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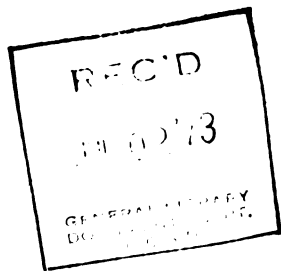


THE
PUBLIC GENERAL ACTS
AND GENERAL SYNOD MEASURES
1972

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

[IN THREE PARTS]

PART I



LONDON
HER MAJESTY'S STATIONERY OFFICE

1973

£18·25 net

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**The Public General Acts
and General Synod Measures
which received the Royal Assent in 1972
in which year ended the TWENTIETH
and began the TWENTY-FIRST YEAR
of the Reign of HER MAJESTY
QUEEN ELIZABETH THE SECOND
and
ended the Second Session
and began the Third Session
of the Forty-Fifth Parliament of the
United Kingdom of Great Britain
and Northern Ireland**

Printed by C. H. BAYLIS, C.B.
Controller of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament

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THE PUBLIC GENERAL ACTS OF 1972

Sierra Leone Republic Act 1972

1972 CHAPTER 1

An Act to make provision as to the operation of the law in relation to Sierra Leone as a republic within the Commonwealth. [10th February 1972]

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

1.—(1) All law to which this section applies, whether being a ^{Operation of} rule of law or a provision of an Act of Parliament or of any ^{existing law.} other enactment or instrument whatsoever, which was in force on 19th April 1971, or, having been passed or made before that date, 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 Sierra Leone, and persons and things belonging to or connected with Sierra Leone, as it would have apart from this subsection if Sierra Leone had not become a republic.

(2) This section applies to law of, or 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 Sierra Leone, to law of any other country or territory to which that enactment or Order extends.

A

(3) Nothing in this section shall be construed as enabling Her Majesty to entertain any appeal from a court or judge in Sierra Leone, other than an appeal from a decision given before 19th April 1971 in respect of which the Privy Council have jurisdiction according to the law of the Republic of Sierra Leone.

(4) This section shall be deemed to have had effect from 19th April 1971.

Short title.

2. This Act may be cited as the Sierra Leone Republic Act 1972.



Island of Rockall Act 1972

1972 CHAPTER 2

An Act to make provision for the incorporation of that part of Her Majesty's Dominions known as the Island of Rockall into that part of the United Kingdom known as Scotland, and for purposes connected therewith.

[10th February 1972]

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. As from the date of the passing of this Act, the Island of Rockall (of which possession was formally taken in the name of Her Majesty on 18th September 1955 in pursuance of a Royal Warrant dated 14th September 1955 addressed to the Captain of Her Majesty's Ship Vidal) shall be incorporated into that part of the United Kingdom known as Scotland and shall form part of the District of Harris in the County of Inverness, and the law of Scotland shall apply accordingly.

2. This Act may be cited as the Island of Rockall Act 1972. Short title.



Ministerial and other Salaries Act 1972

1972 CHAPTER 3

An Act to make new provision as to the salaries payable to the holders of Ministerial and other offices, and for purposes connected therewith. [10th February 1972]

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

New and
altered
salaries.
1965 c. 58.

1.—(1) Subject to the provisions of this Act, in lieu of the salaries provided for by the Ministerial Salaries Consolidation Act 1965—

- (a) there shall be paid to the holder of any Ministerial office specified in Schedule 1 to this Act such salary as is provided for by that Schedule; and
- (b) there shall be paid to the Leaders and Whips of the Opposition such salaries as are provided for by Schedule 2 to this Act.

(2) There shall be paid to the Lord Chancellor a salary (which shall be charged on and paid out of the Consolidated Fund of the United Kingdom) at such rate as together with the salary payable to him as Speaker of the House of Lords will amount to £20,000 a year, but so that the salary payable to a Lord Chancellor under this subsection shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected.

(3) There shall be paid to the Speaker of the House of Commons a salary (which shall be charged on and paid out of the Consolidated Fund of the United Kingdom) of £13,000 a year;

and on a dissolution of Parliament the Speaker of the House of Commons at the time of the dissolution shall for this purpose be deemed to remain Speaker until a Speaker is chosen by the new Parliament.

(4) Her Majesty may from time to time by Order in Council substitute another figure for that given by subsection (2) or (3) above or by Schedule 1 or 2 to this Act as the annual amount, or as the case may be the maximum or minimum annual amount, of any salary; but no recommendation shall be made to Her Majesty to make an Order in Council under this subsection unless a draft of the Order has been approved by resolution of each House of Parliament or, if it relates only to the salary to be paid to the Speaker of the House of Commons under subsection (3) above, by resolution of that House.

(5) The provisions of the Ministerial Salaries Consolidation 1965 c. 58. Act 1965 which are set out in Schedule 3 to this Act, with the changes necessary to relate them to this Act and with new definitions of "Parliamentary Secretary" and "Assistant Opposition Whip", shall have effect as there set out.

(6) In the House of Commons Disqualification Act 1957 1957 c. 20 there shall be made the following amendments consequential on the foregoing provisions of this section:—

(a) in section 13(1), in the definition of "Minister of State" (as amended by the said Act of 1965) for the words "section 7(1)(b) of the Ministerial Salaries Consolidation Act 1965" there shall be substituted the words "paragraph 3(1)(b) of Schedule 3 to the Ministerial and other Salaries Act 1972", and after that definition there shall be inserted—

"'Parliamentary Secretary' includes a person holding Ministerial office (however called) as assistant to a Member of Her Majesty's Government in the United Kingdom, but not having departmental responsibilities;"

(b) in Schedule 2, for the entries between "Financial Secretary to the Treasury" and "Junior Lord of the Treasury" there shall be substituted—

"Parliamentary Secretary in a Government department other than the Treasury, or not in a department."

and the enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent mentioned in column 3 of the Schedule.

(7) This section shall have effect from the beginning of April 1972.

2. This Act may be cited as the Ministerial and other Salaries Short title. Act 1972.

SCHEDULES

SCHEDULE 1

MINISTERIAL SALARIES

<i>Office</i>	<i>Salary £</i>
PART I	
Prime Minister and First Lord of the Treasury	20,000
Chancellor of the Exchequer	} 13,000
Secretary of State	
Minister of Agriculture, Fisheries and Food	
Any of the following offices for so long as the holder is a member of the Cabinet:—	
(a) Lord President of the Council	
(b) Lord Privy Seal	
(c) Chancellor of the Duchy of Lancaster	
(d) Paymaster General	
(e) Chief Secretary to the Treasury	
PART II	
Any of the offices listed at (a) to (e) in Part I above for so long as the holder is not a member of the Cabinet	} 7,500–9,500
Minister of Posts and Telecommunications	
Minister of State	
Parliamentary Secretary to the Treasury	
Financial Secretary to the Treasury	
PART III	
Attorney General	14,500
Lord Advocate	11,000
Solicitor General	11,000
Solicitor General for Scotland	7,750
PART IV	
Captain of the Honourable Corps of Gentlemen-at-Arms	6,500
Parliamentary Secretary other than Parliamentary Secretary to the Treasury	5,500
Captain of the Queen's Bodyguard of the Yeomen of the Guard	} 5,000
Treasurer of Her Majesty's Household	
Lord in Waiting	4,500
Comptroller of Her Majesty's Household	} 4,000
Vice-Chamberlain of Her Majesty's Household	
Junior Lord of the Treasury	
Assistant Whip, House of Commons	

PART V

SCH. 1

1.—(1) The salary to be paid to the holder of any office mentioned above in this Schedule shall be of the annual amount stated in relation to that office in column 2 or, as the case may be, of such annual amount not more than the upper figure or less than the lower figure so stated as the First Lord of the Treasury may determine.

(2) The date on which the holder of any office listed at (a) to (e) in Part I above becomes or ceases to be a member of the Cabinet shall be notified in the London Gazette, and any such notification (whether before or after the passing of this Act) shall be conclusive evidence for the purposes of this Schedule.

2. In the case of the following offices a salary may be paid to more than one holder of the office at the same time, subject to the limitations expressed below, that is to say:—

- (a) Secretary of State, so long as not more than 19 salaries are paid at the same time in accordance with Part I above;
- (b) Minister of State, so long as not more than 46 salaries are paid at the same time in accordance with Parts I and II above;
- (c) Parliamentary Secretary other than Parliamentary Secretary to the Treasury, so long as not more than 30 salaries are paid at the same time;
- (d) Junior Lord of the Treasury, so long as not more than 5 salaries are paid at the same time;
- (e) Assistant Whip, House of Commons, so long as not more than 7 salaries are paid at the same time;
- (f) Lord in Waiting, so long as not more than 5 salaries are paid at the same time.

SCHEDULE 2

OPPOSITION LEADERS AND WHIPS

PART I

<i>Position</i>	<i>Salary</i> £
In the House of Commons—	
Leader of the Opposition	9,500
Chief Opposition Whip	7,500
Assistant Opposition Whips	4,000
In the House of Lords—	
Leader of the Opposition	3,500
Chief Opposition Whip	2,500

PART II

1. The salary to be paid to any of the persons mentioned above in this Schedule shall be of the annual amount stated in relation to that person in column 2.

2. In the case of the Assistant Opposition Whips in the House of Commons, salaries may be paid to not more than 2 at the same time.

SCH. 2
1965 c. 58.

3. No salary shall be payable in accordance with this Schedule to a person who is in receipt of a pension under section 3(1) (past Prime Ministers) of the Ministerial Salaries Consolidation Act 1965.

SCHEDULE 3

PROVISIONS RE-ENACTED FROM PREVIOUS ACT

Opposition Leaders and Whips

1.—(1) In this Act “ Leader of the Opposition ” means, in relation to either House of Parliament, that Member of that House who is for the time being the Leader in that House of the party in opposition to Her Majesty’s Government having the greatest numerical strength in the House of Commons; and “ Chief Opposition Whip ” means, in relation to either House of Parliament, the person for the time being nominated as such by the Leader of the Opposition in that House; and “ Assistant Opposition Whip ”, in relation to the House of Commons, means a person for the time being nominated as such, and to be paid as such, by the Leader of the Opposition in the House of Commons.

(2) If any doubt arises as to which is or was at any material time the party in opposition to Her Majesty’s Government having the greatest numerical strength in the House of Commons, or as to who is or was at any material time the leader in that House of such a party, the question shall be decided for the purposes of this Act by the Speaker of the House of Commons, and his decision, certified in writing under his hand, shall be final and conclusive.

(3) If any doubt arises as to who is or was at any material time the Leader in the House of Lords of the said party, the question shall be decided for the purposes of this Act by the Lord Chancellor, and his decision, certified in writing under his hand, shall be final and conclusive.

Provision against duplicate salaries

2. A person to whom any salary is payable under section 1(1) of this Act shall be entitled to receive only one such salary, but if he is the holder of two or more offices in respect of which a salary is so payable and there is a difference between the salaries payable in respect of those offices, the office in respect of which a salary is payable to him shall be that in respect of which the highest salary is payable.

Provision for payment of salaries

3.—(1) The salaries payable under section 1(1)(a) of this Act shall be paid out of moneys provided by Parliament and, in the case of those payable in respect of the following offices, that is to say—

- (a) Treasurer, Comptroller and Vice-Chamberlain of Her Majesty’s Household; and
- (b) Captain of the Honourable Corps of Gentlemen-at-Arms, Captain of the Queen’s Bodyguard of the Yeomen of the Guard and Lord in Waiting;

shall be paid out of moneys so provided as part of the expenses of the Treasury.

(2) The sums payable out of moneys provided by Parliament in respect of the salary of the Chancellor of the Duchy of Lancaster shall be reduced by the amount of the salary payable to him otherwise than out of moneys so provided in respect of his office.

(3) The salaries payable under section 1(1)(b) of this Act shall be charged on and payable out of the Consolidated Fund of the United Kingdom.

Interpretation

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

“ Junior Lord of the Treasury ” means any Lord Commissioner of the Treasury other than the First Lord and the Chancellor of the Exchequer;

“ Minister of State ” and “ Parliamentary Secretary ” have the same meanings as in the House of Commons Disqualification Act 1957.

1957 c. 20.

(2) The amount specified in this Act as being the amount of any salary payable thereunder out of moneys provided by Parliament shall be taken to be the maximum amount so payable, and accordingly, notwithstanding the provisions of this Act as to any such amount, the salary so payable in any year in respect of any office may be of a less amount than that so specified.

Transitional

5. Any Minute of the Treasury regulating the remuneration of the Law Officers of the Crown which is in force at the end of March 1972 shall have effect as if the relevant salary stated in Schedule 1 to this Act were substituted for the salary specified in the Minute.

SCHEDULE 4

REPEALS

Chapter	Short Title	Extent of Repeal
2 & 3 Will. 4. c. 105.	The House of Commons (Speaker) Act 1832.	The whole Act.
1965 c. 11.	The Ministerial Salaries and Members' Pensions Act 1965.	Section 3. Section 20(1). Schedule 4, so far as unrepealed.
1965 c. 58.	The Ministerial Salaries Consolidation Act 1965.	The whole Act, except— section 3; section 6; section 7(3) with the omission of the words preceding “ any pension ”; section 9(3); and section 10.
1965 c. 61.	The Judges' Remuneration Act 1965.	Section 2(1). In section 4(1) the words “ and 2(1) ”, and in section 4(2) the words “ or section 2(1) ”.



National Insurance Regulations (Validation) Act 1972

1972 CHAPTER 4

An Act to validate part of the National Insurance
(Earnings-related Benefit) Regulations 1966.
[10th February 1972]

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:—

Validation.
1965 c. 51.

1. The provision purporting to have been made in the National Insurance (Earnings-related Benefit) Regulations 1966 under section 114(5) of the National Insurance Act 1965 by the Minister of Pensions and National Insurance shall have, and be deemed to have had, effect as if made by the National Insurance Joint Authority.

**Short title
and extent.**

2.—(1) This Act may be cited as the National Insurance Regulations (Validation) Act 1972.

(2) This Act does not extend to Northern Ireland.



Local Employment Act 1972

1972 CHAPTER 5

An Act to consolidate, with certain exceptions, the provisions of the Local Employment Acts 1960 to 1971. [10th February 1972]

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:—

Development areas and intermediate areas

1.—(1) For the purposes of this Act the Secretary of State may by order specify any area of Great Britain as—

- (a) a development area ; or
- (b) an intermediate area.

Designation
of development
areas and
intermediate
areas.

(2) The areas to be specified under this section as development areas shall be areas where, in the opinion of the Secretary of State, special measures are necessary for the purpose of encouraging the growth and proper distribution of industry ; and, in exercising his power to specify areas as aforesaid, the Secretary of State shall have regard to all the circumstances actual and expected, including the state of employment and unemployment, population changes, migration and the objectives of regional policies.

(3) The areas to be specified under this section as intermediate areas shall be areas where, in the opinion of the Secretary of State—

- (a) special measures are necessary for the purpose of encouraging the growth and proper distribution of industry ; but
- (b) the economic problems are not so acute that the powers conferred by this Act in relation to development areas

only (in addition to those conferred in relation to both development areas and intermediate areas) need to be available for that purpose to be achieved.

1948 c. 46. (4) An order under this section may describe a development area or intermediate area by reference to employment exchange areas, that is to say, areas for which an employment exchange has been established for the purposes of the Employment and Training Act 1948; and any reference in such an order to a named employment exchange area shall be construed as a reference to that area as it exists on the date on which the order comes into force.

(5) In this Act any reference to a development area shall have effect as if there were included in the development area any relevant locality outside that area as respects which the Secretary of State and the Treasury are satisfied that it ought to be treated as if it were so included by reason of the fact that—

(a) its population will be, or is being, increased by migration from one or more specific places in the development area; and

(b) the increase will be substantial in relation to the original population of the locality;

and the Secretary of State shall give notice in such manner as appears to him appropriate of the localities as respects which he and the Treasury are for the time being satisfied as aforesaid.

(6) The localities relevant for the purposes of subsection (5) of this section are—

1965 c. 59.
1968 c. 16. (a) any area which has been designated under the New Towns Act 1965 or the New Towns (Scotland) Act 1968, or any enactment repealed by either of those Acts, as the site of a new town;

1952 c. 54. (b) any locality which, in relation to the development area or to that area and any other place, is a receiving district within the meaning of the Town Development Act 1952 or falls to be treated as such a receiving district by virtue of an order under section 34 of the Housing Act 1961;

1961 c. 65.
1957 c. 38. (c) any burgh or county the council of which are, in relation to the development area or to that area and any other place, a receiving authority within the meaning of Part II of the Housing and Town Development (Scotland) Act 1957.

(7) Where, by an order under this section, the Secretary of State specifies as an intermediate area an area which, immediately before the order was made, was a development area in which any locality fell to be included by virtue of subsection (5) of this section, that locality shall be treated for the purposes of this Act as included in the specified area.

Powers for provision of employment

2.—(1) The powers conferred by sections 3 to 6 of this Act shall be exercisable, with due regard to the proper diversification of industry, for the purpose of providing for the benefit of any area in relation to which the powers are exercisable employment appropriate (having regard to the circumstances of the area generally and of any particular description of persons therein) to the needs of the area.

Purpose for which powers exercisable and advisory committee.

(2) In determining whether and in what manner to exercise his powers under sections 3, 4 and 5 of this Act for the benefit of any area in relation to which the powers are exercisable, the Secretary of State shall have regard—

- (a) to the relation between the expenditure involved and the employment likely to be provided ; and
- (b) to any consequential effect on employment in any other part of that area and in any other development area or intermediate area.

(3) For the purposes of this Act there shall be an advisory committee appointed by the Secretary of State ; and the Secretary of State may pay to the members of the committee such allowances as he may with the consent of the Minister for the Civil Service determine.

3.—(1) For the purpose mentioned in section 2(1) of this Act the Secretary of State may, with the consent of the Treasury and after consultation, if he sees fit, with the advisory committee, make grants to persons carrying on, or proposing to carry on, undertakings in any development area or intermediate area towards the cost of providing in the area buildings or extensions of buildings to be occupied by the undertakings.

Building grants.

(2) The amount of any grant to be made towards the cost of providing a building or an extension of a building under this section shall be the appropriate proportion, as stated in the following provisions of this section, of the relevant expenditure ; and that expenditure shall be so much of the expenditure incurred in providing the building or extension as the Secretary of State may approve for the purposes of the grant :

Provided that the grant may be of an amount less than that proportion in any case where it appears to the Secretary of State that the employment likely to be provided as a result of the expenditure so incurred and any associated expenditure does not justify a grant equal to the appropriate proportion.

(3) The appropriate proportion for this purpose is—

- (a) twenty-five per cent. of the relevant expenditure in the case of a building or extension in an intermediate area ; and

(b) thirty-five per cent. of the relevant expenditure in the case of a building or extension in a development area, plus, in either case, a further ten per cent. of the relevant expenditure, where it appears to the Secretary of State that the application for the grant is made for the purpose of setting up an undertaking in the area in circumstances which justify the giving of special assistance under this section.

(4) In this section, references to buildings include references to structures; and, for the purposes of this section, a building may be provided by the adaptation of an existing one, and a building or extension of a building by the purchase of a new one, that is to say, one not previously occupied.

(5) Where a building or extension of a building constructed with a view to being let to another person includes special features at the request of that person, and he is required to pay a capital sum in consideration thereof, this section shall have effect as if that sum were expenditure incurred by him in providing the building or extension.

(6) Where at any time a development area becomes an intermediate area, it shall be treated as if it were still a development area for the purpose of determining the amount of any grant to be made under this section on an application received by the Secretary of State before that time, or in respect of expenditure any part of which was incurred by the applicant under a contract entered into before that time; and where at any time an intermediate area becomes a development area, it shall be treated as if it were still an intermediate area for the purpose of determining the amount of a grant under this section in the following circumstances—

- (a) in the case of a grant in respect of the provision of a building or extension by purchase, if the contract to purchase was entered into before that time, or if before that time any work on providing the building or extension was done on the site with a view to occupation by the applicant for the grant or, if the applicant is a member of a group, by any other member of that group;
- (b) in the case of a grant made by virtue of subsection (5) of this section, if any work on including the special features in the building or extension was done before that time; and
- (c) in the case of any other grant, if any work on providing the building or extension was done on the site before that time by or on behalf of the applicant for the

grant or, if the applicant is a member of a group, by or on behalf of any other member of that group.

(7) For the purposes of subsection (6) of this section, a group consists of a body corporate together with all other bodies corporate which are its subsidiaries within the meaning of section 154 of the Companies Act 1948; and in that subsection references to development areas and intermediate areas include references to parts of development areas and intermediate areas. 1948 c. 38.

(8) In making a grant under this section the Secretary of State shall impose such conditions (which may include conditions for repayment in specified circumstances) as he thinks fit for securing that the building or extension will continue to serve the purpose mentioned in section 2(1) of this Act.

4.—(1) Where, in accordance with recommendations of the advisory committee, the Secretary of State is satisfied as respects any undertaking carried on, or proposed to be carried on, in a development area— **General power to make loans and grants and to acquire shares.**

(a) that it is expedient for the purpose mentioned in section 2(1) of this Act to exercise his powers under this section; and

(b) that there are good prospects of the undertaking ultimately being able to be carried on successfully without further assistance under this section,

the Secretary of State may agree with the person carrying on, or proposing to carry on, the undertaking to give assistance under this section for the purposes of the undertaking.

(2) Assistance under this section may be given—

(a) where the person carrying on, or proposing to carry on, the undertaking is a company incorporated in the United Kingdom—

(i) by making loans or grants;

(ii) by subscribing for or otherwise acquiring shares or stock in the company;

(iii) by a combination of the methods mentioned in sub-paragraphs (i) and (ii) of this paragraph;

(b) in any other case, by making loans or grants.

(3) A grant may be made under this section in respect of expenditure incurred outside a development area in connection with the transference of any undertaking to a development area.

(4) Assistance under this section shall be of such amounts and shall be given on such terms and conditions as may be recommended by the advisory committee and specified in the agree-

ment made with the person to whom the assistance is given ; and those terms and conditions may include—

- (a) in the case of a grant, conditions for repayment in specified circumstances ;
- (b) in the case of a loan to a company incorporated in the United Kingdom, terms providing for the indebtedness to the Secretary of State to be discharged by the issue of shares or stock in the company.

(5) In recommending the terms and conditions on which assistance under this section should be given, the advisory committee shall act in accordance with general directions given to them by the Secretary of State with the consent of the Treasury.

Provision
of premises
and sites.

5.—(1) For the purpose mentioned in section 2(1) of this Act the Secretary of State shall have power, in order to provide or facilitate the provision of premises in any development area or intermediate area for occupation by undertakings carried on or to be carried on there or for otherwise meeting the requirements of such undertakings (including requirements arising from the needs of persons employed or to be employed therein)—

- (a) to acquire land by agreement or, if so authorised, compulsorily ;
- (b) to erect buildings and carry out works on land belonging to the Secretary of State ;
- (c) by agreement with the persons interested in any other land, to erect buildings and carry out works on the land on such terms (including terms as to repayment of expenditure incurred by the Secretary of State) as may be specified in the agreement.

(2) The Secretary of State shall not acquire under this section any buildings other than industrial buildings except for redevelopment or as part of a larger property which in the opinion of the Secretary of State would be incomplete without them.

Removal and
resettlement
of workers.

6.—(1) Subsection (2) of this section shall have effect for assisting the transfer of persons from employment in an undertaking, wherever carried on, to employment in an undertaking (in this section referred to as “ the new undertaking ”) which is being established in a development area or intermediate area by way of extension of or in connection with, or by way of transfer of the whole or part of, the first-mentioned undertaking or which, having been so established, is being extended in the development area or intermediate area in question.

(2) If on an application in that behalf as respects any person the Secretary of State is satisfied that it is expedient for the purpose mentioned in section 2(1) of this Act to exercise his powers under this subsection, and that the exercise thereof will facilitate the establishment or extension of the new undertaking, he may for the purposes of section 5 of the Employment and Training Act 1948 (payments towards cost of removal and resettlement of workers and their dependants and towards their maintenance and welfare in the course of their removal pending their resettlement) treat—

- (a) the said person's becoming employed in the new undertaking as if it were the obtaining of employment; and
- (b) the said person's ceasing to be employed in the new undertaking as if it were the coming to an end of employment, notwithstanding that he ceases to be so employed in order that he may continue in employment elsewhere.

Powers for contributing to development of industry

7.—(1) Where it appears to the Minister in charge of any government department that adequate provision has not been made for the needs of any development area or intermediate area in respect of a basic service for which the department is responsible, and that it is expedient with a view to contributing to the development of industry in that area that the service should be improved, he may with the consent of the Treasury make grants or loans towards the cost of improving it to such persons and in such manner as appear to him appropriate.

Improvement
of basic
services.

(2) In this section "basic service" means the provision of facilities for transport (whether by road, rail, water or air) or of power, lighting, heating, water, or sewerage, and sewage disposal facilities, or any other service or facility on which the development of the area in question, and in particular of industrial undertakings therein, depends.

(3) The powers conferred by this section are in addition to any other powers of a Minister of the Crown to make grants or loans.

8.—(1) Where in the case of any land in a development area or intermediate area—

Derelict land.

- (a) it appears to the appropriate Minister that the land is derelict, neglected or unsightly; and
- (b) it appears to the Secretary of State for Trade and Industry that it is expedient with a view to contributing to the development of industry in that area that steps should be taken for the purpose of enabling the land (in

this section referred to as "the derelict land") to be brought into use or of improving its appearance,

the powers conferred by subsections (2) and (3) of this section shall be exercisable by the Secretary of State for Trade and Industry and the appropriate Minister respectively.

(2) The Secretary of State for Trade and Industry may acquire by agreement or, if so authorised, compulsorily the derelict land and any other land the acquisition of which is reasonably required for the purpose mentioned in subsection (1)(b) of this section, and carry out on the derelict land and any other land such work as appears to him expedient for that purpose.

(3) The appropriate Minister may with the consent of the Treasury make grants, in such manner as appears to him to be requisite for the purpose mentioned in subsection (1)(b) of this section, to the council of the county, county borough or county district in which the land in question is situated—

- (a) towards the cost of the exercise of any power of the council to acquire the derelict land or any other land ;
- (b) towards the cost of the carrying out by the council for that purpose of any work on the derelict land or on any other land.

(4) In this section—

"the appropriate Minister" means, as respects land in England, in Scotland or in Wales, the Secretary of State for the time being having general responsibility in planning matters in relation to those countries respectively ;

"land" includes land covered with water.

(5) In the application of subsection (3) of this section to Scotland for any reference to the council of the county, county borough or county district in which the land in question is situated there shall be substituted a reference to any local authority, as defined for the purposes of the Local Government (Scotland) Act 1947, within whose area the land in question is situated.

1947 c. 43.

(6) Where the Secretary of State for Trade and Industry is of opinion, with respect to any locality in Great Britain, that the economic situation in the locality is such that the exercise, in relation to land therein, of the powers conferred by the foregoing provisions of this section would be particularly appropriate with a view to contributing to the development of industry in the locality, he may by order specify it as a derelict land

clearance area, and those provisions shall have effect in relation to land in a derelict land clearance area as they have effect in relation to land in a development area or intermediate area.

(7) Section 1(4) of this Act shall apply, subject to the necessary modifications, to any order under subsection (6) of this section.

9.—(1) Where, in the case of land in an intermediate area or derelict land clearance area—

- (a) the council of the county, county borough or county district in which the land is situated have carried out work on the land for the purpose of enabling it to be brought into use or of improving its appearance; and
- (b) it appears to the appropriate Minister that, before the work was begun, the land was derelict, neglected or unsightly; and
- (c) it appears to the Secretary of State for Trade and Industry that bringing the land into use or improving its appearance has contributed or is likely to contribute to the development of industry in the area,

Grants for improvement work on derelict land begun before 5th March 1970.

then, provided that the work was begun on the land after 24th April 1969 and before 5th March 1970, the appropriate Minister may with the consent of the Treasury make grants to the council—

- (i) towards any cost incurred by the council in acquiring the land, and any other land acquired by the council for the purpose of enabling the first-mentioned land to be brought into use or of improving its appearance;
- (ii) towards the cost of the carrying out by the council for that purpose of any work on the first-mentioned land or on any other land.

(2) In this section “the appropriate Minister” and “land” have the same meanings as in section 8 of this Act, and subsection (5) of that section shall apply to subsection (1) of this section as it applies to subsection (3) of that section.

Industrial estates corporations

10.—(1) There shall continue to be three corporations (being the corporations established by section 8 of the Local Employment Act 1960) named the English Industrial Estates Corporation, the Scottish Industrial Estates Corporation and the Welsh Industrial Estates Corporation which shall be charged as respects England, Scotland and Wales respectively with the exercise of the functions conferred on them by the following provisions of this Act.

Constitution of the corporations. 1960 c. 18.

(2) Each of the corporations (in this Act referred to as an "industrial estates corporation") shall consist of a chairman and four other members appointed by the Secretary of State, and the members shall include a person appearing to the Secretary of State to have adequate experience of industrial matters, a person appearing to him to have adequate experience in the organisation of workers, and one or more persons appearing to him to have adequate experience in accountancy, building or estate management.

(3) The Secretary of State may by regulations make provision with respect to the appointment, tenure of office and removal of members of an industrial estates corporation, the manner of execution of instruments and of entering into contracts by it and on its behalf, and the proof of documents executed by it or on its behalf.

(4) The provisions of Schedule 1 to this Act shall have effect in relation to the industrial estates corporations.

Functions
of the
corporations.
1960 c. 18.

11.—(1) It shall be the duty of the industrial estates corporations to manage land leased to them under this Act by the Secretary of State or vested in them by the Local Employment Act 1960 (whether or not situated in a development area or intermediate area) and, in accordance with directions of the Secretary of State in that behalf, to do anything which is required—

- (a) in order to develop the land by the erection or extension of buildings and the carrying out of works ;
- (b) in order to provide (by letting or otherwise) premises for the occupation of undertakings or for otherwise meeting the requirements of undertakings (including requirements arising from the needs of persons employed or to be employed therein) ; or
- (c) in order to provide means of access, services or other facilities for meeting those requirements.

(2) The power of the corporations to provide services or other facilities for meeting the requirements of any undertaking shall be exercisable whether or not the undertaking is carried on on land leased from the corporations.

(3) A direction may be given under subsection (1) of this section that a corporation shall not provide services or facilities except with the consent of, and in such manner as may be determined by, the Secretary of State ; but this subsection shall not apply to the provision of heat, light, power or water, or the disposal of sewage and refuse, for meeting the requirements of an undertaking carried on on land leased from the corporation.

(4) Each of the corporations shall have power to provide, or assist in the provision of, advisory services in relation to the building of factories or the development or management of industrial estates, but shall not exercise that power except with the consent of, and in such manner as may be determined by, the Secretary of State.

(5) If it appears to the Secretary of State that an undertaking is to be set up in a development area or intermediate area in circumstances which justify the giving of special assistance, the Secretary of State may authorise any of the corporations to provide premises for the occupation of the undertaking free of rent for such period as the Secretary of State thinks appropriate.

(6) Where the Secretary of State is disposing of his interest in any land of which an industrial estates corporation is a tenant, the corporation shall comply with any direction of the Secretary of State as to the assignment or surrender of the corporation's interest.

(7) Without prejudice to the foregoing provisions of this section, the Secretary of State may give general directions to an industrial estates corporation as to the exercise of its functions, and in particular as to the location of head or branch offices of the corporation.

(8) All receipts of an industrial estates corporation other than—

- (a) receipts determined by the corporation in accordance with any directions of the Secretary of State to be required to be retained for meeting expenses properly payable out of income ; and
- (b) receipts of the Scottish Industrial Estates Corporation on behalf of the Highlands and Islands Development Board when acting as agent for that Board under section 5(5) of the Highlands and Islands Development 1965 c. 46. (Scotland) Act 1965,

shall be paid over to the Secretary of State.

(9) The expenses of an industrial estates corporation incurred in the exercise of its functions under the foregoing provisions of this section shall, except in so far as they are met out of receipts of the corporation, be defrayed by the Secretary of State.

(10) Without prejudice to section 5(5) of the said Act of 1965, an industrial estates corporation may act as agent—

- (a) for the Secretary of State, or for any other industrial estates corporation, in the carrying out of any functions of the Secretary of State or corporation under **this Act ;**

1909 c. 47.

- (b) for the Development Commissioners in the carrying out of the functions of the Commissioners in relation to applications for advances under Part I of the Development and Road Improvement Funds Act 1909 and in relation to the framing of schemes with respect to any of the matters for which such advances may be made ; or
- (c) for the Secretary of State in the execution of any work in respect of which such an advance as aforesaid is made to the Secretary of State.

Accounts and reports of the corporations.

12.—(1) An industrial estates corporation shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year of the corporation a statement of accounts in such form as the Secretary of State, with the consent of the Treasury, may direct, being a form conforming with the best commercial standards.

(2) The accounts of an industrial estates corporation shall be audited by auditors to be appointed annually by the Secretary of State.

(3) No person shall be qualified to be appointed under subsection (2) of this section 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 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 by the Secretary of State for the purposes of section 161(1)(a) of the Companies Act 1948.

1948 c. 38.

(4) So soon as the accounts of an industrial estates corporation for any financial year have been audited, the corporation shall send to the Secretary of State a report on the discharge of its functions during that year and that report shall include a copy of the statement of accounts for that year together with a copy of any report made by the auditors on the accounts.

Miscellaneous powers

Powers in relation to Secretary of State's land.
1960 c. 18.

13.—(1) Where land acquired by the Secretary of State under this Act, or vested in him in consequence of Part I of the Local Employment Act 1960, is situated in a locality which is not a development area or intermediate area, the Secretary

of State may exercise in relation to the land the following powers, that is to say—

- (a) power to preserve and maintain the land and any buildings or works on it, and to erect buildings and carry out works on it ;
- (b) where there are buildings on the land, power to acquire by agreement other land contiguous or adjacent to it for the purpose of erecting thereon extensions to those buildings or of erecting thereon other buildings to be used with the first-mentioned buildings as part of a single undertaking ;
- (c) power to provide means of access, services and other facilities for meeting the requirements of undertakings carried on or to be carried on on the land (including requirements arising from the needs of persons employed or to be employed therein).

(2) The Secretary of State may modernise, adapt or reconstruct any buildings or other works on land acquired by him under this Act, or vested in him in consequence of Part I of the Local Employment Act 1960, and, where the execution of that work will interrupt the use of the buildings or works by any undertaking, acquire other land by agreement, and erect buildings and carry out works on that other land, or on land previously acquired by or vested in the Secretary of State as aforesaid, for the purpose of providing premises for the occupation of that undertaking or of otherwise meeting its requirements. 1960 c. 18.

(3) The foregoing provisions of this section shall not apply to land acquired by the Secretary of State under section 8 of this Act so far as applicable to derelict land clearance areas, but where land so acquired is situated in a locality which is not a derelict land clearance area the Secretary of State shall have power, so long as he owns the land, to carry out thereon such work as appears to him expedient for the purpose of enabling so much of the land as appears to him to be derelict, neglected or unsightly to be brought into use or of improving its appearance, with a view to contributing to the development of industry in the locality in which it is situated.

14.—(1) Where at any time a locality ceases to be a development area, intermediate area or derelict land clearance area, the fact that it is no longer such an area shall not prejudice— Powers where locality ceases to be development area, intermediate area or derelict land clearance area.

- (a) the completion by the Secretary of State of buildings or works begun before that time in the locality under section 5 or 8 of this Act, or the exercise by the Secretary of State in relation to land in that locality of his powers under either of those sections so far as may be

necessary for the purpose of fulfilling any agreement entered into by the Secretary of State before that time ;

- (b) the making under this Act of any grant or loan or the giving of assistance under section 4 of this Act in any case in which an application for the grant, loan or assistance was received by the Secretary of State (or the appropriate Minister for the purpose of section 8) before that time ; or
- (c) the continued operation of any agreement relating to any such grant, loan or assistance as is mentioned in paragraph (b) of this section or of any other agreement relating to grants or loans entered into under this Act.

(2) In subsection (1) of this section " grant " does not include a grant under section 3 of this Act but where at any time a development area ceases to be such without becoming an intermediate area, or an intermediate area ceases to be such without becoming a development area, it shall be treated as continuing to be a development area or, as the case may be, intermediate area—

- (a) for the purpose of enabling grants to be made under that section on applications received by the Secretary of State before that time, or in respect of expenditure any part of which was incurred by the applicant under a contract entered into before that time ; and
- (b) for the purpose of the continued operation of any agreement relating to any grant under that section.

In this subsection, references to development areas and intermediate areas include references to parts of development areas and intermediate areas.

Additional powers for safeguarding loans.

15.—(1) Where in the case of any undertaking a loan has been made under this Act and the Secretary of State is satisfied, in accordance with recommendations of the advisory committee, that with a view to enabling all or part of the moneys lent to be recovered it is expedient to provide further financial assistance for the purposes of the undertaking, the Secretary of State may provide such further assistance of such amount and on such terms and conditions as may be recommended by the committee.

(2) Section 4(5) of this Act shall apply in relation to recommendations under this section.

Supplementary provisions

Compulsory purchase.
1946 c. 49.
1947 c. 42.

16.—(1) Section 1 of the Acquisition of Land (Authorisation Procedure) Act 1946 and section 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (procedure for compulsory purchase by local authorities and certain Ministers)

shall apply in relation to the compulsory purchase of land by the Secretary of State under this Act.

(2) Notwithstanding anything in this Act, where at the time of publication in accordance with the provisions of the said Act of 1946 or the said Act of 1947 of notice of the preparation of a draft of a compulsory purchase order—

(a) land is in use for the purposes of any undertaking ; and

(b) that undertaking provides employment which is substantial having regard to the extent of the land used for its purposes and the nature of the undertaking,

the Secretary of State shall not be authorised to acquire compulsorily the interest of the person carrying on the undertaking.

(3) Any person duly authorised in writing by the Secretary of State may, at any reasonable time, enter any land for the purpose of surveying it in connection with the exercise of the Secretary of State's powers under this Act to acquire land ; and—

(a) subsection (9) of section 280 and subsections (1) to (4) and (6) of section 281 of the Town and Country Planning Act 1971 c. 78. ; and

(b) subsections (4) to (7) and (9) of section 99 of the Town and Country Planning (Scotland) Act 1947,

(which provide for the giving of notice and the production of authority to enter, for cases of obstruction, for safeguarding information as to manufacturing processes and trade secrets, for compensation for damage and for defining powers of survey) shall apply in relation to this subsection as they apply in relation to the said section 280 and the said section 99 respectively.

17.—(1) In the light of the statements furnished to him under section 12(4) of this Act, the Secretary of State shall prepare a statement of accounts, in such form as the Treasury may direct, showing the financial results for each financial year as respects—

(a) the activities of the Secretary of State in the execution of this Act, other than activities in respect of grants ; and

(b) the activities of all the industrial estates corporations.

(2) The Secretary of State shall on or before 30th November in each year transmit to the Comptroller and Auditor General the statement of accounts prepared by the Secretary of State for the financial year last ended for examination and certification by him ; and copies of every statement of accounts of the Secretary of State, together with the report of the Comptroller and Auditor General thereon, shall be laid by the Secretary of State before Parliament.

1947 c. 43. (3) As soon as may be after 31st March in each year the Secretary of State shall prepare a report on the discharge of his functions under this Act and under section 12(4) of the Town and Country Planning (Scotland) Act 1947 and section 67(1) of the Town and Country Planning Act 1971 and shall lay the report before Parliament.

1971 c. 78.

Orders and regulations.

18.—(1) Any power conferred by this Act to make orders includes power to vary or revoke any order previously made in the exercise of that power.

(2) Any power conferred by this Act to make orders or regulations shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Transitional provisions.

19. The provisions of Schedule 2 to this Act shall have effect in relation to the matters there dealt with and, in so far as they relate to section 3 of this Act, that section shall have effect subject to those provisions.

Expenses and receipts.

20. Any expenses incurred by any Minister under this Act shall be defrayed out of moneys provided by Parliament, and any receipts of any Minister under this Act shall be paid into the Consolidated Fund.

Interpretation.

21.—(1) In this Act—

“the advisory committee” means the committee mentioned in section 2(3) of this Act;

“derelict land clearance area” means an area specified as such by an order under section 8(6) of this Act;

“development area” means, subject to subsection (5) of section 1 of this Act, an area specified as such by an order under that section;

“financial year” means the period of twelve months beginning with 1st April;

“industrial building”, as respects England and Wales, has the meaning assigned to it by section 66 of the Town and Country Planning Act 1971 and, as respects Scotland, has the meaning assigned to it by section 21 of the Local Employment Act 1960 and section 25 of the Industrial Development Act 1966;

“industrial estates corporation” has the meaning assigned to it by section 10(2) of this Act;

“intermediate area” means, subject to subsection (7) of section 1 of this Act, an area specified as such by an order under that section;

1960 c. 18.

1966 c. 34.

“undertaking” means any trade or business, or any other activity providing employment.

(2) For the purposes of this Act Monmouthshire shall be deemed to be part of Wales.

(3) Except where the context otherwise requires, in this Act any reference to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by any other enactment.

22.—(1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments there specified.

Consequential amendments, repeals and savings.

(2) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The repeal by this Act of any enactment shall not affect the validity of any order, regulations, determination, appointment, consent, approval, direction, recommendation, agreement, application or any other thing made, given or done under that enactment, but any such thing shall be deemed for the purposes of this Act to have been made, given or done under the corresponding provision of this Act; and anything begun under any such enactment may be continued under the corresponding provision of this Act.

(4) Without prejudice to subsection (1) of this section, any reference in any document to an enactment repealed by this Act shall, except where the context otherwise requires, be construed as, or as including, a reference to this Act or the corresponding provision of this Act.

(5) Nothing in this section shall be construed as affecting the general application of section 38 of the Interpretation Act 1889 c. 63. 1889 with respect to the effect of repeals.

23.—(1) This Act may be cited as the Local Employment Act 1972.

Short title, commencement and extent.

(2) This Act shall come into force at the expiration of the period of one month beginning with the day on which it is passed.

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

Section 10.

SCHEDULES

SCHEDULE 1

INDUSTRIAL ESTATES CORPORATIONS

Incorporation

1. Each corporation shall be a body corporate with perpetual succession and a common seal.

Members

2. Each corporation—

(a) shall pay to each of its members, in respect of his office as such, such remuneration (whether by way of salary or fees) and such allowances as the Secretary of State may with the approval of the Minister for the Civil Service determine in the case of that member; and

(b) in the case of any such member as the Secretary of State may with the approval of the Minister for the Civil Service determine, shall pay such pension or make such payments towards the provision of pensions to or in respect of him as the Secretary of State may with the approval of the Minister for the Civil Service determine.

3. The Secretary of State shall lay before each House of Parliament a statement of the remuneration and allowances that are or will be payable to members of the corporations under paragraph 2 of this Schedule; and, if any subsequent determination by the Secretary of State under that paragraph involves any departure from the terms of the said statement or if a determination by the Secretary of State under that paragraph relates to the payment of, or to payments towards the provision of, a pension to or in respect of any member of any of the corporations, the Secretary of State shall, as soon as possible after the determination, lay a statement thereof before each House of Parliament.

Staff

4. Each corporation may, subject to any limit of numbers which may be determined by the Secretary of State, employ such officers and servants as appear to the corporation expedient for the exercise of its functions.

5. Each corporation shall—

(a) pay to its officers and servants such remuneration as the corporation may, subject to any directions of the Secretary of State, determine; and

(b) as regards any officer or servant in whose case it may be determined by the corporation with the approval of the Secretary of State so to do, pay to or in respect of him such pension, or provide and maintain for him such pension scheme (whether contributory or not), as may be so determined.

6. Where any officer or servant of any of the corporations, being a participant in any pension scheme applicable to his office or employment, becomes a member of the corporation, he may be treated for the purposes of the pension scheme as if his service as a member of the corporation were service as an officer or servant of the corporation, and his rights under the scheme shall not be affected by any provision of this Act which requires that the pensions to be paid, or payments towards the provision of pensions to be made, in the case of members of any of the corporations shall be determined by the Secretary of State with the approval of the Minister for the Civil Service.

SCH. 1

Proceedings

7. The procedure of each corporation (including quorum) shall be such as the corporation may determine.

8. No act of any of the corporations shall be invalid by reason only of any vacancy among the members or any defect in the appointment of a member.

Interpretation

9. In this Schedule "pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions, with or without interest thereon or any other addition thereto.

SCHEDULE 2

Section 19.

TRANSITIONAL PROVISIONS

PART I

PROVISIONS RELATING TO COMING INTO FORCE OF LOCAL EMPLOYMENT ACT 1960

1960 c. 18

Pension schemes of industrial estates companies

1.—(1) The following provisions of this paragraph shall have effect as respects any pension, superannuation or life-assurance scheme or fund in force on 1st April 1960 for the benefit of persons in the employment or former employment of any of the following companies, that is to say—

North Eastern Trading Estates Limited

Wales and Monmouthshire Industrial Estates Limited

The West Cumberland Industrial Development Company Limited

Scottish Industrial Estates Limited

North Western Industrial Estates Limited.

(2) Anything authorised or required to be done for the purposes of the scheme or fund on or after 1st April 1960 which, apart from this paragraph, would fall to be done by, with or to the company or its directors shall be treated as falling to be done by, with or

SCH. 2 to the industrial estates corporation acting for the part of Great Britain in which the company exercised its functions.

(3) For the purposes of the scheme or fund, employment on or after 1st April 1960 by the said corporation shall be treated as equivalent to employment by the company, and employment on or after that date by the company shall be disregarded.

(4) Any requirement to do anything for the said purposes at the registered office of the company shall be treated, in relation to things falling to be done on or after 1st April 1960, as a requirement to do that thing at the head office of the said industrial estates corporation.

(5) References in any deed, rules or other document to the company shall be construed as, or as including, references to the said industrial estates corporation as may be required for giving effect to, or in consequence of, the foregoing provisions of this paragraph.

Land acquired under Distribution of Industry Acts 1945 to 1958

1960 c. 18.

2. The Secretary of State shall have the like powers under this Act in relation to land acquired by the Board of Trade under, or vested in the Board by, the Distribution of Industry Acts 1945 to 1958 as he has in relation to land acquired by him under this Act or vested in him in consequence of the Local Employment Act 1960.

Loans and grants under Distribution of Industry Acts 1945 to 1958

1945 c. 36.

1958 c. 41.

3.—(1) In section 15(1) of this Act the reference to any loan made under this Act shall include a reference to any loan made under section 4 of the Distribution of Industry Act 1945 or that section as extended by the Distribution of Industry (Industrial Finance) Act 1958.

(2) The continued operation of any agreement relating to loans or grants entered into under the Distribution of Industry Acts 1945 to 1958 shall not be affected by the repeal of those Acts, but, in the case of any agreement to make loans or grants entered into by the Treasury under the provisions mentioned in sub-paragraph (1) of this paragraph, the Secretary of State shall be substituted for the Treasury.

(3) Where before 1st April 1960 a Minister of the Crown has paid any instalment of a grant under section 3 of the said Act of 1945, the repeal of the said section 3 by section 28 of the Local Employment Act 1960 shall be without prejudice to the payment by him of further instalments of the grant in pursuance of arrangements made by him before that date.

1950 c. 8.

(4) Where the Board of Trade have agreed to make to any housing association grants under section 3(2) of the Distribution of Industry Act 1950 to further the provision of any dwellings, the repeal of the said Act of 1950 by section 28 of the Local Employment Act 1960 shall be without prejudice to the continued payment of the grant in respect of such of the dwellings as have been provided before 1st April 1960.

(5) In the application of this paragraph to Scotland the following provision shall have effect for the purposes of sub-paragraph (2), that is to say, where any agreement in which the Secretary of State is by virtue of that sub-paragraph substituted for the Treasury provides that the person to whom the loan or grant is made shall, if required to do so, grant such security as may be specified in the agreement in favour of the Solicitor for the affairs of Her Majesty's Treasury, but the person has not before the commencement of this Act been so required, the Secretary of State shall be substituted for the said Solicitor.

SCH. 2

PART II

PROVISIONS RELATING TO COMING INTO FORCE OF
PART II OF INDUSTRIAL DEVELOPMENT ACT 1966

1966 c. 34.

Development districts which did not become development areas

4.—(1) This paragraph applies to any locality which was a development district within the meaning of the Local Employment Act 1960, or was by virtue of section 1(4) of that Act treated as if it formed part of such a district, immediately before 19th August 1966 and did not on that date become a development area. 1960 c. 18

(2) The Secretary of State may complete under section 5 of this Act, buildings or works in the locality begun by the Board of Trade before that date under section 2 of the said Act of 1960 and may exercise, in relation to land in that locality, his powers under the said section 5 so far as may be necessary for the purpose of fulfilling any agreement entered into by the Board before that date.

(3) Any Minister may make a grant or loan under any provision of this Act as if the locality were a development area in any case in which an application for a grant or loan under the corresponding provision of the said Act of 1960 was received by the Board of Trade or the Minister concerned before 19th August 1966.

(4) The fact that any locality which was, or was treated as forming part of, a development district immediately before 19th August 1966 did not on that date become a development area shall not prejudice the continued operation of any agreement relating to grants or loans entered into under the said Act of 1960.

Re-naming of industrial estates corporations

5. In any enactment or instrument passed or made before 19th August 1966, for any reference to an industrial estates corporation by its original name (that is, the name given to it by section 8 of the Local Employment Act 1960) there shall be substituted a reference to that corporation by the new name given to it by section 19(1) of the Industrial Development Act 1966 (that is, 1966 c. 34. the appropriate name specified in section 10(1) of this Act).

SCH. 2

PART III

1970 c. 7.

PROVISIONS RELATING TO COMING INTO FORCE OF LOCAL
EMPLOYMENT ACT 1970

6. No grant shall be made under section 3 of this Act towards expenditure incurred in providing a building or extension in an intermediate area in a case where any work on providing that building or extension (being work undertaken by or on behalf of the applicant) was done on the site before 25th June 1969; nor, where any work on providing a building or extension intended for occupation by an undertaking was so done, shall a grant be made under that section, so far as applicable to intermediate areas, in respect of a purchase of that building or extension for occupation by that undertaking.

PART IV

1971 c. 51.

PROVISIONS RELATING TO COMING INTO FORCE OF INVESTMENT
AND BUILDING GRANTS ACT 1971*Building grants where contract or work was before
27th October 1970*

7.—(1) In the following circumstances the percentage in section 3(3)(b) of this Act shall be twenty-five per cent. instead of thirty-five per cent.—

- (a) in the case of a grant in respect of the provision of a building or extension by purchase, if the contract to purchase was entered into before 27th October 1970, or if before that date any work on providing the building or extension was done on the site with a view to occupation by the applicant for the grant or, if the applicant is a member of a group, by any other member of that group;
- (b) in the case of a grant made by virtue of section 3(5) of this Act, if any work on including the special features in the building or extension was done before the said 27th October; and
- (c) in the case of any other grant, if any work on providing the building or extension was done on the site before the said 27th October by or on behalf of the applicant for the grant or, if the applicant is a member of a group, by or on behalf of any other member of that group:

Provided that the Secretary of State may determine that paragraph (c) above shall not have effect in any case the special circumstances of which appear to him to justify such a determination.

(2) In this paragraph "group" has the meaning given in section 3(7) of this Act.

Building grants offered or made before 27th July 1971

SCH. 2

8.—(1) The provisions of this Act relating to building grants shall not affect any grant under section 3 of the Local Employment Act 1960 c. 18. 1960 offered or made before 27th July 1971; and that section, section 2 of the Local Employment Act 1963 and sections 17 and 21(4) of the Industrial Development Act 1966 shall continue to have effect in relation to any such grant as they had effect immediately before their repeal by this Act or, as the case may be, the Investment and Building Grants Act 1971. 1963 c. 19. 1966 c. 34. 1971 c. 51.

(2) In the case of any such grant as aforesaid in respect of expenditure incurred in relation to a development area, the Secretary of State may, if he thinks fit, re-determine the amount of the grant as if, in relation to the expenditure in question or that expenditure so far as relating to any particular building or extension—

(a) section 2(1) of the said Act of 1963 had prescribed a rate of thirty-five per cent. instead of a rate of twenty-five per cent.; and

(b) section 17(1) of the said Act of 1966 had substituted a rate of forty-five per cent. in the circumstances there mentioned;

and may make such revised offer or, as the case may require, additional payment under the said section 3 as is consequential on the re-determination.

PART V

OTHER PROVISIONS

9. Any document executed before 23rd October 1969 by the Board of Trade in connection with the exercise of their powers under section 4 of the Local Employment Act 1960 as extended by section 18 of the Industrial Development Act 1966 shall be deemed to have been validly executed if executed by the President of the Board, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President.

10. As respects any time before the coming into force of the Town and Country Planning Act 1971 this Act shall have effect as if—

(a) in section 16(3) for the reference to the provisions of that Act there were substituted a reference to section 211(6) and 212(1) to (4) and (6) of the Town and Country Planning Act 1962;

(b) in section 17(3) for the reference to section 67(1) of the said Act of 1971 there were substituted a reference to section 38(1) of the said Act of 1962; and

(c) in section 21(1), in the definition of “industrial building”, the words from “as respects England” to “Scotland” were omitted.

B

Section 22(1).

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS

1954 c. 56.

THE LANDLORD AND TENANT ACT 1954

1970 c. 7.

In subsection (1) of section 60 of the Landlord and Tenant Act 1954, as amended by the Schedule to the Local Employment Act 1970—

- (a) for the words “section 15(6) of the Industrial Development Act 1966” there shall be substituted the words “section 1(5) of the Local Employment Act 1972”;
- (b) for the words “section 1(5) of the Local Employment Act 1970” there shall be substituted the words “section 1(7) of that Act”;
- (c) for the words “the purposes for which the powers conferred by Part I of the Local Employment Act 1960 are exercisable under section 1(1) of that Act” there shall be substituted the words “the purpose mentioned in section 2(1) of the said Act of 1972”;

In subsection (3) of the said section 60, added by the Schedule to the Local Employment Act 1970—

- (a) for the words “under section 15 of the Industrial Development Act 1966” there shall be substituted the words “by an order made or having effect under section 1 of the Local Employment Act 1972”;
- (b) for the words “under section 1 of the Local Employment Act 1970” there shall be substituted the words “by an order made or having effect under that section”.

THE LOCAL EMPLOYMENT ACT 1960

1960 c. 18.

At the end of section 17 of the Local Employment Act 1960 there shall be added the following subsection—

“(2) In this section “development areas” means the areas specified as such by orders made or having effect under section 1 of the Local Employment Act 1972 and any locality treated by virtue of subsection (5) of that section as included in a development area”.

In section 22(1) of the said Act of 1960 for the words “section two, five or fourteen of this Act” there shall be substituted the words “section 5, 8, 13(1) or 14 of the Local Employment Act 1972.”

THE TOWN AND COUNTRY PLANNING ACT 1962

1962 c. 38.

1966 c. 34.

In section 38(6) of the Town and Country Planning Act 1962, as amended by section 26 of the Industrial Development Act 1966, for the words from “development area” onwards there shall be substituted the words “‘development areas’ means the areas specified as such by orders made or having effect under section 1 of the Local Employment Act 1972 and any locality treated by virtue of subsection (5) of that section as included in a development area.”

In section 79(8) of the said Act of 1962 for the words "section two, section five or section fourteen of the Local Employment Act 1960" there shall be substituted the words "section 5, 8, 13(1) or 14 of the Local Employment Act 1972".

SCH. 3

THE HIGHLANDS AND ISLANDS DEVELOPMENT (SCOTLAND) ACT 1965 1965 c. 46.

In section 13(6) of the Highlands and Islands Development (Scotland) Act 1965 for the words "section 10 of the Local Employment Act 1960 (which relates to accounts of Management Corporations)" there shall be substituted the words "section 12 of the Local Employment Act 1972 (which relates to the accounts of the industrial estates corporations)".

THE BUILDING CONTROL ACT 1966 1966 c. 27.

In section 4(5) of the Building Control Act 1966, as substituted by Schedule 3 to the Industrial Development Act 1966, for the words "under section 15 of the Industrial Development Act 1966" there shall be substituted the words "by an order made or having effect under section 1 of the Local Employment Act 1972".

THE INDUSTRIAL DEVELOPMENT ACT 1966 1966 c. 34.

In paragraph 5(1) of Schedule 1 to the Industrial Development Act 1966—

- (a) for the words "under Part II of this Act" there shall be substituted the words "by an order made or having effect under section 1 of the Local Employment Act 1972";
- (b) for the words "the said Part II" there shall be substituted the words "the said Act of 1972".

THE FINANCE ACT 1967 1967 c. 54.

In section 26(6)(a) of the Finance Act 1967 for the words "under section 15(2) of the Industrial Development Act 1966" and "section 15(6) of that Act" there shall be substituted respectively the words "by an order made or having effect under section 1 of the Local Employment Act 1972" and "section 1(5) of that Act".

THE DEVELOPMENT OF TOURISM ACT 1969 1969 c. 51.

In section 11(3) of the Development of Tourism Act 1969 for the words "under subsection (2) of section 15 of the Industrial Development Act 1966" and "subsection (6) of that section" there shall be substituted respectively the words "by an order made or having effect under section 1 of the Local Employment Act 1972" and "subsection (5) of that section".

THE FINANCE ACT 1970 1970 c. 24.

For subsection (3) of section 15 of the Finance Act 1970 there shall be substituted the following subsection—

"(3) For the purposes of subsection (2) above "development area" and "intermediate area" have the same meaning as in the Local Employment Act 1972."

SCH. 3

THE FINANCE ACT 1971

1971 c. 68.

In sections 42(6) and 52(1) of the Finance Act 1971 for the words "Part I of the Local Employment Act 1960" there shall be substituted the words "the Local Employment Act 1972".

1971 c. 76.

THE HOUSING ACT 1971

In section 1(4) of the Housing Act 1971—

- (a) for the words "under section 15(2) of the Industrial Development Act 1966" and "section 15(6) of that Act" there shall be substituted respectively the words "by an order made or having effect under section 1 of the Local Employment Act 1972" and "subsection (5) of that section";
- (b) for the words "under section 1 of the Local Employment Act 1970" and "subsection (5) of that section" there shall be substituted respectively the words "by an order made or having effect under section 1 of that Act" and "subsection (7) of that section".

1971 c. 78.

THE TOWN AND COUNTRY PLANNING ACT 1971

In section 67(7) of the Town and Country Planning Act 1971 for the definition of "development area" there shall be substituted "development area" means any area specified as such by an order made or having effect under section 1 of the Local Employment Act 1972 and any locality treated by virtue of subsection (5) of that section as included in a development area."

In section 124(8) of the Town and Country Planning Act 1971 the words "in section 2 or 14 of the Local Employment Act 1960" shall be omitted and for the words "section 20 or 21(4) of the Industrial Development Act 1966" there shall be substituted the words "section 5, 8, 13(1) or 14 of the Local Employment Act 1972".

Section 22(2).

SCHEDULE 4

REPEALS

Chapter	Short Title	Extent of Repeal
8 & 9 Eliz. 2. c. 18.	The Local Employment Act 1960.	Section 1(1) and (5). Section 2. Section 3. Section 4. Sections 6 to 10. Section 12(1) and (6). Section 13. Section 14(2) and (3). Section 15. Section 23. Section 27. Section 28(1) to (4) and (6) to (8). Schedules 1, 2 and 3.

SCH. 4

Chapter	Short Title	Extent of Repeal
1965 c. 46.	The Highlands and Islands Development (Scotland) Act 1965.	Section 5(5)(b).
1966 c. 34.	The Industrial Development Act 1966.	Section 15. Sections 18 and 19. Section 20(1) to (5). Section 21(1) to (4) and, in subsection (5), the words from the beginning to "effect, and". Section 31(2). In Schedule 3, in Part II, the entries relating to the Local Employment Act 1960 except that relating to section 17.
1968 c. 14.	The Public Expenditure and Receipts Act 1968.	Section 6.
1970 c. 7.	The Local Employment Act 1970.	Sections 1 to 4. Section 6. Section 8(1). Section 9(2) and (4). The Schedule except as respects section 60 of the Landlord and Tenant Act 1954.
1971 c. 51.	The Investment and Building Grants Act 1971.	Section 2. In section 3 the words from "and section 2" onwards.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 23 the entry relating to the Local Employment Act 1960.



Summer Time Act 1972

1972 CHAPTER 6

An Act to consolidate the enactments relating to summer time. [10th February 1972]

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:—

Advance of time during period of summer time.

1.—(1) Subject to section 2 below, the time for general purposes in Great Britain shall, during the period of summer time, be one hour in advance of Greenwich mean time.

(2) Subject to section 2 below, the period of summer time for the purposes of this Act is the period beginning at two o'clock, Greenwich mean time, in the morning of the day after the third Saturday in March or, if that day is Easter Day, the day after the second Saturday in March, and ending at two o'clock, Greenwich mean time, in the morning of the day after the fourth Saturday in October.

Extension of period, and double summer time.

2.—(1) In relation to any year Her Majesty may by Order in Council direct—

(a) that the period of summer time for the purposes of this Act shall be such period as may be specified in the Order instead of the period specified in section 1 above;

(b) that the time for general purposes in Great Britain shall, during any part of the period of summer time, be two hours instead of one hour in advance of Greenwich mean time.

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

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

3.—(1) Subject to subsection (2) below, wherever any reference to a point of time occurs in any enactment, Order in Council, order, regulation, rule, byelaw, deed, notice or other document whatsoever, the time referred to shall, during the period of summer time, be taken to be the time as fixed for general purposes by or under this Act. Interpretation of references.

(2) Nothing in this Act shall affect the use of Greenwich mean time for purposes of astronomy, meteorology, or navigation, or affect the construction of any document mentioning or referring to a point of time in connection with any of those purposes.

4.—(1) This Act shall apply to Northern Ireland in like manner as it applies to Great Britain. Northern Ireland.

(2) For the purposes of section 6 of the Government of Ireland Act 1920 this Act in its application to Northern Ireland shall be deemed to be an Act passed before the appointed day. 1920 c. 67.

5.—(1) Unless other provision is made by a law of the States of Jersey or of Guernsey or by an Act of Tynwald, as the case may be, this Act shall, subject to subsection (2) below, apply to the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man in like manner as it applies to Great Britain. Channel Islands and Isle of Man.

(2) An Order in Council made under section 2 above may make different provision with respect to Great Britain and with respect to the Channel Islands and the Isle of Man or any of them.

6.—(1) This Act may be cited as the Summer Time Act 1972. Short title, commencement, repeals and saving.

(2) This Act shall come into force at the expiration of the period of one month beginning with the date on which it is passed.

(3) The Summer Time Acts 1922 to 1947 and the British Standard Time Act 1968 are hereby repealed (but the repeal of the British Standard Time Act 1968 does not affect the operation of the enactments revived by Schedule 1 to that Act and not repealed by this Act, that is to say the Statutes (Definition of Time) Act 1880, the Time (Ireland) Act 1916, the Time Act (Northern Ireland) 1924 and section 39(1) of the Interpretation Act (Northern Ireland) 1954). 1968 c. 45.
1880 c. 9
(43 & 44 Vict.).
1916 c. 45.
1924 c. 24

(4) Nothing in this Act affects the Manx Time Act 1968 (which is an Act of Tynwald providing that the time for general purposes in the Isle of Man shall be the same as in Great Britain). (N.I.).
1954 c. 33
(N.I.).



Civil List Act 1972

1972 CHAPTER 7

An Act to make further provision for the honour and dignity of the Crown and the Royal Family, and for the payment of certain allowances and pensions.

[24th February 1972]

Most Gracious Sovereign,

WHEREAS Your Majesty has been graciously pleased to signify to Your faithful Commons in Parliament assembled that Your Majesty is desirous that consideration should be given to the provision for Your Majesty's Civil List made by Parliament in the first year of Your Majesty's reign, the provision then made for His Royal Highness the Duke of Edinburgh and other members of Your Family, and the provision made in the first year of Your Majesty's father's reign for Her Majesty Queen Elizabeth the Queen Mother, and for His Royal Highness the Duke of Gloucester; and that provision should be now made for Her Royal Highness the Duchess of Gloucester and any future wife of a younger son of Your Majesty in the event of any of them surviving her husband:

And Whereas Your Majesty has further been graciously pleased to signify that Your Majesty is content to forgo the provision made by Parliament for Your Majesty's Privy Purse:

Now, therefore, we, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, have freely and voluntarily resolved to make such provision as hereinafter appears for the purposes aforesaid, and we do 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.—(1) There shall, during the present reign and a period of six months afterwards, be paid for the Queen's Civil List the yearly sum of £980,000. Annual payment for the Queen's Civil List.

(2) The said yearly sum may be increased in accordance with the following provisions of this Act.

(3) The yearly sum payable for the Queen's Civil List shall be appropriated to the services and purposes set out below, that is—

Salaries and expenses of Her Majesty's Household, and royal bounty, alms and special services;

and expenditure for those services and purposes is in this Act referred to as "Civil List expenditure".

(4) If, as respects any calendar year, the sum payable for the Queen's Civil List exceeds the audited Civil List expenditure, an amount equal to the excess shall be paid to the Royal Trustees out of the appropriation to Civil List expenditure, to be accumulated by them and applied in accordance with the provisions of this section.

(5) If, before the Civil List expenditure for any year has been audited, it appears to the Treasury that a payment will fall to be made under subsection (4) of this section for the year, the Treasury may make a payment before the audit, and such adjustment shall be made after the audit as may in the circumstances of the case appear to the Treasury to be required.

(6) If, as respects any calendar year, the sum payable for the Queen's Civil List is less than the audited Civil List expenditure, the Royal Trustees shall make good the deficiency by applying money available by virtue of subsections (4) and (5) of this section, or by virtue of section 3(4) of this Act.

(7) The Royal Trustees may at the request of the Treasury make out of money so available advances towards meeting Civil List expenditure before that expenditure has been audited, and where advances have been so made such adjustment shall be made after the audit as may in the circumstances of the case appear to the Treasury to be required.

(8) Any money so available which is not applied in accordance with this section shall be dealt with after the end of the present reign in such manner as Parliament may hereafter determine.

(9) In subsections (2) and (3) of section 2 of the Civil List Act 1952 c. 37. (reductions in payments for the Queen's Civil List in any period during which the Duke of Cornwall for the time being is a minor, or during which the Duchy of Cornwall is vested in Her Majesty) for references to the sum payable under subsection (1) of that section there shall be substituted references to the sum payable for the Queen's Civil List under this Act.

Further provision for members of the Royal Family.

1937 c. 32.

2.—(1) In section 3 of the Civil List Act 1937 (provision for Her Majesty Queen Elizabeth the Queen Mother) for the words “seventy thousand pounds” there shall be substituted the words “£95,000”.

(2) In section 4(2) of the Civil List Act 1937 (provision for His Royal Highness the Duke of Gloucester) for the words “ten thousand pounds” there shall be substituted the words “£20,000”.

1952 c. 37.

(3) In section 3 of the Civil List Act 1952 (provision for His Royal Highness the Duke of Edinburgh) for the words “forty thousand pounds” there shall be substituted the words “£65,000”.

(4) In section 4(1) of the Civil List Act 1952 (provision for Her Majesty’s younger children)—

(a) for the words “ten thousand pounds” and “six thousand pounds” (yearly sums for a younger son, or for a daughter) there shall be substituted the words “£20,000” and “£15,000” respectively, and

(b) for the words “fifteen thousand pounds” and “nine thousand pounds” (additional yearly amounts in respect of a son or daughter who marries) there shall be substituted the words “£30,000” and “£20,000” respectively.

(5) In section 5(1) of the Civil List Act 1952 (provision for Her Royal Highness the Princess Margaret) for the words “nine thousand pounds” there shall be substituted the words “£29,000”.

(6) In section 6 of the Civil List Act 1952 (provision for widow of the Duke of Cornwall) for the words “thirty thousand pounds” there shall be substituted the words “£60,000.”

(7) In the event of Her Royal Highness the Duchess of Gloucester surviving His Royal Highness the Duke of Gloucester, there shall be paid to her during her life the yearly sum of £20,000.

(8) In the event of a son of Her present Majesty, other than the Duke of Cornwall for the time being, dying leaving a widow, there shall be paid to her during her life the yearly sum of £20,000.

(9) The yearly sums mentioned in sections 3 and 4(2) of the Civil List Act 1937, and in sections 3 to 6 of the Civil List Act 1952, as amended by this section, and the yearly sums mentioned in subsections (7) and (8) above, may be increased in accordance with the following provisions of this Act.

Supplementary provision.

3.—(1) For the purposes specified in this section there shall be paid to the Royal Trustees the yearly sum of £60,000.

(2) The said yearly sum may be increased in accordance with the following provisions of this Act.

(3) The said yearly sum shall be available for making contributions towards expenses of the performance of duties pertaining to the Royal Family by those of Their Royal Highnesses for whom Parliament has not made other provision.

(4) If, as respects any calendar year, the sum payable under this section exceeds the contributions made under subsection (3) of this section, the excess shall be accumulated by the Royal Trustees, and applied in accordance with section 1 of this Act.

(5) As respects sums payable under this section to the Royal Trustees for any period after the end of the present reign, subsection (4) of this section shall have effect subject to such provision as Parliament may hereafter determine.

4.—(1) In section 5 of the Civil List Act 1837 (Civil List pensions) for the words “one thousand two hundred pounds a year” in each place where those words occur there shall be substituted the words “£10,000 a year”, and so much of section 13(1) of the Civil List Act 1952 as increased the said £1,200 a year to £5,000 a year shall cease to have effect.

Civil List and other pensions. 1837 c. 2 (1 & 2 Vict.). 1952 c. 37.

The sum mentioned in the said section 5 as amended by this subsection may be increased in accordance with the following provisions of this Act.

(2) For section 7(1) of the Civil List Act 1952 there shall be substituted the following subsection—

“(1) The Treasury may undertake the payment of any retired allowances granted, on scales and in accordance with conditions approved from time to time by the Treasury, by Her Majesty to or in respect of persons who have been members of the Royal Household (including retired allowances taking account of previous employment), or of any sums so granted in order to enhance superannuation benefits to be derived from later employment.”

5.—(1) The Royal Trustees shall keep under review the yearly amounts of Civil List expenditure, and the sums available under this Act to meet that expenditure, and shall in accordance with this section from time to time make reports to the Treasury concerning those matters.

Reports by Royal Trustees as to financial provision made by this Act.

(2) A report may be made at any time, and—

(a) the first report on Civil List expenditure shall be made not later than 1st January 1982, and subsequent such reports shall, until the end of the present reign, be made at intervals of not more than ten years, and

(b) a report shall be made if at any time it appears to the Royal Trustees that the Civil List expenditure for the next calendar year will exceed the sums available under this Act to meet that expenditure unless an order or a further order is made under the following provisions of this Act.

(3) The Royal Trustees shall also keep under review the other amounts which can be increased in accordance with the following provisions of this Act, and any related matters, and they may, in a report on Civil List expenditure, or in a separate report, give any information on those matters.

(4) The Treasury shall lay a copy of any report made to them under this section before the Commons House of Parliament.

Power by order to increase financial provision made by this Act.

1837 c. 2.
(1 & 2 Vict.),
1937 c. 32.
1952 c. 37.

6.—(1) The Treasury may from time to time by order increase all or any of the following sums, that is—

(a) the yearly sum mentioned in section 1(1) of this Act,

(b) the sums mentioned in section 5 of the Civil List Act 1837, sections 3 and 4(2) of the Civil List Act 1937 and sections 3 to 6 of the Civil List Act 1952, as amended by this Act,

(c) the yearly sums mentioned in subsections (7) and (8) of section 2, and in subsection (1) of section 3, of this Act.

(2) In exercising the powers conferred by this section the Treasury shall take account of the information afforded by any report made by the Royal Trustees.

(3) An order under this section may be made so as to take effect from the beginning of the calendar year in which it is made.

(4) An order under this section may contain such supplemental provisions, including provisions for the consequential amendment of any enactment mentioned in subsection (1) of this section, as may appear to the Treasury to be necessary or expedient.

(5) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Charge of payments under this Act.

7. The sums required for any payments under this Act shall be charged on and paid out of the Consolidated Fund, and shall be paid at such times and in such manner as the Treasury may direct.

Short title and supplemental provisions.

8.—(1) This Act may be cited as the Civil List Act 1972.

(2) In this Act—

“ Civil List expenditure ” has the meaning given by section 1(3) of this Act,

“ Royal Trustees ” means the trustees constituted by section 10 of the Civil List Act 1952. 1952 c. 37.

(3) Section 12 of the Civil List Act 1952 (adjustments in respect of parts of years) shall apply to yearly payments mentioned in this Act as it applies to yearly payments mentioned in that Act, and in section 13(2) of that Act (application of Civil List Audit Act 1816) the reference to the Civil List shall include a reference to the Civil List under this Act. 1816 c. 46.

(4) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to the provisions at the end of that Schedule.

(5) Sections 1, 2 and 3 of this Act shall have effect as respects payments to be made for the year 1972 and subsequent years, and section 2(1) of the Civil List Act 1952 (Queen’s Civil List) shall not apply to such payments.

(6) Section 4(1) of this Act, and the repeal in section 13(1) of the Civil List Act 1952, shall have effect as from 1st April 1972.

Section 8.

SCHEDULE**REPEALS**

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 and 1 Eliz. 2. c. 37.	The Civil List Act 1952.	Section 2(1). Section 9. In section 13, in the proviso to subsection (1) the words from " that in the said section five " to " and ", and subsections (3) and (4). Schedules 1 and 2.

The repeal of section 2(1), section 9 and Schedule 1 shall not affect payments for the year 1971 or any earlier year.



Airports Authority Act 1972

1972 CHAPTER 8

An Act to increase the statutory limit on the amounts outstanding in respect of borrowings by the British Airports Authority and to enable the Authority to borrow money in currencies other than sterling.

[24th February 1972]

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

1. In section 5(3) of the Airports Authority Act 1965 (which sets a limit of seventy million pounds on the aggregate amount outstanding in respect of the principal of money borrowed by the British Airports Authority under that section and its commencing capital debt) for the words "seventy million pounds" there shall be substituted the words "one hundred and twenty-five million pounds".

2.—(1) Subject to subsection (2) of this section, the British Airports Authority may borrow, from such persons and on such terms as the Secretary of State may with the approval of the Treasury from time to time specify, sums in currencies other than sterling—

- (a) by way of temporary loan, for the purpose of meeting the obligations of the Authority or discharging its functions under the Airports Authority Act 1965; or
- (b) otherwise than by way of temporary loan, for any of the purposes specified in subsection (2) of section 5 of that Act (capital expenditure etc.).

(2) For the purposes of subsection (3) of the said section 5 any sums borrowed under this section shall be treated as borrowed under that section, and for the purposes of any limit imposed under subsection (1) of that section (limit on temporary loans) any sums borrowed by the Authority under this section by way of temporary loan shall be treated as borrowed under that subsection.

(3) Except as provided in this section the Authority shall not have power to borrow sums in currencies other than sterling; and this section shall have effect notwithstanding subsection (4) of the said section 5 (which provides that the Authority shall not have power to borrow except in accordance with that section).

**Short title
and extent.**

3.—(1) This Act may be cited as the Airports Authority Act 1972.

(2) This Act does not extend to Northern Ireland.



Mineral Exploration and Investment Grants Act 1972

1972 CHAPTER 9

An Act to authorise the giving of financial assistance in connection with mineral exploration, and to clarify or extend certain exceptions from the abolition of investment grants. [24th February 1972].

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

1.—(1) Subject to the following subsections, there shall be defrayed out of money provided by Parliament any payments made by the Secretary of State by way of contribution towards expenditure incurred on searching for, or on discovering and testing, mineral deposits in Great Britain or in the sea bed and subsoil of the territorial waters of the United Kingdom adjacent to Great Britain or in that of any area for the time being designated under section 1(7) of the Continental Shelf Act 1964. Contributions in respect of mineral exploration.

1964 c. 29.

(2) The amount paid out of moneys provided by Parliament under this section shall not exceed £25 million or such larger sum, not exceeding £50 million, as the Secretary of State may specify by order made by statutory instrument; but an order shall not be made in pursuance of this subsection unless a draft of the order has been approved by a resolution of the House of Commons.

(3) It shall be a condition for the making of a contribution in pursuance of this section in respect of any operations that the person applying for the contribution shall have agreed that geological information obtained in the carrying out of the operations will be communicated (in appropriate form and detail) to the Secretary of State and, for the purposes of the geological survey of Great Britain, to the Natural Environment Research Council.

(4) This section shall not authorise the making by the Secretary of State out of moneys provided by Parliament of contributions towards expenditure on any operations, unless he is satisfied that planning permission for those operations was obtained or that it was not necessary to obtain it.

(5) This section shall not authorise the making by the Secretary of State out of moneys provided by Parliament of contributions towards any expenditure which exceed 35 per cent. of that expenditure; but any payment made by him in pursuance of this section may be made on such terms as he thinks fit, including terms providing for repayment in whole or in part of the amount paid by him, with or without interest or an addition in lieu of interest, or for the giving of security for the performance of any of the terms.

(6) Any sums received by the Secretary of State in accordance with the terms on which a payment is made by him in pursuance of this section shall be paid into the Consolidated Fund.

(7) In respect of the period ending 31st March 1973 and of each financial year ending after that date in which payments are made in pursuance of this section the Secretary of State shall as soon as may be after the end of that period or year prepare a report on the operation of this section, and shall lay the report before Parliament.

(8) In this section "mineral deposits" includes any natural deposits capable of being lifted or extracted from the earth.

Investment grants in respect of hired assets or of ships. 1971 c. 51. 1966 c. 34.

2. Section 1 (abolition of investment grants) of the Investment and Building Grants Act 1971 shall have effect subject to the following provisions:—

(a) in relation to grants under section 4(2) (hired assets) of the Industrial Development Act 1966 in respect of expenditure incurred by a person in providing an asset for hiring out, any question under section 4(2)(a)(ii) whether (on certain assumptions) a grant could have been made to another person to whom the asset has been hired out shall be determined without regard to the operation of the said section 1; and

(b) in relation to grants under section 5 (ships) of the Industrial Development Act 1966, the reference in subsection (4) of the said section 1 to being entitled to the benefit of a contract for the construction of a new ship shall include being entitled subject to the rights of any assignee by way only of security to the benefit of such a contract.

Short title and extent.

3.—(1) This Act may be cited as the Mineral Exploration and Investment Grants Act 1972.

(2) This Act does not extend to Northern Ireland.



Northern Ireland Act 1972

1972 CHAPTER 10

An Act to declare the law as to the legislative powers of the Parliament of Northern Ireland under section 4(1) of the Government of Ireland Act 1920, so far as relates to Her Majesty's forces and in particular to the conferment of powers, authorities, privileges or immunities on them. [24th February 1972]

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 limitations imposed by paragraph (3) of section 4(1) of the Government of Ireland Act 1920 on the powers of the Parliament of Northern Ireland to make laws shall not have effect, and shall be deemed never to have had effect, to preclude the inclusion in laws made by that Parliament for the peace, order or good government of Northern Ireland of all provision relating to members of Her Majesty's forces as such or to things done by them when on duty, and in particular shall not preclude, and shall be deemed never to have precluded, the conferment on them by, under or in pursuance of any such law of powers, authorities, privileges or immunities in relation to the preservation of the peace or maintenance of order in Northern Ireland.

2. This Act may be cited as the Northern Ireland Act 1972. Short title.



Superannuation Act 1972

1972 CHAPTER 11

An Act to amend the law relating to pensions and other similar benefits payable to or in respect of persons in certain employment; to provide for distribution without proof of title of certain sums due to or in respect of certain deceased persons; to abolish the Civil Service Committee for Northern Ireland; to repeal section 6 of the Appropriation Act 1957; and for purposes connected with the matters aforesaid. [1st March 1972]

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:—

Persons employed in the civil service, etc.

- 1.—(1) The Minister for the Civil Service (in this Act referred to as “the Minister”)—
- (a) may make, maintain, and administer schemes (whether contributory or not) whereby provision is made with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the scheme, are to be paid, or may be paid, by the Minister to or in respect of such of the persons to whom this section applies as he may determine;
- (b) may, in relation to such persons as any such scheme may provide, pay or receive transfer values;
- (c) may make, in such circumstances as any such scheme may provide, payments by way of a return of contributions, with or without interest; and
- Superannuation schemes as respects civil servants, etc.

(d) may make such payments as he thinks fit towards the provision, otherwise than by virtue of such a scheme, of superannuation benefits for or in respect of such of the persons to whom this section applies as he may determine.

(2) The Minister may, to such extent and subject to such conditions as he thinks fit, delegate to any other Minister or officer of the Crown any functions exercisable by him by virtue of this section or any scheme made thereunder.

(3) Before making any scheme under this section the Minister, or, if the Minister so directs in relation to a particular scheme, another Minister of the Crown specified in the direction, shall consult with persons appearing to the Minister or that other Minister, as the case may be, to represent persons likely to be affected by the proposed scheme or with the last-mentioned persons.

(4) This section applies to persons serving—

- (a) in employment in the civil service of the State ; or
- (b) in employment of any of the kinds listed in Schedule 1 to this Act ; or
- (c) in an office so listed.

(5) Subject to subsection (6) below, the Minister may by order—

- (a) add any employment to those listed in the said Schedule 1, being employment by a body or in an institution specified in the order,
- (b) add any office so specified to the offices so listed, or
- (c) remove any employment or office from the employments or offices so listed.

(6) No employment or office shall be added to those listed in the said Schedule 1 unless the remuneration of persons serving in that employment or office is paid out of moneys provided by Parliament or the Consolidated Fund.

(7) Notwithstanding subsection (6) above, the Minister may by order provide that this section shall apply to persons serving in employment which is remunerated out of a fund specified in the order, being a fund established by or under an Act of Parliament.

(8) An order under subsection (5) or (7) above—

- (a) may be made so as to have effect as from a date before the making of the order ;
- (b) may include transitional and other supplemental provisions ;

- (c) may vary or revoke a previous order made under that subsection ; and
- (d) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2.—(1) A scheme under section 1 of this Act which makes provision with respect to the pensions, allowances or gratuities which are to be, or may be, paid to or in respect of a person to whom that section applies and who is incapacitated or dies as a result of an injury sustained, or disease contracted, in circumstances prescribed by the scheme may make the like provision in relation to any other person, being a person who is employed in a civil capacity for the purposes of Her Majesty's Government in the United Kingdom, whether temporarily or permanently and whether for reward or not, or is a person holding office in that Government and who is incapacitated or dies as a result of an injury or disease so sustained or contracted.

Further provisions relating to schemes under s. 1.

(2) Any scheme under the said section 1 may make provision for the payment by the Minister of pensions, allowances or gratuities by way of compensation to or in respect of persons—

- (a) to whom that section applies ; and
- (b) who suffer loss of office or employment, or loss or diminution of emoluments, in such circumstances, or by reason of the happening of such an event, as may be prescribed by the scheme.

(3) No scheme under the said section 1 shall make any provision which would have the effect of reducing the amount of any pension, allowance or gratuity, in so far as that amount is calculated by reference to service rendered before the coming into operation of the scheme, or of reducing the length of any service so rendered, unless the persons consulted in accordance with section 1(3) of this Act have agreed to the inclusion of that provision.

(4) Subject to subsection (3) above, any scheme under the said section 1, or any provision thereof, may be framed—

- (a) so as to have effect as from a date earlier than the date on which the scheme is made ; or
- (b) so as to apply in relation to the pensions, allowances or gratuities paid or payable to or in respect of persons who, having been persons to whom the said section 1 applies, have died or ceased to be persons to whom that section applies before the scheme comes into operation ; or
- (c) so as to require or authorise the payment of pensions, allowances or gratuities to or in respect of such persons.

(5) Where an order has been made under section 1(7) of this Act, any scheme under that section may provide for the payment to the Minister out of the fund specified in the order of benefits or other sums paid by him in accordance with the scheme to or in respect of persons to whom that section applies by virtue of the order, together with any administrative expenses incurred in connection with the payment of those sums, and for the payment into that fund of contributions paid in accordance with the scheme by or in respect of those persons and of any transfer values received in respect of them.

(6) Any scheme under the said section 1 may provide for the determination by the Minister of questions arising under the scheme and may provide that the decision of the Minister on any such question shall be final.

(7) Where under any such scheme any question falls to be determined by the Minister, then, at any time before the question is determined, the Minister may (and if so directed by any of the Courts hereinafter mentioned shall) state in the form of a special case for determination by the High Court, the Court of Session or the Court of Appeal in Northern Ireland any question of law arising out of the question which falls to be determined by him.

(8) Where such a case is stated for determination by the High Court, an appeal to the Court of Appeal from the determination by the High Court shall lie only with the leave of the High Court or of the Court of Appeal; and where such a case is stated for determination by the Court of Session then, subject to any rules of court, the Minister shall be entitled to appear and be heard when the case is being considered by that Court.

(9) Any scheme under the said section 1 may amend or revoke any previous scheme made thereunder.

(10) Different schemes may be made under the said section 1 in relation to different classes of persons to whom that section applies, and in this section "the principal civil service pension scheme" means the principal scheme so made relating to persons serving in employment in the home civil service or the diplomatic service.

(11) Before a scheme made under the said section 1, being the principal civil service pension scheme or a scheme amending or revoking that scheme, comes into operation the Minister shall lay a copy of the scheme before Parliament.

(12) Notwithstanding any repeal made by this Act, the existing civil service superannuation provisions, that is to say, the enactments and instruments listed in Schedule 2 to this Act, shall, with the necessary adaptations and modifications, have effect as

from the commencement of this Act as if they constituted a scheme made under the said section 1 in relation to the persons to whom that section applies, being the principal civil service pension scheme, and coming into operation on the said commencement and may be revoked or amended accordingly.

3.—(1) The following provisions of this section shall have effect where a scheme under section 1 of this Act provides for the payment of a pension, allowance or gratuity to or in respect of a person who is incapacitated or dies as a result of an injury sustained or disease contracted in circumstances prescribed by the scheme, and a pension, allowance or gratuity is paid in accordance with the scheme to or in respect of a person in consequence of an injury or disease so sustained or contracted or of a death resulting from such injury or disease.

Recovery in certain circumstances of payments by way of injury allowances.

(2) If the scheme requires the Minister to take into account, as against any sums otherwise payable under the scheme, any damages which are recovered or recoverable by or on behalf of the recipient of the pension, allowance or gratuity granted in consequence of the injury, disease or death, being damages in respect of that injury, disease or death, and the Minister makes any payments without taking such damages into account, then if and when the Minister is satisfied that there are any damages to be so taken into account, he shall have the right to recover from the recipient—

- (a) where the amount of the payments made by the Minister is less than the net amount of the damages, the amount of those payments;
- (b) where the amount of those payments is not less than the net amount of the damages, such part of those payments as is equal to the net amount of the damages.

(3) So far as any amount recoverable under this section represents a payment made by the Minister from which income tax has been deducted before payment, the proper allowance shall be made in respect of the amount so deducted, and in this section “the net amount of the damages” means the amount of the damages after deducting any tax payable in the United Kingdom or elsewhere to which the damages are subject.

(4) No proceedings shall be brought to recover any amount under this section—

- (a) after the death of the recipient of the payments; or
- (b) after the expiration of two years from the date on which the amount of the damages taken into account in arriving at the amount so recoverable is finally determined (whether in court proceedings or in arbitration proceedings or by agreement between the parties) or from the date on which the final determination of

that amount first came to the knowledge of the Minister, whichever date is the later.

(5) A certificate issued by the Minister and stating the date on which the final determination of any amount of damages first came to his knowledge shall be admissible in any proceedings as sufficient evidence of that date.

(6) The provisions of this section are without prejudice to any right of the Minister under any such scheme to take damages into account by withholding or reducing any further sums otherwise payable to the recipient of the pension, allowance or gratuity.

Payments due to deceased persons.

4.—(1) Where on the death of any person there is due to the deceased or his personal representatives from a government department a sum, not exceeding £500, in respect of salary, wages or other emoluments or of superannuation benefits payable by virtue of a scheme made under section 1 of this Act, probate or other proof of the title of the personal representatives of the deceased may be dispensed with, and the appropriate authority may pay the whole or any part of that sum to those representatives or to the person, or to or among any one or more of any persons, appearing to that authority to be beneficially entitled to the personal or movable estate of the deceased; and any person to whom such a payment is made, and not the appropriate authority, shall thereafter be liable to account for the amount paid to him under this subsection.

1965 c. 32.

(2) Subsection (1) above shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the Administration of Estates (Small Payments) Act 1965 substituting for references to £500 such higher amount as may be specified in the order.

(3) The reference to a government department in subsection (1) above shall be construed as including a reference to a body or institution listed in Schedule 1 to this Act.

(4) In this section “the appropriate authority”, in relation to any sum, means the Minister in charge of the government department, the body, or the trustees or other authority responsible for the institution, as the case may be, from whom that sum is due.

Benefits under civil service superannuation schemes not assignable.

1914 c. 59.

1913 c. 20.

5.—(1) Any assignment (or, in Scotland, assignation) of or charge on, and any agreement to assign or charge, any benefit payable under a scheme made under section 1 of this Act shall be void.

(2) Nothing in subsection (1) above shall affect the powers of any court under section 51(2) of the Bankruptcy Act 1914 or section 148 of the Bankruptcy (Scotland) Act 1913 (bankrupt's salary, pension, etc. may be ordered to be paid to the trustee

in bankruptcy) or under any enactment applying to Northern Ireland (including an enactment of the Parliament of Northern Ireland) and corresponding to the said section 51(2).

6.—(1) The Minister may by order repeal or amend any provision in any Act of Parliament, whether public general, local or private, including an Act confirming a provisional order, or in any order or other instrument made under any such 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 section 1 or 2 of this Act or of any scheme made under the said section 1 or any repeal made by this Act in consequence of the enactment of those sections.

Power to repeal or amend Acts, etc.

(2) An order under this section—

- (a) may be made so as to have effect as from a date before the making of the order ;
- (b) may vary or revoke a previous order made thereunder ; and
- (c) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Persons employed in local government service, etc.

7.—(1) The Secretary of State may by regulations make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the regulations, are to be, or may be, paid to or in respect of such persons, or classes of persons, as may be so prescribed, being—

Superannuation of persons employed in local government service, etc.

- (a) persons, or classes of persons, employed in local government service ; and
- (b) other persons, or classes of persons, for whom it is appropriate, in the opinion of the Secretary of State, to provide pensions, allowances or gratuities under the regulations.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section—

- (a) may include all or any of the provisions referred to in Schedule 3 to this Act ; and
- (b) may make different provision as respects different classes of persons and different circumstances.

(3) Notwithstanding anything in the Pensions (Increase) Act 1971 c. 56. 1971, regulations under this section may provide—

- (a) that increases under that Act of such of the pensions, allowances or gratuities payable under the regulations

as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be paid out of such of the superannuation funds established under the regulations as the regulations may provide ; and

- (b) that the cost of those increases or of that part thereof, as the case may be, shall be defrayed by contributions from the persons to whom any services in respect of which the pensions, allowances or gratuities are or may become payable were or are being rendered or by such of those persons as may be so prescribed ;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have effect subject to the provisions of any regulations made by virtue of this subsection and for the time being in force.

(4) Without prejudice to subsection (2) above, regulations made by virtue of subsection (3) above may make different provision as respects different classes of pensions, allowances or gratuities.

(5) Before making any regulations under this section the Secretary of State shall consult with—

- (a) such associations of local authorities as appear to him to be concerned ;
 (b) any local authority with whom consultation appears to him to be desirable ; and
 (c) such representatives of other persons likely to be affected by the proposed regulations as appear to him to be appropriate.

Local Act schemes.

8.—(1) The Secretary of State may make regulations providing for—

- (a) the revocation of the local Act scheme administered by a local Act authority ;
 (b) the winding up of the superannuation fund maintained under that scheme and the transfer of its assets and liabilities to such superannuation fund as may be specified in the regulations ;
 (c) the modification of regulations made under section 7 of this Act for the purpose of securing that rights enjoyed by and in respect of the persons who were entitled to participate in the benefits of the superannuation fund which is to be wound up are preserved ;
 (d) such other consequential and incidental matters as appear to the Secretary of State to be necessary or expedient.

(2) The Secretary of State may by regulations make such additions to, or modifications of, a local Act scheme as he

considers necessary to reproduce (with or without modifications) the effect of any enactment relating to the local Act scheme and repealed by this Act.

In this subsection "enactment" includes any instrument made under an Act.

(3) Regulations under section 7 of this Act may provide for any of their provisions to apply, subject to such modifications as may be prescribed by the regulations, in relation to such local Act schemes as may be so prescribed or in relation to such pensions, allowances or gratuities, payable under such local Act schemes, as may be so prescribed; and where by virtue of this subsection any provisions of the regulations are so applied, the local Act scheme shall have effect subject thereto.

(4) Before making any regulations under this section the Secretary of State shall consult with the local Act authority concerned and with such representatives of other persons likely to be affected by the proposed regulations as appear to him to be appropriate.

(5) In this section "local Act authority" means a local authority who, not maintaining a superannuation fund in accordance with regulations under section 7 of this Act, maintain a superannuation fund under a local Act and "local Act scheme" means the superannuation scheme which such an authority administer.

Teachers

9.—(1) The Secretary of State may, by regulations made with the consent of the Minister, make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the regulations, are to be, or may be, paid by the Secretary of State to or in respect of teachers.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section—

(a) may include all or any of the provisions referred to in Schedule 3 to this Act; and

(b) may make different provision as respects different classes of persons and different circumstances.

(3) Where the regulations provide for the making of any such payment as is referred to in paragraph 3, 5 or 6 of the said Schedule 3, they may also provide for the payment to be made by the Secretary of State.

(4) Where regulations under this section provide for the establishment of a superannuation fund, the regulations may also provide for the payment by the Secretary of State—

(a) of the administrative expenses of the persons by whom, in accordance with the regulations, the fund is to be administered; and

(b) of such travelling, subsistence and other allowances to those persons as the Secretary of State may, with the consent of the Minister, determine.

(5) Before making any such regulations the Secretary of State shall consult with representatives of local education authorities and of teachers and with such representatives of other persons likely to be affected by the proposed regulations as appear to him to be appropriate.

(6) In this section "teachers" includes such persons as may be prescribed by regulations made under this section, being persons employed otherwise than as teachers—

(a) in a capacity connected with education which to a substantial extent involves the control or supervision of teachers; or

(b) in employment which involves the performance of duties in connection with the provision of education or services ancillary to education.

(7) In the application of this section to Scotland for the reference in subsection (5) to local education authorities there shall be substituted a reference to education authorities.

Persons engaged in health services, etc.

Superannuation of persons engaged in health services, etc.

10.—(1) The Secretary of State may, by regulations made with the consent of the Minister, make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the regulations, are to be, or may be, paid by the Secretary of State to or in respect of such persons, or classes of persons, as may be so prescribed, being—

(a) persons, or classes of persons, engaged in health services other than services provided by a local health authority or other local authority; and

(b) other persons, or classes of persons, for whom it is appropriate, in the opinion of the Secretary of State, to provide pensions, allowances or gratuities under the regulations.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section—

(a) may include all or any of the provisions referred to in Schedule 3 to this Act; and

(b) may make different provision as respects different classes of persons and different circumstances.

(3) Where the regulations provide for the making of any such payment as is referred to in paragraph 3, 5 or 6 of the said Schedule 3, they may also provide for the payment to be made by the Secretary of State.

(4) Before making any such regulations the Secretary of State shall consult with such representatives of persons likely to be

affected by the proposed regulations as appear to him to be appropriate.

(5) In section 7(2) of the Superannuation (Miscellaneous Provisions) Act 1967 (which, in a case where any person within 12 months after leaving employment by virtue of which he was entitled to participate in superannuation benefits provided under the National Health Service Act 1946 enters other approved employment, empowers the Secretary of State to direct that the superannuation regulations shall apply to him with certain modifications) after the words "any person" there shall be inserted the words "while continuing in or".

Provisions ancillary to sections 7 to 10

11.—(1) Where under any regulations made under section 7, 9 or 10 of this Act, in its application to England and Wales, any question falls to be determined by the Secretary of State, then, at any time before the question is determined, the Secretary of State may (and if so directed by the High Court shall) state in the form of a special case for determination by the High Court any question of law arising out of the question which falls to be determined by him; and where such a case is so stated, an appeal to the Court of Appeal from the determination by the High Court shall lie only with the leave of the High Court or of the Court of Appeal.

1967 c. 28.
1946 c. 81.
Statement of case by Secretary of State.

(2) Where under any regulations made under section 7, 9 or 10 of this Act, in its application to Scotland, any question falls to be determined by the Secretary of State, then, at any time before the question is determined, the Secretary of State may (and if so directed by the Court of Session shall) state a case for the opinion of that Court on any question of law arising out of the question which falls to be determined by him; and subject to any rules of court, the Secretary of State shall be entitled to appear and be heard when the case is being considered by the Court.

12.—(1) Any regulations made under section 7, 8(2), 9 or 10 of this Act may be framed so as to have effect as from a date earlier than the making of the regulations.

Further provisions as to regulations.

(2) Subject to subsection (4) below, any regulations made under section 7, 9 or 10 of this Act may be framed—

- (a) so as to apply in relation to the pensions which are being paid or may become payable under the regulations to or in respect of persons who, having served in an employment or office service in which qualifies persons to participate in the benefits for which the regulations provide, have ceased to serve therein or died before the regulations come into operation; or
- (b) so as to require or authorise the payment of pensions to or in respect of such persons.

(3) Subsection (2) above shall apply in relation to regulations under the said section 7, being regulations made by virtue of section 8(3) of this Act, as if for the first two references to those regulations in paragraph (a) there were substituted references to the local Act scheme affected by the regulations.

(4) No provision shall be made by any regulations by virtue of subsection (2) above unless any person who is placed in a worse position than he would have been in if the provision had not applied in relation to any pension which is being paid or may become payable to him is by the regulations given an opportunity to elect that the provision shall not so apply.

(5) In the foregoing provisions of this section "pension" includes allowance and gratuity.

(6) Regulations made under section 7, 8, 9 or 10 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.

Provisions relating to superannuation of various other persons

The
Comptroller
and Auditor
General.

1959 c. 9
(8 & 9 Eliz. 2.).

13.—(1) A person appointed to be the Comptroller and Auditor General (in this section referred to as the Comptroller) may, within such period and in such manner as may be prescribed by regulations under this section, elect between the statutory scheme of pensions and other benefits applicable to the judicial offices listed in Schedule 1 to the Judicial Pensions Act 1959 and the scheme of pensions and other benefits applicable by virtue of section 1 of this Act to the civil service of the State (in this section referred to respectively as the judicial scheme and the civil service scheme), and if he does not so elect shall be treated as having elected for the civil service scheme.

(2) Where a person so appointed elects for the judicial scheme, a pension may be granted to him on ceasing to hold office as Comptroller if he has held that office for not less than five years and either—

(a) has attained the age of sixty-five years ; or

(b) is disabled by permanent infirmity for the performance of the duties of that office ;

and subject to regulations under this section, the provisions of the Judicial Pensions Act 1959, other than section 2 (retiring age), and of sections 2 to 8 of the Administration of Justice (Pensions) Act 1950 (lump sums and widows' and dependants' pensions) shall apply in relation to him and his service as Comptroller as they apply in relation to the holders of judicial offices listed in Schedule 1 to the said Act of 1959 and service in any such office, this subsection being the relevant pension enactment for the purposes of that Act.

1950 c. 11
(14 & 15
Geo. 6.).

(3) Where a person so appointed elects for the civil service scheme, the principal civil service pension scheme within the meaning of section 2 of this Act and for the time being in force shall, subject to regulations under this section, apply as if his service as Comptroller were service in employment in the civil service of the State.

(4) Any pension or other benefit granted to the Comptroller by virtue of this section shall be granted by letters patent.

(5) The Minister may by statutory instrument make regulations for purposes supplementary to the foregoing provisions of this section; and such regulations may, without prejudice to section 38 of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of persons to whom the judicial scheme or the civil service scheme has applied or applies in respect of any service other than service as Comptroller, including provision—

- (a) for aggregating other service falling within the judicial scheme with service as Comptroller, or service as Comptroller with such other service, for the purpose of determining qualification for or the amount of benefit under that scheme;
- (b) for increasing the amount of the benefit payable under the judicial scheme, in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Comptroller, up to the amount which would have been payable thereunder if he had retired from that office on the ground of permanent infirmity immediately before his appointment;
- (c) for limiting the amount of benefit payable under the judicial scheme, in the case of a person to whom the civil service scheme applied in respect of service before his appointment as Comptroller, by reference to the difference between the amount of the benefit granted in his case under the civil service scheme and the amount which would be payable under the judicial scheme if that service had been service as Comptroller.

(6) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

(7) Any pension or other benefit granted by virtue of this section shall be charged on, and issued out of, the Consolidated Fund.

Metropolitan
civil staffs.
1967 c. 28.

14.—(1) Section 15 of the Superannuation (Miscellaneous Provisions) Act 1967 (which applies the legislation governing the superannuation of civil servants to certain persons employed under the Commissioner of Police for the Metropolis, justices' clerks for the inner London area and other persons employed by the committee of magistrates for that area) shall be amended as follows.

(2) In subsection (1)(b) (definition of "civil service provisions") for the words from "the Superannuation Act" to "any other" there shall be substituted the words "the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and any".

(3) In subsection (3) (which empowers the Secretary of State by regulations to provide that any of the civil service provisions shall have effect for the purposes of pensions or other benefits under the section and certain other purposes subject to exceptions, modifications and adaptations specified in the regulations)—

(a) after the word "may", where first occurring, there shall be inserted the words "with the consent of the Minister for the Civil Service"; and

(b) in paragraph (a), after the word "exceptions" there shall be inserted the word "additions".

(4) Subsection (5) (which authorises the Secretary of State in certain circumstances to confer on himself power to make rules or regulations in relation to members of the metropolitan civil staffs where the Minister has power to make similar rules or regulations in relation to civil servants) shall be omitted.

(5) For subsection (6) (which provides that regulations under the section shall be subject to annulment in pursuance of a resolution of either House of Parliament) there shall be substituted the following subsection:—

"(6) Before making regulations under subsection (3) of this section the Secretary of State shall consult with persons appearing to him to represent the metropolitan civil staffs, and before any such regulations come into operation the Secretary of State shall lay a copy thereof before Parliament".

Members of
police forces,
special
constables
and police
cadets.
1948 c. 24.

15.—(1) Section 1 of the Police Pensions Act 1948 (power to make regulations providing for police pensions) shall have effect subject to the following amendments:—

(a) in subsection (3), for the words "or terminated" there shall be substituted the words "terminated or forfeited" and at the end there shall be added the words "and may provide for a pension to be forfeited wholly or in part and for the forfeiture to be permanent or temporary";

(b) in subsection (7), for the words from “and before” onwards there shall be substituted the words “which shall be subject to annulment in pursuance of a resolution of either House of Parliament”.

(2) In section 4(1) of the said Act of 1948 (forfeiture of pensions) the words “granted under regulations made under this Act is granted, and every pension” shall be omitted.

(3) For section 5 of the said Act of 1948 (appeals) there shall be substituted the following section—

“ Appeals.

5.—(1) Subject to subsections (3) and (4) below, regulations made under section 1 of this Act shall make provision as to the court or other person by whom appeals are to be heard and determined in the case of any person who is aggrieved—

(a) by the refusal of the police authority to admit a claim to receive as of right a pension, or a larger pension than that granted, under regulations made under that section ; or

(b) by the forfeiture of any pension granted to him thereunder.

(2) If any person is aggrieved by the forfeiture, under the provisions in that behalf contained in this Act, of any pension granted to him under any of the enactments specified in Part I of the First Schedule to this Act, he may appeal to the Crown Court and that court, after enquiring into the case, may make such order in the matter as appears to the court to be just.

(3) No provision made in the regulations by virtue of subsection (1) of this section shall confer a right of appeal against anything done by the police authority in the exercise of any power which is conferred on them by the regulations and is expressly declared by the regulations to be a power which they are to exercise in their discretion

(4) The regulations may provide, in relation to questions arising thereunder, for the reference of any such matter as is prescribed, either by the police authority, or by the court, to a medical practitioner, whose decision thereon shall, subject to such rights of appeal as may be provided by the regulations to such tribunal as may be constituted thereunder, be final on the matter so referred.

(5) In the application of this section to Scotland, for the reference in subsection (2) to the Crown Court there shall be substituted a reference to the

sheriff having jurisdiction in the place where the person concerned last served as a member of a police force.”

(4) The provisions of sections 4(1) and (2) and 5(1) and (5) of the said Act of 1948 as in force immediately before the commencement of this Act shall, so far as they related to pensions granted under regulations made under section 1 of that Act, be deemed to have effect as if they were provisions of regulations so made and in force on that date, and may be revoked accordingly.

(5) Section 12 (except subsections (3) and (6)) of this Act shall apply in relation to—

(a) regulations under section 1 of the said Act of 1948 ;

1964 c. 48.

(b) regulations relating to pensions under section 34 or 35 of the Police Act 1964 (special constables and police cadets) ;

1967 c. 77.

(c) regulations under section 26(2)(k) of the Police (Scotland) Act 1967 (regulations with respect to the application to special constables of provisions relating to the pensions payable to or in respect of regular constables) ;
or

(d) regulations relating to pensions under section 27 of the said Act of 1967 (police cadets),

as it applies in relation to regulations under section 7, 8(2), 9 or 10 of this Act.

Members of
fire brigades.
1947 c. 41.

16.—(1) Without prejudice to the generality of section 26 of the Fire Services Act 1947 (power to make order bringing the Firemen’s Pension Scheme into operation), any Scheme under that section may include provision for the payment by a fire authority or the Secretary of State of transfer values as respects persons who transfer or have transferred from employment in respect of which awards may be made under the Scheme to such other employment as may be specified in the Scheme.

(2) Subsection (3) of the said section 26 (circumstances in which a pension may be provided under the Scheme) shall cease to have effect.

(3) Section 12 (except subsections (3) and (6)) of this Act shall, with the necessary modifications, apply in relation to an order under the said section 26 as it applies in relation to regulations under section 7, 8(2), 9 or 10 of this Act.

Persons
employed
by general
lighthouse
authorities, etc.
1898 c. 44.

17.—(1) After section 1 of the Merchant Shipping (Mercantile Marine Fund) Act 1898 there shall be inserted the following section:—

“ Pension
rights of
certain
employees.

1A.—(1) There shall be payable to or in respect of persons whose salaries are paid out of the General Lighthouse Fund such pensions, allowances or

gratuities as may be determined in accordance with, in the case of such of those persons as are employed by the Secretary of State, arrangements made by him and, in the case of other such persons, arrangements made by a general lighthouse authority and approved by the Secretary of State, and those benefits shall be charged on and payable out of that Fund.

(2) Section 210 of the Income and Corporation Taxes Act 1970 (contributions for widows' and certain other pensions not to qualify for tax relief), as amended by the Superannuation Act 1972, shall apply in relation to contributions made in pursuance of any such arrangements as are referred to in subsection (1) above by any person who is chargeable to income tax under the Income Tax Acts as it applies in relation to contributions made in accordance with a scheme under section 1 of the said Act of 1972".

(2) Section 665 of the Merchant Shipping Act 1894 (power of general lighthouse authority to grant pensions) shall cease to have effect. 1894 c. 60.

18.—(1) For section 11 of the Legal Aid and Advice Act 1949 (pension rights of employees of Law Society) there shall be substituted the following section—

Employees of law societies. 1949 c. 51.

“ Pension rights of employees.

11.—(1) The Law Society shall, with the approval of the Lord Chancellor, make arrangements for the provision of pensions, allowances or gratuities or in respect of persons employed by the Law Society for the purpose of their functions under this Part of this Act, and any such arrangements may include the establishment and administration, by the Law Society or otherwise, of a pension scheme with or without a pension fund.

(2) If the Lord Chancellor so directs, receipts and expenses of the Law Society attributable to their establishment and administration of a pension scheme under this section shall, notwithstanding anything in section 9 of this Act, be dealt with under the scheme instead of being paid into and out of the legal aid fund”.

(2) For section 12 of the Legal Aid (Scotland) Act 1967 (pension rights of employees of Law Society of Scotland) there shall be substituted the following section— 1967 c. 43.

“ Pension rights of employees.

12.—(1) The Law Society shall, with the approval of the Secretary of State, make arrangements for the provisions of pensions, allowances or gratuities

to or in respect of persons employed by the Law Society for the purpose of their functions under this Act, and any such arrangements may include the establishment and administration, by the Law Society or otherwise, of a pension scheme with or without a pension fund.

(2) If the Secretary of State so directs, receipts and expenses of the Law Society attributable to their establishment and administration of a pension scheme under this section shall, notwithstanding anything in section 9 of this Act, be dealt with under the scheme instead of being paid into and out of the legal aid fund ”.

Members
and staff
of certain
Commissions.
1943 c. 5.

19.—(1) Any Order in Council made under section 8 of the Minister of Town and Country Planning Act 1943 (power to establish Commissions to assist the Secretary of State in the exercise of his functions in relation to the use and development of land) may provide for empowering the Commission established by the Order—

- (a) to pay to or in respect of the following persons, that is to say, the members of the Commission and the officers and servants of the Commission, or to or in respect of such of those persons as may be determined by the Commission with the approval of the Secretary of State, such pensions, allowances or gratuities as may be so determined ;
- (b) to make such payments towards the provision of such pensions, allowances or gratuities as may be so determined ; or
- (c) to provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities as may be so determined.

S.I. 1963/792. (2) The Location of Offices Bureau established by the Location of Offices Bureau Order 1963 made under the said section 8 shall be deemed always to have had power to do all such things as are referred to in paragraphs (a), (b) and (c) of subsection (1) above.

Officers and
servants of
certain river
authorities.

20.—(1) This section applies to the following persons, namely—

- (a) every officer and servant of the Conservators of the River Thames (“ the Conservators ”) to whom but for any repeal made by this Act section 79(8) of the Land Drainage Act 1930 or section 53(2) of the Thames Conservancy Act 1950 would have applied ; and

1930 c. 44.
1950 c. 1.

(b) every officer and servant of the Lee Conservancy Board or of the Lee Conservancy Catchment Board ("the Catchment Board") to whom but for any such repeal section 80(7) of the said Act of 1930 would have applied.

(2) There shall be paid by the Conservators to or in respect of the persons to whom this section applies by virtue of subsection (1)(a) above, and there shall be paid by the Catchment Board to or in respect of the persons to whom this section applies by virtue of subsection (1)(b) above, the same pensions, allowances or gratuities as can be paid to or in respect of persons employed in the civil service of the State, and the principal civil service pension scheme within the meaning of section 2 of this Act and for the time being in force shall apply accordingly in relation to those persons with the necessary adaptations.

(3) The Conservators and the Catchment Board shall have all such powers as may be necessary to enable them to comply with subsection (2) above, including power to pay and receive transfer values and to make payments towards the provision of such pensions, allowances and gratuities as are referred to in that subsection.

(4) The Catchment Board shall be deemed always to have had power to pay pensions, allowances or gratuities in respect of persons to whom section 80(7) of the Land Drainage Act 1930 c. 44. 1930 at any time applied.

21.—(1) For section 56 of the Civil Aviation Act 1971 (participation of employees of the British Airways Board in pension schemes established by the corporations) there shall be substituted the following section:—

“Pensions. 56.—(1) The Board may, in the case of such of the persons mentioned in subsection (3) below as may be determined by it, pay such pensions, allowances or gratuities to or in respect of those persons as may be so determined, make such payments towards the provision of such pensions, allowances or gratuities as may be so determined or establish and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities as may be so determined.

(2) The Board may make arrangements with the corporations whereby any or all of the functions of the Board under subsection (1) above are to be performed by the corporations.

(3) The persons referred to in subsection (1) above are—

(a) employees of any member of the group ;

- (b) employees of the board of trustees of any joint medical services of the group or of the corporations ; and
- (c) persons employed by any other person in connection with the management and administration of any scheme established and maintained by virtue of subsection (1) or (2) above.

1967 c. 33.

(4) Section 24 of the Air Corporations Act 1967 (power to make regulations providing for pension schemes for employees of the corporations and certain other persons) shall cease to have effect, but any scheme established by virtue of regulations made under that section and in force immediately before the commencement of this section shall, unless and until terminated in accordance with its provisions, have effect as if—

- (a) it had been established by virtue of subsection (2) above ; and
- (b) the persons in respect of whose service benefits may be provided under the scheme included, in addition to the persons mentioned in subsection (1) of the said section 24, the other persons mentioned in subsection (3) above ;

and the reference in paragraph (c) of subsection (3) above to any scheme established and maintained by virtue of subsection (2) above shall be construed accordingly.

(5) The Board shall take such steps as it thinks expedient to secure the participation in such a scheme as is referred to in subsection (4) above, on such terms as it thinks fit (which may include terms as to the payment of contributions by participants and their employers and former employers or any of them), of such persons as the Board may determine, being employees of the Board or a joint subsidiary or an undertaking which is a subsidiary by reference to share capital held by, or a power to appoint directors vested in, the Board.

(6) Where a participant in any such scheme as is referred to in subsection (3)(c) above becomes—

- (a) a member of the Board or of either of the corporations, or
- (b) a director of any other member of the group, his service as such a member or director (whether before or after the passing of this Act) shall be treated

for the purposes of the scheme as if it were service as an employee of the member of the group, the board of trustees or other person, as the case may be, in whose employment he was or was treated for those purposes as being when he became such a member or director."

- (2) The following enactments are hereby repealed, namely—
 - (a) in the Air Corporations Act 1967, section 24, in section 1967 c. 33. 29 the words from "and the transfer" to the end, section 30 and in Schedule 2, Part II;
 - (b) in the Civil Aviation Act 1968, section 25(2)(b) and 1968 c. 61. the word "and" immediately preceding that paragraph; and
 - (c) in the Civil Aviation Act 1971, in Schedule 10, para-1971 c. 75. graph 20.

22.—(1) Any body specified in column 1 of Schedule 4 to this Act may make any determination relating to, or connected with, the provision of pensions, gratuities or other like benefits to or in respect of persons employed by it which it has power to make under the enactment specified in relation to that body in column 2 of that Schedule without obtaining the approval or agreement of any Minister of the Crown or government department whose approval of, or agreement to, that determination is required by virtue of that enactment or by virtue of that enactment and any order made in pursuance of section 1 or 2 of the Ministers of the Crown (Transfer of Functions) Act 1946 or section 4 of the Ministers of the Crown Act 1964.

Pension schemes of various statutory bodies: removal of requirement to obtain Ministerial approval for certain determinations, etc. 1946 c. 31. 1964 c. 98.

(2) The Council for Professions Supplementary to Medicine may approve any determination relating to pensions made under paragraph 20(2) of Schedule 1 to the Professions Supplementary to Medicine Act 1960 by a board established under that Act without obtaining the agreement of the Minister.

1960 c. 66.

(3) Any pension scheme in force immediately before the commencement of this Act, being a scheme which was referred to in or established under section 12(4) of the Port of London (Consolidation) Act 1920 (provision of pensions, etc.), and any rules made in pursuance of such a scheme may be amended without the approval of the Secretary of State.

1920 c. clxxxiii.

(4) So much of any provision contained in a document forming part of any scheme for the provision of pensions, gratuities or other like benefits to or in respect of persons employed by industrial training boards established under section 1 of the Industrial Training Act 1964 as prohibits any alteration being made in that document, or any other document forming part of such a scheme, without the approval of the Secretary of State shall cease to have effect.

1964 c. 16.

(5) Any provision contained in a document forming part of a scheme for the provision of pensions, gratuities or other like benefits to or in respect of persons employed by the National Film Finance Corporation may, with the approval of the Secretary of State, be amended to such extent as appears to him to be necessary or expedient having regard to subsection (1) above, as it applies in relation to the Corporation, and to any repeal of the Cinematograph Film Production (Special Loans) Act 1949 made by this Act.

1949 c. 20.

Superannuation Acts to continue to apply to certain persons.

23.—(1) The repeal by this Act of any provisions of the Superannuation Acts 1965 and 1967 shall not affect the continued operation of those Acts so far as immediately before the repeal takes effect they apply in relation to any of the persons listed in Schedule 5 to this Act.

1957 c. 62.

(2) The said repeal shall not affect any provision of the Governors' Pensions Act 1957 by virtue of which superannuation and additional allowances have been or may be granted under the Superannuation Acts 1965 and 1967 to a Governor within the meaning of the said Act of 1957 instead of, or in addition to, a pension under that Act, and the said Acts of 1965 and 1967 shall accordingly continue to have effect for the purposes of the Governors' Pensions Acts 1957 and 1967 and any rules made thereunder.

Miscellaneous and Supplemental

Compensation for loss of office, etc.

24.—(1) Subject to subsection (2) below, the Secretary of State may, with the consent of the Minister, by regulations provide for the payment by such person as may be prescribed by or determined under the regulations of pensions, allowances or gratuities by way of compensation to or in respect of the following persons, that is to say, persons—

1948 c. 24.

(a) in relation to whom regulations may be made under section 7, section 9 or section 10 of this Act or section 1 of the Police Pensions Act 1948 or in relation to whom a Scheme may be made in accordance with section 26 of the Fire Services Act 1947 (Firemen's Pension Scheme); and

1947 c. 41.

(b) who suffer loss of office or employment, or loss or diminution of emoluments, in such circumstances, or by reason of the happening of such an event, as may be prescribed by the regulations.

(2) Regulations under this section relating to persons in relation to whom regulations may be made under section 7 of this Act may be made without the consent of the Minister.

(3) Regulations under this section may—

- (a) include provision as to the manner in which and the person to whom any claim for compensation is to be made, and for the determination of all questions arising under the regulations ;
- (b) make different provision as respects different classes of persons and different circumstances and make or authorise the Secretary of State to make exceptions and conditions ; and
- (c) be framed so as to have effect from a date earlier than the making of the regulations,

but so that regulations having effect from a date earlier than the date of their making shall not place any individual who is qualified to participate in the benefits for which the regulations provide in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making.

(4) Regulations under this section may include all or any of the provisions referred to in paragraphs 8, 9 and 13 of Schedule 3 to this Act.

(5) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

25.—(1) For subsections (1) to (4) of section 2 of the Pensions ^{Pension} (Increase) Act 1971 (which provides for the future review of ^{increases.} official pensions and payment of increases) there shall be substituted the following subsections:— ^{1971 c. 56.}

“ (1) Subject to the provisions of this section, the Minister for the Civil Service, as soon as may be after 30th June in the year 1972, and every year thereafter, shall review the rates of official pensions against any rise there may have been in the cost of living during the review period, that is to say—

- (a) the period of fifteen months ending with 30th June 1972 (“ the first review period ”) ; or
- (b) the period of twelve months ending with 30th June in the year 1973 and every year thereafter ;

and if it is found that in the review period the cost of living has risen by two per cent. or more, then the Minister shall by order provide that the annual rate of an official pension may, if a qualifying condition is satisfied, be increased in accordance with the order in respect of any period beginning on or after 1st December next following the review period.

(2) Subject to subsection (3) below, the increases to be provided for by an order under this section shall be as follows:—

(a) for pensions beginning on or before the first day of the review period the increase shall be in the proportion (to the nearest one-tenth of one per cent.) in which the cost of living has risen during the review period ; and

(b) for pensions beginning—

(i) in the half year following that day ; or

(ii) in the next succeeding half year ending, in the case of the first review period, with 1st April 1972 and, in the case of any other review period, with the day after the end of that period ; or

(iii) in the three months ending with 1st July 1972,

the increases shall be in the proportion (to the nearest one-tenth of one per cent.) in which the cost of living is found to have risen between the basis period for that half year or that period of three months, as the case may be, and the end of the review period, if the cost of living in the basis period is taken as the mean of the monthly figures.

(2A) For purposes of subsection (2)(b) above—

(a) the basis period for any half year is the six months ending with the first month of the half year or, if the cost of living is lower in the half year than in those six months, is the half year itself ;

(b) the basis period for the period of three months specified in sub-paragraph (iii) is the period of three months ending with 1st February 1972 or, if the cost of living is lower in the period so specified, is that period.

(3) Where the rise referred to in subsection (2)(b) above is less for any half year than two per cent., there shall only be an increase for pensions beginning in that half year if there is one for pensions beginning in a later half year, and the increase (if there is one) shall be two per cent. ; but where this subsection prevents there being an increase for pensions beginning in any half year, then the order made in respect of the next review period shall for those pensions authorise, instead of an increase calculated in accordance with subsection (2)(a) above, such increase as would result

if that prevented by this subsection had been made and were followed by one calculated in accordance with subsection (2)(a) by reference to the rate as so increased.

(4) Where on any review under this section it is not found that the cost of living has risen by two per cent. or more in the review period, the review in the next year shall be for the same review period extended by twelve months; and if it is found that the cost of living has risen by two per cent. or more in the (extended) review period, the provisions of this section shall apply subject to the modification that for subsection (2)(b)(ii) and (iii) there shall be substituted the following:—

‘ (ii) in any of the succeeding half years up to that ending with the day after the end of the review period ’.”

(2) For subsection (3) of section 9 of the said Act of 1971 (which relates to gratuities and lump sums) there shall be substituted the following subsection:—

“ (3) In respect of any lump sum or instalment of a lump sum which becomes payable after the day following the last day of a review period but before 1st December next following the review period there may be paid by virtue of section 2 above the same increase as if it became payable on that date.”

(3) After subsection (4) of the said section 9 there shall be inserted the following subsection:—

“ (4A) Subsection (4) above shall have effect in relation to the first review period as if the period of three months ending with 1st July 1972 were a half year ending with that date.”

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

- (a) any expenses incurred by a Minister of the Crown in the payment in accordance with schemes made under section 1 of this Act or regulations made under section 9, 10 or 24 thereof of pensions, allowances, gratuities or other sums;
- (b) expenses incurred by a Secretary of State in making any such payments as are referred to in section 9(4) of this Act;
- (c) any administrative expenses incurred by a government department in consequence of this Act; and
- (d) any increase attributable to the provisions of this Act in the sums payable under any other enactment out of moneys so provided.

(2) Subject to any scheme made under section 1 of this Act or to regulations made under section 9 or 10 of this Act, there shall be paid into the Consolidated Fund all sums received by a Minister of the Crown by virtue of this Act.

Dissolution of Civil Service Committee for Northern Ireland.
1920 c. 67.
1922 c. 2

27.—(1) The Civil Service Committee for Northern Ireland shall cease to exist and, accordingly, section 56 of the Government of Ireland Act 1920 (establishment of Committee) and paragraph 7(1) of Schedule 1 to the Irish Free State (Consequential Provisions Act) 1922 (Session 2) (amendment of constitution of Committee) shall cease to have effect.

(13 Geo. 5 (Sess. 2)).
1947 c. 37.

(2) In the proviso to section 8(1) of the Northern Ireland Act 1947, and in the proviso to section 9(1) of that Act (determination by the said Committee of certain questions relating to the position of officers who became officers of the Government of Northern Ireland by virtue of the said section 8(1) or 9(1)), for the words “the Civil Service Committee for Northern Ireland” there shall be substituted the words “a referee appointed by the Lord Chief Justice of Northern Ireland”.

Certain enactments relating to superannuation of Forestry Commissioners and to declarations required from recipients of certain pensions to cease to have effect.
1967 c. 10.
1957 c. 63.

28.—(1) Paragraph 11 of Schedule 1 to the Forestry Act 1947, and in the proviso to section 9(1) of that Act (determination of superannuation benefits to a person who retires from the office of Forestry Commissioner while under the age of 60 without renewal of public employment and who is not entitled to a pension by virtue of other provisions of that Schedule) shall cease to have effect.

(2) Section 6 of the Appropriation Act 1957 (which prohibits the receipt of any payment out of moneys provided by Parliament for half-pay or navy, army, air-force or civil non-effective services unless the prescribed declaration has been made by the recipient) shall cease to have effect.

Amendments, savings, transitional provisions and repeals.

29.—(1) The enactments mentioned in Schedule 6 to this Act shall have effect subject to the minor and consequential amendments specified therein.

(2) The savings and transitional provisions contained in Schedule 7 to this Act shall have effect.

(3) The inclusion in this Act of any express saving, transitional provision or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

1889 c. 63.

(4) Subject to section 23 of this Act, and Schedule 7 thereto, the enactments mentioned in Schedule 8 to this Act (which include certain enactments already spent or otherwise unnecessary) are hereby repealed to the extent specified in column 3 of that Schedule.

30.—(1) This Act may be cited as the Superannuation Act 1972.

Short title, construction of references commencement and extent.

(2) References in this Act to an enactment include an enactment in a local Act and a provisional order confirmed by Parliament, and any reference in this Act to any enactment or instrument shall be construed as a reference to that enactment or instrument as amended, and includes a reference thereto as extended or applied, by or under any other enactment or instrument, including any enactment contained in this Act.

(3) Section 21 of this Act and paragraphs 68 and 96 of Schedule 6 thereto shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(4) The other provisions of this Act shall come into force on such day as the Minister may by order made by statutory instrument appoint, and references in this Act to the commencement thereof shall be construed as references to the day appointed by an order under this subsection.

(5) This section, and the following provisions only of this Act, extend to Northern Ireland, that is to say,—

- (a) sections 1 to 6 and Schedules 1 and 2 ;
- (b) sections 13 and 17 ;
- (c) section 21 ;
- (d) section 22(1) and (2) and Schedule 4 so far as they relate to any body exercising functions in relation to Northern Ireland ;
- (e) section 23 and paragraph 2 of Schedule 5 ;
- (f) section 26, so far as applicable, and sections 27 and 28(2) ;
- (g) section 29 and Schedules 6 and 8, so far as they relate to any enactment which extends to Northern Ireland and paragraphs 1 to 3, 10, 11 and 13 to 15 of Schedule 7.

SCHEDULES**Section 1.****SCHEDULE 1****KINDS OF EMPLOYMENT, ETC., REFERRED TO IN SECTION 1***Museums and Galleries*

British Museum.

British Museum (Natural History).

Imperial War Museum.

London Museum.

National Gallery.

National Maritime Museum.

National Portrait Gallery.

Tate Gallery.

Wallace Collection.

National Galleries of Scotland.

National Museum of Antiquities of Scotland.

Royal Commissions and other Commissions

Royal Fine Art Commission.

Royal Fine Art Commission for Scotland.

Historical Manuscripts Commission.

Commission on Industrial Relations.

Monopolies Commission.

Standing Commission on Museums and Galleries.

Royal Commission on Historical Monuments (England).

Royal Commission on Ancient and Historical Monuments (Wales and Monmouthshire).

Royal Commission on Ancient and Historical Monuments of Scotland.

Other Bodies

Gaming Board for Great Britain.

National Economic Development Council.

National Library of Scotland.

Public Works Loan Board.

Race Relations Board.

Scottish Land Court.

Offices

Receiver for the Metropolitan Police District.

Falkland Macer.

SCHEDULE 2

Section 2.

THE EXISTING CIVIL SERVICE SUPERANNUATION PROVISIONS

PART I

Enactments

The Pensions Commutation Acts 1871 to 1882, in so far as they apply to persons to whom section 1 of this Act applies.

Section 281 of the Government of India Act 1935.

1935 c. 2
(26 Geo. 5 &
1 Edw. 8).

Section 26 of the Agriculture Act 1937.

1937 c. 70.

Section 18 of the Old Age and Widows' Pensions Act 1940.

1940 c. 13.

Part II of the Schedule to the Agriculture (Miscellaneous Provisions) Act 1944.

1944 c. 28.

Section 6 of the Food and Drugs (Milk and Dairies) Act 1944.

1944 c. 29.

Section 6(2)(d)(i), (ii) and (iii) of the Commonwealth Telegraphs Act 1949.

1949 c. 39.

Section 53 of the Superannuation Act 1949.

1949 c. 44.

So much of section 2(7) of the Supreme Court Officers (Pensions) Act 1954 as provides for such employments of such persons as are referred to therein to be treated as having been employment in the civil service of the State.

1954 c. 38.

The Superannuation Act 1965, except sections 38, 39, 39A, 42(1), 93, 95, 96, 97, 102, 104(2) and 106, Schedule 9, paragraphs 10 and 11 of Schedule 10 and Schedule 11.

1965 c. 74.

Section 1 of the Superannuation (Miscellaneous Provisions) Act 1967.

1967 c. 28.

Section 45 of the Post Office Act 1969.

1969 c. 48.

PART II

Instruments

The following, in so far as they are in force immediately before the commencement of this Act:—

Any rules, regulations, orders, schemes or warrants made, or having effect as if made, under an enactment listed in Part I above, except any regulations made under section 6(2) of the Commonwealth Telegraphs Act 1949 in so far as they apply to persons who have ceased to be employed in the civil service of the State.

Article 6 of the Government of Ireland (Miscellaneous Adaptations) (Northern Ireland) Order 1923.

S.R. & O.
1923/803.

The National Insurance (Modification of the Superannuation Acts) Regulations 1948.

S.I. 1948/498.

The National Insurance (Modification of the Superannuation Acts) (Amendment) Regulations 1949.

S.I. 1949/1620.

The National Insurance (Modification of the Superannuation Acts) Regulations 1960.

S.I. 1960/1270.

SCH. 2	The National Insurance (Modification of the Superannuation Acts) Regulations 1961.
S.I. 1961/1358.	
S.I. 1965/102.	The Widows', Children's and Dependants' Pensions (India and Pakistan) Rules 1965, in so far as they apply to persons who at the commencement of this Act are serving in employment in the civil service of the State.
S.I. 1965/1296.	The National Insurance (Modification of the Superannuation Acts) (Amendment) Regulations 1965.
S.I. 1971/1441.	The National Insurance (Modification of the Superannuation Acts) (Amendment) Regulations 1971.

Sections 7, 9, 10,
24.

SCHEDULE 3

PROVISIONS WHICH MAY BE INCLUDED IN CERTAIN REGULATIONS

1. Provision as to the means by which the cost of providing the benefits for which the regulations provide is to be defrayed, including provision for the making of contributions or other payments by persons entitled to participate in such benefits and by the employers of those persons or such other persons as may be prescribed by the regulations.

2. Provision for the establishment and administration of superannuation funds, the management and application of the assets of such funds, the amalgamation of all or any of such funds, and the winding up of, or other dealing with, any such fund.

3. Provision for the payment and receipt of transfer values or in lieu thereof for the transfer or receipt of any fund or part of a fund or policy of insurance.

4. Provision for reckoning in respect of a person to whom the regulations apply any service in employment or as the holder of an office (other than service in respect of which benefits are payable under the regulations) as service in respect of which such benefits are payable, either unconditionally or subject to such conditions as may be prescribed by the regulations and either as respects the whole of the service or as respects such fraction thereof as may be so prescribed.

In this paragraph "employment" includes engagement in any service.

5. Provision for the making by such persons as may be prescribed by the regulations of payments towards the provision (otherwise than under the regulations) of pensions, allowances or gratuities in such cases as may be determined in accordance with the regulations.

6. Provision as to the circumstances in which contributions paid by any person in accordance with the regulations, or any part thereof, may be repaid with or without interest.

7. Provision for securing that where—

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- (a) the regulations provide for the payment to or in respect of a person of a pension in consequence of his having become incapacitated, or having died, as a result of an injury sustained, or disease contracted, in circumstances prescribed by the regulations ; and
- (b) any damages in respect of the injury, disease or death in consequence of which the pension is paid are recovered by or on behalf of the person to whom the pension is paid,

the amount of any payments made to that person in respect of the pension before the right to or amount of such damages is finally determined, or such part of those payments as may be determined in accordance with the regulations, may be recovered from that person in such circumstances and subject to such conditions as the regulations may provide.

In this paragraph "pension" includes allowance and gratuity.

8. Provision authorising the payment, without probate or other proof of title, of any sum due under the regulations in respect of a person who has died to his personal representatives or such other persons as may be prescribed by the regulations.

9. Provision rendering void any assignment of or charge on, or any agreement to assign or charge, any benefit under the regulations, and provision that on the bankruptcy of a person entitled to such a benefit no part thereof shall pass to any trustee or other person acting on behalf of the creditors except in accordance with an order made by a court in pursuance of any enactment specified in the regulations.

In the application of this paragraph to Scotland for the references to assignment and to the bankruptcy of a person there shall be substituted respectively references to assignation and to the sequestration of the estate of a person.

10. Provision for the determination of all questions arising under the regulations and for any decision which falls to be taken by a Minister of the Crown in accordance with the regulations to be final.

11. Provision for conferring on such persons as may be prescribed by the regulations such functions as the Secretary of State considers necessary or expedient for purposes of the regulations.

12. Provision repealing or amending any provision in any Act of Parliament, whether public general, local or private, including an Act confirming a provisional order, or in any order or other instrument made under any such Act, where it appears to the Secretary of State that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, the regulations.

13. Such incidental, supplementary, consequential and transitional provisions as appear to the Secretary of State to be necessary or expedient.

Section 22.

SCHEDULE 4

BODIES TO WHOM SECTION 22 RELATES

	Body	Enactment under which determination made
1965 c. 16.	British Airports Authority ...	Airports Authority Act 1965, Schedule 1, paragraph 9(1).
1957 c. 21.	British Film Fund Agency ...	Cinematograph Films Act 1957, Schedule, paragraph 5(1)(b).
1968 c. 73.	Channel Tunnel Planning Council	Transport Act 1968, Schedule 15, paragraph 8(2)(b).
1959 c. 23.	Commonwealth Development Corporation	Overseas Resources Development Act 1959, Schedule 1, paragraph 6(b).
1960 c. 66.	Council for Professions Supplementary to Medicine	Professions Supplementary to Medicine Act 1960, Schedule 1, paragraph 20(1).
1961 c. 49.	Covent Garden Market Authority	Covent Garden Market Act 1961, Schedule 1, paragraph 8(2)(b).
1964 c. 21.	Independent Television Authority	Television Act 1964, Schedule 1, paragraph 7(2).
1964 c. 16.	Industrial Training Board ...	Industrial Training Act 1964, Schedule, paragraph 10.
1967 c. 22.	Meat and Livestock Commission	Agriculture Act 1967, Schedule 1, Part II, paragraph 8(2)(b).
1949 c. 20.	National Film Finance Corporation	Cinematograph Film Production (Special Loans) Act 1949, Schedule, paragraph 6(b).
1964 c. 40.	National Ports Council ...	Harbours Act 1964, Schedule 1, paragraph 8(2)(b).
1967 c. 32.	National Research Development Corporation	Development of Inventions Act 1967, Schedule, paragraph 6.
1969 c. 48.	Post Office ...	Post Office Act 1969, section 43(1).
1956 c. 48.	Sugar Board ...	Sugar Act 1956, Schedule 2, paragraph 7(2)(b).
1970 c. 11.	White Fish Authority ...	Sea Fish Industry Act 1970, Schedule 1, paragraph 15.

Section 23.

SCHEDULE 5

PERSONS REFERRED TO IN SECTION 23

1. The President of the Transport Tribunal.

1951 c. 46. 2. A person holding the office of Judge Advocate General who duly elects, or has duly elected, that section 34(1) of the Courts-Martial (Appeals) Act 1951 shall apply to him.

1924 c. 17. 3. A registrar to whom section 4 of the County Courts Act 1924 applies.

1925 c. 49. 4. A person to whom the provisions of section 128(1) of the Supreme Court of Judicature (Consolidation) Act 1925, other than the proviso to that subsection, apply.

5. Any such registrar as is referred to in section 21 of the County Courts Act 1934, or in relation to whom that section applies by virtue of section 25(2) of the Administration of Justice Act 1956, other than a registrar who for the purposes of superannuation is deemed by virtue of the said section 21 or the said section 25(2), as the case may be, to be employed in the civil service of the State. SCH. 5
1934 c. 53.
1956 c. 46.

6. Any person in relation to whom, by virtue of rules made under section 39A of the Superannuation Act 1965, that Act applies with or without modification. 1965 c. 74.

SCHEDULE 6

Section 29.

CONSEQUENTIAL AND MINOR AMENDMENTS

Supreme Court of Judicature Act (Ireland) 1877 1877 c. 57.

1. In section 76 of the Supreme Court of Judicature Act (Ireland) 1877 for the words from “and whose” to the end substitute “shall for the purposes of superannuation be deemed to be employed in the civil service of the State.”

Judicial Factors (Scotland) Act 1889 1889 c. 39.

2. In section 1 of the Judicial Factors (Scotland) Act 1889 for the words from “No” to the end substitute “The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall apply in relation to the accountant and the said clerks as it applies in relation to persons to whom section 1 of that Act applies”.

Clerks of Session (Scotland) Regulation Act 1889 1889 c. 54.

3. For section 8 of the Clerks of Session (Scotland) Regulation Act 1889 substitute—

“8. The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall apply in relation to persons appointed to offices in the Court of Session as it applies in relation to persons to whom section 1 of that Act applies.”

Development and Road Improvement Funds Act 1910 1910 c. 7.

4. For section 2(2) of the Development and Road Improvement Funds Act 1910 substitute—

“(2) The Development Commissioners may, with the approval of the Minister for the Civil Service, make schemes providing for the payment out of the Development Fund of pensions, allowances or gratuities to or in respect of the persons employed by them, and schemes made under this section shall be so framed as to correspond, so far as is appropriate, with the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force.

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(3) Section 210 of the Income and Corporation Taxes Act 1970 (contributions for widows' and certain other pensions not to qualify for tax relief), as amended by the said Act of 1972, shall apply in relation to contributions made in accordance with schemes made under subsection (2) above as it applies in relation to contributions made in accordance with schemes made under section 1 of the said Act of 1972."

1922 c. 55.

Constabulary (Ireland) Act 1922

5. In section 1(5) of the Constabulary (Ireland) Act 1922 for "the permanent civil service of the Crown on" substitute "a public civil office in consequence of".

1925 c. 49.

Supreme Court of Judicature (Consolidation) Act 1925

6. In section 118(1) of the Supreme Court of Judicature (Consolidation) Act 1925 for "a permanent civil servant" substitute "employed in the civil service".

7. In proviso (i) to section 128(1) of the said Act of 1925 for the words from "a civil" to "1887" substitute "employed in the civil service of the State" and for the words from "general" to the end substitute "provisions of the principal civil service pension scheme for the time being in force".

8. In section 128A(1) of the said Act of 1925 omit "part-time or" and for "a permanent civil servant" substitute "employed in the civil service".

1927 c. 35.

Sheriff Courts and Legal Officers (Scotland) Act 1927

9. In section 1(3) of the Sheriff Courts and Legal Officers (Scotland) Act 1927 for "the Superannuation Acts 1834 to 1919" substitute "the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force".

10. In section 6 of the said Act of 1927 for the words from "to be" to the end substitute "for all purposes to be employed in the civil service of the State".

11. In section 7(2) of the said Act of 1927 for "the Superannuation Acts 1834 to 1919" substitute "superannuation".

1933 c. 41.

Administration of Justice (Scotland) Act 1933

12. In section 28 of the Administration of Justice (Scotland) Act 1933 for the words from "the conditions" to the end substitute "the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall apply in relation to persons appointed to any such office as it applies in relation to persons to whom section 1 of that Act applies".

Assessor of Public Undertakings (Scotland) Act 1934

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13. For section 2 of the Assessor of Public Undertakings (Scotland) Act 1934 substitute:—

“2.—(1) There may be granted to or in respect of the Assessor of Public Undertakings (Scotland) (hereinafter referred to as the assessor) and to or in respect of the clerks or other officers whom he may be allowed to employ such pensions, allowances or gratuities as the Secretary of State may determine.

(2) The Secretary of State shall so far as may be exercise his powers under this section as if the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force applied to the assessor and the clerks and other officers aforesaid, and the relevant provisions of that scheme and also section 210 of the Income and Corporation Taxes Act 1970 (contributions for widows' and certain other pensions not to qualify for tax relief), as amended by the said Act of 1972, shall with any necessary adaptations apply accordingly.”

14. In section 3 of the said Act of 1934 for “superannuation” (where first occurring) substitute “pensions”.

County Courts Act 1934

1934 c. 53.

15. In section 21(1) of the County Courts Act 1934 for the words from “(b)” to the end substitute “of his desire to continue subject to the provisions of the principal civil service pension scheme for the time being in force he shall, for the purposes of superannuation, be deemed not to be a whole-time registrar but to be employed in the civil service of the State”.

Land Registration Act 1936

1936 c. 26.

16. In section 7(a) of the Land Registration Act 1936 for the words from “under” to the end substitute “payable by virtue of schemes made under section 1 of the Superannuation Act 1972”.

Superannuation (Various Services) Act 1938

1938 c. 13

17. In the Schedule to the Superannuation (Various Services) Act 1938, in Part I, for the words from “The Merchant Shipping Act” to “1898” substitute “The Merchant Shipping (Mercantile Marine Fund) Act 1898, section 1A, as inserted by section 17 of the Superannuation Act 1972”.

Scottish Land Court Act 1938

1938 c. 31.

18. In section 1(2) of the Scottish Land Court Act 1938 for “The Superannuation Acts 1834 to 1935” substitute “The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force” and for “those Acts apply to persons in the permanent” substitute “that scheme applies to persons employed in the”.

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1947 c. 43.

Local Government (Scotland) Act 1947

19. In section 96 of the Local Government (Scotland) Act 1947 for "the Local Government Superannuation (Scotland) Act, 1937 or any other" substitute "any regulations made under section 7 of the Superannuation Act 1972 or any" and for "Act of 1937 or such other" substitute "regulations."

20. In section 260(2) of the said Act of 1947 for "the Local Government Superannuation (Scotland) Act 1937" substitute "any regulations made under section 7 of the Superannuation Act 1972" and for "that Act" substitute "those regulations".

C.A.M. 1947
No. 2.*Church Commissioners Measure 1947*

21. For paragraph (b) of the proviso to section 17(1) of the Church Commissioners Measure 1947 substitute:—

"(b) the superannuation benefits to be granted to or in respect of him on his retirement or death shall not be less than those which might have been awarded had the provisions of the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and then in force applied to him, and the Commissioners shall have the like power to permit the allocation of such benefits to the spouse or dependants of such an officer as they would have had by virtue of section 1 of the Superannuation (Various Services) Act 1938 had that section not been repealed."

22. At the end of the said section 17 insert—

"(3) Section 210 of the Income and Corporation Taxes Act 1970 (contributions for widows' and certain other pensions not to qualify for tax relief), as amended by the Superannuation Act 1972, shall, with the necessary adaptations, apply in relation to contributions towards the cost of a pension payable by virtue of subsection (1) of this section to the widow (or, as the case may be, widower), children or dependants of a transferred officer, being an officer in relation to whom the scheme referred to in that subsection is applied, made by that officer to the Church Commissioners."

1948 c. 24.

Police Pensions Act 1948

23. In section 3(1) of the Police Pensions Act 1948 for the words from the beginning to the end of paragraph (a) of the proviso, substitute "Nothing in regulations made under section 1 of this Act shall".

1948 c. 26.

Local Government Act 1948

24. In section 108 of the Local Government Act 1948—

(a) in subsection (2)(b)(i) for the words from "the Superannuation" to "Act, 1937" substitute "the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 or of regulations made under section 7 of that Act in its application to Scotland";

- (b) in subsection (2)(b)(ii) after “enactment” insert “or scheme” and for “Act of 1937” substitute “regulations”; and
- (c) in subsection (3) for the words from “the Local Government Superannuation (Scotland)” to the end substitute “regulations made under section 7 of the Superannuation Act 1972 in its application to Scotland there were substituted a reference to regulations made under that section in its application to England and Wales”.

Superannuation (Miscellaneous Provisions) Act 1948

1948 c. 33.

25. In section 2 of the Superannuation (Miscellaneous Provisions) Act 1948—

- (a) in subsection (1), proviso (ii) after “(c)” insert “(cc)”;
- (b) for subsection (2)(a) substitute—
 “(a) employment by virtue of which the person employed is a person to whom section 1 of the Superannuation Act 1972 applies”;
- (c) for subsection (2)(c) substitute—
 “(c) employment by virtue of which the person employed is or is deemed to be, or, but for any rules made under this section, would be or be deemed to be, a contributory employee or local Act contributor within the meaning of regulations made under section 7 of the said Act of 1972 in its application to England and Wales ;
 (cc) employment by virtue of which the person employed is, or is deemed to be, or, but for any rules made under this section, would be or be deemed to be a contributory employee or local Act contributor within the meaning of regulations made under the said section 7 in its application to Scotland”;
- (d) for subsection (2)(e) substitute—
 “(e) employment by virtue of which the person employed is entitled to participate in superannuation benefits provided under regulations made under section 9 of the said Act of 1972 in its application to England and Wales ;”
- (e) for subsection (2)(ee) substitute—
 “(ee) employment by virtue of which the person employed is entitled to participate in superannuation benefits provided under regulations made under the said section 9 in its application to Scotland ;”
- (f) in subsection (3)(iii) for “or” substitute “and in relation to the class specified in paragraph (cc) thereof”;
- (g) in subsection (4)(e) after “(c)” insert “paragraph (cc)”.

26. In section 17(1) of the said Act of 1948—

- (a) immediately before the definition of “pension” insert
 “‘local Act scheme’ has the same meaning as in section 8 of the Superannuation Act 1972” ; and
- (b) in the definition of “pension fund”, for the words from

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“the Metropolitan” onwards substitute “in relation to schemes made under section 1 of the Superannuation Act 1972 and regulations made under section 9 thereof, the Consolidated Fund”.

1949 c. 93.

National Health Service (Amendment) Act 1949

27. In section 18 of the National Health Service (Amendment) Act 1949, in subsection (1), for “subsection (1) of section sixty-seven of the Act of 1946” substitute “section 10 of the Superannuation Act 1972” and in subsection (5) omit the words from “and for” to the end.

1951 c. 46.

Courts-Martial (Appeals) Act 1951

28. In section 34(4) of the Courts-Martial (Appeals) Act 1951, for the words from “the Superannuation”, where first occurring, to “Crown” substitute “the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall have effect in his case as if service in that office were service in employment in the civil service of the State.”

29. For section 35 of the said Act of 1951 substitute—

“35. The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall have effect as if employment as such an officer as is mentioned in section 30(1) of this Act were employment in the civil service of the State.”

1951 c. 65.

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

30. In section 46(3) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 for paragraphs (i) and (ii) substitute—

“(i) regulations made under section 7 or 10 of the Superannuation Act 1972 ; or

(ii) any local Act scheme ; or”.

31. In section 61(1) of the said Act of 1951 for paragraphs (b) and (c) substitute—

“(b) any regulations made under section 7 or 10 of the Superannuation Act 1972 (which relate respectively to the superannuation of local government officers etc. and national health service officers) ;

(c) any local Act scheme ;”.

32. In section 64 of the said Act of 1951 for the definitions of “local authority” and “local Act scheme” substitute—

“‘local authority’ has the same meaning as in paragraph 6(1) of Schedule 3 to the Pensions (Increase) Act 1971 and any reference in this Act to a local authority shall apply also to the bodies mentioned in paragraph 6(2) of that Schedule ;

‘local Act scheme’ means the superannuation scheme administered by a local authority maintaining a superannuation fund under a local Act ;”.

33. In Schedule 2 to the said Act of 1951, in Part I, for paragraph 8 substitute— SCH. 6

<p>“ 8. Registration officer within the meaning of regulations made under section 7 of the Superannuation Act 1972.</p>	<p>The local authority in whose employment he is or is deemed for the purposes of those regulations to be.”</p>
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Supreme Court Officers (Pensions) Act 1954 1954 c. 38.

34. In section 4(1)(b) of the Supreme Court Officers (Pensions) Act 1954—

- (a) for “ the Superannuation Acts 1834 to 1950 ” substitute “ the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force ” ; and
- (b) omit the words from “ and shall ” to the end.

Restrictive Trade Practices Act 1956 1956 c. 68.

35. In section 2(5) of the Restrictive Trade Practices Act 1956 for the words from “ the Superannuation ” to the end substitute “ the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, with the necessary adaptations, apply to officers and servants of the Court as it applies to other persons employed in the civil service of the State ”.

Governors' Pensions Act 1957 1957 c. 62.

36. In section 11 of the Governors' Pensions Act 1957 omit “ in an established capacity ” and for “ the Superannuation Acts ” substitute “ the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force ”.

Overseas Service Act 1958 1958 c. 14.

37. For section 3(1) of the Overseas Service Act 1958 substitute—
 “ (1) Service as an officer to whom this Act applies shall not be taken to be service in employment in the civil service of the State for the purposes of section 1 of the Superannuation Act 1972 (superannuation of civil servants, etc.). ”

Road Traffic Act 1960 1960 c. 16.

38. In section 126 of the Road Traffic Act 1960 for “ The Superannuation Acts 1834 to 1950 ” substitute “ The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force ”.

Covent Garden Market Act 1961 1961 c. 49.

39. In Schedule 1 to the Covent Garden Market Act 1961, in paragraph 8(2)(b), for “ pensions ” substitute “ pensions, allowances or gratuities ”.

SCH. 6*Trustee Investments Act 1961*

1961 c. 62.

40. In section 11(4)(c) of the Trustee Investments Act 1961 for the words from “a combination scheme” to the end substitute “those authorities acting in combination in accordance with regulations made under section 7 of the Superannuation Act 1972”.

1962 c. 46.

Transport Act 1962

41. In Schedule 10 to the Transport Act 1962, in paragraph 8, omit the words in sub-paragraph (1) from “(including” to “retirement)” and after the said sub-paragraph (1) insert—

“(1A) There shall be paid to or in respect of the clerk, officers and servants of the tribunal such pensions, allowances or gratuities as the Secretary of State, with the approval of the Minister for the Civil Service, may determine, and those pensions, allowances or gratuities shall be the same as could be paid to or in respect of those persons if they were persons to whom section 1 of the Superannuation Act 1972 applies, and the principal civil service pension scheme within the meaning of section 2 of the said Act of 1972 and also section 210 of the Income and Corporation Taxes Act 1970 (contributions for widows’ and certain other pensions not to qualify for tax relief), as amended by the said Act of 1972, shall apply accordingly with any necessary adaptations.”

1962 c. 47.

Education (Scotland) Act 1962

42. In section 145 of the Education (Scotland) Act 1962, in paragraph (48) for “the Teachers Superannuation (Scotland) Act 1968” substitute “section 9 of the Superannuation Act 1972”.

1963 c. 38.

Water Resources Act 1963

43. In section 97 of the Water Resources Act 1963—

(a) in subsection (2), for the words from “and section 35” to the end substitute “and any question as to the existence or extent of any such customary obligations shall be determined by the Secretary of State whose decision shall be final:

Provided that the Secretary of State may at any time before the question is determined, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings”;

(b) in subsection (3), for the words from “and section 35” to the end substitute “and any question arising under this subsection shall be determined as if it were such a question as is mentioned in subsection (2) of this section”;

(c) in subsection (8), for “(1) to (7)”, wherever occurring, substitute “(2) to (7)”.

1964 c. 21.

Television Act 1964

44. In paragraph 7(2) of Schedule 1 to the Television Act 1964 for “pensions” substitute “pensions, allowances or gratuities”.

Harbours Act 1964

SCH. 6

45. In section 2(4)(b) of the Harbours Act 1964 and in Schedule 1 to that Act, in paragraph 8(2)(b), for “pensions”, wherever occurring, substitute “pensions, allowances or gratuities”.

1964 c. 40.

Police Act 1964

1964 c. 48.

46. In Schedule 4 to the Police Act 1964, in paragraph 5(6), for the words from “and section 35” to the end substitute “and any question arising under this sub-paragraph shall be determined by the Secretary of State whose decision shall be final:

Provided that the Secretary of State may at any time before the question is determined, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings.”

Housing Act 1964

1964 c. 56.

47. In Schedule 1 to the Housing Act 1964, in paragraph 2(9), omit the words from the beginning to “Corporation; but” and for “by virtue of this sub-paragraph” substitute “in accordance with regulations made under section 7 of the Superannuation Act 1972”.

Public Libraries and Museums Act 1964

1964 c. 75.

48. In Schedule 1 to the Public Libraries and Museums Act 1964, in paragraph 3, for the words from “and section 35” to the end substitute “and any question arising under this paragraph shall be determined by the Secretary of State whose decision shall be final:

Provided that the Secretary of State may at any time before the question is determined, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings”.

Museum of London Act 1965

1965 c. 17.

49. In subsection (1) of section 10 of the Museum of London Act 1965, for paragraph (a) (ii) substitute—

“(ii) are serving in the employment of the Trustees of the London Museum on such terms as would render them eligible to participate in the benefits for which the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 provides; and”.

50. For subsections (6) and (7) of the said section 10 substitute—

“(6) A scheme under subsection (3) above shall be of no effect unless it has been approved by the Secretary of State, who may approve any such scheme either with or without modifications.

Before approving any such scheme, the Secretary of State shall consult with such organisations as are in his opinion representative of the interests concerned.

SCH. 6

(7) A scheme under subsection (3) above approved by the Secretary of State in accordance with subsection (6) above—

- (a) shall be laid before Parliament and be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as if it were a statutory instrument ; and
- (b) may be amended by a subsequent scheme.

Any enactment affected by the scheme shall have effect subject to the provisions of the scheme ”.

1965 c. 49.

Registration of Births, Deaths and Marriages (Scotland) Act 1965

51. In section 7(7) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 for “ section 7 of the Local Government Superannuation (Scotland) Act 1937 ” substitute “ regulations under section 7 of the Superannuation Act 1972 ”.

1965 c. 51.

National Insurance Act 1965

52. In Schedule 5 to the National Insurance Act 1965 for paragraphs 3 to 6 substitute—

- | | |
|--|---|
| “ 3. Section 7 of the Superannuation Act 1972. | The Secretary of State for the Environment or, in Scotland, the Secretary of State for Scotland. |
| 4. Section 10 of the Superannuation Act 1972. | The Secretary of State for Social Services or, in Scotland, the Secretary of State for Scotland.” |

1965 c. 59

New Towns Act 1965

53. In Schedule 9 to the New Towns Act 1965, in paragraph 2(4), omit the words from the beginning to “ Commission ; but ” and for “ by virtue of this sub-paragraph ” substitute “ in accordance with regulations made under section 7 of the Superannuation Act 1972 ”.

1965 c. 62.

Redundancy Payments Act 1965

54. In section 16(4)(a) of the Redundancy Payments Act 1965 for “ section 7 of the Superannuation (Amendment) Act 1965 ” substitute “ section 38 of the Superannuation Act 1965 ”.

55. In section 41 of the said Act of 1965—

- (a) in subsection (2) after paragraph (a) insert—
 - “(aa) in accordance with any provision of a scheme made under section 1 of the Superannuation Act 1972, or” ;
- (b) in subsection (3)(b) after “ with ” insert “ a scheme made under section 1 of the Superannuation Act 1972 or ” ;
- (c) in subsection (6)(a) for “ section 7 of the Superannuation (Amendment) Act 1965 ” substitute “ section 39 of the Superannuation Act 1965 ”.

Superannuation Act 1965

SCH. 6

1965 c. 74.

56. In section 38 of the Superannuation Act 1965

(a) in subsection (2)(a) for "this Act and any other" substitute "any";

(b) in subsection (2)(b) for the words from "this Act" to "any other" substitute "the civil service scheme, with or without modifications, in substitution for any", and for "this Act", where last occurring, substitute "that scheme";

(c) in subsection (3) for "this Act", wherever occurring, substitute "the civil service scheme", and

(d) after subsection (5) insert—

"(5A) References in this section to enactments shall be construed as including references to the civil service scheme, and in this section 'the civil service scheme' means the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force".

57. In section 42(1) of the said Act of 1965 for "this Act specified in subsection (3) of this section" substitute "the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force".

58. In section 95 of the said Act of 1965—

(a) in subsection (1) for the words from "regulations" to "warrant" substitute "or orders";

(b) in subsection (2) for the words from "regulations or" to "said section 93" substitute "an order made under this Act".

National Health Service Act 1966

1966 c. 8.

59. In section 9(4) of the National Health Service Act 1966, for the words "a direction under subsection (1) of this section applies)" substitute "regulations under section 10 of the Superannuation Act 1972 apply)".

Forestry Act 1967

1967 c. 10.

60. In Schedule 1 to the Forestry Act 1967, in paragraph 9—

(a) in sub-paragraph (1) for the words from "officers" to "to time" substitute "classes of officers employed by the Commissioners as may be";

(b) in sub-paragraph (2) for the words from "civil service superannuation" to "relief" substitute "principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force, and the relevant provisions of that scheme and also section 210 of the Income and Corporation Taxes Act 1970 (contributions for widows' and certain other pensions not to qualify for tax relief), as amended by the said Act of 1972"; and

SCH. 6 (c) in sub-paragraph (4) omit the words from “the civil” to “service; and”.

61. In the said Schedule 1, for paragraph 10(3), substitute—

“(3) A scheme made under this paragraph may be made so as to take effect from such date, not being earlier than 14th July 1949, as may be specified in the scheme.”

62. In the said Schedule 1, at the end of paragraph 12 insert—

“This paragraph shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the Administration of Estates (Small Payments) Act 1965 substituting for references to £500 such higher amount as may be specified in the order.”

1967 c. 13.

Parliamentary Commissioner Act 1967

63. In Schedule 1 to the Parliamentary Commissioner Act 1967, in paragraph 1, for the words from “schemes” to “State” substitute “scheme of pensions and other benefits applicable to the judicial offices listed in Schedule 1 to the Judicial Pensions Act 1959 and the scheme of pensions and other benefits applicable by virtue of section 1 of the Superannuation Act 1972 to the civil service of the State”.

64. In the said Schedule 1, in paragraph 3,—

(a) for “the Superannuation Act 1965” substitute “the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force”; and

(b) for “an established capacity” substitute “employment”.

1967 c. 28.

Superannuation (Miscellaneous Provisions) Act 1967

65. In section 4(6) of the Superannuation (Miscellaneous Provisions) Act 1967 omit “in an established capacity” and for “the Superannuation Act 1965” substitute “the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force”.

66. In section 7 of the said Act of 1967—

(a) in subsection (1), for “section 67(1) of the National Health Service Act 1946” substitute “section 10 of the Superannuation Act 1972”, for “said Act of 1946”, where first occurring, substitute “National Health Service Act 1946” and for “the Superannuation Act 1965” substitute “any scheme under section 1 of the said Act of 1972”; and

(b) in subsections (2) and (4), for “section 67(1)” substitute “section 10”.

67. In section 18(4) of the said Act of 1967 for “Sections 6 to 8” substitute “Section 7” and for “so far as they apply”, in both places, substitute “so far as it applies”.

Air Corporations Act 1967

SCH. 6

68. In Schedule 1 to the Air Corporations Act 1967, in paragraph 8(1), for "section 24(6) of this Act" substitute "section 56(6) of the Civil Aviation Act 1971".

1967 c. 33.

Road Traffic Regulation Act 1967

1967 c. 76.

69. For section 81(9) of the Road Traffic Regulation Act 1967 substitute—

"(9) Neither regulations under section 7 of the Superannuation Act 1972 nor any local Act scheme within the meaning of section 8 of that Act shall apply to traffic wardens by virtue of the foregoing provisions of this section; but in relation to such traffic wardens employed outside the metropolitan police district as the police authority may determine those regulations (or, if the expenses of the police authority are paid by a local Act authority, the local Act scheme) shall apply, subject to such adaptations, modifications and exceptions as the Secretary of State may by regulations prescribe."

Courts-Martial (Appeals) Act 1968

1968 c. 20.

70. In section 7(2) of the Courts-Martial (Appeals) Act 1968 for the words from "the Superannuation" to the end substitute "the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, with the necessary adaptations, apply to officers and servants of the Court as it applies to other persons employed in the civil service of the State".

Rent Act 1968

1968 c. 23.

71. In section 40(3) of the Rent Act 1968 omit "the Local Government Superannuation Act 1937 and" and for "that Act" substitute "section 8 of the Superannuation Act 1972".

Vehicle and Driving Licences Act 1969

1969 c. 27.

72. In section 2(4) of the Vehicle and Driving Licences Act 1969 for the words from "an employment" to "authority aforesaid" substitute "employment either with that authority or with another authority, that employment and his first mentioned employment".

Post Office Act 1969

1969 c. 48.

73. At the end of section 44 of the Post Office Act 1969 insert—

"(3) References in this section to the Superannuation Act 1965 shall be construed as including references to the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force."

74. At the end of section 46 of the said Act of 1969 insert—

"References in this section to the Superannuation Act 1965 shall be construed as including references to the principal civil

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SCH. 6 " service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force."

1969 c. 50.

Trustee Savings Banks Act 1969

75. In section 76(1) of the Trustee Savings Banks Act 1969 for the words from " tables " to " benefits)" substitute " tables prepared from time to time by the Government Actuary ".

76. In section 82 of the said Act of 1969—

(a) in subsection (2) for the words from " the Superannuation " to the end substitute " the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force " ;

(b) in subsection (3) omit the words from the beginning to " (2) above " and for the words from " corresponding ", where secondly occurring, to " conferred)" substitute " for the payment of pensions to widows or widowers, children and dependants and for the payment of contributions towards defraying the cost of such pensions " ; and

(c) subsection (5) shall be omitted.

1970 c. 9.

Taxes Management Act 1970

77. In section 3(3) of the Taxes Management Act 1970 after " pension ", in both places where it occurs, insert " allowance ".

1970 c. 10.

Income and Corporation Taxes Act 1970

78. In section 210 of the Income and Corporation Taxes Act 1970 for paragraphs (a) and (b) substitute—

" (a) any contributions made by him in accordance with a scheme under section 1 of the Superannuation Act 1972, being contributions towards defraying the cost of a pension payable under the scheme to that person's widow (or, as the case may be, widower) children or dependants, or

(b) any contributions made by him under Part II or III of the Superannuation Act (Northern Ireland) 1967 or by virtue of any enactment of the Parliament of Northern Ireland corresponding to section 1 of the said Act of 1972, or ".

1970 c. 11.

Sea Fish Industry Act 1970

79. In Schedule 1 to the Sea Fish Industry Act 1970, in paragraph 15, for " pensions " substitute " pensions, allowances or gratuities ".

1971 c. 23.

Courts Act 1971

80. At the end of section 27 of the Courts Act 1971 insert—

" (2) The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, with the necessary adaptations, apply to such officers and staff as it applies to other persons employed in the civil service of the State ".

81. In Schedule 10 to the said Act of 1971, in paragraph 16—

(a) in sub-paragraph (1) omit the words from " and, if " to the end ; and

(b) in sub-paragraph (2) for “issue of the certificate” substitute “giving of the direction under sub-paragraph (1) above”. SCH. 6

Rent (Scotland) Act 1971

1971 c. 28.

82. In section 37(4) of the Rent (Scotland) Act 1971 for “the Local Government Superannuation (Scotland) Act 1937” substitute “regulations under section 7 of the Superannuation Act 1972” and for “that Act” substitute “section 8 of that Act.”

National Savings Bank Act 1971

1971 c. 29.

83. In section 24(1)(a) of the National Savings Bank Act 1971 for “Superannuation Acts” substitute “principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force”.

Pensions (Increase) Act 1971

1971 c. 56.

84. In section 4(4) of the Pensions (Increase) Act 1971 for “21” substitute “20A” and for “and 23” substitute “to 23A”.

85. In section 5(1) of the said Act of 1971 after “9(7)” insert “or 7(A)”.

86. In section 8(1) of the said Act of 1971 at the end insert “and
(c) without prejudice to the generality of paragraph (b) above, any compensation payable in pursuance of the provisions of a scheme under section 1 of the Superannuation Act 1972 made by virtue of section 2(2) of that Act or of regulations made under section 24 thereof”.

87. In section 9 of the said Act of 1971 after subsection (7) insert—

“(7A) Section 5(1) above shall not require a local authority to increase any gratuity granted by way of periodical payments or by way of an annuity in accordance with regulations made under section 7 of the Superannuation Act 1972; and the provisions of this section relating to lump sums shall not apply to any such gratuity.”

88. In section 13 of the said Act of 1971 for the words “the Superannuation Act 1965”, in both places where they occur, substitute “the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972”.

89. In Schedule 2 to the said Act of 1971—

(a) in paragraph 4, at the end insert “or under a scheme made under section 1 of the Superannuation Act 1972, being the principal civil service pension scheme within the meaning of section 2 of that Act”;

(b) after paragraph 15 insert—

“15A. A pension payable by a Secretary of State under regulations made under section 24 of the Super-

SCH. 6

annuation Act 1972 (compensation for loss of employment, etc.) to or in respect of such a person as is referred to in paragraph 15 above ” ;

(c) after paragraph 16 insert—

“ 16A. A pension payable by a Secretary of State to or in respect of a person in relation to whom a scheme may be made under the said section 26, being a pension payable under regulations made under section 24 of the Superannuation Act 1972 ” ;

(d) in paragraph 20, for “ section 1 or section 7 of the Teachers Superannuation Act 1967 ” substitute “ section 9 of the Superannuation Act 1972 ” ;

(e) after paragraph 20 insert—

“ 20A. A pension payable to or in respect of a teacher under regulations made under section 24 of the Superannuation Act 1972 (compensation for loss of employment, etc.) ” ;

(f) omit paragraph 21 ;

(g) in paragraph 22(b) omit “ 67 or ” and “ 66 or ” ;

(h) after sub-paragraph (b) of paragraph 22 insert—

“ (c) regulations made under section 10 of the Superannuation Act 1972 ” ;

(i) after paragraph 23 insert—

“ 23A. A pension payable to or in respect of a person in relation to whom regulations may be made under the said section 10, being a pension payable under regulations made under section 24 of the said Act of 1972 (compensation for loss of employment, etc.) ” ;

(j) in paragraph 25 for “ Superannuation Acts 1965 and 1967 ” substitute “ principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 ” ;

(k) in paragraph 52, at end insert—

“ or under regulations made under section 24 of the Superannuation Act 1972 (further provisions requiring payment of compensation for loss of employment, etc.).

This paragraph does not apply to a pension payable as mentioned in paragraph 15A above ” ;

(l) in paragraph 53 after “ Act 1953 ” insert “ or section 7 of the Superannuation Act 1972 ” ;

(m) in paragraph 55, at end insert—

“ or under regulations made under section 24 of the Superannuation Act 1972 (further provisions requiring payment of compensation for loss of employment, etc.) ” ;

(n) in paragraph 60, for the words from “ section 40 ” to the end substitute “ regulations made under section 7 of the Superannuation Act 1972.” SCH. 6

(o) in paragraph 64 after “ 8(1)(b) ” insert “ or (c) ”.

90. In Schedule 3 to the said Act of 1971—

(a) in paragraph 3 for “ Superannuation Acts 1965 and 1967 ” substitute “ principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 ” ;

(b) in paragraph 6(2)(b) after “ (Scotland) Act 1937 ” insert “ or in accordance with regulations made under section 7 of the Superannuation Act 1972 ” ; and

(c) in paragraph 6(2)(c) after “ (Scotland) Act 1937 ” insert “ or for the purposes of regulations made under section 7 of the Superannuation Act 1972 ”.

Tribunals and Inquiries Act 1971

1971 c. 62.


91. In Schedule 1 to the Tribunals and Inquiries Act 1971—

(a) in paragraph 23(c) for the words from “ appeals ” onwards substitute “ such appeals as by virtue of the regulations lie to tribunals so appointed ” ; and

(b) in paragraph 43, after sub-paragraph (b) insert—

“ (c) Tribunals appointed under regulations under section 1 of the Police Pensions Act 1948 (c. 24) to hear appeals relating to constables of a police force within the meaning of the Police (Scotland) Act 1967 (c. 77) and to the categories of officer mentioned in regulation 74(10) of the Police Pensions Regulations 1971, or in the corresponding regulation of any regulations amending or having effect in place of those regulations.”

Industrial Relations Act 1971

1971 c. 72. 

92. In section 150(4) of the Industrial Relations Act 1971 for “ the Superannuation Act 1965 ” substitute “ a scheme made under section 1 of the Superannuation Act 1972 ”.

93. In Schedule 3 to the said Act of 1971, at the end of paragraph 30 insert—

“ The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, with the necessary adaptations, apply to such officers and servants as it applies to other persons employed in the civil service of the State.”

Civil Aviation Act 1971

1971 c. 75.

94. In paragraph 1 of Schedule 9 to the Civil Aviation Act 1971—

(a) in sub-paragraph (2) after “ that Act ” insert “ or in accordance with a scheme made under section 1 of the Superannuation Act 1972 ” ; and

SCH. 6

(b) in sub-paragraph (5) omit the words from "in an established" to "1965".

95. In paragraph 3 of the said Schedule 9—

(a) in sub-paragraph (2) after "that Act" insert "or in accordance with a scheme made under section 1 of the Superannuation Act 1972"; and

(b) in sub-paragraph (7) omit the words from "in an established" to "1965".

96. In Schedule 10 to the said Act of 1971, in paragraph 24(2) for "section 24(6) of this Act" substitute "section 56(6) of the Civil Aviation Act 1971".

Section 29.

SCHEDULE 7

SAVINGS AND TRANSITIONAL PROVISIONS

Provisions relating to civil servants, etc.

1965 c. 74.

1.—(1) The repeal of any enactment by this Act shall not affect any pension, allowance or gratuity granted before the commencement of this Act under the Superannuation Acts 1965 and 1967 or any pension, allowance or gratuity deemed by paragraph 1 of Schedule 10 to the Superannuation Act 1965 to have been granted under that Act, and subject to sub-paragraph (2) below, the pension, allowance or gratuity shall be deemed to have been granted under the principal civil service pension scheme within the meaning of section 2 of this Act.

(2) Without prejudice to section 23 of this Act, sub-paragraph (1) above shall not apply in relation to a pension, allowance or gratuity granted under the said Acts of 1965 and 1967—

1957 c. 62.

(a) to a person who, immediately before the pension, allowance or gratuity was granted to him, was a person listed in Schedule 5 to this Act; or

(b) by virtue of any provision of the Governors' Pensions Act 1957, to a Governor within the meaning of that Act.

1967 c. 28

(3) Any person who before the commencement of this Act duly elected under section 4(6) of the Superannuation (Miscellaneous Provisions) Act 1967 that the said Act of 1965 should apply to him as if his service as a Governor had been passed in the home civil service shall be deemed to have elected that the principal civil service pension scheme within the meaning of section 2 of this Act and for the time being in force should so apply to him.

2.—(1) Any determination, decision, surrender, election or nomination made, certificate, direction, notice or approval given, contribution paid or other thing done under any provision of the Superannuation Acts 1965 and 1967 which is repealed by this Act shall not be affected by the repeal but shall have effect as if made, given or done under the corresponding provision of the principal civil service pension scheme within the meaning of section 2 of this Act.

(2) Section 3 of this Act shall apply in relation to payments made before the commencement of this Act in accordance with a warrant under section 18 of the Superannuation Act 1965 or a warrant issued

by virtue of section 6 of the Ministerial Salaries Consolidation Act 1965 as it applies in relation to payments made in accordance with a scheme made under the said section 1. SCH. 7
1965 c. 58.

(3) Section 4(1) of this Act shall apply in relation to any person to whom a payment was made under section 93 of the Superannuation Act 1965 as it applies in relation to any person to whom a payment is made under the said section 4(1). 1965 c. 74.

3. Any reference in any Act or document to the Superannuation Act 1965, to the Superannuation Acts 1965 and 1967 or to any provision of the said Act of 1965, shall, except in so far as the context otherwise requires, be construed as, or as including, a reference to the principal civil service pension scheme within the meaning of section 2 of this Act or to the corresponding provision of that scheme, as the case may be.

Provisions relating to persons employed in local government service, etc.

4. The repeal of any enactment by this Act shall not affect any superannuation benefit—

- (a) granted under or by virtue of the Local Government Superannuation Acts 1937 to 1953 before the coming into operation of section 7 of this Act in England and Wales ;
or
- (b) granted under or by virtue of the Local Government Superannuation (Scotland) Acts 1937 to 1953 before the coming into operation of the said section 7 in Scotland ; or
- (c) granted under any provision of the Local Government Superannuation Act 1937, or of the Local Government Superannuation (Scotland) Act 1937, which was repealed by the Local Government Superannuation Act 1953. 1937 c. 68.
1937 c. 69.
1953 c. 25.

5.—(1) Notwithstanding any repeal made by this Act—

- (a) the provisions of the enactments listed in the Table below, as amended, extended or applied by or under any other enactment, and
- (b) the provisions of any instrument (including a scheme) made under an enactment so listed, being provisions in force immediately before the commencement of this Act,

shall, as from the said commencement, have effect, with the necessary adaptations and modifications, as provisions of regulations under section 7 or, in so far as they apply in relation to local Act schemes, section 8(2) of this Act, and may be revoked or amended accordingly.

(2) Any reference in any enactment or document to any such enactment or instrument as is referred to in sub-paragraph (1) above or any provision thereof (including such a reference in any such enactment or instrument) shall, except in so far as the context otherwise requires, be construed as a reference to so much of regulations made under the said section 7 or, as the case may be, section 8(2) as by virtue of sub-paragraph (1) above consists of that enactment, instrument or provision.

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TABLE

ENACTMENTS APPLYING TO ENGLAND AND WALES

- | | |
|--------------|---|
| 1937 c. 68. | 1. The Local Government Superannuation Act 1937, except sections 17(2), 26(4), 32 and 34, the proviso to section 35, sections 37, 39 and 41 and Part II of Schedule 1. |
| 1939 c. 94. | 2. Sections 3 to 9 of the Local Government Staffs (War Service) Act 1939, except the proviso to section 6(2). |
| 1948 c. 33. | 3. Sections 6 and 7 of the Superannuation (Miscellaneous Provisions) Act 1948 and the definitions in section 17(1) of that Act of "contributory employee", "local Act scheme", "local Act contributor" and "local authority". |
| 1948 c. 65. | 4. Section 72 of the Representation of the People Act 1948. |
| 1949 c. 101. | 5. Paragraph 8(6) of Schedule 2 to the Justices of the Peace Act 1949. |
| 1953 c. 25. | 6. The Local Government Superannuation Act 1953, except sections 12, 17(4), 26(1) and (3) and 28. |
| 1963 c. 33. | 7. Section 77(3) of the London Government Act 1963. |
| 1963 c. 38. | 8. Section 97(1) of the Water Resources Act 1963. |
| 1964 c. 48. | 9. Paragraph 5(5) of Schedule 4 to the Police Act 1964. |
| 1964 c. 75. | 10. Paragraph 2 of Schedule 1 to the Public Libraries and Museums Act 1964. |
| 1971 c. 23. | 11. Paragraphs 13 and 14 of Schedule 10 to the Courts Act 1971. |

ENACTMENTS APPLYING TO SCOTLAND

- | | |
|-------------|---|
| 1937 c. 69. | 1. The Local Government Superannuation (Scotland) Act 1937, except sections 22(3), 28, 29, the proviso to section 30, sections 32 and 33, and Part II of Schedule 1. |
| 1939 c. 94. | 2. Sections 3 to 9 of the Local Government Staffs (War Service) Act 1939, except the proviso to section 6(2). |
| 1946 c. 77. | 3. Section 3 of the Association of County Councils (Scotland) Act 1946. |
| 1948 c. 33. | 4. Sections 6 and 7 of the Superannuation (Miscellaneous Provisions) Act 1948 and the definitions in section 17(1) of that Act of "contributory employee", "local Act scheme", "local Act contributor" and "local authority". |
| 1951 c. 66. | 5. Section 14(2) and (3) of the Rivers (Prevention of Pollution) (Scotland) Act 1951. |
| 1953 c. 25. | 6. The Local Government Superannuation Act 1953, except sections 12, 17(4), 26(1) and (3) and 28. |

Provisions relating to teachers

- | | |
|-------------|--|
| 1967 c. 12. | 6.—(1) Regulations made under any provision of the Teachers Superannuation Act 1967 and in force immediately before the coming into operation of section 9 of this Act in England and Wales shall be deemed to be regulations made under the said section 9 in its application to England and Wales. |
|-------------|--|

(2) Any contribution paid, direction given, or other thing done, under section 3, 4 or 5 of the said Act of 1967 or Schedule 1 thereto shall not be affected by the repeal of those enactments but shall have effect as if paid, given or done under the corresponding provision of regulations made under the said section 9 in its application to England and Wales. SCH. 7

(3) Nothing in any regulations made under the said section 9 in its application to England and Wales shall affect the operation of any enactment repealed by the said Act of 1967 in relation to—

- (a) any annual allowance which began to accrue before 1st April 1967 under the Teachers (Superannuation) Acts 1918 to 1956 ;
- (b) any additional allowance or gratuity which became payable under those Acts before that date ; or
- (c) any liability to pay contributions in respect of the person to or in respect of whom any such allowance or gratuity was granted ;

and nothing in any such regulations shall affect the operation of section 2(2) of the Teachers Superannuation Act 1965 (which, in relation to certain allowances, etc. preserved the effect of certain enactments and other provisions amended, repealed or revoked by that Act). 1965 c. 83.

7.—(1) Regulations made under any provision of the Teachers Superannuation (Scotland) Act 1968 and in force immediately before the coming into operation of section 9 of this Act in Scotland shall be deemed to be regulations made under the said section 9 in its application to Scotland. 1968 c. 12.

(2) Any pension, allowance, gratuity or contribution payable, direction given or other thing done in respect of employment as a teacher in Scotland before the coming into operation of the said section 9 in Scotland shall thereafter be deemed to be payable or to be given or done under regulations made under that section in its application to Scotland.

Provisions relating to persons engaged in health services, etc.

8.—(1) Regulations made under section 67 of the National Health Service Act 1946 and in force immediately before the coming into operation of section 10 of this Act in England and Wales shall be deemed to be regulations made under the said section 10 in its application to England and Wales ; and any direction given under section 9(1) of the National Health Service Act 1966 shall continue to have effect in relation to those regulations, notwithstanding the repeal by this Act of the said section 9(1). 1946 c. 81.
1966 c. 8.

(2) Sub-paragraph (1) above shall have effect in Scotland with the substitution for the reference to section 67 of the National Health Service Act 1946 of a reference to section 66 of the National Health Service (Scotland) Act 1947 and for the reference to England and Wales of a reference to Scotland. 1947 c. 27.

9. Regulations made under section 35 of the Health Services and Public Health Act 1968 and in force immediately before the commencement of this Act shall be deemed to be regulations made under section 24 of this Act. 1968 c. 46.

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Provisions relating to other persons

1950 c. 3
(14 & 15
Geo. 6.).

