sums as could be the subject of indemnity under section 27 of this Act if that section applied to proceedings in respect of things done or omitted in quarter sessions and the persons qualified for indemnity thereunder included (as well as a recorder) any deputy or assistant recorder and any clerk of the peace.

(3) In this section "justices' clerk" has the same meaning as in section 27 of this Act and "clerk of the peace" includes a deputy clerk of the peace and a member of the staff of a clerk of the peace.

*Miscellaneous*

Administrative provisions relating to quarter sessions and their staff.

29.—(1) The existing functions of the standing joint committee of the court of quarter sessions and the council of any county, except functions exercisable by the committee as police authority, shall cease to be exercisable by the committee and shall be exercisable in accordance with the following provisions of this section.

(2) Subject to the following provisions of this section, the county council shall provide such courthouses and other accommodation, whether in the county or elsewhere, and such furniture, books and other things, as the council may determine to be proper for the due transaction of the business, and convenient keeping of the records and documents, of the court of quarter sessions for the county or any committee of quarter sessions; and the functions of the county council under this subsection shall include the functions of managing, controlling and maintaining any such accommodation which by virtue of section 30(3) of the Local Government Act 1888 were exercisable immediately before the commencement of this Act by the standing joint committee.

## PART II

(3) The county council shall consult with the court of quarter sessions before making any determination under subsection (2) of this section and, without prejudice to the foregoing provision, shall consider and determine any matter which they have been requested by the court to consider and determine.

(4) If a court of quarter sessions are aggrieved by any determination of a county council under this section they may appeal to the Secretary of State.

(5) Any functions to which subsection (1) of this section applies, other than functions relating to the matters mentioned in subsection (2) of this section, shall be exercisable by the court of quarter sessions for the county.

(6) The court of quarter sessions for a county where the offices of clerk of the county council and clerk of the peace are held by different persons shall appoint such officers (in addition to a deputy clerk of the peace) or provide such other assistance as they may, after consultation with the county council, determine to be necessary for the purpose of assisting the clerk of the peace in carrying out his duties as such, and—

(a) the salary and other terms and conditions of service of any officer appointed under this subsection and the terms on which other assistance is provided thereunder shall be such as may from time to time be determined by the court after consultation with the county council ; and

(b) section 60 of the Local Government Act 1958 (transfer and compensation of officers) shall apply to officers affected by the fact of the clerk of the county council's becoming or, as the case may be, ceasing to be clerk of the peace for the county as it applies to officers affected by an order under Part II of that Act, subject, however, to the following modifications—

(i) a reference to the aforesaid fact shall be substituted for the reference in subsection (2) of that section to the provisions of any such order ; and

(ii) the provisions mentioned in subsection (1) of that section shall, instead of being contained in any such order, be contained in regulations made by such Minister as may be determined by the Treasury to be appropriate in relation to the officers affected and those regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Section 8(8) and (9) of this Act shall apply to the following officers of a court of quarter sessions as they apply to officers

**PART II** of the court of quarter sessions for a London commission area, that is to say—

- (a) a clerk of the peace who is not also clerk of the county council ;
- (b) a deputy clerk of the peace who does not fall within paragraph C of Part II of Schedule 2 to the Local Government Superannuation Act 1937 ;
- (c) an officer appointed under subsection (6) of this section.

(8) The provisions of subsections (6) and (7) of this section, except such of those provisions as are adopted by a resolution of the county council, shall not apply to any county for which provision for purposes corresponding to any of the purposes of those subsections is made by any local Act passed before, or in the same session as, this Act.

(9) The following expenditure of a court of quarter sessions, that is to say,—

- (a) any expenditure incurred by them in exercising their functions under subsection (5) of this section ; and
- (b) the sums payable by way of salary or expenses to officers appointed under subsection (6) of this section, together with any employer's contributions payable in respect of them under the National Insurance Acts 1946 to 1963, and any expenditure on any other assistance provided for the clerk of the peace under that subsection ;

shall be defrayed by the county council.

(10) If a county council are aggrieved—

- (a) by the incurring of any expenditure by a court of quarter sessions in the exercise of their functions under subsection (5) of this section ; or
- (b) by any determination of a court of quarter sessions under subsection (6) of this section ;

the council may appeal to the Secretary of State.

(11) Any functions of a court of quarter sessions with respect to the appointment of, and other matters relating to, the clerk of the peace, deputy clerk of the peace and other officers of the court shall, except so far as the court otherwise resolves, be exercised by a committee consisting of the chairman of the court and such other justices as may be appointed by the court, and any other administrative functions of a court of quarter sessions may, if the court so resolves, be exercised by a committee so constituted ; and section 96 of the Local Government Act 1933 (proceedings of committees) shall apply to any such

committee with the substitution of references to the court of quarter sessions for references to a local authority. PART II

(12) The foregoing provisions of this section, except subsections (6) to (8), shall apply to a London commission area as they apply to a county with the substitution of references to the Greater London Council for references to a county council.

(13) The Secretary of State may by order make such amendments of or repeals in any local Act, including an Act confirming a provisional order, or any instrument in the nature of a local enactment made under any Act, as appear to him to be appropriate in consequence of the foregoing provisions of this section or of a resolution under subsection (8) of this section; and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

30.—(1) Subject to the provisions of this section, any person who under this Act or any other enactment is a justice of the peace for any area by virtue of any other office held by him shall, before acting as such a justice, take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Acts. Promissory oaths of justices of the peace.

(2) A person shall not be required by virtue of this section to take the said oaths as a justice of the peace by reason only of his being appointed under this Act or any other enactment to act temporarily as deputy for, or as if he were, the holder of any office to which subsection (1) of this section applies; but those oaths may be taken by and administered to any such person notwithstanding anything in the Promissory Oaths Acts or any other enactment.

(3) A person shall not be required by virtue of this section to take the said oaths as a justice of the peace for any area if, at the time of his appointment or election to the office in question, he is already a justice of the peace for that area and has taken those oaths as such.

(4) A person who is a justice of the peace for any of the London commission areas (including a person who is such a justice by virtue of any other office held by him) shall not be required to take the said oaths as such if, being a justice of the peace for any other of those areas, he takes or has taken those oaths as such.

(5) In this section “the Promissory Oaths Acts” means the Promissory Oaths Act 1868 and the Promissory Oaths Act 1871.

31.—(1) Section 8 of the Justices of the Peace Act 1949 (travelling and lodging allowances of justices of the peace) and section 36 of that Act (travelling and lodging allowances of Allowances of justices and members of committees.

**PART II** members of probation and case committees) shall be amended as follows:—

(a) for the words “lodging allowance”, wherever those words occur, there shall be substituted the words “subsistence allowance”;

(b) for the words “on accommodation for the night” in subsection (1) of each of those sections, there shall be substituted the words “on subsistence”.

(2) This section extends to Scotland.

Compensation under Justices of the Peace Act 1949, s. 42.

**32.** Regulations under section 42 of the Justices of the Peace Act 1949 (compensation for loss of office) may, so far as they provide for compensation in consequence of anything done under Part II or Part III of that Act, apply to persons who are or were at any time qualified under paragraphs (a) to (c) of subsection (2) of that section, notwithstanding that they were not so qualified at the date of the passing of that Act.

Chairmanship of bench of magistrates.

**33.** A person who, under the Local Government Act 1933, is a justice of the peace for any area by virtue of his office as mayor of a borough or chairman of the council of a county or county district or of the Greater London Council shall not, by reason only of his being a justice of the peace by virtue of that office, be qualified to be chosen under section 13(2) of the Justices of the Peace Act 1949 as chairman or deputy chairman of the justices for that area (or any petty sessional division of that area) or to vote under that subsection at the election of any such chairman or deputy chairman.

Assessors in Lancashire Crown Courts in juvenile cases.

**34.** Section 19 of the Children and Young Persons Act 1963 (assessors for recorders in appeals and committals from juvenile courts) shall apply to the Crown Court at Liverpool and the Crown Court at Manchester as it applies to the court of quarter sessions for Liverpool or Manchester, as the case may be, but as if any reference therein to the recorder included a reference to any judge of the Court.

### PART III

#### SUPPLEMENTAL

Application of supplementary provisions of the London Government Act 1963.

**35.—**(1) The following provisions of the London Government Act 1963, that is to say—

(a) section 84 (power to make orders containing consequential, transitional and supplementary provisions);

(b) section 85(1) to (4) (transfer and compensation of officers); and

(c) section 87 (local Acts and instruments);

shall, subject to subsections (2) to (4) of this section, have effect as if the provisions of Part I of and Schedule 4 to this Act were provisions of that Act.

(2) The officers to whom the said section 85(1) applies by virtue of subsection (1) of this section shall not include any persons other than clerks of the peace, deputy clerks of the peace and other officers of a court of quarter sessions, members of the staff of metropolitan stipendiary courts, justices' clerks and other members of the staff of magistrates' courts and probation officers and other persons employed by probation committees or the Secretary of State in connection with the work of probation officers.

(3) Section 85(2) of the London Government Act 1963 shall have effect subject to the following modifications:—

(a) the reference to local authorities who are or include a council to whom section 3(1)(b) of the said Act of 1963 applies and the second reference to local authorities shall include a reference to the following authorities, that is to say—

(i) the Secretary of State ;

(ii) the standing joint committees for the counties of London and Middlesex ;

(iii) the magistrates' courts committees for the counties of London and Middlesex and the county boroughs of Croydon, East Ham and West Ham ;

(iv) the probation committees for the county of Middlesex, the said county boroughs and the petty sessional division of Beacontree in the county of Essex ;

(b) the authorities to whom any person may be transferred under the subsection shall, in the case of a person affected by Part I of this Act, include such of the following authorities for a London commission area or a county adjoining any such area as may be specified in or determined under the order, that is to say, the court of quarter sessions, the magistrates' courts committee (or in the case of the inner London area the committee of magistrates) and the probation committee ;

(c) the power of making orders under the subsection in the case of persons not employed by a local authority shall be exercisable by the Secretary of State and not by the Minister of Housing and Local Government.

(4) For the purposes of section 85(1) to (4) of the London Government Act 1963 and of this section the clerk of the peace, deputy clerk of the peace and justices' clerk for any

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**PART III** area shall each be treated as employed by an authority, if that authority appointed him, and as having been transferred to, and thereafter as being in, the employment of an authority, if that authority has power to appoint such a clerk.

(5) Nothing in section 86 of the said Act of 1963 shall be construed as requiring a joint committee established under that section to consider any matters falling to be dealt with under section 84 or 87 of that Act by virtue only of this section.

**Orders, rules  
and  
regulations.**

**36.—**(1) Any power to make orders, rules or regulations under this Act shall be exercisable by statutory instrument.

(2) Any order under any provision of this Act may be varied or revoked by a subsequent order under that provision.

**Financial  
provisions.**

**37.—**(1) Any increase attributable to the provisions of this Act in the sums payable under any other enactment out of the Consolidated Fund or out of moneys provided by Parliament shall be paid out of that Fund or out of moneys so provided.

(2) Any sums paid to the Lord Chancellor under section 5 of this Act shall be paid into the Exchequer.

(3) Any expenses falling to be defrayed by the Greater London Council under this Act or any enactment applied by this Act shall, except so far as the expenses are incurred in relation to the Central Criminal Court or any matter connected with that Court, be chargeable only on the London boroughs; but the foregoing provision shall have effect subject to any express provision of this Act or of any other enactment with respect to any particular sums which by virtue of any Act fall to be paid by the Council.

(4) Any sums payable to the Greater London Council under section 8(5) of this Act, section 77(3)(a) of the Criminal Justice Act 1948 or section 27(2) of the Justices of the Peace Act 1949 shall be placed to the credit of the special London account out of which the relevant expenses of the Council are payable; and in this subsection "the relevant expenses" means—

(a) in relation to payments under section 8(5) of this Act, expenses under that section;

(b) in relation to payments under section 77(3)(a) of the said Act of 1948, expenses under Schedule 5 to that Act;

(c) in relation to payments under section 27(2) of the said Act of 1949, expenses under section 25(2) of that Act.



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

PART III  
Interpretation.

- “the City” means the City of London ;
- “committed for sentence or order” means committed to be dealt with under section 28 or 29 of the Magistrates’ Courts Act 1952, or under section 67 of the Mental Health Act 1959 ;
- “domestic court” has the meaning assigned to it by section 11 of this Act ;
- “existing”, in relation to any authority or thing, means that authority or thing as it existed immediately before the commencement of this Act ;
- “London commission areas”, “inner London area” and “outer London areas” have the meanings respectively assigned to them by section 2 of this Act ;
- “officer” includes the holder of any place, situation or employment and “office” shall be construed accordingly ;
- “Receiver” means the Receiver for the metropolitan police district ;
- “stipendiary magistrate” includes metropolitan stipendiary magistrate.

(2) References in this Act to any enactment shall, except in so far as the context otherwise requires, be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

**39.**—(1) Part I of Schedule 3 to this Act shall have effect for the purpose of making general adaptations of enactments in consequence of the foregoing provisions of this Act.

Consequential and minor modifications and amendments.

(2) The enactments specified in Part II of the said Schedule 3 shall have effect subject to the modifications and amendments set out in that Part, being modifications and amendments consequential on the foregoing provisions of this Act and other minor amendments.

**40.**—(1) Schedule 4 to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

Transitional provisions

(2) No provision contained in this Act or any instrument thereunder shall be construed as prejudicing the powers conferred by section 148 of the Local Government Act 1933, Part II of the Local Government Act 1958 or section 84 or 87 of the London Government Act 1963 (whether as originally enacted or as extended by section 35 of this Act).

**PART III**  
Short title,  
commence-  
ment, extent  
and repeal.

**41.—**(1) This Act may be cited as the Administration of Justice Act 1964.

(2) Subject to the provisions of Schedule 4 to this Act, Part I of this Act shall come into force on 1st April 1965 except that if the Secretary of State by order appoints an earlier day for the commencement of any provision of the said Part I, that provision shall come into force on that earlier day.

(3) The following provisions of this Act, that is to say, Part II (except section 31), section 39 and subsection (8) of this section shall come into force on such day as the Secretary of State may by order appoint.

(4) Different days may be appointed under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any order under this section, be construed as a reference to the day on which that provision comes into operation.

(5) Any order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or any provisions of this Act then in force as appear to him necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

(6) This Act, except section 31 and so much of Schedule 3 as amends the House of Commons Disqualification Act 1957, shall not extend to Scotland.

(7) This Act, except so much of Schedule 3 as amends the said Act of 1957, shall not extend to Northern Ireland.

(8) The enactments described in Schedule 5 to this Act (which include enactments which were already obsolete or unnecessary before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

## SCHEDULES

## SCHEDULE 1

Section 1.

## THE CENTRAL CRIMINAL COURT

*Constitution*

1. The Central Criminal Court (hereafter in this Schedule referred to as "the Court") shall consist of ex officio judges, additional judges and such other persons as may be included in any commission issued under paragraph 4 of this Schedule, and those judges and commissioners shall be the judges of the Court.

2. The ex officio judges shall be the holders of the following offices, that is to say—

<i>City</i>	<i>Supreme Court</i>
Lord Mayor of the City.	Lord Chancellor.
Alderman of the City.	Lord Chief Justice.
Recorder of London.	Judge of the Queen's Bench
Common Serjeant.	Division of the High Court.

3. The additional judges shall be the judges of the Court appointed or holding office under Part II of the City of London (Courts) Act 1964.

*Jurisdiction*

4. Her Majesty may by commissions of oyer and terminer and gaol delivery for Greater London addressed to the judges of the Court assign to them the duty to exercise jurisdiction under the commissions as judges of the Court, and the commissions shall have the like effect as respects Greater London as commissions of oyer and terminer and gaol delivery issued for a county elsewhere in England and Wales have as respects that county.

5. The jurisdiction of the Court shall include jurisdiction to try and determine indictments for offences committed within the jurisdiction of the Admiralty of England.

6. Her Majesty may by Order in Council direct that the area of jurisdiction of the Central Criminal Court for any session of the Court specified in the Order shall extend to any specified area adjoining Greater London; and any enactment (including any enactment in this Act) relating to the Central Criminal Court shall have effect as respects the session specified in the Order as if the area so specified were part of Greater London.

7. Every Order in Council under the last foregoing paragraph shall be laid before Parliament after being made.

8. The jurisdiction of the Court may be exercised by any one or more of the judges of the Court and those judges shall, when exercising that jurisdiction, be deemed to constitute a court of the High Court.

## SCH. 1.

*Sittings*

9. The Lord Chief Justice shall fix and cause to be published the date of the beginning of each session of the Central Criminal Court together with a date in that session which is to be the relevant date for the purposes of paragraph 10 of this Schedule.

10. A magistrates' court who would apart from this paragraph be required to commit an accused person for trial to the next session of the Court shall, if the committal falls to be made between the beginning of a session of the Court and the relevant date in that session, commit him to the current session of the Court; and accordingly section 14(1) of the Criminal Justice Administration Act 1962 (which enables a magistrates' court to commit an accused person to current assizes or quarter sessions with the consent of the accused, the prosecutor and the judge) shall, so far as it relates to committal to the Court, only apply to committal to the Court on or after the relevant date in any session of the Court.

11. Where an accused person is committed for trial to the current session of the Court, his trial shall not, except with his and the prosecutor's consent, begin until the expiration of the period of fourteen days beginning with the date of his committal.

12. Where an accused person is committed for trial to the Court, his trial shall, unless the Court has otherwise ordered, begin not later than whichever of the following dates is applicable, that is to say—

- (a) where he is committed to the current session, the expiration of the period of twenty-eight days beginning with the date of his committal ;
- (b) where he is committed to the next session, the expiration of the period of twenty-eight days beginning with the date of his committal or of the period of seven days beginning with the beginning of the next session, whichever is the later.

13. For the purposes of this Schedule the trial of a person committed to the Court shall be deemed to begin when he is arraigned on the charges for which he is indicted in consequence of the committal.

14. The Court may sit at any place in the City and may sit in more than one division simultaneously.

*Officers*

15. The clerk of the Court and such other officers of the Court as may be necessary shall be appointed by the judges of the Court, and the salaries and any allowances payable to the clerk and other officers shall be such as may be determined by the judges of the Court.

16. The remuneration and expenses of the clerk and other officers of the Court, and any expenses incurred in the provision and maintenance of office machinery and stationery for the office of the clerk of the Court, shall be defrayed by the Greater London Council.

Supplemental

SCH. 1

17. Any commission under paragraph 4 of this Schedule may be issued and revoked in the same manner as a commission of assize and, if not so revoked, shall continue in force until superseded by a new commission thereunder.

18. The foregoing provisions of this Schedule shall be without prejudice to the jurisdiction of a court of quarter sessions for any part of Greater London.

SCHEDULE 2

Section 23.

SUPERANNUATION OF CHAIRMEN, ETC., WHO HAVE BEEN  
STIPENDIARY MAGISTRATES

1. Where a person to whom this Schedule applies retires from the office of chairman or deputy chairman of the court of quarter sessions for a London commission area having qualified for a pension under section 22 of the Administration of Justice (Pensions) Act 1950 as applied by section 23(1) of this Act, then, if he so elects—

- (a) the amount of the pension which may be paid to him under the said section 22 shall be an amount equal to the pension for which he would have been eligible if he had continued to serve in his former office of stipendiary magistrate until his retirement at the salary then payable to a holder of that office ; and
- (b) any lump sum payable in his case under Part I of the said Act of 1950 shall be calculated as if his last annual salary were the salary payable at the date of his retirement to a holder of his former office.

2. Where a person to whom this Schedule applies dies while still holding office as chairman or deputy chairman of the court of quarter sessions for a London commission area, and his legal personal representatives so elect, any derivative benefit payable in respect of him under the said Act of 1950 shall be calculated as if the pension for which he would have been eligible if he had retired at the time of his death were a pension of the amount described in paragraph 1(a) of this Schedule, and as if his last annual salary were the salary payable at the time of his death to a holder of his former office.

3. Where the amount of any pension or other benefit payable to or in respect of a person under section 22 of the said Act of 1950 is calculated in accordance with paragraph 1 or 2 of this Schedule, the Greater London Council shall, if he served for not less than five years as a stipendiary magistrate, be entitled to contributions in respect of his former service as a stipendiary magistrate and the contributions shall be paid by the authority who paid his salary in his last office of stipendiary magistrate.

4. The amount of any contribution payable under paragraph 3 of this Schedule in respect of any pension or other benefit to or in respect of any person—

- (a) shall be such as may be agreed between the Greater London Council and the other authority concerned ; or

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SCH. 2

(b) in default of agreement, shall be the amount which the contributing authority would have to pay in respect of that benefit on the date of the payment of the benefit if—

(i) that person had on ceasing to hold his last office of stipendiary magistrate retired from that office on the ground that he was permanently incapacitated by reason of infirmity of mind or body from discharging the duties of his office ; and

(ii) the Lord Chancellor or the contributing authority, as the case may be, had been satisfied of that ground by means of a medical certificate.

5. Section 33(6) of the Justices of the Peace Act 1949 (which provides for contributions from one authority to another in respect of a pension under that section of a stipendiary magistrate who has served in more than one office) shall apply to the contribution payable by a contributing authority under paragraph 3 of this Schedule as it applies to a pension payable under that section.

6. An election under paragraph 1 or 2 of this Schedule shall be made within the period of three months beginning with the retirement or death of the person by or in respect of whom it is made and shall be made in writing addressed to the clerk to the Greater London Council.

7. Any contribution payable by the Treasury under paragraph 3, or by virtue of paragraph 5, of this Schedule shall be paid out of the Consolidated Fund.

Section 39.

### SCHEDULE 3

#### ADAPTATION, AMENDMENT AND MODIFICATION OF ENACTMENTS

##### PART I

##### GENERAL ADAPTATION OF ENACTMENTS

1. Any reference in any enactment to the Central Criminal Court district shall be construed as a reference to Greater London.

2. Any reference in any enactment to a metropolitan police court, a metropolitan magistrates' court or a metropolitan stipendiary court shall be construed as a reference to a magistrates' court for the inner London area.

3. Any reference in any enactment to a magistrate of the metropolitan police court or metropolitan stipendiary court at Bow Street shall be construed as a reference to a metropolitan stipendiary magistrate sitting in a magistrates' court in the same court-house as the chief metropolitan stipendiary magistrate.

4. Any reference in any enactment to the metropolitan police court area or the metropolitan stipendiary court area shall be construed as a reference to the inner London area.

5. The foregoing provisions of this Schedule shall apply to any reference mentioned in those provisions, whatever the terms of the reference, but shall have effect subject to any specific provision elsewhere in this Act and, in particular, to the following provisions of this Schedule.

PART II

SCH. 3

PARTICULAR AMENDMENTS AND MODIFICATIONS  
THE METROPOLITAN POLICE ACT 1829

6. In section 1 for any reference to the county of Middlesex there shall be substituted a reference to each of the London commission areas.

THE METROPOLITAN POLICE ACT 1856

7. In section 2 the word "Middlesex" shall be omitted and after the word "therein" there shall be inserted the words "and for each of the London commission areas".

THE STIPENDIARY MAGISTRATES' ACT 1858

8. In section 11, in its application to a London commission area, for the references to the treasurer of the county there shall be substituted references to the treasurer to the Greater London Council.

THE EXTRADITION ACT 1870

9. In section 10 the words "to the Middlesex House of Detention, or to some other prison in Middlesex" shall be omitted.

THE CENTRAL CRIMINAL COURT (PRISONS) ACT 1881

10. For the purposes of section 2(5) Greater London shall be deemed to be a county.

THE MUNICIPAL CORPORATIONS ACT 1882

11. In section 168(2), after the words "save as regards" there shall be inserted the words "the taking of the oath and".

THE LOCAL GOVERNMENT ACT 1888

12.—(1) In section 42(12) for the references to the county of London there shall be substituted references to Greater London.

(2) In section 67, in its application to a London commission area, for the reference to the county treasurer there shall be substituted a reference to the treasurer to the Greater London Council.

(3) Section 83(4) shall not apply to a London commission area.

THE JURIES ACT 1922

13. In section 7, in the definition of "overseers", for the words "metropolitan borough" there shall be substituted the words "London borough".

THE LOCAL GOVERNMENT (CLERKS) ACT 1931

14.—(1) In sections 3(1), 4 and 7(3) for references to the standing joint committee there shall be substituted references to the court of quarter sessions.

(2) So much of section 3(3) as adapts the enactments relating to fees and costs payable to the clerk of the peace shall cease to have effect.

THE LOCAL GOVERNMENT ACT 1933

15.—(1) Sections 3 and 5 shall apply to the chairman and vice-chairman of the Greater London Council without the modifications effected by paragraph 1(2) of Schedule 2 to the London Government Act 1963, but as if in section 3(5) for the words from "the county",

**SCH. 3** in the first place where those words occur, to the end of the subsection there were substituted the words "each of the London commission areas".

(2) Section 18(8) shall apply to the mayor of a London borough as it applies to the mayor of a non-county borough, but as if for the words from "the county in which the borough is situate" to the end of the subsection there were substituted the words "the London commission area in which the borough is situated"; and section 20(3) shall apply to the deputy mayor of a London borough without the modification effected by paragraph 5 of Schedule 4 to the London Government Act 1963.

#### THE LOCAL GOVERNMENT SUPERANNUATION ACT 1937

16. For the purposes of section 4(2), in its application (by virtue of Schedule 3 to the Local Government Superannuation Act 1953) to justices' clerks for an outer London area and staff employed by a magistrates' courts committee for such an area to assist a justices' clerk, Greater London shall be treated as a county and the Greater London Council shall be treated as the council of that county.

#### THE ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) ACT 1938

17.—(1) In section 1(4) for the words "second court" there shall be substituted the words "additional court".

(2) In sections 1(5) and 2(5) for the references to the court of quarter sessions for the county of London there shall be substituted references to a court of quarter sessions for any of the London commission areas.

#### THE LONDON BUILDING ACTS (AMENDMENT) ACT 1939

18. In section 151(1), in paragraph (b) the words "or of the metropolitan police" shall be omitted and after that paragraph there shall be inserted the following paragraph:—

"(bb) every building, structure or work vested in the Receiver for the metropolitan police district and occupied for the purposes of the metropolitan police, the magistrates' courts in the inner London area within the meaning of the Administration of Justice Act 1964 (including the juvenile courts for that area and the City of London) or the probation system in that area".

#### THE CRIMINAL JUSTICE ACT 1948

19.—(1) In section 37(5) for paragraphs (a) to (c) (which specify the persons who may grant bail under that section while a case is stated by a court of quarter sessions) there shall be substituted the following paragraphs:—

- "(a) in the case of quarter sessions for a county elsewhere than Greater London by the chairman or a deputy chairman of the quarter sessions;
- (b) in the case of quarter sessions for a borough, by the recorder or any deputy recorder;
- (c) in the case of quarter sessions for a London commission area, by any person who is a legally qualified chairman of the



court for the purposes of section 7 of the Administration of Justice Act 1964”.

(2) In section 77(3)(a) the reference to Schedule 5 shall include a reference to section 22(4) of this Act.

(3) In paragraph 2(3) of Schedule 5 the words “possessing such qualifications as may be prescribed” shall cease to have effect.

(4) For paragraph 3(4) of Schedule 5 there shall be substituted the following sub-paragraph:—

“(4) A probation committee may delegate all or any of their functions to a subcommittee consisting of members of the committee.”

#### THE JUSTICES OF THE PEACE ACT 1949

20.—(1) Any allowance payable under section 8 to a justice of the peace for a London commission area in respect of his duties as such shall, if the duties are those of a justice for the inner London area out of sessions, be paid by the Receiver, and shall in any other case be paid by the Greater London Council.

(2) In section 15(2) for the reference to the chief magistrate of the metropolitan stipendiary court at Bow Street there shall be substituted a reference to the chief metropolitan stipendiary magistrate.

(3) In section 16(5) for the words from “in the case” to “means” there shall be substituted the words “means subject to section 2(3) of the Administration of Justice Act 1964”.

(4) Section 18 shall, in its application to the outer London areas, have effect as if any reference to the council of a county were a reference to the Greater London Council, and in subsection (9)(a) of that section for the words “metropolitan borough” there shall be substituted the words “other than an inner London borough”.

(5) Section 24 shall cease to have effect.

(6) Section 25 shall, in its application to the outer London areas, have effect as if any reference to the council of a county were a reference to the Greater London Council, but the sums payable by the Greater London Council under subsection (2) of that section shall be chargeable only on the outer London boroughs.

(7) In section 27 the references to the council of a county shall include a reference to the Greater London Council and in section 27(2) the reference to functions under Parts III and IV of the Justices of the Peace Act 1949 shall include a reference to functions under section 27 of this Act.

(8) In section 29(11) for the words “the county of London” there shall be substituted the words “the inner London area within the meaning of the Administration of Justice Act 1964”.

#### THE COSTS IN CRIMINAL CASES ACT 1952

21.—(1) In section 7(1), after paragraph (a) there shall be inserted the following paragraph:—

“(aa) in the case of offences committed in Greater London, the general fund of the Greater London Council.”

(2) In section 7(2) for the words “the County of London” there shall be substituted the words “Greater London”.

## SCH. 3

(3) In section 7(3) the reference to the fund of any county shall include a reference to the general fund of the Greater London Council.

(4) Greater London shall be treated as a county for the purposes of section 7(4) to (6).

(5) In sections 8 and 9 references to the treasurer of the county out of whose funds costs are payable under that Act shall, where costs are so payable out of the general fund of the Greater London Council, be construed as references to the treasurer to that Council.

(6) In section 11 references to the treasurer of a county, to a county fund and to a county council shall include references respectively to the treasurer to the Greater London Council, to the general fund of that Council and to that Council.

## THE MAGISTRATES' COURTS ACT 1952

22.—(1) Section 10 shall, in its application to a magistrates' court for an area in Greater London, have effect as if for the words from "unlikely" to "within" in proviso (a) there were substituted the words "unlikely that the trial of the accused's case would otherwise begin within".

(2) Section 12 shall, in its application to the Central Criminal Court, have effect as if for the reference to the end of the assizes there were substituted a reference to the latest date on which, under paragraph 12 of Schedule 1 to this Act, the trial of the accused must begin or, if the court has under that paragraph ordered that the trial shall begin on some other date, that other date.

(3) Section 112 shall apply to magistrates' courts held by metropolitan stipendiary magistrates or held at either of the justice rooms of the City as it applies to other magistrates' courts.

(4) Notwithstanding subsection (4) of section 118, subsections (1) and (2) of that section shall apply to the justices' clerks for the inner London area, and shall so apply as if for the reference in subsection (2) to the magistrates' courts committee there were substituted a reference to the committee of magistrates.

(5) In the definition of "county" in section 126(1), the words from "except" to "County of London" shall be omitted, and at the end there shall be added the words "and references to a county include references to the City of London and any London commission area".

## THE HOUSE OF COMMONS DISQUALIFICATION ACT 1957

23.—(1) In Part I of Schedule 1, 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—

(a) after the entry relating to the Common Serjeant there shall be inserted the words "Additional Judge of the Central Criminal Court";

(b) in the entry relating to the judges of the Mayor's and City of London Court the words "or Additional" shall cease to have effect;

- (c) in the entry relating to the whole-time salaried chairman and deputy chairmen of London Quarter Sessions for the words "London Quarter Sessions" there shall be substituted the words "the court of quarter sessions for a London commission area".

(2) In Part III of Schedule 1, in its application to the House of Commons of the Parliament of the United Kingdom, the entry relating to clerks and other officers and servants of a metropolitan magistrates' court shall cease to have effect.

(3) In Part IV of Schedule 1, in its application to the House of Commons of the Parliament of the United Kingdom—

- (a) after the entry relating to Her Majesty's Commissioner of Lieutenancy in the City of London there shall be inserted the following words:—

" Her Majesty's Lieutenant Any constituency comprising  
for Greater London. any part of Greater  
London ";

- (b) after the entry relating to the Governor of the Isle of Wight there shall be inserted the following words—

" The High Sheriff of Any constituency comprising  
Greater London. any part of Greater  
London ".

#### THE SOLICITORS ACT 1957

24. For section 33(3) there shall be substituted the following subsection:—

- " (3) Where a solicitor is a justice of the peace for any London commission area within the meaning of the Administration of Justice Act 1964 but is so by virtue of his office as mayor of a London borough, his being a justice for that area shall not subject any partner of his to any disqualification under this section."

#### THE COUNTY COURTS ACT 1959

25.—(1) In section 4(1) for the word "eighty" there shall be substituted the word "ninety".

(2) In section 4(4) for the words "there shall be two judges for a district" there shall be substituted the words "for a district wholly or partly situated in Greater London there shall be two or three judges (whichever is specified in the direction) and for any district not so situated there shall be two judges".

#### DISTRESS FOR RATES ACT 1960

26. Section 11(1) shall in its application to Greater London have effect as if the reference to the rating area included a reference to a part of the rating area.

#### THE MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) ACT 1960

27. In section 1(2), after the word "shall" there shall be inserted the words "subject to section 11 of the Administration of Justice Act 1964 and any determination of the committee of magistrates thereunder."

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## THE CRIMINAL JUSTICE ADMINISTRATION ACT 1962

28.—(1) In section 8(5), at the end there shall be added the words “or to the remuneration of the chairman or deputy chairman, or any person temporarily acting as chairman or deputy chairman, of the court of quarter sessions for a London commission area within the meaning of the Administration of Justice Act 1964.”

(2) Section 16(4) shall not apply to the court of quarter sessions for a London commission area.

(3) In section 18(5), in its application to a London commission area, for any reference to a county council there shall be substituted a reference to the Greater London Council.

## THE BETTING, GAMING AND LOTTERIES ACT 1963

29. In paragraph 2 of Schedule 1, in paragraph (a) of the definition of “clerk to the appropriate authority”, the reference to the magistrates’ court committee shall include a reference to the committee of magistrates.

## THE OFFICES, SHOPS AND RAILWAY PREMISES ACT 1963

30. In section 52(3) for paragraph (c) there shall be substituted the following paragraph—

“(c) premises provided and maintained for purposes connected with the administration of justice by the council of a county, the Greater London Council, a local authority or the receiver for the metropolitan police district”.

## THE LICENSING ACT 1964

31.—(1) In section 2(1) for the words from “(a) in the administrative” to “London” in paragraph (b) there shall be substituted the words “the City of London”.

(2) In section 25(2) for the words from “and (b)” to the end of the subsection there shall be substituted the words—

“(b) if the licensing district for which the licensing justices acted is in a London commission area, out of the general fund of the Greater London Council;

(c) if the licensing district for which the licensing justices acted is the City of London, out of the general rate of the City of London; and

(d) in any other case, out of the county fund of the county in which the licensing district is situated;

and any sum falling to be paid by virtue of this subsection out of the general fund of the Greater London Council shall be chargeable only on the London boroughs.”

(3) In section 25(3) for the words from “as if” to the end of the subsection there shall be substituted the words “subject however to the following modifications:—

(a) for any reference in those provisions to a borough or county borough there shall be substituted a reference to the City of London or to a borough having a separate court of quarter sessions, as the case may require; and

(b) in the application of those provisions to the City of London for any reference to the treasurer there shall be substituted a reference to the Chamberlain”.

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(4) In section 201(1) for the definition of "the metropolis" there shall be substituted the following definition, that is to say, "the metropolis" means an area consisting of the inner London area within the meaning of the Administration of Justice Act 1964 and the City of London".

(5) In Part VII and Schedule 11 any reference to the administrative county of London shall be construed as a reference to the metropolis, and any reference in Schedule 11 to the county of London or London shall be construed as a reference to the inner London area.

## SCHEDULE 4

Section 40

## TRANSITIONAL PROVISIONS

*Commissions of the peace*

1. Each commission granted under section 2 of this Act shall be issued in time to enable persons mentioned in the commission to exercise all such administrative functions as may be necessary for the purpose of enabling courts of quarter sessions and magistrates' courts for the London commission areas to begin to exercise their jurisdiction on 1st April 1965, but until that date shall not confer on those courts any right to exercise jurisdiction or affect the jurisdiction of any existing court.

*Quarter sessions*

2. As from the issuing of a commission of the peace for a London commission area specified in column 1 of the following Table until the appointment of a clerk of the peace for that area under the arrangements mentioned in paragraph 3(1) of this Schedule or until 1st April 1965, whichever first occurs, the clerk specified in relation to that area in column 2 of that Table shall act as clerk of the peace for that area, and references in the following paragraphs of this Schedule to the clerk of the peace shall be construed accordingly.

## TABLE

<i>Area</i>	<i>Acting Clerk of the peace</i>
Inner London area.	Clerk of the peace for the county of London.
North-east London area.	Clerk of the peace for Essex.
South-east London area.	Clerk of the peace for Kent.
South-west London area.	Clerk of the peace for Surrey.
Middlesex area.	Clerk of the peace for Middlesex.

3.—(1) After the issue of a commission of the peace for a London commission area and before 1st April 1965 the court of quarter sessions for that area shall make all such arrangements, including the making of appointments, the holding of elections and the making of rules with respect to the procedure of the court, to compensation committees and to other matters, as are necessary for the purpose of enabling the court to begin to exercise their jurisdiction on that date, of establishing committees of the court before that date and of enabling any such committee to exercise all their functions not later than that date.

## SCH. 4

(2) The Lord Chancellor may at any time after the issue of a commission of the peace for a London commission area and before 1st April 1965 appoint a person to act as chairman of the court of quarter sessions for that area until the appointment of a whole-time chairman of the court under this Act or until 1st April 1965, whichever first occurs, and any person appointed under this paragraph shall while acting as aforesaid exercise all the administrative functions of the whole-time chairman and be a member and, if the case so requires, chairman of any committee of which the whole-time chairman would be a member or, as the case may be, chairman.

4.—(1) After the issue of a commission of the peace for a London commission area and before 1st April 1965 the Greater London Council shall make all necessary arrangements for satisfying the initial requirements of the court of quarter sessions for that area as to accommodation and equipment, and subsections (2) to (4) and (12) of section 29 of this Act shall apply for that purpose notwithstanding that that section has not come into force.

(2) In the case of the court of quarter sessions for the north-east, south-east or south-west London area, if the county council of Essex, Kent or Surrey, as the case may be, are requested by the Greater London Council to provide any accommodation or equipment necessary for the purposes of the said arrangements and decline to do so or fail to agree with the Greater London Council about the terms or conditions on which it is to be provided, the dispute shall be referred to the Secretary of State who may give such directions in the matter as he thinks fit, but no county council shall be required by virtue of this sub-paragraph to provide any accommodation or equipment for those purposes after 1st April 1970.

*Petty sessional divisions*

5.—(1) The Secretary of State shall as soon as may be after the passing of this Act make the following orders :—

- (a) an order under section 14 of this Act dividing the inner London area into petty sessional divisions ;
- (b) an order dividing each of the outer London areas into petty sessional divisions ;
- (c) an order creating such new petty sessional divisions of a county adjoining Greater London or such alterations of existing petty sessional divisions in any such county as he thinks appropriate in consequence of the changes effected in the area of that county by section 3 of the London Government Act 1963.

(2) Any order made under or by virtue of sub-paragraph (1) of this paragraph may contain transitional and other consequential provisions.

(3) Any order under section 14 of this Act making the initial division of the inner London area into petty sessional divisions may be made without the recommendation or consultation required by that section.

(4) An order under sub-paragraph (1)(b) or (c) of this paragraph shall be treated for the purposes of the Justices of the Peace Act 1949 as if it had been made under section 18 of that Act.

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*Magistrates' courts, etc.*

6.—(1) Subject to paragraph 14 of this Schedule, after the division of a London commission area into petty sessional divisions and before 1st April 1965 the justices of the respective divisions of that area shall make all such arrangements, including the making of appointments and the holding of elections, as are necessary for the purpose of enabling magistrates' courts for the area to begin to exercise their jurisdiction on that date and of establishing before that date the several committees and other bodies to which members fall to be appointed or elected by the justices for that area or any division thereof.

(2) Without prejudice to sub-paragraph (1) of this paragraph, but subject as aforesaid, any committee or other body to which members are appointed or elected by justices of the peace for a London commission area or any petty sessional division thereof shall after being established and before 1st April 1965 make all such arrangements for the area or division for which they act, including the making of appointments and holding of elections, as are necessary for the purpose of enabling the magistrates' courts for that area to begin to exercise their jurisdiction on that date and of enabling that body to exercise all their functions not later than that date.

(3) In particular, a magistrates' courts committee for an outer London area shall before 1st April 1965 consider the desirability of, and if necessary make recommendations under Schedule 2 to the Children and Young Persons Act 1963 for, forming combined juvenile court panels for two or more petty sessional divisions in that area.

7.—(1) The Lord Chancellor shall after the issue of a commission of the peace for the inner London area and before 1st April 1965 appoint persons to be members of the juvenile court panel for that area and the City and to be chairmen of juvenile courts for that area and the City.