10.—(1) The repeal of sections 2 and 3 of the Exchequer and Audit Departments Act 1950 by this Act shall not affect any pension granted under the said section 2, or any pension, allowance or gratuity granted by virtue of the said section 3, before the commencement of this Act, and accordingly any such pension, allowance or gratuity shall continue to be charged on and issued out of the Consolidated Fund.

(2) Any election duly made under the said section 2 shall be deemed to have been so made under section 13 of this Act.

1894 c. 60.

11. The repeal by this Act of section 665 of the Merchant Shipping Act 1894 shall not affect any allowance or compensation granted under that section before the commencement of this Act, and any allowance or compensation so granted shall be deemed to have been granted in accordance with arrangements made under section 1A of the Merchant Shipping (Mercantile Marine Fund) Act 1898, as inserted by section 17 of this Act.

1898 c. 44.

12. The repeal of any enactment by this Act shall not affect any pension, allowance or gratuity granted under section 79(8) of the Land Drainage Act 1930, section 80(7) thereof or section 53 of the Thames Conservancy Act 1950 before the commencement of this Act, and any such pension, allowance or gratuity shall continue to be paid as if this Act had not been passed.

1930 c. 44.

1950 c. 1.

1949 c. 39.

13. Notwithstanding the repeal by this Act of sub-paragraphs (i), (ii) and (iii) of section 6(2)(d) of the Commonwealth Telegraphs Act 1949, regulations made by virtue of those sub-paragraphs shall continue to have effect in so far as immediately before the commencement of this Act they apply to any persons, other than persons employed in the civil service of the State, and may be varied or revoked as if the said sub-paragraphs had not been repealed.

Provisions relating to certain rules

1948 c. 33.

1965 c. 74.

14. Nothing in this Act shall affect the operation of any rules made under any of the following enactments, namely, section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 and sections 38, 39A and 42(1) of the Superannuation Act 1965, and any such rules in force at the commencement of this Act, shall, unless and until revoked, but subject to any amendments made therein in exercise of the power to vary them, continue to have effect as if this Act had not been passed.

15. Notwithstanding the repeal by this Act of section 1 of the Superannuation (Miscellaneous Provisions) Act 1948, rules made under that section in relation to such a person as is referred to in subsection (1)(b) of that section and in force immediately before the commencement of this Act shall continue in force subject to the like power of variation or revocation as if the said section 1 had not been repealed.

SCHEDULE 8
REPEALS

Section 29.

Chapter	Short Title	Extent of Repeal
34 & 35 Vict. c. 36.	The Pensions Commutation Act 1871.	The whole Act, in so far as it applies to persons to whom section 1 of this Act applies.
42 & 43 Vict. c. 44.	The Lord Clerk Register (Scotland) Act 1879.	Section 9.
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	Section 665.
10 & 11 Geo. 5. c. 67.	The Government of Ireland Act 1920.	Section 56.
13 Geo. 5. Sess. 2. c. 2.	The Irish Free State (Consequential Provisions) Act 1922 (Session 2).	In Schedule 1, paragraph 7(1).
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act 1925.	In section 128A(1), the words "part-time or".
15 & 16 Geo. 5. c. 73.	The National Library of Scotland Act 1925.	Section 14.
17 & 18 Geo. 5. c. 35.	The Sheriff Courts and Legal Officers (Scotland) Act 1927.	Section 7(4).
20 & 21 Geo. 5. c. 44.	The Land Drainage Act 1930.	Section 79(8). Section 80(7).
23 & 24 Geo. 5. c. 41.	The Administration of Justice (Scotland) Act 1933.	Section 29.
25 & 26 Geo. 5. c. 21.	The Northern Ireland Land Purchase (Winding Up) Act 1935.	In section 6(3), the words "whose whole time is devoted to the duties of his office,".
25 & 26 Geo. 5. c. 42.	The Government of India Act 1935.	Sections 281 and 282.
25 Geo. 5. & 1 Edw. 8. c. lxxviii.	The Lee Conservancy Catchment Board Act 1936.	Sections 7 and 8.
1 Edw. 8. & 1 Geo. 6. c. 68.	The Local Government Superannuation Act 1937.	The whole Act, so far as unrepealed.
1 Edw. 8. & 1 Geo. 6. c. 69.	The Local Government Superannuation (Scotland) Act 1937.	The whole Act, so far as unrepealed.
1 Edw. 8. & 1 Geo. 6. c. 70.	The Agriculture Act 1937.	Section 26.
1 & 2 Geo. 6. c. 13.	The Superannuation (Various Services) Act 1938.	Section 1. In the Schedule, Part II.
2 & 3 Geo. 6. c. 18.	The Local Government Superannuation Act 1939.	The whole Act, except section 3.
2 & 3 Geo. 6. c. 94.	The Local Government Staffs (War Service) Act 1939.	Sections 3 to 9. In section 15, in subsection (4) the words "except in paragraph (c) of subsection (1) of section nine", subsections (6) and (7) and in subsection (10) the words from "Subsection (4)" to "Act, and".

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Chapter	Short Title	Extent of Repeal
3 & 4 Geo. 6. c. 13.	The Old Age and Widows' Pensions Act 1940.	The whole Act, so far as unrepealed.
6 & 7 Geo. 6. c. 32.	The Hydro-Electric Development (Scotland) Act 1943.	In Schedule 1, paragraph 15.
7 & 8 Geo. 6. c. 28.	The Agriculture (Miscellaneous Provisions) Act 1944.	In section 1(4), the words from "and Part II" to the end. In the Schedule, Part II.
7 & 8 Geo. 6. c. 29.	The Food and Drugs (Milk and Dairies) Act 1944.	Section 6.
9 & 10 Geo. 6. c. 77.	The Association of County Councils (Scotland) Act 1946.	Section 3.
9 & 10 Geo. 6. c. 81.	The National Health Service Act 1946.	Section 67. In section 75(1) and (2), the words "section sixty-seven or".
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act 1947.	Section 66. In section 73(1)(a) and (2), the words "section sixty-six or".
10 & 11 Geo. 6. c. 41.	The Fire Services Act 1947.	Section 8(7) and (8). Section 26(3). Section 36(12).
11 & 12 Geo. 6. c. 24.	The Police Pensions Act 1948.	In section 4(1), the words "granted under regulations made under this Act is granted, and every pension".
11 & 12 Geo. 6. c. 33.	The Superannuation (Miscellaneous Provisions) Act 1948.	Section 1, except so much of subsection (5) as provides for the amendment of the Education (Scotland) (War Service Superannuation) Act 1939. Sections 6 and 7. In section 17(1), the words from "'civil servant'" to "police magistrates" and the definition of "War Agricultural Executive Committee". In the Schedule, Part I.
11 & 12 Geo. 6. c. 65.	The Representation of the People Act 1948.	Section 72.
12 & 13 Geo. 6. c. 20.	The Cinematograph Film Production (Special Loans) Act 1949.	In the Schedule, in paragraph 6, the words "with the approval of the Board of Trade".
12 & 13 Geo. 6. c. 39.	The Commonwealth Telegraphs Act 1949.	In section 6(2)(d), sub-paragraphs (i), (ii) and (iii).
12 & 13 Geo. 6. c. 44.	The Superannuation Act 1949.	The whole Act, so far as unrepealed.

Chapter	Short Title	Extent of Repeal
12 & 13 Geo. 6. c. 68.	The Representation of the People Act 1949.	In Schedule 8, so much of the Table in paragraph 5(1) as relates to section 72 of the Representation of the People Act 1948.
12, 13 & 14 Geo. 6. c. 93.	The National Health Service (Amendment) Act 1949.	In section 18(5), the words, from "and for" to the end.
12, 13 & 14 Geo. 6. c. 101.	The Justices of the Peace Act 1949.	In Schedule 2, paragraph 8(5) and (6).
14 Geo. 6. c. 34.	The Housing (Scotland) Act 1950.	Section 179.
14 & 15 Geo. 6. c. 3.	The Exchequer and Audit Departments Act 1950.	Sections 2 to 4.
14 & 15 Geo. 6. c. 11.	The Administration of Justice (Pensions) Act 1950.	Section 23.
14 Geo. 6. c. xlix.	The Lee Conservancy Catchment Board Act 1950.	Section 19.
14 Geo. 6. c. 1.	The Thames Conservancy Act 1950.	Section 53.
14 & 15 Geo. 6. c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	Section 41. In section 44, in subsection (1) the words from the beginning to "this Act", where first occurring, and subsection (2).
14 & 15 Geo. 6. c. 66.	The Rivers (Prevention of Pollution) (Scotland) Act 1951.	Section 14.
1 & 2 Eliz. 2. c. 25.	The Local Government Superannuation Act 1953.	The whole Act, except section 25.
2 & 3 Eliz. 2. c. 38.	The Supreme Court Officers (Pensions) Act 1954.	In section 2, in subsection (7), the words from "and for" to the end and subsection (8). In section 4, in subsection (1)(b), the words from "and shall" to "such employment" and subsections (3) and (4). In section 5, in subsection (1), the words "the Superannuation Acts 1834 to 1950 or" and subsection (2).
3 & 4 Eliz. 2. c. 22.	The Pensions (India, Pakistan and Burma) Act 1955.	In Schedule 2, in Part III, paragraphs 3 and 4.
4 & 5 Eliz. 2. c. 11.	The Sudan (Special Payments) Act 1955.	The whole Act, so far as unrepealed.
4 & 5 Eliz. 2. c. 48.	The Sugar Act 1956.	In Schedule 2, in paragraph 7(2)(b), the words "with the approval of the Minister".

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Chapter	Short Title	Extent of Repeal
4 & 5 Eliz. 2. c. 68.	The Restrictive Trade Practices Act 1956.	Section 35(1)(d).
5 & 6 Eliz. 2. c. 21.	The Cinematograph Films Act 1957.	In the Schedule, in paragraph 5(1)(b), the words "with the approval of the Board of Trade".
5 & 6 Eliz. 2. c. 63.	The Appropriation Act 1957.	Sections 6 and 7.
6 & 7 Eliz. 2. c. 14.	The Overseas Service Act 1958.	In section 3(7), the words from "and so" onwards.
7 & 8 Eliz. 2. c. 23.	The Overseas Resources Development Act 1959.	In Schedule 1, in paragraph 6(b), the words "with the approval of the Secretary of State".
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	In Schedule 7, in Part I, the entry relating to the Local Government Superannuation Act 1953.
7 & 8 Eliz. 2. c. xxvi.	The Thames Conservancy Act 1959.	Section 33.
8 & 9 Eliz. 2. c. 58.	The Charities Act 1960.	In section 44(1)(a), the words from "and any" to "1950".
8 & 9 Eliz. 2. c. 61.	The Mental Health (Scotland) Act 1960.	In Schedule 4, the entry relating to the Local Government Superannuation Act 1953.
8 & 9 Eliz. 2. c. 66.	The Professions Supplementary to Medicine Act 1960.	In Schedule 1, paragraph 20(3).
9 & 10 Eliz. 2. c. 49.	The Covent Garden Market Act 1961.	In Schedule 1, in paragraph 8(2)(b), the words "with the approval of the Minister".
10 & 11 Eliz. 2. c. 30.	The Northern Ireland Act 1962.	In section 8(5), paragraph (c) and the word "and" immediately preceding it.
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	In Schedule 10, in paragraph 8(1) the words from "(including" to "retirement)".
1963 c. 33.	The London Government Act 1963.	Section 77.
1963 c. 38.	The Water Resources Act 1963.	Section 96(1) and (2). Section 97(1) and (5). In Schedule 13, paragraph 1.
1964 c. 16.	The Industrial Training Act 1964.	In the Schedule, in paragraph 10, the words from "and, in" to the end.
1964 c. 21.	The Television Act 1964.	In Schedule 1, in paragraph 7(2), the words "with the approval of the Postmaster General".
1964 c. 40.	The Harbours Act 1964.	In Schedule 1, in paragraph 8(2)(b), the words "with the approval of the Minister".

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Chapter	Short Title	Extent of Repeal
1964 c. 42.	The Administration of Justice Act 1964.	In Schedule 3, paragraph 16.
1964 c. 48.	The Police Act 1964.	Section 10(2). In Schedule 4, paragraph 5(4) and (5).
1964 c. 56.	The Housing Act 1964.	Section 1(5). In Schedule 1, in paragraph 2(9) the words from the beginning to "Corporation; but" and the words "in consequence of the admission agreement" and "in consequence of that agreement".
1964 c. 75.	The Public Libraries and Museums Act 1964.	In Schedule 1, paragraphs 1(4) and 2.
1965 c. 10.	The Superannuation (Amendment) Act 1965.	In section 5, the words "the Superannuation (Miscellaneous Provisions) Act 1948".
1965 c. 16.	The Airports Authority Act 1965.	In Schedule 2, paragraph 11. In Schedule 1, in paragraph 9(1), the words "with the approval of the Minister".
1965 c. 17.	The Museum of London Act 1965.	In section 10, subsections (4) and (8).
1965 c. 58.	The Ministerial Salaries Consolidation Act 1965.	Section 6.
1965 c. 59.	The New Towns Act 1965.	Section 9(3). Section 48(1). In Schedule 9, in paragraph 2(4) the words from the beginning to "Commission; but" and in both places the words "in consequence of the agreement".
1965 c. 74.	The Superannuation Act 1965.	The whole Act, except sections 38, 39, 39A, 42(1), 95(1) and (2), 97(1) and (2)(a) and (c), 98, 104(1) and 106, Schedule 8 and paragraphs 10 and 11 of Schedule 10.
1966 c. 8.	The National Health Service Act 1966.	Section 9(1) to (3).
1967 c. 9.	The General Rate Act 1967.	In section 92(1), the words from "and every such panel" to "of 1937".
1967 c. 10.	The Forestry Act 1967.	In Schedule 1, in Part II, in paragraph 9(4) the words from "the civil" to "service; and" and paragraph 11.
1967 c. 12.	The Teachers' Superannuation Act 1967.	The whole Act.

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Chapter	Short Title	Extent of Repeal
1967 c. 22.	The Agriculture Act 1967.	In Schedule 1, in paragraph 8(2)(b) of Part II, the words "with the approval of the Ministers".
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	Section 1. Section 2(2) and (3). In section 4(6), the words "in an established capacity". Section 6. In section 7(5), the words "or to section 67(1) thereof", the word "respectively" and the words "and to section 66(1) thereof". Section 8. Section 11(2). Section 15(5). Section 16.
1967 c. 32.	The Development of Inventions Act 1967.	In the Schedule, in paragraph 6(b), the words "with the approval of the Minister".
1967 c. 76.	The Road Traffic Regulation Act 1967.	Section 81(12)(b).
1968 c. 12.	The Teachers Superannuation (Scotland) Act 1968.	The whole Act except section 13.
1968 c. 16.	The New Towns (Scotland) Act 1968.	Section 41(1).
1968 c. 23.	The Rent Act 1968.	In section 40(3), the words "the Local Government Superannuation Act 1937 and".
1968 c. 46.	The Health Services and Public Health Act 1968.	Section 35.
1968 c. 69.	The Justices of the Peace Act 1968.	In Schedule 3, paragraph 10(2).
1968 c. 73.	The Transport Act 1968.	In Schedule 5, in Part II, paragraph 5. In Schedule 15, in paragraph 8(2)(b) the words "with the approval of the Minister".
1968 c. xxxii.	The Port of London Act 1968.	In Schedule 11, paragraph (s).
1969 c. 35.	The Transport (London) Act 1969.	In section 4(5), the words from the beginning to "undertakers) and".
1969 c. 48.	The Post Office Act 1969.	In section 43(1), the words "with the approval of the Minister". Section 45.
1969 c. 50.	The Trustee Savings Banks Act 1969.	In section 82, in subsection (3) the words from the beginning to "(2) above", and subsection (5).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In Schedule 15, so much of the Table in paragraph 11 as relates to the Forestry Act 1967.

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Chapter	Short Title	Extent of Repeal
1970 c. 11.	The Sea Fish Industry Act 1970.	In Schedule 1, in paragraph 15 the words "with the approval of the Minister for the Civil Service".
1971 c. 23.	The Courts Act 1971.	In Schedule 9, the entry relating to the Police Pensions Act 1948.
1971 c. 56.	The Pensions (Increase) Act 1971.	<p>In Schedule 10, paragraphs 13 and 14 and in paragraph 16(1) the words from "and, if" to the end.</p> <p>Section 14.</p> <p>In section 15, subsections (1), (2) and (3), in subsection (4) paragraph (b) and the word "and" immediately preceding it, and subsection (6).</p> <p>In Schedule 2, paragraph 21, in paragraph 22(b) the words "67 or" and "66 or" and in paragraph 23(b) the words from "or section 35" to the end.</p>
1971 c. 75.	The Civil Aviation Act 1971.	In Schedule 9, in paragraphs 1(5) and 3(7), the words from "in an established" to "1965".



Iron and Steel Act 1972

1972 CHAPTER 12

An Act to make new provision with respect to the finances of the British Steel Corporation and to clarify the Corporation's powers and duties in respect of iron and steel activities. [1st March 1972]

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:—

Amendments
as to finances
of British Steel
Corporation.
1969 c. 45.

1.—(1) Section 2(1) of the Iron and Steel Act 1969 (under which the Secretary of State is deemed to have paid the British Steel Corporation £700,000,000 by way of public investment otherwise than by way of loan) shall be amended by substituting “£500,000,000” for “£700,000,000”; and the like amendment shall be made in section 6(3)(b) of that Act (which provides that in the event of the expiry of the provisions of that Act relating to such public investment as aforesaid the Corporation shall assume a debt to the Secretary of State equivalent to the amount of that investment).

1967 c. 17.

(2) The Secretary of State may with the consent of the Treasury, at such time or times as he may with the like consent determine, release the Corporation from their liability to repay the whole or any part of any sum borrowed by them before the passing of this Act under section 19(2) of the Iron and Steel Act 1967 (long term loans), but not so as to reduce their total indebtedness in respect of the principal of sums so borrowed by more than £150,000,000; and the assets of the National Loans Fund shall accordingly be reduced by amounts corresponding to those which the Corporation cease to be liable to repay by virtue of this subsection.

(3) In section 3 of the said Act of 1969 (which provides that the aggregate of the amount outstanding in respect of the principal of money borrowed by the Corporation and the publicly-owned companies, together with any sums paid to the Corporation under section 2(1) of that Act, shall not at any time exceed an amount which at the passing of this Act stands at £650,000,000) for the words from “ shall not at any time exceed ” to the end of the section there shall be substituted the words “ shall not at any time exceed £1,250,000,000 ”.

2.—(1) Nothing in sections 2 and 3 of the Iron and Steel Act 1967 (powers and general duty of British Steel Corporation) shall be construed as imposing on the Corporation any duty to carry on, or secure the carrying on by the Corporation and publicly-owned companies, of iron and steel activities except to such extent as the Corporation think fit, or as precluding the Corporation from disposing of an asset used or capable of use for the purpose of any of those activities or from disposing of any interest in a company in which any such asset is vested.

Corporation's powers and duties in respect of iron and steel activities.
1967 c. 17.

(2) In this section “ iron and steel activities ” and “ publicly-owned companies ” have the same meaning as in the said Act of 1967.

3.—(1) This Act may be cited as the Iron and Steel Act 1972.

(2) This Act does not extend to Northern Ireland.

Short title and extent.



Consolidated Fund Act 1972

1972 CHAPTER 13

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on 31st March 1971, 1972 and 1973. [23rd March 1972]

Most Gracious Sovereign,

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

Issue out of the Consolidated Fund for the years ending 31st March 1971 and 1972.

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 1971 and 1972 the sum of £579,830,787·89.

Issue out of the Consolidated Fund for the year ending 31st March 1973.

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 1973 the sum of £1,048,030,000.

Short title.

3. This Act may be cited as the Consolidated Fund Act 1972.



Transport Holding Company Act 1972

1972 CHAPTER 14

An Act to make further provision with respect to the disposal of assets by, and the dissolution of, the Transport Holding Company, with respect to the making of grants to the company towards their expenses in disposing of assets or preparing for their dissolution, or towards discharging liabilities imposed on them under the provision so made, and with respect to pensions and compensation for loss of employment in respect of employees of bodies which cease to be subsidiaries of the company; and for purposes connected with those matters. [23rd March 1972]

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

1.—(1) The Transport Holding Company (hereafter in this Act referred to as “the company”) shall have power to sell or otherwise dispose of any property, rights or liabilities of the company with the object of preparing for the dissolution of the company, but shall not dispose of any securities in the exercise of that power except with the consent of the Secretary of State.

Disposal of assets by, dissolution of and grants to the Transport Holding Company etc.

(2) It shall be the duty of the company in exercising the power conferred on them by the preceding subsection to act in accordance with any directions given to them from time to time by the Secretary of State, and any such directions shall be set out in the annual report of the company.

(3) In paragraph (b) of subsection (1) of section 53 of the Transport Act 1968 (under which an order may transfer the residue of the property, rights and liabilities of the company to

1968 c. 73.

certain bodies specified in the order and may provide for the dissolution of the company) the words from “transfer” to “specified in the order and” shall cease to have effect; and accordingly—

(a) in subsections (1)(c) and (2) of that section the words “or (b)” shall be omitted;

(b) in subsection (3)(d) of that section the reference to the said Act of 1968 shall include a reference to this Act.

(4) The power exercisable by virtue of subsection (5)(a) of the said section 53 to vary the company’s commencing capital debt shall include power to extinguish that debt; and the reference in subsection (5) of that section to any transfer of property, rights and liabilities from the company under subsection (1) of that section shall include a reference to any disposal by the company or by a subsidiary of the company of any property, rights or liabilities.

(5) The Secretary of State may with the approval of the Treasury make to the company grants out of money provided by Parliament towards expenses incurred by the company in disposing of assets or preparing for their dissolution, or towards discharging liabilities imposed on the company under section 2 of this Act.

1968 c. 73.

(6) An order under section 53 of the Transport Act 1968 transferring liabilities of the company to another person may include provision for the payment to that person out of money provided by Parliament of grants of such amounts as are determined by the Secretary of State with the approval of the Treasury to be appropriate for the purpose of enabling or assisting that person to discharge those liabilities.

1962 c. 46.

(7) There shall be paid into the Consolidated Fund any increase attributable to the provisions of this section in the sums payable into that Fund in pursuance of section 29(10) of the Transport Act 1962.

(8) In this section “securities” and “subsidiary” have the meanings assigned to them by section 92(1) of the Transport Act 1962.

Pensions, and compensation for loss of employment etc.

2.—(1) The Secretary of State may by order make provision—

(a) for authorising or facilitating the transfer from the company to another person of any functions of the company (whether in pursuance of a statutory provision or otherwise) in connection with a pension scheme conferring pension rights in respect of persons who consist of or include employees of a relevant subsidiary, or for terminating or altering any such functions;

- (b) for requiring the company to make or secure the making of such payments as are needed to make good the whole or part of any deficiencies in the funds which are and will be available for meeting the actual and potential liabilities of the persons administering a pension scheme appearing to the Secretary of State to be maintained for the purpose of conferring benefits on persons who consist of or include employees of a relevant subsidiary, being deficiencies determined in such manner as the Secretary of State thinks fit and so determined as at the subsidiary's transfer date ;
- (c) for securing that persons other than employees of relevant subsidiaries cease to be eligible to participate in pension schemes appearing to the Secretary of State to be maintained mainly for the purpose of conferring benefits in respect of employees and former employees of relevant subsidiaries and that employees of relevant subsidiaries cease to be eligible to participate in pension schemes appearing to the Secretary of State to be maintained mainly for the purpose of conferring benefits in respect of employees and former employees of public bodies engaged in the transport industry (other than the company) and their subsidiaries.

(2) The Secretary of State shall by order make provision for safeguarding, in such cases and such manner as may be determined by or under the order,—

- (a) the pension rights which immediately before a relevant subsidiary's transfer date are, by reference to that subsidiary or to bodies which include that subsidiary, conferred on any person by a pension scheme appearing to the Secretary of State to be maintained mainly for the purpose of conferring benefits in respect of employees and former employees of that subsidiary or of subsidiaries of the company which include that subsidiary ; and
- (b) any other pension rights which, immediately before a person ceases to be eligible to participate in a particular pension scheme by virtue of the fact that a body ceases to be a subsidiary of the company or by virtue of paragraph (c) of the preceding subsection, are conferred in respect of him by the scheme,

and an order containing provisions made by virtue of paragraph (a) or (b) of this subsection may also make provision—

- (i) for enabling such a person as is mentioned in the said paragraph (a) or (b) to elect that any pension rights falling to be safeguarded in pursuance of this subsection

(hereafter in this subsection referred to as "relevant pension rights") shall be safeguarded in a particular manner determined by or under the order,

- (ii) for requiring the company to establish pension schemes for the purpose of safeguarding any relevant pension rights,
- (iii) for requiring the company or the persons administering any pension scheme conferring relevant pension rights to make payments for the purpose of safeguarding relevant pension rights,
- (iv) for authorising payments falling to be made in pursuance of the preceding paragraph by the persons administering a pension scheme to be made out of the funds of that scheme and for authorising the persons administering any pension scheme by means of which it is proposed to safeguard any relevant pension rights to accept for the purposes of that scheme payments in respect of those rights.

(3) An order under this section—

- (a) may contain provisions for altering or winding up a pension scheme appearing to the Secretary of State to be maintained wholly or mainly for the purpose of conferring benefits in respect of employees and former employees of one or more relevant subsidiaries and to be affected by any provision made in pursuance of the preceding provisions of this section, or for dividing and disposing of the funds of such a scheme ;
- (b) may, without prejudice to the provisions of the preceding paragraph, contain provisions for making such alterations of any pension scheme and of any statutory provision, trust deed, rules or other instrument as the Secretary of State considers appropriate for the purposes or in consequence of the order ;
- (c) may make such supplemental or consequential provision as the Secretary of State considers appropriate for the purposes of the order including, without prejudice to the generality of the preceding provisions of this paragraph, provision with respect to the determination of questions arising under the order and for referring disputes arising under the order to a tribunal established under section 12 of the Industrial Training Act 1964 ;
- (d) may be made to have effect from a date before that on which it is made but not so as to place a person other than the company in a worse position than that

in which he would have been if the order had had effect only on and after that date ; and

(e) may be revoked or varied by a subsequent order under this section.

(4) The Secretary of State shall by regulations require the payment by the company, in such cases and to such extent as may be determined by or under the regulations, of compensation to or in respect of any person who—

(a) is or was, on or before the date when a body ceases to be a subsidiary of the company in consequence of the sale or other disposal of securities by the company or a subsidiary of the company after the passing of this Act, in such an employment as may be so determined ; and

(b) suffers any loss of employment or loss or diminution of emoluments or pension rights or worsening of his position which is properly attributable to the cesser ;

and subsections (2) to (4) of section 135 of the Transport Act 1968 c. 73. 1968 (which contain supplementary provisions with respect to regulations providing for compensation for loss of employment and other matters) shall apply with the necessary modifications to regulations made in pursuance of this subsection as they apply to regulations made in pursuance of that section.

(5) The powers to make orders and regulations conferred by this section shall be exercisable by statutory instrument ; 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.

(6) In this section—

“ relevant subsidiary ” means a body which after the passing of this Act ceased or is to cease to be a subsidiary of the company ; and

“ transfer date ”, in relation to a body which is a relevant subsidiary, means the date on which that body ceased or is to cease to be a subsidiary of the company ;

and in this section expressions to which meanings are assigned by section 92(1) of the Transport Act 1962 have those meanings ; 1962 c. 46. and the Secretary of State may by order provide that, as respects any period after the dissolution of the company, any reference to the company in subsections (1) to (4) of this section which is specified in the order shall be construed as a reference to such person as the Secretary of State may designate by the order as being in his opinion the person to whom any relevant property, right or liability of the company has been transferred in pursuance of section 53 of the Transport Act 1968.

1968 c. 73.
1964 c. 16.
1964 c. 18
(N.I.).

(7) Any reference in this section, or in the provisions of the Transport Act 1968 as applied by this section, to a tribunal established under section 12 of the Industrial Training Act 1964 shall, in relation to Northern Ireland, be taken as a reference to a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964.

Short title
and extent.

3.—(1) This Act may be cited as the Transport Holding Company Act 1972.

1920 c. 67.

(2) This Act extends to Northern Ireland and for the purposes of section 6 of the Government of Ireland Act 1920 (which relates to the powers of the Parliament of Northern Ireland) this Act shall be deemed to be an Act passed before the appointed day.



Transport (Grants) Act 1972

1972 CHAPTER 15

An Act to authorise the Secretary of State to make grants to the British Railways Board and to the National Bus Company, and to make contributions to expenditure by the British Railways Board or their subsidiaries intended to promote employment. [23rd March 1972]

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

- 1.—(1) The Secretary of State shall before the end of the year 1972—
- (a) make payments to the British Railways Board amounting in all to £27 million, and
 - (b) make payments to the National Bus Company amounting in all to £7 million,

Grants to British Railways Board and National Bus Company.

and any such payment shall be made out of money provided by Parliament and shall be for the credit of the revenue account of the body to which it is made.

(2) Subject to the preceding provisions of this section, the time at which the payments are made, and the amount paid at any one time, shall be such as the Secretary of State may, with the consent of the Treasury, determine.

- 2.—(1) There may be defrayed out of moneys provided by Parliament such sums not in the aggregate exceeding £5 million as may be required by the Secretary of State for the purpose of making with the approval of the Treasury contributions towards expenses to which this section applies.

Contributions by Secretary of State towards expenditure intended to promote employment.

(2) This section applies—

- (a) to expenses incurred by the British Railways Board or any of their subsidiaries in or in connection with the carrying out of any project which is commenced before 1st April 1974 and which, pursuant to an agreement entered into with the Secretary of State with a view to promoting employment (whether or not in the transport industry) is, in whole or in part, commenced or carried out earlier than it would have been but for the agreement, and
- (b) to expenses incurred by the British Railways Board or any of their subsidiaries in or by reason of the purchase before that date of materials for any project, being a purchase which, pursuant to any such agreement, was effected earlier than it would have been but for the agreement.

(3) This section applies to expenses incurred before as well as after the passing of this Act.

Short title.

3. This Act may be cited as the Transport (Grants) Act 1972.



Harbours (Loans) Act 1972

1972 CHAPTER 16

An Act to provide for loans to harbour authorities to enable them to pay certain debts; to provide for the payment to the Secretary of State of the amount of past loans made by him for that purpose to such authorities; to impose a limit on loans made for that purpose to harbour authorities, on such payments and on loans made under section 11 of the Harbours Act 1964, in substitution for the existing limit on the latter; and for connected purposes. [23rd March 1972]

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

- 1.—(1) Subject to subsection (2) below, where it appears to the Secretary of State that a harbour authority are, or are likely to be, unable—
- Loans to pay off capital debts temporary loans and overdrafts.
- (a) to pay, at the due time, the whole or part of any debt (whether incurred before or after the passing of this Act) properly chargeable to capital account;
- (b) to repay or pay off, at the due time, the whole or part of a temporary loan made or an overdraft granted to them (whether before or after the passing of this Act);

and it appears to the Secretary of State after consulting the National Ports Council that the financial prospects of the authority justify making them a loan for the purpose of enabling them to make the payment or repayment, then, with the approval of the Treasury, he may out of moneys issued to him for the purpose out of the National Loans Fund make the authority a loan for that purpose.

(2) The Secretary of State shall not make a loan under subsection (1) above to enable a payment or repayment to be made by a harbour authority of the whole or any part of a debt, loan or overdraft to the extent that the debt was incurred, the loan made or the overdraft granted in relation to a fishery harbour or marine work.

(3) The purposes for which a harbour authority may borrow money under any statutory provision shall include power to borrow it for a purpose for which a loan may be made under this section.

(4) Section 43 of the 1964 Act (provisions with respect to loans made by the Secretary of State) shall apply to loans which the Secretary of State makes under this section as it applies to loans which he makes under section 6 or 11 of that Act.

(5) The provisions of this section are without prejudice to section 11 of the 1964 Act (loans for execution of harbour works) or any other enactment relating to loans to harbour authorities.

Power of Council to obtain information.

2. Section 41 of the 1964 Act (power of the Council to obtain information and forecasts for the purposes of their functions under that Act) shall apply in relation to their functions under this Act as it applies in relation to their functions under that Act, and section 46 of that Act (restriction of disclosure of information furnished in pursuance of a requirement imposed under the said section 41) shall apply accordingly in relation to information furnished in pursuance of a requirement imposed by virtue of this section.

Past loans.

3.—(1) Where before the passing of this Act a loan has been made by the Secretary of State to a harbour authority for any purpose for which a loan could be made thereafter under this Act, there shall be issued out of the National Loans Fund to the Secretary of State an amount equal to the principal of the loan.

(2) Any sums received by the Secretary of State by way of repayment of the principal of, or payment of interest on, any such loan shall be paid into the National Loans Fund.

(3) The Secretary of State shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to him for the purpose of enabling him to make any such loan, of the sums issued to him out of the National Loans Fund under subsection (1) above and of the sums to be paid into the National Loans Fund under subsection (2) above 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 Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

4.—(1) The aggregate amount of loans made after the passing of this Act under section 11 of the 1964 Act and under section 1 above and of payments under section 3 above shall not exceed £200 million or, if so provided by a resolution of the Commons House of Parliament, £300 million. Limit on loans, etc.

(2) The Harbours (Amendment) Act 1970 is hereby repealed. 1970 c. 53.

5.—(1) In this Act “ the 1964 Act ” means the Harbours Act 1964 and expressions used in this Act and that Act have the same meanings in this Act as they have in that Act. Interpretation, short title and extent. 1964 c. 40.

(2) References in this Act to any provision of the 1964 Act shall, except where the context otherwise requires, be construed as references to that provision as amended, extended or applied by or under any other enactment, including an enactment contained in this Act.

(3) This Act may be cited as the Harbours (Loans) Act 1972.

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



Electricity Act 1972

1972 CHAPTER 17

An Act to increase the statutory limits imposed on the amounts outstanding in respect of borrowings by the Electricity Council and Electricity Boards, to authorise contributions by the Secretary of State to expenditure intended to promote employment and to make further provision for the transfer of property between Electricity Boards. [23rd March 1972]

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:—

Borrowing powers of electricity authorities.
1957 c. 48.
1963 c. 59.

1.—(1) In section 15(5) of the Electricity Act 1957 (limit on borrowing powers of the Electricity Council and Electricity Boards in England and Wales) as amended by section 1 of the Electricity and Gas Act 1963, for the words—

“£3,300 million or such greater sum, not exceeding £4,400 million, as the Minister may by order specify” there shall be substituted the words—

“£5,200 million or such greater sum, not exceeding £6,500 million, as the Secretary of State may by order specify”.

1947 c. 54.
1969 c. 1.

(2) In section 47(7) of the Electricity Act 1947 (limit on borrowing powers of the Scottish Electricity Boards), as amended by section 1 of the Electricity (Scotland) Act 1969, for the words—

“ £700 million or such greater sum, not exceeding £800 million, as the Secretary of State may by order specify ” there shall be substituted the words—

“ £950 million or such greater sum, not exceeding £1,200 million, as the Secretary of State may by order specify.”

(3) Any power to make an order which is exercisable by virtue of this section includes power to revoke or vary any such order by a subsequent order.

(4) Any such power shall be exercisable by statutory instrument, and no order shall be made in the exercise of any such power unless a draft of the order has been laid before the Commons House of Parliament and has been approved by resolution of that House.

(5) The reference in section 2(1) of the Electricity and Gas Act 1963 (Government advances) to the limits on borrowing imposed by the relevant enactments shall be taken as a reference to all relevant limits on borrowing for the time being in force under the enactments relating to electricity or gas.

2.—(1) There may be defrayed out of moneys provided by Parliament such sums not in the aggregate exceeding £25 million as may be required by the Secretary of State for the purpose of making with the approval of the Treasury contributions towards expenses to which this section applies.

Contributions by Secretary of State towards expenditure intended to promote employment.

(2) This section applies—

- (a) to expenses incurred by the Electricity Council or any Electricity Board in or in connection with the carrying out of any project which is commenced before 1st April 1974 and which, pursuant to an agreement entered into with the Secretary of State with a view to promoting employment (whether or not in the electricity industry) is, in whole or in part, commenced or carried out earlier than it would have been but for the agreement, and
- (b) to expenses incurred by any of those bodies in or by reason of the purchase before that date of materials for any project, being a purchase which, pursuant to any such agreement, was effected earlier than it would have been but for the agreement.

(3) This section applies to expenses incurred before as well as after the passing of this Act.

(4) In this section “ Electricity Board ” has the same meaning as in the Electricity Act 1947.

1947 c. 54.

E

Transfer of
property
between
Electricity
Boards.
1947 c. 54.

3. In section 19(1)(a) of the Electricity Act 1947 (power of transfer which is restricted to property vested by virtue of that Act or the Electricity Act 1957) the words “by virtue of this Act or the Electricity Act 1957” shall be omitted.

Citation,
construction
and repeals.

4.—(1) This Act may be cited as the Electricity Act 1972; and the Electricity (Scotland) Acts 1943 to 1969 and this Act (in so far as it applies to Scotland) may be cited together as the Electricity (Scotland) Acts 1943 to 1972.

(2) Except where the context otherwise requires, references in this Act to any enactment are references thereto as amended by any other enactment, including any enactment contained in this Act.

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

SCHEDULE

REPEALS

Section 4.

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 54.	The Electricity Act 1947.	In section 19, in subsection (1)(a) the words from "by virtue" to "1957", and in subsection (2) the words from "and the reference" to "1954".
2 & 3 Eliz. 2. c. 60.	The Electricity Re-organisation (Scotland) Act 1954.	In Part II of Schedule 1, in the entry relating to section 19 of the Electricity Act 1947, the words from "and the reference" to "1954".
5 & 6 Eliz. 2. c. 48.	The Electricity Act 1957.	In Part I of Schedule 4, in the entry relating to section 19(1) of the Electricity Act 1947, the words from "and after" to "1957".
1963 c. 59.	The Electricity and Gas Act 1963.	Section 1. In section 2(2) the words from "and in the preceding" to the end of the subsection.
1968 c. 39.	The Gas and Electricity Act 1968.	Section 1(3)(b).
1969 c. 1.	The Electricity (Scotland) Act 1969.	Section 1.



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

An Act to make new provision, applying throughout the United Kingdom, in place of the Maintenance Orders (Facilities for Enforcement) Act 1920; to make provision with a view to the accession by the United Kingdom to the United Nations Convention on the Recovery Abroad of Maintenance done at New York on 20th June 1956; to make other provision for facilitating the recovery of maintenance by or from persons in the United Kingdom from or by persons in other countries; to extend the jurisdiction of magistrates' courts to hear complaints by or against persons outside England and Wales; and for purposes connected with the matters aforesaid. [23rd March 1972]

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

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS MADE IN UNITED KINGDOM OR RECIPROCATING COUNTRY

Designation of reciprocating countries

1.—(1) Her Majesty, if satisfied that, in the event of the benefits conferred by this Part of this Act being applied to, or to particular classes of, maintenance orders made by the courts of any country or territory outside the United Kingdom, similar

Orders in Council designating reciprocating countries.

E 3

PART I

benefits will in that country or territory be applied to, or to those classes of, maintenance orders made by the courts of the United Kingdom, may by Order in Council designate that country or territory as a reciprocating country for the purposes of this Part of this Act; and, subject to subsection (2) below, in this Part of this Act "reciprocating country" means a country or territory that is for the time being so designated.

(2) A country or territory may be designated under subsection (1) above as a reciprocating country either as regards maintenance orders generally, or as regards maintenance orders other than those of any specified class, or as regards maintenance orders of one or more specified classes only; and a country or territory which is for the time being so designated otherwise than as regards maintenance orders generally shall for the purposes of this Part of this Act be taken to be a reciprocating country only as regards maintenance orders of the class to which the designation extends.

Orders made by courts in the United Kingdom

Transmission of maintenance order made in United Kingdom for enforcement in reciprocating country.

2.—(1) Subject to subsection (2) below, where the payer under a maintenance order made, whether before or after the commencement of this Part of this Act, by a court in the United Kingdom is residing in a reciprocating country, the payee under the order may apply for the order to be sent to that country for enforcement.

(2) Subsection (1) above shall not have effect in relation to a provisional order or to an order made by virtue of a provision of Part II of this Act.

(3) Every application under this section shall be made in the prescribed manner to the prescribed officer of the court which made the maintenance order to which the application relates.

(4) If, on an application duly made under this section to the prescribed officer of a court in the United Kingdom, that officer is satisfied that the payer under the maintenance order to which the application relates is residing in a reciprocating country, the following documents, that is to say—

- (a) a certified copy of the maintenance order;
- (b) a certificate signed by that officer certifying that the order is enforceable in the United Kingdom;
- (c) a certificate of arrears so signed;
- (d) a statement giving such information as the officer possesses as to the whereabouts of the payer;

(e) a statement giving such information as the officer possesses for facilitating the identification of the payer; and

(f) where available, a photograph of the payer ;

shall be sent by that officer to the Secretary of State with a view to their being transmitted by the Secretary of State to the responsible authority in the reciprocating country if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

(5) Nothing in this section shall be taken as affecting any jurisdiction of a court in the United Kingdom with respect to a maintenance order to which this section applies, and any such order may be enforced, varied or revoked accordingly.

3.—(1) Where a complaint is made to a magistrates' court against a person residing in a reciprocating country and the complaint is one on which the court would have jurisdiction by virtue of any enactment to make a maintenance order if—

Power of magistrates' court to make provisional maintenance order against person residing in reciprocating country.

(a) that person were residing in England and Wales ; and

(b) a summons to appear before the court to answer to the complaint had been duly served on him,

the court shall have jurisdiction to hear the complaint and may, subject to subsection (2) below, make a maintenance order on the complaint.

(2) A maintenance order made by virtue of this section shall be a provisional order.

(3) If the court hearing a complaint to which subsection (1) above applies is satisfied—

(a) that there are grounds on which a maintenance order containing a provision requiring the making of payments for the maintenance of a child may be made on that complaint, but

(b) that it has no jurisdiction to make that order unless it also makes an order providing for the legal custody of that child,

then, for the purpose of enabling the court to make the maintenance order, the complainant shall be deemed to be the person to whom the legal custody of that child has been committed by an order of the court which is for the time being in force.

(4) No enactment empowering a magistrates' court to refuse to make an order on a complaint on the ground that the matter in question is one which would be more conveniently dealt with by the High Court shall apply in relation to a complaint to which subsection (1) above applies.

PART I

(5) Where a court makes a maintenance order which is by virtue of this section a provisional order, the following documents, that is to say—

- (a) a certified copy of the maintenance order ;
- (b) a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings ;
- (c) a certificate signed by the prescribed officer of the court certifying that the grounds stated in the certificate are the grounds on which the making of the order might have been opposed by the payer under the order ;
- (d) a statement giving such information as was available to the court as to the whereabouts of the payer ;
- (e) a statement giving such information as the officer possesses for facilitating the identification of the payer ; and
- (f) where available, a photograph of the payer ;

shall be sent by that officer to the Secretary of State with a view to their being transmitted by the Secretary of State to the responsible authority in the reciprocating country in which the payer is residing if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

(6) A maintenance order made by virtue of this section which has been confirmed by a competent court in a reciprocating country shall be treated for all purposes as if the magistrates' court which made the order had made it in the form in which it was confirmed and as if the order had never been a provisional order, and subject to section 5 of this Act, any such order may be enforced, varied or revoked accordingly.

(7) In the application of this section to Northern Ireland, in subsection (1), for the reference to England and Wales there shall be substituted a reference to Northern Ireland and in subsection (4), for the reference to the High Court there shall be substituted a reference to the High Court of Justice in Northern Ireland.

Power of
sheriff to make
provisional
maintenance
order against
person
residing in
reciprocating
country.

4.—(1) The sheriff shall have jurisdiction in any action to which this section applies if—

- (a) the pursuer resides within the jurisdiction of the sheriff ;
and
- (b) the sheriff is satisfied that, to the best of the information or belief of the pursuer, the defender is residing in a reciprocating country ; and
- (c) the sheriff would not, apart from this subsection, have jurisdiction in that action ;

but a maintenance order granted by the sheriff in an action in which he has jurisdiction by virtue of this subsection shall be a provisional order.

(2) This section applies to any action for the payment of aliment which is competent in the sheriff court, and includes an action of affiliation and aliment, but does not include an action of separation and aliment or adherence and aliment, or any action containing a crave for the custody of a child.

(3) Where in any action in which the payment of aliment in respect of a child is claimed, being an action in which the sheriff has jurisdiction by virtue of subsection (1) above, the sheriff is satisfied—

(a) that there are grounds on which a maintenance order containing a provision requiring the payment of aliment in respect of that child may be made in that action, but

(b) that he has no power to make that order unless he also makes an order providing for the custody of the child,

then, for the purpose of enabling the sheriff to make the maintenance order, the pursuer shall be deemed to be a person to whom the custody of the child has been committed by a decree of the sheriff which is for the time being in force.

(4) In any action in which the sheriff has jurisdiction by virtue of subsection (1) above—

(a) it shall not be necessary for the pursuer to obtain a warrant for the citation of any person, and the action may commence and proceed without such citation ;

(b) no decree shall be granted in favour of the pursuer unless the grounds of action have been substantiated by sufficient evidence, and section 36(3) of the Sheriff Courts (Scotland) Act 1971 shall not apply in relation to any such action which is a summary cause. 1971 c. 58.

(5) No enactment empowering the sheriff to remit an action to the Court of Session shall apply in relation to proceedings in which the sheriff has jurisdiction by virtue of subsection (1) above.

(6) Section 3(5) and (6) of this Act shall apply for the purposes of this section as they apply for the purposes of that section, with the substitution, for references to a magistrates' court, of references to the sheriff.

5.—(1) This section applies to a maintenance order a certified copy of which has been sent to a reciprocating country in pursuance of section 2 of this Act and to a maintenance order made by virtue of section 3 or 4 thereof which has been confirmed by a competent court in such a country. Variation and revocation of maintenance order made in United Kingdom.

(2) A court in the United Kingdom having power to vary a maintenance order to which this section applies shall have power to vary that order by a provisional order.

PART I

(3) Where the court hearing an application for the variation of a maintenance order to which this section applies proposes to vary it by increasing the rate of the payments under the order then, unless either—

(a) both the payer and the payee under the order appear in the proceedings, or

(b) the applicant appears and the appropriate process has been duly served on the other party,

the order varying the order shall be a provisional order.

(4) Where a court in the United Kingdom makes a provisional order varying a maintenance order to which this section applies, the prescribed officer of the court shall send in the prescribed manner to the court in a reciprocating country having power to confirm the provisional order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.

(5) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying or revoking a maintenance order to which this section applies, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the court in the United Kingdom which made the maintenance order, that court may confirm or refuse to confirm the provisional order and, if that order is an order varying the maintenance order, confirm it either without alteration or with such alterations as it thinks reasonable.

(6) For the purpose of determining whether a provisional order should be confirmed under subsection (5) above, the court shall proceed as if an application for the variation or revocation, as the case may be, of the maintenance order in question had been made to it.

(7) Where a maintenance order to which this section applies has been varied by an order (including a provisional order which has been confirmed) made by a court in the United Kingdom or by a competent court in a reciprocating country, the maintenance order shall, as from the date on which the order was made, have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.

(8) Where a maintenance order to which this section applies has been revoked by an order made by a court in the United Kingdom or by a competent court in a reciprocating country, including a provisional order made by the last-mentioned court

which has been confirmed by a court in the United Kingdom, the maintenance order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the maintenance order at that date.

(9) Where before a maintenance order made by virtue of section 3 or 4 of this Act is confirmed a document, duly authenticated, setting out or summarising evidence taken in a reciprocating country for the purpose of proceedings relating to the confirmation of the order is received by the court in the United Kingdom which made the order, or that court, in compliance with a request made to it by a court in such a country, takes the evidence of a person residing in the United Kingdom for the purpose of such proceedings, the court in the United Kingdom which made the order shall consider that evidence and if, having done so, it appears to it that the order ought not to have been made—

- (a) it shall, in such manner as may be prescribed, give to the person on whose application the maintenance order was made an opportunity to consider that evidence, to make representations with respect to it and to adduce further evidence ; and
- (b) after considering all the evidence and any representations made by that person, it may revoke the maintenance order.

(10) In the application of this section to Scotland—

- (a) for subsection (3) there shall be substituted the following subsections:—

“ (3) Where the payer under a maintenance order to which this section applies is for the time being residing in a reciprocating country, the court shall not, on an application made by the payee under the order for the variation of the order, vary the order by increasing the rate of the payments thereunder otherwise than by a provisional order.

(3A) It shall not be necessary for the payee under a maintenance order to which this section applies to intimate to any person the making by him of an application for a provisional order varying the said maintenance order by increasing the rate of the payments thereunder.” ;

- (b) for subsection (6) there shall be substituted the following subsection:—

“ (6) Where a certified copy of a provisional order varying or revoking a maintenance order to which this section applies is received by a court as mentioned in subsection (5) above, the prescribed officer of that court shall intimate to the payee under the

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maintenance order, in the prescribed manner, that the provisional order has been received as aforesaid and that, unless the payee enters appearance within the prescribed period, the court will confirm the provisional order under this section."

Orders made by courts in reciprocating countries

Registration in United Kingdom court of maintenance order made in reciprocating country.

6.—(1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Act, by a court in a reciprocating country, including such an order made by such a court which has been confirmed by a court in another reciprocating country but excluding a provisional order which has not been confirmed.

(2) Where a certified copy of an order to which this section applies is received by the Secretary of State from the responsible authority in a reciprocating country, and it appears to the Secretary of State that the payer under the order is residing in the United Kingdom, he shall send the copy of the order to the prescribed officer of the appropriate court.

(3) Where the prescribed officer of the appropriate court receives from the Secretary of State a certified copy of an order to which this section applies, he shall, subject to subsection (4) below, register the order in the prescribed manner in that court.

(4) Before registering an order under this section an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the payer.

Confirmation by United Kingdom court of provisional maintenance order made in reciprocating country.

7.—(1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Act, by a court in a reciprocating country being a provisional order.

(2) Where a certified copy of an order to which this section applies together with—

(a) a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the order was made ; and

(b) a statement of the grounds on which the making of the order might have been opposed by the payer under the order,

is received by the Secretary of State from the responsible authority in a reciprocating country, and it appears to the Secretary of State that the payer under the order is residing in the

United Kingdom, he shall send the copy of the order and documents which accompanied it to the prescribed officer of the appropriate court, and that court shall—

- (i) if the payer under the order establishes any such defence as he might have raised in the proceedings in which the order was made, refuse to confirm the order; and
- (ii) in any other case, confirm the order either without alteration or with such alterations as it thinks reasonable.

(3) In any proceedings for the confirmation under this section of a provisional order, the statement received from the court which made the order of the grounds on which the making of the order might have been opposed by the payer under the order shall be conclusive evidence that the payer might have raised a defence on any of those grounds in the proceedings in which the order was made.

(4) For the purpose of determining whether a provisional order should be confirmed under this section the court shall proceed as if an application for a maintenance order against the payer under the provisional order had been made to it.

(5) The prescribed officer of a court having power under this section to confirm a provisional order shall, if the court confirms the order, register the order in the prescribed manner in that court, and shall, if the court refuses to confirm the order, return the certified copy of the order and the documents which accompanied it to the Secretary of State.

(6) If a summons to appear in the proceedings for the confirmation of the provisional order cannot be duly served on the payer under that order the officer by whom the certified copy of the order was received shall return that copy and the documents which accompanied it to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the payer.

(7) This section shall apply to Scotland subject to the following modifications:—

- (a) for subsection (4) there shall be substituted the following subsection:—

“ (4) On receiving a certified copy of a provisional order sent to him in pursuance of subsection (2) above the prescribed officer of the appropriate court shall intimate to the payer under the order, in the prescribed manner, that the order has been received as aforesaid and that, unless the payer enters appearance within the prescribed period, the court will confirm the order under this section.”;

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- (b) in subsection (6), for the words from the beginning to “that order” there shall be substituted the words “If such intimation as is mentioned in subsection (4) above cannot be given to the payer under a provisional order in pursuance of that subsection”; and
- (c) in any proceedings for the confirmation under this section of a provisional order made by a court in a reciprocating country, the sheriff shall apply the law in force in that country with respect to the sufficiency of evidence.

**Enforcement
of maintenance
order
registered in
United
Kingdom
court.**

8.—(1) Subject to subsection (2) below, a registered order may be enforced in the United Kingdom as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken accordingly.

1958 c. 39.

(2) Subsection (1) above does not apply to an order which is for the time being registered in the High Court under Part I of the Maintenance Orders Act 1958 or to an order which is for the time being registered in the High Court of Justice in Northern Ireland under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966.

1966 c. 35
(N.I.).

(3) Any person for the time being under an obligation to make payments in pursuance of a registered order shall give notice of any change of address to the clerk of the registering court, and any person failing without reasonable excuse to give such a notice shall be liable on summary conviction to a fine not exceeding £10.

(4) An order which by virtue of this section is enforceable by a magistrates' court shall be enforceable as if it were an affiliation order made by that court; and the provisions of any enactment with respect to the enforcement of affiliation orders (including enactments relating to the accrual of arrears and the remission of sums due) shall apply accordingly.

In this subsection “enactment” includes any order, rule or regulation made in pursuance of any Act.

(5) The magistrates' court by which an order is enforceable by virtue of this section, and the officers thereof, shall take all such steps for enforcing the order as may be prescribed.

(6) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under this Part of this Act a certificate of arrears sent to the prescribed officer of the court shall be evidence of the facts stated therein.

(7) Subject to subsection (8) below, sums of money payable under a registered order shall be payable in accordance with the order as from the date on which the order was made.

(8) The court having power under section 7 of this Act to confirm a provisional order may, if it decides to confirm the order, direct that the sums of money payable under it shall be deemed to have been payable in accordance with the order as from such date, being a date later than the date on which the order was made, as it may specify ; and subject to any such direction, a maintenance order registered under the said section 7 shall be treated as if it had been made in the form in which it was confirmed and as if it had never been a provisional order.

(9) In the application of this section to Scotland—

- (a) subsections (2) to (5) shall be omitted ; and
- (b) in subsection (6), for the word “ evidence ” there shall be substituted the words “ sufficient evidence ”.

(10) For the purposes of the application of this section to Northern Ireland, in section 110(9) of the Magistrates’ Courts Act (Northern Ireland) 1964 (orders for periodical payment of money), after paragraph (a) there shall be inserted the following paragraph :—

“ (aa) maintenance orders made outside the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 ; ”.

9.—(1) Subject to the provisions of this section, the registering court—

Variation and revocation of maintenance order registered in United Kingdom court.

- (a) shall have the like power, on an application made by the payer or payee under a registered order, to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it ; and
- (b) shall have power to vary or revoke a registered order by a provisional order.

(2) The registering court shall not vary a registered order otherwise than by a provisional order unless—

- (a) both the payer and the payee under the registered order are for the time being residing in the United Kingdom ; or
- (b) the application is made by the payee under the registered order ; or
- (c) the variation consists of a reduction in the rate of the payments under the registered order and is made solely on the ground that there has been a change in the financial circumstances of the payer since the registered order was made or, in the case of an order registered under section 7 of this Act, since the registered order

PART I

was confirmed, and the courts in the reciprocating country in which the maintenance order in question was made do not have power, according to the law in force in that country, to confirm provisional orders varying maintenance orders.

(3) The registering court shall not revoke a registered order otherwise than by a provisional order unless both the payer and the payee under the registered order are for the time being residing in the United Kingdom.

(4) On an application for the revocation of a registered order the registering court shall, unless both the payer and the payee under the registered order are for the time being residing in the United Kingdom, apply the law applied by the reciprocating country in which the registered order was made; but where by virtue of this subsection the registering court is required to apply that law, that court may make a provisional order if it has reason to believe that the ground on which the application is made is a ground on which the order could be revoked according to the law applied by the reciprocating country, notwithstanding that it has not been established that it is such a ground.

(5) Where the registering court makes a provisional order varying or revoking a registered order the prescribed officer of the court shall send in the prescribed manner to the court in the reciprocating country which made the registered order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.

(6) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying a registered order, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the registering court, that court may confirm the order either without alteration or with such alterations as it thinks reasonable or refuse to confirm the order.

(7) For the purpose of determining whether a provisional order should be confirmed under subsection (6) above the court shall proceed as if an application for the variation of the registered order had been made to it.

(8) Where a registered order has been varied by an order (including a provisional order which has been confirmed) made by a court in the United Kingdom or by a competent court in a reciprocating country, the registered order shall, as from the date on which the order was made, have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.

(9) Where a registered order has been revoked by an order made by a court in the United Kingdom or by a competent court in a reciprocating country, including a provisional order made by the first-mentioned court which has been confirmed by a competent court in a reciprocating country, the registered order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the registered order at that date.

(10) The prescribed officer of the registering court shall register in the prescribed manner any order varying a registered order other than a provisional order which is not confirmed.

(11) In the application of this section to Scotland—

(a) after subsection (4) there shall be inserted the following subsection:—

“(4A) It shall not be necessary for the payer under a registered order to intimate to any person the making by him of an application for a provisional order varying or revoking the registered order.”; and

(b) for subsection (7) there shall be substituted the following subsection:—

“(7) Where a certified copy of a provisional order varying a registered order is received by the registering court as mentioned in subsection (6) above, the prescribed officer of that court shall intimate to the payer under the registered order, in the prescribed manner, that the provisional order has been received as aforesaid and that, unless the payer enters appearance within the prescribed period, the court will confirm the provisional order under this section.”

10.—(1) Where—

- (a) a registered order is revoked by an order made by the registering court; or
- (b) a registered order is revoked by a provisional order made by that court which has been confirmed by a court in a reciprocating country and notice of the confirmation is received by the registering court; or
- (c) a registered order is revoked by an order made by a court in such a country and notice of the revocation is received by the registering court,

Cancellation of registration and transfer of order.

the prescribed officer of the registering court shall cancel the registration; but any arrears due under the registered order at the date when its registration is cancelled by virtue of this subsection shall continue to be recoverable as if the registration had not been cancelled.

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(2) Where the prescribed officer of the registering court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that court, he shall cancel the registration of the order and, subject to subsection (3) below, shall send the certified copy of the order to the Secretary of State.

(3) Where the prescribed officer of the registering court, being a magistrates' court, is of opinion that the payer is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the registering court is, he shall transfer the order to that other court by sending the certified copy of the order to the prescribed officer of that other court.

(4) On the transfer of an order under subsection (3) above the prescribed officer of the court to which it is transferred shall, subject to subsection (6) below, register the order in the prescribed manner in that court.

(5) Where the certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order is still residing in the United Kingdom, he shall transfer the order to the appropriate court by sending the certified copy of the order together with the related documents to the prescribed officer of the appropriate court and, subject to subsection (6) below, that officer shall register the order in the prescribed manner in that court.

(6) Before registering an order in pursuance of subsection (4) or (5) above an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall send the certified copy of the order to the Secretary of State.

(7) The officer of a court who is required by any of the foregoing provisions of this section to send to the Secretary of State or to the prescribed officer of another court the certified copy of an order shall send with that copy—

- (a) a certificate of arrears signed by him ;
- (b) a statement giving such information as he possesses as to the whereabouts of the payer ; and
- (c) any relevant documents in his possession relating to the case.

(8) In the application of this section to Scotland—

- (a) in subsection (2), for the words " within the jurisdiction of that court " there shall be substituted the words " in Scotland " ; and
- (b) subsections (3) and (4) shall be omitted.

11.—(1) If it appears to the Secretary of State that the payer under a maintenance order, a certified copy of which has been received by him from a reciprocating country, is not residing in the United Kingdom or, in the case of an order which subsequently became a registered order, has ceased to reside therein, he shall send to the responsible authority in that country or, if having regard to all the circumstances he thinks it proper to do so, to the responsible authority in another reciprocating country—

PART I
Steps to be taken by Secretary of State where payer under certain orders is not residing in the United Kingdom.

- (a) the certified copy of the order in question and a certified copy of any order varying that order ;
- (b) if the order has at any time been a registered order, a certificate of arrears signed by the prescribed officer ;
- (c) a statement giving such information as the Secretary of State possesses as to the whereabouts of the payer ; and
- (d) any other relevant documents in his possession relating to the case.

(2) Where the documents mentioned in subsection (1) above are sent to the responsible authority in a reciprocating country other than that in which the order in question was made, the Secretary of State shall inform the responsible authority in the reciprocating country in which that order was made of what he has done.

Appeals

12.—(1) No appeal shall lie from a provisional order made in pursuance of any provision of this Part of this Act by a court in the United Kingdom.

Appeals.

(2) Where in pursuance of any such provision any such court confirms or refuses to confirm a provisional order made by a court in a reciprocating country, whether a maintenance order or an order varying or revoking a maintenance order, the payer or payee under the maintenance order shall have the like right of appeal (if any) from the confirmation of, or refusal to confirm, the provisional order as he would have if that order were not a provisional order and the court which confirmed or refused to confirm it had made or, as the case may be, refused to make it.

(3) Where in pursuance of any such provision any such court makes, or refuses to make, an order varying or revoking a maintenance order made by a court in a reciprocating country, then, subject to subsection (1) above, the payer or payee under the maintenance order shall have the like right of appeal (if any) from that order or from the refusal to make it as he would have if the maintenance order had been made by the first-mentioned court.

PART I (4) Nothing in this section (except subsection (1)) shall be construed as affecting any right of appeal conferred by any other enactment.

Evidence

Admissibility
of evidence
given in
reciprocating
country.

13.— (1) A statement contained in—

- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a court in a reciprocating country ; or
- (b) a document, duly authenticated, which purports to set out or summarise evidence taken in such a country for the purpose of proceedings in a court in the United Kingdom under this Part of this Act, whether in response to a request made by such a court or otherwise ; or
- (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a court in such a country or to be a copy of a document so received,

shall in any proceedings in a court in the United Kingdom relating to a maintenance order to which this Part of this Act applies be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given as mentioned in subsection (1)(a) above, or taken as mentioned in subsection (1)(b) above, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judge, magistrate or other person before whom the evidence was given, or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.

(3) A document purporting to have been received in evidence as mentioned in subsection (1)(c) above, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge, magistrate or officer of the court in question to have been, or to be a true copy of a document which has been, so received.

(4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.

(5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

14.—(1) Where for the purpose of any proceedings in a court in a reciprocating country relating to a maintenance order to which this Part of this Act applies a request is made by or on behalf of that court for the taking in the United Kingdom of the evidence of a person residing therein relating to matters specified in the request, such court in the United Kingdom as may be prescribed shall have power to take that evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it thinks fit, shall take the evidence in such manner as may be prescribed.

PART I
Obtaining of evidence needed for purpose of certain proceedings.

Evidence taken in compliance with such a request shall be sent in the prescribed manner by the prescribed officer of the court to the court in the reciprocating country by or on behalf of which the request was made.

(2) Where any person, not being the payer or the payee under the maintenance order to which the proceedings in question relate, is required by virtue of this section to give evidence before a court in the United Kingdom, the court may order that there shall be paid—

(a) if the court is a court in England, Wales or Scotland, out of moneys provided by Parliament ; and

(b) if the court is a court in Northern Ireland, out of moneys provided by the Parliament of Northern Ireland,

such sums as appear to the court reasonably sufficient to compensate that person for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

(3) Section 77(1), (3) and (4) of the Magistrates' Courts Act 1952 (which provide for compelling the attendance of witnesses, etc.) shall apply in relation to a magistrates' court having power under subsection (1) above to take the evidence of any person as if the proceedings in the court in a reciprocating country for the purpose of which a request for the taking of the evidence has been made were proceedings in the magistrates' court and had been begun by complaint. 1952 c. 55.

(4) Paragraphs 71 and 73 of Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (which provide for the citation of witnesses, etc.) shall apply in relation to a sheriff having power under subsection (1) above to take the evidence of any person as if the proceedings in the court in a reciprocating country for the purpose of which a request for the taking of the evidence has been made were proceedings in the sheriff court. 1907 c. 51.

(5) A court in the United Kingdom may for the purpose of any proceedings in that court under this Part of this Act relating to a maintenance order to which this Part of this Act applies request a court in a reciprocating country to take or provide evidence relating to such matters as may be specified

PART I in the request and may remit the case to that court for that purpose.

1952 c. 55. (6) In the application of this section to Northern Ireland, in subsection (3), for the reference to section 77(1), (3) and (4) of the Magistrates' Courts Act 1952 there shall be substituted a reference to sections 120(1), (3) and (4), 121 and 122 of the Magistrates' Courts Act (Northern Ireland) 1964.

1964 c. 24 (N.I.).

Order, etc. made abroad need not be proved.

15. For the purposes of this Part of this Act, unless the contrary is shown—

- (a) any order made by a court in a reciprocating country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person ;
- (b) the person by whom the order was signed shall be deemed without further proof to have been a judge, magistrate or officer, as the case may be, of that court when he signed it and, in the case of an officer, to have been authorised to sign it ; and
- (c) a document purporting to be a certified copy of an order made by a court in a reciprocating country shall be deemed without further proof to be such a copy.

Supplemental

Payment of sums under orders made abroad: conversion of currency.

16.—(1) Payment of sums due under a registered order shall, while the order is registered in a court in England, Wales or Northern Ireland, be made in such manner and to such person as may be prescribed.

(2) Where the sums required to be paid under a registered order are expressed in a currency other than the currency of the United Kingdom, then, as from the relevant date, the order shall be treated as if it were an order requiring the payment of such sums in the currency of the United Kingdom as, on the basis of the rate of exchange prevailing at that date, are equivalent to the sums so required to be paid.

(3) Where the sum specified in any statement, being a statement of the amount of any arrears due under a maintenance order made by a court in a reciprocating country, is expressed in a currency other than the currency of the United Kingdom, that sum shall be deemed to be such sum in the currency of the United Kingdom as, on the basis of the rate of exchange prevailing at the relevant date, is equivalent to the sum so specified.

(4) For the purposes of this section a written certificate purporting to be signed by an officer of any bank in the United Kingdom certifying that a specified rate of exchange prevailed between currencies at a specified date and that at such rate a specified sum in the currency of the United Kingdom is equivalent to a specified sum in another specified currency shall be evidence of the rate of exchange so prevailing on that date and of the equivalent sums in terms of the respective currencies.

(5) In this section “ the relevant date ” means—

(a) in relation to a registered order or to a statement of arrears due under a maintenance order made by a court in a reciprocating country, the date on which the order first becomes a registered order or (if earlier) the date on which it is confirmed by a court in the United Kingdom ;

(b) in relation to a registered order which has been varied, the date on which the last order varying that order is registered in a court in the United Kingdom or (if earlier) the date on which the last order varying that order is confirmed by such a court.

(6) In the application of this section to Scotland :—

(a) subsection (1) shall not apply ;

(b) in subsection (4), for the word “ evidence ” there shall be substituted the words “ sufficient evidence ”.

17.—(1) Subject to subsection (2) below, the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts Act 1952 shall include all proceedings in a magistrates' court under this Part of this Act other than proceedings for the variation or enforcement of a maintenance order. Proceedings in magistrates' courts. 1952 c. 55.

(2) The magistrates' court before which there fall to be heard any proceedings for the variation of a maintenance order to which this Part of this Act applies may, if it thinks fit, order that those proceedings and any other proceedings being heard therewith shall be treated for the purposes of the said Act of 1952 as domestic proceedings.

(3) The said Act of 1952 shall have effect in accordance with subsections (1) and (2) above notwithstanding anything in subsection (1) of section 56 thereof or section 5 of the Legitimacy Act 1959 (definition of “ domestic proceedings ”). 1959 c. 73.

(4) Anything authorised or required by this Part of this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done may be done by, to or before any magistrates' court acting for the same petty sessions area (or, in Northern Ireland, petty sessions district) as that court.

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(5) Any application which by virtue of a provision of this Part of this Act is made to a magistrates' court shall be made by complaint.

(6) A magistrates' court in Northern Ireland shall have jurisdiction to hear a complaint for the variation or revocation—

(a) of a maintenance order made by such a court, being an order to which section 5 of this Act applies; or

(b) of a registered order which is registered in that court, if the defendant to the complaint is residing in a reciprocating country and the court would have jurisdiction to hear the complaint had the defendant been residing in Northern Ireland.

(7) Where the defendant to a complaint for the variation or revocation—

(a) of a maintenance order made by a magistrates' court, being an order to which section 5 of this Act applies; or

(b) of a registered order registered in a magistrates' court, does not appear at the time and place appointed for the hearing of the complaint, but the court is satisfied that the defendant is residing in a reciprocating country, the court may proceed to hear and determine the complaint at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the defendant had appeared at that time and place.

(8) At the end of paragraph (a) of section 98 of the Magistrates' Courts Act (Northern Ireland) 1964 (definition of "domestic proceedings") there shall be inserted the words "or Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972".

1964 c. 21
(N.I.).

Magistrates' courts rules, 1949 c. 101.

18.—(1) Without prejudice to the generality of the power to make rules under section 15 of the Justices of the Peace Act 1949 (magistrates' courts rules), provision may be made by such rules with respect to any of the following matters, namely—

(a) the circumstances in which anything authorised or required by this Part of this Act to be done by, to or before a magistrates' court acting for a particular petty sessions area or by, to or before an officer of that court may be done by, to or before a magistrates' court acting for such other petty sessions area as the rules may provide or by, to or before an officer of that court;

(b) the orders made, or other things done, by a magistrates' court, or an officer of such a court, under this Part of this Act, or by a court in a reciprocating country, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given;

- (c) the cases and manner in which courts in reciprocating countries are to be informed of orders made, or other things done, by a magistrates' court under this Part of this Act ;
- (d) the cases and manner in which a justices' clerk may take evidence needed for the purpose of proceedings in a court in a reciprocating country relating to a maintenance order to which this Part of this Act applies ;
- (e) the circumstances and manner in which cases may be remitted by magistrates' courts to courts in reciprocating countries ;
- (f) the circumstances and manner in which magistrates' courts may for the purposes of this Part of this Act communicate with courts in reciprocating countries.

(2) Rules with respect to the matters mentioned in subsection (1) above may be made in accordance with section 23 of the **Magistrates' Courts Act (Northern Ireland) 1964** in relation to proceedings or matters in magistrates' courts in Northern Ireland under this Part of this Act. 1964 c. 21 (N.I.).

19. Without prejudice to the generality of the powers conferred on the Court of Session by section 32 of the **Sheriff Courts (Scotland) Act 1971** to regulate by act of sederunt the procedure of the sheriff court, the said powers shall include power— Rules for sheriff court. 1971 c. 58.

- (c) to prescribe the cases and manner in which courts in by the sheriff, or an officer of the sheriff court, under this Part of this Act, or by a court in a reciprocating country, notice of which is to be given to such persons as the act of sederunt may provide and the manner in which such notice shall be given ;
- (b) to provide that evidence needed for the purpose of proceedings in a court in a reciprocating country relating to a maintenance order to which this Part of this Act applies may, in such cases and manner as the act of sederunt may provide, be taken by a sheriff clerk or sheriff clerk depute ;
- (c) to prescribe the cases and manner in which courts in reciprocating countries are to be informed of decrees granted, or other things done, by the sheriff under this Part of this Act ;
- (d) to prescribe the circumstances and manner in which cases may be remitted by the sheriff to courts in reciprocating countries ;
- (e) to prescribe the circumstances and manner in which the sheriff may for the purposes of this Part of this Act communicate with courts in reciprocating countries.

PART I
Restriction on
enforcement
of arrears
under
maintenance
order
registered
in Scotland.

20. Where a maintenance order is for the time being registered in the sheriff court under this Part of this Act, a person shall not be entitled, except with the leave of the sheriff, to enforce, whether by diligence or otherwise, the payment of any arrears due under the order, if either—

- (a) the sheriff has made a provisional order under section 9 of this Act revoking the said maintenance order and the arrears accrued after the making of the said provisional order, or
- (b) the arrears accrued before the commencement of this Part of this Act ;

and on any application for leave to enforce the payment of any such arrears, the sheriff may refuse leave, or may grant leave subject to such restrictions and conditions (including conditions as to the allowing of time for payment or the making of payment by instalments) as he thinks appropriate, or may remit the payment of such arrears or of any part thereof.

Interpretation
of Part I.

21.—(1) In this Part of this Act—

- “ affiliation order ” means an order (however described) adjudging, finding or declaring a person to be the father of a child, whether or not it also provides for the maintenance of the child ;
- “ the appropriate court ” in relation to a person residing in England and Wales or in Northern Ireland means a magistrates’ court, and in relation to a person residing in Scotland means the sheriff court, within the jurisdiction of which that person is residing ;
- “ certificate of arrears ”, in relation to a maintenance order, means a certificate certifying that the sum specified in the certificate is to the best of the information or belief of the officer giving the certificate the amount of the arrears due under the order at the date of the certificate or, as the case may be, that to the best of his information or belief there are no arrears due thereunder at that date ;
- “ certified copy ”, in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy ;
- “ court ” includes any tribunal or person having power to make, confirm, enforce, vary or revoke a maintenance order ;
- “ maintenance ”, as respects Scotland, means aliment ;
- “ maintenance order ” means an order (however described) of any of the following descriptions, that is to say—
 - (a) an order (including an affiliation order or order consequent upon an affiliation order) which

provides for the periodical payment of sums of money towards the maintenance of any person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order was made, liable to maintain; and

(b) an affiliation order or order consequent upon an affiliation order, being an order which provides for the payment by a person adjudged, found or declared to be a child's father of expenses incidental to the child's birth or, where the child has died, of his funeral expenses,

and, in the case of a maintenance order which has been varied, means that order as varied;

"order", as respects Scotland, includes any interlocutor, and any decree or provision contained in an interlocutor;

"payee", in relation to a maintenance order, means the person entitled to the payments for which the order provides;

"payer", in relation to a maintenance order, means the person liable to make payments under the order;

"prescribed", in relation to a magistrates' court in England and Wales or in Northern Ireland, means prescribed by rules made under section 15 of the Justices of the Peace Act 1949 or by rules made in accordance with section 23 of the Magistrates' Courts Act (Northern Ireland) 1964, as the case may be, and in relation to any other court means prescribed by rules of court; ^{1949 c. 101.} ^{1964 c. 21 (N.I.).}

"provisional order" means (according to the context)—

(a) an order made by a court in the United Kingdom which is provisional only and has no effect unless and until confirmed, with or without alteration, by a competent court in a reciprocating country; or

(b) an order made by a court in a reciprocating country which is provisional only and has no effect unless and until confirmed, with or without alteration, by a court in the United Kingdom having power under this Part of this Act to confirm it;

"reciprocating country" has the meaning assigned to it by section 1 of this Act;

"registered order" means a maintenance order which is for the time being registered in a court in the United Kingdom under this Part of this Act;

PART I

“registering court”, in relation to a registered order, means the court in which that order is for the time being registered under this Part of this Act;

“the responsible authority”, in relation to a reciprocating country, means any person who in that country has functions similar to those of the Secretary of State under this Part of this Act.

(2) For the purposes of this Part of this Act an order shall be taken to be a maintenance order so far (but only so far) as it relates to the periodical payment of sums of money as mentioned in paragraph (a) of the definition of “maintenance order” in subsection (1) above or to the payment by a person adjudged, found or declared to be a child’s father of any such expenses as are mentioned in paragraph (b) of that definition.

(3) Any reference in this Part of this Act to the payment of money for the maintenance of a child shall be construed as including a reference to the payment of money for the child’s education.

Amendments, repeals and transitional provisions

Amendments
and repeals.

22.—(1) The enactments mentioned in the Schedule to this Act shall have effect subject to the minor and consequential amendments specified therein.

(2) The following are hereby repealed—

1920 c. 33.

(a) the Maintenance Orders (Facilities for Enforcement) Act 1920;

1952 c. 55.

(b) in the Magistrates’ Court Act, 1952, in section 56(1) paragraph (c) and the words from “or in an order” to the end;

1958 c. 39.

(c) in the Maintenance Orders Act 1958, section 19 and, in section 23(2), the words “section nineteen”;

1962 c. 23.

(d) in the South Africa Act 1962, paragraph 2 of Schedule 2.

Maintenance
order
registered in
High Court
under the
Maintenance
Orders etc.
Act 1920.

23.—(1) Where a country or territory, being a country or territory to which at the commencement of section 1 of this Act the Maintenance Orders (Facilities for Enforcement) Act 1920 extended, becomes a reciprocating country, then, if immediately before the Order in Council made under section 12 of that Act extending that Act to that country or territory was revoked any maintenance order made by a court in that country or territory was registered in the High Court under section 1 of that Act, the High Court may, on an application by the payer or the payee under the order or of its own motion, transfer the order to such magistrates’ court as having regard to the place where the payer is residing and to all the circumstances it thinks most

appropriate, with a view to the order being registered in that court under this Part of this Act.

(2) Where the High Court transfers an order to a magistrates' court under this section it shall—

(a) cause a certified copy of the order to be sent to the clerk of that court, and

(b) cancel the registration of the order in the High Court.

(3) The clerk of the court who receives a certified copy of an order sent to him under this section shall register the order in the prescribed manner in that court.

(4) On registering a maintenance order in a magistrates' court by virtue of this section the clerk of the court shall, if the order is registered in that court under Part I of the Maintenance Orders Act 1958, cancel that registration. 1958 c. 39.

(5) In the application of this section to Northern Ireland, for references to the High Court there shall be substituted references to the High Court of Justice in Northern Ireland.

24. Where Her Majesty proposes by an Order in Council under section 1 of this Act to designate as a reciprocating country a country or territory to which at the commencement of that section the Maintenance Orders (Facilities for Enforcement) Act 1920 extended, that Order in Council may contain such provisions as Her Majesty considers expedient for the purpose of securing— Application of Part I to certain orders and proceedings under the Maintenance Orders etc Act 1920.

(a) that the provisions of this Part of this Act apply, subject to such modifications as may be specified in the Order, to maintenance orders, or maintenance orders of a specified class— 1920 c. 33.

(i) made by a court in England, Wales or Northern Ireland against a person residing in that country or territory, or

(ii) made by a court in that country or territory against a person residing in England, Wales or Northern Ireland,

being orders to which immediately before the date of the coming into operation of the Order in Council the said Act of 1920 applied, except any order which immediately before that date is registered in the High Court or the High Court of Justice in Northern Ireland under section 1 of that Act ;

(b) that any maintenance order, or maintenance order of a specified class, made by a court in that country or territory which has been confirmed by a court in England, Wales or Northern Ireland under section 4 of the said Act of 1920 and is in force immediately before that date is registered under section 7 of this Act ;

PART I

(c) that any proceedings brought under or by virtue of a provision of the said Act of 1920 in a court in England, Wales or Northern Ireland which are pending at that date, being proceedings affecting a person resident in that country or territory, are continued as if they had been brought under or by virtue of the corresponding provision of this Part of this Act.

PART II

RECIPROCAL ENFORCEMENT OF CLAIMS FOR THE RECOVERY
OF MAINTENANCE*Convention countries*

Convention
countries.

25.—(1) Her Majesty may by Order in Council declare that any country or territory specified in the Order, being a country or territory outside the United Kingdom to which the Maintenance Convention extends, is a convention country for the purposes of this Part of this Act.

(2) In this section “the Maintenance Convention” means the United Nations Convention on the Recovery Abroad of Maintenance done at New York on 20th June 1956.

*Application by person in the United Kingdom for recovery, etc.
of maintenance in convention country*

Application
by person
in United
Kingdom for
recovery,
etc. of
maintenance
in convention
country.

26.—(1) Where a person in the United Kingdom (“the applicant”) claims to be entitled to recover in a convention country maintenance from another person, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Secretary of State, in accordance with the provisions of this section, to have his claim for the recovery of maintenance from that other person transmitted to that country.

(2) Where the applicant seeks to vary any provision made in a convention country for the payment by any other person of maintenance to the applicant, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Secretary of State, in accordance with the provisions of this section, to have his application for the variation of that provision transmitted to that country.

(3) An application to the Secretary of State under subsection (1) or (2) above shall be made through the appropriate officer, and that officer shall assist the applicant in completing an application which will comply with the requirements of the law applied by the convention country and shall send the application to the Secretary of State, together with such other documents, if any, as are required by that law.

(4) On receiving an application from the appropriate officer the Secretary of State shall transmit it, together with any accompanying documents, to the appropriate authority in the convention country, unless he is satisfied that the application is not made in good faith or that it does not comply with the requirements of the law applied by that country.

(5) The Secretary of State may request the appropriate officer to obtain from the court of which he is an officer such information relating to the application as may be specified in the request, and it shall be the duty of the court to furnish the Secretary of State with the information he requires.

(6) Where the applicant is residing in England and Wales or in Northern Ireland the appropriate officer for the purposes of this section is the clerk of a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which the applicant is residing.

(7) Where the applicant is residing in Scotland the appropriate officer for the purposes of this section is the sheriff clerk or sheriff clerk depute of the sheriff court within the jurisdiction of which the applicant is residing.

Application by person in convention country for recovery of maintenance in England, Wales or Northern Ireland

27.—(1) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in England and Wales or in Northern Ireland, he shall send the application, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which that other person is residing ; and the application shall be treated for the purposes of any enactment as if it were a complaint and references in this section and in sections 28, 29 and 30 of this Act to the complaint, the complainant and the defendant shall be construed accordingly.

General provisions relating to application for recovery of maintenance in England, etc.

(2) Where the complaint is for an affiliation order, a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which the defendant is residing shall have jurisdiction to hear the complaint.

(3) Section 15(2)(a) of the Guardianship of Minors Act 1971 (which restricts the power of a magistrates' court to entertain an application under that Act relating to a minor who has attained the age of sixteen) shall not apply to the complaint.

1971 c. 3.

(4) If a summons to appear before a magistrates' court having jurisdiction to hear the complaint cannot be duly served on the

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defendant, the clerk of the court shall, subject to subsection (5) below, return the complaint and the accompanying documents to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the defendant, and unless the Secretary of State is satisfied that the defendant is not residing in the United Kingdom he shall deal with the complaint in accordance with subsection (1) above or section 31 of this Act, as the circumstances of the case require.

(5) If the clerk of a magistrates' court to whom the complaint is sent in pursuance of a provision of this section is satisfied that the defendant is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the first-mentioned court is he shall send the complaint and accompanying documents to the clerk of that other court and shall inform the Secretary of State that he has done so.

(6) The clerk of a court to whom the complaint is sent under subsection (5) above shall proceed as if it had been sent to him under subsection (1) above.

(7) When hearing the complaint a magistrates' court shall proceed as if the complainant were before the court.

(8) If a magistrates' court makes an order on the complaint, the clerk of the court shall register the order in the prescribed manner in that court.

(9) Payment of sums due under a registered order shall, while the order is registered in a magistrates' court, be made in such manner and to such person as may be prescribed, and none of the following enactments relating to the power of a magistrates' court to direct payments to be made to or through the collecting officer of the court or some other person, that is to say, section 52 of the Magistrates' Court Act 1952, section 5(5) of the Affiliation Proceedings Act 1957, section 13(2) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 and subsections (1) to (8) of section 95 of the Magistrates' Courts Act (Northern Ireland) 1964, shall apply in relation to a registered order.

1952 c. 55.
1957 c. 55.
1960 c. 48.
1964 c. 21
(N.I.).

1949 c. 101.

(10) Without prejudice to the generality of the power to make rules under section 15 of the Justices of the Peace Act 1949 (magistrates' courts rules), the said power shall include power to prescribe the orders made or other things done by a magistrates' court, or an officer of such a court, under this Part of this Act, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given.

(11) In the application of this section to Northern Ireland, in subsection (10), for the reference to section 15 of the Justices of the Peace Act 1949 there shall be substituted a reference to

section 23 of the Magistrates' Courts Act (Northern Ireland) 1964.

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1964 c. 21
(N.I.).

28.—(1) Where the complaint is a complaint under section 1 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960, the provisions of this section shall have effect.

Complaint by spouse in convention country for recovery in England and Wales of maintenance from other spouse.
1960 c. 48.

(2) Where the complainant is the wife of the defendant, the only provisions which the court hearing the complaint may include in an order under section 2(1) of the said Act of 1960, or in an interim order under section 6 thereof, are either or both of the following provisions, namely—

(a) a provision such as is mentioned in paragraph (b) of the said section 2(1); and

(b) a provision for the making by the defendant for the maintenance of any child of the family of weekly payments, being—

(i) if and for so long as the child is under the age of sixteen years, payments to the complainant;

(ii) if it appears to the court that the child is, or will be, or if such payments were made would be, a dependant though over the age of sixteen years, and that it is expedient that such payments should be made in respect of that child while such a dependant, payments to such person (who may be the child or the complainant) as may be specified in the order, for such period during which the child is over that age but under the age of twenty-one years as may be so specified.

(3) Where the complainant is the husband of the defendant, the only provisions which the court hearing the complaint may include in an order under the said section 2(1), or in an interim order under the said section 6, are either or both of the following provisions, namely—

(a) where, by reason of the impairment of the husband's earning capacity through age, illness or disability of mind or body, it appears to the court reasonable in all the circumstances so to do, a provision such as is mentioned in paragraph (c) of the said section 2(1); and

(b) a provision such as is mentioned in subsection (2)(b) above.

(4) Where the court has begun to hear the complaint, being a complaint for maintenance for the complainant and for a child of the family, then, whether or not the court makes an order containing a provision such as is mentioned in paragraph (b) or (c) of the said section 2(1), it may, subject to section 2(5) of the said Act of 1960 (order for payments by a party in respect

PART II of child who is not a child of that party), make a matrimonial order containing a provision such as is mentioned in subsection (2)(b) above; and the court shall not dismiss or make its final order on the complaint until it has decided whether or not, and if so how, the power conferred on it by this subsection should be exercised.

1952 c. 55. (5) For the avoidance of doubt it is hereby declared that the power of a magistrates' court under section 53 of the Magistrates' Courts Act 1952 to vary an order for the periodical payment of money includes power to vary an order made under the said Act of 1960 on the complaint by adding to that order any provision authorised by this section to be included in such an order.

(6) Subject to subsections (2) and (3) above, the said Act of 1960 shall, in its application to the complaint and to a matrimonial order or interim order made on the complaint, have effect subject to the following modifications, that is to say—

- (a) in sections 2(5), 6(2)(a), 7(3) and 8(2), for references to section 2(1)(h) of that Act there shall be substituted references to subsection (2)(b) above;
- (b) in sections 6(3) and (4), 7(2) and 11(2), and in the definitions of those orders in section 16, references to section 8 of that Act shall be construed as including references to section 53 of the Magistrates' Courts Act 1952;
- (c) in section 13(4), the reference to that Act shall be construed as including a reference to this Part of this Act; and
- (d) sections 3, 4, 5, 8(1), 9, 10 and 13(2) shall be omitted.

Complaint by woman in convention country for recovery in Northern Ireland of maintenance from her husband.
1945 c. 14 (N.I.).

29.—(1) Where the complaint is a complaint under section 1 of the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945, the provisions of this section shall have effect.

(2) The only provisions which the court hearing the complaint may include in an order under section 3(1) of the said Act of 1945, or in an interim order under section 4 thereof, are either or both of the following provisions, namely—

- (a) a provision such as is mentioned in paragraph (c) of the said section 3(1); and
- (b) a provision such as is mentioned in paragraph (d) of that subsection;

but in determining whether to include in any such order a provision such as is mentioned in the said paragraph (d) as respects a child the legal custody of whom has not been committed to any person, the court shall proceed as if it had made an order under the said section 3(1) committing the child to the custody of the wife.

(3) Section 5(2) of the said Act of 1945 (power to make new order where order made on application of a married woman is discharged) shall have effect where an order made on the complaint is discharged as if the words "that the legal custody of the children of the marriage shall continue to be committed to such married woman and" were omitted.

(4) Section 8 of the said Act of 1945 (power to refuse order in case more suitable for High Court) shall not apply in relation to the complaint.

30.—(1) Where the complaint is for an order under section 9(2) of the Guardianship of Minors Act 1971, and the court hearing the complaint is satisfied that, if it made an order under subsection (1) of that section giving the custody of the minor to whom the complaint relates to the complainant, it would have power to make an order under subsection (2) of that section for the payment of sums towards the maintenance of the minor, it shall in determining whether to make an order on the complaint proceed as if it had made an order under subsection (1) of that section giving the custody of the minor to the complainant.

Further provisions relating to recovery in England, Wales and Northern Ireland of maintenance for children. 1971 c. 3.

(2) Section 16(4) of the said Act of 1971 (refusal of order in case more suitable for the High Court) shall not apply in relation to a complaint to which subsection (1) above applies or in relation to an application for the variation or revocation of an order made on such a complaint.

(3) Where the complaint is for an affiliation order under the Affiliation Proceedings Act 1957 or the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924—

1957 c. 55.
1942 c. 27
(N.I.)

- (a) it shall be sufficient for the purposes of paragraph (b) of section 2(1) of the said Act of 1957 (time for making complaint) or paragraph (c) of section 2(3) of the said Act of 1924 (provision to the like effect), as the case may be, to prove that the defendant has within the twelve months next after the birth of the child to whom the complaint relates paid money for its maintenance in pursuance of a requirement of the law applied by a court outside the United Kingdom; and
- (b) any evidence of the complainant in support of the complaint given in a convention country a record or summary of which is received by the court hearing the complaint, or the court hearing an appeal against an affiliation order made on the complaint or against the refusal to make such an order, shall be treated by the court hearing the complaint or the court hearing such an appeal, as the case may be, as if it had been given by the complainant in person before that court.

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(4) Where the complaint is for an affiliation order under the said Act of 1924, a summons may be issued on the complaint notwithstanding that the complainant has not made the information mentioned in section 2(4) of that Act.

(5) Without prejudice to any other enactment empowering a magistrates' court to vary an affiliation order made by it, an affiliation order made under the said Act of 1957 or the said Act of 1924, as the case may be, on the complaint may be varied by such a court so as to entitle any person, other than the complainant, who for the time being has the custody of the child to whom the order relates to any payments to be made under the order.

(6) Section 41 of this Act shall not apply in relation to an order under section 9(2) of the said Act of 1971, or an affiliation order under the said Act of 1957, made on the complaint.

*Application by person in convention country for recovery of
maintenance in Scotland*

Application
by person
in convention
country for
recovery of
maintenance
in Scotland.

31.—(1) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in Scotland, he shall send the application, together with any accompanying documents, to the secretary of the committee established under Article 5 of the Legal Aid (Scotland) Scheme 1958, or under the corresponding provision of any scheme amending or having effect in place of that Scheme; and the secretary shall thereupon send the application and any accompanying documents to a solicitor practising in the sheriff court within the jurisdiction of which that other person is residing, with a view to the solicitor's taking on behalf of the applicant such steps as appear to the solicitor appropriate in respect of the application.

(2) Where in any proceedings arising out of such an application as aforesaid the sheriff makes an order containing a provision requiring the payment of maintenance, the sheriff clerk or sheriff clerk depute shall register the order in the prescribed manner in the court.

(3) Without prejudice to the generality of the powers conferred on the Court of Session by section 32 of the Sheriff Courts (Scotland) Act 1971 to regulate by act of sederunt the procedure of the sheriff court, the said powers shall include power to prescribe the decrees granted, or other things done, by the sheriff, or an officer of the sheriff court, under this Part of this Act, notice of which is to be given to such persons as the act of sederunt may provide and the manner in which such notice shall be given.

1971 c. 58.

*Transfer, enforcement, variation and revocation of
registered orders*

PART II

32.—(1) Where the prescribed officer of the registering court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that court, then, unless he is of opinion that the payer has ceased to reside in the United Kingdom, he shall, subject to subsection (2) below, send a certified copy of the order and the related documents to the Secretary of State, and if he is of opinion that the payer has ceased to reside in the United Kingdom he shall send a notice to that effect to the Secretary of State. Transfer
of orders.

(2) Where the clerk of the registering court, being a magistrates' court, is of opinion that the payer is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the registering court is, he shall transfer the order to that other court by sending a certified copy of the order and the related documents to the clerk of that other court and, subject to subsection (4) below, that clerk shall register the order in the prescribed manner in that court.

(3) Where a certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order is still residing in the United Kingdom, he shall transfer the order to the appropriate court by sending the copy of the order and the related documents to the prescribed officer of the appropriate court and, subject to subsection (4) below, that officer shall register the order in the prescribed manner in that court.

(4) Before registering an order in pursuance of subsection (2) or (3) above an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order and the related documents to the officer of the court or the Secretary of State, as the case may be, from whom he received them, together with a statement giving such information as he possesses as to the whereabouts of the payer.

(5) Where a certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order has ceased to reside in the United Kingdom he shall return the copy of the order and the related documents to the registering court.

(6) An officer of a court on registering an order in the court in pursuance of subsection (2) or (3) above shall give notice of the registration in the prescribed manner to the prescribed officer of the court in which immediately before its registration under this section the order was registered.

PART II

(7) The officer to whom notice is given under subsection (6) above shall on receiving the notice cancel the registration of the order in that court.

(8) In this section—

“the appropriate court”, in relation to a person residing in England and Wales or in Northern Ireland, means a magistrates’ court within the jurisdiction of which that person is residing;

“certificate of arrears” and “certified copy” have the same meanings respectively as in Part I of this Act;

“payer”, in relation to a registered order, means the person liable to make payments under the order; and

“related documents” means—

(a) the application on which the order was made;

(b) a certificate of arrears signed by the prescribed officer of the registering court;

(c) a statement giving such information as he possesses as to the whereabouts of the payer; and

(d) any relevant documents in his possession relating to the case.

(9) In the application of this section to Scotland—

(a) in subsection (1), for the words “within the jurisdiction of that court” there shall be substituted the words “in Scotland”;

(b) subsection (2) shall be omitted;

(c) in subsection (4), for the words “the officer of the court or the Secretary of State, as the case may be, from whom he received them” there shall be substituted the words “the Secretary of State”;

(d) at the end of subsection (6) there shall be inserted the words “and to the Secretary of State”;

(e) after subsection (7) there shall be inserted the following subsections:—

“(7A) The Secretary of State on receiving notice under subsection (6) above shall send a copy of the registered order and of the related documents to the secretary of the committee mentioned in section 31(1) of this Act, and the secretary shall thereupon send the copy of the order and of the related documents to a solicitor practising in the registering court, with a view to the solicitor’s taking on behalf of the person entitled to the payments for which the order provides such steps as appear to the solicitor appropriate to enforce the order.

(7B) Where an order is registered in the sheriff court by virtue of subsection (3) above, any provision of the order by virtue of which the payments for which the order provides are required to be made through or to any officer or person on behalf of the person entitled thereto shall be of no effect so long as the order is so registered.”;

- (f) “appropriate court”, in relation to a person residing in Scotland, means the sheriff court within the jurisdiction of which that person is residing.

33.—(1) Subject to subsection (2) below, a registered order which is registered in a court other than the court by which the order was made may be enforced as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken in accordance with this subsection but not otherwise.

(2) Subsection (1) above does not apply to an order which is for the time being registered in the High Court under Part I of the Maintenance Orders Act 1958 or to an order which is for the time being registered in the High Court of Justice in Northern Ireland under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966.

(3) An order which by virtue of subsection (1) above is enforceable by a magistrates’ court shall be enforceable as if it were an affiliation order made by that court; and the provisions of any enactment with respect to the enforcement of affiliation orders (including enactments relating to the accrual of arrears and the remission of sums due) shall apply accordingly.

In this subsection “enactment” includes any order, rule or regulation made in pursuance of any Act.

(4) A magistrates’ court in which an order is registered under this Part of this Act, and the officers thereof, shall take all such steps for enforcing the order as may be prescribed.

(5) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under this Part of this Act a certificate of arrears sent under section 32 of this Act to the prescribed officer of the court shall be evidence of the facts stated therein.

(6) Part II of the Maintenance Orders Act 1950 (enforcement of certain orders throughout the United Kingdom) shall not apply to a registered order.

(7) In the application of this section to Scotland—

- (a) subsections (2) to (4) shall be omitted; and
(b) in subsection (5), for the word “evidence” there shall be substituted the words “sufficient evidence”.

PART II
Variation and
revocation
of orders.

34.—(1) Where a registered order is registered in a court other than the court by which the order was made, the registering court shall have the like power to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it; and no court other than the registering court shall have power to vary or revoke a registered order.

(2) Where the registering court revokes a registered order it shall cancel the registration.

(3) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the variation of a registered order, he shall, if the registering court is a magistrates' court, send the application together with any documents accompanying it to the clerk of that court.

(4) Where a court in a part of the United Kingdom makes, or refuses to make, an order varying or revoking a registered order made by a court in another part thereof, any person shall have the like right of appeal (if any) against the order or refusal as he would have if the registered order had been made by the first-mentioned court.

(5) In the application of this section to Scotland, for subsection (3) there shall be substituted the following subsection:—

“(3) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the variation of a registered order, he shall, if the registering court is a sheriff court, send the application, together with any documents accompanying it, to the secretary of the committee mentioned in section 31(1) of this Act, and the secretary shall thereupon send the application and any accompanying documents to a solicitor practising in the registering court, with a view to the solicitor's taking on behalf of the applicant such steps as appear to the solicitor appropriate in respect of the application.”

Further
provisions
with respect
to variation,
etc. of orders
by magistrates'
courts.

35.—(1) Notwithstanding anything in section 28(6)(d) or 30(6) of this Act, a magistrates' court shall have jurisdiction to hear an application for the variation or revocation of a registered order registered in that court, being—

- (a) an application made by the person against whom or on whose application the order was made, or
- (b) an application made by some other person in pursuance of section 30(5) of this Act for the variation of an affiliation order,

notwithstanding that the person by or against whom the application is made is residing outside England and Wales.

(2) Where an application by a person in a convention country for the variation of a registered order is received from the Secretary of State by the clerk of a magistrates' court, he shall treat the application as if it were a complaint for the variation of the order to which the application relates, and the court hearing the application shall proceed as if the application were a complaint and the applicant were before the court.

(3) Without prejudice to subsection (2) above, an application to a magistrates' court for the variation or revocation of a registered order shall be made by complaint.

(4) Where the defendant to a complaint for the variation or revocation of a registered order, being an order registered in a magistrates' court, does not appear at the time and place appointed for the hearing of the complaint, but the court is satisfied—

- (a) that the defendant is residing outside England and Wales; and
- (b) that such notice of the making of the complaint and of the time and place aforesaid as may be prescribed has been given to the defendant in the prescribed manner,

the court may proceed to hear and determine the complaint at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the defendant had appeared at that time and place.

(5) This section shall have effect in Northern Ireland with the substitution of references to Northern Ireland for references to England and Wales.

Supplemental

36.—(1) A statement contained in—

- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a court in a convention country; or
- (b) a document, duly authenticated, which purports to set out or summarise evidence taken in such a country for the purpose of proceedings in a court in the United Kingdom under this Part of this Act, whether in response to a request made on behalf of such a court or otherwise; or
- (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a court in such a country, or to be a copy of a document so received,

Admissibility
of evidence
given in
convention
country.

shall, in any proceedings in a magistrates' court or sheriff court arising out of an application received by the Secretary of State

PART II

as mentioned in section 27(1) or 31(1) of this Act or out of an application made by any person for the variation or revocation of a registered order or in proceedings on appeal from any such proceedings, be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given as mentioned in subsection (1)(a) above, or taken as mentioned in subsection (1)(b) above, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judge, magistrate or other person before whom the evidence was given or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.

(3) A document purporting to have been received in evidence as mentioned in subsection (1)(c) above, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge, magistrate or officer of the court in question to have been, or to be a true copy of a document which has been, so received.

(4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.

(5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

Obtaining of
evidence for
purpose of
proceedings in
United
Kingdom
court.

37.—(1) A court in the United Kingdom may for the purpose of any proceedings in that court under this Part of this Act arising out of an application received by the Secretary of State from a convention country request the Secretary of State to make to the appropriate authority or court in the convention country a request for the taking in that country of the evidence of a person residing therein relating to matters connected with the application.

(2) A request made by a court under this section shall—

- (a) give details of the application in question ;
- (b) state the name and address of the person whose evidence is to be taken ; and
- (c) specify the matters relating to which the evidence of that person is required.

(3) If the Secretary of State is satisfied that a request made to him under this section contains sufficient information to enable the evidence of the person named in the request relating to the matters specified therein to be taken by a court or person in

the convention country, he shall transmit the request to the appropriate authority or court in that country. PART II

38.—(1) Where a request is made to the Secretary of State by or on behalf of a court in a convention country to obtain the evidence of a person residing in the United Kingdom relating to matters connected with an application to which section 26 of this Act applies, the Secretary of State shall request such court, or such officer of a court, as he may determine to take the evidence of that person relating to such matters connected with that application as may be specified in the request. Taking of
evidence at
request of
court in
convention
country.

(2) The court by which or officer by whom a request under subsection (1) above is received from the Secretary of State shall have power to take the evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it or he thinks fit, shall take the evidence of the person named in the request relating to the matters specified therein in such manner as may be prescribed; and the evidence so taken shall be sent in the prescribed manner by the prescribed officer to the court in the convention country by or on behalf of which the request referred to in subsection (1) above was made.

(3) Where any person, not being the person by whom the application mentioned in subsection (1) above was made, is required by virtue of this section to give evidence before a court in the United Kingdom, the court may order that there shall be paid—

(a) if the court is a court in England, Wales or Scotland, out of moneys provided by Parliament; and

(b) if the court is a court in Northern Ireland, out of moneys provided by the Parliament of Northern Ireland,

such sums as appear to the court reasonably sufficient to compensate that person for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

(4) Section 77(1), (3) and (4) of the Magistrates' Courts Act 1952 c. 55. 1952 (which provide for compelling the attendance of witnesses, etc.) shall apply in relation to a magistrates' court to which a request under subsection (1) above is made as if the application to which the request relates were a complaint to be heard by that court.

(5) Paragraphs 71 and 73 of Schedule 1 to the Sheriff Courts (Scotland) Act 1907 c. 51. 1907 (which provide for the citation of witnesses, etc.) shall apply in relation to a sheriff court to which a request under subsection (1) above is made as if the application to which the request relates were proceedings in that court.

PART II

1952 c. 55.

1964 c. 21
(N.I.).Interpretation
of Part II.

(6) In the application of this section to Northern Ireland, in subsection (4), for the reference to section 77(1), (3) and (4) of the Magistrates' Courts Act 1952 there shall be substituted a reference to sections 120(1), (3) and (4), 121 and 122 of the Magistrates' Courts Act (Northern Ireland) 1964.

39. In this Part of this Act—

“ maintenance ”, as respects Scotland, means aliment ;

“ order ”, as respects Scotland, includes any interlocutor, and any decree or provision contained in an interlocutor ;

“ prescribed ” has the same meaning as in Part I of this Act ;

“ registered order ” means an order which is for the time being registered in a court in the United Kingdom under this Part of this Act ;

“ registering court ”, in relation to a registered order, means the court in which that order is for the time being registered under this Part of this Act.

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Further provisions relating to enforcement of maintenance orders and to applications for recovery of maintenance

Power to apply Act to maintenance orders and applications for recovery of maintenance made in certain countries.

40. Where Her Majesty is satisfied—

(a) that arrangements have been or will be made in a country or territory outside the United Kingdom to ensure that maintenance orders made by courts in the United Kingdom against persons in that country or territory can be enforced in that country or territory or that applications by persons in the United Kingdom for the recovery of maintenance from persons in that country or territory can be entertained by courts in that country or territory ; and

(b) that in the interest of reciprocity it is desirable to ensure that maintenance orders made by courts in that country or territory against persons in the United Kingdom can be enforced in the United Kingdom or, as the case

may be, that applications by persons in that country or territory for the recovery of maintenance from persons in the United Kingdom can be entertained by courts in the United Kingdom,

PART III

Her Majesty may by Order in Council make provision for applying the provisions of this Act, with such exceptions, adaptations and modifications as may be specified in the Order, to such orders or applications as are referred to in paragraphs (a) and (b) above and to maintenance and other orders made in connection with such applications by courts in the United Kingdom or in that country or territory.

Provisions with respect to certain orders of magistrates' courts

41.—(1) The jurisdiction to revoke, revive or vary an order for the periodical payment of money conferred on magistrates' courts by section 53 of the Magistrates' Courts Act 1952 shall, in the case of—

Complaint for variation, etc. of certain orders by or against persons outside England and Wales. 1952 c. 55. 1971 c. 3.

(a) an affiliation order, or

(b) an order under section 9, 10 or 11 of the Guardianship of Minors Act 1971 for the payment of sums towards the maintenance of a minor,

be exercisable notwithstanding that the proceedings for the revocation, revival or variation, as the case may be, of the order are brought by or against a person residing outside England and Wales.

(2) Subsections (2) to (5) of section 9 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 (which relates to the procedure to be followed in the case of a complaint by or against a person outside England and Wales for variation, etc., of an order made under that Act) shall, for the purposes of subsection (1) above, apply in respect of any such order as is mentioned in paragraph (a) or (b) of that subsection as they apply in respect of a matrimonial or interim order, but with the substitution of references to section 53 of the said Act of 1952 for references to section 8 of the said Act of 1960.

1960 c. 48.

(3) In section 15(1) of the Maintenance Orders Act 1950 (service of process on a person residing in Scotland or Northern Ireland), after the words " Act 1971 " there shall be inserted the words " or section 41 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 ".

1950 c. 37.

(4) Section 3(3) of the said Act of 1950 (jurisdiction in proceedings by or against a person residing in Scotland or Northern Ireland for the revocation, etc., of an affiliation order) is hereby repealed.

PART III
Provisional
order for
maintenance
of party to
marriage made
by magistrates'
court to cease
to have effect
on remarriage
of party.
1960 c. 48.

42.—(1) Where a magistrates' court has, by virtue of section 3 of this Act, made a provisional maintenance order consisting of, or including, a provision such as is mentioned in section 2(1)(b) or (c) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 (payment of weekly sums by husband or wife) and the order has been confirmed by a competent court in a reciprocating country, then, if after the making of that order the marriage of the parties to the proceedings in which the order was made is dissolved or annulled but the order continues in force, that order or, as the case may be, that provision thereof shall cease to have effect on the remarriage of the party in whose favour it was made, except in relation to any arrears due under it on the date of such remarriage and shall not be capable of being revived.

(2) For the avoidance of doubt it is hereby declared that references in this section to remarriage include references to a marriage which is by law void or voidable.

1970 c. 45.

(3) In section 30(2) of the Matrimonial Proceedings and Property Act 1970 (which makes, in relation to such an order as is referred to in subsection (1) above which was confirmed in accordance with section 3 of the Maintenance Orders (Facilities for Enforcement) Act 1920, provision to the like effect as that subsection) the words from "but with the modification" to the end are hereby repealed.

1920 c. 33.

Supplemental provisions

Extension of
legal aid.
1949 c. 51.

43.—(1) At the end of paragraph 3 of Part I of Schedule 1 to the Legal Aid and Advice Act 1949 (which specifies the proceedings in a magistrates' court or the Crown Court for which legal aid may be given under section 1 of that Act) there shall be inserted the following sub-paragraph:—

“(d) proceedings under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 relating to a maintenance order made by a court of a country outside the United Kingdom.”

1965 c. 8
(N.I.).

(2) At the end of paragraph 3 of Part I of Schedule 1 to the Legal Aid and Advice Act (Northern Ireland) 1965 (which specifies the proceedings in a magistrates' court in Northern Ireland for which legal aid may be given under section 1 of that Act) there shall be inserted the following sub-paragraph:—

“(d) proceedings under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 relating to a maintenance order made by a court of a country outside the United Kingdom, and any such proceedings as are referred to in sub-paragraph (a) above brought by virtue of Part II of the said Act of 1972”.

(3) The amendment made by subsection (2) above shall have effect notwithstanding anything in paragraph (b) of section 1(6) of the said Act of 1965.

44.—(1) Section 20 of the Family Law Reform Act 1969 (power of court hearing certain proceedings to require use of blood tests to determine paternity) and any corresponding enactment of the Parliament of Northern Ireland shall not apply to any proceedings under this Act, but the foregoing provision is without prejudice to the power of a court to allow the report of any person who has carried out such tests to be given in evidence in those proceedings. Exclusion of certain enactments relating to evidence. 1969 c. 48.

(2) The Foreign Tribunals Evidence Act 1856 (which relates to the taking of evidence in the United Kingdom for the purpose of proceedings before a foreign tribunal) and the Evidence Commission Act 1859 (which relates to the taking of evidence in the United Kingdom for the purpose of proceedings before a court in Her Majesty's dominions) shall not apply to the taking of evidence in the United Kingdom for the taking of which section 14 or section 38 of this Act provides. 1856 c. 113. 1859 c. 20 (22 Vict.).

45.—(1) An Order in Council under section 1, section 25 or section 40 of this Act may be varied or revoked by a subsequent Order in Council thereunder, and an Order made by virtue of this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient for the purposes of that section. Orders in Council.

(2) An Order in Council made under the said section 1 or the said section 40 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

46. There shall be paid out of moneys provided by Parliament— Financial provisions.

- (a) any sums ordered by a court under section 14(2) or 38(3) of this Act to be paid out of moneys so provided ; and
- (b) any increase attributable to the provisions of this Act in the sums payable under the Legal Aid and Advice Act 1949 or the Legal Aid (Scotland) Act 1967 out of moneys so provided. 1949 c. 51. 1967 c. 43.

47.—(1) In this Act—

- “enactment” includes an enactment of the Parliament of Northern Ireland ; Interpretation: general.
- “magistrates’ court”, in relation to Northern Ireland, means a court of summary jurisdiction within the meaning of

PART III1964 c. 21
(N.I.).section 1(1) of the Magistrates' Courts Act (Northern
Ireland) 1964.

(2) References in this Act to a part of the United Kingdom are references to England and Wales, to Scotland, or to Northern Ireland.

(3) Any reference in this Act to the jurisdiction of a court, where the reference is to a person residing, or having ceased to reside, within the jurisdiction of a court, shall be construed in relation to a magistrates' court in England and Wales as a reference to the petty sessions area, and in relation to a magistrates' court in Northern Ireland as a reference to the petty sessions district, for which the court acts.

(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.

Special
provisions
relating to
Northern
Ireland.

48.—(1) Nothing in this Act shall authorise any Department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament.

1920 c. 67.

(2) For the purposes of section 6 of the Government of Ireland Act 1920 (which relates to the power of the Parliament of Northern Ireland to make laws), the provisions of this Act, so far as they extend to Northern Ireland, shall be deemed to be provisions of an Act passed before the appointed day.

(3) Any reference in this Act to an enactment of the Parliament of Northern Ireland or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended or extended 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 modifications.

(4) If the Parliament of Northern Ireland passes any enactment for purposes similar to those of any enactment in force in England and Wales which is referred to in this Act, Her Majesty may by Order in Council direct that this Act shall have effect subject to such modifications or adaptations as may be specified in the Order for the purpose of ensuring the continued operation of this Act in, or in relation to, Northern Ireland.

(5) Section 45 of this Act shall apply in relation to an Order in Council under subsection (4) above as it applies in relation to an Order in Council under section 1 or 40 of this Act. PART III

49.—(1) This Act may be cited as the Maintenance Orders (Reciprocal Enforcement) Act 1972. Short title and commencement.

(2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions of this Act, or for different purposes.

Section 22.

SCHEDULE

CONSEQUENTIAL AND MINOR AMENDMENTS

1952 c. 55.

The Magistrates' Courts Act 1952

1. In section 57(4) of the Magistrates' Courts Act 1952 (proceedings to be treated as domestic proceedings) after the words "Act, 1920" there shall be inserted the words "or registered in a magistrates' court under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972" and for the words "or confirmed", where last occurring, there shall be substituted the words "confirmed or registered".

1955 c. 18.

The Army Act 1955 and the Air Force Act 1955

1955 c. 19.

2. Section 150 of the Army Act 1955 and section 150 of the Air Force Act 1955 (enforcement of maintenance, etc. orders by deduction from pay) shall each be amended by the insertion, in subsection (5), at the end of the first paragraph of the words "and to an order registered in such a court under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972".

1957 c. 53.

The Naval Discipline Act 1957

3. In section 101 of the Naval Discipline Act 1957 (service of process in proceedings for maintenance, etc.), in subsection (5), after the words "Act, 1920" there shall be inserted the words "or registered in such a court under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972".

1958 c. 39.

The Maintenance Orders Act 1958

4. At the end of section 1 of the Maintenance Orders Act 1958 (introductory provisions setting out the scheme of Part I as respects registration in one court of a maintenance order made by another) there shall be inserted the following subsection:—

"(4) For the purposes of this section a maintenance order within the meaning of Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 which is registered in a magistrates' court under the said Part I shall be deemed to be a maintenance order made by that court."

1966 c. 35
(N.I.).*The Maintenance and Affiliation Orders Act
(Northern Ireland) 1966*

5. In section 10 of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (orders to which Part II of that Act applies)—

(a) in subsection (2), after the word "means" there shall be inserted the words "an order made outside the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 or"; and

(b) at the end there shall be inserted the following subsection:—

"(5) For the purposes of this Part an order made outside the United Kingdom and registered in a court of

summary jurisdiction in Northern Ireland under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 shall be deemed to be a maintenance order made by that court”.

The Administration of Justice Act 1970

1970 c. 31.

6. At the end of Schedule 8 to the Administration of Justice Act 1970 (maintenance orders to which Part I of the Maintenance Orders Act 1958 applies) there shall be inserted the following paragraph:—

“11. A maintenance order within the meaning of Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 registered in a magistrates’ court under the said Part I.”

The Attachment of Earnings Act 1971

1971 c. 32.

7. At the end of Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which that Act applies) there shall be inserted the following paragraph:—

“11. A maintenance order within the meaning of Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 registered in a magistrates’ court under the said Part I.”



Sunday Cinema Act 1972

1972 CHAPTER 19

An Act to amend the Sunday Entertainments Act 1932.
[30th March 1972]

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:—

Cinematograph entertainments on Sundays.

1.—(1) The words in section 1(1) of the Act of 1932 “to which this section extends” (which limit to certain areas the power of a licensing authority to allow cinemas to open on Sundays) shall cease to have effect.

(2) Paragraph (b) of the proviso to the said subsection (1) (which requires the imposition of conditions to secure payment to the Cinematograph Fund and to charity of the whole or a proportion of the profits of Sunday opening) shall cease to have effect.

Appeals.
1952 c. 68.

2. The provisions of subsection (1) of section 6 of the Cinematograph Act 1952 (which relates to appeals) shall apply to a refusal by an authority to allow a place to be opened and used on Sundays for the purpose of cinematograph entertainments and to any conditions subject to which it is allowed to be so opened and used under subsection (1) of section 1 of the Act of 1932, as amended by this Act, as they apply to the refusal of a licence under the Cinematograph Act 1909 and to any terms, conditions and restrictions on or subject to which such a licence is granted.

1909 c. 30.

3.—(1) So soon as it appears to the Privy Council that no further sums will accrue to the Cinematograph Fund established under section 2(1) of the Act of 1932, the moneys standing to the credit thereof shall be dealt with as follows, that is to say—

- (a) so much thereof as is certified by the Treasury to equal the amount of the expenses incurred by the Privy Council in the administration of the Fund since a deduction was last made therefrom under subsection (2) of that section shall be applied as an appropriation in aid of the moneys provided by Parliament for the purposes of the Privy Council; and
- (b) the balance shall be applied in accordance with that subsection;

and upon those moneys being so dealt with, the Fund shall cease to exist.

(2) So soon as practicable after the Fund has ceased to exist an account showing its revenue and expenditure since the date to which the last previous account was made up under subsection (3) of the said section 2 shall be transmitted to the Comptroller and Auditor General who shall certify and report on the account and lay copies of it and of his report thereon before each House of Parliament; and no annual account shall be prepared under that subsection after the commencement of this Act.

4. The enactments mentioned in columns 1 and 2 of the Schedule to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

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

“ the Act of 1932 ” means the Sunday Entertainments Act 1932 c. 51. 1932;

“ cinematograph entertainment ” has the same meaning as in the Act of 1932.

(2) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

6.—(1) This Act may be cited as the Sunday Cinema Act 1972.

(2) This Act shall come into force on the 1st July 1972.

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

Winding-up of
Cinematograph Fund.

Short title,
commence-
ment and
extent.

Section 4.

SCHEDULE**ENACTMENTS REPEALED**

Chapter	Short Title	Extent of Repeal
22 & 23 Geo. 5. c. 51.	The Sunday Entertainments Act 1932.	In section 1(1) the words "to which this section extends" and the words from "and (b)" to the end of the subsection; in section 1(4) the words from "and shall" to the end of the subsection; section 1(5). In section 5 the definition of "Prescribed percentage". The Schedule.
12, 13 & 14 Geo. 6. c. 35. 1963 c. 33.	The British Film Institute Act 1949. The London Government Act 1963.	In section 1, the words from the beginning to "1932". Section 52(2) from "and section 1".



Road Traffic Act 1972

1972 CHAPTER 20

An Act to consolidate certain enactments relating to road traffic with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission. [30th March 1972]

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

PRINCIPAL ROAD SAFETY PROVISIONS

Offences connected with driving of motor vehicles

1.—(1) A person who causes the death of another person by the driving of a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, shall be guilty of an offence. Causing death by reckless or dangerous driving

(2) Section 20 of the Coroners (Amendment) Act 1926 (which makes special provision where the coroner is informed before the jury have given their verdict that some person has been charged with one of the offences specified in that section) shall apply to an offence against this section as it applies to manslaughter. 1926 c. 59.

2. If a person drives a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the Reckless, and dangerous, driving generally.

PART I amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, he shall be guilty of an offence.

Careless, and inconsiderate, driving. 3. If a person drives a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons using the road, he shall be guilty of an offence.

Driving under age 4.—(1) A person shall not drive on a road a motor vehicle of a class specified in the first column of the following Table if he is under the age specified in relation thereto in the second column of that Table.

TABLE

<i>Class of motor vehicle</i>	<i>Age</i>
1. Motor cycle or invalid carriage	16
2. Motor car	17
3. Tractor used primarily for work on land in connection with agriculture	17
4. Heavy locomotive, light locomotive, motor tractor or heavy motor car, but not including such a tractor as is mentioned in paragraph 3 ...	21

(2) Regulations may provide that in relation to motor cycles or, if it is so prescribed by the regulations, in relation to motor cycles of a class so prescribed, the foregoing Table shall have effect as if it specified such minimum age as may be so prescribed, not being less than—

- (a) 16 years, in the case of motor cycles other than those of the class specified in the following paragraph ;
- (b) 15 years, in the case of motor cycles whereof the cylinder capacity of the engine does not exceed 50 cubic centimetres, being cycles equipped with pedals by means whereof they are capable of being propelled ;

but a person shall not be prohibited by virtue of regulations having effect by virtue of this subsection from driving motor cycles of any class if at any time before the coming into force of the regulations he has held or was entitled (on making the requisite application and declaration and on payment of the appropriate fee) to the grant of a licence, other than a provisional licence, authorising him to drive that class of motor cycle or if at the time of the coming into force of the regulations he holds a provisional licence.

(3) Regulations may provide—

- (a) that the age under which a person may not drive on a road a motor car constructed as mentioned in section 190(9) of this Act shall, if the motor car is of a class

specified in the regulations, and is driven with a trailer attached to it in the manner mentioned in that subsection, be 21 instead of 17 ;

- (b) that the age under which a person may not drive on a road a tractor used primarily for work on land in connection with agriculture shall, if the tractor is of a class specified in the regulations and is driven in circumstances so specified, be 16 instead of 17 ;
- (c) that the age under which a person may not drive on a road a road roller falling within paragraph 4 of the Table set out in subsection (1) above shall, if the roller is of a class specified in the regulations and is driven in circumstances so specified, be 17 instead of 21 ;

but—

- (i) a person shall not be prohibited by virtue of regulations under paragraph (a) above from driving a motor car of any class if at any time before the coming into force of the regulations he has held, or was entitled (on making the requisite application and declaration and on payment of the appropriate fee) to the grant of, a licence, other than a provisional licence, authorising him to drive that class of motor car ; and
- (ii) a person under the age of 17 who has not passed the prescribed test of competence to drive such a tractor as is mentioned in paragraph (b) above shall not be authorised by regulations made under that paragraph to drive such a tractor on a road except while taking, proceeding to or returning from such a test.

(4) A person who drives, or causes or permits a person to drive, a motor vehicle in contravention of the provisions of this section shall be guilty of an offence.

5.—(1) A person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence.

Driving, or being in charge, when under influence of drink or drugs.

(2) Without prejudice to subsection (1) above, a person who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence.

(3) For the purposes of subsection (2) above a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving it so long as he remained unfit to drive through drink or drugs.

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(4) For the purposes of this section a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

(5) A constable may arrest without warrant a person committing an offence under this section.

Driving, of being in charge, with blood-alcohol concentration above the prescribed limit.

6.—(1) If a person drives or attempts to drive a motor vehicle on a road or other public place, having consumed alcohol in such a quantity that the proportion thereof in his blood, as ascertained from a laboratory test for which he subsequently provides a specimen under section 9 of this Act, exceeds the prescribed limit at the time he provides the specimen, he shall be guilty of an offence.

(2) Without prejudice to subsection (1) above, if a person is in charge of a motor vehicle on a road or other public place having consumed alcohol as aforesaid, he shall be guilty of an offence.

(3) A person shall not be convicted under this section of being in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving it so long as there was any probability of his having alcohol in his blood in a proportion exceeding the prescribed limit.

(4) In determining for the purposes of subsection (3) above the likelihood of a person's driving a motor vehicle when he is injured or the vehicle is damaged, the jury, in the case of proceedings on indictment, may be directed to disregard, and the court in any other case may disregard, the fact that he had been injured or that the vehicle had been damaged.

Evidence on charge of unfitness to drive.

7.—(1) In any proceedings for an offence under section 5 of this Act, the court shall, subject to section 10(5) thereof, have regard to any evidence which may be given of the proportion or quantity of alcohol or of any drug which was contained in the blood or present in the body of the accused, as ascertained by analysis of a specimen of blood taken from him with his consent by a medical practitioner, or of urine provided by him, at any material time; and if it is proved that the accused, when so requested by a constable at any such time, refused to consent to the taking of or to provide a specimen for analysis, his refusal may, unless reasonable cause therefor is shown, be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defence, with respect to his condition at that time.

(2) A person shall not be treated for the purposes of subsection (1) above as refusing to provide a specimen unless—

- (a) he is first requested to provide a specimen of blood, but refuses to do so ;
- (b) he is then requested to provide two specimens of urine within one hour of the request, but fails to provide them within the hour or refuses at any time within the hour to provide them ; and
- (c) he is again requested to provide a specimen of blood, but refuses to do so.

(3) The first specimen of urine provided in pursuance of a request under subsection (2)(b) above shall be disregarded for the purposes of subsection (1) above.

8.—(1) A constable in uniform may require any person **Breath tests.** driving or attempting to drive a motor vehicle on a road or other public place to provide a specimen of breath for a breath test there or nearby, if the constable has reasonable cause—

- (a) to suspect him of having alcohol in his body, or
- (b) to suspect him of having committed a traffic offence while the vehicle was in motion ;

but no requirement may be made by virtue of paragraph (b) above unless it is made as soon as reasonably practicable after the commission of the traffic offence.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a constable in uniform may require any person who he has reasonable cause to believe was driving or attempting to drive the vehicle at the time of the accident to provide a specimen of breath for a breath test—

- (a) except while that person is at a hospital as a patient, either at or near the place where the requirement is made or, if the constable thinks fit, at a police station specified by the constable ;
- (b) in the said excepted case, at the hospital ;

but a person shall not be required to provide such a specimen while at a hospital as a patient if the medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) A person who, without reasonable excuse, fails to provide a specimen of breath for a breath test under subsection (1) or (2) above shall be guilty of an offence.

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(4) If it appears to a constable in consequence of a breath test carried out by him on any person under subsection (1) or (2) above that the device by means of which the test is carried out indicates that the proportion of alcohol in that person's blood exceeds the prescribed limit, the constable may arrest that person without warrant except while that person is at a hospital as a patient.

(5) If a person required by a constable under subsection (1) or (2) above to provide a specimen of breath for a breath test fails to do so and the constable has reasonable cause to suspect him of having alcohol in his body, the constable may arrest him without warrant except while he is at a hospital as a patient.

(6) Subsections (4) and (5) above shall not be construed as prejudicing the provisions of section 5(5) of this Act.

(7) A person arrested under this section, or under the said section 5(5), shall, while at a police station, be given an opportunity to provide a specimen of breath for a breath test there.

(8) In this section "traffic offence" means an offence under any provision of this Act except Part V thereof or under any provision of Part III of the Road Traffic Act 1960 or the Road Traffic Regulation Act 1967.

1960 c. 16.
1967 c. 76.

Laboratory tests.

9.—(1) A person who has been arrested under section 5(5) or 8 of this Act may, while at a police station, be required by a constable to provide a specimen for a laboratory test (which may be a specimen of blood or of urine), if he has previously been given an opportunity to provide a specimen of breath for a breath test at that station under subsection (7) of the said section 8, and either—

- (a) it appears to a constable in consequence of the breath test that the device by means of which the test is carried out indicates that the proportion of alcohol in his blood exceeds the prescribed limit, or
- (b) when given the opportunity to provide that specimen, he fails to do so.

(2) A person while at a hospital as a patient may be required by a constable to provide at the hospital a specimen for a laboratory test—

- (a) if it appears to a constable in consequence of a breath test carried out on that person under section 8(2) of this Act that the device by means of which the test is carried out indicates that the proportion of alcohol in his blood exceeds the prescribed limit, or
- (b) if that person has been required, whether at the hospital or elsewhere, to provide a specimen of breath for a

breath test, but fails to do so and a constable has reasonable cause to suspect him of having alcohol in his body ;

but a person shall not be required to provide a specimen for a laboratory test under this subsection if the medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of a specimen on the ground that its provision, the requirement to provide it or a warning under subsection (7) below would be prejudicial to the proper care or treatment of the patient.

(3) A person who, without reasonable excuse, fails to provide a specimen for a laboratory test in pursuance of a requirement imposed under this section shall be guilty of an offence.

(4) Nothing in the foregoing provisions of this section shall affect the provisions of section 7(1) of this Act.

(5) A person shall not be treated for the purposes of subsection (3) above as failing to provide a specimen unless—

- (a) he is first requested to provide a specimen of blood, but refuses to do so ;
- (b) he is then requested to provide two specimens of urine within one hour of the request, but fails to provide them within the hour or refuses at any time within the hour to provide them ; and
- (c) he is again requested to provide a specimen of blood, but refuses to do so.

(6) The first specimen of urine provided in pursuance of a request under subsection (5)(b) above shall be disregarded for the purposes of section 6 of this Act.

(7) A constable shall on requiring any person under this section to provide a specimen for a laboratory test warn him that failure to provide a specimen of blood or urine may make him liable to imprisonment, a fine and disqualification, and, if the constable fails to do so, the court before which that person is charged with an offence under section 6 of this Act or this section may direct an acquittal or dismiss the charge, as the case may require.

In this subsection “disqualification” means disqualification for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act.

10.—(1) For the purposes of any proceedings for an offence under section 5 or 6 of this Act, a certificate purporting to be signed by an authorised analyst, and certifying—

- (a) the proportion of alcohol or any drug found in a specimen identified by the certificate, and

Ancillary provisions as to evidence in proceedings for an offence under s. 5 or 6.

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(b) for the purposes only of proceedings for an offence under the said section 5, in the case of a specimen of urine, the proportion of alcohol or of that drug in the blood which corresponds to the proportion found in the specimen,

shall, subject to subsection (3) below, be evidence of the matters so certified and of the qualification of the analyst.

(2) For the purposes of any proceedings for an offence under the said section 5 or 6, a certificate purporting to be signed by a medical practitioner that he took a specimen of blood from a person with his consent shall, subject to subsection (3) below, be evidence of the matters so certified and of the qualification of the medical practitioner.

(3) Subsections (1) and (2) above shall not apply to a certificate tendered on behalf of the prosecution unless a copy has been served on the accused not less than seven days before the hearing or trial, nor if the accused, not less than three days before the hearing or trial, or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing or trial of the person by whom the certificate was signed.

A copy of a certificate required by this subsection to be served on the accused or of a notice required by this subsection to be served on the prosecutor may either be personally served on the accused or the prosecutor (as the case may be) or sent to him by registered post or the recorded delivery service.

(4) In any proceedings in Scotland for an offence under the said section 5 or 6, a certificate complying with subsection (1) or (2) above and, where the person by whom such a certificate was signed is called as a witness, the evidence of that person, shall be sufficient evidence of the facts stated in the certificate.

(5) Where, in proceedings for an offence under the said section 5 or 6 the accused, at the time a specimen of blood or urine was taken from or provided by him, asked to be supplied with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen shall not be admissible on behalf of the prosecution unless—

(a) the specimen is either one of two taken or provided on the same occasion or is part of a single specimen which was divided into two parts at the time it was taken or provided, and

(b) the other specimen or part was supplied to the accused.

(6) A constable requesting any person to consent to the taking of or to provide a specimen of blood or urine for analysis shall offer to supply to him, in a suitable container, part of

the specimen or, in the case of a specimen of blood which it is not practicable to divide, another specimen which he may consent to have taken.

(7) In this section “authorised analyst” means any person possessing the qualifications prescribed by regulations made under section 89 of the Food and Drugs Act 1955, or section 27 of the Food and Drugs (Scotland) Act 1956, as qualifying persons for appointment as public analysts under those Acts, and any other person authorised by the Secretary of State to make analyses for the purposes of this section.

11. Any person required to provide a specimen for a laboratory test under section 9(1) of this Act may thereafter be detained at the police station until he provides a specimen of breath for a breath test and it appears to a constable that the device by means of which the test is carried out indicates that the proportion of alcohol in that person’s blood does not exceed the prescribed limit.

Detention of persons while affected by alcohol.

12.—(1) In sections 6 to 11 of this Act, except so far as the context otherwise requires—

Interpretation of ss. 6 to 11.

“breath test” means a test for the purpose of obtaining an indication of the proportion of alcohol in a person’s blood carried out by means of a device of a type approved for the purpose of such a test by the Secretary of State, on a specimen of breath provided by that person ;

“fail”, in relation to providing a specimen, includes refuse and “failure” shall be construed accordingly ;

“hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients ;

“laboratory test” means the analysis of a specimen provided for the purpose ;

“the prescribed limit” means 80 milligrammes of alcohol in 100 millilitres of blood or such other proportion as may be prescribed by regulations made by the Secretary of State.

(2) A person shall be treated for the purposes of sections 6 and 9 of this Act as providing a specimen of blood if, but only if, he consents to the specimen being taken by a medical practitioner and it is so taken and shall be treated for those purposes as providing it at the time it is so taken.

(3) References in sections 8, 9 and 11 of this Act to providing a specimen of breath for a breath test are references to providing a specimen thereof in sufficient quantity to enable that test to be carried out.

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(4) For the purposes of the said section 6 and this section 107 milligrammes of alcohol in 100 millilitres of urine shall be treated as equivalent to 80 milligrammes of alcohol in 100 millilitres of blood, and the power conferred by subsection (1) above to prescribe some other proportion of alcohol in the blood shall include power to prescribe a proportion of alcohol in urine which is to be treated as equivalent to the prescribed proportion of alcohol in the blood.

Person liable to be charged with offence under s. 5, 6 or 9 not liable to be charged with certain other offences.
1872 c. 94.
1903 c. 25.

13. A person liable to be charged with an offence under section 5, 6 or 9 of this Act shall not be liable to be charged—

- (a) under section 12 of the Licensing Act 1872, with the offence of being drunk while in charge, on a highway or other public place, of a carriage, or
- (b) under section 70 of the Licensing (Scotland) Act 1903, with the offence of being drunk while in charge, in a street or other place, of a carriage.

Motor racing on highways.

14. A person who promotes or takes part in a race or trial of speed between motor vehicles on a public highway shall be guilty of an offence.

Regulation of motoring events on highways.

15.—(1) A person who promotes or takes part in a competition or trial (other than a race or trial of speed) involving the use of motor vehicles on a public highway shall be guilty of an offence unless the competition or trial is authorised, and is conducted in accordance with any conditions imposed, by or under regulations under this section.

(2) The Secretary of State may by regulations authorise, or provide for authorising, the holding of such competitions and trials as aforesaid, either generally, or as regards any area, or as regards any class or description of competition or trial or any particular competition or trial, subject to such conditions, including conditions requiring the payment of fees, as may be imposed by or under the regulations.

(3) Regulations under this section may—

- (a) prescribe the procedure to be followed, and the particulars to be given, in connection with applications for authorisation under the regulations, and
- (b) make different provision for different classes or descriptions of competition or trial.

Restriction on carriage of persons on motor cycles.

16. It shall not be lawful for more than one person in addition to the driver to be carried on a two-wheeled motor cycle, nor shall it be lawful for any such one person to be so carried otherwise than sitting astride the cycle and on a proper

seat securely fixed to the cycle behind the driver's seat; and if a person is carried on a cycle in contravention of this section, the driver of the cycle shall be guilty of an offence.

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Offences connected with riding of pedal cycles

17. If a person rides a cycle, not being a motor vehicle, on a road recklessly or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road, he shall be guilty of an offence.

Reckless, and dangerous, cycling.

In this section "road" includes a bridleway.

18. If a person rides a cycle, not being a motor vehicle, on a road without due care and attention, or without reasonable consideration for other persons using the road, he shall be guilty of an offence.

Careless, and inconsiderate, cycling.

In this section "road" includes a bridleway.

19.—(1) A person who, when riding a cycle, not being a motor vehicle, on a road or other public place, is unfit to ride through drink or drugs shall be guilty of an offence.

Cycling when under influence of drink or drugs.

(2) A person liable to be charged with an offence under this section shall not be liable to be charged—

- (a) under section 12 of the Licensing Act 1872, with the offence of being drunk while in charge, on a highway or other public place, of a carriage, or
- (b) under section 70 of the Licensing (Scotland) Act 1903, with the offence of being drunk while in charge, in a street or other place, of a carriage.

(3) A constable may arrest without warrant a person committing an offence under this section.

(4) In this section "unfit to ride through drink or drugs" means, as regards a person riding a cycle, under the influence of drink or a drug to such an extent as to be incapable of having proper control of it.

(5) In this section "road" includes a bridleway.

20.—(1) A person who promotes or takes part in a race or trial of speed on a public highway between cycles, not being motor vehicles, shall be guilty of an offence, unless the race or trial is authorised, and is conducted in accordance with any conditions imposed, by or under regulations under this section.

Regulation of cycle racing on highways.

(2) The Secretary of State may by regulations authorise, or provide for authorising, for the purposes of subsection (1) above,

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the holding on a public highway other than a bridleway of races or trials of speed of any class or description or a particular race or trial of speed, in such cases as may be prescribed and subject to such conditions as may be imposed by or under the regulations.

(3) Regulations under this section may—

- (a) prescribe the procedure to be followed, and the particulars to be given, in connection with applications for authorisation under the regulations, and
- (b) make different provision for different classes or descriptions of race or trial.

(4) Without prejudice to any other powers exercisable in that behalf, the chief officer of police may give such directions with respect to the movement of, or the route to be followed by, vehicular traffic, during such period, as may be necessary or expedient to prevent or mitigate congestion or obstruction of traffic, or danger to or from traffic, in consequence of the holding of a race or trial of speed authorised by or under regulations under this section, including a direction that any road or part of a road specified in the direction shall be closed during any such period to vehicles or to vehicles of a class so specified.

(5) In this section “public highway” includes a bridleway but not a footpath.

Restriction on carriage of persons on bicycles.

21. It shall not be lawful for more than one person to be carried on a road on a bicycle not propelled by mechanical power unless it is constructed or adapted for the carriage of more than one person; and if a person is carried on a bicycle in contravention of this section, each of the persons carried shall be guilty of an offence.

In this section references to a person carried on a bicycle include references to a person riding the bicycle and the reference to a road includes a reference to a bridleway.

Offences connected with traffic generally

Drivers to comply with traffic directions.
1967 c. 76.

22.—(1) Where a constable is for the time being engaged in the regulation of traffic in a road, or where a traffic sign, being a sign of the prescribed size, colour and type, or of another character authorised by the Secretary of State under the provisions in that behalf of the Road Traffic Regulation Act 1967, has been lawfully placed on or near a road, a person driving or propelling a vehicle who—

- (a) neglects or refuses to stop the vehicle or to make it proceed in, or keep to, a particular line of traffic when

directed so to do by the constable in the execution of his duty, or

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(b) fails to comply with the indication given by the sign, shall be guilty of an offence.

(2) A traffic sign shall not be treated for the purposes of this section as having been lawfully placed unless either—

(a) the indication given by the sign is an indication of a statutory prohibition, restriction or requirement, or

(b) it is expressly provided by or under any provision of this Act or of the Road Traffic Regulation Act 1967 that this section shall apply to the sign or to signs of a type of which the sign is one ; 1967 c. 76.

and where the indication mentioned in paragraph (a) of this subsection is of the general nature only of the prohibition, restriction or requirement to which the sign relates a person shall not be convicted of failure to comply with the indication unless he has failed to comply with the said prohibition, restriction or requirement.

(3) For the purposes of this section a traffic sign placed on or near a road shall be deemed to be of the prescribed size, colour and type, or of another character authorised as mentioned in subsection (1) above, and (subject to subsection (2) above) to have been lawfully so placed, unless the contrary is proved.

(4) It shall be lawful in Scotland to convict a person of a contravention of this section on the evidence of one witness.

23. Where a constable in uniform is for the time being engaged in the regulation of vehicular traffic in a road, a person on foot who proceeds across or along the carriageway in contravention of a direction to stop given by the constable, in the execution of his duty, either to persons on foot or to persons on foot and other traffic, shall be guilty of an offence. Pedestrians to comply with directions to stop given by constables regulating vehicular traffic.

24. If a person in charge of a vehicle causes or permits the vehicle or a trailer drawn thereby to remain at rest on a road in such a position or in such condition or in such circumstances as to be likely to cause danger to other persons using the road, he shall be guilty of an offence. Leaving vehicles in dangerous positions.

Accidents

25.—(1) If in any case, owing to the presence of a motor vehicle on a road, an accident occurs whereby personal injury is caused to a person other than the driver of that motor vehicle or damage is caused to a vehicle other than that motor vehicle Duty to stop, and furnish particulars, in case of accident.

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or a trailer drawn thereby or to an animal other than an animal in or on that motor vehicle or a trailer drawn thereby, the driver of the motor vehicle shall stop and, if required so to do by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner and the identification marks of the vehicle.

(2) If in the case of any such accident as aforesaid the driver of the motor vehicle for any reason does not give his name and address to any such person as aforesaid, he shall report the accident at a police station or to a constable as soon as reasonably practicable, and in any case within twenty-four hours of the occurrence thereof.

(3) In this section "animal" means any horse, cattle, ass, mule, sheep, pig, goat or dog.

(4) A person who fails to comply with this section shall be guilty of an offence.

General provisions as to accident inquiries.

26.—(1) Where an accident arises out of the presence of a motor vehicle on a road, the Secretary of State may direct inquiry to be made into the cause of the accident.

(2) Where any such accident has occurred, a person authorised by the Secretary of State in that behalf may, on production if so required of his authority, inspect any vehicle in connection with which the accident arose, and for that purpose may enter at any reasonable time any premises where the vehicle is; and if a person obstructs a person so authorised in the performance of his duty under this subsection, he shall be guilty of an offence.

(3) If in any case the Secretary of State considers that an inquiry to be made by him under this section should be made by means of the holding of a public inquiry, he may direct a public inquiry to be held.

(4) A report made by or to the Secretary of State as the result of an inquiry under this section shall not be used in evidence by or on behalf of a person by or against whom any legal proceedings are instituted in consequence of the accident to which the inquiry relates.

Special provisions as to accident inquiries in Greater London.

27.—(1) Where, owing to the presence of a vehicle on a road, an accident occurs within Greater London and it appears to the Secretary of State that the sole or a contributory cause of the accident was—

(a) the nature or character of the road or of the road surface, or

(b) a defect in the design or construction of the vehicle or in the materials used in the construction of the road or vehicle,

he may, if he thinks fit, cause an inquiry to be held into the cause of the accident.

(2) In this section “ road ” includes a highway and a bridge carrying a highway and any lane, mews, footway, square, court, alley or passage whether a thoroughfare or not.

28.—(1) Where an accident occurs within Greater London resulting in the death of a person, and it is alleged that the accident was due to— Inquests on road deaths in Greater London.

(a) the nature or character of a road or road surface, or

(b) a defect in the design or construction of a vehicle or in the materials used in the construction of a road or vehicle,

the coroner holding inquiry into the cause of death shall send to the Secretary of State, or to such officer of his as the Secretary of State may direct, notice in writing of the time and place of holding the inquest, and of the adjourned inquest ; and an officer appointed by the Secretary of State for the purpose shall be at liberty at any such inquest to examine any witness, subject nevertheless to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question.

(2) In this section “ road ” has the same meaning as in section 27 of this Act.

Ancillary provisions for preventing, or mitigating effects of, accidents

29. If, while a motor vehicle is on a road or on a parking place provided by a local authority, a person otherwise than with lawful authority or reasonable cause gets on to the vehicle or tampers with the brake or other part of its mechanism, he shall be guilty of an offence. Penalisation of tampering with motor vehicles.

30.—(1) If a person otherwise than with lawful authority or reasonable cause takes or retains hold of, or gets on to, a motor vehicle or trailer while in motion on a road, for the purpose of being carried, he shall be guilty of an offence. Penalisation of holding on to vehicle in order to be towed or carried.

(2) If a person takes or retains hold of a motor vehicle or trailer while in motion on a road for the purpose of being drawn he shall be guilty of an offence.

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Control of
dogs on roads.

31.—(1) A person who causes or permits a dog to be on a designated road without the dog being held on a lead shall be guilty of an offence.

(2) In this section “designated road” means a length of road specified by an order in that behalf of the local authority in whose area the length of road is situated; and the powers which under this subsection are exercisable by a local authority in England or Wales shall, in the case of a road part of the width of which is in the area of one local authority and part in the area of another, be exercisable by either authority with the consent of the other.

(3) An order under this section may provide that subsection (1) above shall apply subject to such limitations or exceptions as may be specified in the order, and (without prejudice to the generality of this subsection) subsection (1) above shall not apply to dogs proved to be kept for driving or tending sheep or cattle in the course of a trade or business, or to have been at the material time in use under proper control for sporting purposes.

(4) An order under this section shall not be made except after consultation with the chief officer of police.

(5) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the making of orders under this section and requiring the authority making such an order to publish in such manner as may be prescribed by the regulations notice of the making and effect of the order.

(6) In England or Wales a local authority may institute proceedings for an offence under this section relating to a road in their area.

(7) In this section “local authority” means the council of a county borough or county district, the Common Council of the City of London or the council of a London borough, or in Scotland a county council or a town council.

(8) The power conferred by this section to make an order shall include power, exercisable in like manner and subject to the like provisions, to vary or revoke it.

Wearing of
protective
headgear.

32.—(1) The Secretary of State may make regulations requiring, subject to such exceptions as may be specified in the regulations, persons driving or riding (otherwise than in side-cars) on motor cycles of any class specified in the regulations to wear protective headgear of such description as may be so specified.

(2) Regulations under this section may make different provision in relation to different circumstances.

(3) Any person who drives or rides on a motor cycle in contravention of regulations under this section shall be guilty of an offence.

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33.—(1) The Secretary of State may make regulations prescribing (by reference to shape, construction or any other quality) types of helmet recommended as affording protection to persons on or in motor cycles, or motor cycles of different classes, from injury in the event of accident. Protective helmets for motor cyclists.

(2) If a person sells, or offers for sale, a helmet as a helmet for affording protection as aforesaid, and the helmet is neither—

(a) of a type prescribed under this section, nor

(b) of a type authorised under regulations made under this section and sold or offered for sale subject to any conditions specified in the authorisation,

he shall, subject to subsection (3) below, be guilty of an offence.

(3) A person shall not be convicted of an offence under this section in respect of the sale or offer for sale of a helmet if he proves that it was sold or, as the case may be, offered for sale for export from Great Britain.

(4) In England or Wales the council of a county, of a borough or of an urban district, the Greater London Council or the Common Council of the City of London may institute proceedings for an offence under this section.

(5) The provisions of Schedule 1 to this Act shall have effect in relation to contraventions of this section.

(6) In this section and in the said Schedule “helmet” includes any head-dress, and references in this section to selling or offering for sale include respectively references to letting on hire and offering to let on hire.

Manning of locomotives and trailers

34.—(1) In the case of heavy locomotives and light locomotives, two persons shall be employed in driving or attending the locomotive whilst being driven on a highway, and where any such locomotive is drawing a trailer or trailers on a highway one or more persons, in addition to the persons employed as aforesaid, shall be employed for the purpose of attending to the trailer or trailers at the rate of one such additional person for each trailer in excess of one: Requirements as to employment of persons to attend to locomotives and trailers.

Provided that this subsection shall not apply to a road roller while engaged in rolling a road.

(2) Where a motor vehicle other than a heavy locomotive or a light locomotive is drawing a trailer or trailers on a

PART I highway, one person, in addition to the driver of the vehicle, shall be carried either on the vehicle or on a trailer for the purpose of attending to the trailer or trailers.

(3) For the purposes of this section "trailer" does not include a vehicle used solely for carrying water for the purposes of the drawing vehicle or an agricultural vehicle not constructed to carry a load.

(4) If a person causes or permits a motor vehicle or trailer to be driven or drawn in contravention of this section, he shall be guilty of an offence.

(5) The Secretary of State may by regulations vary the requirements of this section in respect of any class of motor vehicles or any class of trailers, and regulations made under this subsection with respect to a class of vehicles may make different provision in different circumstances.

Restrictions on use of motor vehicles off roadway

Control of
use of
footpaths and
bridleways
for motor
vehicle trials.

35.—(1) No person shall promote or take part in a trial of any description between motor vehicles on a footpath or bridleway unless the holding of the trial has been authorised under this section by the local authority.

(2) A local authority shall not give an authorisation under this section unless satisfied that consent in writing to the use of any length of footpath or bridleway for the purposes of the trial has been given by the owner and by the occupier of the land over which that length of footpath or bridleway runs, and any such authorisation may be given subject to compliance with such conditions as the authority think fit.

(3) A person who contravenes subsection (1) above, or fails to comply with any conditions subject to which an authorisation under this section has been granted, shall be guilty of an offence.

(4) No statutory provision prohibiting or restricting the use of footpaths or bridleways or a specified footpath or bridleway shall affect the holding of a trial authorised under this section; but this section shall not prejudice any right or remedy of a person as having an interest in any land.

(5) In this section "local authority"—

(a) as respects England and Wales, means the council of a county or county borough, except that in relation to a footpath or bridleway for which the council of a borough, not being a county borough, or of an urban district is the highway authority, the said expression means that council;

(b) as respects Scotland, means a county council or town council ; PART I

and in this subsection "county borough" includes a London borough.

36.—(1) Subject to the provisions of this section, if without lawful authority a person drives a motor vehicle on to or upon any common land, moorland or other land of whatsoever description, not being land forming part of a road, or on any road being a footpath or bridleway, he shall be guilty of an offence. Prohibition of driving motor vehicles elsewhere than on roads.

(2) It shall not be an offence under this section to drive a motor vehicle on any land within fifteen yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.

(3) A person shall not be convicted of an offence under this section with respect to a vehicle if he proves to the satisfaction of the court that it was driven in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency.

(4) It is hereby declared that nothing in this section prejudices the operation of section 193 of the Law of Property Act 1925 (which relates to the rights of the public over commons and waste lands), or of any byelaws applying to any land or affects the law of trespass to land or any right or remedy to which a person may by law be entitled in respect of any such trespass or in particular confers a right to park a vehicle on any land.

Road safety information and road training

37.—(1) The Highway Code shall continue to have effect subject however to revision in accordance with subsection (2) below. The Highway Code.

(2) The Secretary of State may from time to time revise the Highway Code by revoking, varying, amending or adding to the provisions thereof in such manner as he thinks fit.

(3) Any alterations proposed to be made in the provisions of the Highway Code on a revision thereof shall, as soon as prepared by the Secretary of State, be laid before both Houses of Parliament, and the revised Code shall not be issued until the proposed alterations have been approved by both Houses.

(4) Subject to subsection (3) above, the Secretary of State shall cause the Highway Code and every revised edition thereof to be printed and may cause copies thereof to be sold to the public at such price as he may determine.

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1960 c. 16.
1967 c. 76.

(5) A failure on the part of a person to observe a provision of the Highway Code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under this Act, the Road Traffic Act 1960 or the Road Traffic Regulation Act 1967) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

1930 c. 43.

(6) In this section “the Highway Code” means the code comprising directions for the guidance of persons using roads issued and revised under section 45 of the Road Traffic Act 1930 or section 74 of the Road Traffic Act 1960.

Powers of Secretary of State and local authorities as to giving road safety information and training.

38.—(1) The Secretary of State may, with the approval of the Treasury, provide for promoting road safety by disseminating information or advice relating to the use of roads.

(2) A local authority shall have power to make arrangements for the purposes of subsection (1) above or for giving practical training to road users or any class or description of road users, and to make contributions towards the cost of arrangements for the like purposes made by other authorities or bodies.

(3) Where, not less than two months before the beginning of a financial year, the Secretary of State on an examination of arrangements proposed to be made under subsection (2) above by a local authority in England or Wales, being the council of a non-county borough or urban district, is satisfied that arrangements so made are likely to be effective and notifies the local authority that he is so satisfied, then, from the beginning of that year until a notification by the Secretary of State to the local authority that he is no longer so satisfied takes effect, the expenditure of the county council in respect of the cost of arrangements or of contributions, made by the county council under subsection (2) above shall not be chargeable on the area of the first-mentioned authority.

A notification by the Secretary of State that he is no longer satisfied as aforesaid shall take effect at the end of the financial year in which it is given or, if it is given during the last two months of a financial year, at the end of the next following financial year.

(4) The provisions of Schedule 2 to this Act shall have effect for authorising the payment of travelling and other allowances in connection with arrangements made by a local authority under subsection (2) above.

(5) In this section "local authority" means—

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(a) as respects England and Wales, the council of a county, a borough or an urban district, or the Greater London Council, or the Common Council of the City of London :

(b) as respects Scotland, a county council or town council.

(6) Any expenses incurred under this section by the Secretary of State shall be defrayed out of moneys provided by Parliament.

39. The Secretary of State may, with the approval of the Treasury, make out of moneys provided by Parliament contributions towards the cost of any such arrangements as are mentioned in section 38(2) of this Act, being arrangements made by authorities or bodies other than local authorities within the meaning of that section.

Powers of Secretary of State to subsidise bodies other than local authorities for giving road safety information and training.

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CONSTRUCTION AND USE OF VEHICLES AND EQUIPMENT

General provisions

40.—(1) The Secretary of State may make regulations generally as to the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be so used, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations with respect to any of the following matters:—

Regulation of construction, weight, equipment and use of vehicles.

- (a) the width, height and length of motor vehicles and trailers and the load carried thereby, the diameter of wheels, and the width, nature and condition of tyres, of motor vehicles and trailers ;
- (b) the emission or consumption of smoke, fumes or vapour and the emission of sparks, ashes and grit ;
- (c) noise ;
- (d) the maximum weight unladen of heavy locomotives and heavy motor cars, and the maximum weight laden of motor vehicles and trailers, and the maximum weight to be transmitted to the road or any specified area thereof by a motor vehicle or trailer of any class or by any part or parts of such a vehicle or trailer in contact with the road, and the conditions under which the weights may be required to be tested ;
- (e) the particulars to be marked on motor vehicles and trailers ;

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- (f) the towing of or drawing of vehicles by motor vehicles ;
- (g) the number and nature of brakes, and for securing that brakes, silencers and steering gear shall be efficient and kept in proper working order ;
- (h) the testing and inspection, by persons authorised by or under the regulations, of the brakes, silencers, steering gear, tyres, lighting equipment and reflectors of motor vehicles and trailers on any premises where they are, subject however to the consent of the owner of the premises ;
- (i) the appliances to be fitted for signalling the approach of a motor vehicle, or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, or for intimating any intended change of speed or direction of a motor vehicle, and the use of any such appliance, and for securing that they shall be efficient and kept in proper working order ;
- (j) for prohibiting the use of appliances fitted to motor vehicles for signalling their approach, being appliances for signalling by sound, at any times, or on or in any roads or localities, specified in the regulations.

(2) Without prejudice to the generality of the foregoing provisions, the Secretary of State may, as respects goods vehicles, make regulations under this section—

- (a) prescribing other descriptions of weight which are not to be exceeded in the case of such vehicles ;
- (b) providing for the marking on such vehicles of weights of any description or other particulars by means of plates (of any material) fixed thereto ;
- (c) providing for the circumstances in which any particulars which are to be marked on such vehicles are to be so marked ;
- (d) providing that weights of any description or other particulars which are to be marked on particular goods vehicles may be determined in accordance with regulations under section 45 of this Act.

(3) Different regulations may be made under this section as respects different classes of vehicles or as respects the same class of vehicles in different circumstances and as respects different times of the day or night and as respects roads in different localities.

(4) In framing regulations under this section prescribing a weight of any description which is not to be exceeded in the

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case of goods vehicles of a class for which a manufacturer's certificate or Minister's approval certificate may be issued under section 47 of this Act the Secretary of State shall have regard to the design weight of the like description determined by virtue of the said section 47 for vehicles of that class and shall secure that the first-mentioned weight shall not exceed the design weight.

(5) Subject to the provisions of this section and sections 41 and 42 of this Act, a person—

- (a) who contravenes or fails to comply with any regulations under this section ; or
- (b) who uses on a road a motor vehicle or trailer which does not comply with any such regulations or causes or permits a vehicle to be so used,

shall be guilty of an offence.

(6) In any proceedings for an offence under subsection (5) above in which there is alleged a contravention of or failure to comply with a construction and use requirement relating to any description of weight applicable to a goods vehicle, it shall be a defence to prove either—

- (a) that at the time when the vehicle was being used on the road it was proceeding to a weighbridge which was the nearest available one to the place where the loading of the vehicle was completed for the purpose of being weighed, or was proceeding from a weighbridge after being weighed to the nearest point at which it was reasonably practicable to reduce the weight to the relevant limit, without causing an obstruction on any road ; or
- (b) in a case where the limit of that weight was not exceeded by more than five per cent., that that limit was not exceeded at the time the loading of the vehicle was originally completed and that since that time no person has made any addition to the load.

(7) In this Part of this Act—

“construction and use requirements” means requirements, whether applicable generally or at specified times or in specified circumstances, imposed under this section or by or under sections 68 to 79 of this Act ;

“plated particulars” means such particulars as are required to be marked on a goods vehicle in pursuance of regulations under this section by means of a plate ;

“plated weights” means such weights as are required to be so marked.

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 Temporary exemption from application of regulations under s. 40, 1971 c. 10.

41.—(1) Subject to subsections (2) to (4) below, where any regulations under section 40 of this Act contain provisions varying the requirements as regards the construction or weight of any class of vehicles, provision shall be made by the regulations for exempting for such period, not being less than five years, as may be specified therein from the provisions aforesaid any vehicle of that class registered under the Vehicles (Excise) Act 1971 before the expiration of one year from the making of the regulations.

(2) No such provision contained in regulations under the said section 40 as imposes or varies requirements with respect to the braking systems with which motor vehicles must be equipped shall be taken, for the purposes of subsection (1) above or of any other provision of the regulations, to be one relating to the construction of vehicles.

(3) Where regulations under the said section 40 contain provisions varying the requirements as regards the construction or weight of any class of vehicle, and the Secretary of State is satisfied—

- (a) that it is requisite that those provisions shall apply at a date specified in the regulations to vehicles registered before the expiration of one year from the making of the regulations, or to such of them as are specified in the regulations, and
- (b) that, notwithstanding that those provisions will then apply to those vehicles, no undue hardship or inconvenience will be caused thereby,

then, if the regulations state that the Secretary of State is so satisfied, subsection (1) above shall not apply in relation to the said provisions.

(4) Subsection (1) above shall not apply in relation to regulations made with respect to any description of weight of goods vehicles, other than their maximum unladen weight, or in relation to regulations made by virtue of subsection (2) of the said section 40.

Authorisation of use on roads of special vehicles not complying with regulations under s. 40.

42.—(1) The Secretary of State may by order authorise, subject to such restrictions and conditions as may be specified by or under the order, the use on roads—

- (a) of special motor vehicles or trailers, or special types of motor vehicles or trailers, which are constructed either for special purposes or for tests or trials,
- (b) of vehicles or trailers, or types of vehicles or trailers, constructed for use outside the United Kingdom,

(c) of new or improved types of motor vehicles or trailers, whether wheeled or wheelless, or of motor vehicles or trailers equipped with new or improved equipment or types of equipment, and

(d) of vehicles or trailers carrying loads of exceptional dimensions ;

and nothing in section 40 of this Act shall prevent the use of such vehicles, trailers, or types as aforesaid in accordance with the order.

(2) The Secretary of State may by order make provision for securing that, subject to such restrictions and conditions as may be specified by or under the order, regulations under the said section 40 shall have effect in their application to such vehicles, trailers and types thereof as are mentioned in subsection (1) above subject to such modifications or exceptions as may be specified in the order.

(3) Any order under this section may be varied or revoked by a subsequent order of the Secretary of State.

(4) The powers conferred by this section on the Secretary of State to make orders shall be exercisable by statutory instrument except in the case of orders applying only to specified vehicles or to vehicles of specified persons.

43.—(1) The provisions of this section and of sections 44 and 52(1) of this Act shall have effect in relation to motor vehicles other than goods vehicles which are required by regulations under section 45 of this Act to be submitted for a goods vehicle test under that section and for the purpose of ascertaining whether the prescribed statutory requirements relating to the construction and condition of motor vehicles or their accessories or equipment are complied with. Tests of satisfactory condition of vehicles other than goods vehicles to which s. 45 applies.

(2) The Secretary of State may by regulations make provision for the examination of vehicles submitted for examination under this section and for the issue, where it is found on such an examination that the said requirements are complied with, of a certificate (hereafter in this Act referred to as a "test certificate") that at the date of the examination the requirements were complied with in relation to the vehicle.

(3) Examinations for the purposes of this section shall be carried out by persons, not being officers of the Secretary of State, authorised for those purposes by the Secretary of State (in this section referred to as "authorised examiners"), by inspectors appointed by the Secretary of State, or by inspectors appointed by any council designated by the Secretary of State for the purposes of this section, being the council of a county,

PART II of a borough, of an urban district or of a large burgh (within the meaning of the Local Government (Scotland) Act 1947), the Greater London Council, or the Common Council of the City of London.

(4) Where a test certificate is refused, the examiner or inspector shall issue a notification of the refusal stating the grounds thereof, and a person aggrieved by the refusal or the grounds thereof may appeal to the Secretary of State; and on any such appeal the Secretary of State shall cause a further examination to be made and either issue a test certificate or issue such a notification as aforesaid.

(5) For the purposes of their functions under this section the Secretary of State or a council designated for the purposes of this section may provide and maintain—

- (a) stations where examinations under this section may be carried out, and
- (b) apparatus for carrying out such examinations.

(6) The Secretary of State may make regulations for the purpose of giving effect to the foregoing provisions of this section and for prescribing anything authorised by this section to be prescribed, and in particular as to—

- (a) the authorisation of examiners, the imposition of conditions to be complied with by authorised examiners and the withdrawal of authorisations;
- (b) the manner in which, conditions under which and apparatus with which examinations are carried out, the maintenance of that apparatus in an efficient state, and the inspection of premises at which and apparatus with which examinations are being, or are to be, carried out;
- (c) the manner in which applications may be made for the examination of vehicles under this section, the manner in which and time within which appeals may be brought under subsection (4) above, the information to be supplied and documents to be produced on such an application, examination or appeal, the fees to be paid on such an application or appeal, and the repayment of the whole or part of the fee paid on such an appeal where it appears to the Secretary of State that there were substantial grounds for contesting the whole or part of the decision appealed against;
- (d) the form of, and particulars to be contained in, test certificates and notifications of the refusal thereof, and

the supply by the Secretary of State of forms for such certificates and notifications and the charges to be made for the supply thereof ;

- (e) the issue of duplicates of test certificates lost or defaced and the fee to be paid for the issue thereof ;
- (f) the issue of copies of test certificates and the fee to be paid for the issue thereof ;
- (g) the keeping by designated councils and authorised examiners of registers of test certificates in the prescribed form and containing the prescribed particulars, and the inspection of such registers by such persons and in such circumstances as may be prescribed ;
- (h) the keeping of records by designated councils and authorised examiners and the furnishing by them of returns and information to the Secretary of State ;

and regulations under this section may make different provision in relation to different cases or classes of cases.

44.—(1) A person who uses on a road at any time, or causes or permits to be so used, a motor vehicle to which this section applies, and as respects which no test certificate has been issued within the appropriate period before the said time, shall be guilty of an offence. Obligatory test certificates for vehicles other than goods vehicles to which s. 45 applies.

(2) Subject to section 43(1) of this Act and to subsection (4) below, the motor vehicles to which this section applies at any time are—

- (a) those first registered under the Vehicles (Excise) Act 1971 c. 10, 1971, the Vehicles (Excise) Act 1962, the Vehicles (Excise) Act 1949 or the Roads Act 1920, not less than ten years before that time, and
- (b) those which, having a date of manufacture not less than the specified period before that time, have been used on roads (whether in Great Britain or elsewhere) before being registered under the Vehicles (Excise) Act 1971 or the Vehicles (Excise) Act 1962.

(3) For the purposes of paragraph (b) above there shall be disregarded the use of a vehicle—

- (a) before it is sold or supplied by retail ; or
- (b) before it is registered by the Secretary of State under paragraph (b) of section 19(1) of the Vehicles (Excise) Act 1971 (registration when Secretary of State receives from a motor dealer particulars of a vehicle to which the dealer has assigned a mark under section 20 thereof) and after a mark is so assigned to it.

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1960 c. 16.

(4) This section shall not apply to public service vehicles (within the meaning of Part III of the Road Traffic Act 1960) adapted to carry eight or more passengers or to vehicles of such classes as may be prescribed.

(5) The Secretary of State may by order made by statutory instrument direct that subsection (2)(a) above shall have effect with the substitution, for ten years, of such shorter period as may be specified in the order.

An order under this subsection shall not have effect unless approved by resolution of each House of Parliament.

(6) The Secretary of State may by regulations exempt from subsection (1) above the use of vehicles for such purposes as may be prescribed.

(7) The Secretary of State may by regulations exempt from subsection (1) above the use of vehicles in any such area as may be prescribed.

(8) For the purpose of spreading the work of issuing certificates in contemplation of a change in the length of the period specified under subsection (5) above or of the appropriate period (and whether for purposes of this section or section 52 of this Act), the order or, as the case may be, regulations changing the length of that period may be made so as to come into operation on different days as respects vehicles first registered under any of the enactments mentioned in subsection (2) above at different times.

(9) Where within the appropriate period after a test certificate is issued or treated for the purposes of this section as issued, but not earlier than one month before the end of that period, a further test certificate is issued as respects the same vehicle, the further certificate shall be treated for the purposes of this section as if issued at the end of the said appropriate period.

(10) Where the particulars contained in a test certificate in accordance with regulations made under section 43(6) of this Act include a date of expiry falling later, but not more than one month later, than the end of the appropriate period after the date on which it is issued, the certificate shall be deemed to have been issued in respect of the same vehicle as an earlier test certificate and the date on which it was issued shall be deemed to have been a date falling within the last month of the appropriate period after the date on which that earlier certificate was issued or treated for the purposes of this section as issued ; and any date of expiry contained in a test certificate shall be deemed to have been entered in accordance with such regulations unless the contrary is proved.

(11) For the purposes of this section the date of manufacture of a vehicle shall be taken to be the last day of the year during

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which its final assembly is completed, except where after that day modifications are made to the vehicle before it is sold or supplied by retail, and in the said excepted case shall be taken to be the last day of the year during which the modifications are completed.

(12) Any power conferred by this section to make an order shall include power, exercisable in like manner and subject to the like provisions, to vary or revoke the order.

(13) In this section—

“appropriate period” means a period of twelve months or such shorter period as may be prescribed ;

“specified period” means a period of ten years or such shorter period as may be specified in an order under subsection (5) above.

45.—(1) The Secretary of State may by regulations make provision for the examination of goods vehicles of any prescribed class for the purpose of selecting or otherwise determining plated weights or other plated particulars for goods vehicles of that class or for the purpose of ascertaining whether any prescribed construction and use requirements (whether relating to plated particulars or not) are complied with in the case of goods vehicles of that class, or for both purposes, and in particular—

Tests of satisfactory condition of certain classes of goods vehicles and determination of plated weights and other particulars therefor.

- (a) for the determination, according to criteria or by methods prescribed by or determined under the regulations, of the plated particulars for a goods vehicle (including its plated weights), on an examination of the vehicle for the purpose, and for the issue on such an examination, except as provided by regulations made by virtue of paragraph (c) of this subsection, of a certificate (hereafter in this Act referred to as a “plating certificate”) specifying those particulars ;
- (b) for the issue, for a goods vehicle which has been found on examination for the purpose to comply with the prescribed construction and use requirements, of a certificate (hereafter in this Act referred to as a “goods vehicle test certificate”) stating that the vehicle has been found so to comply ; and
- (c) for the refusal of a goods vehicle test certificate for a goods vehicle which is so found not to comply with those requirements and for requiring a written notification to be given of any such refusal and of the grounds

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of the refusal, and for the refusal of a plating certificate where a goods vehicle test certificate is refused.

References in the foregoing provisions of this subsection to construction and use requirements shall be construed, in relation to an examination of a vehicle solely for the purpose of ascertaining whether it complies with any such requirements, as references to such of those requirements as are applicable to the vehicle at the time of the test and, in relation to an examination of a vehicle both for that purpose and for the purpose of determining its plated particulars, as references to such of those requirements as will be applicable to the vehicle if a plating certificate is issued for it.

(2) In the following provisions of this Part of this Act—

“examination for plating” means an examination under regulations under this section for the purpose of determining plated particulars for a goods vehicle; and

“goods vehicle test” means an examination under any such regulations for the purpose of ascertaining whether any prescribed construction and use requirements are complied with in the case of a goods vehicle.

(3) Any person aggrieved by a determination made on an examination under the regulations by the person in charge of the examination may appeal to an area mechanical engineer appointed by the Secretary of State to act for the traffic area in which the original examination was made, and on the appeal the area mechanical engineer shall cause the vehicle to be re-examined and make such determination in the matter as he thinks fit.

(4) A person aggrieved by the determination of an area mechanical engineer under subsection (3) above may appeal to the Secretary of State and on the appeal the Secretary of State shall cause the vehicle to be re-examined by an officer appointed by him for the purpose and shall make such determination on the basis of the re-examination as he thinks fit.

(5) Regulations under this section may make the like provision in relation to a determination on an appeal under subsection (3) or (4) above as they make in relation to a determination on an examination under the regulations.

(6) Without prejudice to the generality of subsection (1) above, regulations under this section may—

(a) require or authorise goods vehicles to which the regulations apply to be submitted for examination under the regulations and, in particular—

(i) require any such vehicle to be submitted for a goods vehicle test at periodic intervals; and

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- (ii) require or authorise any such vehicle to be submitted for re-examination on the making of any prescribed alteration to it or its equipment and, for the purpose of determining whether any such re-examination is necessary, require any such alteration to be notified to the Secretary of State ;
- (b) authorise any examination under the regulations to be carried out by or under the direction of a goods vehicle examiner ;
- (c) prescribe the conditions subject to which vehicles will be accepted for such examination and, without prejudice to the foregoing—
- (i) authorise any person by whom an examination of the vehicle under the regulations or subsections (3) and (4) above is carried out to drive the vehicle, whether on a road or elsewhere ; and
- (ii) require that a driver of a vehicle examined thereunder is, except so far as permitted to be absent by the person carrying out the examination, present throughout the whole of the examination and drives the vehicle when directed to do so, and operates the controls in accordance with any directions given to him, by that person ;
- (d) require the plating certificate for any vehicle to which the regulations apply to specify any alteration to the vehicle or its equipment which is required by the regulations to be notified to the Secretary of State ;
- (e) authorise the amendment of a plating certificate or the issue of a different plating certificate on the re-examination of any vehicle ;
- (f) provide for the period of validity of goods vehicle test certificates ;
- (g) specify the manner in which, and the time before or within which, applications may be made for the examination of vehicles under the regulations or appeals may be brought under subsection (3) or (4) above, and the information to be supplied and documents to be produced on any such application, examination or appeal ;
- (h) make provision as to the fees to be paid on any such application or appeal and as to the repayment of the whole or part of any fee paid on such an appeal where it appears to the Secretary of State that there were substantial grounds for contesting the whole or part of the determination appealed from ;
- (i) make provision as to the form of, and particulars to be contained in, plating certificates and goods vehicle

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test certificates and notifications of the refusal of the latter certificates ;

- (j) provide for the issue of replacements for plates marked with plated particulars, plating certificates and goods vehicle test certificates which have been lost or defaced and for the payment of a fee for their issue ;
- (k) exempt prescribed classes of vehicles from all or any of the provisions of the regulations either generally or in prescribed circumstances ;
- (l) make different provision for different cases.

(7) Regulations under this section may provide that a person who contravenes or fails to comply with a requirement of regulations imposed by virtue of subsection (6)(c)(ii) thereof shall be guilty of an offence.

(8) Without prejudice to any regulations made by virtue of subsection (6)(c) above, the Secretary of State may give directions with respect to the manner in which examinations under regulations under this section or under subsection (3) or (4) above are to be carried out.

(9) The Secretary of State may provide and maintain stations where examinations of goods vehicles under regulations under this section or under subsection (3) or (4) above may be carried out and may provide and maintain the apparatus for carrying out such examinations.

(10) In this section "goods vehicle examiner" has the same meaning as in section 56(1) of this Act and any reference to the driving of a vehicle is, in relation to a trailer, a reference to the driving of the vehicle by which the trailer is drawn.

Obligatory test certificates for goods vehicles to which s. 45 applies.

46.—(1) If any person at any time on or after the relevant date uses on a road, or causes or permits to be so used, a goods vehicle of a class required by regulations under section 45 of this Act to have been submitted for examination for plating and at that time there is no plating certificate in force for the vehicle, he shall be guilty of an offence.

In this subsection "relevant date", in relation to any goods vehicle, means the date by which it is so required to be submitted for examination for plating.

(2) If any person at any time on or after the relevant date uses on a road, or causes or permits to be so used, a goods vehicle of a class required by regulations under the said section 45 to have been submitted for a goods vehicle test and at that time there is no goods vehicle test certificate in force for the vehicle, he shall be guilty of an offence.

In this subsection "relevant date", in relation to any goods vehicle, means the date by which it is so required to be submitted for its first goods vehicle test.

(3) Any person who uses on a road, or causes or permits to be so used, a goods vehicle when an alteration has been made to the vehicle or its equipment which is required by regulations under the said section 45 to be, but has not been, notified to the Secretary of State shall be guilty of an offence.

(4) In any proceedings for an offence under subsection (3) above, it shall be a defence to prove that the alteration was not specified in the relevant plating certificate in accordance with regulations under the said section 45.

(5) The Secretary of State may by regulations—

- (a) exempt from all or any of the foregoing provisions of this section the use of goods vehicles for such purposes or in such an area as may be prescribed ; and
- (b) make provision for the issue in respect of a vehicle in such circumstances as may be prescribed of a certificate of temporary exemption exempting that vehicle from the provisions of subsection (1) or (2) above for such period as may be specified in the certificate.

47.—(1) Without prejudice to section 40 of this Act, the Secretary of State may by regulations prescribe requirements (hereinafter in this Part of this Act referred to as “type approval requirements”) with respect to the design, construction, equipment and marking of goods vehicles of any class, being requirements which are applicable before, whether or not they are applicable after, vehicles of that class are used on a road. Approval of design, construction, etc., of goods vehicles.

(2) Regulations under this section may provide for the determination, according to criteria or by methods prescribed by or determined under the regulations, of weights of any description which in the opinion of the Secretary of State should not be exceeded in the case of goods vehicles of any class.

(3) In this Part of this Act—

- (a) references to design weights shall be construed as references to weights determined by virtue of subsection (2) above ; and
- (b) “the relevant aspects of design, construction, equipment and marking”, in relation to any vehicle, means those aspects of design, construction, equipment and marking which are subject to the type approval requirements or which were used as criteria in determining design weights for that vehicle.

(4) Where the Secretary of State is satisfied on application made to him by the manufacturer of a goods vehicle of a class

PART II

to which regulations under this section apply and after examination of the vehicle—

- (a) that the vehicle complies with the relevant type approval requirements ; and
- (b) that adequate arrangements have been made to secure that other vehicles purporting to conform with that vehicle in the relevant aspects of design, construction, equipment and marking will so conform in all respects or with such variations as may be permitted ;

he may approve that vehicle as a type vehicle and, if so, shall issue a certificate (hereafter in this Part of this Act referred to as a “type approval certificate”) stating that the vehicle complies with the relevant type approval requirements and specifying the permitted variations from the type vehicle and the design weights for vehicles so conforming in all respects and for vehicles so conforming with any such variations.

In the following provisions of this section and in section 48 of this Act “conform” means conform in all respects or with any permitted variation.

(5) A manufacturer of a type vehicle in respect of which a type approval certificate is in force may issue, in respect of each goods vehicle manufactured by him which conforms with the type vehicle in such of the relevant aspects of design, construction, equipment and marking as are mentioned in the type approval certificate, a certificate (hereafter in this Part of this Act referred to as a “manufacturer’s certificate”) stating that it does so conform and specifying the design weights for the vehicle, and shall in such cases as may be prescribed specify in the certificate one or more of the plated weights for the vehicle.

(6) Where a manufacturer issues a manufacturer’s certificate for a vehicle, the Secretary of State shall, on an application made by any person containing such information as he may require with respect to the proposed circumstances of operation of the vehicle and on production of that certificate, specify in the certificate any plated weights for the vehicle not so specified by the manufacturer.

(7) Where a manufacturer issues a manufacturer’s certificate for a vehicle then—

- (a) if he is required by subsection (5) above to specify any plated weights for the vehicle in the certificate, he shall mark those weights on the vehicle by means of a plate fixed to it ;
- (b) in any other case the Secretary of State shall on an application for the purpose secure that those weights are so marked.

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(8) Where the Secretary of State is satisfied, on application made to him by any person in respect of a goods vehicle of a class to which regulations under this section apply and after examination of the vehicle, that the vehicle complies with the relevant type approval requirements and the Secretary of State has sufficient information to enable the plated weights to be ascertained for the vehicle he may issue a certificate (hereafter in this Part of this Act referred to as a "Minister's approval certificate") stating that the vehicle complies with those requirements and specifying its design weights and plated weights and, where he issues such a certificate, shall secure that the plated weights are marked on the vehicle by means of a plate fixed to it.

(9) Subject to the provisions of subsection (10) below, a type approval certificate may be issued for a type vehicle where the Secretary of State is satisfied that one or more, but not all, of the relevant type approval requirements are complied with in the case of that vehicle, and—

- (a) a further type approval certificate may be issued by virtue of this subsection on the application of any person who manufactures any part of the vehicle or by whom the vehicle is finally assembled, and references in this section and section 48 of this Act to a manufacturer shall be construed accordingly;
- (b) any manufacturer's certificate issued in consequence of any type approval certificate issued by virtue of this subsection shall relate only to the requirement or requirements to which that type approval certificate relates;
- (c) where a manufacturer's certificate issued in respect of a vehicle relates to one or more, but not all, of the relevant type approval requirements, the Secretary of State may issue in respect of that vehicle a Minister's approval certificate relating to one or more of the other relevant type approval requirements.

(10) The first type approval certificate issued for a type vehicle by virtue of subsection (9) above shall specify the design weights for conforming vehicles, and accordingly—

- (a) so much of subsections (4), (5), (6) and (7) above as requires the Secretary of State or a manufacturer to specify in any certificate under this section the design weights or plated weights for a vehicle or as requires the Secretary of State or a manufacturer to mark or secure the marking of the plated weights on a vehicle shall not apply to a subsequent type approval certificate issued by virtue of subsection (9) above or to the

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manufacturer's certificates issued in consequence of such a type approval certificate ;

- (b) so much of subsection (8) above as requires the Secretary of State to specify in any certificate issued by him the design weights and plated weights for a vehicle or to secure that the plated weights are marked on a vehicle shall not apply to a Minister's approval certificate issued by virtue of subsection (9) above.

(11) Where a Minister's approval certificate is given as respects an imported goods vehicle and the Secretary of State is satisfied on the application of the importer of the vehicle and after the consideration of such evidence as he thinks necessary that any other goods vehicle imported by the importer conforms with the first mentioned vehicle as respects the relevant aspects of design, construction, equipment and marking, the Secretary of State may issue a Minister's approval certificate in respect of that other vehicle without examining it and, where he issues such a certificate, shall specify the plated weights which are to be marked on the other vehicle.

(12) Subsection (11) above shall apply in relation to goods vehicles brought into Great Britain from Northern Ireland as it applies in relation to imported goods vehicles, and references in that subsection to the importer shall be construed accordingly.

(13) Where the Secretary of State determines on an application under this section not to issue a type approval certificate or a Minister's approval certificate in respect of a goods vehicle, he shall give to the applicant a written notification of the determination, stating the grounds on which it is based.

Supple-
mentary
provisions as
to type
approval
and other
certificates.

48.—(1) A type approval certificate may be issued subject to conditions with respect to—

- (a) the inspection by officers of the Secretary of State of vehicles purporting to conform with the type vehicle in the relevant aspects of design, construction, equipment and marking and of parts of such vehicles and their equipment, and the entry of premises where they are manufactured, and
- (b) the notification by the manufacturer of differences of design, construction, equipment or marking (other than permitted variations) between any such vehicles and the type vehicle which might affect the type approval requirements or the criteria for determining the design weights of those vehicles.

(2) The Secretary of State may by regulations require that prescribed alterations in any of the relevant aspects of design,

construction, equipment or marking or any such aspect which affects the plated weight made to any vehicle for which a manufacturer's certificate or a Minister's approval certificate is issued shall, subject to any exemption granted under subsection (3) below, be notified to the Secretary of State.

(3) The Secretary of State may by notice in writing given to the manufacturer of goods vehicles or to the owner of a vehicle for which a Minister's approval certificate is issued—

(a) direct that any specified alteration in any of the said aspects to a vehicle to which the direction relates shall be notified to the Secretary of State ;

(b) exempt a vehicle to which the notice relates from all or any of the requirements of regulations under subsection (2) above, subject to compliance with any conditions specified in the notice.

(4) Without prejudice to the provisions of section 50 of this Act, the Secretary of State may by regulations require that a manufacturer's certificate or Minister's approval certificate issued for any vehicle shall specify the regulations if any applicable to the vehicle under subsection (2) above at the time of the issue of the certificate, any additional alteration to that vehicle required by any direction under subsection (3) above to be notified to the Secretary of State and any exemption applicable to that vehicle under that subsection.

(5) A manufacturer's certificate or Minister's approval certificate specifying any plated weights shall be treated for the purposes of the provisions of this Part of this Act and any regulations thereunder relating to plating certificates (except section 45(3) of this Act) as a plating certificate.

(6) If it appears to the Secretary of State that there has been a breach of a condition subject to which a type approval certificate has been granted or if he ceases to be satisfied as to any other matter relevant to a type approval certificate, he may cancel or suspend the certificate, but the cancellation or suspension shall not affect the validity of any manufacturer's certificate previously issued in consequence of the type approval certificate

(7) Where the Secretary of State cancels or suspends a certificate in pursuance of this section, he shall give a written notification of that fact to the holder of the certificate stating the grounds for the cancellation or suspension.

49. A person aggrieved by a determination made on behalf Appeals of the Secretary of State with respect to a type approval certificate, a manufacturer's certificate or a Minister's approval certificate under section 47 or 48 of this Act, including any determination with respect to design weights or plated weights, may

PART II within the prescribed time and in the prescribed manner appeal to the Secretary of State, and on the appeal the Secretary of State—

- (a) shall have the like powers and duties as he has on an original application for a type approval or a Minister's approval certificate or in respect of the plated weights to be included in a manufacturer's certificate ;
- (b) may hold an inquiry in connection therewith ; and
- (c) may appoint an assessor for the purpose of assisting him with the appeal or any such inquiry.

Regulations for purposes of ss. 47 to 49 and other supplementary provisions.

50.—(1) The Secretary of State may make regulations for the purposes of sections 47 to 49 of this Act and, without prejudice to the generality of the foregoing, any such regulations—

- (a) may provide for the examination of any vehicle in respect of which a manufacturer's certificate or a Minister's approval certificate is in force in the event of an alteration being made to the vehicle which is notifiable by virtue of section 48(2) or (3) of this Act and, in particular, may empower a goods vehicle examiner to require the vehicle to be examined at a testing station provided under this section or section 45 or 58 of this Act ;
- (b) may authorise the suspension or amendment of a manufacturer's certificate or a Minister's approval certificate on an examination of any vehicle in pursuance of regulations made by virtue of paragraph (a) above ;
- (c) shall give a right of appeal to any person aggrieved by a determination on any such examination and for that purpose may apply section 45(3) and (4) of this Act ;
- (d) may contain the like provisions with respect to any such examination and any appeal brought by virtue of paragraph (c) above as may be contained in regulations made by virtue of paragraphs (b), (c), (g) and (h) of section 45(6) of this Act in relation to the examinations and appeals there mentioned ;
- (e) may provide for charging a fee on the making of an application for a type approval certificate or Minister's approval certificate ;
- (f) may make provision as to the form of, and particulars to be contained in, manufacturers' certificates, and provide for the supply by the Secretary of State of forms for such certificates ;

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- (g) may provide for the issue of replacements for plates fixed to vehicles under section 47 of this Act, manufacturers' certificates and Minister's approval certificates which have been lost or defaced and provide for the payment of a fee for their issue ;
- (h) may require persons empowered by section 47 of this Act to issue manufacturers' certificates to keep records of manufacturers' certificates issued by them and of the vehicles in respect of which such certificates are issued and may authorise the inspection of such records by such persons and in such circumstances as may be prescribed ;
- (i) may make different provision for different cases.

(2) Without prejudice to any regulations made by virtue of section 45(6)(c) of this Act, as applied by this section, the Secretary of State may give directions with respect to the manner in which examinations to which such regulations apply are to be carried out.

(3) The Secretary of State may provide and maintain stations where examinations of goods vehicles under sections 47 to 49 of this Act or this section or regulations thereunder may be carried out and may provide and maintain the apparatus for carrying out such examinations.

(4) Where an agreement entered into between Her Majesty's Government and the Government of a country outside Great Britain provides for the recognition in Great Britain of arrangements under the law of that country with respect to the approval of the design, construction, equipment or marking of goods vehicles of any description manufactured in that country, the Secretary of State may make regulations—

- (a) applying, with such adaptations and modifications as he thinks fit, all or any of the provisions of sections 47 to 49 of this Act and of regulations under subsection (1) above, so far as relating to type approval certificates and manufacturers' certificates, to goods vehicles of that description manufactured in that country ;
- (b) providing that a certificate issued under any such provision as so applied shall be treated for the purposes of any other provisions of this Part of this Act prescribed by the regulations as a type approval certificate or as a manufacturer's certificate ;
- (c) providing for the cancellation or suspension (subject to any savings prescribed by the regulations) of any such certificate in the event of the agreement ceasing to be in force or being modified.

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(5) Where regulations under subsection (1) above impose the like requirement as may be imposed by regulations made by virtue of section 45(6)(c)(ii) of this Act, the regulations may provide that a person who contravenes or fails to comply with a requirement so imposed shall be guilty of an offence.

(6) In this section "goods vehicle examiner" has the same meaning as in section 56(1) of this Act and in sections 47 and 48 of this Act and this section "goods vehicle" includes a vehicle which is a chassis for, or will otherwise form part of, a vehicle which when completed will be a goods vehicle.

Obligatory
type approval,
manu-
facturers',
and Minister's
certificates.

51.—(1) If any person at any time on or after the day appointed by regulations made by the Secretary of State in relation to goods vehicles of a prescribed class, being vehicles to which type approval requirements prescribed by those regulations apply, uses on a road, or causes or permits to be so used, a goods vehicle of that class and it does not appear from one or more certificates then in force under section 47 of this Act that the vehicle complies with those requirements, he shall be guilty of an offence.

Different days may be appointed under this subsection in relation to different classes of vehicles.

(2) If a plating certificate has been issued for a goods vehicle to which section 46(1) of this Act or subsection (1) above applies, but does not specify a maximum laden weight for the vehicle together with any trailer which may be drawn by it, any person who on or after the relevant date within the meaning of the said section 46(1) or, as the case may be, the day appointed under the said subsection (1) uses the vehicle on a road for drawing a trailer, or causes or permits it to be so used, shall be guilty of an offence.

(3) Any person who uses on a road, or causes or permits to be so used, a goods vehicle when an alteration has been made to the vehicle or its equipment which is required by regulations or directions under section 48 of this Act to be, but has not been, notified to the Secretary of State shall be guilty of an offence.

(4) In any proceedings for an offence under subsection (3) above, it shall be a defence to prove that the regulations were not, or, as the case may be, the alteration was not, specified in the relevant manufacturer's certificate or Minister's approval certificate in accordance with regulations under section 48(4) of this Act.

(5) The Secretary of State may by regulations—

(a) exempt from all or any of the foregoing provisions of this section the use of goods vehicles for such purposes or in such an area as may be prescribed ;

- (b) exempt any class of goods vehicles from the provisions of subsection (2) above ; and
- (c) make provision for the issue in respect of a vehicle in such circumstances as may be prescribed of a certificate of temporary exemption exempting that vehicle from the provisions of subsection (1) above for such period as may be specified in the certificate.

52.—(1) The Secretary of State may by regulations provide that where application is made for a licence under the Vehicles (Excise) Act 1971 for a vehicle to which section 44 of this Act applies and, in the case of an application relating to a vehicle to which that section applies by virtue of subsection (2)(b) thereof, it appears from the application that the vehicle has been used on roads (whether in Great Britain or elsewhere) before the date of the application, the licence shall not be granted unless—

Regulations prohibiting the grant of excise licences for certain vehicles except on compliance with certain conditions.

1971 c. 10.

- (a) there is produced such evidence as may be prescribed of the granting of an effective test certificate or (if it is so prescribed) there is produced such a certificate or there is furnished to the Secretary of State a copy thereof, or
- (b) there is made such a declaration as may be prescribed that the vehicle is not intended to be used during the period for which the licence is to be in force except for a purpose prescribed under subsection (6), or in an area prescribed under subsection (7), of the said section 44, or
- (c) in the case of an application relating to a vehicle to which the said section 44 applies by virtue of subsection (2)(b) thereof, the owner of the vehicles declares in writing the year in which the vehicle was manufactured, and the specified period from the date of manufacture has not expired.

(2) The Secretary of State may by regulations provide that where application is made for a licence under the said Act of 1971 for a goods vehicle to which section 46(2) or 51(1) of this Act applies, the licence shall not be granted unless—

- (a) on any application, after the relevant date within the meaning of the said section 46(2), for a licence for a vehicle to which the said section 46(2) applies, there is produced evidence that an effective goods vehicle test certificate is in force for the vehicle ;
- (b) on the first application, after the day appointed by regulations made by virtue of the said section 51(1), for a licence for a vehicle of any class to which those regulations apply, there is produced evidence that there

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is or are one or more certificates in force for the vehicle under section 47 of this Act from which it appears that the vehicle complies with all the relevant type approval requirements prescribed by those regulations ;

or unless there is made such a declaration as may be prescribed that the vehicle is not intended to be used during the period for which the licence is to be in force except for a purpose or in an area prescribed under paragraph (a) of section 46(5) or 51(5) of this Act or unless there is produced in respect of the vehicle a certificate of temporary exemption issued by virtue of paragraph (b) of the said section 46(5) or paragraph (c) of the said section 51(5) which exempts that vehicle from the provisions of section 46(2) or 51(1) of this Act, as the case may be, for a period which includes the date on which the licence is to come into force.

(3) Regulations under subsection (2) above may be made so as to apply to such classes only of vehicles as may be specified in the regulations.

(4) Section 44(11) shall apply for the purposes of this section as it applies for the purposes of that section.

(5) In this section—

“effective test certificate” means, in relation to an application for a licence for a vehicle, a test certificate relating to the vehicle and issued within the appropriate period before the date on which the licence is to come into force ;

“effective goods vehicle test certificate” means, in relation to an application for a licence for a vehicle, a goods vehicle test certificate relating to the vehicle which will be in force on the date on which the licence is to come into force ;

and “appropriate period” and “specified period” have the same meanings as they respectively have in section 44 of this Act.

Testing of condition of vehicles on roads.

53.—(1) An authorised examiner may test a motor vehicle on a road for the purpose of ascertaining whether the requirements imposed by law as to—

- (a) brakes, silencers, steering gear and tyres ;
- (b) the prevention or reduction of smoke, fumes or vapour ;
and
- (c) lighting equipment and reflectors,

are complied with as respects the vehicle, and of bringing to the notice of the driver any failure to comply with those requirements, and for the purpose of testing the vehicle the examiner may drive it; but a vehicle shall not be required to stop for a test except by a constable in uniform.

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(2) The following persons may act as authorised examiners for the purposes of this section and section 54 of this Act, that is to say, a certifying officer or public service vehicle examiner appointed under Part III of the Road Traffic Act 1960, a person appointed as an examiner under section 56 of this Act, a person appointed to examine and inspect public carriages for the purposes of the Metropolitan Public Carriage Act 1869, a person appointed to act for the purposes of this section by the Secretary of State, and a constable authorised so to act by or under instructions of the chief officer of police.

A person appointed as aforesaid shall produce his authority to act for the purposes of this section if required to do so.

(3) On the examiner proceeding to test a vehicle under this section, the driver may elect that the test shall be deferred to a time, and carried out at a place, fixed in accordance with Schedule 3 to this Act, and the provisions of that Schedule shall apply accordingly:

Provided that—

(a) where it appears to a constable that, by reason of an accident having occurred owing to the presence of the vehicle on a road, it is requisite that a test should be carried out forthwith, he may require it to be so carried out and, if he is not to carry it out himself, may require that the vehicle shall not be taken away until the test has been carried out; and

(b) where in the opinion of a constable the vehicle is apparently so defective that it ought not to be allowed to proceed without a test's being carried out, he may require the test to be carried out forthwith.

(4) If a person obstructs an authorised examiner acting under this section, or fails to comply with a requirement of this section or Schedule 3 to this Act, he shall be guilty of an offence.

(5) In this section and in Schedule 3 to this Act "test" includes "inspect" or "inspection", as the case may require, and references to a vehicle include references to a trailer drawn thereby.

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PART II
Remedying
of defects
discovered on
roadside tests.

54.—(1) Where on testing a motor vehicle under section 53 of this Act it appears to an authorised examiner that there is a defect in the vehicle by reason that the vehicle does not comply with a construction and use requirement applicable to the vehicle, he may, whether or not the requirement is one mentioned in subsection (1) of that section and whether or not proceedings are instituted for a breach of the requirement, give a notice in writing to the person who is then the owner of the vehicle specifying the defect and the requirement in question and requiring him to give to the Secretary of State within the permitted period a certificate complying with subsection (3) below or a declaration complying with subsection (4) below.

(2) On testing a motor vehicle as aforesaid an authorised examiner may require the person in charge of the vehicle to state whether he is the owner of the vehicle and, if he is not the owner, the name and address of the owner.

(3) A certificate under this section shall contain—

- (a) a statement signed by the person to whom the notice under this section was given that he has taken steps to secure that repairs for the purpose of remedying the defects specified in the notice have been carried out at a vehicle testing station or to secure that the vehicle has been examined at such a station for the purpose of ascertaining whether any such repairs have been carried out ; and
- (b) a statement signed by a person having power to carry out examinations at such a station under section 43 of this Act that the signatory has either carried out any such repairs or examined the vehicle for the purpose of ascertaining whether those repairs have been carried out and that in his opinion the vehicle complies with the construction and use requirement specified in the notice.

(4) A declaration under this section shall be signed by the person to whom the notice under this section was given and shall state that he has sold or disposed of his interest in the vehicle to which the notice relates or that he does not intend to use it thereafter on a road in Great Britain.

(5) A person who, having been given a notice under this section, fails to give a certificate or declaration under this section within the permitted period to the Secretary of State shall be guilty of an offence.

(6) A person who fails to comply with a requirement imposed on him by an authorised examiner under subsection (2) above shall be guilty of an offence.

PART II

(7) The Secretary of State may by regulations make provision with respect to the examination of vehicles for the purpose of ascertaining whether any such repairs as are mentioned in subsection (3)(a) above have been carried out and with respect to the making of statements under subsection (3)(b) above and, in particular, any such regulations—

- (a) may prescribe the manner in which, conditions under which and apparatus with which such examinations are carried out and make provision with respect to the maintenance of that apparatus in an efficient state, and with respect to the inspection of premises at which and apparatus with which such examinations are being, or are to be, carried out ;
- (b) may prescribe the manner in which applications may be made for such examinations or for such statements ;
- (c) shall give a right of appeal to any person aggrieved by the refusal of a person mentioned in subsection (3)(b) above to sign a certificate under that paragraph and shall prescribe the manner in which and time within which appeals under the regulations may be brought ;
- (d) may prescribe the information to be supplied and documents to be produced on such an application, examination or appeal ;
- (e) may prescribe the fees to be paid on such an application or appeal, and the repayment of the whole or of part of the fee paid on such appeal where it appears to the Secretary of State that there were substantial grounds for appeal ;
- (f) may prescribe the form of notices, certificates and declarations under this section and of notices of appeal and other documents required for the purposes of this section ; and
- (g) may make different provision for different cases.

(8) In this section “permitted period” means a period of twenty-eight days beginning with the date of the notice under this section or such longer period as the Secretary of State may, on the application of the owner of a motor vehicle, specify in writing.

55.—(1) Where a certificate has been given under section 54 of this Act with respect to a motor vehicle, the Secretary of State may, within the period of thirty days beginning with the date on which he receives the certificate, require the person who is the owner of the vehicle at the time of the requirement Tests to check whether defects have been remedied.

PART II to make the vehicle available for a further test by an officer of the Secretary of State and for that purpose may request that person to specify—

- (a) a period of seven days within which the examination is to take place, being a period falling within the period of thirty days beginning with the date of the requirement, disregarding any day in which the vehicle is outside Great Britain ; and
- (b) a place, or if that person thinks fit, a local government area, where the test may conveniently be carried out.

(2) Where a vehicle is made available under subsection (1) above for a further test, any officer of the Secretary of State may test and inspect it for the purpose of ascertaining whether any defect specified in the notice relating to it under the said section 54 has been remedied.

(3) Section 54 of this Act shall apply in relation to a test under this section as it applies in relation to a test under section 53 thereof with the substitution for references to an authorised examiner of references to an officer of the Secretary of State.

(4) Paragraphs 3 and 4 of Schedule 3 to this Act shall apply in relation to a test under this section as they apply in relation to a deferred test, subject to the following modifications, that is to say—

- (a) for references therein to the foregoing provisions of that Schedule there shall be substituted references to subsection (1) above ;
- (b) in those paragraphs “owner” shall have the meaning assigned by section 196 of this Act and not the meaning assigned by paragraph 5 of that Schedule ; and
- (c) for the reference in paragraph 3 to premises there shall be substituted a reference to a place.

(5) If a person obstructs an officer of the Secretary of State acting under this section, or fails to comply with a requirement of this section or of paragraphs 3 and 4 of the said Schedule 3 as applied by this section, he shall be guilty of an offence.

(6) Any station or apparatus provided and maintained under section 43(5) of this Act by the Secretary of State or a council designated for the purposes of that section may be used by the Secretary of State or that council, as the case may be, for the carrying out of examinations for the purpose of ascertaining whether any such repairs as are mentioned in section 54(3)(a) of this Act have been carried out and for the carrying out of tests and inspections under this section.

(7) In subsection (1) above “local government area” means, as respects England and Wales, a county borough, a county district or Greater London and, as respects Scotland, a county or burgh.

PART II

56.—(1) For the purpose of securing that goods vehicles are maintained in a fit and serviceable condition and that, in relation to goods vehicles, the provisions of this Part of this Act (except section 59) and of Part V of the Transport Act 1968 are observed, the Secretary of State shall appoint such examiners as he considers necessary. Power to inspect goods vehicles to secure proper maintenance. 1968 c. 73.

In this section and sections 57 and 58 of this Act “goods vehicle examiner” means an examiner appointed under this subsection or a certifying officer appointed under Part III of the Road Traffic Act 1960.

1960 c. 16.

(2) A goods vehicle examiner—

- (a) may at any time, on production if so required of his authority, enter and inspect any goods vehicle, and for that purpose detain the vehicle during such time as is required for the inspection ;
- (b) may at any time which is reasonable having regard to the circumstances of the case enter any premises on which he has reason to believe that a goods vehicle is kept.

(3) A person who obstructs a goods vehicle examiner in the performance of his duty under subsection (2) above shall be guilty of an offence.

(4) A goods vehicle examiner or a constable in uniform may at any time require any person in charge of a stationary goods vehicle on a road to proceed with the vehicle for the purpose of having it inspected under this section to any place where an inspection can be suitably carried out (not being more than one mile from the place where the requirement is made).

(5) A person in charge of a goods vehicle who refuses or neglects to comply with a requirement made under subsection (4) above shall be guilty of an offence.

57.—(1) If on any inspection of a goods vehicle under section 56 of this Act or on an examination of such a vehicle under regulations under section 45 or 50 of this Act it appears to a goods vehicle examiner that the vehicle, owing to any defects therein is, or is likely to become, unfit for service, he may prohibit the driving of the vehicle on a road either absolutely or for a specified purpose. Power to prohibit the driving of unfit goods vehicles.

H 3

PART II

(2) Where a goods vehicle examiner prohibits the driving of a vehicle under subsection (1) above, he shall forthwith give notice in writing of the prohibition to the person in charge of the vehicle at the time of the inspection, specifying the defects which occasioned the prohibition, stating whether the prohibition is on all driving of the vehicle or driving it for a specified purpose (and if the latter specifying the purpose) and stating whether the prohibition is to come into force immediately or at the end of a specified period.

(3) A prohibition under subsection (1) above with respect to any vehicle shall, subject to any exemption granted under subsection (5) below, come into force as soon as notice thereof has been given under subsection (2) above, if in the opinion of the examiner the defects in the vehicle are such that driving it, or driving it for any purpose specified in the notice, will create an immediate risk to public safety, and the prohibition shall thereafter continue in force until it is removed under section 58 of this Act.

(4) In any other case a prohibition under subsection (1) above shall, unless previously removed under the said section 58 and subject to any exemption under subsection (5) below, come into force at such time not later than ten days from the date of the inspection as seems appropriate to the examiner having regard to all the circumstances, and shall thereafter continue in force until it is so removed.

(5) Where a notice has been given under subsection (2) above any examiner may grant an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purpose as may be specified in the exemption.

(6) Where any such notice has been given an examiner may by endorsement on the notice vary its terms and, in particular, alter the time at which the prohibition is to come into force or suspend it if it has come into force.

(7) Where a goods vehicle has been weighed in pursuance of a requirement imposed under section 160 of this Act and it appears to a goods vehicle examiner, to a person authorised with the consent of the Secretary of State to act for the purposes of this subsection by a highway authority other than the Secretary of State or to a constable authorised to act for those purposes by or on behalf of a chief officer of the police—

(a) that the limit imposed by construction and use requirements with respect to any description of weight which is applicable to that vehicle has been exceeded; and

(b) that as a result there would be an immediate risk to public safety if it were used on a road,

the person to whom it so appears may, whether or not a notice is given under subsection (2) above, give notice in writing to the person in charge of the vehicle prohibiting the driving of the vehicle on a road until that weight is reduced to that limit.

(8) On giving a notice under subsection (2) or (7) above to a person in charge of a vehicle, the person giving the notice shall as soon as practicable take steps to bring the contents of the notice to the attention—

(a) of the owner of the vehicle if he was not in charge of it at the time when the notice was given ; and

(b) in the case of an authorised vehicle within the meaning of Part V of the Transport Act 1968, of the licensing authority by whom the operators' licence (within the meaning of the said Part V) was granted for the vehicle. 1968 c. 73.

(9) A person who drives a goods vehicle on a road, or causes or permits a goods vehicle to be so driven, in contravention of a prohibition under this section, shall be guilty of an offence.

(10) The Secretary of State may by regulations exempt from subsection (9) above the use of vehicles for such purposes as may be prescribed.

(11) A goods vehicle examiner shall, in exercising his functions under this section, act under the general directions of the Secretary of State and, without prejudice to the foregoing, shall, in exercising his functions under subsection (5) above, act in accordance with any directions given by the Secretary of State with respect to the exercise of those functions in any particular case.

(12) Any reference in this section to the driving of a vehicle is, in relation to a trailer, a reference to the driving of the vehicle by which the trailer is drawn.

58.—(1) A prohibition under section 57 of this Act may be removed by any goods vehicle examiner if he is satisfied that the vehicle is fit for service. Removal of prohibition of driving of unfit goods vehicle.

(2) A person aggrieved by the refusal of an examiner appointed under section 56(1) of this Act to remove a prohibition may make an application to any licensing authority to have the vehicle inspected by a certifying officer appointed under Part III of the Road Traffic Act 1960, and, where any such application is made, the certifying officer, on the matter being referred to him, shall, if he considers that the vehicle is fit for service, remove the prohibition. 1960 c. 16.

PART II

(3) A person aggrieved by the refusal of a certifying officer to remove a prohibition may, within the prescribed time and in the prescribed manner, appeal to the Secretary of State, who shall have power to make such order on the appeal as he thinks fit; and any such order shall be binding on the certifying officer.

1968 c. 73.

(4) Where a goods vehicle examiner removes a prohibition, he shall forthwith give notice of the removal to the owner of the vehicle and, in the case of an authorised vehicle within the meaning of Part V of the Transport Act 1968, to the licensing authority by whom the operators' licence (within the meaning of the said Part V) was granted for the vehicle.

(5) The Secretary of State may provide and maintain stations where inspections of goods vehicles for the purposes of this section may be carried out and may provide and maintain the apparatus for carrying out such examinations.

(6) The Secretary of State may make regulations for prescribing anything which may be prescribed under subsection (3) above and for regulating the procedure on appeals to him under that subsection.

(7) A licensing authority may hold such inquiries as he thinks necessary for the proper exercise of his functions under this section.

Operators' duty to inspect, and keep records of inspections of, goods vehicles.

59.—(1) The Secretary of State may make regulations requiring the operator for the time being of a goods vehicle to which the regulations apply to secure—

- (a) the carrying out by a suitably qualified person (including the operator if so qualified) of an inspection of the vehicle for the purpose of ascertaining whether the construction and use requirements with respect to any prescribed matters, being requirements applicable to the vehicle, are complied with;
- (b) the making and authentication of records of such matters relating to any such inspection as may be prescribed, including records of the action taken to remedy any defects discovered on the inspection;

and providing for the preservation of such records for a prescribed period not exceeding fifteen months and their custody and production during that period.

(2) Regulations under this section may—

- (a) apply to all goods vehicles or to goods vehicles of such classes as may be prescribed;
- (b) require the inspection of goods vehicles under the regulations to be carried out at such times, or before the happening of such events, as may be prescribed;
- (c) make different provision for different cases.

(3) Any person who contravenes or fails to comply with any provision of regulations under this section shall be guilty of an offence.

(4) In this section "the operator", in relation to a goods vehicle, means the person to whom it belongs or the hirer thereof under a hire-purchase agreement, except where he has let it on hire (otherwise than by way of hire-purchase) or lent it to any other person and in the said excepted case means a person of a class prescribed by regulations under this section in relation to any particular class of goods vehicles or, subject to any such regulations, that other person.

(5) In any proceedings for a contravention of or failure to comply with construction and use requirements or regulations under this section, any record purporting to be made and authenticated in accordance with regulations under this section shall be evidence (and in Scotland sufficient evidence) of the matters stated in the record and of its due authentication.

60.—(1) Subject to the provisions of this section it shall not be lawful to sell, or to supply, or to offer to sell or supply, a motor vehicle or trailer for delivery in such a condition that the use thereof on a road in that condition would be unlawful by virtue of any provision made by regulations under section 40 of this Act as respects brakes, steering gear or tyres or as respects the construction, weight or equipment of vehicles, or in such a condition, as respects lighting equipment or reflectors or the maintenance thereof, that it is not capable of being used on a road during the hours of darkness without contravention of the requirements imposed by law as to obligatory lamps or reflectors.

Vehicles not to be sold in unroad-worthy condition or altered so as to be unroadworthy.

(2) Subject to the provisions of this section it shall not be lawful to alter a motor vehicle or trailer so as to render its condition such that the use thereof on a road in that condition would be unlawful by virtue of any provision made as respects the construction, weight or equipment of vehicles by regulations under the said section 40.

(3) If a motor vehicle or trailer is sold, supplied, offered or altered in contravention of the provisions of this section, any person who so sells, supplies, offers or alters it, or causes or permits it to be so sold, supplied, offered or altered, shall be guilty of an offence.

(4) A person shall not be convicted of an offence under this section in respect of the sale, supply, offer or alteration of a motor vehicle or trailer if he proves—

(a) that it was sold, supplied, offered or altered, as the case may be, for export from Great Britain, or

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- (b) that he had reasonable cause to believe that the vehicle or trailer would not be used on a road in Great Britain, or would not be so used until it had been put into a condition in which it might lawfully be so used, or
- (c) in the case of a vehicle or trailer the sale, supply or offer of which is alleged to be unlawful by reason of its condition as respects lighting equipment or reflectors or the maintenance thereof, that he had reasonable cause to believe that the vehicle or trailer would not be used on a road in Great Britain during the hours of darkness until it had been put into a condition in which it might be so used during those hours without contravention of the requirements imposed by law as to obligatory lamps or reflectors.

(5) Nothing in the foregoing provisions of this section shall affect the validity of a contract or any rights arising under a contract.

(6) In this section "obligatory lamps or reflectors" means, in relation to a motor vehicle or trailer, the lamps or reflectors required by law to be carried thereon while it is on a road during the hours of darkness and when it is neither drawing nor being drawn by another vehicle, except that the said expression does not, in the case of a motor vehicle, include any lamps or reflectors required to be carried by virtue of section 79 of this Act, or, in the case of a trailer, include any lamps or reflectors so required to be carried or any lamps showing a white light to the front.

Testing
condition of
used vehicles
at sale
rooms, etc.

61.—(1) An authorised examiner may at any reasonable hour enter premises where used motor vehicles or trailers are sold, supplied, or offered or kept for sale or supply, in the course of a business and test and inspect any used motor vehicle or trailer found thereon for the purpose of ascertaining whether it is in any such condition as is mentioned in section 60(1) of this Act, and for the purpose of testing a motor vehicle and any trailer drawn by it may drive it and for the purpose of testing a trailer may draw it with a motor vehicle.

(2) If any person obstructs an authorised examiner acting under this section he shall be guilty of an offence.

(3) In this section an authorised examiner means a person who may act as an authorised examiner for the purposes of section 53 of this Act; and any such person, other than a constable in uniform, shall produce his authority to act for the purposes of that section if required to do so.

(4) A motor vehicle or trailer shall be treated as used for the purposes of this section if, but only if, it has previously been sold or supplied by retail.

62.—(1) If any person at any time on or after the day appointed by regulations under section 51(1) of this Act sells, supplies or offers to sell or supply a goods vehicle of a class to which those regulations apply and it does not appear from one or more certificates in force at that time under section 47 of this Act that the vehicle complies with all the relevant type approval requirements prescribed by those regulations, he shall be guilty of an offence.

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Goods vehicles not to be sold without required manufacturer's or Minister's approval certificate.

(2) A person shall not be convicted of an offence under this section in respect of the sale, supply or offer of a vehicle if he proves—

- (a) that it was sold, supplied or offered, as the case may be, for export from Great Britain ;
- (b) that he had reasonable cause to believe that it would not be used on a road in Great Britain or would not be so used until it had been certified as aforesaid ; or
- (c) that he had reasonable cause to believe that it would only be used for purposes or in any area prescribed by the Secretary of State under section 46(5) or 51(5) of this Act.

(3) Nothing in subsection (1) above shall affect the validity of a contract or any rights arising under or in relation to a contract.

63.—(1) Where any international agreement to which the United Kingdom is a party provides—

Approval marks.

(a) for markings to be applied—

(i) to motor vehicle parts of any description to indicate conformity with a type approved by any country ; or

(ii) to a motor vehicle to indicate that the vehicle is fitted with motor vehicle parts of any description and either that the parts conform with a type approved by any country or that the vehicle is such that as so fitted it conforms with a type so approved ; and

(b) for motor vehicle parts or, as the case may be, motor vehicles, bearing those markings to be recognised as complying with the requirements imposed by the law of another country ;

the Secretary of State may by regulations designate the markings as approval marks, and any markings so designated shall be deemed for the purposes of the Trade Descriptions Act 1968 c. 29. to be a trade description, whether or not the markings fall within the definition of that expression in section 2 of that Act.

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1968 c. 29.

(2) Any person who, without being authorised by the competent authority to apply any approval mark, applies that mark or a mark so nearly resembling it as to be calculated to deceive shall be guilty of an offence under the Trade Descriptions Act 1968, whether or not he would be guilty of such an offence apart from this subsection.

(3) The conditions subject to which approval of any type may be given on behalf of the United Kingdom or the use of approval marks indicating conformity with a type approved by the United Kingdom may be authorised may include such conditions as to testing or inspection and the payment of fees as the Secretary of State may impose.

(4) In this section—

“motor vehicle” means a mechanically propelled vehicle or a vehicle designed or adapted for towing by a mechanically propelled vehicle,

“motor vehicle part” means any article made or adapted for use as part of a mechanically propelled vehicle or a vehicle drawn by a mechanically propelled vehicle, or for use as part of the equipment of any such vehicle, and shall be treated as including any equipment for the protection of drivers or passengers in or on a motor vehicle notwithstanding that it does not form part of, or of the equipment of, that vehicle; and

“the competent authority” means,—

(a) as respects any approval mark indicating conformity with a type approved by the United Kingdom, the Secretary of State; and

(b) as respects any approval mark indicating conformity with a type approved by any other country, the authority having power under the law of that country to authorise the use of that mark.

Provisions as to proceedings for certain offences in connection with goods vehicles.

64.—(1) If in any proceedings for an offence under section 40(5) of this Act any question arises as to a weight of any description specified in the plating certificate for a goods vehicle, and a weight of that description is marked on the vehicle, it shall be assumed, unless the contrary is proved, that the weight marked on the vehicle is the weight so specified.

(2) If in any proceedings for an offence under this Part of this Act except sections 44 and 60 any question arises as to the date of manufacture of a goods vehicle, a date purporting to be such a date and marked on the vehicle in pursuance of regulations under this Part of this Act shall be evidence (and in Scotland sufficient evidence) that the vehicle was manufactured on the date so marked.

(3) If in any proceedings for the offence of driving a goods vehicle on a road, or causing or permitting a goods vehicle to be so driven, in contravention of a prohibition under section 57(7) of this Act any question arises whether a weight of any description has been reduced to a limit imposed by construction and use requirements, the burden of proof shall lie on the accused.

(4) If in any proceedings in Scotland for an offence under the Road Traffic Regulation Act 1967 or this Act any question arises as to a weight of any description in relation to a goods vehicle, a certificate purporting to be signed by an inspector of weights and measures and certifying the accuracy of a weigh-bridge or other machine for weighing vehicles shall be sufficient evidence of the facts stated therein, and where the inspector is called as a witness his evidence shall be sufficient evidence of the aforesaid facts. 1967 c. 76.

In this subsection "inspector of weights and measures" has the same meaning as in the Weights and Measures Act 1963, except that it includes a chief inspector within the meaning of that Act. 1963 c. 31.

65.—(1) Subject to subsection (2) below, the number of trailers, if any, which may be drawn by a motor vehicle on a highway shall not exceed— Restriction on number of trailers drawn.

(a) in the case of a heavy locomotive or light locomotive, three ;

(b) in the case of a motor tractor, one, if laden, or two, if unladen ;

(c) in the case of a motor car or a heavy motor car, one ; or such less number as may be prescribed in relation to vehicles of the respective classes aforesaid by regulations made by the Secretary of State, and different regulations may be made under this subsection as respects vehicles of those classes in different circumstances.

(2) Regulations under subsection (1) above may substitute, in the case of such trailers or in such circumstances as may be specified in the regulations, two for one as the number of trailers that may be drawn by any class of vehicle so specified.

(3) For the purposes of this section the expression "trailer" shall not include a vehicle used solely for carrying water for the purposes of the drawing vehicle or an agricultural vehicle not constructed to carry a load.

(4) Where—

(a) a motor car or heavy motor car is, in consequence of a breakdown, being drawn by another motor vehicle, and

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(b) a trailer is so attached to the car that part of the trailer is superimposed on the car and that, when the trailer is uniformly loaded, not less than twenty per cent. of the weight of its load is borne by the car, then, if the trailer is unladen the car and trailer shall for the purposes of this section be treated as a single trailer.

(5) If a person causes or permits a trailer to be drawn in contravention of this section he shall be guilty of an offence.

Provisions as to pedal cycles and horse-drawn vehicles

Regulation of
brakes, bells,
etc., on pedal
cycles.

66.—(1) The Secretary of State may make regulations as to the use on roads of cycles, not being motor vehicles, their construction and equipment and the conditions under which they may be so used and, in particular, but without prejudice to the generality of the foregoing provision, as to—

- (a) the number, nature and efficiency of brakes and their maintenance in proper working order ;
- (b) the appliances to be fitted for signalling approach and their maintenance in proper working order ; and
- (c) the testing and inspection, by persons authorised under the regulations, of any equipment prescribed under this subsection and of lighting equipment and reflectors.

(2) Regulations under this section may provide for repealing byelaws dealing with the same subject matter as the regulations, and for suspending while the regulations remain in force any power of making such byelaws.

(3) Regulations under this section may be made so as to apply either generally or in such circumstances only as may be specified in the regulations.

(4) Regulations under this section as to the use on roads of cycles may prohibit the sale or supply, or the offer of a sale or supply, of a cycle for delivery in such a condition that the use thereof on a road in that condition would be a contravention of the regulations, but no provision made by virtue of this subsection shall affect the validity of any contract or any rights arising under a contract.

(5) If a person sells, supplies or offers to sell or supply a cycle in contravention of any prohibition imposed by regulations made by virtue of subsection (4) above he shall be guilty of an offence, unless he proves—

- (a) that it was sold, supplied or offered for export from Great Britain ; or
- (b) that he had reasonable cause to believe that it would not be used on a road in Great Britain, or would not be so used until it had been put into a condition in which it might lawfully be so used.

67.—(1) The Secretary of State may make regulations for regulating the number, nature and use of brakes, including skid-pans and locking-chains, in the case of vehicles drawn by horses or other animals, or any class of such vehicles, when used on roads.

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Regulation of
brakes on
horse-drawn
vehicles

(2) Regulations under this section may be made for securing that such brakes shall be efficient and kept in proper working order, and for empowering persons authorised by or under the regulations to test and inspect any such brakes, whether on a road or elsewhere.

(3) Regulations under this section may provide for repealing byelaws dealing with the same subject matter as the regulations, and for suspending while the regulations remain in force any power of making such byelaws.

(4) Regulations under this section may be made so as to apply either generally or in such circumstances only as may be specified in the regulations.

Provisions as to lighting of vehicles

68.—(1) Subject to the following provisions of this Part of this Act and of any regulations made thereunder by the Secretary of State, every vehicle on a road shall, without prejudice to the requirements of subsection (2) below, during the hours of darkness carry—

Obligatory
front and
rear lamps
and head-
lamps.

- (a) two lamps, each showing to the front a white light visible from a reasonable distance; and
- (b) two lamps, each showing to the rear a red light visible from a reasonable distance.

(2) Subject as aforesaid, every vehicle on a road, being a vehicle of any such class as may be prescribed, shall carry such lamps or lamp designed to illuminate the road as may be prescribed in relation to vehicles of that class.

(3) Regulations under subsection (2) above may make different provision in relation to vehicles of different classes or in relation to vehicles of any class when used in different circumstances.

(4) The lamps carried by a vehicle in pursuance of this section shall be kept lit—

- (a) in the case of a lamp carried in pursuance of subsection (1) above, while the vehicle is on a road during the hours of darkness;
- (b) in the case of a lamp carried in pursuance of subsection (2) above, in such circumstances when the vehicle is in motion on a road during the hours of darkness as may be prescribed.

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(5) The lamps carried by a vehicle in pursuance of subsections (1) and (2) above shall comply with such conditions as may be prescribed and shall, while the vehicle is on a road during the hours of darkness, be attached to the vehicle in such position and manner as may be prescribed.

(6) The lamps carried by a vehicle in pursuance of subsection (1) above shall, while the vehicle is on a road during the hours of darkness, be kept properly trimmed and in a clean and efficient condition.

(7) It shall be the duty of any person who causes or permits a vehicle to be on any road during the hours of darkness to provide the vehicle with lamps in accordance with the requirements of this and the following sections of this Part of this Act and of any regulations made under those sections (other than section 79).

(8) In this and the following sections of this Part of this Act, "vehicle", unless the context otherwise requires, means a vehicle of any description and includes a machine or implement of any kind drawn or propelled along roads whether by animal or mechanical power.

Obligatory reflectors.

69.—(1) Subject to the following provisions of this Part of this Act, every vehicle on a road shall during the hours of darkness carry attached to it two unobscured and efficient red reflectors each facing to the rear.

(2) It shall be the duty of any person who causes or permits a vehicle to be on any road during the hours of darkness to provide the vehicle with reflectors in accordance with the requirements of this section and any regulations made for the purposes thereof under the following provisions of this Part of this Act.

Restriction on the nature of the lamps to be carried.

70.—(1) No vehicle shall, subject to the provisions of section 79 of this Act and of any regulations made under section 78(5) thereof, show—

(a) a red light to the front, or

(b) any light to the rear, other than a red light or a white light for the purpose of reversing.

(2) Paragraph (b) of subsection (1) above shall not prevent a vehicle from carrying a lamp showing a light to the rear for the purposes of—

(a) the internal illumination of the vehicle, or

(b) (subject to subsection (3) below) illuminating a number plate, taxi meter, or any device for giving signals to overtaking traffic, or

(c) in the case of a public passenger vehicle, illuminating boards, plates or devices indicating the route or destination of the vehicle ;

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and the said paragraph (b) shall not prevent a bicycle or tricycle from carrying amber coloured reflectors which are attached to or incorporated in or form part of the pedals of the bicycle or tricycle notwithstanding that any such reflectors show a light to the rear.

(3) Subsection (2)(b) above shall not authorise a vehicle of any class to carry a lamp showing a light to the rear for the purpose of illuminating any device for giving signals to overtaking traffic other than a device of a type required or authorised to be carried on a vehicle of that class by virtue of section 40 of this Act.

71.—(1) Unless otherwise provided by the Secretary of State by regulation, and subject to subsection (2) below, no light shown by a vehicle, other than a dipping headlight, shall be moved by swivelling, deflecting or otherwise while the vehicle is in motion. Restriction on movement of lamps.

(2) Subsection (1) above shall not apply to amber coloured reflectors which are attached to or incorporated in or form part of the pedals of a bicycle or tricycle.

72.—(1) Subject to subsection (2) below, nothing in sections 68 to 78 of this Act shall require a vehicle to carry separate lamps for different purposes, if it carries a lamp satisfying all the requirements which would be applicable to separate lamps carried by it for those purposes. Multi-purpose lamps and combined lamps and reflectors.

(2) Subsection (1) above shall not apply in relation to any requirement to carry a headlamp under section 68(2) of this Act, but regulations may authorise the combination in a single unit of such a lamp and a lamp required to be carried by section 68(1)(a) of this Act.

(3) Where a vehicle's tail lamp is so constructed that, when not showing a light, it is an efficient red reflector facing to the rear and complying with any regulations made for the purposes of section 69 of this Act and for the purposes of this subsection which apply to the vehicle, it shall be treated for those purposes as being such a reflector when it is, as well as when it is not, showing a light.

73.—(1) The Secretary of State may by regulations prescribe the conditions to be complied with by any of the following lamps carried by a vehicle, namely— Regulation of position, character, use, etc., of lamps and reflectors.

(a) any lamp showing a light to the front ;

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(b) any lamp showing a white light to the rear for the purpose of reversing ; and

(c) any lamp carried in pursuance of any of the provisions of sections 68 to 78 of this Act or of any regulations made thereunder and showing a red light to the rear ;

and, without prejudice to the foregoing, the conditions subject to which the lamps described in paragraphs (a) and (b) above may be used.

(2) Regulations under subsection (1) above may make different provision in relation to vehicles of different classes or in relation to vehicles of the same class in different circumstances.

(3) The conditions which may be prescribed by regulations under subsection (1) above as conditions to be complied with by any lamp shall include conditions with respect to—

(a) position and manner of attachment to the vehicle ;

(b) power, intensity, colour and angle of projection of light ;

(c) height, width and range of illumination of beam ;

(d) provision for obscuration or deflection of light or beam ; and such regulations may provide for the method by which the height, width or range of illumination of a beam is to be ascertained.

(4) Regulations under subsection (1) above may make special provision, in relation to any class of vehicle, as to the position in which a lamp carried for the purposes both of paragraph (a) and of paragraph (b) of section 68(1) of this Act is to be attached ; and in a case for which special provision is so made the reference in section 72(1) of this Act to the requirements which would be applicable to separate lamps shall not include the requirements of any regulations as to the position of a separate lamp carried for the purposes of the said paragraph (a) or (b).

(5) The Secretary of State may by regulations prescribe the conditions to be complied with by any reflector carried in pursuance of any of the provisions of sections 69 to 78 of this Act or of any regulations made thereunder, and the position and manner in which it is to be attached ; and any regulations made under this subsection may make different provision in relation to vehicles of different classes or in relation to vehicles of the same class in different circumstances.

74. In the application of sections 68 to 73 of this Act (except so far as those sections relate to any head lamps required to be carried under section 68(2) thereof) to bicycles, tricycles and invalid carriages the following modifications shall apply:—

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Bicycles,
tricycles and
invalid
carriages.

- (a) in the case of a bicycle not having a side-car attached thereto, whether propelled by mechanical power or not, or of a tricycle not propelled by mechanical power, or of an invalid carriage, only a single lamp showing a white light to the front instead of two such lamps need be carried ;
- (b) in the case of a bicycle or tricycle not propelled by mechanical power, or of a bicycle propelled by mechanical power and not having a side-car attached thereto—
 - (i) only a single lamp showing a red light to the rear instead of two such lamps, and
 - (ii) only a single red reflector instead of two such reflectors,
 need be carried ;
- (c) in the case of a bicycle not having a side-car attached thereto, whether propelled by mechanical power or not, or of a tricycle not propelled by mechanical power, no lamp need be carried if the bicycle or tricycle is being wheeled by a person on foot as near as possible to the near or left hand edge of the carriageway ;
- (d) in the case of a bicycle or tricycle not propelled by mechanical power, no light required by the said sections 68 to 73 need be shown, if the bicycle or tricycle is stationary owing to the exigencies of the traffic or in order to comply with any traffic signal or direction, and the bicycle or tricycle is as near as possible to the near or left hand edge of the carriageway :

Provided that the provisions of paragraph (d) above shall have effect only until such day as the Secretary of State may by order made by statutory instrument appoint.

75.—(1) In the application of sections 68 to 73 of this Act (except so far as those sections relate to any head lamps required to be carried under section 68(2) thereof) to vehicles drawn by horses or other animals the following modifications shall apply:—

Horse-drawn
agricultural
vehicles.

- (a) any vehicle engaged for the time being in carrying agricultural produce of an inflammable nature in the course of the internal operations of a farm shall be exempted from carrying lamps ;
- (b) without prejudice to paragraph (a) above, in the case of an agricultural implement or of any vehicle used

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for the time being by a person engaged in agriculture for the conveyance of his agricultural produce or articles required by him for use in agriculture—

(i) only one lamp showing a light to the front need be carried, and that lamp shall be attached to the off or right hand side of the vehicle, and

(ii) subject to the provisions of section 76 of this Act, a lamp showing a red light to the rear need not be carried.

(2) In this section “agriculture” includes the use of land as meadow land or pasture land, or orchard land or for market gardens or allotments, but does not include the use of land as woodlands, and “agricultural” shall be construed accordingly.

Vehicles carrying overhanging or projecting loads.

76.—(1) Without prejudice to sections 68 to 75 of this Act, where a vehicle on a road during the hours of darkness carries a load overhanging laterally on any side more than twelve inches from the centre of the outermost of the lamps showing a white light to the front on that side, the vehicle shall carry, in substitution for or in addition to that lamp, a lamp showing to the front a white light visible from a reasonable distance and in such a position that no part of the load overhangs laterally more than twelve inches beyond a vertical line through the centre of the substituted or additional lamp.

(2) Subject to subsection (3) below, where a vehicle on a road during the hours of darkness carries a load projecting to the rear more than three and a half feet behind its tail lamp, the vehicle shall carry a rear lamp in such a position that no part of the load projects to the rear more than three and a half feet behind that rear lamp.

In this section “rear lamp” means a lamp showing to the rear a red light visible from a reasonable distance.

(3) The Secretary of State may by regulations direct that in relation to vehicles of any prescribed class subsection (2) above shall have effect with the substitution, for references to three and a half feet, of references to such longer distance, not being more than six feet, as may be prescribed in respect of vehicles of that class.

(4) The Secretary of State may by regulations provide that, subject to any prescribed exceptions, where a vehicle on a road during the hours of darkness carries a load overhanging laterally by more than the prescribed distance (measured from such point as may be specified in the regulations), the vehicle shall carry a rear lamp in the prescribed position to indicate the overhang; and any such regulations may apply to a vehicle otherwise exempted from carrying a rear lamp by section 77 of this Act.

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(5) Every rear lamp carried in pursuance of this section or regulations made under it shall comply with the prescribed conditions and shall, subject to subsection (6) below, be carried in addition to the tail lamp.

(6) The Secretary of State may by regulations exempt a vehicle carrying a rear lamp in pursuance of this section from carrying a tail lamp or from carrying two tail lamps.

(7) Nothing in section 75(1)(b) of this Act shall exempt any implement or vehicle to which that paragraph applies from complying with subsections (2) to (5) above or any regulations made under them, but in relation to any such implement or vehicle a reference to the red reflectors required by section 69(1) of this Act shall be substituted for the reference in subsection (2) above to the tail lamp.

77.—(1) In the application of sections 68 to 76 of this Act (except so far as those sections relate to any head lamps required to be carried under section 68(2) thereof) in the case of a vehicle drawing one or more vehicles the following modifications shall, subject to the following provisions of this section, apply:—

Vehicles
towing and
being towed.

- (a) lamps showing lights to the front need not be carried on any vehicle being drawn ;
- (b) lamps showing red lights to the rear need not be carried on any of the vehicles except the rearmost vehicle ;
- (c) reflectors facing to the rear need not be carried on any of the vehicles except the rearmost vehicle or a vehicle more than five feet from the vehicle behind it.

(2) If the distance between any two of the vehicles exceeds five feet, then as respects any light to be shown to the rear the foremost of the two vehicles, and as respects any light to be shown to the front the rearmost of the two vehicles, shall be required to carry the same lamps as if the one were not drawing the other.

(3) If a vehicle being drawn or any load carried thereon projects laterally on any side more than twelve inches beyond the outermost of the lamps showing a white light to the front on that side carried by the vehicle by which it is being drawn or by any preceding vehicle which is also being drawn by the same vehicle, the first-mentioned vehicle shall carry on the side on which the vehicle or its load so projects a lamp showing to the front a white light visible from a reasonable distance in such a position that no part of the vehicle or its load projects laterally more than twelve inches beyond a vertical line through the centre of the lamp required to be carried by this subsection.

PART II

(4) This section shall have effect subject to the provisions of any regulations made under section 76(4) of this Act in the case of any vehicles to which those regulations apply.

(5) For the purposes of this section, the distance between two vehicles shall be measured between the nearest points of those vehicles, disregarding the drawbar and any fitting for its attachment.

Powers of exemption and variation of requirements.

78.—(1) The Secretary of State may by regulations exempt either wholly or partly from any of the requirements of sections 68 to 77 of this Act—

- (a) vehicles while carrying inflammable or explosive goods of a nature specified in the regulations, or when in a place where inflammable or explosive material of a nature so specified is handled or stored, if an application is made for the purpose by any body which in the opinion of the Secretary of State is a body proper to make such an application ;
- (b) any vehicles used for naval, military or air force purposes ;
- (c) vehicles standing or parked on any road with respect to which a speed limit on the driving of mechanically propelled vehicles is in force by virtue of any enactment, or on any road verge or in any parking place or any stand for hackney carriages ;
- (d) vehicles drawn or propelled by hand.

(2) The Secretary of State may by regulations add to or vary the requirements of the said sections 68 to 77, and require or permit distinctive lamps to be carried displaying lights of such colour and used under such conditions as may be prescribed, in the case of—

- (a) vehicles used as public passenger vehicles or any class thereof or as hackney carriages ;
- (b) vehicles used for naval, military, air force or police purposes, or as ambulances, or for any other special purposes mentioned in the regulations ;

and where distinctive lamps are so required or permitted, prohibit similar lamps being carried by any other vehicles.

(3) The Secretary of State may by regulations increase, in relation to vehicles of any class specified in the regulations, the number of tail lamps required by section 68(1)(b) of this Act.

(4) Regulations made under subsection (3) above may make different provision in relation to vehicles of different classes or in relation to vehicles of any class when used in different

circumstances ; and any such regulations may modify the provisions of section 74 of this Act so far as it relates to the tail lamps of vehicles to which the regulations apply.

(5) The Secretary of State may, notwithstanding anything in section 70 of this Act, by regulations make provision—

- (a) requiring or authorising a light of a prescribed colour to be shown by the prescribed means to the rear of a vehicle of any prescribed class ; and
- (b) where any such light is required or authorised by the regulations to be so shown by means of reflecting or fluorescent material, provision imposing conditions with respect to the material, its position and dimensions

(6) Without prejudice to the powers conferred by the foregoing provisions of this section, the Secretary of State may by regulations exempt, either wholly or partly, from the requirements of section 69 of this Act, vehicles of any particular class.

(7) Regulations under any of the provisions of sections 68 to 77 of this Act or this section granting exemptions from any of the requirements thereof—

- (a) may grant exemptions from any such requirement in such cases as may be specified in the regulations and subject to such conditions as may be specified in or under the regulations ; and
- (b) may make different provisions as respects different areas, as respects different classes of vehicles or as respects the same class of vehicles in different circumstances.

79.—(1) The Secretary of State may by regulations provide that, subject to any exemptions prescribed by the regulations,—

Power to impose additional requirements for vehicles over prescribed length and trailers.

- (a) where the length of a vehicle, or the overall length of two or more vehicles of which one is drawing the other or others, inclusive of any load on the vehicle or vehicles, exceeds a length so prescribed, the vehicle or vehicles shall when on a road during the hours of darkness carry such lamps or reflectors each showing a light, or as the case may be facing, to the side as may be so prescribed ;
- (b) a vehicle constructed or adapted so as to be drawn by another vehicle shall when on a road during the hours of darkness carry such lamps each showing a light to the front or the side, or both, as may be prescribed ;

and any such regulations may prescribe the conditions with which lamps or reflectors carried on a vehicle in pursuance of the regulations must comply and the position and manner in

PART II

which they are to be attached, and may make different provision in respect of vehicles of different classes or in respect of vehicles of the same class in different circumstances.

(2) Any lamps or reflectors required to be carried by virtue of this section shall be carried in addition to, and not instead of, those required to be carried by or by virtue of the provisions of sections 68 to 78 of this Act, and accordingly any such lamps or reflectors shall for the purposes of those provisions, and in particular section 70 of this Act, be treated as not showing a light to the front or to the rear.

Application of ss. 68 to 79 to reflecting material.

80. It is hereby declared for the avoidance of doubt that material designed primarily to reflect white light as light of that or another colour is, when reflecting light, to be treated for the purposes of sections 68 to 79 of this Act as showing a light, and material capable of reflecting an image is not, when reflecting the image of a light, to be so treated.

Offences.

81.—(1) If any person causes or permits any vehicle to be on any road in contravention of any of the provisions of sections 68 to 79 of this Act or of regulations made thereunder or otherwise fails to comply with any of those provisions he shall be guilty of an offence:

Provided that it shall be a defence for a person driving or being in charge of a vehicle who is charged with an offence under this subsection to prove to the satisfaction of the court that the offence arose through the negligence or default of some other person whose duty it was to provide the vehicle with any lamp or reflector.

(2) If any person sells, or offers or exposes for sale, any appliance adapted for use as a reflector or tail lamp to be carried on a vehicle in accordance with the provisions of this Act or of any regulations made thereunder, not being an appliance which complies with the conditions prescribed under sections 68 to 79 of this Act for a class of vehicles for which the appliance is adapted, he shall be guilty of an offence.

Supplementary

Interpretation of Part II.

82. In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“construction and use requirement” has the meaning assigned to it in section 40(7) of this Act;

- “ goods vehicle test certificate ” has the meaning assigned to it in section 45(1) of this Act ; PART II
- “ hours of darkness ” means the time between half-an-hour after sunset and half-an-hour before sunrise ;
- “ licensing authority ” means a licensing authority for the purposes of Part V of the Transport Act 1968 ; 1968 c. 73.
- “ manufacturer’s certificate ” has the meaning assigned to it in section 47(5) of this Act ;
- “ Minister’s approval certificate ” has the meaning assigned to it in section 47(8) of this Act ;
- “ plating certificate ” has the meaning assigned to it in section 45(1) of this Act ;
- “ prescribed ” means prescribed by regulations made by the Secretary of State ;
- “ public passenger vehicle ” means a vehicle (other than a tramcar) carrying passengers for hire or reward on roads ;
- “ sold or supplied by retail ” means sold or supplied otherwise than to a person acquiring solely for the purpose of resale or of re-supply for a valuable consideration ;
- “ tail lamp ” means, in relation to a vehicle, any lamp carried attached to the vehicle for the purpose of showing a red light to the rear in accordance with section 68(1)(b) of this Act or regulations under any of sections 68 to 79 thereof ;
- “ test certificate ” has the meaning assigned to it in section 43(2) of this Act ;
- “ traffic area ” has the same meaning as in Part III of the Road Traffic Act 1960 ; 1960 c. 16.
- “ type approval certificate ” has the meaning assigned to it in section 47(4) of this Act ;

83.—(1) Any expenses incurred by the Secretary of State by virtue of sections 43, 45, 47 to 50 or 57 shall be defrayed out of moneys provided by Parliament. Administrative expenses, appointment of officials and destination of fees.

(2) Subject to the consent of the Civil Service Department as to number, the Secretary of State may appoint such officers and servants as he considers necessary for the operation of the provisions of sections 56 to 58 of this Act.

(3) There shall be paid to goods vehicle examiners appointed for the purposes of the said sections 56 to 58 such remuneration or salaries and such allowances, if any, as the Secretary of State may, with the consent of the Treasury, determine.

PART II

(4) In every year there shall be paid out of moneys provided by Parliament such sums as the Secretary of State may, with the consent of the Treasury, direct in respect of remuneration, salaries and allowances under subsection (3) above and the other expenses of examiners.

(5) Any sum received by the Secretary of State in pursuance of sections 43, 45, 47 to 50 or 63 of this Act shall be paid into the Consolidated Fund.

PART III

LICENSING OF DRIVERS OF VEHICLES

Driving licences

Drivers of motor vehicles to have driving licences.

84.—(1) It shall be an offence for a person to drive on a road a motor vehicle of any class if he is not the holder of a licence authorising him to drive a motor vehicle of that class.

(2) It shall be an offence for a person to employ a person to drive on a road a motor vehicle of any class if the person employed is not the holder of a licence authorising him to drive a motor vehicle of that class.

1967 c. 76.

(3) Notwithstanding the foregoing provisions of this section, a person may, without holding a licence, act as steersman of a motor vehicle, being a vehicle on which a speed limit of five miles per hour or less is imposed by or under section 78 of the Road Traffic Regulation Act 1967, under the orders of another person engaged in the driving of the vehicle who is licensed in that behalf in accordance with the requirements of this Part of this Act and Part IV of this Act, and a person may employ another person who is not the holder of a licence so to act.

(4) Notwithstanding the foregoing provisions of this section, a person may at any time drive or employ another person to drive a vehicle of any class if—

(a) the driver has held and is entitled to obtain a licence to drive vehicles of that class; and

(b) an application by the driver for the grant of such a licence for a period which includes that time has been received by the Secretary of State or such a licence granted to him has been revoked or surrendered in pursuance of section 89 of this Act; and

(c) any conditions which by virtue of section 88(2) or (4) of this Act apply to the driving under the authority of the licence of vehicles of that class are complied with;

but the benefit of the foregoing provisions of this subsection shall not extend beyond the date when a licence is granted in pursuance

of the application mentioned in paragraph (b) above or, as the case may be, in pursuance of subsection (4) of the said section 89 in consequence of the revocation or surrender so mentioned nor (in a case where a licence is not in fact so granted) beyond the expiration of the period for which it fell to be granted.

(5) Regulations may provide that a person who becomes resident in Great Britain shall, during the prescribed period after he becomes so resident, be treated for the purposes of subsections (1) and (2) above as the holder of a licence authorising him to drive motor vehicles of the prescribed classes if he satisfies the prescribed conditions and is the holder of a permit of the prescribed description authorising him to drive vehicles under the law of a country outside the United Kingdom; and the regulations may provide for the application of any enactment relating to licences or licence holders, with or without modifications, in relation to any such permit and its holder respectively.

85.—(1) Subject to the provisions of this Part of this Act as to provisional licences, a licence authorising the driving of motor vehicles of any class shall not be granted to a person unless he satisfies the Secretary of State—

Tests of competence to drive

- (a) that at some time during the period of ten years ending on the date of coming into force of the licence applied for he has passed the test of competence to drive prescribed by virtue of subsection (2) below or a test of competence which under subsection (4) below is a sufficient test, or
- (b) that within the said period of ten years he has held a licence authorising the driving of vehicles of that class, not being a provisional licence or a licence granted by virtue of section 99(4) of the Road Traffic Act 1960, or 1960 c. 16.
- (c) that within the said period of ten years he has held a licence granted under a relevant external law to drive vehicles of that class, not being a licence corresponding to a provisional licence or a licence granted under any provision of that law corresponding to the said section 99(4), and is not, at the time of application for the licence, disqualified under that law for holding or obtaining a licence thereunder to drive vehicles of any class.

For the purposes of paragraph (c) above “relevant external law” means the law for the time being in force in Northern Ireland, that for the time being in force in the Isle of Man or that for the time being in force in any of the Channel Islands that corresponds to this Part of this Act.

PART III

(2) Regulations may make provision with respect to the nature of tests of competence to drive for the purposes of this section, to the qualifications, selection and appointment of persons by whom they may be conducted and to the revocation of any appointment, to evidence of the results thereof and generally with respect thereto, and in particular, but without prejudice to the generality of the foregoing provisions, regulations having effect by virtue of this subsection may provide—

- (a) for requiring a person submitting himself for a test to provide a vehicle for the purposes thereof ;
- (b) for requiring a fee of such amount as may be specified in the regulations to be paid by a person who submits himself for a test or applies for an appointment for a test ;
- (c) for ensuring that a person submitting himself for a test and failing to pass that test shall not be eligible to submit himself to another test by the same or any other person before the expiration of a period specified in the regulations except under an order made by a court or sheriff under the power conferred by subsection (3) below ;

and different regulations may be made with respect to tests of competence to drive different classes of vehicles.

(3) A magistrates' court acting for the petty sessions area in which a person who has submitted himself for a test of competence to drive resides, or if he resides in Scotland, the sheriff within whose jurisdiction he resides, shall have power on the application of that person to determine whether the test was properly conducted in accordance with the regulations and, if it appears to the court or sheriff that the test was not so conducted, the court or sheriff may order that the applicant shall be eligible to submit himself to another test before the expiration of the period specified for the purposes of subsection (2)(c) above and may order that any fee payable by the applicant in respect of the test shall not be paid or, if it has been paid, shall be repaid.

(4) For the purposes of paragraph (a) of subsection (1) above a test of competence shall be sufficient for the granting of a licence authorising the driving of—

- (a) vehicles of any class, if at the time the test was passed it authorised the granting of a licence to drive vehicles of that class ;
- (b) vehicles of any classes which are designated by regulations as a group for the purposes of the said paragraph (a), if at the said time the test authorised the granting

of a licence to drive vehicles of any class included in the group ;

PART III

and if vehicles of any classes are designated by regulations as a group for the purposes of paragraph (b) of subsection (1) above, a licence authorising the driving of vehicles of a class included in the group shall be deemed for the purposes of the said paragraph (b) to authorise the driving of vehicles of all classes included in the group.

(5) The last reference in subsection (4) above and the first reference in paragraph (b) of subsection (1) above to a licence do not include a licence which has been revoked in pursuance of section 89(2) of this Act.

86. A fee paid in pursuance of regulations made under section 85(2) of this Act on application for an appointment for a test may be repaid in the following cases and not otherwise, that is to say:—

Repayment of test fees.

- (a) if no such appointment is made, or an appointment made is subsequently cancelled by or on behalf of the Secretary of State ;
- (b) if the person for whom the appointment is made gives such notice cancelling the appointment as may be prescribed for the purposes of this paragraph by regulations made as aforesaid ;
- (c) if the person for whom the appointment is made keeps the appointment, but the test does not take place, or is not completed, for reasons attributable neither to him nor to any vehicle provided by him for the purposes of the test ; or
- (d) if an order for the repayment of the fee is made by the court under section 85(3) of this Act pursuant to a finding that the test was not properly conducted in accordance with the regulations.

87.—(1) An application for the grant of a licence shall include a declaration by the applicant, in such form as the Secretary of State may require, stating whether he is suffering or has at any time (or, if a period is prescribed for the purposes of this subsection, has during that period) suffered from any prescribed disability or from any other disability likely to cause the driving of a vehicle by him in pursuance of the licence to be a source of danger to the public (such prescribed or other disability being hereafter in this section referred to as a “ relevant disability ”).

Requirements as to physical fitness of drivers.

PART III

(2) If it appears from the declaration aforesaid, or if on inquiry the Secretary of State is satisfied from other information, that the applicant is suffering from a relevant disability, then, subject to the following provisions of this section, the Secretary of State shall refuse to grant the licence.

(3) The Secretary of State shall not by virtue of subsection (2) above refuse to grant a licence—

- (a) on account of any relevant disability, if the applicant has at any time passed a relevant test and it does not appear to the Secretary of State that the disability has arisen or become more acute since that time or was, for whatever reason, not disclosed to the Secretary of State at that time ;
- (b) on account of any relevant disability which is prescribed for the purposes of this paragraph, if the applicant satisfies such conditions as may be prescribed with a view to authorising the grant of a licence to a person in whose case the disability is appropriately controlled ;
- (c) on account of any relevant disability other than a disability prescribed for the purposes of this paragraph, if the application is for a provisional licence.

(4) If as the result of a test of competence to drive the Secretary of State is satisfied that the person who took the test is suffering from a disability such that there is likely to be danger to the public—

- (a) if he drives any vehicle, or
- (b) if he drives a vehicle other than a vehicle of a particular construction or design,

the Secretary of State shall serve notice in writing to that effect on that person and shall include in the notice a description of the disability ; and where a notice is served in pursuance of this subsection, then—

- (i) if the notice is in pursuance of paragraph (a) of this subsection and the disability is not prescribed for the purposes of subsection (3)(c) above, it shall be deemed to be so prescribed in relation to the person aforesaid ; and
- (ii) if the notice is in pursuance of paragraph (b) of this subsection, any licence granted to that person shall be limited to vehicles of the particular construction or design specified in the notice.

(5) If the Secretary of State is at any time satisfied on inquiry—

- (a) that the licence holder is suffering from a relevant disability, and

- (b) that the Secretary of State would be required by virtue of subsection (2) or (4)(ii) above to refuse an application for the licence made by him at that time,

the Secretary of State may serve notice in writing on the licence holder revoking the licence at the expiration of a period specified in the notice which shall not be less than seven nor more than thirty days and shall begin with the date of service of the notice ; and it shall be the duty of a person whose licence is revoked under this subsection to deliver up the licence to the Secretary of State forthwith after the revocation.

(6) In this section—

“ disability ” includes disease ; and

“ relevant test ”, in relation to an application for a licence, means any such test of competence as is mentioned in section 85 of this Act or a test as to fitness or ability in pursuance of section 100 of the Road Traffic Act 1960 c. 16. 1960 as originally enacted, being a test authorising the grant of a licence in respect of vehicles of the classes to which the application relates ;

and for the purposes of subsection (3)(a) above a person to whom a licence was granted after the making of a declaration under paragraph (c) of the proviso to section 5(2) of the Road Traffic Act 1930 c. 43. 1930 (which contained transitional provisions with respect to certain disabilities) shall be treated as having passed, at the time of the declaration, a relevant test in respect of vehicles of the classes to which the licence related.

88.—(1) Subject to section 87 of this Act, the Secretary of State shall, on payment of the prescribed fee, grant a licence to a person who—

- (a) makes an application for it in such manner and containing such particulars as the Secretary of State may specify ; and
- (b) furnishes the Secretary of State with such evidence or further evidence in support of the application as the Secretary of State may require ; and
- (c) surrenders to the Secretary of State any previous licence granted to him after 1st June 1970 or furnishes the Secretary of State with an explanation for not surrendering it which the Secretary of State considers adequate ; and
- (d) is not disqualified by reason of age or otherwise from obtaining the licence for which he makes the application and is not prevented from obtaining it by the provisions of section 85 of this Act.

PART III

(2) If the application aforesaid states that it is made for the purpose of enabling the applicant to drive a motor vehicle with a view to passing a test of competence to drive, any licence granted in pursuance of the application shall be a provisional licence for that purpose, and nothing in section 85 of this Act shall apply to such a licence ; but a provisional licence—

- (a) shall be granted subject to prescribed conditions ;
- (b) shall, in any cases prescribed for the purposes of this paragraph, be restricted so as to authorise only the driving of vehicles of the classes so prescribed ; and
- (c) shall not authorise a person to drive a motor cycle whereof the cylinder capacity of the engine exceeds 250 cubic centimetres, not being a vehicle having three wheels, unless he has passed the test of competence to drive prescribed under section 85 of this Act.

(3) A licence shall be in such form as the Secretary of State may determine and shall—

- (a) state whether, apart from subsection (4) below, it authorises its holder to drive motor vehicles of all classes or of certain classes only and, in the latter case, specify those classes ;
- (b) specify any restrictions to which, under the provisions of section 4 or this Part of this Act, its holder is subject as respects the driving of vehicles of any class in pursuance of the licence ;
- (c) in the case of a provisional licence, specify the conditions subject to which it is granted ; and
- (d) where by virtue of subsection (4) below the licence authorises its holder to drive vehicles of classes other than those specified in the licence in pursuance of paragraph (a) above, contain such statements as the Secretary of State considers appropriate for indicating the effect of that subsection.

(4) A licence which, apart from this subsection, authorises its holder to drive motor vehicles of certain classes only shall also authorise him to drive motor vehicles of all other classes subject to the same conditions as if he were authorised by a provisional licence to drive the last-mentioned vehicles ; but a licence shall not by virtue of this subsection authorise a person to drive—

- (a) a vehicle which he is prohibited from driving by section 4 of this Act, or
- (b) such a motor cycle as is mentioned in paragraph (c) of subsection (2) above, unless he has passed the test of competence to drive prescribed under section 85 of this Act.

(5) In subsection (4) above the first reference to a licence does not include a reference to a licence granted before 1st June 1970 or a provisional licence granted thereafter or any other licence of a description prescribed for the purposes of this subsection.

(6) A person who fails to comply with any condition applicable to him by virtue of subsection (2) or (4) above shall be guilty of an offence.

89.—(1) A licence shall, unless previously revoked or surrendered, remain in force—

Duration of licences.

- (a) except in a case falling within paragraph (b) or (c) of this subsection, for a period of three years or, if the Secretary of State so determines in the case of a licence to be granted to a person appearing to him to be suffering from a relevant disability within the meaning of section 87 of this Act, for such shorter period, not less than one year, as the Secretary of State may determine ;
- (b) in the case of a licence granted in exchange for a subsisting licence and in pursuance of an application requesting a licence for the period authorised by this paragraph, for a period equal to the remainder of that for which the subsisting licence was granted ; and
- (c) in the case of a provisional licence, for a period of one year ;

and any such period shall begin with the date on which the licence in question is expressed to come into force.

(2) Where it appears to the Secretary of State that a licence granted by him to any person is required to be endorsed in pursuance of any enactment or was granted in error or with an error or omission in the particulars specified in the licence or required to be so endorsed on it, the Secretary of State may serve notice in writing on that person revoking the licence and requiring him to deliver up the licence forthwith to the Secretary of State.

(3) Where the name or address of the licence holder as specified in a licence ceases to be correct, its holder shall forthwith surrender the licence to the Secretary of State and furnish to him particulars of the alterations falling to be made in the name or address and, in the case of a provisional licence as respects which the prescribed conditions are satisfied, with a statement of his sex and date of birth ; and a person who fails to comply with the provisions of this subsection shall be guilty of an offence.

PART III

(4) On the surrender of a licence by any person in pursuance of subsection (2) or (3) above, the Secretary of State—

(a) shall, except where the licence was granted in error or is surrendered in pursuance of the said subsection (2) in consequence of an error or omission appearing to the Secretary of State to be attributable to that person's fault or in consequence of a current disqualification, and

(b) may in such an excepted case which does not involve a current disqualification,

grant to that person free of charge a new licence for the period for which the surrendered licence was granted.

Appeals
relating to
licences.

90.—(1) A person who is aggrieved by the Secretary of State's—

(a) refusal to grant or revocation of a licence in pursuance of section 87 of this Act, or

(b) grant of a licence for less than three years in pursuance of section 89(1)(a) of this Act, or

(c) revocation of a licence in pursuance of section 89(2) of this Act,

or by a notice served on him in pursuance of section 87(4) of this Act may, after giving to the Secretary of State notice of his intention to do so, appeal to a magistrates' court acting for the petty sessions area in which he resides or, if he resides in Scotland, to the sheriff within whose jurisdiction he resides; and on any such appeal the court or sheriff may make such order as it or he thinks fit and the order shall be binding on the Secretary of State.

(2) It is hereby declared that, without prejudice to section 85(3) of this Act, in any proceedings under this section the court or sheriff is not entitled to entertain any question as to whether the appellant passed a test of competence to drive if he was declared by the person who conducted it to have failed it.

Driving with
uncorrected
defective
eyesight.

91.—(1) If a person drives a motor vehicle on a road while his eyesight is such (whether through a defect which cannot be or one which is not for the time being sufficiently corrected) that he cannot comply with any requirement as to eyesight prescribed under this Part of this Act for the purposes of tests of competence to drive, he shall be guilty of an offence.

(2) A constable having reason to suspect that a person driving a motor vehicle may be guilty of an offence under subsection (1) above may require him to submit to a test for the purpose of ascertaining whether, using no other means of correction than

he used at the time of driving, he can comply with the said requirement as to eyesight ; and if that person refuses to submit to the test he shall be guilty of an offence.

PART III

92. If, in any proceedings for an offence committed in respect of a motor vehicle, it appears to the court that the accused may be suffering from any disease or physical disability which would be likely to cause the driving by him of a motor vehicle to be a source of danger to the public, the court shall notify the Secretary of State.

Notification of disease or disability.

A notice sent by a court to the Secretary of State in pursuance of this section shall be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.

Disqualification and endorsement of licences

93.—(1) Where a person is convicted of an offence—

Disqualification on conviction of certain offences.

- (a) under a provision of this Act specified in column 1 of Part I of Schedule 4 to this Act in relation to which there appears in column 5 of that Part the word “obligatory” or the word “obligatory” qualified by conditions or circumstances relating to the offence ; and
- (b) where the said word “obligatory” is so qualified, the conditions or circumstances are satisfied or obtain in the case of the offence of which he is convicted ;

or where a person is convicted of the offence specified in Part II of that Schedule (any such offence being in this Part of this Act referred to as an “offence involving obligatory disqualification”) the court shall order him to be disqualified for such period not less than twelve months as the court thinks fit unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(2) Where a person is convicted of an offence—

- (a) under a provision of this Act specified in column 1 of Part I of Schedule 4 to this Act in relation to which there appears in column 5 of that Part the word “discretionary” or the word “discretionary” qualified by conditions or circumstances relating to the offence ; and
- (b) where the said word “discretionary” is so qualified, the conditions or circumstances are satisfied or obtain in the case of the offence of which he is convicted ;

or where a person is convicted of an offence specified in Part III of that Schedule (any such offence being in this Part of this Act

PART III referred to as an “offence involving discretionary disqualification”), the court may order him to be disqualified for such period as the court thinks fit.

(3) Where a person convicted of an offence involving obligatory or discretionary disqualification has within the three years immediately preceding the commission of the offence been convicted on not less than two occasions of any such offence and particulars of the convictions have been ordered to be endorsed in accordance with section 101 of this Act, the court shall order him to be disqualified for such period not less than six months as the court thinks fit, unless the court is satisfied, having regard to all the circumstances, that there are grounds for mitigating the normal consequences of the conviction and thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(4) Where a person convicted of an offence under any of the following provisions of this Act, namely section 5(1), 6(1) or 9(3) (where the latter is an offence involving obligatory disqualification), has within the ten years immediately preceding the commission of the offence been convicted of any such offence, subsection (1) above shall apply in relation to him with the substitution of three years for twelve months.

1962 c. 59.
1960 c. 16.
1903 c. 36.

(5) The period of any disqualification imposed under subsection (3) above shall be in addition to any other period of disqualification imposed (whether previously or on the same occasion) under this section or section 5 of the Road Traffic Act 1962 or under the Road Traffic Act 1960 or an enactment repealed by that Act or under the Motor Car Act 1903.

(6) The foregoing provisions of this section shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.

(7) Where a person is convicted of an offence involving obligatory or discretionary disqualification the court may, whether or not he has previously passed the test of competence to drive prescribed under this Act, and whether or not the court makes an order under the foregoing provisions of this section, order him to be disqualified until he has, since the date of the order, passed that test; and a disqualification by virtue of an order under this subsection shall be deemed to have expired on production to the Secretary of State of evidence, in such form as may be prescribed by regulations under section 107 of this Act, that the person disqualified has, since the order was made, passed that test.

94.—(1) A person disqualified by an order of a magistrates' court under section 93(1) or (3) of this Act may appeal against the order in the same manner as against a conviction.

PART III

Appeal against disqualification, and rule for determining end of period thereof.

(2) Any court in England or Wales (whether a magistrates' court or another) which makes an order disqualifying a person may, if it thinks fit, suspend the disqualification pending an appeal against the order.

(3) A person disqualified by an order of a court in Scotland may appeal against the order in the same manner as against a conviction, and the court by or before which he was convicted may, if it thinks fit, pending the appeal suspend the disqualification.

(4) In determining the expiration of the period for which a person is disqualified by an order of a court made in consequence of a conviction, any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.

95.—(1) Subject to the provisions of this section, a person who by an order of a court is disqualified may apply to the court by which the order was made to remove the disqualification, and on any such application the court may, as it thinks proper, having regard to the character of the person disqualified and his conduct subsequent to the order, the nature of the offence, and any other circumstances of the case, either by order remove the disqualification as from such date as may be specified in the order or refuse the application.

Removal of disqualification.

(2) No application shall be made under subsection (1) above for the removal of a disqualification before the expiration of whichever is relevant of the following periods from the date of the order by which the disqualification was imposed, that is to say—

- (a) two years, if the disqualification is for less than four years,
- (b) one half of the period of the disqualification, if it is for less than ten years but not less than four years,
- (c) five years in any other case ;

and in determining the expiration of the period after which under this subsection a person may apply for the removal of a disqualification, any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.

(3) Where an application under subsection (1) above is refused, a further application thereunder shall not be entertained if made within three months after the date of the refusal.

PART III

(4) If under this section a court orders a disqualification to be removed, the court shall cause particulars of the order to be endorsed on the licence, if any, previously held by the applicant and the court shall in any case have power to order the applicant to pay the whole or any part of the costs of the application.

(5) The foregoing provisions of this section shall not apply where the disqualification was imposed by order under section 93(7) of this Act, section 5(7) of the Road Traffic Act 1962 or section 104(3) of the Road Traffic Act 1960.

1962 c. 69
1960 c. 16.

Disqualifica-
tion of persons
under age.

96. A person who under section 4 of this Act is prohibited by reason of his age from driving a motor vehicle or a motor vehicle of any class is disqualified for holding or obtaining a licence other than a licence authorising him to drive such motor vehicles, if any, as he is not by the said section 4 forbidden to drive.

Disqualifica-
tion to prevent
duplication
of licences.

97. A person is disqualified for obtaining a licence authorising him to drive a motor vehicle of any class so long as he is the holder of another licence authorising him to drive a motor vehicle of that class, whether the licence is suspended or not.

Effect of
disqualifica-
tion.

98.—(1) Where the holder of a licence is disqualified by an order of a court, the licence shall be suspended so long as the disqualification continues in force, and during the time of suspension shall be of no effect.

(2) A licence obtained by any person who is disqualified shall be of no effect.

(3) Notwithstanding anything in this Part of this Act, a person disqualified by order of a court under section 93(7) of this Act, section 5(7) of the Road Traffic Act 1962 or section 104(3) of the Road Traffic Act 1960 shall (unless he is disqualified otherwise than by virtue of such an order) be entitled to obtain and to hold a provisional licence and to drive a motor vehicle in accordance with the conditions subject to which the provisional licence is granted.

Offence of
obtaining
licence, or
driving, while
disqualified.

99. If a person disqualified for holding or obtaining a licence—

- (a) obtains a licence while he is so disqualified, or
- (b) while he is so disqualified drives on a road a motor vehicle, or if the disqualification is limited to the driving of a motor vehicle of a particular class, a motor vehicle of that class,

he shall be guilty of an offence.

100. A constable in uniform may arrest without warrant any person driving or attempting to drive a motor vehicle on a road whom he has reasonable cause to suspect of being disqualified.

PART III
Arrest without
warrant of
persons
driving while
disqualified.
Endorsement
of licences.

101.—(1) Subject to subsection (2) below, where a person is convicted of an offence—

- (a) under a provision of this Act specified in column 1 of Part I of Schedule 4 to this Act in relation to which there appears in column 6 of that Part the word “obligatory” or the word “obligatory” qualified by conditions relating to the offence; and
- (b) where the said word “obligatory” is so qualified, the conditions are satisfied in the case of the offence of which he is convicted;

or where a person is convicted of an offence specified in Part II or Part III of that Schedule (any such offence being in this section referred to as an “offence involving obligatory endorsement”), the court shall order that particulars of the conviction, and, if the court orders him to be disqualified, particulars of the disqualification, shall be endorsed on any licence held by him; and particulars of any conviction or disqualification so endorsed may be produced as prima facie evidence of the conviction or disqualification.

(2) If the court does not order the said person to be disqualified, the court need not order particulars of the conviction to be endorsed as aforesaid if for special reasons it thinks fit not to do so.

(3) An order that the particulars of a conviction or of a disqualification to which the convicted person has become subject are to be endorsed on any licence held by him shall, whether he is at the time the holder of a licence or not, operate as an order that any licence he may then hold or may subsequently obtain shall be so endorsed until he becomes entitled under subsection (7) below to have a licence issued to him free from the particulars.

(4) A person who is prosecuted for an offence involving obligatory endorsement and who is the holder of a licence, shall either—

- (a) cause it to be delivered to the clerk of the court not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or

PART III**(c) have it with him at the hearing ;**

and if he is convicted of the offence and the court makes an order under subsection (1) above the court shall require the licence to be produced to it for endorsement ; and if the offender has not posted the licence or caused it to be delivered as aforesaid and does not produce it as required then, unless he satisfies the court that he has applied for a new licence and has not received it, he shall be guilty of an offence and the licence shall be suspended from the time when its production was required until it is produced to the court and shall, while suspended, be of no effect.

(5) On the issue of a new licence to a person any particulars ordered to be endorsed on any licence held by him shall be entered on the licence unless he has become entitled under subsection (7) below to have a licence issued to him free from those particulars.

(6) If a person whose licence has been ordered to be endorsed with any particulars and who has not previously become entitled under subsection (7) below to have a licence issued to him free from those particulars applies for or obtains a licence without giving particulars of the order, he shall be guilty of an offence and any licence so obtained shall be of no effect.

(7) Where an order has been made in respect of a person under this section or any previous enactment requiring any licence held by him to be endorsed with any particulars, he shall be entitled, on applying for the grant of a licence in pursuance of section 88(1)(a) of this Act and satisfying the other requirements of that subsection, to have issued to him a new licence free from the particulars, if the application is made not less than three years after the date of the conviction in consequence of which the order was made or, if it was a conviction of an offence under any of the following provisions of this Act, namely section 5(1), 6(1) or 9(3) (where the latter was an offence involving obligatory disqualification), not less than ten years after that conviction.

Combination of disqualification and endorsement with probation orders and order for discharge in England or Wales.

102.—(1) Notwithstanding anything in section 12(2) of the Criminal Justice Act 1948 (conviction of an offender placed on probation or discharged to be disregarded for the purposes of enactments relating to disqualification), a court in England or Wales which on convicting a person of an offence involving obligatory or discretionary disqualification makes a probation order or an order discharging him absolutely or conditionally

1948 c. 58.

may on that occasion also exercise any power conferred, and shall also discharge any duty imposed, on the court by section 93 or 101 of this Act.

PART III

(2) A conviction in respect of which a court in England or Wales has ordered a person to be disqualified or of which particulars have been endorsed on any licence held by him shall, notwithstanding anything in section 12(1) of the said Act of 1948 (conviction of offender placed on probation or discharged to be disregarded for the purpose of subsequent proceedings), be taken into account in determining his liability to punishment or disqualification for any offence involving obligatory or discretionary disqualification committed subsequently.

103.—(1) Where under section 56(1) of the Criminal Justice Act 1967 or any enactment to which that section applies a magistrates' court commits an offender to the Crown Court and by reason of the provisions of the said section 56 the magistrates' court does not exercise its power or discharge its duty under section 93 of this Act of ordering the offender to be disqualified, it may nevertheless order him to be disqualified until the court to which he is committed has dealt with him in respect of the offence.

Interim disqualification on committal in England or Wales under s. 56 of Criminal Justice Act 1967, etc. 1967 c. 80.

(2) Where a court in England or Wales makes an order under subsection (1) above in respect of any person, it shall require him to produce to the court any licence, and any Northern Ireland licence, held by him and shall cause such licence to be sent to the clerk of the court to which he is committed; and if he does not produce any such licence as required he shall be guilty of an offence.

(3) Where a court in England or Wales makes any such order in respect of any person, sections 101(1), 105(2) to (4) and 111(2) of this Act shall not apply in relation to the order, but the court shall send notice of the order to the Secretary of State; and the court to which he is committed shall, if it determines not to order him to be disqualified under section 93 of this Act, send notice of the determination to the Secretary of State.

(4) Where a person is committed to the Crown Court under the said section 56 or any enactment to which that section applies to be dealt with in respect of an offence involving obligatory or discretionary disqualification and no order is made in his case under subsection (1) above, section 101(4) of this Act shall apply to him as it applies to a person who is prosecuted for such an offence and convicted before that court.

PART III

(5) A period of disqualification imposed on any person by virtue of section 56(5) of the said Act of 1967 (exercise by the court to which a person is committed for sentence, etc., of certain powers of magistrates' courts) shall be treated as reduced by any period during which he was disqualified by reason only of an order made under subsection (1) above; but a period during which he was so disqualified shall not be taken into account under this subsection for the purpose of reducing more than one other period of disqualification.

(6) A notice sent by a court to the Secretary of State in pursuance of subsection (3) above shall be sent in such manner and to such address and contain such particulars as the Secretary of State may determine.

(7) In this section "Northern Ireland licence" means a licence under any such provision as is mentioned in section 111(1) of this Act.

Information
as to date of
birth and sex.

104.—(1) If on convicting a person of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed, the court orders his driving licence to be endorsed or orders him to be disqualified under section 103(1) of this Act and does not know his date of birth, the court shall order him to state that date in writing.

1957 c. 29.

(2) It shall be the duty of a person giving a notification to the clerk of a court in pursuance of section 1(2) of the Magistrates' Courts Act 1957 (which relates to pleas of guilty in the absence of the accused) in respect of an offence mentioned in subsection (1) above to include in the notification a statement of the date of birth and the sex of the accused; and in a case where the foregoing provisions of this subsection are not complied with the court shall, if on convicting the accused it orders his driving licence to be endorsed or orders him to be disqualified under the said section 103(1) and does not know his date of birth or sex, order him to furnish that information in writing to the court.

1967 c. 80.

(3) Nothing in section 56(5) of the Criminal Justice Act 1967 (which provides that where a magistrates' court commits a person to another court under subsection (1) of that section, certain of its powers and duties are transferred to that other court) shall apply to any duty imposed upon a magistrates' court by the foregoing provisions of this section in consequence of an order for disqualification made under the said section 103(1).

(4) A person who knowingly fails to comply with an order under subsection (1) or (2) above shall be guilty of an offence.

(5) Where in accordance with this section a person has stated his date of birth to a court or in such a notification as aforesaid, the Secretary of State may serve on that person a notice in writing requiring him to furnish the Secretary of State—

(a) with such evidence in that person's possession or obtainable by him as the Secretary of State may specify for the purpose of verifying that date ; and

(b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time ;

and a person who knowingly fails to comply with a notice under this subsection shall be guilty of an offence.

(6) In the application of this section to Scotland—

(a) for subsection (2) there shall be substituted the following subsection :

(2) Where, in pursuance of section 26(3) of the Summary Jurisdiction (Scotland) Act 1954 (pleas in absence of accused), a person gives written intimation of a plea of guilty in respect of an offence mentioned in subsection (1) above, he shall include in that written intimation a statement of the accused's date of birth and sex, and in a case where the foregoing provisions of this subsection are not complied with the court, if on convicting the accused it orders his licence to be endorsed and does not know his date of birth or sex, shall order him to furnish that information in writing to the court. 1954 c. 48.

(b) subsection (3) does not apply ;

(c) in subsection (5) for the word " notification " there shall be substituted the words " written intimation ".

105.—(1) In any case where a court exercises its power under section 93 or 101 of this Act not to order any disqualification or endorsement or to order disqualification for a shorter period than would otherwise be required, it shall state the grounds for doing so in open court and, if it is a magistrates' court or, in Scotland, a court of summary jurisdiction, shall cause them to be entered in the register (or, in Scotland, record) of its proceedings. Supplementary provisions as to disqualifications and endorsements.

(2) Where a court orders particulars to be endorsed on a licence held by a person, or where by an order of a court a person is disqualified, the court shall send notice of the order to the Secretary of State and, in a case where a person is so disqualified, shall also on the production of the licence for the purpose of endorsement retain the licence and forward it

PART III to the Secretary of State, who may dispose of it as he thinks fit; but where the disqualification expires or is removed before the expiration of the period for which the licence was granted and the person to whom it was granted makes to the Secretary of State during that period, in such form and containing such particulars supported by such evidence or further evidence as the Secretary of State may specify, a demand for the grant of a new licence for the period for which the licence aforesaid was granted, the Secretary of State shall comply with the demand.

(3) Where on an appeal against any such order the appeal is allowed, the court by which the appeal is allowed shall send notice thereof to the Secretary of State.

(4) Where a person is disqualified by order of a court under 1962 c. 59. section 93(7) of this Act, section 5(7) of the Road Traffic Act 1962 or section 104(3) of the Road Traffic Act 1960, then on the issue to him of a licence, there shall be added to the endorsed particulars of the disqualification a statement that the person disqualified has, since the order was made, passed the prescribed test.

(5) A notice sent by a court to the Secretary of State in pursuance of this section shall be sent in such manner and to such address and contain such particulars as the Secretary of State may determine, and a licence so sent in pursuance of this section shall be sent to such address as the Secretary of State may determine.

Supplementary

Conduct of proceedings in certain courts by or against the Secretary of State.

106.—(1) Any proceedings by or against the Secretary of State in a magistrates' court or before the registrar of a county court under this Part of this Act may be conducted on behalf of the Secretary of State by a person authorised by him for the purposes of this subsection.

(2) Any proceedings in any court in Scotland, other than the High Court of Justiciary or the Court of Session, against the Secretary of State under this Part of this Act may be conducted on behalf of the Secretary of State by any person authorised by him for the purposes of this subsection.

Regulations for purposes of Part III.

107.—(1) The Secretary of State may make regulations for any purpose for which regulations may be made under this Part of this Act and for prescribing anything which may be prescribed under this Part of this Act, and otherwise for the purpose of carrying section 4 or this Part of this Act into effect, and in

particular, but without prejudice to the generality of the foregoing provisions, may make regulations with respect to—

- (a) licences,
- (b) the making of any particulars with respect to any persons who are disqualified or whose licences are suspended or endorsed available for use by the police,
- (c) the preventing of a person holding more than one licence,
- (d) the facilitating of identification of holders of licences, and
- (e) the providing for the issue of a new licence in the place of a licence lost or defaced on payment of such fee as may be prescribed ;

and different regulations may be made as respects different classes of vehicles or as respects the same class of vehicles in different circumstances.

(2) Regulations made by the Secretary of State under this Part of this Act may—

- (a) make different provision for different circumstances ;
- (b) provide for exemptions from any provisions of the regulations ; and
- (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations ;

and nothing in any other provision of section 4 or this Part of this Act shall be construed as prejudicing the generality of the foregoing provisions of this subsection.

(3) Any fee prescribed under this Part of this Act shall be of an amount approved by the Treasury, and different fees may be prescribed for different circumstances.

108.—(1) All fees received by the Secretary of State for licences under this Part of this Act shall be paid into the Consolidated Fund. Destination of fees for licences, etc. under Part III.

(2) Fees in respect of tests of competence to drive payable by virtue of regulations having effect by virtue of section 85(2) of this Act shall be paid to such person as may be prescribed by the regulations, and any such fees received by a person so prescribed (other than any as to which the regulations provide that they are to be paid to the person conducting the test and retained by him as remuneration) shall be paid into the Consolidated Fund.

PART III
Services of
notices.

109. A notice authorised to be served on any person by section 87, 89(2) or 104(5) of this Act may be served on him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this section and section 26 of the Interpretation Act 1889 in its application to this section the proper address of any person shall be his latest address as known to the person serving the notice.

Interpretation
of Part III.

110. In this Part of this Act and section 4 thereof, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

“disqualified” means disqualified for holding or obtaining a licence, and “disqualification” shall be construed accordingly;

“licence” means a licence to drive a motor vehicle granted under this Part of this Act;

“offence involving obligatory disqualification” has the meaning given to it by section 93(1) of this Act;

“offence involving discretionary disqualification” has the meaning given to it by section 93(2) of this Act;

“prescribed” means prescribed by regulations;

“provisional licence” means a licence granted by virtue of section 88(2) of this Act;

“regulations” means regulations made under section 107 of this Act;

“test of competence to drive” means such a test conducted under section 85 of this Act;

Provisions as
to Northern
Ireland
drivers’
licences.

111.—(1) If the Secretary of State certifies that satisfactory provision is made by the law of Northern Ireland for the granting of licences to drive motor vehicles, it shall be lawful for the holder of such a licence to drive and be employed in driving in Great Britain a motor vehicle of any class which he is authorised by that licence to drive, and which he is not disqualified from driving under this Part of this Act, notwithstanding that he is not the holder of a licence under this Part of this Act:

Provided that any such driver shall be under the like obligation to produce such a licence as if it had been a licence granted under this Part of this Act, and the provisions of this Act as to the production of licences granted thereunder shall apply accordingly.

(2) The holder of any such licence who by an order of the court is disqualified for holding or obtaining a licence under this Part of this Act shall produce the licence so held by him to the court within such time as the court may determine, and

the court shall, on production of the licence, forward it to the Secretary of State ; and if the holder fails to produce the licence within such time as aforesaid, he shall be guilty of an offence.

PART III

(3) If the holder of any such licence is convicted of an offence and the court orders particulars of the conviction to be endorsed in accordance with section 101 of this Act, the court shall send those particulars to the Secretary of State.

PART IV

LICENSING OF DRIVERS OF HEAVY GOODS VEHICLES

112.—(1) It shall be an offence for a person to drive a heavy goods vehicle of any class on a road if he is not licensed under this Part of this Act to drive a heavy goods vehicle of that class. Drivers of heavy goods vehicles to be licensed.

(2) It shall be an offence for a person to employ another person to drive a heavy goods vehicle of any class on a road if that other person is not so licensed to drive a heavy goods vehicle of that class.

(3) Nothing in subsection (1) or (2) above, as the case may be, shall prevent a person who is not licensed as therein mentioned from acting, or being employed to act, as steersman of a heavy goods vehicle (being a vehicle on which a speed limit of five miles per hour or less is imposed by or under section 78 of the Road Traffic Regulation Act 1967) under the orders of another person engaged in the driving of the vehicle who is licensed in that behalf in accordance with the requirements of Part III of this Act and this section. 1967 c. 76.

(4) Neither subsection (1) nor subsection (2) above shall apply to the driving of, or the employment of a person to drive, a vehicle in any case where the excise duty in respect of the vehicle under the Vehicles (Excise) Act 1971 is chargeable at the rate applicable to vehicles specified in paragraph 2(1) of Schedule 3 to that Act and the vehicle is being driven for one of the purposes for which it must be solely used if the duty is to remain chargeable at that rate. 1971 c. 10.

113.—(1) The person who is the chairman of the traffic commissioners for any area constituted for the purposes of Part III of the Road Traffic Act 1960, including any person for the time being appointed by the Secretary of State to act as deputy to the chairman, shall have the power and be charged with the duty of granting licences (in this Part of this Act referred to as “heavy goods vehicle drivers’ licences”) under this Part of this Act and is in this Part of this Act referred to as “the licensing authority”. Licensing authority, and applications, for heavy goods vehicle drivers’ licences. 1960 c. 16.

(2) An application for a heavy goods vehicle driver’s licence shall be made to the licensing authority of the traffic area in which the applicant for the licence resides.

PART IV
Grant of
heavy goods
vehicle
drivers'
licences.

114.—(1) Subject to the transitional provisions contained in Schedule 5 to this Act, the licensing authority shall not grant a full licence to drive a heavy goods vehicle of any class unless he is satisfied that the applicant for the licence—

- (a) has at some time during the period of five years ending on the date of the coming into force of the licence passed the prescribed test of competence to drive vehicles of that class ; or
- (b) has within that period held a full licence authorising the driving of vehicles of that class.

(2) For the purpose of enabling an applicant to learn to drive a heavy goods vehicle with a view to passing the prescribed test of competence to drive, the licensing authority may issue to him a heavy goods vehicle driver's licence as a provisional licence.

(3) A licence issued by virtue of subsection (2) above shall be subject to the prescribed conditions, and if the person to whom it is issued fails to comply with any of the conditions he shall be guilty of an offence.

Duration of
heavy goods
vehicle
drivers'
licences.

115.—(1) Subject to subsection (2) below, a heavy goods vehicle driver's licence shall, unless previously revoked, continue in force for three years from the date on which it is expressed to take effect, but may at any time be suspended or revoked by the licensing authority of the area in which it was granted on the ground that, by reason of his conduct (including conduct in Northern Ireland) as a driver of a motor vehicle or of physical disability, the holder is not a fit person to hold such a licence ; and during any time of suspension such a licence shall be of no effect.

(2) Subject to subsection (3) below, a licence issued by virtue of section 114(2) of this Act shall, unless previously revoked, continue in force for six months from the date on which it is expressed to take effect.

(3) Subsection (2) above shall not apply to a licence treated as a provisional licence by virtue of section 119(1)(e) of this Act.

Disqualifica-
tion on
revocation of
heavy goods
vehicle driver's
licence.

116.—(1) Where in pursuance of section 115(1) of this Act the licensing authority revokes a heavy goods vehicle driver's licence, the authority may—

- (a) order the holder to be disqualified indefinitely or for such period as the authority thinks fit for holding or obtaining such a licence ; or

(b) if the licence is a full licence and it appears to the authority that, owing to the conduct or physical disability of the holder of the licence, it is expedient to require him to comply with the prescribed conditions applicable to provisional licences under this Part of this Act until he passes the prescribed test of competence to drive heavy goods vehicles of any class, order him to be disqualified for holding or obtaining a full licence until he has, since the date of the order, passed such a test.

(2) Where the holder of a heavy goods vehicle driver's licence is disqualified under subsection (1)(a) above, the licensing authority for the traffic area where he resides may, in such circumstances as may be prescribed, remove the disqualification, but so long as the disqualification continues in force a heavy goods vehicle driver's licence shall not be granted to him and any such licence obtained by him shall be of no effect.

(3) Where the holder of a full licence is disqualified under subsection (1)(b) above, a licensing authority shall not thereafter grant him a full licence to drive a heavy goods vehicle of any class unless satisfied that he has since the disqualification passed the prescribed test of competence to drive vehicles of that class, and until he passes that test any full licence obtained by him shall be of no effect.

117. A magistrates' court acting for the petty sessions area in which a person who has submitted himself for a test of competence to drive resides, or if he resides in Scotland the sheriff within whose jurisdiction he resides, may on the application of that person determine whether the test was properly conducted in accordance with the regulations and, if it appears to the court or sheriff that the test was not so conducted, the court or sheriff may order that the applicant shall be eligible to submit himself to another test before the expiration of the period prescribed for the purposes of section 119(1)(j) of this Act, and may order that any fee payable by the applicant in respect of the test shall not be paid or, if it has been paid, shall be repaid.

Court may determine whether test of competence to drive was properly conducted.

118.—(1) A person who, being the holder of, or an applicant for, a heavy goods vehicle driver's licence feels aggrieved by the licensing authority's—

Appeals relating to heavy goods vehicle drivers' licences.

- (a) refusal or failure to grant such a licence, or
- (b) imposition of any limitation on such a licence, or
- (c) suspension or revocation of such a licence, or
- (d) ordering of disqualification under section 116(1) of this Act,

PART IV may by notice in writing to the licensing authority require him to reconsider the matter, and shall on a reconsideration be entitled to be heard either personally or by his representative.

(2) Subject to subsection (3) below, a person who is so aggrieved as aforesaid, or who is dissatisfied with the decision of the licensing authority on reconsideration of the matter, may appeal to a magistrates' court acting for the petty sessions area in which he resides or, if he resides in Scotland, to the sheriff within whose jurisdiction he resides; and on any such appeal the court or sheriff may make such order as it or he thinks fit and an order so made shall be binding on the licensing authority.

(3) No appeal shall lie under this section in respect of any matter in respect of which an application may be made to a magistrates' court or a sheriff under section 117 of this Act.

(4) Where the applicant for a heavy goods vehicle driver's licence, who is at the date of his application the holder of such a licence (other than one issued as a provisional licence), appeals under this section on the ground of refusal or failure to grant the licence, the existing licence shall continue in force until the appeal has been disposed of notwithstanding that it would otherwise have expired.

Regulations
for purposes
of Part IV.

119.—(1) The Secretary of State may make regulations for the purpose of carrying the provisions of this Part of this Act into effect and, without prejudice to the generality of the foregoing, may—

- (a) make provision with respect to tests of competence to drive heavy goods vehicles and, in particular, the nature of such tests, the qualifications, selection, appointment and removal of the persons by whom they may be conducted, and evidence of the results of the tests;
- (b) require applicants for such tests or for heavy goods vehicle drivers' licences (whether full or provisional) to have such qualifications, experience and knowledge (including, in the case of applicants for licences, qualifications with respect to health and driving conduct) as may be prescribed;
- (c) require a person submitting himself for a test to produce for the purposes of the test a vehicle of the class in respect of which he is to be tested, loaded or unloaded according as may be prescribed, and, in the case of a loaded vehicle, impose requirements about its loading;
- (d) restrict the issue of provisional licences, in the case of prescribed classes of applicants or in prescribed circumstances, to such classes of vehicle as may be prescribed;

- PART IV**
- (e) provide that a full licence to drive a heavy goods vehicle of a particular class shall also be treated for the purposes of this Part of this Act as a provisional licence to drive heavy goods vehicles of another prescribed class ;
- (f) make provision for preventing a person holding more than one licence and for facilitating the identification of licence holders ;
- (g) make provision with respect to applications for and the issue of heavy goods vehicle drivers' licences ;
- (h) make provision with respect to the custody and production of any heavy goods vehicle driver's licence or any Northern Ireland licence within the meaning of section 125 of this Act or any licence under Part II of the Road Traffic Act (Northern Ireland) 1955 or Part I of the Road Traffic Act (Northern Ireland) 1970 to drive heavy goods vehicles of any description, and require the return to a prescribed licensing authority of any such licence which has expired or been suspended or revoked ;
- (i) require the payment of a fee of a prescribed amount by a person who applies for a test and provide for the repayment of any such fee in the prescribed circumstances ;
- (j) provide that a person submitting himself for, but failing to pass, a test shall not be eligible to submit himself for another test before the expiration of a prescribed period, except under an order made by a court or sheriff under section 117 of this Act ;
- (k) provide for the issue of a new licence in place of a licence lost or defaced on payment of the prescribed fee ;

1955 c. 27
(N.I.).
1970 c. 2
(N.I.).

and different provision may be made by the regulations for different cases.

(2) Regulations under this section may provide that a person who contravenes or fails to comply with any specified provision of the regulations shall be guilty of an offence.

(3) The Secretary of State may by regulations provide that this Part of this Act shall not apply to heavy goods vehicles of such classes as may be prescribed either generally or in such circumstances as may be prescribed.

120.—(1) There shall be charged by licensing authorities in respect of the grant of heavy goods vehicle drivers' licences such fees as may be prescribed. Fees and expenses.

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(2) All fees received by licensing authorities in respect of the grant of such licences shall be paid into the Consolidated Fund in such manner as the Treasury may direct.

(3) Any fees received by the Secretary of State in pursuance of regulations under this Part of this Act shall be paid into the Consolidated Fund.

(4) Any expenses incurred by the Secretary of State under this Part of this Act shall be defrayed out of moneys provided by Parliament.

Common test of competence to drive for the purposes of Parts III and IV.

121. The Secretary of State may by regulations provide that a person who passes a test of competence to drive heavy goods vehicles of any prescribed class for the purpose of obtaining a full licence shall, in such circumstances as may be prescribed, be treated as having passed a test of competence to drive prescribed under section 85(2) of this Act for any prescribed class of motor vehicle.

Transitional provisions as to certain heavy goods vehicle drivers' licences.

122. The provisions of Schedule 5 to this Act shall have effect in connection with the coming into operation of section 112 of this Act.

Restriction on institution of proceedings for certain offences.

123. Proceedings for an offence under section 112 or 114(3) of this Act shall not, in England or Wales, be instituted except by or on behalf of the Director of Public Prosecutions or by a person authorised in that behalf by the traffic commissioners, a chief officer of police or the council of a county, county borough or county district.

Interpretation of Part IV.

124. In this Part of this Act and Schedule 5 thereto, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“ full licence ” means a heavy goods vehicle driver's licence other than a provisional licence ;

“ heavy goods vehicle ” means a vehicle of any of the following classes which is constructed or adapted for hauling or carrying goods or burden of any description, that is to say, a heavy locomotive, a light locomotive, a motor tractor, a heavy motor car and a motor car so constructed that a trailer may by partial superimposition be attached thereto in such a manner as to cause a substantial part of the weight of the trailer to be borne thereby ;

“ prescribed ” means prescribed by regulations under section 119 of this Act ;

“ traffic commissioners ” has the same meaning as it has for the purposes of Part III of the Road Traffic Act 1960.

125.—(1) If the Secretary of State certifies that satisfactory provision is made by the law of Northern Ireland for the issue of licences specifically to drive heavy goods vehicles, it shall be lawful for the holder of such a licence (hereafter in this section referred to as a Northern Ireland licence) to drive, and be employed in driving, on a road in Great Britain heavy goods vehicles of any class which he is authorised by that licence to drive, notwithstanding that he is not the holder of a heavy goods vehicle driver's licence.

PART IV

Provisions as to Northern Ireland heavy goods vehicle drivers' licences.

(2) While a certificate is in force under subsection (1) above, the licensing authority may, notwithstanding anything in section 114(1) of this Act, grant a full licence to drive a heavy goods vehicle of any class to an applicant resident in Great Britain if he is satisfied that the applicant has, within the period of five years ending on the date of the coming into force of the licence, held a Northern Ireland licence to drive any heavy goods vehicle of that class corresponding to a full licence and not being a licence granted under an enactment of the Parliament of Northern Ireland in consequence of a dispensation from passing a test of competence to drive by reason of the applicant's residence outside the United Kingdom.

(3) A prescribed licensing authority may exercise as respects Great Britain the like power of suspending or revoking any Northern Ireland licence and of making an order under section 116(1) of this Act as is conferred in relation to a heavy goods vehicle driver's licence by section 115(1) thereof and the said section 116(1) on the licensing authority for the traffic area in which the last-named licence was granted, and the provisions of the said section 115(1) (except the provision relating to the duration of licences) and of the said section 116(1) shall have effect accordingly.

(4) A holder of a Northern Ireland licence who is aggrieved by the suspension or revocation of the licence or the ordering of disqualification by virtue of subsection (3) above shall have the like right to require the reconsideration of the matter and the like right of appeal as are conferred by section 118 of this Act, except that the matter shall be reconsidered by the prescribed licensing authority, and—

- (a) an appeal brought by virtue of this subsection shall, if the appellant is not resident in Great Britain, lie to a prescribed magistrates' court or a prescribed sheriff; and
- (b) the provisions of subsection (2) of the said section 118 shall have effect accordingly.

PART IV

1955 c. 27
(N.I.)
1970 c. 2
(N.I.)

(5) At any time when no certificate is in force under subsection (1) above a person resident in Northern Ireland who is temporarily in Great Britain and holds a driving licence issued in Northern Ireland under Part II of the Road Traffic Act (Northern Ireland) 1955 or Part I of the Road Traffic Act (Northern Ireland) 1970 to drive heavy goods vehicles of any description may during a period of twelve months from the date of his last entry into Great Britain drive, and be employed in driving, on a road in Great Britain a heavy goods vehicle of that description brought temporarily into Great Britain notwithstanding that he is not the holder of a heavy goods vehicle driver's licence.

PART V

DRIVING INSTRUCTION

Instruction for
payment to be
given only by
registered or
licensed
persons.
1962 c. 59.

126.—(1) No instruction, for the giving of which payment of money or money's worth is, or is to be, made by, or in respect of, the person to whom the instruction is given, shall be given in the driving of a motor car unless the name of the person giving the instruction is in the register of approved instructors established in pursuance of section 23 of the Road Traffic Act 1962 (hereafter in this Part of this Act referred to as "the register") or he is the holder of a current licence granted under this Part of this Act authorising him to give such instruction.

(2) Instruction in the driving of a motor car, being instruction which is given free of charge, to a person who is not the holder of a current licence to drive a motor vehicle granted under Part III of this Act (other than a provisional licence within the meaning of that Part), by, or in pursuance of arrangements made by, a person carrying on business in the supply of motor cars, and in connection with the supply of a motor car in the course of that business, shall, for the purposes of subsection (1) above, be deemed to be given for payment of money by the person to whom the instruction is given.

(3) If instruction is given in contravention of subsection (1) above, the person by whom it is given, and, if that person is employed by another to give that instruction, that other, as well as that person, shall be guilty of an offence.

(4) In proceedings against a person for an offence under subsection (3) above it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that his name or, as the case may be, that of the person employed by him, was not in the register at the material time.

(5) Any reference in this Part of this Act to a current licence is a reference to a licence which has not expired and has not been cancelled, revoked or suspended.

127.—(1) Section 126(1) of this Act shall not apply to the giving of instruction by a police instructor in pursuance of arrangements made by a chief officer of police or, under the authority of a chief officer of police, in pursuance of arrangements made by a local authority.

PART V
Exemption
of police
instructors
from
prohibition
imposed
by s. 126.

(2) In this section—

“ police instructor ” means a person who is—

(a) a member of a police force whose duties consist of or include, or have consisted of or included, the giving of instruction in the driving of motor cars to persons being members of a police force, or

(b) a civilian employed by a police authority for the purpose of giving such instruction to such persons ;

“ local authority ” means the council of a county, county borough or county district, the Greater London Council, the council of a London borough or the Common Council of the City of London.

(3) In the application of subsection (2) above to the metropolitan police, for the reference to a civilian employed by a police authority, there shall be substituted a reference to a civilian employed under the Commissioner of Police of the Metropolis or the Receiver for the Metropolitan Police District.

(4) In the application of this section to Scotland “ local authority ” means a county council or the town council of a burgh.

128.—(1) The compilation and maintenance of the register shall continue by virtue of this Act, and an application for the entry of a person’s name in the register shall be made, in manner determined by the Secretary of State, accompanied by particulars so determined, to the officer of the Secretary of State by whom, on behalf of the Secretary of State, the register is compiled and maintained (hereafter in this Part of this Act referred to as “ the Registrar ”); and the Registrar shall, on payment of such fee, if any, as may be prescribed by regulations, enter in the register the name of a person who duly applies for the entry of his name therein if that person satisfies the Registrar that the following conditions are fulfilled in his case, that is to say,—

The register
and
registration
and duration
thereof.

(a) that he has passed such examination of ability to give instruction in the driving of motor cars as may be so prescribed ;

(b) that he is the holder of a current licence of one of the following kinds, that is to say,—

(i) a licence to drive a motor vehicle granted under Part III of this Act (not being a provisional licence within the meaning of that Part); and

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(ii) a licence to drive a motor vehicle (not being a licence corresponding to such a provisional licence as aforesaid) granted under the law in force in Northern Ireland ;

and, at no time during the period of four years ending with the day on which the application is made, did he not hold one or other of the following licences, namely a current licence of one of the kinds aforesaid and a current foreign licence, that is to say, a document issued under the law of a country outside the United Kingdom authorising the holder to drive a motor vehicle in that country ;

- 1962 c. 59. (c) that he has not, during any part of the said period, been disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960 ; and
- 1960 c. 16. (d) that, apart from fulfilment of the foregoing conditions, he is a fit and proper person to have his name entered in the register.

(2) The entry of a person's name in the register shall be subject to the condition that, so long as the name is therein, that person will, if at any time required by the Registrar, undergo the test prescribed by regulations of continued ability and fitness to give instruction in the driving of motor cars.

(3) Regulations may provide that persons of such class as may be specified therein shall be exempt from the condition mentioned in subsection (1)(a) above as regards such part of the examination mentioned in that paragraph as may be so specified.

(4) If the Secretary of State is satisfied that satisfactory provision is made by the law of Northern Ireland for the establishment of a register containing the names of persons qualified under that law to give instruction in the driving of motor cars, a person who satisfies the Registrar that his name is in the register established under that law and that he is resident in Great Britain shall be exempt from the condition specified in subsection (1)(a) above.

(5) The Registrar shall, on making a decision on an application under subsection (1) above, give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, shall state the grounds for the refusal.

(6) Unless previously removed under the following provisions of this Part of this Act, the name of a person shall

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be removed from the register at the end of the period of four years beginning with the first day of the month next after that in which the entry of the name was made, but if an application for the retention of the name in the register is made under section 129 of this Act before the end of that period, the name shall not be removed except in pursuance of a decision of the Registrar having effect under that section.

(7) A person whose name has been removed from the register under subsection (6) above who applies under subsection (1) above for his name to be entered again in the register, shall be required again to pass the examination mentioned in subsection (1)(a) above unless the application is made before the end of the period of one year beginning with the end of the said period of four years.

129.—(1) If, before the end of the period of four years at the end of which the name of a person is, by section 128(6) of this Act, to be removed from the register, he makes application to the Registrar, in manner determined by the Secretary of State, accompanied by particulars so determined, for the retention of his name in the register for a further period of four years, he shall be entitled, on payment of such fee, if any, as may be prescribed by regulations, to have his name retained therein for that further period, if he satisfies the Registrar that the following conditions are fulfilled in his case, that is to say,—

Extension of
duration of
registration.

- (a) that he has not refused to undergo any such test as is mentioned in section 128(2) of this Act which he has been required to undergo during the period first mentioned in this subsection ;
- (b) that his ability and fitness to give instruction in the driving of motor cars continue, having regard to any such test or tests as aforesaid which he has undergone during the said period, to be of a satisfactory standard ;
- (c) that he is the holder of a current licence of one of the kinds mentioned in sub-paragraph (i) and sub-paragraph (ii) of section 128(1)(b) of this Act, and at no time during the said period has he held no such current licence ;
- (d) that he has not during any part of the said period been disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960, and
- (e) that, apart from fulfilment of the foregoing conditions, he continues to be a fit and proper person to have his name entered in the register.

1962 c. 59.

1960 c. 16.

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(2) The retention of a person's name under this section shall be subject to the condition mentioned in section 128(2) of this Act.

(3) Before refusing an application under subsection (1) above, the Registrar shall give to the applicant written notice stating that he is considering the refusal of the application and giving particulars of the grounds on which he is considering it; and the applicant may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed refusal; and the Registrar shall not decide to refuse the application until after the expiration of the said period, and before deciding whether or not to do so, he shall take into consideration any such representations made by the applicant within the said period.

(4) The Registrar, on making a decision under subsection (3) above, shall give notice in writing of the decision to the person concerned, and a decision to refuse an application shall take effect—

- (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;
- (c) where such an appeal is brought and not withdrawn or struck out as aforesaid, if and when the appeal is dismissed, and not otherwise.

(5) Where a person's name is retained in the register under subsection (1) above, that subsection and section 128(6) of this Act shall have effect in relation to him, with respect to each successive period of four years, as if any reference therein to the first day of the month next after that in which the entry of a person's name in the register was made were a reference to the day with which began the last further period for which his name was retained under subsection (1) above.

Removal of
names from
register.

130.—(1) The Registrar may remove the name of a person from the register if the Registrar is satisfied, in a case where the name has not been retained therein under section 129 of this Act, that, at any time since the entry of the name was made, or, in a case where the name has been retained as aforesaid, that, at any time since it was last retained, any of the following conditions was fulfilled in the case of that person, that is to say—

- (a) that he held neither a current licence of a kind mentioned in sub-paragraph (i) of section 128(1)(b) of this Act nor one of a kind mentioned in sub-paragraph (ii) of the said section 128(1)(b);

- (b) that he was disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960 ;
- (c) that he refused to undergo a test such as is mentioned in section 128(2) of this Act ;
- (d) that he failed to pass such a test ;
- (e) that he ceased, apart from fulfilment of any of the foregoing conditions, to be a fit and proper person to have his name included in the register ;

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1962 c. 59.

1960 c. 16.

or if the entry of his name in the register, or the retention of his name therein, was made by mistake or procured by fraud.

(2) Before removing the name of a person from the register under this section, the Registrar shall give to the person concerned written notice stating that he is considering the removal and giving particulars of the grounds on which he is considering it ; and that person may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed removal ; and the Registrar shall not decide to remove the name from the register until after the expiration of the said period and, before deciding whether or not to do so, shall take into consideration any such representations made by the person concerned within the said period.

(3) The Registrar shall, on making a decision to remove a name from the register, give notice in writing of the decision to the person concerned, and section 129(4) of this Act shall apply for the purpose of determining when (if at all) the decision takes effect as it does for the purpose of determining when (if at all) a decision to refuse an application under the said section 129 takes effect.

131.—(1) For the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing the examination referred to in section 128(1)(a) of this Act, the Registrar shall, subject to subsection (2) below, on application made to him by that person in manner determined by the Secretary of State, accompanied by particulars so determined and on payment of such fee, if any, as may be prescribed by regulations, grant to the applicant a licence to give instruction in the driving of a motor car, being instruction the giving of which is restricted by section 126 of this Act, if the Registrar is satisfied that the conditions set out in paragraphs (b), (c) and (d) of the said section 128(1) are fulfilled in the case of the applicant.

Licences.

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(2) The Registrar may refuse to grant a licence under this section to an applicant to whom two or more such licences have previously been issued.

(3) The Registrar shall, on making a decision on an application under subsection (1) above, give notice in writing of the decision to the applicant, which, in the case of a decision to refuse the application, shall state the grounds of the refusal.

(4) A licence under this section shall be in such form, in force for such period, and granted subject to such conditions, as may be prescribed by regulations.

(5) Notwithstanding any provision of regulations made under subsection (4) above prescribing the period for which a licence is to be in force, where a person applies for a new licence in substitution for a licence held by him and current at the date of the application, the previous licence shall not expire until the commencement of the new licence, or, if the Registrar decides to refuse the application, until the time limited for an appeal under the following provisions of this Part of this Act against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.

(6) Before deciding to refuse an application for a new licence in substitution for a licence current at the date of the application, the Registrar shall give to the applicant written notice stating that he is considering the refusal and giving particulars of the grounds on which he is considering it; and the applicant may, within the period of fourteen days beginning with the day on which the notice is given, make representations with respect to the proposed refusal; and the Registrar shall not decide to refuse the application until after the expiration of the said period and, before deciding whether or not to do so, he shall take into consideration any such representations made within that period.

(7) If a person to whom a licence under this section is granted fails to comply with any of the conditions subject to which it is granted, or if the Registrar is satisfied that, at any time since the licence was granted, any of the following conditions was fulfilled in the case of the said person, that is to say,—

(a) that he held neither a current licence of a kind mentioned in sub-paragraph (i) of section 128(1)(b) of this Act nor one of a kind mentioned in sub-paragraph (ii) of the said section 128(1)(b); or

(b) that he was disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960; or

1962 c. 59.

1960 c. 16.

(c) that he ceased, apart from fulfilment of either of the foregoing conditions, to be a fit and proper person to have his name in the register ;

or if the licence was granted by mistake or procured by fraud, the Registrar may revoke the licence, but before doing so he shall give to the said person written notice stating that he is considering the revocation and giving particulars of the grounds on which he is considering it ; and that person may, within the period of fourteen days beginning with the day on which the notice is given, make representations with respect to the proposed revocation ; and the Registrar shall not decide to revoke the licence until after the expiration of the said period and, before deciding whether or not to do so, he shall take into consideration any such representations made within that period.

(8) The Registrar shall, on making a decision to revoke a licence granted under this section, give notice in writing of the decision to the person concerned, and section 129(4) of this Act shall apply for the purpose of determining when (if at all) the decision takes effect as it does for the purpose of determining when (if at all) a decision to refuse an application under the said section 129(1) takes effect.

132.—(1) A person who is aggrieved by a decision of the Appeals Registrar—

- (a) to refuse an application for the entry of his name in the register, or
- (b) to refuse an application for the retention of his name in the register, or
- (c) to remove his name from the register,

may by notice in writing appeal to the Secretary of State within the period of twenty-eight days beginning with the day on which notice of the decision was given in accordance with the provisions of this Part of this Act, and a person who is aggrieved by a decision of the Registrar to refuse an application for the grant of a licence under the said Part or to revoke such a licence may, in such manner, so appeal within the period of fourteen days beginning with the said day.

(2) On the appeal the Secretary of State shall have power to make such order for the grant or refusal of the application or, as the case may be, for the removal or the retention of the name in the register, or the revocation or continuation of the licence, as he may think fit ; and an order for such refusal, removal or revocation may direct that an application by the appellant for the grant of a licence under this Part of this Act or for his name to be entered in the register shall not be entertained before

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the expiration of such period, not exceeding four years beginning with the day on which the order is made, as may be specified in the order.

(3) Schedule 6 to this Act shall have effect in relation to an appeal under this section.

Examinations and tests of ability to give driving instruction.

133.—(1) Regulations may make provision with respect to the nature of examinations of the ability of persons to give instruction in the driving of motor cars and tests of continued ability and fitness to give such instruction, to evidence of the results thereof and generally with respect thereto, and, in particular, but without prejudice to the generality of the foregoing, may provide—

- (a) for such an examination to consist in part of a written examination and in part of a practical test of ability and fitness to drive and to instruct ;
- (b) for requiring a person submitting himself to any such practical test as aforesaid to provide a vehicle for the purposes of the test, being a vehicle in respect of which such conditions as may be specified in regulations are complied with ;
- (c) for requiring a person applying to submit himself for such an examination, or any part of such an examination, to pay to the Registrar such fee as may be specified in the regulations in relation to that examination or part ;
- (d) for preventing a person who, on any day, submits himself for such an examination and fails to pass it from being eligible to submit himself to another such examination before the expiration of the period of three months beginning with that day, or, if the regulations provide for an examination to consist of two such parts as are mentioned in paragraph (a) above, preventing a person who submits himself on any day for one of those parts, and fails to pass that part, from being eligible to submit himself again for that part before the expiration of the period of three months beginning with that day ;
- (e) for requiring a person who desires to submit himself for such an examination to supply the Registrar with such particulars as the Secretary of State may determine.

(2) A magistrates' court acting for the petty sessions area in which a person who has submitted himself for an examination of ability to give instruction in the driving of motor cars resides or, if he resides in Scotland, the sheriff within whose jurisdiction he resides, shall have power on the application of that person

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to determine whether the examination was properly conducted in accordance with the regulations, and, if the regulations provide for the examination to consist of two parts, whether either of those parts was so conducted; and, if it appears to the court or sheriff that the examination, or, as the case may be, part, was not so conducted, the court or sheriff may order that the applicant shall be eligible to submit himself to another examination, or, as the case may be, to submit himself again for that part, before the expiration of the period of three months mentioned in subsection (1)(d) above in relation to the examination or, as the case may be, part, and may order that any fee payable by the applicant in respect of the examination or part shall not be paid, and if it has been paid, shall be repaid.

(3) No appeal shall lie under section 132 of this Act in respect of any matter in respect of which an application may be made to a magistrates' court or a sheriff under subsection (2) above.

134. Regulations may—

- (a) alter or add to the conditions as to which the Registrar is required by this Part of this Act to be satisfied for the entry of a name in the register, the retention of a name therein, the removal of a name therefrom, the grant of a licence and the revocation of a licence, or omit any of those conditions;
- (b) alter the period at the expiration of which a person's name which is entered or retained in the register after the coming into force of the regulation must, unless retained or further retained, be removed therefrom.

Power to alter conditions for entry or retention in, and removal from, register and grant or revocation of licences.

135.—(1) Regulations may prescribe all or any of the following, that is to say, a form of certificate for issue to persons whose names are in the register as evidence of their names' being therein, a form of badge for use by such persons and an official title for such use.

Power to prescribe form of certificate of registration, etc.

(2) If a person—

- (a) whose name is not in the register, takes or uses a title prescribed under this section, or wears or displays a badge or certificate so prescribed, or takes or uses any name, title, addition or description implying that his name is in the register, or
- (b) being a person carrying on business in the provision of instruction in the driving of motor vehicles, uses a title or description so prescribed in relation to any person employed by him whose name is not in the register, or issues any advertisement or invitation calculated to mislead with respect to the extent

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to which persons whose names are in the register are employed by him,

then, unless he proves that he did not know, and had no reasonable cause to believe, that his name, or, as the case may be, that of the person employed by him, was not in the register at the material time, he shall be guilty of an offence.

Surrender of certificates and licences.

136. Where—

- (a) the name of a person to whom a certificate prescribed under section 135 of this Act has been issued is removed from the register in pursuance of this Part of this Act, or
- (b) a licence granted under this Part of this Act to a person expires or is revoked,

that person shall, if so required by the Registrar by notice in writing, surrender the certificate or licence, as the case may be, to the Registrar within the period of fourteen days beginning with that on which the notice is given, and if he fails to do so, he shall be guilty of an offence.

Production of certificates and licences to constables and authorised persons.

137.—(1) A person to whom a certificate prescribed under section 135 of this Act is issued, or to whom a licence under this Part of this Act is granted, shall, on being so required by a constable or any person authorised in writing by the Secretary of State in that behalf, produce the certificate or licence for examination.

(2) Where the name of a person is removed from the register or a licence granted under this Part of this Act to a person expires or is revoked, then, if that person fails to satisfy an obligation imposed on him by section 136 of this Act, a constable or a person authorised as aforesaid may require him to produce any such certificate issued to him or the licence, and upon its being produced may seize it and deliver it to the Registrar.

(3) If a person who is required under subsection (1) or (2) above to produce a document fails to do so, then, unless within five days, beginning with the day next after that on which the production of the document was so required, it is produced—

- (a) where the requirement was made by a constable, at such police station as, at the time the production was required, may have been specified by the person required to produce the document,
- (b) where the requirement was made by a person other than a constable, at such place as the person by whom the requirement was made may, at the time aforesaid, have specified,

he shall be guilty of an offence.

138.—(1) A certificate signed by the Registrar and stating that, on any date,—

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Evidence by
certificate as
to registration
and licences.

(a) a person's name was, or was not, in the register,

(b) the entry of a person's name was made in the register or a person's name was removed therefrom,

(c) a person was, or was not, the holder of a current licence under section 131 of this Act, or

(d) a licence under the said section 131 granted to a person came into force or ceased to be in force,

shall be evidence, and in Scotland sufficient evidence, of the facts stated in the certificate in pursuance of this section.

(2) A certificate stating as aforesaid and purporting to be signed by the Registrar shall be deemed to be so signed unless the contrary is proved.

139. Where a body corporate is guilty of an offence under this Part of this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

Offences by
corporations.

140.—(1) A notice authorised or required to be given by this Part of this Act to a person may be given by delivering it to him, or by leaving it at his proper address, or by sending it to him by post.

Service of
notices.

(2) 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 a person shall be, in the case of a person whose name is included in the register, his address on the register, and in any other case, his usual or last known address.

141.—(1) Any administrative expenses incurred by the Secretary of State in consequence of any provisions of this Part of this Act shall be defrayed out of moneys provided by Parliament.

Expenses and
receipts.

(2) Any sums received on account of fees payable by virtue of any provision of this Part of this Act shall be paid into the Consolidated Fund.

142. The Secretary of State may make regulations for any purpose for which provision is by this Part of this Act authorised to be made by regulations, and in the said Part "regulations" means regulations made under this section.

Regulations
for purposes
of Part V.

PART VI

THIRD-PARTY LIABILITIES

Compulsory insurance or security against third-party risks

Users of motor vehicles to be insured or secured against third-party risks.

143.—(1) Subject to the provisions of this Part of this Act, it shall not be lawful for a person to use, or to cause or permit any other person to use, a motor vehicle on a road unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third-party risks as complies with the requirements of this Part of this Act; and if a person acts in contravention of this section he shall be guilty of an offence.

(2) A person charged with using a motor vehicle in contravention of this section shall not be convicted if he proves that the vehicle did not belong to him and was not in his possession under a contract of hiring or of loan, that he was using the vehicle in the course of his employment and that he neither knew nor had reason to believe that there was not in force in relation to the vehicle such a policy of insurance or security as is mentioned in subsection (1) above.

(3) This Part of this Act shall not apply to invalid carriages.

Exceptions from requirement of third-party insurance or security.

144.—(1) Section 143 of this Act shall not apply to a vehicle owned by a person who has deposited and keeps deposited with the Accountant General of the Supreme Court the sum of £15,000, at a time when the vehicle is being driven under the owner's control.

(2) The said section 143 shall not apply—

- (a) to a vehicle owned by the council of a county, county borough or county district in England or Wales, the Common Council of the City of London, the council of a London borough, the Greater London Council, a county, town or district council in Scotland, or by a joint board or joint committee in England or Wales, or joint committee in Scotland, which is so constituted as to include among its members representatives of any such council, at a time when the vehicle is being driven under the owner's control;
- (b) to a vehicle owned by a police authority or the Receiver for the Metropolitan Police District, at a time when it is being driven under the owner's control, or to a vehicle at a time when it is being driven for police purposes by or under the direction of a constable, or by a person employed by a police authority, or employed by the said Receiver; or

- (c) to a vehicle at a time when it is being driven on a journey to or from any place undertaken for salvage purposes pursuant to Part IX of the Merchant Shipping Act 1894 ; PART VI
1894 c. 60.
- (d) to the use of a vehicle for the purpose of its being furnished in pursuance of a direction under paragraph (b) of section 166(2) of the Army Act 1955 or under the corresponding provision of the Air Force Act 1955 ; 1955 c. 18.
1955 c. 19.
- (e) to a vehicle owned by the London Transport Executive or by a body which is within the meaning of the Transport (London) Act 1969 (but disregarding section 51(5) of the Transport Act 1968) a wholly-owned subsidiary of that Executive, at a time when the vehicle is being driven under the owner's control. 1969 c. 35.
1968 c. 73.

145.—(1) In order to comply with the requirements of this Part of this Act, a policy of insurance must satisfy the following conditions. Requirements
in respect of
policies of
insurance.

(2) The policy must be issued by an authorised insurer, that is to say, a person or body of persons carrying on motor vehicle insurance business in Great Britain.

(3) Subject to subsection (4) below, the policy—

(a) must insure such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by, or arising out of, the use of the vehicle on a road ; and

(b) must also insure him or them in respect of any liability which may be incurred by him or them under the provisions of this Part of this Act relating to payment for emergency treatment.

(4) The policy shall not, by virtue of subsection (3)(a) above, be required to cover—

(a) liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of and in the course of his employment ; or

(b) any contractual liability.

146.—(1) In order to comply with the requirements of this Part of this Act, a security must satisfy the following conditions. Requirements
in respect of
securities.

(2) The security must be given either by an authorised insurer or by some body of persons which carries on in the United Kingdom the business of giving securities of a like kind and has

PART VI deposited and keeps deposited with the Accountant General of the Supreme Court the sum of £15,000 in respect of that business.

(3) The security must consist of an undertaking by the giver of the security to make good, subject to any conditions specified therein, and up to the amount—

1960 c. 16. (a) in the case of an undertaking relating to the use of public service vehicles (within the meaning of Part III of the Road Traffic Act 1960), of not less than £25,000 ;

(b) in any other case, of not less than £5,000,

any failure by the owner of the vehicle or such other persons or classes of persons as may be specified in the security duly to discharge any liability which may be incurred by him or them, being a liability required under section 145 of this Act to be covered by a policy of insurance.

Issue and
surrender of
certificates of
insurance and
of security.

147.—(1) A policy of insurance shall be of no effect for the purposes of this Part of this Act unless and until there is delivered by the insurer to the person by whom the policy is effected a certificate (in this Part of this Act referred to as a “certificate of insurance”) in the prescribed form and containing such particulars of any conditions subject to which the policy is issued and of any other matters as may be prescribed.

(2) A security shall be of no effect for the purposes of this Part of this Act unless and until there is delivered by the person giving the security to the person to whom it is given a certificate (in this Part of this Act referred to as a “certificate of security”) in the prescribed form and containing such particulars of any conditions subject to which the security is issued and of any other matters as may be prescribed.

(3) Different forms and different particulars may be prescribed for the purposes of subsection (1) or (2) above in relation to different cases or circumstances.

(4) Where a certificate has been delivered under this section and the policy or security to which it relates is cancelled by mutual consent or by virtue of any provision in the policy or security, the person to whom the certificate was delivered shall, within seven days from the taking effect of the cancellation, surrender the certificate to the person by whom the policy was issued or the security was given or, if the certificate has been lost or destroyed, make a statutory declaration to that effect; and a person who fails to comply with this subsection shall be guilty of an offence.

148.—(1) Where a certificate of insurance or certificate of security has been delivered under section 147 of this Act to the person by whom a policy has been effected or to whom a security has been given, so much of the policy or security as purports to restrict, as the case may be, the insurance of the persons insured by the policy or the operation of the security by reference to any of the following matters, that is to say,—

PART VI
Avoidance of certain exceptions to policies or securities and of certain agreements, etc., as to risks required to be covered thereby.

- (a) the age or physical or mental condition of persons driving the vehicle, or
- (b) the condition of the vehicle, or
- (c) the number of persons that the vehicle carries, or
- (d) the weight or physical characteristics of the goods that the vehicle carries, or
- (e) the times at which or the areas within which the vehicle is used, or
- (f) the horsepower or cylinder capacity or value of the vehicle, or
- (g) the carrying on the vehicle of any particular apparatus, or
- (h) the carrying on the vehicle of any particular means of identification other than any means of identification required to be carried by or under the Vehicles (Excise) Act 1971,

shall, as respect such liabilities as are required to be covered by a policy under section 145 of this Act, be of no effect :

Provided that nothing in this subsection shall require an insurer or the giver of a security to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer or the giver of a security in or towards the discharge of any liability of any person which is covered by the policy or security by virtue only of this subsection shall be recoverable by the insurer or giver of the security from that person.

(2) A condition in a policy or security issued or given for the purposes of this Part of this Act providing that no liability shall arise under the policy or security, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security, shall be of no effect in connection with such liabilities as are required to be covered by a policy under section 145 of this Act :

Provided that nothing in this subsection shall be taken to render void any provision in a policy or security requiring the person insured or secured to pay to the insurer or the giver of the security any sums which the latter may have become liable

PART VI

to pay under the policy or security and which have been applied to the satisfaction of the claims of third parties.

(3) Where a person uses a motor vehicle in circumstances such that under section 143 of this Act there is required to be in force in relation to his use of it such a policy of insurance or security as is mentioned in subsection (1) of that section, then, if any other person is carried in or upon the vehicle while the user is so using it, any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect so far as it purports or might be held—

- (a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vehicle as is required by section 145 of this Act to be covered by a policy of insurance ; or
- (b) to impose any conditions with respect to the enforcement of any such liability of the user ;

and the fact that a person so carried has willingly accepted as his the risk of negligence on the part of the user shall not be treated as negating any such liability of the user.

For the purposes of this subsection references to a person being carried in or upon a vehicle include references to a person entering or getting on to, or alighting from, the vehicle, and the reference to an antecedent agreement is to one made at any time before the liability arose.

(4) Notwithstanding anything in any enactment, a person issuing a policy of insurance under section 145 of this Act shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

Duty of
insurers or
persons giving
security to
satisfy
judgment
against persons
insured or
secured
against
third-party
risks.

149.—(1) If, after a certificate of insurance or certificate of security has been delivered under section 147 of this Act to the person by whom a policy has been effected or to whom a security has been given, judgment in respect of any such liability as is required to be covered by a policy of insurance under section 145 of this Act (being a liability covered by the terms of the policy or security to which the certificate relates) is obtained against any person who is insured by the policy or whose liability is covered by the security, as the case may be, then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy or security, he shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest

on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under the foregoing provisions of this section—

- (a) in respect of any judgment, unless before or within seven days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings ; or
- (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal ; or
- (c) in connection with any liability, if before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy or security was cancelled by mutual consent or by virtue of any provision contained therein, and either—
 - (i) before the happening of the said event the certificate was surrendered to the insurer, or the person to whom the certificate was delivered made a statutory declaration stating that the certificate had been lost or destroyed, or
 - (ii) after the happening of the said event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy or security, the certificate was surrendered to the insurer, or the person to whom it was delivered made such a statutory declaration as aforesaid ; or
 - (iii) either before or after the happening of the said event, but within the said period of fourteen days, the insurer has commenced proceedings under this Act in respect of the failure to surrender the certificate.

(3) No sum shall be payable by an insurer under the foregoing provisions of this section if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy or security, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact, or by a representation of fact which was false in some material particular, or, if he has avoided the policy or security on that ground, that he was entitled so to do apart from any provision contained in it :

Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled

PART VI

to the benefit of this subsection as respects any judgment obtained in proceedings commenced before the commencement of that action unless before, or within seven days after, the commencement of that action he has given notice thereof to the person who is the plaintiff in the said proceedings specifying the non-disclosure or false representation on which he proposes to rely; and a person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party thereto.

(4) If the amount which an insurer becomes liable under this section to pay in respect of a liability of a person who is insured by a policy or whose liability is covered by a security exceeds the amount for which he would, apart from the provisions of this section, be liable under the policy or security in respect of that liability, he shall be entitled to recover the excess from that person.

(5) In this section—

- (a) “insurer” includes a person giving a security;
- (b) “material” means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions; and
- (c) “liability covered by the terms of the policy or security” means a liability which is covered by the policy or security or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy or security.

(6) In the application of this section to Scotland, the words “by virtue of any enactment relating to interest on judgments” in subsection (1) shall be omitted and for the reference in the proviso to subsection (3) to a plaintiff there shall be substituted a reference to a pursuer.

Bankruptcy, etc., of insured or secured persons not to affect claims by third parties.

150.—(1) Where, after a certificate of insurance or certificate of security has been delivered under section 147 of this Act to the person by whom a policy has been effected or to whom a security has been given, any of the following events happens, that is to say,—

- (a) the person by whom the policy was effected or to whom the security was given becomes bankrupt or makes a composition or arrangement with his creditors,

(b) the said person dies, and an order is made under section 130 of the Bankruptcy Act 1914 for the administration of his estate according to the law of bankruptcy, PART VI
1914 c. 59.

(c) if the said person is a company, a winding-up order is made with respect to the company or a resolution for a voluntary winding up is passed with respect thereto, or a receiver or manager of the company's business or undertaking is duly appointed or possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

the happening of that event shall, notwithstanding anything in the Third Parties (Rights Against Insurers) Act 1930, not affect any such liability of the said person as is required to be covered by a policy of insurance under section 145 of this Act, but nothing in this subsection shall affect any rights conferred by that Act on the person to whom the liability was incurred, being rights so conferred against the person by whom the policy was issued or the security was given. 1930 c. 25.

(2) In the application of this section to Scotland "company" includes a limited partnership, and the reference to an order's being made under section 130 of the Bankruptcy Act 1914 for the administration of a person's estate according to the law of bankruptcy shall be deemed to include a reference to an award's being made of sequestration of his estate and a reference to an appointment's being made under section 163 of the Bankruptcy (Scotland) Act 1913 of a judicial factor to administer his estate. 1913 c. 20.

151.—(1) A person against whom a claim is made in respect of any such liability as is required to be covered by a policy of insurance under section 145 of this Act shall, on demand by or on behalf of the person making the claim— Duty to give information as to insurance or security where claim made.

(a) state whether or not, in respect of that liability, he was insured by a policy having effect for the purposes of this Part of this Act or had in force a security having effect for those purposes, or would have been so insured or would have had in force such a security if the insurer or, as the case may be, the giver of the security had not avoided or cancelled the policy or security, and

(b) if he was or would have been so insured, or had or would have had in force such a security, give such particulars with respect to that policy or security as were specified in the certificate of insurance or security delivered in respect of that policy or security, as the case may be, under section 147 of this Act.

PART VI

(2) If without reasonable excuse, a person fails to comply with the provisions of subsection (1) above, or wilfully makes a false statement in reply to any such demand as aforesaid, he shall be guilty of an offence.

Deposits.

152.—(1) Where a person has deposited a sum with the Accountant General of the Supreme Court under section 144 or 146 of this Act, then so long as any liabilities incurred by him, being such liabilities as are required to be covered by a policy of insurance under section 145 of this Act, have not been discharged or otherwise provided for no part of that sum shall be applicable in discharge of any other liabilities incurred by him.

1958 c. 72.

(2) Any regulations made, or having effect as if made, by the Secretary of State or the Board of Trade under section 20 of the Insurance Companies Act 1958 which apply to deposits made by insurers carrying on motor vehicle insurance business shall, with such necessary modifications and adaptations as, after consultation with the Lord Chancellor, may be prescribed, apply to deposits made with the said Accountant General under section 144 or 146 of this Act; and there may, after such consultation as aforesaid, be made by regulations with respect to the said deposits such provision as might be made by the Secretary of State or the Board of Trade under section 20 of the said Act of 1958 with respect to deposits under that Act.

Power to require evidence of insurance or security on application for vehicle excise licence.
1971 c. 10.

153. Provision may be made by regulations under section 37 of the Vehicles (Excise) Act 1971 for requiring a person applying for a licence under that Act in respect of a motor vehicle to produce such evidence as may be prescribed that either—

- (a) on the date when the licence comes into operation there will be in force the necessary policy of insurance or the necessary security in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission; or
- (b) the vehicle is a vehicle to which section 143 of this Act does not apply at a time when it is being driven under the owner's control.

Payments for treatment of traffic casualties

Payment for hospital treatment of traffic casualties.

154.—(1) Where a payment, other than a payment under section 155 of this Act, is made (whether or not with an admission of liability)—

- (a) by an authorised insurer, the payment being made under or in consequence of a policy issued under section 145 of this Act, or

- (b) by the owner of a vehicle in relation to the use of which a security under this Part of this Act is in force, or
 (c) by the owner of a vehicle who has made a deposit under this Part of this Act,

in respect of the death of, or bodily injury to, any person arising out of the use of a motor vehicle on a road or in a place to which the public have a right of access, and the person who has so died or been bodily injured has to the knowledge of the insurer or owner, as the case may be, received treatment at a hospital, whether as an in-patient or as an out-patient, in respect of the injury so arising, the insurer or owner shall pay the expenses reasonably incurred by the hospital in affording the treatment, after deducting from the expenses any moneys actually received in payment of a specific charge for the treatment, not being moneys received under any contributory scheme :

Provided that the amount to be paid shall not exceed £200 for each person treated as an in-patient or £20 for each person treated as an out-patient.

(2) For the purposes of this section "expenses reasonably incurred" means—

- (a) in relation to a person who receives treatment at a hospital as an in-patient, an amount for each day he is maintained in the hospital representing the average daily cost, for each in-patient, of the maintenance of the hospital and the staff thereof and the maintenance and treatment of the in-patients therein ; and
 (b) in relation to a person who receives treatment at a hospital as an out-patient, reasonable expenses actually incurred.

155.—(1) Where medical or surgical treatment or examination is immediately required as a result of bodily injury (including fatal injury) to a person caused by, or arising out of, the use of a motor vehicle on a road, and the treatment or examination so required (in this Part of this Act referred to as "emergency treatment") is effected by a legally qualified medical practitioner, the person who was using the vehicle at the time of the event out of which the bodily injury arose shall, on a claim's being made in accordance with the provisions of section 156 of this Act, pay to the practitioner, or, where emergency treatment is effected by more than one practitioner, to the practitioner by whom it is first effected—

Payment for emergency treatment of traffic casualties.

- (a) a fee of £1.25 in respect of each person in whose case the emergency treatment is effected by him ; and
 (b) a sum, in respect of any distance in excess of two miles which he must cover in order to proceed from the place whence he is summoned to the place where the emer-

PART VI

gency treatment is carried out by him and to return to the first-mentioned place, equal to 2½ new pence for every complete mile and additional part of a mile of that distance.

(2) Where emergency treatment is first effected in a hospital, the provisions of subsection (1) above with respect to payment of a fee shall, so far as applicable, but subject (as regards the recipient of a payment) to the provisions of section 156 of this Act, have effect with the substitution of references to the hospital for references to a legally qualified medical practitioner.

(3) Liability incurred under this section by the person using a vehicle shall, where the event out of which it arose was caused by the wrongful act of another person, be treated for the purposes of any claim to recover damage by reason of that wrongful act as damage sustained by the person using the vehicle.

Supple-
mentary
provisions as
to payments
for treatment.
1946 c. 81.

156.—(1) A payment falling to be made under section 154 or 155 of this Act in respect of treatment in a hospital shall be made—

- (a) in the case of a hospital vested in the Secretary of State for the purposes of the National Health Service Act 1946, not being a teaching hospital (within the meaning of that Act), to the Regional Hospital Board for the area where the hospital is situated,
- (b) in the case of such a teaching hospital, to the Board of Governors of the hospital,
- (c) in the case of a hospital vested in the Secretary of State, to the Secretary of State or on his behalf to any Regional Hospital Board or Board of Management authorised by him for the purpose,
- (d) in the case of any other hospital, to the hospital.

(2) A claim for a payment under section 155 of this Act may be made at the time when the emergency treatment is effected, by oral request to the person who was using the vehicle, and if not so made must be made by request in writing served on him within seven days from the day on which the emergency treatment was effected; and any such request in writing—

- (a) must be signed by the claimant or in the case of a hospital, by an executive officer of the Board or hospital claiming the payment or by an officer of the Secretary of State, must state the name and address of the claimant, the circumstances in which the emergency treatment was effected, and that it was first effected by the claimant or, in the case of a hospital, in the hospital,

(b) may be served by delivering it to the person who was using the vehicle or by sending it in a prepaid registered letter, or the recorded delivery service, addressed to him at his usual or last-known address.

(3) A sum payable under the said section 155 shall be recoverable as if it were a simple contract debt due from the person who was using the vehicle to the practitioner, Board or hospital, or the Secretary of State.

(4) A payment made under the said section 155 shall operate as a discharge, to the extent of the amount paid, of any liability of the person who was using the vehicle, or of any other person, to pay any sum in respect of the expenses or remuneration of the practitioner or hospital concerned of or for effecting the emergency treatment.

(5) A chief officer of police shall, if so requested by a person who alleges that he is entitled to claim a payment under the said section 155, furnish to that person any information at the disposal of the chief officer as to the identification marks of any motor vehicle which that person alleges to be a vehicle out of the use of which the bodily injury arose and as to the identity and address of the person who was using the vehicle at the time of the event out of which it arose.

Supplementary

157. The Secretary of State may make regulations for any purpose for which regulations may be made under this Part of this Act and for prescribing anything which may be prescribed under this Part of this Act and generally for the purpose of carrying this Part of this Act into effect, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations—

Regulations
for purposes
of Part VI.

- (a) as to the forms to be used for the purposes of this Part of this Act ;
- (b) as to applications for and the issue of certificates of insurance and certificates of security and any other documents which may be prescribed, and as to the keeping of records of documents and the furnishing of particulars thereof or the giving of information with respect thereto to the Secretary of State or a chief officer of police ;
- (c) as to the issue of copies of any such certificates or other documents which are lost or destroyed ;
- (d) as to the custody, production, cancellation and surrender of any such certificates or other documents ;

PART VI

(e) for providing that any provisions of this Part of this Act shall, in relation to vehicles brought into Great Britain by persons making only a temporary stay therein, have effect subject to such modifications and adaptations as may be prescribed.

Interpretation of Part VI.

158.—(1) In this Part of this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

- “ authorised insurer ” has the meaning assigned to it by section 145(2) of this Act ;
- “ hospital ” means an institution, not being an institution carried on for profit, which provides medical or surgical treatment for in-patients ;
- “ policy of insurance ” includes a covering note ;
- “ prescribed ” means prescribed by regulations ;
- “ regulations ” means regulations made under section 157 of this Act ;
- “ salvage ” means the preservation of a vessel which is wrecked, stranded or in distress, or the lives of persons belonging to, or the cargo or apparel of, such a vessel ;
- “ under the owner’s control ” means, in relation to a vehicle, that it is being driven by the owner or by a servant of the owner in the course of his employment or is otherwise subject to the control of the owner.

(2) In any provision of this Part of this Act relating to the surrender, or the loss or destruction, of a certificate of insurance or certificate of security, references to such a certificate shall, in relation to policies or securities under which more than one certificate is issued, be construed as references to all certificates and shall, where any copy has been issued of any certificate, be construed as including a reference to that copy.

PART VII**MISCELLANEOUS AND GENERAL***Furnishing of information and production of documents*

Power of police to stop vehicles.

159. A person driving a motor vehicle on a road and a person riding a cycle, not being a motor vehicle, on a road shall stop the same on being so required by a constable in uniform, and if he fails to do so he shall be guilty of an offence.

160.—(1) Subject to any regulations made by the Secretary of State, it shall be lawful for a person authorised by a highway authority, or for a constable authorised on behalf of a highway authority by a police authority or a chief officer of police, on production of his authority, to require the person in charge of a motor vehicle to allow the vehicle or any trailer drawn thereby to be weighed, either laden or unladen, and the weight transmitted to the road by any parts of the vehicle or trailer in contact with the road to be tested, and for that purpose to proceed to a weighbridge or other machine for weighing vehicles; and if a person in charge of a motor vehicle refuses or neglects to comply with any such requirement, he shall be guilty of an offence:

PART VII

Weighing of motor vehicles.

Provided that it shall not be lawful for a person or constable so authorised to require the person in charge of the motor vehicle to unload the vehicle or trailer, or to cause or allow it to be unloaded, for the purpose of its being weighed unladen.

(2) If at the time when the requirement is made the vehicle is more than one mile from the weighbridge or other machine, and the weight is found to be within the limits authorised by law the highway authority on whose behalf the requirement is made shall pay, in respect of loss occasioned, such amount as in default of agreement may be determined by a single arbitrator agreed upon by the parties, or in default of agreement appointed by the Secretary of State.

(3) Where a motor vehicle or trailer is weighed under this section, a certificate of weight shall be given to the person in charge of the vehicle, and the certificate so given shall exempt the motor vehicle and the trailer, if any, from being weighed so long as it is during the continuance of the same journey carrying the same load.

(4) A certifying officer appointed under Part III of the Road Traffic Act 1960 or an examiner appointed under section 56 of this Act or any of the Secretary of State's officers authorised by him in that behalf may at any time, on production of his authority, exercise with respect to the weighing of goods vehicles all such powers as are under the foregoing provisions of this section exercisable by a constable authorised as therein mentioned with respect to the weighing of motor vehicles and trailers, and the said provisions shall apply accordingly with the substitution in subsection (2), for references to the highway authority on whose behalf the requirement is made and the Secretary of State of references respectively to the Secretary of State and the Lord Chief Justice of England or, as the case may be, the Lord President of the Court of Session.

PART VII
Power of constables to require production of driving licences and in certain cases statement of date of birth.

161.—(1) Any such person as follows, that is to say,—

- (a) a person driving a motor vehicle on a road, or**
- (b) a person whom a constable has reasonable cause to believe to have been the driver of a motor vehicle at a time when an accident occurred owing to its presence on a road, or**
- (c) a person whom a constable has reasonable cause to believe to have committed an offence in relation to the use of a motor vehicle on a road, or**
- (d) a person who supervises the holder of a provisional licence granted under Part III of this Act while the holder is driving a motor vehicle on a road or whom a constable has reasonable cause to believe was supervising the holder of such a licence while driving at a time when an accident occurred owing to the presence of the vehicle on a road or at a time when an offence is suspected of having been committed by the said holder in relation to the use of the vehicle on a road,**

shall, on being so required by a constable, produce for examination his licence to drive a motor vehicle granted under Part III of this Act, so as to enable the constable to ascertain the name and address of the holder of the licence, the date of issue, and the authority by which it was issued; and shall in prescribed circumstances, on being so required by the constable, state his date of birth.

(2) Where a licence to drive a motor vehicle granted under Part III of this Act has been revoked by the Secretary of State under section 87 or 89 thereof then if the holder of the licence fails to deliver it to the Secretary of State in pursuance of that section a constable may require him to produce it, and upon its being produced may seize it and deliver it to the Secretary of State.

(3) Where a constable has reasonable cause to believe that the person to whom a licence to drive a motor vehicle has been granted under Part III of this Act, or any other person, has knowingly made a false statement for the purpose of obtaining the grant of the licence the constable may require the holder of the licence to produce it to him.

(4) If a person required under the foregoing provisions of this section to produce a licence or state his date of birth to a constable fails to do so he shall be guilty of an offence; but if within five days after the production of his licence was so required he produces the licence in person at such police station as may have been specified by him at the time its production was required, he shall not be convicted of an offence under this subsection.

(5) Where in accordance with this section a person has stated his date of birth to a constable, the Secretary of State may serve on that person a notice in writing requiring him to furnish the Secretary of State—

- (a) with such evidence in that person's possession or obtainable by him as the Secretary of State may specify for the purposes of verifying that date ; and
- (b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time ;

and a person who knowingly fails to comply with a notice under this subsection shall be guilty of an offence.

(6) A notice authorised to be served on any person by subsection (5) above may be served on him by delivering it to him or by leaving it at his proper address or by sending it to him by post ; and for the purposes of this subsection and section 26 of the Interpretation Act 1889 in its application to this subsection the proper address of any person shall be his latest address as known to the person giving the notice.

162.—(1) Any such person as follows, that is to say,—

- (a) a person driving on a road a motor vehicle (other than an invalid carriage), or
- (b) a person whom a constable has reasonable cause to believe to have been the driver of a motor vehicle (other than an invalid carriage) at a time when an accident occurred owing to its presence on a road, or
- (c) a person whom a constable has reasonable cause to believe to have committed an offence in relation to the use on a road of a motor vehicle (other than an invalid carriage),

Power of constables to obtain names and addresses of drivers and others, and to require production of evidence of insurance or security and test certificates.

shall, on being so required by a constable, give his name and address and the name and address of the owner of the vehicle and produce for examination—

- (i) the relevant certificate of insurance or certificate of security within the meaning of Part VI of this Act, or such other evidence that the vehicle is not or was not being driven in contravention of section 143 thereof as may be prescribed by regulations made by the Secretary of State,
- (ii) in relation to a vehicle to which section 44 of this Act applies, a test certificate issued in respect thereof as mentioned in subsection (1) of that section, and
- (iii) in relation to a goods vehicle the use of which on a road without a plating certificate, goods vehicle test

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certificate or one or more certificates in force under section 47 of this Act is an offence under section 46(1) or (2) or 51(1) of this Act, any such certificate issued in respect of that vehicle or any trailer drawn by it,

and if he fails to do so he shall, subject to subsection (2) below, be guilty of an offence.

(2) A person shall not be convicted of an offence under subsection (1) above by reason only of failure to produce any certificate or other evidence to a constable if, within five days after the date on which the production of the certificate or other evidence was required, it is produced at such police station as may have been specified by him at the time when its production was required.

(3) A person who supervises the holder of a provisional licence granted under Part III of this Act while the holder is driving on a road a motor vehicle (other than an invalid carriage) or whom a constable has reasonable cause to believe was supervising the holder of such a licence while driving at a time when an accident occurred owing to the presence of the vehicle on a road or at a time when an offence is suspected of having been committed by the said holder in relation to the use of the vehicle on a road shall, on being so required by a constable, give his name and address and the name and address of the owner of the vehicle, and if he fails to do so he shall be guilty of an offence.

(4) In this section "owner", in relation to a vehicle which is the subject of a hiring agreement, includes each party to the agreement.

Powers of certifying officers and examiners as respects goods vehicles. 1960 c. 16.

163. A certifying officer appointed under Part III of the Road Traffic Act 1960 or an examiner appointed under section 56 of this Act may at any time, on production if so required of his authority, exercise in the case of goods vehicles all such powers as are, under section 161(1) or 162 of this Act, exercisable by a constable.

Penalisation of failure to give name and address, and power of arrest, in case of dangerous or careless driving or cycling, etc.

164.—(1) Any such person as the following, namely—

(a) the driver of a motor vehicle who is alleged to have committed an offence against section 2 or 3 of this Act, or

(b) the rider of a cycle who is alleged to have committed an offence against section 17 or 18 of this Act,

who refuses, on being so required by any person having reasonable ground for so requiring, to give his name or address, or gives a false name or address, shall be guilty of an offence.

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(2) A constable may—

- (a) arrest without warrant the driver of a motor vehicle who within his view commits an offence against section 2 or 3 of this Act unless the driver either gives his name and address or produces for examination his licence to drive a motor vehicle granted under Part III of this Act ;
- (b) arrest without warrant the rider of a cycle who within his view commits an offence against section 17 or 18 of this Act unless the rider gives his name and address.

165. A constable may require a person committing an offence against section 23 of this Act to give his name and address, and if that person fails to do so he shall be guilty of an offence.

Pedestrian
contravening
constable's
direction to
stop to give
name and
address.

166.—(1) If in a case where, owing to the presence on a road of a motor vehicle (other than an invalid carriage) an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce to a constable or some person who, having reasonable grounds for so doing, has required its production, such a certificate of insurance or security, or other evidence, as is mentioned in paragraph (i) of section 162(1) of this Act, the driver shall as soon as possible, and in any case within twenty-four hours of the occurrence of the accident, report the accident at a police station or to a constable and thereupon produce such a certificate or other evidence as aforesaid, and if he fails to do so he shall, subject to subsection (2) below, be guilty of an offence.

Duty of
driver, in case
of accident
involving
injury to
another, to
produce
evidence of
insurance or
security or
to report
accident.

(2) A person shall not be convicted of an offence under subsection (1) above by reason only of a failure to produce a certificate or other evidence if, within five days after the occurrence of the accident, he produces the same in person at such police station as may be specified by him at the time when the accident was reported.

167.—(1) It shall be the duty of the owner of a motor vehicle to give such information as he may be required by or on behalf of a chief officer of police to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 143 of this Act on any occasion when the driver was required under section 162(1) or 166 of this Act to produce such a certificate of insurance or security, or other evidence, as is mentioned in paragraph (i) of the said section 162(1); and a person who fails to comply with the requirement of this subsection shall be guilty of an offence.

Duty of owner
of motor
vehicle to give
information
for verifying
compliance
with
requirement of
compulsory
insurance or
security.

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(2) In this section "owner", in relation to a vehicle which is the subject of a hiring agreement, includes each party to the agreement.

Duty to give information as to identity of driver, etc., in certain cases.

168.—(1) This section applies—

(a) to any offence under the foregoing provisions of this Act and to an offence under section 175 of this Act except an offence under Part V thereof or under section 15, 32, 45(7), 50(5), 53(4), 55(5), 56(3), 91 or 119, and

(b) to offences against any other enactment relating to the use of vehicles on roads.

(2) Where the driver of a vehicle is alleged to be guilty of an offence to which this section applies—

(a) the person keeping the vehicle shall give such information as to the identity of the driver as he may be required to give by or on behalf of a chief officer of police, and

(b) any other person shall if required as aforesaid give any information which it is in his power to give and may lead to the identification of the driver.

In this subsection references to the driver of a vehicle include references to the person riding a cycle, not being a motor vehicle.

(3) A person who fails to comply with the requirement of subsection (2)(a) above shall be guilty of an offence unless he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who the driver of the vehicle, or, as the case may be, the rider of the cycle, was; and a person who fails to comply with the requirement of subsection (2)(b) above shall be guilty of an offence.

Forgery, false statements, etc.

Forgery of documents, etc.

169.—(1) A person shall be guilty of an offence who, with intent to deceive—

(a) forges, or alters, or uses or lends to, or allows to be used by, any other person, a document or other thing to which this section applies, or

(b) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive.

(2) This section applies to the following documents and other things, namely—

(a) any licence under any Part of this Act;

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- (b) any test certificate, goods vehicle test certificate, plating certificate, manufacturer's certificate or Minister's approval certificate ;
- (c) any plate containing plated particulars or containing other particulars required to be marked on a goods vehicle by section 47 of this Act or regulations thereunder ;
- (d) any records required to be kept by virtue of section 59 of this Act ;
- (e) any document which, in pursuance of section 85(2) or 119(1) of this Act, is issued as evidence of the result of a test of competence to drive ;
- (f) any badge or certificate prescribed by regulations under section 135 of this Act ;
- (g) any certificate of insurance or certificate of security under Part VI of this Act ;
- (h) any document issued under regulations made by the Secretary of State in pursuance of his power under paragraph (i) of section 162(1) of this Act to prescribe evidence which may be produced in lieu of a certificate of insurance or a certificate of security.

(3) In this section "plated particulars", "manufacturer's certificate" and "Minister's approval certificate" have the same meanings as they respectively have for the purposes of Part II of this Act ; and in the application of this section to England and Wales "forges" means forges within the meaning of the Forgery Act 1913.

170.—(1) A person shall be guilty of an offence who knowingly makes a false statement for the purpose—

- (a) of obtaining the grant of a licence under any Part of this Act to himself or any other person, or
- (b) of preventing the grant of any such licence, or
- (c) of procuring the imposition of a condition or limitation in relation to any such licence, or
- (d) of securing the entry or retention of the name of any person in the register of approved instructors maintained under Part V of this Act.

False statements and withholding material information.

(2) A person shall be guilty of an offence who in supplying information or producing documents for the purposes either of section 46, 47, 48, 49 or 51 of this Act or of regulations made under section 45, 50 or 52(2) thereof makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which he knows to be false in a material particular or recklessly produces, furnishes, sends or otherwise makes use of a document which is false in a material particular.

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(3) A person shall be guilty of an offence who knowingly produces false evidence for the purposes of regulations under section 52(1) of this Act or knowingly makes a false statement in a declaration required to be made by the regulations.

(4) A person shall be guilty of an offence who knowingly makes a false statement in a certificate or declaration under section 54 of this Act (including that section as applied by section 55(3) thereof).

(5) A person shall be guilty of an offence who wilfully makes a false entry in any record required to be made or kept by regulations under section 59 of this Act or, with intent to deceive, makes use of any such entry which he knows to be false.

(6) A person shall be guilty of an offence who makes a false statement or withholds any material information for the purpose of obtaining the issue—

(a) of a certificate of insurance or certificate of security under Part VI of this Act, or

(b) of any document issued under regulations made by the Secretary of State in pursuance of his power under paragraph (i) of section 162(1) of this Act to prescribe evidence which may be produced in lieu of a certificate of insurance or a certificate of security.

(7) Section 64(2) of this Act shall apply for the purposes of proceedings under subsections (2) and (5) above as it applies for the purposes of the proceedings mentioned in that subsection.

Issue of false documents.

171. A person shall be guilty of an offence who issues any such document as is referred to in paragraph (a) or (b) of section 170(6) of this Act, or a test certificate or manufacturer's certificate (within the meaning of Part II of this Act) if the document or certificate so issued is to his knowledge false in a material particular.

Using goods vehicle with unauthorised weights as well as authorised weights marked thereon.

172. If there is fixed to a goods vehicle a plate containing plated weights of any description determined for that vehicle by virtue of section 45 of this Act or specified in a certificate therefor under section 47(5), (6), (8) or (11) of this Act, the vehicle shall not, while it is used on a road, be marked with any other weights, except other plated weights, other weights required or authorised to be marked on the vehicle by regulations under section 40 of this Act or weights so authorised for the purposes of this section by regulations made by the Secretary of State and marked in the prescribed manner; and in the event of a contravention of or failure to comply with this section the owner of the vehicle shall be guilty of an offence.

173.—(1) If a constable has reasonable cause to believe that a document produced to him in pursuance of section 137 of this Act, or in pursuance of any of the foregoing provisions of this Part of this Act, is a document in relation to which an offence has been committed under section 169, 170 or 171 of this Act or under section 86 of the Road Traffic Regulation Act 1967, he may seize the document; and when a document is seized under this subsection, the person from whom it was taken shall, unless the document has been previously returned to him or he has been previously charged with an offence under any of those sections, be summoned before a magistrates' court or, in Scotland, the sheriff to account for his possession of the said document and the court or sheriff shall make such order respecting the disposal of the said document and award such costs as the justice of the case may require.

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Power to
seize articles
with respect
to which
offences under
ss. 169 to 171
may have been
committed.
1967 c. 76.

(2) If a constable, a certifying officer appointed under Part III of the Road Traffic Act 1960 or an examiner appointed under section 56 of this Act has reasonable cause to believe that a document or plate carried on a motor vehicle or by the driver thereof is a document or plate in relation to which an offence has been committed under section 169, 170 or 171 of this Act in so far as they apply—

- (a) to documents evidencing the appointment of examiners for the purposes of sections 56 to 58 of this Act, or
- (b) to goods vehicle test certificates, plating certificates, manufacturers' certificates or Minister's approval certificates, or
- (c) to plates containing plated particulars or containing other particulars required to be marked on goods vehicles by section 47 of this Act or regulations made thereunder, or
- (d) to records required to be kept by virtue of section 59 of this Act,

he may seize the document or plate; and when a document or plate is seized under this subsection, either the driver or owner of the vehicle shall, if the document or plate is still detained and neither of them has previously been charged with an offence in relation thereto under section 169, 170 or 171 of this Act, be summoned before a magistrates' court or, in Scotland, the sheriff to account for his possession of, or the presence on the vehicle of, the said document or plate and the court or sheriff shall make such order respecting the disposal of the said document or plate and award such costs as the justice of the case may require.

For the purposes of this subsection the power to seize includes power to detach from a vehicle.

(3) In subsection (2) above "plated particulars", "manufacturer's certificate" and "Minister's approval certificate" have

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Personation of, or of person employed by, authorised examiner.

174. A person shall be guilty of an offence if, with intent to deceive, he falsely represents himself to be, or to be employed by, a person authorised by the Secretary of State for the purposes of section 43 of this Act.

Offences in Scotland

Taking motor vehicle without authority, etc.

175.—(1) A person who in Scotland—

- (a) takes and drives away a motor vehicle without having either the consent of the owner thereof or other lawful authority, or
- (b) knowing that a motor vehicle has been so taken, drives it or allows himself to be carried in or on it without such consent or authority,

shall, subject to subsection (2) below, be guilty of an offence.

(2) If on proceedings under this section on indictment the jury, or on summary proceedings under this section the court, are satisfied that the accused acted in the reasonable belief that he had lawful authority, or in the reasonable belief that the owner would, in the circumstances of the case, have given his consent if he had been asked for it, the accused shall not be liable to be convicted of the offence.

(3) A constable may arrest without warrant a person reasonably suspected by him of having committed or of attempting to commit an offence under this section.

Penalty for aiding, abetting, etc., commission of offences.

176. As respects Scotland, a person who aids, abets, counsels, procures or incites any other person to commit an offence against the provisions of this Act or any regulations made thereunder shall be guilty of an offence and shall be liable on conviction to the same punishment as might be imposed on conviction of the first-mentioned offence.

Prosecution and punishment of offences and other provisions relating to legal proceedings, etc.

Prosecution and punishment of offences.

177.—(1) Part I of Schedule 4 to this Act shall have effect with respect to the prosecution and punishment of the offences against the provisions of this Act specified in column 1 of that Part of that Schedule or regulations made thereunder (of which the general nature is indicated in column 2 thereof).

(2) In relation to any such offence—

- (a) column 3 of that Part of that Schedule shows whether the offence is punishable on summary conviction or on indictment or either in one way or the other ;
- (b) column 4 of that Part of that Schedule shows the maximum punishment by way of fine or imprison-

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ment which may be imposed on a person convicted of the offence in the way specified in relation thereto in column 3 (that is to say, summarily or on indictment), any reference in column 4 to a period of years or months being construed as a reference to a term of imprisonment of that duration ;

- (c) column 5 of that Part of that Schedule shows in relation to which offences the court is required by section 93(1) or empowered by section 93(2) of this Act to order the person convicted to be disqualified for holding or obtaining a licence to drive a motor vehicle under Part III of this Act (whether or not the court is also required to disqualify him for an additional period by section 93(3) of this Act), any reference in column 5 to obligatory disqualification importing such a requirement and any reference therein to discretionary disqualification importing such a power ;
- (d) column 6 of that Part of that Schedule shows in relation to which offences the court is required by section 101(1) of this Act to order that particulars of the conviction, and, if the court orders him to be disqualified, particulars of the disqualification, are to be endorsed on any licence held by him ; and
- (e) column 7 of that Part of that Schedule applies to such of the offences against provisions of this Act specified in column 1 as are indicated by entries against those offences in column 7 the additional provisions of this Act (relating to the prosecution and trial of such offences) specified in those entries.

(3) Parts II and III of that Schedule show offences which are not offences under this Act and are not punishable thereunder but on conviction of which the court is required by section 93(1) or, as the case may be, empowered by section 93(2) of this Act to order the person convicted to be disqualified for holding or obtaining a licence to drive a motor vehicle under Part III of the Act and, in either case, required by section 101(1) of this Act to order that particulars of the conviction, and, if the court orders him to be disqualified, particulars of the disqualification, are to be endorsed on any licence held by him.

(4) The provisions contained in Part IV of that Schedule (being provisions as to alternative verdicts, as to charges which may be preferred when a person is not convicted of an offence charged and as to the conviction of persons of certain offences despite the absence of a warning of prosecution of those offences) shall have effect in relation to such of the offences against provisions of this Act specified in column 1 of Part I of that Schedule as are indicated by entries against those offences in column 7

PART VII of that Part ; and in Scotland the provisions of paragraph 3 of Part IV shall have effect also in relation to the offence shown in Part II of that Schedule.

(5) Part V of that Schedule shall have effect for the interpretation of that Schedule.

(6) Any reference in that Schedule to a section by its number only is a reference to a section of this Act.

Penalty for breach of regulations.

178. If a person acts in contravention of or fails to comply with any regulations made by the Secretary of State under this Act (other than regulations made under section 20, 43, 54, including that section as applied by section 55, or 133 thereof) and contravention thereof, or failure to comply therewith, is not made an offence under any other provision of this Act, he shall for each offence be liable on summary conviction to a fine not exceeding £20.

Restrictions on prosecutions for certain offences.
1967 c. 76.

179.—(1) This section applies to—

- (a) any offence under this Act to which it is applied by column 7 of Part I of Schedule 4 to this Act ; and
- (b) any offence under section 77(7) of the Road Traffic Regulation Act 1967 or punishable by virtue of section 78A of that Act.

(2) Subject to the following provisions of this section and to the provisions of paragraphs 5, 6 and 7 of Part IV of the said Schedule 4, where a person is prosecuted for an offence to which this section applies he shall not be convicted unless either—

- (a) he was warned at the time the offence was committed that the question of prosecuting him for some one or other of the offences to which this section applies would be taken into consideration ; or
- (b) within fourteen days of the commission of the offence a summons (or, in Scotland, a complaint) for the offence was served on him ; or
- (c) within the said fourteen days a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
 - (i) in the case of an offence against section 17 or 18 of this Act, served on him,
 - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence ;

and the notice shall be deemed for the purposes of paragraph (c) above to have been served on any person if it was sent by

registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.

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(3) The requirement of subsection (2) above shall in every case be deemed to have been complied with unless and until the contrary is proved.

(4) Failure to comply with the requirement of subsection (2) above shall not be a bar to the conviction of the accused in a case where the court is satisfied—

(a) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons or, as the case may be, a complaint to be served or for a notice to be served or sent in compliance with the said requirement; or

(b) that the accused by his own conduct contributed to the failure.

180. Summary proceedings for an offence under this Act to which this section is applied by column 7 of Part I of Schedule 4 to this Act may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence.

Time within which summary proceedings for certain offences must be commenced.

For the purposes of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

181.—(1) In any proceedings in England or Wales for an offence under this Act to which this section is applied by column 7 of Part I of Schedule 4 to this Act or which is punishable by virtue of section 178 thereof or for an offence against any other enactment relating to the use of vehicles on roads a certificate in the prescribed form, purporting to be signed by a constable and certifying that a person specified in the certificate stated to the constable—

Evidence by certificate.

(a) that a particular motor vehicle was being driven or used by, or belonged to, that person on a particular occasion, or

(b) that a particular motor vehicle on a particular occasion was used by, or belonged to, a firm in which that person also stated that he was at the time of the statement a partner, or

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- (c) that a particular motor vehicle on a particular occasion was used by, or belonged to, a corporation of which that person also stated that he was at the time of the statement a director, officer or employee,

shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven or used, or to whom it belonged, as the case may be, on that occasion.

(2) Nothing in subsection (1) above shall be deemed to make a certificate admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.

(3) Nothing in subsection (1) above shall be deemed to make a certificate admissible as evidence in proceedings for an offence—

- (a) unless a copy thereof has, not less than seven days before the hearing or trial, been served in the prescribed manner on the person charged with the offence, or
- (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice in the prescribed form and manner on the prosecutor requiring attendance at the trial of the person who signed the certificate.

(4) In this section “prescribed” means prescribed by rules made by the Secretary of State by statutory instrument.

**Admissibility
of records as
evidence.**

182.—(1) A statement contained in a document purporting to be—

- (a) a part of the records maintained by the Secretary of State in connection with any functions exercisable by him by virtue of Part III of this Act or a part of any other records maintained by the Secretary of State with respect to vehicles; or
- (b) a copy of a document forming part of those records; or
- (c) a note of any information contained in those records,

and to be authenticated by a person authorised in that behalf by the Secretary of State shall be admissible in any proceedings as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

1968 c. 64.

(2) In subsection (1) above “document” and “statement” have the same meanings as in section 10(1) of the Civil Evidence Act 1968, and the reference to a copy of a document shall be construed in accordance with section 10(2) of that Act; but

nothing in this subsection shall be construed as limiting to civil proceedings the references to proceedings in subsection (1) above.

(3) Nothing in the foregoing provisions of this section shall enable evidence to be given with respect to any matter other than a matter of the prescribed description.

(4) In its application to Scotland this section shall have effect as if—

(a) in subsection (1), for the words from “as evidence” onwards there were substituted the words “as sufficient evidence of any fact stated therein, so however that nothing in this subsection shall be deemed to make such a statement evidence in any proceedings except where oral evidence to the like effect would have been admissible in those proceedings”; and

(b) in subsection (2), for the references to section 10(1) and (2) of the Civil Evidence Act 1968 there were substituted references to section 17(3) and (4) respectively of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968. 1968 c. 64. 1968 c. 70.

183. Where on the summary trial in England or Wales of an information for an offence under this Act to which this section is applied by column 7 of Part I of Schedule 4 to this Act or which is punishable by virtue of section 178 thereof or for an offence against any other enactment relating to the use of vehicles on roads—

Proof, in summary proceedings, of identity of driver of vehicle.

(a) it is proved to the satisfaction of the court, on oath or in manner prescribed by rules made under section 15 of the Justices of the Peace Act 1949, that a requirement under section 168(2) of this Act to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the information relates has been served on the accused by post; and 1949 c. 101.

(b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,

the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.

184. An offence under this Act, or any regulations made under this Act, for which the maximum penalty does not exceed £50 (other than an offence under section 54 (including that section as applied by section 55(3)), 61, 136 or 137 of this Act or an offence involving discretionary disqualification within the meaning of Part III of this Act) may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed. Jurisdiction of courts of summary jurisdiction in Scotland for certain offences. 1954 c. 48.

PART VII
Destination
of fines.
 1949 c. 101.

185.—(1) All sums paid to the Secretary of State under section 27 of the Justices of the Peace Act 1949 in respect of fines imposed in respect of offences under the foregoing provisions of this Act or the regulations made thereunder (whether imposed on conviction on indictment or by a magistrates' court) shall be deemed to be Exchequer moneys within the meaning of the said section 27.

(2) There shall be paid into the Consolidated Fund all fines imposed in respect of offences committed in Scotland under the foregoing provisions of this Act or the regulations made thereunder, except offences under the following provisions, namely, sections 1(1), 5(2), 20(1), 23, 31(1), 33(2), 35, 44(1), 53(4), 54(5), 54(6) (including the last two subsections as applied by section 55(3)), 55(5), 61(2), 165, 170(3), 170(4), 174 and an offence under section 161(4) consisting of a contravention of subsection (2) or (3) of that section.

Inquiries

General power
to hold
inquiries.

186. Without prejudice to any other provision of this Act, the Secretary of State may hold inquiries for the purposes of this Act.

General
provisions as
to inquiries.

187.—(1) Where under any of the provisions of this Act an inquiry is held by the Secretary of State,—

- (a) notice of the inquiry may be given and published in accordance with such general or special directions as the Secretary of State may give ;
- (b) the Secretary of State and, if authorised by him, the person appointed to hold the inquiry, may by order require any person, subject to the payment or tender of the reasonable expenses of his attendance, 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 ;
- (c) the person holding the inquiry shall have power to take evidence on oath and for that purpose to administer oaths ;
- (d) the Secretary of State may make such order as to the payment of the costs incurred by him in connection with the inquiry (including such reasonable sum not exceeding £30 a day as he may determine for the services of any officer engaged in the inquiry) by such party to the inquiry as he thinks fit, and may certify the amount of the costs so incurred, and any amount so certified and directed by the Secretary of

State to be paid by any person shall be recoverable from that person, and shall be so recoverable, in England or Wales, either as a debt due to the Crown or by the Secretary of State summarily as a civil debt, and in Scotland by the Secretary of State.

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(2) If a person fails without reasonable excuse to comply with any of the provisions of an order under paragraph (b) of subsection (1) above, he shall be guilty of an offence.

Application to the Crown

188.—(1) Subject to the provisions of this section—

Application
to Crown.

(a) Part I of this Act,

(b) Part II of this Act, except sections 56, 57, 58, 59 and 61,

(c) Part III of this Act, except section 100,

(d) Part IV of this Act, and

(e) in this Part, sections 159, 160, 161, 164, 165, 174, 175 and 179,

shall apply to vehicles and persons in the public service of the Crown.

(2) Section 162 of this Act, in so far as it provides for the production of test certificates and the giving of names and addresses, shall apply to a person in connection with a vehicle to which section 44 of this Act applies notwithstanding that he or the driver is or was at any material time in the public service of the Crown; and subsection (1) of the said section 162, in so far as it provides for the production of any certificate mentioned in paragraph (iii) thereof, shall apply to a person in connection with a goods vehicle so mentioned notwithstanding that he or the driver is or was at any material time in the public service of the Crown.