(2) For the purpose of establishing the committee of magistrates for the inner London area—

- (a) the persons appointed in pursuance of sub-paragraph (1) of this paragraph shall as soon as practicable after being appointed choose members of the panel in accordance with section 13(3)(b) of this Act to be members of the committee of magistrates ;
- (b) the chief metropolitan stipendiary magistrate shall as soon as practicable after the issue of a commission of the peace for that area nominate metropolitan stipendiary magistrates in accordance with section 13(3)(c) of this Act to be members of that committee ; and
- (c) the lay justices elected to the committee under paragraph 6(1) of this Schedule or paragraph (a) of this sub-paragraph shall as soon as practicable after being elected choose a person

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in accordance with section 13(5) of this Act to be deputy chairman of the committee.

8.—(1) This paragraph applies to a petty sessional division of a county adjoining Greater London, being a division which has been created or altered by an order under paragraph 5 of this Schedule and with respect to which the Secretary of State has directed that this paragraph shall apply thereto.

(2) After the making of an order under paragraph 5 of this Schedule with respect to a petty sessional division to which this paragraph applies and before 1st April 1965 the justices for the division and any committee or other body to which they appoint or elect members shall, subject to sub-paragraph (3) of this paragraph, make the like arrangements as are required to be made under paragraph 6 of this Schedule in the case of a petty sessional division of an outer London area.

(3) Sub-paragraph (2) of this paragraph shall not be construed as requiring the magistrates' courts committee for a county comprising a petty sessional division to which this paragraph applies to be reconstituted for any purpose before 1st April 1965, but until that date the magistrates' courts committee when considering any matter or taking any action affecting any such division shall afford an opportunity to persons chosen by the justices for the division under the arrangements made by virtue of the said sub-paragraph (2) to attend and take part in the proceedings of the committee.

9.—(1) The chairman and deputy chairman of the justices for a petty sessional division of an outer London area elected under arrangements mentioned in paragraph 6 of this Schedule shall hold office until 31st December 1965.

(2) A member of a magistrates' courts committee for an outer London area appointed under any such arrangements shall hold office until 1st December 1965.

(3) A member of a juvenile court panel for an outer London area appointed under any such arrangements shall hold office until 31st October 1967.

(4) A member of a juvenile court panel for one or more petty sessional divisions of a county adjoining Greater London appointed under arrangements mentioned in paragraph 8 of this Schedule shall hold office until 31st October 1967.

(5) Any requirements imposed by the foregoing provisions of this paragraph shall have effect subject to the provisions of any instrument made under any enactment, including this Act.

10.—(1) The clerk of the peace for the inner London area or a person appointed by him shall act as justices' clerk for each petty sessional division of that area and for the juvenile courts of that area until a chief clerk is appointed for those divisions or those courts by the committee of magistrates under arrangements mentioned in paragraph 6 of this Schedule or until 1st April 1965, whichever first occurs.

(2) An order under paragraph 5(1)(b) of this Schedule and an order under paragraph 5(1)(c) thereof creating a new petty sessional



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division shall specify the clerk to the justices for an existing petty sessional division who is to act as clerk to the justices for the new petty sessional division until a clerk for the new division is appointed by the magistrates' courts committee under arrangements mentioned in paragraph 6 or 8 of this Schedule or until 1st April 1965, whichever first occurs.

(3) The clerk of the peace for a London commission area shall act as clerk to the committee of magistrates or the magistrates' courts committee, as the case may be, until a clerk is appointed by the committee or until 1st April 1965, whichever first occurs.

11. Unless the justices for a petty sessions area which will be abolished or altered by this Act otherwise resolve—

(a) the election of a chairman or deputy chairman of the justices for that area due apart from this paragraph to take place in October 1964 shall not be held, and the persons holding office as chairman or deputy chairman at the time at which the election would apart from this paragraph have been held shall continue to hold office until 1st April 1965 ;

(b) no appointments shall be made after the passing of this Act to a juvenile court panel for that area and the persons who are members of the existing panel shall continue in office until 1st April 1965.

12. Any person who—

(a) is a member of a magistrates' courts committee for the county of Essex, Kent, Surrey or Hertfordshire or of any other body which has functions in relation to that county or any part thereof and will continue to exist after 1st April 1965 ; and

(b) is such a member by virtue of his being a justice of the peace acting for an existing petty sessional division the area of which on that date will be wholly or partly included in Greater London ;

shall on that date cease to be a member of that committee or other body.

#### *Juries*

13.—(1) The jurors book prepared during 1964 for the area of the county of London, Middlesex, Essex, Kent, Surrey or Hertfordshire shall, notwithstanding the abolition of the county or the alteration of its area as from 1st April 1965, continue to be the jurors book for the area constituting the county before that date until it is superseded by the new jurors book on 15th August 1965.

(2) A person whose name is included in a jurors book continued in force by sub-paragraph (1) of this paragraph by virtue of his residence in an area within Greater London shall not after 1st April 1965 be liable to serve on a jury for a county outside Greater London, and a person whose name is included as aforesaid by virtue of his residence in an area outside Greater London shall not after that date be liable to serve on a jury for Greater London or a London commission area.

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(3) Precepts shall be issued before 1st April 1965—

(a) by the High Court and the Central Criminal Court for the summoning and return of jurors from any area of Greater London to serve after that date as jurors at the High Court or the Central Criminal Court, as the case may be ;

(b) by the court of quarter sessions for a London commission area for the summoning and return of jurors from that area to serve after that date as jurors at the court ;

and any precept issued under this sub-paragraph with respect to jurors from any area shall be directed to the sheriff having jurisdiction in that area at the time of the issue of the precept.

(4) On or about 1st April 1965—

(a) there shall be handed over to the sheriff of Greater London so much of the jurors books for any county mentioned in sub-paragraph (1) of this paragraph as relates to any area which as from that date forms part of Greater London ;

(b) there shall be handed over to the sheriff of Surrey or the sheriff of Hertfordshire so much of the jurors book for the county of Middlesex as relates to any area which as from that date forms part of the county of Surrey or of the county of Hertfordshire, as the case may be.

*Probation*

14.—(1) An order under paragraph 1 of Schedule 5 to the Criminal Justice Act 1948 (whether as originally enacted or extended by section 22 of this Act) combining in any probation area two or more petty sessional divisions of a London commission area may be made at any time after the issuing of a commission of the peace for that area, and if any such order is made paragraph 6(1) and (2) of this Schedule shall not apply in relation to the petty sessional divisions comprised in a probation area established by the order or to probation committees for that area or case committees for those divisions.

(2) Any probation or case committee for a petty sessions area abolished or altered by this Act shall remain in being until 1st April 1965.

*Licensing*

15.—(1) Any order made, licence granted or other thing done under the Licensing Act 1964 by the licensing justices for a licensing district which will be abolished or altered by this Act, being an order or licence in force or a thing having effect immediately before that date, shall continue to have the like effect on and after that date as if the district had not been abolished or altered on that date, but shall be treated as if it had been made, granted or done by the licensing justices for the new licensing district comprising the first-mentioned district or, if there is more than one new licensing district, that in which the premises concerned are situated.

(2) Any compensation committee for a county or borough abolished by section 3 of the London Government Act 1963 and any licensing committee for a licensing district the area of which will on 1st April 1965 be wholly or partly included in Greater London shall continue in being until that date and shall continue until that date to act for the area of the county or borough or that district, as the case may be.

(3) Any proceedings before a compensation committee or licensing committee mentioned in sub-paragraph (2) of this paragraph, being proceedings which have not been finally disposed of before 1st April 1965, shall be continued and disposed of as if the London Government Act 1963 and this Act had not been passed, and sub-paragraph (1) of this paragraph shall with necessary modifications apply to things done by any such committee for the purpose of disposing of proceedings in pursuance of this sub-paragraph.

*Preliminary expenditure*

16.—(1) Any expenditure incurred before 1st April 1965 in connection with the following matters, that is to say—

- (a) the court of quarter sessions for a London commission area and the clerk of the peace and other officers of any such court ;
- (b) magistrates' courts for an outer London area, the magistrates' courts committee for any such area, justices' clerks and other officers appointed by any such committee, and any other body having functions in relation to that area or any part thereof and composed wholly or mainly of justices of the peace for that area ;

shall be defrayed by the Greater London Council.

(2) Any existing authority shall be entitled to recover from the Greater London Council in respect of work undertaken in connection with any of the matters mentioned in sub-paragraph (1) of this paragraph by a person acting as clerk of the peace or by any other person remunerated by them such sum as may be agreed between that authority and the Greater London Council or, in default of agreement, determined by the Secretary of State.

(3) Any expenditure incurred by the Greater London Council under this paragraph in connection with any of the matters mentioned in sub-paragraph (1)(b) of this paragraph shall be chargeable only on the outer London boroughs.

17. Any expenditure incurred before 1st April 1965 in connection with the following matters, that is to say, magistrates' courts for the inner London area, the committee of magistrates, justices' clerks and other officers appointed by that committee, and any other body having functions in relation to that area or any part thereof and composed wholly or mainly of justices of the peace for that area, shall be defrayed by the Receiver out of the metropolitan police fund.

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18. Any expenditure of the Greater London Council or the Receiver under paragraph 16 or 17 of this Schedule—

- (a) shall, so far as it relates to probation committees, be treated for the purposes of section 77(3) of the Criminal Justice Act 1948 as having been incurred under Schedule 5 to that Act;
- (b) shall, so far as it relates to any functions mentioned in section 27(2) of the Justices of the Peace Act 1949, be treated for the purposes of that section as having been incurred in connection with those functions.

*Pending proceedings*

19.—(1) Any proceedings the hearing of which has begun but is not completed before 1st April 1965 before the court of quarter sessions for a county or borough abolished by section 3 of the London Government Act 1963 shall be continued and disposed of as if that Act and this Act had not been passed.

(2) Any expenses incurred by a court exercising jurisdiction or other powers by virtue of the foregoing sub-paragraph, including such sums in respect of the remuneration and allowances of the chairman, recorder and officers of the court as may be agreed between the persons to be remunerated and the Greater London Council or, in default of agreement, as may be determined by the Secretary of State, shall be defrayed by the Greater London Council.

20. Subject to paragraph 19 of this Schedule, any person who immediately before 1st April 1965 stands committed for trial or sentence or order to the court of quarter sessions for a county or borough abolished by section 3 of the London Government Act 1963 shall be deemed to have been committed to the court of quarter sessions for the London commission area in which the county or borough is wholly or mainly situated and may be tried, sentenced or otherwise dealt with by the last-mentioned court as if he had originally been committed thereto by a magistrates' court for that area; and any recognizance entered into in connection with the committal shall have effect accordingly.

21.—(1) The inclusion in a London commission area of any existing part of the county of Essex, Kent, Surrey or Hertfordshire shall not affect the jurisdiction or other powers of a court of assize or quarter sessions for that county to hear and determine any proceedings of which the court has cognizance immediately before 1st April 1965.

(2) The inclusion in the county of Surrey or Hertfordshire of any part of the existing district of the Central Criminal Court shall not affect the jurisdiction of that Court to hear and determine any proceedings of which the Court has cognizance immediately before 1st April 1965.

(3) For the purposes of this paragraph the court shall be deemed to have cognizance of any proceedings immediately before 1st April 1965 if—

- (a) in the case of criminal proceedings, the accused has before that date been committed to the court for trial, sentence

or order or under section 5 of the Vagrancy Act 1824 or otherwise been ordered to be tried before the court ;

(b) in the case of an appeal to a court of quarter sessions, notice of appeal has been given before that date ;

(c) in any other case, the proceedings have been instituted before that date ;

and the proceedings have not been concluded.

22. Any documents in the custody, by virtue of his office as such, of the *custos rotulorum* or the clerk of the peace for a county or borough abolished by section 3 of the London Government Act 1963 shall be transferred to the custody of the *custos rotulorum* or the clerk of the peace, as the case may be, for the London commission area in which that county or borough is wholly or mainly situated.

#### *Miscellaneous*

23. A deputy lieutenant of the county of London or of Middlesex holding office immediately before 1st April 1965 shall on and after that date be treated for the purposes of section 18 of this Act and the enactments applied by that section as if he had been appointed a deputy lieutenant of Greater London under section 30 of the Militia Act 1882.

24.—(1) A person who immediately before 1st April 1965 is qualified to be appointed sheriff of a county adjoining the county of London by reason of holding land in that adjoining county shall, notwithstanding that that land becomes part of Greater London, continue until the 1st April 1967, to be qualified to be appointed sheriff of that adjoining county.

(2) The persons required to be nominated under section 6 of the Sheriffs Act 1887 to serve as sheriff of Greater London in the year 1965 shall be three persons nominated by the great officers mentioned in that section from the lists of persons nominated to serve as sheriff of the county of London or of the county of Middlesex for the year 1964.

(3) On or about 1st April 1965 the sheriff of the county of London, Middlesex, Essex, Kent, Surrey or Hertfordshire shall perform all the duties required by section 28(1) of the Sheriffs Act 1887 to be performed by a sheriff at the expiration of his term of office so far as they relate to persons or things in or for an area which as from that date forms part of Greater London or of a county of which it does not form part before that date ; and accordingly—

(a) that sheriff shall transfer to the custody of the sheriff of Greater London the prisoners in a prison which as from that date is within Greater London and all documents relating to an area which as from that date forms part of Greater London ;

## SCH. 4

- (b) the sheriff of Middlesex shall transfer to the custody of the sheriff of Surrey or the sheriff of Hertfordshire all documents which relate to an area which as from that date forms part of the county of Surrey or of the county of Hertfordshire, as the case may be ;
- (c) any reference in that section, so far as it applies by virtue of this sub-paragraph, to an incoming sheriff shall be construed as a reference to any sheriff to whose custody prisoners or documents are transferred by virtue of this sub-paragraph.

## 25.—(1) A person who—

- (a) immediately before 1st April, 1965 is a justice of the peace (whether by virtue of any office or otherwise) for an area wholly or partly included in one of the London commission areas ; and
- (b) has taken the oath of allegiance and judicial oath before that date as a justice of the peace for the first-mentioned area ; and
- (c) is on that date a justice of the peace for one of the London commission areas ;

shall be treated for the purposes of the Promissory Oaths Act 1868, the Promissory Oaths Act 1871 and this Act as if he had duly taken those oaths on accepting the office of justice of the peace for the last-named London commission area.

(2) Sub-paragraph (1) of this paragraph shall apply to a justice of the peace for a petty sessional division of the county of Middlesex which as from 1st April 1965 forms part of the county of Surrey or the county of Hertfordshire as it applies to an area wholly or partly included in one of the London commission areas and as if for the references (except in paragraph (a) of that sub-paragraph) to a London commission area there were substituted references to the county of Surrey or the county of Hertfordshire, as the case may require.

26. Any person serving as metropolitan stipendiary magistrate immediately before 1st April 1965 shall be deemed to have been appointed to that office under section 10 of this Act and, in the case of the chief metropolitan stipendiary magistrate, shall be deemed to have been designated as such under that section.

27. Any person serving as clerk to the Central Criminal Court or other officer of that Court immediately before 1st April 1965 shall be deemed to have been appointed to that office under paragraph 15 of Schedule 1 to this Act.

28.—(1) Subject to the following provisions of this paragraph, anything done by or in relation to—

- (a) a court of quarter sessions for a county or borough abolished by section 3 of the London Government Act 1963 ; or

- (b) a magistrates' court or any other body exercising jurisdiction or functions in or for a petty sessions area which, or an area including a petty sessions area which, will be abolished or altered by this Act ;

shall, for the purposes of any subsequent proceedings in relation to that thing or any other thing subsequently done in relation thereto, be deemed to have been done by or in relation to the corresponding court or body and, in the case of a thing in process of being done, may accordingly be continued by or in relation to that corresponding court or body.

(2) For the purposes of this paragraph "the corresponding court or body" means—

- (a) in relation to a court of quarter sessions for a county or borough abolished as aforesaid, the court of quarter sessions for the London commission area in which that county or borough is wholly or mainly situated ;
- (b) in relation to a magistrates' court or other body, such other court or body as is declared by an order under paragraph 5 of this Schedule to correspond to the first-mentioned court or body.

(3) The foregoing provisions of this paragraph shall have effect subject to the provisions of paragraphs 15, 19(1) and 21(1) of this Schedule and to any provision contained in an order made by virtue of section 35 of this Act.

#### *Supplemental*

29. Any requirement imposed by this Schedule on any body of persons to make appointments, hold elections or do any other thing shall be construed as a requirement to make those appointments, hold those elections and do those things, and no others, which that body would be required or empowered to make, hold or do under Part I of this Act, or the enactments thereby applied, if the said Part I had come into force on the passing of this Act.

30. Any person appointed to any office under arrangements mentioned in any provision of this Schedule shall enter upon the office on a date specified in his appointment notwithstanding that the provision of Part I of this Act by virtue of which he is appointed has not come into force.

31. Any reference in this Schedule to a petty sessions area, petty sessional division or licensing district which will be abolished or altered by this Act shall be construed as a reference to an existing petty sessions area, petty sessional division or licensing district which will on 1st April 1965 cease to exist in consequence of section 2(1) of this Act or will be altered by, or in consequence of, an order under paragraph 5 of this Schedule.

32. If any order under section 41(2) of this Act appoints a day earlier than 1st April 1965 for the commencement of any provision of Part I of this Act, the order may make consequential amendments of references in this Schedule to 1st April 1965.

## Section 41.

## SCHEDULE 5

## REPEALS

Chapter	Title or Short Title	Extent of Repeal
6 Geo. 4. c. 50.	The Juries Act 1825.	In section 42, the words from the beginning to "so served; and", where first occurring. The whole Act.
4 & 5 Will. 4. c. 36.	The Central Criminal Court Act 1834.	Sections 1 to 18.
2 & 3 Vict. c. 71.	The Metropolitan Police Courts Act 1839.	Sections 43, 49, 50 and 56.
3 & 4 Vict. c. 84.	The Metropolitan Police Courts Act 1840.	The whole Act except sections 6, 11 and 13.
6 & 7 Vict. c. xliv.	An Act to provide for the more effectual execution of the office of a justice of the peace within the parish of Merthyr Tidvil and certain adjoining parishes.	In section 6, the proviso. In section 5, the words from "but such person" to "qualification".
8 & 9 Vict. c. 18.	The Lands Clauses Consolidation Act 1845.	Section 148 as originally enacted or as incorporated in any other enactment. Section 31.
11 & 12 Vict. c. 42.	The Indictable Offences Act 1848.	Sections 112 and 113.
15 & 16 Vict. c. 76.	The Common Law Procedure Act 1852.	Sections 4 and 6.
21 & 22 Vict. c. 73.	The Stipendiary Magistrates Act 1858.	The whole Act.
22 & 23 Vict. c. 4.	The Middlesex Sessions Act 1859.	The whole Act as originally enacted or as incorporated in any other enactment.
32 & 33 Vict. c. 18.	The Lands Clauses Consolidation Act 1869.	In section 10, the words from "to the Middlesex" to "Middlesex".
33 & 34 Vict. c. 52.	The Extradition Act 1870.	Section 7.
41 & 42 Vict. c. lv.	The Manchester Division and Borough of Salford (Stipendiary Justices) Act 1878.	Section 1, from the first "and" onwards. Section 2(1) to (4). In section 3, the words from the beginning to "Central Criminal Court district".
44 & 45 Vict. c. 64.	The Central Criminal Court (Prisons) Act 1881.	In section 163(4), the words "or as a justice".
45 & 46 Vict. c. 50.	The Municipal Corporations Act 1882.	In section 3(iv), the words from "subject" to the end of the paragraph.
51 & 52 Vict. c. 41.	The Local Government Act 1888.	Section 30, except so far as relating to the police. Section 40. Section 41(5).



Chapter	Title or Short Title	Extent of Repeal
51 & 52 Vict. c. 41— <i>cont.</i>	The Local Government Act 1888— <i>cont.</i>	Section 42(1) to (7) and in section 42(12) the word "Middlesex". Section 46(6). Section 64(3) and (4). Section 66, except so far as relating to police officers and constables. Section 83(1), (2), (3), (5) and (11). Section 89. Section 91. Section 95(1). In section 100, the definition of "metropolis". Section 115. Section 43.
58 & 59 Vict. c. cxxvii.	The London County Council (General Powers) Act 1895.	The whole Act.
59 & 60 Vict. c. 55.	The Quarter Sessions (London) Act 1896.	The whole Act.
60 & 61 Vict. c. 14.	The Metropolitan Police Courts (Holidays) Act 1897.	The whole Act.
60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Section 2. Section 3(2). Section 5.
12 & 13 Geo. 5. c. 11.	The Juries Act 1922.	In section 7, in the definition of "clerk of the county council", the words from "and" to "peace".
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act 1925.	Sections 73 and 74.
16 & 17 Geo. 5. c. xcvi.	The London County Council (General Powers) Act 1926.	Section 35.
20 & 21 Geo. 5. c. clix.	The London County Council (General Powers) Act 1930.	Part IV.
21 & 22 Geo. 5. c. 45.	The Local Government (Clerks) Act 1931.	In section 3(3), the words from "and in the enactments" to "this Act". Section 12. Section 13(1)(b). Section 14. Section 16. Schedule 3. Section 47.
21 & 22 Geo. 5. c. lix.	The London County Council (General Powers) Act 1931.	Section 8.
23 & 24 Geo. 5. c. 38.	The Summary Jurisdiction (Appeals) Act 1933.	In section 3(5), the words from "but" to the end of the subsection.
23 & 24 Geo. 5. c. 51.	The Local Government Act 1933.	

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Chapter	Title or Short Title	Extent of Repeal
23 & 24 Geo. 5. c. 51— <i>cont.</i>	The Local Government Act 1933— <i>cont.</i>	In section 18(7), the words from "but" to the end of the subsection. In section 18(8), the words from "but" to the end of the subsection. In section 33(5), the words from "but" to the end of the subsection.
1 Edw. 8 & 1 Geo. 6. c. 12.	The Firearms Act 1937.	In Schedule 1, paragraph 9.
1 Edw. 8 & 1 Geo. 6. c. xlv.	The City of London (Various Powers) Act 1937.	Section 36.
1 & 2 Geo. 6. c. 63.	The Administration of Justice (Miscellaneous Provisions) Act 1938.	In section 1(3), the words from "but" to the end of the subsection. Section 2(2)(c) and (e). In section 4(3), the words "the provisions of section ninety of the Middlesex Council Act 1934, and", "respectively", "of the said section ninety or", and "as the case may be" and the proviso.
7 & 8 Geo. 6. c. xxi.	The Middlesex County Council Act 1944.	Section 395(2) and (3).
10 & 11 Geo. 6. c. xlvi.	The London County Council (General Powers) Act 1947.	Section 399(2). Section 58.
11 & 12 Geo. 6. c. 26.	The Local Government Act 1948.	Section 121(9).
11 & 12 Geo. 6. c. 58.	The Criminal Justice Act 1948.	In section 45(2), the words "(b) a division of the metropolitan police court area". In section 80(1), the definition of "metropolitan police court area". In Schedule 5, in paragraph 2(3), the words "possessing such qualifications as may be prescribed", and paragraph 7(1).
11 & 12 Geo. 6. c. liii.	The London County Council (General Powers) Act 1948.	Section 49.
12, 13 & 14 Geo. 6. c. 101.	The Justices of the Peace Act 1949.	In section 3(1), the words "the London Government Act 1939". Section 10(2) from "except" onwards. Section 11(9) to (11). In section 21(7), the words "a clerk to a metropolitan stipendiary court". Section 24.

Chapter	Title or Short Title	Extent of Repeal
12, 13 & 14 Geo. 6. c. 101— <i>cont.</i>	The Justices of the Peace Act 1949— <i>cont.</i>	<p>In section 25(2), the words from “or by” in paragraph (c) to the end of the subsection.</p> <p>In section 26(3), the words “or under paragraph (d) of subsection (2) of the last foregoing section”.</p> <p>In section 27(10)(c), the words “a clerk to a metropolitan stipendiary court”.</p> <p>Section 31(2).</p> <p>Section 36(5).</p> <p>In section 39(1), the words from “and any” to “1888”.</p> <p>Section 39(4).</p> <p>In section 44(1), in the definition of “county justice” the words “in relation to the county of London”.</p>
15 & 16 Geo. 6 and 1 Eliz. 2. c. 55.	The Magistrates’ Courts Act 1952.	<p>In section 119, subsections (1) to (7) and (9).</p> <p>Section 120(2).</p> <p>In section 121(1), paragraph (b) and in paragraph (c), the word “other”; and in section 121(2) the words “or subsection (4) of section one hundred and nineteen”.</p> <p>In section 126(1), the definition of “County of London”.</p>
15 & 16 Geo. 6 and 1 Eliz. 2. c. viii.	The London County Council (General Powers) Act 1952.	Sections 23 and 24.
4 & 5 Eliz. 2. c. 34.	The Criminal Justice Ad- ministration Act 1956.	<p>In section 4(2), the words from “but” to the end of the subsection.</p> <p>In section 13, subsection (3), and in subsection (4), the word “also”.</p> <p>Section 18.</p>
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	<p>In Part I of Schedule 1, both in its application to the House of Commons of the United Kingdom and in its application to the Senate and House of Commons of Northern Ireland, in the entry relating to the judges of the Mayor’s and City of London Court, the words “or Additional”.</p>

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Chapter	Title or Short Title	Extent of Repeal
5 & 6 Eliz. 2. c. 20— <i>cont.</i>	The House of Commons Disqualification Act 1957— <i>cont.</i>	In Part III of Schedule 1, in its application to the House of Commons of the Parliament of the United Kingdom, the entry relating to clerks and other officers and servants of a metropolitan magistrates' court.
7 & 8 Eliz. 2. c. 45.	The Metropolitan Magistrates' Courts Act 1959.	Section 1.
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	Section 80(6).
9 & 10 Eliz. 2. c. 43.	The Public Authorities (Allowances) Act 1961.	In section 7(1)(b), the words from "or of a committee" to "that Act".
10 & 11 Eliz. 2. c. 15.	The Criminal Justice Administration Act 1962.	In section 4, the words "other than the county of London" wherever occurring. Section 6. In section 9, the words from "and is" to "Sessions". Section 11(1). In Part I of Schedule 4, the amendments of the Metropolitan Police Courts Act 1839, the Local Government Act 1888, the Quarter Sessions (London) Act 1896 and the Middlesex County Council Act 1944.
1963 c. 2.	The Betting, Gaming and Lotteries Act 1963.	Section 55(3).
1963 c. 33.	The London Government Act 1963.	Section 84(6). In Schedule 2, paragraph 1(2)(a). In Schedule 4, in paragraph 5, the words from "and in" to "onwards".
1963 c. 37.	The Children and Young Persons Act 1963.	Section 20. In Schedule 2, paragraph 19.
1964 c. 26.	The Licensing Act 1964.	In Schedule 3, paragraph 47. Section 57(2). In section 60(2), the words "wholly or partly". In section 60(3), the words "wholly or partly".
1964 c. iv.	The City of London (Courts) Act 1964.	Section 201(3). Section 8(2).

Table of Statutes referred to in this Act

Short Title	Chapter
Militia Act 1802 ... ..	43 Geo. 3. c. 19.
Vagrancy Act 1824 ... ..	5 Geo. 4. c. 83.
Juries Act 1825 ... ..	6 Geo. 4. c. 50.
Metropolitan Police Act 1829 ... ..	10 Geo. 4. c. 44.
Central Criminal Court Act 1834 ... ..	4 & 5 Will. 4. c. 36.
Common Law Procedure Act 1852 ... ..	15 & 16 Vict. c. 76.
Metropolitan Police Act 1856 ... ..	19 & 20 Vict. c. 2.
Stipendiary Magistrates Act 1858 ... ..	21 & 22 Vict. c. 73.
Promissory Oaths Act 1868 ... ..	31 & 32 Vict. c. 72.
Extradition Act 1870 ... ..	33 & 34 Vict. c. 52.
Promissory Oaths Act 1871 ... ..	34 & 35 Vict. c. 48.
Pawnbrokers Act 1872 ... ..	35 & 36 Vict. c. 93.
Central Criminal Court (Prisons) Act 1881 ... ..	44 & 45 Vict. c. 64.
Fugitive Offenders Act 1881 ... ..	44 & 45 Vict. c. 69.
Militia Act 1882 ... ..	45 & 46 Vict. c. 49.
Municipal Corporations Act 1882 ... ..	45 & 46 Vict. c. 50.
Sheriffs Act 1887... ..	50 & 51 Vict. c. 55.
Local Government Act 1888 ... ..	51 & 52 Vict. c. 41.
Recorders, Stipendiary Magistrates and Clerks of the Peace Act 1906 ... ..	6. Edw. VII c. 46.
Pilotage Act 1913 ... ..	2 & 3 Geo. 5. c. 31.
Deputy Lieutenants Act 1918 ... ..	8 & 9 Geo. 5. c. 19.
Mayor's and City of London Court Act 1920... ..	10 & 11 Geo. 5. c. cxxxiv.
Juries Act 1922 ... ..	12 & 13 Geo. 5. c. 11.
Supreme Court of Judicature (Consolidation) Act 1925 ... ..	15 & 16 Geo. 5. c. 49.
Criminal Justice Act 1925 ... ..	15 & 16 Geo. 5. c. 86.
Local Government (Clerks) Act 1931 ... ..	21 & 22 Geo. 5. c. 45.
Children and Young Persons Act 1933 ... ..	23 & 24 Geo. 5. c. 12.
Summary Jurisdiction (Appeals) Act 1933 ... ..	23 & 24 Geo. 5. c. 38.
Local Government Act 1933 ... ..	23 & 24 Geo. 5. c. 51.
Firearms Act 1937 ... ..	1 Edw. 8 & 1 Geo. 6. c. 12.
Local Government Superannuation Act 1937... ..	1 Edw. 8 & 1 Geo. 6. c. 68.
Administration of Justice (Miscellaneous Pro- visions) Act 1938 ... ..	1 & 2 Geo. 6. c. 63.
London Building Acts (Amendment) Act 1939 ... ..	2 & 3 Geo. 6. c. xcvi.
Middlesex County Council Act 1944 ... ..	7 & 8 Geo. 6. c. xxi.
Criminal Justice Act 1948 ... ..	11 & 12 Geo. 6. c. 58.
Justices of the Peace Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 101.
Administration of Justice (Pensions) Act 1950 ... ..	14 & 15 Geo. 6. c. 11.
Costs in Criminal Cases Act 1952 ... ..	15 & 16 Geo. 6 & 1 Eliz. 2. c. 48.
Magistrates' Courts Act 1952 ... ..	15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.
Local Government (Superannuation) Act 1953 ... ..	1 & 2 Eliz. 2. c. 25.
Auxiliary Forces Act 1953 ... ..	1 & 2 Eliz. 2. c. 50.
House of Commons Disqualification Act 1957 ... ..	5 & 6 Eliz. 2. c. 20.
Solicitors Act 1957 ... ..	5 & 6 Eliz. 2. c. 27.
Local Government Act 1958 ... ..	6 & 7 Eliz. 2. c. 55.
County Courts Act 1959 ... ..	7 & 8 Eliz. 2. c. 22.
Mental Health Act 1959 ... ..	7 & 8 Eliz. 2. c. 72.
Distress for Rates Act 1960 ... ..	8 & 9 Eliz. 2. c. 12.
Matrimonial Proceedings (Magistrates' Courts) Act 1960 ... ..	8 & 9 Eliz. 2. c. 48.

Short Title	Chapter
Criminal Justice Administration Act 1962 ...	10 & 11 Eliz. 2. c. 15.
Betting, Gaming and Lotteries Act 1963 ...	1963. c. 2.
London Government Act 1963... ...	1963. c. 33.
Children and Young Persons Act 1963 ...	1963. c. 37.
Offices, Shops and Railway Premises Act 1963	1963 c. 41.
Licensing Act 1964 ... ..	1964 c. 26.
City of London (Courts) Act 1964 ... ..	1964 c. iv.



# Criminal Appeal Act 1964

## 1964 CHAPTER 43

An Act to enable the Court of Criminal Appeal to order new trials in cases of fresh evidence; to make corresponding provision for new trials by court-martial; and for connected purposes. [10th June 1964]

**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) Where an appeal against conviction is allowed by the Court of Criminal Appeal by reason only of evidence received or available to be received by that Court under section 9 of the Criminal Appeal Act 1907 and it appears to the Court that the interests of justice so require, the Court may, instead of directing the entry of a judgment and verdict of acquittal as required by section 4(2) of that Act, order the appellant to be retried.

Power of Court of Criminal Appeal to order new trial.

(2) 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 and in respect of which his appeal is allowed as aforesaid;
- (b) any offence of which he could have been convicted at the original trial on an indictment for the first-mentioned offence; or
- (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 convicting him of the first-mentioned offence.

2.—(1) An appellant who is to be retried for an offence in pursuance of an order under section 1 of this Act shall be tried upon a fresh indictment preferred by the direction of the Court

Supplementary provisions as to new trials.

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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 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 Criminal Appeal may, upon ordering a retrial under section 1 of this Act, make such orders as appear to the Court 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.

(3) Where a new trial is ordered under the said section 1 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 V of the Mental Health Act 1959, 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 said order or direction.

(4) Section 1 of the Poor Prisoners' Defence Act 1930 shall apply in the case of an appellant who is to be retried by virtue of an order under section 1 of this Act 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 Criminal Appeal; and if the appellant is acquitted on the 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 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 3(2) or section 4 of that Act in respect of his expenses on appeal, any sums for the payment of which such an order could have been made.

(5) On a retrial ordered under section 1 of this Act, 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; 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.

3.—(1) Where a person ordered to be retried under section 1 of this Act is again convicted on the retrial, the court before whom 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. Provisions as to sentence in case of conviction on retrial.

(2) Without prejudice to its power to impose any other sentence, the court before whom 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 2(2) of this Act.

(4) Section 17(2) of the Criminal Justice Administration Act 1962 (deduction from certain sentences of time in custody before sentence) shall apply to any sentence imposed on conviction on retrial as if it had been imposed on the original conviction.

4. The provisions of Schedule 1 to this Act shall have effect for authorising retrial by court-martial in cases of fresh evidence, and for the purposes of such retrials. Provisions as to retrial by court-martial.

5. The enactments specified in Schedule 2 to this Act shall have effect subject to the amendments set out in that Schedule, being amendments consequential on the foregoing provisions of this Act and minor amendments. Consequential and minor amendments.

6.—(1) This Act may be cited as the Criminal Appeal Act 1964. Short title, construction, extent and commencement.

(2) This Act, so far as it relates to appeals to and retrials ordered by the Court of Criminal Appeal, shall be construed as one with the Criminal Appeal Act 1907.

(3) This Act, so far as it relates to appeals from and retrials by courts-martial, shall be construed as one with Part I of the Courts-Martial (Appeals) Act 1951.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

(5) This Act, except so far as it relates to appeals from and retrials by courts-martial, shall not extend to Scotland or Northern Ireland.

(6) This Act shall come into force on the date of the expiration of the period of one month beginning with the passing of this Act, and shall apply to convictions before as well as after that date.

## SCHEDULES

## SCHEDULE 1

## PROVISIONS AS TO NEW TRIALS BY COURT-MARTIAL

1. Where an appeal against conviction is allowed by the Courts-Martial Appeal Court by reason only of evidence received or available to be received by that Court under section 8 of the Courts-Martial (Appeals) Act 1951 and it appears to the Court that the interests of justice so require, the Court may on quashing the conviction make an order authorising the appellants to be retried by court-martial.

2. An appellant shall not be retried under this Schedule for an 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 aforesaid;
- (b) any offence of which he could have been convicted at the original trial 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.

3. A person authorised to be retried by court-martial under this Schedule shall not be so retried unless the order convening the court-martial is issued within the period of three months beginning with the date of the order authorising retrial, but subject as aforesaid he may be so retried notwithstanding—

- (a) the restrictions on retrial imposed by section 16 of the Courts-Martial (Appeals) Act 1951, section 134 of the Army Act 1955 and section 134 of the Air Force Act 1955;
- (b) the limitations imposed by section 52 of the Naval Discipline Act 1957, section 132 of the Army Act 1955 and section 132 of the Air Force Act 1955 with respect to the time within which a trial under those Acts respectively may be begun.

4. A person who is to be retried under this Schedule for any offence shall, if the Courts-Martial 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 1955 or sections 76 to 79 of the Air Force Act 1955 in relation to the charge or charges on which he is to be retried.

5. The Courts-Martial Appeal Court may, where they authorise a retrial under this Schedule, make such orders as appear to the Court 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; and section 21 of the Courts-Martial (Appeals) Act 1951 (exercise of powers of the Court by a single judge) shall apply to the power of the Court to make orders under this paragraph and discharge or revoke such orders as it applies to the powers of the Court mentioned in paragraphs (a) to (d) of that section.

6. Where a new trial 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 Part V of the Mental

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Health Act 1959, under Part V of the Mental Health (Scotland) Act 1960 or under Part III of the Mental Health Act (Northern Ireland) 1961 or any enactment of the Parliament of Northern Ireland amending or replacing the said Part III, that direction shall continue in force until the relevant time as if his conviction had not been quashed.

7. For the purposes of paragraphs 5 and 6 of this Schedule the relevant time is the expiration of the period of three months mentioned in paragraph 3 of this Schedule or, if during the said period of three months 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 the said paragraph 5 the relevant time, in a case where the appellant is found guilty on the retrial, is the expiration of the period of twenty-eight days beginning with the date of the finding.

8. On the retrial of any person under this Schedule 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, in the case of a court-martial under the Naval Discipline Act 1957, it is produced from the custody of the Defence Council and, in the case of a court-martial under the Army Act 1955 or the Air Force Act 1955, 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 1955 or section 200 of the Air Force Act 1955.

9. Where a person authorised to be retried under this Schedule is again convicted on the retrial, the court-martial by whom he is convicted may pass in respect of the offence any sentence authorised by the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955, not being a sentence of greater severity than that passed on the original conviction.

10. Where a person authorised to be retried under this Schedule 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 be imprisoned or 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.

11. The foregoing provisions of this Schedule, except so much of paragraph 5 as applies section 21 of the Courts-Martial (Appeals) Act 1951, shall apply with any necessary modifications in relation to—

- (a) the review by the Defence Council under section 70 of the Naval Discipline Act 1957 of the findings of a court-martial under that Act;

- (b) the review by Her Majesty or the Defence Council under section 113 of the Army Act 1955 of the findings of a court-martial under that Act;
- (c) the review by Her Majesty or the Defence Council under section 113 of the Air Force Act 1955 of the findings of a court-martial under that Act;

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as those provisions apply in relation to an appeal to the Courts-Martial Appeal Court.

12. Any document purporting to be an order or direction made or given by virtue of paragraph 11 of this Schedule 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.

## SCHEDULE 2

## CONSEQUENTIAL AND MINOR AMENDMENTS

Enactment	Amendment
The Criminal Appeal Act 1907 7 Edw. 7. c. 23.	In section 17, after the word "bail" there shall be inserted the words "and the power of that Court to make orders under section 2(2) of the Criminal Appeal Act 1964, and discharge or vary such orders".
The Administration of Justice (Miscellaneous Provisions) Act 1933. 23 & 24 Geo. 5. c. 36.	In section 2(2)(b), after the word "preferred" there shall be inserted the words "by the direction of the Court of Criminal Appeal or".
The Courts-Martial (Appeals) Act 1951. 14 & 15 Geo. 6. c. 46.	In section 20(1), for the words from "the purposes of" to "section thirteen" there shall be substituted the words "all purposes other than those of subsections (1) and (3) of section 13 of this Act".
The Mental Health Act 1959 7 & 8 Eliz. 2. c. 72.	In section 73(2)(a), at the end there shall be inserted the words "and persons in custody pending a retrial ordered under section 1 of the Criminal Appeal Act 1964".
The Criminal Justice Administration Act 1962. 10 & 11 Eliz. 2. c. 15.	In section 18(1), the word "and", in the third place where that word occurs, shall be omitted, and at the end there shall be added the words "section 2(1) of the Criminal Appeal Act 1964".

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Criminal Appeal Act 1907... ..	7 Edw. 7. c. 23.
Criminal Justice Act 1925 ... ..	15 & 16 Geo. 5. c. 86.
Poor Prisoners' Defence Act 1930 ... ..	20 & 21 Geo. 5. c. 32.
Administration of Justice (Miscellaneous Provisions) Act 1933 ... ..	23 & 24 Geo. 5. c. 36.
Courts-Martial (Appeal) Act 1951 ... ..	14 & 15 Geo. 6. c. 46.
Army Act 1955 ... ..	3 & 4 Eliz. 2. c. 18.
Air Force Act 1955... ..	3 & 4 Eliz. 2. c. 19.
Naval Discipline Act 1957... ..	5 & 6 Eliz. 2. c. 53.
Mental Health Act 1959 ... ..	7 & 8 Eliz. 2. c. 72.
Mental Health (Scotland) Act 1960 ... ..	8 & 9 Eliz. 2. c. 61.
Criminal Justice Administration Act 1962 ... ..	10 & 11 Eliz. 2. c. 15.