(3) Section 4 of this Act (in so far as it imposes restrictions on persons under twenty-one years of age with respect to the driving of heavy locomotives, light locomotives, motor tractors, heavy motor cars or motor cars) shall not apply in the case of motor vehicles owned by the Secretary of State for Defence and used for naval, military or air force purposes, or in the case of vehicles so used while being driven by persons for the time being subject to the orders of a member of the armed forces of the Crown.

(4) Sections 45 to 51 and section 62 of this Act shall apply to goods vehicles in the public service of the Crown only if they are registered or liable to be registered under the Vehicles 1971 c. 10. (Excise) Act 1971, and to trailers in the public service of the

PART VII Crown only while drawn by goods vehicles (whether or not in the public service of the Crown) which are required to be so registered; and shall so apply subject to the following modifications:—

1960 c. 16. (a) examinations of such vehicles in pursuance of regulations under section 45 or 50(1)(a) of this Act may be made by or under the direction of examiners authorised by the Secretary of State for the purpose instead of by or under the directions of examiners appointed under section 56 of this Act or of certifying officers appointed under Part III of the Road Traffic Act 1960;

(b) section 45(3) of this Act shall not apply to the determination of an examiner so authorised on any such examination, but any person aggrieved by such a determination may appeal to the Secretary of State and on the appeal the Secretary of State shall cause the vehicle to be re-examined by an officer appointed by him for the purpose and may make such determination on the basis of the re-examination as he thinks fit.

(5) Section 65 of this Act shall not apply in the case of motor vehicles owned by the Secretary of State for Defence and used for naval, military or air force purposes, or in the case of vehicles so used while being driven by persons for the time being subject to the orders of a member of the armed forces of the Crown.

(6) Neither subsection (2) nor subsection (4) of section 88 of this Act in so far as it prevents such a licence as is there mentioned from authorising a person to drive motor cycles whereof the cylinder capacity of the engine exceeds 250 cubic centimetres shall apply in the case of motor cycles owned by the Secretary of State for Defence and used for naval, military or air force purposes, or in the case of motor cycles so used while being ridden by persons for the time being subject to the orders of a member of the armed forces of the Crown.

1957 c. 53. (7) The function of issuing licences under Part IV of this Act to persons subject to the Naval Discipline Act 1957, to military law or to air force law to drive goods vehicles in the public service of the Crown and of revoking and suspending such licences shall be exercised by the prescribed licensing authority; and references in that Part to the licensing authority shall be construed accordingly.

(8) For the purpose of proceedings for an offence under this Act (except an offence under section 81) in connection with a vehicle in the public service of the Crown, being proceedings against a person other than the driver or rider of the vehicle,

the person nominated in that behalf by the department in whose service the vehicle is used shall be deemed to be the person actually responsible unless it is shown to the satisfaction of the court that the driver or rider only was responsible.

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(9) For the purposes of sections 68 to 81 of this Act in their application to vehicles in the public service of the Crown, the person whom the department in whose service any such vehicle is used names as the person actually responsible shall be deemed to be the person who causes or permits the vehicle to be on the road.

189.—(1) Sections 6 to 11 of this Act shall, in their application to persons subject to service discipline, apply outside as well as within Great Britain and have effect as if—

Application of
ss. 6 to 11
to persons
subject to
service
discipline

- (a) references to proceedings for an offence under any enactment included references to proceedings for the corresponding service offence ;
- (b) references to the court included a reference to any naval, military or air force authority before whom the proceedings take place ;
- (c) references to a constable included references to a member of the provost staff ;
- (d) references to a police station included references to a naval, military or air force unit or establishment ;
- (e) references to a hospital included references to a naval, military or air force unit or establishment at which medical or surgical treatment is provided for persons subject to service discipline ;
- (f) in section 8(1) the reference to a traffic offence included a reference to the corresponding service offence ;
- (g) in section 9(7) the reference to disqualification were omitted and for the reference to directing an acquittal there were substituted a reference to finding the person in question not guilty without further proceeding with the case ; and
- (h) in section 10, subsection (4) were omitted.

(2) In relation to persons for the time being subject to service discipline the power to arrest conferred on a constable by section 5(5) of this Act shall also be exercisable by a member of the provost staff and shall be so exercisable outside as well as within Great Britain.

(3) In this section—

“ corresponding service offence ”, in relation to an offence under any enactment, means an offence under section 42 of the Naval Discipline Act 1957 or an offence 1957 c. 53.

L

PART VII
1955 c. 18.
1955 c. 19.

against section 70 of the Army Act 1955 or section 70 of the Air Force Act 1955 committed by an act or omission which is punishable under that enactment or would be so punishable if committed in Great Britain ;

“ member of the provost staff ” means a provost officer or any person legally exercising authority under or on behalf of a provost officer ;

“ persons subject to service discipline ” means persons subject to the said Act of 1957, to military law or to air force law and other persons to whom section 42 of the said Act of 1957 or section 70 of either of the said Acts of 1955 for the time being applies ;

“ provost officer ” means a person who is a provost officer within the meaning of the said Act of 1957 or either of the said Acts of 1955.

Interpretation

Interpretation
of expressions
relating to
motor vehicles
and classes
thereof.

190.—(1) In this Act “ motor vehicle ” means a mechanically propelled vehicle intended or adapted for use on roads, and “ trailer ” means a vehicle drawn by a motor vehicle :

Provided that a side-car attached to a motor cycle shall, if it complies with such conditions as may be specified in regulations made by the Secretary of State, be regarded as forming part of the vehicle to which it is attached and not as being a trailer.

(2) In this Act “ motor car ” means a mechanically propelled vehicle, not being a motor cycle or an invalid carriage, which is constructed itself to carry a load or passengers and the weight of which unladen—

(a) if it is constructed solely for the carriage of passengers and their effects, is adapted to carry not more than seven passengers exclusive of the driver, and is fitted with tyres of such type as may be specified in regulations made by the Secretary of State, does not exceed three tons ;

(b) if it is constructed or adapted for use for the conveyance of goods or burden of any description, does not exceed three tons, or three tons and a half if the vehicle carries a container or containers for holding for the purpose of its propulsion any fuel which is wholly gaseous at 60° Fahrenheit under a pressure of 30 inches of mercury or plant and materials for producing such fuel ;

(c) does not exceed two tons and a half in a case falling within neither of the foregoing paragraphs.

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(3) In this Act "heavy motor car" means a mechanically propelled vehicle, not being a motor car, which is constructed itself to carry a load or passengers and the weight of which unladen exceeds two tons and a half.

(4) In this Act "motor cycle" means a mechanically propelled vehicle, not being an invalid carriage, with less than four wheels and the weight of which unladen does not exceed eight hundredweight.

(5) In this Act "invalid carriage" means a mechanically propelled vehicle the weight of which unladen does not exceed five hundredweight and which is specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and is used solely by such a person.

(6) In this Act "motor tractor" means a mechanically propelled vehicle which is not constructed itself to carry a load, other than the following articles, that is to say, water, fuel, accumulators and other equipment used for the purpose of propulsion, loose tools and loose equipment, and the weight of which unladen does not exceed seven tons and a quarter.

(7) In this Act "light locomotive" means a mechanically propelled vehicle which is not constructed itself to carry a load, other than any of the articles aforesaid, and the weight of which unladen does not exceed eleven tons and a half but does exceed seven tons and a quarter.

(8) In this Act "heavy locomotive" means a mechanically propelled vehicle which is not constructed itself to carry a load, other than any of the articles aforesaid, and the weight of which unladen exceeds eleven tons and a half.

(9) For the purposes of this section, in a case where a motor vehicle is so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle, that vehicle shall be deemed to be a vehicle itself constructed to carry a load.

(10) For the purposes of this section, in the case of a motor vehicle fitted with a crane, dynamo, welding plant or other special appliance or apparatus which is a permanent or essentially permanent fixture, the appliance or apparatus shall not be deemed to constitute a load or goods or burden of any description, but shall be deemed to form part of the vehicle.

(11) The Secretary of State may by regulations vary any of the maximum or minimum weights specified in the foregoing provisions of this section, and such regulations may have effect either generally or in the case of vehicles of any class specified

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1967 c. 76. in the regulations and either for the purposes of this Act except sections 68 to 81 and of all regulations thereunder or for such of those purposes as may be so specified ; and nothing in section 78 of the Road Traffic Regulation Act 1967 shall be construed as limiting the powers conferred by this subsection.

Articulated vehicles.

191. A vehicle so constructed that it can be divided into two parts both of which are vehicles and one of which is a motor vehicle shall (when not so divided) be treated for the purposes of this Act as that motor vehicle with the other part attached as a trailer.

Hover vehicles.
1968 c. 59.

192.—(1) For the purposes of this Act a hovercraft within the meaning of the Hovercraft Act 1968 (in this section referred to as a hover vehicle)—

- (a) shall be a motor vehicle, whether or not it is adapted or intended for use on roads ; but
- (b) shall be treated, subject to subsection (2) below, as not being a vehicle of any of the classes defined in subsections (2) to (8) of section 190 of this Act.

(2) The Secretary of State may by regulations provide—

- (a) that any provision of this Act which would otherwise apply to hover vehicles shall not apply to them or shall apply to them subject to such modifications as may be specified in the regulations ; or
- (b) that any such provision which would not otherwise apply to hover vehicles shall apply to them, subject to such modifications (if any) as may be specified in the regulations.

(3) For the purposes of the Hovercraft Act 1968 (under which enactments and instruments relating, amongst other things, to motor vehicles may, if passed before the commencement of that Act, be applied to hovercraft) any enactment contained in or instrument made under this Act shall be treated as included among the enactments and instruments which can be so applied.

Certain vehicles not to be treated as motor vehicles.

193.—(1) For the purposes of this Act—

- (a) a mechanically propelled vehicle being an implement for cutting grass which is controlled by a pedestrian and is not capable of being used or adapted for any other purpose, and
- (b) any other mechanically propelled vehicle controlled by a pedestrian which may be specified by regulations made by the Secretary of State for the purposes of this section and section 103 of the Road Traffic Regulation Act 1967,

shall be treated as not being a motor vehicle.

(2) In subsection (1) above "controlled by a pedestrian" means that the vehicle either— PART VII

- (a) is constructed or adapted for use only under such control or,
- (b) is constructed or adapted for use either under such control or under the control of a person carried on it but is not for the time being in use under, or proceeding under, the control of a person carried on it.

194. For the purposes of this Act and of the Road Traffic Regulation Act 1967, and of any other enactment relating to the use of motor vehicles or trailers on roads, the weight unladen of a vehicle or trailer shall be taken to be the weight of the vehicle or trailer inclusive of the body and all parts (the heavier being taken where alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle or trailer when working on a road, but exclusive of the weight of water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, or, as the case may be, of any vehicle by which the trailer is drawn, and of loose tools and loose equipment. Method of calculating weight of motor vehicles and trailers.
1967 c. 76.

195. A motor vehicle or trailer shall be deemed to be a carriage within the meaning of any Act of Parliament, whether a public general Act or a local Act, and of any rule, regulation or byelaw made under any Act of Parliament, and if used as a carriage of any particular class shall for the purpose of any enactment relating to carriages of any particular class be deemed to be a carriage of that class. Interpretation of statutory references to carriages.

196.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say— General interpretation provisions.

- "bridleway" means a way over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the way;
- "carriage of goods" includes the haulage of goods;
- "cycle" means a bicycle, tricycle, or cycle having four or more wheels, not being in any case a motor vehicle; except for the purposes of section 1, "driver", where a separate person acts as steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and "drive" shall be construed accordingly;
- "footpath" means a way over which the public have a right of way on foot only;

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- “ goods ” includes goods or burden of any description ;
- “ goods vehicle ” means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted ;
- “ goods vehicle test certificate ” has the meaning assigned to it by section 45(1) of this Act ;

“ highway authority ” means—

(a) for the purposes of the application of this Act to England or Wales, in relation to a road other than a trunk road, the authority (being either the council of a county, the council of a county borough, the council of a non-county borough or an urban district, the Common Council of the City of London, the council of a London borough or the Greater London Council) which is responsible for the maintenance of the road, and in relation to a trunk road, the Secretary of State ;

(b) for the purposes of the application of this Act to Scotland, in relation to a road other than a trunk road, a county council or the town council of a burgh charged with the maintenance and management of any of the highways therein, and, in relation to a trunk road, the Secretary of State ;

1952 c. 55.

- “ magistrates’ court ” and “ petty sessions area ” have the same meanings as in the Magistrates’ Courts Act 1952 ;
- “ owner ”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, means the person in possession of the vehicle under that agreement ;
- “ plating certificate ” has the meaning assigned to it by section 45(1) of this Act ;
- “ prescribed ” means prescribed by regulations made by the Secretary of State ;
- “ road ” means any highway and any other road to which the public has access, and includes bridges over which a road passes ;
- “ statutory ”, in relation to any prohibition, restriction, requirement or provision, means contained in, or having effect under, any enactment (including any enactment contained in this Act) ;
- “ test certificate ” has the meaning assigned to it by section 43(2) of this Act ;
- “ traffic sign ” has the meaning assigned to it by section 54(1) of the Road Traffic Regulation Act 1967 ;

1967 c. 76.

“ tramcar ” includes any carriage used on any road by virtue of an order made under the Light Railways Act 1896 ; PART VII
1896 c. 48.

“ trolley vehicle ” means a mechanically propelled vehicle adapted for use upon roads without rails and moved by power transmitted thereto from some external source.

(2) References in this Act to a class of vehicles shall be construed as references to a class defined by reference to any characteristics of the vehicles or to any other circumstances whatsoever.

(3) References in this Act to any enactment shall be construed, except where the context otherwise requires, as references to that enactment as amended by or under any subsequent enactment.

197. Where any powers and duties are by this Act conferred or imposed, in relation to Scotland, on county councils and on the town councils of certain burghs only, all other burghs shall, for the purposes of those powers and duties, be deemed to be within the county. Effect of
certain
references to
Scottish local
authorities.

Exclusion of application of certain provisions to tramcars, trolley vehicles, etc.

198.—(1) Sections 4, 14, 29, 30 and 36 of this Act shall not apply to tramcars or trolley vehicles operated under statutory powers and sections 2, 3, 5(1) and 26 thereof shall not apply to tramcars so operated. Exclusion of
application of
certain
provisions to
tramcars,
trolley vehicles,
etc.

(2) None of the following provisions of this Act, and no order or regulations made under those provisions, that is to say, sections 34, 40, 44, 52, 60 and 65, shall apply to tramcars or trolley vehicles operated under statutory powers.

(3) Sections 68 to 81 of this Act shall not apply to railway locomotives, carriages and trucks or to tramcars.

(4) Part III of this Act shall not apply to tramcars operated under statutory powers and section 111 thereof shall not apply to trolley vehicles so operated.

(5) Part VI of this Act shall not apply to tramcars or trolley vehicles operated under statutory powers.

(6) Sections 159, 160, 162, 164, 166, 167, 175, 179, 194 and 195 of this Act shall not apply to tramcars or trolley vehicles operated under statutory powers and section 161 thereof shall not apply to tramcars so operated.

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(7) In this section “operated under statutory powers” means, in relation to tramcars or trolley vehicles, that their use is authorised or regulated by special Act of Parliament or by an order having the force of an Act.

(8) Subsections (1), (2), (4), (5) and (6) above shall have effect subject to any such Act or order as is mentioned in subsection (7) above, and any such Act or order may apply to the tramcars or trolley vehicles to which it relates any of the provisions excluded by those subsections except sections 44 and 52.

Supplementary

Exercise of regulation-making powers and Parliamentary control thereover.

199.—(1) Any power conferred by this Act upon the Secretary of State to make regulations shall be exercisable by statutory instrument.

(2) Before making any regulations under this Act (other than regulations under section 12(1) or 182(3) or Part V thereof), the Secretary of State shall consult with such representative organisations as he thinks fit.

(3) A statutory instrument whereby any such power as aforesaid is exercised (other than the power conferred by section 12(1) or 193 of this Act) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) The Secretary of State shall not make any regulations under section 12(1) of this Act unless a draft of the regulations has been approved by both Houses of Parliament.

(5) Regulations under section 193 of this Act shall not have effect unless approved by resolution of each House of Parliament.

Provision, etc., of weighbridges

200.—(1) It shall be lawful for a highway authority to provide, erect, maintain and operate, or to join with another highway authority in providing, erecting, maintaining and operating, weighbridges or other machines for weighing vehicles or to contribute towards the cost of the provision, erection, maintenance and operation of any such weighbridge or other machine by any other authority or person.

(2) The Secretary of State may exercise the powers conferred by subsection (1) above whether or not in his capacity as highway authority, but may provide, erect, maintain and operate any such machine on a road for which he is not the highway authority only with the consent of the highway authority, and accordingly the presence of any such machine on a road in consequence of the exercise of those powers by virtue of this subsection (as in any other case) shall not be taken to be an obstruction of the road.

(3) The provision or erection, or the making of a contribution towards the provision or erection, of any such weighbridge or other machine shall be a purpose for which the highway authority may borrow.

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201. Section 41 of the Thames Embankment Act 1862 shall not apply to motor tractors, heavy motor cars, motor cars, motor cycles or invalid carriages, but save as aforesaid nothing in this Act shall affect the provisions of that section.

Provisions as to Thames embankment. 1862 c. 93.

202. It is hereby declared that nothing in Part IV of this Act is to be treated as conferring on the holder of a licence granted under that Part any right to the continuance of any benefits arising from, or from a licence granted under, that Part, or from any conditions attached to any such licence.

Protection of public interests.

203.—(1) The enactments specified in Schedule 7 to this Act shall have effect subject to the amendments respectively specified in relation thereto in that Schedule.

Consequential and other amendments of other Acts.

(2) There shall be inserted after section 78 of the Road Traffic Regulation Act 1967 the following section—

1967 c. 76.

Speeding offences generally.

“78A.—(1) A person convicted of an offence of driving a motor vehicle on a road at a speed exceeding a limit imposed by or under any enactment mentioned in subsection (3) below shall be liable on summary conviction to a fine not exceeding £50.

(2) A person prosecuted for such an offence as aforesaid shall not be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of the witness the person prosecuted was driving the vehicle at a speed exceeding a specified limit.

(3) The enactments referred to in subsection (1) above are—

- (a) any enactment contained in this Act ;
- (b) section 2 of the Parks Regulation (Amendment) Act 1926 ;
- (c) any enactment passed after the commencement of the Road Traffic Act 1960.

1926 c. 36.
1960 c. 16.

(4) If a person who employs other persons to drive motor vehicles on roads publishes or issues

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any time-table or schedule, or gives any directions, under which any journey or any stage or part of any journey is to be completed within some specified time, and it is not practicable in the circumstances of the case for that journey or that stage or part of the journey to be completed in the specified time without the commission of such an offence as is mentioned in subsection (1) above, the publication or issue of the said time-table or schedule or the giving of the directions may be produced as prima facie evidence that the employer, as the case may be, procured or incited the persons employed by him to drive the vehicles to commit such offence as aforesaid."

Transitory modifications of this Act.

204.—(1) This Act shall have effect subject to the modifications specified in Schedule 8 to this Act.

(2) The modifications so specified shall cease to have effect on such day as the Secretary of State may by order made by statutory instrument appoint; and the Secretary of State may prescribe different days for different modifications specified in that Schedule to cease to have effect and different days for the modifications specified in paragraph 3 of that Schedule to cease to have effect in respect of different classes of vehicles to which those modifications apply, or may postpone or defer the cesser of those modifications in respect of any particular class of those vehicles.

General repeals, revocations, savings and transitional provisions.

205.—(1) The enactments specified in Part I of Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Part of that Schedule, and the orders specified in Part II of that Schedule are hereby revoked to the extent specified in the third column of that Schedule.

(2) The saving and transitional provisions contained in Schedule 10 to this Act shall have effect.

Saving for s. 38 of Interpretation Act 1889.

206. The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

Saving for law of nuisance.

207. Nothing in this Act shall authorise a person to use on a road a vehicle so constructed or used as to cause a public or private nuisance, or in Scotland a nuisance, or affect the liability, whether under statute or common law, of the driver or owner so using such a vehicle.

208. This Act shall come into operation on 1st July 1972. **PART VII**

**Commence-
ment.**

209.—(1) This Act may be cited as the Road Traffic Act 1972. **Short title
and extent.**

(2) This Act, except section 63 and except as provided by section 189, does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

SUPPLEMENTARY PROVISIONS IN CONNECTION WITH
PROCEEDINGS FOR OFFENCES UNDER SECTION 33

1.—(1) A person against whom proceedings are brought in England or Wales for an offence under section 33 of this Act (hereinafter referred to as “the principal section”) shall, upon information duly laid by him and on giving to the prosecution not less than three clear days’ notice of his intention, be entitled to have any person to whose act or default he alleges that the contravention of that section was due brought before the court in the proceedings; and if, after the contravention has been proved, the original accused proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original accused further proves that he has used all due diligence to secure that that section was complied with, he shall be acquitted of the offence.

(2) Where an accused seeks to avail himself of the provisions of sub-paragraph (1) above—

- (a) the prosecution, as well as the person whom the accused charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears that an offence under the principal section has been committed in respect of which proceedings might be taken in England or Wales against some person (hereinafter referred to as “the original offender”), and a person proposing to take proceedings in respect of the offence is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person, being an act or default which took place in England or Wales, and that the original offender could establish a defence under sub-paragraph (1) above, the proceedings may be taken against that other person without proceedings’ first being taken against the original offender.

In any such proceedings the accused may be charged with, and on proof that the contravention was due to his act or default be convicted of, the offence with which the original offender might have been charged.

2.—(1) Where proceedings are brought in England or Wales against a person (hereafter in this paragraph referred to as “the accused”)

in respect of a contravention of the principal section, and it is proved— SCH. 1

- (a) that the contravention was due to the act or default of some other person, being an act or default which took place in Scotland, and
- (b) that the accused used all due diligence to secure compliance with that section,

the accused shall, subject to the provisions of this paragraph, be acquitted of the offence.

(2) The accused shall not be entitled to be acquitted under this paragraph unless within seven days from the date of the service of the summons on him he has given notice in writing to the prosecution of his intention to rely upon the provisions of this paragraph, specifying the name and address of the person to whose act or default he alleges that the contravention was due, and has sent a like notice to that person.

(3) The person specified in a notice served under this paragraph shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(4) Where it is proved that the contravention of the principal section was due to the act or default of some person other than the accused, being an act or default which took place in Scotland, the court shall (whether or not the accused is acquitted) cause notice of the proceedings to be sent to the Secretary of State.

3.—(1) Where a contravention of the principal section committed by a person in Scotland was due to an act or default of any other person, being an act or default which took place in Scotland, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with and convicted of the contravention and shall be liable on conviction to the same punishment as might have been inflicted on the first-mentioned person if he had been convicted of the contravention.

(2) Where a person who is charged in Scotland with a contravention of the principal section proves to the satisfaction of the court that he has used all due diligence to secure that the provision in question was complied with and that the contravention was due to the act or default of some other person, the first-mentioned person shall be acquitted of the contravention.

4.—(1) Subject to the provisions of this paragraph, in any proceedings (whether in England or Wales or Scotland) for an offence under the principal section it shall be a defence for the accused to prove—

- (a) that he purchased the helmet in question as being of a type which under the principal section could be lawfully sold or offered for sale, and with a written warranty to that effect, and

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- (b) that he had no reason to believe at the time of the commission of the alleged offence that it was not of such a type, and
 - (c) that it was then in the same state as when he purchased it.
- (2) A warranty shall only be a defence in any such proceedings if—
- (a) the accused—
 - (i) has, not later than three clear days before the date of the hearing, sent 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 from whom he received it, and
 - (ii) has also sent a like notice of his intention to that person, and
 - (b) in the case of a warranty given by a person resident outside the United Kingdom, the accused proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(3) Where the accused is a servant of the person who purchased the helmet in question under a warranty, he shall be entitled to rely on the provisions of this paragraph in the same way as his employer would have been entitled to do if he had been the accused.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

5.—(1) An accused who in any proceedings for an offence under the principal section wilfully applies to a helmet a warranty not given in relation to that helmet shall be guilty of an offence.

(2) A person who, in respect of a helmet sold by him, being a helmet in respect of which a warranty might be pleaded under paragraph 4 above, gives to the purchaser a false warranty in writing, shall be guilty of an offence, unless he proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate.

(3) Where the accused in a prosecution for an offence under the principal section relies successfully on a warranty given to him or to his employer, any proceedings under sub-paragraph (2) above in respect of the warranty may, at the option of the prosecutor, be taken either before a court having jurisdiction in the place where the helmet, or any of the helmets, to which the warranty relates was procured, or before a court having jurisdiction in the place where the warranty was given.

SCHEDULE 2

Section 38.

TRAVELLING, ETC., ALLOWANCES FOR ATTENDANCE AT
ROAD SAFETY CONFERENCES

1.—(1) Where arrangements made by a local authority under section 38(2) of this Act include the setting up of a road safety committee, then if the committee is designated for the purposes of this Schedule by or under regulations made under section 117 of the Local Government Act 1948 (which provides for the making 1948 c. 26. of regulations for administering the provisions of Part VI of that Act as to the payment of allowances) the following provisions shall have effect.

(2) Attendance as a representative of the road safety committee, or of a local or other authority, at a conference or meeting relating to road safety and designated by or under such regulations as aforesaid shall, subject to any conditions or restrictions prescribed by such regulations, be an approved duty for the purposes of the said Part VI.

(3) A member of the road safety committee who is not, and apart from this paragraph is not for the purposes of the said Part VI to be deemed to be, a member of a local or other authority shall, in relation to any such attendance as is mentioned in subparagraph (2) above, be treated for the said purposes as a member of such local or other authority concerned with the setting up of the committee as may agree so to treat him or as the Secretary of State may determine.

2. Expenditure incurred by a local or other authority in the payment of travelling allowances or subsistence allowances in respect of attendances which are approved duties by virtue of paragraph 1(2) above shall be treated for the purposes of section 38(2) of this Act as part of the cost of the arrangements under which the road safety committee was set up.

3. In this Schedule “local or other authority” means a body to which Part VI of the Local Government Act 1948 applies and “road safety committee” means a committee or other body set up to act for the purposes of section 38 of this Act.

SCHEDULE 3

Section 53.

DEFERRED TESTS OF CONDITION OF VEHICLES

1. Where the driver is the owner of the vehicle, he may at the time of electing that the test shall be deferred specify a period of seven days within which the deferred test is to take place, being a period falling within the next thirty days, disregarding any day on which the vehicle is outside Great Britain, and may at that time require that the deferred test shall take place on premises then specified by him where the test can conveniently be carried out or that it shall take place in such area in England or Wales, being a county borough or county district or Greater London, or such

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area in Scotland, being a county or burgh, as he may specify at the said time.

2. Where the driver is not the owner of the vehicle, he shall inform the examiner of the name and address of the owner of the vehicle and the owner shall be afforded an opportunity of specifying such a period, and such premises or area, as aforesaid.

3.—(1) Where under the foregoing provisions of this Schedule a period has been specified within which the deferred test is to be carried out, the time for carrying it out shall be such time within that period as may be notified, being a time not earlier than two days after the giving of the notification.

(2) Where no such period has been specified as aforesaid, the time for the carrying out of the deferred test shall be such time as may be notified, being a time not earlier than seven days after the giving of the notification.

(3) Where premises have been specified under the foregoing provisions of this Schedule for the carrying out of the deferred test, and the test can conveniently be carried out on those premises, it shall be carried out there.

(4) Where sub-paragraph (3) above does not apply, the place for carrying out the deferred test shall be such place as may be notified with the notification of the time for the carrying out of the test, and where an area has been specified as aforesaid the place shall be a place in that area.

(5) Notwithstanding the foregoing provisions of this paragraph, the time and place for the carrying out of the deferred test may be varied by agreement between an authorised examiner and the owner of the vehicle.

(6) In this paragraph “notified” means notified in writing to the owner of the vehicle on behalf of the Secretary of State, and “notification” shall be construed accordingly; and any notification under this paragraph may be given by post.

4. It shall be the duty of the owner of the vehicle to produce it, or secure its production, at the time and place fixed for the carrying out of the deferred test.

5. References in this Schedule to the owner of a vehicle are references to the owner thereof at the time at which the election is made under section 53(3) of this Act that the test should be deferred, and for the purposes of this Schedule—

- (a) if at that time the vehicle is in the possession of a person under a hire-purchase agreement or hiring agreement and the case is not one falling within the following sub-paragraph, that person,
- (b) if at that time the vehicle is being used under an international circulation permit, the person to whom the permit was issued,

shall be deemed to be the owner of the vehicle to the exclusion of any other person.

PROSECUTION AND PUNISHMENT OF OFFENCES

PART I

Offences under this Act

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
1	Causing death by reckless or dangerous driving.	On indictment.	5 years or, in the case of a conviction by a court in Scotland other than the High Court of Justiciary, 2 years.	Obligatory.	Obligatory.	Section 181 and paragraph 3 of Part IV of this Schedule apply.
2	Reckless, and dangerous, driving generally.	(a) Summarily.	4 months or £100 or both; or in the case of a second or subsequent conviction 6 months or £100 or both.	(a) Obligatory, if committed within 3 years after a previous conviction of an offence under section 1 or 2. (b) Discretionary if committed otherwise than as mentioned in paragraph (a) above.	Obligatory.	Sections 179, 181 and 183 and paragraphs 1, 2, 3, 5 and 6 of Part IV of this Schedule apply.
3	Careless, and inconsiderate, driving.	(b) On indictment. Summarily.	2 years or a fine or both. £100; or in the case of a second or subsequent conviction 3 months or £100 or both.	Discretionary.	Obligatory.	Sections 179, 181 and 183 and paragraphs 4 and 7 of Part IV of this Schedule apply.
4(4)	Driving under age.	Summarily.	£50.	Discretionary.	Obligatory.	Sections 181 and 183 apply.

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
5(1)	Driving or attempting to drive when unfit to drive through drink or drugs.	(a) Summarily. (b) On indictment.	4 months or £100 or both; or in the case of a second or subsequent conviction or of a conviction subsequent to a conviction of an offence under section 6(1) or 9(3) (where it was shown as mentioned in paragraph (i) of the entry in this column relating to that offence), 6 months or £100 or both. 2 years or a fine or both.	Obligatory.	Obligatory.	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply.
5(2)	Being in charge of a motor vehicle when unfit to drive through drink or drugs.	(a) Summarily. (b) On indictment.	4 months or £100 or both. 12 months or a fine or both.	Discretionary.	Obligatory.	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply.
6(1)	Driving or attempting to drive with blood-alcohol concentration above the prescribed limit.	(a) Summarily. (b) On indictment.	4 months or £100 or both; or in the case of a second or subsequent conviction or of a conviction subsequent to a conviction of an offence under section 5(1) or 9(3) (where it was shown as mentioned in paragraph (i) of the entry in this column relating to that offence), 6 months or £100 or both. 2 years or a fine or both.	Obligatory.	Obligatory.	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply.
6(2)	Being in charge of a motor vehicle with blood-alcohol concentration above the prescribed limit.	(a) Summarily. (b) On indictment.	4 months or £100 or both. 12 months or a fine or both.	Discretionary.	Obligatory.	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply.

8(3)	Failing to provide a specimen of breath for a breath test.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
9(3)	Failing to provide a specimen of blood or urine for a laboratory test.	(a) Summarily.	(i) Where it is shown that at the relevant time (as defined in Part V of this Schedule) the offender was driving or attempting to drive a motor vehicle on a road or other public place, 4 months or £100 or both; or in the case of a conviction subsequent to a conviction under section 5(1) or 6(1) or to a conviction under section 9(3) where it was so shown, 6 months or £100 or both. (ii) Where in any other case it is shown that at that time the offender was in charge of a motor vehicle on a road or other public place, 4 months or £100 or both. (iii) 2 years or a fine or both where it is shown as mentioned in paragraph (i) above. (iv) 12 months or a fine or both in the case of a conviction where it is shown as mentioned in paragraph (i) above.	(a) Obligatory if it is shown as mentioned in paragraph (i) of column 4. (b) Discretionary if it is not so shown.	Obligatory.	Sections 181 and 183 and paragraph 3 of Part IV of this Schedule apply.
14	Motor racing and speed trials on highways.	Summarily.	3 months or £100 or both.	Obligatory.	Obligatory.	Sections 181 and 183 apply.
15	Other unauthorised or irregular competitions or trials on highways.	Summarily.	£50.	—	—	—
16	Carrying passenger on motor-cycle contrary to section 16.	Summarily.	£20.	Discretionary.	Obligatory.	Sections 181 and 183 apply.

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
17	Reckless, and dangerous, cycling.	Summarily.	£30; or in the case of a second or subsequent conviction 3 months or £30.	—	—	Sections 179, 181 and 183 apply.
18	Careless, and inconsiderate, cycling.	Summarily.	£10; or in the case of a second or subsequent conviction £20.	—	—	Sections 179, 181 and 183 and paragraphs 4 and 7 of Part IV of this Schedule apply.
19	Cycling when unfit through drink or drugs.	Summarily.	£30; or in the case of a second or subsequent conviction 3 months or £30.	—	—	Sections 181 and 183 apply.
20	Unauthorised or irregular cycle racing or trials of speed on highways.	Summarily.	£10.	—	—	Sections 181 and 183 apply.
21	Carrying passenger on bicycle contrary to section 21.	Summarily.	£5; or in the case of a second or subsequent conviction £10.	—	—	Sections 181 and 183 apply.
22	Failing to comply with traffic directions.	Summarily.	£50.	Discretionary, if committed in respect of a motor vehicle by a failure to comply with a direction of a constable or an indication given by a sign specified for the purposes of this paragraph in regulations made by the Secretary of State for the Environment and the Secretary of State for Scotland acting jointly.	Obligatory, as committed described in the entry in column 5 relating to this offence.	Sections 179, 181 and 183 apply.

23	Pedestrian failing to stop when directed by constable regulating traffic.	Summarily.	£10; or in the case of a second or subsequent conviction £25.	—	—	—
24	Leaving vehicles in dangerous positions.	Summarily.	£50; or in the case of a second or subsequent conviction 3 months or £50.	Discretionary, if committed in respect of a motor vehicle.	Obligatory, if committed in respect of a motor vehicle.	Sections 179, 181 and 183 apply.
25(4)	Failing to stop after accident and give particulars or report accident.	Summarily.	3 months or £50.	Discretionary.	Obligatory.	Sections 181 and 183 apply.
26(2)	Obstructing inspection of vehicles after accident.	Summarily.	£50.	—	—	—
29	Tampering with motor vehicles.	Summarily.	3 months or £50.	—	—	Section 181 applies.
30(1)	Holding or getting on to vehicle in order to be carried.	Summarily.	£10.	—	—	Section 181 applies.
30(2)	Holding on to vehicle in order to be towed.	Summarily.	£10.	—	—	Sections 181 and 183 apply.
31(1)	Dogs on designated roads without being held on lead.	Summarily.	£5.	—	—	—
32(3)	Driving or riding motor cycles in contravention of regulations requiring wearing of protective headgear.	Summarily.	£50.	—	—	—
33	Selling, etc., helmet not of prescribed type as helmet for affording protection for motor cyclists.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50 or both.	—	—	—

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
34(4)	Causing, etc. heavy motor vehicles to be driven or to haul without proper crew.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50.	—	—	Section 181 applies.
35(3)	Unauthorised motor vehicle trial on footpaths or bridleways.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
36	Driving motor vehicles elsewhere than on roads.	Summarily.	£10.	—	—	Sections 181 and 183 apply.
40(5)	Contravention of construction and use regulations.	Summarily.	£200 in the case of an offence of using, or causing or permitting the use of, a goods vehicle— (a) so as to cause, or to be likely to cause, danger by the condition of the vehicle or its parts or accessories, the number of passengers carried by it, or the weight, distribution, packing or adjustment of its load; or (b) in breach of a construction and use requirement as to brakes, steering-gear, or tyres; except where the offender proves that he did not know and had no reasonable cause to suspect that the facts of the case were such that the offence would be committed.	Discretionary if committed by using, or causing or permitting the use of, any motor vehicle or trailer— (a) as described in paragraph (a) in the entry in column 4 relating to this offence; or (b) in breach of a construction and use requirement as to brakes, steering-gear, or tyres; except where the offender proves that he did not know and had no reasonable cause to suspect that the facts of the case were such that the offence would be committed.	Obligatory if committed as described in the entry in column 5 relating to this offence, but subject to the exception there mentioned.	Sections 181 and 183 apply.

44(1)	Using, etc., vehicle without required test certificate being in force.	Summarily.	£50.	—	Sections 181 and 183 apply.
Regulations under 45(7)	Contravention of regulations of goods vehicle being tested be present throughout test or drive vehicle, etc., which is declared by regulations to be an offence.	Summarily.	£50.	—	—
46(1)	Using, etc., goods vehicle without required plating certificate being in force.	Summarily.	£50.	—	Sections 181 and 183 apply.
46(2)	Using, etc., goods vehicle without required goods vehicle test certificate being in force.	Summarily.	£50.	—	Sections 181 and 183 apply.
46(3)	Using, etc., goods vehicle with alteration thereto required to be but not notified to Secretary of State under regulations under section 45.	Summarily.	£50	—	Sections 181 and 183 apply.

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
Regulations under 50(5)	Contravention of regulations of goods vehicle being tested after alteration be present throughout test and drive vehicle, etc., which is declared by regulations to be an offence.	Summarily.	£50.	—	—	—
51(1)	Using, etc., goods vehicle without required certificate being in force showing that it complies with type approval requirements applicable to it.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
51(2)	Using, etc., certain goods vehicles for drawing trailer when plating certificate does not specify maximum laden weight for vehicle and trailer.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
51(3)	Using, etc., goods vehicle with alteration thereto required to be but not notified to Secretary of State under regulations under section 48.	Summarily.	£50.	—	—	Sections 181 and 183 apply.

53(4)	Obstructing testing of vehicle by examiner on road or failing to comply with requirements of section 53 or Schedule 3.	Summarily.	£20.
54(5) (including application by 55(3))	Failure of owner of vehicle discovered to be defective on roadside test or further test to give required certificate or declaration.	Summarily.	£50.
54(6) (including application by 55(3))	Failure of person in charge of vehicle on roadside test or further test to give particulars of owner.	Summarily.	£20.
55(5)	Obstructing further testing of vehicle by Secretary of State's officer or failing to comply with requirements of section 55 or paragraph 3 or 4 of Schedule 3.	Summarily.	£20.
56(3)	Obstructing goods vehicle examiner inspecting goods vehicle or entering premises where such vehicle believed to be.	Summarily.	£20; or in the case of a second or subsequent conviction £50.
56(5)	Person in charge of stationary goods vehicle refusing etc., to proceed to near-by place of inspection.	Summarily.	£50.

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
57(9)	Driving, etc., goods vehicle in, contravention of prohibition on driving it as being unfit for service.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
59(3)	Contravention of regulations requiring goods vehicle operator to inspect, and keep records of, inspections of, goods vehicles.	Summarily.	£50.	—	—	—
60(3)	Selling, etc., unroadworthy vehicle or trailer or altering vehicle or trailer so as to make it unroadworthy.	Summarily.	£100.	—	—	—
61(2)	Obstructing examiner testing condition of used vehicles at sale rooms, etc.	Summarily.	£50.	—	—	—
62	Selling, etc., goods vehicle without required certificate being in force showing that it complies with type approval requirements applicable to it.	Summarily.	£100.	—	—	—
65(5)	Drawing more than prescribed number of trailers.	Summarily.	£50.	—	—	Sections 181 and 183 apply.

66(5)	Selling, etc., pedal cycle in contravention of regulations as to brakes, bells, etc.	Summarily.	£50.	—	—	—
81(1)	Causing, etc., vehicle to be on road in contravention of provisions as to lighting, etc., of vehicles.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
81(2)	Selling, etc., wrongly made tail lamps or reflectors.	Summarily.	£20.	—	—	—
84(1)	Driving without a licence.	Summarily.	£50	Discretionary, if the offence is committed by driving a motor vehicle in a case where either no licence authorising the driving of that vehicle could have been granted to the offender or, if a provisional (but no other) licence to drive it could have been granted to him, the driving would not have complied with the conditions thereof.	Obligatory, if committed as described in the entry in column 5 relating to this offence.	Sections 181 and 183 apply.
84(2)	Employing a person to drive without a licence.	Summarily.	£50.	—	—	Section 181 applies.
88(6)	Failing to comply with any conditions prescribed for driving under provisional licence or full licence treated as provisional licence.	Summarily.	£50.	Discretionary.	Obligatory.	Sections 181 and 183 apply.

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
89(3)	Driving licence holder failing, when his particulars become incorrect, to surrender licence and give particulars.	Summarily.	£20.	—	—	—
91(1)	Driving with uncorrected defective eyesight.	Summarily.	3 months or £50.	Discretionary.	Obligatory.	—
91(2)	Refusing to submit to test of eyesight.	Summarily.	£50.	Discretionary.	Obligatory.	—
99(a)	Obtaining driving licence while disqualified.	Summarily.	6 months or £50 or both.	—	—	Section 180 applies.
99(b)	Driving while disqualified.	(a) Summarily. (b) On indictment.	6 months or £50 or both. 12 months or £100 or both.	Discretionary.	Obligatory.	Sections 180, 181 and 183 apply.
101(4) (including application by 103(4))	Failing to produce licence to court for endorsement on conviction of offence involving obligatory endorsement or on committal for sentence, etc., for offence involving obligatory or discretionary disqualification when no interim disqualification ordered.	Summarily.	£50.	—	—	—

101(6)	Applying for or obtaining licence without giving particulars of current endorsement.	Summarily.	£50.	—	—	—	—
103(2)	Failing to produce driving licence to court making order for interim disqualification on commitment for sentence, etc.	Summarily.	£50.	—	—	—	—
104(4)	Failing to state to court or give information as to date of birth or sex.	Summarily.	£50.	—	—	—	—
104(5)	Failing to furnish Secretary of State with evidence of date of birth etc.	Summarily.	£50.	—	—	—	—
111(2)	Failing to produce to court Northern Ireland driving licence.	Summarily.	£50.	—	—	—	—
112(1)	Driving heavy goods vehicle without heavy goods vehicle driver's licence.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50.	—	—	—	Sections 181 and 183 apply.
112(2)	Employing a person to drive heavy goods vehicle without heavy goods vehicle driver's licence.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50.	—	—	—	Section 181 applies.
114(3)	Failing to comply with conditions of heavy goods vehicle driver's licence.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50.	—	—	—	Sections 181 and 183 apply.

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
Regulations under 119(2)	Contravention of regulations about heavy goods vehicle drivers' licences which is declared by regulation to be an offence.	Summarily.	£20.	—	—	—
126(3)	Giving of paid driving instruction by unregistered and unlicensed persons or their employers.	Summarily.	4 months or £100 or both.	—	—	—
135(2)	Unregistered instructor using title or displaying badge, etc., prescribed for registered instructor, and employers using such title, etc., in relation to his unregistered instructor or issuing misleading advertisement, etc.	Summarily.	£100.	—	—	—
136	Failure of instructor to surrender to Registrar certificate or licence.	Summarily.	£50.	—	—	—
137(3)	Failing to produce certificate of registration or licence as driving instructor.	Summarily.	£50.	—	—	—

		3 months or £50 or both.	Discretionary.	Obligatory.	Sections 180, 181 and 183 apply.
143	Using motor vehicle while uninsured or unsecured against third-party risks.		—	—	
147(4)	Failing to surrender certificate of insurance or security to insurer on cancellation or make statutory declaration of loss or destruction.	£50.	—	—	
151(2)	Failing to give information, or wilfully making false statement, as to insurance or security when claim made.	£50.	—	—	
159	Failing to stop vehicle when required by constable.	£50.	—	—	Sections 181 and 183 apply.
160(1)	Refusing or neglecting to allow motor vehicle or trailer to be weighed, etc.	£50.	—	—	Sections 181 and 183 apply.
161(4)	Failing to produce driving licence to constable or to state date of birth.	£50.	—	—	Sections 181 and 183 apply.
161(5)	Failing to furnish Secretary of State with evidence of date of birth, etc.	£50.	—	—	

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
162(1)	Failing to give constable certain names and addresses or to produce certificate of insurance or certain test and other like certificates.	Summarily.	£50.	—	—	Sections 181 and 183 apply.
162(3)	Supervisor of learner-driver failing to give constable certain names and addresses.	Summarily.	£50.	—	—	Section 181 applies.
164(1)	Refusing to give, or giving false, name and address in case of reckless, dangerous, careless or inconsiderate driving or cycling.	Summarily.	£20; or in the case of a second or subsequent conviction, 3 months or £50.	—	—	Sections 181 and 183 apply.
165	Pedestrian failing to give constable his name and address after failing to stop when directed by constable controlling traffic.	Summarily.	£5.	—	—	—
166(1)	Failure by driver, in case of accident involving injury to another, to produce evidence of insurance or security or to report accident.	Summarily.	£50.	—	—	Sections 181 and 183 apply.

167	Failure by owner of motor vehicle to give police information for verifying compliance with requirement of compulsory insurance or security.	Summarily.	£20; or in the case of a second or subsequent conviction, 3 months or £50.	—	—	Sections 181 and 183 apply.
168(3)	Failure of person keeping vehicle and others to give police information as to identity of driver, etc., in the case of certain offences.	Summarily.	£50.	—	—	—
169(1)	Forgery, etc., of licences, test certificates, certificates of insurance and other documents and things.	(a) Summarily. (b) On indictment	4 months or £100 or both. 2 years.	—	—	Section 180 applies.
170(1)	Making false statements in connection with licences under this Act and with registration as an approved driving instructor.	Summarily.	4 months or £100 or both.	—	—	Section 180 applies.
170(2)	Making, or making use of, false statements relating to goods vehicles.	Summarily.	4 months or £100 or both.	—	—	—
170(3)	Producing false evidence or making false declaration in connection with applications for vehicle excise licences for vehicles required to have test certificates.	Summarily.	4 months or £100 or both.	—	—	—

1 Provision creating offence	2 General nature of offence	3 Mode of prosecution	4 Punishment	5 Disqualification	6 Endorsement	7 Additional provisions
170(4)	Making false statements as to the remedying of defects discovered in vehicles on road-side tests.	Summarily.	4 months or £100 or both.	—	—	—
170(5)	Making, or making use of, false entry in records required to be kept of condition of goods vehicles.	Summarily.	4 months or £100 or both.	—	—	—
170(6)	Making false statement or withholding material information in order to obtain the issue of insurance certificates, etc.	Summarily.	4 months or £100 or both.	—	—	Section 180 applies.
171	Issuing false insurance certificates, etc., or false test certificates.	Summarily.	6 months or £100 or both.	—	—	Section 180 applies.
172	Using goods vehicle with unauthorised weights as well as authorised weights marked thereon.	Summarily.	£50.	—	—	—
174	Personation of, or of person employed by, authorised examiner.	Summarily.	£100.	—	—	—

	Taking, etc., in Scotland a motor vehicle without authority or, knowing that it has been so taken, driving it or allowing oneself to be carried in it without authority.	(a) Summarily.	3 months or £50.	Discretionary.	Obligatory.	Sections 181 and 183 and paragraph 8 of Part IV of this Schedule apply.
175		(b) On indictment.	12 months or a fine or both.			
187(2)	Failing to attend, give evidence or produce documents to, inquiry held by Secretary of State, etc.	Summarily.	£5.	—	—	—
Schedule 1 para. 5(1)	Applying warrant to protective helmet in defending proceedings under section 33 where no warranty given.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50 or both.	—	—	—
para. 5(2)	Giving to purchaser of protective helmet a false warranty in case where warranty might be defence in proceedings under section 33.	Summarily.	£20; or in the case of a second or subsequent conviction 3 months or £50 or both.	—	—	—

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PART II

Other Offence Involving Obligatory Disqualification and Endorsement

Manslaughter or, in Scotland, culpable homicide by the driver of a motor vehicle.

PART III

Other Offences Involving Discretionary Disqualification and Obligatory Endorsement

1. Stealing or attempting to steal a motor vehicle.

1968 c. 60. 2. An offence, or attempt to commit an offence, in respect of a motor vehicle under section 12 of the Theft Act 1968 (taking conveyance without consent of owner etc. or, knowing it has been so taken, driving it or allowing oneself to be carried in it).

3. An offence under section 25 of the Theft Act 1968 (going equipped for stealing, etc.) committed with reference to the theft or taking of motor vehicles.

1967 c. 76. 4. An offence under section 13(4) of the Road Traffic Regulation Act 1967 (contravention of traffic regulations on special roads) committed in respect of a motor vehicle otherwise than by unlawfully stopping or allowing the vehicle to remain at rest on a part of a special road on which vehicles are in certain circumstances permitted to remain at rest.

5. An offence under section 23(5) of the Road Traffic Regulation Act 1967 (contravention of pedestrian crossing regulations) committed in respect of a motor vehicle.

6. An offence under section 25(2) of the Road Traffic Regulation Act 1967 (failure to obey sign exhibited by school crossing patrol) committed in respect of a motor vehicle.

7. An offence under section 26(6) or 26A(5) of the Road Traffic Regulation Act 1967 (contravention of order prohibiting or restricting use of street playground by vehicles) committed in respect of a motor vehicle.

8. An offence punishable by virtue of section 78A of the Road Traffic Regulation Act 1967 (speeding offences under that and other Acts).

PART IV

Supplementary provisions as to prosecution, trial and punishment of offences

1. Upon the trial of a person who is indicted for culpable homicide in Scotland in connection with the driving of a motor vehicle by him, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under section 2, to find him guilty of that offence.

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2. If upon the trial in Scotland of a person for an offence under section 1 the jury are not satisfied that his driving was the cause of the death, but are satisfied that he is guilty of driving as mentioned in section 2, it shall be lawful for them to convict him of an offence under section 2.

3. A contravention occurring in Scotland of any of the provisions of this Act or of any regulations made thereunder, which is directed to be prosecuted summarily and which, if it had been triable on indictment, could competently have been libelled as an additional or alternative charge in an indictment charging a person with culpable homicide in respect of the driving or attempted driving or use of a motor vehicle, or with a contravention of section 1, 2, 5, 6 or 9 may, notwithstanding the direction aforesaid, be so libelled and may be tried accordingly.

In this paragraph any reference to a contravention of regulations includes a reference to a failure to comply with regulations.

4. Where a person is charged in England or Wales before a magistrates' court with an offence under section 2 or with an offence under section 17, and the court is of opinion that the offence is not proved, then, at any time during the hearing or immediately thereafter the court may, without prejudice to any other powers possessed by the court, direct or allow a charge for an offence under section 3 or, as the case may be, section 18 to be preferred forthwith against the defendant and may thereupon proceed with that charge, so however that he or his solicitor or counsel shall be informed of the new charge and be given an opportunity, whether by way of cross-examining any witness whose evidence has already been given against the defendant or otherwise, of answering the new charge, and the court shall, if it considers that the defendant is prejudiced in his defence by reason of the new charge's being so preferred, adjourn the hearing.

5. Where a person is prosecuted on indictment in England or Wales for an offence to which section 179 does not apply, section 179(2) shall not be taken to prejudice any power of the jury on the charge for that offence, if they find him not guilty of it, to find him guilty of an offence against section 2.

6. In Scotland a person may be convicted of an offence against section 2 by virtue of paragraph 1 or 2 above notwithstanding that the requirement of section 179(2) has not been satisfied as respects that offence.

7. A person may be convicted of an offence against section 3 or 18 notwithstanding that the requirement of section 179(2) has not been satisfied as respects that offence where—

- (a) the charge for the offence has been preferred against him by virtue of paragraph 4 above, and
- (b) the said requirement has been satisfied, or does not apply, as respects the alleged offence against section 2 or, as the case may be, section 17.

M 3

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8. If on the trial of an indictment in Scotland for stealing a motor vehicle the jury are of the opinion that the accused was not guilty of stealing the motor vehicle but was guilty of an offence under section 175, the jury may find him guilty of an offence under the said section 175 and thereupon he shall be liable to be punished accordingly.

PART V

Interpretation

1. For the purposes of the entries in Part I of this Schedule relating to an offence under section 5(1), 6(1) or 9(3) "the relevant time" means—

- (a) in relation to a person required under section 8(1) to provide a specimen of breath for a breath test, the time when he was so required ;
- (b) in relation to a person required under section 8(2) to provide such a specimen, the time of the accident ;
- (c) in relation to a person arrested under section 5(5), the time of his arrest.

2. "Construction and use requirement" has the same meaning for the purposes of this Schedule as it has for the purposes of Part II of this Act.

SCHEDULE 5

TRANSITIONAL PROVISIONS RELATING TO LICENCES TO DRIVE HEAVY GOODS VEHICLES

Sections 114
and 122.

1. On the first application for a heavy goods vehicle driver's licence by a person who satisfies the licensing authority that in the course of the year ending on 1st February 1970 he had been during any period or periods of, or amounting in the aggregate to, six months, in the habit of driving a heavy goods vehicle, and on payment of the fee prescribed for the purposes of section 120 of this Act, the licensing authority shall grant the licence, and the provisions of section 114(1) of this Act shall not apply in relation to such an application.

2. The reference in paragraph 1 above to the driving of a heavy goods vehicle does not include a reference to the driving of such a vehicle of a prescribed class or of such a vehicle while it is being used in prescribed circumstances.

1960 c. 16.

3. A person shall not be entitled to a licence to drive a vehicle of any class under paragraph 1 above unless during the period or periods mentioned in that paragraph he has held a licence under Part II of the Road Traffic Act 1960 (other than a provisional licence) to drive vehicles of that class.

4. The Secretary of State may by regulations restrict the class of vehicles for the driving of which a licence is to be granted under paragraph 1 above by reference to the class of vehicle which the applicant for the licence was driving during the said period or periods.

5. Neither subsection (1) nor subsection (2) of section 112 of this Act shall have effect as respects— SCH. 5

- (a) the driving of a heavy goods vehicle of any class by a person who at the beginning of 2nd February 1970 was the holder of a licence granted under Part II of the Road Traffic Act 1960 (other than a provisional licence) authorising him to drive a heavy goods vehicle of that class, or 1960 c. 16.
- (b) the employment to drive a heavy goods vehicle of any class of a person who at the beginning of 2nd February 1970 was the holder of such a licence authorising him to drive a heavy goods vehicle of that class,

so long as (in either case) the licence in question remains in force.

6. With a view to spreading the work of granting heavy goods vehicle drivers' licences the licensing authority may, on an application for a licence made within the period ending with 30th June 1973 direct that any licence granted on the application, other than a licence issued as a provisional licence, shall, notwithstanding the provisions of section 115(1) of this Act, continue in force (unless previously revoked) during such period, being a period of not less than one nor more than three years from the date on which the licence is expressed to take effect, as the licensing authority may at the time of the granting of the licence determine.

SCHEDULE 6

Section 132.

APPEALS UNDER SECTION 132 AGAINST DECISIONS OF THE REGISTRAR

1. On an appeal under section 132 of this Act, the Registrar shall be made respondent.

2.—(1) The Secretary of State shall refer every such appeal to a person, or two or three persons, appointed by him to hold an inquiry and report to him; and the person or persons so appointed may be appointed either for the purposes of one particular inquiry, or of inquiries into any such appeal that may be made to the Secretary of State during such period as the Secretary of State may determine, and no person so appointed shall be an officer of the Secretary of State.

(2) The Secretary of State may, for the purpose of any such inquiry, appoint up to three assessors to advise the person or persons holding it on matters arising out of it.

(3) The Secretary of State shall, before making an order under the said section 132, consider any report made to him under this paragraph.

(4) The Secretary of State shall, out of moneys provided by Parliament, pay to any person or persons holding inquiries under this paragraph and to any assessors appointed thereunder such fees and such expenses, if any, incurred by them as he may, with the approval of the Treasury, determine.

SCH. 6

3. The Secretary of State may by rules made by statutory instrument make provision as to the procedure on an appeal under the said section 132, and in particular, but without prejudice to the generality of this paragraph, may by rules so made make provision—

- (a) prescribing the form and contents of the notice of appeal ;
- (b) enabling a party to the appeal to appear at an inquiry held under this Schedule by counsel or a solicitor or any person of such other description, if any, as may be specified by the rules ;
- (c) requiring proceedings on any such inquiry to be held in public, except in so far as may otherwise be provided by the rules ;
- (d) defining the functions of any assessors appointed by the Secretary of State.

4. The Secretary of State may on an appeal under the said section 132 order the appellant to pay the whole, or part, of the costs incurred by the Secretary of State in connection with the appeal, or may direct that the whole, or part, of the costs of the appellant incurred in connection with the appeal shall be treated as part of the administrative expenses of the Secretary of State ; and the Secretary of State may certify the amount of any such costs, and any amount so certified and ordered to be paid by the appellant shall be recoverable from him as a debt due to the Crown.

5. Section 187 of this Act, in its application to an inquiry caused by the Secretary of State to be held under paragraph 2 above, shall have effect as if subsection (1)(d) were omitted.

Section 203(1).

SCHEDULE 7

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

41 & 42 Vict.
c. 51.

The Roads and Bridges (Scotland) Act 1878

Schedule (C) shall have effect, in relation to a vehicle to which section 40(5) of this Act applies, as if in section XCVI (penalties for persons committing various nuisances on highways) the words “or more than one foot laterally beyond the wheel of such carriage”, and section CVIII, were omitted.

55 & 56 Vict.
c. 55.

The Burgh Police (Scotland) Act 1892

Paragraph (50) of section 381 (which provides for the labelling of carriages and carts) shall not have effect in relation to vehicles to which section 40(5) of this Act applies.

10 & 11 Geo. 6.
c. 43.

The Local Government (Scotland) Act 1947

The following entry shall be added to Schedule 6 :—

“Section 200(3) of the Road Traffic Act 1972.	Such period as the Secretary of State may fix.”
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The Road Traffic Act 1960

SCH. 7

For section 247(2) there shall be substituted—

1960 c. 16.

“(2) There shall be paid into the Consolidated Fund all fines imposed in respect of offences committed in Scotland under the foregoing provisions of this Act or the regulations thereunder, except offences under section 148(2) or (in a case where the offender has been convicted otherwise than on indictment) section 234 ”.

The Administration of Justice Act 1965

1965 c. 2.

In section 14(1) there shall be added at the end of paragraph (g) the words “ or sections 144 or 146 of the Road Traffic Act 1972 ; ”.

In section 14(5) there shall be added at the end of paragraph (g) the words “ or section 152 of the Road Traffic Act 1972 . ”

The Road Traffic Regulation Act 1967

1967 c. 76.

In section 18(1) for the words “ Part 1 of the Road Traffic Act 1960 ” there shall be substituted the words “ section 40 of the Road Traffic Act 1972 . ”

In section 54(5) for the words “ section 14 of the Road Traffic Act 1960 ” there shall be substituted the words “ section 22 of the Road Traffic Act 1972 . ”

In section 57 for the words “ section 12(3) of the Road Traffic Act 1960 ” there shall be substituted the words “ section 20(4) of the Road Traffic Act 1972 . ”

In section 58(2) for the words “ Section 14 of the Road Traffic Act 1960 ” there shall be substituted the words “ Section 22 of the Road Traffic Act 1972 . ”

In section 65(1) for the words “ section 10(1)(c) of the Road Transport Lighting Act 1957 ” there shall be substituted the words “ section 78(1)(c) of the Road Traffic Act 1972 ”.

In section 80(1)(a) for the words “ (as defined by the Road Transport Lighting Act 1957) ” there shall be substituted the words “ (as defined by section 82 of the Road Traffic Act 1972) ”.

In section 80(1)(e) for the words “ section 64(2) of the Road Traffic Act 1960 ” there shall be substituted the words “ section 40(5) of the Road Traffic Act 1972 ” and for the words “ offence specified in Part 11 of Schedule 1 to the Road Traffic Act 1962 (which relates to offences involving disqualification) ” there shall be substituted the words “ offence involving discretionary disqualification within the meaning of Part III of the Road Traffic Act 1972 ”.

In section 81(4A)(c) for the words “ in the Road Traffic Act 1960 ” there shall be substituted the words “ in the Road Traffic Act 1972 ” and for the words “ sections 14 and 15 ”, “ section 223 ”, “ section 225(1) and (4) ”, “ sections 226 and 229 ” and “ section 242 ” there shall be substituted the words “ sections 22 and 23 ”, “ section 159 ”, “ section 161(1) and (4) ”, “ sections 162 and 165 ” and “ section 181 ” respectively.

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In section 81(4B) for the words "Road Traffic Act 1960, namely sections 223, 225(1) and (4) and 226" there shall be substituted the words "Road Traffic Act 1972, namely sections 159, 161(1) and (4) and 162" and for the words "section 226" and "section 223" there shall be substituted the words "section 162" and "section 159" respectively.

In section 89(4) after the words "section 242 of the Road Traffic Act 1960" there shall be inserted the words "or section 181 of the Road Traffic Act 1972".

In section 93(1) for the words "section 1, section 2 or section 6 of the Road Traffic Act 1960" there shall be substituted the words "section 1, section 2 or section 5 of the Road Traffic Act 1972".

In section 103(1)(b) for the words "section 10(5) of the Road Transport Lighting Act 1957 and of section 254 of the Road Traffic Act 1960" there shall be substituted the words "section 193 of the Road Traffic Act 1972".

1967 c. 80.

The Criminal Justice Act 1967

In section 56(1)(a) after the words "section 5 of the Road Traffic Act 1962" there shall be inserted the words "or section 93 of the Road Traffic Act 1972".

In section 56(6) for the words "5 and 7 of the Road Traffic Act 1962" there shall be substituted the words "93 and 101 of the Road Traffic Act 1972".

In section 56(13) after the words "Part II of the Road Traffic Act 1960" there shall be inserted the words "or Part III of the Road Traffic Act 1972 ;"

1968 c. 27.

The Firearms Act 1968

In Schedule 2, for paragraph 17 there shall be substituted—

"17. Offences against section 175 of the Road Traffic Act 1972".

1968 c. 41.

The Countryside Act 1968

In section 30(5) for the words "Road Traffic Act 1960" there shall be substituted the words "Road Traffic Act 1972".

1968 c. 73.

The Transport Act 1968

In section 69(4), in paragraph (f) there shall be inserted after the words "18 of the Road Safety Act 1967" the words "or section 59 of the Road Traffic Act 1972", and in paragraph (h) there shall be inserted after the words "Road Safety Act 1967" the words "or section 57 of the Road Traffic Act 1972".

In section 82(8) for the words "Part IV of the Act of 1960" there shall be substituted the words "section 56 of the Road Traffic Act 1972".

In section 92(5) for the words "section 259 of the Act of 1960" there shall be substituted the words "section 198 of the Road Traffic Act 1972".

In section 99(8) for the words "Part IV of that Act" there shall be substituted the words "section 56 of the Road Traffic Act 1972".

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After section 102 there shall be inserted the following section :—

Exclusion of application to tramcars and trolley vehicles. "102A.—(1) This Part of this Act and section 255 of the Road Traffic Act 1960 in its application thereto shall not apply to tramcars or trolley vehicles operated under statutory powers.

(2) In this section 'operated under statutory powers' means, in relation to tramcars or trolley vehicles, that their use is authorised or regulated by special Act of Parliament or by an order having the force of an Act.

(3) Subsection (1) above shall have effect subject to any such Act or order as is mentioned in subsection (2) above, and any such Act or order may apply to the tramcars or trolley vehicles to which it relates any of the provisions excluded by the said subsection (1)."

In section 159(1), in the definition of "plated weight" there shall be substituted for the words from "section 64" onwards the words "section 40 of the Road Traffic Act 1972 or required to be so marked by section 47 of that Act ;".

In Schedule 11, in the amendment of section 244 of the Road Traffic Act 1960 for the words '236 thereof' there shall be substituted the words '235 thereof'.

The Chronically Sick and Disabled Persons Act 1970

1970 c. 44.

In section 20(1), in paragraph (b) for the words from "Road Traffic Act 1960" to "Road Safety Act 1967" there shall be substituted the words "Road Traffic Regulation Act 1967 and the Road Traffic Act 1972", and in paragraph (c) for the words "Road Transport Lighting Act 1957" there shall be substituted the words "sections 68 to 81 of the said Act of 1972."

The Vehicles (Excise) Act 1971

1971 c. 10.

In section 2(1)(c), for the words "section 64(4) of the Road Traffic Act 1960" there shall be substituted the words "section 42(1) of the Road Traffic Act 1972".

In section 5(3), in the definition of "compulsory test" for the words "section 65 of the Road Traffic Act 1960" there shall be substituted the words "section 43 of the Road Traffic Act 1972", for the words "section 14(9) of the Road Safety Act 1967" there shall be substituted the words "section 52(2) of that Act", for the words "section 9 or for the purposes of section 10" there shall be substituted the words "section 45 or for the purposes of section 47", for the words "section 13(1)(a)" there shall be substituted the words "section 50(1)(a)" and for the words "section 12" there shall be substituted the words "section 49".

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In section 5(3), in the definition of "the relevant certificate", there shall be substituted for the words "section 65", "section 9" and "section 10" the words "section 43", "section 45" and "section 47" respectively.

In section 5(3), in the definition of "authorised person", there shall be substituted for the words "section 65" the words "section 43".

In section 5(3), in the definition of "goods vehicle examiner", there shall be substituted for the words "183 of the said Act of 1960" the words "56 of the Road Traffic Act 1972" and for the words "that Act" the words "the Road Traffic Act 1960".

In section 22(1), in proviso (b), there shall be substituted for the words from "section 4(1) of the Road Traffic (Amendment) Act 1967" to "a test certificate" the words "section 44 of the Road Traffic Act 1972 applies by virtue of subsection (2)(b) thereof (vehicles manufactured before the prescribed period and used before registration)" and for the words from "section 65" onwards there shall be substituted the words "section 43 of the said Act of 1972 (examinations for test certificates) in circumstances in which its use is exempted from the said section 44(1) by regulations under section 44(6) thereof."

Section 204.**SCHEDULE 8****TRANSITORY MODIFICATIONS OF THIS ACT**

1. Section 44 shall have effect as if subsection (3)(b) were omitted.
2. Sections 54 and 55 shall be omitted.
- 3.—(1) In relation to vehicles in respect of which section 2 of the Road Transport Lighting Act 1953 was not in force by virtue of the Road Transport Lighting Act 1953 (Commencement No. 1) Order 1954 on 31st August 1957, that is to say—
 - (a) existing public service vehicles within the meaning of the said Order of 1954 and,
 - (b) mechanically propelled vehicles or trailers within the meaning of the said Order of 1954 brought temporarily into Great Britain by persons resident outside the United Kingdom,
 sections 68 to 77 of this Act shall have effect subject to the modifications mentioned in sub-paragraph (2) below.
 - (2) The modifications referred to in sub-paragraph (1) above are—
 - (a) in section 68(1)(b), for the words "two lamps, each" there shall be substituted the words "one lamp";
 - (b) in section 68(6), for the words "in a clean and efficient condition" there shall be substituted the words "in efficient condition";

- (c) in section 73, subsection (1)(c) shall be omitted ;
 (d) in section 74, paragraph (b)(i) shall be omitted ;
 (e) in section 77(1)(b), for the words "lamps showing red lights" there shall be substituted the words "a lamp showing a red light".

(3) The power to make regulations conferred by section 73(1)(c) of this Act may, notwithstanding sub-paragraph (2)(c) above, be exercised, in relation to any vehicles as respects which for the time being the modifications specified in sub-paragraph (2) above have effect, at any time before those modifications cease to have effect in relation to those vehicles, but so that the regulations shall not come into force with respect to vehicles of any class before the modifications cease to have effect with respect to vehicles of that class.

4. Section 105 shall have effect as if—

- (a) in subsection (2) for the words from "may dispose of it as he thinks fit" onwards there were substituted the words "shall keep the licence until the disqualification has expired or been removed and the person entitled to the licence has made a demand in writing for its return to him"; and
 (b) in subsection (4) after the word "then" there were inserted the words "on the return to him of any licence held by him, or".

5. Part VI of this Act shall have effect until 1st December 1972 as if there were added at the end of section 145(4) the following—
 "or ;

- (c) liability in respect of the death of, or bodily injury to, persons being carried in or upon, or entering or getting on to or alighting from, the vehicle at the time of the occurrence of the event out of which the claims arise:

Provided that paragraph (c) of this subsection shall not have effect in the case of a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment."

and as if section 148(3) were omitted.

SCHEDULE 9
 REPEALS AND REVOCATIONS

Section 205(1).

PART I
 ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
5 & 6 Eliz. 2. Ch. 51.	The Road Transport Lighting Act 1957.	The whole Act.
6 & 7 Eliz. 2. Ch. 22.	The Road Transport Lighting (Amendment) Act 1958.	The whole Act.

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Session and Chapter	Short Title	Extent of Repeal
8 & 9 Eliz. 2. Ch. 16.	The Road Traffic Act 1960.	<p>Parts I and II. Sections 183, 184 and 185. Sections 187 and 189 to 191. Parts V and VI. Sections 217 to 221. Sections 223 to 231.</p> <p>In section 232(1), in paragraph (a) the words " I, II or " and the words from " except " onwards, in paragraph (b) the words from " or subsection (5) " onwards, and paragraphs (c), (d) and (e); and in section 232(3) the words from " or " to " tricycle ".</p> <p>In section 233(1), paragraphs (b) and (e) to (h).</p> <p>In section 235, in subsection (1), paragraph (d), subsection (2) and in subsection(3) the words " or subsection (2) ".</p> <p>Sections 236 to 238.</p> <p>In section 239, the words from " (other than " to " sixty-five thereof) ".</p> <p>Section 241.</p> <p>In section 244 the words " one hundred and ten, two hundred and one or " and " or two hundred and thirty-six ".</p> <p>In section 247(1) the words " subsection (7) of section one hundred and forty one or " and " or a fine imposed in respect of an offence under section 22 of the Vehicle and Driving Licences Act 1969 ".</p> <p>Section 250.</p> <p>Section 254.</p> <p>In section 255 the words " and of any other enactment relating to the use of motor vehicles on roads, ".</p> <p>Section 256.</p> <p>In section 257(1) the definitions of " the appropriate Minister ", " bridge authority ", " bridleway ", " footpath ", " highway authority ", " salvage ", " special road " " statutory ", " test certificate " and " traffic sign " and the words " except for the purposes of section one " qualifying the definition of " driver ".</p>

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Session and Chapter	Short Title	Extent of Repeal
8 & 9 Eliz. 2. Ch. 16— <i>cont.</i>	The Road Traffic Act 1960.— <i>cont.</i>	Section 259. In section 260, in subsection (1) the words from “or the Secretary of State” to “jointly”, in subsection (2) the words from “or, as the case may be” to “jointly”, in subsection (3) the words from “(other than” to “Act)” and subsection (4). Sections 261 and 262. In section 263(1) the words “or V”. Schedules 8, 9, 15 and 16. In Schedule 17 the amendments of the Roads and Bridges (Scotland) Act 1878, the Burgh Police (Scotland) Act 1892, the Local Government (Scotland) Act 1947 and the Road Transport Lighting Act 1957.
8 & 9 Eliz. 2. Ch. 51.	The Road Traffic (Amendment) Act 1960.	In Schedule 19, paragraphs 5(1), 7, 8 and 16. The whole Act.
8 & 9 Eliz. 2. Ch. 63.	The Road Traffic and Roads Improvement Act 1960.	Section 21.
8 & 9 Eliz. 2. Ch. 69.	The Road Traffic (Driving of Motor Cycles) Act 1960.	The whole Act.
10 & 11 Eliz. 2. Ch. 59.	The Road Traffic Act 1962.	The whole Act except sections 49, 51 and 52(1) and in Schedule 1, paragraphs 48, 49 and 51, and in Schedule 4 the amendments of sections 130 and 242 of the Road Traffic Act 1960.
1962 c. 13.	The Vehicles (Excise) Act 1962.	In Schedule 7 the amendment of the Road Transport Lighting Act 1957.
1963 c. 33.	The London Government Act 1963.	In section 9(6) the words “or the Road Traffic Act 1962”. In section 14(6), paragraphs (a), (c) and (e). In section 15(1), the words “and the Road Traffic Act 1962”. In Part I of Schedule 5, paragraphs 1, 13 to 16, 27, 28, 29, 32 and 34.
1965 c. 2.	The Administration of Justice Act 1965.	In Schedule 1, the amendment of the Road Traffic Act 1960.
1967 c. 30.	The Road Safety Act 1967.	The whole Act.

SCH. 9

Session and Chapter	Short Title	Extent of Repeal
1967 c. 55.	The Road Transport Lighting Act 1967.	The whole Act.
1967 c. 58.	The Criminal Law Act 1967	In Schedule 2, in paragraph 13, sub-paragraph (1)(e) and sub-paragraph (2).
1967 c. 70.	The Road Traffic (Amendment) Act 1967.	The whole Act except sections 8 and 10.
1967 c. 76.	The Road Traffic Regulation Act 1967.	In Schedule 6, the amendment of the Road Transport Lighting Act 1957, the amendments of sections 14, 74, 98, 192, 237, 254, 255, 257 and 259 of the Road Traffic Act 1960 and the amendments of the Road Traffic Act 1962 and the Road Safety Act 1967.
1967 c. 79.	The Road Traffic (Driving Instruction) Act 1967.	The whole Act.
1967 c. 80.	The Criminal Justice Act 1967.	Section 51. In section 56, subsections (8) to (12) and the definitions of "licence" and "Northern Ireland licence" in subsection (13). In Schedule 6, the amendment of the Road Traffic Act 1960 in paragraph 23.
1968 c. 29.	The Trade Descriptions Act 1968.	In Schedule 1, paragraph 4.
1968 c. 41.	The Countryside Act 1968.	Section 30(6) and (7).
1968 c. 59.	The Hovercraft Act 1968.	In the Schedule, paragraph 4(a).
1968 c. 60.	The Theft Act 1968.	In Part II of Schedule 2, the amendment of the Road Traffic Act 1962.
1968 c. 73.	The Transport Act 1968.	In section 130(6), paragraph (d). In section 145, subsections (3) and (4). Section 146 and 148. In Schedule 10, in Part I the amendments of sections 183 and 232 of the Road Traffic Act 1960 and in the amendment of section 247 of that Act the words "the Act of 1960 or", and in Part II the amendments of sections 183, 185 and 191 of the Road Traffic Act 1960 and the amendment of section 16 of the Road Safety Act 1967. In Schedule 11, in the amendment of section 247 of the Road Traffic Act 1960 the words "the Act of 1960 or" and the amendments of section 259 of and Schedule 14 to that Act.

SCH. 9

Session and Chapter	Short Title	Extent of Repeal
1969 c. 27.	The Vehicle and Driving Licences Act 1969.	Sections 13 to 15. Section 16, except subsection (2) and (6). Section 18. In section 20(5) the words from “; and for the purposes” onwards. Sections 22 and 23. In section 25, subsection (6). In section 26, subsection (3). Section 27, except so far as it relates to sections 1 and 2 of that Act. Sections 31 and 32. Section 35. In Schedule 1, paragraphs 1, 2, 3 and 12. Schedule 2, except paragraphs 8 and 11. Section 9(2).
1969 c. 35.	The Transport (London) Act 1969.	The whole Act.
1970 c. 23.	The Road Traffic (Disqualification) Act 1970.	The whole Act.
1971 c. 36.	The Motor Vehicles (Passenger Insurance) Act 1971.	The whole Act.

PART II

ORDERS REVOKED

Year and Number	Title	Extent of Revocation
S.I. 1968/656.	The Fees for Inquiries (Variation) Order 1968.	In the Schedule, the entry relating to the Road Traffic Act 1960.
S.I. 1968/1970.	The Road Traffic Accidents (Payments for Treatment) (England and Wales) Order 1968.	The whole Order.
S.I. 1968/1994.	The Road Traffic Accidents (Payments for Treatment) (Scotland) Order 1968.	The whole Order.

Section 205(2).

SCHEDULE 10

SAVINGS AND TRANSITIONAL PROVISIONS

1. In so far as any order, regulation, rule, agreement, application, appointment, arrangement, declaration, determination, decision, nomination, request, specification or representation made or having effect as if made, authorisation or licence granted or having effect as if granted, approval, certificate, consent, designation, direction or notice issued, given or delivered or having effect as if issued, given or delivered, condition, prohibition or requirement imposed or attached or having effect as if imposed or attached, or other thing done or having effect as if done, under an enactment repealed by this Act could have been made, granted, issued, given, delivered, imposed, attached or done under a corresponding provision of this Act, it shall not be invalidated by the repeal effected by section 205(1) of this Act, but shall have effect as if made, granted, issued, given, delivered, imposed, attached or done under that corresponding provision.

2. Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act or to appeals against disqualifications by virtue of convictions for offences so committed or against orders made in consequence of such convictions.

3. Where any enactment or document refers, whether specifically or by means of a general description, to an enactment repealed by or reproduced in this Act or is to be construed as so referring, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

4.—(1) Without prejudice to paragraph 1 above, any reference in this Act (whether expressed or implied) to a thing done or made or falling to be done or made, or to a thing suffered, or to an event which has occurred, under or for the purposes of or by reference to a provision of this Act shall, in so far as the context permits, be construed as including a reference to the corresponding thing done or made or falling to be done or made, to the corresponding thing suffered or, as the case may be, to the corresponding event which occurred under, or for the purposes of, or by reference to, the corresponding provision of the enactments repealed by this Act.

(2) Sub-paragraph (1) above shall not apply to any reference in this Act to a conviction.

5. For the purpose of determining—

- (a) the punishment (by fine, imprisonment or both) which may be imposed on a person in respect of the commission by him of an offence under any provision of this Act; or
- (b) whether such an offence committed by a person involves obligatory disqualification for holding or obtaining a licence under Part III of this Act; or

(c) the length of the period for which a person is to be ordered to be disqualified for holding or obtaining a licence under the said Part III, SCH. 10

an offence committed by that person under the corresponding enactment repealed by this Act or under an enactment repealed by the Road Traffic Act 1960 which by paragraph 5(1) of Schedule 19 1960 c. 16. to that Act is to be treated as having been committed under an enactment contained in that Act shall be deemed to have been committed under that provision ; and, in a case where such a determination depends upon whether that person has been previously convicted of an offence under any other provision of this Act, an offence committed by that person under an enactment so repealed which corresponds with an offence under that other provision of this Act shall be deemed to have been committed under that other provision.

For the purposes of this paragraph an offence under section 3(3) of the Road Safety Act 1967 shall be treated as corresponding with an offence under section 9(3) of this Act and where the punishment for an offence under section 5(1), 6(1) or 9(3) of this Act depends upon whether the circumstances mentioned in paragraph (i) or in paragraph (ii) of the entry relating to the last-mentioned offence in column 4 of Part I of Schedule 4 to this Act are shown, the reference to the circumstances mentioned in paragraph (i) shall include a reference to the circumstances mentioned in paragraph (a) of the said section 3(3) and the reference to the circumstances mentioned in paragraph (ii) shall include a reference to the circumstances mentioned in paragraph (b) of the said section 3(3). 1967 c. 30.

6. Sections 95 and 99 of this Act shall apply to a person disqualified by an order of a court under the Motor Car Act 1903 1903 c. 36. for obtaining a licence under that Act as they apply to a person disqualified by an order of a court under Part III of this Act for holding or obtaining a licence under the said Part III.

7.—(1) Without prejudice to section 95 of this Act, any person who by an order of a court made before 15th July 1970 was, in pursuance of section 5(5) of the Road Traffic Act 1962, disqualified 1962 c. 59. for holding or obtaining a licence to drive a motor vehicle granted under Part II of the Road Traffic Act 1960 for an additional period in consequence of a conviction of an offence under section 110(b) of the said Act of 1960 may apply for the removal of the disqualification to the court by which the order was made or, if there are in force two or more such orders disqualifying him for an additional period, he may apply for the removal of the disqualification to the court which made the last of the orders to expire ; and on any such application the court may, as it thinks proper, either by order remove the disqualification or all or any of the disqualifications as from such date as may be specified in the order or refuse the application.

(2) If under this paragraph a court orders a disqualification to be removed, the court shall cause particulars of the order to be endorsed on any licence to drive a motor vehicle granted to the applicant

SCH. 10 under Part II of the Road Traffic Act 1960, and the court shall, in any case, have power to order the applicant to pay the whole or any part of the costs of the application.

1969 c. 27.

8. A licence to drive a motor vehicle which was in force by virtue of section 101 or 102 of the Road Traffic Act 1960 immediately before 1st June 1970 shall have effect thereafter as if duly granted in pursuance of section 101 of that Act as then replaced by section 14(1) of the Vehicle and Driving Licences Act 1969 on the day on which it was actually granted.

9. Any record kept under an enactment repealed by this Act shall be deemed to form part of the record kept under the corresponding provision of this Act.

10. Section 249 of the Road Traffic Act 1960 (general provision as to inquiries) shall apply in relation to an inquiry proceeding at the commencement of this Act, being an inquiry ordered under any provision of an enactment repealed by this Act, as it would have applied if this Act had not passed.

11. Nothing in section 154 or 155 of this Act or in the revocation by section 205 thereof of the last two orders specified in Part II of Schedule 9 to this Act shall be taken to increase the amount which any person is or becomes liable to pay in respect of an accident which occurred on or before 1st January 1969 (the date on which those orders came into operation).



Deposit of Poisonous Waste Act 1972

1972 CHAPTER 21

An Act to penalise the depositing on land of poisonous, noxious or polluting waste so as to give rise to an environmental hazard, and to make offenders liable for any resultant damage; to require the giving of notices in connection with the removal and deposit of waste; and for connected purposes. [30th March 1972]

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

1.—(1) Subject to the provisions of this section, no person shall deposit waste on land, or cause or permit waste to be deposited on land, where the waste is of a kind which is poisonous, noxious or polluting and its presence on the land is liable to give rise to an environmental hazard.

General prohibition on depositing poisonous and other dangerous waste.

(2) For the purposes of this Act, a person is to be treated as depositing waste if he deposits any substance (whether solid, semi-solid or liquid) in such circumstances, or for such a period, that he may reasonably be assumed to have abandoned it where it is deposited or to have brought it to the place where it is deposited for the purpose of its being disposed of (whether by him or others) as waste.

(3) The presence of waste on any land is to be treated as giving rise to an environmental hazard if the waste has been deposited in such a manner, or in such quantity (whether that quantity by itself or cumulatively with other deposits of the same or different

substances) as to subject persons or animals to material risk of death, injury or impairment of health, or as to threaten the pollution or contamination (whether on the surface or under ground) of any water supply; and where waste is deposited in containers, this shall not of itself be taken to exclude any risk which might be expected to arise if the waste were not in containers.

(4) In the case of any deposit of waste, the degree of risk relevant for purposes of subsection (3) above shall be assessed with particular regard—

(a) to the measures, if any, taken by the person depositing the waste, or by the owner or occupier of the land, or by others, for minimising the risk; and

(b) to any likelihood of the waste, or any container in which it is deposited, being tampered with by children or others.

(5) Subject to the next following subsection, any person who contravenes subsection (1) of this section shall be guilty of an offence and liable—

(a) on summary conviction to a fine of not more than £400 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to imprisonment for not more than five years or a fine, or to both.

(6) It shall be a defence for a person charged with an offence under this section in relation to any deposit of waste—

(a) where the charge is of depositing waste, or causing or permitting waste to be deposited, to prove—

(i) that he acted under instructions given to him by his employer, or

(ii) that he relied on information given to him by others with respect to the waste (without any reason to suppose that the information was false or misleading),

and in either case that he neither knew, nor had any reason for supposing, that the waste was of such a kind that it would be an offence to deposit it;

(b) where the charge is of causing or permitting waste to be deposited, that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

(7) Nothing is to be taken as a contravention of subsection (1) above which is done pursuant to, and in accordance with the terms of, any consent, licence, approval or authority granted under an enactment; but no planning permission granted or deemed to be granted under the enactments relating to town and country planning shall be taken to authorise anything which is a contravention of that subsection.

2.—(1) Where any damage is caused by poisonous, noxious or polluting waste which has been deposited on land, any person who deposited it, or caused or permitted it to be deposited, in either case so as to commit a contravention of section 1(1) of this Act, is liable for the damage except where the damage—

- (a) was due wholly to the fault of the person who suffered it, or
- (b) was suffered by a person who voluntarily accepted the risk thereof.

(2) The matters which may under section 1(6) of this Act be proved by way of defence to a charge of contravening section 1(1) may be proved also by way of defence to an action brought by virtue of subsection (1) above (references in paragraphs (a) and (b) of section 1(6) to the charge being construed as references to the act alleged to give rise to the liability).

(3) In this section—

- (a) “damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition), and
- (b) “fault” has the same meaning as in the Law Reform 1945 c. 28. (Contributory Negligence) Act 1945.

(4) For the purposes of the following enactments, namely—
the Fatal Accidents Acts 1846 to 1959;
the Law Reform (Contributory Negligence) Act 1945; and
the Limitation Acts 1939 and 1963 and the Law Reform 1954 c. 36. (Limitation of Actions, &c.) Act 1954,

and for the purposes of any action of damages in Scotland arising out of the death of, or personal injury to, any person, any damage for which a person is liable under subsection (1) above shall be treated as due to his fault.

(5) Subsection (1) above is without prejudice to any liability which arises apart from the provisions of this section.

3.—(1) Subject to the provisions of this Act, no person shall—

- (a) remove from any premises any waste to which this section applies with a view to its being deposited elsewhere, or cause or permit any such waste to be so removed, or
- (b) deposit, or cause or permit to be deposited, on any land any waste to which this section applies,

Duty to notify responsible authorities before removing or depositing waste.

unless each of the authorities responsible under this section has been given (whether by that person or by others) the notices required by this section.

(2) The notices referred to above, in relation to any waste, are notices specifying the following particulars with respect to the removal or deposit—

- (a) in the case of removal, the premises from which the waste is to be removed and in any case the land on which it is to be deposited;
- (b) the nature and chemical composition of the waste;
- (c) the quantity which is proposed to be removed or deposited and, where the waste is to be removed or deposited in containers, their number, size and description; and
- (d) in the case of waste to be removed, the name of the person who is to undertake the removal.

(3) A person who gives a notice for the purposes of subsection (1) above in respect of the removal of any waste from premises shall, if the removal is not to be undertaken by him or an employee of his, give a copy of the notice to the person who is to undertake the removal; and the copy shall be given to that person before the waste is removed.

(4) This section applies to waste of any description (whether solid, semi-solid or liquid) other than any description for the time being specified in regulations made by the Secretary of State as being not so poisonous, noxious or polluting that it need be subject to this section; and regulations under this section may exclude the requirement imposed by subsection (1) above, in the case of any removal or deposit of waste—

- (a) where the waste is of a prescribed description and is deposited in any prescribed manner by, or under arrangements made by, persons of any prescribed class, or is deposited in prescribed circumstances (including circumstances of emergency);
- (b) where the deposit is made, or is made in prescribed circumstances, pursuant to any consent, licence, approval or authority granted under an enactment;

and in this subsection “prescribed” means prescribed by regulations of the Secretary of State under this section.

(5) The authorities responsible under this section are—

- (a) in the case of removal of waste from premises, the local authority and the river authority or river purification board for the area in which those premises are situated; and
- (b) in any case the local authority and the river authority or river purification board for the area in which is situated the land on which the waste is to be deposited;

but nothing in this section shall be taken as requiring a notice to be given by any authority to itself.

(6) Notices for the purposes of subsection (1) above must have been given at least three clear days before the removal, or as the case may be the deposit, of any waste; but in reckoning any period of days for the purposes of this subsection, any Saturday, Sunday, Good Friday, Christmas Day or bank holiday shall be disregarded.

(7) Subject to the following subsection, any person who—

- (a) contravenes subsection (1) or subsection (3) above, or
- (b) in a notice given for the purposes of subsection (1) makes any statement which he knows to be false or does not believe to be true,

shall be guilty of an offence and liable on summary conviction to a fine of not more than £400.

(8) It shall be a defence for a person charged with an offence of contravening subsection (1) above to prove that, while he had not himself given the notices required by this section—

- (a) he relied on information that the notices had been given by others; and
- (b) that he neither knew nor had any reason for supposing that the information was false or misleading.

(9) Regulations of the Secretary of State under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

4.—(1) In the case of a person carrying on a trade or business in the course of which he operates any site as a refuse tip, section 3(1)(b) of this Act shall not apply in respect of any deposit of waste on the tip if the person has, not less than three clear days before the day on which the deposit is made, received a copy of any notice given for compliance with section 3(1) in relation to the removal and deposit of that waste. Operators of commercial tips.

(2) Such a person shall, within a period of not more than three days beginning with the date on which any waste to which section 3 of this Act applies was deposited on the tip, give notice to each of the authorities responsible under this section specifying the following particulars with respect to the deposit—

- (a) the location of the tip;
- (b) the nature and chemical composition of the waste;
- (c) the quantity which has been deposited and, where the waste has been deposited in containers, their number, size and description;
- (d) the name of the person who brought the waste to the tip for the purpose of depositing it there, and the name of that person's employer (if any); and

(e) in a case where he has received such a copy of a notice as is specified in subsection (1) above, the name of the person from whom the notice was received, and the premises from which the waste was removed with a view to its being deposited on the tip.

(3) The authorities responsible under this section are—

(a) in a case where the person operating the tip has, in relation to the waste in question, received such a copy of a notice as is referred to in subsection (1) above, the local authority and the river authority or river purification board for the area in which are situated the premises from which the waste was removed; and

(b) in any case, the local authority and the river authority or river purification board for the area in which the tip is situated.

(4) Subject to the following subsection, any person who—

(a) contravenes subsection (2) above, or

(b) in a notice given for the purposes of that subsection, makes any statement which he knows to be false or does not believe to be true,

shall be guilty of an offence and liable on summary conviction to a fine of not more than £400.

(5) It shall be a defence for a person charged with an offence of contravening subsection (2) above to prove, in relation to any deposit of waste, that he was unaware that the waste was of such a description that section 3 applied to it; but this defence shall be available only if he also proves—

(a) that he took care to inform himself as to the nature and chemical composition of the waste from persons who were in a position to provide such information; and

(b) that he neither knew nor had any reason for supposing that the information given to him was false or misleading.

Local
authorities
and their
functions.

5.—(1) The local authorities for the purposes of this Act are—

(a) in England and Wales, county borough councils, county district councils and the Greater London Council; and

(b) in Scotland, county councils and town councils;

and it shall be the duty of a local authority to enforce this Act in their area, but this subsection shall not in Scotland authorise an authority to institute proceedings for any offence.

1936 c. 49.
1956 c. 30.

(2) Section 287 of the Public Health Act 1936 and section 36 of the Food and Drugs (Scotland) Act 1956 (which relate to powers of entry) shall each have effect as if sections 1 and 3 of this Act were contained in that Act; and for the purposes of this Act references in the said section 36 to premises shall include any land.

(3) A local authority shall, in the case of any site operated by them as a refuse tip, within a period of not more than three days beginning with the date on which any waste to which section 3 of this Act applies was deposited on the tip, give notice to the river authority or the river purification board for the area in which the tip is situated specifying the following particulars with respect to the deposit—

- (a) the particulars referred to in paragraphs (a), (b) and (c) of section 4(2) of this Act, and
- (b) the premises from which the waste was removed with a view to its being deposited on the tip.

(4) Local authorities shall, in the case of waste to which section 3 of this Act applies, keep records relating to the descriptions and quantities of waste which are deposited from time to time in their area, and the places where such waste is deposited.

6. 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 be liable to be proceeded against accordingly.

Offences by bodies corporate.

Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

7. In this Act—

Interpretation.

- “land” includes land covered with water and also includes any part of the seashore whether above or below high water mark; and
- “refuse tip” means any place for the deposit of refuse and waste materials;

and any reference to a river authority shall be construed as including a reference to the Conservators of the River Thames, the Lee Conservancy Catchment Board and the Isle of Wight River and Water Authority.

8.—(1) This Act may be cited as the Deposit of Poisonous Waste Act 1972.

Citation, commencement and extent.

(2) Sections 3, 4 and 5(3) and (4) of this Act shall come into force on a day appointed by the Secretary of State by order made by statutory instrument; but subject as aforesaid this Act shall come into force on the date of its passing.

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



Northern Ireland (Temporary Provisions) Act 1972

1972 CHAPTER 22

An Act to make temporary provision for the government of Northern Ireland, and for purposes connected therewith. [30th March 1972]

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:—

Exercise of executive and legislative powers in N.I.

1920 c. 67.

1.—(1) So long as this section has effect, the Secretary of State shall act as chief executive officer as respects Irish services instead of the Governor of Northern Ireland, and no person shall be appointed or hold office under and in accordance with section 8 of the Government of Ireland Act 1920 as minister of Northern Ireland or head of a department of the Government of Northern Ireland; and, subject to the provisions of this Act and any Order in Council thereunder,—

- (a) all functions which apart from this Act belong to the Governor, or to the Governor in Council, or to the Government or any minister of Northern Ireland or head of a department of the Government of Northern Ireland, shall be discharged by the Secretary of State; and
- (b) all functions which belong to a department of the Government of Northern Ireland may be discharged by the Secretary of State or (except in so far as he otherwise directs) may, notwithstanding that there is no head of the department, be discharged by the department on behalf of the Secretary of State and subject to his direction and control.

Paragraphs (a) and (b) of this subsection shall apply to functions conferred by any enactment or instrument after the passing of this Act, except in so far as provision to the contrary is made by that enactment or instrument.

(2) So long as this section has effect, the Attorney General for England and Wales shall by virtue of that office be Attorney General for Northern Ireland also, and he and the Solicitor General shall by virtue of membership of the bar of England and Wales have in Northern Ireland the same rights of audience as members of the bar of Northern Ireland.

(3) So long as this section has effect, the Parliament of Northern Ireland shall stand prorogued (and no writ need be issued to fill any vacancy); and Her Majesty shall have power by Order in Council to make laws for any purpose for which the Parliament of Northern Ireland has power to make laws, and may by any such Order in Council confer powers or duties on the Secretary of State or any other Minister or department of the Government of the United Kingdom.

Subject to the provisions of this Act, any Order in Council under this subsection may include the like provisions and shall have the same validity and effect as an Act passed (with any necessary consent) by the Parliament of Northern Ireland, and shall accordingly be subject to amendment and repeal by such an Act or by a further Order in Council under this section, and be deemed to be included (so far as the context permits) in any reference to enactments of that Parliament.

(4) Save as provided by this section or any Order in Council made thereunder, Irish services shall continue to be administered, and the cost thereof to be met, as nearly as may be as if this section had not been passed; but the Schedule to this Act shall have effect to make provision as regards the discharge of functions which are by this section made exercisable by the Secretary of State or Attorney General, and as regards other consequential, supplementary or transitional matters.

(5) Subject to any provision made by the Schedule to this Act, this section shall continue in force until the end of the period of one year beginning with the passing of this Act and shall then expire, but, at any time before the expiry of this section, Her Majesty may by Order in Council direct that it shall continue in force for a further period of one year from the time at which it would otherwise expire:

Provided that Her Majesty shall not be recommended to make an Order under this subsection unless a draft of the Order has been approved by resolution of each House of Parliament.

2. Nothing in this Act shall derogate or authorise anything to be done in derogation from the status of Northern Ireland as part of the United Kingdom.

Status of
Northern
Ireland as part
of the United
Kingdom.

3. This Act may be cited as the Northern Ireland (Temporary Provisions) Act 1972. **Short title.**

Section 1.

SCHEDULE

CONSEQUENTIAL, SUPPLEMENTARY AND TRANSITIONAL PROVISIONS

*Discharge of functions exercisable by Secretary of State
or Attorney General*

1.—(1) So long as section 1 of this Act has effect, there shall be a body, to be known as the Northern Ireland Commission, to give advice to the Secretary of State on such matters connected with the discharge of his functions relating to Northern Ireland as he may refer to them; and it shall be the duty of the Secretary of State, unless in any case it appears to him impracticable by reason of urgency or otherwise so to do, to refer to the Commission for their advice any proposal to recommend to Her Majesty the making of an Order in Council under section 1(3) of this Act and any proposal to make 1922 c. 5 (N.I.). regulations under section 1(3) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922.

(2) The Commission shall consist of such number of persons appointed by the Secretary of State as he may from time to time determine, but a person shall not be appointed a member of the Commission unless he is at the time of his appointment ordinarily resident in Northern Ireland.

(3) At any meeting of the Commission the chair shall be taken by the Secretary of State or, in his absence, by a person nominated by him to take his place (whether specially nominated for that meeting or more generally).

(4) A member of the Commission shall hold and vacate office as such in accordance with the terms of his appointment, but may at any time, by notice in writing addressed to the Secretary of State, resign his membership.

(5) The Secretary of State may pay to the members of the Commission, out of moneys provided by Parliament, such remuneration and allowances as he may with the approval of the Minister for the Civil Service determine.

(6) No provision requiring the advice of any minister or of the Privy Council of Northern Ireland in relation to any action of the Governor shall be taken to apply in connection with the discharge of the Governor's functions by the Secretary of State under this Act.

2.—(1) The Secretary of State may by order appoint such persons as he sees fit—

- (a) to discharge any functions exercisable by him by virtue of section 1(1) of this Act, other than the power which is conferred by section 1(3) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 to make regulations with respect to the preservation of peace and maintenance of order; or
- (b) subject to any provision to the contrary in any Order in Council under section 1(3) of this Act, to discharge any functions conferred on him by such an Order in Council.

(2) Anything done in pursuance of an appointment under sub-paragraph (1) above shall be of the same validity and effect as if done by the Secretary of State; but no such appointment shall preclude the Secretary of State from discharging any functions himself.

(3) Any appointment under sub-paragraph (1) above may at any time be revoked by a further order of the Secretary of State.

3.—(1) If at any time when section 1 of this Act has effect the office of Attorney General for England and Wales is vacant, then any functions authorised or required by any enactment or otherwise to be discharged by the Attorney General for Northern Ireland may be discharged by the Solicitor General for England and Wales as his deputy, and any certificate, petition, direction, notice, proceeding or other document, matter or thing whatsoever authorised or required to be given, delivered, served, taken or done to, on or against the Attorney General for Northern Ireland may be given, delivered, served, taken or done to, on or against the Solicitor General for England and Wales.

(2) The Solicitor General for England and Wales may also, so long as section 1 of this Act has effect, act as Attorney General for Northern Ireland as deputy for the Attorney General for England and Wales, if the Attorney General is unable to act owing to absence or illness, or if the Attorney General authorises the Solicitor General to act in any particular case.

Parliamentary procedure for Orders in Council
N.I. statutory rules etc.

4.—(1) Her Majesty shall not be recommended to make an Order in Council under section 1(3) of this Act unless either a draft of the Order has been approved by resolution of each House of Parliament or the Order declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been so approved.

(2) Any Order in Council under section 1(3) of this Act, other than an Order in Council of which a draft has been approved by resolution of each House of Parliament shall be laid before Parliament after being made and, if at the end of the period of forty days (computed in accordance with section 7(1) of the Statutory Instruments Act 1946) after the day on which it is made the Order has not been approved by resolution of each House, shall then cease to have effect (but without prejudice to anything previously done under the Order or to the making of a new Order).

(3) The Secretary of State shall not make any regulations under section 1(3) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 unless either a draft of the regulations has been approved by a resolution of each House of Parliament or the regulations declare that it appears to the Secretary of State that by reason of urgency the regulations require to be made without a draft having been so approved; and where any regulations are so made by the Secretary of State without a draft having been so approved, the last foregoing sub-paragraph shall apply to them as it applies to an Order in Council under section 1(3) of this Act. 1922 c. 5 (N.I.).

(4) An Order in Council under section 1(3) of this Act may, in relation to any statutory rules (including any such rules made by virtue of such an Order in Council), make provision corresponding to the last foregoing sub-paragraph or provision for the rules to be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and for section 5 of the Statutory Instruments Act 1946 to apply accordingly.

1946 c. 36.

(5) Where under any enactment or instrument it is a condition for the taking of any step (other than the annulment of any instrument), or for the coming of anything into operation, that a resolution or motion has been passed or address presented by one or both of the Houses of the Parliament of Northern Ireland, then so long as section 1 of this Act has effect the step may be taken or the thing shall come into operation without any such resolution, motion or address; but this sub-paragraph shall have no application to the consent required under subsection (2) of section 1 of the Ireland Act 1949 (which provides that in no event will Northern Ireland nor any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland); and—

(a) any statutory instrument made or coming into operation by virtue of this sub-paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) subject to any provision made by virtue of the last foregoing sub-paragraph, any statutory rules so made or coming into operation shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(6) So much of any enactment or instrument as makes the taking of any step, or the coming of anything into operation, conditional on the laying of any instrument or document before the Parliament of Northern Ireland or either House of that Parliament, or on any lapse of time after an instrument or document is so laid, shall not apply so long as section 1 of this Act has effect.

1969 c. 10 (N.I.). 1969 c. 25 (N.I.). 5. So long as section 1 of this Act has effect, section 10(3), (4) and (5)(a) of the Parliamentary Commissioner Act (Northern Ireland) 1969 and section 11(3) of the Commissioner for Complaints Act (Northern Ireland) 1969 shall have effect as if any reference therein to the Parliament of Northern Ireland were a reference to the Parliament of the United Kingdom.

Transitional

6.—(1) Subject to any provision of this Act or of any Order in Council under section 1(3) of this Act,—

(a) anything required or authorised by or under any enactment or instrument to be done to or in relation to the Governor or any minister of Northern Ireland in connection with any functions exercisable by virtue of section 1(1) of this Act by the Secretary of State shall, so long as section 1 of this Act has effect, be done instead to or in relation to the Secretary

of State or any person for the time being appointed by him to discharge the relevant functions; and

- (b) any enactment or instrument shall have effect, so far as may be necessary for or in consequence of the exercise of any functions by the Secretary of State by virtue of section 1(1) of this Act, as if references to the Governor of Northern Ireland or to the Governor in Council, or to the Government or any minister of Northern Ireland (including any reference which is to be construed as such a reference) were references to the Secretary of State or any person appointed by him to discharge the relevant functions.

(2) This Act shall not invalidate anything done before it comes into force; and, subject as aforesaid,—

- (a) anything which is then in process of being done by or in relation to the Governor or by or in relation to any minister of Northern Ireland may be continued by or in relation to the Secretary of State or any person appointed by him to discharge the relevant functions; and
- (b) any order, regulation, rule, direction, authority, appointment, authentication, approval or other instrument or act effective at the coming into force of this Act as that of the Governor in Council or Governor or any minister of Northern Ireland (other than any appointment as parliamentary secretary in a department of the Government of Northern Ireland) shall continue to have effect as that of the Secretary of State.

7. The expiry of section 1 of this Act shall not affect the operation thereof as respects things previously done or omitted to be done, or affect the continuance or effect of any Order in Council, regulations or other instrument or act effective by virtue of that section at the expiry thereof; and any Order in Council, regulations or instrument made or issued under or by virtue of that section may make provision having permanent effect or provision to take effect on or after the expiry of the section.

Interpretation

8. In this Schedule “enactment” includes an enactment of the Parliament of Northern Ireland, “statutory rules” has the same meaning as it has for purposes of the Statutory Rules Act (Northern Ireland) 1958, and “statutory instrument” means a statutory instrument within the meaning of the Statutory Instruments Act 1946. 1958 c. 18 (N.I.). 1946 c. 36.



Consolidated Fund (No. 2) Act 1972

1972 CHAPTER 23

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on 31st March 1973.

[11th May, 1972]

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:—

Issue out of the Consolidated Fund for the year ending 31st March 1973.

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 1973 the sum of £295,778,000.

Short title.

2. This Act may be cited as the Consolidated Fund (No. 2) Act 1972.



Social Work (Scotland) Act 1972

1972 CHAPTER 24

An Act to amend section 30 of the Social Work (Scotland)
Act 1968. [11th May 1972]

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

1. In Part III of the Social Work (Scotland) Act 1968 (children in need of compulsory measures of care), in section 30 (definition of child, etc.) there shall be added the following subsection—

“(3) Where a child attains the age of sixteen years after the date on which a children's hearing first sit to consider his case, but before the date of the conclusion of the proceedings on his case, the provisions of this Part of this Act and of any statutory instrument made thereunder shall continue to apply to him in relation to that case as if he had not attained that age.”

2. This Act may be cited as the Social Work (Scotland) Act 1972, and the Social Work (Scotland) Act 1968 and this Act may be cited together as the Social Work (Scotland) Acts 1968 and 1972.



Betting and Gaming Duties Act 1972

1972 CHAPTER 25

An Act to consolidate certain enactments concerning the duties of excise relating to betting and gaming.
[11th May 1972]

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

BETTING DUTIES

General betting duty

General
betting duty.

1.—(1) Subject to the provisions of this Act, on any bet which—

- (a) is made with a bookmaker in Great Britain otherwise than by way of pool betting or coupon betting, or
- (b) is made by way of sponsored pool betting or is otherwise made by means of facilities provided by the Horserace Totalisator Board, or
- (c) is made on any event on a track to which this paragraph applies by means of a totalisator on that track and on the day on which that event takes place,

there shall be charged a duty of excise to be known as general betting duty.

(2) The general betting duty in respect of any bet shall—

- (a) if it is an on-course bet, be of an amount equal to 5 per cent. of the amount staked, and

- (b) if it is not an on-course bet, be of an amount equal to 6 per cent. of the amount staked. PART I

(3) Paragraph (c) of subsection (1) above applies to any track in respect of which there is for the time being in force a track betting licence granted under Schedule 3 to the Betting, Gaming and Lotteries Act 1963, and to any track which the Commissioners see fit to treat for the purposes of that paragraph as if it were such a track. 1963 c. 2.

2.—(1) The general betting duty in respect of any bet shall, without prejudice to any regulations made under paragraph 2 of Schedule 1 to this Act, be due on the making of the bet, and shall be paid— Payment and recovery of general betting duty.

- (a) in the case of a bet with a bookmaker, and without prejudice to subsection (2) below, by the bookmaker ;
- (b) in the case of a bet made as mentioned in section 1(1)(b) of this Act, by the Horserace Totalisator Board or other person providing the facilities by means of which the bet is made ;
- (c) in the case of such a bet made by means of a totalisator as is mentioned in section 1(1)(c) of this Act, by the operator.

(2) The general betting duty chargeable on any bet made with a bookmaker shall be recoverable jointly and severally from all or any of the following persons—

- (a) that bookmaker ;
- (b) the holder of the bookmaker's permit or betting office licence relating to the business in the course of which, or the premises at which, the bet was made ;
- (c) any person responsible for the management of that business or those premises ;
- (d) where the bookmaker is a company, any director of that company.

3.—(1) Where it is shown to the satisfaction of the Commissioners— Allowance for hedging bets.

- (a) that a bookmaker has laid off the whole or any part of an on-course bet made with him by making an on-course bet (in this section called a "hedging" bet), being a dutiable bet made in the course of the same meeting, and on the same contingency, as the first-mentioned bet, and
- (b) that both the bookmaker making, and the person accepting, the hedging bet have complied with such conditions as the Commissioners think fit to impose for the protection of the revenue,

PART I the first-mentioned bet shall, up to the amount staked by the hedging bet, be exempt from general betting duty, and the Commissioners shall remit or repay duty accordingly.

(2) In giving relief under subsection (1) above, in no circumstances may any part of the amount staked by a hedging bet be brought into account more than once.

(3) In subsection (1) above, "dutable bet" means a bet to which section 1(1) of this Act applies.

Bets on more than one contingency.

4. For the purposes of general betting duty, where a person bets on more than one contingency on the terms that, in the event of his bet being successful in respect of one contingency, his stake on the bet, or his winnings in respect of that contingency, or both, are to provide the stake in respect of another contingency, then, unless he makes his bet on both or all of those contingencies at the same time and on the terms that both his original stake and the whole of his winnings in respect of any of those contingencies are to be the stake in respect of any other contingency on which the bet is made—

(a) he shall be treated as making a separate bet on each respectively of those contingencies and as staking on each of those separate bets the amount respectively provided for by the terms of the original bet ;

(b) any of those separate bets which depends on the outcome of another or others of them shall be treated as made if and when the conditions on which it depends are satisfied.

Calculation of stake.

5. The aggregate amount paid by or debited to the account of the bettor for or on account of or in connection with any bet chargeable with general betting duty shall be treated for the purposes of that duty as his stake on the bet, notwithstanding that his winnings (if any) are to be computed on part only of that amount, or that part of it is not to be returned to him in the event of his winning, and no deduction shall be made for other benefits secured by the bettor in paying that amount, or for the expenses of any person on account of the duty or otherwise, or for any other matter.

Pool betting duty

Pool betting duty.

6.—(1) There shall be charged a duty of excise, to be known as pool betting duty,—

(a) subject to subsection (2) below, on all bets made by way of pool betting, wherever made, and

(b) on all bets made at fixed odds with a bookmaker in Great Britain by way of coupon betting,

not being bets made by way of sponsored pool betting or made as mentioned in section 1(1)(c) of this Act.

(2) Bets made by way of pool betting are chargeable with pool betting duty only if—

- (a) in the case of bets made by means of a totalisator, the totalisator is situated in Great Britain ;
- (b) in the case of bets made otherwise than by means of a totalisator, the promoter of the betting is in Great Britain.

(3) For the purposes of this and the next two following sections, except in their application to coupon betting,—

- (a) subject to paragraph (b) below and to section 12(3) of this Act, where payments are made for the chance of winning any money or money's worth on terms under which the payors have a power of selection which may (directly or indirectly) determine the winner, those payments shall be treated as bets notwithstanding that the power is not exercised ;
- (b) "bet" does not include the taking of a ticket or chance—
 - (i) in any lottery which is declared by section 43, 44 or 46 of the Betting, Gaming and Lotteries Act 1963 c. 2. 1963 not to be unlawful, or
 - (ii) in any lottery to which section 45 of that Act applies and in the case of which all the conditions specified in subsection (3)(b), (c) and (g) of that section are observed.

7.—(1) The amount of the pool betting duty shall be equal to 33½ per cent. of the aggregate of— Amount of pool betting duty.

- (a) the amount of the stake money paid, and
- (b) the expenses and profits described in subsection (3) below (but subject to subsection (4) below).

(2) For the purposes of pool betting duty, any payment which entitles a person to make a bet by way of pool betting or coupon betting shall, if he makes the bet, be treated as stake money on the bet ; and this subsection shall apply to any payment entitling a person to take part in a transaction which is, on his part, only not a bet made by way of pool betting or coupon betting by reason of his not in fact making any stake as if the transaction were such a bet, and the transaction shall accordingly be treated as a bet for the purposes of pool betting duty.

PART I

(3) The expenses and profits referred to in subsection (1)(b) above are the expenses and 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 or coupon betting in addition to the stake money by the persons making the bets shall be treated as representing amounts on which duty is (subject to subsection (4) below) chargeable by virtue of subsection (1)(b) above except in so far as the promoter of the betting proves the contrary.

(4) There shall be excepted from any charge to duty by virtue of subsection (1)(b) or subsection (2) above 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 made by persons making bets and those persons know, when making the payments, that their purpose is to provide the benefit.

In this subsection "society" includes any club, institution, organisation or association of persons, by whatever name called.

Payment
and recovery
of pool betting
duty.

8.—(1) Pool betting duty shall be paid, in the case of bets made by means of a totalisator, by the operator and, in the case of other bets, by the promoter.

(2) The pool betting duty chargeable on any bet shall be recoverable jointly and severally from all or any of the following persons—

- (a) the conductor of the dutiable betting by way of which the bet was made;
- (b) any other person responsible for the management of any premises or totalisator in respect of which that conductor has made entry or given notice in accordance with paragraph 4(2) or (4) of Schedule 1 to this Act;
- (c) where a person within paragraph (a) or (b) above is a company, any director of that company.

(3) In this section—

"conductor of dutiable betting" means a person carrying on a business the carrying on of which involves or may involve any sums becoming payable by him by way of pool betting duty;

"dutiable betting" means betting by way of pool betting or coupon betting.

General

PART I

Prohibitions
for protection
of revenue.

9.—(1) With a view to protecting the revenue derived from general betting duty and pool betting duty, any person who—

- (a) conducts in Great Britain any business or agency for the negotiation, receipt or transmission of bets to which this section applies, or
- (b) knowingly issues, circulates or distributes in Great Britain, or has in his possession for that purpose, any advertisement or other document inviting or otherwise relating to the making of such bets, or
- (c) being a bookmaker in Great Britain, makes or offers to make any such bet with a bookmaker outside Great Britain,

shall be guilty of an offence.

(2) Except as mentioned in subsection (3) below, this section applies to—

- (a) all bets made by way of pool betting or coupon betting unless—
 - (i) in the case of bets made by means of a totalisator, the totalisator is situated in Great Britain,
 - (ii) in the case of bets made otherwise than by means of a totalisator, the promoter of the betting is in Great Britain, and
 - (b) all bets made with a bookmaker outside Great Britain (whether or not made by way of pool betting or coupon betting).
- (3) This section does not apply—

- (a) to any bet—
 - (i) made by way of pool betting or coupon betting and otherwise than by means of a totalisator, or
 - (ii) made with a bookmaker otherwise than by way of pool betting or coupon betting,

where the promoter of the pool betting or coupon betting or, as the case may be, the bookmaker is in Northern Ireland or the Isle of Man and the bet is such as to be chargeable with a duty imposed by or under an Act of the Parliament of Northern Ireland or, as the case may be, of Tynwald which corresponds to, and is chargeable on the bet at a rate not less than the appropriate rate of, pool betting duty or, as the case may be, general betting duty ; or

- (b) to any bet made by means of a totalisator situated in a country outside Great Britain on a horse race taking place in that country ; or

PART I

(c) to any bet in respect of an event taking place outside Great Britain made by a bookmaker in Great Britain—

(i) by means of a totalisator situated outside Great Britain, or

(ii) with a bookmaker outside Great Britain,

if it is shown that bets in respect of that event have been made in Great Britain with the first-mentioned bookmaker by other persons.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a penalty not exceeding £100 or, in the case of a second or subsequent conviction, to imprisonment for a term not exceeding three months or to a penalty not exceeding £200 or to both, or

(b) on conviction on indictment, to a penalty not exceeding £500 or, in the case of a second or subsequent conviction, to imprisonment for a term not exceeding one year or to a penalty not exceeding £750 or to both.

(5) A person who makes or tries to make a bet, or who gets or tries to get any advertisement or other document given or sent to him, shall not be guilty of an offence by reason of his thereby procuring or inciting some other person to commit, or aiding or abetting the commission of, an offence under this section.

(6) Subsection (3) of section 6 of this Act shall have effect for the purposes of subsections (2)(a) and (5) above (except in their application to coupon betting) as it has effect for the purposes of sections 6 to 8 of this Act.

Definition of pool betting.

10.—(1) For the purposes of this Act, any bet shall be deemed to be made by way of pool betting unless it is a bet at fixed odds, and, in particular, bets shall be held to be made by way of pool betting wherever a number of persons make bets—

(a) on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons, whether the bets are made by means of a totalisator, or by filling up and returning coupons or other printed or written forms, or otherwise howsoever, or

(b) on terms that the winnings of such of those persons as are winners shall be, or shall include, an amount (not determined by reference to the stake money paid or agreed to be paid by those persons) which is divisible

in any proportions among such of those persons as are winners, or

PART I

- (c) on the basis that the winners or their winnings shall, to any extent, be at the discretion of the promoter or some other person.

(2) A bet is a bet at fixed odds within the meaning of this section only if each of the persons making it knows or can know, at the time he makes it, the amount he will win, except in so far as that amount is to depend on the result of the event or events betted on, or on any such event taking place or producing a result, or on the numbers taking part in any such event, or on the starting prices or totalisator odds for any such event, or on there being totalisator odds on any such event, or on the time when his bet is received by any person with or through whom it is made.

In this subsection—

“ starting prices ” means, in relation to any event, the odds ruling at the scene of the event immediately before the start, and

“ totalisator odds ” means—

(a) in relation to a race which is a recognised horse race within the meaning of the Betting, Gaming and 1963 c. 2. Lotteries Act 1963, the odds paid on bets on that race made by way of sponsored pool betting, and

(b) in relation to any other event, the odds paid on bets made by means of a totalisator at the scene of the event.

(3) A bet made with or through a person carrying on a business of receiving or negotiating bets, being a bet made in the course of that business, shall be deemed not to be a bet at fixed odds within the meaning of this section if the winnings of the person by whom it is so made consist or may consist wholly or in part of something other than money.

(4) Where a person carries on a business of receiving or negotiating bets and there is or has been issued in connection with that business any advertisement or other publication calculated to encourage in persons making bets of any description with or through him a belief that the bets are made on the basis mentioned in subsection (1)(c) above, then any bets of that description subsequently made with or through him in the course of that business shall be deemed for the purposes of this section to be made on that basis.

PART I
Definition
of coupon
betting.

11. For the purposes of this Act, 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.

Supplementary
provisions.

12.—(1) Where particulars of an intended bet on which general betting duty or pool betting duty would be chargeable and the stake on that bet are collected for transmission to the person by whom that duty would fall to be paid by some other person, whether or not a bookmaker, who holds himself out as available for so collecting and transmitting them, but are in fact not so transmitted, the bet shall be deemed to have been made but the duty in respect thereof shall be paid by that other person.

(2) The provisions of Schedule 1 to this Act (supplementary provisions as to betting duties) shall have effect.

(3) In sections 1 to 10 of this Act, except in sections 6, 7, 8, 9(2)(a) and 9(5) in their application to coupon betting, and in subsection (1) above, “bet” does not include any bet made or stake hazarded in the course of, or incidentally to, any gaming.

(4) In this Part of, and in Schedule 1 to, this Act—

“meeting” means any occasion on any one day on which events take place on any track ;

“on-course bet” means a bet made in the course of a meeting, either by means of a totalisator situated on premises forming part of the track or with a bookmaker present at the meeting, where

(a) the person making the bet (that is to say, the person originating the bet and not any agent or intermediary) is present at the meeting, or

(b) the bet is made by a person carrying on a bookmaking business acting as principal (and not acting as agent for, or on behalf of, some other person) ;

“operator”, in relation to bets made by means of a totalisator, means the person who, as principal, operates the totalisator ;

“promoter”, in relation to any betting, means the person to whom the persons making the bets look for the payment of their winnings, if any ;

“winnings” includes winnings of any kind, and references to amount and to payment in relation to winnings shall be construed accordingly;

PART I

and “betting office licence”, “bookmaker”, “bookmaker’s permit”, “bookmaking”, “sponsored pool betting”, “totalisator”, and “track” have the same meanings respectively as in the Betting, Gaming and Lotteries Act 1963.

1963 c. 2.

PART II

GAMING DUTIES

Gaming licence duty

13.—(1) There shall be charged a duty of excise on a licence (to be known as a gaming licence) authorising the use of premises specified in the licence for the purpose of gaming by way of any game to which this section for the time being applies.

Gaming licence duty.

(2) A gaming licence shall be a licence for the period from 1st October in any year to 31st March in the following year, or from 1st April in any year to 30th September in that year (all dates inclusive).

(3) The authority of a gaming licence shall be required for all gaming by way of any game to which this section for the time being applies, except gaming taking place on any premises at a time when no licence is in force as respects those premises under the Gaming Act 1968.

1968 c. 65.

14.—(1) The amount of the duty under section 13 of this Act on a gaming licence in respect of any premises shall be determined in accordance with the following Table and the provisions of Schedule 2 to this Act.

Amount of gaming licence duty.

TABLE

	Rateable value charge £	Charge for each table in excess of two but not exceeding five £	Charge for each table in excess of five £
Premises of a rateable value not exceeding £1,000 (or without a rateable value)	750	500	750
Premises of a rateable value exceeding £1,000 but not exceeding £2,500 ...	6,250	1,500	2,000
Premises of a rateable value exceeding £2,500 ...	20,000	4,000	5,000

(2) References in the Table in subsection (1) above to premises of a rateable value of a given amount are references to premises

PART II which for rating purposes constitute or are comprised in a hereditament of a rateable value of that amount.

(3) For the purposes of the Table in subsection (1) above premises consisting of or comprised in a vessel shall be treated as premises of a rateable value exceeding £1,000 but not exceeding £2,500.

Games to which section 13 applies.

15.—(1) Without prejudice to subsections (2) and (4) below, the games to which section 13 of this Act applies are baccarat, punto banco, big six, blackjack, boule, chemin de fer, chuck-a-luck, craps, crown and anchor, faro, faro bank, hazard, poker dice, pontoon, French roulette, American roulette, trente et quarante, vingt-et-un, and wheel of fortune.

(2) The Treasury may by order made by statutory instrument add to the games mentioned in subsection (1) above any game not for the time being mentioned therein if it appears to the Treasury proper so to do for the protection of the revenue, having regard to the character of the game and the circumstances in which it is played.

(3) A statutory instrument containing an order under subsection (2) above shall be laid before the House of Commons after being made, and the order shall cease to have effect at the end of twenty-eight days after the day on which it was made (but without prejudice to anything previously done under the order or to the making of a new order) unless at some time before the end of those twenty-eight days the order is approved by resolution of that House; and, in reckoning for the purposes of this subsection any period of twenty-eight days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(4) Any reference in this section or in any order under subsection (2) above to a particular game shall be taken to include a reference to any game (by whatever name called) which is essentially similar to that game; and in proceedings relating to gaming licence duty under the excise Acts an averment in any process that a particular game is essentially similar to another particular game shall, until the contrary is proved, be sufficient evidence that it is so.

Supplementary provisions as to gaming licence duty.

16.—(1) Schedule 2 to this Act (supplementary provisions as to gaming licence duty) shall have effect.

(2) In sections 13 to 15 of, and in Schedule 2 to, this Act—
“premises” includes any place and any means of transport,

“rateable value”, in relation to any hereditament, means (without prejudice to paragraph 1(1) of Schedule 2, but subject to paragraph 18 of that Schedule) the rateable value shown in the valuation list as for the time being in force,

“hereditament”, in relation to Scotland, means lands and heritages, and

“valuation list”, in relation to Scotland, means valuation roll.

Bingo duty

17.—(1) A duty of excise, to be known as bingo duty, shall be charged on the playing of bingo in Great Britain except in the cases specified in Part I of Schedule 3 to this Act.

(2) Bingo duty shall be charged in respect of bingo played in a particular week ; and the amount of the duty shall be—

(a) 2½ per cent. of the total of the money taken by or on behalf of the promoter in that week as payment by players for their cards, plus

(b) (subject to section 19(1) of this Act) one thirty-ninth of the amount (if any) by which that total, after deduction of the 2½ per cent. chargeable under paragraph (a) above, is exceeded by the total value of the prizes won in that week’s bingo.

(3) For the purposes of this section, a player’s “cards” are the sets of numbers or symbols (in whatever form or lay-out) with which he plays bingo, matching them against calls made by the house ; and a player pays for a card when he gives money in exchange for, or for the use of, a particular card, whether it is appropriated to a particular game or can be appropriated by the player to a game of his choice.

18.—(1) Bingo duty shall be paid by the promoter of the bingo.

Payment and recovery of bingo duty.

(2) Bingo duty shall be recoverable jointly and severally from all or any of the following persons—

(a) the promoter ;

(b) any person who took money as payment by players for cards or paid prizes to players ;

(c) any person who was responsible for the management of the premises on which bingo was played ;

(d) where any person within paragraph (a), (b) or (c) above is a company, any director of the company.

PART II
 Play in
 more than
 one place.

19.—(1) Where bingo is promoted at one place and, for the purpose of a particular game, it is combined with bingo played at another place and promoted by another person, so that the players at both places share in the chance of winning a prize contributed partly by one promoter and partly by the other, then for the purposes of the charge to bingo duty under section 17(2)(b) of this Act—

(a) as against the promoter of the bingo at the place where the prize is won there shall be counted so much only of the value of the prize as represents his contribution, and

(b) so much of the value of the prize as represents the contribution of the other promoter shall be counted as a prize won at bingo promoted by him ;

and where in the case of bingo so combined the prize is provided wholly by or on behalf of one of the promoters concerned, its whole value shall be counted against him under section 17(2)(b), wherever it is won.

(2) It shall not be lawful for a game of bingo, being bingo which is chargeable with bingo duty and is promoted at a place in Great Britain, to be combined as mentioned in subsection (1) above with other bingo played elsewhere than in Great Britain, except where the other bingo is played in Northern Ireland or the Isle of Man and is chargeable, under an Act of the Parliament of Northern Ireland or, as the case may be, Tynwald, with duty corresponding to bingo duty and at a rate not less than that which is chargeable under section 17 of this Act.

Supplementary
 provisions as
 to bingo duty.

20.—(1) The provisions of Part II of Schedule 3 to this Act (supplementary provisions as to bingo duty) shall have effect.

(2) In sections 17 to 19 of, and in Schedule 3 to, this Act—

“bingo” includes any version of that game, by whatever name called ;

“Great Britain” includes the territorial waters of the United Kingdom adjacent to Great Britain ;

“money” includes any token, voucher or other object given by a player in exchange for cards and recognised for the purpose of the exchange to represent a particular sum of money ;

“prize” means anything won or to be won at bingo, whether money or something else having a value, and “value” and “paid”, in relation to prizes, shall be construed accordingly ;

“the promoter”, in relation to bingo, means the person to whom the players look for the payment of prizes, and “promote” and “promotion” shall be construed accordingly; and

“week” means a period of seven days beginning with Monday.

(3) In proceedings relating to bingo duty under the excise Acts an averment in any process that a particular game is a version of bingo shall, until the contrary is proved, be sufficient evidence that it is so.

Gaming machine licence duty

21.—(1) There shall be charged a duty of excise on a licence (to be called a gaming machine licence) authorising gaming machines to be provided for gaming on premises in respect of which the licence is granted. Gaming machine licence duty.

(2) A gaming machine licence shall be either—

(a) an ordinary licence, being—

(i) a whole-year licence for the period from 1st October in any year to 30th September in the following year, or

(ii) a half-year licence for the period from 1st October in any year to 31st March in the following year or from 1st April in any year to 30th September in that year, or

(b) a holiday season licence (for penny machines only) for the period from 1st March in any year to 31st October in that year,

(all dates inclusive); and where a licence of either description is granted so as to have effect for the remainder of a licence period which has partly expired, the charge to duty shall be unaffected by the circumstance that a licence of the other description has been in force in respect of the same premises for any part of that period.

22.—(1) The duty on an ordinary gaming machine licence shall be determined by reference— Criteria for determining duty on ordinary licences.

(a) to whether the premises in question have, or have not, local authority approval under the Gaming Acts, and

(b) to whether the licence authorises the provision of machines chargeable at the lower, or the higher, rate and to the number of machines of either description which it authorises.

PART II

(2) Subject to subsection (4) below, premises are to be treated as having local authority approval under the Gaming Acts if there is for the time being in force in respect of the premises—

1963 c. 2

(a) a permit granted under Schedule 6 to the Betting, Gaming and Lotteries Act 1963 (permit for provision of amusements with prizes under section 49 of that Act), or

1968 c. 65.

(b) a permit granted under section 34 of the Gaming Act 1968 (conditions under which gaming may be carried on by means of machines).

(3) Premises are also to be treated as having local authority approval under the Gaming Acts at any time when—

(a) there is for the time being in force in respect of them a licence under the Gaming Act 1968, and

(b) by virtue of a direction of the licensing authority under section 32 of the Gaming Act 1968 (approval for provision of more than two machines) section 34 of that Act has effect in relation to the premises.

(4) Premises are not to be treated as having local authority approval under the Gaming Acts if a club or a miners' welfare institute within the meaning of the Gaming Act 1968 is for the time being registered in respect of them under Part III of that Act (which regulates gaming by means of machines).

(5) For the purposes of an ordinary licence—

(a) a machine is chargeable at the lower rate if it can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 1·25p, and

(b) a machine is chargeable at the higher rate in any other case,

except that, where the game playable by means of a machine can be played more than once for the insertion of a coin or coins of a denomination, or aggregate denomination, exceeding 1·25p, the machine is to be treated as chargeable at the lower rate if in effect the amount payable to play the game once does not exceed 1·25p.

Amount
of duty on
ordinary
licences.

23.—(1) The duty on an ordinary whole-year gaming machine licence shall be in accordance with the following Tables and—

(a) Table A shall apply where the Commissioners are satisfied that the premises in question will, on the date on which the licence is first in force, have local authority approval under the Gaming Acts ; and

(b) Table B shall apply in any other case.

PART II

TABLE A
Premises with local authority approval

Description of machines authorised by the licence	Number of machines of that description so authorised	Duty on whole-year licence
Chargeable at the lower rate.	One machine	£12.50.
	Two or more machines	£12.50 plus £75 per machine in excess of one.
Chargeable at the higher rate.	One machine	£25.
	Two or more machines	£25 plus £150 per machine in excess of one.

TABLE B
Premises without local authority approval

Description of machines authorised by the licence	Number of machines of that description so authorised	Duty on whole-year licence
Chargeable at the lower rate.	One machine	£50.
	Two or more machines	£50 plus £150 per machine in excess of one.
Chargeable at the higher rate.	One machine	£100.
	Two or more machines	£100 plus £300 per machine in excess of one.

(2) The duty on an ordinary half-year licence shall be eleven-twentieths of that which it would have been if the licence were an ordinary whole-year, but otherwise identical, licence.

24. A holiday season licence shall be granted only for premises as to which the Commissioners are satisfied that they will, on the date on which the licence is first in force, have local authority approval under the Gaming Acts by virtue of section 22(2) of this Act; and—

- (a) the licence shall be one which authorises the provision only of penny machines up to a number specified in the licence; and
- (b) the duty on the licence shall be £15 multiplied by that number.

PART II
Restrictions
on provision
of gaming
machines.

25.—(1) Except in the cases specified in Part I of Schedule 4 to this Act, no gaming machine shall be provided for gaming on any premises situated in Great Britain unless there is a gaming machine licence for the time being in force in respect of the premises.

(2) No more than one gaming machine licence shall be in force at any time as respects the gaming machines on any premises, except that there may be one ordinary licence as respects the gaming machines chargeable at the lower rate, and one ordinary licence as respects the gaming machines chargeable at the higher rate.

(3) At any time when there is in force in respect of any such premises an ordinary licence which authorises the provision both of gaming machines chargeable at the lower rate and of gaming machines chargeable at the higher rate, gaming machines chargeable at either rate shall not be provided for gaming on those premises in excess of the number authorised by the licence for machines chargeable at that rate.

(4) At any time when there is in force in respect of any such premises an ordinary licence which authorises the provision of gaming machines chargeable at one only of the two rates—

- (a) gaming machines chargeable at that rate shall not be provided for gaming on those premises in excess of the number authorised by that licence, and
- (b) gaming machines chargeable at the other rate shall not be provided for gaming on those premises unless there is in force in respect of the premises a second ordinary licence authorising the provision of gaming machines chargeable at that other rate.

(5) At any time when a holiday season licence is in force in respect of any such premises, gaming machines shall not be provided for gaming on those premises except penny machines up to the number specified in the licence.

Meaning of
“gaming
machine”.

26.—(1) Subject to subsection (3) below, a machine is a gaming machine for the purposes of this Act if it is of the following description—

- (a) it is constructed or adapted for playing a game of chance by means of it ;
- (b) a player pays to play the machine (except where he has an opportunity to play payment-free as the result of having previously played successfully), either by inserting a coin or token into the machine or in some other way ; and

(c) the outcome of the game is determined by the chances inherent in the action of the machine, whether or not provision is made for manipulation of the machine by a player.

(2) In subsection (1) above, "game of chance" includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined; and the fact that a game contains an element of skill shall not prevent it being treated as a game of chance if nothing but superlative skill can overcome the element of chance.

(3) A machine shall not be treated as a gaming machine for the purposes of this Act if either—

- (a) it is constructed or adapted so that a person playing it once and successfully receives nothing except an opportunity, afforded by the automatic action of the machine, to play again (once or more often) without paying, or
- (b) it is constructed or adapted so that, where a person plays it once and successfully, that which he receives is determined by the automatic action of the machine and is either—
 - (i) a money prize not greater than the amount payable to play the machine once, or
 - (ii) a token which is, or two or more tokens which in the aggregate are, exchangeable only for such a money prize.

(4) For the purposes of determining whether a machine is a gaming machine, it is immaterial whether it is capable of being played by only one person at a time, or is capable of being played by more than one person; but for the purposes of sections 21 to 25 of this Act a machine which two or more persons can play simultaneously (whether or not participating with one another in the same game) shall, instead of being treated as one machine,—

- (a) in the case of a penny machine, be treated for the purposes of a holiday season licence as a number of penny machines equal to the number of persons who can play the machine simultaneously;
- (b) in the case of a penny machine or any other machine which no player can play except by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 1.25p, be treated for the purposes of an ordinary licence as a number of machines, all chargeable at the lower rate, equal to the number of persons who can play the machine simultaneously; and

PART II

(c) in a case not falling within paragraph (b) above, be treated for the purposes of an ordinary licence as a number of machines, all chargeable at the higher rate, equal to that number of persons;

and the number of persons who can play a particular machine simultaneously shall be determined by reference to the number of individual playing positions provided on the machine.

Supplementary provisions as to gaming machine licence duty.

27.—(1) The provisions of Part II of Schedule 4 to this Act (supplementary provisions as to gaming machine licence duty) shall have effect.

(2) In sections 21 to 26 of, and in Schedule 4 to, this Act—

“coin” means coin lawfully current in the United Kingdom;

“Great Britain” includes the territorial waters of the United Kingdom adjacent to Great Britain;

“penny machine” means a gaming machine which, in order to be played once, requires the insertion of—

(a) a single new penny, or

(b) a single new halfpenny, or

(c) a single penny,

and which cannot be played in any other way; and

“premises” includes any place whatsoever and any means of transport.

(3) A machine is provided for gaming on any premises if it is made available on those premises in such a way that persons resorting to them can play it; and where on any premises one or more gaming machines are so made available, any such machine anywhere on the premises shall be treated as provided for gaming on those premises, notwithstanding that it is not so made available or is not in a state in which it can be played

PART III**GENERAL**

Interpretation. **28.**—(1) In this Act “the Commissioners” means the Commissioners of Customs and Excise.

1968 c. 65. (2) In this Act (except where it refers to a machine provided for gaming) “gaming” has the same meaning as in the Gaming Act 1968.

(3) Except where the context otherwise requires, a reference in this Act to any enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

(4) For the avoidance of doubt it is hereby declared that the imposition by this Act of general betting duty, pool betting duty, bingo duty or the duty on gaming machine licences does not make lawful anything which is unlawful apart from this Act.

PART III

29.—(1) Schedule 5 (consequential amendments) and Schedule 6 (transitional provisions) to this Act shall have effect, but the provisions of those Schedules shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

Repeals and transitional provisions.
1889 c. 63.

(2) The enactments specified in Schedule 7 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

30.—(1) This Act may be cited as the Betting and Gaming Duties Act 1972.

Short title, construction, commencement and extent.
1952 c. 44.

(2) This Act shall be construed as one with the Customs and Excise Act 1952.

(3) This Act shall come into force at the expiration of the period of one month beginning with the date on which it is passed.

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

SCHEDULES

Section 12.

SCHEDULE 1

SUPPLEMENTARY PROVISIONS AS TO BETTING DUTIES

Definitions

1. In this Schedule—

- “general betting business” means a business the carrying on of which involves or may involve any sums becoming payable by the person carrying on the business by way of general betting duty ;
- “general betting operations” means betting operations which do not involve liability to pool betting duty ;
- “pool betting business” means a business the carrying on of which involves or may involve any sums becoming payable by the person carrying on the business by way of pool betting duty.

General Administration

2.—(1) General betting duty shall be under the care and management of the Commissioners and shall be accounted for by such persons, and accounted for and paid at such times and in such manner, as may be required by or under regulations of the Commissioners.

(2) Without prejudice to any other provision of this Schedule, the Commissioners may make regulations providing for any matter for which provision appears to them to be necessary for the administration or enforcement of general betting duty or for the protection of the revenue from general betting duty.

(3) Regulations under this paragraph may in particular—

- (a) provide for payments on account of the duty which may become chargeable to be made in advance by means of stamps or otherwise, and for that purpose apply, with any necessary adaptations, any of the provisions of the Stamp Duties Management Act 1891 (including the penal provisions repealed save as to Scotland by the Forgery Act 1913) ;
- (b) provide for such payments to be made through the persons providing, at the place where any event is or is to be held, facilities for persons engaging or proposing to engage at that place in an activity by reason of which they are or may be or become liable for duty ;
- (c) require persons providing such facilities as aforesaid at any place to perform other functions in connection with the payment of or accounting for duty by persons engaging or proposing to engage as aforesaid at that place, including the refusal to any of the last-mentioned persons of access to that place unless the requirements of any regulations made by virtue of paragraph (a) or (b) above have been complied with ;

1891 c. 38.

1913 c. 27.

(d) otherwise provide for the giving of security by means of a deposit or otherwise for duty due or to become due.

(4) Regulations under this paragraph may also in particular include provision—

(a) for the furnishing to such persons or displaying in such manner of such information or records as the regulations may require by persons engaging or proposing to engage in any activity by reason of which they are or may be or become liable for duty, and by persons providing facilities for another to engage in such an activity or entering into any transaction with another in the course of any such activity of his ;

(b) for the keeping, preservation and production of accounts, records or other documents by persons engaging in any such activity ;

(c) for the inspection of the accounts, records and other documents of persons engaging or suspected of engaging in any such activity, and of premises or equipment used or suspected of being used by such persons for or in connection with any such activity and of any other premises where any such activity is carried on.

(5) Any regulations under this paragraph shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

3. Pool betting duty shall be under the care and management of the Commissioners, and shall be paid at such times by the persons by whom it is payable as the Commissioners may direct.

Notification to Commissioners as to carrying on of betting business

4.—(1) Any person who intends to carry on a general betting business which is not also a pool betting business shall, not less than one week before he begins to carry on the business, notify the Commissioners that he intends to carry it on.

(2) Subject to sub-paragraphs (3) and (4) below, any person who intends to carry on a general betting business or a pool betting business shall, not later than the date when he first uses any premises or totalisator for the purposes of the business, make entry of those premises or that totalisator with the Commissioners.

(3) A person shall not be required by sub-paragraph (2) above to make entry of premises used for the purposes of the business in connection only with general betting operations ; but he shall, not later than the date when he first uses any premises for the purposes of the business in connection with general betting operations, notify the Commissioners of those premises being so used (whether or not he is also required by sub-paragraph (2) above to make entry of them).

(4) Where a bookmaker carries on a business which involves or may involve any sums becoming payable by him by way of pool betting duty in respect of bets made by way of coupon betting, he

SCH. 1 shall not be required by sub-paragraph (2) above to make entry of premises used for the purposes of the business in connection only with coupon betting operations ; but he shall, not later than the date when he first uses any premises for the purposes of the business in connection with such operations, notify the Commissioners of those premises being so used (whether or not he is also required by sub-paragraph (2) above to make entry of them).

(5) Any bookmaker carrying on a business of the kind mentioned in sub-paragraph (4) above shall notify the Commissioners of the name of any person acting as his agent for receiving or negotiating bets made by way of coupon betting or otherwise conducting coupon betting operations, and the address of any such person (including any address at which he so acts).

Requirement of permit for carrying on pool betting business

5.—(1) No person shall carry on a pool betting business unless he holds a permit authorising him to carry on that business granted by the Commissioners in respect of any premises or totalisator in respect of which he has made entry or given notice in accordance with paragraph 4(2) or (4) of this Schedule.

(2) A permit under this paragraph shall be granted by the Commissioners within fourteen days of the date when application is made therefor, and shall continue in force unless and until revoked under paragraph 12(3) of this Schedule, except that—

- (a) the Commissioners may refuse to grant such a permit to any person or in respect of any premises or totalisator if within the twelve months immediately preceding the application therefor a previous permit under this paragraph granted to that person or in respect of those premises or that totalisator has been revoked under the said paragraph 12(3), and
- (b) the Commissioners may at any time revoke such a permit by notice in writing to the holder if it appears to them that the holder is not carrying on a business for which such a permit is required or is not using the premises or totalisator in respect of which the permit was granted for the purposes of such a business.

Books, records, accounts, etc.

6.—(1) Any person for the time being carrying on a general betting business or a pool betting business shall—

- (a) keep in relation to the business such books, records and accounts in such form as the Commissioners may direct,
- (b) for at least six months or such shorter or longer period as the Commissioners may direct, preserve, on premises specified in sub-paragraph (2) below, any books, records and accounts directed to be kept by him under paragraph (a) above and any other books, records, accounts or documents relating to the business,

(c) permit any officer authorised in that behalf by the Commissioners to enter on any premises used for the purposes of the business, and, where the business is a general betting business, to remain on the premises at any time while they are being used, or when the officer has reasonable cause to believe that they are likely to be used, for the conduct of betting operations, and

(d) permit any officer so authorised to inspect any totalisator used for the purposes of the business, and to inspect and take copies of any books, records, accounts or other documents in his possession or power or on any premises used for the purposes of the business, being books, records, accounts or documents which relate or appear to relate to the business.

(2) The premises on which a person is to preserve any books, records, accounts or other documents under sub-paragraph (1)(b) above are—

(a) in the case of books, records, accounts and other documents relating to general betting operations, such of the premises used for the purposes of the business as the Commissioners may direct ;

(b) in the case of books, records, accounts and other documents relating to coupon betting operations, premises about which the Commissioners have been notified in accordance with paragraph 4(4) of this Schedule ; and

(c) in any other case, premises of which entry has been made in accordance with paragraph 4(2) of this Schedule.

(3) The power of the Commissioners under sub-paragraph (1)(b) above to give directions as to the period for which a person is to preserve any books, records, accounts or documents relating to the business carried on by him shall be exercisable either in any particular case or in relation to any particular class of such books, records, accounts or documents.

7. Any person for the time being carrying on a general betting business or a pool betting business, and any other person employed in, or having functions in connection with, any such business (including in particular the accountant referred to in Schedule 5 to the Betting, Gaming and Lotteries Act 1963), shall, if required so to do by the Commissioners or any officer authorised in that behalf by the Commissioners,—

(a) produce, at a time and place to be specified by the Commissioners or the officer, any such books, records, accounts or documents relating to the business,

(b) make, at times and to persons to be so specified, such returns relating to the business, and

(c) give such other information relating to the business, as the Commissioners or the officer may require.

8. Paragraphs 6 and 7 of this Schedule shall apply to any agent of a bookmaker, being an agent whose name is required under

SCH. 1 paragraph 4(5) of this Schedule to be notified to the Commissioners, as they apply to the bookmaker, except that in relation to any such agent—

- (a) the place at which he is required to preserve books, records, accounts and other documents shall be an address notified under paragraph 4(5) as an address at which he acts, and
- (b) any reference to the business of the bookmaker shall include any of the agent's activities in connection with the business.

9.—(1) The provisions of this paragraph shall apply to a bookmaker at any time when any person is for the time being, or has at any time during the immediately preceding two months been, authorised by that bookmaker to act as his agent for receiving or negotiating bets or otherwise conducting betting operations, other than such bets or operations as involve liability only to pool betting duty.

(2) The bookmaker shall maintain at any of his premises to which bets received by any such person as aforesaid as the bookmaker's agent are or were transmitted, or, if in the case of any such premises the Commissioners think fit, at such other place as the Commissioners may allow, a record in such form and containing such particulars as the Commissioners may direct in respect of any such person who is for the time being, and any such person who has at any time during the said two months been but is no longer, authorised as aforesaid, being in either case a person by or on whose behalf bets received as aforesaid are or were transmitted to those premises.

(3) A bookmaker shall not be guilty of contravening or failing to comply with the provisions of sub-paragraph (2) above by reason of a failure to make an entry or alteration in the record if that entry or alteration is made before six o'clock in the evening of the day after that on which the happening which necessitated the entry or alteration took place.

Powers to enter premises and obtain information

10.—(1) Where in the case of any track or other premises an officer has reason to believe that bookmaking on events taking place thereon is being or is to be carried on, or that facilities for sponsored pool betting on those events are being or are to be provided, or that a totalisator is being or is to be operated in connection with those events, at a place on those premises or on any ground or premises adjacent thereto, he shall be entitled for the purpose of exercising the powers conferred by this paragraph to be admitted without payment to that place, and he may require—

- (a) any person who appears to him to be or intend carrying on bookmaking, providing such facilities or operating a totalisator there to give such information as he may demand, and to produce to him any accounts, records, or other documents which appear to him to be connected with the business of bookmaking or with the provision of those

facilities or the operation of that totalisator or which it appears to him will establish the identity of that person ; and

- (b) any person who appears to him to have made a bet there with any bookmaker, or through the persons providing any such facilities, or by means of a totalisator, to give such information with respect to the bet as he may demand and to produce to him any document in connection with the bet supplied to that person by the bookmaker, the persons providing those facilities, or the operator of that totalisator, as the case may be,

and any such person as aforesaid shall comply with any such requirement.

(2) Where an officer—

- (a) has reason to believe that any person who is not a bookmaker is holding himself out as mentioned in section 12(1) of this Act at any place, and
- (b) has reason to suspect that person to have become liable by virtue of section 12(1) to pay an amount by way of general betting duty or pool betting duty,

the officer shall have the like powers with respect to that place as if the person so holding himself out were a bookmaker and that place were such a place as is mentioned in sub-paragraph (1) above.

(3) In this paragraph, “bet” does not include any bet made or stake hazarded in the course of, or incidentally to, any gaming.

Power of Commissioners to estimate general betting duty payable

11. Where an amount is due on account of general betting duty from any person, but by reason of his failure to keep or to produce or furnish to the proper officer the accounts, records or other documents required under or by virtue of this Schedule, or to take or permit to be taken any other step which he is so required to take or permit to be taken, or by reason of the accounts, records, or other documents kept, produced or furnished being materially incomplete or inaccurate, the Commissioners are unable to ascertain the amount of duty properly due from him, the Commissioners may estimate the amount due ; and (without prejudice to the recovery of the full amount due or to the making of a further estimate in that behalf) the amount estimated shall be recoverable as duty properly due unless in any action relating thereto the person liable proves the amount properly due, and that amount is less than the amount estimated.

Disputes as to computation of pool betting duty

12.—(1) If there arises between the Commissioners and a person carrying on a pool betting business any dispute as to the basis on which the pool betting duty payable by that person should be computed in connection with betting in accordance with any particular terms—

- (a) the Commissioners shall by notice in writing to that person specify what in their opinion that basis should be, and

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(b) in connection with betting in accordance with those terms the amount from time to time computed in accordance with that basis shall be recoverable as the duty properly due.

(2) If a person notified under sub-paragraph (1) above disputes the correctness of the basis specified by the notice—

(a) he may at any time within three months of the date of the notice, and subject to his having paid and continuing to pay the full amount which, in accordance with that basis, is due from him by way of duty, apply to the High Court or, in Scotland, to the Court of Session for a declaration as to the basis on which duty should be computed in connection with betting in accordance with the terms in question ; and

(b) if on any such application the Court makes a declaration specifying a different basis from that specified in the notice, the notice shall be amended accordingly and any amount by which duty is found to have been overpaid shall be repaid by the Commissioners together with interest thereon from the date of the overpayment at such rate as the Court may determine or, as the case may be, any amount by which duty is found to have been underpaid shall be recoverable as duty properly due.

(3) If, after a notice under sub-paragraph (1) above has been given to any person in respect of betting in accordance with particular terms, any amount determined in accordance with the basis specified in that notice which has become due from that person by way of pool betting duty in respect of such betting is not paid in accordance with paragraph 3 of this Schedule, the Commissioners may by notice in writing to that person revoke his permit under paragraph 5 of this Schedule.

Recovery of duty

13.—(1) If a person, on written demand by the proper officer, refuses or neglects to pay any amount recoverable from him by way of general betting duty or by virtue of section 12(1) of this Act, the amount recoverable may be levied by distress on his goods and chattels, and the proper officer may for that purpose by warrant signed by him authorise any person to distrain accordingly and to sell anything so distrained by public auction after giving six days' notice of the sale.

(2) The proceeds of sale of anything distrained under this paragraph shall be applied in or towards payment of the costs and expenses of the distress and sale and the payment of the amount recoverable, and the surplus, if any, shall be paid to the person on whom the distress was levied.

(3) Where under this paragraph distress is levied for any duty in accordance with an estimate made under paragraph 11 of this Schedule, and it is afterwards proved that the amount properly due was less than the amount estimated, that shall not affect the legality of the distress or anything done under this paragraph in connection

therewith, but the proceeds of sale shall be applied under sub-paragraph (2) above in accordance with the amount properly due and not in accordance with the amount estimated.

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(4) In the application of this paragraph to Scotland, any reference to distress shall be construed as a reference to diligence, any reference to distraining or to the levying of distress shall be construed as a reference to the doing of diligence, and the expression "chattels" means corporeal moveables.

14.—(1) There shall be included among the debts which—

- (a) under section 33 of the Bankruptcy Act 1914 are to be paid ^{1914 c. 59.} in priority to all other debts in the distribution of the property of a bankrupt or deceased debtor, or
- (b) under section 118 of the Bankruptcy (Scotland) Act 1913 ^{1913 c. 20.} are to be paid in priority to all other debts in the division of a bankrupt's estate, or
- (c) under section 319 of the Companies Act 1948 are to be ^{1948 c. 38.} paid in priority to all other debts in the winding up of a company, or under section 94 of that Act are on an appointment of a receiver on behalf of debenture holders or taking of possession by or on behalf of debenture holders to be paid in priority to any claim for principal or interest in respect of the debentures,

any amount which is due by way of general betting duty or by virtue of section 12(1) of this Act from the bankrupt, deceased debtor or company at the relevant date and which became due within twelve months next before that date.

(2) In sub-paragraph (1) above, the expression "the relevant date"—

- (a) in relation to section 33 of the Bankruptcy Act 1914 means the date of the receiving order or of the death, as the case may be ;
- (b) in relation to section 118 of the Bankruptcy (Scotland) Act 1913 means the date mentioned in subsection (4) of that section ;
- (c) in relation to section 319 of the Companies Act 1948 has the meaning assigned to it by that section, and in relation to section 94 of that Act means the date of the appointment of the receiver or taking of possession.

Enforcement

15.—(1) If any person—

- (a) fails to pay any general betting duty or pool betting duty payable by him, or
- (b) contravenes or fails to comply with any of the provisions of, or of any regulations made under, paragraphs 2, 4, 6, 7, 8, 9 or 10 of this Schedule, or

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- (c) obstructs any officer in the exercise of his functions in relation to general betting duty or pool betting duty, or
- (d) in connection with general betting duty or pool betting duty, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular or, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or
- (e) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion by him or any other person of general betting duty or pool betting duty,

he shall be liable to a penalty of £200 or treble the amount of the duty which is unpaid or payment of which is sought to be avoided, as the case may be, whichever is the greater; and where a person is convicted of an offence under paragraph (d) or (e) above, the court may, in lieu of or in addition to ordering him to pay the said penalty, order him to be imprisoned for a term not exceeding two years.

(2) Where a person is convicted under sub-paragraph (1)(b) above in respect of a failure to comply with any of the provisions there referred to and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under that sub-paragraph and may, on conviction, be punished accordingly.

16.—(1) If any person carries on any business in contravention of paragraph 5(1) of this Schedule he shall be liable to a penalty of £500, and if any person so carries on any business after receiving notice under paragraph 12(3) of this Schedule of the revocation of a permit previously granted to him he shall be liable to an additional penalty of £25 for each day after the date of that notice on which he has so carried on his business; and where a person is convicted of an offence under this sub-paragraph the court may, in lieu of or in addition to ordering him to pay any such penalty, order him to be imprisoned for a term not exceeding two years.

(2) Where a person is convicted of an offence under sub-paragraph (1) above and the offence continues after the conviction, he shall be guilty of a further offence under that sub-paragraph and may, on conviction, be punished accordingly.

(3) If at any time the holder of a permit under paragraph 5 of this Schedule fails to produce his permit for examination within such period, and at such time and place, as may be reasonably required by an officer, he shall be liable to a penalty of £20.

17. Where an offence under paragraph 15(1) or paragraph 16(1) of this Schedule has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the

offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

18.—(1) Where, on the conviction of any person of an offence under paragraph 15(1) of this Schedule in connection with general betting duty (not being an offence consisting in contravening or failing to comply with any of the provisions of paragraphs 4, 6, 7, 8 or 9 of this Schedule), the Commissioners—

- (a) certify to the court by or before whom that person is so convicted that the conviction is a second or subsequent conviction for such an offence committed (whether by that or some other person) in the course of the operation of the same premises as a betting office and while the same person has been the holder of a betting office licence in respect thereof, and
- (b) make application to that court for effect to be given to this sub-paragraph,

that court shall order that the betting office licence in respect of those premises shall be forfeited and cancelled.

(2) A licence shall not be forfeited or cancelled under such an order made by a court in England or Wales—

- (a) until the date of expiration of the period within which notice of appeal against the conviction which gave rise to the order may be given, or
- (b) if notice of appeal against that conviction is duly given within the period aforesaid, until the date of the determination or abandonment of the appeal, or
- (c) if on any such appeal the appeal is allowed.

(3) A licence shall not be forfeited or cancelled under such an order made by a court in Scotland—

- (a) until the expiration of the period of fourteen days commencing with the date on which the order was made, or
- (b) if an appeal against the conviction which gave rise to the order is begun within the said period, until the date when that appeal is determined or abandoned or deemed to have been abandoned, or
- (c) if on any such appeal the appeal is allowed.

(4) Where a betting office licence held by any person in respect of any premises is forfeited and cancelled in pursuance of an order under sub-paragraph (1) above, the clerk of the court by whom the order was made shall, unless he is also clerk to the appropriate authority within the meaning of Schedule 1 to the Betting, Gaming and Lotteries Act 1963 who last either granted 1963 c. 2. or renewed the licence, send a copy of the order to the clerk to that authority; and, without prejudice to the renewal by that authority of any other betting office licence held by that person, that authority shall, notwithstanding anything in paragraph 20(1) of the said Schedule 1, refuse any application by that person for

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the grant of a new betting office licence in respect of those or any other premises made less than twelve months after that forfeiture and cancellation.

19.—(1) If a justice of the peace or, in Scotland, the sheriff or a magistrate is satisfied on information on oath that there is reasonable ground for suspecting that an offence in connection with general betting duty is being, has been, or is about to be committed on any premises, he may issue a warrant in writing authorising any officer to enter those premises (if necessary by force) at any time within fourteen days from the time of the issue of the warrant and search them.

(2) An officer who enters premises under the authority of such a warrant may—

- (a) seize and remove any records, accounts or other documents, money or valuable thing, instrument or other thing whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence, and
- (b) search any person found on the premises whom he has reasonable cause to believe to be carrying on bookmaking on the premises.

20. Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector of Customs and Excise given in connection with the enforcement of the enactments relating to general betting duty and, apart from the provisions of this paragraph, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, he shall not be guilty of that offence.

SCHEDULE 2**Section 16.****SUPPLEMENTARY PROVISIONS AS TO GAMING LICENCE DUTY***Rateable value*

1.—(1) The Commissioners may by regulations provide for the adjustment (by way of repayment or of a further charge of duty) of the duty charged on a gaming licence in any case where—

- (a) there is an alteration of the valuation list affecting the hereditament consisting of or comprising the premises in respect of which the licence is granted, and
- (b) that alteration comes into effect as respects the whole of the period of validity of the licence.

(2) Where a hereditament ceases to be one without a rateable value, regulations under this paragraph may require the appropriate adjustment by way of any further charge of duty notwithstanding that the alteration of the valuation list assigning a rateable value to the hereditament comes into effect as respects part only of the period of the validity of the licence, and the regulations may require the further charge of duty to be paid as if the alteration had come into effect as respects the whole of the period of validity of the licence.

Gaming tables

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2.—(1) For the purpose of determining, under section 14 of this Act, the appropriate licence in respect of any premises, account shall be taken not only of all gaming tables in use when any game to which section 13 of this Act applies is played, but also—

(a) of all other gaming tables on the premises, whether or not available for use, or prepared for use, and whether for the game played, or for any other game to which section 13 applies, and

(b) of any other tables or other equipment on the premises which can readily be converted into gaming tables.

(2) For the said purposes “table” includes any surface provided or used for playing any game to which section 13 of this Act applies, or for hazarding any money or token in connection with any such game.

(3) In arriving at the number of tables on any premises, any table exceeding the prescribed size shall count as two tables, or such greater number of tables as may be prescribed.

(4) In this paragraph “prescribed” means prescribed by regulations made by the Commissioners and—

(a) the regulations prescribing the size of a table may take account not only of its area but also of any other measurements or characteristics,

(b) the regulations may make different provision in relation to different games, or in any other different circumstances.

Application for and duration of licence

3.—(1) An application for a gaming licence shall be made to the Commissioners not later than fourteen days before the date on which the licence is to be in force.

(2) A gaming licence shall be expressed to take effect on the first day of the period for which it is granted or the first day after the date of the application, whichever is the later.

(3) A gaming licence shall expire at the end of 31st March or, as the case may be, 30th September next after the date on which it is expressed to take effect.

Transfer and amendment of licence

4.—(1) The proper officer may, in such manner as the Commissioners may direct, and without any additional payment, transfer a gaming licence in respect of any premises to a successor in title to the interest in those premises of the person to whom the licence was granted.

(2) Where the holder of a gaming licence in respect of any premises dies, the proper officer may transfer the licence, in such manner as the Commissioners may direct, and without any additional payment, to some other person for the remainder of the period for which the licence was granted.

5.—(1) This paragraph has effect as respects the amendment of a gaming licence converting it into one in respect of which a greater amount of duty is payable.

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(2) The holder of the gaming licence may at any time apply to the Commissioners for the licence to be so amended, and the proper officer shall, on payment of the additional duty specified below, amend the licence accordingly.

(3) The amount of the additional duty shall be the difference between the amount of duty payable on the licence as amended, and the amount payable on the licence before amendment.

(4) Regulations under this Schedule may make provision with respect to the procedure for amending licences under this paragraph, and any such regulations may include provision—

- (a) as to the method of amendment (that is to say, whether it is to be effected by endorsement of the licence, or by the issue of an amended licence, or otherwise), and
- (b) as to the time at which a licence is to have effect as amended.

Surrender of licence

6. If while a gaming licence is in force in respect of any premises, and not less than three months before the date when the licence is due to expire, the holder of the licence surrenders the licence to the proper officer and satisfies the proper officer that those premises will not be used on or after the date of surrender of the licence for the purpose of gaming by way of any game to which section 13 of this Act for the time being applies, he shall be entitled in respect of the period of validity of the licence unexpired at the date of surrender to repayment of one-half of the duty paid on the licence.

Payment of duty by cheque

1952 c. 44.

7. Section 234 of the Customs and Excise Act 1952 (which relates to payment for excise licences by cheque) shall apply to the duty on a gaming licence as if for the reference to a penalty of £50 there were substituted a reference to a penalty of £500.

Regulations

8.—(1) Without prejudice to any other provision of this Schedule, the Commissioners may make regulations providing for any matter for which provision appears to them to be necessary for the administration or enforcement of the duty on gaming licences, or for the protection of the revenue from that duty.

(2) Regulations under this paragraph may in particular include provision—

- (a) for the furnishing to such persons or displaying in such manner of such information or records as the regulations may require by persons engaging or proposing to engage in any activity by reason of which they are or may be or become liable for duty, and by persons providing facilities for another to engage in such an activity or entering into any transaction with another in the course of any such activity of his ;
- (b) for the keeping, preservation and production of accounts, records or other documents by persons engaging in any such activity ;

- (c) for the inspection of the accounts, records and other documents of persons engaging or suspected of engaging in any such activity, and of premises or equipment used or suspected of being used by such persons for or in connection with any such activity and of any other premises where any such activity is carried on ;
- (d) for requiring the licence to be displayed on the premises, and the production of the licence for inspection by the proper officer ;
- (e) for requiring gaming tables to be labelled or marked in the prescribed manner.

(3) Regulations under this Schedule shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Inspection of premises

9.—(1) Any officer may (without payment) enter any premises in respect of which a licence under the Gaming Act 1968 is for the time being in force and inspect those premises and require any person who is concerned in the management of the premises, or who is on the premises and appears to the officer to have any responsibility whatsoever in respect of their management or of the control of the admission of persons thereto— 1968 c. 65.

- (a) to produce or secure the production of any gaming licence for the time being in force in respect of the premises, or
- (b) to provide information with respect to any gaming which is being, or has been, carried on on the premises, and as to any gaming tables or other equipment on the premises which is or can be used for gaming.

(2) If the premises in respect of which the licence under the Gaming Act 1968 is for the time being in force form, for rating purposes, part only of a hereditament, the powers conferred by this paragraph shall be exercisable as respects each part of the hereditament.

Recovery of Duty

10.—(1) If a person, on written demand by the proper officer, refuses or neglects to pay any amount recoverable from him by virtue of paragraph 1 or 12(2)(b) of this Schedule, the amount recoverable may be levied by distress on his goods and chattels, and the proper officer may for that purpose by warrant signed by him authorise any person to distrain accordingly and to sell anything so distrained by public auction after giving six days' notice of the sale.

(2) Where an amount recoverable as mentioned in sub-paragraph (1) above is determined by reference to the duty on a gaming licence in respect of premises on which gaming is carried on as an activity of a club, the goods and chattels on which distress may be levied under that sub-paragraph shall include any goods and chattels used for the purposes of the club and found on those premises ; but distress shall not be levied on any goods or chattels by virtue

SCH. 2 of this sub-paragraph unless a copy of the demand for the amount recoverable has been served on the secretary of the club (or person performing the functions of secretary) by leaving it or sending it by post addressed to him at an address to which communications about the affairs of the club are ordinarily sent.

(3) The proceeds of sale of anything distrained under this paragraph shall be applied in or towards payment of the costs and expenses of the distress and sale and the payment of the amount recoverable, and the surplus, if any, shall be paid, where distress was levied on any goods or chattels by virtue of sub-paragraph (2) above to the secretary (or person performing the functions of secretary) of the club, and in any other case to the person on whom the distress was levied.

(4) In the application of this paragraph to Scotland any reference to distress shall be construed as a reference to diligence, any reference to distraining or to the levying of distress shall be construed as a reference to the doing of diligence, and the expression "chattels" means corporeal movables.

11. Paragraph 14 of Schedule 1 to this Act (priority of debts in bankruptcy etc.) shall have effect in relation to any amount which is due by virtue of paragraph 1 or 12(2)(b) of this Schedule as it has effect in relation to any amount which is due by way of general betting duty.

Enforcement

12.—(1) There is a contravention of subsection (3) of section 13 of this Act if on any occasion gaming takes place on any premises by way of any game to which that section for the time being applies unless—

- (a) no licence is for the time being in force as respects those premises under the Gaming Act 1968, or
- (b) a provider of those premises is the holder of a gaming licence which is for the time being in force, and which is the appropriate licence having regard to—
 - (i) the rateable value of the hereditament consisting of or comprising the premises, and
 - (ii) the number of gaming tables.

(2) If there is a contravention of section 13(3) of this Act—

- (a) any provider of the premises and any person concerned in the organisation or management of the gaming shall each be liable—
 - (i) on summary conviction to a penalty of treble the amount of the duty on the appropriate gaming licence, or to imprisonment for a term not exceeding twelve months, or to both,
 - (ii) on conviction on indictment, to the like penalty, or to imprisonment for a term not exceeding two years, or to both, and

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(b) in addition and without prejudice to any liability under paragraph (a) above, unless and until the appropriate gaming licence in respect of those premises is taken out during the period of six months (beginning with 1st October or 1st April) in which the offence was committed, an amount equal to the duty on the appropriate gaming licence, together with interest thereon from the date of the offence, shall become due and recoverable as a debt due to the Crown jointly and severally from all or any of the persons liable under paragraph (a) above.

(3) Any gaming tables or other things which are being used, or are available or prepared for use, in connection with gaming in respect of which an offence is committed under this paragraph shall be liable to forfeiture.

(4) In this paragraph "provider", in relation to any premises used for gaming, means any person having a right to control the admission of persons to those premises, whether or not he also has a right to control the admission of persons to the gaming.

13.—(1) If any person—

- (a) contravenes or fails to comply with any of the provisions of regulations made under this Schedule, or
- (b) obstructs any officer in the exercise of his functions in relation to the duty on gaming licences, or
- (c) in connection with the duty on gaming licences, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, or, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular, or
- (d) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion, by him or any other person, of gaming licence duty,

he shall be liable to a penalty of £500 or treble the amount of the duty which is unpaid or payment of which is sought to be avoided, as the case may be, whichever is the greater; and where a person is convicted of an offence under paragraph (c) or (d) above, the court may, in lieu of or in addition to ordering him to pay the said penalty, order him to be imprisoned for a term not exceeding two years.

(2) Where a person is convicted under sub-paragraph (1) above in respect of a failure to comply with the provisions of regulations made under this Schedule and the failure continues after his conviction then, unless he has reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under this paragraph and may, on conviction, be punished accordingly.

14. Where an offence under paragraph 12 or paragraph 13 of this Schedule has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or

SCH. 2 was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves—

- (a) in the case of an offence under paragraph 12, that he did not consent to, or connive at, the relevant contravention mentioned in paragraph 12(1), or
- (b) in the case of an offence under paragraph 13, that the offence was committed without his consent or connivance,

and that he exercised all such diligence to prevent the contravention or, as the case may be, the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

15.—(1) If a justice of the peace or, in Scotland, the sheriff or a magistrate is satisfied on information on oath that there is reasonable ground for suspecting that a contravention of section 13(3) of this Act is being, has been, or is about to be committed on any premises, he may issue a warrant in writing authorising any officer to enter those premises (if necessary by force) at any time within fourteen days from the time of the issue of the warrant and search them.

(2) An officer who enters premises under the authority of such a warrant may—

- (a) seize and remove any records, accounts or other documents, money or valuable thing, instrument or other thing whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such a contravention, and
- (b) search any person found on the premises whom he has reasonable cause to believe to be concerned in the organisation or management of gaming on the premises.

16. Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector of Customs and Excise given in connection with the enforcement of the enactments relating to the duty on gaming licences and, apart from the provisions of this paragraph, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, he shall not be guilty of that offence.

Modification of agreements

17.—(1) Where before 1st October 1970 a person who is granted a gaming licence in respect of any premises entered into an agreement with any other person whereby that other person is entitled to use those premises after that date for the purpose of gaming, and the consideration for that other person under that agreement does not take account of the additional duty payable under the Finance Act 1970 or this Act, as compared with section 13 of the Finance Act 1966, the first-mentioned person shall be entitled to recover from that other person such amount, if any, not exceeding that additional amount of duty, in such manner as may be agreed between them (or, in default of such agreement, as may be determined by the appropriate court) to be fair in all the circumstances, having regard in particular to the extent, if any, to which while the licence is in

force the premises will be or are likely to be used otherwise than by that person for the purpose of gaming.

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(2) In this paragraph "the appropriate court" means—

- (a) where the premises in question are in England or Wales and the amount of the duty on the licence in question exceeds £5,000, the High Court,
- (b) in any other case, the county court or, if the premises in question are situated in Scotland, the sheriff.

Temporary provisions as to rateable values in Scotland

18.—(1) For the purpose of determining the amount of the duty chargeable on a gaming licence in respect of premises in Scotland for a period beginning after 30th September 1971 but before 1st April 1973 the rateable value of any lands and heritages shall be ascertained in accordance with the following provisions of this paragraph in any case where a rateable value is shown for them in the valuation roll for the time being in force and either a lower value or no value was shown for them in the valuation roll for the year 1970–71.

(2) Where the rateable value of any lands and heritages falls to be ascertained in accordance with this paragraph, then,—

- (a) if a rateable value was shown for them in the valuation roll for the year 1970–71, their rateable value shall be taken to be the value so shown, but subject to paragraph (b) below;
- (b) if, since the valuation roll for the year 1970–71 was made up, there has been a material change of circumstances affecting the value of the lands and heritages, their rateable value shall be taken to be the value determined under this paragraph as the rateable value that would have been shown for them in that valuation roll if the change had been given effect to in making up that roll;
- (c) if no value was shown for the lands and heritages in the valuation roll for the year 1970–71, their rateable value shall be taken to be the value determined under this paragraph as the value that would have been so shown if, at the time of the valuation for the purposes of that roll, the premises in respect of which the licence is to be granted had been in existence and all relevant circumstances had been the same as at the time the value of the lands and heritages is determined under this paragraph.

(3) Any determination under this paragraph shall be made by the Commissioners after consultation with the assessor appointed under the Valuation and Rating (Scotland) Act 1956 for the valuation area concerned; but the person to whom the licence is to be or has been granted may, by notice in writing given to the Commissioners not later than four weeks after the date on which the determination is notified to him, require the determination to be referred to the arbitration of a referee appointed by the Lord President of the Court of Session, whose decision shall be final and conclusive. 1956 c. 60.

SCH. 2 (4) A person appointed under sub-paragraph (3) above shall not be an officer of any Government department.

(5) If the amount of duty chargeable is reduced in consequence of a decision of a referee appointed under this paragraph, any amount overpaid shall be repaid.

1963 c. 12.

(6) In this paragraph "the year 1970-71" shall be construed in accordance with section 26 of the Local Government (Financial Provisions) (Scotland) Act 1963 and "material change of circumstances" has the meaning assigned to it by section 9(7) of the Valuation and Rating (Scotland) Act 1956.

1956 c. 60.

Sections 17, 20.

SCHEDULE 3

PROVISIONS RELATING TO BINGO DUTY

PART I

EXEMPTIONS FROM DUTY

Domestic bingo

1. Bingo duty shall not be charged in respect of bingo played both in a private dwelling and on a domestic occasion.

Club bingo

2. Bingo duty shall not be charged in respect of bingo played as an activity of a club in compliance with the following conditions:—

- (a) the subscription for membership of the club does not exceed £2 a year; and
- (b) not more than one payment by way of a charge for admission to any premises being or including the place at which bingo is played is payable by a person in order to enable him to play bingo, and that payment does not exceed 5p; and
- (c) no other payment is required to be or has been made, and no obligation to make any other payment is required to be incurred, in order to enable a person to play bingo.

Charitable and other similar entertainments

3.—(1) Bingo duty shall not be charged in respect of bingo provided by way of an amusement at an entertainment (whether limited to one day or extending over two or more days) being a bazaar, sale of work, fête, dinner, dance, sporting or athletic event or other entertainment of a similar character, in compliance with the following conditions:—

- (a) the whole proceeds of the entertainment (including the proceeds of bingo) after deducting the expenses of it (including any expenses incurred in connection with bingo and the provision of prizes) will be devoted to purposes other than private gain; and
- (b) the opportunity to play bingo is not the only, or the only substantial, inducement to persons to attend the entertainment.

(2) In construing sub-paragraph (1) above, proceeds of an entertainment promoted on behalf of a society to which this sub-paragraph extends which are applied for any purpose calculated to benefit the society as a whole shall not be held to be applied for purposes of private gain by reason only that their application for that purpose results in benefit to any person as an individual.

(3) Sub-paragraph (2) above extends to any society which is established and conducted either—

(a) wholly for purposes other than purposes of any commercial undertaking, or

(b) wholly or mainly for the purpose of participation in or support of athletic sports or athletic games ;

and in this paragraph “ society ” includes any club, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such a club, institution, organisation or association.

4.—(1) Bingo duty shall not be charged in respect of bingo played at an entertainment promoted otherwise than for purposes of private gain, in compliance with the following conditions:—

(a) not more than one payment (whether by way of entrance-fee, payment for cards or otherwise) is made by each player of bingo at the entertainment, and no such payment exceeds 50p ;

(b) the total value of all prizes won at bingo played at the entertainment does not exceed £50 ;

(c) the whole of the proceeds of such payments as are mentioned in paragraph (a) above, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes at bingo, is applied for purposes other than private gain ;

(d) the sum appropriated out of the said proceeds in respect of expenses does not exceed the reasonable cost of the facilities provided for playing bingo.

(2) For the purposes of this paragraph, two or more entertainments promoted on the same premises by the same person on the same day shall be treated as one single entertainment ; but where a series of entertainments is held otherwise than as aforesaid—

(a) paragraphs (a) to (d) of sub-paragraph (1) above shall have effect separately in relation to each entertainment in the series, whether some or all of the persons taking part in any one of those entertainments are thereby qualified to take part in any other of them or not, and

(b) if each of the persons taking part in the bingo played at the final entertainment of the series is qualified to do so by reason of having taken part in the bingo played at another entertainment of the series held on a previous day, paragraph (b) of that sub-paragraph shall have effect in relation to that final entertainment as if for the words “ £50 ” there were substituted the words “ £100 ”.

(3) The Commissioners may by order made by statutory instrument provide that, in relation to entertainments held on or after the date

SCH. 3 on which the order comes into operation, this paragraph shall have effect as if, for such one or more of the following sums as may be specified in the order, that is to say—

- (a) the sum of 50p referred to in sub-paragraph (1)(a) above,
- (b) the sum of £50 referred to in sub-paragraph (1)(b) and sub-paragraph (2)(b), and
- (c) the sum of £100 referred to in sub-paragraph (2)(b),

there were substituted such larger sum as is specified in the order.

Any statutory instrument containing an order under this sub-paragraph shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) Sub-paragraphs (2) and (3) of paragraph 3 of this Schedule shall apply for the construction of sub-paragraph (1) above as they apply for the construction of paragraph 3(1).

Small-scale amusements provided commercially

5.—(1) Bingo duty shall not be charged in respect of bingo played in compliance with the conditions of this paragraph—

1963 c. 2.

(a) on any premises in respect of which a permit under section 49 of the Betting, Gaming and Lotteries Act 1963 (provision of amusements with prizes) has been granted in accordance with Schedule 6 to that Act and is for the time being in force ;

1968 c. 65.

(b) on any premises in respect of which there is for the time being in force both a gaming machine licence under section 21 of this Act and a permit granted under section 34 of the Gaming Act 1968, not being premises in respect of which a club or a miners' welfare institute within the meaning of the Gaming Act 1968 is for the time being registered under Part III of that Act ; or

(c) at any pleasure fair consisting wholly or mainly of amusements provided by travelling showmen, which is held on any day of a year on premises not previously used in that year for more than twenty-seven days for the holding of such a pleasure fair.

(2) The conditions of this paragraph are that—

(a) the amount payable by any person for a card for any one game of bingo does not exceed 5p ;

(b) the total amount taken as payment by players for their cards for any one game does not exceed £2.50 ;

(c) no money prize exceeding 5p is distributed or offered ;

(d) the winning of, or the purchase of a chance to win, a prize does not entitle any person (whether subject to a further payment by him or not) to any further opportunity to win money or money's worth by taking part in any gaming or in any lottery ; and

(e) in the case of such a pleasure fair as is described above, the opportunity to play bingo is not the only, or the only substantial, inducement to persons to attend the fair.

Machine bingo

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6. Bingo duty shall not be charged in respect of bingo played by means of a gaming machine the provision of which on premises requires the authority of an excise licence under section 21 of this Act.

PART II

SUPPLEMENTARY PROVISIONS

Definitions

7. In this Part of this Schedule—

- “bingo-promoter” means a person who promotes the playing of bingo chargeable with bingo duty ;
- “prescribed” means prescribed by regulations ;
- “regulations” means regulations of the Commissioners under this Part of this Schedule.

General administration

8.—(1) Bingo duty shall be under the care and management of the Commissioners and shall be accounted for by such persons, and accounted for and paid at such times and in such manner, as may be required by or under regulations.

(2) Without prejudice to any other provision of this Schedule, regulations may provide for any matter for which provision appears to the Commissioners to be necessary for the administration or enforcement of bingo duty, or for the protection of the revenue in respect of that duty.

(3) Regulations shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Notification to Commissioners by, and registration of, bingo-promoters

9.—(1) Any person who intends to promote the playing of bingo which will, or may, be chargeable with bingo duty shall, not less than fourteen days before the first day on which bingo is to be played, notify the Commissioners of his intention, specifying the premises on which the bingo is to be played, and applying to be registered as a bingo-promoter.

(2) Where a person notifies his intention as aforesaid, he shall be entitled to be registered by the Commissioners, except that the Commissioners may, where it appears to them to be requisite for the security of the revenue to do so, impose as a condition of a person's registration, or may subsequently impose as a condition of the continuance in force of his registration, a requirement that he shall give such security (or further security) by way of deposit or otherwise for any bingo duty which he is, or may become, liable to pay as the Commissioners may from time to time require.

(3) Where, in the case of a person who is for the time being registered as a bingo-promoter, the Commissioners exercise their power under sub-paragraph (2) above to impose, as a condition

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of the continuance in force of his registration, a requirement that he shall give security or further security, and he does not give it, the Commissioners may cancel his registration (without prejudice, however, to his right to apply again to be registered).

Announcement of prizes

10. A bingo-promoter shall ensure that, before the beginning of any game of bingo promoted by him, the value of any prize to be won in the game is made known to the players in accordance with such requirements as may be prescribed for the purposes of this paragraph.

Books, records, accounts, etc.

11.—(1) A bingo-promoter shall keep such books, records and accounts as may be prescribed, or as the Commissioners may direct either generally or in a particular case.

(2) Any such books, records and accounts—

(a) shall be preserved for at least two years or such shorter period as the Commissioners may in any particular case direct, and

(b) shall be kept in such form as the Commissioners may direct either generally or in a particular case ;

and different directions under this sub-paragraph may be given by the Commissioners in relation to different cases or to different classes of books, records or accounts.

(3) A bingo-promoter shall, if so required by the Commissioners or an officer—

(a) produce, at a time and place specified in the requirement, such books, records, accounts or documents relating to the playing of bingo promoted by him as may be so specified, and

(b) give such other information relating thereto as may be so specified.

(4) Without prejudice to the foregoing provisions of this paragraph, regulations may include provision requiring bingo-promoters to keep and, if required by the Commissioners or an officer, to produce for inspection records showing the value of prizes won at bingo.

Powers to enter premises and obtain information

12.—(1) Any officer may, without paying, enter on any premises where bingo is played or on which he has reasonable cause to suspect that bingo has been or is about to be played, and inspect the premises and anything whatsoever which he finds there ; and he may further—

(a) require any person concerned with the management of the premises to provide him with information with respect to activities carried on there ;

(b) require any person on the premises who appears to him to be, or to have been, playing any game to provide him with information with respect to the game and, in

particular, to produce to him any document or thing in his possession which is or was used in connection with the playing of the game.

(2) An officer who enters any premises in the exercise of powers conferred by this paragraph shall be permitted to remain there at any time when the premises are being used for gaming, or when he has reasonable cause to suspect that they are about to be so used.

Power of Commissioners to estimate duty payable

13. Where an amount is due on account of bingo duty from any person, but by reason of his failure to keep, or to produce or furnish to the proper officer, any books, records, accounts or other documents which he is required or directed under this Schedule to keep, produce or furnish, or of his failure to take or permit to be taken any other step which he is so required to take or permit to be taken, or by reason of such books, records or accounts being materially incomplete or inaccurate, the Commissioners are unable to ascertain the amount of duty properly due from him, the Commissioners may estimate the amount due; and (without prejudice to the recovery of the full amount due or to the making of a further estimate in that behalf) the amount estimated shall be recoverable as duty properly due, unless in any action relating thereto the person liable proves the amount properly due and that amount is less than the amount estimated.

Disputes as to computation of duty

14.—(1) Without prejudice to paragraph 13 of this Schedule, if any dispute arises between the Commissioners and a bingo-promoter as to the amount taken by him or on his behalf, on a particular occasion, as payment by players for cards, or as to the value of any prize, then—

- (a) the Commissioners shall by notice in writing to the bingo-promoter specify what in their opinion the amount or value is; and
- (b) the amount of duty chargeable to, and recoverable from, the promoter shall be computed in accordance with that opinion.

(2) If the promoter disputes the Commissioners' opinion as to the said amount or value, he may at any time within three months of the date of the notice, and subject to his having paid the full amount of duty which in accordance with that opinion (as stated in the notice) is due from him, apply to the High Court or, in Scotland, the Court of Session for a declaration as to what the said amount or value is.

(3) If on an application under sub-paragraph (2) above the court makes a declaration specifying a different amount or value from that specified in the Commissioners' notice, then—

- (a) the notice shall be amended accordingly;
- (b) any amount by which duty is found to have been overpaid shall be repaid by the Commissioners together with interest thereon from the date of overpayment at such rate as the court may determine;

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(c) any amount by which duty is found to have been underpaid shall be recoverable as duty properly due.

Recovery of duty

15.—(1) If a person, on written demand by the proper officer, refuses or neglects to pay any amount recoverable from him by way of bingo duty, the amount recoverable may be levied by distress on his goods and chattels; and the proper officer may for that purpose by warrant signed by him authorise any person to distrain accordingly and to sell anything so distrained by public auction after giving six days' notice of the sale.

(2) Where an amount recoverable by virtue of this paragraph is determined (wholly or in part) by reference to the duty on the playing of bingo on any premises, the goods and chattels on which distress may be levied shall include any goods and chattels used for the purposes of the bingo and found on those premises; but distress shall not be levied on such goods or chattels unless a copy of the demand for the amount recoverable has been served on the bingo-promoter, or the person having the management of those premises, by sending it by post addressed to him at the premises or at an address at which he carries on any business.

(3) The proceeds of sale of anything distrained under this paragraph shall be applied in or towards payment of the costs and expenses of the distress and sale and the payment of the amount recoverable, and the surplus (if any) shall be paid to the person on whom the distress was levied.

(4) Where under this paragraph distress is levied for duty payable in accordance with an estimate by the Commissioners under paragraph 13 of this Schedule and it is afterwards proved that the amount properly due was less than the amount estimated, this shall not affect the legality of the distress or anything done under this paragraph in connection therewith; but the proceeds of sale shall be applied under sub-paragraph (3) above in accordance with the amount properly due and not in accordance with the amount estimated.

(5) In the application of this paragraph to Scotland, any reference to distress shall be construed as a reference to diligence, any reference to distraining or to the levying of distress shall be construed as a reference to the doing of diligence, and the expression "chattels" means corporeal movables.

16. Paragraph 14 of Schedule 1 to this Act (priority of debts in bankruptcy etc.) shall have effect in relation to bingo duty as it has effect in relation to general betting duty.

Enforcement

17.—(1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion (by him or any other person) of bingo duty, he shall be liable to a penalty of £500 or treble the amount of the duty payment of which is sought to be evaded, whichever is the greater.

(2) If any person—

(a) is knowingly concerned with the promotion of bingo (being bingo which is or may be chargeable with bingo duty),

where the promoter is not registered by the Commissioners in accordance with paragraph 9 of this Schedule, or

- (b) is knowingly concerned with the combination of any game of bingo with other bingo contrary to section 19(2) of this Act ;

ne shall be liable to a penalty of £500.

(3) Where a person is convicted of an offence under sub-paragraph (1) or (2) above the court may, in lieu of or in addition to ordering him to pay the said penalty, order him to be imprisoned for a term not exceeding two years.

(4) If any person contravenes or fails to comply with any provision of this Part of this Schedule or of regulations, or fails to comply with any requirement made of him by or under any such provision, he shall be liable to a penalty of £500.

18. Where a person is convicted of an offence under paragraph 17(4) of this Schedule, consisting in a failure to comply with any provision of this Part of this Schedule or of regulations, and the failure continues after the conviction, he shall be guilty of a further offence under paragraph 17(4) and may on conviction be punished accordingly.

19. Where an offence under paragraph 17 of this Schedule has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

20.—(1) If a justice of the peace or, in Scotland, the sheriff or a magistrate is satisfied on information on oath that there is reasonable ground for suspecting that an offence under paragraph 17 of this Schedule is being, has been, or is about to be committed on any premises, he may issue a warrant in writing authorising any officer to enter those premises (if necessary by force) at any time within fourteen days from the time of the issue of the warrant and search them.

(2) An officer who enters premises under the authority of such a warrant may—

- (a) seize and remove any books, records, accounts, documents, money or valuable thing, and any instrument, device, apparatus or other thing whatsoever found on the premises, which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence, and
- (b) search any person found on the premises whom he has reasonable cause to believe to be concerned with the promotion of bingo or, as the case may be, with the management of any premises used for the purpose of playing bingo.

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21. Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector of Customs and Excise given in connection with the enactments relating to bingo duty and, apart from this paragraph, would in taking that action be committing an offence under the enactments relating to gaming, he shall not be guilty of that offence.

Sections 25, 27.

SCHEDULE 4

PROVISIONS RELATING TO GAMING MACHINE LICENCE DUTY

PART I

EXEMPTIONS FROM REQUIREMENT OF EXCISE LICENCE

Charitable entertainments, etc.

1.—(1) A gaming machine licence shall not be required in order to authorise the provision of a gaming machine at an entertainment (whether limited to one day or extending over two or more days), being a bazaar, sale of work, fête, dinner, dance, sporting or athletic event or other entertainment of a similar character, where the conditions of this paragraph are complied with in relation to the entertainment.

(2) The conditions of this paragraph are that—

- (a) the whole proceeds of the entertainment (including the proceeds of gaming by means of any machine) after deducting the expenses of the entertainment, including any expenses incurred in connection with the provision of gaming machines and of prizes to successful players thereof, will be devoted to purposes other than private gain ; and
- (b) the opportunity to win prizes by playing the machine (or that machine and any other provided for gaming at the entertainment) does not constitute the only, or the only substantial, inducement for persons to attend the entertainment.

(3) Sub-paragraphs (2) and (3) of paragraph 3 of Schedule 3 to this Act (construction of reference to "private gain") shall apply for the construction of sub-paragraph (2)(a) above as they apply for the construction of sub-paragraph (1) of that paragraph.

Pleasure fairs

2.—(1) A gaming machine licence shall not be required in order to authorise the provision of a gaming machine at a pleasure fair, consisting wholly or mainly of amusements provided by travelling showmen, which is held on any day of a year on premises not previously used in that year for more than twenty-seven days for the holding of such a pleasure fair, where the conditions of this paragraph are complied with in relation to the machine.

(2) The conditions of this paragraph are that—

- (a) the amount payable to play the machine once does not exceed 5p ;

(b) a person playing the machine once and successfully does not receive any thing other than one of the following prizes or combinations of prizes:—

(i) a money prize not exceeding 10p or a token which is, or two or more tokens which in the aggregate are, exchangeable only for such a money prize;

(ii) a non-monetary prize or prizes of a value or aggregate value not exceeding 25p or a token exchangeable only for such a non-monetary prize or such non-monetary prizes;

(iii) a money prize not exceeding 10p together with a non-monetary prize of a value which does not exceed 25p less the amount of the money prize;

(iv) one or more tokens which can be exchanged for a non-monetary prize or non-monetary prizes at the appropriate rate; and

(c) the opportunity to play the machine (or that machine and any other provided for gaming at the fair) does not constitute the only, or the only substantial, inducement for persons to attend the fair.

(3) In sub-paragraph (2)(b) above, “non-monetary prize”, in relation to a machine, means a prize which does not consist of or include any money and does not consist of or include any token which can be exchanged for money or money’s worth or be used for playing the machine; and, for the purposes of sub-paragraph (2)(b)(iv), a token or tokens shall be taken to be exchanged for a non-monetary prize or prizes at the appropriate rate if either—

(a) the value or aggregate value of the prize or prizes does not exceed 25p and the token or tokens exchanged represent the maximum number of tokens which can be won by playing the machine once, or

(b) in any other case, the value or aggregate value of the prize or prizes does not exceed 25p and bears to 25p a proportion not exceeding that which the number of tokens exchanged bears to the maximum number of tokens which can be won by playing the machine once.

(4) The condition specified in sub-paragraph (2)(b) above shall not, in relation to a machine, be taken to be contravened by reason only that a successful player of the machine receives an opportunity to play again (once or more often) without paying, so long as the most which he can receive if he wins each time he plays again is a money prize or money prizes of an amount, or aggregate amount, of 10p or less.

PART II

SUPPLEMENTARY PROVISIONS

General administration

3.—(1) The duty on gaming machine licences shall be under the care and management of the Commissioners, who may (without prejudice to any other provision of this Schedule) make regulations providing for any matter for which provision appears to them to

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be necessary for the administration or enforcement of the duty, or for the protection of the revenue in respect thereof; and in this Schedule—

(a) “regulations” means regulations of the Commissioners made thereunder; and

(b) “prescribed” means prescribed by regulations.

(2) Regulations shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Application for and duration of licence

4.—(1) An application for an ordinary licence in respect of any premises shall, in the case of a new licence, be made to the Commissioners not later than fourteen days before the date on which the licence is to be in force; and, in the case of an ordinary licence in continuation of one of which the applicant is the holder, be made not later than fourteen days before the date on which the licence held by him is due to expire.

(2) An application for a holiday season licence in respect of any premises shall be made not less than fourteen days before the date on which the licence is to be first in force.

5.—(1) A licence shall be expressed to take effect on the first day of the period for which it is granted or, if it is granted after the beginning of a licence-period so as to have effect for the remainder of that period, on the day following the date of the grant.

(2) An ordinary whole-year licence shall expire at the end of 30th September next after the date on which it is expressed to take effect; and an ordinary half-year licence shall expire at the end of 31st March or, as the case may be, 30th September next after that date.

(3) A holiday season licence shall expire at the end of 31st October next after the date on which it is expressed to take effect.

(4) If a holiday season licence is granted in respect of any premises, any ordinary licence in respect of those premises shall (if not surrendered under paragraph 9 of this Schedule) become void as from the day on which the holiday season licence is first in force.

(5) If an ordinary licence (whole-year or half-year) is granted in respect of any premises, any holiday season licence in respect of those premises shall become void as from the day on which the ordinary licence is first in force.

Transfer and amendment of licence

6.—(1) The proper officer may, in such manner as the Commissioners may direct, and without any additional payment, transfer a gaming machine licence in respect of any premises to a successor in title to the interest in those premises of the person to whom the licence was granted.

(2) Where the holder of a gaming machine licence in respect of any premises dies, the proper officer may transfer the licence, in such manner as the Commissioners may direct and without any

additional payment, to some other person for the remainder of the period for which the licence was granted.

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7. The proper officer may, in such manner as the Commissioners may direct, and without any additional payment, amend a gaming machine licence by substituting different premises for those in respect of which it is for the time being in force, but—

- (a) this paragraph shall not be taken as authorising any amendment affecting the number or descriptions of gaming machines authorised by the licence, and
- (b) in the case of an ordinary licence, the proper officer must be satisfied that there is no other licence in force as respects the new premises, except where the transfer is of a licence relating only to machines chargeable at the lower rate, or the higher rate, and the licence already in force relates only to machines chargeable at the other rate.

8.—(1) Where there is a gaming machine licence for the time being in force in respect of any premises, the holder may at any time apply to the Commissioners for the licence to be amended under this paragraph, and the proper officer shall, on payment of the additional duty (if any), amend the licence accordingly.

(2) An ordinary licence may be amended under this paragraph—

- (a) so as to increase the number of machines which are authorised by the licence for the premises in question (whether chargeable at one or other, or at each, of the two rates respectively); or
- (b) so as to increase the number of machines chargeable at one rate and reduce the number chargeable at the other rate; or
- (c) in the case of a licence which authorises only machines chargeable at one rate, so as to authorise a specified number of machines chargeable at the other rate.

(3) A holiday season licence may be amended under this paragraph so as to increase the number of penny machines which are authorised by the licence for the premises in question.

(4) The additional duty referred to in sub-paragraph (1) above shall be payable only where—

- (a) the amount of the duty originally paid on the licence, or
- (b) in the case of a licence previously amended under this paragraph, that amount plus any additional duty paid in respect of that amendment,

is exceeded by the amount of duty which would have been payable on the original licence if it had been granted as proposed to be amended; and the amount of the additional duty shall then be the difference between those two amounts, except that where an ordinary whole-year licence falls to be amended in pursuance of an application made after 31st March immediately preceding 30th September on which it is due to expire, the additional duty shall be eleven-twentieths of that difference.

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(5) Regulations may make provision with respect to the procedure for amending licences under this paragraph, and any such regulations may include provision—

- (a) as to the method of amendment (that is to say, whether it is to be effected by endorsement of the licence, or by the issue of an amended licence, or otherwise howsoever), and
- (b) as to the time at which a licence is to have effect as amended.

Surrender of licence

9.—(1) The following provisions shall have effect where an ordinary whole-year licence is in force in respect of any premises and, not later than 31st March immediately preceding 30th September on which the licence is due to expire, the holder of the licence surrenders it to the proper officer.

(2) Subject to sub-paragraph (3) below, the holder, if he satisfies the proper officer either—

- (a) that, during the period between the date of the surrender and that on which the licence would otherwise expire, he will not be concerned with the provision of any gaming machines for gaming on the premises to which the licence relates, or
- (b) that as from the date of the surrender there will be in force in respect of those premises a holiday season licence,

shall be entitled to repayment of an amount equal to nine-twentieths of the duty paid on the licence.

(3) Sub-paragraph (2) above shall not apply if any person has been convicted of an offence under paragraph 15 of this Schedule in respect of a contravention on the premises of section 25 of this Act, being a contravention which occurred between the grant of the licence and the date of surrender; and where at the date of surrender proceedings for such an offence are pending against any person, the right to repayment under this paragraph shall not arise until the proceedings are terminated, nor unless every person charged in those proceedings with such an offence has been acquitted thereof.

Payment of duty by cheque

1952 c. 44.

10. Section 234 of the Customs and Excise Act 1952 (which relates to payment of duty on excise licences by cheque) shall apply to the duty on a gaming machine licence, but as if for the reference to a penalty of £50 there were substituted a reference to a penalty of £500.

Requirements to be observed by licence-holder

11. The holder of a gaming machine licence in respect of any premises shall secure that the licence is displayed on the premises at such times and in such manner as may be prescribed, and shall on demand by an officer at any time produce the licence for the officer's inspection.

12. Regulations may make provision with respect to the labelling or marking of gaming machines provided on any premises in respect of which a gaming machine licence is for the time being in force, with a view to enabling such machines to be identified as chargeable at the lower rate or at the higher rate or, as the case may be, as penny machines ; and any such regulations may include provision as to the size and description of labels or marks to be applied to machines, as to the cases in which they are required to be, or are prohibited from being, applied, and as to the manner of their application.

Power to enter premises and obtain information

13. Any officer may (without payment) enter on any premises on which he knows or has reasonable cause to suspect that gaming machines are or have been provided for gaming and inspect those premises and require any person who is concerned in the management of the premises, or who is on the premises and appears to the officer to have any responsibility whatsoever in respect of their management or of the control of the admission of persons thereto—

- (a) to produce or secure the production of any gaming machine licence for the time being in force in respect of the premises, or
- (b) to provide information with respect to any use to which the premises are or have been put, or to any machine which is or has been on the premises and any game which may have been played by means of such a machine or to the way in which the machine works, or to the amount which is or has been payable to play it.

Registers of permits, etc.

14.—(1) The clerk to the appropriate authority shall keep a register in the prescribed form and containing the prescribed particulars of—

- (a) all permits issued by the authority for the purposes of section 49 of the Betting, Gaming and Lotteries Act 1963 1963 c. 2. (permitted gaming in the form of amusements with prizes),
- (b) all permits so issued for the purposes of section 34 of the Gaming Act 1968 (conditions under which gaming may be 1968 c. 65. carried on by means of machines), and
- (c) all directions given by the authority under section 32 of the Gaming Act 1968 (approval for provision of more than two gaming machines) ;

and any such register shall be open during reasonable hours for inspection by any officer.

(2) In sub-paragraph (1) above, “ the appropriate authority ”—

- (a) in relation to permits issued for the purposes of section 49 of the Betting, Gaming and Lotteries Act 1963, means the local authority within the meaning of Schedule 6 to that Act,
- (b) in relation to permits issued for the purposes of section 34 of the Gaming Act 1968, has the same meaning as in Schedule 9 to that Act, and

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1968 c. 65.

(c) in relation to directions under section 32 of the Gaming Act 1968, means the licensing authority under that Act.

Enforcement

15. If any gaming machine is provided for gaming on any premises in contravention of section 25 of this Act, any person who at the time when it is so provided—

- (a) is the owner, lessee or occupier of the premises, or
- (b) is for the time being responsible to the owner, lessee or occupier for the management of the premises, or
- (c) is a person responsible for issuing or exchanging coins or tokens for use in playing any gaming machine on the premises, or otherwise for controlling the use of any such machine, or
- (d) is for the time being responsible for controlling the admission of persons to the premises or for providing persons resorting thereto with any goods or services, or
- (e) is the owner or hirer of the machine, or
- (f) is a party to any contract under which a gaming machine may, or is required to, be on the premises at that time,

shall be guilty of an offence and be liable to a penalty of £500 or, if he knowingly or recklessly brought about the relevant contravention of section 25 of this Act, or took any steps with a view to procuring it—

- (i) on summary conviction to a penalty of £1,000 or to imprisonment for not more than twelve months, or to both; or
- (ii) on conviction on indictment, to the like penalty or to imprisonment for not more than two years, or to both.

16.—(1) If any person contravenes or fails to comply with any provision of this Part of this Schedule or regulations, or fails or refuses to comply with any requirement lawfully made of him under this Part of this Schedule or regulations, he shall be guilty of an offence and be liable to a penalty of £500.

(2) Where a person is convicted of an offence under this paragraph consisting in a failure to comply with any provision of this Part of this Schedule or of regulations, and the failure continues after the conviction, he shall be guilty of a further offence under this paragraph and may on conviction be punished accordingly.

17. Where an offence under paragraph 15 or 16 of this Schedule has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves—

- (a) in the case of an offence under paragraph 15, that he did not consent to, or connive at, the relevant contravention of section 25 of this Act, or
- (b) in the case of an offence under paragraph 16, that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the contravention or, as the case may be, the commission of the offence as he ought

to have exercised having regard to the nature of his functions in that capacity and in all the circumstances.

18.—(1) If a justice of the peace or, in Scotland, a sheriff or a magistrate is satisfied on information on oath that there is reasonable ground for suspecting that gaming machines are or have been, or are to be, provided for gaming on any premises in contravention of section 25 of this Act, he may issue a warrant in writing authorising an officer to enter the premises (if necessary by force) at any time within fourteen days of the issue of the warrant and search them.

(2) An officer who enters premises under the authority of such a warrant may—

- (a) seize and remove any records, accounts or other documents, or any gaming machine (including any machine appearing to the officer to be constructed or adapted, or to be capable of use, for playing a game of chance by means of it), or any tokens or other thing whatsoever, found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under paragraph 15 or 16 of this Schedule ;
- (b) search any person found on the premises whom he has reasonable cause to believe to be or have been concerned with the provision of gaming machines on the premises, or with the management of the premises, or to be or have been responsible for controlling the admission of persons to the premises.

19. Where an officer finds gaming machines provided on any premises in such circumstances that a gaming machine licence is required so as to authorise them so to be provided and either—

- (a) there is not produced to him on demand a valid gaming machine licence in respect of the premises, or
- (b) such a licence is produced, but the officer is satisfied that, having regard to the number of machines on the premises and their description, there is or has been a contravention of section 25 of this Act in respect of the premises,

all gaming machines found on the premises shall be liable to forfeiture.

20. Where an officer takes any action in pursuance of instructions of the Commissioners or a Collector of Customs and Excise given in connection with the enforcement of the enactments relating to the duty on gaming machine licences and, apart from the provisions of this paragraph, the officer would in taking that action be committing an offence under the enactments relating to betting or gaming, he shall not be guilty of that offence.

Modification of agreements

21.—(1) The following provisions of this paragraph shall have effect where a person (called “the hirer”) entered into an agreement before 1st October 1969 with another person (called “the supplier”) for the provision by the supplier on any premises of a gaming machine during a period beginning before, and extending beyond, that date.

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- 1966 c. 18.
1969 c. 32.
- (2) If the consideration for the provision of the gaming machine was determined on the assumption that someone other than the hirer would pay the duty on any gaming machine licence required for the premises under section 14 of the Finance Act 1966, and the hirer has paid, or will be accountable for, the corresponding duty under section 5 of the Finance Act 1969 or section 21 of this Act, the hirer shall be entitled to recover from the supplier such amount, or to make such reduction in periodical payments due from him under the agreement, as may be agreed between them (or, in default of agreement, as may be determined by the appropriate court) to be fair in all the circumstances having regard in particular—
- (a) to the period for which, under the agreement, the supplier is to provide a gaming machine as aforesaid on the premises in question, and
 - (b) to the incidence of the duty under the said section 14 and sections 5 and 21 as respects that period.
- (3) In sub-paragraph (2) above, “the appropriate court” means—
- (a) where the premises in question are in England or Wales, the county court, and
 - (b) where the premises in question are in Scotland, the sheriff

Section 29.**SCHEDULE 5****CONSEQUENTIAL AMENDMENTS**

- 1963 c. 2.
1. In section 55(1) of the Betting, Gaming and Lotteries Act 1963, in the definition of “pool betting”, for the words “the Betting Duties Act 1963” there shall be substituted the words “the Betting and Gaming Duties Act 1972”.
- 1966 c. 18.
2. In section 12(6) of the Finance Act 1966, the word “In” shall be inserted before the words “paragraph 4(a)(i)”.
- 1968 c. 65.
3. In paragraph 48(1) of Schedule 2 to the Gaming Act 1968, for the words from “section 13” to “and the Commissioners” there shall be substituted the words “section 13 of that Act or of an offence under paragraph 12 or 13 of Schedule 2, or paragraph 15 or 16 of Schedule 4, to the Betting and Gaming Duties Act 1972 (or under the corresponding provisions of the enactments consolidated by that Act), and the Commissioners”.
4. In each of—
- (a) paragraph 17(1) of Schedule 3 to the Gaming Act 1968, and
 - (b) paragraph 15(1) of Schedule 4 to that Act,
- for the words from “section 13” to “in relation to premises” there shall be substituted the words “section 13 of that Act or of an offence under paragraph 15 or 16 of Schedule 4 to the Betting and Gaming Duties Act 1972 (or under the corresponding provisions of the enactments consolidated by that Act) in relation to premises”.
- 1970 c. 24.
5. In paragraph 20(1)(e) of Schedule 2 to the Gaming Act 1968, as amended by paragraph 16(2) of Schedule 1 to the Finance Act 1970, after the words “Finance Act 1970” there shall be inserted the words “or section 13 of or Schedule 2 to the Betting and Gaming

Duties Act 1972”; and the like amendment shall be made in each of— SCH. 5

- (a) paragraph 60(c) of Schedule 2,
- (b) paragraph 9(e) of Schedule 3, and
- (c) paragraph 11(e) of Schedule 4

to the said Act of 1968 as so amended.

6. In section 3(8) of the Finance Act 1969, for the words “ the 1969 c. 32. Act of 1963 ” there shall be substituted the words “ the Betting, Gaming and Lotteries Act 1963 ”.

SCHEDULE 6

Section 29.

TRANSITIONAL PROVISIONS

1. In so far as any regulation, order, licence, permit, notice, entry, direction, warrant or other instrument made, issued or given, or having effect as if made, issued or given, under any enactment repealed by this Act, or any other thing done or having effect as if done under any such enactment, could have been made, issued, given or done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, issued, given or done under that corresponding provision.

2. Without prejudice to paragraph 1 of this Schedule, any provision of this Act relating to anything done or required or authorised to be done under or by reference to that provision or any other provision of this Act shall have effect as if any reference to that provision, or that other provision, as the case may be, included a reference to the corresponding provision of the enactments repealed by this Act.

3.—(1) Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

(2) Where an offence, for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.

4.—(1) For the purposes of section 9(4) of this Act a conviction for an offence under section 5 of the Finance Act 1952 or under section 2 of the Betting Duties Act 1963 (either as originally enacted or as subsequently amended) shall be deemed to have been a conviction for an offence under section 9 of this Act. 1952 c. 33.
1963 c. 3.

(2) Paragraph 9(3) of Schedule 4 to this Act shall have effect in relation to an offence under paragraph 22 of Schedule 11 to the Finance Act 1969 in respect of a contravention of section 5(11) of that Act (either as originally enacted or as subsequently amended) as it has effect in relation to an offence under paragraph 15 of the said Schedule 4 in respect of a contravention of section 25 of this Act.

5. Where any Act or document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

Section 29.

SCHEDULE 7

REPEALS

Chapter	Short Title	Extent of Repeal
1963 c. 3.	The Betting Duties Act 1963.	The whole Act.
1964 c. 49. 1966 c. 18.	The Finance Act 1964. The Finance Act 1966.	In section 7, subsections (2) to (4). Section 12, except subsection (6)(b). Section 15, except subsection (5). Schedule 3, except paragraph 6.
1967 c. 54. 1968 c. 44.	The Finance Act 1967. The Finance Act 1968.	Section 7, except subsection (8). In section 4, subsections (2) and (4). Schedule 5.
1968 c. 65.	The Gaming Act 1968.	In Schedule 2, in each of paragraphs 20(1)(f) and 60(c), the words "under section 3 of the Finance Act 1969". In Schedule 3, in paragraph 9(f), the words "under section 3 of the Finance Act 1969". In Schedule 4, in paragraph 11(f), the words "under section 3 of the Finance Act 1969". In Schedule 11, in Part III, the entry relating to section 3(6) of the Betting Duties Act 1963 and the entry relating to section 15(6) of the Finance Act 1966.
1969 c. 32.	The Finance Act 1969.	Section 3, except subsections (8) and (9). Section 5, except subsection (17). In Schedule 9, paragraphs 1 to 21 and in paragraphs 22, 23 and 24 the words "under section 3 of the Finance Act 1969" wherever they occur. Schedule 11.
1970 c. 24.	The Finance Act 1970.	In section 1, subsections (1) to (4). Section 2, except subsection (9). Section 3. Schedule 1, except paragraphs 14 and 16(2) and (3).
1971 c. 68.	The Finance Act 1971.	Sections 8 to 10. In section 69(3), the words "8, 9, 10".



Sunday Theatre Act 1972

1972 CHAPTER 26

An Act to permit and regulate the opening and use of theatres on Sundays, and for purposes connected therewith. [11th May 1972]

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. No person shall be guilty of an offence or subject to any penalty under the Sunday Observance Act 1780 by reason of his having managed, conducted, assisted at, or otherwise taken part in or attended or advertised the performance of any play on a Sunday at premises

- (a) licensed under the Theatres Act 1968; or 1968 c. 54.
- (b) in respect of which a licensing authority may impose requirements by notice in writing under section 17(2) of the Theatres Act 1968 (which relates to plays performed at premises under the authority of letters patent)

nor shall the said Act of 1780 apply to those premises by reason of the performance therein of any play on a Sunday.

2.—(1) No premises in respect of which a licence under the Theatres Act 1968 is for the time being in force or in respect of which a licensing authority have power to impose conditions in writing under section 17(2) of the Theatres Act 1968 shall be used for the public performance of any play on a Sunday—

- (a) between the hours of three in the morning and two in the afternoon if the premises are in any part of the inner London area which is designated by an order made for the purposes of this paragraph by the Secretary of State; or

(b) between the hours of two in the morning and two in the afternoon if the premises are in any part of England or Wales other than a part of the inner London area so designated.

1964 c. 42. (2) In this section “the inner London area” means the area which for the time being constitutes the inner London area for the purposes of the Administration of Justice Act 1964.

(3) For the purposes of this section premises shall be deemed to be used for the public performance of a play at any time during which members of the public are present in the auditorium of the premises in connection with such a public performance.

Enforcement
of section 2.
1968 c. 54.

3.—(1) If the provisions of section 2 above are contravened in relation to any premises the holder of the licence in respect of those premises under the Theatres Act 1968 or the holder for the time being of the relevant letters patent (as the case may be) shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding £200 or to imprisonment for a term not exceeding three months or both.

Orders.

4.—(1) The power conferred by section 2(1)(a) above to make an order shall include power to vary or revoke the order by a subsequent order.

(2) The power to make an order under this Act shall be exercisable by statutory instrument; and any statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation.

5.—(1) In this Act the expressions “licensing authority”, “play” and “premises” have the same meanings respectively as in the Theatres Act 1968.

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

Short title,
extent and
commence-
ment.

6.—(1) This Act may be cited as the Sunday Theatre Act 1972.

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

(3) This Act shall come into force at the expiration of a period of one month beginning with the date of its passing.



Road Traffic (Foreign Vehicles) Act 1972

1972 CHAPTER 27

An Act to make provision, in relation to foreign goods vehicles and foreign public service vehicles, for securing the observance of certain statutory provisions relating to road traffic; and for purposes connected with those matters. [11th May 1972]

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

1.—(1) The provisions of this section shall have effect with respect to any foreign goods vehicle or foreign public service vehicle where—

Power in certain cases to prohibit driving of foreign vehicle.

(a) an examiner exercises, in relation to the vehicle or its driver, any functions of the examiner under an enactment specified in the first column of Schedule 1 to this Act, or

(b) an authorised person exercises, in relation to the vehicle, any functions of that person under section 160 of the Road Traffic Act 1972 (weighing of motor vehicles).

1972 c. 20.

(2) If in any such a case as is mentioned in subsection (1)(a) of this section—

(a) the driver obstructs the examiner in the exercise of his functions under the enactment in question, or refuses, neglects or otherwise fails to comply with any requirement made by the examiner under that enactment, or

(b) it appears to the examiner that, in relation to the vehicle or its driver, there has been a contravention of any of the enactments or instruments specified in the first

column of Schedule 2 to this Act, or that there will be such a contravention if the vehicle is driven on a road, the examiner may prohibit the driving of the vehicle on a road, either absolutely or for a specified purpose, and either for a specified period or without any limitation of time.

(3) If in any such case as is mentioned in subsection (1)(b) of this section—

(a) the driver obstructs the authorised person in the exercise of his functions under the said section 160, or refuses, neglects or otherwise fails to comply with any requirement made by the authorised person under that section, or

(b) it appears to the authorised person that any limit of weight applicable to the vehicle by virtue of regulations made under section 40 of the Road Traffic Act 1972 has been exceeded, or will be exceeded if the vehicle is driven on a road,

1972 c. 20.

the authorised person may prohibit the driving of the vehicle on a road, either absolutely or for a specified purpose.

(4) Where an examiner or an authorised person prohibits the driving of a vehicle under this section, he may also direct the driver to remove the vehicle (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle in accordance with that direction.

(5) Where a prohibition is imposed under subsection (2) or subsection (3) of this section, the examiner or authorised person shall forthwith give notice in writing of the prohibition to the driver of the vehicle, specifying the circumstances (as mentioned in paragraph (a) or paragraph (b) of either of those subsections) in consequence of which the prohibition is imposed, and—

(a) stating whether the prohibition is on all driving of the vehicle or only on driving it for a specified purpose (and, if the latter, specifying the purpose), and

(b) where the prohibition is imposed under subsection (2) of this section, also stating whether it is imposed only for a specified period (and, if so, specifying the period) or without limitation of time;

and any direction under subsection (4) of this section may be given either in that notice or in a separate notice in writing given to the driver of the vehicle.

Provisions
supple-
mentary to
s. 1.

2.—(1) Subject to any exemption granted under subsection (2) of this section, a prohibition under section 1 of this Act shall come into force as soon as notice of it has been given in accordance

with subsection (5) of that section, and shall continue in force until it is removed under the following provisions of this section (or, in the case of a prohibition imposed only for a specified period, shall continue in force until either it is removed under this section or that period expires, whichever first occurs).

(2) Where notice of a prohibition has been given under subsection (5) of section 1 of this Act in respect of a vehicle, an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purpose as may be specified in the exemption may be granted—

- (a) in the case of a prohibition under subsection (2) of that section, by any examiner, or
- (b) in the case of a prohibition under subsection (3) of that section, by any authorised person.

(3) A prohibition under subsection (2) of section 1 of this Act may be removed by any examiner, and a prohibition under subsection (3) of that section may be removed by any authorised person, if he is satisfied that appropriate action has been taken to remove or remedy the circumstances (as mentioned in paragraph (a) or paragraph (b) of either of those subsections) in consequence of which the prohibition was imposed; and on doing so the examiner or authorised person shall forthwith give notice in writing of the removal of the prohibition to the driver of the vehicle.

(4) In the exercise of his functions under section 1 of this Act or under this section an examiner shall act in accordance with any general directions given by the Secretary of State; and (without prejudice to the preceding provisions of this subsection) an examiner, in exercising his functions under subsection (2) of this section, shall act in accordance with any directions given by the Secretary of State with respect to the exercise of those functions in any particular case.

3.—(1) Any person who—

- (a) drives a vehicle on a road in contravention of a prohibition imposed under section 1 of this Act, or
- (b) causes or permits a vehicle to be driven on a road in contravention of such a prohibition, or
- (c) refuses, neglects or otherwise fails to comply within a reasonable time with a direction given under subsection (4) of that section,

Enforcement provisions.

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

P

(2) A constable in uniform may arrest without warrant any person whom he has reasonable cause to suspect of having committed an offence under the preceding subsection.

(3) Where a constable in uniform has reasonable cause to suspect the driver of a vehicle of having committed an offence under subsection (1) of this section, the constable may detain the vehicle, and for that purpose may give a direction, specifying an appropriate person and directing the vehicle to be removed by that person to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle in accordance with that direction.

(4) Where under subsection (3) of this section a constable—

(a) detains a motor vehicle drawing a trailer, or

(b) detains a trailer drawn by a motor vehicle,

then, for the purpose of securing the removal of the trailer, he may also (in a case falling within paragraph (a) of this subsection) detain the trailer or (in a case falling within paragraph (b) of this subsection) detain the motor vehicle; and a direction under subsection (3) of this section may require both the motor vehicle and the trailer to be removed to the place specified in the direction.

(5) A vehicle which, in accordance with a direction given under subsection (3) of this section, is removed to a place specified in the direction shall be detained in that place, or in any other place to which it is removed in accordance with a further direction given under that subsection, until a constable (or, if that place is in the occupation of the Secretary of State, the Secretary of State) authorises the vehicle to be released on being satisfied—

(a) that the prohibition (if any) imposed in respect of the vehicle under section 1 of this Act has been removed, or that no such prohibition was imposed, or

(b) that appropriate arrangements have been made for removing or remedying the circumstances in consequence of which any such prohibition was imposed, or

(c) that the vehicle will be taken forthwith to a place from which it will be taken out of Great Britain, or

(d) in the case of a vehicle detained under subsection (4) of this section, that (in the case of a motor vehicle) the purpose for which it was detained has been fulfilled or (in the case of a trailer) it is no longer necessary to detain it for the purpose of safeguarding the trailer or its load.

(6) Any person who—

(a) drives a vehicle in accordance with a direction given under this section, or

(b) is in charge of a place at which a vehicle is detained under subsection (5) of this section,

shall not be liable for any damage to, or loss in respect of, the vehicle or its load unless it is shown that he did not take reasonable care of the vehicle while driving it or, as the case may be, did not, while the vehicle was detained in that place, take reasonable care of the vehicle or (if the vehicle was detained there with its load) did not take reasonable care of its load.

(7) In this section “appropriate person”—

- (a) in relation to a direction to remove a motor vehicle, other than a motor vehicle drawing a trailer, means a person licensed to drive vehicles of the class to which the vehicle belongs, and
- (b) in relation to a direction to remove a trailer, or to remove a motor vehicle drawing a trailer, means a person licensed to drive vehicles of a class which, when the direction is complied with, will include the motor vehicle drawing the trailer in accordance with that direction.

4.—(1) Subsection (3) of this section shall have effect in relation to a vehicle where it appears to an examiner that the vehicle— Production of certain documents.

- (a) is a foreign goods vehicle within the meaning of regulations for the time being in force under section 91(4) of the Transport Act 1968 (which enables certain provisions of that Act to be modified in their application to vehicles brought temporarily into Great Britain), and 1968 c. 73.
- (b) is being used, or has been brought into Great Britain for the purpose of being used, in such circumstances as, by virtue of section 60(1) of that Act as modified by the regulations, to require a document of a description specified in the regulations to be carried on it.

(2) The next following subsection shall also have effect in relation to a vehicle where it appears to an examiner that the vehicle—

- (a) is a foreign public service vehicle, and
- (b) is being used, or has been brought into Great Britain for the purpose of being used, in such circumstances as, by virtue of section 127(1) of the Road Traffic Act 1960 as modified by regulations for the time being in force under section 160(1)(k) of that Act (which enables certain provisions of that Act to be modified in their application to public service vehicles brought into Great Britain to carry persons staying there temporarily), to require a document of a description specified in the regulations to be carried on it. 1960 c. 16.

(3) In the circumstances mentioned in subsection (1) or subsection (2) of this section, the examiner, on production if so required of his authority,—

- (a) may require the driver of the vehicle to produce a document of the description in question and to permit the examiner to inspect and copy it, and
- (b) may detain the vehicle for such time as is requisite for the purpose of inspecting and copying the document;

and, if the driver refuses or fails to comply with any such requirement (including any case where he does so by reason that no such document is carried on the vehicle), the examiner may prohibit the driving of the vehicle on a road, either absolutely or for a specified purpose, and either for a specified period or without limitation of time.

(4) In subsections (4) and (5) of section 1 and in sections 2 and 3 of this Act any reference to a prohibition imposed under section 1, or under subsection (2) of section 1, of this Act shall be construed as including a reference to a prohibition imposed under this section; and, in relation to a prohibition imposed under this section, so much of section 1(5) or of section 2(3) of this Act as relates to the circumstances in consequence of which the prohibition was imposed shall be read subject to the appropriate modifications.

Application
of Road
Traffic Act
1972, s. 160,
to vehicles on
harbour land.
1972 c. 20.

5.—(1) The powers conferred by subsection (1) of section 160 of the Road Traffic Act 1972 (whereby an authorised person is empowered to require the person in charge of a motor vehicle to allow the vehicle or any trailer drawn thereby to be weighed, and the weight transmitted to the road by any parts of the vehicle or trailer in contact with the road to be tested, and for that purpose to proceed to a weighbridge or other machine for weighing vehicles) shall be exercisable in relation to the person in charge of a motor vehicle which is a foreign goods vehicle or a foreign public service vehicle and is for the time being on land to which this section applies, whether that land is or is not a road, and whether apart from this section those powers would be so exercisable or not; and any reference in that section to those powers or to such a requirement shall be construed accordingly.

(2) This section applies to any land which forms part of a harbour or which is adjacent to a harbour and is occupied wholly or partly for the purposes of harbour operations.

(3) In this section “harbour” and “harbour operations” have the meanings assigned to them by section 57(1) of the Harbours Act 1964.

1964 c. 40.

6. Notwithstanding anything in the Government of Ireland Act 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to any of the purposes of this Act.

Powers of Parliament of Northern Ireland.
1920 c. 67.

7.—(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—

Interpretation and transitional provisions.

“ authorised person ” means a person (whether an examiner or not) authorised to exercise the powers of section 160 of the Road Traffic Act 1972 with respect to the weighing of motor vehicles and trailers;

1972 c. 20.

“ driver ”—

(a) in relation to a motor vehicle, includes any person who is in charge of the vehicle and, if a separate person acts as steersman, includes that person as well as any other person in charge of the vehicle or engaged in the driving of it, and

(b) in relation to a trailer, means any person who (in accordance with the preceding paragraph) is the driver of the motor vehicle by which the trailer is drawn;

“ examiner ” means an examiner appointed under section 128(2) or section 183(1) of the Road Traffic Act 1960, a certifying officer appointed under Part III of that Act or an examiner appointed under section 56(1) of the Road Traffic Act 1972;

1960 c. 16.

“ foreign goods vehicle ” (except in section 4 of this Act) means a goods vehicle which has been brought into Great Britain and which, if a motor vehicle, is not registered in the United Kingdom or, if a trailer, is drawn by a motor vehicle not registered in the United Kingdom which has been brought into Great Britain;

“ foreign public service vehicle ” means a public service vehicle which has been brought into Great Britain and is not registered in the United Kingdom;

“ goods vehicle ” means a motor vehicle constructed or adapted for use for the carriage or haulage of goods or burden of any description, or a trailer so constructed or adapted;

“ public service vehicle ” shall be construed in accordance with sections 117 and 118 of the Road Traffic Act 1960;

“road” means any highway and any other road to which the public has access, and includes bridges over which a road passes.

(2) In this Act any reference to driving a vehicle shall, in relation to a trailer, be construed as a reference to driving the motor vehicle by which the trailer is drawn.

(3) In this Act any reference to a motor vehicle drawing a trailer, or to a motor vehicle by which a trailer is drawn, shall be construed as a reference to a motor vehicle to which a trailer is attached for the purpose of being drawn by it; and where, for the purpose of being drawn by a motor vehicle, two or more trailers (one of which is attached to the motor vehicle) are attached to each other, the motor vehicle shall for the purposes of this Act be treated as drawing each of those trailers.

(4) For the purposes of this Act a motor vehicle which does not for the time being have exhibited on it a licence or trade plates issued—

1971 c. 10.

(a) under the Vehicles (Excise) Act 1971 or under an enactment repealed by that Act, or

1954 c. 17
(N.I.).

(b) under the Vehicles (Excise) Act (Northern Ireland) 1954 or under any Act of the Parliament of Northern Ireland repealing that Act and re-enacting it with or without modifications,

shall be presumed, unless the contrary is proved, not to be registered in the United Kingdom.

(5) Where, in accordance with subsection (4) of this section, a motor vehicle is presumed not to be registered in the United Kingdom, but is subsequently proved to have been so registered, anything which—

(a) has been done in relation to the vehicle, or in relation to a trailer drawn by it, by a person relying in good faith on that presumption and purporting to act by virtue of any provision of this Act, and

(b) would have been lawfully done by virtue of that provision if the vehicle had not been registered in the United Kingdom,

shall be treated as having been lawfully done by virtue of that provision.

(6) Any reference in any provision of this Act to regulations made under an enactment specified in that provision shall be construed as including a reference to any regulations which, by virtue of that or any other enactment, have effect, or are to be treated, as if made under the enactment so specified.

(7) Any reference in section 1 of this Act, or in subsection (1) of this section, to section 160 of the Road Traffic Act 1972 shall be construed as a reference to that section read together with section 5 of this Act. 1972 c. 20.

8.—(1) This Act may be cited as the Road Traffic (Foreign Vehicles) Act 1972. Short title, commencement and extent.

(2) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint.

(3) This Act, with the exception of section 6, shall not extend to Northern Ireland.

SCHEDULES

Section 1.

SCHEDULE 1

ENACTMENTS CONFERRING FUNCTIONS ON EXAMINERS

	<i>Enactment</i>	<i>Function conferred</i>
1960 c. 16.	Section 128(3) of the Road Traffic Act 1960.	To enter and inspect public service vehicles.
1968 c. 73.	Section 99 of the Transport Act 1968.	To inspect and copy records and other documents required to be carried on goods and public service vehicles.
1972 c. 20.	Section 53 of the Road Traffic Act 1972.	To test the condition of motor vehicles on roads.
	Section 56 of the Road Traffic Act 1972.	To inspect goods vehicles to secure proper maintenance.

Section 1.

SCHEDULE 2

PROVISIONS RELATING TO VEHICLES AND THEIR DRIVERS

	<i>Provisions</i>	<i>Effect</i>
	Section 60 of the Transport Act 1968.	To require users of certain goods vehicles to hold operators' licences unless exempted from doing so.
	Regulations under section 91(1)(c) of the Transport Act 1968.	To require goods vehicles to be identified by plates, marks etc.
	Sections 96 to 98 of the Transport Act 1968 and regulations and orders made under those sections.	To limit driving time and periods of duty of drivers of goods and public service vehicles and to require the installation of recording equipment in, and the keeping of records on, such vehicles.
	Any order under section 100 of the Transport Act 1968.	To give effect to international agreements relating to vehicles used on international journeys.
	Regulations under section 40 of the Road Traffic Act 1972.	To regulate the construction, weight, equipment and use of motor vehicles and trailers on roads.
	Sections 68 to 73 and 76 to 79 of the Road Traffic Act 1972 and regulations made under those sections.	To require vehicles to carry front and rear lamps, headlamps and reflectors, to regulate their position, character and use and to make special provision for vehicles carrying overhanging or projecting loads and vehicles towing and being towed.



Employment Medical Advisory Service Act 1972

1972 CHAPTER 28

An act to provide for the establishment by the Secretary of State of an employment medical advisory service, to amend the Factories Act 1961 in relation to medical arrangements and related matters and in relation to the obstruction of inspectors, and for purposes connected therewith. [11th May, 1972]

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:—

Employment Medical Advisory Service

1.—(1) The Secretary of State shall establish and maintain an employment medical advisory service for the purpose of securing that he and others concerned with the health of employed persons, and of persons training for employment, can be kept informed of, and adequately advised on, matters of which they ought respectively to take cognisance concerning the safeguarding and improvement of the health of those persons, and for other purposes of his functions relating to employment; and to that end he shall, with the approval of the Minister for the Civil Service as to numbers, appoint persons to be employment medical advisers.

Establishment, organization and functions of employment medical advisory service.

(2) The Secretary of State may also, for the purposes mentioned in subsection (1) above, and for the purpose of assisting employment medical advisers in the performance of their functions, investigate or assist in the investigation of problems arising in connection with any such matters as are so mentioned

or otherwise in connection with the functions of employment medical advisers, and for the purpose of investigating such problems may provide and maintain such laboratories and other services as appear to him to be requisite.

(3) A person shall not be qualified to be appointed, or to be, an employment medical adviser unless he is a fully registered medical practitioner.

(4) The Secretary of State may appoint one of the employment medical advisers as chief employment medical adviser, and one or more of them as deputy chief employment medical adviser, and may determine the cases and circumstances in which they or any of them are to perform the duties or exercise the powers conferred on employment medical advisers by or under this Act or otherwise.

1961 c. 34.

(5) An employment medical adviser shall have, for the performance of his functions, power to do all such things as an inspector under the Factories Act 1961 has, for the purpose of the execution of that Act, power to do under so much of section 146(1) and section 147 of that Act as is set out in Part I of Schedule 1 to this Act; and—

(a) in relation to any exercise of the powers conferred by this subsection so much of section 146(2) to (4) of that Act as is so set out shall have effect, with the substitution of a reference to an employment medical adviser for any reference to an inspector, as it has effect in relation to an exercise of the corresponding powers conferred by that Act, and in section 147 of that Act as it has effect in relation to employment medical advisers the reference to section 146(2) to (4) shall apply accordingly; and

(b) an employment medical adviser authorised by the Secretary of State to exercise the powers conferred by this subsection shall be furnished by the Secretary of State with a certificate of his authority and, when exercising those powers, shall, if required so to do, produce the certificate.

References above in this subsection to any provision of the Factories Act 1961 are to be taken to include references to it as extended by the provisions of Part VII of that Act listed in Part II of Schedule 1 to this Act (which in relation to the places or processes described in column 2 in that Part of the Schedule give the Factories Act 1961 or parts of it an application extending beyond factories).

(6) It shall be the duty of every local education authority or, in Scotland, education authority to arrange for one of their officers who is a fully registered medical practitioner to furnish,

on the application of an employment medical adviser, such particulars of the school medical record of a person who has not attained the age of eighteen and such other information relating to his medical history as the adviser may reasonably require for the efficient performance of his functions; but no particulars or information about any person which may be furnished to an adviser in pursuance of this subsection shall (without the consent of that person) be disclosed by the adviser otherwise than for the efficient performance of his functions.

(7) The Secretary of State may pay—

- (a) to employment medical advisers such salaries or such fees and travelling or other allowances; and
- (b) to other persons called upon to give advice in connection with the execution of his functions under this section such travelling or other allowances or compensation for loss of remunerative time; and
- (c) to persons attending for medical examinations conducted by, or in accordance with arrangements made by, employment medical advisers (including pathological, physiological and radiological tests and similar investigations so conducted) such travelling or subsistence allowances or such compensation for loss of earnings;

as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

(8) Any expenses of the Secretary of State under this section shall be defrayed out of moneys provided by Parliament.

(9) In subsection (1) above the reference to persons training for employment shall include persons attending industrial rehabilitation courses provided under section 3(1) of the Disabled Persons (Employment) Act 1944 or under arrangements made under that section, and the reference to those (other than the Secretary of State) concerned with the health of employed persons and of persons training for employment shall be taken to include organisations of employers or employed persons and associations of such organisations. 1944 c. 10.

Amendments of Factories Act 1961

2.—(1) The position and functions of appointed factory General doctors are hereby abolished; but the provisions of the Factories amendments. Act 1961 mentioned in column 1 of Schedule 2 to this Act shall 1961 c. 34. have effect subject to the amendments respectively specified in relation thereto in column 2.

1961 c. 34.

(2) Section 146(1)(g) of the Factories Act 1961 (by which an inspector, if a fully registered medical practitioner, is empowered to carry out medical examinations necessary for his duties under that Act) shall cease to have effect.

(3) In section 180 (6) of the Factories Act 1961 (power to prescribe standards or impose requirements by reference to approval of chief inspector) after the words "of the chief inspector" there shall be added the words "or of the chief employment medical adviser or a deputy chief employment medical adviser".

Medical
examinations
of persons
employed
in factories.

3. The Factories Act 1961 shall have effect as if the following section were inserted after section 10 thereof:—

" 10A.—(1) If an employment medical adviser is of opinion that there ought, on grounds mentioned in subsection (2) below, to be a medical examination of a person or persons employed in a factory, he may serve on the occupier of the factory a written notice stating that he is of that opinion and requiring that the occupier shall permit a medical examination in accordance with this section of the person or persons in question, and the examination shall be permitted accordingly.

(2) The grounds on which a medical examination of a person may be required by an employment medical adviser's notice under subsection (1) above are that (in the adviser's opinion) the person's health has been or is being injured, or it is possible that it has been, is being or will be injured, by reason of the nature of the work he is or has been called upon to do or may (to the adviser's knowledge) be called upon to do; and a notice under that subsection may be given with respect to one or more named persons or to persons of a class or description specified in the notice.

(3) A notice under subsection (1) above shall name the place where the medical examination is to be conducted and, if it is a place other than the factory, the day on which and the time at which it is to be begun; and—

(a) every person to whom the notice relates shall be informed, as soon as practicable after service thereof, of the contents thereof and of the fact that he is free to attend for the purpose of submitting to the examination; and

(b) if the notice states that the examination is to be conducted at the factory, suitable accommodation thereat shall be provided for the conduct of the examination.

(4) A medical examination conducted in pursuance of a notice under subsection (1) above shall be begun within seven days after the day on which the notice is served, and

shall be conducted by, or in accordance with arrangements made by, an employment medical adviser, and take place at a reasonable time during working hours.

(5) An employment medical adviser may, by written notice served on the occupier of a factory, cancel a notice served on the occupier under subsection (1) above; and a notice which relates to two or more named persons may be cancelled either in relation to them all or in relation to any one or more of them.

(6) In this section, 'medical examination' includes pathological, physiological and radiological tests and similar investigations".

4.—(1) For subsection (2) of section 75 of the Factories Act 1961 (which prohibits the employment in any process involving the use of lead compounds of a woman or young person who has been suspended after medical examination from employment in any such process on the ground that continuance therein would involve special danger to health) there shall be substituted the following subsection:—

Employment of women and young persons in processes involving the use of lead compounds. 1961 c. 34.

"(2) If, in the case of a woman or young person who is employed in a factory in a process involving the use of lead compounds, an employment medical adviser serves on the occupier of the factory a written notice stating that, in the opinion of the adviser, the continued employment of that woman or young person in that process would involve special danger to her or his health, it shall not be lawful for that woman or young person to be employed in any such process in that factory, unless the notice has been cancelled by a further written notice served on the occupier by an employment medical adviser".

(2) Where, at the commencement of this Act, a person's employment is unlawful under section 75(2) of the Factories Act 1961 (as originally enacted) or under that subsection as extended by section 128 of that Act, and is known to be so by the occupier of the factory or, if the employment is not in a factory, by the employer, then there shall be deemed to have been served on that occupier or employer immediately after that commencement by an employment medical adviser, under the subsection substituted for section 75(2) by subsection (1) above, a written notice stating that, in the opinion of the adviser, the continued employment of that person in that process would involve special danger to his health.

5.—(1) The Factories Act 1961 shall have effect as if the following section were inserted at the end of Part VI thereof:—

Duty of factory occupier to give notice of employment of a young person.

"119A.—(1) Where the occupier of a factory takes a young person into his employment to work in the factory

(or transfers to work in the factory from work elsewhere than in a factory a young person already in his employment), the occupier shall, not later than seven days after the day on which he does so, send to the local careers office a written notice stating the name of the occupier, the address of the factory and the fact of the young person's having been so taken or transferred, and the date on which, and the work to do which, he was so taken or transferred, and giving such of the following information as is within the occupier's knowledge, namely:—

- (a) the young person's Christian name (or forename) and surname ;
- (b) the date of his birth ;
- (c) his usual residential address ; and
- (d) the name and address of the school (if any) which he last attended before he was so taken or transferred.

(2) In this section—

1948 c. 46.

- (a) 'the local careers office' means the local careers office maintained under the Employment and Training Act 1948 for the area in which the factory is situated, whether the office is maintained by the Secretary of State under section 2 or by a local education authority (within the meaning of that Act) in accordance with section 10 ; and

1944 c. 31.

1962 c 47.

- (b) 'school' means a school within the meaning of the Education Act 1944 or the Education (Scotland) Act 1962."

(2) There shall be paid out of moneys provided by Parliament any addition attributable to this section to the sums so payable under the Employment and Training Act 1948.

Fees for medical examinations or supervision conducted or exercised under Factories Act 1961.
1961 c. 34.

6.—(1) For work done by a person in conducting or exercising, pursuant to the Factories Act 1961 or orders or regulations thereunder, medical examinations or medical supervision there shall—

- (a) if that person is an employment medical adviser, be payable to the Secretary of State by the employer of the persons examined or supervised such fees as may be fixed by order of the Secretary of State ;
- (b) if that person is other than such an adviser, be payable to that person by that employer such fees as may be agreed between them or, in default of agreement, as may be so fixed.

(2) Different fees may be fixed by order under this section for examinations and supervision of different kinds and for examinations conducted in different places.

(3) An order under this section shall be made by statutory instrument and may be varied or revoked by a subsequent order so made.

(4) In this section, "medical examination" includes pathological, physiological and radiological tests and similar investigations, and the reference to persons examined shall be construed accordingly.

(5) Sums received under this section by the Secretary of State shall be paid into the Consolidated Fund.

7. Any person convicted of an offence under section 146(4) of the Factories Act 1961 (obstruction of inspector), or under that subsection as it applies in relation to an employment medical adviser by virtue of section 1(5) above, shall be liable to a fine not exceeding £100 (and section 156 of that Act shall not apply). Obstruction of inspector or employment medical adviser. 1961 c. 34.

8.—(1) The Factories Act 1961 shall have effect as if the sections 10A and 119A inserted therein by this Act were included among the provisions mentioned in that Act in section 125(2) and (3)(a) (docks etc.), section 126(2) (ships) and section 127(2) (building operations and works of engineering construction), but subject to the following qualifications:— Supplementary.

(a) neither section 10A nor section 119A shall by virtue of their inclusion in section 125(3)(a) (loading, unloading and coaling of ships) be applied to a member of the crew of a ship; and

(b) where section 119A applies by virtue of its inclusion in section 125(3)(a), 126(2) or 127(2), the notice under section 119A(1) shall state as the address of the factory the place where the young person works.

(2) The Secretary of State may by order (made by statutory instrument)—

(a) make such amendments of orders and regulations made under the Factories Act 1961, or having effect as if so made, as appear to him to be necessary or expedient in consequence of this Act;

(b) effect with respect to a provision of regulations or an order so made, or having effect as if so made, a substitution similar in result to that effected with respect to section 75(2) of that Act by section 4(1) of this Act;

and an order under this subsection may contain such supplemental and consequential provisions as the Secretary of State considers necessary for giving full effect to the order.

Short title, repeal, commencement and extent

Short title,
repeal, com-
mencement
and extent.
1961 c. 34.

9.—(1) This Act may be cited as the Employment Medical Advisory Service Act 1972.

(2) The provisions of the Factories Act 1961 specified in column 1 in Schedule 3 to this Act are hereby repealed to the extent specified in column 2.

(3) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

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

SCHEDULES

SCHEDULE 1

Section 1.

PROVISIONS OF THE FACTORIES ACT 1961 APPLYING TO GIVE EMPLOYMENT MEDICAL ADVISERS CERTAIN POWERS OF INSPECTORS 1961 c. 34.

PART I

PROVISIONS APPLYING IN SECTIONS 146 AND 147

146.—(1) An inspector shall, for the purpose of the execution of this Act, have power to do all or any of the following things, that is to say:—

- (a) to enter, inspect and examine at all reasonable times, by day and night, a factory, and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory;
- (c) to require the production of the registers, certificates, notices and documents kept in pursuance of this Act, and to inspect, examine, and copy any of them;
- (e) to require any person whom he finds in a factory to give such information as it is in his power to give as to who is the occupier of the factory.

(2) The occupier of every factory, his agents and servants, shall furnish the means required by an inspector as necessary for an entry, inspection, examination, or otherwise for the exercise of his powers under this Act in relation to that factory.

(3) If any person wilfully delays an inspector in the exercise of any power under this section, or fails to comply with the requisition of an inspector in pursuance of this section or to produce any register, certificate, notice or document which he is required by or in pursuance of this Act to produce, or wilfully withholds any information as to who is the occupier of any factory, that person shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(4) Where an inspector is obstructed in the execution of his powers or duties under this Act, the person obstructing him shall be guilty of an offence; and where an inspector is so obstructed in a factory, the occupier of that factory, shall be guilty of an offence.

147. The powers of an inspector under section 146 of this Act shall include the power to enter, inspect and examine at all reasonable times any warehouse and every part thereof—

- (a) by day or night, when he has reasonable cause to believe that any young person is employed in or in connection with the warehouse in such circumstances that section 116 of this Act applies to him;
- (b) by day, when he has reasonable cause to believe that any young person has within the preceding two months been employed as aforesaid, but not that any young person is so employed;

and for the purposes of the powers conferred by this section a warehouse shall be deemed to be included in the expression "factory" in paragraph (e) of subsection (1) of the said section 146 and in subsections (2), (3) and (4) thereof.

SCH. 1

PART II

OTHER PROVISIONS EXTENDING SECTION 146 BEYOND FACTORIES

<i>Provision applied</i>	<i>Relevant place or process</i>
Section 123(1) and (2)	Electrical stations.
Section 124(1) ...	Charitable or reformatory institutions where manual labour is exercised in processes of manufacture etc.
Section 125(1), (2) and (3).	Docks, wharves and quays, and warehouses where mechanical power is used; loading, unloading or coaling ships in docks, harbours and canals.
Section 126(1) and (2)	Constructing, reconstructing, repairing etc. ships in harbours and wet docks.
Section 127(1) and (2)	Building operations and works of engineering construction.
Section 128 ...	Processes connected with lead manufacture or involving use of lead compounds.
Section 129(2) and (3)	Painting buildings.

Section 2.

SCHEDULE 2

1961 c. 34.

AMENDMENTS OF PROVISIONS OF THE FACTORIES ACT 1961
REFERRING TO APPOINTED FACTORY DOCTOR

<i>Provision amended and subject-matter thereof</i>	<i>Amendment</i>
Section 82(3) (notification by factory occupier to the inspector for the district and the appointed factory doctor of cases of industrial diseases occurring in the factory).	For the words "the appointed factory doctor" there shall be substituted the words "the employment medical adviser in charge of the area in which the factory is situate".
Section 119 (power of factory inspector to require cesser of employment of a young person in the absence of a certificate of an appointed factory doctor that he is fit).	After the words "the appointed factory doctor" there shall be inserted the words "or an employment medical adviser".

<i>Provision amended and subject-matter thereof</i>	<i>Amendment</i>	SCH. 2
Section 124(2) (power of the Secretary of State to direct that the Act shall apply to an institution subject to modifications).	For paragraph (b) (medical officer of the institution may be appointed to be the appointed factory doctor for the institution) there shall be substituted the following paragraph:— “(b) if there be a medical officer of the institution, any duties imposed by regulations or an order under this Act on an employment medical adviser that fall to be discharged in relation to the institution may, with the Secretary of State’s permission, be discharged instead by the medical officer”.	
Section 138(1) (posting of abstract of Act and notices at a factory’s principal entrances).	For paragraph (c), there shall be substituted the following paragraph:— “(c) a notice of the address of the employment medical adviser in charge of the area in which the factory is situate”.	
Section 141 (registers and records kept in pursuance of the Act to be preserved and kept available for inspection by a factory inspector or the appointed factory doctor).	For the words “the appointed factory doctor” there shall be substituted the words “an employment medical adviser”.	

SCHEDULE 3

Section 9.

PROVISIONS OF THE FACTORIES ACT 1961 REPEALED

1961 c. 34.

<i>Provision</i>	<i>Extent of Repeal</i>
Section 85	The whole section.
Section 99	Subsection (4).
Section 118	The whole section.
Section 119	The words “(notwithstanding that a certificate under section one hundred and eighteen of this Act is in force in respect of him)”.

SCH. 3	<i>Provision</i>			<i>Extent of Repeal</i>
Section 125	Subsection (3)(b) and the preceding "and", and subsection (4)(b) and the preceding "or".
Section 126	Subsection (2)(g).
Section 127	Subsection (2)(g).
Section 146	Subsection (1)(g) and (except for offences committed before the coming into force of this Act) the words "and liable to a fine not exceeding twenty pounds" in subsection (4).
Section 151	The whole section.
Section 152	The whole section.
Section 184	Subsection (2).



Harbours, Piers and Ferries (Scotland) Act 1972

1972 CHAPTER 29

An Act to make provision for extending the power of the Secretary of State under section 7 of the Harbours, Piers and Ferries (Scotland) Act 1937 to authorise the undertaking by certain local and harbour authorities of operations in connection with marine works.

[12th June 1972]

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

1.—(1) In section 7(1) of the Harbours, Piers and Ferries (Scotland) Act 1937 (which provides that in certain circumstances the Secretary of State may authorise a local or harbour authority to undertake, in accordance with the procedure laid down in the Second Schedule to the said Act, certain operations, the cost of which does not exceed one hundred thousand pounds, in connection with a marine work) for the words “one hundred thousand pounds” (substituted by section 152(1) of the Transport Act 1968) there shall be substituted the words “two hundred thousand pounds”; and the said section 152 is accordingly hereby repealed.

Amendment
of s. 7 of
Harbours,
Piers and
Ferries
(Scotland)
Act 1937.
1937 c. 28.
1968 c. 73.

(2) In the said section 7 at the end there shall be added the following subsections—

“ (3) If it appears to the Secretary of State that the sum of two hundred thousand pounds specified in subsection (1) above (or such other sum as may for the time being be so specified by virtue of an order made under this subsection)

should be varied, he may by an order made by statutory instrument amend subsection (1) above by substituting for that sum such other sum as may be specified in the order.

(4) Any order made under subsection (3) above may be revoked by a subsequent order thereunder which substitutes another sum for the sum specified in the order which is thereby revoked.

(5) No order shall be made under subsection (3) above unless a draft of the order has been laid before Parliament and approved by resolution of each House of Parliament.”

Short title
and citation.
1937 c. 28.

2. This Act may be cited as the Harbours, Piers and Ferries (Scotland) Act 1972, and the Harbours, Piers and Ferries (Scotland) Act 1937 and this Act may be cited together as the Harbours, Piers and Ferries (Scotland) Acts 1937 and 1972.



Civil Evidence Act 1972

1972 CHAPTER 30

An Act to make, for civil proceedings in England and Wales, provision as to the admissibility in evidence of statements of opinion and the reception of expert evidence; and to facilitate proof in such proceedings of any law other than that of England and Wales.

[12th June 1972]

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

1.—(1) Subject to the provisions of this section, Part I (hearsay evidence) of the Civil Evidence Act 1968, except section 5 (statements produced by computers), shall apply in relation to statements of opinion as it applies in relation to statements of fact, subject to the necessary modifications and in particular the modification that any reference to a fact stated in a statement shall be construed as a reference to a matter dealt with therein.

Application of Part I of Civil Evidence Act 1968 to statements of opinion. 1968 c. 64.

(2) Section 4 (admissibility of certain records) of the Civil Evidence Act 1968, as applied by subsection (1) above, shall not render admissible in any civil proceedings a statement of opinion contained in a record unless that statement would be admissible in those proceedings if made in the course of giving oral evidence by the person who originally supplied the information from which the record was compiled; but where a statement of opinion contained in a record deals with a matter on which the person who originally supplied the information from which the record was compiled is (or would if living be) qualified to give oral expert evidence, the said section 4, as applied by

subsection (1) above, shall have effect in relation to that statement as if so much of subsection (1) of that section as requires personal knowledge on the part of that person were omitted.

Rules of court with respect to expert reports and oral expert evidence.
1968 c. 64.

2.—(1) If and so far as rules of court so provide, subsection (2) of section 2 of the Civil Evidence Act 1968 (which imposes restrictions on the giving of a statement in evidence by virtue of that section on behalf of a party who has called or intends to call as a witness the maker of the statement) shall not apply to statements (whether of fact or opinion) contained in expert reports.

(2) In so far as they relate to statements (whether of fact or opinion) contained in expert reports, rules of court made in pursuance of subsection (1) of section 8 of the Civil Evidence Act 1968 as to the procedure to be followed and the other conditions to be fulfilled before a statement can be given in evidence in civil proceedings by virtue of section 2 of that Act (admissibility of out-of-court statements) shall not be subject to the requirements of subsection (2) of the said section 8 (which specifies certain matters of procedure for which provision must ordinarily be made by rules of court made in pursuance of the said subsection (1)).

(3) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in certain circumstances privileged from disclosure, provision may be made by rules of court—

- (a) for enabling the court in any civil proceedings to direct, with respect to medical matters or matters of any other class which may be specified in the direction, that the parties or some of them shall each by such date as may be so specified (or such later date as may be permitted or agreed in accordance with the rules) disclose to the other or others in the form of one or more expert reports the expert evidence on matters of that class which he proposes to adduce as part of his case at the trial; and
- (b) for prohibiting a party who fails to comply with a direction given in any such proceedings under rules of court made by virtue of paragraph (a) above from adducing in evidence by virtue of section 2 of the Civil Evidence Act 1968 (admissibility of out-of-court statements), except with the leave of the court, any statement (whether of fact or opinion) contained in any expert report whatsoever in so far as that statement deals with matters of any class specified in the direction.

(4) Provision may be made by rules of court as to the conditions subject to which oral expert evidence may be given in civil proceedings.

(5) Without prejudice to the generality of subsection (4) above, rules of court made in pursuance of that subsection may make provision for prohibiting a party who fails to comply with a direction given as mentioned in subsection (3)(b) above from adducing, except with the leave of the court, any oral expert evidence whatsoever with respect to matters of any class specified in the direction.

(6) Any rules of court made in pursuance of this section may make different provision for different classes of cases, for expert reports dealing with matters of different classes, and for other different circumstances.

(7) References in this section to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

(8) Nothing in the foregoing provisions of this section shall prejudice the generality of section 99 of the Supreme Court of Judicature (Consolidation) Act 1925, section 102 of the County Courts Act 1959, section 15 of the Justices of the Peace Act 1949 or any other enactment conferring power to make rules of court; and nothing in section 101 of the said Act of 1925, section 102(2) of the County Courts Act 1959 or any other enactment restricting the matters with respect to which rules of court may be made shall prejudice the making of rules of court in pursuance of this section or the operation of any rules of court so made.

3.—(1) Subject to any rules of court made in pursuance of Part I of the Civil Evidence Act 1968 or this Act, where a person is called as a witness in any civil proceedings, his opinion on any relevant matter on which he is qualified to give expert evidence shall be admissible in evidence.

Admissibility of expert opinion and certain expressions of non-expert opinion.

(2) It is hereby declared that where a person is called as a witness in any civil proceedings, a statement of opinion by him on any relevant matter on which he is not qualified to give expert evidence, if made as a way of conveying relevant facts personally perceived by him, is admissible as evidence of what he perceived.

1968 c. 64.

(3) In this section "relevant matter" includes an issue in the proceedings in question.

Evidence of
foreign law.

4.—(1) It is hereby declared that in civil proceedings a person who is suitably qualified to do so on account of his knowledge or experience is competent to give expert evidence as to the law of any country or territory outside the United Kingdom, or of any part of the United Kingdom other than England and Wales, irrespective of whether he has acted or is entitled to act as a legal practitioner there.

(2) Where any question as to the law of any country or territory outside the United Kingdom, or of any part of the United Kingdom other than England and Wales, with respect to any matter has been determined (whether before or after the passing of this Act) in any such proceedings as are mentioned in subsection (4) below, then in any civil proceedings (not being proceedings before a court which can take judicial notice of the law of that country, territory or part with respect to that matter)—

- (a) any finding made or decision given on that question in the first-mentioned proceedings shall, if reported or recorded in citable form, be admissible in evidence for the purpose of proving the law of that country, territory or part with respect to that matter; and
- (b) if that finding or decision, as so reported or recorded, is adduced for that purpose, the law of that country, territory or part with respect to that matter shall be taken to be in accordance with that finding or decision unless the contrary is proved:

Provided that paragraph (b) above shall not apply in the case of a finding or decision which conflicts with another finding or decision on the same question adduced by virtue of this subsection in the same proceedings.

(3) Except with the leave of the court, a party to any civil proceedings shall not be permitted to adduce any such finding or decision as is mentioned in subsection (2) above by virtue of that subsection unless he has in accordance with rules of court given to every other party to the proceedings notice that he intends to do so.

(4) The proceedings referred to in subsection (2) above are the following, whether civil or criminal, namely—

- (a) proceedings at first instance in any of the following courts, namely the High Court, the Crown Court, a court of quarter sessions, the Court of Chancery of the county palatine of Lancaster and the Court of Chancery of the county palatine of Durham;
- (b) appeals arising out of any such proceedings as are mentioned in paragraph (a) above;

- (c) proceedings before the Judicial Committee of the Privy Council on appeal (whether to Her Majesty in Council or to the Judicial Committee as such) from any decision of any court outside the United Kingdom.

(5) For the purposes of this section a finding or decision on any such question as is mentioned in subsection (2) above shall be taken to be reported or recorded in citable form if, but only if, it is reported or recorded in writing in a report, transcript or other document which, if that question had been a question as to the law of England and Wales, could be cited as an authority in legal proceedings in England and Wales.

5.—(1) In this Act “civil proceedings” and “court” have the meanings assigned by section 18(1) and (2) of the Civil Evidence Act 1968.

Interpretation, application to arbitrations etc. and savings.
1968 c. 64.

(2) Subsections (3) and (4) of section 10 of the Civil Evidence Act 1968 shall apply for the purposes of the application of sections 2 and 4 of this Act in relation to any such civil proceedings as are mentioned in section 18(1)(a) and (b) of that Act (that is to say civil proceedings before a tribunal other than one of the ordinary courts of law, being proceedings in relation to which the strict rules of evidence apply, and an arbitration or reference, whether under an enactment or not) as they apply for the purposes of the application of Part I of that Act in relation to any such civil proceedings.

(3) Nothing in this Act shall prejudice—

- (a) any power of a court, in any civil proceedings, to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion; or
- (b) the operation of any agreement (whenever made) between the parties to any civil proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.

6.—(1) This Act may be cited as the Civil Evidence Act 1972.

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

Short title, extent and commencement.

(3) This Act, except sections 1 and 4(2) to (5), shall come into force on 1st January 1973, and sections 1 and 4(2) to (5) shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint; and different days may be so appointed for different purposes or for the same purposes in relation to different courts or proceedings or otherwise in relation to different circumstances.



Sound Broadcasting Act 1972

1972 CHAPTER 31

An Act to extend the functions of the Independent Television Authority, renamed the Independent Broadcasting Authority, so as to include the provision of local sound broadcasting services, and to amend and supplement the Television Act 1964 for the purpose of so extending the functions of the Authority; and for purposes connected with those matters. [12th June 1972]

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

1.—(1) The authority constituted in accordance with section 1 of the Television Act 1964 (in this Act referred to as “the principal Act”) under the name of the Independent Television Authority shall as from the commencement of this Act be known as the Independent Broadcasting Authority.

Independent Television Authority to be renamed Independent Broadcasting Authority.
1964 c. 21.

(2) Without prejudice to any express amendment made by this Act, where in any enactment passed before this Act, or in any statutory instrument having effect by virtue of such an enactment, reference is made to that authority by the name of the Independent Television Authority, the name “Independent Broadcasting Authority” shall be substituted for that name.

2.—(1) The broadcasting services to be provided by the Independent Broadcasting Authority (in the following provisions of this Act referred to as “the Authority”) under section 1(3) of the principal Act (which confers on the Authority, until

Provision by Authority of local sound broadcasting services.

31st July 1976, the function of providing television broadcasting services additional to those of the British Broadcasting Corporation) shall include local sound broadcasting services.

(2) Subject to the modifications and exceptions specified in this Act, the provisions of the principal Act relating to programme contractors, and the other provisions of that Act, shall have effect in relation to the Authority's local sound broadcasting services as they have effect in relation to the Authority's television broadcasting services.

(3) In this Act "local sound broadcast" means a programme which is broadcast (otherwise than as part of a television broadcast) from a station so constructed and operated as to have a range of transmission limited to that which is sufficient, in normal circumstances, to ensure adequate reception throughout a particular locality, or from two or more stations so constructed and operated as to have collectively such a range of transmission, and "local sound broadcasting services" means services consisting of programmes so broadcast; and, where a programme is so broadcast, the fact that—

- (a) as so broadcast it is received outside that particular locality, or
- (b) it is also broadcast (whether simultaneously or not) from one or more other stations for reception in other localities,

shall not prevent it from being regarded as a local sound broadcast within the meaning of this Act.

(4) Any reference in this Act to a contract for the provision by a programme contractor of local sound broadcasts shall be construed as including a reference to a contract which is—

- (a) partly for the provision by that contractor of local sound broadcasts for reception in a particular locality, and
- (b) partly for the provision of news, information, music or other material to be supplied to other programme contractors for the purposes of local sound broadcasts to be provided by them;

but, in relation to any such contract, the locality, where the reference is to the provision of local sound broadcasts for reception in a particular locality, shall be taken to be the locality referred to in paragraph (a) of this subsection.

3. The following section shall be inserted in the principal Act after section 9 (advisory committees):—

"9A.—(1) In addition to the committees which are to be, or may be, appointed under section 9 of this Act, the Authority shall appoint local advisory committees in

Local
advisory
committees
for local
sound
broadcasts.

respect of all the localities for which local sound broadcasting services are provided by the Authority; and each such committee shall be appointed for an area consisting either of one such locality or of two or more such localities.

(2) Subject to the next following subsection, each such committee (in this section referred to as a 'local committee')—

- (a) shall be so constituted, and
- (b) shall consist of persons selected by reference to such qualifications,

as in the opinion of the Authority would be appropriate for reflecting, so far as is reasonably practicable, the range of tastes and interests of persons residing in the area for which the committee is appointed (in this section referred to, in relation to a local committee, as its area).

(3) For each local committee the Authority shall invite the appropriate local authorities (either jointly or separately) to nominate persons with a view to their being appointed as members of the committee; and (unless the number of eligible persons so nominated for a local committee is insufficient for the purpose) the Authority shall appoint at least one-third of the members of each local committee from among persons so nominated.

(4) Before appointing a person to be a member of a local committee the Authority shall satisfy themselves that he—

- (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 a member of that committee,

and the Authority shall also satisfy themselves from time to time that each member of a local committee has no such interest as is described in paragraph (a) or paragraph (b) of this subsection; and in subsection (3) of this section 'eligible persons' means persons in respect of whom the Authority are satisfied that they have no such interest.

(5) The function of a local committee shall be to give to the Authority, with respect to the conduct of their local sound broadcasting services for the area of the committee, such advice as in the opinion of the committee would be appropriate for reflecting, so far as is reasonably practicable, the range of tastes and interests of persons residing in that area.

(6) In this section 'appropriate local authority', in relation to a local committee, means a local authority whose area consists of or includes the whole or part of the area of that committee, and 'local authority'—

- (a) in relation to England and Wales, means any of the following, that is to say, the Greater London Council, the council of a county, county borough or county district, the council of a London borough, the Common Council of the City of London and the Council of the Isles of Scilly;
- (b) in relation to Scotland, means the council of a county, county of a city, large burgh or small burgh; and
- (c) in relation to Northern Ireland, means any of the following, that is to say, the council of a county, county or other borough, or urban or rural district, a new town or development commission exercising the functions of any such council and a district council within the meaning of the Local Government Act (Northern Ireland) 1972."

1972 c. 9 (N.I.).

Television and sound broadcasting to be separately financed by Authority.

4. The following section shall be inserted in the principal Act immediately before section 21 :—

" 20A.—(1) The provision by the Authority of television broadcasting services, and the provision by them of local sound broadcasting services, shall for financial purposes constitute separate branches of their undertaking; and references in this Act to a branch of the Authority's undertaking shall be construed accordingly.

(2) For each branch of their undertaking it shall be the duty of the Authority so to conduct their affairs as to secure that their revenues from that branch become at the earliest possible date, and thereafter continue, at least sufficient—

- (a) to meet all sums properly chargeable to revenue account in respect of that branch of their undertaking (including sums which, for the purposes of that branch, are required for the repayment of loans and interest thereon, for provision for depreciation and for the establishment and maintenance of the reserve fund for that branch); and
- (b) to make provision towards, and as soon as practicable for, necessary capital expenditure for the purposes of that branch of their undertaking.

(3) In the case of that branch of their undertaking which consists of the provision of local sound broadcasting services, subsection (2) of this section shall have effect without

prejudice to any duty of the Authority under section 5 of the Sound Broadcasting Act 1972.

(4) For each branch of their undertaking the Authority shall establish and maintain a reserve fund; and, subject to the following provisions of this section, the management of that fund, the sums to be carried from time to time to the credit of the fund, and the application of the fund, shall be as the Authority may determine.

(5) No part of either of those funds shall be applied otherwise than for the purposes of the branch of the Authority's undertaking for which the fund was established.

(6) The Minister may, with the approval of the Treasury, give to the Authority such directions as he may think fit as to any matter relating to the establishment or management of either of those funds, the carrying of sums to the credit thereof, or the application thereof, and the Authority shall comply with the directions."

5.—(1) Where, before the beginning of a financial year, it appears to the Minister, after consultation with the Authority, to be appropriate to do so, having regard—

Rental payments by sound programme contractors.

(a) to the amount which (after making due provision towards or for capital expenditure required for the proper discharge, in relation to local sound broadcasting services, of the duties of the Authority under section 1(3) and (4) of the principal Act) is likely to be the amount of the relevant expenditure for that year, and

(b) to the need for securing that excessive profits do not accrue to programme contractors under contracts for the provision of local sound broadcasts,

the Minister, with the consent of the Treasury, may before the beginning of that year make an order under this subsection in respect of that financial year.

(2) Any such order made in respect of a financial year shall specify an amount (in this subsection referred to as "the specified amount") by which the relevant revenues for that year ought to exceed the relevant expenditure for that year, and shall require the Authority—

(a) to determine what aggregate amount of relevant revenues for that year they regard as necessary to ensure that those revenues exceed the relevant expenditure by the specified amount;

(b) to determine, in the case of each programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts, what amount in the

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opinion of the Authority represents his appropriate contribution for that year towards meeting that aggregate amount ;

- (c) so to exercise their powers under their contract with each such programme contractor as to ensure that the payments made for that year by that contractor are not less than the amount so determined as representing his appropriate contribution, or (if there are circumstances which in the opinion of the Authority make it impracticable for those payments to be equal to the amount so determined) are as near to that amount as in the opinion of the Authority those circumstances permit ; and
- (d) to pay into the Consolidated Fund for that year a sum equal to the specified amount or to the amount by which the relevant revenues for that year exceed the relevant expenditure, whichever is the lesser amount.

(3) Any order made under subsection (1) of this section in respect of a financial year may, by a further order made by the Minister after consultation with the Authority and with the consent of the Treasury,—

- (a) be revoked, or
- (b) be varied by substituting a lesser amount for the amount specified in that order,

and any such further order may be made either before or after the beginning of the financial year to which it relates.

(4) In making their contracts with programme contractors for the provision of local sound broadcasts, it shall be the duty of the Authority to require those contracts to include such provisions, with respect to the payments to be made by the contractors, as in the opinion of the Authority will ensure that the Authority will be in a position to comply with any order made under this section.

(5) Every such contract as is mentioned in subsection (4) of this section shall impose on the contractor such requirements, with respect to the furnishing of information to the Authority, as appear to the Authority, after consultation with the Minister, to be requisite for enabling the Authority to furnish to the Minister such information as he may require for the purpose of determining at any time—

- (a) whether an order should be made under subsection (1) or subsection (3) of this section, and

(b) in the case of an order to be made under subsection (1) or subsection (3)(b) of this section, what amount should be specified in the order,

and for enabling the Authority to comply with any order made under this section; and the Authority shall furnish to the Minister such information (whether obtained from contractors or otherwise) as is in their possession and is required by the Minister for any such purpose as is mentioned in this subsection.

(6) In respect of local sound broadcasts, programme contractors shall not be required to make such additional payments as are mentioned in section 13(1)(b) of the principal Act (which relates to additional payments determined by reference to advertising receipts); and section 14 of that Act (which contains provisions relating to those additional payments) shall not have effect in relation to contracts between the Authority and programme contractors in so far as they relate to local sound broadcasts.

(7) Any power to make an order under this section shall be exercisable by statutory instrument; and no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(8) In this section "the relevant expenditure", in relation to any financial year, means the aggregate of the sums which, for the purposes of the branch of the Authority's undertaking which consists of the provision of local sound broadcasting services, are required in respect of that year—

(a) to meet all such sums as are mentioned in subsection (2)(a) of section 20A of the principal Act, and

(b) to make such provision towards or for capital expenditure as the Authority propose to make as mentioned in subsection (2)(b) of that section,

and "relevant revenues", in relation to any financial year, means revenues of the Authority for that year which are attributable to that branch of their undertaking.

6.—(1) In section 10 of the principal Act (duties of Authority in relation to contracts for programmes) the following subsections shall be substituted for subsection (2):—

"(1A) The Authority shall not enter into any contract with a programme contractor whereby (whether by virtue of that contract alone or by virtue of that contract together with one or more other contracts) the contractor is to provide television programmes for an area and is to provide local sound broadcasts for reception in a locality which, in the opinion of the Authority, is comprised in that area.

Preservation of independence of broadcasting contractors.

(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) or subsection (3A) of this section do not become or continue as programme contractors, either alone or in partnership with other persons, and
- (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.”

(2) After subsection (2) of that section there shall be inserted the following subsection:—

“(2A) In the performance of their duty under subsection (2)(b) of this section the Authority shall do all that they can to secure—

- (a) that no programme contractor with whom the Authority enter into a contract for the provision of television programmes for an area, and no associate of such a programme contractor, has, or during the period of the contract will acquire, control over any programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts for reception in any locality which in the opinion of the Authority is comprised in that area, and
- (b) that no programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts for reception in a particular locality, and no associate of such a programme contractor, has, or during the period of the contract will acquire, control over any programme contractor with whom the Authority enter into a contract for the provision of television programmes for an area which in the opinion of the Authority includes that locality.”

(3) In subsection (3) of that section, after the words “disqualified person” there shall be inserted the words “in relation to contracts for the provision of television programmes”; and after that subsection there shall be inserted the following subsection:—

“(3A) In subsection (2)(a) of this section ‘disqualified person’, in relation to contracts for the provision of local sound broadcasts, means a person who either falls within paragraph (a), paragraph (b) or paragraph (c) of subsection (3) of this section or, being an individual or a

body corporate, carries on (whether alone or in partnership) a business which (either wholly, or to an extent which in the opinion of the Authority is substantial)—

- (a) consists of the manufacture of records or of the publication of musical works, or
- (b) consists of promoting the broadcasting of sound recordings or of promoting the broadcasting or performance of musical works, or
- (c) consists of obtaining employment for theatrical performers or for persons to take part as performers in programmes broadcast (whether by the Authority or otherwise) by way of television or sound broadcasting,

or has control over any body corporate which carries on such a business, or is a director or officer of any such body corporate, or is employed by any person who carries on such a business.”

(4) After subsection (4) of that section there shall be added the following subsection:—

“ (5) In this section—

- (a) ‘ record ’ and ‘ sound recording ’ have the same meanings as in the Copyright Act 1956, and 1956 c. 74. references to the publication, broadcasting or performance of musical works shall be construed as if they were contained in that Act ; and
- (b) ‘ theatrical performer ’ has the same meaning as in the Theatrical Employers Registration Act 1925.” 1925 c. 50.

7.—(1) Before entering into a sound programme contract the Authority shall seek to ascertain—

- (a) whether the person or any of the persons with whom the contract is proposed to be made is (either alone or in partnership with one or more other persons) entitled to the benefit of one or more existing sound programme contracts, and
- (b) where the person or any of the persons with whom the contract is proposed to be made is a body corporate, whether that body corporate, or any associate of that body corporate, or any participant in that body corporate or in any such associate, is a person or one of the persons entitled to the benefit of one or more existing sound programme contracts, or is a participant in a body corporate so entitled or included among the persons so entitled or in an associate of a body corporate so entitled or so included,

and, having regard to any matters ascertained by them under this subsection, the Authority shall consider whether, if the

proposed contract were made, any one person would, in any one or more of the capacities mentioned in paragraphs (a) and (b) of this subsection or in any combination of any such capacities, have an aggregate interest in the benefit of two or more sound programme contracts.

(2) If, in the circumstances mentioned in the preceding subsection, it appears to the Authority that a person would have such an aggregate interest and that, having regard to—

- (a) the nature and extent of that aggregate interest, and
- (b) any other circumstances appearing to the Authority to be material,

the existence of that aggregate interest might prejudice the performance by the Authority of any duty imposed on them by this Act, or imposed on them in relation to local sound broadcasting services by the principal Act, the Authority shall refrain from entering into the proposed contract.

(3) In this section “sound programme contract” means a contract for the provision of local sound broadcasts, and “existing sound programme contract”, in relation to any contract proposed to be entered into by the Authority, means a sound programme contract which is in force at the time when the Authority are considering entering into the proposed contract; and “participant”, in relation to a body corporate, means a person who (whether alone or jointly with one or more other persons, and whether directly or through one or more nominees) holds or is beneficially entitled to not less than one-twentieth of the shares in that body corporate.

Special provisions as to newspaper shareholdings in relation to local sound broadcasts.

8.—(1) This section applies to any contract made between the Authority and a programme contractor, where the programme contractor is a body corporate and the contract requires local sound broadcasts to be provided by the contractor and to be transmitted from one or more stations specified in the contract.

(2) Subject to the next following section, before the Authority enter into a contract to which this section applies—

- (a) they shall consider, in relation to the locality served or to be served by the station or stations to be specified in the contract (in this section referred to as “the relevant locality”), whether there is any newspaper which circulates wholly or mainly in that locality and is a newspaper in respect of which the appropriate conditions are fulfilled, and
- (b) the Authority shall fix a date before which representations may be made to the Authority under subsection

(4) of this section and shall cause notice of that date to be given or published as may appear to the Authority to be appropriate for bringing it to the attention of persons who in their opinion are likely to be affected by it.

(3) For the purposes of this section the appropriate conditions shall be taken to be fulfilled in respect of a newspaper if it has in the relevant locality a circulation which, in the opinion of the Authority, represents a substantial proportion of the population of that locality, unless the Authority are satisfied that the broadcasting of the programmes to be provided under the contract in question is unlikely to have a materially adverse effect on the financial position of the newspaper.

(4) The appropriate conditions shall also be taken for the purposes of this section to be fulfilled in respect of a newspaper if, on representations being made to the Authority by or on behalf of the proprietor of the newspaper before the date fixed under subsection (2)(b) of this section, the Authority are satisfied that (notwithstanding that its circulation falls short of the proportion mentioned in subsection (3) of this section) the broadcasting of the programmes to be provided under the contract in question is likely to have a materially adverse effect on the financial position of the newspaper.

(5) Where it appears to the Authority that the appropriate conditions are fulfilled in respect of a newspaper, then, subject to the next following section, the Authority shall not enter into the contract unless they are satisfied that—

- (a) arrangements have been made for enabling the proprietor of the newspaper to acquire, on terms approved by the Authority, a shareholding consisting of such number of shares of such descriptions as may be so approved, and
- (b) either the acquisition of the shareholding has been completed, or it will be completed within a reasonable time, or the proprietor of the newspaper has declined to acquire it on the terms approved by the Authority.

(6) The number and description of shares to be approved for the purposes of any such arrangements—

- (a) in the case of a newspaper which is the only local newspaper circulating in the relevant locality, or the only local newspaper having a substantial circulation in that locality, shall not be such as to enable the proprietor of the newspaper to obtain control over the programme contractor, but

(b) in any other case, or (in a case falling within the preceding paragraph) to such extent as is consistent with that paragraph, shall be such as the Authority consider appropriate, having regard to the adverse effect which the broadcasting of the programmes to be provided under the contract in question is likely to have on the financial position of the newspaper.

(7) Any terms approved by the Authority under subsection (5)(a) of this section shall be such as, in the opinion of the Authority, will enable the shareholding to be acquired at a price not exceeding its current market value or (if it has no current market value) a price not exceeding a fair valuation of the shareholding.

(8) In this and the next following section "newspaper" does not include any publication which is not printed for sale or which is published at intervals of more than seven days, and "shareholding", in relation to a programme contractor which is a body corporate, means a holding of shares in that body corporate.

Provisions
supplementary
to section 8.

9.—(1) Notwithstanding anything in section 8 of this Act, the Authority shall not require arrangements to be made in relation to a newspaper as mentioned in subsection (5) of that section if it is their opinion that it would be contrary to the public interest for the proprietor of that newspaper to acquire a shareholding in accordance with subsection (6) of that section, and the Minister concurs in that opinion.

(2) Every contract to which that section applies shall include provisions whereby, if during the currency of the contract arrangements are made for extending (otherwise than by way of any minor modification) the range of transmission of programmes to be provided under the contract, whether by an alteration in the construction or operation of one or more stations or by the addition of one or more stations or otherwise, subsections (2) to (7) of that section and subsection (1) of this section shall have effect in relation to those arrangements as if they were a contract to which that section applies.

(3) The Authority shall not be required to act in accordance with subsections (2) to (7) of section 8 of this Act in connection with the making of a contract with a programme contractor if—

(a) the contract is to specify the same station as was, or the same stations as were, specified in a previous contract to which that section applied (whether the previous contract was with the same programme contractor or a different programme contractor), and

- (b) the range or aggregate range of transmission of broadcasts under the new contract is not to be greater (otherwise than by way of any minor modification) than under the previous contract.

(4) Where subsection (3) of this section applies, it shall not be construed as precluding the Authority from requiring such arrangements as are mentioned in subsections (5) to (7) of section 8 of this Act to be made in connection with the new contract in respect of a newspaper whose proprietor acquired a shareholding in accordance with such arrangements in connection with the previous contract, if it appears to the Authority that by reason of special circumstances it would be just and equitable to do so.

10.—(1) Where the Authority enter into a contract with a programme contractor for the provision of local sound broadcasts to be transmitted from one or more stations, the Authority shall, on request made by any person and on payment by him of such sum (if any) as the Authority may reasonably require, furnish to that person such one or more of the following as may be specified in the request, that is to say—

Information as to programme contracts and applications for such contracts.

- (a) a copy of that contract ;
- (b) a statement of the number of applications (if any) received by the Authority for a programme contract for the provision of local sound broadcasts to be transmitted from that station or those stations, other than the application received from the contractor with whom the contract is made ; and
- (c) subject to the next following subsection, a copy of so much of that contractor's application for such a contract as related to the character of the local sound broadcasts which he proposed to provide if his application were accepted by the Authority.

(2) The Authority shall not be required by virtue of the preceding subsection to furnish to any person such a copy as is mentioned in paragraph (c) of that subsection until after local sound broadcasts provided by the contractor under the contract in question have begun to be transmitted by the Authority.

11.—(1) For the purpose of enabling the Authority to defray expenditure properly attributable to capital account in respect of the provision of local sound broadcasting services, and for the purpose of furnishing the Authority with working capital in connection with those services, the Minister may with the consent of the Treasury make advances to the Authority out of moneys provided by Parliament.

Advances to Authority for purposes of local sound broadcasting, and administrative expenses.

(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Authority under this section shall not at any time exceed £2 million.

(3) Any sums advanced under this section shall be repaid to the Minister at such times and by such methods, and interest on those sums shall be paid to him at such times and at such rates, as he may from time to time direct with the consent of the Treasury.

(4) All sums received by the Minister in pursuance of subsection (3) of this section shall be paid into the Consolidated Fund.

(5) There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums so payable under paragraph 4 of Schedule 1 to the Ministers of the Crown Act 1964 (which relates to expenses of Ministers) as applied by section 2 of the Post Office Act 1969.

1964 c. 98.
1969 c. 48.

Minor and consequential amendments and repeals.

12. Without prejudice to the amendments made by the preceding provisions of this Act, the principal Act shall have effect subject to the amendments specified in Schedule 1 to this Act (being minor amendments or amendments consequential upon the preceding provisions of this Act); and the provisions of that Act specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title, citation, interpretation, extent and commencement.

1964 c. 21.

13.—(1) This Act may be cited as the Sound Broadcasting Act 1972; and the Television Act 1964 and this Act may be cited together as the Television and Sound Broadcasting Acts 1964 and 1972.

(2) Except in so far as the context otherwise requires, expressions to which a meaning is assigned by the principal Act have the same meanings in this Act as in that Act.

(3) Any reference in this Act to an enactment shall, except in so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment; and, in particular, any reference in this Act to any provisions of the principal Act shall, where the case so requires, be construed as a reference—

(a) to those provisions as amended or extended by or under any other enactment, including this Act, or

(b) to those provisions as inserted in the principal Act (whether in substitution for other provisions or not) by this Act.

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

(5) Her Majesty may by Order in Council direct that all or any of the provisions of this Act, or of the principal Act as amended by 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.

(6) This Act shall come into operation at the end of the period of one month beginning with the day on which it is passed.

Section 12.

SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS OF TELEVISION
ACT 1964

<i>Provision of Act</i>	<i>Amendment</i>
Section 1 ...	In subsection (1), for the word "Television" there shall be substituted the word "Broadcasting"; in subsection (3), after the word "television" there shall be inserted the words "and local sound", and after the word "additional" there shall be inserted the words "in each case"; and in subsection (4), after the word "television" there shall be inserted the words "and local sound" and, in paragraph (c), after the word "showing" there shall be inserted the words "or (as the case may be) hearing".
Section 2 ...	In subsection (1)(b), after the word "television" there shall be inserted the words "and sound"; and in subsection (5), after the words "television services", in the first place where they occur, there shall be inserted the words "and local sound broadcasting services", after the words "broadcasting of any matters in sound only" there shall be inserted the words "otherwise than as part of a local sound broadcast", and in the proviso, after the word "any", in the first place where it occurs, there shall be inserted the word "television".
Section 3 ...	In subsection (1), the word "and", where it occurs at the end of paragraph (d), shall be omitted, and after that paragraph there shall be inserted the following paragraph:— " (dd) in the case of local sound broadcasting services, that the programmes broadcast from different stations for reception in different localities do not consist of identical or similar material to an extent inconsistent with the character of the services as local sound broadcasting services; and "
Section 4 ...	In paragraph (a) of subsection (1), after the word "violence" there shall be inserted the words "and in regard to the inclusion in local sound broadcasts of sounds suggestive of violence", and after the word "watching", in the first place where it occurs, there shall be inserted the words "or listening to" and, in the second place where it occurs, there shall be inserted the words "or listening".

- | <i>Provision
of Act</i> | <i>Amendment</i> |
|-----------------------------|--|
| Section 5 ... | <p>The following subsection shall be substituted for subsection (1):—</p> <p>“(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 in relation to television broadcasts shall, and in relation to local sound broadcasts (to such extent as the Authority consider appropriate) may, 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—</p> <p style="padding-left: 2em;">(a) if it is a television programme, or</p> <p style="padding-left: 2em;">(b) if it is a local sound broadcast which the Authority have required to be made in accordance with a programme schedule so approved,</p> <p style="padding-left: 2em;">shall be broadcast by the Authority unless it forms part of a programme schedule so approved.”</p> |
| Section 11 ... | <p>In subsection (6) the following paragraph shall be substituted for paragraph (b):—</p> <p>“(b) that each of the programme contractors with whom the Authority enter into contracts for the provision of television programmes is afforded opportunities of obtaining a financial interest in that body or organisation or, if there are two or more such bodies or organisations providing news for broadcasting in the television programmes supplied to the Authority by those contractors, is afforded opportunities of obtaining a financial interest in such of those bodies or organisations as the Authority may in his case direct; and”.</p> |
| Section 13 ... | <p>In subsection (1), after the words “programme contractors”, in the first place where they occur, there shall be inserted the words “for the provision of television programmes”, and, in paragraph (a), after the word “Authority”, in the first place where it occurs, there shall be inserted the words “in relation to the branch of their undertaking consisting of the provision of television broadcasting services”, and for the words “21(1) of this Act” there shall be substituted the words “20A(2) of this Act in relation to that branch of their undertaking”.</p> |
| Section 14 ... | <p>In subsection (1), after the word “contractors”, in the first place where it occurs, there shall be inserted the words “for the provision of television programmes”; and in subsection (2), after the words “supply of” there shall be inserted the word “television”.</p> |

SCH. 1

*Provision
of Act**Amendment*

- Section 15 ... In subsection (1), for the words "his programmes", in each place where they occur, there shall be substituted the words "any comparable programme of his", and at the end of the section there shall be added the following subsection:—
- " (3) For the purposes of this section two programmes shall be regarded as being comparable if either—
- (a) both are television programmes, or
- (b) both are local sound broadcasts."
- Section 17 ... The word "television", in each place where it occurs, shall be omitted.
- Section 18 ... In subsection (8) the word "television" shall be omitted.
- Section 19 ... In subsection (1), the word "television" shall be omitted, and in subsection (2), for the words from "unless" to the end of the subsection there shall be substituted the words "where the transmission is made more than seven days after that event".
- Section 21 ... Subsections (1) and (2) shall be omitted; at the beginning of subsection (3) there shall be inserted the words "In the case of each branch of the Authority's undertaking (but subject, in the case of the branch consisting of the provision of local sound broadcasting services, to subsection (6) of this section)", and for the words "subsection (2) of this section to the reserve fund of the Authority" there shall be substituted the words "section 20A(4) of this Act to the reserve fund established for that branch"; and after subsection (4) there shall be added the following subsections:—
- " (5) A direction under subsection (3) of this section shall not require any part of any excess of the revenues of the Authority attributable to one branch of their undertaking to be applied for the purposes of the other branch of their undertaking.
- (6) In relation to the branch of their undertaking which consists of the provision of local sound broadcasting services, subsections (3) and (4) of this section shall have effect in relation only to so much (if any) of any such excess as is therein mentioned as is not required for complying with any direction given under section 5 of the Sound Broadcasting Act 1972."
- Section 25 ... After the word "one" there shall be inserted the word "television".

<i>Provision of Act</i>	<i>Amendment</i>
Section 28 ...	<p>In subsection (1), before the definition of "broadcast relay station" there shall be inserted the words " 'associate' in relation to a body corporate (including a programme contractor which is a body corporate) means a body corporate which is a member of the same group as that body corporate; and for this purpose any two bodies corporate are to be treated as members of the same group if one of them is a body corporate of which the other is a subsidiary (within the meaning of section 154 of the Companies Act 1948) or if both of them are subsidiaries (within the meaning of that section) of one and the same body corporate," and after the definition of "financial year" there shall be inserted the following:—</p> <p style="padding-left: 40px;">" 'local sound broadcast' and 'local sound broadcasting services' have the meanings assigned to them by section 2(3) of the Sound Broadcasting Act 1972;</p> <p style="padding-left: 40px;">'the Minister' means the Minister of Posts and Telecommunications";</p> <p>and after subsection (2) there shall be inserted the following subsection:—</p> <p style="padding-left: 40px;">"(3) References in this Act to a contract for the provision by a programme contractor of local sound broadcasts shall be construed in accordance with section 2(4) of the Sound Broadcasting Act 1972."</p>
Schedule 1 ...	<p>In paragraph 3(3), after the words "this Act" there shall be inserted the words "or the Sound Broadcasting Act 1972".</p>
Schedule 2 ...	<p>In paragraph 9 the word "television" shall be omitted.</p>

SCHEDULE 2

Section 12.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1964 c. 21.	The Television Act 1964.	<p>In section 3, in paragraph (d) of subsection (1), the word "and" where it occurs at the end of that paragraph.</p> <p>In section 17, the word "television" in each place where it occurs.</p> <p>In section 18, in subsection (8), the word "television".</p>

SCH. 2

Chapter	Short Title	Extent of Repeal
1964 c. 21 — <i>cont.</i>	The Television Act 1964 — <i>cont.</i>	In section 19, in subsection (1), the word “television”. In section 21, subsections (1) and (2). In Schedule 2, in paragraph 9, the word “television”.



Performers' Protection Act 1972

1972 CHAPTER 32

An Act to amend the Performers' Protection Acts 1958
and 1963. [29th June 1972]

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 enactments specified in column 1 of the Schedule to this Act (being enactments creating the offences under the Performers' Protection Acts 1958 and 1963 broadly described in column 2 of that Schedule) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in that enactment were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3 of that Schedule.

Increase of
fines under
Performers'
Protection
Acts 1958
and 1963.

2. Section 1 of the Dramatic and Musical Performers' Protection Act 1958 (by which the making of records without the consent of the performers and sales of, and other dealings with, such records are rendered punishable) shall have effect as if after the word "transaction" there were inserted the words "or, on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both".

Amendment
of section 1 of
Dramatic
and Musical
Performers'
Protection
Act 1958.
1958 c. 44.

Amendment of Performers' Protection Act 1963. 1963 c. 53.

3. In the Performers' Protection Act 1963 there shall be inserted after section 4 the following section:—

“Offences by bodies corporate.

4A. Where an offence under the principal Act or 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.”

Citation, construction, commencement and extent.

4.—(1) This Act may be cited as the Performers' Protection Act 1972, and the Performers' Protection Acts 1958 and 1963 and this Act may be cited together as the Performers' Protection Acts 1958 to 1972.

(2) This Act shall come into operation at the expiration of the period of one month beginning with the date of its passing, but nothing in this Act shall affect the punishment for an offence committed before the commencement of this Act.

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

SCHEDULE

Section 1.

INCREASE OF FINES

(1) Enactment	(2) Description of Offence	(3) Old Maximum Fine	(4) New Maximum Fine	
The Dramatic and Musical Performers' Protection Act 1958—				1958 c. 44.
Section 1 ...	Making, etc., records without consent of performers.	£2 for each record in respect of which an offence is proved subject to a limit of £50 in respect of any one transaction.	£20 for each record in respect of which an offence is proved subject to a limit of £400 in respect of any one transaction.	
Section 2 ...	Making, etc., cinema- tograph films with- out consent of per- formers.	£50	£400	
Section 3 ...	Broadcasting with- out consent of per- formers.	£50	£400	
Section 4 ...	Making or having plates, etc., for making records in contravention of Act.	£50	£400	
The Performers' Protection Act 1963—				1963 c. 53.
Section 3(1)...	Relaying perform- ances without con- sent of performers.	£50	£400	
Section 4(1)...	Giving consent with- out authority.	£50	£400	



Carriage by Railway Act 1972

1972 CHAPTER 33

An Act to amend the law relating to carriage by rail in connection with certain international conventions, and for purposes connected therewith. [29th June 1972]

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

1.—(1) The provisions of the Convention known as the **Scheduled** Additional Convention to the International Convention concerning the Carriage of Passengers and Luggage by Rail (in this Act referred to as “the Additional Convention”), as set out in the **Convention** Schedule to this Act, shall have the force of law in the United Kingdom so far as they relate to the liability of railway undertakings in respect of the death of or injury to passengers and damage to or loss of articles which they have with them, and shall have such effect notwithstanding anything in section 43(7) of the Transport Act 1962 (terms on which passengers may be **to have the** carried by rail). **force of law.** 1962 c. 46.

(2) If there is any inconsistency between the text in English in Part I of the Schedule to this Act and the text in French in Part II of that Schedule, the text in French shall prevail.

(3) In this Act the Convention referred to in paragraph 1(a) of article 1 in the Schedule to this Act is referred to as “the Railway Passenger Convention” and the Convention referred to in paragraph 1 (b) of that article is referred to as “the Railway Freight Convention”.

(4) In this Act “passengers” has the meaning assigned to it by article 1 in the Schedule to this Act and any reference to

things done in accordance with, or to rights conferred or provision made by, the Railway Passenger Convention or the Railway Freight Convention includes a reference to things done in accordance with, or to rights conferred or provision made by, a contract of carriage which incorporates the provisions of the Railway Passenger Convention or the Railway Freight Convention, as the case may require.

(5) This section shall come into force on such day as Her Majesty may by Order in Council certify to be the day on which the Additional Convention comes into force as regards the United Kingdom.

Designation of Contracting States.

2.—(1) Her Majesty may by Order in Council from time to time certify who are the Contracting States for the purposes of the Additional Convention.

(2) An Order in Council under this section may also certify whether Her Majesty's Government in the United Kingdom or any other Contracting State have made a declaration in accordance with paragraph 2 of article 1 in the Schedule to this Act.

(3) An Order in Council under this section shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

Fatal accidents.

3.—(1) Without prejudice to article 18 in the Schedule to this Act, where, by virtue of paragraph 2 of article 3 in that Schedule any person has a right of action in respect of the death of a passenger, by reason of his being a person whom the passenger was under a legally enforceable duty to maintain,—

(a) no action in respect of the passenger's death may be brought for the benefit of that person under the Fatal Accidents Act 1846 or by or on behalf of that person under any rule of Scots law; but

(b) nothing in section 3 of that Act (not more than one action in respect of the same subject matter of complaint) shall prevent an action being brought under that Act for the benefit of any other person.

1846 c. 93.

1959 c. 65.

(2) Section 2 of the Fatal Accidents Act 1959 (exclusion of certain benefits in assessment of damages) shall apply in relation to an action brought by any person under the Additional Convention, including such an action brought in Scotland, as it applies in relation to an action under the Fatal Accidents Act 1846.

(3) Where separate proceedings are brought under the Additional Convention and under the Fatal Accidents Act 1846 in respect of the death of a passenger, a court, in awarding

damages under that Act, shall take account of any damages awarded in the proceedings brought under the Additional Convention and shall have jurisdiction to make any part of its award conditional on the result of those proceedings.

(4) In the application of this section to Northern Ireland, the reference in subsection (2) above to section 2 of the Fatal Accidents Act 1959 shall be construed as a reference to section 2 of the Fatal Accidents Act (Northern Ireland) 1959. 1959 c. 65.
1959 c. 17
(N.I.).

4.—(1) A court before which proceedings are brought to enforce a liability which is limited by article 7 in the Schedule to this Act may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions of the said article 7 and of any other proceedings which have been, or are likely to be, commenced in the United Kingdom or elsewhere to enforce the liability in whole or in part. Power of court to take account of other proceedings relating to damage to or loss of articles.

(2) Without prejudice to subsection (1) above, a court before which proceedings are brought to enforce a liability which is limited by the said article 7 shall, where the liability is, or may be, partly enforceable in other proceedings in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court, or to make any part of its award conditional on the result of any other proceedings.

5.—(1) Subject to subsection (2) below, Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 (in this section referred to as “the Act of 1933”) shall apply, whether or not it would otherwise have so applied, to any judgment which— Registration of foreign judgments under the Additional Convention.
1933 c. 13.

- (a) has been entered, as mentioned in paragraph 1 of article 20 in the Schedule to this Act, by a court of a contracting State, other than the United Kingdom, and
- (b) has become enforceable under the law applied by that court.

(2) In the application of Part I of the Act of 1933 in relation to any such judgment as is referred to in subsection (1) above, section 4 of that Act shall have effect with the omission of subsections (2) and (3).

(3) The registration, in accordance with Part I of the Act of 1933, of any such judgment as is referred to in subsection (1) above shall constitute, in relation to that judgment, compliance with the required formalities for the purposes of paragraph 1 of article 20 in the Schedule to this Act.

Actions, judgments and decrees relating to carriage in accordance with Conventions.

6.—(1) No action of any kind relating to a liability in respect of which provision is made by the Railway Passenger Convention or the Railway Freight Convention may be brought against a railway undertaking or its servants or agents except in accordance with that Convention.

(2) Where by virtue of any provision made by the Railway Passenger Convention or the Railway Freight Convention or by virtue of article 14 in the Schedule to this Act,—

(a) an action of any description may be brought only against a particular railway undertaking, or

(b) the bringing of an action against one railway undertaking extinguishes any right to proceed against another railway undertaking in respect of the same cause of action,

1935 c. 30.

then, notwithstanding anything in section 6(1)(a) of the Law Reform (Married Women and Tortfeasors) Act 1935 or any rule of Scots law enabling further proceedings to be instituted, proceedings may not be brought against any other person in respect of the same cause of action.

1867 c. 127.

(3) So much of section 4 of the Railway Companies Act 1867 as prevents the rolling stock and other assets of a railway company, as defined in that Act, from being taken in execution shall apply also in relation to any railway undertaking—

(a) carrying passengers or their luggage in accordance with the Railway Passenger Convention, or

(b) carrying goods in accordance with the Railway Freight Convention,

if the judgment (within the meaning of that Act) on which the execution issues is given by a court in the United Kingdom in an action arising on a contract which incorporates the provisions of the Railway Passenger Convention or the Railway Freight Convention, as the case may require.

1867 c. 126.

(4) So much of section 4 of the Railway Companies (Scotland) Act 1867 as prevents the rolling stock and other assets of a railway company, as defined in that Act, from being attached by diligence shall apply also in relation to any railway undertaking—

(a) carrying passengers or their luggage in accordance with the Railway Passenger Convention, or

(b) carrying goods in accordance with the Railway Freight Convention,

if the decree (within the meaning of that Act) on which the diligence proceeds is pronounced by a court in the United Kingdom in any such action as is referred to in subsection (3) above.

(5) A judgment given or decree pronounced by a court in the United Kingdom in any such action as is referred to in subsection (3) above may not be enforced by execution or diligence against—

- (a) any railway wagon owned by a person other than a railway undertaking, nor
- (b) any transport equipment contained in, or belonging to the owner of, such a wagon,

unless the owner has his principal place of business in the United Kingdom.

(6) In the application of this section to Northern Ireland—

- (a) in subsection (2), for the reference to section 6(1)(a) of the Law Reform (Married Women and Tortfeasors) Act 1935 there shall be substituted a reference to section 16(1)(a) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
- (b) in subsection (3), for the words “in execution” there shall be substituted the words “under the Judgments (Enforcement) Act (Northern Ireland) 1969” and for the words “on which the execution issues” there shall be substituted the words “in respect of which an application for enforcement is made under the said Act of 1969,”; and
- (c) in subsection (5) for the words “by execution or diligence” there shall be substituted the words “under the said Act of 1969”.

7.—(1) In any case where goods are carried in accordance with the Railway Freight Convention, the consignee shall not be entitled to enforce, whether as owner of the goods, as the person to whom they have been consigned or otherwise, any right against the railway undertaking in respect of the goods or their carriage, except in accordance with the Convention. Rights and obligations of consignee in relation to Railway Freight Convention.

(2) If, in any case where goods are carried in accordance with the Railway Freight Convention, the consignee—

- (a) accepts the consignment note in respect of the goods, or
- (b) purports to exercise any right conferred on him by the Convention in respect of the goods or the contract of carriage (whether to require the delivery of the consignment note or the goods, or to vary the contract of carriage, or otherwise)

he shall thereby be treated as if he were a party to the contract of carriage and as if he had been such a party from the time that the contract came into existence; and rights and obligations

conferred or imposed on him under the terms of the Convention shall be enforceable by or against him accordingly.

(3) In this section “the consignment note”, in relation to any goods, means the consignment note accompanying the goods, prepared in accordance with the Railway Freight Convention and constituting evidence of the contract of carriage; and references in this section to the consignee include references to a person to whom, in accordance with the Railway Freight Convention, the consignee named in the consignment note has directed that the goods are to be delivered.

Recovery of surcharges and compensation under Railway Freight and Passenger Conventions.

8.—(1) In any case where, in accordance with the Railway Freight Convention, a railway undertaking is entitled to impose a surcharge in respect of any goods carried in accordance with that Convention or with respect to the carriage or loading of any goods so carried, then

- (a) notwithstanding any provision of the law relating to penalties or otherwise, and
- (b) without prejudice to any other method of recovery or to any lien which the railway undertaking may have on the goods for any other amount,

the amount of the surcharge shall be treated for all purposes as a charge in respect of which the railway undertaking, as a carrier, is entitled to a lien.

(2) In so far as any provision of the Railway Freight Convention or the Railway Passenger Convention provides for the payment of compensation calculated at a fixed rate in respect of any delay in the despatch, conveyance or delivery of any goods, compensation calculated in accordance with that provision shall be recoverable as liquidated damages notwithstanding—

- (a) that the person entitled to the compensation may be unable to prove that he has suffered any damage by reason of the delay, or
- (b) that the damages to which he would have been entitled apart from this subsection would be less than the amount of the compensation determined in accordance with that provision.

Amendments consequential on revision of Conventions.

9.—(1) If at any time it appears to Her Majesty in Council that Her Majesty’s Government in the United Kingdom have agreed to any revision of the Additional Convention, whether such revision operates by way of amendment of the text of the Additional Convention as then in force or takes the form of a new Convention or a part of a new Convention to substantially the same effect as the provisions set out in the

Schedule to this Act, Her Majesty may by Order in Council make such amendments—

(a) of the provisions set out in the Schedule to this Act, and
 (b) of the definition of and references in this Act to, or to particular provisions of, the Additional Convention, as appear to Her to be appropriate in consequence of the revision.

(2) If at any time it appears to Her Majesty in Council that the Convention which for the purposes of this Act is at that time the Railway Passenger Convention or the Railway Freight Convention has been rendered void on the coming into force of a new Convention which is substantially to the same effect as the previous Convention and in respect of which Her Majesty's Government in the United Kingdom are one of the Contracting States, Her Majesty may by Order in Council make such amendments of the definition of "the Railway Passenger Convention" or, as the case may require, "the Railway Freight Convention" as appear to Her appropriate to secure that references in this Act to the Railway Passenger Convention or the Railway Freight Convention, as the case may be, refer to the new Convention.

(3) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

10.—(1) In the application of this Act to Northern Ireland—

Application to Northern Ireland.

(a) any reference to an enactment of the Parliament of the United Kingdom which extends to Northern Ireland is a reference to that Act as it applies in Northern Ireland; and

(b) any reference to an enactment of the Parliament of Northern Ireland or to any other enactment which that Parliament has power to amend 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 for the time being in force which re-enacts the said enactment with or without modification.

(2) For the purposes of section 6 of the Government of Ireland Act 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

Orders in
Council.

11. An Order in Council made under any of the preceding provisions of this Act may contain such transitional and supplementary provisions as appear to Her Majesty to be expedient and may be varied or revoked by a subsequent Order in Council made under that provision.

Application
to Crown.

12. This Act shall bind the Crown.

Short title,
interpretation
and
commence-
ment.

13.—(1) This Act may be cited as the Carriage by Railway Act 1972.

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

(3) Sections 2 to 5 above and, so far as it relates to actions brought under the Additional Convention, section 6(2) above shall come into force on the day certified under section 1(5) above.

(4) Sections 7 and 8 above and, except as provided by subsection (3) above, section 6 above shall come into force on such day as Her Majesty may by Order in Council appoint; and different days may be so appointed for different provisions of those sections.

(5) Nothing in any provision of this Act shall affect any rights or liabilities arising out of an occurrence before the day on which that provision comes into force.

SCHEDULE

ADDITIONAL CONVENTION TO THE INTERNATIONAL CONVENTION CONCERNING THE CARRIAGE OF PASSENGERS AND LUGGAGE BY RAIL

PART I

THE ENGLISH TEXT

CONVENTION RELATING TO THE LIABILITY OF THE RAILWAY FOR DEATH OF AND PERSONAL INJURY TO PASSENGERS

Article 1

Field of application

1. This Convention shall govern the liability of the railway for damage caused to passengers by an accident occurring on the territory of a State which is a party to this Convention. For the purposes of this Convention "passengers" means:

- (a) passengers carried in accordance with the International Convention concerning the Carriage of Passengers and Luggage by Rail (CIV) of 25th February, 1961;
- (b) attendants accompanying consignments of goods carried in accordance with the International Convention concerning the Carriage of Goods by Rail (CIM) of 25th February, 1961.

2. Each Contracting State may, on signing this Convention or depositing its instrument of ratification or accession, declare that it reserves the right not to apply this Convention to passengers who are subjects of, or persons having their usual place of residence in that State and who sustain an accident on its territory.

Article 2

Extent of liability

1. The railway shall be liable for damage resulting from the death of, or personal injury or any other bodily or mental harm to, a passenger, caused by an accident arising out of the operation of the railway and happening while the passenger is in, entering or alighting from a train.

The railway shall also be liable for damage to, or total or partial loss of any articles which the passenger who has sustained such an accident had either on him or with him as hand luggage, including any animals which he had with him.

2. The railway shall be relieved of liability if the accident has been caused by circumstances not connected with the operation of the railway and which the railway, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which it was unable to prevent.

3. The railway shall be relieved wholly or partly of liability to the extent that the accident is due to the passenger's wrongful act or neglect or to behaviour on his part not in conformity with the normal conduct of passengers.

4. The railway shall be relieved of liability if the accident is due to a third party's behaviour which the railway, in spite of taking the care required in the particular circumstances of the case, could not avoid and the consequences of which it was unable to prevent.

If the railway is not relieved of liability in accordance with the preceding sub-paragraph, the railway shall be wholly liable up to the limits laid down in this Convention, but without prejudice to any right of action which the railway may have against the third party.

5. This Convention shall not affect any liability which may be incurred by the railway in cases not provided for under paragraph 1.

6. For the purposes of this Convention, the "responsible railway" is that which, according to the list of lines provided for in Article 59 of CIV, operates the line on which the accident occurs. If, in accordance with the aforementioned list, there is joint operation of the line by two railways, each of them shall be liable.

Article 3

Damages in case of death of the passenger

1. In the case of the death of the passenger the damages shall include:

- (a) any necessary expenses following on the death, in particular the cost of transport of the body, burial and cremation;
- (b) if death does not occur at once, the damages defined in Article 4.

2. If, through the death of the passenger, persons towards whom he had, or would have had in the future, a legally enforceable duty to maintain are deprived of their support, such persons shall also be indemnified for their loss. Rights of action for damages by persons whom the passenger was maintaining without being legally bound to do so shall be governed by national law.

Article 4

Damages in case of personal injury to the passenger

In the case of personal injury or any other bodily or mental harm to the passenger the damages shall include:

- (a) any necessary expenses, in particular the cost of medical treatment and transport;
- (b) compensation for loss due to total or partial incapacity to work, or to increased expenditure on his personal requirements necessitated by the injury.

Article 5

Compensation for other injuries

National law shall determine whether and to what extent the railway shall be bound to pay damages for injuries other than those for which there is provision in Articles 3 and 4, in particular for mental or physical pain and suffering (*pretium doloris*) and for disfigurement.

Article 6

Form and limit of damages in case of death of, or personal injury to the passenger

1. The damages under Article 3 (2) and Article 4 (b) shall be awarded in the form of a lump sum; however, if national law permits payment of an annuity, damages shall be awarded in this form if so requested by the injured passenger or the claimants designated in Article 3 (2).

2. The amount of damages to be awarded under paragraph 1 shall be determined in accordance with national law. However, in the event of the national law providing for a maximum limit of less than 200,000 francs, the limit per passenger shall, for the purposes of this Convention, be fixed at 200,000 francs in the form of a lump sum or of an annuity corresponding to that amount.

Article 7

Limit of damages in case of damage to or loss of articles

When, under the provisions of this Convention, the railway is liable to pay damages for damage to, or for total or partial loss of any articles which the passenger who has sustained an accident had either on him or with him as hand luggage, including any animals which he had with him, compensation for the damage or loss may be claimed up to the sum of 2,000 francs per passenger.

Article 8

Amount of damages in case of wilful misconduct or gross negligence

The provisions of Articles 6 and 7 of this Convention or those of the national law which limit compensation to a fixed amount shall not apply if the damage results from wilful misconduct or gross negligence of the railway.

Article 9

Interest and refund of compensation

1. The claimant shall be entitled to claim interest on compensation which shall be calculated at the rate of 5 per cent per annum. Such interest shall accrue from the date of the claim, or, if a claim has not been made, from the date on which legal proceedings are instituted, save that for compensation due under Articles 3 and 4, interest shall accrue only from the day on which the events relevant to its assessment occurred, if that day is later than the date of the claim or the date on which legal proceedings were instituted.

2. Any compensation improperly obtained shall be refunded.

Article 10

Prohibition of limitation of liability

Any terms or conditions of carriage or special agreements concluded between the railway and the passenger which purport to exempt the railway in advance, either totally or partially, from liability under

this Convention, or which have the effect of reversing the burden of proof resting on the railway, or which provide for limits lower than those laid down in Article 6 (2) and Article 7, shall be null and void. Such nullity shall not, however, avoid the contract of carriage which shall remain subject to the provisions of CIV and this Convention.

Article 11

Liability of railways for their servants

The railway shall be liable in respect of servants in its own employ and in respect of any other persons whom it employs to perform carriage for which it is responsible.

If, however, railway servants, at the request of a passenger, render services which the railway itself is under no obligation to render, they shall be deemed to act on behalf of the passenger to whom the services are rendered.

Article 12

Bringing of actions not within the provisions of this Convention

No action of any kind shall be brought against a railway in respect of its liability under Article 2 (1) of this Convention, except subject to the conditions and limitations laid down in this Convention.

The same shall apply to any action brought against persons for whom the railway is liable under Article 11.

Article 13

Claims

1. The making of claims for damages under this Convention is not obligatory; they may be made against one of the following railways provided that it has its principal office on the territory of a State party to this Convention:

- (1) the railway responsible; if, in accordance with Article 2 (6), two railways are responsible, against one of them;
- (2) the railway of the place of departure;
- (3) the railway of the place of destination;
- (4) the railway of the place of the passenger's domicile or of his usual place of residence.

2. Claims shall be made in writing. The documents which a claimant thinks it advisable to attach to his claim shall be produced either in the original or by copies duly authenticated if the railway so requires.

Article 14

Railway against which an action may be brought

An action for damages brought under this Convention shall only be brought against the responsible railway.

In the case of joint operation by two railways the claimant shall have a right of election as to which of the two railways he will sue. This right shall be extinguished as soon as an action has been instituted against one of them.

*Article 15**Jurisdiction*

Actions brought under this Convention may only be instituted in the competent court of the State on whose territory the accident to the passenger occurred, unless otherwise provided in agreements between States, or in any licence or other document authorising the operation of the railway concerned.

*Article 16**Extinction of rights of action*

1. A claimant shall lose his right of action if he does not give notice of the accident to a passenger to one of the railways to which a claim may be presented in accordance with Article 13 within three months of his becoming aware of the damage.

When notice of the accident is given orally by the claimant, confirmation of this oral notice must be delivered to the claimant by the railway to which the accident has been notified.

2. Nevertheless the right of action shall not be extinguished:

- (a) if, within the period of time provided for in paragraph 1, the claimant has made a claim to one of the railways designated in Article 13 (1);
- (b) if the claimant proves that the accident was caused by the wrongful act or neglect of the railway;
- (c) if notice of the accident has not been given, or has been given late, as a result of circumstances for which the claimant is not responsible;
- (d) if during the period of time specified in paragraph (1), the railway responsible—or one of the two railways if in accordance with Article 2 (6) two railways are responsible—knows of the accident to the passenger through other means.

*Article 17**Limitation of actions*

1. The periods of limitation for actions for damages brought under this Convention shall be:

- (a) in the case of the passenger who has sustained an accident, three years from the day after the accident;
- (b) in the case of other claimants, three years from the day after the death of the passenger, or five years from the day after the accident, whichever is the earlier.

2. When a claim is made to the railway in accordance with Article 13, the three periods of limitation provided for in paragraph 1 shall be suspended until such date as the railway rejects the claim by notification in writing, and returns the documents attached thereto. If part of the claim is admitted, the period of limitation shall start to run again only in respect of that part of the claim still in dispute. The

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burden of proof of the receipt of the claim or of the reply and of the return of the documents, shall rest with the party relying upon these facts.

The running of the period of limitation shall not be suspended by further claims having the same object.

3. A right of action which has become barred by lapse of time may not be exercised even by way of counterclaim or set-off.

4. Subject to the foregoing provisions, the limitation of actions shall be governed by national law.

Article 18

National law

1. In the absence of provisions in this Convention, national law shall apply.

2. For the purpose of this Convention, "national law" means the law of the State on whose territory the accident to the passenger occurs, including the rules relating to conflict of laws.

Article 19

General rules of procedure

In the case of legal proceedings arising out of the application of this Convention, the procedure to be followed shall be that of the competent court, subject to any provisions to the contrary in this Convention.

Article 20

Execution of judgments—Security for costs

1. Judgments entered by the competent court under the provisions of this Convention after trial, or by default, shall, when they have become enforceable under the law applied by that court, become enforceable in any of the other Contracting States as soon as the formalities required in the State concerned have been complied with. The merits of the case shall not be the subject of further proceedings.

The foregoing provisions shall not apply to interim judgments nor to awards of damages in addition to costs, against a plaintiff who fails in his action.

Settlements concluded between the parties before the competent court with a view to putting an end to a dispute, and which have been entered on the record of that court, shall have the force of a judgment of that court.

2. Security for costs shall not be required in proceedings arising out of the provisions of this Convention.

Article 21

Monetary unit

The amounts stated in francs in this Convention shall be deemed to relate to the gold franc weighing $10/31$ of a gramme and being of millesimal fineness 900.

Article 22

Carriage by more than one mode of transport

1. Subject to the provisions of paragraph 2 of this Article, this Convention shall not apply to damage arising in the course of carriage by road services or shipping services included in the list of lines referred to in Article 59 of CIV.

2. However, where railway vehicles are carried by ferry, this Convention shall apply to damage referred to in Article 2 (1) and caused by an accident arising out of the operation of the railway which happens while the passenger is in, entering or alighting from the said vehicles.

For the purpose of the application of this paragraph, the State on whose territory the accident occurred means the State whose flag is flown by the ferry.

3. When, because of exceptional circumstances, the railway finds itself obliged temporarily to suspend operations and itself carries the passengers or has them carried by another mode of transport, it shall be liable in accordance with the law relating to that mode of transport. Nevertheless, the provisions of Articles 13 to 17, 18 (2), 19 and 20 of this Convention shall remain applicable.

Article 23

Liability in case of nuclear incidents

The railway shall not be liable under this Convention for damage caused by a nuclear incident when pursuant to special provisions in force in a Contracting State governing liability in the field of nuclear energy the operator of a nuclear installation or another person who is substituted for him is liable for the damage.

[The provisions of articles 24 to 28 relating to signature, ratification and entry into force, accession, duration and revision and official translations are not reproduced.]

PART II

THE FRENCH TEXT

CONVENTION RELATIVE A LA RESPONSABILITE DU CHEMIN DE
FER POUR LA MORT ET LES BLESSURES DE VOYAGEURSArticle 1^{er}*Champ d'application*

1.—La présente Convention règle la responsabilité du chemin de fer pour les dommages causés aux voyageurs par un accident survenu sur le territoire d'un Etat partie à la présente Convention. Au sens de la présente Convention, on entend par «voyageurs»:

- a) les voyageurs dont le transport est régi par la Convention internationale concernant le transport des voyageurs et des bagages par chemins de fer (CIV) du 25 février 1961,
- b) les convoyeurs des envois effectués conformément à la Convention internationale concernant le transport des marchandises par chemins de fer (CIM) du 25 février 1961.

2.—Chaque Etat contractant pourra, au moment où il signe la présente Convention ou dépose son instrument de ratification ou d'adhésion, déclarer qu'il se réserve le droit de ne pas appliquer la présente Convention aux voyageurs victimes d'accidents survenus sur son territoire, lorsque ceux-ci sont ses ressortissants ou des personnes ayant leur résidence habituelle dans cet Etat.

Article 2

Etendue de la responsabilité

1.—Le chemin de fer est responsable des dommages résultant de la mort, des blessures ou de toute autre atteinte à l'intégrité physique ou mentale d'un voyageur causées par un accident en relation avec l'exploitation ferroviaire survenu pendant que le voyageur séjourne dans les véhicules, qu'il y entre ou qu'il en sort.

Le chemin de fer est, en outre, responsable des dommages résultant de l'avarie ou de la perte totale ou partielle des objets que le voyageur victime d'un tel accident avait, soit sur lui, soit avec lui comme colis à main, y compris les animaux.

2.—Le chemin de fer est déchargé de cette responsabilité si l'accident a été causé par des circonstances extérieures à l'exploitation que le chemin de fer, en dépit de la diligence requise d'après les particularités de l'espèce, ne pouvait pas éviter et aux conséquences desquelles il ne pouvait pas obvier.

3.—Le chemin de fer est déchargé en tout ou en partie de cette responsabilité dans la mesure où l'accident est dû à une faute du voyageur ou à un comportement de celui-ci qui n'est pas conforme à la conduite normale des voyageurs.

4.—Le chemin de fer est déchargé de cette responsabilité si l'accident est dû au comportement d'un tiers que le chemin de fer, en dépit de la diligence requise d'après les particularités de l'espèce, ne pouvait pas éviter et aux conséquences duquel il ne pouvait pas obvier.

Si la responsabilité du chemin de fer n'est pas exclue selon l'alinéa précédent, le chemin de fer répond pour le tout dans les limites de la présente Convention et sans préjudice de son recours éventuel contre le tiers.

5.—La présente Convention n'affecte pas la responsabilité qui peut incomber au chemin de fer pour les cas non prévus au § 1.

6.—Le «chemin de fer responsable» au sens de la présente Convention est celui qui, d'après la liste des lignes prévue à l'article 59 de la CIV, exploite la ligne sur laquelle l'accident s'est produit. S'il y a, d'après la liste mentionnée, coexploitation par deux chemins de fer, chacun de ces chemins de fer est responsable.

Article 3

Dommages-intérêts en cas de mort du voyageur

1.—En cas de mort du voyageur, les dommages-intérêts comprennent:

- a) les frais nécessaires consécutifs au décès, notamment ceux du transport du corps, d'inhumation et d'incinération;
- b) si la mort n'est pas survenue immédiatement, les dommages-intérêts définis à l'article 4.

2.—Si, par la mort du voyageur, des personnes envers lesquelles il avait ou aurait eu à l'avenir une obligation alimentaire, en vertu de la loi, sont privées de leur soutien, il y a également lieu de les indemniser de cette perte. L'action en dommages-intérêts des personnes dont le voyageur assumait l'entretien sans y être tenu par la loi reste soumise au droit national.

Article 4

Dommages-intérêts en cas de blessures du voyageur

En cas de blessures ou de toute autre atteinte à l'intégrité physique ou mentale du voyageur, les dommages-intérêts comprennent:

- a) les frais nécessaires, notamment ceux de traitement et de transport;
- b) la réparation du préjudice causé, soit par l'incapacité de travail totale ou partielle, soit par l'accroissement des besoins.

Article 5

Réparation d'autres préjudices

Le droit national détermine si et dans quelle mesure le chemin de fer est tenu à verser des dommages-intérêts pour des préjudices autres que ceux prévus aux articles 3 et 4, notamment les préjudices moral et physique (*pretium doloris*) et esthétique.

Article 6

Forme et limitation des dommages-intérêts en cas de mort ou de blessures du voyageur

1.—Les dommages-intérêts prévus à l'article 3, § 2, et à l'article 4, lettre b), doivent être alloués sous forme de capital; toutefois, si le

droit national permet l'allocation d'une rente, ils sont alloués sous cette forme lorsque le voyageur lésé ou les ayants droit désignés à l'article 3, § 2, le demandent.

2.—Le montant des dommages-intérêts à allouer en vertu du § 1 est déterminé selon le droit national. Toutefois, pour l'application de la présente Convention, il est fixé une limite maximale de 200,000 francs en capital ou en rente annuelle correspondant à ce capital, pour chaque voyageur, dans le cas où le droit national prévoit une limite maximale d'un montant inférieur.

Article 7

Limitation des dommages-intérêts en cas d'avarie ou de perte d'objets

Quand, en vertu des dispositions de la présente Convention, des dommages-intérêts pour avarie ou pour perte totale ou partielle des objets que le voyageur victime d'un accident avait, soit sur lui, soit avec lui comme colis à main, y compris les animaux, sont mis à la charge du chemin de fer, il peut être réclamé la réparation du dommage, jusqu'à concurrence de 2000 francs par voyageur.

Article 8

Montant des dommages-intérêts en cas de dol ou de faute lourde

Les dispositions des articles 6 et 7 de la présente Convention ou celles prévues par le droit national qui limitent à un montant déterminé les indemnités ne s'appliquent pas si le dommage résulte d'un dol ou d'une faute lourde du chemin de fer.

Article 9

Intérêts et restitution des indemnités

1.—L'ayant droit peut demander des intérêts de l'indemnité, qui sont calculés à raison de cinq pour cent l'an. Ces intérêts courent du jour de la réclamation administrative ou, s'il n'y a pas eu de réclamation, du jour de la demande en justice. Toutefois, pour les indemnités dues en vertu des articles 3 et 4, les intérêts ne courent que du jour où les faits qui ont servi à la détermination de leur montant se sont produits, si ce jour est postérieur à celui de la réclamation ou de la demande en justice.

2.—Toute indemnité indûment perçue doit être restituée.

Article 10

Interdiction de limiter la responsabilité

Les dispositions tarifaires et les accords particuliers conclus entre le chemin de fer et le voyageur, qui tendent à exonérer d'avance, totalement ou partiellement, le chemin de fer de sa responsabilité en vertu de la présente Convention, ou qui ont pour effet de renverser le fardeau de la preuve incombant au chemin de fer, ou qui établissent des limites inférieures à celles qui sont fixées à l'article 6, § 2, et à l'article 7, sont

nuls de plein droit. Cette nullité n'entraîne toutefois pas celle du contrat de transport, qui reste soumis aux dispositions de la CIV et de la présente Convention.

Article 11

Responsabilité du chemin de fer pour ses agents

Le chemin de fer est responsable des agents attachés à son service et des autres personnes qu'il emploie pour l'exécution d'un transport dont il est chargé.

Toutefois, si, à la demande des voyageurs, les agents du chemin de fer leur rendent des services qui n'incombent pas au chemin de fer, ils sont considérés comme agissant pour le compte des voyageurs à qui ils rendent ces services.

Article 12

Exercice d'actions non prévues par la présente Convention

Dans les cas prévus à l'article 2, § 1, toute action en responsabilité, à quelque titre que ce soit, ne peut être exercée contre le chemin de fer que dans les conditions et limites prévues par la présente Convention.

Il en est de même pour toute action exercée contre les personnes dont le chemin de fer répond en vertu de l'article 11.

Article 13

Réclamations administratives

1.—Les réclamations en dommages-intérêts en vertu de la présente Convention sont facultatives; elles peuvent être présentées à l'un des chemins de fer suivants, pour autant qu'il ait son siège social sur le territoire d'un Etat partie à la dite Convention:

- 1° le chemin de fer responsable; si d'après l'article 2, § 6, deux chemins de fer sont responsables, à l'un de ceux-ci;
- 2° le chemin de fer de départ;
- 3° le chemin de fer de destination;
- 4° le chemin de fer du domicile ou de la résidence habituelle du voyageur.

2.—Les réclamations doivent être adressées par écrit. Les pièces que l'ayant droit juge utile de joindre à sa réclamation doivent être présentées soit en originaux, soit en copies, celles-ci dûment légalisées si le chemin de fer le demande.

Article 14

Chemin de fer contre lequel l'action judiciaire peut être exercée

L'action judiciaire en dommages-intérêts fondée sur la présente Convention ne peut être exercée que contre le chemin de fer responsable.

En cas de coexploitation par deux chemins de fer, le demandeur a le choix entre ceux-ci. Ce droit d'option s'éteint dès que l'action est intentée contre l'un d'eux.

*Article 15**Compétence*

Les actions judiciaires fondées sur la présente Convention ne peuvent être intentées que devant le juge compétent de l'Etat sur le territoire duquel l'accident du voyageur s'est produit, à moins qu'il n'en soit décidé autrement dans les accords entre Etats ou les actes de concession.

*Article 16**Extinction des actions*

1.—L'ayant droit perd son droit d'action s'il ne signale pas l'accident du voyageur, dans les trois mois à compter de la connaissance du dommage, à l'un des chemins de fer auxquels une réclamation administrative peut être présentée selon l'article 13.

Lorsque l'accident est signalé verbalement par l'ayant droit, attestation de cet avis verbal doit lui être délivrée par le chemin de fer auquel l'accident a été signalé.

2.—Toutefois, l'action n'est pas éteinte:

- a) si, dans le délai prévu au § 1, l'ayant droit a présenté une réclamation administrative auprès de l'un des chemins de fer désignés à l'article 13, § 1;
- b) si l'ayant droit fournit la preuve que l'accident a eu pour cause une faute du chemin de fer;
- c) si l'accident n'a pas été signalé, ou a été signalé en retard, à la suite de circonstances qui ne sont pas imputables à l'ayant droit;
- d) si, pendant le délai mentionné au § 1, le chemin de fer responsable, ou, si d'après l'article 2, § 6, deux chemins de fer sont responsables, l'un de ceux-ci, a eu connaissance de l'accident du voyageur par une autre voie.

*Article 17**Prescription des actions*

1.—Les actions en dommages-intérêts fondées sur la présente Convention sont prescrites:

- a) pour la victime, par trois ans à compter du lendemain de l'accident;
- b) pour les autres ayants droit, par trois ans à compter du lendemain du décès de la victime, sans que ce délai puisse toutefois dépasser cinq ans à compter du lendemain de l'accident.

2.—En cas de réclamation administrative adressée au chemin de fer conformément à l'article 13, les trois délais de prescription prévus au § 1 sont suspendus jusqu'au jour où le chemin de fer rejette la réclamation par écrit et restitue les pièces qui y étaient jointes. En cas d'acceptation partielle de la réclamation, la prescription ne reprend son cours que pour la partie de la réclamation qui reste litigieuse. La

preuve de la réception de la réclamation ou de la réponse et celle de la restitution des pièces sont à la charge de la partie qui invoque ce fait.

Les réclamations ultérieures ayant le même objet ne suspendent pas la prescription.

3.—L'action prescrite ne peut plus être exercée, même sous forme d'une demande reconventionnelle ou d'une exception.

4.—Sous réserve des dispositions qui précèdent, la prescription est réglée par le droit national.

Article 18

Droit national

1.—A défaut de stipulations dans la présente Convention, le droit national est applicable.

2.—Pour l'application de cette Convention, on entend par «droit national» le droit de l'Etat sur le territoire duquel l'accident du voyageur s'est produit, y compris les règles relatives aux conflits de lois.

Article 19

Règles générales de procédure

Pour tous les litiges auxquels donne lieu l'application de la présente Convention, la procédure à suivre est celle du juge compétent, sous réserve des dispositions contraires insérées dans cette Convention.

Article 20

Exécution des jugements. Cautions

1.—Lorsque les jugements prononcés contradictoirement ou par défaut par le juge compétent, en vertu des dispositions de la présente Convention, sont devenus exécutoires d'après les lois appliquées par ce juge, ils deviennent exécutoires dans chacun des autres Etats contractants aussitôt après accomplissement des formalités prescrites dans l'Etat intéressé. La révision du fond de l'affaire n'est pas admise.

Cette disposition ne s'applique pas aux jugements qui ne sont exécutoires que provisoirement, non plus qu'aux condamnations en dommages-intérêts qui seraient prononcées, en sus des dépens, contre un demandeur à raison du rejet de sa demande.

Les transactions conclues entre les parties devant le juge compétent, en vue de mettre fin à une contestation, et au sujet desquelles un procès-verbal a été dressé judiciairement, ont valeur de jugement.

2.—La caution à fournir pour assurer le paiement des dépens ne peut être exigée à l'occasion des actions judiciaires fondées sur la présente Convention.

Article 21

Unité monétaire

Les sommes indiquées en francs dans la présente Convention sont considérées comme se rapportant au franc or d'un poids de 10/31 de gramme au titre de 0,900.

Article 22*Transports mixtes*

1.—Sous réserve de la disposition du § 2, la présente Convention n'est pas applicable aux dommages survenus pendant le transport sur des lignes de services automobiles ou de navigation inscrites sur la liste des lignes prévue à l'article 59 de la CIV.

2.—Toutefois, lorsque les véhicules ferroviaires sont transportés par ferry-boat, la présente Convention est applicable aux dommages visés à l'article 2, § 1, et causés par un accident en relation avec l'exploitation ferroviaire survenu pendant que le voyageur séjourne dans les dits véhicules, qu'il y entre ou qu'il en sort.

Pour l'application du présent paragraphe, on entend par «Etat sur le territoire duquel l'accident s'est produit», l'Etat dont le ferry-boat bat le pavillon.

3.—Lorsque, par suite de circonstances exceptionnelles, le chemin de fer se trouve dans l'obligation d'interrompre provisoirement son exploitation et transporte ou fait transporter les voyageurs par un autre moyen de transport, il est responsable d'après le droit afférent à ce moyen de transport. Néanmoins, les dispositions des articles 13 à 17, 18, § 2, 19 et 20 de la présente Convention demeurent applicables.

Article 23*Responsabilité en cas d'accidents nucléaires*

Le chemin de fer est déchargé de la responsabilité qui lui incombe en vertu de la présente Convention, lorsque le dommage a été causé par un accident nucléaire et que, en vertu des prescriptions spéciales en vigueur dans un Etat contractant réglant la responsabilité dans le domaine de l'énergie nucléaire, l'exploitant d'une installation nucléaire ou une autre personne qui lui est substituée est responsable de ce dommage.



Trade Descriptions Act 1972

1972 CHAPTER 34

An Act to require certain names and marks applied to imported goods to be accompanied by an indication of origin.
[29th June 1972]

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

1.—(1) Where a name or mark which—

- (a) is a United Kingdom name or mark; or
- (b) is likely to be taken for a United Kingdom name or mark (whether or not such a United Kingdom name or mark actually exists);

Indication
of origin
on certain
imported
goods.

is applied to goods manufactured or produced outside the United Kingdom, subsection (2) of this section shall apply except as otherwise provided by or under this section.

(2) If any person, in the course of a trade or business, supplies or offers to supply the goods, then, unless—

- (a) the name or mark is accompanied by a conspicuous indication of the country in which the goods were manufactured or produced; or
- (b) the name or mark is neither visible in the state in which the goods are supplied or offered nor likely to become visible on such inspection as may reasonably be expected to be made of the goods by a person to whom they are to be supplied;

the person supplying or offering to supply the goods shall, subject to the provisions of this Act, be guilty of an offence.

(3) Subsection (2) of this section does not apply to second-hand goods.

(4) Subsection (2) of this section does not apply to goods used or to be used as containers or labels for other goods supplied or offered to be supplied in the course of a trade or business.

(5) If the Secretary of State is satisfied, after considering such representations (if any) as may be made to him by persons appearing to him to have a substantial interest in the matter, that the interests of persons in the United Kingdom to whom goods of any description may be supplied or to whom goods may be supplied under any designation would not be materially impaired by his doing so and that it is desirable for him to do so, he may by statutory instrument give directions for excluding or relaxing the provisions of subsection (2) of this section in relation to goods of that description or in relation to that designation, either generally or in such circumstances or subject to such conditions as may be specified in the direction; and any such direction may be given for a limited time or indefinitely and may be withdrawn or varied by a further direction under this subsection.

(6) In this Act—

“ container or label ” includes anything in, on or with which goods are supplied or offered to be supplied;

“ name ” includes any abbreviation of a name;

“ United Kingdom name or mark ” means any of the following, that is to say—

(a) the name of any person carrying on a trade or business in the United Kingdom;

(b) the name of any part of, or area, place, or geographical feature in, the United Kingdom ;

(c) a trade mark of which a person carrying on a trade or business in the United Kingdom is the proprietor or registered user; and

(d) a certification trade mark of which a person in the United Kingdom is the proprietor; and

“ trade mark ” and “ certification trade mark ” have the same meanings as in the Trade Marks Act 1938.

1938 c. 22.

Defences.
1968 c. 29.

2.—(1) Without prejudice to section 24 of the Trade Descriptions Act 1968 as applied by section 3 of this Act, where a person

is charged with an offence under this Act it shall be a defence for him to prove—

- (a) that the name or mark had not been applied by him and that he did not know, and could not, with reasonable diligence, have ascertained that the goods were manufactured or produced outside the United Kingdom; or
- (b) that he did not know, and had no reason to believe, that the name or mark was, or was likely to be taken for, a United Kingdom name or mark.

(2) The definition of “ United Kingdom name or mark ” in section 1(6) of this Act shall apply for the purposes of this section with the omission of paragraph (b).

3. Section 4(1) of the Trade Descriptions Act 1968 shall apply, with the necessary modifications and with the omission of paragraph (c), for determining for the purposes of this Act whether a name or mark (whether a trade description or not) is applied to any goods; and this Act shall be construed, and that Act shall have effect, as if this Act were included among the provisions of that Act. Application of Trade Descriptions Act 1968.

4.—(1) This Act may be cited as the Trade Descriptions Act 1972 and this Act and the Trade Descriptions Act 1968 may be cited together as the Trade Descriptions Acts 1968 and 1972. Citation, commencement and extent.

(2) This Act, except section 1(5), shall not come into force until the expiration of the period of six months beginning with the date on which it is passed.

(3) This Act extends to Northern Ireland.



Defective Premises Act 1972

1972 CHAPTER 35

An Act to impose duties in connection with the provision of dwellings and otherwise to amend the law of England and Wales as to liability for injury or damage caused to persons through defects in the state of premises.

[29th June 1972]

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:—

Duty to build dwellings properly.

1.—(1) A person taking on work for or in connection with the provision of a dwelling (whether the dwelling is provided by the erection or by the conversion or enlargement of a building) owes a duty—

- (a) if the dwelling is provided to the order of any person, to that person ; and
- (b) without prejudice to paragraph (a) above, to every person who acquires an interest (whether legal or equitable) in the dwelling ;

to see that the work which he takes on is done in a workman-like or, as the case may be, professional manner, with proper materials and so that as regards that work the dwelling will be fit for habitation when completed.

(2) A person who takes on any such work for another on terms that he is to do it in accordance with instructions given by or on behalf of that other shall, to the extent to which he does it properly in accordance with those instructions, be treated for

the purposes of this section as discharging the duty imposed on him by subsection (1) above except where he owes a duty to that other to warn him of any defects in the instructions and fails to discharge that duty.

(3) A person shall not be treated for the purposes of subsection (2) above as having given instructions for the doing of work merely because he has agreed to the work being done in a specified manner, with specified materials or to a specified design.

(4) A person who—

(a) in the course of a business which consists of or includes providing or arranging for the provision of dwellings or installations in dwellings ; or

(b) in the exercise of a power of making such provision or arrangements conferred by or by virtue of any enactment ;

arranges for another to take on work for or in connection with the provision of a dwelling shall be treated for the purposes of this section as included among the persons who have taken on the work.

(5) Any cause of action in respect of a breach of the duty imposed by this section shall be deemed, for the purposes of the Limitation Act 1939, the Law Reform (Limitation of Actions, &c.) Act 1954 and the Limitation Act 1963, to have accrued at the time when the dwelling was completed, but if after that time a person who has done work for or in connection with the provision of the dwelling does further work to rectify the work he has already done, any such cause of action in respect of that further work shall be deemed for those purposes to have accrued at the time when the further work was finished.

1939 c. 21.
1954 c. 36.
1963 c. 47.

2.—(1) Where—

(a) in connection with the provision of a dwelling or its first sale or letting for habitation any rights in respect of defects in the state of the dwelling are conferred by an approved scheme to which this section applies on a person having or acquiring an interest in the dwelling ; and

Cases excluded from the remedy under section 1.

(b) it is stated in a document of a type approved for the purposes of this section that the requirements as to design or construction imposed by or under the scheme have, or appear to have, been substantially complied with in relation to the dwelling ;

no action shall be brought by any person having or acquiring an interest in the dwelling for breach of the duty imposed by section 1 above in relation to the dwelling.

(2) A scheme to which this section applies—

- (a) may consist of any number of documents and any number of agreements or other transactions between any number of persons ; but**
- (b) must confer, by virtue of agreements entered into with persons having or acquiring an interest in the dwellings to which the scheme applies, rights on such persons in respect of defects in the state of the dwellings.**

(3) In this section “ approved ” means approved by the Secretary of State, and the power of the Secretary of State to approve a scheme or document for the purposes of this section shall be exercisable by order, except that any requirements as to construction or design imposed under a scheme to which this section applies may be approved by him without making any order or, if he thinks fit, by order.

(4) The Secretary of State—

- (a) may approve a scheme or document for the purposes of this section with or without limiting the duration of his approval ; and**
- (b) may by order revoke or vary a previous order under this section or, without such an order, revoke or vary a previous approval under this section given otherwise than by order.**

(5) The production of a document purporting to be a copy of an approval given by the Secretary of State otherwise than by order and certified by an officer of the Secretary of State to be a true copy of the approval shall be conclusive evidence of the approval, and without proof of the handwriting or official position of the person purporting to sign the certificate.

(6) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution by either House of Parliament.

(7) Where an interest in a dwelling is compulsorily acquired—

- (a) no action shall be brought by the acquiring authority for breach of the duty imposed by section 1 above in respect of the dwelling ; and**
- (b) if any work for or in connection with the provision of the dwelling was done otherwise than in the course of a business by the person in occupation of the dwelling at the time of the compulsory acquisition, the acquiring authority and not that person shall be treated as the person who took on the work and accordingly as owing that duty.**

3.—(1) Where work of construction, repair, maintenance or demolition or any other work is done on or in relation to premises, any duty of care owed, because of the doing of the work, to persons who might reasonably be expected to be affected by defects in the state of the premises created by the doing of the work shall not be abated by the subsequent disposal of the premises by the person who owed the duty.

(2) This section does not apply—

- (a) in the case of premises which are let, where the relevant tenancy of the premises commenced, or the relevant tenancy agreement of the premises was entered into, before the commencement of this Act ;
- (b) in the case of premises disposed of in any other way, when the disposal of the premises was completed, or a contract for their disposal was entered into, before the commencement of this Act ; or
- (c) in either case, where the relevant transaction disposing of the premises is entered into in pursuance of an enforceable option by which the consideration for the disposal was fixed before the commencement of this Act.

4.—(1) Where premises are let under a tenancy which puts on the landlord an obligation to the tenant for the maintenance or repair of the premises, the landlord owes to all persons who might reasonably be expected to be affected by defects in the state of the premises a duty to take such care as is reasonable in all the circumstances to see that they are reasonably safe from personal injury or from damage to their property caused by a relevant defect.

(2) The said duty is owed if the landlord knows (whether as the result of being notified by the tenant or otherwise) or if he ought in all the circumstances to have known of the relevant defect.

(3) In this section “relevant defect” means a defect in the state of the premises existing at or after the material time and arising from, or continuing because of, an act or omission by the landlord which constitutes or would if he had had notice of the defect, have constituted a failure by him to carry out his obligation to the tenant for the maintenance or repair of the premises ; and for the purposes of the foregoing provision “the material time” means—

- (a) where the tenancy commenced before this Act, the commencement of this Act ; and

(b) in all other cases, the earliest of the following times, that is to say—

- (i) the time when the tenancy commences ;
- (ii) the time when the tenancy agreement is entered into ;
- (iii) the time when possession is taken of the premises in contemplation of the letting.

(4) Where premises are let under a tenancy which expressly or impliedly gives the landlord the right to enter the premises to carry out any description of maintenance or repair of the premises, then, as from the time when he first is, or by notice or otherwise can put himself, in a position to exercise the right and so long as he is or can put himself in that position, he shall be treated for the purposes of subsections (1) to (3) above (but for no other purpose) as if he were under an obligation to the tenant for that description of maintenance or repair of the premises ; but the landlord shall not owe the tenant any duty by virtue of this subsection in respect of any defect in the state of the premises arising from, or continuing because of, a failure to carry out an obligation expressly imposed on the tenant by the tenancy.

(5) For the purposes of this section obligations imposed or rights given by any enactment in virtue of a tenancy shall be treated as imposed or given by the tenancy.

(6) This section applies to a right of occupation given by contract or any enactment and not amounting to a tenancy as if the right were a tenancy, and “tenancy” and cognate expressions shall be construed accordingly.

Application
to Crown.
1947 c. 44.

5. This Act shall bind the Crown, but as regards the Crown's liability in tort shall not bind the Crown further than the Crown is made liable in tort by the Crown Proceedings Act 1947.

Supplemental.

6.—(1) In this Act—

“disposal”, in relation to premises, includes a letting, and an assignment or surrender of a tenancy, of the premises and the creation by contract of any other right to occupy the premises, and “dispose” shall be construed accordingly ;

“personal injury” includes any disease and any impairment of a person's physical or mental condition ;

“tenancy” means—

(a) a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or under-

lease or by a tenancy agreement, but not including a mortgage term or any interest arising in favour of a mortgagor by his attorning tenant to his mortgagee ; or

(b) a tenancy at will or a tenancy on sufferance ;
or

(c) a tenancy, whether or not constituting a tenancy at common law, created by or in pursuance of any enactment ;

and cognate expressions shall be construed accordingly.

(2) Any duty imposed by or enforceable by virtue of any provision of this Act is in addition to any duty a person may owe apart from that provision.

(3) Any term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, the operation of any of the provisions of this Act, or any liability arising by virtue of any such provision, shall be void.

(4) Section 4 of the Occupiers' Liability Act 1957 (repairing 1957 c. 31. landlords' duty to visitors to premises) is hereby repealed.

7.—(1) This Act may be cited as the Defective Premises Act 1972.

Short title,
commence-
ment and
extent.

(2) This Act shall come into force on 1st January 1974.

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



National Insurance (Amendment) Act 1972

1972 CHAPTER 36

An Act to amend the provisions of the National Insurance Acts 1965 to 1971 relating to the earnings rule for retirement pensions and to make parallel provision for Northern Ireland.
[29th June 1972]

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

Amendment
of s. 30 of
1965 c. 51.

1.—(1) For section 30(7) of the National Insurance Act 1965 there shall be substituted—

“(7) Subject to any regulations under section 44(a) of this Act, where the earnings of a beneficiary who is less than five years over pensionable age have exceeded £9·50 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—

- (a) where the excess is less than £4·00, by 5 new pence for each complete 10 new pence of the excess, and
- (b) where the excess is not less than £4·00, by 5 new pence for each complete 10 new pence of the excess up to £4·00 and by 5 new pence for each complete 5 new pence of any further excess:

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

(2) Section 2(2) of the National Insurance Act 1971 is hereby repealed.

2.—(1) For section 29(7) of the National Insurance Act (Northern Ireland) 1966 there shall be substituted a subsection in the terms of that set out in section 1(1) above, but with the words “ section 44(a) ” replaced by the words “ section 43(a) ”; and Article 2(2) of the Social Services (Parity) Order (Northern Ireland) 1971 is hereby repealed.

(2) The Interpretation Act (Northern Ireland) 1954 shall apply for the purposes of the interpretation of this Act in its application to Northern Ireland as that Act applies for the purposes of the interpretation of an Act of the Parliament of Northern Ireland; and—

(a) in section 104 of the National Insurance Act 1965 (which provides for establishing a unified system of insurance in Great Britain and Northern Ireland) references to Northern Irish legislation shall be deemed to include this Act as it applies to Northern Ireland; and

(b) this Act shall, in so far as it relates to matters in respect of which the Parliament of Northern Ireland has power to make laws, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day referred to in that section as the appointed day.

3.—(1) This Act may be cited as the National Insurance (Amendment) Act 1972.

(2) This Act as it applies to Great Britain may be cited with the National Insurance Acts 1965 to 1971 as the National Insurance Acts 1965 to 1972, and shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(3) This Act as it applies to Northern Ireland may be cited with the National Insurance Acts (Northern Ireland) 1966 to 1971 as the National Insurance Acts (Northern Ireland) 1966 to 1972, and shall come into force on such day as the Secretary of State may by order appoint; and in relation to that order the expression “ rule-making authority ” in the Statutory Rules Act (Northern Ireland) 1958 shall include the Secretary of State (and the order shall be a statutory rule within the meaning of that Act accordingly).



Salmon and Freshwater Fisheries Act 1972

1972 CHAPTER 37

An Act to amend the law relating to the regulation and control of fishing for salmon, trout, freshwater fish and eels, the protection and conservation of fisheries for such fish, the times of fishing for and selling such fish and the enforcement of the provisions of that law; and for connected purposes. [29th June 1972]

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:—

Prohibition
of fishing
with certain
implements.

1.—(1) For section 1(1) of the 1923 Act (prohibition of fishing with lights, spears and other instruments) there shall be substituted the following subsection:—

“(1) Subject to subsection (4) below, no person shall—

(a) use any of the following instruments, that is to say—

(i) a firearm within the meaning of the Firearms Act 1968;

(ii) an otter lath or jack, wire or snare;

(iii) a crossline or setline;

(iv) a spear, gaff, stroke-haul, snatch or other like instrument;

(v) a light;

for the purpose of taking or killing salmon, trout or freshwater fish.

(b) have in his possession any instrument mentioned in paragraph (a) above intending to use it to take or kill salmon, trout or freshwater fish; or

1968 c. 27.

(c) throw or discharge any stone or other missile for the purpose of taking or killing, or facilitating the taking, or killing of any salmon, trout or freshwater fish."

(2) In section 1(3) (definitions) at the end there shall be added the following paragraphs:—

(c) "crossline" means a fishing line reaching from bank to bank across water and having attached to it one or more lures or baited hooks;

(d) "setline" means a fishing line left unattended in water and having attached to it one or more lures or baited hooks.

(3) In section 1(4) (exemption for gaffs, etc.), at the end there shall be added the following words "or having such a gaff or a tailer in his possession intending to use it as aforesaid".

2.—(1) Any approval or consent given by the Minister to or in relation to a fish pass for the purpose of section 14(1), 19(1) or 20 of the 1923 Act may, if in giving it he indicates that fact, be provisional until he notifies the applicant for approval or consent that the fish pass is functioning to his satisfaction. Provisional approval of fish passes.

(2) While any such approval or consent is provisional, the Minister may, after giving the applicant not less than 90 days notice of his intention to do so, revoke the approval or consent.

(3) Where the Minister revokes a provisional approval given for the purpose of section 19(1) of the 1923 Act to a fish pass forming part of or in connection with a dam or other obstruction, he may extend the period within which under that subsection a fish pass is to be made as part of or in connection with the obstruction; and subsection (6) of that section (power to exempt dams from the operation of that section) shall cease to have effect.

(4) In section 21(1) of the 1923 Act (effect of approval of fish pass) after the word "Minister" there shall be inserted the words "and the approval has not been revoked".

3.—(1) It shall be the duty of every river authority to make within three years of the passing of this Act byelaws under section 59(1)(a) to (d) of the 1923 Act, as amended by the following provisions of this section, fixing as respects their area or the respective parts of it the annual close season and weekly close time for salmon and for trout other than rainbow trout, and the references in the said paragraph (d) to trout shall be construed as references to trout other than rainbow trout. Close season and close time for salmon and brown or migratory trout.

(2) If within those three years a river authority have not made any such byelaws for a part of their area, the Minister may,

with or without a local inquiry, make such byelaws for that part of that area, and paragraphs 2, 3 and 5 to 8 of Schedule 12 to the Water Resources Act 1963 (provisions relating to the making of byelaws by river authorities and to byelaws of theirs which have been confirmed under that Schedule) shall apply to the making of byelaws by virtue of this subsection and byelaws so made as they apply to the making of byelaws by a river authority and to byelaws purporting to have been so made and confirmed under that Schedule—

- (a) with the substitution of a reference to the Minister for any reference to a river authority in paragraph 2 or 8 (except for the reference in paragraph 8 to the clerk of the authority);
- (b) with the substitution of a reference to making or the making of a byelaw for any reference in paragraphs 2 and 3 to applying or an application for the confirmation of a byelaw;
- (c) with the substitution of a reference to a byelaw made by the Minister for any reference in paragraphs 5 and 6 to a byelaw confirmed under that Schedule; and
- (d) with the omission of paragraph 8(c).

(3) Any provision of the 1923 Act which specifies the period of the annual close season or weekly close time for salmon or for trout of any description, or the latest date on which under any byelaws under section 59(1)(a) to (d) any such season or time is to commence, or the maximum length of any such time, shall to the extent that it so specifies cease to have effect as respects any river authority area as from the date on which any byelaws made by virtue of this section come into force as respects that area.

(4) In section 59(1) of that Act after paragraph (b), there shall be inserted the following paragraph—

“(bb) to fix or alter the close season for fishing for salmon or for trout other than rainbow trout with putts or putchers so that the close season is not less than 242 days.”

(5) In sections 30(3)(d) and 32(1)(A)(d) of that Act (exemption of lawfully caught salmon and trout from prohibition of sale during close season) the words “other than a rod and line” shall cease to have effect.

Close season
for freshwater
fish and
rainbow trout.

4.—(1) In section 59(1)(e) of the 1923 Act (power to make byelaws fixing or altering the annual close season for freshwater fish) for the words from “so that” to the end of the paragraph there shall be substituted the words “or rainbow trout so that the close season is not less than 93 days or to dispense with it.”

(2) The following provisions of this section shall have effect instead of section 35(1) and (2) of that Act (prohibition of fishing for freshwater fish during the annual close season for such fish and definition of that season), and section 35(3) of that Act (prohibition of transactions in freshwater fish during that season) shall cease to have effect.

(3) Subject to subsection (4) below, no person shall, during the annual close season for freshwater fish or rainbow trout, fish for, take or kill, or attempt to take or kill, any freshwater fish or rainbow trout in any inland water or fish for eels by means of a rod and line in any such water.

(4) Subsection (3) above shall not apply—

- (a) to the removal by the owner or occupier, from any several fishery where salmon or trout are specially preserved, of any eels, freshwater fish or rainbow trout not so preserved ;
- (b) to any person fishing with rod and line in any such fishery with the previous permission in writing of its owner or occupier ;
- (c) to any person fishing with rod and line for eels in any waters in which such fishing is authorised by a byelaw under this Act ;
- (d) to the taking of freshwater fish or trout for scientific purposes, or the taking of freshwater fish for bait, in a several fishery with the permission in writing of its owner or occupier or, except where the taking would contravene a byelaw under this Act, in any other fishery.

(5) The annual close season for freshwater fish shall be the period between 14th March and 16th June except in relation to waters for which such a season is dispensed with or a different period is substituted by byelaws under section 59(1)(e) of the 1923 Act, and where a different period is so substituted in relation to any waters, the annual close season for those waters shall be that substitute period.

(6) The annual close season for rainbow trout for any waters is that fixed for those waters by byelaws under the said section 59(1)(e).

5.—(1) Section 59(1) of the 1923 Act (byelaws of river authorities) shall have effect subject to the further amendments made by the following provisions of this section. Miscellaneous amendments as to byelaws.

(2) For paragraph (f) there shall be substituted the following paragraph :—

- “(f) to specify the nets and other instruments (not being fixed engines) which may be used for taking salmon,

trout, freshwater fish and eels and to impose requirements as to the construction, design, material, dimensions and use of such instruments, including in the case of nets the size of mesh.”

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

“ (q) to require persons fishing for salmon, trout or freshwater fish to send to the river authority returns, in such form, giving such particulars and at such times as may be specified in the byelaws, of any such fish which they have taken or a statement that they have taken no such fish.

Licences to fish.

6.—(1) The provisions of this section and sections 7 to 9 below shall have effect instead of Part VII of the 1923 Act.

(2) A river authority shall by means of a system of licensing regulate fishing for salmon and trout in their area and, except so far as excused by the Minister, shall by such means regulate fishing for freshwater fish of any description or eels in their area.

(3) Subject to the following provisions of this section, a licence granted for the purposes of this section (hereafter in this Act referred to as a fishing licence) shall entitle the person to whom it was granted and no others to use an instrument specified in the licence to fish for any fish of a description, in an area and for a period so specified.

(4) A fishing licence for the use of an instrument other than a rod and line to fish for salmon or trout shall also authorise the use of the instrument for that purpose by the duly authorised servants or agents of the person to whom it was granted, but not exceeding the number permitted by paragraph 13 of Schedule 1 to this Act.

(5) A fishing licence for the use of a rod and line shall entitle the licensee to use as ancillary to that use a gaff, consisting of a plain metal hook without a barb, or a tailer or landing net.

(6) A fishing licence for the use of any instrument for fishing for salmon shall authorise the use of that instrument for fishing for trout.

(7) A fishing licence in respect of any instrument for fishing for salmon or trout shall authorise the use of that instrument for fishing for freshwater fish and eels.

(8) Any person or association entitled to an exclusive right of fishing in any inland waters may be granted a general licence to fish in those waters subject to any conditions agreed between the river authority and the licensee, and the licence shall entitle the licensee and, subject to section 12(7) below, any person authorised by him in writing or, in the case of an association, by its secretary so to fish.

(9) Schedule 1 to this Act shall have effect with respect to licences under this section.

7.—(1) A river authority may by order confirmed by the Minister— Limitation of licences.

- (a) limit for a period not exceeding ten years from the coming into operation of the order the number of fishing licences to be issued in any year for fishing in any part of their area for salmon or trout other than rainbow trout with any instrument so specified other than rod and line ; and
- (b) provide for the selection of the applicants to whom such licences are to be issued where the number of applications exceeds the number of licences which may be granted.

(2) Where the Minister proposes to confirm an order under this section, he shall require the river authority to publish the order and notice of his intention to confirm it in such manner as he may require, together with a notification that within a period specified in the requirement written objections to the order may be made to him.

(3) The Minister shall consider any such objections received by him within the said period, and—

- (a) if the number of licences as proposed to be limited by the order is less than the number of licences issued in any of the three years preceding the year in which the order is to come into operation ; and
- (b) any such objection is made by any person who has during each of the two years preceding that year held a licence of the same description as the licences which it is proposed so to limit in number ;

he shall cause a local inquiry to be held before confirming the order.

(4) Subject to subsection (5) below, the Minister shall not confirm an order under this section unless he is satisfied that the terms of the order relating to the selection of applicants for licences are such as to secure that any person who during the year preceding that year held a fishing licence to use an instrument of any description and who is dependent on fishing for his livelihood will be able to obtain a fishing licence to use an instrument of that description.

(5) If it appears to the Minister that the operation of subsection (4) above would be detrimental to the conservation of any fishery, he may direct that that subsection shall in its application to that fishery have effect with the substitution for the words “ the year ” of the words “ the two years ” or, if in his opinion, special circumstances justify it, “ the three years ”.

(6) The Minister may with the consent of the river authority vary an order submitted to him under this section before confirming it and may require the river authority to publish the terms of the proposed variation in such manner, if any, as he may specify in the requirement.

(7) An order under this section may be revoked by the Minister, or by an order made by the river authority and confirmed by the Minister.

Unlicensed
fishing.

8. A person is guilty of an offence if, in any place in which fishing for fish of any description is regulated by a system of licensing, he—

- (a) fishes for or takes fish of that description otherwise than by means of an instrument which he is entitled to use for that purpose by virtue of a licence under section 6 above or otherwise than in accordance with the conditions of the licence ; or
- (b) has in his possession with intent to use it for that purpose an instrument other than one which he is authorised to use for that purpose by virtue of such a licence.

Production
of licence.

9.—(1) Any of the following persons, namely—

- (a) any member of a river authority on producing a certificate of his membership signed by the clerk of the authority ;
- (b) any water bailiff appointed under the Water Resources Act 1963 on producing evidence of his appointment ;
- (c) any constable ;

may require any person who is fishing, or whom he reasonably suspects of being about to fish or to have within the preceding half hour fished, in a river authority area to produce his licence or other authority to fish and to state his name and address.

(2) A person holding a fishing licence for any river authority area may, on production of his licence, require any person who is fishing in that area to produce his licence or other authority to fish and to state his name and address.

(3) If any person required under the foregoing provisions of this section to produce his licence or other authority or to state his name and address fails to do so, he shall be guilty of an offence ; but if within seven days after the production of his licence was so required he produces the licence or other authority at the office of the river authority, he shall not be convicted of an offence under this section of failing to produce it.

10. A person is guilty of an offence if he introduces any fish or spawn of fish into an inland water, or has in his possession any fish or spawn of fish intending to introduce it into an inland water, unless he first obtains the written consent of the river authority within whose area any part of that water is situated.

Restriction on the introduction of fish into inland waters.

11.—(1) In section 67(1) of the 1923 Act (powers of search and seizure) for paragraphs (b) and (c) there shall be substituted the following paragraphs:—

Powers of entry, search, seizure and arrest.

“(b) examine any instrument or bait which he has reasonable cause to suspect of having been or being used or likely to be used in taking fish in contravention of this Act or the Salmon and Freshwater Fisheries Act 1972 or any container which he has reasonable cause to suspect of having been or being used or likely to be used for holding any such instrument, bait or fish ;

(c) stop and search any boat or other vessel used in fishing in a river authority area or any vessel or vehicle which he has reasonable cause to suspect of containing—

(i) fish which had been caught in contravention of this Act or the Salmon and Freshwater Fisheries Act 1972 ;

(ii) any such instrument, bait or container as aforesaid ”.

(2) In section 67(2) of the 1923 Act (obstruction) after the words “ authorised to make ” there shall be inserted the words “ or to seize anything which he is so authorised to seize ” and for the words “ or examination ”, in the second place where they occur, there shall be substituted the words “ examination or seizure ”.

(3) Notwithstanding anything in paragraph 9(2) of Schedule 3 to the Water Resources Act 1963 (exclusion of provisions of the 1923 Act in river authority areas), section 68 of the 1923 Act (entry on land to prevent offences) shall apply to river authorities and river authority areas, and—

(a) in that section and sections 69 and 70 of the 1923 Act (entry on land to detect offences, etc.) references to offences against the 1923 Act shall include references to offences against this Act ; and

(b) the powers conferred by those sections on water bailiffs may be exercised by any other officer or servant of the river authority and references in those sections to water bailiffs shall be construed accordingly.

(4) In section 70 of the 1923 Act the word “ concealed ”, in both cases where it occurs, shall cease to have effect and for

the word “engines”, in both places where it occurs, there shall be substituted the words “other instruments”.

(5) Sections 70 and 71 of the 1923 Act (power to arrest persons fishing illegally at night) shall apply in relation to eels as they apply in relation to freshwater fish.

Provision
for trial of
offenders and
penalties for
offences.

12.—(1) The following provisions of this section shall have effect with respect to offences against the 1923 Act and this Act, and accordingly section 74 of that Act shall cease to have effect.

(2) Parts I and II of Schedule 2 to this Act shall have effect with respect to the prosecution and punishment of the offences against the provisions of the 1923 Act and this Act respectively specified in column 1 of that Schedule (of which a rough description is given in column 2 thereof), and in relation to any such offence—

(a) column 3 shows whether the offence is punishable summarily (that is to say, on summary conviction) or on indictment or either in one way or the other; and

(b) column 4 shows the maximum punishment by way of fine or imprisonment which may be imposed on a person convicted of the offence in the way specified in column 3 (that is to say, summarily or on indictment), any reference in column 4 to a period of years or months being construed as a reference to a term of imprisonment for that period.

(3) For the purposes of Schedule 2 to this Act a person shall be treated as acting together with another, if both are engaged in committing an offence against section 1 of the 1923 Act or an offence against section 8 above, other than one committed by means of a rod or line or without any instrument, or one is aiding, abetting, counselling or procuring the commission of such an offence by the other.

(4) A person guilty of an offence against any provision of the 1923 Act or this Act not specified in the said Schedule 2 shall be liable to a fine not exceeding £50 or, in the case of a second or subsequent conviction, £100.

(5) The court by which a person is convicted of an offence against the 1923 Act or this Act may order the forfeiture of—

(a) any fish illegally taken by him or in his possession at the time of the offence;

(b) any instrument, bait or other thing used in the commission of the offence;

(c) in the case of an offence of unlawful possession of any substance or device in contravention of section 9 of the 1923 Act, that substance or device; and

(d) on conviction on indictment, any vessel or vehicle used in or in connection with the commission of the offence or in which any substance or device unlawfully in his possession was contained at the time of the offence ; and may order any object so forfeited to be disposed of as the court thinks fit.

(6) Schedule 7 to the Customs and Excise Act 1952 (provisions relating to the forfeiture of things seized under that Act) shall apply in relation to any vessel or vehicle liable to forfeiture under subsection (5) above as it applies in relation to anything liable to forfeiture under that Act, but in its application in relation to any such vessel or vehicle, shall have effect subject to the following modifications :— 1952 c. 44.

- (a) provisos (a) to (c) to paragraph 1 and paragraph 5 of that Schedule shall be omitted ;
- (b) for references in that Schedule to the Commissioners of Customs and Excise there shall be substituted references to the river authority within whose area the offence in question was committed ; and
- (c) the court shall not condemn a vehicle or vessel as forfeited under paragraph 6 of that Schedule if satisfied by its owner that that offence was committed without his knowledge and that he could not have reasonably foreseen that it would be used as mentioned in subsection (5)(d) above ;

and where notice of claim in respect of anything is duly given in accordance with paragraphs 3 and 4 of that Schedule, as applied by this subsection, the court shall not exercise its power of ordering forfeiture of the vessel or vehicle under subsection (5) above.

In this subsection “ owner ”, in relation to a vessel or vehicle which is the subject of a hire-purchase agreement, means the person in possession of the vehicle under that agreement.

(7) If a person is convicted of an offence against the 1923 Act or this Act and is subsequently convicted of any such offence, the court may order that any fishing or general licence held by him shall be forfeited, and that he shall be disqualified for holding and obtaining a fishing or general licence or for fishing in a river authority area by virtue of a fishing or general licence for such period not exceeding one year as the court thinks fit.

13.—(1) A person who is prosecuted for an offence against the 1923 Act or this Act and who is the holder of a fishing or general licence shall either— Supplementary provision as to disqualifications and forfeiture of licences.

- (a) cause it to be delivered to the clerk of the court not later than the day before the date appointed for the hearing, or

(b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or

(c) have it with him at the hearing ;

and if he is convicted of the offence and the court makes an order under section 12(7) above the court shall order the licence to be surrendered to it ; and if the offender has not posted the licence or caused it to be delivered as aforesaid and does not surrender it as required then he shall be guilty of an offence and the licence shall be revoked from the time when its surrender was ordered.

(2) Where a court orders a fishing or general licence to be surrendered to it under subsection (1) above, or where by an order of a court under section 12(7) above a person is disqualified for holding or obtaining a licence, the court shall—

(a) send notice of the order to the river authority within whose area the offence was committed, unless the authority prosecuted in the case ;

(b) if the licence has been so surrendered, retain it and forward it to that authority, who may dispose of it as they think fit.

Supplemental. 14.—(1) In this Act, except so far as the context otherwise requires—

“ fishing licence ” has the meaning assigned to it by section 6(3) above ;

“ general licence ” means a licence granted under section 6(8) above ;

1963 c. 38. “ inland water ” has the same meaning as in the Water Resources Act 1963 and any reference in this Act to an inland water includes references to part of an inland water ;

1923 c. 16. “ the 1923 Act ” means the Salmon and Freshwater Fisheries Act 1923.

(2) Expressions used in the 1923 Act and this Act have the same meanings in this Act as they have in that Act.

(3) It is hereby declared that in the 1923 Act and this Act references to eels include references to elvers and the fry of eels.

(4) Functions conferred on river authorities by or by virtue of this Act shall be treated for the purposes of the Water Resources Act 1963 as transferred functions, and not as new functions, of those authorities.

15.—(1) In section 82 of the 1923 Act (exclusion of that Act from applying to the River Tweed) and section 83 of that Act (application of that Act to the River Esk and its tributaries) references to that Act shall include references to this Act. Provisions as to border rivers.

(2) In section 126(1) of the Water Resources Act 1963 (extension of river authority fishery functions to the River Esk and its tributaries in Scotland), as amended by section 2(3) of the Salmon and Freshwater Fisheries Act 1965, for the words “the Salmon and Freshwater Fisheries Acts 1923 to 1965” there shall be substituted the words “the Salmon and Freshwater Fisheries Acts 1923 to 1972”. 1963 c. 38.
1965 c. 68.

(3) Offences against the 1923 Act or this Act committed in Scotland shall be proceeded against and punished in Scotland, and proviso (a) to the said section 126(1) (prosecution of offences in Scotland) shall not apply to offences under the Salmon and Freshwater Fisheries Acts 1923 to 1972.

16.—(1) This Act may be cited as the Salmon and Freshwater Fisheries Act 1972. Short title, citation, repeals, transitional provisions and extent.

(2) This Act and the Salmon and Freshwater Fisheries Acts 1923 to 1965 may be cited together as the Salmon and Freshwater Fisheries Acts 1923 to 1972.