# Nurses Act 1964

## 1964 CHAPTER 44

An Act to make further provision concerning the admission of persons to the roll of nurses maintained for England and Wales under section 2(1)(b) of the Nurses Act 1957 and that maintained for Scotland under section 3(1) of the Nurses (Scotland) Act 1951.

[10th June 1964]

**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) Rules made by the Council under section 3 of the Act of 1957 for regulating the conditions of admission to the roll shall contain provisions enabling a person to be admitted to the roll on proving to the satisfaction of the Council that he is of good character and is of the age prescribed for the purposes of this section, and that either—

(a) he was, for not less than such period before such date as may be prescribed for the purposes of this paragraph, bona fide engaged in practice, under conditions which were such as to be satisfactory for the purposes of this paragraph, as a nurse in attendance on persons suffering from mental disorder and has such knowledge and experience of nursing as to justify his admission to the roll; or

Power to make rules for enrolment of persons experienced in psychiatric nursing and persons having other experience of nursing before 1949.

(b) he is engaged in nursing and—

(i) had obtained, before the 17th March 1943, the knowledge and experience of nursing of which evidence was required by Rule 10 of the Assistant Nurses Rules

1945 as a condition of admission to the roll as an Existing Assistant Nurse under Rule 9 of those Rules (which, together with the said Rule 10, provided for the admission to the roll of a person who applied in that behalf before the 3rd February 1946 and provided evidence of his having obtained before the 17th March 1943 knowledge and experience of nursing in the manner specified in the said Rule 10); or

(ii) if he is not qualified for admission to the roll by virtue of the foregoing sub-paragraph, had obtained, before the 1st January 1949, the knowledge and experience of nursing of which evidence was required by Rule 14(1) of the said Rules, or, before the 1st January 1947, that of which evidence was required by Rule 14(2) of the said Rules, as a condition of admission to the roll under Rule 13 of the said Rules (which, as amended by subsequent Rules made by the Council, provided, together with the said Rule 14, for the admission to the roll of a person who desired to obtain admission thereto before the 1st January 1949, and provided evidence of his having obtained, before the 1st January 1949, knowledge and experience of nursing in the manner specified in the said Rule 14(1), or, before the 1st January 1947, knowledge and experience of nursing in the manner specified in the said Rule 14(2)).

(2) Rules made by the Council under the said section 3—

- (a) may prescribe for the purposes of subsection (1)(a) above different periods of practice as therein mentioned in relation to practice carried on in different circumstances;
- (b) may provide that, in such circumstances as may be defined in the rules, where a person could be admitted to the roll in pursuance of provisions contained in the rules and made in compliance with subsection (1) above, except paragraph (b) thereof, but for the fact that his period of engagement in practice as mentioned in paragraph (a) thereof was shorter than that required to qualify him for admission to the roll, he may, notwithstanding that fact, be admitted thereto.

Validation  
of certain  
admissions  
to the roll.

2. Where a person has at a time before the commencement of this Act been admitted to the roll in pursuance of provisions of rules made by the Council, being provisions conforming neither—

- (a) with the requirements of section 2(2) of the Act of 1943 having effect by virtue of paragraphs (a) and (b) thereof (by virtue of which rules so made were required to



contain provisions requiring, as a condition of admission of a person to the roll, that he should have undergone the prescribed training in, and should possess the prescribed experience of, nursing and that that training should have been carried out in certain institutions); nor

- (b) with the requirements of the said section 2(2) having effect by virtue of paragraph (c) thereof (by virtue of which rules so made were required to contain provisions enabling persons who applied to be admitted to the roll within two years after rules made under the provisions of that paragraph first came into operation, that is to say, the 4th February 1944, to be admitted to the roll on production of certain evidence but without their complying with the conditions mentioned in the said paragraphs (a) and (b)); nor
- (c) with the requirements of section 3(1) of the Act of 1957 having effect by virtue of paragraphs (a) and (b) thereof (which re-enact paragraphs (a) and (b) of the said section 2(2)),

that person shall nevertheless be deemed to have been duly admitted to the roll at that time.

3. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

- “ the Act of 1943 ” means the Nurses Act 1943;  
 “ the Act of 1957 ” means the Nurses Act 1957;  
 “ the Council ” means the General Nursing Council for England and Wales;  
 “ nursing ” means nursing of the sick;  
 “ the roll ” means the roll of nurses maintained for England and Wales under section 2(1)(b) of the Act of 1957;  
 “ prescribed ” means prescribed by rules made by the Council under the Act of 1957.

4. In the application of this Act to Scotland the last foregoing section shall be omitted, and the other provisions of this Act shall have effect subject to the following modifications:—

- (a) unless the context otherwise requires the following expressions shall have the meanings hereby assigned to them:—
- “ the Act of 1943 ” means the Nurses (Scotland) Act 1943;  
 “ the Council ” means the General Nursing Council for Scotland;  
 “ nursing ” means nursing of the sick;

“ the roll ” means the roll of nurses maintained for Scotland under section 3(1) of the Nurses (Scotland) Act 1951;

“ prescribed ” means prescribed by rules made by the Council under the Nurses (Scotland) Act 1951;

- (b) for references to the Nurses Act 1957, to section 3 of that Act, and to paragraphs (a) and (b) of subsection (1) of that section there shall be substituted respectively references to the Nurses (Scotland) Act 1951, to section 6 of that Act, and to paragraphs (a) and (b) of subsection (2) of the said section 6;
- (c) for references to the 17th March 1943, the 3rd February 1946 and the 4th February 1944 there shall be substituted respectively references to the 5th August 1943, the 5th June 1946 and the 5th June 1944;
- (d) for references to the Assistant Nurses Rules 1945 and to Rules 9, 10, 13 (as amended) and 14 thereof there shall be substituted respectively references to the Rules made by the General Nursing Council for Scotland under Part I of the Act of 1943 and approved by the Secretary of State on 5th June 1944, and to Rules 7, 8, 11 and 12 thereof;
- (e) in section 1(1)(b) the words “ is engaged in nursing and ” shall be omitted.

5.—(1) This Act may be cited as the Nurses Act 1964, and—

- (a) this Act and the Nurses Acts 1957 and 1961 may be cited together as the Nurses Acts 1957 to 1964;
- (b) this Act and the Nurses (Scotland) Acts 1951 and 1961 may be cited together as the Nurses (Scotland) Acts 1951 to 1964.

(2) This Act does not extend to Northern Ireland.

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Nurses Act 1943 ... ..	6 & 7 Geo. 6. c. 17.
Nurses (Scotland) Act 1943 ... ..	6 & 7 Geo. 6. c. 33.
Nurses (Scotland) Act 1951 ... ..	14 & 15 Geo. 6. c. 55
Nurses Act 1957 ... ..	5 & 6 Eliz. 2. c. 15.

Short title,  
citation and  
extent.



# Road Traffic Act 1964

## 1964 CHAPTER 45

An Act to amend the provisions of the Road Traffic Act 1962 relating to temporary or experimental speed limits.  
[10th June 1964]

**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 appropriate Minister to make orders under subsection (1)(a) of section 13 of the Road Traffic Act 1962 (temporary or experimental speed limits) shall include power to make such an order—

- (a) in respect of roads of any class specified in the order;  
(b) in respect of all roads other than roads of any class so specified;

Temporary or experimental speed limits.  
10 & 11 Eliz. 2  
c. 59.

and for the purposes of any such order roads may be classified by reference to any circumstances appearing to the appropriate Minister to be suitable for the purpose, including their character, the nature of the traffic to which they are suited or the traffic signs provided thereon.

(2) Subsection (4) of the said section 13 shall apply in relation to any limit imposed by an order made by virtue of this section as it applies in relation to a limit to be observed on all roads.

(3) This section shall be construed as one with the said section 13.

2.—(1) This Act may be cited as the Road Traffic Act 1964.

(2) This Act shall come into operation on the expiration of the period of one month beginning with the day on which it is passed.

Short title, commencement and extent.

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



# Malawi Independence Act 1964

## 1964 CHAPTER 46

An Act to make provision for and in connection with the attainment by Nyasaland of fully responsible status within the Commonwealth. [10th June 1964]

**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:—

Fully responsible status of Malawi.

1.—(1) On and after 6th July 1964 (in this Act referred to as “the appointed day”) the territories which immediately before the appointed day are comprised in the Nyasaland protectorate shall together form part of Her Majesty's dominions under the name of Malawi; and on and after that day Her Majesty's Government in the United Kingdom shall have no responsibility for the government of those territories.

(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 Malawi 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 legislative powers in Malawi.

(3) Subsection (1) of this section shall not affect the operation in Malawi of any enactment or any other instrument having the effect of law passed or made before the appointed day, or be taken to extend any such enactment or instrument to Malawi as part of its law.

Consequential modifications of British Nationality Acts.

2.—(1) Subject to subsection (2) of this section, the British Nationality Acts 1948 to 1964 shall have effect on and after the appointed day as if in section 1(3) of the said Act of 1948 (Commonwealth countries having separate citizenship) there

were added at the end the words " and Malawi ", and as if in Schedule 1 to the British Protectorates, Protected States and Protected Persons Order in Council 1949 the words " Nyasaland Protectorate " were omitted.

(2) A person who, immediately before the appointed day, is for the purposes of the said Acts and Order in Council a British protected person by virtue of his connection with the Nyasaland protectorate shall not cease to be such a British protected person for any of those purposes by reason of anything contained in the preceding provisions of this Act, but shall so cease upon his becoming a citizen of Malawi.

(3) 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 Malawi.

(4) 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 (3) of this section, or who would have done so if living on the appointed day.

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(3) of this Act if he, his father or his father's father—

- (a) was born in the United Kingdom or in a colony; 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.

Retention of citizenship of United Kingdom and Colonies by certain citizens of Malawi.

(2) A person shall not cease to be a citizen of the United Kingdom and Colonies under the said section 2(3) 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(3) 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).

(5) Any reference in this section to a colony, a protectorate or a protected state is a reference to a territory which is a colony, a protectorate or a protected state, as the case may be, within the meaning of the British Nationality Act 1948, on the appointed day, and accordingly does not include a reference to Malawi; 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 outside the United Kingdom which is not such a colony, protectorate or protected state on the appointed day.

(6) Part III of the British Nationality Act 1948 (supplemental provisions) shall have effect for the purposes of this section as if this section were included in that Act.

**Consequential  
modification  
of other  
enactments.**

4.—(1) Notwithstanding anything in the Interpretation Act 1889, the expression “colony” in any Act of Parliament of the United Kingdom passed on or after the appointed day shall not include Malawi.

(2) On and after the appointed day the expression “colony” in the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 shall not include Malawi; and in the definitions of “Commonwealth force” in sections 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 Malawi”.

(3) No Order in Council made on or after the appointed day under section 1 of the Army and Air Force Act 1961 shall operate to continue either of the said Acts of 1955 in force as part of the law of Malawi.

(4) On and after the appointed day, the provisions specified in Schedule 2 to this Act shall have effect subject to the amendments respectively specified in that Schedule, and Her Majesty may by Order in Council make such further adaptations in any Act of the Parliament of the United Kingdom passed before this Act, or in any instrument having effect under any such Act, as appear to Her Majesty to be necessary in consequence of section 1 of this Act.

(5) Any Order in Council under subsection (4) of this section may be varied or revoked by a subsequent Order in Council and may, if made after the appointed day, be made so as to

take effect on the appointed day ; and any statutory instrument made by virtue of that subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subsection (4) of this section, Schedule 2 to this Act and any Order in Council made under the said subsection (4) shall not extend to Malawi as part of its law.

5.—(1) Her Majesty may by Order in Council made before the appointed day confer on the Judicial Committee of the Privy Council such jurisdiction in respect of appeals from any court having jurisdiction under the law of Malawi, and in respect of any proceedings concerning judges of any such court, as appears to Her Majesty to be appropriate. Judicial  
Committee of  
Privy Council.

(2) An Order in Council under this section may determine the classes of cases in which, and the conditions as to leave and otherwise subject to which, any such appeal or other proceedings may be entertained by the said Committee, and the practice and procedure to be followed in any such proceedings, and—

- (a) may confer on the said Committee any of the jurisdiction or powers possessed by any court under the law of Malawi ;
- (b) may require that the decisions of the said Committee in exercise of any jurisdiction conferred under this section shall be enforced in the same way as decisions of any court having jurisdiction under the law of Malawi ;
- (c) may exclude an appeal to Her Majesty in Council, whether as of right or by special leave, in all or any cases ; and
- (d) may contain transitional provisions with respect to appeals to Her Majesty in Council and other proceedings which are pending on the appointed day, and may contain such other incidental or supplemental provisions as appear to Her Majesty to be expedient.

(3) Except so far as otherwise provided by an Order in Council under this section, and subject to such modifications as may be so provided, the Judicial Committee Act 1833 shall apply in relation to appeals and other proceedings in respect of which any jurisdiction is conferred under this section as it applies in relation to appeals to Her Majesty in Council.

(4) Provisions made in pursuance of this section may be included in any Order in Council revoking the existing Constitution Order.

(5) So much of any Order in Council as is made under this section may be varied or revoked by a further Order in Council, whether made before or after the appointed day ; but any Order in Council made under this section on or after the appointed day shall not extend to Malawi as part of its law.

**Divorce jurisdiction.**

**6.—(1)** On and after the appointed day no court having jurisdiction under the law of Malawi shall, by virtue of the Colonial and Other Territories (Divorce Jurisdiction) Acts 1926 to 1950, have jurisdiction to make a decree for the dissolution of a marriage, or as incidental thereto to make an order as to any matter, unless proceedings for the decree were instituted before the appointed day.

(2) Except as provided by subsection (1) of this section, and subject to any provision to the contrary which may be made on or after the appointed day by or under any law made by any legislature established for Malawi, all courts having jurisdiction under the law of Malawi shall on and after that day have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(3) Any rules made on or after the appointed day under section 1(4) of the Indian and Colonial Divorce Jurisdiction Act 1926 for a court having jurisdiction under the law of Malawi shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of Malawi, and so much of the said section 1(4) and of any rules in force thereunder as requires the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect.

(4) The references in subsection (1) of this section to proceedings for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of marriage as is authorised by section 16 of the Matrimonial Causes Act 1950.

**Interpretation.**

**7.—(1)** In this Act “ the existing Constitution Order ” means the Nyasaland (Constitution) Order in Council 1963 as amended by the Nyasaland (Constitution) (No. 2) Order in Council 1963 and any further Order in Council made before the appointed day.

(2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.

**Short title.**

**8.** This Act may be cited as the Malawi Independence Act 1964.



## SCHEDULES

### SCHEDULE 1

#### LEGISLATIVE POWERS IN MALAWI

1. The Colonial Laws Validity Act 1865 shall not apply to any law made on or after the appointed day by any legislature established for Malawi.

2. No law and no provision of any law made on or after the appointed day by any such 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, subject to paragraph 5 of this Schedule, the powers of any such 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 Malawi.

3. Any legislature established for Malawi shall have full power to make laws having extra-territorial operation.

4. Without prejudice to the generality of the preceding provisions of this Schedule—

(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 any legislature established for Malawi; and

(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 not apply in relation to Malawi.

5. Nothing in this Act shall confer on any legislature established for Malawi any power to repeal, amend or modify the constitutional provisions otherwise than in such manner as may be provided for in those provisions; and for the purposes of this paragraph "the constitutional provisions" means the following, that is to say—

(a) this Act;

(b) any Order in Council revoking the existing Constitution Order and providing for a new constitution for Malawi to come into effect on the appointed day;

(c) any law, or instrument made under a law, of any legislature established for Malawi which, being a law or instrument made on or after the appointed day, amends, modifies, re-enacts with or without amendment or modification, or makes different provision in lieu of, any provisions of this Act, of the Order in Council first mentioned in this paragraph, or of any such law or instrument previously made.

## SCHEDULE 2

## AMENDMENTS NOT AFFECTING THE LAW OF MALAWI

*Diplomatic immunities*

1. In section 461 of the Income Tax Act 1952 (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 Malawi”;

(b) in subsection (3), before the words “and ‘Agent-General’” there shall be inserted the words “or Malawi”.

2. In section 1(6) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952, before the words “and the Republic of Ireland” there shall be inserted the word “Malawi”.

3. In section 1(5) of the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961, before the words “and the Republic of Ireland” there shall be inserted the word “Malawi”.

*Financial*

4. In section 2 of the Import Duties Act 1958—

(a) in subsection (4), before the words “together with” there shall be inserted the word “Malawi”, and

(b) in subsection (9), for the word “Nyasaland”, in each place where it occurs, there shall be substituted the word “Malawi”;

and in paragraph 7(a) of Schedule III to the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963 the words “and Nyasaland”, in the second place where they occur, shall be omitted.

*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 Malawi as it applies in relation to forces raised in Dominions within the meaning of the Statute of Westminster 1931.

6. In the Visiting Forces Act 1952—

(a) in section 1(1)(a) (countries to which that Act applies) at the end there shall be added the words “Malawi or”;

(b) in section 10(1)(a) the expression “colony” shall not include Malawi;

and, until express provision with respect to Malawi is made by 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 Malawi.

*Ships and aircraft*

7. In section 427(2) of the Merchant Shipping Act 1894, as substituted by section 2 of the Merchant Shipping (Safety Convention) Act 1949, before the words “or in any” there shall be inserted the words “or Malawi”.

8. In the proviso to section 6(2) of the Merchant Shipping Act 1948, at the end there shall be added the words “or Malawi”.

9. In the definition of "excepted ship or aircraft" in paragraph 3 of Schedule 3 to the Emergency Laws (Repeal) Act 1959, before the words "or in any" there shall be inserted the words "or Malawi".

10. 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 Malawi; and the penal provisions of that Act shall not apply to persons in Malawi (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).

11. In the Whaling Industry (Regulation) Act 1934, the expression "British ship to which this Act applies" shall not include a British ship registered in Malawi.

12. In section 2(7)(b) of the Civil Aviation (Licensing) Act 1960, the expression "colony" shall not include Malawi.

*Copyright*

13. If the Copyright Act 1911, so far as in force in the law of Malawi, is repealed or amended by that law at a time when sub-paragraph (2) of paragraph 39 of the Seventh Schedule to the Copyright Act 1956 (which applies certain provisions of that Act in relation to countries to which the said Act of 1911 extended) is in force in relation to Malawi, the said sub-paragraph (2) shall thereupon cease to have effect in relation thereto.

*Commonwealth Institute*

14. 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 Malawi".

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Judicial Committee Act 1833 ... ..	3 & 4 Will. 4. c. 41.
Colonial Laws Validity Act 1865 ... ..	28 & 29 Vict. c. 63.
Interpretation Act 1889 ... ..	52 & 53 Vict. c. 63.
Colonial Courts of Admiralty Act 1890 ... ..	53 & 54 Vict. c. 27.
Merchant Shipping Act 1894 ... ..	57 & 58 Vict. c. 60.
Copyright Act 1911 ... ..	1 & 2 Geo. 5. c. 46.
Imperial Institute Act 1925 ... ..	15 & 16 Geo. 5. c. xvii.
Indian and Colonial Divorce Jurisdiction Act 1926 ... ..	16 & 17 Geo. 5. c. 40.
Statute of Westminster 1931 ... ..	22 & 23 Geo. 5. c. 4.
Visiting Forces (British Commonwealth) Act 1933 ... ..	23 & 24 Geo. 5. c. 6.
Whaling Industry (Regulation) Act 1934 ... ..	24 & 25 Geo. 5. c. 49.
Ships and Aircraft (Transfer Restrictions) Act 1939 ... ..	2 & 3 Geo. 6. c. 70.
British Nationality Act 1948 ... ..	11 & 12 Geo. 6. c. 56.
Merchant Shipping (Safety Convention) Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 43.
Matrimonial Causes Act 1950 ... ..	14 Geo. 6. c. 25.
Army and Air Force (Annual) Act 1951 ... ..	14 & 15 Geo. 6. c. 24.
Income Tax Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.
Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act 1952. ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 18.
Visiting Forces Act 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 67.
Army Act 1955 ... ..	3 & 4 Eliz. 2. c. 18.
Air Force Act 1955 ... ..	3 & 4 Eliz. 2. c. 19.
Copyright Act 1956 ... ..	4 & 5 Eliz. 2. c. 74.
Naval Discipline Act 1957 ... ..	5 & 6 Eliz. 2. c. 53.
Import Duties Act 1958 ... ..	6 & 7 Eliz. 2. c. 6.
British Nationality Act 1958 ... ..	6 & 7 Eliz. 2. c. 10.
Commonwealth Institute Act 1958 ... ..	6 & 7 Eliz. 2. c. 16.
Emergency Laws (Repeal) Act 1959 ... ..	7 & 8 Eliz. 2. c. 19.
Civil Aviation (Licensing) Act 1960 ... ..	8 & 9 Eliz. 2. c. 39.
Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act 1961 ... ..	9 & 10 Eliz. 2. c. 11.



# Merchant Shipping Act 1964

## 1964 CHAPTER 47

An Act to enable effect to be given to an International Convention for the Safety of Life at Sea signed in London on 17th June 1960; to amend section 271 of the Merchant Shipping Act 1894; and for purposes connected therewith. [10th June 1964]

**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:—

### *Application of Act of 1949 to new Convention*

1. For the purpose of enabling effect to be given to the International Convention for the Safety of Life at Sea signed in London on 17th June 1960 (in this Act referred to as "the Convention") which replaces the International Convention for the Safety of Life at Sea signed in London on 10th June 1948 (in this Act referred to as "the Safety Convention") the Merchant Shipping (Safety Convention) Act 1949 (in this Act referred to as "the Act of 1949") shall have effect as if—

Application of Act of 1949 to Convention of 1960.  
12, 13 & 14 Geo. 6 c. 43.

- (a) for references therein, except in the preamble, to the Safety Convention there were substituted references to the Convention; and
- (b) references therein to that Act, except in subsections (1) and (4) of section 37 (commencement and citation), included references to this Act.

### *New requirements for cargo ships*

2.—(1) The Minister may make rules (in this Act referred to as "cargo ship construction and survey rules") prescribing requirements for the hull, equipment and machinery of ships to

Cargo ship construction and survey rules.

which this section applies and requiring any such ships which are registered in the United Kingdom to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the rules.

(2) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Convention relating to the hull, equipment and machinery of such ships, except so far as those provisions are implemented by any other rules or regulations made under the Merchant Shipping Acts.

(3) This section applies to—

(a) sea-going ships of not less than five hundred tons gross tonnage; and

(b) sea-going ships of not less than such lower tonnage and of such description as the Minister may by order made by statutory instrument specify;

other than passenger steamers, troopships, pleasure yachts, fishing vessels and ships not propelled by mechanical means; except that it applies to ships not registered in the United Kingdom only while they are within a port in the United Kingdom and are not exempted from the cargo ship construction and survey rules under the following provisions of this Act.

(4) The matters with regard to which fees may be prescribed by regulations under section 33 of the Act of 1949 shall include surveys required by the cargo ship construction and survey rules, and the provisions applied by section 13(2) of that Act (which relate to the delivery of declarations of survey and appeals to the court of survey) shall apply to such surveys whether or not they are made for the purpose of the issue of any certificate.

(5) In relation to surveys required by the cargo ship construction and survey rules which are carried out otherwise than by a surveyor of ships appointed under the Merchant Shipping Acts—

(a) so much of the said section 33 as requires fees to be paid into the Exchequer shall not apply; and

(b) the provisions applied by the said section 13(2) shall apply with such modifications as may be prescribed by the cargo ship construction and survey rules; and

(c) the definition of "declaration of survey" in section 36(1) of the Act of 1949 shall not apply.

(6) An order under subsection (3)(b) of this section may be varied or revoked by a subsequent order.

Cargo ship  
safety  
construction  
certificates and  
exemption  
certificates.

3.—(1) If the Minister or such person as he may authorise for the purpose is satisfied, on receipt of declarations of survey in respect of a ship to which section 2 of this Act applies and

which is registered in the United Kingdom, that the ship complies with the cargo ship construction and survey rules applicable to the ship and such voyages as she is to be engaged on he shall, on the application of the owner, issue in respect of the ship—

- (a) if the ship is of not less than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Convention ;
- (b) in any other case, a certificate showing that she complies with the said rules ;

and any such certificate is in this Act referred to as a cargo ship safety construction certificate.

(2) If the Minister, on receipt of declarations of survey in respect of such a ship, is satisfied that the ship is exempt, by virtue of any exercise by him of a power conferred on him by section 28 of the Act of 1949 or the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship—

- (a) if she is of not less than five hundred tons gross tonnage and is to be engaged on international voyages—
  - (i) an exemption certificate stating which of the requirements of the Convention, being requirements implemented by the rules and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying on the voyages and complying with the other conditions (if any) specified in the certificate ; and
  - (ii) a certificate showing that the ship complies with the rest of those requirements ;
- (b) in any other case, a certificate showing that the ship complies with such of the requirements of the cargo ship construction and survey rules applicable to the ship and to the voyages she is to be engaged on as she is not exempt from ;

and any certificate issued under paragraph (a)(ii) or paragraph (b) of this subsection is in this Act referred to as a qualified cargo ship safety construction certificate.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for five years or such shorter period as may be specified in it, but without prejudice to the Minister's power to cancel it ; and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

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(4) The Minister may by order made by statutory instrument extend the period for which a certificate under this section may be issued to a period not exceeding six years.

(5) Without prejudice to the power of extension conferred by section 13(5) of the Act of 1949, where a certificate under this section is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under the foregoing provisions of this section, the Minister or any person authorised by him for the purpose may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year, and not exceeding, together with the period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under this section.

(6) In relation to a certificate issued or extended under this section by a person authorised by the Minister—

(a) the provisions applied by section 13(8) of the Act of 1949 (which relate to the transmission, cancellation, surrender, posting-up and falsification of certificates issued by the Minister) except section 276 of the principal Act (transmission of certificates); and

(b) section 33 of the Act of 1949 (fees);

shall apply as they apply in relation to certificates issued by the Minister, except that so much of the said section 33 as requires fees to be paid into the Exchequer shall not apply.

(7) An order under subsection (4) of this section may be varied or revoked by a subsequent order.

Notice of alterations and additional surveys.

4.—(1) The duty of the owner or master of a ship under subsection (2) of section 11 of the Act of 1949 to notify alterations and renewals shall extend, in relation to any ship in respect of which a certificate under section 3 of this Act is in force, to the hull, machinery and any equipment other than that mentioned in that subsection, but may, if the certificate was issued by a person authorised under the said section 3, be discharged by notifying him instead of the Minister.

(2) Subsection (4) of the said section 11 (additional survey and cancellation of certificates) shall have effect, in relation to any such ship, as if—

(a) paragraph (a) thereof extended to any alteration or renewal which is notifiable by virtue of this section; and

(b) paragraph (b) and not paragraph (c) thereof were applicable, notwithstanding that the ship is not a passenger steamer;

and the power of the Minister under that subsection to cancel



such a certificate shall be exercisable also where the ship has not been submitted for survey as required by the cargo ship construction and survey rules.

5.—(1) No ship to which section 2 of this Act applies and which is registered in the United Kingdom shall proceed to sea unless there is in force in respect of the ship either—

Prohibition on proceeding to sea without appropriate certificates.

- (a) a cargo ship safety construction certificate ; or
- (b) a qualified cargo ship safety construction certificate and, if the ship is about to proceed on an international voyage, a corresponding exemption certificate ; or
- (c) such certificate or certificates as would be required if she were a passenger steamer,

applicable to the ship and to the voyage on which she is about to proceed.

(2) If any ship proceeds, or attempts to proceed, to sea in contravention of this section the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

(3) The master of every ship to which section 2 of this Act applies and which is registered in the United Kingdom shall produce to the officer of customs from whom a clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section ; and the clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

6. Where there is produced in respect of a ship not registered in the United Kingdom—

Exemption of ships holding appropriate certificates.

- (a) an accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate ; or
- (b) accepted Safety Convention certificates equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate ;

the ship shall be exempt from the cargo ship construction and survey rules.

7.—(1) If the cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner or master of the ship shall be liable on conviction on indictment to a fine not exceeding five hundred pounds, or on summary conviction to a fine not exceeding one hundred pounds.

Penalty for non-compliance with rules and power to detain.

(2) A surveyor of ships may inspect any ship for the purpose of seeing that she complies with the provisions of the cargo ship construction and survey rules (other than those relating to survey) and for that purpose shall have all the powers of a Ministry of Transport inspector under the Merchant Shipping

Acts; and if he finds that the ship fails to comply with those provisions he shall give to the owner or master notice in writing stating in what respect she fails to comply with them and what in his opinion is requisite to remedy the failure.

(3) Every notice under subsection (2) of this section shall be communicated in manner directed by the Minister to the chief officer of customs of any port at which the ship may seek to obtain a clearance or transire; and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the failure has been remedied.

#### *Damage control and life-saving appliances*

Damage control plans and stability information for passenger steamers.

8. Construction rules (that is to say, rules made under section 1 of the Act of 1949 relating to the hull, equipment and machinery of British passenger steamers registered in the United Kingdom) may require the provision in such ships,—

- (a) of plans exhibited as provided by or under the rules, and of other information, relating to the boundaries of watertight compartments, the openings therein, the means of closing such openings and the arrangements for correcting any list due to flooding; and
- (b) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage.

Extension of power to make rules for life-saving appliances.

9. Subsection (1) of section 427 of the principal Act (which empowers the Minister of Transport to make rules for life-saving appliances) shall be amended as follows:—

- (a) in paragraph (e) (buoyant apparatus required to be carried on board ships carrying passengers) the words “carrying passengers” shall be omitted;
- (b) after paragraph (m) there shall be inserted the following paragraph:—
  - “(mm) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire”;
- (c) in paragraph (q) (examination of appliances and equipment required by the rules to be carried) after the word “examination” there shall be inserted the words “and maintenance”.

#### *Radio installations and certificates*

Requirements for portable radio apparatus carried in survival craft.

10.—(1) Radio rules may prescribe requirements for such portable radio apparatus as boats or life rafts may be required to carry by the rules for life-saving appliances.

(2) Subsections (7) and (8) of section 3 of the Act of 1949 (which relate to the inspection and detention of ships to ensure conformity with the radio rules) shall apply in relation to the portable radio apparatus so required to be carried by the boats or life rafts on any ship as they apply in relation to the radio installation of the ship.

11. For subsection (4) of section 3 of the Act of 1949 (which specifies the radio installations to be required under the radio rules) there shall be substituted the following subsection:— Radio installations.

“(4) The radio installation required under the said rules to be provided—

- (a) for a passenger steamer of whatever tonnage, or for any ship of sixteen hundred tons gross tonnage or upwards which is neither a passenger steamer nor a fishing vessel, shall be a radiotelegraph installation; and
- (b) for any other ship shall be either a radio-telephone installation or a radiotelegraph installation, at the option of the owner.”

12. Where a radio certificate or qualified radio certificate is in force in respect of a ship of less than five hundred tons gross tonnage, other than a passenger steamer, and the ship is surveyed by a radio surveyor at a time not earlier than two months before the end of the period for which the certificate is in force, then, if on receipt of the declaration of survey a new certificate is issued before the end of that period,— Renewal of radio certificates for small cargo ships.

- (a) the current certificate may be cancelled; and
- (b) the new certificate may, notwithstanding anything in section 13(3) of the Act of 1949, be issued for a period ending not later than twelve months after the end of the first-mentioned period.

#### *Miscellaneous*

13. Where the Minister, under section 13(9) of the Act of 1949, requests the government of a country to which the Convention applies to issue in respect of a ship such certificates as he is authorised to issue under subsection (2) of section 7, 8 or 9 of that Act or under paragraph (a) of section 3(2) of this Act, and that government is willing to issue, in pursuance of that request, a qualified certificate thereunder but is not willing to issue the corresponding exemption certificate, the Minister may issue that exemption certificate in respect of the ship. Issue of exemption certificates where Convention country issues corresponding qualified certificates.

14.—(1) The following provisions of this section shall have effect with respect to the information about a ship's stability which is required to be supplied under section 18 of the Act of 1949. Information about ship's stability.

(2) Except as provided by the following subsection, the information shall, when first supplied, be based on the determination of the ship's stability by means of an inclining test and shall be replaced by fresh information whenever its accuracy is materially affected by alterations made to the ship; and in any such case the Minister may require a fresh inclining test.

(3) The Minister may—

- (a) in the case of any ship, allow the information to be based on the determination, by means of an inclining test, of the stability of a sister ship;
- (b) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with an inclining test if satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions.

Modification  
of s. 29 of  
Act of 1949.

15. Subsection (1) of section 29 of the Act of 1949 (which exempts certain ships from certain provisions) shall not prevent the application—

- (a) to any ship of three hundred tons gross tonnage or upwards, of so much of the provisions mentioned in paragraphs (a) and (b) of that subsection as relates to certificates issued under section 9 of that Act or equivalent accepted Safety Convention certificates;
- (b) to any ship to which section 2 of this Act applies and which is registered in the United Kingdom, of so much of the provisions mentioned in paragraph (a) of that subsection as relates to certificates issued under section 3 of this Act;

by reason only that she is of less than five hundred tons gross tonnage.

Extension of  
duty to report  
dangers to  
navigation.

16. The matters of which information is to be sent by the master of a ship in accordance with rules under section 24 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932 shall include—

- (a) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships; and
- (b) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received.

*Ships carrying passengers*

**17.**—(1) For subsection (1) of section 271 of the principal Act (which prohibits passenger steamers carrying more than twelve passengers from sailing without a certificate of survey) there shall be substituted the following subsection:—

Amendment of Merchant Shipping Act 1894, s. 271.

“ (1) Every passenger steamer which carries more than twelve passengers shall be surveyed once at least in each year in the manner provided in this Part of this Act; and no ship (other than a steam ferry boat working in chains) shall proceed to sea or on any voyage or excursion with more than twelve passengers on board, unless there is in force in respect of the ship a certificate as to survey under this Part of this Act, applicable to the voyage or excursion on which the ship is about to proceed, or that voyage or excursion is one in respect of which the Minister of Transport has exempted the ship from the requirements of this subsection. ”

and at the end of subsection (2) of that section (which enables a passenger ship to be detained until such a certificate is produced) there shall be inserted the words “ unless the voyage or excursion on which she is about to proceed is one in respect of which she has been exempted as aforesaid ”.

(2) References in the Merchant Shipping Acts to a passenger steamer shall be construed as including any ship while on or about to proceed on a voyage or excursion in any case where a passenger steamer's certificate is required to be in force in respect of her.

*Supplementary*

**18.**—(1) Nothing in section 5 of this Act or section 17(1) of the Act of 1949 shall prohibit a ship from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 5, until the expiry of two years from the commencement of this Act.

Transitional provisions and repeals.

(2) Nothing in section 15(a) of this Act or section 12(1)(b)(ii) or 17(1) of the Act of 1949 shall prohibit a ship of less than five hundred tons gross tonnage from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 12(1)(b)(ii), until the expiry of one year from the commencement of this Act.

(3) The Minister may by regulations provide that for such purposes, for such a period and subject to such conditions as may be specified by or under the regulations—

(a) any country to which the Safety Convention applies shall be treated for the purposes of this Act as if it were a country to which the Convention applies; and

(b) any certificate which immediately before the commencement of this Act was an accepted Safety Convention certificate within the meaning of the Act of 1949 as originally enacted may be treated as if it were an accepted Safety Convention certificate within the meaning of that Act as amended by this Act.

(4) The following provisions of the Act of 1949 are hereby repealed, that is to say,—

(a) in section 14 (1) the words “the preceding provisions of”;

(b) in section 18(2) the words from “and shall be based” to the end of the subsection;

(c) in section 34 (1) the words “the preceding provisions of this Act or the First Schedule to”;

(d) in section 36 (1) the definition of “the Merchant Shipping Acts”;

(e) in Schedule 1, paragraphs 2 to 4.

Commence-  
ment,  
construction,  
citation and  
extent.

19.—(1) This Act shall come into force on such day as Her Majesty may by Order in Council appoint.

(2) In the Act of 1949 “the Merchant Shipping Acts” shall mean the Merchant Shipping Acts 1894 to 1958 and this Act; and this Act shall be construed as one with those Acts.

(3) This Act may be cited as the Merchant Shipping Act 1964, and the Merchant Shipping Acts 1894 to 1958 and this Act may be cited together as the Merchant Shipping Acts 1894 to 1964.

(4) This Act extends to Northern Ireland.



# Police Act 1964

## 1964 CHAPTER 48

An Act to re-enact with modifications certain enactments relating to police forces in England and Wales, to amend the Police (Scotland) Act 1956, and to make further provision with respect to the police.

[10th June 1964]

**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:—

### PART I

#### ORGANISATION OF POLICE FORCES

##### *County, county borough and combined forces*

1.—(1) Subject to the provisions of this Act, a police force shall be maintained for every county and county borough in England and Wales which is not comprised in the combined area constituted by an amalgamation scheme, and for every combined area constituted by such a scheme.

Police areas.

(2) For the purposes of this section, any detached part of a county which, immediately before the commencement of this Act, was policed by the police force of another county shall be treated as part of that other county.

(3) For the purposes of this section, any county borough the police force of which is consolidated with that of a county under a consolidation agreement shall, so long as that agreement continues in force, be treated as part of that county.

(4) For the purposes of this section, any part of a county which is for the time being comprised in the metropolitan police district shall be treated as not forming part of that county.

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**PART I**  
**Police**  
**authorities**  
**for counties**  
**and county**  
**boroughs.**

2.—(1) The police authority for a police area consisting of a county or county borough shall be a committee of the council of the county or borough constituted in accordance with the provisions of this section, to be known, in the case of a county, as the police committee and, in the case of a borough, as the watch committee.

(2) The police committee for a police area consisting of a county shall consist of such number of persons as may be determined by the council of the county, and of that number—

(a) two thirds shall be members of the council of the county appointed by that council ;

(b) one third shall be magistrates for the county appointed by the court of quarter sessions for the county.

(3) The watch committee for a police area consisting of a county borough shall consist of such number of persons as may be determined by the council of the borough, and of that number—

(a) two thirds shall be members of the council of the borough appointed by that council ;

(b) one third shall be magistrates appointed by the magistrates for the borough from among their own number.

(4) The magistrates to be appointed members of a police committee or watch committee shall be appointed at such times, in such manner and for such term as may be prescribed by rules made by the Secretary of State ; and the other members of a police committee or watch committee shall be appointed at such times, in such manner and for such term as may from time to time be determined by the council responsible for appointing them.

(5) The quorum of a police committee or watch committee shall be such as may from time to time be determined by the council of the county or county borough.

(6) Subsection (4) of section 85 of the Local Government Act 1933 (membership of committees of local authorities) shall apply to a committee appointed under this section as it applies to any committee appointed under that section, and paragraphs 1, 2 and 4 of Part V of Schedule 3 to that Act (proceedings of local authorities) shall apply to a committee appointed under this section as they apply to a local authority and as if for any reference to that Act there were substituted a reference to this Act.

(7) Any proceedings by or against a committee appointed under this section shall be brought by or against the clerk of the council or town clerk as representing that committee.



**3.—(1)** The police authority for a combined area shall be the combined police authority constituted for the purpose in accordance with the provisions of the relevant amalgamation scheme ; and every such authority shall, subject to subsection (4) of this section, be a body corporate by such name as may be prescribed by the scheme.

**PART I**  
Police  
authorities for  
combined  
areas.

(2) A combined police authority shall be appointed in such manner, and shall consist of such number of persons, as may be prescribed by the amalgamation scheme ; and of the number of persons so prescribed—

(a) two thirds shall be members of the constituent councils ;

(b) one third shall be magistrates for the constituent areas.

(3) Provision may be made by an amalgamation scheme for applying, in relation to the constitution and proceedings of the combined police authority and in relation to the officers of that authority, any of the provisions of Parts II to IV of the Local Government Act 1933 subject to such modifications as may be prescribed by the scheme.

(4) If the constituent councils request that the combined police authority to be constituted by an amalgamation scheme should be a committee of one of those councils, the scheme shall constitute the combined police authority a committee of that council instead of a body corporate ; and the provisions of Schedule 1 to this Act shall have effect with respect to such a scheme and a combined police authority so constituted.

**4.—(1)** It shall be the duty of the police authority for every police area for which a police force is required to be maintained by section 1 of this Act to secure the maintenance of an adequate and efficient police force for the area, and to exercise for that purpose the powers conferred on a police authority by this Act.