(3) The provisions of the 1923 Act specified in Part I of Schedule 3 to this Act are hereby repealed as from the passing of this Act, those specified in Part II of that Schedule are hereby repealed in any river authority area as from the coming into force in that area of byelaws made by virtue of section 3 above and the provisions of the enactments specified in Part III of that Schedule are hereby repealed as from the passing of this Act to the extent specified in relation thereto in the third column of that Part of that Schedule.

(4) Any licence in force under any provision of section 61 of the 1923 Act immediately before the passing of this Act shall be treated as having been granted under the corresponding provision of section 6 of this Act; and any order limiting the number of licences in force in a river authority area under section 62 of that Act immediately before the passing of this Act shall be treated as having been made under section 7 of this Act and as having limited the number of licences in that area for a period of ten years from the passing of this Act.

(5) This Act, except section 15, does not extend to Scotland.

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

SCHEDULES

Section 6.

SCHEDULE 1

PROVISIONS WITH RESPECT TO LICENCES

Duty on licences

1. Except where the river authority in special cases grants an exemption from this paragraph, there shall be payable in respect of a fishing licence a duty fixed in accordance with the following provisions of this Schedule by the river authority.

2. Different duties may be fixed by the river authority under paragraph 1 above for different instruments, different periods, different parts of their area, different descriptions of fish and different classes of licence holder.

3. A river authority shall at least one month before fixing or altering a duty for the use of any instrument in any part of their area, except a duty payable in respect of a temporary licence, publish in one or more newspapers circulating in that part of their area notice of their intention to do so.

4. If during the month immediately following the publication of the said notice a written objection to the proposed duty is made to the Minister by any interested person, the river authority shall not fix or alter the duty without the approval of the Minister.

5. The Minister, with or without a local inquiry, may refuse to approve any duty submitted by a river authority for his approval under paragraph 4 above or may approve the duty with or without modifications; and the authority shall if so directed by the Minister cause notice of any proposed modification to be given in accordance with the direction.

6. Any duty fixed under the foregoing provisions of this Schedule shall not take effect until the beginning of the year following that in which it is fixed or in the case of a duty required to be approved by the Minister, in which it is approved by him.

7. A river authority may grant a temporary licence, that is to say, a licence authorising the use of an instrument for fishing in circumstances specified in the licence during a period not exceeding 14 days, and may charge in respect of that licence a duty less than the duty fixed for the use of that instrument under the foregoing provisions of this Schedule.

8. There shall be payable in respect of a general licence such sum as may be agreed between the river authority and the licensee.

Net, etc. licences for salmon and trout fishing

9. A person shall be treated for the purposes of section 6(4) above as the duly authorised servant or agent of the holder of a licence to use an instrument of any description only in the following cases—

- (a) in an area in which there is in force an order under section 7 above limiting the number of licences for fishing with instruments of that description, if his name and address are entered on the licence in accordance with the following

provisions of this Schedule and he is not the holder of another licence to use an instrument of that description in that area ;

- (b) in any other area, if his name and address are so entered or when using the instrument to which the licence relates he is accompanied by the licensee ; or
- (c) in the case of any area, if the river authority directs that owing to special circumstances he is to be so treated.

10. The name and address of a servant or agent may be entered on a licence by an officer of the river authority authorised to do so or by the licensee or an agent who has been appointed by the licensee to act for the purposes of this paragraph and whose appointment, together with his name and address, has been notified to the river authority.

11. The date of an entry in a licence shall be stated in the licence at the time of the making of the entry and within 24 hours of the making of an entry by a licensee or his agent a copy shall be sent, together with a fee of 20p for every name and address entered, to the river authority.

12. The name and address of a servant or agent may be removed from, or inserted in, a licence on payment of a fee of 20p for each removal or insertion or, where a name and address are inserted in substitution for a name and address removed, for each substitution.

13. The number of servants or agents whose names may at any time be entered on a licence shall not exceed twice the number of persons who in the opinion of the river authority are required to work at one time the instrument to which the licence relates or, where the applicant for the licence notifies the authority at the time of the application that he proposes to take part in working the instrument, one less than twice that number.

14. Any person who with intent to deceive enters on a licence more names than are permitted by paragraph 13 above or states falsely the date of an entry in a licence is guilty of an offence.

Miscellaneous

15. Subject to section 7 above, a fishing licence shall on payment of the duty in respect of the instrument to which the licence relates be granted by the river authority to every applicant therefor who is at the time of the application not disqualified for holding a fishing licence.

16. A fishing licence shall not confer any right to fish at a place or a time at which the licensee is not otherwise entitled to fish.

17. A fishing licence shall not authorise the erection of any structure or the use of any installation or instrument for or in connection with fishing the erection or use of which would be otherwise illegal.

18. Section 81(1) of the 1923 Act (evidence of byelaws and licence duties under that Act) shall apply to a licence duty fixed and, if it be the case, approved by the Minister under this Schedule as it applies to licence duties fixed and approved under that Act.

SCHEDULE 2
PROSECUTION AND PUNISHMENT OF OFFENCES
PART I

OFFENCES UNDER THE 1923 ACT

(1) Provision of the 1923 Act creating the offence	(2) Rough description of offence	(3) Mode of prosecution	(4) Punishment
Section 1	Fishing with certain instruments for salmon, trout or freshwater fish and possessing certain instruments for fishing for such fish.	(a) If not acting with another, summarily. (b) If acting with another— (i) summarily; (ii) on indictment.	£50; or in the case of a second or subsequent conviction £100. £100; or in the case of a second or subsequent conviction £200. Two years or a fine or both.
Section 8	Discharging poisonous or injurious matter into waters containing fish or spawn.	(a) Summarily.	£400 and £40 for each day on which the offence continues after a conviction thereof. A fine or two years or both.
Section 9(3)	Using explosives, poisons, noxious substances or electrical devices, and cutting through or destroying dams, etc., to take or destroy fish.	(a) Summarily. (b) On indictment.	£200; or in the case of a second or subsequent conviction £400. Two years or a fine or both.
Section 26	Fishing for salmon during the annual close season.	Summarily.	£100; or in the case of a second or subsequent conviction £200.
Section 27	Fishing for salmon during the weekly close time.	Summarily.	£100; or in the case of a second or subsequent conviction £200.
Section 31	Fishing for trout during the annual close season.	Summarily.	£100; or in the case of a second or subsequent conviction £200.
Section 36	Prohibition on use of certain devices at certain times.	Summarily.	£100; or in the case of a second or subsequent conviction £200.

PART II
OFFENCES UNDER THIS ACT

(1) Provision of this Act creating the offence	(2) Rough description of offence	(3) Mode of prosecution	(4) Punishment
Section 4	Fishing for freshwater fish and rainbow trout during the annual close season and fishing for eels by means of a rod and line during that season.	Summarily.	£100; or in the case of a second or subsequent conviction £200.
Section 8	Fishing for fish otherwise than under the authority of a licence and possessing an unlicensed instrument with intent to use it for fishing.	(a) If not acting with another, summarily. (b) If acting with another— (i) summarily; (ii) on indictment.	£50; or in the case of a second or subsequent conviction £100. £100; or in the case of a second or subsequent conviction £200. Two years or a fine or both.

Section 16.

SCHEDULE 3

REPEALS

PART I

REPEALS OF THE 1923 ACT TAKING EFFECT ON THE
PASSING OF THIS ACT

- In section 1(2), the words " against this Act ".
- In section 2(2), the words " against this Act ".
- In section 3(2), the words " against this Act ".
- In section 4(2), the words " against this Act ".
- In section 6(2), the words " against this Act ".
- In section 7(2), the words " against this Act ".
- In section 8(1), the words " against this Act ".
- In section 9, in subsection (3), the words " and shall be liable " to the end, and subsection (4).
- In section 11(3), the words " against this Act ".
- In section 12(2), the words " against this Act ".
- In section 13(2), the words " against this Act ".
- In section 14(2), the words " against this Act ".
- In section 15(2), the words " against this Act ".
- In section 17(2), the words " against this Act ".
- In section 18(2), the words " against this Act ".
- In section 19, in subsections (2) and (4), the words " against this Act ", wherever occurring, and subsection (6).
- In section 20(4), the words " against this Act ".
- In section 22, in subsections (1), (2) and (3), the words " against this Act ", wherever occurring.
- In section 23(4), the words " against this Act ".
- In section 24(5), the words " against this Act ".
- In section 26(2), the words " against this Act ".
- In section 27(2), the words " against this Act ".
- In section 28(2), the words " against this Act ".
- In section 29, the words " against this Act ".
- In section 30, in subsection (2), the words " against this Act " and in subsection (3)(d), the words " other than a rod and line ".
- In section 31(2), the words " against this Act ".
- In section 32(1), the words " against this Act ".
- In section 32(1A)(d), as inserted by the Salmon and Freshwater Fisheries (Amendment) Act 1929, the words " other than a rod and line ".
- In section 33(4), the words " against this Act ".
- In section 34(3), the words " against this Act ".
- Section 35.
- In section 36(2), the words " against this Act ".
- In section 37, as amended by the Salmon and Freshwater Fisheries Act 1935, the words " or elver fisheries ".
- In section 38, in subsection (1), paragraph (l) and the proviso, and subsection (4).
- In section 59, in subsection (1), in paragraphs (a) and (b), the words from " and does not " to the end of each paragraph; in paragraph (c), the words " nor more than seventy-two "; in paragraph (d), the words

“ and does not commence later than the first day of September in each year ”, the words “ and does not commence ”, in the second place where they occur, to “ each year ” in the last place where they occur, and the words “ nor more than seventy-two ”; and in subsection (3), the words “ against this Act ”.

Sections 61 to 65.

In section 70, the word “ concealed ”, in both places where it occurs.

Section 74.

Section 75(2).

In section 83, the proviso.

Section 88.

In section 92, in the definition of “ freshwater fish ”, the words “ and the fry of eels ” and the definition of “ licensee ”.

In section 93(2), proviso (i) and, in proviso (ii), the words “ or scale of licence duties ” and “ or scale ”.

PART II

**REPEALS OF THE 1923 ACT TAKING EFFECT ON THE
COMING INTO FORCE OF BYELAWS**

Section 26(3) to (5).

Section 27(3).

In section 31, in subsections (3), (4) and (5), the words from “ or if there ” to the end of each subsection.

PART III

**OTHER REPEALS TAKING EFFECT ON THE
PASSING OF THIS ACT**

Chapter	Short Title	Extent of Repeal
25 & 26 Geo. 5. c. 43.	The Salmon and Freshwater Fisheries Act 1935.	In section 1 the words “ and elver fisheries ” and the words “ or elver fisheries ”.
1963 c. 38.	The Water Resources Act 1963.	Section 2. In Schedule 3, in paragraph 9(2), the words “ 68 and 88 ”.



Matrimonial Proceedings (Polygamous Marriages) Act 1972

1972 CHAPTER 38

An Act to enable matrimonial relief to be granted, and declarations concerning the validity of a marriage to be made, notwithstanding that the marriage in question was entered into under a law which permits polygamy, and to make a consequential amendment in the Nullity of Marriage Act 1971. [29th June 1972]

B IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Matrimonial relief and declarations of validity in respect of polygamous marriages: England and Wales.

1965 c. 72.

1970 c. 45.

1.—(1) A court in England and Wales shall not be precluded from granting matrimonial relief or making a declaration concerning the validity of a marriage by reason only that the marriage in question was entered into under a law which permits polygamy.

(2) In this section “matrimonial relief” means—

- (a) a decree of divorce, nullity of marriage or judicial separation;
- (b) a decree under section 14 of the Matrimonial Causes Act 1965 (presumption of death and dissolution of marriage);
- (c) an order under section 6 of the Matrimonial Proceedings and Property Act 1970 (wilful neglect to maintain);
- (d) an order under section 14 of the said Act of 1970 (alteration of maintenance agreements);

- (e) an order under any provision of the said Acts of 1965 and 1970 or the Divorce Reform Act 1969 which confers a power exercisable in connection with, or in connection with proceedings for, any such decree or order as is mentioned in the foregoing paragraphs; 1969 c. 55.
- (f) an order under the Matrimonial Proceedings (Magistrates' Courts) Act 1960. 1960 c. 48.

(3) In this section "a declaration concerning the validity of a marriage" means—

- (a) a declaration that a marriage is valid or invalid; and
- (b) any other declaration involving a determination as to the validity of a marriage,

being a declaration in a decree granted under section 39 of the said Act of 1965 or a declaration made in proceedings brought by virtue of rules of court relating to declaratory judgments.

(4) This section has effect whether or not either party to the marriage in question has for the time being any spouse additional to the other party; and provision may be made by rules of court—

- (a) for requiring notice of proceedings brought by virtue of this section to be served on any such other spouse; and
- (b) for conferring on any such other spouse the right to be heard in any such proceedings,

in such cases as may be specified in the rules.

2.—(1) A court in Scotland shall not be precluded from entertaining proceedings for, or granting, any such decree as is mentioned in subsection (2) below by reason only that the marriage to which the proceedings relate was entered into under a law which permits polygamy. Matrimonial relief and declarations as to validity in respect of polygamous marriages: Scotland.

(2) The decrees referred to in subsection (1) above are—

- (a) a decree of divorce;
- (b) a decree of nullity of marriage;
- (c) a decree of dissolution of marriage under section 5 of the Divorce (Scotland) Act 1938 (presumption of death and dissolution of marriage); 1938 c. 50.
- (d) a decree of judicial separation;
- (e) a decree of separation and aliment, adherence and aliment, or interim aliment;
- (f) a decree of declarator that a marriage is valid or invalid;

*Matrimonial Proceedings
(Polygamous Marriages) Act 1972*

(g) any other decree involving a determination as to the validity of a marriage;

and the reference in subsection (1) above to granting such a decree as aforesaid includes a reference to making any ancillary order which the court has power to make in proceedings for such a decree.

(3) This section has effect whether or not either party to the marriage in question has for the time being any spouse additional to the other party; and provision may be made by rules of court—

(a) for requiring notice of proceedings brought by virtue of this section to be served on any such other spouse; and

(b) for conferring on any such other spouse the right to be heard in any such proceedings,

in such cases as may be specified in the rules.

Matrimonial relief and declarations of validity in respect of polygamous marriages: Northern Ireland.

1939 c. 13
(N.I.).

1951 c. 7
(N.I.).

1945 c. 14
(N.I.).

1868 c. 20.

3.—(1) A court in Northern Ireland shall not be precluded from granting matrimonial relief or making a declaration concerning the validity of a marriage by reason only that the marriage in question was entered into under a law which permits polygamy.

(2) In this section “matrimonial relief” means—

(a) a decree of divorce, nullity of marriage or judicial separation;

(b) a decree under section 12 of the Matrimonial Causes Act (Northern Ireland) 1939 (dissolution of marriage on presumption of death);

(c) an order under section 4 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1951 (wilful neglect to maintain);

(d) an order made under any provision of the said Act of 1939, or under section 4 of the said Act of 1951, which confers a power exercisable in connection with, or in connection with any proceedings for, any such decree or order as is mentioned in the foregoing paragraphs;

(e) an order under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945.

(3) In this section “a declaration concerning the validity of a marriage” means—

(a) a declaration that a marriage is valid or invalid; and

(b) any other declaration involving a determination as to the validity of a marriage,

being a declaration in a decree granted under the Legitimacy Declaration Act (Ireland) 1868 or a declaration made in proceedings brought by virtue of rules of court relating to declaratory judgments.

(4) This section has effect whether or not either party to the marriage in question has for the time being any spouse additional to the other party; and provision may be made by rules of court—

(a) for requiring notice of proceedings brought by virtue of this section to be served on any such other spouse; and

(b) for conferring on any such other spouse the right to be heard in any such proceedings,

in such cases as may be specified in the rules.

4. In section 1 of the Nullity of Marriage Act 1971 (which states as respects England and Wales the grounds on which a marriage taking place after the commencement of that Act is void) after paragraph (c) there shall be added—

Amendment of s. 1 of Nullity of Marriage Act 1971.

“(d) in the case of a polygamous marriage entered into outside England and Wales, that either party was at the time of the marriage domiciled in England and Wales.

1971 c. 44.

For the purposes of paragraph (d) of this section a marriage may be polygamous although at its inception neither party has any spouse additional to the other.”

5.—(1) This Act may be cited as the *Matrimonial Proceedings (Polygamous Marriages) Act 1972*.

Short title, interpretation and powers of Parliament of Northern Ireland.

(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) In subsection (2) of this section “enactment” includes an enactment of the Parliament of Northern Ireland; and for the purposes of section 6 of the Government of Ireland Act 1920 this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

1920 c. 67.



Police Act 1972

1972 CHAPTER 39

An Act to relax the prohibition on the Police Federation for England and Wales or the Police Federation for Scotland being associated with any body or person outside the police service. [29th June 1972]

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

Amendment
of s. 44 of
Police Act
1964.
1964 c. 48.

1.—(1) Section 44 of the Police Act 1964 (Police Federations) shall be amended as follows.

(2) In subsection (2) after the words “ of, and ” there shall be inserted the words “ subject to subsection (2A) of this section ”.

(3) After subsection (2) there shall be inserted the following subsection:—

“(2A) The Secretary of State from time to time may authorise a Police Federation or a branch thereof to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions and restrictions, as he may specify and may vary or withdraw an authorisation previously given; and anything for the time being so authorised shall not be precluded by subsection (2) of this section.”

Short title.

2. This Act may be cited as the Police Act 1972.



Overseas Investment and Export Guarantees Act 1972

1972 CHAPTER 40

An Act to authorise the Secretary of State to enter into certain agreements relating to overseas enterprises, and in particular to investment overseas, and to amend the Export Guarantees Act 1968. [29th June 1972]

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

1.—(1) The Secretary of State may with the consent of the Treasury make such arrangements as are provided for by this section for the purpose of insuring investment overseas against the risk of war, expropriation, restrictions on remittances and such other risks as appear to the Secretary of State not to be commercial risks.

Investment
overseas:
arrangements
for meeting
non-
commercial
risks.

(2) The Secretary of State may under the arrangements enter into agreements with persons carrying on business in the United Kingdom, the Channel Islands or the Isle of Man, or with companies controlled by such persons, under which the Secretary of State undertakes to indemnify the other party to the agreement against any loss of a description specified in the agreement which arises in connection with an investment of resources by that party, or by a company controlled by that party, in an enterprise carried on wholly or partly in a country other than the United Kingdom, the Channel Islands and the Isle of Man.

(3) Any such arrangements may include provision for an agreement in pursuance of the arrangements to contain such terms as the Secretary of State considers appropriate in the circumstances of the case.

(4) All powers and duties of the Secretary of State under this section shall be exercised and performed through the Export Credits Guarantee Department.

(5) The Secretary of State shall within the period of six months beginning with the passing of this Act publish a return showing the aggregate amount of the liabilities assumed by him under this section, and shall thereafter publish quarterly a return showing the aggregate amount of those liabilities assumed since the date of the last previous return under this subsection.

(6) As soon as may be after 31st March in 1973 and in each subsequent year the Secretary of State shall prepare a report on the discharge of his functions under this section, and shall lay the report before Parliament.

Arrangements
for meeting
non-
commercial
risks:
financial
provisions.

2.—(1) Any expenses incurred by the Secretary of State under the preceding section shall, subject to the provisions of this section, be defrayed out of money provided by Parliament.

(2) If any sum required by the Secretary of State for fulfilling his liabilities under such an agreement is not paid out of money provided by Parliament, it shall be charged on and paid out of the Consolidated Fund.

(3) The aggregate of the liabilities at any time of the Secretary of State under the preceding section shall not exceed the limit specified in subsection (4) below.

(4) The said limit shall be £250 million, but the Secretary of State may, on not more than two occasions, by order made with the consent of the Treasury, increase or further increase that limit by a sum specified in the order, being a sum not exceeding £250 million.

An order under this subsection shall be contained in a statutory instrument, and such an order shall not be made unless a draft of the order has been approved by a resolution of the Commons House of Parliament.

Abortive
exploratory
expenditure
connected
with overseas
enterprises.

3.—(1) The Secretary of State may with the consent of the Treasury enter into an agreement with any person carrying on business in the United Kingdom, the Channel Islands or the Isle of Man, or with a company controlled by such a person, under which the Secretary of State undertakes that if the other party to the agreement, or a company controlled by that party—

(a) incurs expenditure approved by the Secretary of State in considering whether to make an investment of resources of a description so approved in an enterprise carried on or proposed to be carried on in a country other than the United Kingdom, the Channel Islands and the Isle of Man; or

(b) incurs expenditure approved by the Secretary of State in considering whether to participate in the management of such an enterprise,

and decides not to participate (whether by making an investment or otherwise), the Secretary of State will pay to the other party such sum, not exceeding the amount of the expenditure aforesaid, as may be provided by the agreement; and any such agreement may contain such terms as the Secretary of State considers appropriate in the circumstances of the case.

(2) Any expenses incurred by the Secretary of State by virtue of this section shall be defrayed out of money provided by Parliament.

4.—(1) In section 4(1) of the Export Guarantees Act 1968—
(a) in paragraph (a) (commitments under section 1 of the Act) for the words “£2,400 million” there shall be substituted the words “£6,200 million”, and
(b) in paragraph (b) (commitments under section 2 of that Act) for the words “£1,500 million” there shall be substituted the words “£6,000 million”.

Export guarantees: increase of limits on commitments.
1968 c. 26.

(2) Section 1 of the Export Guarantees and Payments Act 1970 (which increased the said amounts of £2,400 million and £1,500 million to £4,000 million and £2,500 million) shall be repealed.

1970 c. 15.

5.—(1) This Act may be cited as the Overseas Investment and Export Guarantees Act 1972.

Short title and supplemental provisions.

(2) In this Act—

- (a) “business” includes a profession,
- (b) references to a company controlled by a person are references to a company so controlled directly or indirectly, and include cases where the person having control is also a company.

(3) Any sum received by the Secretary of State by virtue of an agreement under this Act shall be paid into the Consolidated Fund.



Finance Act 1972

1972 CHAPTER 41

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. [27th July 1972]

A.D. 1972

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

VALUE ADDED TAX

Imposition and extent of tax

1.—(1) A tax, to be known as value added tax, shall be charged in accordance with the provisions of this Part of this Act on the supply of goods and services in the United Kingdom (including anything treated as such a supply) and on the importation of goods into the United Kingdom. ^{Value added tax.}

PART I

(2) The tax shall be under the care and management of the Commissioners.

(3) All money and securities for money collected or received for or on account of the tax shall—

1952 c. 44. (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 11 of the Customs and Excise Act 1952 ;

(b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

1920 c. 67. (4) The Government of Ireland Act 1920 shall have effect as if the tax were one of the taxes mentioned in section 22(1) of that Act (reserved taxes).

1968 c. 2. (5) The Provisional Collection of Taxes Act 1968 shall be amended by inserting in subsection (1) of section 1, after the words "income tax", the words "value added tax"; and the Act as so amended shall apply in relation to a resolution of the House of Commons passed before 1st April 1974 and providing for any variation of that tax as it applies in relation to such a resolution as is mentioned in subsection (2)(a) of that section.

Scope of tax.

2.—(1) Except as otherwise provided by this Part of this Act the tax shall be charged and payable as follows.

(2) Tax on the supply of goods or services shall be charged only where—

(a) the supply is a taxable supply ; and

(b) the goods or services are supplied by a taxable person in the course of a business carried on by him ;

and shall be payable by the person supplying the goods or services.

(3) Tax on the importation of goods shall be charged and payable as if it were a duty of customs.

(4) Any reference in the following provisions of this Part of this Act to the supply by any person of goods or services is a reference to such a supply in the United Kingdom in the course of a business carried on by him.

Deduction of input tax.

3.—(1) The following tax (in this Part of this Act referred to as "input tax"), that is to say—

(a) tax on the supply to a taxable person of any goods or services for the purpose of a business carried on or to be carried on by him ; and

- (b) tax paid or payable by a taxable person on the importation of any goods used or to be used for the purpose of a business carried on or to be carried on by him ;

may, at the end of any prescribed accounting period, be deducted by him, so far as not previously deducted and to the extent and subject to the exceptions provided for by or under this section, from the tax chargeable on supplies by him (in this section referred to as "output tax").

(2) Where the amount of input tax that may be so deducted by any person exceeds the amount of the output tax due from him, the amount of the excess shall be paid to him by the Commissioners.

(3) Subject to subsection (6) of this section, the input tax that may be deducted by a taxable person shall be—

- (a) the whole of that tax, if all his supplies of goods or services are taxable supplies ; and
- (b) such part of that tax as, in accordance with regulations under this section, is attributable to taxable supplies, if some but not all of his supplies of goods or services are taxable supplies ;

and any such regulations may provide for treating all supplies of goods or services by any person as taxable supplies where the tax attributable to exempt supplies would be less than such amount or less than such part of the whole of the tax as may be specified in the regulations or in such other circumstances as may be so specified.

(4) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to taxable supplies, and any such regulations may provide for—

- (a) determining a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies ; and
- (b) provisionally attributing input tax in accordance with the proportion so determined and adjusting the attribution for periods comprising two or more prescribed accounting periods or parts thereof ;

and may make different provision for different circumstances and, in particular (but without prejudice to the generality of this provision) for different descriptions of goods or services and may contain such incidental and supplementary provisions as appear to the Commissioners necessary or expedient.

PART I

(5) Regulations under this section may include provision for enabling a taxable person to deduct as input tax, in such circumstances, to such extent and subject to such conditions as may be specified in the regulations, tax on the supply to him, or paid by him on the importation, of goods notwithstanding that he was not a taxable person at the time of the supply or payment.

(6) The Treasury may by order make provision for excepting from the preceding provisions of this section input tax chargeable on such supplies and importations as may be specified in the order, and any such provision may be framed by reference to the description of goods or services supplied or goods imported, the persons by whom they are supplied or imported or to whom they are supplied, the purposes for which they are supplied or imported, or any circumstances whatsoever; and any such order may contain provision for consequential relief from output tax.

Taxable persons.

4.—(1) A person who makes or intends to make taxable supplies is a taxable person while he is or is required to be registered under this Part of this Act.

(2) Schedule 1 to this Act shall have effect with respect to the registration of persons under this Part of this Act.

Supply

Supply of goods and services.

5.—(1) The following provisions apply for determining for the purposes of this Part of this Act what is a supply of goods or services.

(2) Supply of goods includes all forms of supply and, in particular, the letting of goods on hire and the making of a gift or loan of goods; but supply of services does not include anything done otherwise than for a consideration.

(3) Where a person produces goods by applying to another person's goods a treatment or process he is treated as supplying goods and not as supplying services.

(4) The supply of any form of power, heat, refrigeration or ventilation is a supply of goods and not of services.

(5) Schedule 2 to this Act shall have effect with respect to matters to be treated as a supply of goods.

(6) The granting, assignment or surrender of a major interest in land shall be treated as a supply of goods.

In this subsection "major interest" means the fee simple or a tenancy for a term certain exceeding twenty-one years, and,

in relation to Scotland, means the estate or interest of the proprietor of the *dominium utile*, or in the case of land not held on feudal tenure, the estate or interest of the owner, or the lessee's interest under a lease for a period exceeding twenty-one years.

(7) Subject to the preceding provisions of this section, the Treasury may by order provide with respect to any description of transaction—

- (a) that it is to be treated as a supply of goods and not as a supply of services ; or
- (b) that it is to be treated as a supply of services and not as a supply of goods ; or
- (c) that it is to be treated as neither a supply of goods nor a supply of services.

(8) Subject to the preceding provisions of this section, anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of the whole or part of any right) is a supply of services.

6.—(1) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that, where in such circumstances as may be specified in the order goods of a description so specified are acquired or produced by a person in the course of a business carried on by him and— Self-supply.

- (a) are neither supplied to another person nor incorporated in other goods produced in the course of that business ; but
- (b) are used by him for the purpose of a business carried on by him ;

the goods are treated for the purposes of this Part of this Act as both supplied to him for the purpose of that business and supplied by him in the course of that business.

(2) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that, where—

- (a) a person, in the course of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order ; and
- (b) such other conditions as may be specified in the order are satisfied ;

such services are treated for the purposes of this Part of this Act as being both supplied to him for the purpose of that business and supplied by him in the course of that business.

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(3) For the purposes of this section, where goods are manufactured or produced from any other goods those other goods shall be treated as incorporated in the first-mentioned goods.

Time of supply.

7.—(1) The following provisions of this section shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to tax.

(2) Subject to the following provisions of this section, a supply of goods shall be treated as taking place—

- (a) if the goods are to be removed, at the time of the removal ;
- (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied ;
- (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place, but not later than twelve months after the removal.

(3) Subject to the following provisions of this section, a supply of services shall be treated as taking place at the time when the services are performed.

(4) If, before the time applicable under subsection (2) or subsection (3) of this section, the person making the supply issues a tax invoice in respect of it or if, before the time applicable under paragraph (a) or (b) of subsection (2) or subsection (3) of this section, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.

(5) If, within fourteen days after the time applicable under subsection (2) or subsection (3) of this section, the person making the supply issues a tax invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (notwithstanding the preceding provisions of this section) be treated as taking place at the time the invoice is issued.

(6) The Commissioners may, at the request of a taxable person, direct that subsection (5) of this section shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of fourteen days there were substituted such longer period as may be specified in the direction.

(7) Where goods are deemed to be supplied by virtue of paragraph 1 of Schedule 2 to this Act or section 6 of this Act, the supply shall be treated as taking place when they are applied or used as mentioned in that paragraph or section.

(8) The Commissioners may by regulation make provision with respect to the time at which, notwithstanding the preceding provisions of this section, a supply is to be treated as taking place in cases where goods or services are supplied for a consideration the whole or part of which is determined or payable periodically or at the end of any period or where goods are supplied for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose; and any such regulations may provide—

(a) for treating goods supplied on hire for any period as being successively supplied on hire for successive parts of that period; and

(b) for treating services supplied for any period as being successively supplied for successive parts of that period.

(9) In this section “tax invoice” means such an invoice as is required under section 30(2) of this Act or would be so required if the person to whom the supply is made were a taxable person.

8.—(1) The following provisions of this section shall apply for determining, for the purposes of the charge to tax, whether goods or services are supplied in the United Kingdom. Place of supply.

(2) If the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.

(3) If the supply of any goods involves their removal from the United Kingdom they shall be treated as supplied in the United Kingdom and if it involves their removal to the United Kingdom they shall be treated as supplied outside the United Kingdom.

(4) Subject to subsection (5) of this section, if services might be considered as supplied either in or outside the United Kingdom or as supplied both in and outside the United Kingdom, they shall be treated as supplied in the United Kingdom if the person supplying them has his place of business or principal place of business in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom; but for the purposes of this subsection any person carrying on a business through a branch or agency in the United Kingdom shall be treated as having his principal place of business in the United Kingdom.

PART I

(5) Where services consist of transport between places of which one is and the other is not in the United Kingdom, so much of the services as consists of transport within the United Kingdom shall be treated as supplied in the United Kingdom and the remainder as supplied outside the United Kingdom

(6) The Treasury may by order make provision, with respect to such services as may be specified in the order, for substituting for the provisions contained in subsection (4) or (5) of this section such other provisions as may be specified in the order, either generally or in such circumstances as may be so specified.

(7) Where a supply of goods is such that subsections (2) and (3) of this section cannot be applied to it, subsections (4) and (6) of this section shall apply to it as they apply to a supply of services.

(8) For the purposes of this section, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.

Rate of tax and determination of value

Rate of Tax.

9.—(1) Subject to the following provisions of this section, tax shall be charged at the rate of ten per cent., and shall be charged—

- (a) on the supply of goods or services, by reference to the value of the supply as determined under this Part of this Act; and
- (b) on the importation of goods, by reference to the value of the goods as determined under this Part of this Act.

(2) The Treasury may by order made before 1st April 1973 substitute for the rate of ten per cent. a rate not lower than seven and a half per cent. nor higher than twelve and a half per cent.

(3) The Treasury may by order increase or decrease the rate for the time being in force by such percentage thereof, not exceeding 20 per cent., as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.

(4) In relation to an order made under subsection (3) of this section to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force is a reference to the rate that would be in force if no order under that subsection had been made.

10.—(1) For the purposes of this Part of this Act the value of any supply of goods or services shall be determined as follows. **PART I**
Value of
supply of
goods or
services.

(2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the tax chargeable, is equal to the consideration.

(3) If the supply is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be its open market value.

(4) Where a supply of any goods or services is not the only matter to which a consideration in money relates the supply shall be deemed to be for such part of the consideration as is properly attributable to it.

(5) For the purposes of this Part of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) of this section if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

(6) This section has effect subject to Schedule 3 to this Act.

11. For the purposes of this Part of this Act the value of any imported goods shall be taken to be the aggregate of the following, that is to say,— Value of
imported
goods.

- (a) the amount that would fall to be taken as their value under section 258 of the Customs and Excise Act 1952 if value added tax were a duty of customs; and 1952 c. 44.
- (b) the amount of any customs duty payable on the goods or of any payment or repayment made in order to secure relief from such customs duty under section 35 or section 36 of the Customs and Excise Act 1952 (relief on re-importation); and
- (c) any amount payable on the goods by way of surcharge under section 7 of the Sugar Act 1956 or a levy under section 1 of the Agriculture and Horticulture Act 1964 or payable on the goods under section 6(5) of the European Communities Act 1972 or that section as applied by section 7(1) of that Act. 1956 c. 48.
1964 c. 28.

Reliefs

12.—(1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not tax would be chargeable on the supply apart from this section,—

- (a) no tax shall be charged on the supply; but

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(b) it shall in all other respects be treated as a taxable supply ;

and accordingly the rate at which tax is treated as charged on the supply shall be nil.

(2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 4 to this Act or the supply is of a description for the time being so specified.

(3) Where goods of a description for the time being specified in Schedule 4 to this Act, or of a description forming part of a description of supply for the time being so specified, are imported into the United Kingdom no tax shall be chargeable on their importation, except as otherwise provided in that Schedule.

(4) The Treasury may by order vary Schedule 4 to this Act by adding to or deleting from it any description or by varying any description for the time being specified in it.

(5) Where a description included in Schedule 4 to this Act (whether by virtue of an order under the preceding subsection or otherwise) is of a supply of goods or services outside the United Kingdom or of a transaction which would not otherwise be a supply of goods or services the supply or transaction shall for the purposes of this Part of this Act be treated as a supply of goods or services in the United Kingdom.

(6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—

(a) has exported them ; or

(b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft.

(7) The Commissioners may by regulations make provision for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where the Commissioners are satisfied that the goods have been or are to be exported and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

(8) Where the supply of any goods has been zero-rated in pursuance of regulations made under the preceding subsection and—

(a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported ; or

(b) any condition specified in the regulations or imposed by the Commissioners is not complied with ; PART I

and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Customs and Excise Act 1952 and the tax that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom ; but the Commissioners may, if they think fit, waive payment of the whole or part of that tax. 1952 c. 44

13.—(1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 5 to this Act. Exemptions.

(2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

14.—(1) The Treasury may by order make provision for securing a reduction of the tax chargeable on the supply of goods of such descriptions as may be specified in the order in cases where no tax was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the order or as may be imposed by the Commissioners in pursuance of the order. Relief on supply of certain second-hand goods.

(2) The amount of the reduction that may be secured by an order under this section shall not exceed the amount of tax that would have been chargeable on the previous supply had tax been chargeable on it at the same rate as that at which the tax to be reduced would be chargeable but for the reduction.

(3) An order under this section making provision for reducing the tax chargeable on the supply of goods of any description may include provision—

- (a) for giving relief from the tax chargeable on the importation of goods of that description ; and
- (b) for securing the like reduction where no tax was chargeable on the importation of goods of that description as where no tax was chargeable on a previous supply of the goods.

(4) An order under this section may extend to cases where the previous supply or the importation took place before tax was chargeable on any supply or importation.

PART I

(5) The preceding provisions of this section shall, with the necessary modifications, apply in relation to cases where consequential relief from tax was given on a previous supply by an order under section 3(6) of this Act but the relief did not extend to the whole amount of the tax.

(6) An order under this section may make different provision for goods of different descriptions and for different circumstances.

**Refund of tax
in certain
cases.**

15.—(1) Subject to the following provisions of this section, where tax is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies and the supply or importation is not for the purpose of any business carried on by the body, the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the tax so chargeable.

(2) Where goods or services so supplied to or imported by the body cannot be conveniently distinguished from goods or services supplied to or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the tax chargeable on any supply to or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where the tax so attributable is or includes tax attributable, in accordance with regulations under section 3 of this Act, to exempt supplies by the body and the tax attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the tax so chargeable they may include it in the tax refunded under this section.

(3) The bodies to which this section applies are—

- (a) a local authority;
- (b) a river authority, a river purification board, the Conservators of the River Thames and the Lee Conservancy Catchment Board;
- (c) a drainage board within the meaning of the Land Drainage Act 1930;
- (d) any statutory water undertakers within the meaning of the Water Act 1945, and a regional water board and water development board within the meaning of the Water (Scotland) Act 1967;
- (e) the London Transport Executive and a passenger transport authority or executive established under Part II of the Transport Act 1968;

1930 c. 44.

1945 c. 42.

1967 c. 28.

1968 c. 73.

- (f) a port health authority constituted under Part I of the Public Health Act 1936, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897 ; PART I
1936 c. 49.
1897 c. 38.
- (g) a police authority and the Receiver for the Metropolitan Police District ;
- (h) a development corporation within the meaning of the New Towns Act 1965 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns ; 1965 c. 59.
1968 c. 16.
1965 c. 13
(N.I.).
- (i) a general lighthouse authority within the meaning of Part XI of the Merchant Shipping Act 1894 ; 1894 c. 60.
- (j) the British Broadcasting Corporation ;
- (k) Independent Television News Limited ; and
- (l) any body specified for the purposes of this section by an order made by the Treasury.

(4) No tax shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than those concerned with the provision, maintenance or management of lights or other navigational aids.

(5) References in this section to any tax chargeable do not include any tax which, by virtue of an order under section 3(6) of this Act, could not be deducted as input tax.

(6) In this section "local authority" means the council of a county, borough, county district, district, parish or group of parishes, community or group of communities, the Greater London Council, the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, the council of a county, county of a city, large burgh, small burgh, district and any combination and any joint committee or joint board established by two or more of the foregoing.

16.—(1) The Treasury may by order make provision for giving relief from the whole or part of the tax chargeable on the importation of goods, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements. Relief from
tax on
importation
of goods.

(2) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the

PART I tax chargeable on the importation of any goods which are shown to their satisfaction to have been previously exported from the United Kingdom.

(3) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the tax chargeable on the importation of any goods if they are satisfied that the goods have been or are to be re-exported and they think fit to do so in all the circumstances and having regard to the tax chargeable on the supply of like goods in the United Kingdom.

Further provisions as to importation of goods

Application
of customs
enactments.
1952 c. 44.

17.—(1) Subject to the provisions of this section, the Customs and Excise Act 1952 and, except where the contrary intention appears, any other enactments (including provisions of regulations or other instruments having statutory effect) relating to customs generally, whether passed or made before or after the passing of this Act, shall have effect, with such exceptions and adaptations as the Commissioners may by regulations prescribe, as if all goods imported into the United Kingdom were liable to duties of customs and as if those duties included value added tax chargeable on the importation of goods.

(2) The following provisions of the Customs and Excise Act 1952, that is to say—

- (a) sections 34(4), 35 and 36 (reimportation);
- (b) section 37 (importation of goods from the Channel Islands);
- (c) section 43(a) (relief from duty of antiques);
- (d) section 221(2) (exemption of certain mechanical lighters);
- (e) section 259 (charge of duty on manufactured or composite articles);
- (f) section 260(1)(b) (declaration as to duty payable);
- (g) section 272 (supply of goods without payment of duty to Her Majesty's ships); and
- (h) sections 308 to 311 (Isle of Man);

shall be excepted from the enactments which are to have effect as mentioned in subsection (1) of this section.

(3) Section 258(1) of the Customs and Excise Act 1952 shall have effect, in its application by virtue of subsection (1) of this section, in a case where paragraph (b) or (c) of section 11 of this Act applies, as if the value to be taken as the value of imported goods were increased by the amount mentioned in that paragraph.

1953 c. 36.

(4) Regulations under section 16 of the Post Office Act 1953 (which provides for the application of customs enactments to postal packets) may make special provision in relation to value added tax.

18. The Commissioners may by regulations make provision for enabling goods imported by a taxable person in the course of a business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the tax chargeable on the importation, and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.

PART I
Importation
of goods by
taxable
persons.

Special cases

19.—(1) This Part of this Act shall apply in relation to tax-Application
able supplies by the Crown as it applies in relation to taxable to Crown.
supplies by taxable persons.

(2) Where the supply by a Government department of any goods or services does not amount to the carrying on of a business but it appears to the Treasury that similar goods or services are or might be supplied by taxable persons in the course of a business, then, if and to the extent that the Treasury so directs, the supply of those goods or services by that department shall be treated for the purposes of this Part of this Act as a supply in the course of a business carried on by it.

(3) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent that the Treasury so directs, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.

(4) In this section "Government department" includes a department of the Government of Northern Ireland, any body of persons exercising functions on behalf of a Minister of the Crown, and any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.

20.—(1) A local authority which makes taxable supplies is Local
liable to be registered under this Part of this Act, whatever the authorities.
value of the supplies; and accordingly Schedule 1 to this Act shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year is £5,000 or less, as if that value exceeded £5,000.

(2) In this section "local authority" has the same meaning as in section 15 of this Act.

21.—(1) Where, under the following provisions of this section, Groups of
any bodies corporate are treated as members of a group any companies.

PART I business carried on by a member of the group shall be treated as carried on by the representative member, and—

- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded ; and
- (b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member ; and
- (c) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and the goods shall be treated for the purposes of sections 18 and 31(3) of this Act as imported by the representative member ;

and all members of the group shall be liable jointly and severally for any tax due from the representative member.

(2) An order under section 6 of this Act may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.

(3) Two or more bodies corporate resident in the United Kingdom are eligible to be treated as members of a group if—

- (a) one of them controls each of the others ; or
- (b) one person (whether a body corporate or an individual) controls all of them ; or
- (c) two or more individuals carrying on a business in partnership control all of them.

(4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application ; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.

(5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of a prescribed accounting period—

- (a) a further body eligible to be so treated shall be included among the bodies so treated ; or
- (b) a body corporate shall be excluded from the bodies so treated ; or

(c) another member of the group shall be substituted as the representative member ; or

(d) the bodies corporate shall no longer be treated as members of a group ;

PART I

unless the application is to the effect mentioned in paragraph (a) or paragraph (c) above and the Commissioners refuse the application ; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.

(6) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(7) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than ninety days before the date from which it is to take effect, or at such later time as the Commissioners may allow.

(8) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of the Companies Act 1948 c. 38. 1948 ; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Act.

22.—(1) The registration under this Part of this Act of persons carrying on a business in partnership may be in the name of the firm ; and no account shall be taken, in determining whether goods or services are supplied to or by such persons, of any change in the partnership or of a change from the business being carried on by a person on his own to its being carried on by him in partnership or from the business being carried on in partnership to its being carried on by one of the former partners on his own. Partnerships.

(2) Subsection (1) of this section shall not affect the extent to which, under section 9 of the Partnership Act 1890, a partner is liable for tax owed by the firm ; but where a person is a partner in a firm during part only of a prescribed accounting period his liability for tax on the supply by the firm of goods or services during that accounting period shall be such proportion of the firm's liability as may be just. 1890 c. 39.

23.—(1) The registration under this Part of this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions. Business carried on in divisions or by unincorporated bodies, personal representatives, etc.

(2) The Commissioners may by regulations make provision for determining by what persons anything required by or under

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PART I

this Part of this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club or association the affairs of which are managed by its members or a committee or committees of its members.

(3) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Part of this Act in cases where persons are so treated.

Agents, etc.

24.—(1) Where a person who is accountable for any tax, or on whom any duties are imposed by or under this Part of this Act, is not resident in the United Kingdom, the Commissioners may by notice in writing served on any agent, manager or factor who is resident in the United Kingdom and has acted on behalf of that person in matters by reference to which that person is accountable or the duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax or that he shall be under an obligation to discharge those duties or any of them.

(2) For the purposes of this Part of this Act goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person may be treated as imported and supplied by the taxable person as principal.

(3) Where goods or services are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

Transfers
of going
concerns.

25. Where a business carried on by a taxable person is transferred to another person as a going concern, then—

- (a) for the purpose of determining whether the transferee is liable to be registered under this Part of this Act he shall be treated as having carried on the business before as well as after the transfer; and supplies by the transferor shall be treated accordingly; and
- (b) any records relating to the business which, under section 34 of this Act, are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Commissioners, at the request of the transferor, otherwise direct.

Terminal
markets.

26.—(1) The Treasury may by order make provision for modifying the provisions of this Part of this Act in their application to dealings on terminal markets and such persons ordinarily

engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.

(2) Without prejudice to the generality of subsection (1) of this section, an order under this section may include provision—

(a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;

(b) for the registration under this Part of this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Part of this Act, and for disregarding such dealings between persons so represented for all the purposes of this Part of this Act;

(c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified;

and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.

(3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

27.—(1) Where goods subject to a duty of customs are supplied while warehoused and before payment of the duty the supply shall be disregarded for the purposes of this Part of this Act. Supplies of dutiable goods in warehouse.

(2) Where goods subject to a duty of excise or such goods mixed with goods subject to a duty of customs are supplied while warehoused and before payment of the duty, then—

(a) if there is more than one such supply any but the last such supply shall be disregarded for the purposes of this Part of this Act; and

(b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Part of this Act as taking place when the duty is paid and the value of the supply shall be treated as including the duty; and

(c) the tax on the supply shall be payable, together with the duty, by the person by whom the duty is paid, except as otherwise provided by regulations under this section;

except that, if the goods are permitted to be removed from warehouse without payment of the duty, the supply (or last supply) shall be treated as taking place when the goods are so

PART I removed, the value of the supply shall not be treated as including the duty and the tax on the supply shall be payable by the person by whom the goods are removed.

(3) The Commissioners may by regulations make provision for enabling goods which are supplied as mentioned in subsection (2) of this section, and are so supplied to a taxable person for the purpose of a business carried on by him, to be removed from warehouse without payment of the tax on the supply and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.

1956 c. 48. (4) Subsection (1) of this section applies in relation to a surcharge under section 7 of the Sugar Act 1956 or any amount payable under section 6(5) of the European Communities Act 1972 or that section as applied by section 7(1) of that Act as it applies in relation to a duty of customs.

Capital goods. 28.—(1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from tax paid on the supply or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that tax or part of that tax cannot be deducted under section 3 of this Act and such other conditions are satisfied as may be specified in the order.

(2) Without prejudice to the generality of subsection (1) of this section, an order under this section may provide for relief to be given by deduction or refunding of tax and for aggregating or excluding the aggregation of value where goods of the same description are supplied or imported together.

(3) An order under this section may substitute a period exceeding three years but not exceeding six years as the period for which records relating to goods in respect of which relief is given under the order may be required to be preserved under section 34(2) of this Act.

Trading stamp schemes. 29. The Commissioners may by regulations make provision for modifying section 10 of this Act and paragraph 5 of Schedule 3 to this Act in their application to the supply of goods under trading stamp schemes within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965.

1964 c. 71.
1965 c. 6 (N.I.).

Collection and enforcement

Accounting for and payment of tax. 30.—(1) Tax on the supply of goods or services shall be accounted for and paid by reference to such periods (in this Part of this Act referred to as “prescribed accounting periods”)

at such time and in such manner as may be determined by or under regulations made by the Commissioners; and claims for deduction of input tax or for payments under section 3(2) of this Act shall be made in such manner as may be so determined.

(2) Regulations under this section may require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons supplying goods or services to other taxable persons to provide them with invoices (to be known as "tax invoices") containing statements of such particulars as may be so specified of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.

(3) Regulations under this section may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular,—

- (a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Commissioners; and
- (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and
- (c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.

(4) Regulations under this section may make provision—

- (a) for treating tax chargeable in one prescribed accounting period as chargeable in another such period; and
- (b) for the adjustment of accounts in cases where tax has become chargeable by reference to a consideration and the amount of the consideration is reduced or no consideration becomes payable and in such other circumstances as may be specified in the regulations; and
- (c) for the correction of errors.

(5) Regulations under this section may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.

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(6) The provisions made by regulations under this section for cases where goods are treated as supplied by a taxable person by virtue of paragraph 2 of Schedule 2 to this Act may require the tax chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.

(7) Where, at the end of a prescribed accounting period, the amount of tax due from any person or the amount due to any person under section 3(2) of this Act would be less than £1 that amount shall be treated as nil.

Power of
Commissioners
to assess
tax due.

31.—(1) Where a taxable person has failed to make any returns required under this Part of this Act or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect they may assess the amount of tax due from him to the best of their judgment and notify it to him.

(2) An assessment under subsection (1) of this section of an amount of tax due for any prescribed accounting period shall not be made after the later of the following:—

- (a) two years after the end of the prescribed accounting period; or
- (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge;

but may, where further such evidence comes to their knowledge after the making of such an assessment, be made in addition to that assessment.

(3) Where a taxable person has acquired or imported any goods in the course of a business carried on by him the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been lost or destroyed they may assess to the best of their judgment and notify to him the amount of tax that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

(4) An assessment under subsection (1) or subsection (3) of this section shall not be made more than six years after the end of the prescribed accounting period or importation concerned, nor, if the taxable person has died, more than three years after his death; except that if the Commissioners satisfy a value added tax tribunal that there are reasonable grounds for

PART I

believing that tax has been or may have been lost through the fraud or wilful default or neglect of any person an assessment may, with the leave of the tribunal, be made at any time, or, if the taxable person has died, at any time not later than six years after the death.

(5) Members of a value added tax tribunal giving leave for an assessment shall not take part in the proceedings or be present when an appeal against the assessment or against the amount of the assessment is heard or determined.

(6) Where an amount has been assessed and notified to any person under subsection (1) or subsection (3) of this section it shall, subject to the provisions of this Part of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

32.—(1) The Commissioners may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to the tax as may have been supplied to him and may, if they think it necessary for the protection of the revenue, require as a condition of making any payment under section 3(2) of this Act the giving of such security for the amount of the payment as appears to them appropriate.

Power to require security and production of evidence.

(2) Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a taxable person, as a condition of his supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as they may determine, for the payment of any tax which is or may become due from him.

33.—(1) Tax due from any person shall be recoverable as a debt due to the Crown.

Recovery of tax, etc.

(2) Any amount shown in an invoice as tax chargeable on a supply of goods or services shall be recoverable as tax due from the person issuing the invoice, whether or not—

- (a) the invoice is a tax invoice issued in pursuance of section 30(2) of this Act ; or
- (b) that or any amount of tax is chargeable on the supply ;
or
- (c) the person issuing the invoice is a taxable person.

(3) The Commissioners may by regulations make provision for authorising distress to be levied on the goods and chattels of

PART I

any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him, and for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations.

(4) In the application of the preceding subsection to Scotland, for the reference to the levying of distress on goods and chattels there shall be substituted a reference to the doing of diligence, and for the expression "chattels" there shall be substituted a reference to corporeal movables.

Duty to keep records.

34.—(1) Every taxable person shall keep such records as the Commissioners may require.

(2) The Commissioners may require any records kept in pursuance of this section to be preserved for such period not exceeding three years as they may require.

(3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(4) The Commissioners may, as a condition of approving under subsection (3) of this section any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.

1968 c. 64.

(5) A statement contained in a document produced by a computer shall not be admissible in evidence by virtue of subsection (3) of this section unless the conditions mentioned in subsection (2) of section 5 of the Civil Evidence Act 1968 or in the corresponding Scottish enactment are satisfied in relation to the statement and the computer; and the other provisions of that section and subsections (1), (2), (3) and (5) of section 6 of that Act (supplementary provisions) and the like provisions of the corresponding Scottish enactment shall, with the necessary modifications, apply in relation to the giving of evidence in pursuance of this section.

(6) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could

ordinarily be given by means of a certificate under section 5(4) of the Civil Evidence Act 1968 or under the corresponding Scottish enactment as applied by the preceding subsection. PART I
1968 c. 64.

(7) In subsections (3) and (5) of this section “document”, “copy” and “computer” have the same meanings as, by virtue of section 10 of the Civil Evidence Act 1968, they have in Part I of that Act or as they have in the corresponding Scottish enactment.

(8) For the purposes of this section—

- (a) section 13 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 is the corresponding Scottish enactment to section 5 of the Civil Evidence Act 1968 and the provisions of the said section 13 (which are identical in number with the provisions of the said section 5) shall apply accordingly ;
- (b) section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 is the corresponding Scottish enactment to subsections (1), (2), (3) and (5) of section 6 of the Civil Evidence Act 1968 ; and
- (c) section 17 and Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 are the corresponding Scottish enactments to section 10 and Part I of the Civil Evidence Act 1968.

(9) In the application of this section to Northern Ireland, for references to any subsection of section 5 or 6 of the Civil Evidence Act 1968 or to section 10, of that Act there shall be substituted references to the same subsection of section 2 or 3 of the Civil Evidence Act (Northern Ireland) 1971 or section 6 of that Act. 1971 c. 36
(N.I.).

35.—(1) The Commissioners may by regulations make provision for requiring taxable persons to notify the Commissioners such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioners required for the purpose of keeping the register kept under this Part of this Act up to date. Furnishing of
information
and production
of documents.

(2) Every person who is concerned (in whatever capacity) in the supply of goods in the course of a business or to whom such a supply is made shall—

- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the goods or to the supply as the Commissioners may specify ; and

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(b) upon demand made by an authorised person, produce or cause to be produced any documents relating to the goods or to the supply for inspection by the authorised person and permit him to take copies of or to make extracts from them or to remove them at a reasonable time and for a reasonable period.

(3) Every person who is concerned (in whatever capacity) in the taxable supply of any services or to whom such a supply is made shall—

(a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the consideration for the supply or to the name and address of the person to whom the supply is made as the Commissioners may specify ; and

(b) upon demand made by an authorised person, produce or cause to be produced any documents relating to the consideration for inspection by the authorised person and permit him to take copies of or to make extracts from them or to remove them at a reasonable time and for a reasonable period.

(4) For the purposes of this section, the documents relating to the supply of goods, or to the consideration for the supply of services, in the course of a business shall be taken to include any profit and loss account and balance sheet relating to that business.

(5) Where any documents removed under the powers conferred by this section are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(6) In this section “document” and “copy” have the same meanings—

1968 c. 64. (a) in relation to England and Wales, as, by virtue of section 10 of the Civil Evidence Act 1968, they have in Part I of that Act ;

1968 c. 70. (b) in relation to Scotland, as, by virtue of section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, they have in Part III of that Act ; and

1971 c. 36 (N.I.). (c) in relation to Northern Ireland, as, by virtue of section 6 of the Civil Evidence Act (Northern Ireland) 1971, they have in Part I of that Act.

36.—(1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods, such samples as the authorised person may require with a view to determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of tax. PART I
Power to
take samples.

(2) Any sample taken under this section shall be disposed of and accounted for in such manner as the Commissioners may direct.

(3) Where a sample is taken under this section from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Commissioners shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as they may determine.

37.—(1) For the purpose of exercising any powers under this Part of this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business. Entry and
search of
premises
and persons.

(2) Where an authorised person has reasonable cause to believe that any premises are used in connection with the supply of goods under taxable supplies and that goods to be so supplied are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.

(3) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence in connection with the tax is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within fourteen days from the time of the issue of the warrant and search them; and any person who enters the premises under the authority of the warrant may—

- (a) take with him such other persons as appear to him to be necessary;
- (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence; and
- (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to have committed or be about to commit such an offence

PART I

or to be in possession of any such documents or other things ;

but no woman or girl shall be searched except by a woman.

(4) In the application of this section to Scotland, the reference to a justice of the peace includes a reference to the sheriff and a magistrate.

Offences and penalties.

38.—(1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both.

(2) If any person—

(a) with intent to deceive produces, furnishes or sends for the purposes of this Part of this Act or otherwise makes use for those purposes of any document which is false in a material particular ; or

(b) in furnishing any information for the purposes of this Part of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular ;

he shall be liable to a penalty of £1,000 or to imprisonment for a term not exceeding two years, or to both.

(3) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable to a penalty of £1,000 or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding two years, or to both.

(4) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater.

(5) If any person fails to comply with the requirements of Schedule 1 to this Act or supplies goods or services in contravention of section 32(2) of this Act he shall be liable to a

penalty of £1,000 or, if greater, three times the amount of the tax evaded by the failure or contravention.

(6) If a person other than—

- (a) a person registered under this Part of this Act ; or
- (b) a body corporate treated for the purposes of section 21 of this Act as a member of a group ; or
- (c) a person treated as a taxable person under regulations made under section 23(3) of this Act ; or
- (d) a person authorised to do so under regulations made under section 30(6) of this Act ; or
- (e) a person acting on behalf of the Crown ;

issues an invoice showing an amount as being tax or as being attributable to tax he shall be liable to a penalty of £1,000 or three times the amount so shown, whichever is the greater.

(7) If any person fails to comply with any requirement imposed under section 34 or 35 of this Act or any regulations or rules made under this Part of this Act, he shall be liable to a penalty of £100, together with a penalty of £10 for each day on which the failure continues.

(8) Sections 281 to 291 of the Customs and Excise Act 1952 1952 c. 44. (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Part of this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Part of this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act ; and accordingly in section 290(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to the tax.

39.—(1) A certificate of the Commissioners—

- (a) that a person was or was not, at any date, registered under this Part of this Act ; or
- (b) that any return required by or under this Part of this Act has not been made or had not been made at any date ; or
- (c) that any tax shown as due in any return or assessment made in pursuance of this Part of this Act has not been paid ;

Evidence by
certificate,
etc.

shall be sufficient evidence of that fact until the contrary is proved.

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(2) A photograph of any document furnished to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under subsection (1) or subsection (2) of this section shall be deemed to be such a certificate until the contrary is proved.

Appeals

Appeals.

40.—(1) An appeal shall lie to a value added tax tribunal constituted in accordance with Schedule 6 to this Act against the decision of the Commissioners with respect to any of the following matters:—

- (a) the registration or cancellation of registration of any person under this Part of this Act;
- (b) an assessment under section 31 of this Act or the amount of such an assessment;
- (c) the tax chargeable on the supply of any goods or services or, subject to subsection (5) of this section, on the importation of any goods;
- (d) the amount of any input tax which may be deducted by a person;
- (e) the proportion of any supplies that is to be taken as consisting of taxable supplies;
- (f) any refusal to permit the value of supplies to be determined by a method described in a notice published under section 30(3) of this Act;
- (g) any refusal of an application under section 21 of this Act;
- (h) any direction under paragraph 1 or paragraph 2 of Schedule 3 to this Act;
- (i) the requirement of any security under section 32(2) of this Act.

(2) An appeal under this section shall not be entertained unless the appellant has made all the returns which he was required to make under section 30(2) of this Act and has paid the amounts shown in those returns as payable by him.

(3) Where the appeal is against a decision with respect to any of the matters mentioned in paragraph (b) or (c) of subsection (1) of this section it shall not be entertained unless—

- (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them; or

(b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the value added tax tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.

(4) Where on an appeal under this section it is found—

(a) that the whole or part of any amount paid or deposited in pursuance of subsection (3) of this section is not due; or

(b) that the whole or part of any amount due to the appellant under section 3(2) of this Act has not been paid;

so much of that amount as is found not to be due or not to have been paid shall be repaid (or, as the case may be, paid) with interest at such rate as the value added tax tribunal may determine; and where the appeal has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.

(5) No appeal shall lie under this section with respect to any matter that has been or could have been referred to arbitration under section 260 of the Customs and Excise Act 1952 as 1952 c. 44. applied by section 17 of this Act.

Supplementary

- 41.**—(1) There shall be included among the debts which—
- (a) under section 33 of the Bankruptcy Act 1914 are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent; or Priority of tax in bankruptcy, winding-up, etc.
1914 c. 59.
 - (b) under section 118 of the Bankruptcy (Scotland) Act 1913 are to be paid in priority to all other debts in the division of a bankrupt's estate; or 1913 c. 20.
 - (c) under section 1 of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 are to be paid in priority to all other debts in the distribution of the property of a bankrupt, arranging debtor or person dying insolvent; or 1964 c. 32 (N.I.).
 - (d) under section 319 of the Companies Act 1948 or section 287 of the Companies Act (Northern Ireland) 1960 are to be paid in priority to all other debts in the winding 1948 c. 38.
1960 c. 22 (N.I.).

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up of a company, or under section 94 of the Act of 1948 or section 92 of the Act of 1960 are on an appointment of a receiver on behalf of debenture holders or taking of possession by or on behalf of debenture holders to be paid in priority to any claim for principal or interest in respect of the debentures ;

the amount of any tax due at the relevant date from the bankrupt, debtor, person dying or company and having become due within the twelve months next before that date.

(2) In this section " the relevant date "—

- (a) in relation to section 33 of the Act of 1914, means the date of the receiving order or of the death, as the case may be ;
- (b) in relation to section 118 of the Act of 1913, means the date mentioned in subsection (4) of that section ;
- (c) in relation to section 1 of the Act of 1964, means the date of the order of adjudication, the date of the filing of a petition for arrangement or of the death, as the case may be ;
- (d) in relation to section 319 of the Act of 1948, or section 287 of the Act of 1960, has the meaning assigned to it by that section, and in relation to section 94 of the Act of 1948 or section 92 of the Act of 1960, means the date of the appointment of the receiver or taking of possession ;

and for the purposes of this section the tax having become due within the twelve months mentioned therein in respect of any prescribed accounting period falling partly within and partly outside those twelve months shall be taken to be such part of the tax due for the whole of that accounting period as is proportionate to the part of that period falling within those twelve months.

Adjustment
of contracts
on changes
in tax.

42.—(1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the tax charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.

(2) References in this section to a change in the tax charged on a supply include references to a change to or from no tax being charged on the supply.

43.—(1) Any order under this Part of this Act may be varied or revoked by a subsequent order.

(2) Any order made by the Treasury and any regulations or rules under this Part of this Act shall be made by statutory instrument.

(3) Any statutory instrument made under this Part of this Act shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament, except an Order in Council and an order making such provision as is mentioned in subsection (4) of this section.

(4) An order under this Part of this Act making provision—

- (a) for increasing the rate of tax in force at the time of the making of the order ; or
- (b) for excepting any input tax from the provisions of subsections (1) to (5) of section 3 of this Act ; or
- (c) for varying Schedule 4 or Schedule 5 to this Act so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it ;

shall be laid before the Commons House of Parliament ; and unless it is approved by that House before the expiration of a period of twenty-eight days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House of Parliament is adjourned for more than four days.

44. A notice to be served on any person for any of the purposes of this Part of this Act may be served by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

45.—(1) In this Part of this Act “ business ” includes any trade, profession or vocation ; and—

- (a) the provision by the Independent Broadcasting Authority of broadcasting services ; and
- (b) the provision by a club or by an association to which this paragraph applies of the facilities available to its members ; and
- (c) the provision by an organisation to which this paragraph applies of the advantages of membership ; and
- (d) the admission, for a consideration, of persons to any premises ;

shall be deemed to be the carrying on of a business.

PART I

1971 c. 72.

(2) Paragraph (b) of the preceding subsection applies to any association providing facilities for its members but shall not be taken to apply to an organisation of workers (within the meaning of section 61 of the Industrial Relations Act 1971 as extended by section 86 of that Act); and paragraph (c) of that subsection applies to any organisation of persons carrying on a trade, profession or vocation and to any association of such organisations, but only if the organisation or association so elects by notice in writing given to the Commissioners.

(3) Where a person, in the course of carrying on a trade, profession or vocation, accepts an office, other than a public office, any services supplied by him as holder of the office shall be treated for the purposes of this Part of this Act as supplied in the course of a business carried on by him.

Interpretation. **46.**—(1) In this Part of this Act—

“assignment”, in relation to Scotland, means assignation;

“authorised person” means any person acting under the authority of the Commissioners;

“invoice” includes any document similar to an invoice;

“input tax” has the meaning assigned to it by section 3 of this Act;

“money” includes currencies other than sterling;

“prescribed accounting period” has the meaning assigned to it by section 30(1) of this Act;

“quarter” means a period of three months ending at the end of March, June, September or December;

“ship” includes hovercraft;

“tax” means value added tax;

“taxable person” has the meaning assigned to it by section 4 of this Act;

“taxable supply” means any supply of goods or services in the United Kingdom other than an exempt supply;

“the Commissioners” means the Commissioners of Customs and Excise.

(2) Schedules 4 and 5 to this Act shall be interpreted in accordance with the notes contained therein; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.

(3) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.

(4) References in this Part of this Act to the United Kingdom include the territorial sea of the United Kingdom.

47.—(1) Tax shall not be charged on any supply or importation taking place before 1st April 1973. PART I
Commence-

(2) Notwithstanding anything in section 7 of this Act or in section 79 of the Customs and Excise Act 1952 as applied by section 17 of this Act— ment.
1952 c. 44.

(a) a payment made before 1st April 1973 may be disregarded in determining for the purposes of this section whether a supply takes place before that date if, or to the extent that, it appears to the Commissioners that it would not have been so made but for the tax ; and

(b) goods of which entry is made under section 28 of the Customs and Excise Act 1952 shall be treated for the purposes of this section as imported on the date on which entry is so made, except that if the entry is for warehousing the goods shall be treated for the purposes of this section as imported on the date on which they are removed from warehouse.

48. The Treasury may by order make provision for securing that where a television set— Television sets
supplied on
hire at
commence-

(a) is supplied on hire for a period beginning before 1st April 1973 ; and ment of tax.

(b) is treated by virtue of regulations made under section 7 of this Act as supplied for successive parts of that period ;

and such other conditions are satisfied as may be specified in the order, the tax on the supply for such a part ending on or before 31st March 1975 shall be chargeable as if the consideration for the supply were reduced to such extent as may be specified in the order ; and different provision may be so made for different parts so ending and for different circumstances.

49. Where a vehicle in respect of which purchase tax has been remitted under section 23 of the Purchase Tax Act 1963 (vehicles acquired for use outside United Kingdom) is brought back to the United Kingdom, the vehicle shall not, when brought back, be treated as imported for the purpose of value added tax chargeable on the importation of goods. Vehicles
brought back
to U.K. after
remission of
purchase tax.
1963 c. 9.

50.—(1) If an Act of Tynwald makes provision similar to the provision made with respect to value added tax by this Act, Her Majesty may by Order in Council make provision for securing that— Isle of Man.

(a) tax is charged under either Act as if references therein to the United Kingdom or the Isle of Man included

PART I

both the United Kingdom and the Isle of Man, but is not charged under both Acts in respect of the same transaction ; and

- (b) persons who are taxable persons for the purposes of either Act are treated as taxable persons for the purposes also of the other ; and
- (c) a removal of goods from the United Kingdom into the Isle of Man or from the Isle of Man into the United Kingdom is not treated for the purposes of either Act as an importation or exportation of the goods ;

and for making such modifications in those Acts and orders rules and regulations made thereunder as may be requisite for those purposes ; and similarly with respect to any Act passed after this Act and relating to value added tax.

- 1958 c. 11. (2) An Order in Council under this section may include provision for section 2 of the Isle of Man Act 1958 (Isle of Man share of certain duties) to apply as if value added tax and the tax for which provision is made by Act of Tynwald were included among the duties mentioned in subsection (4) of that section and as if the reference in subsection (2)(a) of that section to goods consumed or used in the Isle of Man included a reference to services supplied in the Island.

Refund of tax to Government of Northern Ireland.

51. The Commissioners shall refund to the Government of Northern Ireland the amount of the tax charged on the supply of goods or services to, or on the importation of goods by, that Government, after deducting therefrom so much of that amount as may be agreed between them and the Ministry of Finance for Northern Ireland as attributable to supplies and importations for the purpose of a business carried on by the Government of Northern Ireland.

PART II

CAR TAX AND PURCHASE TAX

Car tax.

52.—(1) A tax, to be known as car tax, shall be charged after 31st March 1973 on all chargeable vehicles made or registered in the United Kingdom.

(2) Car tax on any vehicle shall be charged at the rate of 10 per cent. of the wholesale value of the vehicle.

(3) In this section “chargeable vehicle” means, subject to the following provisions of this section, any vehicle of a kind normally used on public roads which is propelled by an internal combustion engine, has three or more wheels and either—

- (a) is constructed or adapted solely or mainly for the carriage of passengers ; or

(b) has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows.

(4) The following are not chargeable vehicles—

(a) vehicles capable of accommodating only one person or suitable for carrying twelve or more persons;

(b) vehicles of not less than three tons unladen weight;

(c) caravans, ambulances and prison vans;

(d) vehicles of a type approved by the Assistant Commissioner of Police of the Metropolis as conforming to the conditions of fitness for the time being laid down by him for the purposes of the London Cab Order 1934;

1934 S.R. & O.
No. 1346.

(e) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.

(5) The Treasury may by order made by statutory instrument delete or vary any description of vehicle for the time being specified in subsection (4) of this section or add a description of vehicle to those so specified; and any such order may contain such transitional provisions as appear to the Treasury to be necessary or expedient.

A statutory instrument made under this subsection shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament except such an order as is mentioned in subsection (6) of this section.

(6) An order under subsection (5) of this section the effect of which is to include any description of vehicle among those which are chargeable vehicles shall be laid before the Commons House of Parliament; and unless it is approved by that House before the expiration of a period of twenty-eight days beginning with the date on which it was made it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House of Parliament is adjourned for more than four days.

(7) A vehicle is not a chargeable vehicle if it is more than twenty years old.

(8) A vehicle is not a chargeable vehicle if purchase tax has been paid in respect of it.

PART II

(9) References in this section to the making of a chargeable vehicle include references to the conversion into a chargeable vehicle of a vehicle of any other description.

1971 c. 10.

(10) In this section "registered" means registered under the Vehicles (Excise) Act 1971 or any corresponding enactment of the Parliament of Northern Ireland for the time being in force.

(11) Schedule 7 to this Act shall have effect in relation to the car tax.

Purchase
tax:
alteration
of rates.

1963 c. 9.

53. Subject to any new order of the Treasury under section 2 of the Purchase Tax Act 1963, Part I of Schedule 1 to that Act (chargeable and exempt goods and rates of tax) as amended shall have effect as from 22nd March 1972 with the substitution for any reference to 45 per cent. or 30 per cent. of a reference to 25 per cent.

Abolition
of purchase
tax.

54.—(1) Purchase tax shall not be charged in any case where, under the provisions of the Purchase Tax Act 1963, it would become due after 31st March 1973 or where, under the enactments applied by section 25 of that Act to tax chargeable under section 11 thereof, it would be payable after that date.

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

(a) the operation of section 13(4) of the Purchase Tax Act 1963 (tax on imported goods not accounted for to satisfaction of Commissioners) in relation to goods deemed to be imported as mentioned in subsection (3) of that section on a representation made before April 1973; or

(b) any liability to tax arising on the breach of a condition subject to which relief from purchase tax was given.

(3) Where a person carries on a business before 1st April 1973 in such circumstances that he is required under section 4(1) of the Purchase Tax Act 1963 to be registered but the relevant date mentioned in section 5(1) of that Act (applications for registration) falls not earlier than fourteen days before that day, that section shall have effect as if it required him to give to the Commissioners of Customs and Excise, before the expiration of fourteen days from the relevant date, notice in writing of his so carrying on the business.

(4) Notwithstanding anything in section 14 of the Purchase Tax Act 1963, no process completed after 31st March 1973 shall be a chargeable process within the meaning of that Act.

(5) Where a person is, on 31st March 1973, under a duty to preserve records and accounts kept under section 24 of the

Purchase Tax Act 1963, that duty, and his obligation to produce them for inspection, shall continue after that date, notwithstanding that he is no longer registered or required to be registered under that Act.

PART II

(6) In relation to any time falling after 31st March 1973 references to registered persons in section 31 of the Purchase Tax Act 1963 and in any regulations made under that section before the passing of this Act shall have effect as references to persons who were registered persons before 1st April 1973; and the reference to a registered person in section 12(3) of that Act shall be construed accordingly. 1963 c. 9.

(7) Regulations under section 31 of the Purchase Tax Act 1963 may make provision for requiring persons—

- (a) to keep, on and after 1st October 1972, and preserve for such period as may be specified in the regulations, records in such form and containing such particulars as may be so specified of chargeable goods in their possession in circumstances where the delivery of the goods is liable, under section 40(4) of that Act, to be treated as a delivery under a chargeable purchase, and of such purchases made of such goods, and to produce the records for inspection by any officer or other person authorised in that behalf by the Commissioners of Customs and Excise at such time and at such place as that officer or person may require; and
- (b) to furnish, at such times and places as may be specified in the regulations, to persons who have delivered such goods statements in such form and containing such particulars of goods remaining in the possession of the persons furnishing the statements and of purchases made of the goods as may be so specified, and to require such statements to contain a declaration, signed by the person to whom the goods were delivered, or on his behalf, by such persons as may be specified in the regulations, that the statement is to the best of his knowledge correct and complete.

(8) The enactments mentioned in Part I of Schedule 28 to this Act are hereby repealed, to the extent specified in the third column of that Part, as from the end of March 1973; and the enactments mentioned in Part II of that Schedule are hereby repealed, to the extent specified in the third column of that Part, as from such date as the Treasury may by order made by statutory instrument appoint, and different dates may be so appointed for different enactments.

PART II
Amendments consequential on replacement of purchase tax.
1947 c. 44.

55.—(1) In section 14(2) of the Crown Proceedings Act 1947 (summary applications to High Court for payment of purchase tax and furnishing of information relating thereto) and in section 14 of that Act as it applies in Northern Ireland for the words “purchase tax” in paragraphs (c) and (d) there shall be substituted the words “value added tax”; but without prejudice to the operation of that section as originally enacted (or of the section substituted for Northern Ireland) with respect to purchase tax becoming due before the coming into force of this section or with respect to so much of the enactments relating to purchase tax as remains in force thereafter.

1968 c. 44.

(2) In subsections (1) and (2) of section 7 of the Finance Act 1968 (relief from customs duty and purchase tax payable by persons entering the United Kingdom and simplified computation of duty and tax) for the words “purchase tax”, wherever they occur, there shall be substituted the words “value added tax”.

(3) For subsection (6) of that section there shall be substituted the following subsection—

“(6) In this section “value added tax” means value added tax chargeable on the importation of goods and references to customs duty include any addition thereto by virtue of section 9 of the Finance Act 1961”.

1961 c. 36.

(4) In section 6(1) of the Finance Act 1968 for the words following paragraph (a) there shall be substituted the following words—

“(b) being dutiable goods or chargeable goods, he has obtained in the United Kingdom without payment of duty or tax;

and in respect of which he is not entitled to exemption from duty and tax by virtue of any order under section 7 of this Act.

In this subsection ‘chargeable goods’ means goods on the importation of which value added tax is chargeable or goods obtained in the United Kingdom before 1st April 1973 which are chargeable goods within the meaning of the Purchase Tax Act 1963; and ‘tax’ means value added tax or purchase tax.”

1968 c. 48.

(5) In section 9 of the International Organisations Act 1968 for the words “or of purchase tax” there shall be substituted the words “value added tax or car tax” and in paragraph 7 of Schedule 1 to that Act for the words “purchase tax paid on any goods” there shall be substituted the words “car tax paid on any vehicles and value added tax paid on the supply of any goods or services”; but without prejudice to the operation of that section or paragraph as originally enacted with respect to purchase tax becoming due before the coming into force of this section.

(6) In section 6 of the Vehicles (Excise) Act 1971 (exemption from vehicles excise duty of vehicles acquired by overseas residents) the following shall be substituted for subsection (1), but without prejudice to the operation of that subsection as originally enacted in relation to purchase tax remitted under section 23 of the Purchase Tax Act 1963 :—

PART II

1971 c. 10.

1963 c. 9

“(1) A mechanically propelled vehicle shall not be chargeable with any duty under this Act if it has been supplied to the person keeping it by a taxable person within the meaning of section 4 of the Finance Act 1972 and the supply has been zero-rated in pursuance of subsection (7) of section 12 of that Act; but if, at any time, the value added tax that would have been chargeable on the supply but for the zero-rating becomes payable under subsection (8) of that section, or would have become so payable but for any authorisation or waiver under that subsection, then the provisions of subsection (3) below shall apply in relation to that vehicle”.

(7) This section shall come into force on 1st April 1973.

PART III

CUSTOMS AND EXCISE

56.—(1) The following provisions of this section (which, in pursuance of the international obligations of the United Kingdom, reduce certain rates of customs duties) shall have effect as from 8th August 1972.

Spirits and
mechanical
lighters
(Kennedy
round
reductions).

(2) For Table 1 in Schedule 1 to the Finance Act 1964 (rates of customs and excise duties on spirits other than imported perfumed spirits) as substituted by section 1(2) of the Finance Act 1969 there shall be substituted the Table set out in Schedule 8 to this Act.

1964 c. 49.
1969 c. 32.

(3) The duty of customs charged on mechanical lighters by section 6 of the Finance Act 1928 shall be charged (except where, by virtue of section 3 of the Finance Act 1963 (E.F.T.A.) or section 3 of the Finance Act 1968 (Republic of Ireland) it is charged at the corresponding rates of excise duty) at the rate of 32½p or, in the case of gas lighters within the meaning of section 8 of the Finance Act 1949, 22½p, a lighter, instead of at the rates specified in subsection (1) of that section.

1928 c. 17.
1963 c. 25.
1968 c. 44.
1949 c. 47.

57.—(1) The operations that may be permitted on warehoused goods under section 84 of the Customs and Excise Act 1952 shall include the rectifying and compounding of spirits; and accordingly—

Spirits—
compounding
and rectifying
in warehouse
and use for
medical
purposes.
1952 c. 44.

(a) spirits used in warehouse in pursuance of a permission given by virtue of this section shall be treated for the

PART III

purposes of section 102 of that Act (restrictions relating to rectifiers) as spirits on which duty has been duly paid and section 101 of that Act (penalty for excess or deficiency in stock) shall not apply to spirits so used ; and

(b) no allowance shall be paid under section 104 of that Act in respect of spirits compounded in pursuance of such a permission and section 109(1) of that Act (restrictions on delivery of immature spirits) shall not apply to spirits so compounded.

(2) Where the Commissioners approve as a warehouse in which operations permitted by virtue of this section may be carried out the premises or part of the premises of a rectifier or compounder and at the time of the approval there are on the premises or part any spirits on which duty has been duly paid, then—

1952 c. 44.

(a) if those spirits are British compounded spirits section 103 of the Customs and Excise Act 1952 (warehousing on drawback) shall apply as if the spirits had been warehoused at that time ; and

(b) if those spirits are not British compounded spirits the Commissioners may repay the duty paid on them.

(3) Duty shall not be payable on any spirits contained in an article imported or delivered from warehouse which is recognised by the Commissioners as being used for medical purposes ; and

(a) in relation to spirits used after the coming into operation of this section, section 112(1) of the Customs and Excise Act 1952 (repayment of duty) shall have effect as if for the words following “ repayment ” there were substituted the words “ of the duty paid thereon ” ; and

(b) in relation to spirits in respect of which a repayment has been made after the coming into operation of this section, paragraph (a) of the proviso to section 103(5) of that Act shall have effect as if for the words following “ this Act ” there were substituted the words “ no drawback shall be payable ” ; and

(c) in section 113(1)(b) of that Act after the words “ the last foregoing section ” there shall be inserted the words “ or which were exempted from duty under section 57 of the Finance Act 1972 ” .

(4) This section shall have effect as from 8th August 1972.

58.—(1) In section 1(2)(a) of the Betting and Gaming Duties Act 1972 (general betting duty on on-course bets) for the words “5 per cent.” there shall be substituted the words “4 per cent.”.

PART III
Reduction of
general betting
duty on on-
course bets.
1972 c. 25.

(2) This section shall come into force on 31st July 1972.

59. In paragraph 18(1) of Schedule 2 to the Betting and Gaming Duties Act 1972 (provisions as to rateable values in Scotland) the words “but before 1st April 1973” shall be omitted and after that paragraph there shall be inserted the following:—

Gaming
licence duty.

“Provisions as to rateable values in England and Wales

19.—(1) For the purpose of determining the amount of the duty chargeable on a gaming licence in respect of premises in England and Wales for a period beginning after 31st March 1973 the rateable value of any hereditament shall be ascertained in accordance with the following provisions of this paragraph in any case where a rateable value is shown for it in the valuation list then in force and either a lower value or no value is shown for it in the valuation list in force on 31st March 1973.

(2) Where the rateable value of any hereditament falls to be ascertained in accordance with this paragraph, then—

(a) if a rateable value is shown for it in the valuation list in force on 31st March 1973, its rateable value shall be taken to be the value so shown, but subject to paragraph (b) below;

(b) if, since the time of valuation, there has been a change of use or a material change of circumstances affecting the value of the hereditament its rateable value shall be taken to be the value determined under this paragraph as the rateable value that would have been shown for it in that valuation list if the change had been given effect to in the preparation of that list;

(c) if no value is shown for the hereditament in the valuation list in force on 31st March 1973 its rateable value shall be taken to be the value determined under this paragraph as the value that would have been so shown if, at the time of the valuation for the purposes of that list, the premises in respect of which the licence is to be granted had been in existence and all relevant circumstances had been the same as at the time the value of the hereditament is determined under this paragraph.

(3) Any determination under this paragraph shall be made by the Commissioners after consultation with the

PART III

valuation officer; but an appeal shall lie to the Lands Tribunal from their determination.

(4) If the amount of duty chargeable is reduced in consequence of such an appeal, any amount overpaid shall be repaid.

1967 c. 9.

(5) In this paragraph 'valuation officer' has the same meaning as in the General Rate Act 1967 and 'material change of circumstances' and 'the time of valuation' have the meanings assigned to them by section 68(4) of that Act."

Continuation of powers under section 9 of Finance Act 1961.

1961 c. 36.

1971 c. 68.

60. 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 12 of the Finance Act 1971, was extended until the end of August 1972) shall extend until the end of August 1973 or such later date as Parliament may hereafter determine.

Temporary power to reduce certain revenue duties.

61.—(1) The Treasury may by order made before 1st April 1973 substitute for any of the rates at which any duty of customs or excise is chargeable on—

- (a) spirits, other than power methylated spirits;
- (b) beer;
- (c) wine;
- (d) British wine;
- (e) tobacco;
- (f) matches; or
- (g) mechanical lighters;

such lower rate as may be specified in the order and may substitute a correspondingly lower rate for any rate of drawback payable.

(2) An order under subsection (1) of this section shall be made by statutory instrument and may be varied or revoked by a further order under that subsection.

(3) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

PART IV

INCOME TAX AND CORPORATION TAX

Charge of income tax for 1972-73.

62. Income tax for the year 1972-73 shall be charged at the standard rate of 38·75 per cent. and, in the case of an individual whose total income exceeds £3,000, at such higher rates in respect of the excess over £2,000 as Parliament may hereafter determine.

63.—(1) Subject to subsection (2) below, income tax for the year 1971-72 shall be charged, in the case of an individual whose total income exceeded £3,000, at rates in respect of the excess of that income over £2,000 which respectively exceed the standard rate by the amounts by which the higher rates for the year 1970-71 exceeded the standard rate for that year. PART IV
Surtax rates
for 1971-72.

(2) An individual whose total income for the year 1971-72 did not exceed £3,500 shall be entitled to have the surtax chargeable by virtue of subsection (1) above reduced to an amount equal to 40 per cent. of the difference between his total income and £3,000.

64. Corporation tax shall be charged for the financial year 1971 at the rate of 40 per cent. Charge of corpora-
tion tax for
financial year 1971.

65.—(1) The deductions from tax to be made under section 8 of the Taxes Act (personal relief) shall be increased by the substitution— Alterations
of personal
reliefs.

- (a) in subsection (1)(a) (married) of £600 for £465 ;
- (b) in subsection (1)(b) (single) of £460 for £325 ; and
- (c) in subsection (2) (wife's earned income relief) of £460 for £325 ;

and accordingly that section shall have effect for the year 1973-74 and subsequent years of assessment as if in the third column of the Table set out in section 33(2) of the Finance Act 1971 the amounts to be deducted from total income under section 8 were £775, £595 and £595 instead of £600, £420 and £420, and that Table shall have effect as if the amounts substituted by paragraphs (a) to (c) above were also substituted in the second column for the amounts shown as previous deductions under section 8 ; and paragraph 5 of Schedule 6 to the Finance Act 1971 shall have effect with corresponding substitutions. 1971 c. 68

(2) In section 7 of the Taxes Act (relief for persons over sixty-five with small incomes)—

- (a) for the references to £530 and £825 (income limits for exemption) there shall be substituted references to £634 and £929 ; and
- (b) for the reference to £345 (excess over those limits beyond which relief by reduction of tax is excluded) there shall be substituted a reference to £245.

(3) In section 6 of the Taxes Act (relief for small incomes)—

- (a) for the references to £450 (income limit for full relief) there shall be substituted references to £550 ; and
- (b) for the reference to £750 (income limit for marginal relief) there shall be substituted a reference to £805.

PART IV
Income tax
rates for
1973-74.

66. Income tax for the year 1973-74 shall, unless Parliament otherwise determines, be charged at the basic rate of 30 per cent. ; and

- (a) in respect of so much of an individual's total income as exceeds £5,000 at such higher rates as are specified in the Table below ; and
- (b) in respect of so much of the investment income included in an individual's total income as exceeds £2,000 at the additional rate of 15 per cent.

Table

<i>Part of excess over £5,000</i>	<i>Higher rate</i>
The first £1,000	40 per cent.
The next £1,000	45 per cent.
The next £1,000	50 per cent.
The next £2,000	55 per cent.
The next £2,000	60 per cent.
The next £3,000	65 per cent.
The next £5,000	70 per cent.
The remainder	75 per cent.

**Capital
allowances.**
1971 c. 68.

67.—(1) In relation to expenditure incurred after 19th July 1971 and before 22nd March 1972 section 42 of the Finance Act 1971 (first-year allowances) shall have effect as if—

- (a) in subsection (1) 80 per cent. were substituted for 60 per cent. ;
- (b) in subsection (2)(b) the words “ for industrial purposes ”, in subsection (4) paragraphs (ii) and (iii), and, in subsection (6), the definition of “ industrial purposes ” were omitted ; and
- (c) in the definition of “ mobile equipment ” for the words “ in or about a building or structure used for industrial purposes ” there were substituted the words “ in or about premises used for the purposes of a trade, or on agricultural, forestry or amenity land or ”.

(2) In relation to expenditure incurred after 21st March 1972—

- (a) that section shall have effect as if in subsection (1) the words “ the whole ” were substituted for the words “ 60 per cent.” and subsections (2) to (6) were omitted ;
- (b) paragraph 8 of Schedule 8 to that Act shall have effect as if at the end there were added the following subparagraph—

“ (5) Where a first-year allowance in respect of a person's expenditure on the provision of a ship falls to be withheld or withdrawn by virtue of section

41(2) of this Act, that person's ownership of the ship shall be disregarded in determining for the purposes of this paragraph whether the ship is new.”;

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(c) section 177(3A) of the Taxes Act shall have effect as if the words “within section 42(2)(b) of that Act” were omitted and after the word “disclaimed” there were inserted the words “or postponed”;

(d) section 1(2) of the Capital Allowances Act 1968 (initial allowances for industrial buildings and structures, etc.) shall have effect as if for the words “three-twentieths” there were substituted the words “two-fifths”;

1968 c. 3.

and accordingly subsection (1)(b) of section 15 of the Finance Act 1970 shall not apply to expenditure so incurred.

(3) At the end of section 84(1) and of section 95(6) of the Capital Allowances Act 1968 there shall be added the words “unless it is so met by a grant made under Part I of the Industry Act 1972 or such grant made under an enactment of the Parliament of Northern Ireland as may be declared by the Treasury by order made by statutory instrument to correspond to a grant made under the said Part I.”

A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”

(4) Expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of the Capital Allowances Act 1968 (expenditure incurred before trade began) or section 5(1) of that Act (purchase of unused buildings) or so much of section 50(4) of the Finance Act 1971 as relates to expenditure incurred before trade began.

1971 c. 68.

68.—(1) Chapter I of Part III of the Finance Act 1971 shall not apply to capital expenditure on the provision of second-hand machinery or plant incurred by any person on or after 14th June 1972 if—

Restriction of capital allowances in respect of machinery and plant.

(a) the machinery or plant belonged to him at any time before 27th October 1970 or fell to be treated as belonging to him at any such time for the purposes of any provision of Chapter II of Part I of the Capital Allowances Act 1968 ; or

(b) capital expenditure on providing the machinery or plant was incurred by another person before the said 27th October and the machinery or plant continues after the date of the transaction under which the first-mentioned expenditure is incurred to be used for the purposes of a trade carried on by that other person.

(2) Where on or after 14th June 1972 a person disposes of any machinery or plant to another person who is connected with

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him and the disposal value falls to be treated under subsection (6) of section 44 of the said Act of 1971 as equal to the open market value of the machinery or plant, the proviso to that subsection shall have effect as if the reference to the capital expenditure incurred by the person there mentioned were a reference to that capital expenditure or to the capital expenditure on the provision of the machinery or plant incurred by any other person who is connected with him, whichever is the greater.

(3) Paragraph 3 of Schedule 8 to the said Act of 1971 shall be amended as follows—

- (a) in sub-paragraph (1) the words “ which has been in use for the purposes of a trade carried on by the seller ” shall be omitted ;
- (b) in sub-paragraph (2) for the words “ which has been in use for the purposes of a trade carried on by the person to whom the machinery or plant belongs ” there shall be substituted the words “ belonging to another person ” ;
- (c) in sub-paragraph (3) the words “ which has been in use for the purposes of his trade ” shall be omitted ;

and paragraph (b) of each of those sub-paragraphs shall have effect as if the reference to the machinery or plant continuing to be used for the purposes of a trade carried on by the person there mentioned included a reference to its being used after the date of the sale, the making of the contract or the assignment of the benefit of the contract (as the case may be) for the purposes of a trade carried on by that person or another person who is connected with him (other than the buyer, the person entering into the contract or the assignee) without having been used since that date for the purposes of any other trade except that of leasing machinery or plant.

(4) In a case in which no disposal value falls to be brought into account as mentioned in sub-paragraph (1) of the said paragraph 3, that sub-paragraph shall have effect as if for the reference to the disposal value to be so brought into account there were substituted a reference to an amount equal to whichever of the following is the smallest—

- (a) the open market value of the machinery or plant ;
- (b) the capital expenditure incurred by the seller on the provision of the machinery or plant ;
- (c) the capital expenditure so incurred by any person who is connected with the seller.

(5) The said sub-paragraph (1) shall not by virtue of paragraph (a) or (b) thereof deny a first-year allowance if the machinery or plant has not before the sale been used for the purposes of a trade by the seller or any person connected with him but for

the purposes of that allowance there shall be disregarded so much (if any) of the expenditure as exceeds whichever is the smallest of the amounts mentioned in subsection (4)(a), (b) and (c) above.

(6) Subsections (4) and (5) above shall apply in relation to sub-paragraphs (2) and (3) of the said paragraph 3 as they apply in relation to sub-paragraph (1) of that paragraph but taking references—

- (a) to the sale as references to the making of the contract and to the assignment of the benefit of the contract respectively;
- (b) to the seller as references to the person to whom the machinery or plant belongs and to the assignor respectively.

(7) Neither sub-paragraph (1) nor sub-paragraph (2) of the said paragraph 3 shall apply in relation to a sale or contract if the machinery or plant has never been used before the sale or the making of the contract and the business or part of the business of the seller or owner was the manufacture or supply of machinery or plant of that class and the sale was effected or the contract was made in the ordinary course of that business.

(8) In paragraph 4 of Schedule 8 to the said Act of 1971, sub-paragraph (1)(b) and sub-paragraph (2)(b), together with the word “and” preceding the latter, shall be omitted.

(9) Subsections (3) to (7) above apply in relation to cases where the incurring of the capital expenditure, the making of the contract or the assignment of the benefit of the contract mentioned in the said paragraph 3(1), (2) or (3) occurs on or after 14th June 1972, and subsection (8) above has effect from that date.

(10) This section shall be construed as if contained in Chapter I of Part III of the said Act of 1971; and in this section “open market value” in relation to any machinery or plant means an amount equal to the price which the machinery or plant would have fetched if sold in the open market and references to persons connected with each other shall be construed in accordance with section 533 of the Taxes Act.

69.—(1) This section has effect where—

- (a) the relevant interest in a building or structure is sold subject to a subordinate interest; and
- (b) a balancing allowance would, apart from this section, fall to be made to the person who is entitled to the relevant interest immediately before the sale (“the relevant person”) under section 3 of the Capital Allowances Act 1968 by virtue of the sale; and

Restriction of balancing allowances on sale of industrial buildings and structures. 1968 c. 3.

PART IV

(c) either—

(i) the relevant person, the person to whom the relevant interest is sold and the grantee of the subordinate interest, or any two of them, are connected with each other within the terms of section 533 of the Taxes Act, or

(ii) it appears with respect to the sale or to the grant of the subordinate interest, or with respect to transactions including the sale or grant, that the sole or main benefit which, but for this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under Chapter I of Part I of the said Act of 1968.

(2) For the purposes of section 3 of the said Act of 1968 the net proceeds to the relevant person of the sale—

(a) shall be taken to be increased by an amount equal to any premium receivable by him for the grant of the subordinate interest ; and

(b) where no rent, or no commercial rent, is payable in respect of the subordinate interest, shall be taken to be what those proceeds would have been if a commercial rent had been payable and the relevant interest had been sold in the open market (increased by any amount to be added under paragraph (a) of this subsection) ;

but the net proceeds of sale shall not by virtue of this subsection be taken to be greater than such amount as will secure that no balancing allowance falls to be made.

(3) Where subsection (2) above operates, in relation to a sale, to deny or reduce a balancing allowance in respect of any expenditure the residue of that expenditure immediately after the sale shall be calculated for the purposes of Chapter I of Part I of the said Act of 1968 as if that balancing allowance had been made or, as the case may be, had not been reduced.

(4) In this section—

“subordinate interest” means any interest in or right over the building or structure in question (whether granted by the relevant person or by somebody else) ;

“premium” includes any capital consideration except so much of any sum as corresponds to any amount of rent or profits falling to be computed by reference to that sum under section 80 of the Taxes Act (premium treated as rent or Schedule D profits) ;

“capital consideration” means consideration which consists of a capital sum or would be a capital sum if it had taken the form of a money payment ;

“rent” includes any consideration which is not capital consideration ;

“commercial rent” means such rent as may reasonably be expected to have been required in respect of the subordinate interest in question (having regard to any premium payable for the grant of the interest) if the transaction had been at arm’s length.

(5) Where the terms on which a subordinate interest is granted are varied before the sale of the relevant interest any capital consideration for the variation shall be treated for the purposes of this section as a premium for the grant of the interest, and the question whether any and, if so, what rent is payable in respect of the interest shall be determined by reference to the terms as in force immediately before the sale.

(6) This section shall be construed as if contained in Chapter I of Part I of the said Act of 1968 and applies where the relevant interest is sold on or after 14th June 1972.

70. A grant made under section 33(3) of the Health Services and Public Health Act 1968 (cost of maintenance etc. of vehicles belonging to disabled persons) or under any corresponding enactment of the Parliament of Northern Ireland to any person owning a vehicle shall not be treated as income for any purpose of the Income Tax Acts.

Disabled persons’ vehicle maintenance grant.

1968 c. 46.

71. So much of any pension or allowance—

(a) payable under the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965 or any corresponding enactment of the Parliament of Northern Ireland ; or

Temporary disregard of increase in certain pensions and allowances.

(b) payable under any Order in Council, Royal Warrant, order or scheme in respect of death due to service in the armed forces of the Crown or the merchant navy or to war injuries ;

1965 c. 51.
1965 c. 52.

as is attributable to any general increase taking effect in the year 1972-73 shall be left out of account for all the purposes of income tax charged for that year but not for the purpose of furnishing information relating to any person’s income for that year.

72. A grant made in pursuance of a resolution of the House of Commons to a person ceasing to be a Member of that House on a dissolution of Parliament shall be exempt from income tax

Terminal grants to Members of Parliament.

PART IV under Schedule E as an emolument, but without prejudice to its being taken into account, to the extent permitted by section 188(3) of the Taxes Act, under section 187 of that Act.

Compensation for premature retirement, etc.

73. The exclusion, by virtue of section 188(1)(d) of the Taxes Act, of certain benefits from the charge to tax under section 187 of that Act (payments on retirement or removal from office or employment) shall not apply to any compensation paid for loss of office or employment or for loss or diminution of emoluments unless the loss or diminution is due to ill-health ; but this section shall not be taken to apply to any payment properly regarded as a benefit earned by past service.

Occupational pension schemes.
1970 c. 24.

74.—(1) The date on which—

(a) section 22 of the Finance Act 1970 (exemptions and reliefs for certain statutory schemes) comes into force ; and

(b) section 209 of the Taxes Act (the provision replaced by section 22) and section 211(5) of that Act cease to have effect ;

1971 c. 68.

shall, instead of being a date appointed under paragraph 3 of Schedule 3 to the Finance Act 1971, be 6th April 1973 ; and on that date section 210 of the Taxes Act (disallowance of certain contributions) shall cease to have effect.

(2) Accordingly, in paragraph 3(1) of Schedule 3 to the Finance Act 1971 for the words preceding the paragraphs there shall be substituted the words “ On 6th April 1973 ”.

(3) In section 22(2) of the Finance Act 1970 for the words “ Any contribution ” there shall be substituted the words “ Any ordinary annual contribution ” and for the words “ for which the contribution is paid ” the words “ in which the contribution is paid ”.

Relief for payment of interest.

75.—(1) Where a person pays in any year of assessment—

(a) annual interest chargeable to tax under Case III of Schedule D ; or

(b) interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom or from a person bona fide carrying on a business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom ;

and makes a claim to relief under this subsection, then, subject to the following provisions of this section, the amount of the interest shall be deducted from or set off against his income for

that year of assessment, and income tax shall be discharged or repaid accordingly.

PART IV

(2) Where interest is paid at a rate in excess of a reasonable commercial rate relief under this section shall not be given in respect of so much of the interest as represents the excess.

(3) Relief shall not be given under this section on the first £35 of the interest paid by an individual in any year of assessment except in so far as it is protected interest as defined in Schedule 9 to this Act, that is to say, interest which would have been eligible for relief under section 57, 60 or 190 of the Taxes Act, other than interest on overdrafts.

(4) Where the whole or part of any sum on which interest is paid by an individual in any year of assessment is outstanding in one or more other years of assessment and—

(a) the interest is not protected interest; and

(b) the amount (if any) of interest other than protected interest paid by that individual on that and any other sum in that other year or any of those other years is less than £35;

subsection (2) above shall be applied as if the question whether or to what extent interest paid in any year of assessment is in excess of a reasonable commercial rate had to be decided without regard to whether or at what rate interest is payable in any other year; but the amount on which relief is given under this section shall not be reduced, by virtue of that subsection as so applied, by more than, for each of those other years in which the amount so paid is less than £35, the amount of the difference.

(5) Where interest other than protected interest is paid after the end of the year of assessment in which it is due the amount on which relief is given under this section shall not be reduced under subsections (3) and (4) above to less than what it would have been had the interest been paid when due.

(6) For any year in which the agreements set out in Part I of Schedule 12 to the Taxes Act are in force this section shall have effect as if the references to the United Kingdom included references to the Republic of Ireland.

(7) This section has effect subject to Schedule 10 to this Act.

(8) The Taxes Act shall have effect subject to the amendments specified in Schedule 11 to this Act; and the enactments mentioned in Part V of Schedule 28 to this Act are hereby repealed to the extent specified in the third column of that Part.

76.—(1) The following provisions of this section shall apply where a person (in this section referred to as “the borrower”) acquires, whether before or after the passing of this Act, any securities, or an interest in any securities, which are redeemable Securities bought with borrowed money.

PART IV at a specified date (in this section referred to as “ the terminal date ”); and—

- (a) he pays interest on a debt or other liability which he has incurred in circumstances which cannot be shown to be unconnected with the acquisition; and
- (b) the whole or part of the debt or other liability is outstanding in any part of the period of three years ending with the terminal date (in this section referred to as “ the terminal period ”).

(2) Subject to subsection (3) below, if—

- (a) the borrower is for any year of assessment entitled to relief under section 75 of this Act in respect of interest paid on the debt or liability; and
- (b) the total amount on which he is entitled to relief under that section in that year in respect of that and any other interest exceeds £2,000;

then, if the income arising to him from the securities in the terminal period is less than the interest payable by him in respect of so much of the debt or liability as is outstanding in any part of that period, the amount of the difference shall be chargeable to tax under Case VI of Schedule D as if it were income arising to him in the year of assessment in which the securities are redeemed or the securities are or the interest is disposed of by him.

(3) If the borrower is a close company which is not a trading company, subsection (2) above shall have effect as if—

- (a) the references to a year of assessment were references to an accounting period;
- (b) the reference to the borrower being entitled to relief under section 75 of this Act were a reference to the borrower being entitled to relief under the Corporation Tax Acts; and
- (c) paragraph (b) were omitted;

but subject to subsection (4) below.

(4) Where a person to whom any part of the company’s income is finally apportioned would not be chargeable to tax under subsection (2) above if he, instead of the company, had, to an extent proportionate to that part, acquired and retained the securities, incurred the debt or other liability, and paid the interest on it, and similarly with any other close company any of whose income is finally apportioned to him,—

- (a) the amount finally apportioned to him shall not be increased by virtue of subsection (3) above; and
- (b) a reduction proportionate to the increase avoided by paragraph (a) above shall be made in the amount on

which the company is charged to tax under that subsection, but the reduction shall not diminish the amount finally apportioned to any other person.

(5) Where under arrangements made between connected persons (within the meaning of section 533 of the Taxes Act) or reciprocal arrangements made between any persons—

- (a) one or more of them (in this subsection referred to as “ the holders ”) acquire such securities or an interest in such securities as are mentioned in subsection (1) above; and
- (b) the other or another of them (in this subsection referred to as “ the claimant ”) pays interest on a debt or other liability which cannot be shown to be unconnected with the holders’ acquisition;

then, if subsection (1)(b) above applies to the debt or liability, subsections (2) to (4) above shall apply as if the securities or interest had been acquired and retained by the claimant instead of by the holders.

(6) In its application to any transaction resulting in a debt or liability falling within subsection (1) of this section, section 496(2) of the Taxes Act (annuity or other annual payment treated as interest) shall have effect as if it required the annuity or payment to be treated as annual interest on that debt or liability.

(7) For the purposes of this section, where securities of any class are redeemable at different dates they shall be treated as redeemable at the latest of those dates.

(8) In this section “ security ” includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured, and also includes a certificate of deposit as defined in section 55(3) of the Finance Act 1968; 1968 c. 44. and references to an interest in any securities include references to an interest in the proceeds of sale of any securities.

(9) A debt incurred for the purpose of extinguishing the whole or part of another debt or liability shall be treated for the purposes of this section as incurred for the same purpose as that other, and so on where more than two are successively incurred.

(10) This section does not apply in relation to any interest paid or income arising before the year 1972–73.

77.—(1) Where, on or after 11th April 1972, such a right as is mentioned in subsection (1) of section 186 of the Taxes Act is obtained as mentioned therein and the right is capable of being exercised later than seven years after it is obtained, subsection (2) of that section shall not prevent the charging of tax under any Share options—modification of section 186(2) of Taxes Act.

PART IV

other provisions of the Tax Acts in respect of the receipt of the right; but where tax is charged under any of those provisions, it shall be deducted from any tax which, under that section, is chargeable by reference to the gain realised by the exercise, assignment or release of the right.

(2) For the purpose of any charge to tax enabled to be made by virtue of this section, the value of a right shall be taken to be not less than the market value at the time the right is obtained of the shares which may be acquired by the exercise of the right or of shares for which shares so acquired may be exchanged, reduced by the amount or value (or, if variable, the least amount or value) of the consideration for which the shares may be so acquired.

(3) Paragraph 6 of Part VII of Schedule 12 to this Act shall apply for the interpretation of this section.

Approved
share option
schemes.

78.—(1) Where a person, on or after 6th April 1972, exercises a right to acquire shares in a body corporate which he obtained as a director or employee of that or any other body corporate, then, if—

- (a) the right was obtained by him in pursuance of a scheme approved under Schedule 12 to this Act (whether before or after the right was obtained or exercised); and
- (b) he satisfies the conditions specified in Part V of that Schedule;

section 186 of the Taxes Act (charge to tax under Schedule E) shall not apply to any gain realised by him by the exercise and, subject to subsection (2) of this section, tax shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.

(2) Where such a right is on or after 6th April 1972 obtained by a person as a director or employee of a body corporate in pursuance of a scheme so approved and he satisfies those conditions, but the aggregate of—

- (a) the amount or value of the consideration (if any) given by him for obtaining the right; and
- (b) the price at which he may acquire the shares by exercising the right;

is less than the market value at the time he obtains the right of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

(3) Where a person who has obtained a right to acquire any shares— PART IV

(a) is chargeable to tax under this section on any amount; and

(b) acquires the shares by exercising the right,

then, on the first disposal of the shares, whether by him or another person, after his acquisition, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares. 1965 c. 25.

(4) Schedule 12 to this Act shall have effect for supplementing this section.

79.—(1) Where a person, on or after 6th April 1972, acquires shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a director or employee of that or any other body corporate, and not in pursuance of an offer to the public, subsections (4) and (7) of this section shall apply unless their application is excluded by subsections (2) and (3) of this section respectively. Share incentive schemes.

(2) Subsection (4) below does not apply if—

(a) the acquisition was made in pursuance of a scheme approved (whether before or after the acquisition) under Schedule 12 to this Act and the person making the acquisition satisfies the conditions specified in Part V of that Schedule ; or

(b) the acquisition was made in pursuance of such arrangements as are mentioned in subsection (8) below ; or

(c) the acquisition was of shares which were not subject to any restrictions other than restrictions attaching to all shares of the same class, and the majority of shares of that class were acquired otherwise than as mentioned in subsection (1) above.

(3) Subsection (7) below does not apply if—

(a) the acquisition was made and the benefit mentioned in that subsection was received in pursuance of a scheme approved (whether before or after the acquisition or receipt) under Schedule 12 to this Act ; or

(b) the acquisition was made under such arrangements as are mentioned in subsection (8) of this section.

(4) Where this subsection applies and the market value of the shares at the end of the period mentioned in subsection (6)

PART IV below exceeds their market value at the time of the acquisition the person making the acquisition shall be chargeable to tax under Schedule E for the year of assessment in which that period ends on an amount equal, except as provided by subsection (5) below, to the excess (or, if his interest is less than the full beneficial ownership, such part of that amount as corresponds to his interest); and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

(5) The amount on which or on part of which the person making the acquisition is chargeable to tax under subsection (4) above shall, in the following cases, be reduced as follows, that is to say—

- (a) where, in accordance with the terms on which the acquisition of the shares was made, the consideration for the acquisition is subsequently increased, the said amount shall be reduced by an amount equal to the increase; and
- (b) where, in accordance with those terms, the shares are subsequently disposed of for a consideration which is less than their market value at the time of the disposal, the said amount shall be reduced so as to be equal to the excess of that consideration over the market value of the shares at the time of the acquisition;

and similarly where the interest acquired is less than the full beneficial ownership; and such assessments, alterations of assessments or repayments of tax shall be made as may be necessary to give effect to the reduction.

(6) The period referred to in subsection (4) above is a period ending at the earliest of the following times:—

- (a) the expiration of seven years from the acquisition of the shares or interest in the shares;
- (b) the time when that person ceases to have any beneficial interest in the shares; and
- (c) in relation only to a person who acquires shares, the time when the shares cease to be subject to any restrictions other than restrictions attaching to all shares of the same class;

and for the purposes of that subsection and of paragraph (b) above a person whose beneficial interest in shares is reduced shall be treated as ceasing to have an interest in such part of the shares as is proportionate to the reduction.

(7) Where this subsection applies and the person making the acquisition receives, by virtue of his ownership of or interest in

the shares, any benefit not received by the majority of persons who— PART IV

- (a) hold shares forming part of the ordinary share capital of the same body corporate; and
- (b) have acquired the shares otherwise than as mentioned in subsection (1) above;

and the benefit is not otherwise chargeable to income tax, he shall be chargeable to tax under Schedule E for the year of assessment in which he receives the benefit on an amount equal to the value of the benefit; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

(8) The arrangements referred to in subsections (2)(b) and (3)(b) of this section are arrangements under which employees of a body corporate receive as part of their emoluments shares or interests in shares of that body or of a body controlling it to an extent determined in advance by reference to the profits of either body.

(9) Where an amount is chargeable to tax under this section on a person acquiring any shares or interest in shares, then on the first disposal of the shares (whether by him or another person) after his acquisition, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares. 1965 c. 25.

(10) For the purposes of this section, where a person acquires any shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of that or any other body corporate, the shares or interest shall be deemed to be acquired by the director or employee, and subsection (9) above shall apply with the necessary modifications; and where that person receives a benefit as mentioned in subsection (7) above, the benefit shall be deemed to be received by the director or employee.

(11) For the purposes of this section a person who disposes of shares or an interest in shares otherwise than by a bargain at arm's length with a person who is not connected with him shall be deemed not to cease to have a beneficial interest in the shares.

(12) Schedule 12 to this Act shall have effect for supplementing this section.

PART IV
Land sold
and leased
back:
taxation of
consideration
received.

80.—(1) If, in any case where a person (in this section referred to as “the lessee”) who is a lessee of land under a lease having not more than 50 years to run (in this section referred to as “the original lease”) is entitled in respect of the rent under the lease to a deduction by way of tax relief of a kind to which section 491 of the Taxes Act applies (land sold and leased back: limitation on tax reliefs),—

- (a) the lessee assigns the original lease to another person, or surrenders it to his landlord, for a consideration which apart from this section would not be taxable otherwise than as capital in the hands of the lessee, and
- (b) there is granted or assigned to the lessee another lease (in this section referred to as “the new lease”) of or including the whole or any part of the land which was the subject of the original lease for a term not exceeding 15 years,

then, subject to the following provisions of this section, the provisions of the Taxes Act providing for deductions or allowances by way of tax relief in respect of payments of rent shall apply in relation to the rent under the new lease, and for the purposes of the Tax Acts a proportion of the consideration received by the lessee shall be treated not as a capital receipt but in accordance with subsection (3) below.

(2) For the purposes of this section—

- (a) if the aggregate of the rent payable under the new lease in respect of any rental period ending on a date falling before the 15th anniversary of the date on which the term of the new lease begins is greater than the aggregate of the rent payable under the new lease in respect of the period of equal duration beginning on the day following that date, then, unless the term of the new lease would be treated as ending on an earlier date by virtue of paragraph (b) below, that term shall be treated as ending on that date ; and
- (b) if under the terms of the new lease either the lessor or the lessee has power to determine the new lease at a time before the expiry of the term for which it was granted or the lessee has power to vary his obligations under the new lease so as to reduce the rent which he would otherwise have to pay or in any other manner beneficial to him, then, unless the term of the new lease would be treated as ending on an earlier date by virtue of paragraph (a) above, that term shall be treated as ending on the earliest date with effect from which, in exercise of that power, the lessor or

the lessee could determine the new lease or, as the case may be, the lessee could so vary his obligations ; and in any case where a rentcharge payable by the lessee is secured on the whole or any part of the property which is the subject of the new lease, the rent payable under the new lease shall be treated for the purposes of paragraphs (a) and (b) above as equal to the aggregate of the rentcharge and the rent payable under the terms of that lease.

(3) Subject to the following provisions of this section, the proportion of the consideration received by the lessee as mentioned in subsection (1) above, or of any instalment thereof, which for the purposes of the Tax Acts is to be treated not as a capital receipt but in accordance with this subsection shall be determined by the formula—

$$\frac{16 - n}{15}$$

where “n” is the term of the new lease expressed in years or, if that term is less than a year, where “n” is 1 ; and that proportion shall be treated for the purposes of those Acts—

- (a) as a receipt of a trade, profession or vocation, if the rent payable by the lessee under the new lease is allowable as a deduction in computing profits or gains or losses of a trade, profession or vocation for the purposes of tax and if the consideration is received by the lessee in the course of that trade, profession or vocation, and
- (b) in any other case, as a profit or gain chargeable under Case VI of Schedule D.

(4) In any case where the property which is the subject of the new lease does not include the whole of the property which was the subject of the original lease, the consideration received by the lessee shall be treated for the purposes of subsection (3) above as reduced to that portion thereof which is reasonably attributable to such part of the property which was the subject of the original lease as consists of, or is included in, the property which is the subject of the new lease.

(5) Schedule 3 to the Taxes Act (relief for individuals in respect of premiums taxable under Schedules D and A) shall have effect for the purpose of giving relief, on a claim being made in that behalf, from any increase in an individual's liability to income tax which is attributable to any amount being treated, by virtue of subsection (3) above, as an income receipt for a single year of assessment rather than as a series of such receipts during the term of the new lease ; and in the application of that Schedule by virtue of this subsection, for the definitions of

PART IV “chargeable sum” and “relevant period” there shall be substituted the following definitions:—

“chargeable sum” means the amount in respect of which, by virtue of subsection (3) above, the claimant is chargeable for income tax for the year of assessment;

“relevant period”, in relation to any chargeable sum, means the term of the new lease.

(6) Where, by agreement with his landlord, the lessee varies the terms of the original lease in such a manner that, in return for such a consideration as is specified in subsection (1)(a) above, the lessee undertakes to pay, during a period ending not later than 15 years after the date on which the consideration, or if the consideration is paid in instalments, the last instalment thereof, is paid to the lessee, a rent greater than that payable under the original lease, he shall be treated for the purposes of this section as having surrendered the original lease for that consideration and as having been granted a new lease for a term not exceeding 15 years but otherwise on the terms of the original lease as so varied.

(7) References in this section to the lessee (other than in subsection (1)(a) above) include references to a person who is a partner or associate of the lessee or an associate of a partner of the lessee; and for the purposes of this section the expression “associate” shall be construed in accordance with section 494(10) of the Taxes Act.

(8) Subject to subsection (7) above, expressions used in this section have the meanings assigned to them by section 90 of the Taxes Act (interpretation of Part III), and in subsection (2)(a) above “rental period” means a period in respect of which a payment of rent falls to be made, and for the purposes of that subsection, in a case where the rental period is a quarter or a month, each such period shall be treated as of equal duration.

(9) The preceding provisions of this section shall not apply if the lessee had, before 22nd June 1971, a right enforceable at law or in equity to the grant of the new lease, but in any case where, apart from this subsection, those provisions would apply, no part of the rent paid under the new lease shall be treated as a payment of capital, and the provisions of the Taxes Act providing for deductions or allowances by way of tax relief in respect of payments of rent shall apply accordingly.

**Premiums for
and duration
of leases.**

81.—(1) In subsection (6) of section 80 of the Taxes Act (amount payable by instalments) for the words from “shall, if he makes a claim” to the end there shall be substituted the words “may, if he satisfies the Board that he would otherwise suffer undue hardship, be paid at his option by such instalments

as the Board may allow over a period not exceeding eight years and ending not later than the time at which the last of the first-mentioned instalments is payable”.

(2) Section 84 of the Taxes Act (rules for ascertaining duration of leases) shall be amended as follows—

(a) in subsection (1), paragraph (a) shall be omitted and in paragraph (b) after the words “a date falling before the expiry of the term of the lease” there shall be inserted the words “and the premium was not substantially greater than it would have been (on the assumptions required by subsection (2) below) had the term been one expiring on that date”;

(b) at the end of subsection (1) there shall be added:
“and

(d) where the tenant, or a person connected with him (within the meaning of section 533 of this Act) is or may become entitled to a further lease or the grant of a further lease (whenever commencing) of the same premises or of premises including the whole or part of the same premises, the term of the lease may be treated as not expiring before the term of the further lease.”;

(c) in subsection (2) for the words “subsection (1)(b)” (in both places) there shall be substituted the words “subsection (1)” and at the end of the subsection there shall be added the words “and where, by the lease or in connection with the granting of it, benefits were conferred other than vacant possession and beneficial occupation of the premises or the right to receive rent at a reasonable commercial rate in respect of them, or payments were made which would not be expected to be made by parties so acting if no other benefits had been so conferred, it shall be further assumed, unless it is shown that the benefits were not conferred or the payments made for the purpose of securing a tax advantage in the application of this Part of this Act, that the benefits would not have been conferred nor the payments made had the lease been for a term ending on the date mentioned in subsection (1)(b) above.”;

(d) in subsection (3) for the words “subsection (1)” there shall be substituted the words “subsections (1) and (2)”.

(3) In section 90(1) of the Taxes Act, in the definition of “premium” after the words “superior landlord” there shall be added the words “or to a person connected, within the meaning

PART IV of section 533 of this Act, with the immediate or a superior landlord”.

(4) After section 90(2) of the Taxes Act there shall be inserted the following subsections—

“(2A) Where paragraph (d) of section 84(1) above applies, the premium, or an appropriate part of the premium, payable for or in connection with either lease mentioned in that paragraph may be treated as having been required under the other.

(2B) References in this section to a sum shall be construed as including the value of any consideration, and references to a sum paid or payable or to the payment of a sum shall be construed accordingly.”

(5) After section 84(3) of the Taxes Act there shall be inserted the following subsection—

“(3A) Where an inspector has reason to believe that a person has information relevant to the ascertainment of the duration of a lease in accordance with the preceding provisions of this section, the inspector may by notice in writing require him to give, within a time specified in the notice, such information on the matters specified in the notice as is in his possession; but a solicitor shall not be so required to do more, in relation to anything done by him on behalf of a client, than state that he is or was acting on behalf of a client and give the name and address of his client.”;

1970 c. 9.

and the subsection so inserted shall be added to the provisions of the Taxes Act specified in the second column of the Table set out in section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information).

(6) Subject to the transitional provisions contained in Schedule 13 to this Act, subsection (1) of this section shall be deemed to have come into force on 11th April 1972 and subsections (2) to (4) on 25th August 1971.

**Appeals
against
determinations
under sections
80 to 82 of
Taxes Act.**

82.—(1) Where it appears to the inspector that the determination of any amount on which a person may be chargeable to tax by virtue of section 80, 81 or 82 of the Taxes Act may affect the liability to tax of other persons he may give notice in writing to those persons as well as to the first-mentioned person of the determination he proposes to make and of the rights conferred on them by this section.

(2) Any person to whom such a notice is given may, within thirty days after the date on which it is given, object to the proposed determination by notice in writing given to the inspector.

(3) Where notices have been given under subsection (1) above and no notice of objection is duly given under subsection (2) above the inspector shall make the determination as proposed in his notices and the determination shall not be called in question in any proceedings.

(4) Where a notice of objection is duly given the amount mentioned in subsection (1) above shall be determined in like manner as an appeal and shall be so determined by the Special Commissioners or such body of General Commissioners as may be agreed on by the person to be charged and all persons who have given notice of objection.

(5) All persons to whom notices have been given under subsection (1) above may take part in any proceedings under subsection (4) above and in any appeal arising out of those proceedings and shall be bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings; and their successors in title shall also be so bound.

(6) A notice under subsection (1) above may, notwithstanding any obligation as to secrecy or other restriction on the disclosure of information, include a statement of the grounds on which the inspector proposes to make the determination.

(7) An inspector may by notice in writing require any person to give, within the time specified in the notice, such information as appears to the inspector required for deciding whether to give a notice under subsection (1) above to any person.

(8) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) the following shall be added in the second column of the Table: "Section 82 of the Finance Act 1972".

(9) In this section "tax" means income tax, corporation tax or capital gains tax.

83.—(1) Subsection (4) of section 498 of the Taxes Act (relief for underlying tax where dividend is paid by overseas company to company resident in the United Kingdom if not less than 10 per cent. of voting power in the company paying the dividend is directly or indirectly controlled by the company receiving it or by that company's parent) shall apply also where the voting power controlled as mentioned in that subsection is less than 10 per cent. if—

(a) it has been reduced below that percentage on or after 1st April 1972; or

(b) it has been acquired on or after that date in exchange for voting power in another company in respect of

Double
taxation
relief for
underlying
tax.

PART IV

which relief under the said subsection (4) was due prior to the exchange, and the company receiving the dividend shows that the conditions specified in subsection (2) below are satisfied.

(2) The said conditions are—

- (a) that the reduction below the said percentage (and any further reduction) or, as the case may be, the exchange (and any reduction thereafter) could not have been prevented by any reasonable endeavours on the part of the company receiving the dividend and was due to a cause or causes not reasonably foreseeable by it when control of the relevant voting power was acquired; and
- (b) no reasonable endeavours on the part of that company could have restored or, as the case may be, increased the voting power to not less than 10 per cent.

(3) In subsection (2) above references to the company receiving the dividend include references—

- (a) to any company of which it is a subsidiary within the meaning of section 500(2) of the Taxes Act; and
- (b) where prior to the reduction or exchange the voting power in question was controlled otherwise than directly by the company receiving the dividend, to each other company relevant for determining whether that voting power was controlled as required by the said subsection (4).

(4) In subsection (2)(a) above “the relevant voting power” means the voting power by virtue of which relief was due under the said subsection (4) prior to the reduction or exchange or, where control of the whole of that voting power was not acquired at the same time, that part thereof of which control was last acquired.

(5) In any case in which relief in respect of a dividend is due by virtue of the foregoing provisions of this section there shall be taken into account, as if it were tax payable under the law of the territory in which the company paying the dividend is resident, any tax that would be so taken into account under section 508 of the Taxes Act (extension of relief to U.K. and third country taxes) if the company paying the dividend and the company receiving it were related to each other within the meaning of subsection (5) of that section.

(6) This section has effect with respect to dividends paid (within the meaning of section 527(3) of the Taxes Act) on or after 1st April 1972.

PART V

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS

Advance corporation tax and tax credit

84.—(1) Where a company resident in the United Kingdom makes a qualifying distribution after 5th April 1973 it shall be liable to pay an amount of corporation tax (to be known as “advance corporation tax”) in accordance with this section.

(2) Subject to section 89 below, advance corporation tax shall be payable on an amount equal to the amount or value of the distribution, and shall be so payable at a rate (to be known as “the rate of advance corporation tax”) which for the period beginning with 6th April 1973 and ending with 31st March 1974 shall be three-sevenths and thereafter such fraction as Parliament may from time to time determine.

(3) The sum of the amount or value of a qualifying distribution and such proportion thereof as corresponds to the rate of advance corporation tax in force for the financial year in which the distribution is made is in this Part of this Act referred to as “a franked payment”, and references to any accounting or other period in which a franked payment is made are references to the period in which the distribution in question is made.

(4) In this Part of this Act “qualifying distribution” means any distribution other than—

- (a) a distribution which, in relation to the company making it, is a distribution by virtue only of paragraph (c) of section 233(2) of the Taxes Act (bonus redeemable share capital and bonus securities); or
- (b) a distribution consisting of any share capital or security which the company making the distribution has directly or indirectly received from the company by which the share capital or security was issued and which, in relation to the latter company, is a distribution by virtue only of that paragraph.

(5) Schedule 14 to this Act shall have effect for the purpose of regulating the time and manner in which advance corporation tax is to be accounted for and paid.

85.—(1) Subject to subsection (2) below, advance corporation tax paid by a company (and not repaid) in respect of any distribution made by it in an accounting period shall be set against its liability to corporation tax on any income charged to corporation tax for that accounting period and shall accordingly discharge a corresponding amount of that liability.

Payments of advance corporation tax to be set against company's liability to corporation tax on its income.

PART V

(2) The amount of advance corporation tax to be set against a company's liability for any accounting period under subsection (1) above shall not exceed the amount of advance corporation tax that would have been payable (apart from section 89 below) in respect of a distribution made at the end of that period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to the company's income charged to corporation tax for that period.

(3) Where in the case of any accounting period of a company there is an amount of surplus advance corporation tax (that is to say, advance corporation tax which cannot be set against the company's liability to corporation tax for that period because the company has no income charged to corporation tax for that period or because of subsection (2) above) the company may, within two years after the end of that period, claim to have the whole or any part of that amount treated for the purposes of this section (but not of any further application of this subsection) as if it were advance corporation tax paid in respect of distributions made by the company in any of its accounting periods beginning in the two years preceding that period (but so that the amount which is the subject of the claim is set, so far as possible, against the company's liability for a more recent accounting period before a more remote one) and corporation tax shall, so far as may be required, be repaid accordingly.

(4) Where in the case of any accounting period of a company there is an amount of surplus advance corporation tax which has not been dealt with under subsection (3) above, that amount shall be treated for the purposes of this section (including any further application of this subsection) as if it were advance corporation tax paid in respect of distributions made by the company in the next accounting period.

(5) Effect shall be given to subsections (1) and (4) above as if on a claim in that behalf by the company and, for that purpose, a return made by the company under section 11 of the Management Act containing particulars of advance corporation tax or surplus advance corporation tax which falls to be dealt with under those subsections shall be treated as a claim.

(6) For the purposes of this section the income of a company charged to corporation tax for any period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne exclusive of the part of the profits attributable to chargeable gains; and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description.

(7) No advance corporation tax shall by virtue of this section be set against a company's liability to corporation tax charged for any time before 1st April 1973, and this section has effect subject to the subsequent provisions of this Act.

86.—(1) Where a company resident in the United Kingdom makes a qualifying distribution after 5th April 1973 and the person receiving the distribution is another such company or a person resident in the United Kingdom, not being a company, the recipient of the distribution shall be entitled to a tax credit under this section (in this Part of this Act referred to as a "tax credit").

Tax credit for certain recipients of qualifying distributions.

(2) The tax credit in respect of a distribution shall be available for the purposes specified in this section and the subsequent provisions of this Act, and shall be equal to such proportion of the amount or value of the distribution as corresponds to the rate of advance corporation tax in force for the financial year in which the distribution is made.

(3) Subject to section 89(5) below, a company resident in the United Kingdom which is entitled to a tax credit in respect of a distribution may claim to have the amount of the credit paid to it if—

- (a) the company is wholly exempt from corporation tax or is only not exempt in respect of trading income; or
- (b) the distribution is one in relation to which express exemption (otherwise than by section 239 of the Taxes Act) is given, whether specifically or by virtue of a more general exemption from tax, under any provision of the Tax Acts.

(4) A person, not being a company resident in the United Kingdom, who is entitled to a tax credit in respect of a distribution may claim to have the credit set against the income tax chargeable on his income under section 3 of the Taxes Act or on his total income for the year of assessment in which the distribution is made and, where the credit exceeds that income tax, to have the excess paid to him.

(5) Where a distribution mentioned in subsection (1) above is, or falls to be treated as, or under any provision of the Tax Acts is deemed to be, income of a person other than the recipient, that person shall be treated for the purposes of this section as receiving the distribution (and accordingly the question whether he is entitled to a tax credit in respect of it shall be determined by reference to where he, and not the actual recipient, is resident); and where any such distribution is income of a United Kingdom trust the trustees shall be entitled to a tax credit in respect of it if no other person falls to be treated for the purposes of this section as receiving the distribution.

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Income tax on
distributions.

87.—(1) This section shall have effect for the year 1973-74 and subsequent years of assessment.

(2) For the Schedule F set out in subsection (1) of section 232 of the Taxes Act there shall be substituted—

“ SCHEDULE F

1. Income tax under this Schedule shall be chargeable for any year of assessment in respect of all dividends and other distributions in that year of a company resident in the United Kingdom which are not specially excluded from income tax, and for the purposes of income tax all such distributions shall be regarded as income however they fall to be dealt with in the hands of the recipient.

2. For the purposes of this Schedule and all other purposes of the Tax Acts any such distribution as aforesaid in respect of which a person is entitled to a tax credit shall be treated as representing income equal to the aggregate of the amount or value of that distribution and the amount of that credit, and income tax under this Schedule shall accordingly be charged on that aggregate.”

(3) No distribution which is chargeable under the said Schedule F shall be chargeable under any other provision of the Income Tax Acts.

(4) Subsections (2) and (3) of the said section 232 (which require a company resident in the United Kingdom to deduct and account for income tax in respect of distributions made by it) shall cease to have effect.

(5) Where in any year of assessment the income of a person, not being a company resident in the United Kingdom, includes a distribution in respect of which that person is not entitled to a tax credit—

(a) no assessment shall be made on that person in respect of income tax at the basic rate on the amount or value of the distribution ;

(b) that person's liability under any assessment made in respect of income tax at any such higher rate as is mentioned in section 32(1)(b) of the Finance Act 1971 on the amount or value of the distribution or on any part thereof shall be reduced by a sum equal to income tax at the basic rate on so much thereof as is assessed at any such higher rate ; and

(c) the amount or value of the distribution shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax.

(6) Where a person has paid tax in respect of excess liability on, or on any part of, a distribution which is not a qualifying

1971 c. 68.

distribution ("the non-qualifying distribution"), then, if, apart from this subsection, he would be liable to pay an amount of tax in respect of excess liability on, or on any part of, a repayment of the share capital or of the principal of the security which constituted the non-qualifying distribution, he shall be so liable only to the extent (if any) to which that amount exceeds the tax which he has already paid as aforesaid.

In this subsection "excess liability" means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any other rate.

Franked investment income

88.—(1) Income of a company resident in the United Kingdom which consists of a distribution in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution and the amount of that credit) is in this Part of this Act referred to as "franked investment income" of the company.

"Franked investment income".

(2) Subject to the transitional provisions hereinafter contained, the foregoing subsection shall apply also for the construction of references to franked investment income in other provisions of the Tax Acts in their application to any time after 5th April 1973 and shall so apply to the exclusion of the definition in section 240 of the Taxes Act.

89.—(1) Where in any accounting period a company receives franked investment income the company shall not be liable to pay advance corporation tax in respect of qualifying distributions made by it in that period unless the amount of the franked payments made by it in that period exceeds the amount of that income.

Calculation of advance corporation tax where company receives franked investment income.

(2) If in an accounting period there is such an excess, advance corporation tax shall be payable on an amount which, when the advance corporation tax payable thereon is added to it, is equal to the excess.

(3) If the amount of franked investment income received by a company in an accounting period exceeds the amount of the franked payments made by it in that period the excess shall be carried forward to the next accounting period and treated for the purposes of this section (including any further application of this subsection) as franked investment income received by the company in that period.

(4) Schedule 14 to this Act shall apply for the purpose of regulating the manner in which effect is to be given to the foregoing provisions of this section.

(5) No franked investment income shall be used to frank distributions of a company (that is to say, used in accordance

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with this section and the said Schedule so as to relieve the company from, or obtain repayment of, advance corporation tax for which the company would otherwise be liable) if the amount of the tax credit comprised in it has been paid under subsection (3) of section 86 above; and no payment shall be made under that subsection in respect of the tax credit comprised in franked investment income which has been used as aforesaid.

(6) In this Part of this Act any such excess as is mentioned in subsection (3) above (calculated without regard to franked investment income which by virtue of subsection (5) above cannot be used to frank distributions) is referred to as a "surplus of franked investment income"; and, subject to the transitional provisions hereinafter contained, references to a surplus of franked investment income in other provisions of the Tax Acts in their application to any time after 5th April 1973 shall be construed as references to any such excess instead of as references to any such surplus as is mentioned in section 240(1) of the Taxes Act.

Set-off of losses etc. against surplus of franked investment income.

90.—(1) For sections 254 and 255 of the Taxes Act (under which a company may recover income tax on any such surplus of franked investment income as is mentioned in section 240(1) of that Act by claiming a set-off for trading losses and certain other matters) there shall, as respects any time after 5th April 1973, be substituted the sections set out in Part I of Schedule 15 to this Act (under which a company may in corresponding circumstances receive payment of the amount of the tax credit comprised in a surplus of franked investment income as defined in section 89(6) above).

(2) Without prejudice to subsection (8) of the said section 254 or subsection (7) of the said section 255 as set out in the said Schedule, the surplus of franked investment income for an accounting period for which a claim is made under either of those sections shall be calculated without regard to any part of that surplus which, when the claim is made, has been used to frank distributions made by the company in a later accounting period.

(3) Where in consequence of a claim under either of the said sections 254 and 255 for any accounting period a company is entitled to payment of a sum in respect of tax credit, an amount equal to that sum shall be deducted from any advance corporation tax which apart from this subsection would fall, under section 85 above, to be set against the company's liability to corporation tax for the next accounting period and, if that amount exceeds that advance corporation tax or there is no such advance corporation tax, that excess or that amount (as the case may be) shall be carried forward and similarly deducted in relation to the following accounting period and so on.

Groups of companies

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91.—(1) For subsection (1) of section 256 of the Taxes Act Group income. (under which two related companies may elect to pay dividends to each other without deducting and accounting for income tax) there shall, as respects any time after 5th April 1973, be substituted the subsection (1) set out in Part II of Schedule 15 to this Act (under which companies may in corresponding circumstances elect to pay dividends to each other without incurring a liability to advance corporation tax and without the recipient being entitled to a tax credit).

(2) For subsection (4) of the said section 256 (recovery of tax where companies wrongly omit to pay it) there shall, as respects any time after 5th April 1973, be substituted the subsections (4) and (4A) set out in Part II of the said Schedule.

(3) The Board may make regulations with respect to the procedure to be adopted for giving effect to the said section 256 and as to the information and evidence to be furnished by a company in connection with that section.

Regulations under this subsection shall be made by statutory instrument, and the Board shall not make any such regulations unless a draft of them has been laid before, and approved by a resolution of, the Commons House of Parliament.

(4) Any election which has been made for the purpose of subsection (1) of the said section 256 as originally enacted and has not ceased to have effect by virtue of section 257(3) or (4) of the Taxes Act before 6th April 1973 shall be treated as having been made also for the purposes of subsection (1) of the said section 256 as substituted by this section.

92.—(1) Where in the case of any accounting period of a Setting of company's surplus company—

(a) there is an amount of surplus advance corporation tax advance corporation tax against subsidiary's liability. (calculated without regard to any surplus carried back or forward to that period under section 85(3) or (4) above); and

(b) advance corporation tax has been paid in respect of a dividend or dividends paid by the company in that period,

the company (in this section referred to as “the surrendering company”) may, on making a claim, surrender the benefit of the whole or any part of the amount mentioned in paragraph (a) above, up to a sum not exceeding the advance corporation tax mentioned in paragraph (b) above, to any company which was a

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subsidiary of the surrendering company throughout that accounting period, or (in such proportions as the surrendering company may determine) to any two or more companies which were subsidiaries of the surrendering company throughout that period.

(2) Subject to subsection (4) below, where the benefit of any amount of surplus advance corporation tax ("the surrendered amount") is surrendered under this section to a subsidiary, then—

(a) if the advance corporation tax mentioned in subsection (1)(b) above was paid in respect of one dividend only or of dividends all of which were paid on the same date, the subsidiary shall be treated for the purposes of section 85 above as having paid an amount of advance corporation tax equal to the surrendered amount in respect of a distribution made by it on the date on which the dividend or dividends were paid ;

(b) if the advance corporation tax mentioned in subsection (1)(b) above was paid in respect of dividends paid on different dates, the subsidiary shall be treated for the purposes of that section as having paid an amount of advance corporation tax equal to the appropriate part of the surrendered amount in respect of a distribution made by it on each of those dates.

(3) For the purposes of paragraph (b) of subsection (2) above "the appropriate part of the surrendered amount", in relation to any distribution treated as made on the same date as that on which a dividend was paid, means such part of that amount as bears to the whole of it the same proportion as the amount of that dividend bears to the total amount of the dividends mentioned in that paragraph.

(4) No advance corporation tax which a subsidiary is treated as having paid by virtue of subsection (2) above shall be set against the subsidiary's liability to corporation tax for any accounting period in which, or in any part of which, it was not a subsidiary of the surrendering company.

(5) Any claim under this section shall be made within two years after the end of the accounting period to which it relates and shall require the consent, notified to the inspector in such form as the Board may require, of the subsidiary or subsidiaries concerned.

(6) No amount of surplus advance corporation tax which has been dealt with under subsection (3) of section 85 above shall be available for the purposes of a claim under this section ; and no amount of surplus advance corporation tax the benefit of

which has been surrendered under this section shall be treated for the purposes of that section as advance corporation tax paid by the surrendering company.

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(7) A payment made by a subsidiary to a surrendering company in pursuance of an agreement between them as respects the surrender of the benefit of an amount of surplus advance corporation tax, being a payment not exceeding that amount,—

- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes ; and
- (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income.

(8) References in this section to a company apply only to bodies corporate resident in the United Kingdom ; and for the purposes of this section the question whether one body corporate is the subsidiary of another shall be determined as a question whether it is a 51 per cent. subsidiary of that other, except that that other shall be treated as not being the owner—

- (a) of any share capital which it owns directly in a body corporate if a profit on the sale of the shares would be treated as a trading receipt of its trade ; or
- (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt ; or
- (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.

Companies' capital gains

93.—(1) This section shall have effect—

- (a) in relation to companies other than authorised unit trusts or investment trusts, from 1st April 1973 ;
- (b) in relation to authorised unit trusts and investment trusts from 1st April 1972.

Reduction of corporation tax liability in respect of chargeable gains.

(2) The amount which in accordance with section 265 of the Taxes Act is to be included in respect of chargeable gains in a company's total profits for any accounting period shall, subject to subsections (3) and (4) below, be reduced—

- (a) in the case of a company other than an authorised unit trust or investment trust, by such fraction as Parliament may from time to time determine for the purposes of this paragraph ;

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(b) in the case of an authorised unit trust or investment trust, by five-eighths or such other fraction as Parliament may from time to time determine for the purposes of this paragraph.

(3) Where under either paragraph of subsection (2) above different fractions are in force in different parts of an accounting period—

(a) the amount mentioned in that subsection shall be apportioned between those parts; and

(b) the portion for each part shall be reduced under that subsection by the fraction in force in that part.

(4) If in an accounting period of a company there is a part falling before and a part falling after the time when this section comes into force in relation to the company, the amount mentioned in subsection (2) above shall be apportioned between those parts and no reduction shall be made under that subsection in respect of the portion for the part falling before that time.

(5) In this section “authorised unit trust” has the meaning given in section 358 of the Taxes Act and, subject to subsection (6) below, “investment trust” has the meaning given in section 359 of that Act.

(6) The said section 359 shall be amended as follows—

(a) before paragraph (a) of subsection (1) there shall be inserted “(aa) that the company is resident in the United Kingdom, and”;

(b) for the purposes of paragraph (b) of that subsection and the other provisions having effect in relation thereto—

(i) holdings in companies which are members of a group (whether or not including the investing company) and are not excluded from that paragraph shall be treated as holdings in a single company;

(ii) where the investing company is a member of a group, money owed to it by another member of the group shall be treated as a security of the latter held by the investing company and accordingly as, or as part of, the holding of the investing company in the company owing the money,

and for the purposes of this paragraph “group” means a company and all companies which are its 51 per cent. subsidiaries;

(c) for paragraph (c) of that subsection there shall be substituted “(c) that the shares making up the company’s ordinary share capital (or, if there are such shares of more than one class, those of each class) are quoted on a recognised stock exchange in the United Kingdom, and”.

but the amendments in paragraphs (b) and (c) above shall not affect the meaning of "investment trust" for any time before 11th April 1972 and, in relation to a company which immediately before that date was an investment trust within the meaning of the said section 359 without those amendments, that section shall continue to have effect without those amendments until the end of the company's accounting period containing or ending with 11th April 1975.

(7) The following provisions, that is to say—

- (a) section 311 of the Taxes Act (under which the effective rate of corporation tax is reduced for insurance companies in respect of chargeable gains reserved for holders of life assurance policies);
- (b) section 356 of that Act (which limits the rate of corporation tax payable on chargeable gains by authorised unit trusts and investment trusts to the rate payable by an individual),

shall cease to have effect, but this subsection shall not affect the operation of those provisions in relation to any accounting period ending before the time when this section comes into force in relation to the company concerned or, in the case of any such accounting period as is mentioned in subsection (4) above, as respects any portion of gains which, in accordance with that subsection, is not reduced under this section.

(8) The proviso to subsection (3) of section 322 of the Taxes Act (rate of corporation tax relevant for determining the amounts that may be retained under subsection (2) of that section by an insurance company when paying benefit in certain circumstances) shall not apply where the disposal mentioned in subsection (2)(b) of that section is on or after 1st April 1974; and where the disposal is on or after that date the rate of corporation tax mentioned in the said subsection (3) shall be reduced by the fraction for the time being fixed for the purposes of subsection (2)(a) of this section.

Close companies

94.—(1) Schedule 16 to this Act shall have effect instead of sections 289 to 301 of the Taxes Act (charge to income tax in respect of shortfall in distributions of close companies and apportionment of income of close companies among participators). Close companies.

(2) The remaining provisions of Chapter III of Part XI of the Taxes Act shall be amended in accordance with Schedule 17 to this Act.

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(3) The said Schedule 16 shall be construed as if it were included in the said Chapter III.

(4) Subsection (1) above shall have effect in relation to accounting periods ending after 5th April 1973.

Special classes of companies

Mitigation of corporation tax liability of small companies.

95.—(1) Where in any accounting period the profits of a company resident in the United Kingdom do not exceed the lower relevant maximum amount, the corporation tax charged on its income for that period shall be calculated as if the rate of corporation tax (instead of being the rate fixed for companies generally) were such lower rate (to be known as the “small companies rate”) as Parliament may from time to time determine.

(2) Where in any accounting period the profits of any such company exceed the lower relevant maximum amount but do not exceed the upper relevant maximum amount, the corporation tax charged on its income for that period shall be reduced by a sum equal to such fraction as Parliament may from time to time determine of the following amount—

$$(M - P) \times \frac{I}{P}$$

where M is the upper relevant maximum amount, P is the amount of the profits and I is the amount of the income.

(3) The lower and upper relevant maximum amounts mentioned above shall be determined as follows—

- (a) where the company has no associated company in the accounting period, those amounts are £15,000 and £25,000 respectively ;
- (b) where the company has one or more associated companies in the accounting period, the lower relevant maximum amount is £15,000 divided by one plus the number of those associated companies and the upper relevant maximum amount is £25,000 divided by one plus the number of those associated companies.

(4) In applying subsection (3) above to any accounting period of a company, an associated company which has not carried on any trade or business at any time in that accounting period (or, if an associated company during part only of that accounting period, at any time in that part of that accounting period) shall be disregarded and for the purposes of this section a company is to be treated as an “associated company” of another at a given time if at that time one of the two has control of the other or both are under the control of the same person or persons.

In this subsection “control” shall be construed in accordance with section 302 of the Taxes Act.

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(5) In determining how many associated companies a company has got in an accounting period or whether a company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company for part only of the accounting period, and two or more associated companies shall be counted even if they were associated companies for different parts of the accounting period.

(6) For an accounting period of less than twelve months the relevant maximum amounts determined in accordance with subsection (3) above shall be proportionately reduced.

(7) For the purposes of this section the profits of a company for an accounting period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne, with the addition of franked investment income other than franked investment income which the company (if a member of a group) receives from companies within the group; and for this purpose distributions received by the company from another are to be treated as coming from within the company's group if, but only if, dividends so received are group income or would be group income if the companies so elected.

(8) For the purposes of this section the income of a company for an accounting period is its income charged to corporation tax for that period as defined in section 85(6) above.

96.—(1) Where in any accounting period of a body to which this section applies the rate of corporation tax exceeds such special rate as Parliament may fix for the purposes of this section, the corporation tax charged on the income of that body for that period shall be calculated as if the rate of corporation tax were equal to that special rate.

Mitigation of corporation tax liability of industrial and provident societies, housing associations and building societies.

(2) The bodies to which this section applies are—

- (a) any registered industrial and provident society as defined in section 340 of the Taxes Act and any such co-operative association as is mentioned in subsection (8) of that section;
- (b) any housing association for the time being approved for the purposes of section 341 of that Act;
- (c) any building society as defined in section 343 of that Act and any company to which that section applies by virtue of subsection (9) of that section,

not being a society, association or company under the control (within the meaning of section 302 of that Act) of one or more companies which are not themselves bodies to which this section applies.

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(3) For the purposes of this section the income of a company for an accounting period is its income charged to corporation tax for that period as defined in section 85(6) above.

Insurance companies,

97. The enactments relating to the taxation of insurance companies shall, as from 6th April 1973, have effect subject to the provisions of Schedule 18 to this Act, being provisions for adapting and supplementing those enactments in consequence of the foregoing provisions of this Part of this Act.

Overseas residents and income

Persons resident abroad: tax credit.

98.—(1) An individual who, having made a claim in that behalf, is entitled to relief under Chapter II of Part I of the Taxes Act by virtue of section 27(2) of that Act (personal reliefs for certain non-residents) in respect of any year of assessment shall be entitled to a tax credit in respect of any qualifying distribution received by him in that year to the same extent as if he were resident in the United Kingdom.

(2) In subsection (1) of section 497 of the Taxes Act (which gives effect to double taxation agreements so far as they provide for the matters specified in paragraphs (a) to (c) of that subsection) after paragraph (c) there shall be inserted “ or

(d) for conferring on persons not resident in the United Kingdom the right to a tax credit under section 86 of the Finance Act 1972 in respect of qualifying distributions made to them by companies which are so resident.”

(3) Where a qualifying distribution is income of a fund to which section 214(1)(b) or (c) of the Taxes Act applies (colonial pension funds) the persons entitled to receive the income shall be entitled to a tax credit in respect of the distribution to the same extent as a recipient mentioned in section 86(1) above.

(4) Where a qualifying distribution is income of, or of the government of, any sovereign power or of any international organisation, that power, government or organisation shall be entitled to a tax credit in respect of the distribution to the same extent as a recipient mentioned in section 86(1) above.

In this subsection “international organisation” means an organisation of which two or more sovereign powers, or the governments of two or more such powers, are members; and if in any proceedings a question arises whether a person is within this subsection a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.

99.—(1) The relief afforded by section 84 of the Finance Act 1965 (transitional relief for companies with overseas trading income) shall be available for an additional four years and accordingly in subsection (1) of that section for the words “the seven years of assessment” and “those seven years” there shall be substituted respectively the words “the eleven years of assessment” and “those eleven years”.

PART V
Companies with overseas trading income: extension and modification of transitional relief.
1965 c. 25.

(2) The proportion by which relief under that section is to be reduced in accordance with the proviso to the said subsection (1) shall be three-fifths in the five years following the year 1971-72, and accordingly in that proviso for the words “by three-fifths in the year 1971-72” to the end there shall be substituted the words “and by three-fifths in the year 1971-72 and each of the five following years of assessment”.

(3) Subsection (4) of the said section 84 (restriction of relief where a company increases its net dividends) shall not apply to any year of assessment after the year 1971-72.

(4) In relation to any year of assessment beginning with the year 1973-74 the said section 84 and Schedule 20 to the said Act of 1965 shall have effect subject to Schedule 19 to this Act.

100.—(1) The provisions of Chapters I and II of Part XVIII of the Taxes Act (double taxation relief) applicable to corporation tax in respect of income shall apply also to corporation tax in respect of chargeable gains, and for that purpose—

Double taxation relief.

- (a) references in those Chapters to income shall be construed as references to chargeable gains; and
- (b) in sections 497(1) and 498(6) references to taxes of a similar character, or corresponding, to corporation tax shall be construed as references to taxes on chargeable gains;

and sections 517 and 518 of that Act (regulations and information) shall have effect accordingly.

(2) Section 499 of the Taxes Act (which has the effect that the provisions of those Chapters applicable to income tax apply to corporation tax in respect of chargeable gains) shall cease to have effect.

(3) For the purposes of section 505 of the Taxes Act (which limits the credit for foreign tax allowable against corporation tax in respect of any income to the corporation tax attributable to that income and, by virtue of subsection (1) above, applies similarly in relation to chargeable gains) the corporation tax attributable to any income or gain (“the relevant income or gain”) shall be determined in accordance with subsections (4) to (6) below.

PART V

(4) Subject to subsections (5) and (6) below, the amount of corporation tax attributable to the relevant income or gain shall be treated as equal to such proportion of the amount of that income or gain as corresponds to the rate of corporation tax payable by the company (before any credit under the said Part XVIII) on its income or chargeable gains for the accounting period in which the income arises or the gain accrues ("the relevant accounting period").

(5) Where in the relevant accounting period there is any deduction to be made for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description—

- (a) the company may for the purposes of this section allocate the deduction in such amounts and to such of its profits for that period as it thinks fit; and
- (b) the amount of the relevant income or gain shall be treated for the purposes of subsection (4) above as reduced or, as the case may be, extinguished by so much (if any) of the deduction as is allocated to it.

(6) Where in accordance with section 85 above any advance corporation tax falls to be set against the company's liability to corporation tax on its income for the relevant accounting period—

- (a) the company may for the purposes of this section allocate that advance corporation tax in such amounts and to the corporation tax attributable to such of its income for that period as it thinks fit; and
- (b) the amount of corporation tax attributable to the relevant income as determined in accordance with subsections (4) and (5) above shall be reduced by so much (if any) of that advance corporation tax as is allocated to the corporation tax attributable to that income;

but the amount of advance corporation tax allocated under this subsection to the corporation tax attributable to any income shall not exceed the advance corporation tax that would have been payable (apart from section 89 above) in respect of a distribution made at the end of the relevant accounting period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to that income.

(7) The foregoing provisions of this section shall have effect from 1st April 1973.

(8) No order shall be made under section 31 or 32 of the Finance Act 1966 (transitory provisions for dividends, interest and royalties paid to non-residents) extending the period mentioned in either of those sections beyond 5th April 1973.

Miscellaneous provisions

PART V

101.—(1) This section applies if—

- (a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade or business carried on by the company ; or
- (b) at any time after the scale of the activities in a trade or business carried on by a company has become small or negligible, and before any considerable revival of the trade or business, there is a change in the ownership of the company.

Change in ownership of company: calculation and treatment of advance corporation tax.

(2) Sections 85 and 89 above and Schedule 14 below shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods ; and for that purpose the income of the company charged to corporation tax for the accounting period (as defined in subsection (6) of the said section 85) shall be apportioned between those parts.

(3) No advance corporation tax paid by the company in respect of distributions made in an accounting period beginning before the change of ownership shall be treated under subsection (4) of the said section 85 as paid by it in respect of distributions made in an accounting period ending after the change of ownership ; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.

(4) In subsection (1) above “ major change in the nature or conduct of a trade or business ” includes—

- (a) a major change in the type of property dealt in, or services or facilities provided, in the trade or business ; or
- (b) a major change in customers, outlets or markets of the trade or business ; or
- (c) a change whereby the company ceases to be a trading company and becomes an investment company or vice versa ;
- (d) where the company is an investment company, a major change in the nature of the investments held by the company ;

and this section applies even if the change is the result of a gradual process which began outside the period of three years mentioned in subsection (1)(a) above.

PART V

(5) In this section—

“trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

“investment company” means a company (other than a holding company) whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom;

“holding company” means a company whose business consists wholly or mainly in the holding of shares or securities of companies which are its 90 per cent. subsidiaries and which are trading companies.

(6) Subsection (3) above applies to advance corporation tax which a company is treated as having paid by virtue of section 92 above as it applies to advance corporation tax which it has actually paid.

(7) Subsections (6) and (7) of section 483 of the Taxes Act (which contain supplementary provisions relating to the restriction of the carry-forward of losses under that section in circumstances corresponding to those dealt with in this section) and section 484 of that Act (which contains rules for ascertaining changes of ownership for the purposes of that section) shall apply also for the purposes of this section and as if in subsection (3) of section 484 the reference to the benefit of the losses were a reference to the benefit of the advance corporation tax.

Rectification of excessive set-off etc. of advance corporation tax or tax credit.

102.—(1) if an inspector discovers that—

(a) any set-off of advance corporation tax under section 85 above; or

(b) any set-off or payment of tax credit,

ought not to have been made, or is or has become excessive, the inspector may make any such assessments as may in his judgment be required for recovering any tax that ought to have been paid or any payment of tax credit that ought not to have been made, and generally for securing that the resulting liabilities to tax (including interest on unpaid tax) of the persons concerned are what they would have been if only such set-offs or payments had been made as ought to have been made.

(2) The Management Act shall apply to any assessment under this section for recovering a payment of tax credit as if it were an assessment to income tax for the year of assessment, or, in the case of a company, corporation tax for the accounting period, in respect of which the payment was claimed, and as if that payment represented a loss of tax to the Crown; and any sum charged by any such assessment shall, subject to any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment.

103.—(1) Notwithstanding that a rate of advance corporation tax has not been fixed for any financial year, advance corporation tax in respect of distributions made in that year shall be payable under Schedule 14 to this Act and may be assessed under that Schedule according to the rate last fixed but, if a rate of advance corporation tax for that year is not fixed by an Act passed on or before 5th August next after the end of the year, or advance corporation tax is charged for that year otherwise than as it has been paid or assessed, the necessary adjustment shall be made by discharge or repayment of tax or by a further assessment.

PART V
Charge of advance corporation tax at previous rate until new rate is fixed and changes of rate.

(2) Where the House of Commons passes a Resolution for fixing the rate of advance corporation tax for any financial year or for altering the charge to advance corporation tax for any financial year, then any payment or assessment afterwards made by virtue of subsection (1) above may be made in accordance with the Resolution; but that subsection shall not require any payment to be made or authorise the making of any assessment later than 5th May next after the end of any financial year unless a Resolution for fixing a rate of advance corporation tax for that year has been so passed, nor shall any such payment be required or assessment made by virtue of any such Resolution later than the prescribed period from the date on which the Resolution is passed.

(3) In subsection (2) above “the prescribed period” has the meaning given in section 243(7) of the Taxes Act.

(4) Where different rates of advance corporation tax are in force in different parts of an accounting period, the maximum set-off permitted for that accounting period under subsection (2) of section 85 above shall be determined by apportioning the income of the company charged to corporation tax for that period (as defined in subsection (6) of that section) between the different parts of the period, calculating the maximum for each part as if it were a separate accounting period and aggregating the result.

(5) Where a company makes a distribution before 6th April in any financial year and the rate of advance corporation tax for that year differs from the rate last fixed—

- (a) any advance corporation tax payable in respect of the distribution shall be calculated according to the rate last fixed and sections 84(3) and 86(2) above and Schedule 14 below shall have effect in relation to the distribution as if the rate for that year were the same as the rate last fixed;
- (b) if the distribution is made in an accounting period which extends beyond 5th April in that year and another distribution is made, or franked investment income is received, in that period after that date, the

PART V

company's liability for advance corporation tax, the amount of any such tax and the amount of any surplus of franked investment income for that accounting period shall be determined under section 89 above and Schedule 14 below as if the part of the accounting period ending with, and the part of it beginning after, that date were separate accounting periods.

Payments in respect of which company is liable to account for income tax.

104. Schedule 20 to this Act shall have effect for the purpose of regulating the time and manner in which companies resident in the United Kingdom—

- (a) are to account for and pay income tax in respect of payments made after 5th April 1973 from which tax is deductible under section 53 or 54 of the Taxes Act ;
- (b) are to be repaid income tax in respect of payments received by them after that date.

Returns of distributions which are not qualifying distributions.

105. Schedule 21 to this Act shall have effect for the purpose of requiring companies resident in the United Kingdom to make returns and give information to the inspector in respect of distributions made by them after 5th April 1973 which are not qualifying distributions.

Amendments as to meaning of "distribution".

106. Sections 233 to 237 of the Taxes Act (meaning of "distribution") shall have effect subject to the provisions of Schedule 22 to this Act.

Amendments as to accounting periods.

107.—(1) For paragraph (c) of section 247(3) of the Taxes Act (under which a company's accounting period ends on its beginning or ceasing to carry on any trade or to be, in respect of a trade, within the charge to corporation tax) there shall be substituted—

" (c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all the trades carried on by it, within the charge to corporation tax ".

(2) For subsection (2) of section 155 of the said Act (corporation tax in respect of company's share in partnership profits etc.) there shall be substituted—

" (2) A company's share in the profits or loss of any accounting period of the partnership, or in any matter excluded from the computation by proviso (b) to subsection (1) above, shall be determined according to the interests of the partners during that period, and corporation tax shall be chargeable as if that share derived from a trade carried on by the company alone in its corresponding accounting period or periods ; and the company shall be assessed and charged to tax for its corresponding accounting period or periods accordingly.

In this subsection "corresponding accounting period or periods" means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one."

(3) In section 252(8) of the said Act (company reconstructions without change of ownership) for the words from "the accounting periods" onwards there shall be substituted the words "any necessary apportionment shall be made of receipts or expenses".

(4) This section has effect in relation to accounting periods ending after 5th April 1972.

Supplementary

108.—(1) The Board may, by regulations made for any of the purposes mentioned in sections 84(5), 89(4), 104 or 105 above, modify, supplement or replace any of the provisions of Schedules 14, 20 or 21 to this Act; and references in this Act and in any other enactment to any of those Schedules shall be construed as including references to any such regulations.

Power to make regulations modifying or replacing Schedules 14, 20 or 21.

(2) Without prejudice to the generality of the preceding subsection, regulations under that subsection may, in relation to advance corporation tax or income tax for which a company is liable to account, modify any provision of Parts II to VI of the Management Act or apply any such provision with or without modifications.

(3) Regulations under this section may—

- (a) make different provision for different descriptions of companies and for different circumstances and may authorise the Board, where in their opinion there are special circumstances justifying it, to make special arrangements as respects advance corporation tax or income tax for which a company is liable to account or the repayment of income tax borne by a company or the payment to a company of amounts in respect of any tax credit to which it is entitled;
- (b) include such transitional and other supplemental provisions as appear to the Board to be expedient or necessary.

(4) Regulations under this section shall be made by statutory instrument, and the Board shall not make any such regulations unless a draft of them has been laid before, and approved by a resolution of, the Commons House of Parliament.

PART V
Transitional provisions.

109. Schedule 23 to this Act shall have effect with respect to the matters there dealt with, being transitional provisions relating to this Part of this Act.

Interpretation of Part V.

110.—(1) In this Part of this Act—

“franked investment income” shall be construed in accordance with section 88 above but subject to section 256(1) of the Taxes Act;

“franked payment” shall be construed in accordance with section 84(3) above but subject to section 256(1) of the Taxes Act;

“the Management Act” means the Taxes Management Act 1970;

“qualifying distribution” has the meaning given in section 84(4) above;

“surplus of franked investment income” has the meaning given in section 89(6) above;

“surplus advance corporation tax” has the meaning given in section 85(3) above;

“tax credit” means a tax credit under section 86 above;

“United Kingdom trust” means a trust administered under the law of any part of the United Kingdom, not being a trust the general administration of which is ordinarily carried on outside the United Kingdom and the trustees, or a majority of the trustees, of which are resident or ordinarily resident outside the United Kingdom.

(2) References in this Part of this Act to distributions or payments received by a company apply to any received by another person on behalf of or in trust for the company but not to any received by the company on behalf of or in trust for another person.

(3) References in this Part of this Act to using franked investment income to frank distributions of a company shall be construed in accordance with section 89(5) above.

(4) References in this Part of this Act to an amount of profits on which corporation tax falls finally to be borne are references to the amount of those profits after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given from or against those profits, including deductions and reliefs which under any provision are treated as reducing them for those purposes.

(5) For the purposes of any reference in this Part of this Act, or in any provision amended thereby, to the rate of advance corporation tax in force for a financial year, the period beginning with 6th April 1973 and ending with 31st March 1974 shall be treated as if it were a financial year.

1970 c. 9.

111.—(1) The enactments specified in Schedule 24 to this Act shall have effect with the amendments there specified, being amendments adapting and supplementing those enactments in consequence of the provisions of this Part of this Act. PART V
Consequential
amendments.

(2) The provisions of the Taxes Act as to the charge, calculation and payment of corporation tax (including provisions conferring any exemption) shall not be construed as affecting the charge, calculation or payment of advance corporation tax, and the Corporation Tax Acts shall apply for the purposes of this Part of this Act whether or not they are for the time being applicable for the purposes of corporation tax other than advance corporation tax.

(3) This section has effect from 6th April 1973 and does not affect the operation of any enactment in relation to any previous time; and no amendment in the said Schedule 24 adapting an enactment so as to make it apply or refer to a provision of this Act instead of a provision repealed thereby shall be construed as affecting the operation of that enactment in relation to the repealed provision so far as concerns matters occurring before the repeal or otherwise unaffected by it.

PART VI

TAX ON CAPITAL GAINS AND ESTATE DUTY

112.—(1) Subject to subsections (2) and (6) below, this section applies to disposals after 5th April 1972 of— Reduction of
tax liability
on disposals
of shares in
unit trusts,
investment
trusts and
funds in
court.
1965 c. 25.
1965 c. 2.

(a) shares in authorised unit trusts, in unit trusts to which section 38(2) of the Finance Act 1965 applies, or in investment trusts; and

(b) shares in any common investment fund established under section 1 of the Administration of Justice Act 1965.

(2) Paragraph (a) of subsection (1) above does not apply to any share of a class to which there would not be attributable in a liquidation of the trust the whole or a substantial part—

(a) of the assets of the trust representing gains on capital; or

(b) if those assets would be so attributable to two or more classes of shares, of a proportion of those assets corresponding to the proportion of all the issued shares of those classes represented by the issued shares of the class in question.

Where there are shares on which different amounts have been paid up the proportion mentioned in paragraph (b) above shall

PART VI

be calculated by reference to the amount paid up on the issued share capital of each class of shares.

(3) Where gains accrue to a person in any year of assessment on any disposals to which this section applies, the capital gains tax to which he is chargeable for that year shall be reduced by a credit equal to whichever of the following amounts is the smallest—

- (a) the amount of that tax ;
- (b) an amount equal to 15 per cent. of the total chargeable gains accruing to him in that year on disposals to which this section applies ;
- (c) an amount equal to 15 per cent. of the total amount of chargeable gains accruing to him in that year on which capital gains tax is chargeable (or would have been chargeable apart from section 21 of the Finance Act 1965).

1965 c. 25.

(4) Subsection (3) above shall have effect in relation to the corporation tax chargeable on a company for an accounting period in which gains accrue to it on any disposals to which this section applies as it has effect in relation to the capital gains tax chargeable on a person other than a company, and shall so have effect as if—

- (a) references to a year of assessment were references to an accounting period ; and
- (b) for the total amount of chargeable gains mentioned in paragraph (c) of that subsection there were substituted the amount of gains charged to corporation tax for the accounting period in question increased, where subsection (5) below applies, in accordance with that subsection.

In this subsection “ gains charged to corporation tax ” means the profits on which corporation tax falls finally to be borne after deducting the income charged to corporation tax as defined in section 85(6) (read with section 110(4)) above except that, in relation to an accounting period for which the company claims a credit for foreign tax, those gains shall be determined in accordance with section 100(5) above.

(5) In relation to an accounting period for which any reduction falls to be made under section 93 above in the amount to be included in respect of chargeable gains in the company’s total profits, the gains mentioned in subsection (4)(b) above shall be increased by multiplying by the inverse of the fraction of that amount remaining after the reduction ; and if under subsection

(3) or (4) of that section the reduction falls to be made by reference to different portions of that amount, the increase under this subsection shall be made similarly, using the inverse of the fractions of those portions remaining after any reduction.

(6) Where a person disposes after 5th April 1972 of a share—

- (a) which at the time of disposal is a qualifying share (that is to say, a share falling within subsection (1)(a) above) but has not at all times while in the ownership of that person been a qualifying share ; or
- (b) which at the time of disposal is not a qualifying share but has previously while in his ownership been such a share,

this section shall apply to the disposal but for the purposes of subsection (3)(b) above the gain accruing on the disposal shall be treated as reduced in proportion to the time for which the share was in the ownership of that person without being a qualifying share.

(7) Where under paragraphs 4 to 7 of Schedule 7 to the Finance Act 1965 (exchanges, etc. of shares) the share of which a person disposes falls to be identified with another asset or other assets previously held by him, subsection (6) above shall have effect as if—

- (a) his period of ownership of the share disposed of included his period of ownership of the other asset or assets ; and
- (b) the share disposed of had or had not been a qualifying share at any time during that additional period according to whether or not the other asset or any of those other assets was a qualifying share at that time.

(8) Where a person disposes after 5th April 1972 of a share which at the time of disposal is a qualifying share and which he has received on a conversion of—

- (a) a share other than a qualifying share ; or
- (b) loan stock,

previously held by him, being a conversion pursuant to rights in that behalf attached to the share or stock previously held, subsections (6) and (7) above shall have effect as if that share or stock had been a qualifying share throughout any time for which the company by which it was issued was a body of the kind mentioned in subsection (1)(a) above.

(9) Where the gain accruing on a disposal to which this section applies falls to be computed in accordance with paragraph

PART VI
1965 c. 25.

27(2)(b) of Schedule 6 to the Finance Act 1965 (unquoted securities held before 6th April 1965 which are subsequently converted or exchanged)—

- (a) the period of ownership of the share disposed of shall not be treated under subsection (7)(a) above as having begun before the time mentioned in the said paragraph 27(2)(b); and
- (b) for the purposes of subsection (3)(b) above the gain shall be taken to be that mentioned in sub-paragraph (ii) of the said paragraph 27(2)(b) reduced, where applicable, in accordance with subsections (6) and (7) above.

(10) For the purposes of subsections (6) to (8) above no account shall be taken of any period of ownership before 6th April 1965; and nothing in paragraphs 4 to 7 of the said Schedule 7 shall be construed as enabling any asset to be treated as having been a qualifying share at any time when it was not such in fact.

(11) The following provisions, that is to say—

- (a) section 37(1) of the Finance Act 1965 and that section as applied by section 38(2) of that Act (under which the amount apportioned to a share out of the net gains of a unit trust or investment trust is deductible in computing a gain on a disposal) and section 357 of the Taxes Act (which provides for making the apportionment); and
- (b) section 94(2) of the said Act of 1965 (which makes corresponding provision for common investment funds),

together with any apportionment already made under those provisions, shall not apply as respects any disposal after 5th April 1972 whether or not a disposal to which this section applies.

(12) For the purposes of this section loan stock issued by an investment trust before 11th April 1972, being loan stock to which there would be attributable in a liquidation of the trust the whole of the assets of the trust representing gains on capital, shall be treated as shares in the trust falling within subsection (1)(a) above.

(13) In this section “authorised unit trust” has the meaning given in section 358 of the Taxes Act and, subject to section 93(6) above, “investment trust” has the meaning given in section 359 of that Act.

113. For the year 1972-73 and subsequent years of assessment the rate of capital gains tax payable on chargeable gains accruing—

PART VI
Reduced rate of capital gains tax for unit trusts with exempt unit holders and for funds in court.
1965 c. 25.
1965 c. 2.

(a) to a unit trust to which section 38(2) of the Finance Act 1965 applies (unit trusts for exempt unit holders);

(b) to a common investment fund established under section 1 of the Administration of Justice Act 1965,

shall be 15 per cent.

114.—(1) Nothing in any trust deed executed before 1st September 1972 and regulating any such unit trust as is mentioned in section 112(1)(a) above shall preclude the managers of the trust or the trustee, in valuing the assets of the trust at any time during an accounting period, from making a deduction for any tax for which the trust may become liable in respect of its net gains in that period up to that time.

Valuation of assets of and rights in unit trusts.

In this subsection “net gains” means the excess, if any, of chargeable gains over the allowable losses deductible from those gains as those gains and losses are computed for the charge to tax on the trust.

(2) In section 44(4) of, and paragraph 22(1)(b) of Schedule 6 to, the Finance Act 1965 (valuation of rights of unit holders in unit trust scheme the prices of which are published daily by the managers of the scheme) for the words “are published daily” there shall be substituted the words “are published regularly”.

This subsection has effect in relation to disposals after 5th April 1972.

115. Section 22(4) of the Finance Act 1965 (assets deemed acquired and disposed of at market value) shall not apply in calculating, for the purposes of any disposal made after 5th April 1972, the consideration given for the acquisition of shares in pursuance of a share option scheme as defined in Schedule 12 to this Act.

Share option schemes (capital gains tax).

116.—(1) In sub-paragraph (1) of paragraph 14 of Schedule 6 to the Finance Act 1965 (consideration payable by instalments) for the words from “the chargeable gain” to the end there shall be substituted the words “then, if the person making the disposal satisfies the Board that he would otherwise suffer undue hardship, the tax on a chargeable gain accruing on the disposal may, at his option, be paid by such instalments as the Board may allow over a period not exceeding eight years and ending not later than the time at which the last of the first-mentioned instalments is payable”; and sub-paragraphs (2) to (4) of that

Consideration payable by instalments.

PART VI
1971 c. 68.

paragraph and paragraph 5 of Schedule 11 to the Finance Act 1971 (which, in relation to relief under section 57 of that Act, makes provision corresponding to that made by paragraph 14) shall be omitted.

(2) Subject to subsections (3) and (4) below, this section shall be deemed to have come into force on 11th April 1972.

(3) Where, under paragraph 14 of Schedule 6 to the Finance Act 1965 as originally enacted, part of a chargeable gain would fall to be regarded as accruing before and part as accruing on or after 11th April 1972, subsection (1) above shall not apply but so much of the gain as would fall to be regarded as accruing after that date shall instead be regarded as accruing on that date; but if the person liable to pay the tax on the gain regarded as so accruing satisfies the Board that he would otherwise suffer undue hardship, the tax may, at his option, be paid by such instalments as the Board may allow.

(4) Where, under paragraph 5 of Schedule 11 to the Finance Act 1971, part of any consideration for a disposal made before 11th April 1972 would have been deemed, for the purposes of section 57 of that Act, to be a consideration for a disposal made in a year of assessment later than 1971-72 it shall be deemed for those purposes to be a consideration for a disposal made in the year 1972-73.

Postponement
of payment
of tax.

117. In relation to a disposal made or deemed to be made on or after 11th April 1972 the following shall be substituted for paragraph 4 of Schedule 10 to the Finance Act 1965:—

“ 4.—(1) Where the whole or part of any assets falling within sub-paragraph (2) below is disposed of by way of gift or is under subsection (3) or subsection (4) of section 25 of this Act deemed to be disposed of, the capital gains tax chargeable on a gain accruing on the disposal may, at the option of the person liable to pay it, be paid by eight equal yearly instalments or sixteen half-yearly instalments, but subject to the payment of interest under Part IX (except sections 87 and 88) of the Taxes Management Act 1970.

1970 c. 91.

(2) The assets referred to in sub-paragraph (1) above are:—

- (a) land or an estate or interest in land;
- (b) any shares or securities of a company not quoted on a recognised stock exchange in the United Kingdom or elsewhere; and

- (c) any assets used exclusively for the purposes of a trade, profession or vocation which, immediately before the disposal, was carried on (whether alone or in partnership) by the person by whom the disposal was made or deemed to be made.

(3) Where tax is payable by instalments by virtue of this paragraph, the first instalment shall be due at the expiration of twelve months from the time of the disposal and the interest on the unpaid portion of the tax shall be added to each instalment and paid accordingly; but the tax for the time being unpaid, with interest to the date of payment, may be paid at any time, and shall become due and payable forthwith if—

- (a) the disposal was by way of gift to a person connected with the donor or was deemed to be made under subsection (3) or subsection (4) of section 25 of this Act; and
- (b) the assets are disposed of for valuable consideration under a subsequent disposal (whether or not the subsequent disposal is made by the person who acquired them under the first disposal).”

118. Section 33 of the Finance Act 1965 (replacement of business assets) shall be amended by adding after paragraph (c) of subsection (10) the words “ and

Replacement of business assets.
1965 c. 25.

- (d) in relation to such of the activities of a body of persons whose activities are carried on otherwise than for profit and are wholly or mainly directed to the protection or promotion of the interests of its members in the carrying on of their trade or profession as are so directed : ”

and the section as so amended shall apply in any case where the acquisition of the new assets, or of the interest in the new assets, referred to therein takes place on or after 11th April 1972.

119.—(1) Subsection (2) of this section shall apply where a disposal of an asset is made, after 21st March 1972, otherwise than under a bargain at arm’s length—

Gifts to charities, etc.

- (a) to a charity; or
- (b) to any of the bodies falling within Schedule 25 to this Act.

(2) Section 22(4) of the Finance Act 1965 (consideration deemed to be equal to market value) and section 31(3) of that Act (concession for gifts of national and other interest) shall

1965 c. 25.

PART VI not apply ; but if the disposal is by way of gift (including a gift in settlement) or for a consideration not exceeding the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act, then—

- 1971 c. 68. (a) the disposal and acquisition shall be treated for the purposes of Part III of that Act, but not for the purposes of section 57 of the Finance Act 1971 (exemption or relief for small disposals) as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal ; and
- 1965 c. 25. (b) where, after the disposal, the asset is disposed of by the person who acquired it under the disposal, its acquisition by the person making the earlier disposal shall be treated for the purposes of Part III of the Finance Act 1965 as the acquisition of the person making the later disposal.

(3) Where, otherwise than on the termination of a life interest (within the meaning of section 25 of the Finance Act 1965) by the death of the person entitled thereto, any assets or parts of any assets forming part of settled property are, under subsection (3) or subsection (4) of that section, deemed to be disposed of and re-acquired by the trustee, and—

- (a) the person becoming entitled as mentioned in subsection (3) of that section is a charity or a body falling within Schedule 25 to this Act ; or
- (b) any of the assets which, or parts of which, are deemed to be disposed of and re-acquired under subsection (4) of that section are held for the purposes of a charity or a body falling within Schedule 25 to this Act ;

then, if no consideration is received by any person for or in connection with any transaction by virtue of which the charity or other body becomes so entitled or the assets are so held, the disposal and re-acquisition of the assets to which the charity or other body becomes so entitled or of the assets or parts of the assets which are held as mentioned in paragraph (b) above shall, notwithstanding those subsections, be treated for the purposes of Part III of that Act as made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.

Alteration of amount of estate duty.
1969 c. 32.
1894 c. 30.

120.—(1) In relation to deaths occurring after 21st March 1972 Part I of Schedule 17 to the Finance Act 1969 (amount of duty) and section 16(3) of the Finance Act 1894 (small estates) shall be further amended as follows.

(2) In Part I of that Schedule the following shall be substituted for the words following "The amount of the estate duty on an estate"—

- "(a) if the aggregate principal value of all property comprised in the estate does not exceed £15,000, shall be nil;
- (b) in any other case shall be an amount equal to the aggregate of—
- (i) 25 per cent. of any amount by which that aggregate principal value exceeds £15,000 but does not exceed £20,000; and
 - (ii) 30 per cent. of any amount by which that aggregate principal value exceeds £20,000 but does not exceed £30,000; and
 - (iii) 35 per cent. of any amount by which that aggregate principal value exceeds £30,000 but does not exceed £40,000; and
 - (iv) 40 per cent. of any amount by which that aggregate principal value exceeds £40,000 but does not exceed £50,000; and
 - (v) 45 per cent. of any amount by which that aggregate principal value exceeds £50,000 but does not exceed £60,000; and
 - (vi) 50 per cent. of any amount by which that aggregate principal value exceeds £60,000 but does not exceed £80,000; and
 - (vii) 55 per cent. of any amount by which that aggregate principal value exceeds £80,000 but does not exceed £100,000; and
 - (viii) 60 per cent. of any amount by which that aggregate principal value exceeds £100,000 but does not exceed £150,000; and
 - (ix) 65 per cent. of any amount by which that aggregate principal value exceeds £150,000 but does not exceed £200,000; and
 - (x) 70 per cent. of any amount by which that aggregate principal value exceeds £200,000 but does not exceed £500,000; and
 - (xi) 75 per cent. of any amount by which that aggregate principal value exceeds £500,000."

(3) In paragraphs (a) and (b) of section 16(3) of the Finance Act 1894 c. 30. "£15,000" shall be substituted for "£12,500".

PART VI
Estate duty:
relief for
surviving
spouse,
charities and
certain
institutions

121.—(1) In determining for the purposes of estate duty chargeable on any death occurring after 21st March 1972 the principal value of an estate there shall be disregarded so much thereof as is attributable to property falling within the following paragraphs, but subject to the limits specified therein—

- (a) property given to any of the bodies falling within Schedule 25 to this Act ; and
- (b) property given to charities, up to a limit of £50,000 ; and
- (c) property given to or devolving on the deceased's widow or widower, up to a limit of £15,000 ;

but it shall not be so disregarded if the property passes under a gift excepted under Part I of Schedule 26 to this Act.

(2) Schedule 26 to this Act shall have effect for supplementing this section.

PART VII

MISCELLANEOUS

Abolition of
selective
employment
tax.

1966 c. 32.

122.—(1) Selective employment tax shall not be payable in respect of any contribution week beginning after 1st April 1973, and, subject to the following provisions of this section—

- (a) no payment shall be made under the Selective Employment Payments Act 1966 in respect of persons in any employment in or carried out from an establishment registered under subsection (1) of section 7 of that Act unless the application for registration was made before 1st July 1973 ; and
- (b) no payment under the Act of 1966, section 25 of the Finance Act 1967 or section 52(3) of the Finance Act 1968 shall be made unless the claim for it was made before 1st October 1973 ; and
- (c) no question arising in connection with a payment mentioned in paragraph (b) above shall after 1st April 1973 be referred to an industrial tribunal under paragraph (a), (b) or (c) of section 7(5) of the Act of 1966 or under paragraph 6 of Schedule 12 to the Finance Act 1967 unless the reference is required within six weeks of the time the question arises.

1967 c. 54.

1968 c. 44.

(2) Where—

- (a) an employer has required the reference of a question to an industrial tribunal under paragraph (a) or (b) of section 7(5) of the Act of 1966 ; or

- (b) an employer has duly applied for the registration of an establishment under section 7(1) of that Act but the decision on the application has been notified to him after 30th June 1973 ; or
- (c) a charity, within the meaning of section 5 of that Act, has, before 1st July 1973, applied for a certificate under subsection (3) or (4) of that section or for registration under section 4 of the Charities Act 1960 ;

PART VII

1960 c. 58.

subsection (1)(b) of this section shall not prevent the making of a payment to the employer or charity on a claim made within three months of the final determination of the question or, as the case may be, of the notification, the granting of the certificate or the registration under the Act of 1960.

(3) Subsection (1) of this section shall not affect the payment of regional employment premiums, that is to say, of so much of any amount payable under section 1 of the Act of 1966 as exceeds the amount of tax paid, in respect of any contribution week beginning before such date as the Treasury may by order made by statutory instrument appoint ; and accordingly—

- (a) payments under that section equal to the amounts of the increases specified in subsection (1) of section 26 of the Finance Act 1967 (or, where subsection (2) of that section applies, equal to one-half of the amounts so specified) shall be made in respect of any such week in the cases mentioned in the said section 26 ; and
- (b) in relation to any contribution week beginning after 1st April 1973 and before the date so appointed the enactments mentioned in Schedule 27 to this Act shall have effect subject to the amendments specified in that Schedule.