**General  
functions  
of police  
authorities.**

(2) The police authority for every such police area shall, subject to the approval of the Secretary of State and to regulations under Part II of this Act, appoint the chief constable of the police force maintained by that authority and determine the number of persons of each rank in that force which is to constitute the establishment of the force.

(3) The police authority for any such police area may, subject to the consent of the Secretary of State, provide and maintain such buildings, structures and premises, and make such alterations in any buildings, structures or premises already provided, as may be required for police purposes of the area.

(4) The police authority for any such police area may, subject to any regulations under Part II of this Act, provide and

## PART I

maintain such vehicles, apparatus, clothing and other equipment as may be required for police purposes of the area.

(5) A combined police authority may, if so authorised by the amalgamation scheme, make arrangements with any constituent authority for the use by the combined police authority of the services of officers of the constituent authority and the making of contracts and payments on behalf of the combined police authority by the constituent authority.

## Chief constables.

5.—(1) The police force maintained for a police area under section 1 of this Act shall be under the direction and control of the chief constable appointed under section 4(2) of this Act.

(2) The same person may, with the consent of the police authorities concerned, be appointed chief constable of more than one police force.

(3) The Secretary of State shall not approve the appointment as first chief constable of a combined force of any person other than the chief constable of a police force which ceases to exist in consequence of the formation of the combined force unless the Secretary of State is satisfied, having regard to the size and character of the combined force and any exceptional circumstances, that some other person should be appointed.

(4) Without prejudice to any regulations under Part II of this Act or under the Police Pensions Act 1948, the police authority, acting with the approval of the Secretary of State, may call upon the chief constable to retire in the interests of efficiency.

(5) Before seeking the approval of the Secretary of State under subsection (4) of this section the police authority shall give the chief constable an opportunity to make representations and shall consider any representations so made.

(6) A chief constable who is called upon to retire as aforesaid shall retire on such date as the police authority may specify or on such earlier date as may be agreed upon between him and the police authority.

## Deputy and assistant chief constables.

6.—(1) In every police force maintained under section 1 of this Act there shall be a deputy chief constable, who shall have all the powers and duties of the chief constable—

(a) during any absence, incapacity or suspension from duty of the chief constable ;

(b) during any vacancy in the office of chief constable ;

but shall not have power to act by virtue of this subsection for any continuous period exceeding three months except with the consent of the Secretary of State.

(2) The provisions of subsection (1) above shall be in addition to, and not in substitution for, any other enactment which makes

provision for the exercise by any other person of the powers conferred by that enactment on a chief constable.

(3) The establishment of any such police force as aforesaid may include one or more persons holding the rank of assistant chief constable.

(4) Appointments to the office of deputy chief constable, and appointments or promotions to the rank of assistant chief constable, shall be made, in accordance with regulations under Part II of this Act, by the police authority after consultation with the chief constable and subject to the approval of the Secretary of State.

(5) Subsections (2), (4), (5) and (6) of section 5 of this Act shall apply to a deputy chief constable, and subsections (4), (5) and (6) of that section shall apply to an assistant chief constable, as they apply to a chief constable.

7.—(1) The ranks which may be held in a police force maintained under section 1 of this Act shall be such as may be prescribed by regulations under Part II of this Act and the ranks so prescribed shall include, in addition to chief constable and assistant chief constable, the ranks of superintendent, inspector, sergeant and constable. Other members of police forces.

(2) Appointments and promotions to any rank below that of assistant chief constable in any such police force shall be made, in accordance with regulations under Part II of this Act, by the chief constable.

8.—(1) Subject to the following provisions of this section and Financial provisions. to any regulations under the Police Pensions Act 1948, all receipts of the police authority for a police area for which a police force is maintained under section 1 of this Act shall be paid into the police fund and all expenditure of any such police authority shall be paid out of that fund.

(2) A combined police authority shall have the powers of a county council in relation to the borrowing of money for police purposes, and the provisions of Part IX of the Local Government Act 1933 and of any other enactment relating to the borrowing of money by local authorities shall have effect accordingly, subject to such adaptations and modifications as may be prescribed by the amalgamation scheme.

(3) For every police area consisting of a county or county borough an account, to be known as the police account, shall be kept of all expenditure and receipts of the police authority; and every such account, and the accounts of every combined police authority, shall be subject to audit by a district auditor under Part X of the Local Government Act 1933.

## PART I

(4) No sum shall be paid out of the police fund for a police area consisting of a county or county borough without the approval of the council of the county or borough except—

- (a) any sum required for giving effect to regulations under Part II of this Act ;
- (b) any sum required to satisfy any judgment or order of a court ;
- (c) any sum directed to be paid out of that fund by or under any enactment other than this section, including any such enactment in this Act.

(5) Where a detached part of a county is policed by the police force of another police area, there shall be paid out of the police fund of that county into the police fund of that other police area a contribution of such amount as the police authorities concerned may agree or as may, in default of agreement, be determined by the Secretary of State.

Acquisition  
of land.

9.—(1) The council of any county or county borough constituting a police area may by agreement acquire, whether by way of purchase, lease or exchange, any land which is required for the purpose of any of the functions of the police authority for the area ; and section 176 of the Local Government Act 1933 (application of Lands Clauses Acts to purchases by agreement) shall apply to the acquisition of land under this section as it applies to the acquisition of land under Part VII of that Act, and as if references to that Act included references to this Act.

(2) The council of any such county or county borough may be authorised by the Secretary of State to purchase compulsorily any land which is required for the purpose of any of the functions of the police authority for the county or county borough ; and the Acquisition of Land (Authorisation Procedure) Act 1946 shall apply as if this subsection had been in force immediately before the commencement of that Act.

(3) A combined police authority shall have the same powers with respect to the acquisition of land for police purposes, and the appropriation and disposal of land, as the council of a county or county borough ; and the provisions of this section, the Local Government Act 1933 and the Acquisition of Land (Authorisation Procedure) Act 1946 with respect to the acquisition, appropriation and disposal of land by such councils shall have effect accordingly as if references to the council of a county or county borough included references to a combined police authority.

(4) References in this Act to expenditure of a police authority or to expenses incurred for police purposes by any police authority include references to expenditure under this section by the council of a county or county borough on behalf of a police authority.

**10.—(1)** The police authority for a police area for which a police force is maintained under section 1 of this Act, and the council of any county or county borough for which a police force is maintained under that section, may employ civilians for police purposes of the area. PART I  
Civilian employees.

(2) The Local Government Superannuation Act 1937 shall have effect as if any such police authority were a local authority specified in Part I of Schedule 1 to that Act; and in relation to contributory employees of a combined police authority the appropriate superannuation fund for the purposes of that Act shall be such fund as may be determined by or under the amalgamation scheme.

(3) References in this Act to expenditure of a police authority or to expenses incurred for police purposes by any police authority include references to expenditure under this section by the council of a county or county borough.

**11.** Arrangements shall be made (whether by standing orders or otherwise) for enabling questions on the discharge of the functions of the police authority for any county, county borough or combined area to be put, in the course of the proceedings of the council for that county or county borough or, as the case may be, of a constituent council, by members of that council for answer by a member thereof who is also a member of the police authority and is nominated by that authority for that purpose. Questions on  
police matters  
by members  
of county and  
county  
borough  
councils.

#### *General provisions*

**12.—(1)** Every chief constable shall, as soon as possible after the end of each calendar year, submit to the police authority a general report in writing on the policing during that year of the area for which his force is maintained. Reports  
by chief  
constables  
to police  
authorities.

(2) The chief constable of a police force shall, whenever so required by the police authority, submit to that authority a report in writing on such matters as may be specified in the requirement, being matters connected with the policing of the area for which the force is maintained.

(3) If it appears to the chief constable that a report in compliance with any such requirement of the police authority would contain information which in the public interest ought not to be disclosed, or is not needed for the discharge of the functions of the police authority, he may request that authority to refer the requirement to the Secretary of State; and in any such case the requirement shall be of no effect unless it is confirmed by the Secretary of State.

## PART I

(4) This section applies to the City of London police force as if for references to the chief constable there were substituted references to the Commissioner.

Collaboration  
agreements.

**13.**—(1) If it appears to the chief officers of police of two or more police forces that any police functions can more efficiently be discharged by members of those forces acting jointly, they may, with the approval of the police authorities for the areas for which those forces are maintained, make an agreement for that purpose.

(2) If it appears to any two or more police authorities that any premises, equipment or other material or facilities can with advantage be provided jointly for the police forces maintained by those authorities, they may make an agreement for that purpose.

(3) Any expenditure incurred under an agreement made under this section shall be borne by the police authorities in such proportions as they may agree or as may, in default of agreement, be determined by the Secretary of State.

(4) An agreement under subsection (1) or subsection (2) of this section may be varied or determined by a subsequent agreement.

(5) If it appears to the Secretary of State that an agreement should be made under subsection (1), subsection (2) or subsection (4) of this section, he may, after considering any representations made by the parties concerned, direct those parties to enter into such an agreement under those provisions as may be specified in the direction.

(6) The reference in subsection (1) of this section to members of a police force includes a reference to special constables for the area for which that force is maintained.

Aid of one  
police force  
by another.

**14.**—(1) The chief officer of police of any police force may, on the application of the chief officer of police of any other police force, provide constables or other assistance for the purpose of enabling the other force to meet any special demand on its resources.

(2) If it appears to the Secretary of State to be expedient in the interests of public safety or order that any police force should be reinforced or should receive other assistance for the purpose of enabling it to meet any special demand on its resources, and that satisfactory arrangements under subsection (1) above cannot be made, or cannot be made in time, he may direct the chief officer of police of any police force to provide such constables or other assistance for that purpose as may be specified in the direction.

(3) While a constable is provided under this section for the assistance of another police force he shall, notwithstanding section 5(1) of this Act, be under the direction and control of the chief officer of police of that other force.

(4) The police authority maintaining a police force for which assistance is provided under this section shall pay to the police authority maintaining the force from which that assistance is provided such contribution as may be agreed upon between those authorities or, in default of any such agreement, as may be provided by any agreement subsisting at the time between all police authorities generally, or, in default of such general agreement, as may be determined by the Secretary of State.

**15.—**(1) The chief officer of police of any police force may provide, at the request of any person, special police services at any premises or in any locality in the police area for which the force is maintained, subject to the payment to the police authority of charges on such scales as may be determined by that authority. Provision of special services.

(2) In the application of this section to the metropolitan police, for the reference in subsection (1) to the police authority there shall be substituted a reference to the Receiver for the Metropolitan Police District.

**16.—**(1) The chief officer of police of the police force maintained for any police area may, in accordance with regulations under Part II of this Act, appoint special constables for that area. Special constables.

(2) Subject to such regulations as aforesaid, all special constables for a police area (including persons appointed as such before the commencement of this Act) shall be under the direction and control of, and subject to dismissal by, the chief officer of police.

**17.—**(1) The chief officer of police of any police force may, in accordance with regulations under Part II of this Act and subject to the approval of the police authority as to numbers, appoint persons as police cadets to undergo training with a view to becoming members of that police force. Police cadets.

(2) Subject to such regulations as aforesaid, all police cadets (including persons appointed as such before the commencement of this Act) shall be under the control of, and subject to dismissal by, the chief officer of police.

(3) Without prejudice to subsection (2) above, the police authority by whom a police force is maintained shall, for the

**PART I** purposes of any enactment relating to the functions of employers and of any rule of law with respect to the vicarious liability of employers, be treated as the employer of any police cadets undergoing training with that force.

(4) In the application of this section to the metropolitan police, for the reference in subsection (3) to the police authority there shall be substituted a reference to the Receiver for the Metropolitan Police District.

**Attestation of constables.** 18. Every member of a police force maintained for a police area and every special constable appointed for a police area shall, on appointment, be attested as a constable by making a declaration in the form set out in Schedule 2 to this Act—

- (a) in the case of the metropolitan police district, before the Commissioner or an Assistant Commissioner of Police of the Metropolis ;
- (b) in any other case, before a justice of the peace having jurisdiction within the police area.

**Jurisdiction of constables.** 19.—(1) A member of a police force shall have all the powers and privileges of a constable throughout England and Wales.

(2) A special constable shall have all the powers and privileges of a constable in the police area for which he is appointed.

(3) Without prejudice to subsection (2) above, a special constable appointed for any police area shall have all the powers and privileges of a constable—

- (a) in the case of a police area not being a county borough, in any other police area which is contiguous to his own police area and in any police area being a county borough which is contiguous to any such other police area ;
- (b) in the case of a police area being a county borough, in any other police area which is contiguous to the borough and in any area in which special constables appointed for any such other police area have those powers and privileges by virtue of paragraph (a) above.

(4) A special constable who is for the time being required by virtue of section 13 or section 14 of this Act to serve with another police force shall have all the powers and privileges of a constable in any area in which special constables appointed for the area for which that force is maintained have those powers and privileges under this section.

(5) Subsection (3) of this section shall apply to the City of London as if it were a county borough ; and for the purposes of that subsection in its application to special constables appointed for the metropolitan police district, the county of Berkshire shall be deemed to be contiguous to that district.



(6) This section is without prejudice to section 5 of the Police (Scotland) Act 1956 (execution of warrants in border counties of England and Scotland) and to any other enactment conferring powers on constables for particular purposes.

20. A police authority may, on the recommendation of the chief officer of police, grant out of the police fund to members of the police force maintained by that authority rewards for exceptional diligence or other specially meritorious conduct.

### *Amalgamations*

21.—(1) If it appears to the police authorities for any two or more police areas, being areas for which police forces are required by section 1 of this Act to be maintained, that it is expedient that those areas should be amalgamated for police purposes, they may for that purpose submit to the Secretary of State an amalgamation scheme, and the Secretary of State may by order approve any scheme so submitted to him.

(2) If it appears to the Secretary of State that it is expedient in the interests of efficiency that an amalgamation scheme should be made for any two or more such police areas and no scheme satisfactory to him has been submitted under subsection (1) of this section, the Secretary of State may for that purpose by order make such amalgamation scheme as he considers expedient.

(3) An amalgamation scheme shall make provision with respect to the following matters, that is to say—

- (a) the establishment of a combined police authority and a combined police force for the combined area constituted by the scheme, and of a combined police fund for the payment of the expenses of that authority and force ;
- (b) the appointment of officers of the combined police authority, including a clerk of that authority and a treasurer of the combined police fund ;
- (c) the payment into the combined police fund, out of the local funds of the areas comprised in the combined area, of contributions assessed in accordance with the provisions of the scheme ;
- (d) the transfer for the purposes of the scheme of members of the police forces concerned, other than chief constables, and of special constables and police cadets ;
- (e) the transfer to the combined police authority of property, rights and liabilities of the constituent authorities, and

## PART I

officers of those authorities, or the use by the combined police authority of any such property ;

- (f) the delegation to the constituent councils of the functions of police authorities under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 and under the House to House Collections Act 1939 ;

and may provide for any other matters incidental to or consequential on the provisions of the scheme.

(4) Any functions which are delegated to a council by virtue of paragraph (f) of subsection (3) of this section may be delegated by that council to a committee of the council.

(5) An amalgamation scheme shall come into force on such date as may be prescribed by the scheme, and different dates may be so prescribed for the purposes of the provisions of the scheme relating to the constitution of the combined police authority and the performance by that authority of functions necessary for bringing the scheme into full operation, and for other purposes of the scheme.

(6) Before approving or making an amalgamation scheme the Secretary of State shall ascertain whether the constituent councils desire to make such a request as is referred to in section 3(4) of this Act.

(7) Schedule 3 to this Act shall have effect with respect to the procedure for making amalgamation schemes under subsection (2) of this section ; and the transitory provisions set out in Schedule 4 to this Act shall have effect in relation to any amalgamation scheme under this section.

(8) A draft of any statutory instrument to be made under subsection (2) of this section shall be laid before Parliament.

**Amendment  
and revocation  
of schemes.**

**22.**—(1) An amalgamation scheme may be amended or revoked by a subsequent scheme approved or made by the Secretary of State ; and section 21 of this Act, and Schedules 3 and 4 to this Act, shall, so far as applicable, have effect in relation to any such subsequent scheme subject to any necessary modifications and to the following provisions of this section.

(2) Without prejudice to the generality of the foregoing subsection, provision may be made by any such subsequent scheme—

- (a) for the division of the combined area into two or more police areas, being either counties or county boroughs or combined areas constituted by the subsequent scheme, or for the inclusion in the combined area of any other police area ;

- (b) for the dissolution and winding up of any combined police authority constituted under the original scheme, and of any combined police fund established thereunder, or for the reconstitution of any such authority or fund ;
- (c) for the transfer or retransfer to such police forces or police areas as may be determined by the subsequent scheme of members of the combined force other than the chief constable, or of special constables or police cadets ;
- (d) for the transfer or retransfer to such authorities as may be determined by the subsequent scheme of any officers, property, rights or liabilities of the combined police authority ;
- (e) for any other matters incidental to or consequential on the provisions of the subsequent scheme.

(3) The authority by whom a scheme for the amendment or revocation of an amalgamation scheme may be submitted under subsection (1) of section 21 of this Act shall be the combined police authority constituted by the original scheme, or if more than one scheme is to be amended or revoked, the combined police authorities constituted by those schemes, together with the police authority for any other police area which is to be included in a combined area under the scheme.

(4) The authorities to whom, under paragraph 1 of Schedule 3 to this Act, notice must be given by the Secretary of State of a scheme proposed to be made by him for the amendment or revocation of an amalgamation scheme shall be the authority or authorities by whom a scheme for that purpose could be submitted by virtue of subsection (3) of this section.

**23.—(1)** An amalgamation scheme may be approved or made under this Act with respect to a new county or county borough which is to be constituted, or a county or county borough the area of which is to be altered, by an order under section 140 of the Local Government Act 1933 or under Part II of the Local Government Act 1958, and may be so approved or made before the date on which that order comes into force: Alteration of local government areas.

Provided that, except so far as it relates to the constitution of the combined police authority and to the performance by that authority of functions necessary for bringing the scheme into full operation on that date, no such scheme shall come into force until the date on which the said order comes into force.

(2) In relation to an amalgamation scheme to be approved or made by virtue of this section, sections 21 and 22 of this Act and the Schedules therein mentioned shall apply subject to

**PART I**

any necessary modifications and in particular to the following modifications, that is to say—

- (a) any reference to a police area shall include a reference to the area which is to constitute the new or altered county or county borough ;
- (b) any reference to a constituent authority shall include a reference to the police authority for any area, and the council for any county or county borough, which is to be wholly or partly included in the area of the new or altered county or county borough ;
- (c) in relation to that area, for any reference to the police authority (except a reference to a constituent authority) there shall be substituted—

- (i) in the case of a new county, a reference to the police authority for any county or county borough of which the whole or part is to be included in the new county and the council of any such county or county borough which has no separate police authority ;

- (ii) in the case of a new county borough, a reference to the police authority for any county borough of which the whole or part is to be included in the new county borough, the council of any such county borough which has no separate police authority, and the council of any county district of which the whole or part is to be so included ;

- (iii) in the case of an altered county or county borough, a reference to the police authority for the existing county or county borough or, if that county or county borough has no separate police authority, to the council of that county or county borough.

(3) In the case of an amalgamation scheme to be approved or made by virtue of this section with respect to any area, any steps required by this Part of this Act to be taken before an amalgamation scheme is approved or made may be taken at any time after notice of proposals affecting that area has been given under section 22(5) or section 24(3) of the Local Government Act 1958 or under paragraph 7(2)(b) of Schedule 8 to that Act, and the Minister of Housing and Local Government has notified the public authorities concerned of the general nature of the order which he intends to make to give effect to those proposals.

(4) An amalgamation scheme may be amended or revoked under this Act notwithstanding that it has been modified by an order under Part VI of the said Act of 1933 or Part II of the said Act of 1958.

**24.**—(1) Where, by any local Act in force with respect to an area which ceases to be a separate police area by virtue of an amalgamation scheme, provision is made for conferring or imposing special powers or duties on the police, the Secretary of State may by order adapt the local Act so far as appears to him to be necessary or expedient for the purpose of the exercise or performance of those powers or duties by the police of the combined area.

**PART I**  
Adaptation  
of local  
Acts.

(2) Nothing in this section or in any order made thereunder shall be construed as extending the area within which or the matters in relation to which any such powers or duties as aforesaid are authorised or required by a local Act to be exercised or performed.

(3) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Miscellaneous and supplemental*

**25.**—(1) Subject to the provisions of this section, the cities of Cambridge and Peterborough shall be treated for the purposes of this Part of this Act as if they were county boroughs, and any amalgamation scheme combining either of those cities with another police area shall have effect accordingly.

Cambridge  
and  
Peterborough.

(2) If it appears to the Secretary of State that the population of either of those cities will, on the coming into force of an order under Part II of the Local Government Act 1958, be less than one half of the population of the county in which it is situated, he may make an order—

- (a) directing that subsection (1) of this section shall cease to have effect in relation to that city on the coming into force of the order under the said Act of 1958 ; and
- (b) making such transitional, supplementary and financial provisions as he considers necessary or proper in consequence of the city ceasing to be treated as if it were a county borough ;

and the Secretary of State may, if he thinks fit, include in any order under this section provision for any matter relating to the police for which provision could be made in the relevant order under the said Act of 1958.

(3) The provisions of Schedule 4 to this Act shall apply, subject to any necessary modifications, in relation to an order under this section as they apply in relation to an amalgamation scheme.

(4) On the coming into force of an order under this section in respect of either of the said cities, the functions exercisable in respect of that city by a police authority under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act

**PART I**

1916 and under the House to House Collections Act 1939 shall vest in the council of that city and shall, unless and until the Secretary of State otherwise directs, be exercised by that council in consultation with the police authority for the police area in which the city is situated.

(5) The police authority for any police area consisting of or including the City of Cambridge shall include, in addition to the number of persons determined or prescribed under the foregoing provisions of this Act, five persons representing the University of Cambridge; and those persons shall be appointed at such times, in such manner and for such term as may be prescribed—

- (a) in the case of a combined area, by the amalgamation scheme;
- (b) in any other case, by rules made by the Secretary of State.

**The Scilly Isles.**

**26.—**(1) For the purposes of the application of this Part of this Act to the Isles of Scilly—

- (a) the Isles shall be treated as if they were a county; and
- (b) references to the council of a county and to the county fund shall be construed as references to the Council of the Isles and to the general fund of that Council respectively;

and any amalgamation scheme combining the Isles with any police area shall have effect accordingly.

(2) This section shall cease to have effect on the coming into force of any order under Part II of the Local Government Act 1958 whereby the Isles are included in a county.

**Interpretation of Part I.**

**27.** In this Part of this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

- “amalgamation scheme” means a scheme under this Part of this Act or under the Police Act 1946;
- “consolidation agreement” means an agreement under section 14 of the County Police Act 1840;
- “constituent area” means a police area which is combined by an amalgamation scheme, and includes, in relation to a scheme amending an amalgamation scheme, the combined area constituted by the original scheme;
- “constituent authority” means the police authority for an area which is combined by an amalgamation scheme and includes, in the case of a county, the council of the county and, in the case of a county borough, the council of the borough, and “constituent council” means any such council;

- “local fund” in relation to a county, means the county fund and, in relation to a county borough, means the general rate fund ; PART I
- “magistrate” has the same meaning as in the Justices of the Peace Act 1949 ;
- “officer” includes servant.

## PART II

### CENTRAL SUPERVISION, DIRECTION AND FACILITIES

#### *Functions of Secretary of State*

**28.** The Secretary of State shall exercise his powers under this Act in such manner and to such extent as appears to him to be best calculated to promote the efficiency of the police. General duty of Secretary of State.

**29.—(1)** The Secretary of State may require a police authority to exercise their power under Part I of this Act to call upon the chief constable to retire in the interests of efficiency. Removal of chief constables &c-

(2) Before requiring the exercise of that power or approving the exercise of that or the similar power exercisable with respect to the deputy or an assistant chief constable, the Secretary of State shall give the chief constable or deputy or assistant chief constable an opportunity to make representations to him and shall consider any representations so made.

(3) Where representations are made under this section the Secretary of State may, and in a case where he proposes to require the exercise of the power mentioned in subsection (1) of this section shall, appoint one or more persons (one at least of whom shall be a person who is not an officer of police or of a Government department) to hold an inquiry and report to him and shall consider any report made under this subsection.

(4) The costs incurred by a chief constable or deputy or assistant chief constable in respect of an inquiry under this section, taxed in such manner as the Secretary of State may direct, shall be defrayed out of the police fund.

**30.—(1)** The Secretary of State may require any chief constable to submit to him a report on such matters as may be specified in the requirement, being matters connected with the policing of his area. Reports from chief constables.

(2) Every chief constable shall, as soon as possible after the end of each calendar year, submit to the Secretary of State the like report as is required by subsection (1) of section 12 of this Act to be submitted to the police authority.

(3) This section shall apply to the City of London police force as if for references to a chief constable there were substituted references to the Commissioner.

**PART II**  
**Police grant.**

**31.—(1)** The Secretary of State may make grants in respect of expenses incurred for police purposes—

- (a) by any police authority maintaining a county police force, county borough police force or combined police force;
- (b) by the Receiver for the Metropolitan Police District or by the Common Council of the City of London.

(2) Grants under this section shall be of such amounts, be payable at such times, in such manner, and subject to such conditions, and be carried to such funds, as the Secretary of State may with the approval of the Treasury by order determine; and any such order may provide for the deduction from grants under this section of such sums as may be determined by or under the order on account of expenditure of the Secretary of State under section 41, 44 or 45 of this Act.

(3) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any expenses incurred for the purpose of or in connection with the functions of a police authority under section 2 of the Road Traffic and Roads Improvement Act 1960 shall be treated for the purposes of this section as expenses incurred by that authority for police purposes.

**Local**  
**inquiries.**

**32.—(1)** The Secretary of State may cause a local inquiry to be held by a person appointed by him into any matter connected with the policing of any area.

(2) Any inquiry under this section shall be held in public or in private as the Secretary of State may direct.

(3) Subsections (2) and (3) of section 290 of the Local Government Act 1933 (power to summon and examine witnesses) shall apply to any inquiry held under this section as they apply to an inquiry held under that section.

(4) Where the report of the person holding an inquiry under this section is not published, a summary of his findings and conclusions shall be made known by the Secretary of State so far as appears to him consistent with the public interest.

(5) The Secretary of State may direct that the whole or part of the costs incurred by any person for the purposes of any inquiry held under this section shall be defrayed out of the police fund or, if the inquiry relates to more than one police area, out of the police funds concerned in such proportions as may be specified in the direction; and any costs payable under this section shall be subject to taxation in such manner as the Secretary of State may direct.



**33.—(1)** Subject to the provisions of this section, the Secretary of State may make regulations as to the government, administration and conditions of service of police forces. **PART II**  
Regulations  
for police  
forces.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision with respect to the following matters, that is to say:—

- (a) the ranks to be held by members of police forces ;
- (b) the qualifications for appointment and promotion of members of police forces ;
- (c) periods of service on probation ;
- (d) voluntary retirement of members of police forces ;
- (e) the maintenance of discipline in police forces ;
- (f) the suspension of members of a police force from membership of that force and from their office as constable ;
- (g) the maintenance of personal records of members of police forces ;
- (h) the duties which are or are not to be performed by members of police forces ;
- (i) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 47 of this Act ;
- (j) the hours of duty, leave, pay and allowances of members of police forces ; and
- (k) the issue, use and return of police clothing, personal equipment and accoutrements.

(3) Regulations under paragraph (e) of subsection (2) above shall provide for the determination by the appropriate disciplinary authority of questions whether offences against discipline have been committed and for the punishment by that authority, by way of dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution, of any member of a police force who is found in the manner so provided to have committed any such offence ; and for that purpose the appropriate disciplinary authority in respect of a police force maintained under section 1 of this Act shall be—

- (a) in relation to the chief constable, deputy chief constable and any assistant chief constable, the police authority ;
- (b) in relation to any other member of any such police force, the chief constable :

Provided that in any case in which the chief constable is interested otherwise than in his capacity as such, or in which he is a material witness, the appropriate disciplinary authority

**PART II** under paragraph (b) of this subsection shall be such other person or authority as may be prescribed by regulations under this section.

(4) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified therein, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.

(5) Regulations under this section may make different provision for different cases and circumstances, and may authorise the Secretary of State to make provision for any purposes specified in the regulations.

(6) Any statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Regulations  
for special  
constables.**

**34.—**(1) The Secretary of State may make regulations as to the government, administration and conditions of service of special constables.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision with respect to the following matters, that is to say:—

- (a) the qualifications for appointment of special constables ;
- (b) the retirement of special constables ;
- (c) the suspension of special constables from their office as constable ;
- (d) the allowances payable to special constables ; and
- (e) the application to special constables, subject to such modifications as may be prescribed by the regulations, of any provisions made by or under any enactment relating to the pensions payable to or in respect of members of police forces.

(3) If regulations under this section provide for the calculation of any pension payable to or in respect of special constables by reference to a scale of notional remuneration specified in the regulations, regulations under this section increasing any such notional remuneration may be made with retrospective effect to any date specified in the regulations.

(4) Subsections (5) and (6) of section 33 of this Act shall apply to regulations under this section.

**Regulations  
for police  
cadets.**

**35.—**(1) The Secretary of State may make regulations as to the government, administration and conditions of service of police cadets.

(2) Subsections (4), (5) and (6) of section 33 of this Act shall apply to regulations under this section. PART II

**36.** The Secretary of State may make regulations requiring equipment provided or used for police purposes to satisfy such requirements as to design and performance as may be prescribed in the regulations. Regulations as to standard of equipment.

**37.—**(1) Subject to the provisions of this section, a member of a police force who is dealt with for an offence against discipline may appeal to the Secretary of State. Disciplinary appeals.

(2) On an appeal under this section the Secretary of State may make an order—

- (a) allowing the appeal ;
- (b) dismissing the appeal ; or
- (c) varying the punishment by substituting some other punishment (whether more or less severe) which could have been imposed on the appellent.

(3) The Secretary of State may direct the appellent to pay the whole or any part of his own costs, but, subject to any such direction, all the costs and expenses of an appeal under this section, including the costs of the parties, shall be defrayed out of the police fund.

(4) If provision is made by or under regulations under section 33 of this Act entitling a member of the metropolitan police force to appeal against any decision to the Commissioner of Police of the Metropolis, no appeal shall lie under this section against that decision unless it has been affirmed or varied on such an appeal to the Commissioner.

(5) Schedule 5 to this Act shall have effect in relation to any appeal under this section.

### *Inspectors of constabulary*

**38.—**(1) Her Majesty may appoint such number of inspectors (to be known as “ Her Majesty’s Inspectors of Constabulary ”) as the Secretary of State may with the consent of the Treasury determine, and of the persons so appointed one may be appointed as chief inspector of constabulary. Appointment and functions of inspectors of constabulary.

(2) It shall be the duty of the inspectors of constabulary to inspect, and report to the Secretary of State on the efficiency of, all police forces maintained under section 1 of this Act and the City of London police force.

(3) The inspectors of constabulary shall carry out such other duties for the purpose of furthering police efficiency as the Secretary of State may from time to time direct.

## PART II

(4) The chief inspector of constabulary shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.

(5) The inspectors of constabulary shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

Assistant  
inspectors and  
staff officers.

39.—(1) The Secretary of State may appoint assistant inspectors of constabulary, and may appoint members of police forces to be staff officers to the inspectors of constabulary.

(2) Persons appointed under this section shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

Pensions of  
inspectors and  
assistant  
inspectors.

40. The Police Pensions Act 1948 shall apply to any inspector or assistant inspector of constabulary appointed after the commencement of this Act and accordingly shall have effect, in relation to any such person, subject to the modifications set out in Schedule 6 to this Act.

*Central services*

Common  
services.

41. The Secretary of State may provide and maintain, or may contribute towards the provision or maintenance of, a police college, district police training centres, forensic science laboratories, wireless depots and such other organisations and services as he considers necessary or expedient for promoting the efficiency of the police.

Research.

42. The Secretary of State may set up such bodies and take such other steps as appear to him to be necessary or expedient for the purpose of undertaking research into matters affecting the efficiency of the police.

Central  
service on  
police duties.

43.—(1) Subject to the provisions of this section, where a member of a police force is, whether before or after the commencement of this Act, engaged, with the consent of the appropriate authority, for a period of central service he shall be treated as if he were not a member of that force during that period or so much of it as falls after the commencement of this Act; but, except where a pension, allowance or gratuity becomes payable to him out of moneys provided by Parliament by virtue of regulations made under the Police Pensions Act 1948—

(a) he shall be entitled at the end of his period of central service to revert to his police force in the rank in which

he was serving immediately before he engaged as aforesaid ; and PART II

- (b) he shall be treated for the purposes of any scale prescribed by or under the police regulations fixing his rate of pay by reference to his length of service, as if he had been serving in that force during that period.

(2) Notwithstanding anything in subsection (1) above, a person engaged on central service may be promoted in his police force as if he were serving in that force ; and in any such case the reference in paragraph (a) of that subsection to the rank in which he was serving immediately before he engaged shall be construed as a reference to the rank to which he is promoted, and for the purposes mentioned in paragraph (b) of that subsection he shall be treated as having served in that rank from the time of his promotion.

(3) Notwithstanding anything in subsection (1) above, a member of a police force who has completed a period of central service may be dealt with under the police regulations relating to discipline for anything done or omitted while he was engaged on that service as if that service had been service in his police force, and section 37 of this Act shall apply accordingly.

(4) The Police Pensions Act 1948 shall apply to any member of a police force engaged on central service and accordingly shall have effect, in relation to any such member, subject to the modifications set out in Schedule 6 to this Act.

(5) In this section "central service" means temporary service under the Crown in connection with the provision by the Secretary of State of such organisations and services as are described in section 41 of this Act, or of research or other services connected with the police, and service as a staff officer to the inspectors of constabulary ; "appropriate authority" in relation to a member of a police force means the chief officer of police acting with the consent of the police authority, except that in relation to the chief officer of police it means the police authority ; and "police regulations" means regulations made under section 33 of this Act.

### PART III

#### POLICE REPRESENTATIVE INSTITUTIONS

44.—(1) There shall continue to be a Police Federation for England and Wales and a Police Federation for Scotland for the purpose of representing members of the police forces in England and Wales and in Scotland respectively in all matters affecting their welfare and efficiency, other than questions of discipline and promotion affecting individuals. Police Federations.

## PART III

(2) The Police Federations shall act through local and central representative bodies ; and the Police Federations and every branch thereof shall be entirely independent of, and unassociated with, any body or person outside the police service, but may employ persons outside the police service in an administrative or advisory capacity.

(3) The Secretary of State may by regulations prescribe the constitution and proceedings of the Police Federations and, without prejudice to the generality of that power, regulations under this subsection may make provision—

- (a) with respect to the membership of the Federations ;
- (b) with respect to the raising of funds by the Federations by voluntary subscription and the use and management of funds derived from such subscriptions ;
- (c) with respect to the manner in which representations may be made by committees or bodies of the Federations to police authorities, chief officers of police and the Secretary of State ;
- (d) for the payment by the Secretary of State of expenses incurred in connection with the Federations and for the use by the Federations of premises provided by police authorities for police purposes ; and
- (e) for modifying any regulations under the Police Pensions Act 1948, under section 33 of this Act or under section 11 of the Police (Scotland) Act 1956 in relation to any member of a police force who is the secretary or an officer of a Police Federation and for requiring the appropriate Federation to make contributions in respect of the pay, pension or allowances payable to or in respect of any such person.

(4) Regulations under this section may contain such supplementary and transitional provisions as the Secretary of State thinks fit, including provisions adapting references in any enactment (including this Act) to committees or other bodies of the Federations.

(5) Before making any regulations under this section the Secretary of State shall consult the three Central Committees of the Police Federation to which the regulations will relate, sitting together as a Joint Committee ; and any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) This section applies to police cadets as it applies to members of police forces, and references to the police service shall be construed accordingly.

**45.—(1)** For the consideration, by persons representing the interests of police authorities and those of members of police forces or police cadets, of questions relating to hours of duty, leave, pay and allowances, pensions or the issue, use and return of police clothing, personal equipment and accoutrements there shall be a council, to be known as the Police Council for Great Britain, which shall be established in accordance with such arrangements made after consultations between the Secretary of State and organisations representing those interests as appear to the Secretary of State to be satisfactory.

**PART III**  
**Police Council**  
**for Great**  
**Britain.**

(2) The arrangements shall regulate the procedure for reaching agreement on a recommendation to be made by the Council for the purposes of subsection (4) of this section and shall include provision for arriving at such a recommendation by arbitration in such circumstances as may be determined by or under the arrangements.

(3) The Secretary of State may defray any expenses incurred by the Council.

(4) Before making regulations under section 33 or 35 of this Act or under section 11 or 11A of the Police (Scotland) Act 1956 with respect to any of the matters mentioned in subsection (1) of this section the Secretary of State shall take into consideration any recommendation made by the Police Council for Great Britain and furnish the Council with a draft of the regulations; and that Council shall be taken to be the Police Council referred to in section 1(1) of the Police Pensions Act 1948.

(5) The last foregoing subsection does not apply to regulations under the said section 11 relating to special constables.

**46.—(1)** There shall be a Police Advisory Board for England and Wales and a Police Advisory Board for Scotland for the purpose of advising the Secretary of State on general questions affecting the police in those countries respectively.

**Police**  
**Advisory**  
**Boards for**  
**England and**  
**Wales and for**  
**Scotland.**

(2) The constitution and proceedings of each of the Police Advisory Boards shall be such as the Secretary of State may determine after consulting organisations representing the interests of police authorities and of members of police forces and police cadets.

(3) Before making regulations under section 33 or section 35 of this Act, other than regulations to which subsection (4) of section 45 of this Act applies, the Secretary of State shall furnish a draft of the regulations to the Police Advisory Board for England and Wales, and take into consideration any representations made by that Board.

**PART III**  
**Membership**  
**of trade**  
**unions.**

**47.—(1)** Subject to the provisions of this section, a member of a police force shall not be a member of any trade union, or of any association having for its objects, or one of its objects, to control or influence the pay, pensions or conditions of service of any police force:

Provided that where a person was a member of a trade union before becoming a member of a police force, he may, with the consent of the chief officer of police, continue to be a member of that union during the time of his service in the police force.

(2) If any question arises whether any body is a trade union or an association to which this section applies, the question shall be determined by the chief registrar of friendly societies.

(3) This section applies to police cadets as it applies to members of a police force, and references to a police force or to service in a police force shall be construed accordingly.

(4) Nothing in this section applies to membership of the Police Federations, or of any body recognised by the Secretary of State for the purposes of this section as representing members of police forces who are not members of those Federations.

**PART IV**

**MISCELLANEOUS AND GENERAL**

*Remedies and complaints against police*

**Liability for**  
**wrongful acts**  
**of constables.**

**48.—(1)** The chief officer of police for any police area shall be liable in respect of torts committed by constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and accordingly shall in respect of any such tort be treated for all purposes as a joint tortfeasor.

(2) There shall be paid out of the police fund—

(a) any damages or costs awarded against the chief officer of police in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and

(b) any sum required in connection with the settlement of any claim made against the chief officer of police by virtue of this section, if the settlement is approved by the police authority.

(3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the



chief officer of police ; and references in the foregoing provisions of this section to the chief officer of police shall be construed accordingly.

PART IV

(4) A police authority may, in such cases and to such extent as they think fit, pay any damages or costs awarded against a member of the police force maintained by them, or any constable for the time being required to serve with that force by virtue of section 14 of this Act, or any special constable appointed for their area, in proceedings for a tort committed by him, any costs incurred and not recovered by him in any such proceedings, and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings ; and any sum required for making a payment under this subsection shall be paid out of the police fund.

49.—(1) Where the chief officer of police for any police area receives a complaint from a member of the public against a member of the police force for that area he shall (unless the complaint alleges an offence with which the member of the police force has then been charged) forthwith record the complaint and cause it to be investigated and for that purpose may, and shall if directed by the Secretary of State, request the chief officer of police for any other police area to provide an officer of the police force for that area to carry out the investigation. Investigation of complaints.

(2) A chief officer of police shall comply with any request made to him under subsection (1) of this section.

(3) On receiving the report of an investigation under this section the chief officer of police, unless satisfied from the report that no criminal offence has been committed, shall send the report to the Director of Public Prosecutions.

50. Every police authority in carrying out their duty with respect to the maintenance of an adequate and efficient police force, and inspectors of constabulary in carrying out their duties with respect to the efficiency of any police force, shall keep themselves informed as to the manner in which complaints from members of the public against members of the force are dealt with by the chief officer of police. Information as to manner of dealing with complaints.