(4) An order under subsection (3) of this section may include provisions corresponding to paragraphs (a) to (c) of subsection (1) and subsection (2) of this section.

(5) The enactments mentioned in Part VIII of Schedule 28 to this Act are hereby repealed as from 2nd April 1973 to the extent specified in the third column of that Part ; and the enactments mentioned in Part IX of that Schedule are hereby repealed, to the extent specified in the third column of that Part, as from such day as the Treasury may by order made by statutory instrument appoint.

(6) This section and Parts VIII and IX of Schedule 28 to this Act extend to Northern Ireland (except in so far as they relate to enactments which do not so extend).

PART VII
Registered
trade unions.
1971 c. 72.

123.—(1) Notwithstanding section 80 of the Industrial Relations Act 1971 and the repeals made by that Act—

- (a) no organisation which, immediately before 1st October 1971, was a registered trade union shall be treated for the purposes of section 338 of the Taxes Act (exemption of income and gains applied for the purpose of provident benefits) as having ceased to be such a trade union before the end of 5th April 1972; and
- (b) any organisation which is for the time being entered in the provisional register maintained under the Act of 1971 shall for the purposes of section 338 of the Taxes Act and subsection (2) of this section be treated as a registered trade union.

(2) The exemption from tax conferred by section 338 of the Taxes Act shall not extend to so much of the income or gains of a trade union registered either in Great Britain or Northern Ireland as is after 5th April 1972 applied for the purpose of provident benefits paid to persons residing in the other of those countries, unless the majority of its members reside in the country in which it is registered.

Payments
to or by
Export Credits
Guarantee
Department
under
investment
insurance
scheme.
1972 c. 40.

124.—(1) Any sums paid by a person to the Export Credits Guarantee Department under an agreement entered into under arrangements made by the Secretary of State in pursuance of section 1 of the Overseas Investment and Export Guarantees Act 1972 or with a view to entering into such an agreement shall be included—

- (a) in the sums to be deducted in computing for the purposes of Case I or Case II of Schedule D the profits or gains of any trade, profession or vocation carried on by that person; or
- (b) if that person is an investment company within the meaning of section 304 of the Taxes Act or a company in the case of which that section applies by virtue of section 305 of that Act, in the sums to be deducted as expenses of management in computing the company's profits for the purposes of corporation tax;

whether or not they would fall to be so included apart from this section.

(2) Where, under such an agreement, any payment is made by the Exports Credits Guarantee Department in respect of any income or gains which cannot be transferred to the United Kingdom, then, to the extent of the payment,—

- (a) the income or gains shall be treated as income or gains with respect to which the conditions mentioned in

section 418(2) of the Taxes Act or section 40(1) of the Finance Act 1965 (relief in respect of unremittable overseas income or gains) are not satisfied (and accordingly cannot cease to be satisfied); and

PART VII
1965 c. 25.

- (b) if the payment is made in respect of income arising from investments of the foreign life assurance fund, within the meaning of section 315 of the Taxes Act, of an insurance company that section shall apply in relation to the income as if it had been received in the United Kingdom (and accordingly cannot be received again in the United Kingdom).

125.—(1) In subsection (1) of section 55 of, and in Part I of Schedule 11 to, the Finance Act 1963 (under which, as amended by section 27(1) of the Finance Act 1967 and paragraph 10 of Schedule 7 to the Finance Act 1970, duty is not chargeable on conveyances or transfers certified at £5,500 and is chargeable at a reduced rate on those certified at £7,000), for “£5,500” and “£7,000”, wherever occurring, there shall be substituted respectively “£10,000” and “£15,000”.

Reduction of stamp duty on conveyances and leases.
1963 c. 25.
1967 c. 54.
1970 c. 24.

(2) In subsection (2) of the said section 55 (under which the relief afforded by subsection (1) of that section is not available as respects the duty chargeable in respect of a premium for a lease if the consideration includes rent exceeding £50 a year) for “£50” there shall be substituted “£150”.

(3) No duty shall be chargeable under paragraph (3) of the heading “Lease or Tack” in Schedule 1 to the Stamp Act 1891 in respect of consideration consisting of rent if the term does not exceed seven years or is indefinite and the rent is at a rate or average rate not exceeding £250 per annum; and accordingly—

1891 c. 39.

(a) the rate of duty specified in the second column of the Table in that paragraph as applicable where the rent is at a rate or average rate exceeding £100 shall apply only when the rent is at a rate or average rate exceeding £250; and

(b) in paragraph (2)(a) of that heading for “£100” there shall be substituted “£250”.

(4) This section has effect in relation to instruments executed on or after 1st August 1972.

126.—(1) The following are hereby abolished—

- (a) the stamp duty chargeable by virtue of the heading “BANK NOTE” in Schedule 1 to the Stamp Act 1891;
- (b) the licences required to be taken out under section 24 of the Stamp Act 1815 (licences for bankers etc. issuing certain promissory notes).

Abolition of stamp duty on bank notes and of bankers' licences.
1815 c. 184.

PART VII

(2) This section takes effect on 25th June 1972; and if on or after that date and before the passing of this Act a person pays any duty in respect of a licence of the kind mentioned in subsection (1)(b) above which would not have been payable if this Act had then been in force the Commissioners of Inland Revenue shall, on application made to them within two years after the date of payment, repay the duty.

Disclosure of information between revenue departments.

127.—(1) No obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise shall prevent either—

- (a) the Commissioners of Inland Revenue or an authorised officer of those Commissioners; or
- (b) the Commissioners of Customs and Excise or an authorised officer of those Commissioners;

from disclosing information to the other Commissioners or an authorised officer of the other Commissioners for the purpose of assisting them in the performance of their duties.

(2) Information obtained in pursuance of this section shall not be disclosed except—

- (a) to the Commissioners or an authorised officer of the Commissioners on whose behalf it was obtained; or
- (b) for the purpose of any proceedings connected with a matter in relation to which those Commissioners perform duties.

Vehicle excise duty—disabled persons.
1971 c. 10.

128.—(1) For subsection (2) of section 7 of the Vehicles (Excise) Act 1971 (exemption from duty of certain vehicles registered in name of disabled persons) there shall be substituted the following subsection—

“(2) A mechanically propelled vehicle shall not be chargeable with any duty under this Act by reason of its use by or for the purposes of a person suffering from a physical defect or disability or by reason of its being kept for such use if—

- (a) it is registered under this Act in the name of that person; and
- (b) he has obtained, or is eligible for, a grant under section 33(3) of the Health Services and Public Health Act 1968 in relation to that vehicle; and
- (c) no other vehicle registered in his name under this Act is exempted from duty under this subsection.”

1968 c. 46.

1971 c. 68.

(2) In section 7 of the Finance Act 1971 the words from “fitted with controls” to “or a vehicle” and paragraphs (a) and (b) shall be omitted.

(3) In section 4(1)(g) of the Vehicles (Excise) Act 1971 (vehicles not exceeding eight hundredweight for invalids) for the word “eight” there shall be substituted the word “ten”.

129.—(1) In section 53(1) of the Taxes Management Act 1970 (summary award of penalties) there shall be substituted, for the words from “ section 98(3) ” to “ awarded ” the words “ section 98 of this Act shall have effect, in relation to a penalty so awarded, as if subsection (3) were omitted and the reference in subsection (1)(ii) to the Commissioners before whom proceedings for the penalty have been commenced were a reference to the Commissioners by whom the penalty has been awarded ”.

PART VII
Summary
award of
penalties.
1970 c. 9.

(2) This section does not apply in relation to a penalty awarded before the commencement of this Act.

130.—(1) The Commissioners of Inland Revenue may, with the concurrence of the Minister for the Civil Service, by regulations provide for the payment out of money provided by Parliament of compensation to or in respect of any clerk to the General Commissioners for any division who suffers or has suffered loss of office or loss or diminution of emoluments which is attributable to any order affecting that division made (whether before or after the passing of this Act) under section 2(6) of the Taxes Management Act 1970 (alteration and abolition of divisions).

Compensation
for loss of
office etc.
by clerks to
General
Commission-
ers.

(2) Regulations under this section may—

- (a) include provision as to the manner in which and the person to whom any claim for compensation under the regulations is to be made, and for the determination of all questions arising under the regulations ;
- (b) make different provision for different classes of persons and for different circumstances, and make, or authorise the Commissioners of Inland Revenue to make, exceptions and conditions ;
- (c) be framed so as to have effect from a date earlier than the making of the regulations,

but so that regulations having effect from a date earlier than their making shall not place any individual in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making.

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

131.—(1) On the repayment of any post-war credit, or payment to a building society of any amount outstanding under section 3 of the Income Tax (Repayment of Post-War Credits) Act 1959, the sum payable, inclusive of the interest, may be taken by the Commissioners of Inland Revenue as amounting to 138 per cent. of the credit as notified under section 7 of the Finance Act 1941 or of the amount so outstanding, as the case may be.

Post-war
credits.
1959 c. 28.

1941 c. 30.

PART VII

(2) An application for such a repayment made before the applicant is qualified may, if he later becomes qualified, be treated as made on the date when he does so.

(3) No such repayment shall be made unless application therefor is made before such time (not earlier than the beginning of the year 1974) as the Treasury may by order direct.

Any order under this subsection shall be made by statutory instrument, which shall be laid before Parliament after being made, and may be varied by a subsequent order so as to extend the time for applications for repayment.

1959 c. 28. (4) In this section "post-war credit" has the same meaning as in the Income Tax (Repayment of Post-War Credits) Act 1959.

(5) This section shall be deemed to have had effect from the beginning of April 1972.

Local loans.
1968 c. 13.

132.—(1) Loans in pursuance of section 3 of the National Loans Act 1968 may be made by the Public Works Loan Commissioners, in addition to any loans made by them under section 4 of that Act, but the aggregate of—

(a) the commitments of the Commissioners outstanding at any time in respect of undertakings entered into by them to grant such loans; and

(b) the advances in respect of such loans made by them under this section up to that time;

shall not exceed £1,000 million or such greater amount as may be specified in an order under subsection (2) of this section.

(2) The Treasury may, on not more than three occasions, by order made by statutory instrument increase or further increase the limit imposed by subsection (1) of this section by such sum not exceeding £1,000 million as may be specified in the order.

(3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.

Advances to
trustee savings
banks.
1969 c. 50.

133. In section 53(2) of the Trustee Savings Banks Act 1969 (limit on advances to trustee savings banks out of the Fund for the Banks for Savings) for the words "but the total of the advances so made shall not exceed £10 million" there shall be substituted the words "but the amount outstanding at any time in respect of such advances shall not exceed £15 million".

134.—(1) This Act may be cited as the Finance Act 1972.

PART VII

(2) In this Act “the Taxes Act” means the Income and Corporation Taxes Act 1970.

Citation,
interpretation,
construction,
extent and
repeals.

(3) In this Act—

(a) Part III shall be construed as one with the Customs and Excise Act 1952 ;

1970 c. 10.

(b) Parts IV and V, so far as they relate to income tax, shall be construed as one with the Income Tax Acts and, so far as they relate to corporation tax, shall be construed as one with the Corporation Tax Acts ;

1952 c. 44.

(c) sections 112 to 119 shall be construed as one with Part III of the Finance Act 1965 ;

1965 c. 25.

(d) sections 120 and 121 shall be construed as one with the Finance Act 1894.

1894 c. 30.

(4) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference to that enactment as applied, by or under any other enactment, including this Act.

(5) Except as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws do not extend to Northern Ireland.

(6) If the Parliament of Northern Ireland passes provisions amending or replacing any enactment of that Parliament referred to in this Act the reference shall be construed as a reference to the enactment as so amended or, as the case may be, as a reference to those provisions.

(7) The enactments mentioned in Schedule 28 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

Section 4.

SCHEDULES

SCHEDULE 1

VALUE ADDED TAX—REGISTRATION

Liability to be registered

1. A person who makes taxable supplies but is not registered is liable to be registered—

- (a) after the end of any quarter, if the value of his taxable supplies in the period of one, two, three or four quarters then ending has exceeded the amount shown in the following Table as applicable to that period ; or
- (b) at any time, if there are reasonable grounds for believing that the value of his taxable supplies in the period of one year beginning at that or any later time will exceed £5,000 ;

except that a person is not liable to be registered by virtue of subparagraph (a) above on the ground that the value of his taxable supplies in a period of less than a year has exceeded the amount applicable to that period if the Commissioners are satisfied that the value of his taxable supplies in that period and the remaining quarter or quarters of the year will not exceed £5,000.

TABLE

<i>Number of quarters comprised in period</i>							<i>Amount applicable £</i>
1	...	...	...	...	...	...	1,750
2	...	...	...	...	...	...	3,000
3	...	...	...	...	...	...	4,250
4	...	...	...	...	...	...	5,000

2. A registered person who makes taxable supplies shall cease to be liable to be registered—

- (a) after the end of any quarter, if he has been registered for the whole of the two years then ending and the value of his taxable supplies in each of those years has been £4,000 or less, or the value of his taxable supplies in each of the quarters comprised in those years has been £1,250 or less ; and
- (b) at any time, if the Commissioners are satisfied that the value of his taxable supplies in the period of one year then beginning will be £4,000 or less.

Notification of liability and registration

3. A person who, on 1st April 1973, will be liable to be registered shall notify the Commissioners of that fact within ten days of the earliest date after September 1972 on which he knows or could with reasonable diligence have known that he will be so liable or within such longer time as the Commissioners may allow ; and the Commissioners shall register any such person with effect from 1st April 1973.

4. The following three paragraphs apply to persons not required to notify the Commissioners under paragraph 3 of this Schedule.

5. A person who by virtue of paragraph 1(a) of this Schedule is liable to be registered after the end of any quarter shall notify the Commissioners of his liability within ten days of the end of that quarter and the Commissioners shall register any such person with effect from the twenty-first day of the next quarter or such earlier date as may be agreed between them and that person.

6. A person who, by virtue of paragraph 1(b) of this Schedule, is liable to be registered by reason of the value of his taxable supplies in any period shall notify the Commissioners of that liability not later than the beginning of that period, and the Commissioners shall register any such person with effect from the beginning of that period or such earlier date as may be agreed between them and that person.

7. Where a person who intends to make taxable supplies, and will be liable to be registered when he does so, notifies the Commissioners of the fact and requests to be registered the Commissioners may, subject to such conditions as they think fit to impose, register him from such date as may be agreed between them and that person.

Notification of end of liability and cancellation of registration

8. A registered person who ceases to make taxable supplies shall notify the Commissioners of that fact within ten days of the date on which he does so and the Commissioners shall cancel the registration of any such person.

9. Where, by virtue of paragraph 2(a) of this Schedule, a registered person ceases to be liable to be registered and notifies the Commissioners of that fact, the Commissioners shall cancel his registration with effect from the end of the period of fourteen days beginning with the date on which he so notifies them or from such other date as may be agreed between them and that person.

10. Where a registered person requests the Commissioners to cancel his registration by virtue of paragraph 2(b) of this Schedule and the Commissioners are at any time satisfied as mentioned in that paragraph they shall cancel his registration as from that time.

Discretionary registration or exemption from registration

11. Notwithstanding the preceding provisions of this Schedule,—

- (a) where a person who makes or intends to make taxable supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person they may, if he so requests and they think fit, exempt him from registration ; and
- (b) where a person who makes or intends to make taxable supplies is not and will not be liable to be registered the

SCH. 1

Commissioners may, if he so requests and they think fit, treat him as so liable, subject to such conditions as they think fit to impose ;

until it appears to the Commissioners that the request should no longer be acted upon or the request is withdrawn ; but the Commissioners may by notice given in such manner as appears to them appropriate for the information of persons making taxable supplies prevent the withdrawal of such a request made after the publication of the notice for such period after it is made as may be specified in the notice.

Supplementary

12. The provisions of this Part of this Act relating to the determination of the value of a supply of goods or services shall apply for the purposes of this Schedule with the modification that no allowance shall be made for tax.

13. Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.

14. References in this Schedule to registration are references to registration in a register kept by the Commissioners for the purposes of this Part of this Act.

Section 5.

SCHEDULE 2

MATTERS TO BE TREATED AS SUPPLY OF GOODS

1. Where goods acquired or produced by a taxable person in the course of a business carried on by him are applied by him to the personal use of himself or any other person they shall be deemed to be supplied by him in the course of that business.

2. Where goods acquired or produced by a taxable person in the course of a business carried on by him are, under any power exercisable by another person, sold by the other person in or towards satisfaction of a debt owed by the taxable person they shall be deemed to be supplied by the taxable person in the course of that business.

3. Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course of that business immediately before he ceases to be a taxable person, unless—

- (a) the business is transferred as a going concern to another taxable person ; or
- (b) the business is carried on by another person who, under regulations made under section 23(3) of this Act, is treated as a taxable person.

SCHEDULE 3

Section 10(6).

VALUE OF SUPPLY—SPECIAL CASES

1. Where it appears to the Commissioners—

- (a) that a taxable person has supplied goods or services for a consideration in money the amount of which has been determined with a view to securing a reduction of liability to tax ; and
- (b) that it is likely that goods or services will be similarly supplied by him ; and
- (c) that it is necessary for the protection of the revenue to exercise their powers under this paragraph ;

they may by notice in writing give directions to that person for securing that the value by reference to which tax is charged on any supply by him of goods or services after the giving of the notice or after such later date as may be specified therein is not less than the open market value of the supply.

2. Where it appears to the Commissioners—

- (a) that a taxable person carries on his business or part of his business by supplying to a number of individuals goods to be sold, whether by them or others, by retail ; and
- (b) that those individuals are not taxable persons ; and
- (c) that it is necessary for the protection of the revenue to exercise their powers under this paragraph ;

they may by notice in writing give directions to the taxable person for securing that the value by reference to which tax is charged on any such supply by him after the giving of the notice or after such later date as may be specified therein shall be determined as if the consideration given by any such individual for the supply were equal to the price at which the goods are sold by retail.

3. Where goods are supplied in pursuance of an agreement with respect to which the requirements of section 7 of the Hire-Purchase Act 1965, section 7 of the Hire-Purchase (Scotland) Act 1965 or section 7 of the Hire-Purchase Act (Northern Ireland) 1966 are complied with the consideration for the supply shall be taken for the purposes of this Part of this Act to be the cash price stated in the agreement. 1965 c. 66.
1965 c. 67.
1966 c. 42 (N.I.)

4. Where goods or services are supplied for a consideration in money which is to be reduced if payment is made immediately or within a specified time the consideration shall be taken for the purposes of this Part of this Act as so reduced whether or not payment is so made.

5. Where a right to receive goods or services for an amount stated on any token, stamp or voucher is granted for a consideration, the consideration shall be disregarded for the purposes of this Part of this Act except to the extent (if any) that it exceeds that amount.

6. Where a supply is a gift of goods or a supply deemed to be made under paragraph 1 of Schedule 2 to this Act, the value of the supply shall be taken to be the cost of the goods to the person making the supply ; except that if that cost does not exceed £10 and the supply is a gift its value shall be taken to be nil.

SCH. 3

7. Where a supply of services consists in the provision of accommodation in a hotel, inn, boarding house or similar establishment for a period exceeding four weeks—

- (a) the value of so much of the supply as is in excess of four weeks shall be taken to be reduced to such part thereof as is attributable to facilities other than the right to occupy the accommodation ; and
- (b) that part shall be taken to be not less than 20 per cent.

8. A direction under paragraph 1 or paragraph 2 of this Schedule may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

Section 12.

SCHEDULE 4

ZERO-RATING

GROUP 1—FOOD

The supply of anything comprised in the general items set out below, except—

- (a) a supply in the course of catering ; and
- (b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

General items

Item No.

1. Food of a kind used for human consumption.
2. Animal feeding stuffs.
3. Seeds or other means of propagation of plants comprised in item 1 or 2.
4. Live animals of a kind generally used as, or yielding or producing, food for human consumption.

Excepted items

Item No.

1. Ice cream, ice lollies, frozen yoghurt, water ices and similar frozen products, and prepared mixes and powders for making such products.
2. Chocolates, sweets and similar confectionery (including drained glacé or crystallized fruits); and chocolate biscuits and other confectionery having a case or coating of chocolate courverture, but not including cakes in such a case or coating.

- SCH. 4
3. Beverages chargeable with any duty of customs or excise specifically charged on spirits, beer, wine or British wine and preparations thereof.
 4. Other manufactured beverages, including fruit juices and bottled waters, and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.
 5. Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.
 6. Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.

Items overriding the exceptions

Item No.

1. Chocolate couverture not prepared or put up for retail sale.
2. Drained cherries.
3. Candied peels.
4. Tea, maté, herbal teas and similar products, and preparations and extracts thereof.
5. Cocoa, coffee and chicory and other roasted coffee substitutes and preparations and extracts thereof.
6. Preparations and extracts of meat, yeast, egg or milk.

Notes :

- (1) "Food" includes drink.
- (2) "Animal" includes bird, fish, crustacean and mollusc.
- (3) A supply of anything in the course of catering includes any supply of it for consumption on the premises on which it is supplied.
- (4) Items 1 to 3 of the items overriding the exceptions relate to item 2 of the excepted items and items 4 to 6 of the items overriding the exceptions relate to item 4 of the excepted items.

GROUP 2—WATER

Item No.

1. Water other than—
 - (a) distilled water; and
 - (b) water comprised in the excepted items set out in Group 1.

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GROUP 3—BOOKS, ETC.

Item No.

1. Books, booklets, brochures, pamphlets and leaflets.
2. Newspapers, journals and periodicals.
3. Children's picture books and painting books.
4. Music (printed, duplicated or manuscript).
5. Maps, charts and topographical plans.
6. Covers, cases and other articles supplied with items 1 to 5 and not separately accounted for.

Note : This Group does not include plans or drawings for industrial, architectural, engineering, commercial or similar purposes.

GROUP 4—TALKING BOOKS FOR THE BLIND

Item No.

1. The supply to the Royal National Institute for the Blind of—
 - (a) magnetic tape specially adapted for the recording and reproduction of speech for the blind ;
 - (b) tape recorders designed for the reproduction of sound from such tape ;
 - (c) parts and accessories for goods comprised in paragraphs (a) and (b) above.

GROUP 5—NEWSPAPER ADVERTISEMENTS

Item No.

1. The publication in any newspaper, journal or periodical of any advertisement.
2. The preparation of any advertisement intended for publication solely or mainly in one or more newspapers, journals or periodicals.
3. The supply of services for the purpose of securing such a publication or a preparation as is mentioned in item 1 or 2.

GROUP 6—NEWS SERVICES

Item No.

1. The supply to newspapers or to the public of information of a kind published in newspapers.

Note : This item does not include the supply of photographs.

GROUP 7—FUEL AND POWER

Item No.

1. Coal, coke and other solid mineral fuels.
2. Coal gas, water gas, producer gases and similar gases.
3. Petroleum gases and other gaseous hydrocarbons, whether in a gaseous or liquid state.

4. Hydrocarbon oil, petrol substitutes and power methylated spirits (within the meaning of the Hydrocarbon Oil (Customs and Excise) Act 1971) SCH. 4 c. 12.
5. Electricity, heat and air-conditioning.

GROUP 8—CONSTRUCTION OF BUILDINGS, ETC.

Item No.

1. The granting, by a person constructing a building, of a major interest in, or in any part of, the building or its site.
2. The supply, in the course of the construction, alteration or demolition of any building or of any civil engineering work, of any services other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity.
3. The supply, in connection with a supply of services falling within item 2, of materials or of builder's hardware, sanitary ware or other articles of a kind ordinarily installed by builders as fixtures.

Notes :

(1) Item 2 does not include any work of repair or maintenance or the supply of any services to a person who himself supplies such services as are mentioned therein or who, in the course of a business consisting wholly or mainly in the construction, alteration or demolition of buildings or civil engineering works, carries out the construction, alteration or demolition on land in which he owns a major interest.

(2) "Major interest" has the same meaning as in section 5(6) of this Act.

(3) Section 12(3) of this Act does not apply to goods forming part of a description of supply in this Group.

GROUP 9—SERVICES TO OVERSEAS TRADERS OR FOR OVERSEAS PURPOSES

Item No.

1. Any services supplied by an agent to his principal if the principal is an overseas trader or overseas resident.
2. The application of any treatment or process to goods imported on behalf of an overseas trader or overseas resident for subsequent re-export and in fact re-exported.
3. The preparation, publication or dissemination of any advertisement on behalf of an overseas trader or an overseas authority.
4. The supply of any services for the purpose of securing the preparation, publication or dissemination of any advertisement on behalf of an overseas trader or an overseas authority.

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5. The supply, in such circumstances as may be specified by order of the Treasury, of such services comprised in Group 2 or Group 5 of Schedule 5 to this Act as may be so specified.
6. The supply to an overseas trader or overseas resident of any services not used in the United Kingdom and not included in items 1 to 5 of this Group nor in any Group in Schedule 5 to this Act.
7. The supply to an overseas authority of any services not comprised in item 5 of this Group nor in any Group in Schedule 5 to this Act.
8. The supply to an overseas trader of services consisting of the storage at or transport to or from a port or customs airport (within the meanings of the Customs and Excise Act 1952) of goods which respectively are to be exported or have been imported or of the handling or storage of such goods in connection with such transport.
9. The preparation of plans and specifications for construction operations outside the United Kingdom.
10. The granting, assignment or surrender of any right exercisable outside the United Kingdom.

1952 c. 44.

Notes :

(1) For the purposes of this Group a person is an overseas trader if he carries on a business and has his place of business or principal place of business outside the United Kingdom.

(2) Overseas authority means any country other than the United Kingdom or any part of or place in such a country or the Government of any such country, part or place.

(3) Overseas resident means a person who is not resident in the United Kingdom.

(4) Items 3 and 4 do not apply where the overseas trader is a person, or the agent or subsidiary of a person, who carries on a business in the United Kingdom or is resident or (if a company) incorporated in the United Kingdom.

(5) Items 3, 4 and 7 do not include the supply of any services to any agency or establishment in the United Kingdom.

GROUP 10—TRANSPORT

Item No.

1. The supply, repair or maintenance of any ship which is neither—
 - (a) a ship of a gross tonnage of less than 15 tons ; nor
 - (b) a ship designed or adapted for use for recreation or pleasure.
2. The supply, repair or maintenance of any aircraft which is neither—

SCH. 4

- (a) an aircraft of a weight of less than eighteen thousand pounds ; nor
- (b) an aircraft designed or adapted for use for recreation or pleasure.
3. The supply to and repair or maintenance for the Royal National Lifeboat Institution of any lifeboat.
 4. Transport of passengers—
 - (a) in any vehicle, ship or aircraft designed or adapted to carry not less than twelve passengers ; or
 - (b) by the Post Office ; or
 - (c) on any scheduled flight.
 5. Transport of passengers or freight outside the United Kingdom or to or from a place outside the United Kingdom.
 6. Any services provided for the handling of ships or aircraft in a port or customs airport or for the handling, in a port or customs airport or on land adjacent to a port, of goods carried in a ship or aircraft.
 7. Pilotage services.
 8. Salvage or towage services.
 9. Any services supplied within or outside the United Kingdom for or in connection with the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register.
 10. The making of arrangements for the supply of, or of space in, any ship or aircraft or for the supply of any service included in items 1 to 9.

Notes :

(1) "Port" and "customs airport" have the same meanings as in the Customs and Excise Act 1952.

1952 c. 44.

(2) The supply of any ship or aircraft includes the supply of any services under a charter of the ship or aircraft.

(3) "Lifeboat" includes any ship used as a lifeboat.

GROUP 11—CARAVANS

Item No.

1. Caravans exceeding the limits of size for the time being permitted for the use of trailers on roads.

Note: This item does not include removable contents other than goods of a kind mentioned in Item 3 of Group 8.

GROUP 12—GOLD

Item No.

1. The supply of any gold bullion.
2. The supply of gold coins by an authorised dealer in gold to another such dealer.

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Notes :

1947 c. 14.

(1) " Authorised dealer in gold " means a person for the time being authorised by an order of the Treasury under the Exchange Control Act 1947 to act for the purposes of that Act as an authorised dealer in relation to gold ; and " gold bullion " means any newly mined gold and refined bar gold or gold grain of not less than 995 millesimal fineness.

(2) Section 12(3) of this Act does not apply to gold coins.

GROUP 13—BANK NOTES

Item No.

1. The issue by a bank of a note payable to bearer on demand.

GROUP 14—DRUGS, MEDICINES AND APPLIANCES SUPPLIED ON PRESCRIPTION

Item No.

1. The supply of any goods dispensed, by a person registered in the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or the Pharmacy and Poisons Act (Northern Ireland) 1925, on the prescription of a person registered in the register of medical practitioners, the register of temporarily registered medical practitioners or the dentists' register.

1954 c. 61.

1925 c. 8 (N.I.).

Note : Section 12(3) of this Act does not apply to goods forming part of this description of supply.

Section 13.

SCHEDULE 5

EXEMPTIONS

GROUP 1—LAND

Item No.

1. The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land, other than—
 - (a) the provision of accommodation in a hotel, inn, boarding house or similar establishment or in a house, flat or caravan used wholly or mainly for the provision of holiday accommodation ;
 - (b) the granting of facilities for camping in tents or caravans ;
 - (c) the granting of facilities for parking a vehicle ; and
 - (d) the granting of any right to take game or fish.

GROUP 2—INSURANCE

Item No.

1. The provision of insurance of any description.
2. The making of arrangements for the provision of any insurance.

GROUP 3—POSTAL SERVICES

Item No.

1. The conveyance of postal packets by the Post Office.

2. The supply by the Post Office of any services in connection with the conveyance of postal packets. SCH. 5

Note: "Postal packet" has the same meaning as in the Post Office Act 1953, except that it does not include a telegram.

GROUP 4—BETTING, GAMING AND LOTTERIES

Item No.

1. The provision of any facilities for the placing of bets or the playing of any games of chance.
2. The granting of a right to take part in a lottery.

Notes:

(1) Item 1 does not include—

- (a) admission to any premises ; or
- (b) the granting of a right to take part in a game in respect of which a charge may be made by virtue of regulations under section 14 of the Gaming Act 1968 ; or 1968 c. 65.
- (c) the provision by a club of such facilities to its members as are available to them on payment of their subscription but without further charge.

(2) "Game of chance" has the same meaning as in the Gaming Act 1968.

(3) "Lottery" includes any competition for prizes which is authorised by a licence under the Pool Competitions Act 1971. 1971 c. 57.

GROUP 5—FINANCE

Item No.

1. The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.
2. The making of any advance or the granting of any credit.
3. The making of arrangements for any transaction comprised in item 1 or 2.
4. The issue, transfer or receipt of, or any dealing with, any security or secondary security within the definition in section 42 of the Exchange Control Act 1947. 1947 c. 14.
5. The operation of any current, deposit or savings account.

Note: Item 1 does not include anything included in Item 4.

GROUP 6—EDUCATION

Item No.

1. The provision of education if—
 - (a) it is provided by a school or university ; or
 - (b) it is of a kind provided by a school or university and is provided otherwise than for profit.

- SCH. 5**
2. The supply of any goods or services incidental to the provision of any education included in item 1.
 3. The provision of any instruction supplemental to the provision of any education included in item 1.
 4. The provision by a youth club of the facilities available to its members.

Notes :

(1) "School" means any institution providing primary or secondary education or both within the meaning of the Education Acts 1944 to 1971, the Education (Scotland) Acts 1939 to 1971 or the Education Acts (Northern Ireland) 1947 to 1971.

(2) "Education" includes training in any form of art.

(3) "University" includes a university college and the college school or hall of a university.

GROUP 7—HEALTH**Item No.**

1. The supply of services and, in connection with it, the supply of goods, by a person registered or enrolled in any of the following:—
 - (a) the register of medical practitioners or the register of temporarily registered medical practitioners ;
 - (b) the dentists' register ;
 - (c) either of the registers of ophthalmic opticians or the register of dispensing opticians kept under the Opticians Act 1958 or either of the lists kept under section 4 of that Act of bodies corporate carrying on business as ophthalmic opticians or as dispensing opticians ;
 - (d) any register kept under the Professions Supplementary to Medicine Act 1960 ;
 - (e) the register of nurses or the roll of nurses maintained in pursuance of section 2(1) of the Nurses Act 1957 or kept under section 2 or section 3 of the Nurses (Scotland) Act 1951 or section 17(1) of the Nurses and Midwives Act (Northern Ireland) 1970 ;
 - (f) the roll of certified midwives kept under section 2 of the Midwives Act 1951, section 3 of the Midwives (Scotland) Act 1951 or section 17(1) of the Nurses and Midwives Act (Northern Ireland) 1970 ;
 - (g) any roll of ancillary dental workers established under section 41 of the Dentists Act 1957 ;
 - (h) the register of dispensers of hearing aids and the register of persons employing such dispensers maintained under section 2 of the Hearing Aid Council Act 1968.
 2. The supply of any goods or services by a dental technician.
- 1958 c. 32.
- 1960 c. 66.
- 1957 c. 15.
- 1951 c. 55.
1970 c. 11 (N.I.).
- 1951 c. 53.
1951 c. 54.
1970 c. 11 (N.I.).
- 1957 c. 28.
- 1968 c. 50.

3. The supply of any services by a person registered in the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or the Pharmacy and Poisons Act (Northern Ireland) 1925. Sch. 5
1954 c. 61.
1925 c. 8 (N.I.).
4. The provision of care or medical or surgical treatment and, in connection with it, the supply of any goods, in any hospital or other institution approved, licensed, registered or exempted from registration by any Minister or other authority.

GROUP 8—BURIAL AND CREMATION

Item No.

1. The disposal of the remains of the dead.
2. The making of arrangements for or in connection with the disposal of the remains of the dead.

SCHEDULE 6

Section 40.

CONSTITUTION AND PROCEDURE OF VALUE ADDED TAX
TRIBUNALS*Establishment of Value Added Tax Tribunals*

1. Value added tax tribunals shall be established for England and Wales, Scotland and Northern Ireland respectively.

The President

2.—(1) There shall be a President of Value Added Tax Tribunals, who shall perform the functions conferred on him by the following provisions of this Schedule in relation to value added tax tribunals in any part of the United Kingdom.

(2) The President shall be appointed by the Lord Chancellor and shall be a barrister, advocate or solicitor of not less than ten years' standing.

3.—(1) The President may resign his office at any time and shall vacate his office at the end of the completed year of service in which he attains the age of seventy-two.

(2) The Lord Chancellor may, if he thinks fit, remove the President from office on the ground of incapacity or misbehaviour.

(3) The functions of the President may, if he is for any reason unable to act or his office is vacant, be discharged by a person nominated for the purpose by the Lord Chancellor.

(4) There shall be paid to the President such salary or fees and there may be paid to or in respect of a former President such pension, as the Treasury may with the approval of the Minister for the Civil Service determine.

(5) If a person ceases to be President of Value Added Tax Tribunals and it appears to the Treasury that there are special circumstances which make it right that he should receive compensation and the Minister for the Civil Service approves, there may be paid to that person a sum of such amount as the Treasury may, with the approval of that Minister, determine.

SCH. 6

Sittings of tribunals

4. Such number of value added tax tribunals shall be established as the President may from time to time with the consent of the Treasury determine, and they shall sit at such times and at such places as he may from time to time determine.

Composition of tribunals

5.—(1) A value added tax tribunal shall consist of a chairman sitting either with two other members or with one other member or alone.

(2) If the tribunal does not consist of the chairman sitting alone its decisions may be taken by a majority of votes and the chairman, if sitting with one other member, shall have a casting vote.

Membership of tribunals

6. For each sitting of a value added tax tribunal the chairman shall be either the President or a person selected by him from a panel constituted in accordance with paragraph 7 of this Schedule ; and any other member shall be a person so selected.

7.—(1) There shall be a panel of chairmen and a panel of other members of value added tax tribunals for England and Wales, Scotland and Northern Ireland respectively.

(2) Each panel of chairmen shall include one or more full-time chairmen, including one to be known as Vice-President of Value Added Tax Tribunals.

(3) A member of a panel appointed as full-time chairman shall be appointed—

- (a) for England and Wales, by the Lord Chancellor ;
- (b) for Scotland, by the Lord President of the Court of Session ;
and
- (c) for Northern Ireland, by the Lord Chief Justice of Northern Ireland ;

and all other members of a panel shall be appointed by the Treasury.

(4) There shall be paid to a full-time chairman of value added tax tribunals such salary or fees, and to other members such fees, as the Treasury, with the approval of the Minister for the Civil Service, may determine ; and there may be paid to or in respect of a former full-time chairman of value added tax tribunals such pension as the Treasury may, with that approval, determine.

(5) If a person ceases to be a full-time chairman of value added tax tribunals and it appears to the Treasury that there are special circumstances which make it right that he should receive compensation and the Minister for the Civil Service approves, there may be paid to that person a sum of such amount as the Treasury may, with the approval of that Minister, determine.

*Disqualifications for membership of House of Commons
and exemption from jury service*

SCH. 6

8. In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified for membership) and in that Part as it applies by virtue of Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland, there shall be inserted at the appropriate place the words "A value added tax tribunal". 1957 c. 20.

9. No member of a value added tax tribunal shall be compelled to serve on any jury.

Rules of procedure

10. The Commissioners may make rules with respect to the procedure to be followed on appeals to value added tax tribunals and such rules may include provisions—

- (a) for limiting the time within which appeals may be brought;
- (b) for enabling hearings to be held in private in such circumstances as may be determined by or under the rules ;
- (c) for parties to proceedings to be represented by such persons as may be determined by or under the rules ;
- (d) for requiring persons to attend to give evidence and produce documents ;
- (e) for the payment of expenses and allowances to persons attending as witnesses ;
- (f) for the award and recovery of costs ; and
- (g) for authorising the administration of oaths to witnesses.

SCHEDULE 7

Section 52.

CAR TAX

Interpretation

1. In this Schedule " authorised person " means any person acting under the authority of the Commissioners, " the Commissioners " means the Commissioners of Customs and Excise, " the tax " means car tax and " chargeable vehicle " and (in relation to vehicles) " registered " have the same meanings as in section 52 of this Act; and references to the making of a chargeable vehicle shall be construed as in that section.

Administration and collection of tax

2.—(1) The tax shall be under the care and management of the Commissioners.

(2) All money and securities for money collected or received for or on account of the tax shall—

- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 11 of the Customs and Excise Act 1952 c. 44. 1952 c. 44.

- SCH. 7 (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.
- 1920 c. 67. (3) The Government of Ireland Act 1920 shall have effect as if the tax were one of the taxes mentioned in section 22(1) of that Act (reserved taxes).
- 1968 c. 2. (4) The Provisional Collection of Taxes Act 1968 shall be amended by inserting in subsection (1) of section 1, after the words "value added tax" the words "car tax"; and the Act as so amended shall apply in relation to a resolution of the House of Commons passed before 1st April 1974 and providing for any variation of the tax as it applies in relation to such a resolution as is mentioned in subsection (2)(a) of that section.

Liability to and payment of tax

3. Subject to paragraph 6 of this Schedule, the tax on any vehicle shall be payable—
- (a) if the vehicle is made or imported by a person registered under this Schedule, by that person; and
 - (b) in any other case by the person who for the purposes of the registration of the vehicle is treated as the person keeping the vehicle.
- 4.—(1) Where tax on a vehicle is payable by a person registered under this Schedule, it shall become due—
- (a) if the vehicle is appropriated to the use of that person, at the time when it is so appropriated;
 - (b) if it is delivered under an agreement providing for its sale or return, at the time when, in accordance with the agreement, it ceases to be the property of that person or when it is treated for the purposes of the tax as so ceasing to be his property in pursuance of regulations made under this Schedule;
 - (c) in any other case, when it is sent out from the premises of that person;
- and shall become payable at the time provided for by those regulations.
- (2) For the purposes of this paragraph, a vehicle which is to be sold by retail by a person registered under this Schedule shall be deemed to be sent out from the premises of that person when it is sent to the place from which it is to be sold.
5. Where tax on a vehicle is payable as mentioned in paragraph 3(b) of this Schedule it shall become due and payable before the vehicle is registered.
- 6.—(1) Where a chargeable vehicle is made by the conversion of a vehicle which is not a chargeable vehicle and the person converting it is not registered under this Schedule, the tax on the vehicle shall become due—
- (a) at the time the conversion is completed; or

(b) at the time when the vehicle is first used after the conversion was begun;

whichever is the earlier, and shall be payable by the person who is the owner of the vehicle at the time the tax becomes due; except that if at that time a person other than the owner is entitled to possession of the vehicle under a hire-purchase agreement the tax shall be payable by that person instead of by the owner.

(2) Where another person carries out the conversion under a contract to the order of the person by whom the tax is payable he shall be accountable for the tax as well as that person but may recover from him any tax paid in pursuance of this sub-paragraph.

Relief for vehicles exported

7. Tax shall not be charged on any vehicle which is shown to the satisfaction of the Commissioners to have been exported and not to have been registered before it was exported or which is to be exported under arrangements approved by the Commissioners and is not registered.

Remission of tax on vehicles acquired for export

8.—(1) Where it is shown to the satisfaction of the Commissioners that a person who acquires a chargeable vehicle is only temporarily in the United Kingdom or is about to become resident outside the United Kingdom the Commissioners may, subject to such conditions as they think necessary for the protection of the revenue, remit the tax on the vehicle.

(2) If tax has been remitted on a vehicle under sub-paragraph (1) of this paragraph and—

(a) the vehicle is found in the United Kingdom after the date by which the Commissioners on granting the remission directed that it should be exported; or

(b) any other condition imposed by the Commissioners under that sub-paragraph is not complied with;

and the presence of the vehicle in the United Kingdom after that date or the non-observance of that condition has not been authorised for the purposes of this sub-paragraph by the Commissioners, the tax which would have been payable but for the remission shall become payable forthwith by the person by whom the vehicle was acquired or by any other person in whose possession the vehicle is found in the United Kingdom, and shall be recoverable as a debt due to the Crown, unless, or except to the extent that, the Commissioners see fit to waive payment of the whole or part thereof.

Remission of tax on vehicles used outside United Kingdom

9.—(1) Regulations under this Schedule may make provision for enabling the Commissioners to remit the tax on a chargeable vehicle, subject to such conditions as they think necessary for the protection of the revenue, where the vehicle has been used and owned outside the United Kingdom for not less than such period as may be prescribed by the regulations and such other conditions are satisfied as may be so prescribed; and the conditions that may be imposed in pursuance of the regulations may include conditions prohibiting or restricting the disposal of the vehicle for such period as may be so prescribed.

SCH. 7

(2) If tax has been remitted on a vehicle under sub-paragraph (1) of this paragraph and any condition imposed by the Commissioners under that sub-paragraph is not complied with, the tax which would have been payable but for the remission shall be payable forthwith by the person who then owns the vehicle or by any other person in whose possession the vehicle is found, and shall be recoverable as a debt due to the Crown, unless, or except to the extent that, the Commissioners see fit to waive payment of the whole or part thereof.

Remission of tax on chargeable vehicles converted into other vehicles

10. Where it is shown to the satisfaction of the Commissioners that, under arrangements approved by them, an unused vehicle which was a chargeable vehicle has been converted into a vehicle which is not a chargeable vehicle, they may, subject to such conditions as they think necessary for the protection of the revenue, remit the tax on the vehicle.

Wholesale value

11.—(1) For the purposes of the tax the wholesale value of any vehicle shall be taken, subject to paragraph 13(2) of this Schedule, to be the price which, in the opinion of the Commissioners, the vehicle would fetch on a sale made at the time the tax becomes due by a person selling by wholesale in the open market in the United Kingdom to a retail trader carrying on business in the United Kingdom only, on the assumption that—

- (a) the price was the sole consideration for the sale; and
- (b) the vehicle was to be delivered to the retail trader at the seller's place of business; and
- (c) neither the tax nor value added tax was payable.

(2) In this paragraph "retail trader" means a person who sells by retail and does not sell to a person who carries on a business of selling vehicles.

Disputes as to wholesale value

12.—(1) Where the person by whom the tax is payable is dissatisfied with the determination of the wholesale value by the Commissioners he may, within such period from the time when their decision is communicated to him as may be prescribed by regulations under this Schedule or such further time as the Commissioners may allow, by notice in writing given to the Commissioners require the determination to be referred to the arbitration of a person appointed under this paragraph, whose decision shall be final and conclusive; but no such reference shall be made unless, within that period or such further time as the Commissioners may allow, the person requiring the reference has deposited with the Commissioners the amount of tax which would be due on the basis of their determination.

(2) If the tax chargeable as a result of a reference under this paragraph is less than the amount deposited with the Commissioners the excess shall be repaid with interest at such rate as the referee may determine.

(3) A referee for the purposes of this paragraph shall be appointed by the Lord Chancellor except that—

- (a) if the person by whom the tax is payable has his principal place of business in Scotland, the referee shall be appointed by the Lord President of the Court of Session; and
- (b) if that person has his principal place of business in Northern Ireland, the referee shall be appointed by the Lord Chief Justice of Northern Ireland.

Unfinished vehicles

13.—(1) For the purposes of the tax a vehicle which is not finished and complete but which, if finished and complete, would be a chargeable vehicle shall be treated as a chargeable vehicle.

(2) If in the opinion of the Commissioners a vehicle is not finished and complete, they shall determine its wholesale value as if it were finished and complete, having regard to the parts and accessories that remain to be provided and the processes that remain to be undergone for the vehicle to be in a state to be expected of a finished and complete chargeable vehicle.

Converted and adapted vehicles

14. Where it appears to the Commissioners that a person adapts or converts unused chargeable vehicles and that the vehicles as so adapted or converted remain chargeable vehicles they may direct—

- (a) that the conversion or adaptation shall for the purposes of the tax be treated as the making of the vehicles resulting from it, whether or not it would otherwise fall to be so treated; and
- (b) that, subject to such conditions as they think necessary for the protection of the revenue, tax shall not be charged on vehicles delivered to that person, under arrangements approved by the Commissioners, by a person registered under this Schedule;

and where they so direct that person shall, while the direction is in force, be liable to be registered under this Schedule, whether or not he would otherwise be so liable.

Registration of makers and importers of chargeable vehicles

15.—(1) A person who, in any calendar year, makes or imports not less than ten chargeable vehicles is liable to be registered by the Commissioners.

(2) Every person who, on or after 1st October 1972, is liable to be registered under this paragraph and is not for the time being so registered shall notify the Commissioners of the fact within fourteen days of that date or of becoming so liable, whichever is the later; and the Commissioners may, if they think fit, register any such person.

(3) A person for the time being registered under this paragraph who ceases to make or import chargeable vehicles shall notify the Commissioners of that fact and the Commissioners shall cancel the registration of any such person when all tax due from him has been accounted for; and they may, if they think fit, cancel the registration of any other person.

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(4) The Treasury may from time to time by order made by statutory instrument substitute another number for that specified in sub-paragraph (1) of this paragraph.

A statutory instrument made by virtue of this sub-paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Recovery of tax

16.—(1) The tax due from any person shall be recoverable as a debt due to the Crown.

(2) Regulations under this Schedule may make provision for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him, and for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations.

(3) In the application of the preceding sub-paragraph to Scotland, for the references to the levying of distress on any goods or chattels there shall be substituted references to the doing of diligence on goods and corporeal movables.

Power of Commissioners to assess tax due

17.—(1) Where an amount is due from any person on account of the tax, but by reason of his failure to keep or to produce or furnish any records, accounts or other documents as required by or under this Schedule, or of his failure to take or permit to be taken any other step so required, or by reason of such records, accounts or other documents being materially incomplete or inaccurate, the Commissioners are unable to ascertain the exact amount of tax due from him, the Commissioners may assess the amount due from him to the best of their judgment and notify it to him.

(2) An assessment under this paragraph of an amount of tax due shall not be made after the later of the following:—

- (a) two years after the time when the amount became payable; or
- (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge;

but may, where further such evidence comes to their knowledge after the making of such an assessment, be made in addition to that assessment; but no such assessment shall be made more than six years after the time when the tax became payable, except for the purpose of recovering tax lost to the Crown through the fraud or wilful default or neglect of any person.

(3) An amount assessed and notified under this paragraph shall be recoverable as an amount of tax due unless in any action relating thereto the person liable proves the amount actually due and that amount is less than the amount assessed.

Priority of tax in bankruptcy, winding-up, etc.

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18.—(1) There shall be included among the debts which—

- (a) under section 33 of the Bankruptcy Act 1914 are to be paid in ^{1914 c. 59.} priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent; or
- (b) under section 118 of the Bankruptcy (Scotland) Act 1913 are ^{1913 c. 20.} to be paid in priority to all other debts in the division of a bankrupt's estate; or
- (c) under section 1 of the Preferential Payments (Bankruptcies ^{1964 c. 32.} and Arrangements) Act (Northern Ireland) 1964 are to be ^(N.I.) paid in priority to all other debts in the distribution of the property of a bankrupt, arranging debtor or person dying insolvent; or
- (d) under section 319 of the Companies Act 1948 or section 287 ^{1948 c. 38.} of the Companies Act (Northern Ireland) 1960 are to be paid ^{1960 c. 22.} in priority to all other debts in the winding up of a company, ^(N.I.) or under section 94 of the Act of 1948 or section 92 of the Act of 1960 are on an appointment of a receiver on behalf of debenture holders or taking of possession by or on behalf of debenture holders to be paid in priority to any claim for principal or interest in respect of the debenture;

the amount of any tax due at the relevant date from the bankrupt, debtor, person dying or company and having become due within twelve months next before that date.

(2) In this paragraph "the relevant date"—

- (a) in relation to section 33 of the Act of 1914, means the date of the receiving order or of the death, as the case may be;
- (b) in relation to section 118 of the Act of 1913, means the date mentioned in subsection (4) of that section;
- (c) in relation to section 1 of the Act of 1964, means the date of the order of adjudication, the date of the filing of a petition for arrangement or of the death, as the case may be; and
- (d) in relation to section 319 of the Act of 1948, or section 287 of the Act of 1960, has the meaning assigned to it by that section, and in relation to section 94 of the Act of 1948 or section 92 of the Act of 1960, means the date of the appointment of the receiver or taking of possession.

Records, accounts and returns

19.—(1) A person registered under this Schedule shall—

- (a) keep such records and accounts and preserve them for such period as may be prescribed by regulations under this Schedule or as the Commissioners may direct either generally or in any particular case;
- (b) if so required by or on behalf of the Commissioners, produce, at a time and place specified in the requirement, such records or accounts relating to the chargeable vehicles made or imported by him as may be so specified; and

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(c) make such returns of the chargeable vehicles made or imported by him and of the amounts of tax for which he is accountable as may be prescribed by regulations under this Schedule.

(2) A person who, in the course of a business carried on by him, has chargeable vehicles delivered to him on which tax has not been paid shall—

- (a) keep such records and preserve them for such periods as may be prescribed by regulations under this Schedule or as the Commissioners may direct either generally or in any particular case;
- (b) if so required by or on behalf of the Commissioners, produce, at a time and place specified in the requirement, such records relating to the vehicles as may be so specified; and
- (c) make to the persons by whom the vehicles are sent such returns of the vehicles ceasing or treated as ceasing to be that person's property as may be prescribed by regulations under this Schedule.

Giving of information

20.—(1) Every person who is concerned (in whatever capacity) with the making, sale, importation or exportation of chargeable vehicles shall—

- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the vehicles or any materials used or kept for use in making such vehicles as the Commissioners may specify; and
- (b) upon demand made by an authorised person produce or cause to be produced any documents relating to the vehicles or any materials used or kept for use in making such vehicles for inspection by the authorised person and shall permit him to take copies of or to make extracts from the documents and for that purpose to remove them at a reasonable time and for a reasonable period.

(2) Every person who converts a vehicle of another description into a chargeable vehicle shall inform the Commissioners of that fact forthwith unless he is a person registered under this Schedule.

Entry and search

21.—(1) An authorised person may at any reasonable time enter premises which are used in connection with the making, sale, importation or exportation of chargeable vehicles.

(2) Where an authorised person has reasonable cause to believe that any premises are used in connection with—

- (a) the making, sale, importation or exportation of chargeable vehicles; or
- (b) the storage of chargeable vehicles on which tax has not been paid;

and that chargeable vehicles are on those premises, he may at any reasonable time enter and inspect those premises and inspect and take account of any vehicles or materials found on them.

(3) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence in connection with the tax is being, has been, or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within fourteen days from the time of the issue of the warrant and search them; and any person who enters the premises under the authority of the warrant may—

- (a) take with him such other persons as appear to him to be necessary;
- (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence; and
- (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to have committed or to be about to commit such an offence or to be in possession of any such documents or other things;

but no woman or girl shall be searched except by a woman.

(4) In the application of sub-paragraph (3) above to Scotland, the reference to a justice of the peace includes a reference to the sheriff and a magistrate.

Offences

22.—(1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of the tax by him or any other person, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both.

(2) If any person—

- (a) with intent to deceive produces, furnishes or sends for the purposes of this Schedule or regulations made under it or made by virtue of paragraph 27 of this Schedule, or otherwise makes use for those purposes of any document which is false in a material particular; or
- (b) in furnishing any information for the purposes of this Schedule or regulations made under it makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (c) with intent to deceive uses or allows to be used any certificate issued in pursuance of regulations under this Schedule;

he shall be liable to a penalty of £1,000 or to imprisonment for a term not exceeding two years, or to both.

(3) If any person acquires possession of, deals with or uses a chargeable vehicle having reason to believe—

- (a) that tax on the vehicle has been or will be evaded; or
- (b) that the vehicle ought to have been registered but that tax on it has not been paid;

he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater.

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(4) If a person fails to comply with any requirement imposed by or under this Schedule or regulations made under it, he shall be liable to a penalty of £100 together with a penalty of £10 for each day on which the failure continues.

1952 c. 44.

(5) Sections 281 to 291 of the Customs and Excise Act 1952 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this paragraph (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Schedule as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act.

(6) Section 290(2) of the Customs and Excise Act 1952 as it applies by virtue of this paragraph shall have effect as if the question mentioned in paragraph (a) thereof were the question whether or not tax on any vehicle has become due or has been paid or secured.

Forfeiture

23. A chargeable vehicle shall be liable to forfeiture under the Customs and Excise Act 1952 if—

- (a) tax on it would have become payable before its registration and it ought to have been but has not been registered; or
- (b) tax on it ought to have been, but has not been, paid; or
- (c) tax on it has been remitted subject to a condition and the condition has not been complied with.

Evidence by certificate

24.—(1) A certificate of the Commissioners—

- (a) that a person was or was not, at any date, registered under this Schedule; or
- (b) that any return required by or under this Schedule has not been made or had not been made at any date; or
- (c) that any tax shown as due in any return or assessment made in pursuance of this Schedule has not been paid;

shall be sufficient evidence of the fact until the contrary is proved; and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(2) A photograph of any document furnished to the Commissioners for the purposes of this Schedule and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under subparagraph (2) of this paragraph shall be deemed to be such a certificate until the contrary is proved.

Service of notices

25. A notice to be served on any person for any of the purposes of this Schedule may be served by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

Regulations

SCH. 7

26.—(1) The Commissioners may by regulations made by statutory instrument make provision for any matter for which it appears to them necessary to make provision for the purpose of enabling them to discharge their functions in relation to the tax, and in particular, but without prejudice to the generality of this provision—

- (a) for requiring persons registered under this Schedule to account for the tax payable by them by reference to such periods as may be prescribed by the regulations and to pay the tax due in respect of any such period within such time from the end of the period as may be so prescribed;
- (b) for the particulars to be contained in any notification under paragraph 15 of this Schedule;
- (c) for requiring persons registered under this Schedule to furnish to persons acquiring chargeable vehicles from them certificates in such form as may be prescribed by the regulations that the tax on the vehicles has been or will be paid;
- (d) for requiring persons not registered under this Schedule to furnish to persons acquiring chargeable vehicles from them statements in such form as may be prescribed by the regulations that the vehicles are chargeable vehicles on which tax will be payable;
- (e) for treating, for a limited time, as registered under this Schedule persons who carry on the business of persons so registered who have died or have become incapacitated;
- (f) for the issue by the Commissioners of certificates stating that the tax on any chargeable vehicle has been paid or remitted;
- (g) for specifying the circumstances in which a chargeable vehicle supplied by a person under an agreement for sale or return is to be treated for the purposes of the tax as ceasing to be his property in accordance with the agreement;
- (h) for any other matter for which, under this Schedule, provision may be made by regulations.

(2) Without prejudice to the generality of the preceding subparagraph, the regulations may make special provision with respect to certificates and other documents to be issued for the purposes of the tax before the end of March 1973.

(3) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Restriction on registration of chargeable vehicles

27. Regulations made under section 23 of the Vehicles (Excise) Act 1971 c. 10. 1971 may enable the Secretary of State to refuse to register a vehicle unless he is satisfied, by such evidence as may be prescribed by the regulations, either—

- (a) that the vehicle is not a chargeable vehicle; or
- (b) that the tax chargeable on it has been or will be paid; or
- (c) that tax on it has been remitted.

SCH. 7

Isle of Man

28.—(1) If an Act of Tynwald makes provision similar to the provision made with respect to the car tax by this Act, Her Majesty may by Order in Council make provision for securing that—

- (a) tax is charged under either Act as if references therein to the United Kingdom or to the Isle of Man included both the United Kingdom and the Isle of Man, but is not charged under both Acts on the same vehicle;
- (b) persons who are registered under either this Schedule or that Act are treated as registered also under the other; and
- (c) the removal of a vehicle from the United Kingdom into the Isle of Man or from the Isle of Man into the United Kingdom is not treated for the purposes of either Act as an importation or exportation of the vehicle;

and for making such modifications in those Acts and regulations made thereunder as may be requisite for those purposes; and similarly with respect to any Act passed after this Act and relating to the car tax.

1958 c. 11.

(2) An Order in Council under this paragraph may include provision for section 2 of the Isle of Man Act 1958 (Isle of Man share of certain duties) to apply as if the car tax and the tax for which provision is made by Act of Tynwald were included among the duties mentioned in subsection (4) of that section.

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

SCHEDULE 8

Section 56.

SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

TABLE 1: Spirits other than imported perfumed spirits

Description of spirits	Excise rate	Customs rates		
		Full	Common-wealth	Con-vention
	£	£	£	£
1. British spirits (per proof gallon)	18·85	—	—	—
2. Imported spirits other than perfumed spirits—				
(a) not comprised below in this paragraph (per proof gallon)	—	18·9125	18·85	18·85
(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)	—	25·5125	25·425	25·425
(c) ethyl alcohol (ethanol) or neutral spirits, undenatured, of a strength of 140 degrees proof or higher; denatured spirits (including ethyl alcohol (ethanol) and neutral spirits) of any strength (per proof gallon)	—	18·975	18·85	18·85
(d) rum (per proof gallon)	—	18·975	18·85	18·85

each of the above rates of duty being, in the case of spirits not warehoused or warehoused for less than three years, increased by £0·075 per proof gallon or, for spirits within paragraph 2(b) of this Table, by £0·10 per gallon.

Section 75.

SCHEDULE 9

INTEREST ELIGIBLE FOR RELIEF IN FULL

PART I

LOANS FOR PURCHASE OR IMPROVEMENT OF LAND

1. Subject to the following provisions of this Part of this Schedule, interest is protected interest if it is paid by a person for the time being owning an estate or interest in land in the United Kingdom or the Republic of Ireland on a loan to defray money applied—

- (a) in purchasing the estate or interest, or one absorbed into, or given up to obtain, the estate or interest, or
- (b) in improving or developing the land, or buildings on the land, or
- (c) in paying off another loan, if interest on that other loan would have been protected interest had the loan not been paid off (on the assumption, if the loan was free of interest, that it carried interest).

2. Paragraph 1 above does not apply to a loan unless made in connection with the application of money, and either on the occasion of its application or within what is in the circumstances a reasonable time from the application of the money; and that paragraph does not apply to a loan the proceeds of which are applied for some other purpose before being applied as mentioned in that paragraph.

3. References in this Part of this Schedule to money applied in improving or developing land or buildings include references to payments in respect of maintenance or repairs incurred by reason of dilapidation attributable to a period before the estate or interest was acquired, but otherwise do not include references to payments in respect of maintenance or repairs, or any of the other payments mentioned in section 72(1) of the Taxes Act (payments deductible from rent).

4. References in this Part of this Schedule to money applied in improving or developing land include references to expenditure incurred or defrayed directly or indirectly in respect of street works, other than works of maintenance or repair, for any highway or road, or in Scotland any right of way, adjoining or serving the land.

5. References in this Part of this Schedule to an estate or interest in land include references to the property in any caravan, but interest is protected interest by virtue of this paragraph only if—

- (a) the caravan is a large caravan, or
- (b) the caravan, taken with the land on which it stands, is for the time being a rateable hereditament for the purposes of the General Rate Act 1967 or any corresponding enactment in force in Scotland, Northern Ireland or the Republic of Ireland and the owner, or the wife or husband of the owner, has, as occupier of the caravan, duly paid rates under the Act or any such enactment for the period in which the interest was paid.

In this paragraph “hereditament”, in relation to Scotland, means lands and heritages.

6. References in this Part of this Schedule to an estate or interest do not include references—

- (a) to a rentcharge or, in Scotland, a superiority or the interest of a creditor in a contract of ground annual; or
- (b) to the interest of a chargee or mortgagee or, in Scotland, the interest of a creditor in a charge or security of any kind over land.

7. Where interest is payable by the tenant occupier of any property to the landlord in pursuance of arrangements whereby money advanced at interest by the landlord is applied by the tenant in purchasing the landlord’s estate or interest, but that estate or interest is not to pass to the tenant until some time after the interest begins to be payable, this Part of this Schedule shall have effect in relation to the tenant as if he were the owner of the landlord’s estate or interest.

8. Paragraph 1(a) above shall not apply—

- (a) where the seller and purchaser are husband and wife and either sells to the other, or
- (b) where the purchaser, or the wife or husband of the purchaser, has since 15th April 1969 disposed of an estate or interest in the land in question, and it appears that the main purpose of the disposal and purchase was to obtain relief in respect of interest on the loan, or
- (c) where the purchasers are the trustees of a settlement, and the seller is the settlor, or the wife or husband of the settlor, and it appears that the main purpose of the purchase is to obtain relief in respect of interest on the loan, or
- (d) where the purchaser is directly or indirectly purchasing from a person who is, within the terms of section 533 of the Taxes Act, connected with him, and the price substantially exceeds the value of what is acquired;

and paragraph 1(b) above shall not apply where the person spending the money is, within the terms of the said section 533, connected with the person who, directly or indirectly, receives the money, and the money substantially exceeds the value of the work done.

For the purposes of this paragraph, references to a husband and wife are references to a husband and his wife living with him.

9. In this Part of this Schedule, as it applies throughout the United Kingdom and in relation to the Republic of Ireland—

“caravan” has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960;

1960 c. 62.

“large caravan” means one which has either or both of the following dimensions—

- (a) an overall length (excluding any draw bar) exceeding twenty-two feet,
- (b) an overall width exceeding seven feet six inches, where “overall length” and “overall width” have the meanings given in Regulation 3 of the Motor Vehicles (Construction and Use) Regulations 1966;

S.I. 1966
No. 1288.

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“street works” means any works for the sewerage, levelling, paving, metalling, flagging, channelling and making good of a road, and includes the provision of proper means for lighting a road.

PART II

LOANS TO PURCHASE MACHINERY OR PLANT

1968 c. 3.

10. Where an individual is a member of a partnership which, under section 44 of the Capital Allowances Act 1968, is entitled to a capital allowance or liable to a balancing charge for any year of assessment in respect of machinery or plant belonging to the individual, any interest paid by him in the basis period (as defined in section 72 of that Act) for that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant is protected interest, except interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred.

11. Where the machinery or plant is in use partly for the purposes of the trade, profession or vocation carried on by the partnership and partly for other purposes such part only of the interest is protected interest as it is just and reasonable to attribute to the purposes of the trade, profession or vocation, having regard to all the relevant circumstances and, in particular, to the extent of the use for the said other purposes.

12. Where the holder of an office or employment—

1971 c. 68.

(a) is under Chapter II of Part I of the Capital Allowances Act 1968 or Chapter I of Part III of the Finance Act 1971 entitled to a capital allowance, or liable to a balancing charge (or would be so entitled or liable but for some contribution made by the employer), for any year of assessment in respect of machinery or plant belonging to him and in use for the purposes of the office or employment, and

(b) pays interest in that year on a loan to defray money applied as capital expenditure on the provision of that machinery or plant,

the interest so paid is protected interest unless it is interest falling due and payable more than three years after the end of the year of assessment in which the debt was incurred.

13. Where the machinery or plant is in use partly for the purposes of the office or employment and partly for other purposes such part only of the interest is protected interest as it is just and reasonable to attribute to the purposes of the office or employment, having regard to all the relevant circumstances and, in particular, to the extent of the use for the said other purposes.

PART III

SUPPLEMENTARY

14. For the purposes of this Schedule the giving of credit for any money due from the purchaser under any sale shall be treated as the making of a loan to defray money applied by him in making the purchase

15. Where part only of a debt fulfils the conditions required under the preceding provisions of this Schedule for interest on the debt to be protected interest, such proportion of the interest shall be treated as protected interest as is equal to the proportion of the debt fulfilling those conditions at the time of the application of the money in question.

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SCHEDULE 10

Section 75.

RELIEF FOR INTEREST—SUPPLEMENTARY PROVISIONS

Exclusion of double relief or relief by different methods

1. Interest in respect of which relief is given under section 75 of this Act shall not be allowable as a deduction for any other purpose of the Income Tax Acts.

2. Relief shall not be given under section 75 of this Act against income chargeable to corporation tax, and shall not be given against any other income of a company, except where both of the following conditions are satisfied, that is to say—

- (a) that the company is not resident in the United Kingdom; and
- (b) that the interest cannot be taken into account in computing corporation tax chargeable on the company.

3. Where interest on any debt or liability is taken into account in the computation of profits or gains or losses for the purposes of Case I or II of Schedule D no relief shall be given under section 75 of this Act—

- (a) in respect of the payment of that interest; or
- (b) in respect of interest on the same debt or liability which is paid in any year of assessment for which that computation is relevant.

4. Where relief is given under section 75 of this Act in respect of the interest paid in any year of assessment on any debt or liability—

- (a) that interest shall not be taken into account in the computation of profits or gains or losses for the purposes of Case I or II of Schedule D for any year of assessment; and
- (b) interest on that debt or liability shall not be taken into account in that computation for any year of assessment for which the interest so paid could have been taken into account but for the relief.

5. For the purposes of paragraphs 3 and 4 above, all interest capable of being taken into account in such a computation as is mentioned therein which is payable by any person on money advanced to him on current account, whether advanced on one or more accounts or by the same or separate banks or other persons, shall be treated as interest payable on the same debt.

6. References in paragraphs 3 and 4 above to relief given or an amount taken into account are references to relief given or an amount taken into account on a claim or in an assessment which has been finally determined.

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Furnishing of information

7. A person who claims relief under section 75 of this Act in respect of any payment of interest shall furnish to the inspector a statement in writing by the person to whom the payment is made, which—

- (a) if the interest is such as is mentioned in subsection (1)(a) of that section, shall show the amount of the interest paid in the year of assessment for which the claim is made and the name and address of the person by whom it is paid; and
- (b) if the interest is such as is mentioned in subsection (1)(b) of that section, shall contain such particulars and be in such form as the Board may prescribe.

8. Where any such interest as is mentioned in section 75 of this Act is paid, the person to whom it is paid shall, if the person who pays it so requests in writing, furnish him with such statement as regards that interest as is mentioned in paragraph 7 above and the duty imposed by this paragraph shall be enforceable at the suit or instance of the person making the request.

9. Paragraphs 7 and 8 above do not apply to interest paid to a building society as defined in section 343(8) of the Taxes Act, to a company within section 343(9) of that Act, or to a local authority.

Commencement

10. Section 75 of this Act and the amendments and repeals mentioned in subsection (8) of that section do not apply in relation to interest paid or payable before the year 1972-73.

11. If, by any arrangements made after 21st March 1972, any interest payable before the year 1972-73 becomes payable in or after that year or is, directly or indirectly, replaced by any interest payable in or after that year, the interest payable in pursuance of the arrangements shall be deemed for the purposes of paragraph 10 above to have been payable before that year.

Section 75.

SCHEDULE 11

RELIEF FOR INTEREST—AMENDMENTS

1. The Taxes Act shall be amended as follows.
2. In section 122(1)(b) for the words “annuity or other annual payment (not being interest)” there shall be substituted the words “annual interest or any annuity or other annual payment”.
3. In section 175(2) the following shall be substituted for paragraphs (a) and (b):—
 “(a) relief under section 75 of the Finance Act 1972”.
4. In section 248(3) for the words “(4) to (6)” there shall be substituted the words “(4) and (5)”.
5. In section 301(1) and (5) for the words “300” there shall be substituted the words “299”.

6. In section 341(1)(c) for the words "section 57 of this Act" there shall be substituted the words "Part I of Schedule 9 to the Finance Act 1972".

SCH. 11

7.—(1) In subsection (1) of section 403 for the word "surtax" there shall be substituted the words "excess liability" and at the end of the subsection there shall be added the words "In this subsection 'excess liability' means the excess of liability to income tax over what it would be if all income tax were charged at the basic rate to the exclusion of any other rate."

(2) This paragraph has effect for the year 1973-74 and subsequent years of assessment and paragraph 44 of Schedule 6 to the Finance Act 1971 and the repeal made by that Act in section 403(1) of the Taxes Act shall not take effect.

8. In section 528(5) for the words "any of sections 57 to 60 and 62 of this Act" there shall be substituted the words "section 75 of the Finance Act 1972".

9. In paragraphs 2(1)(b) and 3(1) of Part III of Schedule 12 for the words "annuity or other annual payment (not being interest)" there shall be substituted the words "annual interest or any annuity or other annual payment".

SCHEDULE 12

Sections 77, 78,
79.

SHARE OPTION AND SHARE INCENTIVE SCHEMES

PART I

APPROVAL OF SCHEMES

Conditions of approval

1. The Board shall, on the application of a body corporate (in this Schedule referred to as "the company"), approve a share option scheme or a share incentive scheme if—

- (a) the conditions set out in Part II of this Schedule are satisfied with respect to the adoption of the scheme, the persons eligible to participate in it and the shares to be acquired under it or in pursuance of rights conferred under it; and
- (b) the further conditions set out in Part III of this Schedule are satisfied if the scheme is a share option scheme and those set out in Part IV of this Schedule if it is a share incentive scheme.

2. If, at the time the application is pending, the Board have no evidence that the condition set out in paragraph 6 of Part III or paragraph 5 of Part IV of this Schedule is satisfied, then, if the other conditions are satisfied, the Board may approve the scheme subject to the remaining condition being satisfied; and if that condition is not satisfied the approval shall be of no effect.

Application for approval

3. An application under this Schedule shall be made in writing and shall contain such particulars and be supported by such evidence as

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may be prescribed by regulations made by the Board by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Withdrawal of approval

4. If, at any time after the Board have approved a scheme, any of the conditions mentioned in paragraph 1 above ceases to be satisfied the Board may withdraw the approval with effect from that time.

Appeals

5. If the company is aggrieved by the failure of the Board to approve the scheme or to decide that a condition subject to which the approval has been given is satisfied, or by the withdrawal of the approval, it may, by notice in writing given to the Board within thirty days from the date on which it is notified of the Board's decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall hear and determine the matter in like manner as an appeal.

PART II

CONDITIONS APPLICABLE TO SHARE OPTION AND
SHARE INCENTIVE SCHEMES*Adoption of scheme*

1. The scheme must have been adopted by a resolution of the holders of the ordinary share capital of the company shares in which (or an interest in, or right to acquire, shares in which) are to be acquired under the scheme, and the shares, interest or right must not be capable of being acquired under the scheme more than ten years after its adoption.

Type of shares

2. The shares must be shares in the company of which the persons participating in the scheme are directors or employees or in a company controlling that company or in a company which, being a member of a consortium owning either that company or a company controlling it, beneficially owns not less than three-twentieths of the ordinary share capital of the company so owned.

For the purposes of this paragraph a company is a member of a consortium owning another company if it is one of not more than five companies which between them beneficially own not less than three-quarters of the other company's ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.

3. The shares must be either—

- (a) shares of a class quoted on a recognised stock exchange, or
- (b) shares in a company which is not under the control of another company.

4. The majority of shares of the same class must be shares acquired otherwise than as mentioned in section 79(1) of this Act and otherwise than by the exercise of a right obtained as mentioned in section 78(1) of this Act.

Limitation on issue of shares

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5. In the period of ten years beginning with the adoption of the scheme the issue of shares under the scheme, or in pursuance of rights conferred under the scheme, must be so limited that the nominal value of those shares, when added to that of any shares issued under any other scheme approved under this Schedule and relating to the same body's shares, or in pursuance of rights conferred under any such scheme, does not exceed the following, that is to say—

- (a) if the ordinary share capital of that body does not exceed £2 million, 10 per cent. of that ordinary share capital ; and
- (b) if that ordinary share capital exceeds £2 million, 5 per cent. of that ordinary share capital or £200,000, whichever is the greater.

Participants

6. No person must be eligible to participate in the scheme unless he is a full-time director or full-time employee of the company concerned.

PART III

FURTHER CONDITIONS APPLICABLE TO SHARE OPTION SCHEMES

Limitation of rights

1. The rights obtainable under the scheme by any person in any year of assessment must be so limited that the amount for which shares may be acquired in pursuance of the rights does not, when added to the amount for which shares remain to be acquired under such rights obtained by him earlier, exceed four times the amount of the relevant emoluments for that or the preceding year of assessment (whichever is the greater) ; and for this purpose the relevant emoluments are such of the emoluments of the office or employment by virtue of which he is eligible to participate in the scheme as are liable to be paid under deduction of tax pursuant to section 204 of the Taxes Act (pay-as-you-earn), after deducting therefrom amounts included by virtue of Chapter II of Part VIII of that Act.

2. If rights are obtainable by any person under the scheme and rights have also been obtained or are obtainable by him under share option schemes previously approved under this Schedule, the limit specified in paragraph 1 above applies to the aggregate of the rights obtainable or obtained under all the schemes.

3. If rights are obtainable by any person under the scheme and shares or interests in shares may be or have been acquired by him under a share incentive scheme approved under this Schedule, the limit under this Part of this Schedule applies to the aggregate of the amount mentioned therein and the amount or value limited under Part IV of this Schedule.

Exercise of rights

4. A right obtained by a person under the scheme must not be capable of being exercised later than seven years after it is obtained nor later than six months after he ceases to hold the office or employment by virtue of which he is eligible to participate in the scheme

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except that it may be capable of being exercised within twelve months of his death if he dies at a time when it was still capable of being exercised by him.

Restriction on transfer

5. A right obtained by a person under the scheme must not be capable of being transferred by him.

Minimum price of shares

6. The price at which shares may be acquired by the exercise of a right obtained under the scheme must be stated at the time the right is obtained and must not be manifestly less than the market value at that time of shares of the same class, but the scheme may provide for such variation of the price so stated as may be necessary to take account of any variation in the share capital of the body issuing the shares.

Freedom from special restrictions

7. The shares must not be subject to any restrictions other than restrictions attaching to all shares of the same class.

PART IV

FURTHER CONDITIONS APPLICABLE TO SHARE INCENTIVE SCHEMES

Limitation of rights

1. The acquisition by any person of shares or interests in shares under the scheme must be so limited that the amount or value of the consideration for the shares and interests so acquired in any year of assessment does not, when added to the amount or value of the consideration for the shares and interests so acquired by him earlier (and remaining subject to restrictions not attaching to all shares of the same class), exceed four times the amount of the relevant emoluments for that or the preceding year of assessment (whichever is the greater); and for this purpose the relevant emoluments are such of the emoluments of the office or employment by virtue of which he is eligible to participate in the scheme as are liable to be paid under deduction of tax pursuant to section 204 of the Taxes Act, after deducting therefrom amounts included by virtue of Chapter II of Part VIII of that Act.

2. If shares or interests in shares may be acquired by a person under the scheme and shares or interests in shares may also be or have been acquired by him under share incentive schemes previously approved under this Schedule, the limit specified in paragraph 1 above applies to the aggregate of the shares or interests that may be or have been acquired under all the schemes.

3. Where shares or interests in shares may be acquired by a person under the scheme and rights are obtainable or have been obtained by him under a share option scheme approved under this Schedule the limit under this Part of this Schedule applies to the aggregate of the amount or value mentioned therein and the amount limited under Part III of this Schedule.

Restriction on transfer

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4. Shares or interests in shares acquired by a person under the scheme must not be capable of being transferred by him while any restrictions attach to the shares which do not attach to all shares of the same class.

Minimum price of shares

5.—(1) The price at which shares may be acquired under the scheme must not be—

- (a) manifestly less than the market value of the shares at the time of their acquisition; nor
- (b) less than 80 per cent. of the market value at that time of shares of the same class to which no other restrictions attach than restrictions attaching to all shares of that class;

and similarly with respect to the acquisition of interests in shares; and where part of the price is payable after the acquisition the price shall be treated for the purposes of this paragraph as reduced to such extent as may be necessary to take account of the period for which the payment of that part is or may be deferred.

(2) This paragraph shall not prevent the scheme from providing for a reduction in the price at which shares are acquired under the scheme in a case where the person acquiring them is called upon to pay any outstanding part of that price or to repay a loan made to him to acquire the shares, and—

- (a) at the time he is so called upon the market value of shares of the same class to which no other restrictions attach than restrictions attaching to all shares of that class is less than the price at which the shares were acquired; and
- (b) the reduction provided for is not greater than the amount by which the market value mentioned in paragraph (a) above falls short of the price mentioned therein, after adjusting that value and that price to such extent (if any) as may be necessary to take account both of any deferment of the payment of any part thereof and of any variation in the share capital of the body issuing the shares.

Time limit for special restrictions

6. Any restriction attaching to the shares and not attaching to all shares of the same class must cease not later than seven years after the shares or an interest in them is acquired under the scheme (or if acquired in substitution for shares or interests previously acquired not later than seven years after the earliest such acquisition).

Conditions governing bonus and rights issues

7. The scheme must provide that where shares are issued otherwise than under the scheme and otherwise than for a consideration to persons who have acquired shares or interests in shares under the scheme the same restrictions must attach to the shares so issued as are for the time being attaching to the shares which, or interests in which, those persons have acquired under the scheme.

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8. The scheme must provide that where an offer to acquire shares is made otherwise than under the scheme to persons who have acquired shares or an interest in shares in pursuance of the scheme, the offer must be on the same terms as offers to acquire shares of the same class which are made to shareholders generally.

PART V

CONDITIONS TO BE SATISFIED BY DIRECTOR OR EMPLOYEE

1. He must retain the beneficial ownership of or his interest in the shares until whichever is the earliest—

- (a) the end of the period of three years beginning with his acquisition of his right under the share option scheme or, as the case may be, his acquisition of the shares or interest under the share incentive scheme ; and
- (b) his ceasing to be a director or employee by reason of injury, disability or dismissal for redundancy (within the meaning of the Redundancy Payments Act 1965 or of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965) ; and
- (c) his death ;

but he shall not be deemed to fail to satisfy this condition by reason only that the shares are acquired by a company which is entitled and bound to do so under section 209 of the Companies Act 1948 or section 200 of the Companies Act (Northern Ireland) 1960 (acquisition of shares from dissenting shareholders).

2. If the shares are shares in a close company he must not have a material interest in that company or in a company controlling that company at the time he obtains the right or is given the opportunity to acquire the shares or his interest therein or thereafter until the end of the period during which under paragraph 1 above he is required to retain the beneficial ownership of or his interest in the shares, nor at any time thereafter while any restrictions attach to the shares which do not attach to all shares of the same class.

PART VI

EFFECT OF PARTIAL COMPLIANCE WITH CONDITIONS

1. Where—

- (a) a person has before 6th April 1972 obtained a right as mentioned in section 78 of this Act in pursuance of a share option scheme which is not approved under this Schedule ; and
- (b) the right is exercised by him before 6th April 1973 or, if he dies before that date, is exercised within twelve months of his death ;

section 186 of the Taxes Act shall not apply to any gain realised by the exercise, if or to the extent that the right is within the limit imposed by paragraph 1 of Part III of this Schedule.

2. If that person obtained the right within the first twelve months during which he held the office or employment by virtue of which he was eligible to participate in the scheme paragraph 1 above shall have effect as if for the limit referred to therein there were substituted the greater of the following, that is to say, that limit and what would be that limit if the relevant emoluments for those twelve months were specified in paragraph 1 of Part III of this Schedule instead of those mentioned therein.

3. In relation to a right which cannot be exercised before 6th April 1973 paragraph 1 above shall have effect as if for the references to that date there were substituted references to six months after the earliest date at which it can be exercised.

PART VII

SUPPLEMENTARY PROVISIONS

Procedure on assessment under section 78(2)

1. For the purposes of any assessment made or to be made in pursuance of section 78(2) of this Act the market value at any time of any shares shall be determined by the Board and their determination shall be notified to the body corporate by which the shares were issued; and that body, as well as the person on whom the assessment is or is to be made, may appeal against the determination to the Special Commissioners.

2. On any such appeal all persons who have obtained a right in pursuance of the same scheme and on the same day may take part in the proceedings, and the determination of the Special Commissioners shall be binding on all such persons, whether or not they have taken part in the proceedings.

Furnishing of information

3. Where in any year of assessment a person acquires shares or an interest in shares as mentioned in section 79(1) of this Act and the acquisition is not made in pursuance of a scheme approved under this Schedule, the body from which the shares are or the interest is acquired shall deliver to the inspector, within thirty days of the end of the year, particulars in writing of the shares and of the acquisition.

4. The Board may by statutory instrument make regulations requiring such information to be given about the names and addresses of persons participating in schemes approved under this Schedule, the shares issued or rights acquired in pursuance of such schemes and the exercise, assignment or release of such rights as appears to the Board necessary for the discharge of their functions under this Schedule and sections 78 and 79 of this Act; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

5. In section 98 of the Taxes Management Act 1970 (penalty for 1970 c. 9. failure to furnish information etc.) the following shall be added in the second column of the Table: " Paragraph 3 of Part VII of Schedule 12 to the Finance Act 1972 or regulations under paragraph 4 of that Part ".

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*Interpretation***6. In sections 77 to 79 of this Act and in this Schedule—**

- “ associated company ” has the same meaning as, by virtue of section 302 of the Taxes Act, it has in Chapter III of Part XI of that Act;
- “ close company ” has the same meaning as in the Corporation Tax Acts;
- “ control ” has the meaning assigned to it by section 534 of the Taxes Act;
- “ director ” includes a person who is to be a director;
- “ employee ” includes a person who is to be an employee;
- “ full-time ”, in relation to a director or employee, means required to devote substantially the whole of his time to service as a director or employee;
- “ market value ” has the same meaning as, for the purposes of Part III of the Finance Act 1965, it has by virtue of section 44 of that Act;
- “ recognised stock exchange ” has the same meaning as in the Corporation Tax Acts;
- “ share incentive scheme ” means a scheme in pursuance of which shares or interests in shares may be acquired as mentioned in section 79(1) of this Act;
- “ share option scheme ” means a scheme in pursuance of which rights may be obtained as mentioned in section 78(1) of this Act;
- “ shares ” includes stock and also includes securities as defined in section 237(5) of the Taxes Act; and references to an interest in any shares include references to an interest in the proceeds of sale of part of the shares.

1965 c. 25.

7. Section 186(9) of the Taxes Act shall apply, with the necessary modifications, for determining for the purposes of sections 78 and 79 of this Act and of this Schedule whether a person obtains a right or acquires shares or an interest in shares as a director or employee of a body corporate.

8. Section 285(6) of the Taxes Act shall apply for determining for the purposes of this Schedule whether a person has a material interest in a company.

9. Section 533 of the Taxes Act (connected persons) shall apply for the purposes of sections 78 and 79 of this Act and of this Schedule.

Section 81.

SCHEDULE 13**LEASES—TRANSITIONAL PROVISIONS***Section 81(1)*

1. Paragraphs 2 to 5 below apply where an amount is payable by instalments and, by virtue of a claim made under subsection (6) of section 80 of the Taxes Act as originally enacted, any of the instalments would have fallen to be treated as rent payable on or after 11th April 1972 or as profits or gains arising on or after that date and chargeable to tax under Case VI of Schedule D.

2. Where the person making the claim was a person carrying on a trade of dealing in land, and section 142(3) of the Taxes Act prevented any part of the instalment from being treated as a trading receipt, the instalment shall be treated as due on 11th April 1972 and the person who made the claim shall be chargeable to tax under Case VI of Schedule D on the amount of that instalment (reduced, where paragraph 1(2) of Schedule 4 to the Taxes Act applies, as required by that paragraph), less any loss attributable to the granting of the lease, so far as it has not been set off against or deducted from any other amount. SCH. 13

3. In any other case the person who made the claim shall, subject to paragraph 4 below, be chargeable to tax as if the instalment were part of the consideration for a disposal to which paragraph 14 of Schedule 6 to the Finance Act 1965 as originally enacted had 1965 c. 25. applied ; and section 116(3) of this Act shall apply accordingly.

4. A person chargeable to tax in accordance with paragraph 3 above may, by notice in writing given to the inspector not later than 11th April 1973, elect that that paragraph shall not apply in his case but that his liability to tax (including his liability for past periods) shall be computed as if both section 81(1) and section 116 of this Act had come into force before the claim under section 80(6) of the Taxes Act was made ; and where he so elects all such assessments, alterations of assessments and repayments of tax shall be made as may be necessary.

5. Where a person liable to pay tax in accordance with any of the preceding paragraphs satisfies the Board that he would otherwise suffer undue hardship, the tax may, at his option, be paid by such instalments as the Board may allow.

Section 81(2)-(4)

6. Paragraph 7 below applies with respect to a lease granted before 25th August 1971 and, so far as section 84 of the Taxes Act relates to section 80(4) of that Act, with respect to a variation or waiver the contract for which was entered into before that date.

7. Subsection (2) to (4) of section 81 of this Act shall apply only to the extent that they affect relief, for any year of assessment later than the year 1971-72 or for any accounting period beginning after 24th August 1971, under any of the provisions of the Taxes Act mentioned in paragraph 3(2) of Schedule 14 to that Act or under section 491(5) of that Act or to the extent that they affect the computation of the profits or gains or losses for any such year of assessment or accounting period of a trade, profession or vocation ; and paragraph 3 of Schedule 14 to the Taxes Act shall apply in relation to section 84 of that Act as amended by this Act.

Sections 84
and 89.

SCHEDULE 14

COLLECTION OF ADVANCE CORPORATION TAX

Duty to make returns

1.—(1) A company shall for each of its accounting periods make, in accordance with this Schedule, returns to the collector of the franked payments made and franked investment income received by it in that period and of the advance corporation tax (if any) payable by it in respect of those payments.

(2) A return shall be made for—

- (a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December which falls within that period;
- (b) each part of the accounting period which is not a complete quarter and ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within the accounting period;
- (c) if none of those dates falls within the accounting period, the whole accounting period.

(3) A return for any period for which a return is required to be made under this paragraph (hereinafter referred to as “a return period”) shall be made within fourteen days from the end of that period.

(4) Subject to paragraphs 4(2) and 7(3) below, no return need be made under this Schedule by a company for any period in which it has made no franked payments.

Contents of return

2.—(1) Subject to paragraph 7(2) below, the return made by a company for any return period shall show—

- (a) the amount of the franked payments made by it in that period;
- (b) the amount of franked investment income, if any, received by it in that period; and
- (c) if any advance corporation tax is payable in respect of those payments, the amount thereof.

(2) The return shall specify whether any amount of franked payments is included under paragraph (a) of the foregoing sub-paragraph in consequence of the giving of a notice under the proviso to section 256(1) of the Taxes Act and, if so, the amount so included.

(3) For the purposes of paragraph (b) of sub-paragraph (1) above the amount of franked investment income received by a company in a return period shall be treated as including the excess, if any, of—

- (a) any surplus of franked investment income carried forward to the accounting period for which the return is made; and
- (b) any amount of franked investment income received by the company in that accounting period but before the beginning of the return period.

over the amount of any franked payments made by the company in that accounting period but before the beginning of the return period.

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(4) For the purposes of paragraph (c) of sub-paragraph (1) above advance corporation tax shall be payable in respect of franked payments made in a return period if the amount shown under paragraph (a) of that sub-paragraph exceeds the amount shown under paragraph (b) of that sub-paragraph or no amount is shown under the said paragraph (b); and the amount of that tax shall be calculated at the rate of advance corporation tax in force for the financial year in which the return period ends on an amount which, when that tax is added to it, is equal to that excess or, if no amount is shown under the said paragraph (b), to the amount shown under the said paragraph (a).

Payment of tax

3.—(1) Subject to paragraph 7(2) below, advance corporation tax in respect of franked payments required to be included in a return under this Schedule shall be due at the time by which the return for that period is to be made, and advance corporation tax so due shall be payable without the making of any assessment.

(2) Advance corporation tax which has become due as aforesaid may be assessed on the company (whether or not it has been paid when the assessment is made) if that tax, or any part of it, is not paid on or before the due date.

(3) If it appears to the inspector that there is a franked payment which ought to have been and has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the company to the best of his judgment; and any advance corporation tax due under an assessment made by virtue of this sub-paragraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

Receipt of franked investment income after payment of advance corporation tax

4.—(1) This paragraph shall have effect where—

(a) a return has been made of franked payments made in any return period falling within an accounting period and advance corporation tax has been paid in respect of those payments; and

(b) the company receives franked investment income after the end of the return period but before the end of the accounting period.

(2) The company shall make a return under paragraph 1 above for the return period in which the franked investment income is received whether or not it has made any franked payments in that period, and, subject to sub-paragraph (3) below, shall be entitled to repayment of any advance corporation tax paid (and not repaid) in respect of franked payments made in the accounting period in question.

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(3) If no franked payments were made by the company in the return period for which a return is made by virtue of sub-paragraph (2) above the amount of the repayment shall not exceed the amount of the tax credit comprised in the franked investment income received; and in any other case the repayment shall not exceed the amount of the tax credit comprised in so much of that franked investment income, if any, as exceeds the amount of the franked payments made in that return period.

Claims for set-off in respect of franked investment income received by a company

5. Where under paragraph 2 or 4 above franked investment income received by a company falls to be taken into account in determining—

(a) whether advance corporation tax is payable or repayable; or

(b) the amount of such tax which is payable or repayable,

the inclusion of that franked investment income in the appropriate return shall be treated as a claim by the company to have it taken into account as aforesaid, and any such claim shall be supported by such evidence as the inspector may reasonably require.

6.—(1) Where a claim has been made under paragraph 5 above no proceedings for collecting tax which would fall to be discharged if the claim were allowed shall be instituted pending the final determination of the claim, but this sub-paragraph shall not affect the date when the tax is due.

(2) When the claim is finally determined any tax underpaid in consequence of sub-paragraph (1) above shall be paid.

(3) Where proceedings are instituted for collecting tax assessed, or interest on tax assessed, under any provision of this Schedule, effect shall not be given to any claim made after the institution of the proceedings so as to affect or delay the collection or recovery of the tax charged by the assessment or of interest thereon, until the claim has been finally determined.

(4) When the claim is finally determined any tax overpaid in consequence of sub-paragraph (3) above shall be repaid.

(5) References in this paragraph to proceedings for the collection of tax include references to proceedings by way of distraint or pouncing for tax.

Qualifying distributions which are not payments and payments of uncertain nature

7.—(1) This paragraph applies to—

(a) any qualifying distribution which is not a payment; and

(b) any payment in respect of which the company making it would be liable to pay advance corporation tax if, but only if, it amounted to or involved a qualifying distribution and it is not in the circumstances clear whether or how far it does so.

(2) No amount shall be shown in respect of the qualifying distribution or payment under paragraph 2(1)(a) or (c) above and paragraph 3(1) above shall not apply to the payment of advance corporation tax in respect thereof.

(3) Particulars of the qualifying distribution or payment shall be given separately in the return for the return period in which it is made and if, apart from that distribution or payment, no franked payment is made in that period, a return containing those particulars shall be made for that period under paragraph 1 above.

(4) Any advance corporation tax payable in respect of the qualifying distribution or payment shall be assessed on the company and shall be so assessed without regard to any franked investment income received by the company but—

- (a) relief shall be given from the tax assessed (by discharge thereof) to the extent, if any, to which that tax exceeds the tax that would have been payable if the amount of the franked payment comprising the qualifying distribution or payment, calculated on the amount or value thereof shown in the assessment, had been included in the return under sub-paragraph (1) (a) of paragraph 2 above and the tax had been calculated in accordance with sub-paragraph (4) of that paragraph ; and
- (b) for the purposes of the application of sub-paragraph (3) of that paragraph to any subsequent return period, the amount of that franked payment shall be taken to be the amount calculated as aforesaid.

Items included in error

8. Where any item has been included in a return under this Schedule as a franked payment made or as franked investment income received by a company but that item should have been included in a return or claim under Schedule 20 to this Act, the inspector may make any such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) whether of the company or of any other person are the same as they would have been if the item had been included in the right return or claim.

Qualifying distribution made otherwise than in an accounting period

9. Where a company makes a qualifying distribution on a date which does not fall within an accounting period the company shall make a return of that distribution within fourteen days from that date, and the advance corporation tax in respect thereof shall be due at the time by which the return is to be made, except where the distribution is not a payment in which case the advance corporation tax shall be assessed on the company.

Assessments and due date of tax

10.—(1) All the provisions of the Corporation Tax Acts as to the time within which an assessment may be made, so far as they refer or relate to the accounting period for which an assessment is

SCH. 14

made, or the accounting period to which an assessment relates, shall apply in relation to an assessment under this Schedule notwithstanding that, under this Schedule, the assessment may be said to relate to a quarter or other period which is not an accounting period, and the provisions of sections 36 and 39 of the Management Act as to the circumstances in which an assessment may be made out of time shall apply accordingly on the footing that any such assessment relates to the accounting period in which the quarter or other period ends or, in the case of an assessment under paragraph 9 above, to an accounting period ending on the date on which the distribution is made.

(2) Advance corporation tax assessed on a company under this Schedule shall be due within fourteen days after the issue of the notice of assessment (unless due earlier under paragraph 3(1) or 9 above).

(3) Sub-paragraph (2) above has effect subject to any appeal against the assessment, but no such appeal shall affect the date when tax is due under paragraph 3(1) or 9 above.

(4) On the determination of an appeal against an assessment under this Schedule any tax overpaid shall be repaid.

(5) Any tax assessable under any one or more of the provisions of this Schedule may be included in one assessment if the tax so included is all due on the same date.

Sections 90
and 91.

SCHEDULE 15

LOSS RELIEF ETC., AND GROUP INCOME: PROVISIONS OF INCOME AND CORPORATION TAXES ACT 1970 AS SUBSTITUTED BY THIS ACT

PART I

SECTIONS 254 AND 255

Set-off of losses
etc. against
surplus of
franked
investment
income.

254.—(1) Where a company has a surplus of franked investment income for any accounting period, the company may on making a claim for the purpose require that the amount of the surplus shall for all or any of the purposes mentioned in subsection (2) below be treated as if it were a like amount of profits chargeable to corporation tax, and subject to subsection (4) below the provisions mentioned in subsection (2) below shall apply in accordance with this section to reduce the amount of the surplus for purposes of section 89(3) of the Finance Act 1972 and the company shall be entitled to have paid to it the amount of the tax credit comprised in the amount of franked investment income by which the surplus is so reduced.

(2) The purposes for which a claim may be made under subsection (1) above are those of—

- (a) the setting of trading losses against total profits under section 177(2) of this Act ;
- (b) the deduction of charges on income under section 248 of this Act ;

- (c) the deduction of expenses of management under section 304 or 305 of this Act ; SCH. 15
- (d) the setting of certain capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968. 1968 c. 3.

(3) Where a company makes a claim under this section for any accounting period, the reduction falling to be made in profits of that accounting period shall be made as far as may be in profits chargeable to corporation tax rather than in the amount treated as profits so chargeable under this section.

(4) Where a claim under this section relates to section 177(2) of this Act or to section 74(3) of the Capital Allowances Act 1968 and an accounting period of the company falls partly before and partly within the time mentioned in that subsection, then—

- (a) the restriction imposed by section 177(3) of this Act or by section 74(4) of the Capital Allowances Act 1968 on the amount of the relief shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as profits of the accounting period under this section ; but
- (b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within the said time.

(5) Where—

- (a) on a claim made under this section for any accounting period relief is given in respect of the whole or part of any loss incurred in a trade, or of any amount which could be treated as a loss under section 177(8) of this Act ; and
- (b) in a later accounting period the franked payments made by the company exceed its franked investment income ;

then (unless the company has ceased to carry on the trade or to be within the charge to corporation tax in respect of it) the company shall, for purposes of section 177(1) of this Act, be treated as having, in the accounting period ending immediately before the beginning of the later accounting period mentioned in paragraph (b) above, incurred a loss equal to whichever is the lesser of—

- (i) the excess referred to in paragraph (b) above ; and
- (ii) the amount in respect of which relief was given as aforesaid, or so much of that amount as remains after deduction of any part of it dealt with under this subsection in relation to an earlier accounting period.

(6) Subsection (5) above shall apply, with the necessary adaptations,—

- (a) in relation to relief given in respect of management expenses ; and
- (b) in relation to relief given in respect of capital allowances ;
- as it applies in relation to relief given in respect of a loss (the reference to the company ceasing to be within the charge to corporation

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tax in respect of the trade being construed as a reference to its ceasing to be within that charge at all):

Provided that any amount which may be dealt with under subsection (5) as a loss shall be so dealt with rather than under this subsection, except in so far as the company concerned otherwise elects.

(7) The time limits for claims under this section shall be as follows—

- (a) if and so far as the purpose for which the claim is made is the setting of trading losses against total profits under section 177(2) of this Act, two years from the end of the accounting period in which the trading loss is incurred ;
- (b) if and so far as the purpose for which the claim is made is the deduction of charges on income under section 248 of this Act or of expenses of management under section 304 or 305 of this Act, six years from the end of the accounting period in which the charges were paid or the expenses of management were incurred ;
- (c) if and so far as the purpose for which the claim is made is the setting of capital allowances against total profits under section 74(3) of the Capital Allowances Act 1968, two years from the end of the accounting period for which the capital allowances fall to be made.

1968 c. 3.

(8) For the purposes of a claim under this section for any accounting period the surplus of franked investment income for that accounting period shall be calculated without regard to the part, if any, carried forward from an earlier accounting period ; and for the purposes of subsection (5) above franked investment income which by virtue of section 89(5) of the Finance Act 1972 cannot be used to frank distributions of a company shall be left out of account.

Set-off of loss brought forward, or terminal loss.

255.—(1) Where a company has a surplus of franked investment income for any accounting period, the company, instead of or in addition to making a claim under section 254 above, may on making a claim for the purpose require that the surplus shall be taken into account for relief under section 177(1) or under section 178 of this Act, up to the amount of franked investment income for the accounting period which, if chargeable to corporation tax, would have been so taken into account by virtue of section 177(7) of this Act ; and (subject to the restriction to the said amount of franked investment income) the following subsections shall have effect where the company makes a claim under this section for any accounting period.

(2) The amount to which the claim relates shall for the purposes of the claim be treated as trading income of the accounting period.

(3) The reduction falling to be made in trading income of an accounting period shall be made as far as may be in trading income chargeable to corporation tax rather than in the amount treated as trading income so chargeable under this section.

(4) If the claim relates to section 177(1) of this Act, section 254(5) above shall apply in relation to it.

(5) If the claim relates to section 178 of this Act and an accounting period of the company falls partly outside the three years mentioned in subsection (1) of that section, then—

(a) the restriction imposed by subsection (2) of that section on the amount of the reduction that may be made in the trading income of that period shall be applied only to any relief to be given apart from this section, and shall be applied without regard to any amount treated as trading income of the accounting period by virtue of this section, but

(b) relief under this section shall be given only against a part of the amount so treated proportionate to the part of the accounting period falling within the three years in question.

(6) The time limits for claims under this section shall be as follows—

(a) if and so far as the purpose for which the claim is made is the allowance of relief under section 177(1) of this Act, six years from the end of the accounting period for which the claim is made,

(b) if and so far as the purpose for which the claim is made is the allowance of relief under section 178 of this Act, six years from the time when the company ceases to carry on the trade.

(7) For the purpose of a claim under this section for any accounting period the surplus of franked investment income for that period shall be calculated without regard to the part, if any, carried forward from an earlier accounting period.

PART II

SECTION 256(1), (4) AND (4A)

256.—(1) Where a company receives dividends from another company (both being bodies corporate resident in the United Kingdom), and the company paying the dividends is— Group income, etc.

(a) a 51 per cent. subsidiary of the other or of a company so resident of which the other is a 51 per cent. subsidiary ;
or

(b) a trading or holding company owned by a consortium the members of which include the company receiving the dividends,

then, subject to the following provisions of this section, the company receiving the dividends and the company paying them may jointly elect that this subsection shall apply to the dividends received from the latter by the former, and so long as the election is in force any such dividends shall be excluded from sections 84(1) and 86 of the Finance Act 1972 and are accordingly not included in references to franked payments made by the company paying the dividends or the franked investment income of the company receiving them (but are in the Corporation Tax Acts referred to as "group income" of the latter company):

Provided that where an election under this subsection is in force the company paying the dividends may by notice in writing to the

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(4) Where a company purports—

(a) by virtue of an election under subsection (1) of this section to pay any dividends without paying advance corporation tax ; or

(b) by virtue of an election under subsection (2) of this section to make any payment without deduction of income tax,

and advance corporation tax ought to have been paid or income tax ought to have been deducted, as the case may be, the inspector may make such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) of the company paying and the company receiving the dividends or payment are, so far as possible, the same as they would have been if the advance corporation tax had been duly paid or the income tax had been duly deducted.

(4A) Where tax assessed under subsection (4) above on the company which paid the dividends or made the payment is not paid by that company before the expiry of three months from the date on which that tax is payable, that tax shall, without prejudice to the right to recover it from that company, be recoverable from the company which received the dividends or payment.

Section 94.

SCHEDULE 16

APPORTIONMENT OF INCOME ETC. OF CLOSE COMPANIES

PART I

POWERS OF APPORTIONMENT AND CONSEQUENCES OF APPORTIONMENT

Power to apportion excess of company's relevant income over its distributions

1.—(1) Subject to sub-paragraphs (2) and (3) below, the income of a close company for any accounting period may, for the purposes of this Schedule, be apportioned by the inspector among the participators.

(2) Subject to paragraphs 2 and 3 below—

(a) an apportionment shall not be made under this paragraph unless the relevant income of the company for the accounting period exceeds its distributions for that period ; and

(b) the amount apportioned shall be the amount of that excess, and Part II of this Schedule shall have effect for determining the relevant income and distributions of a company for an accounting period and whether or not there is any such excess.

(3) Subject to paragraphs 2 and 3 below, an apportionment shall not be made under this paragraph of the income of—

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(a) a trading company ; or

(b) a company which is a member of a trading group by virtue of paragraph 11(2)(a) below,

unless the excess mentioned in sub-paragraph (2) above is more than £1,000.

(4) Any amount apportioned to a close company under sub-paragraph (1) above, or by one or more sub-apportionments under this sub-paragraph, may be further apportioned among the participators in that company.

(5) Subject to paragraph 13 below, this paragraph shall, notwithstanding the winding up of a company, or the passing of any resolution or the making of any order or anything else done for the purpose of winding up a company, continue to apply as if the company were not being wound up.

Power to apportion whole of relevant income of non-trading company

2. Subject to paragraphs 13(4) and 14(2) below, there may be apportioned under paragraph 1 above, if the inspector sees reason for it, the whole of the relevant income for an accounting period of a close company which is not a trading company, whether or not there is any such excess as is mentioned in sub-paragraph (2) of that paragraph ; and sub-paragraphs (2) and (3) of that paragraph shall accordingly not apply to any apportionment made by virtue of this paragraph.

Power to apportion amounts deducted in respect of certain annual payments

3.—(1) Subject to sub-paragraph (2) below, there may be apportioned under paragraph 1 above as if it were income of a close company for an accounting period any amount which was deducted in respect of annual payments made by the close company in arriving at its distributable income for that period and which in the case of an individual would not have been deductible or would have been treated as his income in computing his total income.

(2) Sub-paragraph (1) above does not apply to annual payments which consist of interest or are made wholly and exclusively for the purposes of the company's trade.

(3) Any amount apportionable by virtue of this paragraph shall be in addition to the amount (if any) apportionable under paragraph 1 above without this paragraph, and nothing in sub-paragraphs (2) and (3) of that paragraph shall apply to any apportionment made by virtue of this paragraph.

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Manner of apportionment

4.—(1) Subject to the provisions of this paragraph, any apportionment under paragraph 1 above, including any sub-apportionment of an amount directly or indirectly apportioned to a company, shall be made according to the respective interests in the company in question of the participators.

(2) In determining for the purposes of this paragraph the respective interests of the participators, the inspector may if it seems proper to him to do so attribute to each participator an interest corresponding to his interest in the assets of the company available for distribution among the participators in the event of a winding up or in any other circumstances.

(3) Where income of a company which is not a trading company is apportioned under paragraph 1 above, the inspector may if it seems proper to him to do so treat a loan creditor as having an interest for the purposes of this paragraph to the extent to which the income to be apportioned, or assets representing it, has or have been expended or applied, or is or are available to be expended or applied, in redemption, repayment or discharge of the loan capital or debt (including any premium thereon) in respect of which he is a loan creditor.

Consequences of apportionment : income tax

5.—(1) Where a sum has been apportioned under paragraph 1 above to an individual (whether by an original apportionment or a sub-apportionment), income tax shall be assessed and charged in respect of that sum in accordance with the following provisions of this paragraph.

(2) Where a sum is so apportioned to an individual—

- (a) it shall be treated for the purpose of computing his total income as income received by him at the end of the accounting period to which the apportionment relates and, subject to section 529 of the Taxes Act, shall be deemed to be the highest part of his total income ;
- (b) no assessment shall be made on the individual in respect of income tax at the basic rate on that sum (nor, in the case mentioned in sub-paragraph (4) below, in respect of income tax at any other rate) but he shall be treated as having paid income tax at the basic rate on that sum or, if his total income is reduced by any deductions, on so much of that sum as is part of his total income as so reduced ;
- (c) no repayment shall be made of the income tax treated by virtue of paragraph (b) above as having been paid ; and
- (d) the sum so apportioned shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax.

(3) Where a sum is so apportioned to the personal representatives of a deceased person it shall be treated, in ascertaining the aggregate

income of the estate for the purposes of Part XV of the Taxes Act, as having been received as mentioned in paragraph (a) of sub-paragraph (2) above, and paragraphs (b) to (d) of that sub-paragraph shall apply accordingly with the necessary modifications.

(4) No individual shall be assessed to income tax by virtue of any apportionment unless the sum or, where there is a sub-apportionment, the aggregate sum on which he is so assessable amounts at least to—

- (a) £200 ; or
- (b) 5 per cent. of the amount apportioned,

whichever is the less.

(5) Where an apportionment is made by virtue of paragraph 2 above, an individual shall not be charged to tax on a sum treated in consequence of the apportionment or any sub-apportionment as being his income except in so far as it exceeds the amount which, apart from the apportionment, falls in respect of distributions made by the company for the accounting period to be included in his total income.

(6) Where the income of a company for any accounting period has been apportioned under paragraph 1 above or section 296 of the Taxes Act and the distributions of the company for a later accounting period for which it is a close company—

- (a) consist of or include a distribution of all or any of the apportioned income ; and
- (b) exceed the company's relevant income for that later period,

then, if any individual who was charged to tax under this paragraph or section 297 of the Taxes Act in respect of any of the apportioned income is entitled to any of that income on its subsequent distribution as aforesaid, there shall be deemed not to form part of his total income an amount of the income subsequently distributed (or of the excess mentioned in paragraph (b) above if it is less) equal to such fraction as corresponds to—

- (i) the fraction of the apportioned income in respect of which he was charged to tax ; or
- (ii) the fraction to which he is entitled of the subsequent distribution of that income,

whichever is the smaller.

(7) For the purposes of this paragraph—

- (a) the sum apportioned to any person ;
- (b) the amount mentioned in sub-paragraph (4)(b) above ; and
- (c) the amount to be excluded from a person's total income in accordance with sub-paragraph (6) above,

shall respectively be taken to consist of the aggregate of that sum or amount and such proportion of it as corresponds to the appropriate rate of advance corporation tax ; but paragraphs (a) and (b) above shall not apply in the case of any apportionment so far as made by virtue of paragraph 3 above.

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(8) For the purposes of paragraphs (a) and (b) of sub-paragraph (7) above, the appropriate rate of advance corporation tax is the rate applicable to a distribution made at the end of the accounting period to which the apportionment relates, and for the purposes of paragraph (c) of that sub-paragraph the appropriate rate of advance corporation tax is the rate applicable to the distribution mentioned in sub-paragraph (6)(a) above.

Payment and collection of income tax

6.—(1) Any income tax chargeable under paragraph 5 above in respect of a sum apportioned to a participator shall be assessed on the participator and, subject to the provisions of this paragraph, all the provisions of the Income Tax Acts relating to assessment and the collection and recovery of tax shall with any necessary modifications apply to tax chargeable under that paragraph.

(2) If the whole or any part of the tax assessed on the participator is not paid within thirty days from the date on which the assessment became final and conclusive or by 6th July in the year next following the year of assessment, whichever is the later, a notice of liability to tax under this paragraph shall be served on the company and the tax or the part thereof remaining unpaid, as the case may be, shall thereupon be payable by the company.

(3) Where a notice of liability is served under sub-paragraph (2) above, any interest due on the tax assessed on the participator and not paid by him, and any interest accruing due on that tax after the date of service, shall be payable by the company.

(4) Where a notice of liability is served on the company and the relevant tax and any interest payable by the company under sub-paragraph (3) above is not paid by the company before the expiry of three months from the date of service, that tax and interest may, without prejudice to the right of recovery from the company, be recovered from the participator.

(5) Where, in consequence of a sub-apportionment, the foregoing provisions of this paragraph apply in relation to a participator in a company other than the company in relation to which the original apportionment was made, references in those provisions to the company shall be taken as references to the company in relation to which the original apportionment was made.

Consequences of apportionment : advance corporation tax

7.—(1) This paragraph has effect where the income of a company is apportioned under paragraph 1 above; and in this paragraph “apportioned amount” means the aggregate of the amount of that income which is so apportioned and such proportion of that amount as corresponds to the rate of advance corporation tax applicable to a distribution made at the end of the accounting period to which the apportionment relates (“the relevant period”).

(2) If in the relevant period the company has a surplus of franked investment income, the surplus (so far as not already reduced in

consequence of a claim under section 254 or 255 of the Taxes Act or of being used to frank distributions made by the company in a subsequent accounting period) shall be treated for all purposes as reduced by a sum equal to the apportioned amount or, if that is greater, as extinguished.

(3) If in the relevant period the company has no such surplus (so far as not already reduced as aforesaid), or the apportioned amount exceeds that surplus (so far as not already reduced as aforesaid), sub-paragraphs (4) to (6) below shall have effect in relation to a sum equal to the advance corporation tax comprised in a franked payment made at the end of the relevant period of an amount equal to the apportioned amount or to that excess, as the case may be.

(4) If, apart from this paragraph, surplus advance corporation tax of a later accounting period could by virtue of subsection (3) of section 85 of this Act be set against the company's liability to corporation tax for the relevant period, that advance corporation tax shall not be so set except to such extent, if any, as would be possible if the sum mentioned in sub-paragraph (3) above had been advance corporation tax available to be so set against that liability for the relevant period and had, so far as permitted by that section, already been set against that liability.

(5) If the sum mentioned in sub-paragraph (3) above exceeds the amount that could, if it were advance corporation tax available for the purpose, be set as aforesaid against the company's liability for the relevant period—

(a) there shall be deducted from the excess an amount equal to the advance corporation tax, if any, that could by virtue of subsection (3) of the said section 85 be set against the company's liability to corporation tax for earlier accounting periods after taking into account advance corporation tax so set in consequence of a claim already made under that subsection; and

(b) if no such claim has already been made, advance corporation tax shall not by virtue of any such claim be set against the company's liability to corporation tax for any such earlier accounting periods except to such extent, if any, as would be possible if an amount equal to any deduction under paragraph (a) above had been advance corporation tax available to be so set and had, so far as permitted by the said section 85, already been set against that liability.

(6) Any excess of the said sum remaining after the deduction mentioned in sub-paragraph (5)(a) above—

(a) shall be assessed on and recoverable from the company as if it were advance corporation tax payable by the company in respect of a distribution made by it at the end of the relevant period; and

(b) shall be treated as surplus advance corporation tax of the relevant period falling to be dealt with in accordance with subsection (4) of the said section 85.

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(7) Without prejudice to the application of sub-paragraphs (4) and (5) above to advance corporation tax which a company is treated by virtue of section 92 of this Act as having paid, sub-paragraph (4) above shall apply also to advance corporation tax which a company is so treated as having paid in respect of distributions made in the relevant period and which, apart from this paragraph, could by virtue of section 85(1) of this Act be set against the company's liability to corporation tax for that period.

(8) Tax assessed by virtue of sub-paragraph (6)(a) above shall, subject to any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment.

(9) Sub-paragraph (6)(b) above shall not be construed as authorising any sum to be carried forward to a later accounting period in any case in which section 101 of this Act would prevent the carry-forward of advance corporation tax.

PART II

PROVISIONS FOR DETERMINING RELEVANT INCOME AND DISTRIBUTIONS, ETC.

Determination of "relevant income"

8.—(1) Subject to the provisions of this paragraph and of paragraphs 9 and 13 below, the relevant income of a company for an accounting period is—

- (a) in the case of a company which is a trading company or a member of a trading group, so much of its distributable income for that period as can be distributed without prejudice to the requirements of the company's business ;
 - (b) in the case of a company not within paragraph (a) above whose distributable income for that period consists of or includes estate or trading income—
 - (i) so much of the estate or trading income as can be distributed without prejudice to the requirements of the company's business so far as concerned with the activities or assets giving rise to estate or trading income ; and
 - (ii) its distributable income, if any, other than estate or trading income ;
 - (c) in the case of any other company, its distributable income for that period.
- (2) In arriving at the relevant income for any accounting period—
- (a) where under sub-paragraph (1) above regard is to be had to the requirements of a company's business, regard shall be had not only to the current requirements of the business but also to such other requirements as may be necessary or advisable for the maintenance and development of that business but, for this purpose, the provisions of paragraph 12 below shall apply ;
 - (b) the amount of the estate or trading income shall be taken as the amount included in respect of it in the distributable income.

Maximum amount to be taken as "relevant income"

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9.—(1) Subject to paragraph 13 below, the relevant income of a company shall in no case be taken to exceed the company's distributable investment income for the accounting period plus 50 per cent. of the estate or trading income for the period.

(2) In the application of sub-paragraph (1) above to a trading company, the estate or trading income for an accounting period, if it is less than the relevant maximum amount shall be treated as reduced by one half of the amount required to make it up to that relevant maximum amount or, if it is less than the relevant minimum amount, shall be disregarded.

(3) The relevant maximum and minimum amounts referred to above shall be determined as follows—

(a) where the company has no associated company in the accounting period, those amounts are £15,000 and £5,000 respectively ;

(b) where the company has one or more associated companies in the accounting period, the relevant maximum amount is £15,000 divided by one plus the number of those associated companies and the relevant minimum amount is £5,000 divided by one plus the number of those associated companies.

(4) In applying sub-paragraphs (2) and (3) above to any accounting period of a trading company, an associated company which has not carried on any trade or business at any time in that accounting period (or, if an associated company during part only of that accounting period, at any time in that part of that accounting period) shall be disregarded ; and for the purposes of this paragraph a company is to be treated as an "associated company" of another at a given time if at that time one of the two has control of the other or both are under the control of the same person or persons.

(5) In determining how many associated companies a trading company has in an accounting period or whether a trading company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company for part only of the accounting period, and two or more associated companies shall be counted even if they were associated companies for different parts of the accounting period.

(6) For an accounting period of less than twelve months the relevant maximum and minimum amounts determined in accordance with the foregoing provisions of this paragraph shall be proportionately reduced.

Distributions to be taken into account, and meaning of "distributable income", etc.

10.—(1) For the purposes of this Schedule the distributions of a company for an accounting period shall be taken to consist of—

(a) any dividends which are declared in respect of the period and are paid during the period or within a reasonable time thereafter, and

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- (b) all distributions made in the period except dividends which, in relation to any previous period, would fall under paragraph (a) above or section 291(1)(a) of the Taxes Act:

Provided that, where a period of account is not an accounting period, dividends which, if it were an accounting period, would be treated under paragraph (a) above as distributions for that accounting period shall be apportioned to any accounting period or part of an accounting period falling within the period of account in proportion to the distributable income of each such period or part.

(2) For the purposes of this Schedule, the "distributable income" of a company for an accounting period shall be the amount of its distributable profits for the period exclusive of the part attributable to chargeable gains, and, for the purposes of this sub-paragraph—

- (a) the "distributable profits" of a company for an accounting period shall be the aggregate of the following amounts, that is to say—

(i) the amount of any profits on which corporation tax falls finally to be borne, less the amount of that tax.

(ii) an amount equal to the qualifying distributions comprised in any franked investment income, other than franked investment income against which relief is given under section 254 or 255 of the Taxes Act, and

(iii) an amount equal to any group income,

- (b) the part of a company's distributable profits attributable to chargeable gains shall be taken to be the amount of the chargeable gains on which corporation tax is finally borne less the amount of that tax, and

- (c) the amount on which corporation tax falls finally to be borne (but not the amount of that tax) shall be computed as if section 254 of the Taxes Act did not include subsection (5) or subsection (6) of that section (and as if section 255 of that Act did not apply the said subsection (5)).

(3) For the purposes of this Schedule the "distributable investment income" of a company for an accounting period shall be the amount of the distributable income, exclusive of the part attributable to estate or trading income, and less whichever is the smaller of—

(a) 10 per cent. of the estate or trading income, and

(b) £500 or, if the accounting period is of less than twelve months, a proportionately reduced amount.

(4) Subject to sub-paragraph (5) below, for the purposes of this Schedule, the "estate or trading income" of a company means—

(a) income which is not investment income for the purposes of paragraph 11(1) below, and

(b) income which is chargeable to tax under Schedule A or Schedule B, and income (other than yearly or other interest) which is chargeable to tax under Schedule D, and which arises from the ownership or occupation of land (including any interest in or right over land) or from the letting furnished of any building or part of a building.

(5) Where the following conditions are satisfied with respect to a close company, that is to say—

- (a) that its activities consist wholly or mainly of the carrying on of a trade ; and
- (b) that that trade consists wholly or mainly of one or more of the following, that is to say, life assurance business (within the meaning of section 323(2) of the Taxes Act), insurance business of any other class, banking, money lending, financing of hire-purchase or similar transactions, or dealing in securities,

its income incidental to that trade shall (so far as not otherwise falling within the definition of estate or trading income in sub-paragraph (4) above) be treated as estate or trading income in arriving, under paragraph 8 above, at the relevant income for the purposes of paragraph 1 above.

(6) For the purposes of sub-paragraph (5) above income of a company is incidental to its trade if, and only if—

- (a) it is derived from investments (other than investments in a 51 per cent. subsidiary) or is interest on a debt ; and
- (b) any profit on the sale of the investments would be a trading receipt, and the debt, if proved to be a bad debt, would be allowed as a deduction, in computing the company's trading income for the purposes of corporation tax.

(7) The amount for part of an accounting period of any description of income referred to in sub-paragraphs (2) to (5) above shall be a proportionate part of the amount for the whole period.

(8) In determining the amount for any period of any description of income referred to in sub-paragraphs (2) to (5) above, any deduction from the company's profits for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description shall be treated as made—

- (a) first from the company's income charged to corporation tax other than estate or trading income ;
- (b) secondly, so far as it cannot be made under (a) above, from the company's estate or trading income so charged ; and
- (c) thirdly, so far as it cannot be made under (a) or (b) above, from the amount included in the company's profits in respect of chargeable gains.

Meaning of "trading company" and "member of a trading group"

11.—(1) For the purposes of this Schedule, a "trading company" is any company which exists wholly or mainly for the purpose of carrying on a trade, and any other company whose income does not consist wholly or mainly of investment income, that is to say, income, which, if the company were an individual, would not be earned income ; but for this purpose any amount which is apportioned to a company under paragraph 1 above shall be deemed to be income of the company and to be investment income.

SCH. 16 (2) For the purposes of this Schedule, a company is to be treated as a "member of a trading group" if, but only if—

- (a) it exists wholly or mainly for the purpose of co-ordinating the administration of a group of two or more companies each of which is under its control and exists wholly or mainly for the purpose of carrying on a trade, or
- (b) it is under the control of another company resident in the United Kingdom and not itself under the control of a third company, and it exists wholly or mainly for the purpose of a trade or trades carried on by that other company or by a group which, consisting of that other company and a company or companies also under its control and resident in the United Kingdom, exists wholly or mainly for the purpose of carrying on the said trade or trades:

Provided that a company shall not be treated as a member of a trading group by reason of any company having the control of another if that control is exercised through a company which is not resident in the United Kingdom or through a company whose control depends on a holding a profit on the sale of which would be treated as a trading receipt of the company.

Requirements of the company's business

12.—(1) For the purposes of paragraph 8(2) above there shall be regarded as income available for distribution and not as having been applied, or as being applicable, to the current requirements of a company's business, or to such other requirements as may be necessary or advisable for the maintenance and development of that business—

- (a) any sum expended or applied, or intended to be expended or applied, out of the income of the company, otherwise than in pursuance of an obligation entered into by the company before 4th August 1914—
 - (i) in or towards payment for the business, undertaking or property which the company was formed to acquire or which was the first business, undertaking or property of a substantial character in fact acquired by the company, or
 - (ii) in redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred in or towards payment for any such business, undertaking or property, or issued or incurred for the purpose of raising money applied or to be applied in or towards payment therefor, or
 - (iii) in meeting any obligations of the company in respect of the acquisition of any such business, undertaking or property, or
 - (iv) in redemption or repayment of any share or loan capital or debt (including any premium thereon) issued or incurred otherwise than for adequate consideration, and
- (b) any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transactions, and

- (c) in the case of a company which is neither a trading company nor a member of a trading group, any sum expended or applied, or available to be expended or applied, out of the income of the company in or towards the redemption, repayment or discharge of any loan capital or debt (including any premium thereon) in respect of which any person is a loan creditor of the company.
- (2) For the purposes of sub-paragraph (1)(a)(iv) above, share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if—
- (a) it is issued or incurred for consideration the value of which to the company is substantially less than the amount of the capital or debt (including any premium thereon), or
- (b) it is issued or incurred in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as is mentioned in paragraph (a) of this sub-paragraph or which represents, directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration.
- (3) References in the foregoing provisions of this paragraph to money applied or to be applied for any purpose shall be deemed to include references to money applied or to be applied in or towards the replacement of that money.

Cessations and liquidations

13.—(1) Where a close company ceases to carry on the trade, or the business of holding investments, in which its activities wholly or mainly consisted, the relevant income of the company for any accounting period in which that event occurs, or which ends in or within the twelve months ending with that event, shall be calculated as if—

- (a) paragraph 8(1)(a) and (b)(i) above referred respectively to the whole of the company's distributable income and to the whole of the estate or trading income and not to so much thereof as can be distributed without prejudice to the requirements there mentioned, and paragraphs 8(2)(a) and 12 above were omitted ;
- (b) in paragraph 9(1) above the words " 50 per cent. of " were omitted.
- (2) Where sub-paragraph (1) above applies for an accounting period and the company could not make distributions without prejudice to the claims of creditors (excluding those mentioned in sub-paragraph (3) below), the excess mentioned in paragraph 1(2) above shall be disregarded to the extent to which the company could not make distributions up to the amount of its relevant income without prejudice to those claims.

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(3) The creditors to be excluded for the purposes of sub-paragraph (2) above are all participators and associates of participators, and all creditors in respect of debts originally created in favour of or due to a person who was then a participator or associate of a participator:

Provided that a creditor is not to be excluded in respect of any debt which either—

- (a) arose in the ordinary course of the company's trade or the company's business of holding investments and also in the ordinary course of a trade or profession of the creditor or, as the case may be, of the participator or associate who was the original creditor, or
- (b) is a debt for remuneration chargeable to income tax under Schedule E, or
- (c) is a debt for any rent or other payment due for the use of tangible property or of copyright in a literary, dramatic, musical or artistic work within the meaning of the Copyright Act 1956 (or any corresponding right under the law of a country to which that Act does not extend), and not representing more than a reasonable commercial consideration for that use.

1956 c. 74.

(4) Where sub-paragraph (1) above applies for any accounting period, there shall be disregarded for the purposes of any apportionment made by virtue of paragraph 2 above so much of the relevant income of the company for that period as is equal to the amount which would be disregarded under sub-paragraph (2) above.

1948 c. 38.

(5) Where a resolution is passed, or an order is made, for the winding up of a close company, or where any other act is done for a like purpose in the case of a winding up otherwise than under the Companies Act 1948, sub-paragraphs (1) to (4) above shall apply for any accounting period ending in or with the twelve months ending with the passing of the resolution or other event, or for any later accounting period, as they apply, in a case falling within sub-paragraph (1) above, for an accounting period in which a close company ceases to carry on a trade.

Legal restrictions on distributions

14.—(1) Where a company is subject to any restriction imposed by law as regards the making of distributions, the excess mentioned in paragraph 1(2) above shall be disregarded to the extent to which the company could not make distributions up to the amount of its relevant income without contravening that restriction.

(2) Except where paragraph 13(1) above applies, there shall be disregarded for the purposes of any apportionment made by virtue of paragraph 2 above so much of the relevant income of the company as is equal to any amount which would be disregarded under sub-paragraph (1) above.

PART III

SCH. 16

PROCEDURE

Notice of amount to be apportioned

15.—(1) Where in the case of any company the inspector proposes to apportion an amount under paragraph 1 above he shall serve on the company a notice showing the amount to be apportioned and, subject to any appeal under this paragraph and to paragraph 17 below, that notice shall be treated as conclusively establishing, both in relation to the company and for the purposes of any assessment under paragraph 5 above, that an apportionment can be made in respect of that amount.

(2) After a notice under sub-paragraph (1) above has been served on the company it shall not be altered except on appeal or in accordance with paragraph 17 below.

(3) The company may by giving notice of appeal in writing to the inspector within thirty days of the date of any notice under sub-paragraph (1) above appeal against that notice ; and any notice under that sub-paragraph shall state the time within which notice of appeal may be given under this sub-paragraph.

(4) Subject to paragraph 20(2) below, any appeal under this paragraph shall be to the General Commissioners except that the company may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(5) The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.

(6) If a company fails or refuses, on being required to do so under paragraph 19 below, to furnish a statement of any amount which in the case of that company could be apportioned under this Schedule, or renders a statement with which the inspector is not satisfied, the inspector may make an estimate of that amount to the best of his judgment, and any relevant decision taken by the inspector under this sub-paragraph may be reviewed on an appeal under this paragraph.

(7) Sections 113 (1B) and (3) and 114(2) of the Management Act (supplementary provisions as to assessments and notices of assessment) shall apply to any notice under sub-paragraph (1) above as if the determination of the amount to be shown therein were the making of an assessment and the notice were a notice of assessment.

Notice of manner of apportionment

16.—(1) Where a notice has been served on a company under paragraph 15 above showing an amount to be apportioned, the inspector shall serve on the company a notice showing the manner in which that amount is apportioned (that is to say, the sum apportioned or sub-apportioned to each participator or, if the

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inspector thinks fit, to each class of share) and, subject to any appeal under this paragraph and to paragraph 17 below, that notice shall be treated, in relation to the company, as conclusively establishing the manner of apportionment.

(2) Paragraph 15(2), (3), (4), (5) and (7) above shall apply also to a notice under this paragraph, but any appeal against such a notice by virtue of this sub-paragraph shall be to the Special Commissioners.

(3) The manner of apportionment shown in a notice under this paragraph may also be questioned on an appeal against any assessment made under paragraph 5 above; and any relevant decision taken by the inspector under paragraph 4(2) or (3) above may be reviewed on an appeal under this paragraph or on an appeal against any such assessment.

Revision of apportionment

17.—(1) If the inspector discovers that the amount apportioned in the case of any company is or has become insufficient, he may serve on the company a further notice under paragraph 15(1) above showing the further amount which ought in his opinion to be apportioned, and a further notice relating to that amount shall then be served under paragraph 16 above.

(2) Where the amount shown in a notice under sub-paragraph (1) of paragraph 15 above is excessive because the company's distributable income is smaller than it was taken to be for the purposes of that notice or because the company's distributions were greater than they were taken to be for those purposes, the inspector may serve on the company a further notice under that sub-paragraph showing a reduced amount; and where such a notice is served—

- (a) a further notice shall also be served under paragraph 16 above making such amendments in any previous notice under that paragraph as may be required to take account of the reduction in the amount apportioned; and
- (b) there shall be made such adjustments by repayment or discharge of tax as may be required to secure that liabilities to tax under paragraphs 5 to 7 above are what they would have been if the notices originally served under paragraphs 15 and 16 above had been as amended by further notices served by virtue of this paragraph.

Protection by transmission of accounts

18.—(1) A close company may, at any time after the general meeting at which the accounts for any period of account are adopted, forward to the inspector a copy of those accounts, together with a copy of the report (if any) of the directors for that period and such further information (if any) as it may think fit, and may request the inspector to proceed under this paragraph in relation to any accounting period comprised in that period of account:

Provided that this sub-paragraph shall not apply if the company is neither a trading company nor a member of a trading group and has no estate or trading income.

(2) Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, then, subject to sub-paragraph (3) below, he shall, within three months after receipt of the request, intimate to the company whether or not he proposes to make an apportionment in respect of the company for the accounting period under paragraph 1 above.

(3) On receiving a request made in accordance with sub-paragraph (1) above, the inspector may, not later than three months after the receipt of the request, call on the company to furnish him with such further particulars as he may reasonably require ; and, if the inspector does so, the time for giving the intimation required by sub-paragraph (2) above shall not expire before three months after he has been furnished with those particulars.

(4) Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, and does not within the time limited by sub-paragraphs (2) and (3) above intimate his intention to make an apportionment in respect of the period, no such apportionment shall be made unless either—

- (a) the information accompanying the request, and any further particulars furnished to the inspector in connection therewith, are not such as to make full and accurate disclosure of all facts and considerations which are material to be known to him, or
- (b) within twelve months of the end of the period any of the provisions of paragraph 13 above have effect in relation to the company.

Information

19.—(1) The inspector may, by notice in writing, require any company which is, or appears to him to be, a close company to furnish him within such time (not being less than thirty days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of this Schedule.

(2) If for the purposes of this Schedule any person in whose name any shares are registered is so required by notice in writing by the inspector, he shall state whether or not he is the beneficial owner of the shares and, if not the beneficial owner of the shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.

(3) Sub-paragraph (2) above shall apply in relation to loan capital as it applies in relation to shares.

(4) The inspector may, for the purposes of this Schedule, by notice in writing require—

- (a) any company which appears to him to be a close company to furnish him with particulars of any bearer securities issued by the company, and the names and addresses of the persons to whom the securities were issued and the respective amounts issued to each person ; and

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- (b) any person to whom securities were issued as aforesaid, or to or through whom such securities were subsequently sold or transferred, to furnish him with such further information as he may require with a view to enabling him to ascertain the names and addresses of the persons beneficially interested in the securities.

In this sub-paragraph "securities" includes shares, stocks, bonds, debentures and debenture stock and also any promissory note or other instrument evidencing indebtedness issued to a loan creditor of the company.

- (5) Any power which the inspector may exercise under this paragraph for the purposes of this Schedule may be exercised also for the purposes of sections 286 and 287 of the Taxes Act.

Exercise of powers by Board

20.—(1) Any powers conferred by this Schedule on the inspector may be exercised by the Board; and references in this Schedule to the inspector shall be construed accordingly.

(2) Where by virtue of this paragraph a notice is served by the Board under paragraph 15(1) above any appeal under that paragraph shall be to the Special Commissioners.

Section 94.

SCHEDULE 17

AMENDMENTS RELATING TO CLOSE COMPANIES

Meaning of close company

1.—(1) Section 282 of the Taxes Act (which defines "close company") shall be amended as follows.

(2) For subsection (2) (company treated as close company if more than half of apportionable income etc. could be apportioned among five or fewer participators or among participators who are directors) there shall be substituted—

"(2) Subject to section 283 below, a company resident in the United Kingdom (but not falling within subsection (1)(b) above) is also a close company if—

(a) on the assumption that it is so, or

(b) on the assumption that it and any other such company or companies are so,

more than half of any amount falling to be apportioned under Schedule 16 to the Finance Act 1972 in the case of the company (including any sum which has been apportioned to it, or could on either of those assumptions be apportioned to it, under that Schedule) could be apportioned among five or fewer participators, or among participators who are directors.

In ascertaining under this subsection whether any amount could be apportioned among five or fewer participators or among participators who are directors, account shall, in cases where an original apportionment and any sub-apportionment are involved,

be taken only of persons among whom that amount could be finally apportioned as the result of the whole process of original apportionment and sub-apportionment and those persons shall be treated as participators or directors if they are participators or directors of any company in the case of which either an original apportionment or any sub-apportionment could be made."

(3) For subsection (4) (company not to be treated as close company if under control of any company which is not a close company) there shall be substituted—

"(4) A company is not to be treated as a close company—

(a) if—

(i) it is controlled by a company which is not a close company, or by two or more companies none of which is a close company ; and

(ii) it cannot be treated as a close company except by taking as one of the five or fewer participators requisite for its being so treated a company which is not a close company ;

(b) if it cannot be treated as a close company except by virtue of paragraph (c) of section 302(2) of this Act and it would not be a close company if the reference in that paragraph to participators did not include loan creditors who are companies other than close companies.

(5) References in subsection (4) above to a close company shall be treated as applying to any company which, if resident in the United Kingdom, would be a close company."

Matters treated as distributions

2. In section 284 of the Taxes Act (matters treated as distributions in relation to close company to include certain payments etc. to participators and associates)—

(a) paragraph (a) of subsection (1) (annuities and other annual payments other than interest) ; and

(b) paragraph (b) of that subsection (rents, royalties and other consideration for use of property other than money),

shall cease to have effect.

Loans to participators

3.—(1) Section 286 of the Taxes Act (charge of income tax on loans and advances by close company to participators and associates) shall be amended as follows.

(2) In subsection (1) for the words from "there shall be assessed on and recoverable from the company" onwards there shall be substituted the words "there shall be assessed on and recoverable from the company, as if it were an amount of corporation tax chargeable on the company for the accounting period in which the loan

SCH. 17 or advance is made, an amount equal to such proportion of the amount of the loan or advance as corresponds to the rate of advance corporation tax in force for the financial year in which the loan or advance is made”.

(3) In subsection (3) for the words “This section shall not apply” there shall be substituted the words “Subsection (1) of this section shall not apply”.

(4) In subsection (5) for the words “paid the amount assessed on it” there shall be substituted the words “been assessed to tax” and for the words “the amount paid by the company, or a proportionate part of it, shall be repaid” there shall be substituted the words “relief shall be given from that tax, or a proportionate part of it, by discharge or repayment.”

(5) Subsection (6) shall be omitted.

Covenants by participators

4. Section 288 of the Taxes Act (charge of income tax on close company in respect of consideration given to participators and associates for restrictive covenants etc.) shall cease to have effect.

Definition of control

5. For subsections (2) to (4) of section 302 of the Taxes Act (definition of control) there shall be substituted—

“(2) For the purposes of this Chapter, a person shall be taken to have control of a company if he exercises, or is able to exercise or is entitled to acquire, control, whether direct or indirect, over the company’s affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses or is entitled to acquire—

- (a) the greater part of the share capital or issued share capital of the company or of the voting power in the company ; or
- (b) such part of the issued share capital of the company as would, if the whole of the income of the company were in fact distributed among the participators (without regard to any rights which he or any other person has as a loan creditor), entitle him to receive the greater part of the amount so distributed ; or
- (c) such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive the greater part of the assets of the company which would then be available for distribution among the participators.

(3) Where two or more persons together satisfy any of the conditions of subsection (2) above, they shall be taken to have control of the company.

(4) For the purposes of subsection (2) above a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date, or will at a future date be entitled to acquire.”

Definition of director

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6. In subsection (5) of section 303 of the Taxes Act (under which a manager is treated as a director if he satisfies the conditions specified in that subsection) paragraph (b) (which requires him to be remunerated out of the funds of the company's trade or business) shall cease to have effect.

Definition of loan creditor

7. After section 303(7) of the Taxes Act (definition of loan creditor) there shall be added—

“(8) A person who is not the creditor in respect of any debt or loan capital to which subsection (7) above applies but nevertheless has a beneficial interest therein shall, to the extent of that interest, be treated for the purposes of this Chapter as a loan creditor in respect of that debt or loan capital.”

Commencement

8. Paragraphs 1 and 5 to 7 above, so far as relevant for the purposes of Schedule 16 to this Act, have effect in relation to accounting periods ending after 5th April 1973 and, subject as aforesaid, this Schedule has effect from 6th April 1973.

SCHEDULE 18

Section 97.

INSURANCE COMPANIES

Expenses of management

1.—(1) In subsection (2) of section 305 of the Taxes Act (restriction on relief for expenses of management) the reference to income tax shall be omitted, but for the purposes of that subsection—

- (a) any tax credit to which the company is entitled in respect of a distribution received by it shall be treated as an equivalent amount of corporation tax borne or paid in respect of that distribution; and
- (b) any payment in respect of that credit under section 254 of that Act shall be treated as reducing the tax so treated as borne or paid.

(2) The other reliefs mentioned in the said subsection (2) shall not include any set-off under section 85 of this Act.

(3) In applying the said subsection (2) to an accounting period in which a company carries on any business in addition to life assurance business, or carries on both ordinary life assurance business and industrial life assurance business, the tax that would have been paid if the company had been charged under Case I of Schedule D in respect of its life assurance business, or its life assurance business of either of those classes, shall be calculated as if any advance corporation tax set against the company's liability to corporation tax for that accounting period were apportioned to the corporation tax attributable to each business in proportion to the profits of that business charged to corporation tax for that accounting period.

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Rate relief: investment income reserved for policy holders

2.—(1) For the purposes of subsection (2) of section 310 of the Taxes Act (rate relief from corporation tax) the reliefs to be taken into account shall not include any set-off under section 85 of this Act, and “any relief” in subsection (4)(b) of the said section 310 shall be construed accordingly.

(2) Subsection (3) of the said section 310 (rate relief from income tax where rate exceeds 37·5 per cent.) shall cease to have effect.

(3) For subsection (5) of the said section 310 there shall be substituted—

“(5) Any such part of the franked investment income from investments held in connection with a company’s life assurance business as is specified in subsection (6) below shall not be used under Part V of the Finance Act 1972 to frank distributions made by the company.”

(4) For the purposes of section 85 of this Act the income charged to corporation tax for any accounting period (as defined in subsection (6) of that section) shall be reduced by an amount equal to the part specified in subsection (6) of the said section 310 of any unrelieved income (as defined in subsection (4) of that section) in respect of which a claim may be made under that section.

(5) Where sub-paragraph (3) or (4) above would deny to a company any relief to which it would have been entitled if it had been charged to tax in respect of its life assurance business under Case I of Schedule D, corresponding relief shall be afforded to the company by repayment of, or set-off against, corporation tax or by payment of tax credit comprised in franked investment income from investments held in connection with that business.

General annuity business

3. In section 313 of the Taxes Act for subsection (4) there shall be substituted—

“(4) Subject to subsection (5) below, franked investment income which is taken into account under subsection (2) above to enable annuities referable to general annuity business to be treated as charges on income shall not be used under Part V of the Finance Act 1972 to frank distributions made by the company.”

Pension business

4.—(1) In subsection (1) of section 314 of the Taxes Act the reference to income tax shall be omitted, but if in the case of an insurance company the income mentioned in that subsection includes a distribution in respect of which the company is entitled to a tax credit, the company may, subject to sub-paragraph (2) below, claim to have the amount of that credit paid to it.

(2) If the company mentioned in sub-paragraph (1) above is resident in the United Kingdom (so that the distribution and the tax credit there mentioned constitute franked investment income of that

company) no franked investment income comprising any tax credit which is paid under that sub-paragraph shall be used under Part V of the Finance Act 1972 to frank the company's distributions ; but where the company makes an election under subsection (4) of the said section 314 neither sub-paragraph (1) above nor the foregoing provisions of this sub-paragraph shall apply to the franked investment income to which the election relates. SCH. 18
1972 c. 41.

(3) Subsection (3)(b) and (c) of the said section 314 shall cease to have effect and in subsection (4) of that section the words from "If an accounting period" to "periods, and" and the words "or part of an accounting period" shall be omitted.

(4) In section 315(8)(b) for the words "under provisions of the law of that country corresponding with section 314(1) above exemption from income tax is allowable" there shall be substituted the words "the law of that country makes provision corresponding with section 314(1) above and paragraph 4(1) and (2) of Schedule 18 to the Finance Act 1972".

Distributions to be taken into account in computing profits

5.—(1) Distributions which are not qualifying distributions shall not be taken into account—

- (a) in computing under section 312 of the Taxes Act the profits arising to an insurance company or overseas life insurance company from general annuity business or pension business ;
- (b) in computing under section 316 of that Act the income of an overseas life insurance company from the investments there mentioned ;

and the only distributions to be taken into account for the purposes of section 320(2) of that Act (distributions treated as franked investment income in case of overseas life insurance company exempt from charge under the said section 316) shall be distributions in respect of which the company is entitled to a tax credit.

(2) Accordingly in sections 316(2) and 318(1) for the word "distributions" there shall be substituted the words "qualifying distributions" and in section 320(2) after the word "distributions" there shall be inserted the words "(being distributions in respect of which the company receiving them is entitled to a tax credit)".

Set-off of income tax and tax credit against corporation tax borne by overseas life insurance company

6. Where an overseas life insurance company receives a distribution in respect of which it is entitled to a tax credit the company may claim to have that credit set off against any corporation tax assessed on the company under section 316 or 318 of the Taxes Act for the accounting period in which the distribution is received, but the restriction in section 319(2) and (3) of that Act on the amount of income tax that may be set off against corporation tax assessed under the said section 316 or 318 shall apply to the aggregate of that income tax and of the tax credit that can be so set off by virtue of this paragraph.

Section 99.

SCHEDULE 19

TRANSITIONAL RELIEF FOR COMPANIES WITH OVERSEAS TRADING
INCOME*Amendments of section 84 of Finance Act 1965*

1965 c. 25.

1.—(1) In subsection (3) of section 84 of the Finance Act 1965 for the words “the amount after deducting income tax borne by the company on franked investment income of the income tax deducted or deductible from the company’s dividends” there shall be substituted the words “the amount of the advance corporation tax paid or payable in respect of the company’s dividends”.

(2) In subsection (5) of that section for the words “the company by virtue of an election under section 48 of this Act pays any dividends without deduction of income tax” there shall be substituted the words “any of the dividends paid by the company are dividends to which section 84 of the Finance Act 1972 does not apply by virtue of an election under section 256 of the Income and Corporation Taxes Act 1970” and for the words “if all the dividends so paid are paid without deduction of income tax” there shall be substituted the words “if all the dividends so paid are dividends to which the said section 84 does not so apply”.

(3) The expressions “unused credit for foreign tax” and “the current charge to corporation tax” (defined in subsection (8)(b) and (c) of the said section 84) shall be construed as if the rate of corporation tax for any relevant financial year were 40 per cent. and as if the law relating to corporation tax were the same as it was on 1st April 1972.

(4) For paragraph (d) of subsection (8) of that section there shall be substituted—

“(d) ‘dividend’ does not include a capital dividend or a dividend which is not a qualifying distribution, and in relation to any dividends ‘advance corporation tax paid or payable’ includes advance corporation tax which would have been payable but for the dividends being group income, and for the purposes of this section there shall be disregarded any advance corporation tax which a company is treated as having paid by virtue of section 92 of the Finance Act 1972”.

Amendments of Schedule 20 to Finance Act 1965

2.—(1) In paragraph 3(2)(a)(ii) of Schedule 20 to the Finance Act 1965 for the words “abatement in respect of dividends paid without deduction of income tax” there shall be substituted the words “abatement in respect of dividends to which section 84 of the Finance Act 1972 does not apply”.

(2) In paragraph 3(2)(b) of that Schedule for the words “dividends without deduction of income tax” there shall be substituted the words “dividends to which the said section 84 did not apply by virtue of an election under section 256 of the Income and Corporation Taxes Act 1970”.

(3) In paragraph 3(4) of that Schedule, in the words preceding paragraph (a), for the words "income tax deducted or deductible from dividends" there shall be substituted the words "advance corporation tax paid or payable in respect of dividends".

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(4) For paragraph 3(4)(a) of that Schedule there shall be substituted—

"(a) there shall be treated as an amount of advance corporation tax so paid or payable any amount by which the advance corporation tax paid in respect of dividends paid to it by the other member of the group (after deducting a sum equal to any amount of tax credit paid to the company under section 254 or 255 of the Income and Corporation Taxes Act 1970 in respect of the dividends) exceeds the appropriate fraction of the relief falling to be given to the other member in that year, before abatement in respect of dividends to which section 84 of the Finance Act 1972 does not apply".

(5) In paragraph 3(5) of that Schedule for the words "income tax deducted or deductible from dividends" there shall be substituted the words "advance corporation tax paid or payable in respect of dividends".

(6) In paragraph 3(6) of that Schedule for the words "abatement in respect of dividends paid without deduction of income tax" and "in respect of dividends so paid" there shall be substituted respectively the words "abatement in respect of dividends to which section 84 of the Finance Act 1972 does not apply" and "under subsection (5) of the principal section".

(7) In paragraph 4(1) of that Schedule for the words "the amount (before deduction of income tax) of those dividends" there shall be substituted the words "the amount of those dividends (together with such proportion thereof as corresponds to the rate of advance corporation tax applicable to them)".

SCHEDULE 20

Section 104.

COLLECTION OF INCOME TAX ON COMPANY PAYMENTS WHICH ARE NOT DISTRIBUTIONS

Interpretation

1. In this Schedule "relevant payment" means any payment to which section 104 of this Act applies.

Duty to make returns

2.—(1) A company shall for each of its accounting periods make, in accordance with this Schedule, returns to the collector of the relevant payments made by it in that period and of the income tax for which it is accountable in respect of those payments.

(2) A return shall be made for—

(a) each complete quarter falling within the accounting period, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December which falls within that period;

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- (b) each part of the accounting period which is not a complete quarter and ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within the accounting period ;
 - (c) if none of those dates falls within the accounting period, the whole accounting period.
- (3) A return for any period for which a return is required to be made under this paragraph shall be made within fourteen days from the end of that period.

Contents of returns

3. The return made by a company for any period shall show—
- (a) the amount of any relevant payments made by the company in that period ; and
 - (b) the income tax in respect of those payments for which the company is accountable.

Payment of tax

4.—(1) Subject to sub-paragraph (4) below, income tax in respect of any payment required to be included in a return under this Schedule shall be due at the time by which the return is to be made, and income tax so due shall be payable by the company without the making of any assessment.

(2) Income tax which has become due as aforesaid may be assessed on the company (whether or not it has been paid when the assessment is made) if that tax, or any part of it, is not paid on or before the due date.

(3) If it appears to the inspector that there is a relevant payment which ought to have been and has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the company to the best of his judgment ; and any income tax due under an assessment made by virtue of this sub-paragraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

(4) Where a payment has been included in a return under Schedule 14 to this Act by virtue of paragraph 7(1)(b) of that Schedule and it becomes apparent that the payment is not a qualifying distribution but a relevant payment—

- (a) sub-paragraph (1) above shall not apply to that payment ;
and
- (b) income tax shall be assessed in respect of it on the company.

Set-off of income tax borne on company income against tax payable

5.—(1) Where in any accounting period a company receives any payment on which it bears income tax by deduction the company may claim to have the income tax thereon set against any income tax which it is liable to pay under this Schedule in respect of payments made by it in that period.

(2) Any such claim shall be included in a return made under paragraph 2 above for the accounting period in question and (where necessary) income tax paid by the company under this Schedule for that accounting period and before the claim is allowed shall be repaid accordingly.

6.—(1) Where a claim has been made under paragraph 5 above no proceedings for collecting tax which would fall to be discharged if the claim were allowed shall be instituted pending the final determination of the claim, but this sub-paragraph shall not affect the date when the tax is due.

(2) When the claim is finally determined any tax underpaid in consequence of sub-paragraph (1) above shall be paid.

(3) Where proceedings are instituted for collecting tax assessed, or interest on tax assessed, under any provision of paragraph 4 above, effect shall not be given to any claim made after the institution of the proceedings so as to affect or delay the collection or recovery of the tax charged by the assessment or of interest thereon, until the claim has been finally determined.

(4) When the claim is finally determined any tax overpaid in consequence of sub-paragraph (3) above shall be repaid.

(5) References in this paragraph to proceedings for the collection of tax include references to proceedings by way of distraint or pouncing for tax.

7. Income tax set against other tax under paragraph 5 above shall be treated as paid or repaid, as the case may be, and the same tax shall not be taken into account both under this Schedule and under section 240(5) of the Taxes Act.

Items included in error

8. Where any item has been included in a return or claim under this Schedule as a relevant payment but should have been included in a return under Schedule 14 to this Act, the inspector may make such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) whether of the company or of any other person are the same as they would have been if the item had been included in the right return.

Relevant payment made otherwise than in accounting period

9. Where a company makes a relevant payment on a date which does not fall within an accounting period the company shall make a return of that payment within fourteen days from that date, and the income tax for which the company is accountable in respect of that payment shall be due at the time by which the return is to be made.

Assessments and due date of tax

10.—(1) All the provisions of the Income Tax Acts as to the time within which an assessment may be made, so far as they refer or relate to the year of assessment for which an assessment is made, or the year to which an assessment relates, shall apply in relation to any assessment under this Schedule notwithstanding that, under this

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Schedule, the assessment may be said to relate to a quarter or other period which is not a year of assessment, and the provisions of sections 36 and 37 of the Management Act as to the circumstances in which an assessment may be made out of time shall apply accordingly on the footing that any such assessment relates to the year of assessment in which the quarter or other period ends.

(2) Income tax assessed on a company under this Schedule shall be due within fourteen days after the issue of the notice of assessment (unless due earlier under paragraph 4(1) or 9 above).

(3) Sub-paragraph (2) above has effect subject to any appeal against the assessment, but no such appeal shall affect the date when tax is due under paragraph 4(1) or 9 above.

(4) On the determination of an appeal against an assessment under this Schedule any tax overpaid shall be repaid.

(5) Any tax assessable under any one or more of the provisions of this Schedule may be included in one assessment if the tax so included is all due on the same date.

Saving

11. Nothing in the foregoing provisions of this Schedule shall be taken to prejudice any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise ; and any assessment in respect of tax payable under paragraph 9 above shall be treated for the purposes of the provisions mentioned in paragraph 10(1) above as relating to the year of assessment in which the payment is made.

Section 105

SCHEDULE 21**RETURNS OF DISTRIBUTIONS WHICH ARE NOT
QUALIFYING DISTRIBUTIONS**

1.—(1) Where a company makes a distribution which is not a qualifying distribution it shall make a return to the inspector—

- (a) within fourteen days from the end of the accounting period in which the distribution is made ; or
- (b) if the distribution is made on a date not falling in an accounting period, within fourteen days from that date.

(2) The said return shall contain—

- (a) particulars of the transaction giving rise to the distribution ; and
- (b) the name and address of the person, or each of the persons, receiving the distribution, and the amount or value of the distribution received by him or each of them.

2. Where it is not in the circumstances apparent whether a transaction gives rise to a distribution in respect of which a return is required to be made under paragraph 1 above, the company shall—

- (a) within the time within which such a return would be required to be made if the transaction did give rise to such

a distribution, make a return to the inspector containing particulars of the transaction in question ; and

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- (b) if required by a notice served on the company by the inspector, furnish him within the time specified in the notice with such further information in relation to the transaction as he may reasonably require.

3. If it appears to the inspector that particulars of any transaction ought to have been and have not been included in a return under this Schedule, he may by a notice served on the company require the company to furnish him within the time specified in the notice with such information relating thereto as he may reasonably require.

4. Any power which the inspector may exercise under paragraph 19 of Schedule 16 to this Act for the purposes of that Schedule may be exercised by him for the purposes of this Schedule.

SCHEDULE 22

Section 106.

AMENDMENTS AS TO MEANING OF " DISTRIBUTION "

Distributions out of assets

1. In paragraph (b) of subsection (2) of section 233 of the Taxes Act (distributions out of company's assets otherwise than for new consideration) for the words " new consideration given for the distribution " there shall be substituted the words " new consideration received by the company for the distribution ".

Issues of bonus redeemable share capital and bonus securities

2.—(1) Paragraph (c) of the said subsection (2) (redeemable share capital or security issued by company in respect of shares otherwise than for new consideration) shall apply also to any such capital or security issued after 5th April 1972 as is mentioned in that paragraph but in respect of securities and not shares, and accordingly for that paragraph there shall be substituted—

" (c) any redeemable share capital or any security—

(i) issued by the company in respect of shares in the company ; or

(ii) issued by the company after 5th April 1972 in respect of securities of the company,

otherwise than wholly for new consideration, or such part of any redeemable share capital or any security so issued as is not properly referable to new consideration ; "

and paragraph (d)(i) of that subsection (interest on securities mentioned in the said paragraph (c)) shall have effect accordingly.

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

- (a) the value of any redeemable share capital shall be taken to be the amount of the share capital together with any premium payable on redemption, or in a winding up, or in any other circumstances ; and

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- (b) the value of any security shall be taken to be the principal amount thereby secured (including any premium payable at maturity or in a winding up or in any other circumstances);

and in determining the amount of the distribution constituted by the issue of any redeemable share capital or any security, the capital or security shall be taken at that value.

Interest etc. on certain kinds of securities

3.—(1) Sub-paragraph (ii) of paragraph (d) of the said subsection (2) (securities convertible directly or indirectly into shares, being securities which are not quoted or comparable to any which are quoted) shall apply also to securities issued after 5th April 1972 which are not quoted or comparable as aforesaid and carry any right to receive shares in or securities of the company, and accordingly for that sub-paragraph there shall be substituted—

“(ii) securities convertible directly or indirectly into shares in the company or securities issued after 5th April 1972 and carrying any right to receive shares in or securities of the company, not being (in either case) securities quoted on a recognised stock exchange nor issued on terms which are reasonably comparable with the terms of issue of securities so quoted; or”.

(2) In the case of any interest or other distribution to which the said paragraph (d) applies by virtue of so much of sub-paragraph (iii) thereof as relates to securities under which the consideration represents more than a reasonable commercial return for the use of the principal secured, that paragraph shall not operate so as to treat as a distribution so much of the interest or other distribution as represents a reasonable commercial return for the use of that principal.

(3) No amount shall be regarded for the purposes of the said paragraph (d) as representing the principal secured by a security issued after 5th April 1972 in so far as it exceeds any new consideration which has been received by the company for the issue of the security.

This sub-paragraph is without prejudice to section 237(6) of the Taxes Act (calculation of principal secured where securities are issued at a price less than the amount repayable on them).

Transfer of assets and liabilities between resident companies

4.—(1) No transfer of assets (other than cash) or of liabilities between one company and another shall constitute, or be treated as giving rise to, a distribution by virtue of subsection (2)(b) or (3) of the said section 233 if they are companies—

- (a) both of which are resident in the United Kingdom and neither of which is a 51 per cent. subsidiary of a company not so resident; and
- (b) which neither at the time of the transfer nor as a result of it are under common control.

(2) For the purposes of this paragraph two companies are under common control if they are under the control of the same person or persons, and for this purpose "control" shall be construed in accordance with section 302 of the Taxes Act.

(3) Any amount which would be a distribution by virtue of subsection (3) of the said section 233 apart from the proviso to that subsection (groups of companies resident in the United Kingdom), shall not constitute a distribution by virtue of subsection (2)(b) of that section.

Bonus issue with or following repayment of share capital

5.—(1) Section 234 of the Taxes Act (which treats a bonus issue of share capital other than redeemable share capital as a distribution if it is made at the same time as or after a repayment of share capital) shall apply whether or not the bonus issue is of redeemable share capital, and accordingly in subsection (1)(b) of that section the words "not being redeemable share capital" shall be omitted.

(2) Except in relation to a company within paragraph D of section 461 of the Taxes Act (closely controlled companies), the said section 234 shall not apply if the issue of share capital mentioned in paragraph (b) of subsection (1) of that section—

- (a) is of share capital other than redeemable share capital; and
- (b) takes place more than ten years after the repayment of share capital mentioned in paragraph (a) of that subsection.

(3) This paragraph applies where the issue of share capital mentioned in section 234(1)(b) takes place on or after the 6th April 1973; and sub-paragraph (2) above applies whether the repayment of share capital there mentioned takes place before, on or after that date.

Repayment of capital following bonus issue

6.—(1) Subsection (1) of section 235 of the Taxes Act (under which a distribution cannot be treated as a repayment of share capital if it follows a bonus issue which does not itself fall to be treated as a distribution) shall apply where the bonus issue falls to be treated as a distribution other than a qualifying distribution, and accordingly in that subsection for the words "treated as a distribution" and "treated as distributions" there shall be substituted the words "treated as a qualifying distribution" and "treated as qualifying distributions" respectively.

(2) Except in relation to a company within paragraph D of section 461 of the Taxes Act, subsection (1) of the said section 235 shall not prevent a distribution being treated as a repayment of share capital if it is made—

- (a) more than ten years after the issue of share capital mentioned in paragraph (a) of that subsection; and
- (b) in respect of share capital other than redeemable share capital.

(3) Sub-paragraph (1) above applies where the issue of share capital mentioned in section 235(1)(a) takes place on or after 6th April 1973; and sub-paragraph (2) above applies whether it takes place before, on or after that date.

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Stock dividend options

7. Section 236 of the Taxes Act (which treats as a distribution any share capital taken in lieu of a cash dividend) shall cease to have effect.

New consideration derived from shares or securities etc.

8.—(1) No consideration derived from the value of any share capital or security of a company, or from voting or other rights in a company, shall be regarded for the purposes of Part X of the Taxes Act or this Schedule as new consideration received by the company unless the consideration consists of—

- (a) money or value received from the company as a qualifying distribution ;
- (b) money received from the company as a payment which for those purposes constitutes a repayment of that share capital or of the principal secured by that security ; or
- (c) the giving up of the right to that share capital or security on its cancellation, extinguishment or acquisition by the company.

(2) No amount shall be regarded as new consideration by virtue of sub-paragraph (1)(b) or (c) above in so far as it exceeds any new consideration received by the company for the issue of the share capital or security in question or, in the case of share capital which constituted a qualifying distribution on issue, the nominal value of that share capital.

Reciprocal arrangements

9.—(1) Where two or more companies enter into arrangements to make distributions to each other's members, all parties concerned may for the purposes of Part X of the Taxes Act and this Schedule be treated as if anything done by either of those companies had been done by the other.

(2) This paragraph applies however many companies participate in the arrangements.

Groups of companies

10.—(1) In Part X of the Taxes Act and this Schedule the expressions "in respect of shares in a company" and "in respect of securities of a company" in relation to a company which is a member of a 90 per cent. group, mean respectively in respect of shares in that company or any other company in the group and in respect of securities of that company or any other company in the group.

(2) Without prejudice to section 233(2)(b) of that Act as extended by the foregoing sub-paragraph, in relation to a company which is a member of a 90 per cent. group, "distribution" includes anything distributed out of assets of the company (whether in cash or otherwise) in respect of shares in or securities of another company in the group.

(3) Nothing in this paragraph shall require a company to be treated as making a distribution to any other company which is in the same group and is resident in the United Kingdom.

(4) For the purposes of this paragraph a principal company and all its 90 per cent. subsidiaries form a "90 per cent. group" and "principal company" means a company of which another company is a subsidiary.

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Commencement and interpretation

11.—(1) Paragraphs 5, 6 and 7 above have effect from 6th April 1973 and the other paragraphs of this Schedule from 6th April 1972.

(2) This Schedule shall be construed as if it were included in Part X of the Taxes Act.

SCHEDULE 23

Section 109.

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS:
TRANSITIONAL PROVISIONS

PART I

ADVANCE CORPORATION TAX AVAILABLE FOR SET-OFF IN
TRANSITIONAL PERIOD

Determination of advance corporation tax for straddling accounting periods

1.—(1) Subject to paragraph 7 below, this paragraph applies where a company has an accounting period (in this Schedule referred to as "a straddling period") which begins before 6th April 1973 and ends after 5th April 1973.

(2) Section 85 of this Act shall have effect in relation to the straddling period as if the company, instead of having paid the advance corporation tax, if any, actually paid by it in respect of distributions made in the part of that period following 5th April 1973, had paid the advance corporation tax that would have been payable (apart from section 89 of this Act) in respect of a distribution made at the end of that part of an amount which, together with the advance corporation tax so payable in respect of it, is equal to such portion of the distributions made in the whole straddling period as would be attributed to that part on an apportionment of those distributions between that part of the straddling period and the remainder.

(3) For the purposes of sub-paragraph (2) above the distributions made in a straddling period shall be taken to consist of—

- (a) the excess of the distributions made in that period before 6th April 1973 over the franked investment income received in that period before that date (or, if smaller than that excess, the excess of the distributions made in the year 1972-73 over the franked investment income received in that year); and
- (b) the excess of the franked payments made in that period after 5th April 1973 over the franked investment income received in that period after that date.

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Restriction on advance corporation tax available for set-off in transitional period

2.—(1) Subject to paragraph 6(1) below, this paragraph applies to any company which does not satisfy the following conditions, that is to say—

- (a) that it was resident in the United Kingdom and carried on a trade or business throughout the year 1971-72 and is so resident and carries on a trade or business throughout the year 1972-73 ;
- (b) that the excess of the distributions made by the company in the year 1972-73 over the franked investment income received in that year is not less than the corresponding excess for the year 1971-72 ; and
- (c) that it was not at any time in its base period after 5th April 1972 a 51 per cent. subsidiary of a company resident in the United Kingdom.

(2) Subject to sub-paragraph (8) below and to the subsequent provisions of this Schedule, section 85 of this Act shall have effect in relation to the relevant accounting period in a distribution period, or, if more than one, all the relevant accounting periods in a distribution period as if the company, instead of having paid the advance corporation tax, if any, actually paid by it in respect of distributions made in that relevant accounting period or those relevant accounting periods, had paid advance corporation tax in respect of distributions made in that relevant accounting period or those relevant accounting periods of an amount which, in the aggregate, is equal to whichever of the following is the less, that is to say—

- (a) the advance corporation tax, if any, which the company is treated under paragraph 1 above or 7 below as having paid for any accounting period to which that paragraph applies which, or part of which, is a relevant accounting period included in the distribution period, plus the advance corporation tax, if any, actually paid by the company (and not repaid) in respect of distributions made in any other relevant accounting period in the distribution period ; or
- (b) the advance corporation tax that would have been payable (apart from section 89 of this Act) in respect of a distribution made at the end of the distribution period which, together with the advance corporation tax so payable in respect of it, is equal to—
 - (i) the profit standard for that distribution period ;
 - or
 - (ii) the distribution standard for that distribution period, whichever is the greater.

(3) In this Schedule “the profit standard”, in relation to any distribution period, means an amount equal to 50 per cent. of the income, if any, of the company charged to corporation tax for that period (as defined in section 85(6) of this Act).

(4) In this Schedule "the distribution standard" means an amount equal to the distributions, if any, made by the company in the time beginning with its base date and ending with the last day of the distribution period reduced by multiplying by the fraction $\frac{A}{B}$ where A is the number of months or parts of months in the distribution period and B is the number of months or parts of months in the base period up to the end of the distribution period.

(5) For the purposes of sub-paragraph (4) above the distributions made by the company in the time mentioned in that sub-paragraph shall be taken to consist of the aggregate of—

- (a) the excess of the distributions made in that time before 6th April 1973 over the franked investment income received in that time before that date (or, if smaller than that excess, the aggregate of the excess of the distributions made in the year 1971-72 over the franked investment income received in that year and of the corresponding excess for the year 1972-73); and
- (b) the excess of the franked payments made in each relevant accounting period falling within that time over the franked investment income received in that period.

(6) Subject to sub-paragraph (7) and paragraphs 3 and 4 below, in this Schedule—

- "distribution period" means any of the following, that is to say, the period beginning with 6th April 1973 and ending with the first relevant accounting period in the base period, the period beginning with the said 6th April and ending with the second relevant accounting period in the base period and similarly for each period beginning with the said 6th April and ending with a later relevant accounting period in the base period;
- "relevant accounting period" means any accounting period or part of an accounting period beginning after 5th April 1973 and ending on or before the expiration of the base period;
- "base period" means the period beginning with the company's base date and ending on the last day of the latest accounting period beginning within four years from the base date;
- "base date" means the day following the end of the company's accounting period or latest accounting period ending in the year 1971-72.

(7) If, in the case of any company, accounts for no period ending in the year 1971-72 have been adopted before 21st March 1972, then—

- (a) if a terminal date or dates for an accounting period or accounting periods ending in that year has or have been decided, or fixed by a decision, before the said 21st March and there is sufficient evidence of the decision in some document in existence before the said 21st March, the base

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date of the Company shall be the day following that terminal date or the last of those terminal dates, as the case may be ;

- (b) where paragraph (a) above does not apply, the base date of the company shall be the day following the anniversary in the year 1971-72 of the end of the company's latest accounting period or, if there is no such accounting period, of the date on which the company commenced business or came within the charge to corporation tax.

(8) Sub-paragraph (2) above does not apply to a company if in the case of that company the relevant amount for any distribution period does not exceed—

- (a) £1,000 multiplied by the number of years or parts of years in the distribution period ; or
 (b) the income charged to corporation tax (as defined in section 85(6) of this Act) for that period,

whichever is the less ; and for the purposes of this sub-paragraph the relevant amount in relation to a company is—

- (i) in the case of a distribution period that includes all or any part of an accounting period to which paragraph 1 above or 7 below applies, an amount equal to the distribution on which the advance corporation tax mentioned in sub-paragraph (2)(a) above would be calculated (if that sub-paragraph were applied to the company) plus that advance corporation tax ;
 (ii) in the case of any other distribution period, the excess of the franked payments made in that period over the franked investment income received in that period.

New businesses

3.—(1) Where the first accounting period of a company began in the year 1971-72 the base date of the company shall be the first day of that accounting period.

(2) Where the first accounting period of a company begins in the year 1972-73—

- (a) the base date of the company shall be the first day of that accounting period ;
 (b) the base period of the company shall be the period beginning with that day and ending on the last day of the latest accounting period beginning within three years from the base date ; and
 (c) the distribution standard shall not apply to the company.

(3) Where the first accounting period of a company begins after 5th April 1973—

- (a) the base date of the company shall be the first day of that accounting period ;

- (b) the base period of the company shall be the period beginning with the base date and ending on—
- (i) the last day of the latest accounting period beginning within two years from the base date ; or
 - (ii) the last day of the latest accounting period beginning before 5th April 1976,
- whichever is the earlier ;
- (c) any distribution period of the company shall begin with the base date ; and
- (d) the distribution standard shall not apply to the company.

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(4) Where a company which has ceased to be a chargeable company (that is to say, a company within the charge to corporation tax or resident in the United Kingdom) at any time before 6th April 1973 again becomes such a company before that date, its first accounting period for the purposes of this paragraph shall be taken to be the accounting period beginning on the occasion (or last occasion) on which it became such a company before that date ; and where a company which has ceased to be a chargeable company at any time does not again become such a company until after 5th April 1973 its first accounting period for the purposes of this paragraph shall be taken to be the accounting period beginning on the occasion (or the first occasion) on which it becomes such a company after that date.

Cessation of business

4.—(1) Where after 5th April 1973 a company ceases to be, and does not again before the expiration of the period mentioned in sub-paragraph (2) below come, within the charge to corporation tax, its base period shall end on the day on which it ceases to be within the charge to corporation tax.

(2) The period mentioned above is—

- (a) in the case of a company with a base date in the year 1971-72, four years from the base date ;
- (b) in the case of a company with a base date in the year 1972-73, three years from the base date ;
- (c) in the case of a company with a base date in the year 1973-74, the period ending 5th April 1976.

Close companies

5.—(1) Where a company is a close company for all the accounting periods in its base period, then, if the effect would be to increase the amount of advance corporation tax which the company is treated as having paid in respect of any distribution period, paragraph 2(2) above shall apply to the company as if for paragraph (b) there were substituted—

“(b) the advance corporation tax that would have been payable if the company had made in each accounting period or part of an accounting period in the distribution period a distribution equal to the amount to be taken in accordance with paragraph 9 of Schedule 16 to this Act as the company's relevant income for that accounting period or part of an accounting period”.

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(2) For the purposes of the paragraph (b) mentioned above, the amount to be taken as a company's relevant income for a part of an accounting period shall be arrived at by apportioning the relevant income for the whole of that accounting period between that part and the remainder.

(3) If a company makes a claim in that behalf and shows that the distributions made by it in an accounting period or part of an accounting period in the distribution period were made for the purpose—

- (a) of avoiding an apportionment under the said Schedule 16 in respect of relevant income (as defined in paragraph 8 of that Schedule) of an earlier accounting period to which that Schedule applies ; or
- (b) of avoiding a shortfall (as defined in section 290 of the Taxes Act) for an accounting period to which that section applies,

the paragraph (b) mentioned in sub-paragraph (1) above shall have effect in relation to the accounting period or part in which the distributions were made as if instead of referring to the amount to be taken as the company's relevant income it referred to the amount of those distributions.

Authorised unit trusts and investment trusts

6.—(1) Paragraph 2 above shall not apply to any authorised unit trust.

(2) Where a company is an investment trust for all the accounting periods in its base period, then, if the effect would be to increase the amount of advance corporation tax which the company is treated as having paid in respect of any distribution period and the company makes a claim in that behalf, paragraph 2(2) above shall apply to the company as if for paragraph (b) there were substituted—

“(b) the advance corporation tax that would have been payable (having regard to section 89 of this Act) if the distributions made by the company in the relevant accounting period or, if more than one, each relevant accounting period in the distribution period had not exceeded the distributions that it was necessary for the company to make in that period in order to comply with subsection (1)(e) of section 359 of the Taxes Act (limit on income that may be retained by investment trust as condition for approval under that section) ”.

(3) In relation to a relevant accounting period which is a fraction of a straddling period, the advance corporation tax to be taken into account for the purposes of the paragraph (b) mentioned above shall be a corresponding fraction of the advance corporation tax that would have been payable (having regard to section 89 of this Act) if the distributions made by the company in the straddling period had all been made at the end of that period and had not exceeded the distributions that it was necessary for the company to make in the straddling period in order to comply with the said subsection (1)(e).

(4) In this paragraph "authorised unit trust" has the meaning given in section 358 of the Taxes Act and, subject to section 93(6) of this Act, "investment trust" has the meaning given in section 359 of that Act.

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Modification of paragraph 1(2) and (3) in case of change of accounting date

7.—(1) This paragraph applies instead of paragraph 1(2) and (3) above where a company has a straddling period—

- (a) which does not begin on the anniversary of the company's base date (as defined in the foregoing provisions of this Schedule); or
- (b) which does not run for twelve months from that anniversary or, in the case of a company within paragraph 3(2) above, from its base date.

(2) In this paragraph—

"notional straddling period" means the period beginning on the anniversary in the year 1972-73 of the company's base date, or in the case of a company within paragraph 3(2) above on its base date, and ending after twelve months or at the end of the base period (as defined in the foregoing provisions of this Schedule) whichever is the earlier;

"the second part of the notional straddling period" means the part of it beginning with 6th April 1973;

"the distributions made in the notional straddling period" shall, subject to sub-paragraph (5) below, be determined in accordance with paragraph 1(3) above as for an actual straddling period.

(3) Section 85 of this Act shall have effect in relation to any accounting period of the company which includes the whole of the second part of the notional straddling period as if the company, instead of having paid the advance corporation tax, if any, actually paid by it in respect of distributions made in that accounting period, had paid—

- (a) the advance corporation tax that would have been payable (apart from section 89 of this Act) in respect of a distribution made at the end of the second part of the notional straddling period of an amount which, together with the advance corporation tax so payable in respect of it, is equal to such portion of the distributions made in the whole notional straddling period as would be attributed to the second part of that period on an apportionment of those distributions between that part and the remainder; and
- (b) the advance corporation tax, if any, paid by the company (and not repaid) in respect of the excess of franked payments made over the franked investment income received in the accounting period less the advance corporation tax, if any, paid by the company (and not repaid) in respect of any such excess as is by virtue of paragraph 1(3) above included in the distributions made in the notional straddling period.

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(4) Sub-paragraph (3) above shall have effect in relation to any accounting period of the company which includes a fraction of the second part of the notional straddling period as it applies in relation to an accounting period which includes the whole of that part but as if the reference in paragraph (a) to a portion of the distributions made in the whole of the notional period were a reference to a corresponding fraction of that portion.

(5) The distributions to be included by virtue of paragraph 1(3)(b) above in the distributions made in a notional straddling period shall not exceed—

- (a) in relation to an accounting period which includes the whole of the second part of the notional straddling period, the excess of the franked payments made in that accounting period after 5th April 1973 over the franked investment income received in that period after that date ;
- (b) in relation to an accounting period which includes a fraction of the second part of the notional straddling period, the excess of the franked payments made in that accounting period after that date over the franked investment income received in that period after that date plus the excess of the franked payments made after that date in each other accounting period which includes a fraction of the second part of the notional straddling period over the franked investment income received after that date in that other accounting period.

Change of ownership of company

8.—(1) Sub-paragraphs (2) and (3) below apply if—

- (a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade or business carried on by the company ; or
- (b) at any time after the scale of the activities in a trade or business carried on by a company has become small or negligible, and before any considerable revival of the trade or business, there is a change in the ownership of the company.

(2) Where the change of ownership occurs in a straddling period or in a notional straddling period as defined in paragraph 7 above, the advance corporation tax which the company is treated under paragraph 1(2) or 7(3)(a) above as having paid shall not exceed the advance corporation tax actually paid by the company (and not repaid) in respect of distributions made in the straddling period or notional straddling period.

(3) Where the change of ownership occurs after 5th April 1972—

- (a) paragraph 2 above shall apply to the company even though it satisfies the conditions mentioned in sub-paragraph (1) of that paragraph ; and
- (b) the distribution standard shall not apply to the company.

(4) Where after 5th April 1972 there is a change in the ownership of, or a major change in the nature or conduct of a trade or business carried on by, a company, paragraph 2 above shall apply to the company even though it satisfies the conditions mentioned in sub-paragraph (1) of that paragraph.

(5) Subsections (4), (5) and (7) of section 101 of this Act shall, so far as applicable, have effect in relation to this paragraph as they have effect in relation to that section.

Groups of companies

9. Regard shall be had to the provisions of this Schedule in determining whether a company has surplus advance corporation tax of which it can surrender the benefit under section 92 of this Act and the amount of any such surplus advance corporation tax, but those provisions shall not affect any advance corporation tax which a company is treated by virtue of that section as having paid in consequence of the surrender to it of any such surplus by another company.

Bonus issues

10.—(1) For the purposes of this Schedule there shall be disregarded any distribution if, by virtue of the following provisions of this paragraph, section 85 of this Act does not apply to the advance corporation tax payable in respect of it; and, subject to sub-paragraph (3) below, references in this Schedule to advance corporation tax paid by a company do not include references to advance corporation tax to which by virtue of those provisions the said section 85 does not apply.

(2) Subject to sub-paragraph (4) below, section 85 of this Act shall not apply to advance corporation tax payable by a company in respect of any amount treated as a distribution—

- (a) by virtue of section 234 of the Taxes Act (bonus issues following repayment of share capital) where the repayment of share capital mentioned in subsection (1)(a) of that section has taken place before the passing of this Act or takes place thereafter but before 6th April 1973;
- (b) by virtue of subsection (1) of section 235 of that Act (matters not to be treated as repayments of share capital) where the issue mentioned in paragraph (a) of that subsection has taken place before the passing of this Act or takes place thereafter but before 6th April 1973;
- (c) by virtue of paragraph 3(3) of Schedule 22 to this Act where the security there mentioned was issued before the passing of this Act or is issued thereafter but before 6th April 1973.

(3) Subject to sub-paragraph (4) below, the said section 85 shall not apply to advance corporation tax payable by a company in respect of any amount treated as a distribution—

- (a) by virtue of the said section 234 where the repayment of share capital mentioned in subsection (1)(a) of that section takes place in a distribution period;

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(b) by virtue of subsection (1) of the said section 235 where the issue mentioned in paragraph (a) of that subsection takes place in a distribution period ;

(c) by virtue of paragraph 3(3) of the said Schedule 22 where the security there mentioned was issued in a distribution period,

except to the extent, if any, to which the said section 85 would have applied to that advance corporation tax if it had been included for that distribution period in the advance corporation tax mentioned in paragraph 2(2)(a) above.

(4) Sub-paragraphs (2) and (3) above do not apply where the distribution on which the advance corporation tax is payable is made more than ten years after the repayment of share capital mentioned in the said section 234(1)(a), the issue mentioned in the said section 235(1)(a) or the issue mentioned in the said paragraph 3(3), as the case may be.

(5) This paragraph shall be construed as if it were included in Part X of the Taxes Act.

Supplementary

11.—(1) For the purposes of this Schedule there shall be disregarded any distribution consisting of a dividend paid without deduction of income tax by virtue of an election under section 256 of the Taxes Act as originally enacted or a dividend to which section 84 of this Act does not apply by virtue of an election under the said section 256 as amended by this Act.

(2) Where a company has made a claim or claims under section 254 or 255 of the Taxes Act for an accounting period ending in the year 1972-73, or for an accounting period ending after 6th April 1973 but in a distribution period, the franked investment income to be taken into account under this Schedule shall be calculated as if that claim or those claims had not been made, and the advance corporation tax referred to in paragraph 2(2)(a) and 7(3)(b) above as having been paid by a company (and not repaid) shall be calculated accordingly.