### *Offences*

51.—(1) Any person who assaults a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence and liable— Assaults on constables.

- (a) on summary conviction to imprisonment for a term not exceeding six months or in the case of a second or subsequent offence nine months, or to a fine not exceeding £100, or to both ;
- (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

## PART IV

(2) Subsection (2) of section 23 of the Firearms Act 1937 (additional penalty for possession of firearms when committing certain offences) shall apply to offences under subsection (1) of this section.

(3) Any person who resists or wilfully obstructs a constable in the execution of his duty, or a person assisting a constable in the execution of his duty, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding £20, or to both.

Impersonation,  
&c.

**52.**—(1) Any person who with intent to deceive impersonates a member of a police force or special constable, or makes any statement or does any act calculated falsely to suggest that he is such a member or constable, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £100, or to both.

(2) Any person who, not being a constable, wears any article of police uniform in circumstances where it gives him an appearance so nearly resembling that of a member of a police force as to be calculated to deceive shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) Any person who, not being a member of a police force or special constable, has in his possession any article of police uniform shall, unless he proves that he obtained possession of that article lawfully and has possession of it for a lawful purpose, be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

(4) In this section "article of police uniform" means any article of uniform or any distinctive badge or mark or document of identification usually issued to members of police forces or special constables, or anything having the appearance of such an article, badge, mark or document; and "special constable" means a special constable appointed for a police area.

Causing  
disaffection.

**53.**—(1) Any person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of any police force, or induces or attempts to induce, or does any act calculated to induce, any member of a police force to withhold his services or to commit breaches of discipline, shall be guilty of an offence and liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £100, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(2) This section applies to special constables appointed for a police area as it applies to members of a police force.

*Miscellaneous*

## PART IV

**54.**—(1) The chief officer of police of every police force shall, at such times and in such form as the Secretary of State may direct, transmit to the Secretary of State such particulars with respect to offences, offenders, criminal proceedings and the state of crime in the area for which the force is maintained as the Secretary of State may require. Criminal statistics.

(2) The Secretary of State shall cause a consolidated and classified abstract of the information transmitted to him under this section to be prepared and laid before Parliament.

**55.** Section 23 of the Police Act 1890 (fees payable to constables), and any other enactment or rule of law whereby constables are authorised or required to take a fee for any act done in the course of their duty as such, shall cease to have effect. Abolition of fees.

**56.** There shall be paid out of the metropolitan police fund and the City of London police fund respectively (subject, in the case of the metropolitan police fund, to the approval of the Secretary of State) any expenditure incurred under this Act in respect of— Metropolitan and City of London police funds.

(a) any special constables appointed for the metropolitan police district or the City of London ; and

(b) any police cadets appointed in relation to the metropolitan police force or the City of London police force.

**57.**—(1) Any police expenses payable out of the county fund of any county falling partly within the metropolitan police district shall be chargeable only on so much of the county as does not fall within that district, without prejudice, however, to section 67 of the London Government Act 1963 (power of rating authority to aggregate like expenses chargeable on different parts of rating area). Police expenses of counties falling partly within the metropolitan police district.

(2) In this section “ police expenses ” means expenses for police purposes (including contributions to the police fund of a combined police authority) or expenses which are for any purpose treated as incurred for police purposes or are under any enactment payable out of the police fund.

**58.**—(1) If the chief constable of a police force which ceases to exist in consequence of an order under Part I of this Act or Part II of the Local Government Act 1958 is not appointed chief constable or other member of the successor force as from the date of transfer, he shall on that date become a member of that force (or, if there is more than one successor force, of such of them as may be provided by or under the order) by virtue of this section. Chief constables affected by amalgamations or local government reorganisations.

## PART IV

(2) While a person is a member of a police force by virtue only of this section he shall hold the rank of assistant chief constable but shall be treated for the purposes of his pay, pension and other conditions of service as if he had continued to be chief constable of the force which ceased to exist, subject however to section 5(1) of this Act.

(3) A chief constable who becomes a member of a police force by virtue of this section shall, subject to regulations under Part II of this Act, cease to be a member thereof at the expiration of three months unless he has then accepted and taken up an appointment in that force.

(4) The provision to be made by regulations under section 60(2) of the Local Government Act 1958 (as extended by Schedule 9 to this Act) with respect to the chief constable of a police force who, after becoming a member of another police force by virtue of this section, ceases to be a member of that force without having accepted and taken up an appointment therein shall, if he was the chief constable of a police force at the commencement of this Act, be not less favourable than any provision by way of a pension that would have been payable to or in respect of him by virtue of the Police Pensions Act 1948 had the first-mentioned police force been combined with another force by an amalgamation scheme under the Police Act 1946 and he had neither been transferred to the combined force nor joined it within three months.

(5) Where the chief constable of a police force is engaged for a period of overseas service within the meaning of the Police (Overseas Service) Act 1945 or a period of central service within the meaning of section 43 of this Act, and before the end of that period that force ceases to exist as mentioned in subsection (1) of this section—

(a) that subsection shall apply to him as if he were still the chief constable of that force, but with the substitution for references to the date of transfer of references to the end of the said period ; and

(b) paragraph 2 of Schedule 4 to this Act shall not apply to him.

(6) For the purposes of section 4(2) of this Act no account shall be taken of subsection (2) of this section.

(7) In this section “successor force”, in relation to a police force which ceases to exist in consequence of any order, means a force to which members of that police force are transferred by virtue of the order ; and “date of transfer” means the date as from which those members are so transferred.

Amendments  
of Police  
(Scotland)  
Act 1956.

59. The Police (Scotland) Act 1956 shall have effect subject to the amendments set out in Schedule 7 to this Act.

## Supplemental

## PART IV

**60.**—(1) Any power of the Secretary of State to make orders, **Orders, rules** rules or regulations under this Act (other than orders on appeals and **regulations.** under section 37) shall be exercisable by statutory instrument.

(2) Any power of the Secretary of State to make orders under this Act (other than such orders as aforesaid) includes power to amend or revoke an order by a subsequent order.

**61.** There shall be defrayed out of moneys provided by **Expenses,** Parliament any expenses of the Secretary of State under this Act, and any increase attributable to this Act in the sums payable out of moneys so provided under any other enactment.

**62.** Except where the context otherwise requires, in this Act **Meaning of** and in any other enactment (whether passed before or after **“ police area ”** the passing of this Act)— **&c.**

(a) “ police area ” or “ police district ” means any of the areas mentioned in column 1 of Schedule 8 to this Act ;

(b) “ police authority ”, “ chief officer of police ” and “ police fund ” mean, in relation to any such area, the authority, officer or fund mentioned in respect of that area in columns 2, 3 and 4 of that Schedule respectively ; and

(c) “ police force ” means the force maintained by any of the police authorities mentioned in that Schedule.

**63.** The enactments specified in Schedule 9 to this Act shall **Minor and** have effect subject to the amendments specified in the second **consequential** column of that Schedule, being minor amendments and amend- **amendments.** ments consequential on the foregoing provisions of this Act.

**64.**—(1) In this Act the expression “ police purposes ”, in rela- **Interpretation,** tion to a police area, includes the purposes of special constables **repeals and** appointed for that area, of police cadets undergoing training **transitional** with a view to becoming members of the police force maintained **provisions.** for that area and of civilians employed for the purposes of that force or of any such special constables or cadets.

(2) References in this Act to any enactment shall be construed as references to that enactment as amended, and as including references thereto as extended or applied, by any subsequent enactment.

(3) The enactments mentioned in Schedule 10 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

## PART IV

(4) The Secretary of State may by order repeal or amend any provision in any local Act, including an Act confirming a provisional order, or in any instrument in the nature of a local enactment under any Act, where it appears to him that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, any provision of this Act or corresponds to any provision repealed by this Act; and any statutory instrument made under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The transitional provisions contained in Schedule 11 to this Act shall have effect for the purposes of this Act.

(6) Without prejudice to subsection (5) above, where any provision is made by this Act corresponding to any enactment repealed by this section, any regulation, order, rule or appointment made, and any other thing done, under that enactment shall have effect as if it were made or done under that provision.

Short title,  
commencement  
and extent.

65.—(1) This Act may be cited as the Police Act 1964.

(2) This Act shall come into force on such date as the Secretary of State may by order appoint.

(3) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.

(4) An order under subsection (2) of this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State necessary or expedient for the purpose or in consequence of the operation of any provision of this Act before the coming into force of any other provision of this Act or of the London Government Act 1963.

(5) The following provisions of this Act extend to Scotland, namely, Part III; section 59 and Schedule 7; section 63 and Schedule 9, so far as they relate to enactments extending to Scotland; section 64 and Part II of Schedule 10; and this section.

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

## SCHEDULES

## SCHEDULE 1

Section 3.

COMBINED POLICE AUTHORITY CONSTITUTED AS COMMITTEE OF  
CONSTITUENT COUNCIL

1. In relation to a combined police authority constituted as a committee of the council of a county or county borough the provisions of this Act shall have effect subject to the following provisions of this Schedule.

2. Subsections (6) and (7) of section 2 shall apply to the combined police authority as if it were a committee appointed under that section and section 3(3) shall not apply.

3. Notwithstanding anything in section 21(3) and Schedule 8, there shall be no combined police fund but the police fund for the combined area shall be the local fund of the county or county borough and the amalgamation scheme shall make provision for the payment into that fund, out of the local funds of the other areas comprised in the combined area, of contributions assessed in accordance with the provisions of the scheme.

4. Sections 8(2) and 9(3) shall not apply, and subsections (3) and (4) of section 8 and subsections (1), (2) and (4) of section 9 shall apply as if the police area consisted only of the county or county borough.

5. The council of the county or county borough shall have the same power under section 10(1) as if the combined police force were maintained only for the county or county borough.

6. Any provision made under section 21(3)(e) may be for transfer to the council of the county or county borough instead of to the combined police authority, and for the use of any transferred property by that council instead of, or as well as, that authority.

7. In relation to an amalgamation scheme to be approved or made by virtue of section 23 of this Act—

- (a) the reference in subsection (4) of section 3 of this Act to a committee of one of the constituent councils shall include a reference to a committee of the council of the new or altered county or county borough ; and
- (b) the request required by that subsection shall include the request of each of the following councils, that is to say—
  - (i) in the case of a new county, the councils of any counties or county boroughs of which the whole or part is to be included in the new county ;
  - (ii) in the case of a new county borough, the council of any county borough or county district of which the whole or part is to be so included ;
  - (iii) in the case of an altered county or county borough, the council of the existing county or county borough.

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## PART IV

(4) The Secretary of State may by order repeal or amend any provision in any local Act, including an Act confirming a provisional order, or in any instrument in the nature of a local enactment under any Act, where it appears to him that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, any provision of this Act or corresponds to any provision repealed by this Act; and any statutory instrument made under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The transitional provisions contained in Schedule 11 to this Act shall have effect for the purposes of this Act.

(6) Without prejudice to subsection (5) above, where any provision is made by this Act corresponding to any enactment repealed by this section, any regulation, order, rule or appointment made, and any other thing done, under that enactment shall have effect as if it were made or done under that provision.

Short title,  
commencement  
and extent.

65.—(1) This Act may be cited as the Police Act 1964.

(2) This Act shall come into force on such date as the Secretary of State may by order appoint.

(3) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.

(4) An order under subsection (2) of this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State necessary or expedient for the purpose or in consequence of the operation of any provision of this Act before the coming into force of any other provision of this Act or of the London Government Act 1963.

(5) The following provisions of this Act extend to Scotland, namely, Part III; section 59 and Schedule 7; section 63 and Schedule 9, so far as they relate to enactments extending to Scotland; section 64 and Part II of Schedule 10; and this section.

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



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2. Subsections (6) and (7) of section 2 shall apply to the combined police authority as if it were a committee appointed under that section and section 3(3) shall not apply.

3. Notwithstanding anything in section 21(3) and Schedule 8, there shall be no combined police fund but the police fund for the combined area shall be the local fund of the county or county borough and the amalgamation scheme shall make provision for the payment into that fund, out of the local funds of the other areas comprised in the combined area, of contributions assessed in accordance with the provisions of the scheme.

4. Sections 8(2) and 9(3) shall not apply, and subsections (3) and (4) of section 8 and subsections (1), (2) and (4) of section 9 shall apply as if the police area consisted only of the county or county borough.

5. The council of the county or county borough shall have the same power under section 10(1) as if the combined police force were maintained only for the county or county borough.

6. Any provision made under section 21(3)(e) may be for transfer to the council of the county or county borough instead of to the combined police authority, and for the use of any transferred property by that council instead of, or as well as, that authority.

7. In relation to an amalgamation scheme to be approved or made by virtue of section 23 of this Act—

- (a) the reference in subsection (4) of section 3 of this Act to a committee of one of the constituent councils shall include a reference to a committee of the council of the new or altered county or county borough ; and
- (b) the request required by that subsection shall include the request of each of the following councils, that is to say—
  - (i) in the case of a new county, the councils of any counties or county boroughs of which the whole or part is to be included in the new county ;
  - (ii) in the case of a new county borough, the council of any county borough or county district of which the whole or part is to be so included ;
  - (iii) in the case of an altered county or county borough, the council of the existing county or county borough.

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## Section 18.

## SCHEDULE 2

## FORM OF DECLARATION

I, \_\_\_\_\_ of \_\_\_\_\_ do solemnly and sincerely declare and affirm that I will well and truly serve Our Sovereign Lady the Queen in the office of constable, without favour or affection, malice or ill will; and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law.

## Section 21.

## SCHEDULE 3

## PROCEDURE IN RESPECT OF AMALGAMATION SCHEMES MADE BY SECRETARY OF STATE

1. Where the Secretary of State proposes to make an amalgamation scheme under subsection (2) of section 21 of this Act, he shall give to the police authorities for the police areas proposed to be amalgamated a notice describing the general nature of the proposed scheme and specifying the period within which objection may be made thereto.
2. Where any of the authorities to whom notice is required to be given under paragraph 1 above is a combined police authority, the Secretary of State shall give the like notice to the council of each county or county borough comprised in the combined area.
3. If, within the period specified in the notice, any police authority or council to whom the notice is given gives notice to the Secretary of State of an objection to the proposed scheme or any feature of that scheme, the Secretary of State shall, before making the scheme, cause a local inquiry to be held in respect of that objection by a person appointed by him (who shall not be an officer of police or of any Government department).
4. Where such an inquiry has been held, the Secretary of State shall consider the report of the person holding that inquiry before determining whether the scheme should be made and if so subject to what modifications, if any.
5. Subsections (2) and (3) of section 290 of the Local Government Act 1933 shall apply to any inquiry under this Schedule as they apply to an inquiry under that section.
6. Where the Secretary of State proposes to make an amalgamation scheme after holding a local inquiry under this Schedule, a copy of the report of the person by whom the inquiry was held shall be laid before Parliament together with the draft of the statutory instrument comprising the scheme.

## SCHEDULE 4

Section 21.

## TRANSITORY PROVISIONS FOR AMALGAMATION SCHEMES

*Constables and cadets*

1.—(1) All members of a transferred force who are transferred by an amalgamation scheme shall be deemed to have been duly appointed as members of the new force under Part I of this Act, and to have been duly attested as such, and shall hold in that force the same ranks respectively as they held immediately before the date of transfer in the force from which they are transferred.

(2) All special constables appointed for a transferred area who are transferred by an amalgamation scheme shall be deemed to have been appointed as special constables for the new area under Part I of this Act, and to have been duly attested as such.

(3) All police cadets who are transferred by an amalgamation scheme shall be deemed to have been appointed under Part I of this Act to undergo training with a view to becoming members of the new force.

2. Where, immediately before the date of transfer—

(a) section 43(1)(a) of this Act, or

(b) section 2 of the Police (Overseas Service) Act 1945,

applied to any person as having been a member of a transferred force, that section shall, unless the amalgamation scheme otherwise provides, apply to him in relation to any period after the date of transfer, as if for any reference to the police force to which he was entitled to revert there were substituted a reference to the new force, and references in that section to the appropriate authority shall be construed accordingly.

*Staff and assets*

3.—(1) Where any officers or servants, property, rights or liabilities have been transferred by virtue of an amalgamation scheme from one authority to another, or will be so transferred on the date of transfer, those authorities may by agreement provide for the making of such adjustments in relation to their respective property, rights and liabilities as appear to them to be desirable having regard to the transfer, and any such agreement may, in particular, provide for the making of payments by either party thereto.

(2) If any question arises—

(a) whether any persons, property, rights or liabilities have been or will on the date of transfer be transferred from one authority to another by virtue of an amalgamation scheme ;  
or

(b) whether any such adjustment as is mentioned in the foregoing sub-paragraph ought to be made between any authorities,

that question shall, in default of agreement between the authorities concerned, be referred to a single arbitrator agreed upon between the

SCH. 4

he becomes subject on that day by virtue of his employment by the transferee authority, the second-mentioned provisions shall have effect, in relation to that person, as if they required him to make the like contributions (if any) as he would have been liable to make, and conferred on him rights corresponding with those which he would have enjoyed, if he had remained subject to the first-mentioned provisions, and as if they conferred on the transferee authority any discretionary power to pay pensions or increased pensions which was exercisable under those provisions by the transferor authority.

#### *Registers*

6. Any register, or the appropriate part of any register, kept in pursuance of any enactment by the chief constable of a transferred area shall be transferred by him to the chief constable of the new area as soon as may be after the date of transfer, and as from that date shall be deemed to form part of the corresponding register kept by that chief constable.

#### *Supplementary*

7. Subject to the foregoing provisions of this Schedule, anything done before the date of transfer by, to or before the police authority of a transferred area, or by, to or before the chief constable of any such area, shall, in so far as may be necessary for the purpose or in consequence of the provisions of this Act or any amalgamation scheme, have effect after that date as if it had been done by, to or before the police authority for the new area, or the chief constable of that area.

8. In this Schedule—

“date of transfer” means the date on which an amalgamation scheme comes into operation or, where different provisions of the scheme come into operation on different dates, the last of those dates ;

“pension” includes a lump sum and a gratuity ;

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act, whether of a general or a special nature ;

“transferred area” means a police area which becomes comprised in a combined police area by virtue of an amalgamation scheme, or which is divided into two or more police areas by virtue of a scheme amending or revoking such a scheme ;

“transferred force” means the police force of a transferred area ;

“new area” means, in relation to any person or property, the police area in which a transferred area becomes comprised by virtue of an amalgamation scheme or, in the case of an area which is divided into two or more police areas by virtue of a scheme amending or revoking an amalgamation scheme, such of those areas as may be prescribed by that scheme ;

“new force” means the police force of a new area.

## SCHEDULE 5

Section 37.

## DISCIPLINARY APPEALS

*Notice of appeal*

1. Any appeal under section 37 of this Act (in this Schedule referred to as "the principal section") shall be instituted by giving a notice of appeal within the time prescribed under this Schedule.

*Respondent*

2.—(1) On any appeal under the principal section the disciplinary authority shall be made the respondent.

(2) For the purposes of this Schedule "the disciplinary authority" means in respect of a police force mentioned in column 1 of the following Table the person or authority mentioned in relation to that force in column 2 of that Table:—

TABLE

Police force maintained under section 1 of this Act.	The appropriate disciplinary authority mentioned in section 33(3) of this Act.
The metropolitan police force.	The Commissioner of Police of the Metropolis.
The City of London police force.	The Commissioner of the police force of the City of London or, where the Commissioner is himself the appellant, the Court of the Mayor and Aldermen of the City of London.
River Tyne police force.	The chief constable or, where the chief constable or deputy chief constable is the appellant, the Tyne Improvement Commissioners.

*Inquiries*

3.—(1) The Secretary of State shall, unless it appears to him that the case is of such a nature that it can properly be determined without taking evidence, appoint one or more persons (one at least of whom shall be a person engaged or experienced in police administration) to hold an inquiry and report to him.

(2) Subsections (2) and (3) of section 290 of the Local Government Act 1933 shall apply to any inquiry under this paragraph as they apply to an inquiry under that section.

(3) The Secretary of State shall, before making an order under the principal section, consider any report made to him under this paragraph, as well as the notice of appeal and any other documents submitted to him by the appellant and the respondent in accordance with rules under this Schedule.

(4) The Secretary of State may, before making an order under the principal section, remit the case for further investigation by the person or persons who held the inquiry, or, if he thinks fit, for further consideration by the disciplinary authority.

## SCH. 5

*Notice and effect of orders*

4.—(1) A copy of any order made by the Secretary of State under the principal section shall as soon as it is made be sent to the appellant and the respondent together with, if an inquiry was held, a copy of the report of the person holding the inquiry, and the order shall be final and binding upon all parties.

(2) Where an appeal is allowed, or the punishment is varied, by the Secretary of State, the order shall take effect by way of substitution for the decision appealed from, and as from the date of that decision; and where the effect of the order is to reinstate the appellant in the force or in his rank, he shall, for the purpose of reckoning service for pension, and, to such extent (if any) as may be determined by the order, for the purpose of pay, be deemed to have served in the force or in that rank, as the case may be, continuously from the date of the decision to the date of his reinstatement, and, if he was suspended for a period immediately preceding the date of the decision, the order shall deal with the suspension.

(3) Any costs payable under the principal section shall be subject to taxation in such manner as the Secretary of State may direct.

*Rules*

5.—(1) The Secretary of State may make rules as to the procedure on appeals and at inquiries under this Schedule and in particular, but without prejudice to the generality of this provision, may make rules—

(a) prescribing the form and contents of the notice of appeal and the documents to be submitted by the appellant and the time within which such documents are to be submitted;

(b) prescribing the documents to be submitted and the time within which they are to be submitted by the respondent.

(2) The rules shall provide for giving to the appellant the right to appear at an inquiry by a serving member of a police force or by counsel or a solicitor, and for giving to the respondent the right to appear by an officer of the police force or by the clerk or other officer of the police authority or by counsel or a solicitor.

(3) Any rules made under this paragraph shall be laid before Parliament after being made.

Sections 40  
and 43.

## SCHEDULE 6

## MODIFICATIONS OF POLICE PENSIONS ACT 1948

1. Any reference (however expressed) to membership of a police force, or to service or employment in a police force, shall be construed as including a reference to service as an inspector or assistant inspector of constabulary and to central service.

2. Any reference to the police authority, in relation to service as such an inspector or assistant inspector or to central service, shall be construed as a reference to the Secretary of State.

3. Any reference to a person such as is mentioned in section 1(1) of the Police (Overseas Service) Act 1945 shall be construed as including a reference to an inspector or assistant inspector of constabulary and to a person engaged on central service.

## SCHEDULE 7

Section 59.

## AMENDMENTS OF POLICE (SCOTLAND) ACT 1956

1. In section 1, subsections (2), (3), (4) and (7) shall be omitted.
2. In section 4—
  - in subsection (1)(b), at the end there shall be inserted the words “and, in this respect, to take every precaution to ensure that persons charged with offences are not unreasonably and unnecessarily detained in custody”;
  - for subsection (2) there shall be substituted the following subsection—
    - “(2) The performance by a constable of a duty under any other enactment or under any rule of law shall be subject to the direction of the appropriate chief constable.”;
  - for subsection (4) there shall be substituted the following subsection—
    - “(4) Any constable of a police force shall have all the powers and privileges of a constable throughout Scotland.”;
  - in subsection (6), after the words “police forces” there shall be inserted the words “or to collaboration agreements”;
  - after subsection (6), there shall be inserted the following subsection—
    - “(7) This section shall be without prejudice to the next following section, and to any other enactment conferring powers on a constable for particular purposes”.
3. In section 6—
  - in subsection (1), for the word “with” there shall be substituted the words “after consultation with and subject to”;
  - in subsection (3), for the words “next following subsection” there shall be substituted the words “three next following subsections”;
  - after paragraph (c), there shall be inserted the following paragraph—
    - “or
    - (d) may, without prejudice to those regulations, be required to retire by the police authority acting with the approval of the Secretary of State where they consider that his retirement is in the interests of efficiency”;
  - and after that subsection there shall be inserted the following subsections—
    - “(3A) Before seeking the approval of the Secretary of State under the last foregoing subsection the police authority shall give the chief constable an opportunity to make representations and shall consider any representations so made.
    - (3B) A chief constable who is required to retire as aforesaid shall retire on such date as may be specified in the requirement or on such earlier date as may be agreed upon between him and the police authority”;
  - in subsection (4) for the words “the last preceding subsection” there shall be substituted the words “subsection (3) of this section”.

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4. After section 6, there shall be inserted the following section:—

“ Power of  
Secretary  
of State  
to require  
retirement  
of chief  
constables  
&c.

6A.—(1) The Secretary of State may require a police authority to exercise their power under the last foregoing section to call on a chief constable to retire, in the interests of efficiency, and the police authority shall comply with any such requirement.

(2) Before requiring the exercise of that power or approving the exercise of that or the similar power with respect to the deputy or an assistant chief constable the Secretary of State shall give the chief constable or deputy or assistant chief constable an opportunity to make representations to him and shall consider any representations so made.

(3) Where representations are made under this section the Secretary of State may, and in a case where he proposes to require the police authority to exercise the power mentioned in subsection (1) of this section shall, appoint one or more persons (one at least of whom shall be a person who is not an officer of police or of a Government department) to hold an inquiry and report to him and shall consider any report made under this subsection.

(4) Where the Secretary of State is satisfied that the whole or any part of the expenses of a chief constable or deputy or assistant chief constable in respect of an inquiry under this section were not reasonably incurred, he may direct the constable to pay those expenses or that part of those expenses, as the case may be, or such proportion of the whole or of that part as he may think fit, but, subject to any such direction, those expenses shall be paid by the police authority.”

5. In section 7—

in subsection (1), for the words from “ a person ” to the end of the subsection there shall be substituted the words “ appointments and promotions to any rank below that of assistant chief constable in any police force shall be made by the chief constable.”; and after that subsection there shall be inserted the following subsection:—

“(1A) Appointments or promotions to the rank of assistant chief constable shall be made in accordance with the aforesaid regulations by the police authority after consultation with the chief constable and subject to the approval of the Secretary of State.”;

for subsection (2) there shall be substituted the following subsection:—

“(2) Subsections (3), (3A), (3B) and (4) of section 6 of this Act shall apply to a constable of a police force (other than the chief constable) as they apply to the chief constable, with the substitution for any reference to the police authority of a



reference to the person who is, in relation to the constable, the appropriate disciplinary authority as defined by subsection (5) of section 11 of this Act;

Provided that paragraph (d) of the said subsection (3) and the said subsections (3A) and (3B) shall not apply to a constable below the rank of assistant chief constable unless he holds the appointment of deputy chief constable."

6. In section 10--

for subsections (1) and (2), there shall be substituted the following subsections:—

"(1) In every police force there shall be a deputy chief constable.

(2) Appointments to the office of deputy chief constable shall be made by the police authority, after consultation with the chief constable and subject to the approval of the Secretary of State and in accordance with regulations under section 11 of this Act."

subsection (3) shall be omitted;

in subsection (4), for the words after "constable, and" there shall be substituted the following words—

"(b) during any vacancy in the office of chief constable; but shall not have power to act by virtue of this subsection for any continuous period exceeding three months except with the consent of the Secretary of State."

after subsection (5), there shall be added the following subsections:—

"(6) The provisions of subsection (4) above shall be in addition to, and not in substitution for, any other enactment which makes provision for the exercise by any other person of the powers conferred by that enactment on a chief constable.

(7) Subsections (3), (3A), (3B) and (4) of section 6 of this Act shall apply to a deputy chief constable as they apply to a chief constable."

7. After section 10, there shall be inserted the following section:—

"Police cadets. 10A.—(1) The chief constable of any police force may, in accordance with regulations under section 11A of this Act and subject to the approval of the police authority and of the Secretary of State as to numbers, appoint persons as police cadets to undergo training with a view to becoming members of that police force.

(2) Subject to such regulations as aforesaid, all police cadets (including persons appointed as such before the commencement of this Act) shall be under the control of, and subject to dismissal by, the chief constable.

(3) Subject to subsection (2) above, the police authority shall be treated for the purposes of any legal proceedings, and for the purposes of any enactment relating to the

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functions of employers, as the employer of any police cadets appointed to undergo training with the police force maintained by that authority.”

8. In section 11—

for subsection (2) there shall be substituted the following subsection :—

“(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision with respect to the following matters, that is to say:—

- (a) the qualifications for appointment and promotion of members of police forces ;
- (b) periods of service on probation ;
- (c) voluntary retirement of members of police forces ;
- (d) the retirement of special or temporary constables ;
- (e) the maintenance of discipline in police forces ;
- (f) the suspension of members of a police force from membership of that force and from their office as constable ;
- (g) the maintenance of personal records of members of police forces ;
- (h) the duties which are or are not to be performed by members of police forces ;
- (i) the treatment as occasions of police duty of attendance at meetings of the Police Federations and any body recognised by the Secretary of State for the purposes of section 47 of the Police Act 1964 ;
- (j) the hours of duty, leave, pay and allowance of members of police forces ;
- (k) the application to special constables, subject to such modifications as may be prescribed by the regulations, of any provisions made by or under any enactment relating to the pensions payable to or in respect of regular constables ; and
- (l) the issue, use and return of police clothing, personal equipment and accoutrements.”;

and at the end of that subsection there shall be inserted the following subsection—

“(2A) If regulations under this section provide for the calculation of any pension payable to or in respect of special constables by reference to a scale of notional remuneration specified in the regulations, regulations under this section increasing any such notional remuneration may be made with retrospective effect to any date specified in the regulations.”

in subsection (6), for the words from the beginning to the words “that Act” there shall be substituted the words “Before making regulations under this section, other than regulations to which section 45(4) of the Police Act 1964 applies, the Secretary of State shall submit a draft either—

- (a) to the Police Advisory Board for Scotland established by section 46 of the said Act of 1964” ;

and for the word "council" there shall be substituted the word "Board".

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9. After section 11, there shall be inserted the following sections:—

**Regulations for police cadets.** 11A.—(1) The Secretary of State may make regulations as to the government, administration and conditions of service of police cadets.

(2) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified therein, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.

(3) Subsection (6) of section 11 of this Act shall apply to regulations under this section.

**Regulations as to standard of equipment.** 11B. The Secretary of State may make regulations requiring equipment provided or used for police purposes to satisfy such requirements as to design and performance as may be prescribed in the regulations.

**Disciplinary appeals.** 11C.—(1) A member of a police force who is dealt with for an offence against discipline may appeal to the Secretary of State.

(2) On an appeal under this section the Secretary of State may—

(a) allow the appeal ;

(b) dismiss the appeal ; or

(c) vary the punishment by substituting some other punishment (whether more or less severe) which could have been imposed on the appellant.

(3) The Secretary of State may direct the appellant to pay the whole or any part of his own expenses, but, subject to any such direction, all the expenses of an appeal under this section, including the expenses of the parties, shall be paid by the police authority.

(4) Schedule 1A to this Act shall have effect in relation to any appeal under this section."

10. In section 12, in paragraph (b) of subsection (2), after the words "police forces" there shall be inserted the words "or to collaboration agreements", and in paragraph (c) the words "other than a constable" shall be omitted.

11. In section 16 for subsection (2) there shall be substituted the following subsection:—

"(2) If it appears to the Secretary of State to be expedient in the interests of public safety or order that any police force should be reinforced or should receive other assistance for the purpose of enabling it to meet any special demand on its resources, and that satisfactory arrangements under subsection (1) above cannot be made, or cannot be made in time,

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he may direct the chief constable of any police force to provide such constables or other assistance for that purpose as may be specified in the direction."

12. After section 16 there shall be inserted the following section:—

"Collaboration agreements.

16A.—(1) If it appears to the chief constables of two or more police forces that any police functions can more efficiently be discharged by members of those forces acting jointly, they may, with the approval of the police authorities for the areas for which those forces are maintained, make an agreement for that purpose.

(2) If it appears, to any two or more police authorities that any premises, equipment or other material or facilities can with advantage be provided jointly for the police forces maintained by those authorities, they may make an agreement for that purpose.

(3) Any expenditure incurred under an agreement made under this section shall be borne by the police authorities in such proportions as they may agree or as may, in default of agreement, be determined by the Secretary of State.

(4) An agreement under subsection (1) or subsection (2) of this section may be varied or determined by a subsequent agreement.

(5) If it appears to the Secretary of State that an agreement should be made under subsection (1), subsection (2) or subsection (4) of this section, he may, after considering any representations made by the parties concerned, direct those parties to enter into such agreement for that purpose as may be specified in the directions."

13. In section 23, for subsection (1) there shall be substituted the following subsection:—

"(1) Where, immediately before the date when an amalgamation scheme comes into operation, either—

(a) section 29B(1)(a) of this Act, or

(b) section 2 of the Police (Overseas Service) Act 1945,

applied to any person as having been a member of a transferred force, that section shall, unless the amalgamation scheme otherwise provides, apply to him in relation to any period after the said date as if for any reference to the police force to which he was entitled to revert there were substituted a reference to the new force, and references in that section to the appropriate authority shall be construed accordingly."

14. After section 23, there shall be inserted the following—

*" Remedies and Complaints against police*

Liability for wrongful acts of constables.

23A.—(1) The chief constable of a police force shall be liable in reparation in respect of any wrongful act or omission on the part of any constable under his

general direction in the performance or purported performance of his functions in like manner as a master is so liable in respect of a wrongful act or omission on the part of his servant in the course of the servant's employment.

(2) The police authority shall pay—

(a) any damages or expenses awarded against the chief constable of a police force in any proceedings brought against him by virtue of this section and any expenses incurred by him in any such proceedings so far as not recovered by him in the proceedings; and

(b) any sum required in connection with the settlement of any claim made against the chief constable of a police force by virtue of this section, if the settlement is approved by the police authority.

(3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the chief constable for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the chief constable; and references in the foregoing provisions of this section to the chief constable shall be construed accordingly.

(4) The police authority may, in such cases and to such extent as they think fit, pay any damages or expenses awarded against a constable of a police force maintained by them or any constable for the time being required to serve with that force by virtue of section 16 of this Act, in proceedings arising from any wrongful act or omission on the part of that constable, any expenses incurred and not recovered by him in any such proceedings, and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.

(5) The provisions of this section shall come into force on such date as the Secretary of State may by order appoint, and the order may be made with retrospective effect to any date specified in the order not being earlier than the date of the passing of the Police Act 1964.

Information as to manner of dealing with complaints.

23B. Every police authority and inspectors of constabulary shall keep themselves informed as to the manner in which complaints made by members of the public against members of a police force are dealt with by the chief constable."

15. In section 29, for subsection (6) there shall be substituted the following subsection:—

"(6) The Secretary of State may, after consulting such bodies or associations as appear to him to be representative of police authorities, by order, apply the last preceding subsection to

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other expenses specified in the order incurred by him for the purposes of police forces generally.”

16. After section 29, there shall be inserted the following sections :—

“ Research.

29A. The Secretary of State may set up such bodies and take such other steps as appear to him to be necessary or expedient for the purpose of undertaking research into matters affecting the efficiency of the police.

Central  
service  
on police  
duties.

29B.—(1) Subject to the provisions of this section, where a member of a police force is, whether before or after the commencement of the Police Act 1964, engaged, with the consent of the appropriate authority, for a period of central service he shall be treated as if he were not a member of that force during that period or so much of it as falls after the commencement of that Act; but, except where a pension, allowance or gratuity becomes payable to him out of moneys provided by Parliament by virtue of regulations made under the Police Pensions Act 1948—

(a) he shall be entitled at the end of his period of central service to revert to his police force in the rank in which he was serving immediately before he was engaged as aforesaid; and

(b) he shall be treated for the purposes of any scale prescribed by or under the police regulations fixing his rate of pay by reference to his length of service, as if he had been serving in that force during that period.

(2) Notwithstanding anything in subsection (1) above, a person engaged on central service may be promoted in his police force as if he were serving in that force; and in any such case the reference in paragraph (a) of that subsection to the rank in which he was serving immediately before he engaged shall be construed as a reference to the rank to which he is promoted, and for the purposes mentioned in paragraph (b) of that subsection he shall be treated as having served in that rank from the time of his promotion.

(3) Notwithstanding anything in subsection (1) above, a member of a police force may be dealt with under the police regulations relating to discipline for anything done or omitted while engaged on central service as if that service were service in his police force, and section 11c of this Act shall apply accordingly.

(4) The Police Pensions Act 1948 shall apply to any member of a police force engaged on central service and accordingly shall have effect, in relation to any such member, as modified by Schedule 6 to the Police Act 1964.

(5) In this section—

‘central service’ means temporary service under the Crown in connection with the provision by the Secretary of State of common police services, research or other services connected with the police, and service as a staff officer to the inspectors of constabulary ;

‘appropriate authority’ in relation to a member of a police force means the chief constable acting with the consent of the police authority, except that in relation to the chief constable it means the police authority ; and ‘police regulations’ means regulations made under section 11 of this Act.”

17. After section 30, there shall be inserted the following section :—

“ Local inquiries.

30A.—(1) The Secretary of State may cause a local inquiry to be held by a person appointed by him into any matter connected with the policing of any area.

(2) Any inquiry under this section shall be held in public or in private as the Secretary of State may direct.

(3) Subsections (3) to (9) of section 355 of the Local Government (Scotland) Act 1947 (provisions as to local inquiries) shall apply to any inquiry held under this section as they apply to an inquiry held under that section.

(4) Where the report of the person holding an inquiry under this section is not published, a summary of his findings and conclusions shall be made known by the Secretary of State so far as appears to him consistent with the public interest.”

18. After section 33, there shall be inserted the following sections :—

“ Assistant inspectors and staff officers.

33A.—(1) The Secretary of State may appoint assistant inspectors of constabulary, and may appoint members of police forces to be staff officers to the inspectors of constabulary.

(2) Persons appointed under this section shall be paid such salary and allowances as the Secretary of State may, with the consent of the Treasury, determine.

Pensions of inspectors and assistant inspectors.

33B. The Police Pensions Act 1948 shall apply to any inspector or assistant inspector of constabulary appointed after the commencement of this section and accordingly shall have effect, in relation to any such person, as modified by Schedule 6 to the Police Act 1964.”

19. In section 34 after subsection (2) there shall be inserted the following subsection :—

“(2A) If it appears to the chief constable that a report in compliance with any such requirement of

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the police authority would contain information which in the public interest ought not to be disclosed, or is not needed for the discharge of the functions of the police authority, he may, after consultation with the police authority, refer the requirement to the Secretary of State ; and in any such case the requirement shall be of no effect unless it is confirmed by the Secretary of State."

20. In section 36(2) after the word "regulations", there shall be inserted the word "rules".

21. After Schedule 1, there shall be inserted the following Schedule :—

## " SCHEDULE 1A

Section 11c.

## DISCIPLINARY APPEALS

*Notice of Appeal*

1. Any appeal under section 11c of this Act (in this Schedule referred to as 'the principal section') shall be instituted by giving a notice of appeal in the prescribed manner and within the prescribed time.

*Respondent*

2. On any appeal under the principal section, the appropriate disciplinary authority for the police force shall be made the respondent.

*Inquiries*

3.—(1) The Secretary of State shall, unless it appears to him that the case is of such a nature that it can properly be determined without taking evidence, request the sheriff to hold an inquiry and report to him.

(2) The sheriff, in holding an inquiry under this paragraph, may require any person to attend as a witness and give evidence, or to produce any documents in his possession or power which relate to any matter in question at the inquiry and are such as would be subject to production in a court of law ; and if any person fails without reasonable excuse to comply with the provisions of any such requirement he shall be liable on summary conviction to a fine not exceeding five pounds.

(3) The sheriff, in the exercise of the functions conferred on him by this paragraph, shall have the like power as regards the administration of oaths as if he were acting in the exercise of his civil jurisdiction.

(4) The Secretary of State shall, before determining an appeal under the principal section, consider any report made to him under this paragraph, as well as the notice of appeal and any other documents submitted to him by the appellant and the respondent in accordance with rules under this Schedule.



(5) The Secretary of State may, before determining an appeal under the principal section, remit the case for further investigation by the sheriff when an inquiry has been held, or in any case, if he thinks fit, for further consideration by the disciplinary authority.

(6) In this paragraph 'sheriff' does not include sheriff-substitute.

#### *Notice and effect of determinations*

4.—(1) A determination on an appeal made by the Secretary of State under the principal section shall, as soon as practicable, be sent to the appellant and the respondent together with, if an inquiry was held, a copy of the report of the sheriff holding the inquiry and the determination shall be final and binding upon all parties.

(2) Where an appeal is allowed, or the punishment is varied, by the Secretary of State, the determination shall take effect by way of substitution for the decision appealed from, and as from the date of that decision; and where the effect of the determination is to reinstate the appellant in the force or in his rank, he shall, for the purpose of reckoning service for pension, and, to such extent (if any) as may be determined by the determination, for the purpose of pay, be deemed to have served in the force or in that rank, as the case may be, continuously from the date of the decision to the date of reinstatement, and, if he was suspended for a period immediately preceding the date of the decision, the determination shall deal with the suspension.

#### *Rules*

5. The Secretary of State may make rules as to the procedure on appeals and at inquiries under this Schedule and in particular, but without prejudice to the generality of this provision, shall make rules—

- (a) prescribing the form and contents of the notice of appeal and the documents to be submitted by the appellant and the time within which such documents are to be submitted;
- (b) prescribing the documents to be submitted and the time within which they are to be submitted by the respondent:

Provided that the rules shall provide for giving to the appellant the right to be represented at an inquiry by a serving member of a police force or by counsel or a solicitor, and for giving to the respondent the right to be represented by an officer of the police force or by the clerk or other officer of the police authority or by counsel or a solicitor."

## Section 62.

SCHEDULE 8  
MEANING OF POLICE AREA, &C.

Police area	Police Authority	Chief Officer of Police	Police fund
The City of London.	The Common Council.	The Commissioner of City of London Police.	The fund out of which the expenses of the City police are paid.
The metropolitan police district.	The Secretary of State.	The Commissioner of Police of the Metropolis.	The metropolitan police fund.
A county ...	The police committee.	The chief constable.	The county fund.
A county borough.	The watch committee.	The chief constable.	The general rate fund.
A combined area	The combined police authority.	The chief constable.	The combined police fund.
The river Tyne...	The Tyne Improvement Commissioners.	The chief constable.	The fund applicable under the Acts relating to the improvement of the river Tyne for the expenses of maintaining the police force.

In this Schedule "the City of London" means the City as defined for the purposes of the Acts relating to the City of London police; "the metropolitan police district" means that district as defined in section 76 of the London Government Act 1963; references to a county or a county borough shall be construed in accordance with Part I of this Act; and the "river Tyne" means the river within the limits of the Acts relating to the Tyne Improvement Commissioners.

## SCHEDULE 9

Section 63.

## MINOR AND CONSEQUENTIAL AMENDMENTS

<i>Enactment</i>	<i>Amendment</i>
The Metropolitan Police Act 1839. 2 & 3 Vict. c. 47	Section 9 shall be omitted. In section 63 after the words " against this Act " there shall be inserted the words " or section 52 of the Police Act 1964 ".
The City of London Police Act 1839. 2 & 3 Vict. c. xciv.	In section 44 after the words " against this Act " there shall be inserted the words " or section 52 of the Police Act 1964 ".
The Town Police Clauses Act 1847. 10 & 11 Vict. c. 89.	In section 15 after the words " by virtue of this or the special Act " there shall be inserted the words " or an offence under section 52 of the Police Act 1964 "; and for the words " any of the said constables " there shall be substituted the words " any constable ".
	In section 28 for the words from " any constable " to " the special Act " there shall be substituted the words " any officer appointed by virtue of this or the special Act or any constable ".
The Juries Act 1870 ... 33 & 34 Vict. c. 77.	In the Schedule, for the entry " Officers of the rural and metropolitan police " there shall be substituted the entry " Members of police forces and special constables for police areas ".
he Metropolitan Police Staff (Superannuation) Act 1875. 38 & 39 Vict. c. 28.	In section 2 the words from " Where any superannuation " to the end shall be omitted.
The Metropolitan Police Act 1886. 49 & 50 Vict. c. 22.	In section 2 for the words " Minister of Health " there shall be substituted the words " Secretary of State ".
The Riot (Damages) Act 1886. 49 & 50 Vict. c. 38.	Throughout the Act for the words " police authority " there shall be substituted the words " compensation authority ".
	In section 2(1), for the words " the police rate " there shall be substituted the words " the police fund ".
	In section 5, in subsection (1), for the words from " moneys held by them " to " the said moneys " there shall be substituted the words " the police fund, and shall also pay out of the said fund " and the words from " and the amount " to the end of the subsection, and subsection (2) shall be omitted; in subsection (3) for the words " riot expenses " there shall be

## SCH. 9

*Enactment*  
The Riot (Damages) Act  
1886—*cont.*

*Amendment*  
substituted the words “any compensation, costs and expenses payable under subsection (1) of this section”; and subsection (4) shall be omitted.

In section 9, for the words from “means one of the districts” to “assigned to them” there shall be substituted the words “and the expression ‘police fund’ have the same meaning as in the Police Act 1964 and the expression ‘compensation authority’ means—

(a) in relation to a district for which the police authority is a committee of the council of a county or borough, that council;

(b) in relation to the metropolitan police district, the Receiver for that district; and

(c) in relation to any other district, the police authority.”

The Metropolitan Police  
(Receiver) Act 1895.  
58 & 59 Vict. c. 12.

In section 1 for the words “absent from his duties” there shall be substituted the words “unable to act whether by reason of absence or otherwise”.

The Children and Young  
Persons Act 1933.  
23 & 24 Geo. 5. c. 12.

In section 107(1), in the definition of “chief officer of police”, for the words from “means as regards” to “the Police Act 1890” there shall be substituted the words “as regards England has the same meaning as in the Police Act 1964”.

The Local Government  
Act 1933.  
23 & 24 Geo. 5. c. 51.

At the end of section 195 there shall be added the following subsection—

“(2) The foregoing provisions of this section shall apply to the council of any county or county borough as if references in paragraphs (b) and (c) to the local authority included references to a police authority which is a committee of that council.”

The Firearms Act 1937  
1 Edw. 8 & 1 Geo. 6.  
c. 12.

In Schedule 3, after the entry relating to offences under the Sexual Offences Act 1956, there shall be inserted the entry—

“Offences under section 24(1) of the Police (Scotland) Act 1956 or under section 51(1) of the Police Act 1964”.

The Police (Overseas  
Service) Act 1945.  
9 & 10 Geo. 6. c. 17.

In section 2, after subsection (1) there shall be inserted the following subsection—

“(1A) Notwithstanding anything in the last foregoing subsection, a person who has engaged for a period of overseas service may be promoted in his

## SCH. 9

*Enactment**Amendment*

- The Police (Overseas Service) Act 1945—*cont.* home police force as if he were serving in that force; and in any such case the reference in that subsection to the rank in which he was serving immediately before he engaged as aforesaid shall be construed as a reference to the rank to which he is promoted, and for the purposes of any such scale as is mentioned in that subsection he shall be treated as having served in that rank from the time of his promotion.”
- In section 2(2) for the words “the last foregoing subsection” there shall be substituted the words “subsection (1) of this section”.
- In section 3(1). for the words “within the meaning of the Police Pensions Act 1921” there shall be substituted the words “within the meaning of the Police (Scotland) Act 1956 or the Police Act 1964”.
- The National Insurance (Industrial Injuries) Act 1946. 9 & 10 Geo. 6. c. 62. In section 78 for the words “that Act” there shall be substituted the words “the Police Pensions Act 1948”.
- The Police Pensions Act 1948. 11 & 12 Geo. 6. c. 24. In section 1(4), after the words “who transfers” there shall be inserted the words “or has transferred”.
- In section 8(1), in the definition of “police authority”, for the words “has the same meaning as in section 30 of the Police Pensions Act 1921” there shall be substituted the words “means any police authority within the meaning of the Police (Scotland) Act 1956 or the Police Act 1964”; and, in the definition of “police force”, for the words from “maintained for any police area” to “Police (Scotland) Act 1946” there shall be substituted the words “within the meaning of the Police (Scotland) Act 1956 or the Police Act 1964”.
- The Local Government (Miscellaneous Provisions) Act 1953. 1 & 2 Eliz. 2. c. 26. In section 18, after subsection (2) there shall be added the following subsection—  
“(3) In relation to the council of any county or county borough any reference in paragraph (a) or (b) of subsection (1) of section 1 of this Act to the authority, and any references in paragraph (a) of subsection (1) of section 2 of this Act

## SCH. 9

<i>Enactment</i>	<i>Amendment</i>
The Local Government (Miscellaneous Provisions) Act 1953— <i>cont.</i>	to the local authority, shall be construed as including a reference to a police authority which is a committee of that council".
The Homicide Act 1957. 5 & 6 Eliz. 2. c. 11.	In section 5(5)(a) for the words from "section thirty" to "Police Act 1946" there shall be substituted the words "the Police Act 1964".
The Local Government Act 1958. 6 & 7 Eliz. 2. c. 55.	In section 60(2), after the words "the Act of 1933" there shall be inserted the words "or of any order under Part I of the Police Act 1964"; and for the words "that Act" there shall be substituted the words "the Act of 1933".
The Road Traffic and Roads Improvement Act 1960. 8 & 9 Eliz. 2. c. 63.	In section 2(8), for the words "a standing joint committee or watch committee" there shall be substituted the words "a police authority which is a committee of the council of a county or borough".
The Betting, Gaming and Lotteries Act 1963. 1963 c. 2.	In Schedule 2, in paragraph 1, sub-paragraph (5) shall be omitted.

## Section 64.

## SCHEDULE 10

## ENACTMENTS REPEALED

## PART I

## REPEALS NOT EXTENDING TO SCOTLAND

Chapter	Short title	Extent of repeal
41 Geo. 3. c. 78.	The Constables Expenses Act 1801.	The whole Act.
10 Geo. 4. c. 44.	The Metropolitan Police Act 1829.	In section 4, the words from "shall be sworn" to "made, and". In section 5, the words from "and the said justices" to the end. In section 12, the words from "and the receiver" to "exertion".
1 & 2 Will. 4. c. 41.	The Special Constables Act 1831.	The whole Act.
5 & 6 Will. 4. c. 43.	The Special Constables Act 1835.	The whole Act.
1 & 2 Vict. c. 80.	The Special Constables Act 1838.	The whole Act.
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839.	Section 5. Sections 8 and 9. Sections 14 to 18.

Chapter	Short title	Extent of repeal
2 & 3 Vict. c. xciv.	The City of London Police Act 1839.	In section 9, the words from "shall be sworn" to "made, and". Section 13. In section 14, the words from "and shall from time to time" to the end. Sections 15 to 17. Sections 19 and 24. The whole Act.
2 & 3 Vict. c. 93.	The County Police Act 1839.	The whole Act.
3 & 4 Vict. c. 88.	The County Police Act 1840.	The whole Act.
5 & 6 Vict. c. 109.	The Parish Constables Act 1842.	The whole Act.
10 & 11 Vict. c. 89.	The Town Police Clauses Act 1847.	Sections 6 to 14. Sections 16 and 20.
15 Vict. c. cx.	The Tyne Improvement Act 1852.	In section 28, the words from "and every such Police Constable" to "respecting the Constables to be appointed in pursuance of that Act" and the words from "shall, upon the said River" to "made, and".
19 & 20 Vict. c. 69.	The County and Borough Police Act 1856.	The whole Act.
19 & 20 Vict. c. xvii.	The Cambridge Award Act 1856.	Sections 51 to 55.
20 Vict. c. 2.	The County Police Act 1857.	The whole Act.
22 & 23 Vict. c. 32.	The County and Borough Police Act 1859.	The whole Act.
23 & 24 Vict. c. 135.	The Metropolitan Police Act 1860.	The whole Act, except as applied by the Special Constables Act 1923.
24 & 25 Vict. c. 51.	The Metropolitan Police Act 1861.	The whole Act.
24 & 25 Vict. c. 100.	The Offences against the Person Act 1861.	In section 38, the words from "or shall assault, resist" to "such officer,".
34 & 35 Vict. c. 87.	The Sunday Observation Prosecution Act 1871.	Section 2. The Schedule.
34 & 35 Vict. c. 96.	The Pedlars Act 1871.	In section 3, the definitions of "police district" and "chief officer of police". Schedule 1.
34 & 35 Vict. c. 112.	The Prevention of Crimes Act 1871.	Section 12. In section 20, the definitions of "police district" and "chief officer of police".
35 & 36 Vict. c. 92.	The Parish Constables Act 1872.	The whole Act.
38 & 39 Vict. c. 17.	The Explosives Act 1875.	Section 107.
38 & 39 Vict. c. 28.	The Metropolitan Police Staff (Superannuation) Act 1875.	In section 2 the words from "Where any superannuation" to the end.

## SCH. 10

Chapter	Short title	Extent of repeal
45 & 46 Vict. c. 50.	The Municipal Corporations Act 1882.	Part IX except section 193. In Schedule 5, in Part II, paragraph 5.
46 & 47 Vict. c. 34.	The Cheap Trains Act 1883.	In section 8, the definitions of "police force" and "police authority". The whole Act.
46 & 47 Vict. c. 44.	The Borough Constables Act 1883.	Section 4.
47 & 48 Vict. c. 58.	The Prosecution of Offences Act 1884.	The whole Act.
48 & 49 Vict. c. 75.	The Prevention of Crimes Amendment Act 1885.	
49 & 50 Vict. c. 38.	The Riot (Damages) Act 1886.	In section 5, in subsection (1), the words from "and the amount" to the end; and subsections (2) and (4). Section 8. Schedule 1.
51 & 52 Vict. c. 41.	The Local Government Act 1888.	In section 3 in paragraph (iv) the words "lock-up houses" and "police stations", and paragraph (xiv). Section 9. Section 30. Section 34(3)(c). Section 66. In section 78(1) the words "either alone or jointly with the quarter sessions". Section 81(7) and (8). Section 93.
53 & 54 Vict. c. 45.	The Police Act 1890.	The whole Act.
53 & 54 Vict. c. 59.	The Public Health Acts Amendment Act 1890.	In section 51, in paragraph 13, the definitions of "police district" and "chief officer of police". The whole Act.
55 & 56 Vict. c. 38.	The Police Returns Act 1892.	
6 Edw. 7. c. 32.	The Dogs Act 1906.	Section 3(10).
9 Edw. 7. c. 30.	The Cinematograph Act 1909.	Section 2(6).
10 Edw. 7 & 1 Geo. 5. c. 13.	The Police (Weekly Rest-Day) Act 1910.	The whole Act.
4 & 5 Geo. 5. c. 34.	The Police Reservists (Allowances) Act 1914.	Section 1(5).
4 & 5 Geo. 5. c. 61.	The Special Constables Act 1914.	The whole Act.
6 & 7 Geo. 5. c. 50.	The Larceny Act 1916.	In section 46(1), in the definition of "chief officer of police", paragraphs (a), (b) and (c). The whole Act.
9 & 10 Geo. 5. c. 84.	The County and Borough Police Act 1919.	
10 & 11 Geo. 5. c. clxxiii.	The Port of London (Consolidation) Act 1920.	Section 286.



SCH. 10

Chapter	Short title	Extent of repeal
11 & 12 Geo. 5. c. 31.	The Police Pensions Act 1921.	Section 30. Schedule 3.
13 & 14 Geo. 5. c. 11.	The Special Constables Act 1923.	Sections 1 and 2.
21 & 22 Geo. 5. c. 45.	The Local Government (Clerks) Act 1931.	Section 5(4). In section 15 the definition of "Joint committee".
22 & 23 Geo. 5. c. xxxvii.	The Thames Conservancy Act 1932.	Section 98.
23 & 24 Geo. 5. c. 12.	The Children and Young Persons Act 1933.	In section 107(1), the definition of "police authority".
23 & 24 Geo. 5. c. 51.	The Local Government Act 1933.	Section 157(2). In section 159(1) the words from "including" to the end. In section 305 the definition of "Standing joint committee".
1 Edw. 8 and 1 Geo. 6. c. 6.	The Public Order Act 1936.	In section 9(1), the definition of "chief officer of police".
1 Edw. 8 and 1 Geo. 6. c. 12.	The Firearms Act 1937.	In section 32(1), in the definition of "area" the words from "as defined" to the end, and the definition of "chief officer of police".
2 & 3 Geo. 6. c. 44.	The House to House Collections Act 1939.	In section 11(1) the definitions of "police area", "police authority" and "chief officer of police".
2 & 3 Geo. 6. c. 103.	The Police and Firemen (War Service) Act 1939.	In section 10(3), the definition of "chief officer of a police force". In section 14, in the definitions of "appropriate authority" and "constable" the words "within the meaning of the Police Pensions Act 1921".
8 & 9 Geo. 6. c. 11.	The Police (His Majesty's Inspectors of Constabulary) Act 1945.	The whole Act.
9 & 10 Geo. 6. c. 46.	The Police Act 1946.	The whole Act.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entry relating to the Police Act 1946.
9 & 10 Geo. 6. c. 62.	The National Insurance (Industrial Injuries) Act 1946.	In section 78, the words "within the meaning of the Police Pensions Act 1921".
10 & 11 Geo. 6. c. 41.	The Fire Services Act 1947.	In section 38(1), the definitions of "chief officer of police", "police area", "police authority" and "police force".
12, 13 & 14 Geo. 6. c. 5.	The Civil Defence Act 1948.	In section 3(3), the words from "that is to say" to the end. In section 9(1), the definition of "police force".
12, 13 & 14 Geo. 6. c. 67.	The Civil Aviation Act 1949.	In Schedule 6, paragraph 8(4).

## SCH. 10

Chapter	Short Title	Extent of repeal
12, 13 & 14 Geo. 6. c. 68.	The Representation of the People Act 1949.	Section 87(3)(a).
14 Geo. 6. c. 21.	The Miscellaneous Finan- cial Provisions Act 1950.	Section 3.
14 Geo. 6. c. 36.	The Diseases of Animals Act 1950.	In section 84(4) the definition of "police area" and "police force".
14 & 15 Geo. 6. c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 23(1) the definition of "police force" and, in the definition of "relevant police authority" the words from "maintained" to "other police force" and the words "(within the meaning of the Police Pensions Act 1921)". In Schedule 2, in Part I, in paragraph 4, in column 2, the words from the beginning to "any other police force" and the words "(within the mean- ing of the Police Pensions Act 1921)".
15 & 16 Geo. 6 and 1 Eliz. 2. c. 55.	The Magistrates' Courts Act 1952.	In section 109(6) the words from "the expression 'police authority'" to "1921; and".
5 & 6 Eliz. 2. c. 1.	The Police, Fire and Pro- bation Officers Remu- neration Act 1956.	Section 1(1)(a).
6 & 7 Eliz. 2. c. 55.	The Local Government Act 1958.	In Schedule 8, paragraph 18.
8 & 9 Eliz. 2. c. 16.	The Road Traffic Act 1960.	Section 202(3). In section 257(1) the definition of "chief officer of police".
8 & 9 Eliz. 2. c. 63.	The Road Traffic and Roads Improvement Act 1960.	In section 2, in subsection (8) the words from "and any proceedings" to the end, and in subsection (10) the words from "and" to "to those expenses".
1963 c. 2.	The Betting, Gaming and Lotteries Act 1963.	In Schedule 2, paragraph 1(5), paragraph 3(1) and in para- graph 3(2) the word "other". In Schedule 3, in paragraph 1(b), the words "except in sub-paragraph 5(b) of the said paragraph 1."

## PART II

## REPEALS EXTENDING TO SCOTLAND

Chapter	Short Title	Extent of repeal
4 & 5 Geo. 5. c. 44.	The Metropolitan Police (Employment in Scot- land) Act 1914.	The whole Act, except as applied by the Special Con- stablers Act 1923.
9 & 10 Geo. 5. c. 46.	The Police Act 1919.	The whole Act.

Chapter	Short title	Extent of repeal
11 & 12 Geo. 5. c. 31.	The Police Pensions Act 1921.	The whole Act except sections 10 and 30 and Schedule 3.
13 & 14 Geo. 5. c. 11.	The Special Constables Act 1923.	In section 5 the words from "and the" to the end.
17 & 18 Geo. 5. c. 19.	The Police (Appeals) Act 1927.	The whole Act except in relation to any punishment imposed before the commencement of this Act.
6 & 7 Geo. 6. c. 8.	The Police (Appeals) Act 1943.	The whole Act except in relation to any punishment imposed before the commencement of this Act.
15 & 16 Geo. 6. and 1 Eliz. 2. c. 61.	The Prisons (Scotland) Act 1952.	Section 13.
4 & 5 Eliz. 2. c. 26.	The Police (Scotland) Act 1956.	In section 1, subsections (2), (3), (4) and (7). Section 10(3).
7 & 8 Eliz. 2. c. 38.	The Police Federation Act 1959.	The whole Act.
9 & 10 Eliz. 2. c. 51.	The Police Federation Act 1961.	The whole Act.
10 & 11 Eliz. 2. c. 25.	The Police Federations Act 1962.	The whole Act.

## SCHEDULE 11

Section 64.

## TRANSITIONAL PROVISIONS

*Police authorities*

1. On the date on which the police authority for a police area is constituted pursuant to section 2 of this Act, there shall be transferred to that authority—

- (a) all officers and servants who, immediately before that date, were employed by the previous police authority for police purposes or for the purposes of the functions of the police authority under section 2 of the Road Traffic and Roads Improvement Act 1960;
- (b) all property which, immediately before that date, was held by the police authority for any of those purposes; and
- (c) all rights acquired and liabilities incurred by the previous police authority by reason of the exercise of any of their police functions or of any of their functions under the said Act of 1960.

2. Anything done before the said date by, to or before the previous police authority shall, so far as may be necessary for the purpose or in consequence of section 2 of this Act, have effect after that date as if it had been done by, to or before the police authority constituted pursuant to that section.

## SCH. 11

*Superannuation*

3. Paragraph 5 of Schedule 4 to this Act shall apply in relation to—

- (a) any officer or servant who is transferred by virtue of paragraph 1(a) of this Schedule, and
- (b) any police cadet in respect of whom superannuation functions are transferred by virtue of section 17(3) of this Act,

as it applies in relation to the persons mentioned in sub-paragraph (1) of that paragraph, and as if references in that paragraph to the date of transfer were references to the date on which those officers or servants, or those functions, are so transferred, as the case may be.

4.—(1) Where, for the purposes of any such statutory provision as is mentioned in sub-paragraph (2) of the said paragraph 5, the previous police authority for a police area would (if this Act had not been passed) at any time on or after the date on which a police authority is constituted for that area pursuant to section 2 of this Act have been the employing authority or former employing authority in relation to—

- (a) a person who before that date died while in the employment of the previous police authority for any of the purposes mentioned in paragraph 1(a) of this Schedule, or otherwise ceased to be employed by that authority having been employed for any of those purposes when his employment ceased, or
- (b) the widow or any other dependant of such a person,

the police authority constituted for that area as aforesaid shall be treated as being at that time the employing authority or former employing authority for those purposes in relation to that person, or to that person's widow or other dependant, as the case may be.

(2) Where before the date on which the police authority for a police area is constituted pursuant to section 2 of this Act a gratuity, by way of periodical payments or an annuity,—

- (a) was granted to any person by the previous police authority on his ceasing to be employed by them for any of the purposes mentioned in paragraph 1(a) of this Schedule, or
- (b) was granted to the widow or any other dependant of a person who died while in the employment of that authority for any of those purposes, or who died during the currency of such a gratuity granted to him by that authority on his ceasing to be employed by them for any of those purposes,

and, if payment in respect of the gratuity had continued in accordance with the terms of the grant, one or more payments in respect of that gratuity would have been made by the previous police authority on or after that date, whether the authority would have been obliged to make those payments or not, those payments shall be made by the police authority constituted pursuant to section 2 of this Act.

*Amalgamation schemes*

5. Any amalgamation scheme approved or made under the Police Act 1946 and in force at the commencement of this Act shall continue in force and have effect as if made under Part I of this Act, and may be amended or revoked accordingly.

6. Without prejudice to section 22 of this Act, the Secretary of State may, after consulting the combined police authority for the police area constituted by an amalgamation scheme in force at the commencement of this Act under the Police Act 1946, by order made by statutory instrument amend the scheme to such extent as he considers expedient for securing compliance with the provisions of the said Part I with respect to the constitution of combined police authorities.

#### *Consolidation agreements*

7. Any consolidation agreement made under section 14 of the County Police Act 1840 (consolidation of borough police forces with county police forces) which is in force at the commencement of this Act by virtue of section 12 of the Police Act 1946 shall continue in force unless and until it ceases to have effect or is determined under the following paragraphs of this Schedule or under the Local Government Act 1958.

8. An amalgamation scheme may be made under Part I of this Act for the amalgamation for police purposes of the areas of a county borough and a county, notwithstanding that those areas are subject to a consolidation agreement, as if they were separate police areas; and any such scheme may determine the consolidation agreement as from such date as may be specified in the scheme, and may make provision for any purpose for which provision may be made by a scheme revoking an amalgamation scheme.

9. In relation to any amalgamation scheme made under the said Part I in respect of a police area which, by virtue of a consolidation agreement, includes the area of a county borough (including any such scheme as is authorised by paragraph 8 above), any reference in the said Part I to a constituent council shall be construed as including a reference to the council of the borough.

10. A consolidation agreement may, with the approval of the Secretary of State, be determined by agreement between the police authority for the county and the council of the county borough to which it applies; and any agreement made for that purpose may make provision for any purpose for which provision may be made by a scheme revoking an amalgamation scheme under Part I of this Act and the provisions of Schedule 4 to this Act shall apply, subject to any necessary modifications, in relation to any such agreement as they apply in relation to any such scheme.

#### *Street collections and house to house collections*

11. Where, immediately before the commencement of this Act, the functions of a police authority under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 or under the House to House Collections Act 1939 were vested in the watch committee of a borough by virtue of paragraph 4 of Schedule 3 to the Police Act 1946, those functions shall be transferred to the council of that borough and shall, unless and until the Secretary of State otherwise directs, be exercised by the council in consultation with the police authority for the police area in which the borough is situated.

12. Where, immediately before the commencement of this Act, the watch committee of a county borough was exercising any

SCH. 11 such functions as aforesaid under a consolidation agreement, those functions shall be transferred to the council of the county borough.

13.—(1) Any amalgamation scheme approved or made under the Police Act 1946 which contains provisions authorising or requiring any such functions as aforesaid to be delegated to the watch committee of a borough, to the standing joint committee of the quarter sessions for a county and a county council, or to the joint police committee for the Isles of Scilly, shall have effect as if it authorised or required those functions to be delegated to the council of the borough, the council of the county, or the Council of the Isles of Scilly, as the case may be.

(2) Any functions which are delegated to a council by virtue of this paragraph may be delegated by that council to a committee of the council.

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Metropolitan Police Act 1839 ... ..	2 & 3 Vict. c. 47.
City of London Police Act 1839 ... ..	2 & 3 Vict. c. xciv.
County Police Act 1840 ... ..	3 & 4 Vict. c. 88.
Town Police Clauses Act 1847 ... ..	10 & 11 Vict. c. 89.
Juries Act 1870 ... ..	33 & 34 Vict. c. 77.
Riot (Damages) Act 1886 ... ..	49 & 50 Vict. c. 38.
Police Act 1890 ... ..	53 & 54 Vict. c. 45.
Police, Factories, &c. (Miscellaneous Provisions) Act 1916 ... ..	6 & 7 Geo. 5. c. 31.
Special Constables Act 1923 ... ..	13 & 14 Geo. 5. c. 11.
Children and Young Persons Act 1933 ... ..	23 & 24 Geo. 5. c. 12.
Local Government Act 1933 ... ..	23 & 24 Geo. 5. c. 51.
Firearms Act 1937 ... ..	1 Edw. 8 & 1 Geo. 6. c. 12.
Local Government Superannuation Act 1937... ..	1 Edw. 8 & 1 Geo. 6. c. 68.
House to House Collections Act 1939... ..	2 & 3 Geo. 6. c. 44.
Police (Overseas Service) Act 1945 ... ..	9 & 10 Geo. 6. c. 17.
Police Act 1946 ... ..	9 & 10 Geo. 6. c. 46.
Acquisition of Land (Authorisation Procedure) Act 1946 ... ..	9 & 10 Geo. 6. c. 49.
Local Government (Scotland) Act 1947 ... ..	10 & 11 Geo. 6. c. 43.
Police Pensions Act 1948 ... ..	11 & 12 Geo. 6. c. 24.
Superannuation (Miscellaneous Provisions) Act 1948 ... ..	11 & 12 Geo. 6. c. 33.
Justices of the Peace Act 1949 ... ..	12, 13 & 14 Geo. 6. c. 101.
Local Government (Miscellaneous Provisions) Act 1953 ... ..	1 & 2 Eliz. 2. c. 26.
Police (Scotland) Act 1956 ... ..	4 & 5 Eliz. 2. c. 26.
Local Government Act 1958 ... ..	6 & 7 Eliz. 2. c. 55.
National Insurance Act 1959 ... ..	7 & 8 Eliz. 2. c. 47.
Road Traffic and Roads Improvement Act 1960	8 & 9 Eliz. 2. c. 63.
Betting, Gaming and Lotteries Act 1963 ... ..	1963. c. 2.
London Government Act 1963 ... ..	1963. c. 33.



# Finance Act 1964

## 1964 CHAPTER 49

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. [16th July 1964]

Most Gracious Sovereign,

**W**E, 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) There shall be charged—

Spirits.

- (a) on spirits distilled, or manufactured by any other process whatsoever, in the United Kingdom a duty of excise at the rate shown in Table 1 in Schedule 1 to this Act, and
- (b) on spirits imported into the United Kingdom duties of customs at the rates shown in Table 1 and Table 2 in that Schedule (of which those for imported perfumed spirits as shown in Table 2 are the same as the existing rates of duties).

2 A\*

## PART I

(2) The rates of customs duties shown in the fourth and fifth columns of the said Table 1 apply respectively to spirits qualifying for Commonwealth preference and to spirits of Convention area origin within the meaning of the European Free Trade Association Act 1960, and the rates of customs duties in the third column of the said Table 1 apply to spirits which are not chargeable at the rates shown in the said fourth and fifth columns.

(3) In the application to the duties charged by this section of any provision contained in the customs Acts and passed before this Act, any reference to a preferential rate shall be taken as referring only to a rate for goods qualifying for Commonwealth preference, and any reference to the full rate (where distinguished from a preferential rate) shall be taken as including any Convention rate of duty.

(4) In the case of any mixture, compound or preparation which is recognised by the Commissioners as being used for medical purposes and which, on importation, is charged with duty under this section in respect of the spirit contained in it, or used in its preparation or manufacture, the duty under this section shall be reduced and charged—

- (a) in the case of spirits not within paragraph 2(b) in Table 1 in Schedule 1 to this Act, at the rate of 14s. 9d. per proof gallon, and
- (b) in the case of spirits within the said paragraph 2(b) at the rate of £1 per gallon.

(5) On the importation of goods not for human consumption containing spirits as a part or ingredient thereof, the Commissioners may, subject to such conditions as they may think fit to impose, direct the goods to be treated for the purposes of the customs Acts, and in particular section 259 (manufactured or composite goods containing articles chargeable with customs duty) of the Act of 1952, as not containing spirits.

(6) The duties charged by this section are instead of the duties charged at the rates set out in Schedule 1 to the Finance Act 1962.

(7) This section, except subsection (5), shall have effect as from 15th April 1964.

## Beer.

2.—(1) There shall be charged—

- (a) on beer brewed in the United Kingdom a duty of excise at the rates shown in Schedule 2 to this Act, and
- (b) on beer imported into the United Kingdom duties of customs at the rates so shown.

(2) Drawback under sections 137 and 138 of the Act of 1952 shall, where it is shown to the satisfaction of the Commissioners that a duty of excise or customs charged under this section has



been paid, be allowed at the appropriate rate shown in the said Schedule 2.

(3) The rates of duties of customs, and of customs drawback, shown in the fourth and fifth columns in the said Schedule 2 apply respectively to beer qualifying for Commonwealth preference and to beer of Convention area origin within the meaning of the European Free Trade Association Act 1960, and the rates of duties of customs, and of customs drawback, in the third column in the said Schedule 2 apply to beer which is not chargeable at the rates shown in the said fourth and fifth columns.

(4) The duties charged, and the drawbacks allowed, by this section are instead of the duties charged, and the drawbacks allowed, at the rates set out in Schedule 2 to the Finance Act 1962, and instead of the customs duty and the drawbacks charged and allowed in respect of beer under section 2 of the Finance Act 1933 and section 3(3) of the Finance Act 1957 (duty on hops and additional duty of customs in respect of beer).

(5) Black beer the worts whereof before fermentation were of a specific gravity of 1200 degrees or more shall not be charged with duty under section 1 of the Finance Act 1959 or with any duty under this section, and—

- (a) except for the purpose of drawback of duty charged at the rates in force before the coming into force of this section, the expression "beer" in the customs and excise Acts shall not include such black beer,
- (b) the substances to which section 164 of the Act of 1952 (penalties for mis-describing substances as beer) apply shall not include such black beer, and for the purposes of that section the name "black beer" shall not in itself be taken to be such a description as to indicate that a substance is or is a substitute for, or bears any resemblance to, beer or any description of beer,
- (c) all references in the customs and excise Acts to black beer shall be omitted, and
- (d) section 2 of the Finance Act 1930 (duty on imported black beer) shall cease to have effect.

In this subsection "black beer" means beer of the description called or similar to black beer, mum, spruce beer or Berlin white beer, and any other preparation, whether fermented or not, of a similar character, and in the definition of "beer" in section 307(1) of the Act of 1952 the words "black beer" shall be omitted but that shall not be taken as excluding from that definition anything other than black beer of the kind exempted from duty by this subsection.

(6) This section shall have effect as from 15th April 1964.

**PART I**  
Wine and  
British wine.

**3.—(1) There shall be charged—**

- (a) on wine imported into the United Kingdom duties of customs at the rates shown in Schedule 3 to this Act, and
- (b) on British wine a duty of excise at the rates shown in Schedule 4 to this Act.

(2) The rates of customs duties shown in the third column of the said Schedule 3 apply to wine qualifying for Commonwealth preference, and the rates of customs duties in the second column of the said Schedule 3 apply to wine not so qualifying.

(3) Each of the rates specified in the said Schedule 3 to this Act for light wine which qualifies for Commonwealth preference shall be increased by one shilling for any period for which the Treasury by order so direct.

Subsections (1) to (4) of section 13 of the Import Duties Act 1958 (which relate to the making, revocation, annulment and approval of orders under that Act) shall apply in relation to orders under this subsection as they apply in relation to orders under that Act.

(4) For the purposes of this section and Schedule 3 to this Act "wine" includes the lees of wine.

(5) The duties charged by this section are instead of the duties charged at the rates set out in Schedule 3 to the Finance Act 1962.

(6) This section shall have effect as from 15th April 1964.

Tobacco.

**4.—(1) There shall be charged—**

- (a) on tobacco imported into the United Kingdom duties of customs at the rates shown in Table 1 in Schedule 5 to this Act, and
- (b) on tobacco grown in the United Kingdom duties of excise at the rates shown in Table 2 in that Schedule.

(2) Drawback under section 183 of the Act of 1952 shall, where it is shown to the satisfaction of the Commissioners that a duty of customs or excise charged under this section has been paid, be allowed at the appropriate rate shown in Table 3 in Schedule 5 to this Act.

(3) The rates of customs duties shown in the third and fourth columns of Table 1 in Schedule 5 to this Act apply respectively to tobacco qualifying for Commonwealth preference, and to tobacco of Convention area origin within the meaning of the European Free Trade Association Act 1960, and the rates of customs duties shown in the second column of that Table apply

to tobacco which is not chargeable at the rates shown in the said third and fourth columns; and the appropriate rates of drawback are shown accordingly in Table 3 in Schedule 5 to this Act.

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(4) In subsections (2) and (3) of section 8 of the Finance Act 1919 (modifications of preferential rate) the expression "preferential rate" shall mean the Commonwealth rates of customs duty shown in Table 1 in Schedule 5 to this Act.

(5) The duties charged, and the drawbacks allowed, by this section are instead of the duties charged, and the drawbacks allowed, at the rates set out in Schedule 4 to the Finance Act 1962.

(6) This section shall have effect as from 15th April 1964.

5.—(1) On any hydrocarbon oils produced in the United Kingdom which, on or after 1st January 1965, are delivered for home use from a refinery or from other premises used for the production of hydrocarbon oils or from any bonded storage for hydrocarbon oils, and are not chargeable with the customs duty on hydrocarbon oils, there shall be charged, in lieu of the duty under section 2 of the Finance Act 1950 (which, as amended by the Hydrocarbon Oils (Excise Duty) Order 1953, charges excise duty at a rate one shilling and threepence per gallon less than the customs duty on hydrocarbon oils), a duty of excise at the rate at which the customs duty on hydrocarbon oils is for the time being chargeable; and section 3 of the Finance Act 1950 (which charges excise duty on petrol substitutes at the same rate as that applying to hydrocarbon oils) shall have effect accordingly.

Hydrocarbon oils: increase of excise duty.

(2) An allowance under section 206 of the Act of 1952 on hydrocarbon oils delivered to a refinery and used therein shall not be payable in respect of oils so used on or after 1st January 1965, and excise duty on those oils shall therefore not be charged under section 197(1)(c) of that Act; nor shall excise duty be charged under section 197(1)(b) thereof when oils are removed on or after that date to a refinery not primarily used for the production of hydrocarbon oils.

(3) Nothing in the foregoing subsections shall apply to oils in respect of which the excise duty on hydrocarbon oils is charged before 1st January 1965.

6.—(1) The Commissioners of Customs and Excise may permit hydrocarbon oil to be delivered for home use to an approved person without payment of customs or excise duty chargeable thereon where the oil—

Hydrocarbon oils: reliefs.

(a) is to be used by him as a material, solvent, extractant, preservative or finish in the manufacture or preparation

## PART I

of any article, not being hydrocarbon oil or an article which in the opinion of the Commissioners should, according to its use, be classed with hydrocarbon oil ; or

(b) is to be supplied by him in the course of a trade of supplying oil for use as such a material, solvent, extractant, preservative or finish.

(2) Where the Commissioners are authorised to give permission under subsection (1) above in the case of any oil, but the permission is for any reason not given, the Commissioners shall, if they are satisfied that the oil has been used by an approved person as mentioned in paragraph (a) of that subsection, repay to him the amount of the customs or excise duty paid thereon, less any rebate allowed in respect of the duty.

(3) Where any imported goods contain hydrocarbon oil as a part or ingredient thereof the oil shall be disregarded in the application to the goods of section 259 (charge of duty on manufactured or composite articles) of the Act of 1952 unless in the opinion of the Commissioners they should, according to their use, be classed with hydrocarbon oil.

(4) On light oils charged with the customs or excise duty on hydrocarbon oils and delivered for home use as furnace fuel for burning in vaporised or atomised form by an approved person there shall be allowed, at the time of delivery and according to the same quantity as that according to which that duty is charged, a rebate of duty at a rate twopence a gallon less than the rate at which the duty is charged.

(5) The Commissioners may make regulations for any of the purposes of subsections (1), (2) and (4) above or of section 200 (denial of rebate for heavy oils to be used in road vehicles) of the Act of 1952, and in particular for the purposes specified in Part I of Schedule 6 to this Act (paragraphs 5 to 21 of which reproduce, with modifications required for the purposes of subsections (1), (2) and (4) above and other modifications of a minor nature, the provisions of paragraphs (a) to (d) of section 202(1) of the Act of 1952 and Part I of Schedule 2 to the Finance Act 1960) ; and—

(a) for the purposes of the provisions of the customs and excise Acts relating to hydrocarbon oils the presence in any hydrocarbon oils of a marker which, in regulations made under this subsection, is prescribed in relation to rebated heavy oils or rebated light oils or oils delivered without payment of duty under subsection (1) above, shall be conclusive evidence that the rebate in question has been allowed on those oils or, as the case may be, that they have been so delivered ;

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- (b) if any person contravenes or fails to comply with any regulation made under this subsection, he shall be liable to a penalty of three times the value of any goods in respect of which the offence was committed or one hundred pounds, whichever is the greater, and any such goods shall be liable to forfeiture.

(6) The provisions of Part II of Schedule 6 to this Act shall have effect for amending subsections (3) and (4) (penalties for unauthorised use of rebated heavy oils) of the said section 200 ; the provisions of Part III of that Schedule shall apply for restricting the use of oils delivered without payment of duty under subsection (1) above or on which rebate has been allowed under subsection (4) above, and for the punishment of contraventions of the restrictions ; and the provisions of Part IV of that Schedule shall have effect for amending Part II (sampling of oils) of Schedule 2 to the Finance Act 1960 and applying its provisions, as so amended, to samples taken by virtue of subsection (5) above.

(7) In the definition of "rebate" contained in section 195(1) of the Act of 1952 there shall be added at the end the words "or section 6(4) of the Finance Act 1964", and in paragraph 7 of Schedule 4 to the Finance Act 1961 there shall be inserted after the words "section 3 of this Act" the words "and section 6(2) of the Finance Act 1964".

(8) This section shall have effect as from 1st September 1964.

7.—(1) The following provisions shall have effect as regards the rates of the pool betting duty and the bookmakers' licence duty:—

Pool betting  
duty and  
bookmakers'  
licence duty.

- (a) in section 1(2) of the Betting Duties Act 1963 (which provides for the rates of pool betting duty to be 10 per cent. in the case of certain totalisator bets on dog races and 33 per cent. in all other cases) for the words "10 per cent." and "33 per cent." there shall be substituted respectively the words "5 per cent." and "25 per cent."; and
- (b) in section 4(2) of that Act (which sets out a Table showing in the third column the standard amount in different cases of the bookmakers' licence duty) for each of the figures stated in the third column of the Table there shall be substituted a figure of half the amount.

(2) The amount on which the pool betting duty is to be computed under section 1(2) of the Betting Duties Act 1963 shall include in addition to the stake money the expenses and

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profits of the promoter of the betting or any other person concerned with or benefiting from the promotion of the betting so far as they are not provided for out of the stake money and are not shown to be referable to matters other than the promotion and management of the betting and activities ancillary thereto or connected therewith, and all payments made for or on account of or in connection with any bets made by way of pool betting in addition to the stake money by the persons making the bets shall be treated as representing amounts on which duty is chargeable by virtue of this subsection except in so far as the promoter of the betting proves the contrary:

Provided that there shall be excepted from any charge to duty by virtue of this subsection the amount of any benefit accruing from the betting to a society established and conducted for charitable purposes only or to a society established and conducted wholly or mainly for the support of athletic sports or athletic games and not established or conducted for purposes of private gain, if the benefit is provided by means of payments which are made for the purpose by persons making bets and are not payments without which bets cannot be made.

In this subsection "society" includes any club, institution, organisation or association of persons, by whatever name called.

(3) The bets on which the pool betting duty is charged shall include bets made at fixed odds, where they are made with a bookmaker in Great Britain by way of coupon betting, and for this purpose bets shall be deemed to be made by way of coupon betting where they are made in pursuance of an invitation which offers stated odds for a choice of bets, being bets of a description not commonly made without such an invitation, unless made by way of pool betting, and not of a description commonly made by means of a totalisator; and subject to subsection (4) below the Betting Duties Act 1963, except section 3 (which defines pool betting), shall apply in relation to bets made by way of coupon betting as if they were bets made by way of pool betting.

(4) Where a bookmaker carries on a business which involves or may involve any sums becoming payable by him by way of the pool betting duty in respect of bets made by way of coupon betting Schedule 1 to the Betting Duties Act 1963 shall have effect subject to the following modifications:—

- (a) paragraph 2 (which requires notice to the Commissioners of a business involving liability to pool betting duty) shall not require the bookmaker to make entry of premises used for the purposes of the business in connection only with coupon betting operations, but shall require him not later than the date when he first uses any premises for the purposes of the business

in connection with coupon betting operations to notify the Commissioners of those premises being so used (whether or not he is also required by paragraph 2 to make entry of them), and in relation to books, records, accounts and documents relating to coupon betting operations the reference in paragraph 3 to premises of which entry has been made under paragraph 2 shall have effect as a reference to premises about which the Commissioners have been so notified ;

- (b) paragraph 2 shall also require the bookmaker to notify the Commissioners of the name of any person acting as his agent for receiving or negotiating bets so made or otherwise conducting coupon betting operations, and the address of any such person (including any address at which he so acts) ;
- (c) paragraph 3 (which relates to the keeping and preservation of records, the furnishing of information etc.) shall apply to any person so acting as agent for a bookmaker as it applies to the bookmaker, except that in relation to such an agent any reference to premises of which entry has been made as mentioned in paragraph 2 shall have effect as a reference to an address notified under that paragraph as an address at which the agent acts, and any reference to the business of the bookmaker shall include any of the agent's activities in connection with the business ; and
- (d) in the case of a bookmaker who at the date this Act is passed is carrying on or intending to carry on such a business as aforesaid, paragraph 2 shall have effect to require him to notify the Commissioners of his doing so or intending to do so and of the matters referred to in paragraphs (a) and (b) above not later than one week after that date, unless apart from this paragraph he would be required to notify them only by a later time.

(5) This section, so far as it relates to the pool betting duty, shall have effect as respects bets made at any time by reference to any event taking place on or after the 3rd August 1964 and, so far as it relates to the bookmakers' licence duty, as respects any licence to carry on bookmaking at a meeting held on or after that day.

8.—(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) of the Finance Act 1963 was extended until the end of August 1964) shall extend until the end of August 1965 or such later date as Parliament may hereafter determine.

Surcharges and rebates under s. 9 of Finance Act 1961.

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(2) For the purposes of the following provisions of this section the duties to which the said section 9 applies shall be divided into five groups, namely—

- (a) duties of customs or excise chargeable in respect of tobacco,
- (b) duties of customs or excise chargeable in respect of spirits (other than power methylated spirits), beer, wine and British wine,
- (c) duties of customs or excise chargeable in respect of hydrocarbon oils, petrol substitutes and power methylated spirits,
- (d) purchase tax,
- (e) all other duties.

(3) An order under the said section 9 made after the passing of this Act may apply to the duties within one or more of the said groups without applying to the duties within the remainder of those groups and may (subject to the limit of ten per cent. imposed by subsection (2) of the said section 9) prescribe a different percentage, by way of addition or deduction, as respects different groups.

(4) The percentage prescribed, by way of addition or deduction, as respects a group shall apply to any drawback connected with the duties within the group, but not to any drawback connected with other duties.

(5) Neither the power conferred by subsection (3) of this section, nor that power when taken with the power of varying orders conferred by paragraph 1 of Schedule 3 to the Finance Act 1961, shall be taken as authorising the making of an order which does not apply uniformly to all the duties within one group or the making of an order the effect of which is that a percentage by way of addition is prescribed as respects one or more groups of duties, and a percentage by way of deduction is prescribed as respects some other group of duties, but this subsection shall not be taken as affecting paragraph 3 of Schedule 3 to the Finance Act 1961 (under which an order may be made so as to come into operation at different times of the day for different duties).

(6) In the case of an order made after the passing of this Act other than an order which, as respects all or any of the groups of duties,—

- (a) prescribes a percentage by way of addition to duty, or increases a percentage so prescribed, or
- (b) withdraws, or reduces, a percentage prescribed by way of deduction from duty,



in reckoning the period of twenty-one days specified in paragraph 2(2) of Schedule 3 to the Finance Act 1961 (orders to cease to have effect unless approved by the Commons House), no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House is adjourned for more than four days.

(7) In this section "duty" has the same meaning as in section 9 of the Finance Act 1961 and "drawback" includes any rebate or allowance.

**9.** The television advertisement duty shall not be charged in respect of any insertion of an advertisement in a television programme broadcast after the 29th July 1964, and accordingly in section 1 of and Schedule 1 to the Finance Act 1961— Repeal of television advertisement duty.

- (a) references to a television programme shall not include any programme so broadcast; and
- (b) sub-paragraphs 3(1) and (2) of the Schedule (which require broadcasters to notify the Commissioners of Customs and Excise of their address, to keep records etc.) shall not have effect after the end of the year 1964.

**10.—**(1) Subject to section 272 of the Act of 1952 (by which goods for use in naval ships or establishments may be required to be treated as exported), any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein shall be treated for the purposes of the customs and excise Acts as stores, and any reference in those Acts to the consumption of stores shall, in relation to goods so treated, be construed as referring to the sale thereof as aforesaid. Stores.

(2) Section 18 of the Purchase Tax Act 1963 (which affords relief from purchase tax in respect of goods exported or being ships' stores) shall be amended as follows, that is to say:—

- (a) for the words "ships' stores" in subsection (4) there shall be substituted the words "stores for use in any ship or aircraft"; and
- (b) in that subsection, as so amended, "stores" shall include goods for use as mentioned in subsection (1) above, and any other goods being stores as defined in section 307 of the Act of 1952, and "ship" shall include any boat or other vessel whatsoever.

**11.—**(1) A mechanically propelled vehicle fitted with controls enabling it to be driven by persons having a particular disability, and registered in the name of such a person under the Vehicles (Excise) Act 1962, shall not be chargeable with any duty under that Act by reason of its use by or for the Exemption from excise duty of vehicles modified for invalids.

**PART I** purposes of that person, or by reason of its being kept for such use, where—

- (a) he caused the controls to be fitted to the vehicle and obtained in respect of the cost thereby incurred a grant paid by the Minister of Health or (in Scotland) the Secretary of State out of moneys provided by Parliament; or
- (b) whether or not he caused the controls to be fitted to the vehicle, his disability is of a kind in the case of which grants in respect of the fitting of such controls are so paid;

and where regulations under section 16(3) (registration and identification of exempted vehicles) of that Act require a person to furnish particulars as to a vehicle exempted from duty by this section, they may require him to furnish in addition such evidence of the facts giving rise to the exemption as is prescribed by the regulations.

(2) This section shall come into force on 1st September 1964.

## PART II

### INCOME TAX AND PROFITS TAX

Charge of income tax for 1964-65.

**12.** Income tax for the year 1964-65 shall be charged at the standard rate of 7s. 9d. 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.

Surtax rates for 1963-64.

**13.** Income tax for the year 1963-64 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 1962-63.

Relief for persons over sixty-five with small incomes.

**14.** In section 13 of the Finance Act 1957 (relief for persons over sixty-five with small incomes), as amended by section 8(2) of the Finance Act 1962 and section 12(7) of the Finance Act 1963, for the references to £325 and to £520 (the income limits for exemption) there shall be substituted references to £360 and to £575; and (as regards the marginal relief) for the reference to £75 (the addition to the income limit) there shall be substituted a reference to £130.

Transfer of part of company's trade without change of ownership.

**15.—(1)** Where on a change in the year 1964-65 or any subsequent year of assessment in the persons carrying on a part of a trade a person carries on that part as his separate trade, and if it had been carried on as a separate trade immediately before the change subsection (1) of section 17 (company recon-

struction without change of ownership not to be treated as involving a discontinuance of (the trade) of the Finance Act 1954 would have applied to the change, then—

(a) the part in question shall be treated for all the purposes of the Income Tax Acts not as a new trade set up and commenced by that person, but as carried on by him in continuation of a separate trade consisting of that part; and

(b) so far as may be necessary for that purpose, there shall be made such apportionments as may be just of any profits or gains, losses, allowances or charges.

(2) Schedule 3 to the Finance Act 1954 (which contains provisions for supplementing and giving effect to the said section 17) shall apply in relation to the change as if it were an event falling to be treated by subsection (3) of the said section 17 as a change to which subsection (1) thereof applies, but so that paragraph 6 of that Schedule (which modifies the provisions of section 143 of the Income Tax Act 1952 as to the valuation of trading stock on a discontinuance) shall be taken to require that, in computing for the purposes of this section any profits or gains, section 143 of the Income Tax Act 1952 shall apply in relation to the change as it applies on the discontinuance of a trade.

(3) Where, on changes in the persons respectively carrying on parts of two or more trades, a person carries on those parts together as his separate trade and, in the case of each of the parts, the foregoing provisions of this section would apply if that part alone were so carried on by him, those provisions shall apply separately in relation to each part and the trade carried on by him shall for that purpose be treated as divided into separate trades each corresponding to one of the said parts, and shall not for any of the purposes of the Income Tax Acts be treated as a new trade set up and commenced by him.

16.—(1) In the following provisions of the Income Tax Acts (which relate to the allowance of double taxation relief on certain dividends paid to a company resident in the United Kingdom and controlling, directly or indirectly, a specified proportion of the voting power in the company paying the dividend, and provide for taking account of foreign tax paid by the last-mentioned company in respect of its profits), that is to say,—

Extension of double taxation relief in respect of certain dividends.

(a) in the Income Tax Act 1952, paragraph 10 of Schedule 16 and paragraph 3 of Schedule 17; and

(b) in the Finance Act 1962, subsection (2) of section 20;

for the words “not less than one-half of the voting power” there shall in each case be substituted the words “not less than one-quarter of the voting power”.

## PART II

(2) Accordingly there shall cease to have effect so much of section 20 of the Finance Act 1962 as provides for companies which control, in the company paying the dividend, a proportion of the voting power greater than one-quarter and are subject to a local limitation preventing them from controlling a larger proportion.

(3) For the purposes of the provisions of the Income Tax Acts mentioned in subsection (1) of this section a company shall be deemed to control, directly or indirectly, not less than one-quarter of the voting power in another company if a third company having such control also controls, directly or indirectly, not less than one-half of the voting power in the first-mentioned company.

(4) This section, and any repeal made by this Act in section 20 of the Finance Act 1962 (or in the enactments amended by that section), shall have effect only in relation to dividends by reference to which income tax is chargeable for the year 1964-65 or a subsequent year of assessment and (for the purposes of the profits tax) in relation to any other dividends which are received after the end of March 1964 and by reference to which income tax is not chargeable for any year of assessment.

Plant and machinery and other assets leased to traders and others.

17.—(1) Subject to the next following section, where—

- (a) a deduction by way of income tax relief which is of one of the kinds listed in subsection (4) hereof is allowable in respect of a payment made under a lease of an asset of any description, and
- (b) before, at or after the time when the payment is made the person who made the payment has obtained or obtains a capital sum in respect of the lessee's interest in the lease, or, before, at or after that time, the lessor's interest in the lease, or any other interest in the asset, has belonged to a person associated with the person who made the payment, and that person so associated with the person who made the payment has obtained a capital sum in respect of that interest,

the person obtaining that sum shall be charged under Case VI of Schedule D for the year of assessment in which the sum is obtained with tax on an amount equal to the amount of the payment in respect of which tax relief is so allowed:

Provided that the total amount on which he is assessed by reference to the capital sum shall not exceed the amount of the capital sum.

(2) Subject to the next following section, where—

- (a) in computing the profits or losses of a trade or business for the purposes of the profits tax a deduction is allowable in respect of a payment made under a lease of an asset of any description, and

## PART II

- (b) before, at or after the time when the payment is made the person who made the payment has obtained or obtains a capital sum in respect of the lessee's interest in the lease, or, before, at or after that time, the lessor's interest in the lease, or any other interest in the asset, has belonged to a person associated with the person who made the payment, and that person so associated with the person who made the payment has obtained a capital sum in respect of that interest,

the person obtaining that sum shall be treated for the purposes of the profits tax as having received income chargeable to the profits tax at the time when the sum is obtained of an amount equal to the amount of the payment in respect of which a deduction was so made:

Provided that the total amount of the income which is to be treated as arising under this subsection by reference to the capital sum shall not exceed the amount of the capital sum.

(3) Subsections (1) and (2) of this section shall not apply to payments under a lease created on or before 14th April 1964.

(4) The kinds of deductions by way of income tax relief to which subsection (1) of this section applies are as follows—

- (a) a deduction in computing profits or gains or losses of a trade, profession or vocation for the purposes of income tax,
- (b) a deduction in computing profits or gains chargeable under Case VI of Schedule D, or in computing any loss for which relief is allowable under section 346 of the Income Tax Act 1952,
- (c) allowance of a payment as forming part of expenses of management in respect of which relief may be given under section 425 of the Income Tax Act 1952 (including in the reference to the said section 425 a reference to that section as applied by section 438 of that Act (savings banks and certain industrial and provident societies) or by section 69 of the Finance Act 1960 (unit trust schemes),
- (d) a deduction from emoluments to be assessed under Schedule E made in pursuance of paragraph 7 of Schedule 9 to the Income Tax Act 1952, or allowable in computing losses in an employment for income tax purposes,
- (e) a deduction allowable for income tax purposes in computing profits or gains or losses arising from woodlands.

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(5) Where the deduction by way of income tax relief mentioned in subsection (1)(a) of this section is a deduction in computing profits or gains or losses of a trade, profession or vocation, or arising from woodlands, and any part of the payments made under the lease by the person obtaining the capital sum is a payment in respect of which a deduction is not allowed for the reason that the whole or any part of the period in which the payment would fall to be allowed is not a period on the profits or gains of which income tax falls to be computed in respect of the trade, profession or vocation, for the reference in the proviso to the said subsection (1) to the amount of the capital sum there shall be substituted a reference to that amount after deducting the amount of the payment in respect of which a deduction is not allowed for that reason.

(6) In subsection (2) of this section references to any deduction allowable or made in computing the profits or losses of a trade or business include references to a deduction which would be so allowable or made but for the provisions of section 42(5) of the Finance Act 1938 (payments by one member of a group of companies to another).

(7) Part I of Schedule 7 to this Act shall apply for the purposes of this section, and in this section and that Schedule—

“asset” means any description of property or rights other than land or an interest in land, and

“lease”, in relation to an asset, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, an asset, and includes, in particular, any agreement or arrangement all or any of the payments under which represent instalments of, or payments towards, a purchase price,

but, in relation to a lease which constitutes a hire-purchase agreement as defined in Part II of Schedule 7 to this Act, this section shall have effect subject to the modifications set out in the said Part II.

Plant and machinery and other assets leased to persons carrying on trade, etc.: special cases.

**18.—**(1) This section shall apply, and the last foregoing section shall not apply, to payments—

(a) which are allowable by way of deductions in computing the profits or gains or losses of a trade, and

(b) which are made under a lease of an asset which at any time before the creation of the lease was used for the purposes—

(i) of that trade, or

(ii) of another trade carried on by the person who at that time or later was carrying on the first mentioned trade,

and, when so used, was owned by the person carrying on the trade in which it was being used.

(2) Subject to this section, the deduction allowable in computing the profits or gains or losses of the trade for the purposes of income tax as respects any such payment shall not exceed the commercial rent of the asset for the period for which the payment was made.

(3) If under subsection (2) of this section part of a payment which would otherwise be allowable as a deduction is not so allowable, and one or more subsequent payments are made by the same person under the same lease, that part of the first-mentioned payment may be carried forward and treated for the purposes of computing the profits or gains or losses of the trade for the purposes of income tax as if it were made at the time when the next of those subsequent payments was made, and so made for the period for which that subsequent payment was made.

(4) For the purposes of subsection (2) of this section—

- (a) if more than one payment is made for the same period the payments shall be taken together,
- (b) if payments are made for periods which overlap, the payments shall be apportioned, and the apportioned payments which belong to the common part of the overlapping periods shall be taken together,
- (c) the foregoing references to payments include references to parts of payments which under subsection (3) of this section are treated as if made at a time subsequent to that at which they were made,

and to the extent that a part of a payment carried forward under subsection (3) of this section is not allowable as a deduction it may again be carried forward under the said subsection (3).

(5) A payment made for a period all of which falls more than one year after the payment is made shall be treated for the purposes of this section as made for that period of one year beginning with the date on which the payment is made, and a payment for a period part of which falls after the end of that year shall be treated for those purposes as if a corresponding part of the payment was made for that year (and no part for any later period).

(6) For the purpose of making a comparison under subsection (2) of this section between a payment, or payments taken together, and the commercial rent of the asset, "commercial rent" shall mean the rent which might at the relevant time be expected to be paid under a lease of the asset for the remainder of the anticipated normal working life of the asset, being a rent payable at uniform intervals and at a uniform rate which would afford a reasonable return for its market value at the relevant

**PART II** time, having regard to the terms and conditions of the lease, and in this subsection—

“anticipated normal working life” has, for any asset, the meaning given, for machinery and plant, by section 281(6) of the Income Tax Act 1952, and

“the relevant time” means the time when the lease was created under which the payment was made with which the commercial rent is to be compared :

Provided that if the asset is used at the same time partly for the purposes of the trade and partly for other purposes the commercial rent as defined in this subsection shall be determined by reference to what would be paid for such a partial use of the asset.

(7) This section shall not apply in relation to payments made under a lease created on or before 14th April 1964.

(8) In this section references to the person carrying on a trade are references to the person carrying on the trade for the time being, and where at any time a person succeeds to a trade which until that time was carried on by another person, and by virtue of section 19 of the Finance Act 1953 the trade is to be treated as discontinued, the trade shall, nonetheless, be treated as the same trade for the purposes of this section.

(9) In this section references to a trade include references to a profession or vocation.

(10) In this section “asset” and “lease” have the same meanings as in the last foregoing section.

Land sold and leased back: limitation on tax reliefs.

**19.**—(1) If at any time after 14th April 1964 land or any estate or interest in land is transferred from one person to another and—

(a) as a result of a lease of the land or any part of the land granted at that time or subsequently by the transferee to the transferor, or

(b) as a result of any other transaction or series of transactions affecting the land or any estate or interest in the land,

the transferor, or any person who is associated with the transferor, becomes liable at the time of the transfer or subsequently to pay any rent under a lease of the land or any part of the land, this section shall apply to all rent due under the lease from the transferor, or from any person who is associated with the transferor.

(2) If at any time after 14th April 1964 land or any estate or interest in land is transferred from one person to another, and, as a result of any transaction or series of transactions



## PART II

affecting the land or any estate or interest in the land, the transferor, or any person who is associated with the transferor, becomes liable at the time of the transfer or subsequently to make any payment (other than rent under a lease) for which tax relief of any of the kinds listed at the end of this section is available, being a payment by way of rentcharge on the land or any part of the land or a payment in any other way connected with the land, this section shall apply to all such payments under the rent charge or other transaction due from the transferor, or from any person who is associated with the transferor.

(3) The references in subsections (1) and (2) of this section to the transfer of an estate or interest in land include references to the granting of a lease or any other transaction involving the creation of a new estate or interest in the land and also include references to the transfer of the lessee's interest under a lease by surrender or forfeiture of the lease, and references to any transaction or series of transactions affecting land, or an estate or interest in land, such that some person is the owner, or one of the owners, before and after the carrying out of the transaction or transactions, but another person becomes or ceases to become one of the owners; and in relation to any such transaction or series of transactions any person who is an owner before the carrying out of the transaction or transactions, and is not the sole owner thereafter, shall be regarded for the purposes of this section as a transferor.

(4) A deduction by way of income tax relief which is one of the kinds to which this section applies, being a deduction in respect of rent or of any other payment to which this section applies, shall not exceed the commercial rent for the period for which the rent or other payment is made of the land in respect of which that payment is made.

(5) If under subsection (4) of this section part of a payment which would otherwise be allowable as a deduction by way of income tax relief of one of the kinds listed at the end of this section is not so allowable, and one or more subsequent payments are made by the transferor, or a person who is associated with the transferor, under the lease or other transaction, that part of the first-mentioned payment may be carried forward and treated for the purposes of any such deduction by way of income tax relief as if it were made at the time when the next of those subsequent payments was made, and so made for the period for which that subsequent payment was made.

(6) For the purposes of subsection (4) of this section—

(a) if more than one payment is made for the same period the payments shall be taken together,

## PART II

- (b) if payments are made for periods which overlap, the payments shall be apportioned, and the apportioned payments which belong to the common part of the overlapping periods shall be taken together,
- (c) the foregoing references to payments include references to parts of payments which under subsection (5) of this section are treated as if made at a time subsequent to that at which they were made, and to the extent that a part of a payment so carried forward under subsection (5) of this section is not so allowable as a deduction by way of income tax relief, it may again be carried forward under subsection (5) of this section.
- (d) so much of any payment as is in respect of services or the use of assets (as defined in section 17 of this Act) or rates usually borne by the tenant shall be excluded, and in determining the amount to be so excluded provisions in any lease or agreement fixing the payments or parts of payments which are in respect of services or the use of assets may be overridden.

(7) A payment made for a period all of which falls more than one year after the payment is made shall be treated for the purposes of this section as made for that period of one year beginning with the date on which the payment was made, and a payment for a period part of which falls after the end of that year shall be treated for those purposes as if a corresponding part of the payment was made for that year (and no part for any later period).

(8) For the purpose of making a comparison under subsection (4) of this section between a payment consisting of rent under a lease (in this subsection referred to as "the actual lease"), or such payments taken together, and the commercial rent of the land, "commercial rent" shall mean the rent which might be expected to be paid under a lease of the land negotiated in the open market at the time when the actual lease was created, being a lease which is of the same duration as the actual lease, which is, as respects liability for maintenance and repairs, subject to the terms and conditions of the actual lease and which provides for rent payable at uniform intervals and—

(a) at a uniform rate, or

(b) if the rent payable under the actual lease is rent at a progressive rate (and such that the amount of rent payable for any year is never less than the amount payable for any previous year), a rent which progresses by gradations proportionate to those provided by the actual lease.

(9) For the purpose of making a comparison under subsection (4) of this section between a payment which does not

## PART II

consist of rent under a lease (or such a payment taken together with other payments) and the commercial rent of the land, "commercial rent" shall mean the rent which might be expected to be paid under a tenant's repairing lease as defined in paragraph 19 of Schedule 4 to the Finance Act 1963 negotiated in the open market at the time when the transaction was effected under which the payment or payments became due, being—

- (a) where the period over which payments are to be made under that transaction is not less than 200 years, or the obligation to make such payments is perpetual, a lease for 200 years, and
- (b) where that period is less than 200 years, a lease which is of the same duration as that period.

(10) In this section references to rent under a lease include references to rent which the person entitled to the lease is under Chapter II of Part II of the Finance Act 1963 treated, for any purpose, as paying in respect of land comprised in the lease, and such rent shall be treated for the purposes of this section as having been paid from day to day as it has become due.

(11) For the purposes of this section the following persons shall be deemed to be associated with one another, that is—

- (a) the transferor in any such transaction as is described in subsection (1) or subsection (2) of this section, and the transferor in another such transaction, if those two persons are acting in concert, or if the two transactions are in any way reciprocal, and any person who is an associate of either of those associated transferors ;
- (b) any two or more bodies corporate participating in, or incorporated for the purposes of, a scheme for the reconstruction of any body or bodies corporate or for the amalgamation of any two or more bodies corporate ;
- (c) any persons who are associates as defined in Schedule 7 to this Act.

(12) In this section—

- (a) "lease" includes an underlease, sublease or any tenancy or licence, and any agreement for a lease, underlease, sublease or tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined ; and, in relation to such land, expressions in this section relating to interests in land and their disposition shall be construed accordingly ; and

## PART II

(b) "rent" includes any payment made under a lease as so defined.

(13) The kinds of deductions by way of income tax relief to which this section applies are as follows—

- (a) any of the kinds of deductions described in section 17 of this Act, and
- (b) a deduction in computing profits or gains chargeable under Case VIII of Schedule D allowable by virtue of Schedule 4 to the Finance Act 1963.

**Tax treatment of receipts and outgoings on sale of land.**

**20.**—(1) Where by virtue of a contract for the sale of an estate or interest in land there falls to be apportioned between the parties a receipt or outgoing in respect of the estate or interest which becomes due after the making of the contract but before the time to which the apportionment falls to be made, and a part of the receipt is therefore receivable by the vendor in trust for the purchaser or, as the case may be, a part of the outgoing is paid by the vendor as trustee for the purchaser, the purchaser shall be treated for the purposes of tax under Case VIII of Schedule D as if that part had become receivable or payable on his behalf immediately after the time to which the apportionment falls to be made.

(2) Where by virtue of such a contract there falls to be apportioned between the parties a receipt or outgoing in respect of the estate or interest which became due before the making of the contract, the parties shall be treated for the purposes of tax under Case VIII of Schedule D as if the contract had been entered into before the receipt or outgoing became due, and subsection (1) above shall apply accordingly.

(3) Where on the sale of an estate or interest in land there is apportioned to the vendor a part of a receipt or outgoing in respect of the estate or interest which is to become receivable or be paid by the purchaser after the making of the apportionment, then for the purposes of tax under Case VIII of Schedule D—

- (a) when the receipt becomes due or, as the case may be, the outgoing is paid, the amount of it shall be treated as reduced by so much thereof as was apportioned to the vendor ;
- (b) the part apportioned to the vendor shall be treated as if it were of the same nature as the receipt or outgoing and had become receivable, or had been paid, directly by him immediately before the time to which the apportionment is made and, where it is a part of an outgoing, had become due immediately before that time.

(4) Any reference in subsection (1) or (2) above to a party to a contract shall include a person to whom the rights and obligations of that party under the contract have passed by assignment or otherwise.

(5) This section shall apply as respects tax under Case VI of Schedule D in a case falling within section 15(4) (furnished lettings) of the Finance Act 1963 as it applies as respects tax under Case VIII of Schedule D in other cases.

**21.**—(1) Where in the year 1964-65 or any subsequent year of assessment any person receives any money or money's worth—

(a) forming part of the assets of a body corporate, other than assets representing capital, or

(b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate, or

(c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to income tax on the recipient apart from this section,

Distribution of assets of body corporate carrying on mutual business.

and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.

(2) If a transfer or surrender of a right under subsection (1)(c) of this section is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.

(3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of income tax in computing the profits or gains or losses of a trade, then—

- (a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of income tax (and for the purposes of the profits tax) as a trading receipt of that trade, and
- (b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons carrying on

## PART II

that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of income tax in computing the profits or gains or losses of the trade, the recipient shall, subject to the provisions of subsection (5) of this section, be charged under Case VI of Schedule D for the year of assessment in which the receipt falls on an amount equal to the amount or value of the receipt.

Paragraph (a) of this subsection applies notwithstanding that, as a result of a change in the persons carrying on the trade, the profits or gains are under section 19(1) of the Finance Act 1953 determined as if it had been permanently discontinued and a new trade set up and commenced.

(4) Where an individual is chargeable to tax by virtue of subsection (3)(b) of this section and the profits or gains of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Act 1952, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.

(5) If the trade mentioned in subsection (3)(b) of this section was permanently discontinued before the time of the receipt, then in computing the charge to tax under the said subsection (3)(b) there shall be deducted from the amount or value of the receipt—

- (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 had not been discontinued, would have been deducted in computing for tax purposes the profits or gains or losses of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits as so computed, and
- (b) any allowance under Part X or Part XI of the Income Tax Act 1952 to which the person who carried on the trade was entitled immediately before the discontinuance and to which effect has not been given by way of relief before discontinuance.

Relief shall not be given under this subsection or under section 32(4) of the Finance Act 1960 (receipts accruing after discontinuance of trade) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or the said section 32.

(6) For the purposes of subsection (1) of this section assets representing capital consist of—

- (a) assets representing any loan or other capital subscribed, including income derived from any investment of any

part of that capital, but not including profits from the employment of that capital for the purposes of the mutual business of the body corporate,

- (b) assets representing any profits or gains charged to tax as being profits or gains of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business,
- (c) (so far as not comprised in the paragraphs above) assets representing taxed income from any investments.

(7) In this section “mutual business” includes any business of mutual insurance or mutual trading.

(8) Subsections (3), (4) and (5) of this section shall apply with any necessary modifications—

- (a) to a profession or vocation, and
- (b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D,

as they apply to a trade.

(9) The provisions of this section apply whether the time when the payment was made to the body corporate fell before or after the passing of this Act.

(10) It is hereby declared that the description of trades in subsection (1) of this section does not include any trade all the profits or gains of which are chargeable to income tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.

## PART III

## MISCELLANEOUS

Amendments  
of Sugar  
Act 1956.

**22.**—(1) An order under section 15 of the Sugar Act 1956 (distribution repayments) may apply to some classes of goods which are exported, or shipped as stores, or warehoused, without applying to others, and an order under that section may in particular—

- (a) apply to sugar without applying to goods containing sugar,
- (b) apply to some classes of sugar or goods containing sugar without applying to others, and
- (c) apply to all or some classes of sugar or goods containing sugar which are exported without applying to corresponding classes of sugar or goods containing sugar which are shipped as stores.

(2) The Minister may by order direct that, where an order is made under section 14 of the Sugar Act 1956 (which authorises the making of distribution payments in respect of sugar, whether home-produced or imported, and in respect of sugar used in the manufacture of imported composite sugar products), subsection (3) of the said section 14 shall (while applying to all home-produced sugar) apply to some classes of imported sugar and imported composite sugar products without applying to others, and an order under this subsection may in particular—

- (a) direct that the said section 14(3) shall apply to all or any classes of imported sugar without applying to imported composite sugar products,
- (b) define a class of imported sugar or imported composite sugar products by reference to the countries or territories in which the sugar or other products were manufactured or produced as well as, or instead of, by reference to the nature of the goods.

(3) In this section “sugar” includes invert sugar; and this section shall be construed as one with the Sugar Act 1956 and orders under subsection (2) of 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.

Exemption of  
service  
contracts from  
stamp duty.

**23.**—(1) No stamp duty shall be chargeable on, or on any memorandum of, a contract of service in any office or employment or a contract varying or terminating such a contract.

(2) This section shall have effect as from 6th July 1964, and if before the passing of this Act any duty has been paid which



by virtue of this section is not chargeable, the Commissioners shall, on application made to them within two years after the date of the payment, cancel the relevant stamps and repay the duty.

(3) This section shall be construed as one with the Stamp Act 1891.

24. Nothing contained in any of the following enactments, namely—

(a) section 47 of the Finance Act 1942 (power to make regulations as to transfer and registration of Government stock);

(b) section 5 of the Miscellaneous Financial Provisions Act 1955 (provisions as to unclaimed stock, dividends and redemption moneys); and

(c) the Stock Transfer Act 1963;

Transfer etc. of Government stock entered in Dublin register.

shall prevent any provision of the enactment from applying as from the passing of this Act to securities of the United Kingdom Government entered in the register of the Bank of Ireland in Dublin, and those enactments and the related enactments mentioned in Schedule 8 to this Act shall therefore be amended as provided in that Schedule.

25. The Treasury shall from time to time pay out of the Consolidated Fund to trustee savings banks, as consideration for the performance by them of the functions conferred on them under the National Debt Act 1958, such amounts as may be determined by the Treasury after consultation with the Trustee Savings Banks Association.

Exchequer payments to trustee savings banks for managing Government stock.

26.—(1) This Act may be cited as the Finance Act 1964.

(2) In Part I of this Act—

(a) “the Act of 1952” means the Customs and Excise Act 1952, and

(b) subsections (2) to (9) of section 2 of the Import Duties Act 1958 (which define the goods qualifying for Commonwealth preference under that Act) shall apply for the purposes of provisions referring to goods qualifying for Commonwealth preference as they apply for the purposes of that section.

Short title, construction, extent and repeal.

(3) Part I of this Act shall be construed as one with the Customs and Excise Act 1952 and Part II, 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 the profits tax, shall be construed as one with the enactments relating to the profits tax.

**PART III**

(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.

(5) 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.

(6) This Act, so far as it amends the Sugar Act 1956, shall extend to the Isle of Man.

(7) The enactments mentioned in Schedule 9 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 that Schedule.

## SCHEDULES

## SCHEDULE 1

Section 1.

## SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

TABLE 1: SPIRITS OTHER THAN IMPORTED PERFUMED SPIRITS

Description of spirits	Excise duty	Customs duties		
		Full rate	Commonwealth rate	Convention rate
1. British spirits (per proof gallon)	£ s. d. 12 17 6	£ s. d. —	£ s. d. —	£ s. d. —
2. Imported spirits other than perfumed spirits—				
(a) not comprised below in this paragraph (per proof gallon) ... ..	—	13 0 0	12 17 6	12 17 6
(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)... ..	—	17 11 0	17 7 6	17 7 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.

TABLE 2: IMPORTED PERFUMED SPIRITS

Description of spirits	Rates of customs duties (per gallon)	
	In cask	In bottle
Perfumed spirits—	£ s. d.	£ s. d.
warehoused for 3 years or more ... ..	9 12 0	9 13 0
warehoused for 2 years or more, but less than 3 years ... ..	9 13 7	9 14 7
not warehoused for 2 years or more ... ..	9 14 5	9 15 5

## Section 2.

## SCHEDULE 2

## BEER (RATES OF CUSTOMS AND EXCISE DUTIES AND DRAWBACKS)

	Excise rates (per 36 gallons)	Customs rates (per 36 gallons)		
		Full	Common- wealth	Con- vention
1. Duty ... ..	£ s. d. 7 7 0	£ s. d. 8 7 2	£ s. d. 7 7 2	£ s. d. 7 7 2
2. Drawback ... ..	7 7 2	8 7 2	7 7 2	7 7 2

each of the above rates of duty and drawback being, in the case of beer of an original gravity exceeding 1030 degrees, increased by 7s. 3½d. for each additional degree.

*Supplementary Provisions as to Drawbacks*

As respects beer the worts whereof before fermentation were of a specific gravity of less than 1030 degrees the amount of drawback shall be limited as follows—

(a) the amount of excise drawback allowable shall not exceed by more than twopence for every 36 gallons the amount of duty which is shown to the satisfaction of the Commissioners to have been paid;

(b) the amount of customs drawback allowable shall not exceed the amount of duty which is shown to the satisfaction of the Commissioners to have been paid.

## Section 3.

## SCHEDULE 3

## WINE (RATES OF CUSTOMS DUTIES)

Description of wine	Rates of duty (per gallon)	
	Full	Commonwealth
Light wine:—	£ s. d.	£ s. d.
Still—		
not in bottle ... ..	15 6	13 6
in bottle ... ..	18 0	15 0
Sparkling ... ..	1 8 0	1 6 0
Other wine:—		
Still—		
not in bottle ... ..	1 10 6	1 0 6
in bottle ... ..	1 13 0	1 2 0
Sparkling ... ..	2 3 0	1 13 0
together, in the case of wine exceeding 42 degrees proof spirit, with an addition for each additional degree or fraction of a degree of ... ..	2 6	1 8

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.

SCH. 3

SCHEDULE 4

Section 3.

BRITISH WINE (RATES OF EXCISE DUTY)

Description of British wine	Rates of duty (per gallon)	
	s.	d.
Still ... ..	13	0
Sparkling ... ..	19	0

SCHEDULE 5

Section 4.

TOBACCO (RATES OF CUSTOMS AND EXCISE DUTIES AND DRAWBACKS)

TABLE 1

CUSTOMS	Rates of duty per pound		
	Full	Commonwealth	Convention
	£ s. d.	£ s. d.	£ s. d.
<b>TOBACCO</b>			
1. Unmanufactured:			
Containing 10 per cent. or more by weight of moisture ... ..	3 17 4½	3 15 10	3 17 4½
Other ... ..	3 18 4½	3 16 8	3 18 4½
2. Manufactured, viz.:			
Cigars ... ..	4 6 3	4 3 3½	4 3 3½
Cigarettes ... ..	4 2 10½	4 0 6	3 18 6
Cavendish or negrohead:			
Manufactured in bond ... ..	3 19 10½	3 17 11	3 19 10½
Other ... ..	4 1 10½	3 19 7½	3 19 7½
Other ... ..	4 0 1½	3 18 2	3 17 4½
3. Snuff and snuff work (including tobacco dust or powder and ground tobacco) ... ..	4 0 7½	3 18 7	3 18 4½

TABLE 2

EXCISE	Rates of duty per pound
	£ s. d.
<b>TOBACCO</b>	
1. Unmanufactured:	
Containing 10 per cent. or more by weight of moisture ... ..	3 15 8
Other ... ..	3 16 6
2. Manufactured:	
Cavendish or negrohead manufactured in bond ...	3 17 11

## SCH. 5

TABLE 3

Description of Tobacco	Rates of drawback (per pound)	
	In respect of tobacco on which customs duty at the full or Convention rate has been paid	In respect of tobacco on which customs duty at the Commonwealth rate or excise duty has been paid
Cigars ... ..	£ s. d. 4 1 8½	£ s. d. 4 0 2
Cigarettes ... ..	3 18 4½	3 16 10
Cut, roll, cake or other manufactured tobacco ... ..	3 18 1½	3 16 7
Snuff (not being offal snuff) ... ..	3 18 7½	3 17 1
Stalks and tobacco refuse ... ..	3 17 7½	3 16 1

## Section 6.

## SCHEDULE 6

## HYDROCARBON OILS

## PART I

PURPOSES FOR WHICH REGULATIONS MAY BE MADE  
UNDER SECTION 6(5) OF THIS ACT*As to grant of relief under section 6(1), (2) or (4)*

1. Regulating the approval of persons for purposes of section 6(1), (2) or (4) of this Act, whether individually or by reference to a class, and whether in relation to particular descriptions of oils or generally; enabling approval to be granted subject to conditions and providing for the conditions to be varied, or the approval revoked, for reasonable cause.

2. Enabling permission under section 6(1) of this Act to be granted subject to conditions as to the giving of security and otherwise, and providing that where permission is given thereunder in the case of any oils no allowance thereon shall be paid under section 206 of the Customs and Excise Act 1952.

3. Requiring claims for repayment under section 6(2) of this Act to be made at such times and in respect of such periods as are prescribed; providing that no such claim shall lie where the amount to be paid is less than the prescribed minimum; and preventing, where such a claim lies, the payment of drawback or of an allowance under the said section 206.

*As to mixing of oils*

4. Imposing restrictions, in lieu of those contained in section 208(1) of the Customs and Excise Act 1952, on the mixing with other oils of any rebated oils or oils delivered without payment of duty.

*As to marking of oils*

SCH. 6

5. Prescribing the substances which are to be used as markers.
6. Providing that the presence of a marker shall be disregarded if the proportion in which it is present is less than that prescribed for the purposes of this paragraph.
7. Requiring as a condition of allowing rebate on, or delivery without payment of duty of, any oils (subject to any exceptions provided by or under the regulations) that there shall have been added to those oils, at such time, in such manner and in such proportions as may be prescribed, one or more prescribed markers, with or without a prescribed colouring substance (not being a prescribed marker), and that a declaration to that effect is furnished.
8. Prohibiting the addition to any oils of any prescribed marker or prescribed colouring substance except in such circumstances as may be prescribed.
9. Prohibiting the removal from any oils of any prescribed marker or prescribed colouring substance.
10. Prohibiting the addition to oils of any substance, not being a prescribed marker, which is calculated to impede the identification of a prescribed marker.
11. Regulating the storage or movement of prescribed markers.
12. Requiring any person who adds a prescribed marker to any oils to keep in such manner and to preserve for such period as may be prescribed such accounts and records in connection with his use of that marker as may be prescribed, and requiring the production of the accounts and records.
13. Requiring, in such circumstances or subject to such exceptions as may be prescribed, that any drum, storage tank, delivery pump or other container or outlet which contains any oils in which a prescribed marker is present shall be marked in the prescribed manner to indicate that the oils are not to be used as road fuel or for any other prohibited purpose.
14. Requiring any person who supplies any oils in which a prescribed marker is present to deliver to the recipient a document containing a statement in the prescribed form to the effect that the oils are not to be used as road fuel or for any other prohibited purpose.
15. Prohibiting the sale of any oils the colour of which would prevent any prescribed colouring substance from being readily visible if present therein.
16. Prohibiting the importation of oils in which any prescribed marker, or any other substance which is calculated to impede the identification of a prescribed marker, is present.

*As to control of storage, supply etc. of oils, entry of premises, etc.*

17. Regulating the storage or movement of oils.
18. Restricting the supplying of oils in respect of which rebate has been allowed and not repaid or on which duty has not been paid.

## SCH. 6

19. Requiring a person owning or possessing a vehicle to which section 200 of the Customs and Excise Act 1952 applies which is constructed or adapted to use heavy oils as fuel to keep such accounts and records in such manner as may be prescribed, and to preserve such books and documents relating to the supply of heavy oils to or by him, or the use of heavy oils by him, for such period as may be prescribed.

20. Requiring the production of books or documents relating to the supply or use of oils or the use of any vehicle.

21. Authorising the entry and inspection of premises, other than private dwelling houses, and the examination of vehicles, and authorising, or requiring the giving of facilities for, the inspection of oils found on any premises entered or on or in any vehicle and the taking of samples of any oils inspected.

*Interpretation*

22. In this Part of this Schedule—

“oils” means hydrocarbon oils ;

“prescribed” means prescribed by regulations made under section 6(5) of this Act ;

and subsection (8)(a) of section 200 of the Customs and Excise Act 1952 shall apply for the purposes of paragraph 19 above as it applies for the purposes of that section.

**PART II****AMENDMENT OF SECTION 200(3) AND (4)  
OF CUSTOMS AND EXCISE ACT 1952**

23. In subsection (3) of the said section 200, for the words from “and if any heavy oils are sold” to the end of the subsection there shall be substituted the words “and any person who supplies heavy oils having reason to believe that they will be put to a particular use shall be liable to a penalty as aforesaid where that use would, if a payment under the last foregoing subsection were not made in respect of the oils, contravene that subsection :

Provided that where the act in respect of which a person is liable to a penalty under this subsection was done (whether by him or another person) with the intent by him that the restrictions imposed by the last foregoing subsection should be contravened, he shall be liable to the said penalty, or to imprisonment for a term not exceeding two years, or to both ”.

24. In subsection (4) of that section—

(a) for the word “sold” there shall be substituted the word “supplied” ; and

(b) after the word “subsection” there shall be inserted the words “or taken as fuel into a vehicle to which this section does not apply and remaining therein as part of the fuel supply of the vehicle when it becomes one to which this section applies”.



## PART III

## SCH. 6

RESTRICTIONS ON USE OF OILS TO WHICH SECTION 6(1) OR (4)  
OF THIS ACT APPLIES

25. Except with the consent of the Commissioners, no oil in the case of which delivery without payment of duty has been permitted under section 6(1) of this Act shall be used otherwise than as mentioned in paragraph (a) thereof or be acquired or taken into any vehicle, appliance or storage tank for use otherwise than as so mentioned, and in giving their consent the Commissioners may impose such conditions as they think fit.

26.—(1) Any person who uses or acquires oil in contravention of paragraph 25 above, or is liable for oil being taken into a vehicle, appliance or storage tank in contravention of that paragraph, shall be liable to a penalty of three times the value of the oil or one hundred pounds whichever is the greater, and the Commissioners may recover from him an amount equal to the customs duty on like oils at the rate in force at the time of the contravention; and any person who supplies oil having reason to believe that it will be used otherwise than as mentioned in section 6(1)(a) of this Act shall if that use without consent of the Commissioners would contravene paragraph 25 above, be liable to a penalty as aforesaid:

Provided that where the act in respect of which a person is liable to a penalty under this sub-paragraph was done (whether by him or any other person) with the intent by him that the restrictions imposed by paragraph 25 above should be contravened, he shall be liable to the said penalty, or to imprisonment for a term not exceeding two years, or to both.

(2) A person shall be liable for oil being taken into a vehicle, appliance or storage tank in contravention of paragraph 25 above if he is at the time the person having the charge of the vehicle, appliance or storage tank or the owner thereof, except that if a person other than the owner is, or is for the time being, entitled to possession of it, that person and not the owner shall be liable.

27. Any oil acquired, taken into a vehicle, appliance or storage tank, or supplied as mentioned in paragraph 26(1) above shall be liable to forfeiture.

28. Paragraphs 25 to 27 above shall apply in relation to oil in the case of which rebate under section 6(4) of this Act has been allowed as if—

- (a) references to delivery permitted under section 6(1) of this Act referred to rebate allowed under the said section 6(4), and references to paragraph (a) of section 6(1) referred to section 6(4); and
- (b) the amount recoverable by the Commissioners under paragraph 26(1) were the amount of the rebate allowed.

## SCH. 6

PART IV  
SAMPLING

29.—(1) Part II of Schedule 2 to the Finance Act 1960 shall be amended as follows.

(2) For sub-paragraphs (a) and (b) of paragraph 1 there shall be substituted the following:—

“(a) if he takes it from a motor vehicle, shall if practicable do so in the presence of a person appearing to him to be the owner or person for the time being in charge of the vehicle ;

(b) if he takes the sample on any premises but not from a motor vehicle, shall if practicable take it in the presence of a person appearing to him to be the occupier of the premises or for the time being in charge of the part of the premises from which it is taken ”.

(3) For paragraph 2(2)(a) there shall be substituted the following:—

“(a) delivered one part to the person in whose presence the sample was taken in accordance with the foregoing paragraph, if he requires it ; ”.

(4) After paragraph 6 there shall be inserted the following paragraph (which reproduces the effect of section 9(7) of the Finance Act 1960):—

“7. This Part of this Schedule shall have effect, in its application to a vehicle of which a person other than the owner is, or is for the time being, entitled to possession, as if for references to the owner there were substituted references to the person entitled to possession.”.

30. The said Part II, as so amended, shall have effect with respect to any sample of hydrocarbon oils taken in pursuance of regulations made under section 6(5) of this Act.

## SCHEDULE 7

## LEASES TO TRADERS AND OTHERS

## PART I

*Meaning of "capital sum"*Sections 17  
and 19.

1. In section 17 of this Act (in this Schedule referred to as "the principal section") "capital sum" means any sum of money, or any money's worth, except so far as it or any part of it is to be treated for the purposes of income tax as a receipt to be taken into account in computing the profits or gains or losses of a trade, profession or vocation, or profits or gains or losses arising from woodlands, or is, apart from the principal section, chargeable under Case VI of Schedule D.

*Transactions amounting to the obtaining of a capital sum*

2.—(1) References in the principal section to a sum obtained in respect of the lessee's interest in a lease of an asset, or in respect of any other interest in an asset include—

- (a) in the case of a lessee's interest, references to sums representing the consideration in money or money's worth obtained on a surrender of the rights to the lessor, or on an assignment of the lease, or on creating a sublease or any other interest out of the lease, and
- (b) references to any insurance moneys payable in respect of the asset, so far as payable to the owner of the interest in the asset.

(2) Such references also include references to sums representing money or money's worth obtained by the person entitled to the interest by a transaction or series of transactions disposing of the asset, or of an interest in the asset, and in particular transactions which comprise arrangements under which the rights of the lessee under a lease of the asset are merged in any way with the rights of the lessor, or with any other rights as respects the asset, so far as the money or money's worth so obtained is attributable to the rights of the lessee under the lease.

*Transactions not at arm's length*

3.—(1) References in the principal section to sums obtained in respect of any interest in an asset include references to money or money's worth so obtained in any transaction (including a transaction of the kind described in paragraph 2 of this Schedule) by way of consideration received by a person who is an associate (as defined in this Schedule) of the person entitled to the interest in the asset.

(2) If an interest in the asset is disposed of by any person to a person who is his associate (as defined in this Schedule), the person disposing of the interest shall (unless in fact he obtains a greater sum) be treated for the purposes of the principal section as having obtained in respect of the interest—

- (a) the value of the interest in the open market, or
- (b) the value of the interest to the person to whom it is, in effect, transferred,

whichever is the greater.

## SCH. 7

(3) For the purposes of this paragraph a disposition may be direct or indirect and may be effected by any such transaction as is described in paragraph 2(2) of this Schedule.

*Partnerships and joint interests*

4.—(1) For the purposes of the principal section and this Schedule any sum obtained by persons carrying on a trade, profession or vocation in partnership in respect of an interest in an asset which is and continues to be used for the purposes of the trade, profession or vocation shall be regarded as apportionable between them in the shares in which they are then entitled to the profits of the trade, profession or vocation.

(2) Subject to the foregoing sub-paragraph, for those purposes a sum obtained by persons jointly entitled to an interest in an asset shall be apportionable according to their respective interests in the rights.

(3) For the said purposes, any payment in respect of which a deduction is allowable by way of income tax relief which is made by persons carrying on a trade, profession or vocation in partnership shall be apportioned in such manner as may be just.

(4) Section 329(1) of the Income Tax Act 1952 (Commissioners having jurisdiction in questions of apportionment) shall apply for determining any question arising under this Schedule as to the manner in which any sum or payment is to be apportioned.

*Meaning of "associate"*

5. For the purposes of this Schedule, and in construing the expressions "associate" and "associated" in the principal section and this Schedule, the following persons shall be deemed to be associated with each other, that is to say,—

- (a) any individual and that individual's husband or wife, and any relative, or husband or wife of a relative, of that individual or of that individual's husband or wife ("relative" meaning for this purpose brother, sister, ancestor or lineal descendant);
- (b) any person in his capacity of trustee of a settlement and any individual who in relation to the settlement is a settlor, and any person associated with that individual ("settlement" and "settlor" having for this purpose the meanings assigned to them by section 403 of the Income Tax Act 1952);
- (c) any person and a body of persons of which that person, or persons associated with him, or that person and persons associated with him, has or have control;
- (d) any two or more bodies of persons associated with the same person by virtue of paragraph (c) above;
- (e) in relation to a disposal by joint owners, the joint owners and any person associated with any of them.

In this paragraph "body of persons" includes a partnership, and "control" has the meaning assigned to it by section 333 of the Income Tax Act 1952.

*Additional capital sum in respect of same interests*

- 6.—(1) So far as in respect of a capital sum—
- (a) any part of a payment allowed as a deduction by way of income tax relief of a kind to which the principal section applies is taken into account in making an assessment under subsection (1) of the principal section, or
  - (b) any part of a payment allowed as a deduction in computing profits or losses for the purposes of the profits tax is taken into account in treating income as arising under subsection (2) of the principal section for the purposes of the profits tax,

that part of the payment shall be left out of account in determining whether any and if so what amount should be assessed, or treated as arising as income chargeable to the profits tax, by reference to any other capital sum; and the order in which this paragraph is applied shall be the order in which the capital sums are obtained.

(2) In this paragraph references to any deduction allowable in computing the profits or losses of a trade or business include references to a deduction which would be so allowable but for the provisions of section 42(5) of the Finance Act 1938.

*Consequential adjustments of income tax and the profits tax*

7.—(1) There shall be made all such adjustments of income tax and of the profits tax, whether by way of making assessments or by repayment of tax, as are required after the making of any such payment as is described in subsection (1) or subsection (2) of the principal section to give effect to the charge under the said subsection (1) or, as the case may be, to charge income arising under the said subsection (2), in respect of a sum obtained before the making of the payment.

(2) Notwithstanding anything in the Income Tax Acts or the enactments relating to the profits tax limiting the time within which an assessment may be made or a claim for relief may be admitted any such adjustment may be made, by making an assessment or otherwise, at any time not more than six years from the end of the year of assessment (or, in relation to the profits tax, from the end of the chargeable accounting period) in which the payment was made.

## PART II

*Hire-purchase agreements*

8.—(1) If the lease constitutes a hire-purchase agreement, for the references in the provisos to subsections (1) and (2) of the principal section to the amount of the capital sum there shall, where that capital sum was obtained in respect of the lessee's interest in the lease constituting the hire-purchase agreement, be substituted references to the amount of the capital sum (adjusted, if necessary, under subsection (5) of the principal section) after deducting any capital expenditure which was incurred by the person obtaining the capital sum in providing the lessee's interest and which is, for capital allowance purposes, still unallowed at the time when the assignment or other transaction takes place in respect of which the capital sum is obtained.

(2) In this paragraph "capital expenditure incurred by the person obtaining the capital sum in providing the lessee's interest" means—

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- (a) so much of any payment made under the lease by the person obtaining the capital sum (or, where the capital sum was obtained by the personal representatives of a deceased person, so made by that deceased person) as is not a payment in respect of which a deduction is allowable by way of income tax relief which is one of the kinds listed in subsection (4) of the principal section, plus
- (b) where the lessee's interest was assigned to the person obtaining the capital sum, any capital payment made by that person as consideration for the assignment.

(3) In this paragraph the reference to the amount of capital expenditure which is, for capital allowance purposes, still unallowed at the said time shall be construed as a reference to the amount of the capital expenditure after deducting any amount which, under section 297 of the Income Tax Act 1952 (definition of "expenditure unallowed" for purposes of capital allowances for machinery and plant), would be deductible in ascertaining as at that time the amount still unallowed of expenditure incurred by the said person in providing the leased asset.

(4) If the amount to be deducted in pursuance of subparagraph (1) of this paragraph exceeds the amount of the capital sum from which it is to be deducted, no charge shall arise under subsection (1) or subsection (2) of the principal section in respect of the capital sum.

*Disposition of part of rights under hire-purchase agreement*

9.—(1) If the capital sum represents the consideration for part only of the lessee's interest in the lease which constitutes a hire-purchase agreement, the amount to be deducted under paragraph 8(1) of this Schedule shall be such proportion of the capital expenditure which is still unallowed as is reasonable having regard to the degree to which the capital expenditure has contributed to the value of what is disposed of in return for the capital sum.

(2) If more than one capital sum is, or is to be regarded as, obtained by the same person in respect of the lessee's interest in the lease which constitutes a hire-purchase agreement, then, so far as in respect of one of those capital sums any deduction is made in respect of capital expenditure in pursuance of paragraph 8(1) of this Schedule, that capital expenditure shall be left out of account in applying paragraph 8 of this Schedule to any other such capital sum; and the order in which this subparagraph is applied shall be the order in which the capital sums are obtained.

*Meaning of "hire-purchase agreement"*

10.—(1) In this Part of this Schedule "hire-purchase agreement" has the same meaning as in the Hire-Purchase Act 1938.

(2) In Scotland, for the foregoing definition there shall be substituted the following definition—

"hire-purchase agreement" means any contract, in whatsoever terms it may be expressed, whereby goods are taken on hire by one person from another person in consideration of periodical payments to be made by the first mentioned person to the other person, with an option to the first mentioned person to become the buyer of the goods.

## SCHEDULE 8

Section 24.

## MODIFICATION OF ENACTMENTS FOR PURPOSES OF SECTION 24

## THE FINANCE ACT 1942

(5 &amp; 6 Geo. 6. c. 21)

1. Section 47(2) shall apply in relation to securities of the United Kingdom Government entered in the register of the Bank of Ireland in Dublin as if the reference therein to the date of coming into operation of the first regulations made under that section were a reference to the date of coming into operation of the first regulations made thereunder after the passing of this Act.

2. Section 47(4)(b) shall cease to have effect.

3. Part III of Schedule 11, so far as applicable in relation to securities of the United Kingdom Government entered in the register of the Bank of Ireland in Dublin shall apply in relation thereto notwithstanding its repeal by the Statute Law Revision Act 1950.

## THE INCOME TAX ACT 1952

(15 &amp; 16 Geo. 6 &amp; 1 Eliz. 2. c. 10)

4. For the words "Government stock registered or inscribed in the books of the Bank of Ireland in Dublin" wherever occurring in section 117 and paragraph 6 of Part I of Schedule 8, there shall be substituted the words "securities of the United Kingdom Government entered in the register of the Bank of Ireland in Dublin".

5. In section 121, the definition of "Government stock registered or inscribed in the books of the Bank of Ireland in Dublin" shall be omitted.

6. In section 196(6), for the words "registered in the books of the Bank and includes 'inscribed'" there shall be substituted the words "entered in the register of the Bank".

7. Paragraphs 4 to 6 above shall apply only in relation to years of assessment beginning not earlier than the coming into operation of the first regulations made after the passing of this Act under section 47 of the Finance Act 1942.

## THE MISCELLANEOUS FINANCIAL PROVISIONS ACT 1955

(4 &amp; 5 Eliz. 2. c. 6)

8. Section 5(11), and in section 5(15) the words from "Subject" to "section", shall cease to have effect.

9. In relation to United Kingdom Government securities entered in the register of the Bank of Ireland in Dublin, the words "the date of operation of this repeal" wherever occurring in Part III of Schedule 2 shall be taken to refer to the date of the passing of this Act.

## THE STOCK TRANSFER ACT 1963

(1963 c. 18)

10. In section 1(4)(c), the words "or the register of the Bank of Ireland in Dublin" shall cease to have effect.

## SCHEDULE 9

## REPEALS

Chapter	Short Title	Extent of Repeal
54 & 55 Vict. c. 39.	The Stamp Act 1891.	In Schedule 1, paragraphs (2) and (4) of the exemptions to the heading Agreement or any memorandum of an agreement.
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	Section 395(7).
59 & 60 Vict. c. 44.	The Truck Act 1896.	Section 7.
8 & 9 Geo. 5. c. 15.	The Finance Act 1918.	Section 4.
10 & 11 Geo. 5. c. 18.	The Finance Act 1920.	Section 3. In section 64(1) the words from the beginning to "those duties".
17 & 18 Geo. 5. c. 10.	The Finance Act 1927.	Schedule 2.
20 & 21 Geo. 5. c. 28.	The Finance Act 1930.	Section 2.
21 & 22 Geo. 5. c. 49.	The Finance (No. 2) Act 1931.	Section 53(1). Section 25(1). Schedule 1.
23 & 24 Geo. 5. c. 19.	The Finance Act 1933.	Section 2. Section 47(2).
2 & 3 Geo. 6. c. 109.	The Finance (No. 2) Act 1939.	Schedule 4.
5 & 6 Geo. 6. c. 21.	The Finance Act 1942.	Section 47(4)(b).
10 & 11 Geo. 6. c. 35.	The Finance Act 1947.	Section 3. Section 74(2). Schedule 1.
14 Geo. 6. c. 15.	The Finance Act 1950.	Section 2; in section 3(2), the words "under the last foregoing section". (1st January 1965)
15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.	The Income Tax Act 1952.	In section 121, the definition of "Government stock registered or inscribed in the books of the Bank of Ireland in Dublin". In Schedule 8, in Part IV, the words "Government stock registered or inscribed in the books of the Bank of Ireland in Dublin". Subject to section 16(4) of this Act, in Schedule 16, in paragraph 10, and in Schedule 17, in paragraph 3, the words inserted by the Finance Act 1962 section 20(1).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.	The Customs and Excise Act 1952.	In section 133(6) the words "not being black beer". Section 157(1)(b). Section 197. (1st January 1965)



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Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. & 1 ELIZ. 2. c. 44— <i>cont.</i>	The Customs and Excise Act 1952— <i>cont.</i>	<p>In section 200(8), the words from “ and paragraph (a) ” to the end of the subsection; section 202. (1st September 1964)</p> <p>In section 203(3), the words from “ but no drawback ” to the end of the subsection. (1st January 1965)</p> <p>Section 206. (1st January 1965)</p> <p>Section 208. (1st September 1964)</p> <p>In section 307(1) the definition of “ black beer ” and, subject to the saving in section 2(5) of this Act, the words “ black beer ” in the definition of “ beer ”.</p>
4 & 5 Eliz. 2. c. 6.	The Miscellaneous Financial Provisions Act 1955.	Section 5(11); in section 5(15) the words from “ Subject ” to “ section ”.
5 & 6 Eliz. 2. c. 49.	The Finance Act 1957.	Section 3(3), in section 3(4) the words from “ or in ” to the end of the subsection and section 3(5).
6 & 7 Eliz. 2. c. 56.	The Finance Act 1958.	Sections 4 and 5.
7 & 8 Eliz. 2. c. 58.	The Finance Act 1959.	Schedule 4.
8 & 9 Eliz. 2. c. 44.	The Finance Act 1960.	Section 1.
9 & 10 Eliz. 2. c. 36.	The Finance Act 1961.	Schedule 1.
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962.	<p>Section 2 (from passing of this Act).</p> <p>Section 9; Schedule 2, Part I. (1st September 1964)</p> <p>In relation to programmes broadcast after 29th July 1964, section 1 and Schedule 1 except paragraph 3(1) and (2). In Schedule 1, paragraph 3(1) and (2). (1st January 1965)</p> <p>In Schedule 4, paragraph 6. (1st September 1964)</p> <p>In section 1, in subsection (2) paragraphs (a) and (b) and the words from “ The supplementary ” to the end of the subsection, and, in relation to programmes broadcast after 29th July 1964, paragraph (e), and subsection (4)(a).</p> <p>In section 2, subsection (1)(a) and subsection (2).</p> <p>Section 4(2)(a). (1st September 1964)</p> <p>Section 8(2).</p> <p>Subject to section 16(4) of this Act, in section 20, subsection (1) and in subsection (2) the</p>

## SCH. 9

Chapter	Short Title	Extent of Repeal
10 & 11 Eliz. 2. c. 44— <i>cont.</i>	The Finance 1962— <i>cont.</i>	words "either" and (where secondly occurring) "or", paragraph (b) and the definition of "local limitation". Schedules 1 to 4. In Schedule 7, in the substituted subsection (8), the words from "and paragraph (a)" to the end. (1st September 1964)
1963 c. 18.	The Stock Transfer Act 1963.	In section 1(4)(c), the words "or the register of the Bank of Ireland in Dublin".
1963 c. 25.	The Finance Act 1963.	Section 1. In section 3 paragraph (a). Section 12(7). In Schedule 1 the entries (in all columns) relating to imported spirits, beer and tobacco (including snuff).

1. The above repeals shall come into force on the passing of this Act or, where a date is specified above in relation to a repeal, on that date:

Provided that the repeals relating to section 121 of and Schedule 8 to the Income Tax Act 1952 shall apply only in relation to years of assessment beginning not earlier than the coming into operation of the first regulations made after the passing of this Act under section 47 of the Finance Act 1942.

2. The above repeals so far as they relate to any drawback or other relief from duty replaced by sections 1 to 4 of this Act shall not have effect in relation to any duty charged before the coming into force of those sections.

3. The repeal of sections 197 and 206 of the Customs and Excise Act 1952, and that relating to section 203(3) thereof, shall not operate in relation to oils in respect of which the excise duty on hydrocarbon oils is charged before 1st January 1965.

4. The repeal of section 202 of the Customs and Excise Act 1952 and section 9 of the Finance Act 1960 shall not invalidate regulations made under either of those sections and in force at the passing of this Act, and in so far as the regulations were so made they shall be treated from the time the repeal comes into force as if made under section 6(5) of this Act.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Finance Act 1919 ... ..	9 & 10 Geo. 5. c. 32.
Finance Act 1930 ... ..	20 & 21 Geo. 5. c. 28.
Finance Act 1933 ... ..	23 & 24 Geo. 5. c. 19.
Finance Act 1938 ... ..	1 & 2 Geo. 6. c. 46.
Hire-Purchase Act 1938 ... ..	1 & 2 Geo. 6. c. 63.
Finance Act 1942 ... ..	5 & 6 Geo. 6. c. 21.
Finance Act 1950 ... ..	14 Geo. 6. c. 15.
Income Tax Act 1952 ... ..	15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.
Customs and Excise Act 1952 ... ..	15 & 16 Geo. 6 & 1 Eliz. 2. c. 44.
Finance Act 1953 ... ..	1 & 2 Eliz. 2. c. 34.
Finance Act 1954 ... ..	2 & 3 Eliz. 2. c. 44.
Miscellaneous Financial Provisions Act 1955... ..	4 & 5 Eliz. 2. c. 6.
Sugar Act 1956 ... ..	4 & 5 Eliz. 2. c. 48.
Finance Act 1957 ... ..	5 & 6 Eliz. 2. c. 49.
Import Duties Act 1958 ... ..	6 & 7 Eliz. 2. c. 6.
National Debt Act 1958 ... ..	7 & 8 Eliz. 2. c. 6.
Finance Act 1959 ... ..	7 & 8 Eliz. 2. c. 58.
European Free Trade Association Act 1960 ... ..	8 & 9 Eliz. 2. c. 19.
Finance Act 1960 ... ..	8 & 9 Eliz. 2. c. 44.
Finance Act 1961 ... ..	9 & 10 Eliz. 2. c. 36.
Vehicles (Excise) Act 1962 ... ..	10 & 11 Eliz. 2. c. 13.
Finance Act 1962 ... ..	10 & 11 Eliz. 2. c. 44.
Betting Duties Act 1963... ..	1963, c. 3.
Purchase Tax Act 1963 ... ..	1963, c. 9.
Stock Transfer Act 1963 ... ..	1963, c. 18.
Finance Act 1963 ... ..	1963, c. 25.



# Tenancy of Shops (Scotland) Act 1964

## 1964 CHAPTER 50

An Act to continue (with amendment) the Tenancy of Shops (Scotland) Act 1949. [16th July 1964]

**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:—

Continuance  
of Act of  
1949.

12, 13 & 14  
Geo. 6. c. 25.  
1963. c. 58.

1.—(1) Subject to the next following subsection the Tenancy of Shops (Scotland) Act 1949 (in this Act referred to as “the Act of 1949”) shall continue in force until Parliament otherwise determines; and accordingly section 3(3) of that Act, and the reference to that Act in Part I of the Schedule to the Expiring Laws Continuance Act 1963, are hereby repealed.

(2) Section 1(6) of the Act of 1949 is hereby repealed.

Citation  
and extent.

2.—(1) This Act may be cited as the Tenancy of Shops (Scotland) Act 1964; and the Act of 1949 and this Act may be cited together as the Tenancy of Shops (Scotland) Acts 1949 and 1964.

(2) This Act shall extend to Scotland only.



# Universities and College Estates Act 1964

## 1964 CHAPTER 51

An Act to amend the law relating to property held by or on behalf of universities and colleges, and for purposes connected therewith. [16th July 1964]

**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 Ecclesiastical Leases Act 1571, the Ecclesiastical Leases Act 1572, the Ecclesiastical Leases Act 1575 and the Ecclesiastical Leases Act 1836 shall not have effect in relation to any college in any university. Ecclesiastical Leases Acts.

(2) In this Act “college” includes a hall; and for the purposes of this Act the Cathedral or House of Christ Church in Oxford shall be considered to be a college in the University of Oxford.

2.—(1) This section applies to the following universities and colleges, that is to say— Removal of restrictions in Universities and College Estates Act 1925.

(a) the universities to which the Universities and College Estates Act 1925 (in this Act referred to as “the Act of 1925”) applies, and

(b) all colleges in those universities.

(2) In relation to universities and colleges to which this section applies, the Act of 1925 shall have effect subject to the exceptions and modifications specified in Part I of Schedule 1 to this Act (being exceptions and modifications for removing restrictions on the powers of those universities and colleges).

3.—(1) In relation to universities and colleges to which the last preceding section applies, the Act of 1925 shall have effect subject to the further exceptions and modifications Capital money

specified in Part II of Schedule 1 to this Act (being exceptions and modifications relating to the receipt and application of capital money).

(2) Where at the commencement of this Act any capital money belonging to a university or college to which the last preceding section applies is held by the Minister of Agriculture, Fisheries and Food, that Minister shall pay or transfer it to that university or college, or to a person designated for the purpose by that university or college.

(3) Any capital money which in pursuance of the last preceding subsection is paid or transferred to a university or college, or to a person designated by a university or college, shall be held by that university or college, or by that person, as the case may be, on the like trusts (if any) and subject to the like provisions (whether having effect by virtue of an enactment or otherwise) as the capital money so paid or transferred would have been subject to if it had continued to be held as mentioned in the last preceding subsection.

(4) Any stamp duty payable on, or other expenses of or incidental to, the payment or transfer of any capital money in pursuance of this section shall be paid by the university or college to whom the capital money belongs.

(5) The provisions of Schedule 2 to this Act shall have effect with respect to sinking funds.

(6) In this section "capital money" includes any property representing capital money, and "property" includes any investment, any estate or interest in real or personal property, any negotiable instrument, debt or other chose in action and any other right or interest whether in possession or not; and for the purposes of this section capital money shall be taken to belong to a university or college if it is held on behalf of that university or college, whether for the general purposes thereof or for any special endowment or other special purpose connected with that university or college.

Amendment  
and repeal of  
enactments.

4.—(1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential upon the preceding provisions of this Act).

(2) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in relation thereto in the third column of that Schedule.

Short title,  
citation,  
extent and  
commence-  
ment.

5.—(1) This Act may be cited as the Universities and College Estates Act 1964; and the Universities and College Estates Act 1925 and this Act may be cited together as the Universities and College Estates Acts 1925 and 1964.

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

(3) In so far as any enactment contained in this Act, or amended or modified by this Act, is capable of applying, as part of the law of England and Wales, to land in Scotland or in Northern Ireland, the last preceding subsection shall not affect the operation of that enactment, as part of that law, in relation to any such land.

(4) This Act shall come into operation at the end of the period of one month beginning with the day on which it is passed.

## SCHEDULES

Sections 2, 3.

## SCHEDULE 1

EXCEPTIONS AND MODIFICATIONS TO UNIVERSITIES  
AND COLLEGE ESTATES ACT 1925

## PART I

## EXCEPTIONS AND MODIFICATIONS REFERRED TO IN SECTION 2(2)

1. In section 2, subsection (2) shall be omitted.
2. In section 15(1), the words "with the consent of the Minister" shall be omitted.
3. In section 17, the words "with the consent of the Minister", in each place where they occur, and in subsection (1) the words "with such consent as aforesaid", shall be omitted.
4. In section 23(1), the words "with the consent of the Minister" shall be omitted.
5. In section 26, the words "with the consent of the Minister" in subsections (1) and (2), and the words "and on the terms mentioned in the order consenting to the loan" in paragraph (a) of the proviso to subsection (2), shall be omitted.
6. In section 30(1), the words "with the consent of the Minister" and the words from "and may be authorised" to the end of the subsection shall be omitted.
- 7.—(1) In subsection (1) of section 31, the words "with the consent of the Minister", the words from "and be stated" to "specified in the order" and, in paragraph (b) of the proviso, the words "with the approval of the Minister", shall be omitted.  
(2) In subsection (2) of that section, for the words "as may be deemed reasonable by the Minister" there shall be substituted the words "as is reasonable".
8. In section 32(1), the words "in such manner as may be approved by the Minister" shall be omitted, and for the words "as may be sanctioned by the Minister" there shall be substituted the words "as the university or college think fit".
- 9.—(1) In section 38, subsections (1), (2), (3) and (6) shall be omitted.  
(2) In subsection (5) of that section, the word "such", in the first place where it occurs, shall be omitted, after the word "mortgage" there shall be inserted the words "proposed to be made under an order of the Minister under section 21 of this Act", and for the word "consent" there shall be substituted the words "valuation or plan".
10. In section 40, the words "with the consent of the Minister" shall be omitted.



## PART II

## SCH. 1

## EXCEPTIONS AND MODIFICATIONS REFERRED TO IN SECTION 3(1)

1. In section 3(2), the words from "when received" to "the Minister and" shall be omitted, and, in the proviso, for the words "the Minister" there shall be substituted the words "the university or college concerned".

2. In section 5, the words "and be paid to the Minister" shall be omitted.

3. In section 7(4), the words "and be paid to the Minister" shall be omitted.

4. In section 13(7), the words "shall be paid to the Minister, and" shall be omitted.

5. In section 14(4), the words "and be paid to the Minister" shall be omitted.

6. In section 15(2), the words "and be paid to the Minister" shall be omitted.

7. In section 16(4), the words "and be paid to the Minister" shall be omitted.

8. In section 20(1), the words "shall be paid to the Minister, and" shall be omitted.

9. In section 23(5), the words "and be paid to the Minister" shall be omitted.

10. In section 24(5), the words "shall be paid to the Minister, and" shall be omitted.

11. In section 26, in subsection (1), after the words "any enactment hereby repealed" there shall be inserted the words "or paid to a university or college under this Act"; and in subsection (5) for the word "Minister", where it first occurs, there shall be substituted the words "university or college concerned" and for the words from "the Minister shall" to the end there shall be substituted the words "the university or college shall make such provision accordingly."

12.—(1) In section 28, in subsections (1) and (2), for the words "the Minister" there shall be substituted the words "the university or college".

(2) In subsection (3) of that section, for the words from "the Minister", in the first place where they occur, to the end there shall be substituted the words "a university or college under this section shall be treated as capital money under this Act and as securities representing such capital money."

13. In section 29, for the words from "to the Minister" to "hereby repealed" there shall be substituted the words "to a university or college under this Act"; for the words "the Minister may, notwithstanding anything in this Act, require and" there shall be substituted the words "the university or college concerned shall"; and for the words "the Minister", in the last place where they occur, there shall be substituted the words "the university or college".

14. In section 42, the words "and be paid to the Minister" shall be omitted and for the words "such payment as aforesaid" there

**SCH. 1** shall be substituted the words "the money (if any) to be paid by way of equality of exchange has been paid to the university or college".

Section 3.

## SCHEDULE 2

### SINKING FUNDS

1. The provisions of this Schedule shall have effect where any capital money belonging to a university or college, which is required to be paid or transferred under section 3(2) of this Act, is comprised in a sinking fund maintained in pursuance of a direction given by the Minister under the Act of 1925.

2. Until that capital money is so paid or transferred, the university or college shall continue to pay to the Minister any sums which, in accordance with the direction, are required to be so paid for the purpose of maintaining the sinking fund; and any sums so paid, and (in so far as the direction so requires) any income accruing from property comprised in the sinking fund, shall be dealt with as an accretion to that fund.

3. After the capital money has been so paid or transferred, the university or college shall continue to maintain the sinking fund in accordance with the direction until the end of the period for which it was directed to be maintained.

4. For the purposes of this Schedule—

(a) any approval or sanction of the Minister in pursuance of paragraph (a) of the proviso to section 26(2) of the Act of 1925, or under section 32(1) of that Act,

(b) any condition imposed by the Minister in giving his consent to any transaction under that Act (whether that condition was contained in any order evidencing that consent or not), and

(c) any condition attached to a direction given by the Minister under that Act,

shall be treated as a direction given by the Minister under that Act.

5.—(1) In this Schedule "the Minister" means the Minister of Agriculture, Fisheries and Food.

(2) Subsection (6) of section 3 of this Act shall apply for the purposes of this Schedule as it applies for the purposes of that section.

## SCHEDULE 3

Section 4.

## ENACTMENTS AMENDED

## PART I

## AMENDMENTS RELATED TO SECTIONS 2 AND 3

Enactment	Amendment
The Kendal Corn Rent Act 1932 (22 & 23 Geo. 5. ch. lxiv).	<p>In section 10, in subsection (1), the word "pay" shall be transferred to the beginning of paragraph (a), and, in paragraph (b), for the words "to the Minister" there shall be substituted the words "shall retain"; in subsection (3), for the words "so paid to the Minister" shall be accumulated by him on behalf of the rectors" there shall be substituted the words "retained by the rectors under paragraph (b) of subsection (1) of this section shall be accumulated by them"; and in subsections (3) and (4) the words "the Minister on behalf of", in each place where they occur, shall be omitted.</p>
	<p>In section 11, in subsection (4), in paragraph (i), for the word "Minister" there shall be substituted the word "rectors", and, in paragraph (ii), for the word "Minister" there shall be substituted the word "rectors" and the words "him on behalf of" shall be omitted; and in subsection (5) the words "to the Minister" shall be omitted.</p>
The Universities and Colleges (Trusts) Act 1943 (6 & 7 Geo. 6. c. 9).	<p>In section 2, at the end there shall be added the following subsection:—</p> <p>"(5) Subsection (2) of this section shall not have effect in relation to any university or college to which section 2 of the Universities and College Estates Act 1964 (in this subsection referred to as 'the Act of 1964') applies; and in subsection (3) of this section—</p> <p>(a) in its application to any university or college to which section 2 of the Act of 1964</p>

## SCH. 3

Enactment	Amendment
<p>The Universities and Colleges (Trusts) Act 1943—<i>cont.</i></p>	<p>applies, any reference to the Universities and College Estates Act 1925 (in this subsection referred to as 'the Act of 1925') shall be construed as a reference to that Act as modified by Schedule 1, and amended by Schedule 3, to the Act of 1964, and the words from 'subject to the modification' to 'such property as aforesaid' shall be omitted;</p> <p>(b) in its application to any college to which the Act of 1925 applies, but section 2 of the Act of 1964 does not apply, any reference to the Act of 1925 shall be construed as a reference to that Act as amended by Schedule 3 to the Act of 1964; and</p> <p>(c) in its application to any college to which the Act of 1925 does not apply, the reference to applying any of the provisions of that Act shall be construed as a reference to applying any of the provisions of that Act as modified by Schedule 1, and amended by Schedule 3, to the Act of 1964, and the words 'subject to the modification aforesaid' shall be omitted."</p>
<p>The Agricultural Holdings Act 1948 (11 &amp; 12 Geo. 6. c. 63).</p>	<p>In section 81, at the end of subsection (2) there shall be added the words "or, in the case of a university or college to which section 2 of the Universities and College Estates Act 1964 applies, it appears to the university or college to be necessary to do so in accordance with the said subsection (5) as modified by Schedule 1 to the said Act of 1964".</p>

**PART II**  
**OTHER MINOR AMENDMENTS**

SCH. 3

Enactment	Amendment
The Universities and College Estates Act 1925 (15 & 16 Geo. 5. c. 24).	In section 29, for the words from "will give to the parties interested" to the end there shall be substituted the words "is appropriate to make a proper allocation thereof as between capital and income". In section 43(vii), in the definition of "mining purposes" for the words "the settled land, or any other" there shall be substituted the word "any". In Schedule 1, in paragraph (xxxi), the words "principal mansion, house or other" shall be omitted.
The War Damage Act 1943 (6 & 7 Geo. 6. c. 21).	In section 66(2)(b), for the words "thirty-one" there shall be substituted the word "thirty".
The Coast Protection Act 1949 (12, 13 & 14 Geo. 6. c. 74).	In section 11(2)(a), for the words "thirty-one" there shall be substituted the word "thirty".
The Landlord and Tenant Act 1954 (2 & 3 Eliz. 2. c. 56).	In Schedule 2, in paragraph 6, for the words "thirty-one" there shall be substituted the word "thirty".
The Coal-Mining (Subsidence) Act 1957 (5 & 6 Eliz. 2. c. 59).	In section 11(7), for the words "thirty-one" there shall be substituted the word "thirty".
The Town and Country Planning Act 1962 (10 & 11 Eliz. 2. c. 38).	In section 206(1), for the words "thirty-one" there shall be substituted the word "thirty".

## SCHEDULE 4

Section 4.

## ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 24.	The Universities and College Estates Act 1925.	In Schedule 1, in paragraph (xxxi), the words "principal mansion, house or other".
1963 ch. xi.	The Universities of Durham and Newcastle upon Tyne Act 1963.	In Schedule 1, in paragraph 16(1), the proviso; in paragraph 17(2), the proviso; and paragraph 17(3).

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Universities and College Estates Act 1925 ...	15 & 16 Geo. 5. c. 24.
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