(3) Where in consequence of the application of this Schedule to any distribution period a company has been denied the benefit of any advance corporation tax and in consequence of the subsequent application of this Schedule to another distribution period it appears that the company ought not have been denied the benefit of that tax, relief shall be given by discharge or repayment of tax.

(4) In this Schedule references to franked investment income received in any year or period include references to franked investment income treated as received in that year or period ; and for the purposes of paragraph 1(3)(b) above in its application to a notional straddling period as defined in paragraph 7 above, franked investment income which is treated by virtue of section 89(3) of this Act as having been received in any accounting period shall be treated as received on the first day of that period.

(5) In this Schedule references to franked investment income do not include references to franked investment income which by virtue of section 89(5) of this Act cannot be used to frank distributions of a company.

PART II

SCH. 23

OTHER TRANSITIONAL PROVISIONS

Limit on set-off of advance corporation tax for accounting period beginning before 1st April 1973 and ending after 31st March 1973

12. Subsection (2) of section 85 of this Act shall have effect in relation to an accounting period beginning before 1st April 1973 and ending after 31st March 1973 as if the income charged to corporation tax for that period (determined in accordance with subsection (6) of that section) were such part thereof as would be attributed to the part of that accounting period beginning with the said 1st April if that income were apportioned between that part of the accounting period and the remainder.

Returns for straddling period

13. Schedules 14 and 20 to this Act shall have effect in relation to a straddling period as if the part of it before 6th April 1973 were not included in that period.

Surplus of franked investment income on hand at 5th April 1973

14. Subject to paragraph 15 below, where a company has a surplus of franked investment income (within the meaning of section 240 of the Taxes Act) for the year 1972-73 that surplus shall be treated for the purposes of this Act as an equivalent amount of franked investment income (within the meaning of this Act) received by the company on 6th April 1973.

Set-off of losses etc. against surplus of franked investment income

15. Paragraph 14 above shall not apply for the purposes of a claim under section 254 or 255 of the Taxes Act for any accounting period beginning with 6th April 1973; and for the purposes of any such claim for a straddling period that paragraph shall have effect in relation to any such surplus as is there mentioned exclusive of any part thereof which—

- (a) is carried forward from a year of assessment before the year 1972-73; or
- (b) would be apportioned, under section 254(3(a)) or 255(2) of that Act as originally enacted, to an accounting period beginning before the straddling period.

16.—(1) For the purposes of this paragraph “a relevant section 240 amount” means any amount which by virtue of paragraphs 14 and 15 above falls to be treated as franked investment income for the purposes of a claim for a straddling period under section 254 or 255 of the Taxes Act.

(2) Where a company has franked investment income for a straddling period which consists of or includes a relevant section

SCH. 23 240 amount, and a surplus of franked investment income for that period falls to be reduced in consequence of a claim under section 254 or 255 of the Taxes Act—

- (a) income tax at 38.75 per cent. shall be repaid to the company in respect of the relevant section 240 amount or the amount of the reduction, whichever is the less ; and
- (b) the amount in respect of which income tax is to be repaid as aforesaid shall be deducted from the amount in respect of which any payment of tax credit falls to be made in consequence of the claim.

(3) Where a company makes claims under both the said sections 254 and 255 for a straddling period the total amount in respect of which income tax is repayable under this paragraph shall not exceed the relevant section 240 amount.

17. Where in consequence of a claim under section 254 or 255 of the Taxes Act in respect of a surplus of franked investment income for the year 1972-73 a company is entitled to repayment of a sum of income tax, section 90(3) of this Act shall apply as if—

- (a) for the reference to payment of a sum in respect of tax credit there were substituted a reference to repayment of a sum of income tax ; and
- (b) for the reference to the next accounting period there were substituted a reference to the accounting period which begins with or contains 6th April 1973.

Dividends and other distributions at gross rate or of gross amount

18.—(1) Where any right or obligation created before 6th April 1973 is expressed by reference to a dividend at a gross rate or of a gross amount, that right or obligation shall, in relation to a dividend payable on or after that date, take effect as if the reference were to a dividend of an amount which, when there is added to it such proportion thereof as corresponds to the rate of advance corporation tax in force on that date, is equal to a dividend at that gross rate or of that gross amount.

(2) Sub-paragraph (1) above shall apply with the necessary modifications to a dividend partly at a gross rate or of a gross amount and shall apply to any distribution other than a dividend as it applies to a dividend.

Shortfall assessments

19.—(1) Nothing in this Act shall preclude the making of an assessment under subsection (1) of section 289 of the Taxes Act (shortfall in distributions) for the year 1973-74 in respect of a shortfall in an accounting period ending before 6th April 1973, and for the purposes of any such assessment it shall be assumed that section 232(2) of that Act is in force on the date on which the distribution

mentioned in subsection (1) of the said section 289 is to be taken as having been made.

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(2) Subsections (3) and (4) of the said section 289 shall have effect in relation to the year 1973-74 as if references to a surplus of franked investment income were references only to so much, if any, of any such surplus as corresponds to franked investment income treated by virtue of paragraph 14 above as received by the company on 6th April 1973.

(3) In subsection (5) of the said section 289 references to a later accounting period do not include references to any accounting period beginning with or after 6th April 1973 ; and—

- (a) that subsection shall have effect in relation to a later accounting period which is a straddling period as if for the words “for which there is no such shortfall” and “the required standard” there were substituted respectively the words “for which there is on such excess as is mentioned in paragraph 1(2) of Schedule 16 to the Finance Act 1972” and “the company’s relevant income as defined for the purposes of that Schedule” ; and
- (b) if the distributions for a later accounting period beginning before 6th April 1973 (whether or not a straddling period) include distributions made after 5th April 1973, the amount that would, apart from this sub-paragraph, fall to be deducted under that subsection from the distributions made by the company for that accounting period shall be reduced to such a fraction of that amount as corresponds to the fraction of those distributions made before 6th April 1973 and that amount, as so reduced, shall be deducted rateably from such of those distributions as were made before 6th April 1973.

(4) This paragraph shall be construed as if it were included in Schedule 16 to this Act.

Small companies, industrial and provident societies etc.

20. Sections 95 and 96 of this Act shall have effect in relation to an accounting period beginning before 1st April 1973 and ending after 31st March 1973 as if the part of that period before the said 1st April and the part after the said 31st March were separate accounting periods, and the profits and income of the company for that accounting period (as defined in those sections) shall be apportioned between those parts.

SCHEDULE 24

Section 111.

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS:
CONSEQUENTIAL AMENDMENTS

Finance Act 1965

1965 c. 25.

1. In section 34(6) of the Finance Act 1965, in the definition of “trading company” for the words “section 292(1) of the Income and Corporation Taxes Act 1970” there shall be substituted the words “paragraph 11 of Schedule 16 to the Finance Act 1972”.

2. In paragraph 18(1) of Schedule 6 to the said Act of 1965 for the words from “section 297” to “1970” there shall be substituted the

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words “ paragraph 5 of Schedule 16 to the Finance Act 1972 (consequences for income tax of apportionment of income etc. of close company) ”; in paragraph 18(2) of that Schedule for the words “ subsection (8) of the said section 297 ” and “ subsection (2)(b) of that section ” there shall be substituted respectively the words “ sub-paragraph (6) of the said paragraph 5 ” and “ sub-paragraph (2)(b) of that paragraph ”; and in paragraph 18(5) of that Schedule for the words “ the said section 297 ” there shall be substituted the words “ the said paragraph 5 ”.

1968 c. 2.

Provisional Collection of Taxes Act 1968

3. In section 5 of the Provisional Collection of Taxes Act 1968, in subsection (1)(c) after the words “ section 243(6) of the Income and Corporation Taxes Act 1970 ” there shall be inserted the words “ or advance corporation tax could be payable or assessed by virtue of section 103(2) of the Finance Act 1972 ”, and in subsection (2) of that section after the word “ Act) ” there shall be inserted the words “ and the said section 103(2) of the Finance Act 1972 ”.

1970 c. 9

Taxes Management Act 1970

4. In section 8 of the Management Act, after subsection (8) there shall be added—

“ (9) Where a person’s income of which particulars are required to be included in a return under this section comprises a distribution chargeable under Schedule F there shall be separately stated in the return the amount or value of the distribution and the amount of any tax credit under section 86 of the Finance Act 1972 to which that person is entitled in respect of that distribution.”

5. In section 11 of the Management Act, after subsection (5) there shall be added—

“ (6) A notice under this section may require the inclusion in the return of particulars of advance corporation tax paid by the company (and not repaid) and of any surplus advance corporation tax carried forward under section 85(4) of the Finance Act 1972.”

1971c. 68.

6. In section 29 of the Management Act for subsection (2) (as substituted by the Finance Act 1971) there shall be substituted—

“ (2) Assessments under Schedule 16 to the Finance Act 1972 shall be made by the inspector or the Board.”

7. In section 31(3)(b) of the Management Act the figure “ 297 ” (inserted by the Finance Act 1971) shall be omitted and at the end there shall be inserted “ or under paragraph 5 of Schedule 16 to the Finance Act 1972 ”.

8. In section 55(1)(e) of the Management Act for the words “ Schedule 9 to the principal Act (income tax on company distributions etc.) ” there shall be substituted the words “ Schedule 20 to the Finance Act 1972 (income tax on company payments other than distributions) ”.

9. In section 86(1)(d) of the Management Act after the words “ corporation tax ” there shall be inserted the words “ other than advance corporation tax ”.

10. For section 87 of the Management Act there shall be substituted—

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“Interest on overdue advance corporation tax and income tax on company payments.

87.—(1) Any tax assessable in accordance with Schedule 14 or 20 to the Finance Act 1972 shall carry interest at the prescribed rate from the date when the tax becomes due and payable until payment.

(2) Where—

- (a) advance corporation tax paid in respect of distributions made in any return period is repaid under paragraph 4 of the said Schedule 14 in consequence of the receipt of franked investment income in a later return period ; or
- (b) income tax paid in respect of payments made in any return period is repaid or discharged under paragraph 5 of the said Schedule 20 in consequence of the receipt in a later return period of a payment on which income tax is borne by deduction,

the repayment or discharge shall not affect interest under this section on the tax so repaid or discharged for such time as is specified in subsection (3) below but, subject to that, this section shall apply as if any such tax which is repaid or discharged had never become payable.

(3) The time for which interest is not affected is—

- (a) any time before the expiration of fourteen days from the end of the later return period, unless the return for that period is made earlier in those fourteen days ; and
- (b) if that return is made earlier in those fourteen days, any time ending before the date on which the return is made.

(4) Interest shall not be payable under this section on the tax charged by any assessment unless the total amount of the interest exceeds £5.

(5) Subsection (4) above shall have effect as if all advance corporation tax due from a company in accordance with paragraph 3(1) of the said Schedule 14 for any return period, whether or not it is actually assessed, were included in a single assessment, and similarly in the case of all income tax due from a company in accordance with paragraph 4(1) of the said Schedule 20 for any return period.

(6) In this section “return period” means a period for which a return is required to be made under the said Schedule 14 or 20.

(7) It is hereby declared that this section applies to advance corporation tax and income tax which, in accordance with either of those Schedules, is paid without the making of any assessment (but is paid after it is due).

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and that where the tax is charged by an assessment (whether or not any part of it has been paid when the assessment is made) this section applies as respects interest running before as well as after the making of the assessment."

11. In section 88(2) of the Management Act, for the words "Schedule 9 to the principal Act" there shall be substituted the words "Schedule 14 or 20 to the Finance Act 1972."

12. In section 98 of the Management Act the following shall be added in the first column—

"Paragraph 19 of Schedule 16 and paragraphs 2(b), 3 and 4 of Schedule 21 to the Finance Act 1972";

and the following shall be added in the second column—

"Schedules 14 and 20, and paragraphs 1 and 2(a) of Schedule 21, to the Finance Act 1972".

13. For section 109 of the Management Act there shall be substituted—

"Corporation tax on close company in connection with loans to participators etc.

109.—(1) The provisions of section 286 of the principal Act (charge of tax in connection with loans by close companies to participators etc.) directing that tax be assessed and recoverable as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Act, and to any necessary modifications, all enactments applying generally to corporation tax, including those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(2) Section 86 of this Act shall apply in relation to tax under the said section 286 as if subsections (2) and (3)(a) of the said section 86 were omitted.

(3) For the purposes of section 88 of this Act as applied by subsection (1) above, the date when tax charged under the said section 286 ought to have been paid shall be taken to be the first day of the year of assessment following that in which the loan or advance was made.

(4) Section 91 of this Act shall not apply in consequence of any discharge or repayment of tax under section 286(5) of the principal Act.

(5) For the purposes of the said section 91, a relief from tax under the said section 286 shall not be treated as affecting tax charged by any assessment unless the assessment is to tax under that section."

14. In Schedule 3 to the Management Act, in column 1 of rule 8 the words "288 or 289" shall be omitted and at the end there shall be inserted the words "or relating to a notice under paragraph 15 of Schedule 16 to the Finance Act 1972".

Income and Corporation Taxes Act 1970

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15. In section 4(3) of the Taxes Act (as substituted by the Finance Act 1971) after the words "or is treated as having been deducted" there shall be inserted the words "or income chargeable under Schedule F".

16. In section 53(4) of the Taxes Act for the words "Schedule 9 to this Act" there shall be substituted the words "Schedule 20 to the Finance Act 1972".

17. In section 226(9) of the Taxes Act for the words "section 292(1) of this Act" there shall be substituted the words "paragraph 11 of Schedule 16 to the Finance Act 1972".

18. For section 232(4) of the Taxes Act there shall be substituted—

"(4) A company which makes a qualifying distribution shall, if the recipient so requests in writing, furnish to him a statement in writing showing the amount or value of the distribution and (whether or not the recipient is a person entitled to a tax credit in respect of the distribution) the amount of the tax credit to which a recipient who is such a person is entitled in respect thereof.

The duty imposed by this subsection shall be enforceable at the suit or instance of the person requesting the statement."

19. In section 242(1) of the Taxes Act for paragraphs (a) to (c) there shall be substituted—

"(a) in the case of interest which is not a qualifying distribution—

(i) the gross amount which, after deduction of the income tax appropriate thereto, corresponds to the net amount actually paid,

(ii) the rate and the amount of income tax appropriate to such gross amount, and

(iii) the net amount actually paid ;

(b) in the case of a dividend or of interest which is a qualifying distribution, each of the following amounts—

(i) the amount of the dividend or interest paid, and

(ii) (whether or not the recipient is a person entitled to a tax credit in respect thereof) the amount of the tax credit to which a recipient who is such a person is entitled in respect thereof."

20. In section 248 of the Taxes Act, in subsection (4)(a) for the words "Schedule 9 to this Act" there shall be substituted the words "Schedule 20 to the Finance Act 1972", and in subsection (8) for the words "by reason of section 284(1)(a) or any other provision" there shall be substituted the words "by reason of any provision".

21. In section 302(1) of the Taxes Act the words "other than section 290 above" shall be omitted and at the end there shall be inserted—

"Provided that this subsection shall not by virtue of section 94(3) of the Finance Act 1972 apply to paragraph 9 of Schedule 16 to that Act".

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22. In section 343 of the Taxes Act, in subsection (2)(b), for the words "Schedule 9 to this Act" there shall be substituted the words "Schedule 20 to the Finance Act 1972" and in subsection (7) for the word "distribution" there shall be substituted the words "qualifying distribution".

23. In section 393(1) of the Taxes Act for the words "tax under section 289 of this Act (shortfall in distributions of close company)" there shall be substituted the words "tax under Schedule 16 to the Finance Act 1972 (apportionment of income of close companies)".

24. In section 399(1)(b) of the Taxes Act for the words from "then" onwards there shall be substituted the words "then, for the purposes of Schedule 16 to the Finance Act 1972—

(i) the amount of the gain shall be deemed to form part of the company's income for the accounting period in which the event happened, and

(ii) the company's distributable income (but not its estate or trading income) for that period shall be treated as increased by the amount of the gain".

25. In section 432(7) of the Taxes Act the words "section 297(3) (close companies: apportionments)" shall be omitted and there shall be added at the end the words "and paragraph 5(3) of Schedule 16 to the Finance Act 1972 (close companies: apportionments)".

26. In section 454(1) of the Taxes Act, in paragraph (b) after the words "has been apportioned" there shall be inserted the words "under Schedule 16 to the Finance Act 1972 or (as respects income of accounting periods ending before 6th April 1973)" and at the end there shall be inserted—

"Where the income of a body corporate has been, or could have been, apportioned under Schedule 16 to the Finance Act 1972 any amount of that income which by virtue of paragraph (b) above is to be included in the income arising under a settlement shall be increased by such proportion thereof as corresponds to the rate of advance corporation tax applicable to a distribution made at the end of the accounting period to which the apportionment relates."

27. In section 478(8)(d) of the Taxes Act for the words "section 296 of this Act" there shall be substituted the words "paragraph 1 of Schedule 16 to the Finance Act 1972" and at the end there shall be inserted the words "and that amount shall be treated as increased by such proportion thereof as corresponds to the rate of advance corporation tax applicable to a distribution made at the end of the accounting period to which the apportionment relates".

28. In section 481(3) of the Taxes Act for the words "section 292(1) of this Act" there shall be substituted the words "paragraph 11 of Schedule 16 to the Finance Act 1972".

29. In section 521 of the Taxes Act subsection (3)(a) shall be omitted, and at the end there shall be added—

"(4) In this section "interest" and "dividends" do not include any interest or dividend which is a distribution."

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30. In section 522 of the Taxes Act for the words "interest on any of its securities, or under section 232(3) of this Act from payments of preference dividends on any of its shares" there shall be substituted the words "interest (not being a distribution) on any of its securities" and the words "or share" (three times) and the words "In this section 'share' includes stock" shall be omitted.

31. In section 526(5) of the Taxes Act for the definition of "franked investment income" there shall be substituted—

"'franked investment income' shall be construed in accordance with section 88 of the Finance Act 1972 but subject to section 256(1) of this Act ;

'franked payment' shall be construed in accordance with section 84 of the Finance Act 1972 but subject to section 256(1) of this Act " ;

and after the definition of "preference dividend" there shall be inserted—

"'qualifying distribution' has the meaning given in section 84 of the Finance Act 1972 ;

'surplus of franked investment income' has the meaning given in section 89 of the Finance Act 1972 ;

'tax credit' means a credit under section 86 of the Finance Act 1972 ".

32. In section 528(3)(a) of the Taxes Act after the words "for any year" there shall be inserted the words "or which for the purposes of Schedule F comprises an amount equal to a tax credit calculated by reference to the rate of advance corporation tax in force for any year".

33. In Schedule 14 to the Taxes Act, in paragraph 15, for the words "Board may exercise under section 301 of this Act for the purposes of sections 296 to 300" there shall be substituted the words "inspector may exercise under paragraph 19 of Schedule 16 to the Finance Act 1972 for the purposes of that Schedule".

SCHEDULE 25

RELIEF FROM ESTATE DUTY AND CAPITAL GAINS TAX— RECIPIENT BODIES

Sections 119,
121.

The National Gallery.

The British Museum.

The Royal Scottish Museum.

The National Museum of Wales.

Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest and which is approved for the purposes of this Schedule by the Treasury.

Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom.

SCH. 25 Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom.

The National Art Collections Fund.

The National Trust for Places of Historic Interest or Natural Beauty.

The National Trust for Scotland for Places of Historic Interest or Natural Beauty.

Section 121.

SCHEDULE 26

RELIEF FROM ESTATE DUTY

SUPPLEMENTARY PROVISIONS

PART I

GIFTS EXCEPTED FROM SECTION 121

1. A gift is excepted from each of the paragraphs of subsection (1) of the principal section if it takes effect on the termination of any interest or on the termination of any period, other than an interest or period terminating on or before the death; but this paragraph shall not be taken to except a gift from paragraph (c) of that subsection by reason only that the gift is dependent on the widow or widower surviving the deceased for a specified period.

2. A gift is excepted from each of the paragraphs of that subsection if it depends on a condition which is not satisfied within twelve months after the death.

3.—(1) A gift is excepted from paragraphs (a) and (b) of that subsection if it is less than the donor's full interest in the property given or is for a limited period or is defeasible or if it or any part of it is or may become applicable for other than charitable purposes or the purposes of a body falling within Schedule 25 to this Act.

(2) For the purposes of this paragraph—

(a) any question whether a gift is less than the donor's full interest in the property given shall be decided as at a time twelve months after the death; and

(b) any gift which has not been defeated at that time and is not defeasible after that time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.

PART II

ALLOCATION OF RELIEF

4. Any question how the reduction in estate duty resulting from the principal section and this Schedule is to be attributed to the duty payable respectively on property to which different persons become entitled on the death shall be determined in accordance with the following provisions of this Part of this Schedule; and nothing in Part III of this Schedule shall be taken to affect that question.

5. The reduction referred to in the following provisions of this Part of this Schedule is the reduction in estate duty after allowing for any reduction in the estate rate and for any reduction attributable to section 16(3) of the Finance Act 1894. SCH. 26

1948 c. 30.

6. No part of the reduction shall reduce the duty on chargeable property except in so far as the duty would be attributable to property specifically given but would fall on residue; and in particular, where property given as a share in residue or in a fund is exempt property the reduction resulting from that property being exempt property shall not reduce the duty on any share in the residue or fund which is chargeable property.

7. Where any of the exempt property is property falling within paragraph (c) of subsection (1) of the principal section, the reduction shall be so made as to be most favourable to the widow or widower; and subject thereto and to paragraph 6 above, the reduction shall be treated as reducing duty on property bearing its own duty (whether or not specifically given) before duty on property not bearing its own duty.

PART III

ASCERTAINMENT OF EXEMPT AND CHARGEABLE PROPERTY

Exempt and chargeable property

8. Any question whether or to what extent the value attributable to any property is to be disregarded under the principal section shall be determined in accordance with the following provisions of this Schedule; and in this Schedule "exempt property" means so much of any property as corresponds to the value to be so disregarded and "chargeable property" means the remainder of the property forming part of the estate.

General principle

9. Where it is material for any purpose which of two or more possible assets are taken to constitute exempt property—

- (a) such assets shall be taken to fall within paragraph (c) of subsection (1) of the principal section as are most favourable to the widow or widower, and any agreement between the widow or the widower and the Commissioners as to what assets will be most favourable shall be conclusive;
- (b) subject to sub-paragraph (a) above, property bearing its own duty shall be taken to be exempt property before property not bearing its own duty; and
- (c) subject to sub-paragraphs (a) and (b) above, each of the assets shall be so taken to the extent proportionate to its value.

Small estates and separable property

10. Where, under section 16(3) of the Finance Act 1894 (and apart from the principal section and this Schedule), any property is treated as an estate by itself the principal section and this Schedule shall have effect as if that property were not included in the property passing on the death. 1894 c. 30.

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1894 c. 30.

11. Any property which under section 16(3) of the Finance Act 1894 would fall to be treated as an estate by itself if its net value did not exceed that mentioned therein is in this Schedule referred to as separable property.

Annuities

12. For the purposes of the principal section and of this Schedule the value of any annuity or other periodical payment of any amount shall be taken to be the value of property needed to produce income of that amount; and the value of the property out of which the annuity or other sum is paid shall be taken to be reduced accordingly.

Abatement not attributable to duty

13. Where any gift would fall to be abated owing to the insufficiency of the estate and apart from any estate duty payable on the estate, so much only of any property comprised in the gift shall be taken into account under the following provisions of this Schedule as remains after the abatement.

Abatement for estate duty

14. So much only of the property passing on the death shall be exempt property as remains after making any deductions required by the following paragraphs.

15. There shall first be calculated the aggregate of the following values of the property which is specifically given or to which the widow or widower is specifically entitled—

- (a) the principal value of any property falling within paragraph (a) of subsection (1) of the principal section;
- (b) the appropriate value of any property falling within paragraph (b) or (c) of that subsection; and
- (c) the appropriate value of any property not falling within any of those paragraphs;

and for this purpose any debt incurred by the deceased for which no allowance is to be made under section 7(1) of the Finance Act 1894 shall be treated as property specifically given.

16. If the aggregate calculated under paragraph 15 above exceeds the principal value of the estate, the property specifically given (whether exempt or chargeable property) shall be taken to be reduced by such proportion thereof as would result in the aggregate being equal to that principal value; and in making the reduction due effect shall be given to any disposition under which any property is given.

Residue

17. If the aggregate calculated under paragraph 15 above is less than the principal value of the estate, so much of the remainder as is property falling within subsection (1) of the principal section shall be exempt property so far as—

- (a) it is property falling within paragraph (a) of that subsection; or

- (b) it is property falling within paragraph (b) or (c) of that subsection and does not, when added to the amount taken into account under paragraph 15(b) above, exceed the limit specified in paragraph (b) or (c) of that subsection.

Appropriate value

18. The appropriate value of any property bearing its own duty is its principal value.

19. Where property does not bear its own duty then—

- (a) if the property is property falling within paragraph (b) or (c) of subsection (1) of the principal section, its appropriate value is the aggregate of—
- (i) its principal value, so far as it does not exceed the limit mentioned in that paragraph as reduced under paragraph 20 below ; and
 - (ii) the grossed-up equivalent of the remainder ; and
- (b) if it is property not falling within that subsection its appropriate value is the grossed-up equivalent of its principal value.

20. Where property specifically given and bearing its own duty falls within paragraph (b) or (c) of subsection (1) of the principal section the limit mentioned therein shall for the purposes of paragraph 19 above be reduced by the principal value of that property (and accordingly shall for those purposes be nil if it is equalled or exceeded by that principal value).

Grossed-up equivalent

21. For the purposes of paragraph 19 above the grossed-up equivalent of the principal value or part of the principal value of any property is such amount as would, after deduction of estate duty at the appropriate rate, be equal to the principal value or part ; and for this purpose the appropriate rate—

- (a) in relation to any property other than separable property, is the rate which would be the estate rate apart from the principal section and this Schedule ; and
- (b) in relation to separable property is the rate found by taking the amount of the estate duty that would be payable on that property (apart from the principal section and this Schedule) if no relief were given other than relief under section 16(3) of the Finance Act 1894 and dividing the amount so taken 1894 c. 30 by the principal value of that property.

Amounts payable out of different funds

22. Where amounts are payable out of different funds the calculations required by the preceding provisions of this Part of this Schedule shall be made separately for each of those funds, with the necessary adjustments of the values and amounts referred to therein.

SCH. 26

PART IV

EFFECT OF CERTAIN EVENTS AFTER DEATH

Failure of charitable object

23. Where property given to a charity or property representing such property ceases at any time to be applicable to charitable purposes (without being replaced by other property) there shall be calculated the amount by which the estate duty chargeable on the death would have been increased if so much of the property falling within paragraph (b) of subsection (1) of the principal section and treated as exempt property as corresponds to the principal value at that time of the property ceasing to be so applicable had been treated as chargeable property ; and that amount shall be an amount of estate duty and the persons entitled to the property immediately after that time shall be accountable for it.

Works of national importance, etc., and timber

1930 c. 28.

24. Where objects to which section 40 of the Finance Act 1930 (objects of national, etc., interest) applies would, had they not been enjoyed in kind, have been property falling within subsection (1) of the principal section, then, to the extent that they would have been exempt property they shall remain exempt from estate duty notwithstanding that they are sold, or that an undertaking given under section 48(1) of the Finance Act 1950 has not been observed, but, in the case of objects which would have fallen within paragraph (c) of that subsection, only if they are sold, or the failure to observe the undertaking occurs, within the lifetime of the widow or widower ; and similarly with respect to timber, trees and wood exempted under section 61(5) of the Finance (1909–10) Act 1910.

1950 c. 15.

1910 c. 8.

Deeds of family arrangement

25. If not more than two years after the death any of the dispositions of the property of which the deceased was competent to dispose, whether effected by will or under the law relating to intestacies, or otherwise, are varied by a deed of family arrangement or similar instrument the principal section and this Schedule shall apply as if the variation made by the deed or other instrument had been effected by the deceased.

PART V

AMENDMENT, REPEALS AND INTERPRETATION

Amendment of Finance Act 1954 s. 32(2)

1954 c. 44.

26. In section 32(2) of the Finance Act 1954 after the words " by reason only " there shall be inserted the words " of section 121 of and Schedule 26 to the Finance Act 1972 or ".

Repeal of superseded provisions

27. The enactments mentioned in Part VII of Schedule 28 to this Act are hereby repealed to the extent specified in the third column of that Part, except—

(a) in relation to deaths occurring before 22nd March 1972 ; and

- (b) in their application, by virtue of section 33(2) of the Finance Act 1951, to Government departments, local authorities and the other bodies mentioned therein. SCH. 26
1951 c. 43.

Interpretation

28. In this Schedule "the principal section" means section 121 of this Act.

29. In the principal section and in this Schedule "charity" and "charitable" have the same meanings as in the Income Tax Acts and "gift" means—

- (a) any testamentary disposition ; and
(b) any disposition by virtue of which property passes on the death ;

whether the disposition is made by the deceased or any other person ; and "given" and "donor" shall be construed accordingly.

30. In this Schedule—

"appropriate value" has the meaning assigned to it by paragraphs 18 and 19 above ;

"chargeable property" and "exempt property" have the meanings assigned to them by paragraph 8 above ;

"separable property" has the meaning assigned to it by paragraph 11 above.

31. Where the deceased's widow or widower is entitled to a joint tenancy of any property and becomes on the death beneficially entitled to a share of that property that share shall be treated for the purposes of the principal section and this Schedule in like manner as property given to or devolving on the widow or widower.

32. References in this Schedule to property specifically given are references to property given otherwise than as residue or a share in residue.

33. For the purposes of this Schedule any question whether property bears its own duty shall be determined as at the time of the death.

SCHEDULE 27

Section 122.

REGIONAL EMPLOYMENT PREMIUMS

CONSEQUENTIAL AMENDMENTS

The Selective Employment Payments Act 1966

1966 c. 32.

1. In section 1(1) of the Selective Employment Payments Act 1966, for the words from the beginning to "this section applies" there shall be substituted the words "Where an employer has paid an employer's insurance contribution for any contribution week in respect of a person in an employment to which this section applies and the case falls within subsection (1) of section 26 of the Finance Act 1967" and for the words "a payment of an amount equal to the tax paid" there shall be substituted the words "a payment of an amount specified in that section".

SCH. 27

1967 c. 54.

2. In section 3(2) of that Act, for the words “selective employment tax” there shall be substituted the words “employer’s insurance contributions” and for the words from “amount of the tax” to the end there shall be substituted the words “appropriate amount specified in section 26 of the Finance Act 1967”.

3. In section 7(1) of that Act, for the words “selective employment tax”, in both places, there shall be substituted the words “employer’s insurance contribution”.

The Finance Act 1967, s. 26

4. For subsection (1) of section 26 of the Finance Act 1967 there shall be substituted the following subsection:—

“(1) A payment under section 1 of the principal Act in respect of a person in an employment to which that section applies shall be made in any case where the establishment in or from which that employment is carried out is situated wholly within a development area and, subject to subsections (2), (4) and (5) of this section, the amount of that payment shall be—

- (a) if that person was treated for the purpose of the employer’s insurance contribution as a man over the age of 18, £1·50;
- (b) if that person was treated for that purpose as a woman over the age of 18, 75p;
- (c) if that person was treated for that purpose as a boy under the age of 18, 75p; and
- (d) if that person was treated for that purpose as a girl under the age of 18, 47½p.”

5. In subsection (2) of that section, for the words “any increase” there shall be substituted the words “any payment falling to be made”.

6. In subsection (4) of that section, for the word “increase” there shall be substituted the word “make”.

7. In subsection (5) of that section, for the words “increases” and “paid”, in both places, there shall be substituted respectively the words “payments” and “made”.

SCHEDULE 28

Section 134.

ENACTMENTS REPEALED

PART I

PURCHASE TAX—INITIAL REPEALS

Chapter	Short Title	Extent of Repeal
1961 c. 36.	The Finance Act 1961.	In section 9, in subsection (3), the words "and (c) purchase tax", subsection (4)(a), and, in subsection (8), the words from "and those subsections" to "1948".
1963 c. 9.	The Purchase Tax Act 1963.	In section 2, subsections (3) and (4). Section 4. Sections 6 to 11. Section 12(1). In section 13, subsections (1), (3) and (5). In section 14, subsections (2) to (4), (8) and (9). In section 15, in subsection (2) the words from "and the power" to the end, and subsection (3). Section 16. Section 22. Section 28(1). In section 39, subsections (2) and (3) and, in subsection (4), the words from the beginning to "section". Section 40(6). Section 8(2)(d). Section 3(4).
1964 c. 49.	The Finance Act 1964.	Section 8(2)(d).
1964 c. 92.	The Finance (No. 2) Act 1964.	Section 3(4).
1967 c. 54.	The Finance Act 1967.	Section 9(2).
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	In section 1(1) the words "purchase tax".

These repeals take effect on 1st April 1973.

SCH. 28

PART II

PURCHASE TAX—POSTPONED REPEALS

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 44.	The Crown Proceedings Act 1947.	In section 26(2), the words " or purchase tax " In section 49, the words " and purchase tax "
11 & 12 Geo. 6. c. 38.	The Companies Act 1948.	In section 319(1)(a), sub-paragraph (iii).
6 & 7 Eliz. 2. c. 11.	The Isle of Man Act 1958.	Section 2(4)(c).
1960 c. 22. (N.I.)	The Companies Act (Northern Ireland) 1960.	In section 287(1)(a), sub-paragraph (iii).
1963 c. 9.	The Purchase Tax Act 1963.	The whole Act, so far as unrepealed.
1964 c. 49.	The Finance Act 1964.	Section 10(2).
1964 c. 92.	The Finance (No. 2) Act 1964.	In section 7, in subsections (1) and (2) the words " and purchase tax " In section 10(2), the words from " and nothing " to the end.
1964 c. 32. (N.I.)	The Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.	In section 1(1)(a), sub-paragraph (iii).
1965 c. 25.	The Finance Act 1965.	Section 3.
1966 c. 18.	The Finance Act 1966.	In section 2, in subsections (1) and (13) the words " and purchase tax "
1967 c. 54.	The Finance Act 1967.	Section 8. Section 9, so far as unrepealed.
1968 c. 44.	The Finance Act 1968.	Section 45(3)(b).
1969 c. 32.	The Finance Act 1969.	Section 5. Schedule 6. Section 1(4). Section 55. Section 61(3)(b).
1971 c. 10.	The Vehicles (Excise) Act 1971.	Schedule 6. In section 6, subsection (2) and, in subsection (3), the words " or (2) " in both places.
1971 c. 68.	The Finance Act 1971.	Sections 4 and 5.

These repeals take effect on the date appointed or the dates respectively appointed under section 54 of this Act.

PART III

SCH. 28

SPIRITS AND MECHANICAL LIGHTERS

Chapter	Short Title	Extent of Repeal
12, 13 & 14 Geo. 6 c. 47.	The Finance Act 1949.	Section 8(1).
1969 c. 32.	The Finance Act 1969.	In section 1(2), paragraph (a) and in the words following the paragraphs, the word "1". Schedule 1.

These repeals take effect on 8th August 1972.

PART IV

OCCUPATIONAL PENSION SCHEMES

Chapter	Short Title	Extent of Repeal
61 & 62 Vict. c. 44.	The Merchant Shipping (Mercantile Marine Fund) Act 1898.	Section 1A(2).
10 Edw. 7 & 1 Geo. 5. c. 7.	The Development and Road Improvement Fund Act 1910.	Section 2(3).
10 & 11 Geo. 6. No. 2.	The Church Commissioners Measure 1947.	Section 17(3).
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	In Schedule 10, in paragraph 8(1A), the words from "and also" to "1972".
1967 c. 10.	The Forestry Act 1967.	In Schedule 1, in paragraph 9(2)(b), the words from "and also" to "1972".
1969 c. 50.	The Trustee Savings Bank Act 1969.	In section 82(3), the words following paragraph (e).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 20(1), the words "210". Section 210.
1970 c. 24. 1972 c. 11.	The Finance Act 1970. The Superannuation Act 1972.	Section 22(3). In section 17(1), subsection (2) of the section set out therein. In Schedule 6, in paragraph 4, subsection (3) of the section partly set out therein; in paragraph 13, subsection (2) of the section set out therein; paragraph 22; in paragraph 41 the words from "and also" to "1972"; in paragraph 60(b) the words from "and also" to "1972".

These repeals take effect on 6th April 1973.

PART V

INTEREST RELIEF

Chapter	Short title	Extent of Repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Sections 57 to 64A. In section 122(1), paragraph (c) and the word "and" preceding it. Section 190. Section 248(6). In section 296(2) the words "not being interest". Section 300. Section 440. In section 455, in paragraph (a), the words "excluding all payments of interest" and, in paragraph (b), the words "subject to section 456 below". Section 456. Section 469(6). In section 496, subsections (3) to (7). In Part III of Schedule 12, paragraph 2(1)(c) and the word "and" preceding it. In Schedule 14, in paragraph 5 the words "section 57(10) and" and paragraph 10.
1970 c. 24.	The Finance Act 1970.	Section 17. In Schedule 4, paragraph 9, except sub-paragraph (6).
1971 c. 68.	The Finance Act 1971.	In Schedule 6, paragraphs 23, 44, 60 and 66. In Schedule 8, paragraph 16(4) and, in paragraph 16(5), the words "190(1)".

These repeals have effect in relation to interest paid and payable on or after 6th April 1972.

PART VI

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS

Chapter	Short Title	Extent of Repeal
1965 c. 25.	The Finance Act 1965.	In section 84, subsections (2)(a), (3)(b) and (4).
1966 c. 18.	The Finance Act 1966.	Sections 31 and 32. Schedule 9.
1968 c. 44.	The Finance Act 1968.	In section 32(6) the words "or a rate fluctuating in accordance with the basic rate of income tax".

Chapter	Short Title	Extent of Repeal
1970 c. 9.	The Taxes Management Act 1970.	<p>In section 31(3)(b) the figure "297".</p> <p>In section 98, in the Table, the words "section 301" and "Company tax regulations".</p> <p>In Schedule 3, in paragraph 8 the words "288 or 289".</p>
1970 c. 10.	The Income and Corporation Taxes Act 1970.	<p>In section 27(4) the words from "or under section 31" to "non-residents)".</p> <p>Section 232(2) and (3).</p> <p>In section 234, in subsection (1)(b) the words "not being redeemable share capital" and in subsection (3) the words "or fluctuates only with the basic rate of income tax".</p> <p>Section 236.</p> <p>In section 240, subsections (1) to (3), in subsection (5) the words "(not being franked investment income)" except as respects franked investment income arising before 6th April 1973, subsection (6) and in subsection (7) the words "distributions or" and the words from "and nothing" onwards.</p> <p>Section 240A.</p> <p>Section 284(1)(a) and (b).</p> <p>In section 286 subsection (6) and in subsection (7) the words "the grossed up equivalent of".</p> <p>Sections 288 to 301.</p> <p>In section 302(1), the words "other than section 290 above".</p> <p>Section 303(5)(b).</p> <p>In section 305(2) the words "income tax and".</p> <p>In section 310, subsection (3) and in subsection (4) the words from the beginning to "company, and".</p> <p>Section 311.</p> <p>In section 314, in subsection (1) the words "income tax and", subsection (3)(b) and (c) and, in subsection (4), the words from "If an accounting period" to "accounting periods, and", and the words "or part of an accounting period".</p>

SCH. 28

Chapter	Short title	Extent of repeal
1970 c. 10. — <i>cont.</i>	The Income and Corporation Taxes Act 1970.— <i>cont.</i>	<p>In section 322(3) the proviso.</p> <p>In section 354(2), paragraph (b) and, in paragraph (c), the words "of income tax deductions".</p> <p>Section 356.</p> <p>Section 499.</p> <p>Section 517(2).</p> <p>Section 521(3)(a).</p> <p>In section 522 the words "or share" wherever they occur and the words "In this section 'share' includes stock".</p> <p>In section 526(5), in the definition of "ordinary share capital" the words "or a rate fluctuating in accordance with the basic rate of income tax" and in the definition of "preference dividend" the word "gross" (three times) and the words from "but it does not include" onwards.</p> <p>Schedule 9.</p> <p>In Schedule 14, paragraph 19(1), in paragraph 23(3), the words from the beginning to "256 of this Act, and", and paragraph 23(4) except for years of assessment before the year 1973-74.</p>
1970. c. 24.	The Finance Act 1970.	<p>In Schedule 4, paragraphs 1 to 5.</p> <p>In Schedule 8, in Part VI, the entries relating to section 240(6) of, and Schedule 9 to, the Income and Corporation Taxes Act 1970.</p>
1971 c. 68.	The Finance Act 1971.	<p>Section 25(1), (2), (3) and (4)(a).</p> <p>In Schedule 6, paragraphs 27 to 29, 31(a), 33 to 38, 77, 84(a), 85(b) and 92.</p>

NOTES:

1. Subject to the following paragraphs, these repeals take effect on 6th April 1973 and do not affect the operation of any enactment in relation to any previous time.

2. The repeal of section 84(4) of the Finance Act 1965 has effect in relation to the year 1972-73 and subsequent years of assessment.

3. The repeals in the Finance Act 1968, in sections 234(3) and 526(5) of the Income and Corporation Taxes Act 1970 and of paragraphs 28, 77 and 92 of Schedule 6 to the Finance Act 1971 do not apply in relation to dividends payable before 6th April 1973.

4. The repeal of sections 289 to 301 of the said Act of 1970, the repeal in section 302(1) of that Act and the repeal of section 25(1), (2), (3) and (4)(a) of, and paragraphs 34 to 37 and 84(a) and 85(b) of Schedule 6 to, the Finance Act 1971 have effect in relation to accounting periods ending after 5th April 1973; and the repeal of the said section 289 has effect subject to paragraph 19 of Schedule 23 to this Act.

5. The repeal of section 356 of the said Act of 1970 takes effect on 1st April 1972, and the repeal of that section and of section 311 of that Act have effect subject to section 93(7) of this Act.

6. The repeal of the proviso to section 322(3) of the said Act of 1970 takes effect on 1st April 1974 and does not affect disposals before that date.

7. The repeal of section 499 of the said Act of 1970 takes effect on 1st April 1973.

PART VII

ESTATE DUTY

Chapter	Short Title	Extent of Repeal
21 & 22 Geo. 5. c. 28.	The Finance Act 1931.	In section 40, subsections (1)(a) and (2).
1 Edw. 8 and 1 Geo. 6. c. 54.	The Finance Act 1937.	Section 31.
12, 13 & 14 Geo. 6. c. 47.	The Finance Act 1949.	Section 31.
14 & 15 Geo. 6. c. 43.	The Finance Act 1951.	Section 33(1).

The repeal of these enactments has effect in relation to deaths occurring after 21st March 1972 and does not extend to them as applied by section 33(2) of the Finance Act 1951.

PART VIII

SELECTIVE EMPLOYMENT TAX

Chapter	Short Title	Extent of Repeal
1966 c. 18.	The Finance Act 1966.	In section 44, subsections (1) and (2).
1968 c. 44.	The Finance Act 1968.	In Schedule 11, paragraphs 1 and 2.
1971 c. 68.	The Finance Act 1971.	Section 51, so far as un-repealed. Section 63.

These repeals take effect on 2nd April 1973.

PART IX
SELECTIVE EMPLOYMENT PAYMENTS

Chapter	Short Title	Extent of Repeal
1966 c. 18.	The Finance Act 1966.	Section 44 and Schedule 11, so far as unrepealed.
1966 c. 32.	The Selective Employment Payments Act 1966.	The whole Act.
1967 c. 54.	The Finance Act 1967.	Sections 25 and 26. Schedule 12.
1968 c. 44.	The Finance Act 1968.	Section 52. Schedule 17.
1969 c. 32.	The Finance Act 1969.	Section 51.
1970 c. 7.	The Local Employment Act 1970.	Section 7.

These repeals take effect on the day appointed under section 122(5) of this Act.

PART X
UNIT TRUSTS, INVESTMENT TRUSTS AND FUNDS IN COURT

Chapter	Short Title	Extent of Repeal
1965 c. 25.	The Finance Act 1965.	Section 37(1). In section 38(2), the words from "and section 37" onwards.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	Section 94(2). Section 357.

These repeals do not affect disposals before 6th April 1972.

PART XI

SCH. 28

STAMP DUTY REPEALS

Chapter	Short Title	Extent of Repeal
55 Geo. 3. c. 184.	The Stamp Act 1815.	Sections 24, 27 and 28. In the Schedule, Part I so far as unrepealed.
7 & 8 Vict. c. 32.	The Bank Charter Act 1844.	Section 7.
16 & 17 Vict. c. 63.	The Bankers' Composi- tion (Scotland) Act 1853.	Section 7.
17 & 18 Vict. c. 83.	The Stamp Act 1854.	Section 12.
54 & 55 Vict. c. 39.	The Stamp Act 1891.	Sections 29, 30 and 31. In Schedule 1 the heading "BANK NOTE".
18 & 19 Geo. 5. c. 13.	The Currency and Bank Notes Act 1928.	Section 6(4).
1963 c. 25.	The Finance Act 1963.	In section 56(1) the words " and in paragraph (2)(a) " onwards.
1967 c. 54.	The Finance Act 1967.	Section 27(1).
1970 c. 24.	The Finance Act 1970.	In Schedule 7 paragraphs 5 and 18.

These repeals take effect on 25th June 1972 except that the repeals in the Finance Act 1963 and the Finance Act 1967 take effect on 1st August 1972 and do not affect instruments executed before that date.

SCH. 28

PART XII

MISCELLANEOUS REPEALS

Chapter	Short Title	Extent of Repeal
1964 c. 49. 1965 c. 25.	The Finance Act 1964. The Finance Act 1965.	Section 1(4). In Schedule 6, in paragraph 14, sub-paragraphs (2) to (4). In Schedule 7, paragraph (a) of the proviso to paragraph 17(3).
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In Schedule 8, paragraph 5(3). In section 83(1), in paragraph (a) the words "(except subsection (6))", in paragraph (b) the words "the said subsection (6) or", and in the words following the paragraphs and in the proviso the words from "where no claim" to "section 80(6)". In section 84(1), paragraph (a). In section 85(2), the words "(except subsection (6))". In section 134(1), in paragraph (a), the words "(except subsection (6))" and, in paragraph (b), the words "the said section 80(6) or".
1971 c. 68.	The Finance Act 1971.	Section 142(3). In section 7, the words from "fitted with controls" to "or a vehicle;" and paragraphs (a) and (b). In section 42, in subsection (1), the words from "Except" to "below"; and subsections (2) to (6). In Schedule 8, in paragraph 3(1) the words "which has been in use for the purposes of a trade carried on by the seller", in paragraph 3(3) the words "which has been in use for the purposes of his trade", and, in paragraph 4, sub-paragraph 1(b) and sub-paragraph 2(b) together with the word "and" preceding it.
1972 c. 25.	The Betting and Gaming Duties Act 1972.	In Schedule 11, paragraph 5. In Schedule 2, in paragraph 18(1), the words "but before 1st April 1973".

NOTES:

1. The repeal of section 1(4) of the Finance Act 1964 takes effect on 8th August 1972.

2. The repeals in sections 134 and 142 of the Taxes Act do not affect the operation of those sections in relation to claims that were or could have been made under section 80(6) of that Act as originally enacted.

SCH. 28

3. The repeal in section 42 of the Finance Act 1971 has effect in relation to expenditure incurred after 21st March 1972 and the repeals in Schedule 8 to that Act have effect in accordance with section 68(9) of this Act.



Town and Country Planning (Amendment) Act 1972

1972 CHAPTER 42

An Act to amend certain enactments relating to development plans, to extend the duration of and otherwise amend certain enactments relating to the control of office development, to make further provision for the service of building preservation notices and for controlling the demolition of buildings in conservation areas, and provision for the making of grants and loans in connection with the preservation or enhancement of the character or appearance of such areas, and for purposes connected with the matters aforesaid.

[27th July 1972]

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:—

Amendments of enactments relating to development plans in England and Wales

1.—(1) The following provision shall be inserted in the **Town and Country Planning Act 1971** (hereafter referred to as "the Act of 1971") after section 10:—

"Joint surveys, reports and plans.

10A—(1) Any two or more local planning authorities may apply to the Secretary of State for his consent to their areas or any part thereof being treated for the purposes of this Part of this Act as a combined area; and if the Secretary of State gives his consent, the authorities concerned—

Provision for joint surveys, reports and structure plans.
1971 c. 78.

- (a) may institute a joint survey of the combined area under section 6 of this Act,
- (b) may jointly prepare and send to the Secretary of State under section 7 of this Act a report of that survey, or a report of separate surveys instituted by them under the said section 6 so far as concerning matters which would (by virtue of subsection (2) of this section) fall to be examined on a survey of the combined area,
- (c) may jointly prepare and submit to the Secretary of State under the said section 7 a structure plan for the combined area.

(2) In relation to a survey of a combined area, references in subsection (3) of section 6 of this Act to the area of a local planning authority shall be read as references to the combined area, with references to neighbouring areas construed accordingly, and where such a survey has been carried out, each of the authorities concerned shall be treated as having satisfied their duty under subsection (1) of that section (so far as not previously satisfied) in relation to so much of their area as is in the combined area; and in relation to a survey under the said subsection (1) of the area of a local planning authority or any part thereof except so far as included in any combined area for which a joint survey is carried out, references in the said subsection (3) to the area or part shall be read as references to the area to which that survey relates, with references to neighbouring areas construed accordingly.

(3) In relation to a structure plan for a combined area—

- (a) in subsections (3) to (6) of section 7 of this Act, references to a local planning authority and the area of a local planning authority shall be read as references respectively to the local planning authorities concerned and the combined area, with the reference in subsection (3)(b) to neighbouring areas construed accordingly, but this paragraph shall not be taken as empowering the authorities concerned to indicate as an action area any part of the

combined area other than a part comprised wholly within one or other of their areas,

- (b) subsection (1) of section 8 of this Act shall be taken as requiring—
 - (i) the taking by all or any of the authorities concerned of steps to secure the purposes of paragraphs (a) to (c) of that subsection, with paragraph (a) read as referring to the combined area and paragraph (b) as referring to the making of representations to any of the authorities, and
 - (ii) the consideration of representations made to any of the authorities either by that authority or by that authority jointly with all or any of the others,
- (c) subsection (2) of the said section 8 shall apply to each of the authorities concerned, and
- (d) elsewhere in the said section 8 references to a local planning authority shall be read as references to the local planning authorities concerned.

(4) Where a structure plan for a combined area has been approved by the Secretary of State, each of the authorities concerned shall be treated as having satisfied their duty under section 7(1) of this Act in relation to so much of their area as is in the combined area.

(5) The reference in subsection (1) of section 10 of this Act to a structure plan for the area of a local planning authority shall include a reference to a structure plan for a combined area; and in its application by virtue of this subsection to a structure plan for a combined area, the said section 10 shall have effect—

- (a) as if references therein to a local planning authority were references to any of the local planning authorities concerned or all of those authorities acting jointly, but so that no direction may be given under that section for the submission of joint proposals, and no single authority may submit or be directed to submit proposals relating to any

part of the combined area outside their area, and

(b) as if the reference in subsection (2) thereof to section 8 of this Act included a reference to that section as it applies in relation to such a plan."

(2) In consequence of the amendment made by subsection (1) above, section 11 of the Act of 1971 (preparation of local plans for parts of planning areas for which structure plans have been approved or prepared, or are in course of being prepared) shall be amended by adding the following subsection at the end:—

"(12) A local planning authority whose area or any part thereof is included in a combined area by virtue of section 10A of this Act shall not be required under subsection (7) of this section to prepare a local plan for any part of the combined area which is outside their area."

Provision for withdrawal of structure plans, and as to effect of steps taken in connection with plans withdrawn or not submitted.

2. The following provision shall be inserted in the Act of 1971 after that inserted by section 1(1) above—

"Withdrawal of plans, and effect of steps taken in connection with plans withdrawn or not submitted.

10B.—(1) A structure plan submitted to the Secretary of State for his approval may be withdrawn by the local planning authority, or the local planning authorities or any of them, submitting it by a notice in that behalf given to the Secretary of State at any time before he has approved it, and shall in that event be treated as never having been submitted.

(2) On the withdrawal of a structure plan, the authority or authorities preparing it shall also withdraw the copies of the plan which they have made available for inspection in accordance with section 8(2) of this Act, and shall give notice that the plan has been withdrawn to every person who has made an objection thereto.

(3) In determining the steps to be taken by them to secure the purposes of paragraphs (a) to (c) of section 8(1) of this Act, the local planning authority or authorities preparing a structure plan for any area may take into account any steps taken to secure those purposes in connection with any other structure plan, being one which either was not submitted to the Secretary of State for his approval or was so submitted and then withdrawn; and the authority or authorities submitting for approval by the Secretary of State a plan in the case of which they have taken any steps into account by virtue of this subsection shall give particulars of those steps

in their statement to him under subsection (3) of the said section 8, and the Secretary of State may treat the steps as having been taken by them in connection with that plan in determining under subsection (4) of that section whether he is satisfied that the said purposes have been adequately achieved in relation thereto."

3.—(1) The following subsections shall be substituted for subsections (3) and (4) of section 9 of the Act of 1971 (which specify the duties and powers of the Secretary of State in considering any structure plan submitted for his approval and, in particular, require him to consider any objections to the plan and to afford a hearing to the persons making them)—

Amendment of provisions relating to approval of structure plans and local plans etc. by Secretary of State.

"(3) Where on taking any such plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—

(a) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act, and

(b) cause a person or persons appointed by him for the purpose to hold an examination in public of such matters affecting his consideration of the plan as he considers ought to be so examined.

(4) The Secretary of State may after consultation with the Lord Chancellor make regulations with respect to the procedure to be followed at any examination under subsection (3) of this section.

(5) The Secretary of State shall not be required to secure to any local planning authority or other person a right to be heard at any examination under the said subsection (3), and the bodies and persons who may take part therein shall be such only as he may, whether before or during the course of the examination, in his discretion invite to do so:

Provided that the person or persons holding the examination shall have power, exercisable either before or during the course of the examination, to invite additional bodies or persons to take part therein if it appears to him or them desirable to do so.

(6) An examination under subsection (3)(b) of this section shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the Tribunals and Inquiries Act 1971, 1971 c. 62. but shall not constitute such an inquiry for any other purpose of that Act.

(7) On considering a structure plan the Secretary of State may consult with, or consider the views of, any local planning authority or other person, but shall not be under any obligation to do so.

(8) On exercising his powers under subsection (1) of this section in relation to any structure plan, the Secretary of State shall give such statement as he considers appropriate of the reasons governing his decision."

(2) For the purpose of preserving the existing law in relation to local plans, the following subsection shall be substituted for subsection (4) of section 14 of the Act of 1971 (which, amongst other things, applies section 9 of that Act with modifications where the Secretary of State has directed that a local plan shall not have effect unless approved by him)—

" (4) Where the Secretary of State gives a direction under subsection (3) of this section, the local planning authority shall submit the plan accordingly to him for his approval, and

- (a) the Secretary of State may, after considering the plan, either approve it (in whole or in part and with or without modifications or reservations) or reject it ;
- (b) in considering the plan, the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him ;
- (c) subject to paragraph (d) of this subsection, where on taking the plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—
 - (i) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act ;
 - (ii) afford to any persons whose objections so made are not withdrawn an opportunity of appearing before, and being heard by, a person appointed by him for the purpose ; and
 - (iii) if a local inquiry or other hearing is held, also afford the like opportunity to the authority and such other persons as he thinks fit ;

- (d) before deciding whether or not to approve the plan the Secretary of State shall not be obliged to consider any objections thereto if objections thereto have been considered by the authority, or to cause an inquiry or other hearing to be held into the plan if any such inquiry or hearing has already been held at the instance of the authority ;
- (e) without prejudice to paragraph (c) of this subsection, on considering the plan the Secretary of State may consult with, or consider the views of, any local planning authority or other persons, but shall not be under an obligation to consult with, or consider the views of, any other authority or persons or, except as provided by that paragraph, to afford an opportunity for the making of any objections or other representations, or to cause any local inquiry or other hearing to be held ; and
- (f) after the giving of the direction the authority shall have no further power or duty to hold a local inquiry or other hearing under section 13 of this Act in connection with the plan."

(3) In consequence of subsection (2) above, in section 15(3) of the Act of 1971 the words from "but as if" to the end are hereby repealed.

4.—(1) For section 19 of the Act of 1971 there shall be substituted the following section:—

"Applica-
tion of
Part II to
Greater
London.

19. Schedule 4 to this Act shall have effect with respect to surveys, joint surveys, action areas, local plans and joint local plans in and around Greater London and generally with respect to the operation for London of Part II of this Act."

Amendments
as respects
planning for
London.

and for Schedule 4 to the Act there shall be substituted the new Schedule 4 set out in Schedule 1 to this Act.

(2) In section 20(2) of the Act of 1971 (provisions as to what is to constitute the development plan for a London borough), the following shall be substituted for paragraphs (a) and (b)—

- "(a) the provisions of the Greater London development plan as in force for the time being, together with the notices given from time to time by the Secretary of State indicating his approval of any feature or element of the plan ;
- (b) any alterations to that plan, together with the Secretary of State's notices of approval thereof ;"

*Amendments as respects control of office development
in England and Wales*

Continuance
in force of
provisions
relating to
control of
office
development.

5.—(1) The following provision shall be substituted for subsection (1) of section 86 of the Act of 1971 (under which the enactments relating to the control of office development in England and Wales are to cease to have effect at the end of the period of seven years beginning with 5th August 1965):—

“ (1) These provisions (other than this section) shall cease to have effect at the end of the period of twelve years beginning with 5th August 1965, or, if Her Majesty by Order in Council so provides, on such earlier date as is specified in the Order ; and if these provisions cease to have effect on a date specified as aforesaid, references therein to the end of the said period of twelve years shall be read as references to that date ”.

(2) In consequence of the amendment made by subsection (1) above, Schedule 24 to the Act of 1971 (paragraph 19 of which has the effect that certain planning permissions granted before 1st April 1969 are to be taken as conditional upon the development to which they relate having been begun before the expiration of five years from that date, and paragraph 20 of which makes similar provision with respect to outline planning permissions) shall be amended by inserting the following paragraph after the said paragraph 20 (so that no account is taken of periods during which permissions granted before 5th August 1965 are treated as ineffective by reason of the enactments relating to office development)—

“ 20A. The conditions referred to in paragraphs 19 and 20 of this Schedule shall be treated as providing that, in calculating any of the periods therein specified, no account shall be taken of any period after 1st April 1969 during which, by reason of paragraph 1(4)(a) of Schedule 12 to this Act, any planning permission to which they relate is deemed not to have effect.”

Effect on
conditional
planning
permission
of land
ceasing to
be within
controlled
area.

6.—(1) Section 82 of the Act of 1971 (provisions as to conditions imposed under or implied by the enactments relating to office development) shall be amended by adding the following subsection after subsection (5):—

“ (6) Where any land ceases to be within an area to which these provisions apply by virtue of an order made by the Secretary of State under section 74(4) of this Act (including an order so made by virtue of section 287(3) of this Act) any planning permission relating to the land and having

effect immediately before that time subject to a condition to which this section applies shall have effect as from that time free from the condition unless it is one which is the subject of a certificate under subsection (3) of this section.”

(2) Where any land has ceased to be within an area to which Part I of the Control of Office and Industrial Development Act 1965 applies by virtue of an order made under the said Part I before the passing of this Act, any planning permission relating to the land and having effect immediately before the coming into operation of the order subject to a condition to which section 8 of the said Act of 1965 applies shall have effect as from the passing of this Act free from the condition unless it is one which is the subject of a certificate under subsection (3) of that section. 1965 c. 33.

Service of building preservation notices

7.—(1) Section 58 of the Act of 1971 shall be amended by adding at the end the following subsection:— Service of building preservation notices in cases of urgency.

“ (6) If it appears to the local planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner and occupier of the building to which it relates, affix the notice conspicuously to some object on the building; and this shall be treated for all the purposes of this section and of Schedule 11 to this Act as service of the said notice, in relation to which subsection (1)(b) of this section shall be taken to include a reference to this subsection.”

(2) Section 48 of the Town and Country Planning (Scotland) Act 1969 shall be amended by adding at the end the following subsection:— 1969 c. 30.

“ (6) If it appears to the local planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner, lessee and occupier of the building to which it relates, affix the notice conspicuously to some object on the building; and this shall be treated for all the purposes of this section and of Schedule 4 to this Act as service of the said notice, in relation to which subsection (1)(b) of this section shall be taken to include a reference to this subsection.”

Conservation areas

8.—(1) This section applies to all buildings other than— Control of demolition in conservation areas in England and Wales.

- (a) listed buildings, and
- (b) excepted buildings within the meaning of section 58(2) of the Act of 1971 (buildings, that is to say, excepted from the power of local planning authorities to serve

building preservation notices in respect of non-listed buildings).

(2) If it appears to a local planning authority in England or Wales that, in the interests of preserving the character or appearance of any part of their area which is for the time being a conservation area, there should be power to control the demolition of the buildings therein to which this section applies, or any one or more of those buildings, they may direct that the buildings or building in question be subject to control under this section; and while such a direction is in force as respects any building, the provisions of the Act of 1971 specified in Part I of Schedule 2 to this Act shall have effect in relation to the building subject to and in accordance with the provisions of that Part.

(3) A local planning authority making a direction under subsection (2) above shall forthwith submit it to the Secretary of State for confirmation, and the Secretary of State may confirm the direction in the form in which it is submitted to him, confirm it subject to the exclusion of any building or buildings specified in the confirmation, or refuse to confirm it.

(4) A direction under subsection (2) above shall come into force on the day on which it is confirmed by the Secretary of State or, if it contains a declaration by the local planning authority that it is expedient that it should have immediate effect, on the day on which it is made.

(5) A local planning authority may by a direction made under this subsection, which shall not require confirmation by the Secretary of State but shall take effect on the day on which it is made, revoke any direction under subsection (2) above, or vary any such direction so as to exclude any building or buildings therefrom.

(6) Where a building to which a direction under subsection (2) above relates becomes a listed building or ceases to be in a conservation area, the direction shall cease to be in force as respects that building; and, in the case of a direction containing such a declaration as is mentioned in subsection (4) above—

- (a) if during the period of six months beginning with the date on which the direction is made the Secretary of State notifies the local planning authority that he does not propose to confirm it, the direction shall cease to be in force as from the day on which the notification is received by them,
- (b) if during that period the Secretary of State confirms the direction subject to the exclusion of a specified building or buildings, the direction shall thereupon cease to be in force as respects that building or those buildings,

- (c) if neither of the above paragraphs applies, the direction shall cease to be in force at the end of that period unless the Secretary of State has by then confirmed it in the form in which it was submitted to him.

(7) The provisions of Part II of Schedule 2 to this Act shall have effect for the purpose of supplementing the preceding provisions of this section.

(8) The preceding provisions of this section and the said Schedule 2 shall be construed as one with the Act of 1971 ; and, in particular, the local planning authority for the purpose of this section shall, in Greater London, be the Greater London Council and also, in relation to a London borough, the council of that borough.

- 9.—(1) This section applies to all buildings other than—
- (a) listed buildings within the meaning of section 40(1) of the Town and Country Planning (Scotland) Act 1969 (hereinafter referred to as “ the Act of 1969 ”), and
 - (b) buildings to which section 48(2) of the Act of 1969 applies (buildings, that is to say, excepted from the power of local planning authorities to serve building preservation notices in respect of non-listed buildings).

Control of demolition in conservation areas in Scotland.

1969 c. 30.

(2) If it appears to a local planning authority in Scotland that, in the interests of preserving the character or appearance of any part of their district which is for the time being designated as a conservation area under section 1 of the Civic Amenities Act 1967, there should be power to control the demolition of the buildings therein to which this section applies, or any one or more of those buildings, they may direct that the buildings or building in question be subject to control under this section ; and while such a direction is in force as respects any building, the provisions of the Act of 1969 specified in Part I of Schedule 3 to this Act shall have effect in relation to the building subject to and in accordance with the provisions of that Part.

1967 c. 69.

(3) A local planning authority making a direction under subsection (2) above shall forthwith submit it to the Secretary of State for confirmation, and the Secretary of State may confirm the direction in the form in which it is submitted to him, confirm it subject to the exclusion of any building or buildings specified in the confirmation, or refuse to confirm it.

(4) A direction under subsection (2) above shall come into force on the day on which it is confirmed by the Secretary of State or, if it contains a declaration by the local planning authority that it is expedient that it should have immediate effect, on the day on which it is made.

(5) A local planning authority may by a direction made under this subsection, which shall not require confirmation by

the Secretary of State but shall take effect on the day on which it is made, revoke any direction under subsection (2) above, or vary any such direction so as to exclude any building or buildings therefrom.

(6) Where a building to which a direction under subsection (2) above relates becomes a listed building or ceases to be in a conservation area under the aforesaid Act of 1967, the direction shall cease to be in force as respects that building; and, in the case of a direction containing such a declaration as is mentioned in subsection (4) above—

- (a) if during the period of six months beginning with the date on which the direction is made the Secretary of State notifies the local planning authority that he does not propose to confirm it, the direction shall cease to be in force as from the day on which the notification is received by them,
- (b) if during that period the Secretary of State confirms the direction subject to the exclusion of a specified building or buildings, the direction shall thereupon cease to be in force as respects that building or those buildings,
- (c) if neither of the above paragraphs applies, the direction shall cease to be in force at the end of that period unless the Secretary of State has by then confirmed it in the form in which it was submitted to him.

(7) The provisions of Part II of Schedule 3 to this Act shall have effect for the purpose of supplementing the preceding provisions of this section.

(8) The preceding provisions of this section and the said Schedule 3 shall be construed as one with the Town and Country Planning (Scotland) Acts 1947 to 1969.

Grants and loans for preservation or enhancement of character or appearance of conservation areas.

1967 c. 69.

10.—(1) If the Secretary of State is of opinion that any area designated as a conservation area under section 277 of the Act of 1971 or, in Scotland, section 1 of the Civic Amenities Act 1967 is an area of outstanding architectural or historic interest, he may out of moneys provided by Parliament make grants or loans for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in or in connection with, or with a view to the promotion of, the preservation or enhancement of the character or appearance of the area or any part thereof.

(2) A grant or loan under this section may be made subject to such conditions as the Secretary of State may think fit to impose.

(3) Any loan under this section shall be made on such terms as to repayment, payment of interest and otherwise as the Secretary of State may with the approval of the Treasury determine; and all sums received by the Secretary of State by way

of interest on, or repayment of, such a loan shall be paid by him into the Consolidated Fund.

(4) Before making any grant or loan under this section, the Secretary of State shall consult, both as to its making and as to the conditions subject to which it should be made, with the appropriate Council, that is to say, according as the conservation area in question is in England, Scotland or Wales (including Monmouthshire), the Historic Buildings Council for England, the Historic Buildings Council for Scotland, or the Historic Buildings Council for Wales:

Provided that this subsection shall not apply in a case where the making of a grant or loan appears to the Secretary of State to be a matter of immediate urgency.

(5) The Secretary of State may out of moneys provided by Parliament pay to any member of any of the Councils referred to in subsection (4) above by whom services are rendered in connection with any question as to the exercise of his powers under this section such remuneration and allowances as the Secretary of State may with the approval of the Minister for the Civil Service determine:

Provided that, in the case of any such member who is also a member of the House of Commons, the payments which the Secretary of State may make under this subsection shall extend only to allowances in respect of travelling and subsistence expenses, and any other expenses necessarily incurred by that member in connection with the rendering of the services in question.

Supplementary

11. There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums so payable under any other enactment. Expenses.

12.—(1) This Act may be cited as the Town and Country Planning (Amendment) Act 1972, and— Short title, citation, commencement and extent.

(a) the Town and Country Planning Act 1971 and section 8 of this Act (with Schedule 2) may be cited together as the Town and Country Planning Acts 1971 and 1972, 1971 c. 78.

(b) the Town and Country Planning (Scotland) Acts 1947 to 1969 and section 9 of this Act (with Schedule 3) may be cited as the Town and Country Planning (Scotland) Acts 1947 to 1972.

(2) Sections 8 and 9 of this Act shall come into force at the expiry of a period of one month beginning with the day on which it is passed.

(3) Sections 1 to 6 and 8 of this Act (with Schedules 1 and 2) do not extend to Scotland, and nothing in this Act extends to Northern Ireland.

SCHEDULES

Section 4(1).

SCHEDULE 1

REPLACEMENT FOR SCHEDULE 4 TO ACT OF 1971

“ SCHEDULE 4

SURVEYS AND DEVELOPMENT PLANS IN GREATER LONDON

Surveys by G.L.C.

1. The matters to be examined and kept under review under section 6 of this Act by the Greater London Council shall be such of the matters mentioned in that section as they think fit or, in the case of a fresh survey under section 6(2) instituted in pursuance of a direction of the Secretary of State, such matters as may be specified in the direction.

Surveys by London borough councils

2. The matters to be so examined or kept under review by a London borough council shall be such of the matters mentioned in section 6 as have not been examined or kept under review by the Greater London Council, such other matters as they may be required by that Council to examine or keep under review and, in the case of a fresh survey under section 6(2) instituted in pursuance of a direction of the Secretary of State, such matters as may be specified in the direction.

Joint surveys

3.—(1) Section 10A of this Act applies neither to the Greater London Council nor to the London borough councils ; but any two or more London borough councils may, if they think fit, institute under section 6 of this Act a joint survey for any combined area consisting of those boroughs or any part thereof.

(2) Where a London borough council join with another or others in a joint survey for a combined area—

(a) the carrying out of that survey shall be sufficient compliance with the council's duty under section 6(1) in relation to so much of the borough as is comprised in the area of the survey ; and

(b) section 6(3) shall have effect—

(i) in relation to the joint survey as if references to the council's area were references to the combined area of the survey, and

(ii) in relation to any other survey instituted by the council under section 6(1), as if those references were to the area of that other survey,

references to neighbouring areas being construed accordingly in either case.

Surveys to conform to G.L.C. directions

4. Any survey by a London borough council under section 6 of this Act, and any joint survey by two or more such councils, shall be carried out on such lines as the Greater London Council may direct.

The Greater London development plan as a structure plan

SCH. 1

5.—(1) The Greater London development plan shall be a structure plan for Greater London approved under section 9 of this Act and may be altered under section 10 accordingly.

(2) The Secretary of State may approve the development plan by stages, that is to say he may approve any feature or element of the plan while reserving his decision on other features and elements of it; and in the following provisions of this Schedule references to his final approval of the plan are to when in the case of every feature and element of it either he has indicated his approval of it (with or without modifications) or he has indicated his decision not to approve it.

(3) The Secretary of State may direct that any area or part of an area indicated by the development plan as an area intended for comprehensive development, redevelopment or improvement as a whole shall be treated as an action area, and references in this Schedule to an action area shall be construed accordingly.

Alteration of structure plan on proposal of London borough council

6.—(1) Any of the London borough councils may, with the prior consent of the Secretary of State, at any time prepare for submission to him a proposal for altering the Greater London development plan so as to indicate any area specified in the proposal as an action area.

(2) Any such proposal shall be sent by the borough council to the Greater London Council, who shall send it on to the Secretary of State within such period as he may allow, with any observations of theirs on the proposal.

(3) Sections 8 and 9 of this Act shall apply with the necessary modifications in relation to a proposal under this paragraph as they apply in relation to a structure plan.

Exclusion of ss. 7 to 10, 10B, 11 and 12

7. Sections 7 to 10 of this Act do not apply to the London borough councils and sections 10B, 11 and 12 apply neither to those councils nor to the Greater London Council.

Local plans: who may prepare them

8.—(1) In the following provisions of this paragraph, and in paragraph 9 below, "G.L.C. action area" means an action area in whose case it is indicated in the Greater London development plan that it is for the Greater London Council, and not a London borough council, to prepare a local plan for that area.

(2) At any time before the Secretary of State's final approval of the Greater London development plan the Greater London Council may, if they think fit, prepare a local plan for the whole or part of a G.L.C. action area.

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(3) At any time either before or after the Secretary of State's final approval of the Greater London development plan—

- (a) a London borough council may, if they think fit, prepare a local plan for the whole or any part of the borough ;
- (b) any two or more of the London borough councils may, with or without the Greater London Council, together prepare a joint local plan for the whole or any part of their respective boroughs ; and
- (c) any one or more such councils and any one or more adjacent planning authorities may, with or without the Greater London Council, together prepare a joint local plan for any part of their respective areas ;

but this sub-paragraph shall not be taken to authorise the preparation of a local plan (joint or other) for the whole or any part of a G.L.C. action area.

(4) In the foregoing sub-paragraph, " adjacent planning authority " means a local planning authority whose area adjoins Greater London.

(5) Different local plans (joint or other) may be prepared for different purposes for the same part of any area.

Duty of planning authorities to prepare local plans for action areas

9.—(1) As soon as practicable after the Secretary of State's final approval of the Greater London development plan—

- (a) the Greater London Council shall prepare a local plan for every G.L.C. action area ; and
- (b) in the case of any other action area—
 - (i) if it is wholly comprised within a London borough, the council of that borough shall prepare a local plan for the area, and
 - (ii) if not, the council of every London borough in which any part of the action area falls shall prepare a local plan for that part ;

but this sub-paragraph shall not be taken to require a council to do again any thing which they have already done.

(2) In the case referred to in sub-paragraph (1)(b)(ii) above, a London borough council may comply with that sub-paragraph by joining with any other borough council concerned, with or without the Greater London Council, in the preparation of a joint local plan.

(3) Where a council are required by this paragraph to prepare a local plan, they shall take steps for the adoption of that plan.

Local plans by direction of Secretary of State

10.—(1) Without prejudice to the foregoing provisions, the Greater London Council or a London borough council shall, if the Secretary of State gives them (either before or after he finally approves the Greater London development plan) a direction in that behalf with

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respect to any area of Greater London, as soon as practicable prepare for that area a local plan of such a nature as may be specified in the direction, and take steps for the adoption of the plan ; but no such directions shall require a council to take any steps to comply therewith until after the Secretary of State's final approval of the Greater London development plan.

(2) Before giving a direction to a council under this paragraph the Secretary of State shall consult the council with respect thereto and, in the case of a direction to be given to a London borough council, he shall also, before giving it, consult the Greater London Council.

General provisions as to local plans

11.—(1) The following provisions of this paragraph shall apply with respect to any local plan prepared under this Schedule by the Greater London Council or a London borough council and also with respect to a joint local plan so prepared by two or more planning authorities ; and in those provisions “ the council ” means the council preparing the local plan or, as the case may be, the authorities who join in the preparation of the joint plan.

(2) The plan shall consist of a map and a written statement and shall—

- (a) formulate in such detail as the council think appropriate their proposals for the development and other use of land in the area for which the plan is prepared, or for any description of development and other use of such land (including in either case such measures as the council think fit for the improvement of the physical environment and the management of traffic) ; and
- (b) contain such matters as may be prescribed, or as the Secretary of State may direct.

(3) The plan shall contain, or be accompanied by, such diagrams, illustrations and descriptive material as the council think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed or as may in any particular case be specified in directions given by the Secretary of State ; and any such diagrams, illustrations and descriptive material shall be treated as forming part of the plan.

(4) In formulating their proposals in the plan the council shall—

- (a) secure that the proposals conform generally to the Greater London development plan as it stands for the time being (whether or not the Secretary of State has finally approved the plan, but taking into account any feature or element of it in the case of which he has indicated his approval), and
- (b) have regard to any information and any other considerations which appear to them to be relevant, or which may be prescribed, or which the Secretary of State may in any particular case direct them to take into account.

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(5) Before giving a direction to the council under this paragraph the Secretary of State shall consult the council with respect thereto and, in the case of a direction to be given to a London borough council, he shall also, before giving it, consult the Greater London Council.

Publicity for local plan prepared by single council

12.—(1) Where the Greater London Council or a London borough council propose to prepare a local plan, the council shall take such steps as will in their opinion secure—

- (a) that adequate publicity is given, in any London borough affected by the plan, to any relevant matter arising out of a survey under section 6 of this Act (including any joint survey) and to the matters proposed to be included in the plan ;
- (b) that persons who may be expected to desire an opportunity of making representations to the council with respect to those matters are made aware that they are entitled to an opportunity of doing so ; and
- (c) that such persons are given an adequate opportunity of making such representations ;

and the council shall consider any representations made to them within the prescribed period.

(2) After preparing a local plan, the council shall before adopting it or submitting it for approval under section 14 of this Act (but not before the Secretary of State has finally approved the Greater London development plan) make copies of the plan available for inspection at their office and at such other places as may be prescribed and—

- (a) in the case of a plan prepared by the Greater London Council, send a copy of the plan to the council of any London borough affected by the plan,
- (b) in the case of a plan prepared by a London borough council, send a copy to the Greater London Council, and
- (c) in any case send a copy to the Secretary of State.

(3) Each copy of a plan made available for inspection as required by sub-paragraph (2) above shall be accompanied by a statement of the time within which objections to the local plan may be made to the council who have prepared the plan ; and the copy sent to the Secretary of State shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

- (a) of the steps which the council preparing the plan have taken to comply with sub-paragraph (1) above, and
- (b) of the council's consultations with, and their consideration of the views of, other persons.

Publicity for joint local plans

13.—(1) Where two or more local planning authorities propose to join in the preparation of a joint local plan for a combined area, they shall together take such steps as will in their opinion secure—

- (a) that adequate publicity is given in the areas of those authorities to any relevant matter arising out of a survey under

section 6 of this Act (including any joint survey) and to the matters proposed to be included in the plan ;

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(b) that persons who may be expected to desire an opportunity of making representations to any of the authorities are made aware that they are entitled to an opportunity of doing so ; and

(c) that such persons are given an adequate opportunity of making such representations ;

and the authorities shall consider any representations made to them within the prescribed period :

Provided that where one of the authorities is the Greater London Council, that Council shall not be required to take any steps under this sub-paragraph which can in the Council's opinion be taken, and are taken, by the council of any London borough in which any part of the combined area is comprised.

(2) After preparing a joint plan, the planning authorities concerned shall before adopting it or submitting it for approval under section 14 of this Act (but not before the Secretary of State has finally approved the Greater London development plan) make copies of the plan available at the offices of each of the authorities respectively and at such other places as may be prescribed and send copies of the plan to the Secretary of State and (in a case where the Greater London Council is not one of the authorities joining in the preparation of the plan) to that Council.

(3) Each copy of a joint local plan made available for inspection as required by sub-paragraph (2) above shall be accompanied by a statement of the time within which objections to the plan may be made to the planning authorities concerned ; and the copy sent to the Secretary of State shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

(a) of the steps which the planning authorities concerned have respectively taken to comply with sub-paragraph (1) above, and

(b) of those authorities' consultations with, and their consideration of the views of, other persons.

Power of Secretary of State to suspend adoption

14.—(1) In relation to a local plan (joint or other) prepared under this Schedule, section 14(1) of this Act shall have effect as if the reference to section 12 were to the following provisions of this paragraph.

(2) If, on considering the statement submitted with, and the matters included in, a local plan so prepared and other information provided by the authority who prepared the plan (or as the case may be, the authorities who joined in its preparation) the Secretary of State is not satisfied that the purposes of paragraph 12(1)(a) to (c) above or, as the case may be, of paragraph 13(1)(a) to (c) above have been adequately achieved by the steps taken in that behalf by the authority or authorities, he may within twenty-one days of the receipt of the

SCH. 1

statement direct that no further steps for the adoption of the plan be taken without such further action as he may specify having been taken in order better to achieve those purposes and his being satisfied that such action has been taken.

(3) A planning authority who are given directions by the Secretary of State under this paragraph shall—

- (a) forthwith withdraw copies of the local plan made available for inspection as required by paragraph 12 or 13 above, and
- (b) in a case where objections to the plan have been made by any person, notify him that the Secretary of State has given such directions as aforesaid.

Other modifications of Part II in relation to preparation and adoption of joint local plans

15.—(1) In relation to a joint local plan prepared for a combined area by two or more planning authorities, sections 13, 14, and 18 of this Act shall apply, but with the following modifications.

(2) In section 13, references to the local planning authority shall be read as references to those authorities.

(3) In the case of section 14—

- (a) subsection (1) shall be read as enabling each of the authorities to adopt the plan so far as it relates to any part of that authority's area, subject only to such modifications as may have been agreed between all the authorities ;
- (b) subsection (2) shall apply to each of the authorities ;
- (c) subsection (3) shall be read as referring to adoption by all the authorities ;
- (d) references in subsection (4) (except in paragraph (e)) to a local planning authority shall be read as references to those authorities.

(4) The date appointed under section 18(4) for the joint plan to become operative shall be a date jointly agreed between the authorities who joined in the preparation of the plan and be specified in their respective resolutions adopting the plan.

Alteration etc. of local plans

16.—(1) In relation to a local plan adopted for an area in Greater London (other than a joint local plan), section 15 of this Act shall apply as if the following were substituted for subsection (3)—

“(3) The provisions of paragraphs 11(4) and (5) and 12 of Schedule 4 to this Act, and of sections 13 and 14 of this Act, shall apply in relation to the making of proposals for the alteration, repeal or replacement of a local plan under this section, and to alterations to a local plan so proposed, as they apply in relation to the preparation of a local plan under that Schedule and to a local plan prepared thereunder.” ;

and in relation to a joint local plan so adopted, the following provisions of this paragraph shall apply in place of section 15.

(2) Proposals for the alteration, repeal or replacement of the joint plan may be made by any of the authorities who joined in the preparation of the plan or by those authorities acting together, but—

- (a) in the case of a plan which the Secretary of State has approved, only with his consent ;
- (b) in the case of proposals made by a single authority, only in relation to so much of the combined area of the plan as is comprised in that authority's area.

(3) Without prejudice to sub-paragraph (2) above, any of the authorities who joined in the preparation of the plan shall, if the Secretary of State gives them a direction in that behalf, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, repeal or replacement of the plan ; but no such direction shall be given except for the preparation of proposals relating to so much of the combined area of the plan as is comprised in the area of that authority.

(4) The provisions of paragraphs 12 to 14 of this Schedule and of sections 13 and 14 of this Act (as applied by paragraph 15 above) shall apply in relation to the making of proposals for the alteration, repeal or replacement of the joint local plan under this paragraph, and to alterations to a local plan so proposed, as they apply in relation to the preparation of a joint local plan under this Schedule and to a joint local plan prepared thereunder.

Consultation between planning authorities

17.—(1) A London borough council shall before preparing a local plan under this Schedule, or proposals for the alteration, repeal or replacement of such a plan, and before complying with paragraph 12(2) of this Schedule in relation to any such plan or proposals, consult the Greater London Council.

(2) Before preparing a joint local plan under this Schedule, or proposals for the alteration, repeal or replacement of such a plan, and before complying with paragraph 13(2) of this Schedule in relation to any such plan or proposals, the local planning authorities joining in the preparation of the plan or, as the case may be, preparing the proposals, shall consult the Greater London Council.

(3) The Greater London Council shall, before preparing a local plan or proposals for the alteration, repeal or replacement of such a plan, consult the council of any London borough in which there is comprised any part of the area of the plan, and shall consult that council before complying with paragraph 12(2) of this Schedule in relation to any such plan or proposals.

(4) Where under this paragraph any local planning authority is required to consult another such authority with respect to any matter, they shall inform the other authority of their proposals in relation to that matter and consider any representations made to them by the other authority within such time as may be prescribed ”.

Section 8(2)(7).

SCHEDULE 2

PROVISIONS AS TO CONTROL OF DEMOLITION IN CONSERVATION
AREAS IN ENGLAND AND WALES

PART I

APPLICATION OF CERTAIN PROVISIONS OF ACT OF 1971

1. Section 55 of the Act of 1971 (requirement of consent of local planning authority or Secretary of State to works affecting listed buildings) shall apply in relation to any works for the demolition of the building as if it were a listed building, but with the omission of subsections (2)(b) and (3); and subsections (3), (5) and (6) of section 56 of the Act, paragraph 2 of Schedule 3 thereto, and Parts I and II of Schedule 11 thereto (supplementary) shall apply accordingly in relation to listed building consent for any such works, but—

- (a) with the said subsection (3) modified by the substitution, for the reference to the desirability of preserving the building or any features of special architectural or historic interest which it possesses, of a reference to the desirability of preserving the character or appearance of the conservation area, and
- (b) with the omission from the said Parts I and II of paragraph 5, sub-paragraphs (3) and (4) of paragraph 6, paragraph 7, sub-paragraphs (2) and (3)(b) of paragraph 8 and paragraph 11.

2. Sections 96 to 99 of the Act of 1971 (listed building enforcement notices) shall apply in relation to the building as if it were a listed building, but—

- (a) with section 96(1) modified by the substitution, for the words “the character of the building as one of special architectural or historic interest”, of the words “the character or appearance of the conservation area in which the building is situated”,
- (b) with section 97(1) modified by the substitution of the following for paragraph (a)—
 - “(a) that power to control the demolition of the building is not necessary in the interests of preserving the character or appearance of the conservation area in which it is situated”,
- and
- (c) with the omission from section 97(5) of paragraphs (b) and (c).

3. Section 172 of the Act of 1971 (compensation) shall have effect on the revocation or modification as mentioned in subsection (1) of that section of any listed building consent granted in respect of the building; and section 190 of the Act and Schedule 19 thereto (listed building purchase notices) shall have effect where listed building consent in respect of the building is refused, granted subject to conditions, revoked or modified as mentioned in subsection (1) of the said section 190.

4. If the building is Crown land, section 266(1)(b) of the Act of 1971 shall have effect with respect to the application of any provision thereto by virtue of this Part of this Schedule.

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PART II

SUPPLEMENTARY

5. On the confirmation by the Secretary of State of any direction made under subsection (2) of section 8 of this Act by a local planning authority other than the council of a county borough, or the making by any such local planning authority of a direction under subsection (5) of that section, a copy of the direction certified by the clerk to the authority to be a true copy, together with a similarly certified copy of the confirmation in the case of a direction under the said subsection (2), shall be deposited by the authority as follows—

- (a) in the case of a direction made by a county council or a joint planning board, with the clerk to the council of any county district in which any building to which the direction relates is situated,
- (b) in the case of a direction made by the Greater London Council, with the clerk to the council of any London borough in which any building to which the direction relates is situated, and
- (c) in the case of a direction made by the council of a London borough, with the clerk of the Greater London Council.

6.—(1) On the confirmation by the Secretary of State of any direction under subsection (2) of the said section 8, or the making of any direction under subsection (5) of that section, the direction and confirmation or, as the case may be, the direction shall be registered in the register of local land charges, in such manner as may be prescribed by rules made for the purposes of this paragraph under section 15(6) of the Land Charges Act 1925, by the proper officer of the council of every county borough, county district or London borough in which any building to which the direction relates is situated. 1925 c. 22.

(2) Every local authority with whom a copy of any direction is deposited under paragraph 5 above shall compile and keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing particulars of any building in their area to which the direction relates.

7. A local planning authority making a direction under subsection (2) of the said section 8 containing such a declaration as is mentioned in subsection (4) of that section shall forthwith serve on every person who is an owner or occupier of any building to which the direction relates a notice stating that the direction has been made and explaining its effect, and, on being notified by the Secretary of State of his decision with respect to confirmation of the direction, shall forthwith notify every such person of the decision; and where any direction under the said subsection (2) not containing such a declaration is confirmed by the Secretary of State, or a direction is made under

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subsection (5) of the said section 8, the local planning authority making the direction shall forthwith serve on every person who is an owner or occupier of any building affected by the direction a notice stating that the direction has been made and confirmed or, as the case may be, made, and (unless it is a direction under the said subsection (5)) explaining its effect.

8.—(1) If a direction under subsection (2) of the said section 8 containing such a declaration as is mentioned in subsection (4) of that section ceases to be in force as respects any building by virtue of paragraph (a), (b) or (c) of subsection (6) of that section, then, subject to a claim in that behalf being made to the local planning authority within the time and in the manner prescribed by regulations under the Act of 1971, any person who at the time when the direction was made had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the direction.

(2) The loss or damage in respect of which compensation is payable under sub-paragraph (1) above shall include a sum payable in respect of a breach of contract caused by the necessity of countermanding any works to the building on account of the direction being in force with respect thereto.

9.—(1) The following provisions of this paragraph shall have effect where any direction under subsection (2) of the said section 8 ceases to be in force as respects any building, but, in the case of sub-paragraph (4), not where the direction ceases to be in force by reason of the building becoming a listed building.

(2) The fact that the direction has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 55 or 98 of the Act of 1971 committed by him with respect to the building while the direction was in force.

(3) Any proceedings on or arising out of an application for listed building consent made while the direction was in force shall lapse, and any listed building consent granted with respect to the building while the direction was in force shall also lapse.

(4) Any listed building enforcement notice served by the local planning authority while the direction was in force shall cease to have effect, and any proceedings thereon under sections 96 and 97 of the Act of 1971 shall lapse, but section 99(1) and (2) of that Act shall continue to have effect as respects any expenses incurred by the local authority, owner or occupier as therein mentioned and with respect to any sums paid on account of such expenses.

SCHEDULE 3

Section (9)2(7).

PROVISIONS AS TO CONTROL OF DEMOLITION IN CONSERVATION
AREAS IN SCOTLAND

PART I

APPLICATION OF CERTAIN PROVISIONS OF ACT OF 1969

1. Subsections (2), (4)(a) and (6) to (8) of section 40 of the Act of 1969 (requirement of consent of local planning authority or Secretary of State to works affecting listed buildings) shall apply in relation to any works for the demolition of the building as if it were a listed building; and subsections (3), (5) and (6) of section 41 of the Act, section 56 of the Act, and Parts I and II of Schedule 4 thereto with section 22 as it applies to appeals under that Schedule, shall apply accordingly in relation to listed building consent for any such works, but—

- (a) with the said subsection (3) modified by the substitution, for the reference to the desirability of preserving the building or any features of special architectural or historic interest which it possesses, of a reference to the desirability of preserving the character or appearance of the conservation area, and
- (b) with the omission from the said Parts I and II of paragraph 4, paragraph 5, sub-paragraphs (2) and (3)(b) of paragraph 6 and paragraph 9.

2. Sections 44 to 46 of the Act of 1969 and Part IV of Schedule 4 to that Act with section 22 as it applies to appeals under that Schedule (listed building enforcement notices) shall apply in relation to the building as if it were a listed building, but—

- (a) with section 44(1) modified by the substitution, for the words “the character of the building as one of special architectural or historic interest”, of the words “the character or appearance of the conservation area in which the building is situated”,
- (b) with sub-paragraph (1) of paragraph 17 of Schedule 4 modified by the substitution of the following for paragraph (a)—
“ (a) that power to control the demolition of the building is not necessary in the interests of preserving the character or appearance of the conservation area in which it is situated ”,
and
- (c) with the omission from sub-paragraph (5) of the said paragraph 17 of paragraphs (b) and (c).

3. Section 42 of the Act of 1969 and Part III of Schedule 4 thereto (listed building purchase notices) shall, subject to subsections (4) and (5) of section 51 of the Act, have effect where listed building consent in respect of the building is refused, granted subject to conditions, revoked or modified as mentioned in subsection (1) of the said section 42.

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1947 c. 53.

4. If the building is Crown land within the meaning of section 83 of the Town and Country Planning (Scotland) Act 1947, subsection (2)(b) of that section (whereby the restrictions imposed by certain provisions of that Act apply to a limited extent to Crown land) shall have effect as if the provisions of this Act, in its application to Scotland, were included in Part II of that Act.

PART II

SUPPLEMENTARY

5. On the confirmation by the Secretary of State of any direction made under subsection (2) of section 9 of this Act by a local planning authority, or the making by any local planning authority of a direction under subsection (5) of that section, a copy of the direction and confirmation or of the direction as the case may be certified by the clerk of the authority to be a true copy, shall be deposited by that authority with the clerk of any local authority in whose district any building to which the direction relates is situated.

In this paragraph "local authority" means a county council or the town council of a burgh.

6. Every local authority with whom a copy of any direction is deposited under paragraph 5 above shall compile and keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing particulars of any building in their district to which the direction relates.

7. A local planning authority making a direction under subsection (2) of the said section 9 containing such a declaration as is mentioned in subsection (4) of that section shall forthwith serve on every person who is an owner, lessee, or occupier of any building to which the direction relates a notice stating that the direction has been made and explaining its effect, and, on being notified by the Secretary of State of his decision with respect to confirmation of the direction, shall forthwith notify every such person of the decision; and where any direction under the said subsection (2) not containing such a declaration is confirmed by the Secretary of State, or a direction is made under subsection (5) of the said section 9, the local planning authority making the direction shall forthwith serve on every person who is an owner, lessee, or occupier of any building affected by the direction a notice stating that the direction has been made and confirmed or, as the case may be, made, and (unless it is a direction under the said subsection (5)) explaining its effect.

8.—(1) If a direction under subsection (2) of the said section 9 containing such a declaration as is mentioned in subsection (4) of that section ceases to be in force as respects any building by virtue of paragraph (a), (b) or (c) of subsection (6) of that section, then, subject to a claim in that behalf being made to the local planning authority within the prescribed time and in the prescribed manner, any person who at the time when the direction was made had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the direction.

(2) The loss or damage in respect of which compensation is payable under sub-paragraph (1) above shall include a sum payable in respect of a breach of contract caused by the necessity of countermanding any works to the building on account of the direction being in force with respect thereto.

9.—(1) The following provisions of this paragraph shall have effect where any direction under sub-paragraph (2) of the said section 9 ceases to be in force as respects any building, but, in the case of sub-paragraph (4), not where the direction ceases to be in force by reason of the building becoming a listed building.

(2) The fact that the direction has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 40 or 45 of the Act of 1969 committed by him with respect to the building while the direction was in force.

(3) Any proceedings on or arising out of an application for listed building consent made while the direction was in force shall lapse, and any listed building consent granted with respect to the building while the notice was in force shall also lapse.

(4) Any listed building enforcement notice served by the local planning authority while the direction was in force shall cease to have effect, and any proceedings thereon under Part IV of Schedule 4 to the Act of 1969 shall lapse, but section 46(1) and (2) of that Act shall continue to have effect as respects any expenses incurred by the local authority, owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses.



Field Monuments Act 1972

1972 CHAPTER 43

An Act to make provision for agreements for the protection of certain ancient monuments and consequential provision for payments under such agreements out of moneys provided by Parliament to occupiers of land which is the site of such a monument.

[27th July 1972]

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:—

Acknowledgment payments under agreements for the protection of field monuments.

1.—(1) The Secretary of State may make payments to any occupier of land which is the site of a field monument, if in the opinion of the Secretary of State there is a danger that the monument will be injured in the course of agriculture or forestry, in consideration of the occupier entering into an agreement under this Act with the Secretary of State for the protection of that monument, and as an acknowledgment of the occupier undertaking the duties and liabilities for which the agreement provides.

In this Act—

“ field monument ” means an ancient monument which is for the time being specified in a list published under section 12 of the Ancient Monuments Consolidation and Amendment Act 1913 or in respect of which a notice has been served under section 6(1) of the Ancient Monuments Act 1931 (notice of intention to include a monument in a list under the said section 12);

“ acknowledgment payment agreement ” means an agreement under this Act; and

“ acknowledgment payment ” means a payment under an acknowledgment payment agreement.

1913 c. 32.

1931 c. 16.

(2) Any person who has an interest in land which is the site of a field monument may be a party to an acknowledgment payment agreement in addition to the occupier; but no person other than the occupier shall be entitled under this Act to an acknowledgment payment.

(3) Without prejudice to the generality of subsection (1) above, an acknowledgment payment agreement—

- (a) may restrict the use of the site of the monument;
- (b) may prohibit in relation to the site the doing of any such thing as may be specified in the agreement;
- (c) may provide for the carrying out of such work in relation to the site and the doing of such other things in relation to it as may be so specified;
- (d) shall provide for the making of acknowledgment payments, of such amounts and upon such terms as may be specified in the agreement, in recognition of the interference with agriculture or forestry which is expected to be caused by the carrying out of the agreement.

(4) Part I of the Schedule to this Act shall have effect to empower limited owners and trustees to enter into acknowledgment payment agreements, and Part II shall have effect as to the enforcement of acknowledgment payment agreements.

2. After section 6(2) of the Ancient Monuments Act 1931 (which makes it an offence in certain circumstances to execute any work for the purpose of demolishing, removing or repairing any part of an ancient monument or of making any alteration or addition to such a monument until the expiration of three months' notice of intention to do so) there shall be inserted the following subsection:—

Effect of acknowledgment payment agreement in relation to demolition etc. of monuments.
1931 c. 16.

“(2A) Where a notice under subsection (2) of this section relates to an ancient monument in respect of which an acknowledgment payment agreement is in force at the date on which the notice is given, and the person who gives the notice is bound by the agreement, that subsection shall have effect in relation to that person and that notice as if the reference to the expiration of three months after the giving of the notice were a reference to the end of the period for which the agreement was made or the expiration of three months after the giving of the notice, whichever shall be later.

In this subsection “acknowledgment payment agreement” means an agreement under the Field Monuments Act 1972.”

Citation,
construction
and extent.

3.—(1) This Act may be cited as the Field Monuments Act 1972, and the Ancient Monuments Acts 1913 to 1953 and this Act may be cited together as the Ancient Monuments Acts 1913 to 1972.

(2) Any reference in this Act to any enactment is a reference to it as amended by or under any other enactment.

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

SCHEDULE

Section 1.

ACKNOWLEDGMENT PAYMENT AGREEMENTS

PART I

LIMITED OWNERS AND TRUSTEES

England and Wales

1.—(1) The tenant for life under the Settled Land Act 1925 of land 1925 c. 18. in England or Wales which is settled land for the purposes of that Act may enter into an acknowledgment payment agreement relating to any of the settled land.

(2) Trustees for sale within the meaning of the Law of Property 1925 c. 20. Act 1925 and personal representatives within the meaning of the Administration of Estates Act 1925 may enter into an acknowledgment 1925 c. 23. payment agreement relating to any land vested in them.

Scotland

2.—(1) In the case of land in Scotland, any person being—

- (a) the liferenter, or
- (b) the heir of entail,

in possession of the land shall have power to enter into acknowledgment payment agreements relating to the land or any part of it.

(2) The Trusts (Scotland) Act 1921, shall have effect as if among 1921 c. 58. the powers conferred on trustees by section 4 of that Act (which relates to the general powers of trustees) there were included a power to enter into acknowledgment payment agreements relating to the trust estate or any part of it.

PART II

ENFORCEMENT

England and Wales

3. If an acknowledgment payment agreement imposes any burden which is capable of running with land and is intended so to run, the agreement shall be registered as if it were a local land charge by the proper officer of the local authority in whose area the land is situated, and the provisions of the Land Charges Act 1925, including section 1925 c. 22. 15(1) of that Act (which makes an unregistered charge void in certain circumstances) shall have effect accordingly.

In this paragraph “local authority” means the council of a borough, including a county borough and a London borough, and an urban or rural district council.

SCH. 4. It shall be the duty of the Secretary of State to give to the local authority's officer the information necessary to enable him to comply with paragraph 3 above.

5. The Secretary of State shall, as respects the enforcement of an acknowledgment payment agreement relating to land in England or Wales against persons other than the original parties to the agreement, have the like rights as if he had at all material times been the absolute owner in possession of ascertained land adjacent to the land to which the agreement relates and capable of being benefited by the agreement, and the agreement had been expressed to be for the benefit of that adjacent land.

1925 c. 20. 6. Section 84 of the Law of Property Act 1925 (which enables the Lands Tribunal to discharge or modify restrictive covenants) shall not apply to an acknowledgment payment agreement.

Scotland

7. An acknowledgment payment agreement relating to land in Scotland may be recorded in the General Register of Sasines and, if so recorded, shall be enforceable at the instance of the Secretary of State against any person having an interest in the land and against any person deriving title from him:

Provided that such an agreement shall not be so enforceable against any third party who shall have in good faith and for value acquired right (whether completed by infestment or not) to his interest in the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.



Children Act 1972

1972 CHAPTER 44

An Act to secure that the minimum age at which children may be employed is not affected by any further change in the school-leaving age. [27th July 1972]

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) Notwithstanding any change in the age governing the time when children may leave school, the minimum age at which under section 18(1) of the Children and Young Persons Act 1933 or section 28(1) of the Children and Young Persons (Scotland) Act 1937, it is lawful for a child to be employed shall remain the age of 13 years.

(2) Accordingly in each of those sections for subsection (1)(a) there shall be substituted the paragraph—

“ (a) so long as he is under the age of thirteen years ”;

and in subsection (2) (which allows the general rules in subsection (1) to be modified by local authority bye-laws) for paragraph (a)(i) there shall be substituted the sub-paragraph—

“ (i) the employment of children under the age of thirteen years (notwithstanding anything in paragraph (a) of the last foregoing subsection) by their parents or guardians in light agricultural or horticultural work ”.

2.—(1) This Act may be cited as the Children Act 1972.

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

(3) Nothing in this Act extends to Northern Ireland.

Short title,
repeal and
extent.

SCHEDULE**ENACTMENTS REPEALED**

Chapter	Short Title	Extent of repeal
7 & 8 Geo. 6. c. 31.	The Education Act 1944.	In Schedule 8, the entry relating to the Children and Young Persons Act 1933, section 18.
8 & 9 Geo. 6. c. 37.	The Education (Scotland) Act 1945.	In Schedule 4, so much of the entry for the Children and Young Persons (Scotland) Act 1937 as relates to section 28 of that Act.
11 & 12 Geo. 6. c. 40.	The Education (Miscellaneous Provisions) Act 1948.	In Part II of Schedule 1 the entry relating to the Children and Young Persons Act 1933 section 18(1)(a).
1963 c. 37.	The Children and Young Persons Act 1963.	In Schedule 3, paragraph 29(1).



Trading Representations (Disabled Persons) Amendment Act 1972

1972 CHAPTER 45

An Act to amend the Trading Representations (Disabled Persons) Act 1958. [27th July 1972]

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

1.—(1) Subsection (1) of section 1 of the Trading Representations (Disabled Persons) Act 1958 (hereinafter referred to as “the principal Act”) (which places restrictions on selling goods advertised as made by or sold for the benefit of blind or otherwise disabled persons) shall be read and have effect as if—

Amendment of section 1 of Trading Representations (Disabled Persons) Act 1958. 1958 c. 49.

- (a) after the words “in selling” there were inserted the words “any goods or exchanging any article or thing for any other article or thing”;
- (b) in paragraph (a) after the word “goods” there were inserted the words “article or thing”;
- (c) in paragraph (b) after the word “goods” where first appearing there were inserted the words “article or thing” and after the word “goods” where secondly appearing there were inserted the words “or the exchange of the article or thing”;
- (d) after the words “or by post” there were inserted the words “or by telephone”;
- (e) the words “unless the person carrying on the business is registered under this Act in respect of goods of that description” were omitted; and

c. 45 *Trading Representations (Disabled Persons) Amendment Act 1972*

(f) in place of the words “ on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment ” there were inserted the following—

“ (i) on summary conviction, to a fine not exceeding £400; and

(ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both ”.

(2) Subsection (2) of the said section 1 shall be read and have effect as if—

(a) after the word “ goods ” there were inserted the words “ articles or things ”; and

(b) in place of the words “ either produced, prepared, packed or otherwise made ready for sale by his own labour ” there were substituted the words “ produced by his own labour ”.

(3) Subsection (5) of the said section 1 shall be read and have effect as if—

(a) after the word “ means ” there were inserted the words “ the Greater London Council ”; and

(b) in place of the words “ metropolitan borough ” there were inserted the words “ London borough ”.

(4) Subsection (6) of the said section 1 is hereby repealed.

(5) Section 1 of the principal Act as amended shall have effect as set out in the Schedule to this Act.

Repeals.

2. Sections 2 and 3 of the principal Act (which relate to registration under that Act) are hereby repealed.

Short title and commencement.

3.—(1) This Act may be cited as the *Trading Representations (Disabled Persons) Amendment Act 1972*.

(2) This Act shall come into operation on 1st January, 1973.

SCHEDULE

Section 1.

SECTION 1 OF THE PRINCIPAL ACT AS AMENDED

1.—(1) It shall not be lawful, in selling any goods or exchanging any article or thing for any other article or thing or soliciting orders for goods of any description in the course of a business carried on by any person, for any representation that, or implying that, blind or otherwise disabled persons, or any description of such persons,—

Sale of goods advertised as made by, or sold for, benefit of blind or otherwise disabled persons.

- (a) are employed in the production, preparation or packing of the goods, article or thing or,
- (b) benefit (otherwise than as users of the goods, article or thing) from the sale of the goods or the exchange of the article or thing or the carrying on of the business,

to be made in the course of visits from house to house, or by post or by telephone; and any person who contravenes this subsection shall be liable—

- (i) on summary conviction, to a fine not exceeding £400; and
- (ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

(2) The foregoing subsection shall not apply where the business is being carried on—

- (a) by a local authority, or
- (b) by any fund, institution, association or undertaking which is registered or exempted from registration under the War Charities Act 1940 or that Act as extended by section forty-one of the National Assistance Act 1948, or
- (c) by a company, association or body providing facilities under section fifteen of the Disabled Persons (Employment) Act 1944 in pursuance of arrangements under subsection (2) of that section, or
- (d) by any body of persons exempted by the Secretary of State for Employment (hereinafter referred to as “the Secretary of State”) from the operation of the foregoing subsection, being a body appearing to the Secretary of State to be carrying on business without profit to its members,

1940 c. 31.
1948 c. 29.

1944 c. 10.

or where the person carrying on the business is substantially disabled and all goods, articles or things with respect to which the representation is made were produced by his own labour.

(3) In England or Wales a local authority may institute proceedings for an offence under this section.

(4) Where an offence under this section 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 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.

c. 45 *Trading Representations (Disabled Persons) Amendment
Act 1972*

(5) In this section “house” includes a place of business, and “local authority” means the Greater London Council, the council of a county, county borough or county district or a London borough or the Common Council of the City of London, or, in Scotland, a county or town council.



Housing (Financial Provisions) (Scotland) Act 1972

1972 CHAPTER 46

An Act to introduce a new system of housing subsidies for housing authorities; to provide for rent rebate and rent allowance schemes administered by housing authorities; to make provision as to the housing accounts of local authorities; to amend the law about rents of houses and in particular those subject to the Rent (Scotland) Act 1971 or provided by housing authorities; and to make other provision as to housing finance.

[27th July 1972]

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

HOUSING SUBSIDIES

Introduction of new housing subsidies

1.—(1) The subsidies set out in subsection (2) below shall be payable to local authorities in the circumstances, and subject to the conditions, set out in this Part of this Act. Introduction of new housing subsidies.

(2) The said subsidies are—

Subsidies to be credited to the housing revenue account.

1. The residual subsidy.
2. The housing expenditure subsidy.
3. The high cost subsidy.

Subsidies to be credited to other accounts.

4. The rent rebate subsidy.
5. The rent allowance subsidy.
6. The slum clearance subsidy.

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(3) The subsidies set out in this subsection shall be payable to development corporations and the Scottish Special Housing Association in the circumstances, and subject to the conditions, set out in this Part of this Act.

The said subsidies are—

1. The residual subsidy.
2. The housing expenditure subsidy.
3. The high cost subsidy.
4. The rent rebate subsidy.

(4) None of the subsidies set out in subsections (2) and (3) above shall be payable, whether to a local authority, a development corporation or the Scottish Special Housing Association, for the year 1971-72 or for any earlier year, except that, in the circumstances, and subject to the conditions, set out in this Part of this Act, the slum clearance subsidy shall be payable to a local authority in respect of expenditure incurred in the year 1971-72.

(5) The subsidies so receivable by housing authorities shall be paid by the Secretary of State out of money provided by Parliament.

Housing subsidies payable to local authorities

The residual
subsidy.

2.—(1) This section has effect as to the circumstances in which residual subsidy is payable to a local authority.

(2) For the purpose of determining the amount of residual subsidy payable to a local authority for the year 1972-73 and subsequent years, a calculation shall be made of the residual entitlement of the local authority as defined in subsection (3) below.

(3) Subject to subsections (4) and (5) below, the residual entitlement of a local authority shall consist of—

- (a) the amount of exchequer contributions to which they are entitled in respect of property to which the housing revenue account relates for the year 1971-72 under the enactments described in Part I of Schedule 1 to this Act, as finally determined by the Secretary of State under paragraph 5 of Schedule 8 to this Act, and
- (b) the further amount of such exchequer contributions to which they would be entitled for the year 1971-72 if houses, in respect of which proposals for their provision were submitted to the Secretary of State in a form acceptable to him before 1st December 1971 for his approval but which were not completed in that year, had been completed in that year; and accordingly the provisions of Part I of the Act of 1968 relating

to the calculation of exchequer contributions payable thereunder shall apply for the purpose of calculating the amount referred to in this paragraph as if such houses had been so completed, and

- (c) the amount of any contribution which they are entitled to receive for the year 1971-72 from another local authority under section 9(4)(b) of the Housing and Town Development (Scotland) Act 1957 in pursuance of an overspill agreement. 1957 c. 38.

(4) The residual entitlement shall not include any amount which was paid to the local authority under any enactment and on receipt of which they were required to make a payment of the same or a greater amount to any other person.

(5) The residual entitlement shall not include any amount referred to in subsection (3)(b) above in so far as it exceeds any amount carried to the credit of the housing revenue account under paragraph 1(4) of Schedule 7 to the Act of 1968 for the year 1971-72.

(6) The residual entitlement shall be expressed as a sum per house for the year 1971-72.

(7) Subject to subsections (8) and (10) below, the amount of residual subsidy payable to a local authority for the year 1972-73 shall be—

- (a) an amount per house which is £9 less than the residual entitlement as expressed in subsection (6) above, plus
(b) where the residual entitlement is limited by subsection (5) above, an amount equal to the amount which is not included in the residual entitlement by virtue of that subsection.

(8) The amount referred to in subsection (7)(b) above shall be payable only if the local authority comply with the conditions set out in paragraph 1 of Schedule 10 to this Act.

(9) The amount of residual subsidy payable to a local authority for the year 1973-74 shall be an amount per house which is £10 less than the amount per house payable to them for the year 1972-73 under subsection (7)(a) above; and in each subsequent year the amount per house of residual subsidy payable to a local authority shall be £10 less than the amount per house payable for the immediately preceding year, and so on until the amount becomes zero.

(10) Where any houses of a local authority referred to in subsection (3)(b) above have not been completed by the end of the year 1974-75, then any residual subsidy which has been paid to

PART I

the local authority on the basis that those houses had been completed shall, if the Secretary of State so requires, be repaid to him on such terms as he may determine.

(11) Any question as to the residual entitlement and as to the number of houses to which the housing revenue account relates shall be determined by the Secretary of State.

The housing expenditure subsidy and associated rate fund contribution.

3.—(1) This section has effect as to the circumstances in which—

- (a) housing expenditure subsidy is payable to a local authority, and
- (b) a contribution out of the general rate fund associated with the housing expenditure subsidy is to be made by the local authority.

(2) Subject to the provisions of this section, a local authority shall be entitled to housing expenditure subsidy if for the year 1972-73 or any subsequent year there is an increase in the local authority's expenditure per house which exceeds £6 or such other sum as the Secretary of State may by order from time to time determine.

(3) In this section "qualifying amount" means, in relation to the year 1972-73 and subsequent years, the excess mentioned in subsection (2) above multiplied by the number of houses to which the housing revenue account relates for that year.

(4) If there is a qualifying amount for any year (in this section called, in relation to the qualifying amount, "the base year") then for the base year and for each subsequent year—

- (a) housing expenditure subsidy shall be payable to the local authority of an amount equal to the percentage of the qualifying amount specified in relation to the base year in column 2 of the Table below, and
- (b) the local authority shall make an associated contribution out of the general rate fund of an amount equal to the percentage of the qualifying amount specified in relation to that base year in column 3 of the said Table,

and accordingly, housing expenditure subsidy, and the associated contribution out of the general rate fund for any year (later than 1972-73) may comprise elements by reference to qualifying amounts for two or more different base years.

TABLE

<i>Base year for which the local authority has a qualifying amount</i>	<i>Amount of housing expenditure subsidy by reference to base year to be the following percentage of the qualifying amount</i>	<i>Amount of associated contribution out of the general rate fund by reference to base year to be the following percentage of the qualifying amount</i>
1	2	3
1972-73	90 per cent	10 per cent
1973-74	85 per cent	15 per cent
1974-75	80 per cent	20 per cent
1975-76 and subsequent years ...	75 per cent	25 per cent

(5) Housing expenditure subsidy for which the base year is any of the years 1972-73 to 1977-78 shall not be payable for the year 1982-83 or any subsequent year, and housing expenditure subsidy for which the base year is 1978-79 or any subsequent year shall not be payable for more than five years (including the base year).

(6) Where by virtue of subsection (5) above housing expenditure subsidy based on any year is not to be payable, the associated contribution out of the general rate fund based on that year shall not be made.

(7) For the purposes of this section, there is an increase in a local authority's expenditure per house if—

- (a) the local authority's expenditure for the year divided by the number of the local authority's houses to which the housing revenue account relates for that year exceeds
- (b) such expenditure for the immediately preceding year divided by the number of the local authority's houses to which the housing revenue account relates for that year,

and the excess is the amount of the increase per house.

(8) Subject to subsections (9) and (10) below and paragraphs 2(6) and 3(5) of Schedule 10 to this Act, for the purposes of this section, references to a local authority's expenditure for any year are references to the total expenditure required to be debited to the local authority's housing revenue account for that year in so far as approved by the Secretary of State, but in the case of expenditure incurred as mentioned in subparagraphs (b), (c), (d) and (g) of paragraph 2 of Schedule 4 to this Act they are references to such amount of expenditure as the Secretary of State deems to be so incurred.

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(9) There shall not be included in the local authority's expenditure for a year—

- (a) (notwithstanding paragraph 2(a)(iv) of Schedule 7 to the Act of 1968) any expenditure in connection with houses approved under section 19 of that Act (unfit houses retained for temporary accommodation);
- (b) (notwithstanding paragraph 2(a)(iii) and (v) of Schedule 4 to this Act) any expenditure relating to the provision or improvement of dwellings in accordance with improvement proposals approved by the Secretary of State under section 2 of the Housing (Scotland) Act 1949 or under section 105 of the Housing (Scotland) Act 1950 or under section 13 of the Act of 1968, or expenditure incurred by the local authority under section 58 of the Act of 1969 (powers of local authority in respect of improvement of amenities of residential areas) on land to which the housing revenue account relates, in so far as such expenditure is met in that year by a contribution to the local authority under the said section 2, 105 or 13 or, as the case may be, under section 59 of the Act of 1969;
- (c) any amount repaid to the general rate fund under paragraph 1(5) of the said Schedule 4;
- (d) any amount referred to in paragraph 5 of that Schedule.

1949 c. 61.
1950 c. 34.

(10) (Notwithstanding paragraph 2(e) of Schedule 4 to this Act) any payment made by an exporting authority to a receiving authority in pursuance of an overspill agreement towards expenditure of the receiving authority which is included in the calculation of the receiving authority's entitlement to any subsidy under Part I of this Act, shall be included in the exporting authority's expenditure to the extent of 25 per cent. of that payment only.

(11) Section 14 of this Act shall apply to an order under subsection (2) above.

The high cost
subsidy and
associated
rate fund
contribution.

4.—(1) This section has effect as to the circumstances in which—

- (a) high cost subsidy is payable to a local authority, and
- (b) a contribution out of the general rate fund associated with the high cost subsidy is to be made by the local authority.

(2) Subject to the provisions of this section, a local authority shall be entitled to high cost subsidy for any year if—

- (a) the amount of income per house which would have been receivable by them for the year from standard rents if no high cost subsidy or associated contribution out of the general rate fund had been payable

for that year or any previous year (in this section referred to as “the local authority rent income”) exceeds the amount of income per house receivable by all the local authorities in Scotland for that year from standard rents (in this section referred to as “the Scottish rent income”) by more than £39; and

(b) the amount of expenditure per house falling on the housing revenue account of the local authority for that year in so far as approved by the Secretary of State exceeds the amount of expenditure per house falling on the housing revenue accounts of all the local authorities in Scotland for that year (in this section referred to as “the Scottish average expenditure”) by more than £39.

(3) In this section “the qualifying amount” means the amount, if any (multiplied by the number of houses to which the housing revenue account relates for the year in question), required to be deducted from the local authority rent income to make that income equal to the Scottish rent income plus the sum referred to in subsection (2)(a) above or as the case may be, that sum as varied by an order under subsection (7) below.

(4) If, under subsection (2) above, a local authority are entitled to high cost subsidy for any year, then—

(a) high cost subsidy shall be payable to the local authority of an amount equal to 75 per cent. of the qualifying amount, and

(b) the local authority shall make an associated contribution out of the general rate fund of an amount equal to 25 per cent. of the qualifying amount together with an amount equal to the amount which would have been carried to the credit of the housing revenue account under paragraph 1(5) of Schedule 4 to this Act for that year if no high cost subsidy had been payable to the authority for that year or any previous year.

(5) For the purposes of this section, the local authority rent income shall be determined under section 28 or 29 of this Act as if the expenditure specified in Schedule 4 to this Act had been such expenditure in so far as approved by the Secretary of State.

(6) For the purposes of this section, the Secretary of State may for any year by order determine the Scottish rent income and the Scottish average expenditure.

An order under this subsection may be varied or revoked by a subsequent order under this subsection and shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The Secretary of State may from time to time by order vary the sums referred to in subsection (2) above and section 14 of this Act shall apply to any such order.

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The rent
rebate subsidy.

5.—(1) This section has effect as to the circumstances in which rent rebate subsidy is payable to a local authority.

(2) Subject to subsection (3) below, the amount of rent rebate subsidy payable to a local authority for any year shall be the percentage specified in column 2 of the following Table of the local authority's standard amount of rent rebates for the year as defined for the purposes of Part II of this Act.

TABLE

1	2
<i>Year for which subsidy is payable</i>	<i>Percentage of standard amount of rent rebates for the year to be met by rent rebate subsidy</i>
1972-73	90 per cent.
1973-74	85 per cent.
1974-75	80 per cent.
1975-76 and subsequent years	75 per cent.

(3) For the purposes of this section, a local authority may add to their standard amount of rent rebates for the year 1972-73 such expenditure as the Secretary of State may approve as being incurred by the local authority in granting rent rebates under section 151(4) of the Act of 1966 between the beginning of that year and 30th September 1972.

The rent
allowance
subsidy.

6.—(1) This section has effect as to the circumstances in which rent allowance subsidy is payable to a local authority.

(2) Subject to subsection (4) below, the amount of rent allowance subsidy payable to a local authority for any year shall be the percentage specified in column 2 of the following Table of the following amounts added together—

- (a) the local authority's standard amount of rent allowances for the year as defined for the purposes of Part II of this Act, and
- (b) the amount of the local authority's costs of administering the allowance scheme for the year.

TABLE

1	2
<i>Year for which subsidy is payable</i>	<i>Percentage of amount in paragraphs (a) and (b) of this subsection for the year to be met by rent allowance subsidy</i>
1972-73	90 per cent.
1973-74	85 per cent.
1974-75	80 per cent.
1975-76 and subsequent years	75 per cent.

(3) A local authority's costs of administering the allowance scheme for any year shall be arrived at by the local authority in accordance with such formula as the Secretary of State may from time to time determine.

Before making any such determination the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable.

(4) For the purposes of this section, a local authority may add to their standard amount of rent allowances for the year 1972-73 such expenditure as the Secretary of State may approve as being incurred by the local authority in granting rent allowances under Part II of this Act between the date when this Act comes into force and 31st December 1972.

7.—(1) This section has effect as to the circumstances in which slum clearance subsidy is payable to a local authority.

The slum clearance subsidy.

(2) Subject to the provisions of this section, a local authority shall be entitled to slum clearance subsidy in respect of such expenditure incurred by them as may be approved by the Secretary of State which falls within any of the following categories—

- (a) any expenses in demolishing a building in pursuance of any provision of Part II or Part III of the Act of 1966 or Part I of the Act of 1969 less any such expenses which the local authority have recovered from the owner of the building under any such provision and any amount realised by the local authority in the sale of materials of the building ;
- (b) any expenses in the clearance of the site of any such building as is referred to in paragraph (a) above ;
- (c) any payment under section 18 of the Act of 1969 (payments to certain owner-occupiers and others in respect of houses not meeting tolerable standard which are purchased or demolished) other than any such payment in respect of an interest in a house which has been purchased by the local authority for the purpose of bringing that house or another house up to the tolerable standard ;
- (d) any payment under section 25 or 49 of the Act of 1966 or section 11 of the Act of 1969 (payments in respect of well-maintained houses) other than any such payment in respect of an interest in a house which has been purchased by the local authority for the purpose of bringing that house or another house up to the tolerable standard ;

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- (e) any expenditure incurred under section 52 of the Act of 1966 or section 15 of the Act of 1969 (provisions as to apparatus of public undertakers);
 - (f) such part of the compensation paid to an owner of trade or business premises purchased by the local authority under Part III of the Act of 1966 or Part I of the Act of 1969 as is applicable to disturbance or to such other matters not directly relating to the value of the land purchased as may be determined by the Secretary of State;
 - (g) the cost of any works carried out by the local authority under section 20(8) of the Act of 1966 (local authority may acquire and repair a house or building liable to closing or demolition order) or section 40 of the Act of 1966 or section 8 of the Act of 1969 (power of local authority to retain houses subject to demolition for temporary occupation);
 - (h) any payment under section 160 of the Act of 1966 (payment of removal and other allowances to persons displaced) other than a payment under—
 - (i) subsection (1)(a)(i) of that section in respect of any person displaced from a house or building under Part VII of that Act, or
 - (ii) subsection (1)(a)(v), or (1)(b) where the recipient of the payment is also in receipt of compensation from the local authority in respect of property which he owned;
 - (i) such other expenditure as the Secretary of State may direct.
- (3) A local authority shall not be entitled to slum clearance subsidy in respect of expenditure incurred by them—
- (a) before the beginning of the year 1971-72, or
 - (b) after the beginning of the year 1971-72 and before the beginning of the year 1975-76, if it is expenditure in relation to land, being land expenditure in respect of which an exchequer contribution has been paid under Part I of the Act of 1968 or land which would be included for the purposes of residual entitlement under section 2(3)(b) of this Act.
- (4) If, under the foregoing provisions of this section, a local authority are entitled to slum clearance subsidy, then slum clearance subsidy shall be payable to the local authority of an amount equal to 75 per cent. of the annual loan charges referable to the amount of expenditure incurred by them in a

year which falls within any of the categories set out in subsection (2) above, payable annually for the period of twenty years beginning with the year immediately following the year in which the expenditure was incurred.

(5) For the purposes of subsection (4) above the annual loan charges referable to the amount of expenditure incurred by the local authority shall be the annual sum which, in the opinion of the Secretary of State, would fall to be provided by the local authority for the payment of interest on, and the repayment of, a loan of that amount repayable over a period of twenty years.

Housing subsidies payable to development corporations and the Scottish Special Housing Association

8.—(1) This section has effect as to the circumstances in which residual subsidy is payable to a development corporation and the Scottish Special Housing Association. The residual subsidy.

(2) For the purpose of determining the amount of residual subsidy payable to a development corporation for the year 1972-73 and subsequent years, a calculation shall be made of the residual entitlement of the development corporation as defined in subsection (3) below.

(3) The residual entitlement of a development corporation shall consist of—

- (a) the amount of exchequer contributions to which they are entitled for the year 1971-72 under the enactments described in Part II of Schedule 1 to this Act, as finally determined by the Secretary of State under paragraph 5 of Schedule 8 to this Act, and
- (b) the further amount of such exchequer contributions to which they would be entitled for the year 1971-72 if houses, in respect of which proposals for their provision were submitted to the Secretary of State in a form acceptable to him before 1st December 1971 for his approval but which were not completed in that year, had been completed in that year; and accordingly the provisions of Part I of the Act of 1968 relating to the calculation of exchequer contributions payable thereunder shall apply for the purpose of calculating the amount referred to in this paragraph as if such houses had been so completed, and
- (c) the amount of any contribution which they are entitled to receive for the year 1971-72 from a local authority under section 9(4)(b) of the Housing and Town Development (Scotland) Act 1957 in pursuance of an overspill agreement. 1957 c. 38

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(4) The residual entitlement shall be expressed as a sum per house for the year 1971-72.

(5) Subject to subsection (6) below, the amount of residual subsidy payable to a development corporation for the year 1972-73 shall be an amount per house which is £18 less than the residual entitlement as expressed in subsection (4) above; and in each subsequent year the amount per house of residual subsidy payable to a development corporation shall be £20 less than the amount per house payable for the immediately preceding year, and so on until the amount becomes zero.

(6) Where any houses of a development corporation referred to in subsection (3)(b) above have not been completed by the end of the year 1974-75, then any residual subsidy which has been paid to the development corporation on the basis that those houses had been completed shall, if the Secretary of State so requires, be repaid to him on such terms as he may determine.

(7) Any question as to the residual entitlement and as to the number of development corporation houses shall be determined by the Secretary of State.

(8) Subsections (2) to (7) of this section shall apply to the Scottish Special Housing Association as they apply to a development corporation, except that—

- (a) in subsection (3)(a) for the reference to Part II of Schedule 1 to this Act there shall be substituted a reference to Parts III and IV of that Schedule,
- (b) subsection (3)(c) shall be omitted,
- (c) in subsection (7) for the reference to development corporation houses there shall be substituted a reference to Scottish Special Housing Association houses.

The housing expenditure subsidy.

9.—(1) This section has effect as to the circumstances in which housing expenditure subsidy is payable to a development corporation and the Scottish Special Housing Association.

(2) Subject to the provisions of this section, a development corporation shall be entitled to housing expenditure subsidy if for the year 1972-73 or any subsequent year there is an increase in the development corporation's expenditure per house which exceeds £6 or such other sum as the Secretary of State may by order from time to time determine.

(3) In this section "the qualifying amount" means, in relation to the year 1972-73 and subsequent years, the excess mentioned in subsection (2) above multiplied by the number of development corporation houses.

(4) If there is such a qualifying amount for any year (in this section called, in relation to the qualifying amount, "the base year") then for the base year and for each subsequent year housing expenditure subsidy shall be payable to the development corporation of an amount equal to the qualifying amount; and accordingly, housing expenditure subsidy for any year (later than 1972-73) may comprise elements by reference to qualifying amounts for two or more different base years.

(5) Housing expenditure subsidy for which the base year is any of the years 1972-73 to 1977-78 shall not be payable for the year 1982-83 or any subsequent year, and housing expenditure subsidy for which the base year is 1978-79 or any subsequent year shall not be payable for more than five years (including the base year).

(6) For the purposes of this section, there is an increase in a development corporation's expenditure per house if—

- (a) the development corporation's expenditure for the year as determined by the Secretary of State divided by the number of development corporation houses for that year exceeds
- (b) such expenditure for the immediately preceding year divided by the number of development corporation houses for that year,

and the excess is the amount of the increase per house.

(7) Section 14 of this Act shall apply to an order under subsection (2) above.

(8) Subsections (2) to (7) of this section shall apply to the Scottish Special Housing Association as they apply to a development corporation except that in subsection (6) for the reference to development corporation houses there shall be substituted a reference to Scottish Special Housing Association houses.

10.—(1) This section has effect as to the circumstances in which high cost subsidy is payable to a development corporation and the Scottish Special Housing Association. The high cost subsidy.

(2) Subject to the provisions of this section, a development corporation shall be entitled to high cost subsidy for any year if—

- (a) the amount of income per house which would have been receivable by them for the year from standard rents if no high cost subsidy had been payable for that year or any previous year (in this section referred to as "the development corporation rent income") exceeds the Scottish rent income for that year by more than such amount as the Secretary of State may from time to time determine; and

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(b) the amount of expenditure per house of the development corporation for that year as determined by the Secretary of State exceeds the Scottish average expenditure for that year by more than such amount as the Secretary of State may from time to time determine.

(3) In this section “the qualifying amount” means the amount, if any, (multiplied by the number of development corporation houses for the year in question), required to be deducted from the development corporation rent income to make that income equal to the Scottish rent income plus the amount determined by the Secretary of State under subsection (2)(a) above.

(4) If, under subsection (2) above, a development corporation are entitled to high cost subsidy, then high cost subsidy shall be payable to the development corporation of an amount equal to the qualifying amount.

(5) In this section, “the Scottish rent income” and “the Scottish average expenditure” have the same meanings respectively as they have in subsection (2)(a) and (b) of section 4 of this Act, and subsection (6) of that section shall apply for the purposes of this section as it applies for the purposes of that section.

(6) This section shall apply to the Scottish Special Housing Association as it applies to a development corporation except that—

(a) for any reference to development corporation houses and the development corporation rent income there shall be substituted respectively references to Scottish Special Housing Association houses and the Scottish Special Housing Association rent income ;

(b) in paragraphs (a) and (b) of subsection (2) for the words “such amount as the Secretary of State may from time to time determine” there shall be substituted the words “more than £39” ;

(c) in subsection (3) for the words from “amount determined” to the end there shall be substituted the words “sum referred to in subsection (2)(a) above or, as the case may be, that sum as varied by an order under subsection (5A) below” ;

(d) after subsection (5) there shall be inserted the following subsection—

“(5A) The Secretary of State may from time to time by order vary the sums referred to in subsection (2) above and section 14 of this Act shall apply to any such order.”

11.—(1) Subject to subsection (2) below, rent rebate subsidy shall be payable to a development corporation for any year of an amount equal to the standard amount of rent rebates of the development corporation for the year as defined for the purposes of Part II of this Act. **PART I**
The rent rebate subsidy.

(2) For the purposes of this section, a development corporation may add to their standard amount of rent rebates for the year 1972-73 such expenditure as the Secretary of State may approve as being incurred by the development corporation in granting rent rebates between the beginning of that year and 30th September 1972.

(3) This section shall apply to the Scottish Special Housing Association as it applies to a development corporation.

12. Where the Secretary of State is satisfied that the total net annual expenditure (as calculated in accordance with rules made by the Secretary of State) necessarily incurred in the year 1972-73 or in any subsequent year by the Scottish Special Housing Association, acting otherwise than as agents,— **Additional payment towards certain deficits of the Scottish Special Housing Association.**

- (a) in providing new houses ; and
- (b) in improving housing accommodation, whether by the provision of dwellings by means of the conversion of houses or other buildings or by the improvement of dwellings ; and
- (c) in providing housing accommodation, being accommodation acquired by the Association from any such body as is mentioned in section 25(1)(e) of the Act of 1968 ; and
- (d) in improving the amenities of a predominantly residential area in accordance with arrangements made between the Association and a local authority ;

is greater than the sum of—

- (i) the subsidies paid to them under this Part of this Act for the year in question, and
- (ii) any exchequer contributions made to them for the year in question under section 16 of the Act of 1968, and
- (iii) any grant paid to the Association for the year in question under section 59(7)(b) of the Act of 1969,

the Secretary of State may, with the approval of the Treasury, make such further payment to the Association in respect of the excess as he may determine.

PART I*Supplemental*

Payment of
subsidies and
accounting
provisions.

13.—(1) Any subsidy to be paid by the Secretary of State under this Part of this Act shall be payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise, as the Secretary of State may, with the approval of the Treasury, impose.

(2) Without prejudice to the generality of subsection (1) above, the making of any such payment shall be subject to the making of a claim for the payment in such form, and containing such particulars, as the Secretary of State may from time to time determine.

(3) The aggregate amount of any one subsidy payable under this Part of this Act to a housing authority for any year shall be calculated to the nearest pound, by disregarding an odd amount of 50 new pence, or less, and by treating an odd amount exceeding 50 new pence as a whole pound.

Provisions
as to certain
orders.

14.—(1) This section has effect as respects orders to which this section is applied by any provision of this Part of this Act.

(2) An order under any such provision may be varied or revoked by a subsequent order made under that provision.

(3) An order made under any such provision—

(a) shall be made by the Secretary of State with the concurrence of the Treasury,

(b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any such order may be made to apply to any description of local authorities or development corporations specified in the order or to a specified local authority or development corporation.

(5) Before making an order under any such provision the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.

PART II**RENT REBATES AND RENT ALLOWANCES**

Rent rebates.

15.—(1) It shall be the duty of every local authority to bring into operation not later than 1st October 1972 a scheme for granting to persons who occupy as their homes houses to which the local authority's housing revenue account relates and which are let to them by the local authority rebates from rent, calculated in accordance with the provisions of the scheme by reference to their needs and their resources.

(2) A scheme under this section is referred to in this Act as a “rebate scheme”.

(3) No rebate from the rent of a house shall be granted by virtue of this section to any person if a substantial proportion of the charges in respect of the house is attributable to the use of furniture.

(4) This section shall apply to a development corporation or the Scottish Special Housing Association as it applies to a local authority, except that in subsection (1) for the reference to houses to which the local authority’s housing revenue account relates there shall be substituted a reference to development corporation houses or, as the case may be, Scottish Special Housing Association houses.

16.—(1) It shall be the duty of every local authority to bring into operation not later than 1st January 1973 a scheme for granting to private tenants who occupy as their homes houses in the authority’s district allowances, calculated in accordance with the provisions of the scheme by reference to their needs and their resources, towards the rent payable under their tenancies.

(2) A scheme under this section is referred to in this Act as an “allowance scheme”.

(3) In this Part of this Act “private tenant” means a person who is a protected tenant or a statutory tenant for the purposes of the Act of 1971 (including a person who is a tenant of accommodation which is deemed to be a dwelling-house let on a protected tenancy or subject to a statutory tenancy under section 119(1) of that Act).

(4) A person is also a private tenant if he occupies a house let to him by—

(a) a joint board or joint committee as respectively defined by the Local Government (Scotland) Act 1947, or the common good of a burgh or any trust under the control of a local authority as defined in that Act, 1947 c. 43.

(b) the Housing Corporation,

(c) a housing association,

(d) a housing trust within the meaning of section 5 of the Act of 1971 or any authorised society within the meaning of the Housing Act 1914,

1914 c. 31.

under a tenancy which would be a protected tenancy but for the said section 5.

(5) A person is also a private tenant if he occupies a house let to him by the Crown Estate Commissioners and his tenancy would be a protected tenancy but for section 4 of the Act of 1971.

PART II

(6) A local authority shall treat as if he were a private tenant any person who occupies a house let by them other than a house to which the housing revenue account relates and who would be entitled to a rebate if he occupied a house to which the housing revenue account relates.

The model schemes.

17.—(1) Subject to the provisions of this Act, every rebate scheme and every allowance scheme shall conform with the provisions of Schedule 2 and Schedule 3 to this Act.

(2) Regulations made by the Secretary of State with the consent of the Treasury may from time to time vary the provisions of Schedule 2 and Schedule 3 to this Act.

(3) Before making regulations under subsection (2) above the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.

(4) Regulations under subsection (2) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this Act, the “model scheme” of an authority means a rebate scheme, or, as the case may be, an allowance scheme containing such provisions, and only such provisions, as the authority are for the time being required by this section to include in their scheme:

Provided that if and so long as the authority’s scheme contains any provision included in pursuance of paragraph 16 of Schedule 2 to this Act, the model scheme shall be assumed to include that provision.

(6) In this Act an authority’s “standard amount of rent rebates” for any period beginning on or after 1 October 1972, or “standard amount of rent allowances” for any period beginning on or after 1 January 1973, means—

- (a) if the authority have been operating the model scheme for that period, the amount of rebates or, as the case may be, allowances which they have granted for that period otherwise than under subsection (1) or (2) of section 18 of this Act;
- (b) if the authority have not been operating the model scheme for that period, the amount of rebates or, as the case may be, allowances, which they would have granted for that period otherwise than under subsection (1) or (2) of section 18 of this Act if they had been operating it.

(7) The said standard amount shall be calculated or estimated by reference to the rebates or allowances actually granted by following such methods and principles as the Secretary of State may direct, either generally or in any particular case.

PART II

18.—(1) A housing authority may grant to a person to whom their rebate scheme applies a rebate of a greater amount than they would otherwise grant if they consider that his personal or domestic circumstances are exceptional.

Extent to which authorities may depart from model schemes.

(2) A local authority may grant to a person to whom their allowance scheme applies an allowance of a greater amount than they would otherwise grant if they consider that his personal or domestic circumstances are exceptional.

(3) A housing authority may, subject to the consent of the Secretary of State, vary the provisions of Schedule 2 to this Act as they apply in relation to their rebate scheme, but no variation under this subsection shall be such that a person to whom the scheme applies receives less rebate than he would have received under the model scheme, and if a variation is made in a rebate scheme by a local authority, they shall make a variation in their allowance scheme which appears to them to correspond to it.

(4) A local authority may, subject to the consent of the Secretary of State, vary the provisions of Schedule 2 to this Act as they apply in relation to their allowance scheme, but no variation under this subsection shall be such that a person to whom the scheme applies receives a smaller allowance than he would have received under the model scheme, and if a variation is made in an allowance scheme the authority making it shall make a variation in their rebate scheme which appears to them to correspond to it.

(5) Without prejudice to the generality of subsections (3) and (4) above, an authority may, subject to the consent of the Secretary of State, vary the provisions of Schedule 2 to this Act so that in ascertaining the weekly income of the tenant and his spouse there is a total disregard of war disablement pension and special widow's pension.

(6) The powers conferred by this section shall not be exercised by any authority in such a way that, on the best estimate which they can make, they are likely as a result to grant a greater amount of rebates or allowances than 110 per cent. of the authority's standard amount of rent rebates or, as the case may be, their standard amount of rent allowances for any year or part of a year.

(7) The Secretary of State may give his consent under subsection (3) or (4) above either generally or in any particular case subject to such conditions as he may require.

PART II

Duty of housing authorities to publicise schemes.

19.—(1) It shall be the duty of every housing authority to give such publicity to their rebate scheme as the Secretary of State may direct, either generally or in any particular case.

(2) It shall be the duty of every local authority to give such publicity to their allowance scheme as the Secretary of State may direct, either generally or in any particular case, and to furnish to a private tenant of a house in their district or to a landlord of such a tenant, free of charge, on an application made by the tenant or landlord, such information about their allowance scheme and in such form as the Secretary of State may direct.

Duty of landlord to inform tenant of particulars of allowance scheme.

20.—(1) It shall be the duty of a landlord of a house let to a private tenant—

(a) to apply to the local authority in whose district the house is situated for information about the allowance scheme made by them, and

(b) on receipt of that information, to furnish it to the tenant.

(2) The duty imposed on a landlord by subsection (1) above shall be performed in accordance with regulations made by statutory instrument by the Secretary of State, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any landlord who refuses or wilfully neglects to perform a duty imposed on him by subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(4) Where an offence under subsection (3) above 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 negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members this subsection shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(5) Subsections (3) and (4) above do not apply to the Housing Corporation.

Certain items included in rent to be excluded in calculating allowance.

21.—(1) Where a private tenant's rent includes amounts payable—

(a) in respect of rates, or

(b) for the use of furniture or for services (not being such a service as would fall within a direction made by the

Secretary of State under section 32(1)(b) of this Act applying to the local authority's district in which the private tenant resides, if the service were provided under the terms of the tenancy of a house to which a local authority's housing revenue account relates), or

PART II

- (c) for the use of part of the premises comprised in a dwelling-house as a shop or office or for business, trade or professional purposes,

then none of those amounts shall be treated for the purposes of this Part of this Act as rent.

(2) Any question whether a private tenant's rent includes any sum payable in respect of or for any of the items referred to in paragraphs (a), (b) and (c) of subsection (1) above, or as to the amount so payable, shall, subject to paragraph 14 of Schedule 3 to this Act, be determined for the purposes of an allowance scheme by the authority who made the scheme.

(3) In this section "rates" means any charge payable in respect of a rate as defined in the Local Government (Scotland) Act 1947. 1947 c. 43.

22.—(1) In this Part of this Act, unless the context otherwise requires— Interpretation of Part II.

"allowance" means an allowance under an allowance scheme ;

"allowance period" means a period for which an allowance is or may be granted ;

"allowance scheme" has the meaning assigned to it by section 16 of this Act ;

"authority" means, in relation to a rebate scheme, a housing authority, and in relation to an allowance scheme, a local authority ;

"landlord" includes any person from time to time deriving title under the original landlord and also includes, in relation to any house, any person other than the tenant who is, or but for Part II of the Act of 1971 would be, entitled to possession of the house ;

"pensionable age" has the meaning assigned to it by section 114(1) of the National Insurance Act 1965 ; 1965 c. 51.

"private tenant" has the meaning assigned to it by section 16 of this Act ;

"rebate" means a rebate under a rebate scheme ;

"rebate period" means a period for which a rebate is or may be granted ;

"rebate scheme" has the meaning assigned to it by section 15 of this Act ;

- PART II**
- “rent” means, in relation to a private tenant, the rent payable under his tenancy less any rent receivable from sub-letting any part of the house and, in relation to a tenant of a housing authority, means standard rent less any rent receivable from sub-letting any part of the house ;
- 1966 c. 20. “supplementary benefit” means benefit under Part II of the Ministry of Social Security Act 1966 except that it does not include benefit under section 6 (benefit to meet medical and similar requirements) or section 7 (benefit to meet exceptional requirements) of that Act ;
- “tenant” means, in relation to a rebate scheme, a person who occupies a house as mentioned in section 15 of this Act and, in relation to an allowance scheme, a person who is a private tenant, or who is treated as a private tenant under section 16 of this Act, and includes a joint-tenant and a sub-tenant, and “tenancy” shall be construed accordingly.
- (2) In construing any reference in this Part of this Act to the amount of rebates or allowances granted by an authority account shall be taken of sub-paragraphs (5) and (6) of paragraph 18 of Schedule 3 to this Act.

PART III

HOUSING ACCOUNTS OF LOCAL AUTHORITIES

The housing
revenue
account.

23.—(1) Subject to the provisions of this section and of Schedule 4 to this Act, every local authority shall for the year 1972-73 and subsequent years keep an account (to be called “the housing revenue account”) of the income and expenditure of the authority in respect of—

- (a) all houses and other buildings which have been provided after 12th February 1919 for the purpose of—
- 1925 c. 15. (i) Part III of the Housing (Scotland) Act 1925, or
(ii) any enactment relating to the provision of housing accommodation for the working classes repealed by that Act, or
- 1950 c. 34. (iii) Part V of the Housing (Scotland) Act 1950, or
(iv) Part VII of the Act of 1966 ;
- (b) all land which after the said date has been acquired or appropriated for the purposes of any of the enactments mentioned or referred to in paragraph (a) above including—
- (i) all land which is deemed to have been acquired under Part III of the said Act of 1925 by virtue of

section 15(4) of the Housing (Scotland) Act 1935, and PART III
1935 c. 41.

- (ii) any structures on such land which were made available to a local authority under section 1 of the Housing (Temporary Accommodation) Act 1944 ; 1944 c. 36.
- (c) all dwellings in respect of which the Secretary of State has undertaken to make an exchequer contribution to the local authority under section 35 of the said Act of 1935 ;
- (d) all dwellings provided or improved by the local authority in accordance with improvement proposals approved by the Secretary of State under—
 - (i) section 2 of the Housing (Scotland) Act 1949, or 1949 c. 61.
 - (ii) section 105 of the said Act of 1950, or
 - (iii) section 13 of the Act of 1968,
 and all land acquired or appropriated by the authority for the purpose of carrying out such proposals ;
- (e) all houses in a housing treatment area which have been purchased by the local authority under section 5 of the Act of 1969 for the purpose of bringing them or another house up to the tolerable standard.

(2) Where a house is for the time being vested in a local authority by reason of the default of any person in carrying out the terms of any arrangements under which assistance in respect of the provision, reconstruction or improvement of the house has been given under any enactment relating to housing, the house shall be deemed for the purposes of subsection (1) above to be a house which has been provided by the authority under Part VII of the Act of 1966.

(3) There shall not be included among the houses, buildings or land in respect of which the local authority are required by subsection (1) above to keep a housing revenue account—

- (a) a building provided or converted for use as a hostel or as part of a hostel and approved by the Secretary of State for the purposes of section 27(1) of the Housing (Scotland) Act 1949 or section 89(1) of the Housing (Scotland) Act 1950 or section 21(1) of the Act of 1968 except in the case of a building which the Secretary of State is satisfied has ceased to be used as a hostel or part of a hostel ;
- (b) any house or land which the local authority have provided expressly for sale.

(4) A local authority may, with the consent of the Secretary of State, include in or exclude from the housing revenue

PART III account any individual house or other property or categories of houses or other properties.

(5) The Secretary of State may make a direction either generally or in relation to specified properties that any category of house or other property shall be included in or excluded from the housing revenue account of a local authority.

(6) The houses and other property to which a local authority's housing revenue account relates shall include any property brought within the account before the commencement of this Act—

- (a) with the consent of the Secretary of State given under section 60(1)(f) of the Act of 1968, or
- (b) by virtue of subsection (2) of the said section 60 (houses vesting in local authority on default of another person).

(7) The provisions of Schedule 4 to this Act shall have effect as respects the keeping of the housing revenue account.

The rent

rebate account.

24.—(1) Every local authority shall for the year 1972-73 and subsequent years keep an account (to be called “the rent rebate account”) and shall in each year—

- (a) carry to the credit of that account the amount of rent rebate subsidy payable to them under section 5 of this Act;
- (b) debit to that account—
 - (i) the local authority's amount of rent rebates for the year, and
 - (ii) the local authority's costs of administering their rent rebates for the year.

(2) Where for any year a deficit is shown in the account, the local authority shall carry to the credit of the account in respect of that year an amount equal to the amount of the deficit.

The rent
allowance
account.

25.—(1) Every local authority shall for the year 1972-73 and subsequent years keep an account (to be called “the rent allowance account”) and shall in each year—

- (a) carry to the credit of that account the amount of rent allowance subsidy payable to them under section 6 of this Act;
- (b) debit to that account—
 - (i) the local authority's amount of rent allowances for the year, and
 - (ii) the local authority's costs of administering their rent allowances for the year.

(2) Where for any year a deficit is shown in the account, the local authority shall carry to the credit of the account in respect of that year an amount equal to the amount of the deficit. PART III

26.—(1) Every local authority shall for the year 1972-73 and subsequent years keep an account (to be called “the slum clearance revenue account”)— The slum clearance revenue account.

- (a) of the income and expenditure of the authority in respect of houses and other property acquired by them under, or appropriated, whether before or after this Act comes into force, for the purposes of Part II or Part III of the Act of 1966 or Part I of the Act of 1969, other than a house acquired under the said Part I for the purpose of bringing it or another house up to the tolerable standard ; and
- (b) of any expenditure of the authority referred to in section 7(2) of this Act in respect of houses and other property which is not included in paragraph (a) above together with any income related to that expenditure.

(2) The provisions of Schedule 5 to this Act shall have effect as respects the keeping of the slum clearance revenue account.

PART IV

DETERMINATION OF RENTS AND OTHER CHARGES

27.—(1) Subject to the provisions of this Part of this Act a local authority, in respect of the tenancy or occupation of— General provisions as to charges in respect of local authority houses.

- (a) houses to which the housing revenue account relates, and
- (b) houses provided by them but to which the housing revenue account does not relate,

may make such reasonable charges as they may determine and shall from time to time review such charges and make such changes either of the charges generally or of particular charges as circumstances may require.

(2) In determining the standard rent of any house referred to in subsection (1)(a) above, a local authority shall, subject to section 33 of this Act, take no account of the personal circumstances of the tenant of the house.

28.—(1) Subject to the provisions of this section and the next following section, a local authority shall for any year charge standard rents in such a way that the income receivable from standard rents together with all the other income specified as to be credited to the housing revenue account under Schedule 4 Rents to be charged so as to balance housing revenue account.

PART IV

to this Act, except any amount carried to the credit of the housing revenue account under paragraph 1(5) of that Schedule and which is receivable by the local authority equals the amount of expenditure specified as to be debited to that account under that Schedule and which is payable by them.

(2) A local authority shall increase or reduce standard rents in such a way that the provisions of subsection (1) above are complied with or, if they will so comply without making any alteration in standard rents, they shall make no such alteration:

Provided that, where, in order to comply with those provisions, the local authority would need to make an increase in standard rents by more than the maximum average rent increase they shall make only the maximum average rent increase.

(3) Any increase in standard rents after 1st October 1972 shall be made on the date occurring 12 months after the previous increase except—

- (a) where, for the year immediately preceding the year in which the increase is made, the authority have complied with the provisions of section 28(1), or have acted in accordance with section 29(2), of this Act, and
- (b) where no residual subsidy has been payable to the authority for the year in which the increase is made.

(4) In this section and in sections 29 and 31 of this Act, “maximum average rent increase” means an increase in standard rents sufficient to produce income receivable for the period of 12 months following the date of the increase which, divided by the number of houses for that period, is £26 greater than the income which would have been so receivable for the period where so divided if no alteration in standard rents had been made.

Provisions
as to rents
in 1972-73
and 1973-74.

29.—(1) Subject to subsection (2) below, a local authority shall charge standard rents in the year 1972-73 and 1973-74 in accordance with the following provisions of this subsection—

- (a) they shall make such increase or increases in standard rents on or before 1st October 1972 that the amount of income per house (for the year 1972-73) receivable by them from standard rents for the period from 1st October 1971 to the end of the year 1972-73 exceeds by not less than £24 the amount of income per house (for the year 1972-73) which would have been so receivable if no alteration in standard rents had been made on or after 1st October 1971;
- (b) the amount of income per house (for the year 1973-74) receivable by them from standard rents for the year 1973-74 shall exceed by not less than £50 the amount

of income per house which would be so receivable for that year if no alteration in standard rents had been made on or after 1st October 1971 ;

(c) in 1973-74 they shall increase standard rents by the maximum average rent increase.

(2) Where a local authority would comply with the provisions of section 28(1) of this Act in the year 1972-73 or 1973-74—

(a) by increasing standard rents in that year by a lesser amount than the amount by which they are needed to increase standard rents in that year under subsection (1) above, or

(b) by reducing standard rents in that year,

they shall make such alteration in standard rents in that year as is necessary in order to comply with those provisions, and where they would so comply without making any alteration in standard rents in that year, they shall make no such alteration.

30.—(1) Subject to subsection (2) below, a local authority shall not increase the income receivable from the standard rent of any house by more than £39 in any period of 12 months, except that any such increase made on or before 1st October 1972 shall not exceed, for the year 1972-73, £32 plus, where the amount of income for the year 1972-73 per house produced by the increase or increases in standard rents which the authority are required to make under section 29(1) of this Act exceeds £24, an amount equal to that excess. Increases in rent of individual houses of housing authorities.

(2) The restrictions on any increase imposed by subsection (1) above shall not apply where a lease is granted to a new tenant of the house or where an improvement has been made in the house.

(3) In subsection (2) above “improvement” includes structural alteration, extension or addition and the provision of additional fixtures or fittings, but does not include anything done by way of decoration or repair.

(4) This section shall apply to a development corporation or the Scottish Special Housing Association as it applies to a local authority except that in subsection (1) the words from “plus” to the end shall be omitted.

31.—(1) A development corporation or the Scottish Special Housing Association shall not increase standard rents by more than the maximum average rent increase, and shall not make that increase or any other increase in standard rents at less than 12 monthly intervals, except where in the year immediately preceding the year in which any such increase is made they did not make the maximum average rent increase. Average standard rents of development corporation and Scottish Special Housing Association houses.

PART IV

(2) If high cost subsidy is payable to a development corporation or the Scottish Special Housing Association for any year, then the standard rents which they charge for that year shall not exceed an amount which, together with the high cost subsidy payable to them for that year, produces income which is equal to the development corporation rent income or, as the case may be, the Scottish Special Housing Association rent income as respectively defined in section 10 of this Act.

Service charges.

32.—(1) A local authority shall be required to make a charge for the year 1972-73 and subsequent years in respect of the following items to which the housing revenue account relates—

- (a) any garage, car-port or other car parking facilities provided by them, whether before the year 1972-73 or not, in so far as not included within the terms of the tenancy of a house ;
- (b) any service provided by them under the terms of the tenancy of a house, except any such service as the Secretary of State may, after consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, otherwise direct either generally or in a particular case.

(2) Where a local authority made a charge for the year 1971-72 in respect of anything to which the housing revenue account relates—

- (a) provided by them under section 139 or 141 of the Act of 1966 (other than anything referred to in subsection (1)(a) or (b) above), or
- (b) supplied by them under section 140 of the Act of 1966,

and such a thing continues to be made available or supplied by them after that year, they shall continue to impose such a charge.

(3) Any charge referred to in this section (in this Act called “a service charge”) shall be of such amount as the local authority consider reasonable in all the circumstances.

Phasing out of supplementary charges.

33.—(1) No local authority shall make a supplementary charge on the tenant of a house to which the housing revenue account relates for the year 1976-77 and subsequent years.

(2) A local authority shall reduce and terminate any supplementary charge imposed by them before the year 1976-77, subject to the approval of the Secretary of State, in whatever manner they think fit.

(3) In this Act, “supplementary charge” means, in relation to the tenant of a house, a charge payable under his tenancy supplementary to standard rent which is related to the financial circumstances of the tenant or his household.

PART IV

PART V

CONTROLLED AND REGULATED TENANCIES

34.—(1) Subject to section 35 of this Act, where, on the date applicable to the dwelling-house under the following provisions of this section, a dwelling-house is let on a protected tenancy or subject to a statutory tenancy which, in either case, is a controlled tenancy, the protected or statutory tenancy shall on that date cease to be a controlled tenancy and shall become a regulated tenancy.

Conversion of controlled tenancies: general decontrol.

(2) Subject to the provisions of this section—

- (a) 1st January 1973 is the date applicable to a dwelling-house of a value of £50 or more,
- (b) 1st January 1974 is the date applicable to a dwelling-house of a value of less than £50 but not less than £25, and
- (c) 1st January 1975 is the date applicable to a dwelling-house of a value of less than £25.

(3) The Secretary of State may by order substitute as the date applicable to a dwelling-house of such value as may be specified in the order a date earlier or later than that which would be applicable to it under subsection (2) above.

(4) An order under this section—

- (a) may make different provision with respect to different registration areas,
- (b) may be varied or revoked by a subsequent order under this section, and
- (c) shall be made by statutory instrument.

(5) In subsection (2) above “value” means the rateable value on the date on which this Act comes into force and subsections (1) and (2) of section 6 of the Act of 1971 shall apply for the purpose of ascertaining the rateable value on that date as they apply for the purpose of ascertaining the rateable value of a dwelling-house for the purposes of that Act:

Provided that any question arising under the said section 6 as applied by this subsection as to the proper apportionment of any value may be determined by the landlord and the tenant by agreement in writing.

(6) If part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional

PART V

purposes and is let on or subject to a controlled tenancy, then nothing in section 9 of the Act of 1971 shall prevent that tenancy becoming a regulated tenancy on the date applicable to the dwelling-house nor prevent any new tenancy granted to the tenant under that regulated tenancy or to any person who might succeed him as a statutory tenant from being a regulated tenancy.

Houses
excluded
from general
decontrol.

35.—(1) Subject to subsection (2) below, section 34 of this Act shall not apply to a dwelling-house let on or subject to a controlled tenancy if, on the date applicable to the dwelling-house under that section—

(a) a closing order under section 15 or 18 of the Act of 1966, or a demolition order under the said section 15, has been made and served in accordance with that section (and not determined) with respect to the dwelling-house, or

1963 c. 51.

(b) an order under paragraph 1(2) of Schedule 2 to the Land Compensation (Scotland) Act 1963 declaring that the dwelling-house does not meet the tolerable standard has been made and a notice stating the effect of the order has been served in accordance with paragraph 1(3) of that Schedule.

(2) The said section 34 shall apply to a dwelling-house excluded by subsection (1) above if—

(a) in the case of a dwelling-house excluded by virtue of paragraph (a) of that subsection, the closing order or the demolition order is quashed by the sheriff on appeal or determined by the local authority, or

(b) in the case of a dwelling-house excluded by virtue of paragraph (b) of that subsection, the order in question is not confirmed or is reduced by a court,

and the date applicable to the dwelling-house for the purposes of the said section 34 shall be the date of occurrence of the event upon which that section applied to the dwelling-house by virtue of this subsection.

Conversion
of controlled
tenancies:
general
Provisions.

36.—(1) In this Part of this Act “converted tenancy” means a tenancy which is or becomes a regulated tenancy by virtue of—

(a) section 34 of this Act,

(b) Part VI of the Act of 1971, or

(c) paragraph 5 of Schedule 2 to the Act of 1971 (conversion on death of first successor),

and “the conversion” means the time when the tenancy became a regulated tenancy.

(2) Section 24(1) of the Act of 1971 (increase of rent for improvements) shall not apply to any improvement completed before the conversion, but if the rent recoverable for the last rental period beginning before the conversion was less than it would have been if the landlord had served a notice of increase under section 58 of that Act in respect of an increase of rent by virtue of paragraph 1(3)(a) or that paragraph as applied by paragraph 2(3) of Schedule 8 to that Act, the rent recoverable under section 21(1) of that Act, as modified by subsection (3) below, shall be increased by the amount of that difference:

Provided that that increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant specifying the increase and the date, which may be any date after the service of the notice, from which it is to take effect.

Section 25 of the Act of 1971 shall apply to a notice of increase under this proviso as it applies to a notice of increase described in that section.

(3) In relation to any rental period beginning after the conversion, sections 21 to 23 of the Act of 1971 (rent limit and adjustments) shall have effect as if references therein to the last contractual period were references to the last rental period beginning before the conversion.

(4) Section 2(1)(a) of the Act of 1971 (exclusion of tenancies where rent is less than two thirds of the rateable value) shall not apply to a converted tenancy after the conversion.

(5) Section 42 of the Act of 1971 (determination of fair rent) shall apply in relation to the converted tenancy as if the references in subsection (3) of the said section 42 to the tenant under the regulated tenancy included references to the tenant under the tenancy before the conversion.

(6) The enactments mentioned in subsection (1) above shall not be taken as affecting any court proceedings which are pending under the Act of 1971 at the time of the conversion, and a decision on which may affect the recoverable rent for any period before that time, or the rent under the regulated tenancy after the conversion so far as that depends on the recoverable rent before conversion.

(7) Any right conferred on a tenant by section 63 of the Act of 1971 to recover any amount by deducting it from rent shall be exercisable by deducting it from rent for any rental period beginning after the conversion to the same extent as the right would have been exercisable if the conversion had not taken place.

PART V
Phasing of
rent increases.

37. Schedule 6 to this Act shall have effect for securing that, on first registration of a rent after the conversion of a controlled tenancy into a regulated tenancy by virtue of section 34 of this Act, an increase in rent may, in certain circumstances, be recovered only in stages.

Registration of rent for regulated tenancies

Early
application for
registration
of rent.

38.—(1) Subject to the provisions of this section, any application for the registration of a rent under section 40 of the Act of 1971 may be made at a time when the dwelling-house is let on or subject to a controlled tenancy, if the application is made not earlier than six months before the date applicable to the dwelling-house under section 34 of this Act.

(2) Where an application is made by virtue of this section the regulated tenancy for which the rent is registered shall be assumed to be a tenancy on the same terms (other than terms relating to rent) as the terms applicable to the controlled tenancy.

(3) Where a rent is registered on an application made by virtue of this section—

- (a) the date from which the registration takes effect under section 44(1) of the Act of 1971 shall not be earlier than the date applicable to the dwelling-house under section 34 of this Act, and
- (b) in a case where the rent is registered before the said applicable date, any reference in this Act, or in the Act of 1971 or in any other enactment to the date of registration shall be deemed to be a reference to the date from which the registration takes effect.

Cancellation
of registration
of rent.

39. In the Act of 1971 after section 44 there shall be inserted the following section—

“ 44A—(1) Where a rent agreement is made in writing as respects a dwelling-house for which a rent is registered, an application may be made in accordance with this section for the cancellation of the registration.

(2) The application shall be made jointly by the landlord and the tenant under the agreement to the rent officer, and the application shall not be entertained before the expiry of three years from the relevant date as defined in section 40(4) of this Act.

(3) An application under this section must be in the prescribed form and contain the prescribed particulars, and must be accompanied by a copy of the rent agreement.

(4) The Secretary of State may make regulations under section 46 of this Act prescribing the procedure on an application under this section.

(5) If the rent officer is satisfied that the rent payable under the rent agreement does not exceed a fair rent for the dwelling-house, he shall, subject to subsection (6) below, cancel the registration, and he shall make an entry in the register of that fact and of the date from which the cancellation takes effect.

(6) Where under the terms of the rent agreement the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord, the rent officer shall not cancel the registration unless he is satisfied that those terms are reasonable.

(7) The cancellation of the registration shall be without prejudice to a further registration of a rent at any time after cancellation.

(8) The rent officer shall notify the applicants of his decision to grant, or to refuse, any application under this section and, where he grants the application, of the date from which the cancellation takes effect.

(9) In this section “rent agreement” means—

- (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or
- (b) where a regulated tenancy is terminated, and a new regulated tenancy is granted at a rent exceeding the rent under the previous tenancy, the grant of the new tenancy.”

40. Section 43 of the Act of 1971 (amount to be registered as rent) shall have effect as if after subsection (1) there were inserted the following subsections—

Certain amounts to be separately noted on the register.

“(1A) Subject to subsection (1B) below, there shall be noted on the register the amount, if any, of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the use of furniture or the provision of services or to the use of part of the premises comprised in a dwelling-house as a shop or office or for business, trade or professional purposes.

(1B) It shall not be necessary to note on the register under subsection (1A) above any amount which in the opinion of the rent officer or, as the case may be, the rent assessment committee is negligible.”

Regulated tenancies where no rent is registered

41.—(1) Section 19(3) and section 20 of the Act of 1971 (which fix a rent limit for contractual periods of a regulated tenancy where no rent is registered) shall, subject to subsection (2) below, cease to have effect.

Repeal of rent limit for contractual periods.

PART V

(2) The repeal by this Act of the said sections 19(3) and 20 shall not apply to—

- (a) rent for a rental period beginning before 1st January 1973, or
- (b) rent under a regulated tenancy granted before 1st January 1973 if the rent under the tenancy, as varied by any agreement made before that date, exceeded the rent limit under the said section 19(3) (with any adjustment under the said section 20 or paragraph 3 of Part III of the Schedule to the Fire Precautions Act 1971).

1971 c. 40.

(3) Paragraph (b) of subsection (2) above shall cease to apply if the landlord and the tenant enter into an agreement complying with the requirements of section 42(3) of this Act which is a rent agreement with a tenant having security of tenure or which provides that the said paragraph is not to apply.

Rent agreements.

42.—(1) In this Part of this Act “a rent agreement with a tenant having security of tenure” means—

- (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or
- (b) the grant to the tenant under a regulated tenancy, or to any person who might succeed him as a statutory tenant, of another regulated tenancy of the dwelling-house at a rent exceeding the rent under the previous tenancy:

Provided that there shall be disregarded for the purposes of this definition any increase of rent if (where any rates in respect of the dwelling-house are borne by the landlord) the increase is no more than one corresponding to an increase in the rates borne by the landlord in respect of the dwelling-house.

(2) If a rent agreement with a tenant having security of tenure takes effect on or after 1st January 1973, and at a time when no rent is registered for the dwelling-house under Part IV of the Act of 1971, the requirements of subsection (3) below shall be observed as respects the agreement.

(3) The said requirements are that—

- (a) the agreement is in writing signed by the landlord and the tenant,
- (b) the agreement contains a statement, in characters not less conspicuous than those used in any other part of the agreement, that the tenant's security of tenure under the Act of 1971 will not be affected if he refuses to enter into the agreement, and that entry into the agreement will not deprive the tenant or the landlord of the right to apply at any time to the rent officer for the registration of a fair rent under Part IV of the Act of 1971, or words to that effect, and

- (c) the statement mentioned in paragraph (b) above is set out at the head of the agreement. PART V

43.—(1) Subject to subsections (2) and (3) below, this section applies where a rent agreement with a tenant having security of tenure of a dwelling-house is entered into, whether before or after a tenancy becomes a converted tenancy, which is expressed to take effect— Rent agreements: special provisions following conversion.

- (a) on or after 1st January 1973 and after the conversion, and
(b) at a time when no rent is registered for the dwelling-house under Part IV of the Act of 1971.

(2) This section shall not apply to any agreement where the tenant is neither the person who, at the time of the conversion, was the tenant, nor a person who might succeed the tenant at that time as a statutory tenant, and where this section has applied to any agreement, it shall not apply to any subsequent agreement relating to the dwelling-house which takes effect more than three years after the first such agreement took effect.

(3) Where a rent is registered for the dwelling-house and the registration is subsequently cancelled, this section shall not apply to the agreement submitted to the rent officer in connection with the cancellation nor to any agreement which takes effect after the cancellation.

(4) The provisions of this section are without prejudice to the requirements imposed by section 42 of this Act.

(5) The following requirements shall be observed with respect to any such agreement as is mentioned in subsection (1) above—

- (a) the agreement shall contain the prescribed particulars,
(b) the agreement, when duly completed, shall be lodged by the landlord with the rent officer, and
(c) the landlord shall, not later than the date when the agreement is lodged with the rent officer, serve a copy of the agreement on the tenant.

(6) No such agreement shall take effect earlier than 28 days after it is lodged with the rent officer under subsection (5)(b) above, and it may only take effect on or after that date if the rent officer has not before that date notified both the landlord and the tenant in writing that he proposes to treat the agreement as an application for the registration of a rent for the dwelling-house under Part IV of the Act of 1971 made jointly by the landlord and the tenant.

(7) The rent officer may treat an agreement as such a joint application as is referred to in subsection (6) above before the conversion if an application for the registration of a rent could have been made by virtue of section 38 of this Act.

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(8) A rent officer may treat an agreement as such a joint application only if he is satisfied that the rent payable under the agreement exceeds a fair rent for the dwelling-house.

(9) Where an agreement is treated by the rent officer as such a joint application then, subject to subsection (10) below, Schedule 6 to the Act of 1971 (applications for registration of rents) shall apply as if the application had been made to him and as if any reference in that Schedule to the rent specified in the application included a reference to the rent expressed to be payable under the agreement.

(10) For the purposes of subsection (9) above, paragraph 3(1) of the said Schedule 6 shall have effect as if for the words "he may register that rent without further proceedings" there were substituted the words "he shall notify both the landlord and the tenant in writing that he is no longer treating the agreement as a joint application for the registration of a rent and that the agreement may take effect on or after the date of such notification if that date is later than 28 days after the agreement was lodged with him."

(11) The rent officer shall make available for public inspection, without charge, any agreement which has been lodged with him under this section unless the agreement is treated by him as a joint application for the registration of a rent and a rent is subsequently registered in pursuance of such application; and any agreement which is made available for public inspection under this subsection shall be so available for a period of three years from the date which is 28 days after it has been lodged with the rent officer.

(12) A copy of such an agreement certified by the rent officer or any person duly authorised by him shall be receivable in evidence, and shall be sufficient evidence of the agreement in any court and in any proceedings.

(13) A person requiring such a certified copy shall be entitled to obtain it on payment of the prescribed fee.

(14) No stamp duty shall be chargeable on any agreement to which this section applies which contains—

- (a) the statement required by section 42(3)(b) of this Act as read with subsection (4) above, and
- (b) the particulars prescribed pursuant to this section.

Rent agreements: special provisions where grant-aided improvements are carried out.

44.—(1) This section applies where a grant under Part II of the Act of 1968 has been approved in respect of works to be carried out in a dwelling-house let on or subject to a regulated tenancy.

(2) If a rent agreement with a tenant having security of tenure of the dwelling-house takes effect—

(a) on or after 1st January 1973, and in the period beginning with the time when the tenant's consent to the works was sought by the landlord and ending one year after the completion of the works, and

(b) at a time when no rent is registered for the dwelling-house under Part IV of the Act of 1971 and the increase of rent effected by the agreement is wholly or partly to take account of the carrying out of the works,

the requirements of subsection (4) below shall be observed as respects the agreement.

(3) The provisions of this section are without prejudice to the requirements imposed by section 42 above.

(4) The requirements mentioned in subsection (2) above are that the agreement—

(a) states that a grant has been approved, and

(b) explains that, if the grant became payable, and a rent was registered, the rent increase up to the registered rent would be phased as follows, that is—

(i) if the increase exceeded £1.50 per week, the rent would be increased by three annual increments, each of one-third of the total increase,

(ii) if it were less than £1.50 per week, the rent would be increased by annual increments of up to £0.50 per week up to the registered rent.

45.—(1) If, in the case of a variation of the terms of a regulated tenancy, there is a failure on the part of the landlord to observe any of the requirements of section 42, 43 or 44 of this Act, any excess of the rent payable under the terms as varied over the terms without the variation shall be irrecoverable from the tenant.

Failure to comply with provisions of rent agreements.

(2) If, in the case of the grant of a tenancy, there is a failure on the part of the landlord to observe any of the requirements of section 42, 43 or 44 of this Act, any excess of the rent payable under the tenancy so granted (for any contractual or any statutory period of the tenancy) over the previous limit shall be irrecoverable from the tenant.

(3) In subsection (2) above the “previous limit” shall be taken to be the amount which (taking account of any previous operation of this section) was recoverable by way of rent for the last rental period of the previous tenancy of the dwelling-house, or which would have been so recoverable if all notices

PART V of increase authorised by the Act of 1971, or by section 36(2) of this Act, had been served.

(4) A default in complying with subsection (5)(c) of section 43 of this Act shall not apply to rent for any rental period after the default is made good, and, if a rent agreement with a tenant having security of tenure is put into effect earlier than the date when it is provided under section 43 of this Act that it may take effect, such a default shall not affect the rent for any rental period beginning after that date.

(5) Section 31 of the Act of 1971 (enforcement provisions) shall apply as if any amount made irrecoverable by this section were irrecoverable by virtue of Part III of that Act.

Miscellaneous

Statutory
tenants by
succession.

46. In Schedule 1 to the Act of 1971 after paragraph 7 there shall be inserted the following paragraph:—

“7A—(1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, “the original tenant” and “the first successor” in this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—

- (a) if the successor was the first successor, and immediately before his death he was still the tenant (whether protected or statutory), paragraphs 6 and 7 above shall apply on his death,
 - (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.
- (2) Sub-paragraph (1) above applies even if—
- (a) a successor enters into more than one other tenancy of the dwelling-house, and
 - (b) both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.
- (3) This paragraph shall apply—
- (a) as respects any succession which takes place on or after the date of the coming into force of section 46 of the Housing (Financial Provisions) (Scotland) Act 1972, and
 - (b) as respects a succession which took place before that date if the tenancy granted after the succession, or the first of those tenancies, was granted on or after that date.

(4) In this paragraph—

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“ succession ” means the occasion on which a person becomes the statutory tenant of a dwelling-house by virtue of this Schedule and “ successor ” shall be construed accordingly ;

“ tenancy ” means “ regulated tenancy ” and “ tenancies ” shall be construed accordingly.”

47. Section 35 of the Act of 1971 (regulations) shall have effect as if— Amendment of section 35 of Act of 1971.

(a) at the end of subsection (1) there were inserted the following paragraph—

“ (c) prescribing matters as to which notice is to be given to a tenant of a dwelling-house let on or subject to a regulated tenancy by means of notices inserted in rent books and similar documents and the forms of such notices.”

and

(b) at the end there were added the following subsection—

“ (3) If any rent book or similar document which does not conform to the prescribed requirements is used by or on behalf of any landlord, the landlord shall be liable to a fine not exceeding £50.”

48. Part VI of the Act of 1971 (rent of dwellings in good repair and provided with standard amenities) shall have effect subject to the modifications set out in Schedule 7 to this Act. Modifications of Part VI of the Act of 1971.

49.—(1) Schedule 6 to the Act of 1971 (application for registration of rents unsupported by certificate of fair rent) shall have effect as if — Amendment of Schedules 6 and 12 to Act of 1971.

(a) in paragraphs 1 and 2 for the words “ seven days ” there were substituted the words “ 14 days ” ;

(b) after paragraph 3 there were inserted the following paragraph—

“ 3A. Where the rent officer, in carrying out his functions under this Part of this Schedule, inspects a dwelling-house, he shall explain to the tenant or to his spouse, if either is present at the inspection, the procedure upon an application for the registration of a rent under this Part of this Schedule.”

(2) Schedule 12 to the Act of 1971 (applications for registration of rents supported by certificate of fair rent) shall have effect as if in paragraph 7 for the words “ 7 days ” there were substituted the words “ 14 days ”.

PART V
Interpretation
of Part V.

50. In this Part of this Act—

- “controlled tenancy” has the same meaning as in section 133(1) of the Act of 1971 ;
 - “conversion” and “converted tenancy” have the meanings respectively assigned to them by section 36(1) of this Act ;
 - “prescribed” means prescribed by regulations made by the Secretary of State, and section 35 of the Act of 1971 shall apply to such regulations as it applies to regulations made for the purposes of Part III of that Act ;
 - “protected tenancy” has the same meaning as in section 133(1) of the Act of 1971 ;
 - “a rent agreement with a tenant having security of tenure” has the meaning assigned to it by section 42(1) of this Act ;
 - “statutory tenant” and “statutory tenancy” have the same meanings as in section 133(1) of the Act of 1971 ;
- and other expressions shall be construed as in Part III and Part IV of the Act of 1971.

PART VI

HOUSING ASSOCIATIONS

Subsidies

Introduction
of new
subsidies
for housing
associations.

51.—(1) The following subsidies shall be payable to housing associations in the circumstances, and subject to the conditions, set out in this Part of this Act, namely—

- (a) the basic residual subsidy ;
- (b) the special residual subsidy ;
- (c) the new building subsidy ;
- (d) the improvement subsidy.

(2) None of the subsidies may be paid for the year 1971-72, or for an earlier year.

(3) The subsidies shall be paid by the Secretary of State out of money provided by Parliament.

(4) Section 13 of this Act shall apply in relation to the payment of subsidies under this Part of this Act as it applies in relation to the payment of subsidies under Part I of this Act to a housing authority.

The basic
residual
subsidy.

52.—(1) This section has effect as to the circumstances in which basic residual subsidy is payable to housing associations and also, subject to section 54 of this Act, as to the amount of basic residual subsidy so payable.

(2) A housing association shall be entitled to basic residual subsidy for the year 1972-73 if the association's subsidies for the year 1971-72 exceed the withdrawal factor, and the amount of the basic residual subsidy for that year shall be equal to the excess.

(3) A housing association which is entitled to basic residual subsidy for the year 1972-73 shall also be entitled to the subsidy for any subsequent year for which the amount of basic residual subsidy payable to the association for the immediately preceding year exceeds the withdrawal factor, and the amount of the basic residual subsidy shall for each such year be equal to the amount obtained by deducting the withdrawal factor from the amount of the basic residual subsidy payable to the association for the immediately preceding year.

(4) In this section the "association's subsidies for the year 1971-72" means the aggregate of such sums received or to be received by the association as the Secretary of State determines and notifies the association as representing payments made or to be made to the association for the year 1971-72 under or by reference to any of the enactments described in Parts V and VI of Schedule 1 to this Act.

(5) The withdrawal factor for the purposes of this section shall be determined, in relation to each housing association, by the Secretary of State.

(6) For the purposes of subsection (5) above, the Secretary of State shall determine the number of houses as at the end of the year 1971-72 in respect of which the association's subsidies for the year 1971-72 are payable.

(7) For the year 1972-73 the withdrawal factor is the sum produced by multiplying £5 by the number of houses determined under subsection (6) above.

(8) For each year subsequent to the year 1972-73, the withdrawal factor is the sum produced by multiplying £20 by the number of houses determined under subsection (6) above.

53.—(1) This section has effect as to the circumstances in which special residual subsidy is payable to a housing association and also, subject to section 54 of this Act, as to the amount of special residual subsidy so payable. The special residual subsidy.

(2) A housing association shall be entitled to special residual subsidy for relevant works approved for subsidy before the coming into force of this Act and completed during the year 1972-73, 1973-74 or 1974-75.

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(3) In this section—

“ approved for subsidy ” means approved by the Secretary of State for the purposes of sections 1 to 12 of the Act of 1968 ;

“ relevant works ” means the erection of a house.

(4) If an association complete any relevant works during any of the three years 1972-73, 1973-74 and 1974-75, being works approved for subsidy before the coming into force of this Act, they shall be entitled for that year to special residual subsidy of such an amount as in the opinion of the Secretary of State represents the financial assistance which would have been given for that year in respect of those works under sections 1 to 12 of the Act of 1968, if those sections had been in force throughout the year.

(5) For the purpose of calculating the amount of special residual subsidy for the year 1972-73, 1973-74 or 1974-75, the Secretary of State may adopt, after consultation with such bodies representative of housing associations as appear to him to be appropriate, a rate of interest for that year which is to be treated as if it had been specified for that year by an order made under section 2(2) of the Act of 1968 (which relates to the calculation of aggregate cost subsidies).

(6) An association entitled under subsection (4) above to an amount of special residual subsidy for the year 1972-73 shall, in addition, be entitled—

(a) for the year 1973-74 to the said amount of subsidy less the reduction factor for houses completed during the year 1972-73, and

(b) for the year 1974-75 to the amount of subsidy payable to the association under paragraph (a) above less the reduction factor for houses completed during the year 1972-73.

(7) An association entitled under subsection (4) above to an amount of special residual subsidy for the year 1973-74 shall, in addition, be entitled for the year 1974-75 to the said amount of subsidy less the reduction factor for houses completed during the year 1973-74.

(8) For the year 1975-76 and subsequent years the amount of an association's special residual subsidy shall be the amount, if any, produced by deducting the reduction factor for houses completed during the three years 1972-73, 1973-74 and 1974-75 from the amount of their special residual subsidy for the immediately preceding year.

(9) In this section “ the reduction factor ” for houses completed during any specified year or years means the sum produced by

multiplying £20 by the total number of houses the erection of which was approved for subsidy before the coming into force of this Act and which are completed by the association during the year or years.

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54.—(1) If a housing association, by furnishing to the Secretary of State such information as to their financial position as he may require, satisfy him that for the year 1972-73 or for any year subsequent to that year their income from their houses will be inadequate, having regard to their normal sources of income, to meet such expenditure (including loan charges) as in his opinion it would be reasonable for them to incur for that year in the exercise of their housing functions, he may direct that section 52 or section 53 of this Act shall have effect in relation to that association for that year as if for any references to £5 or £20 there were substituted references to such smaller amounts as may be specified in the direction ; and the amounts which may be so substituted shall include zero.

Residual subsidies—supplementary.

(2) The Secretary of State may reduce, suspend, or discontinue the payment of basic residual subsidy or special residual subsidy to a housing association if they lease or otherwise dispose of any of their houses in respect of which they are entitled to such a payment.

(3) If any of the houses of a housing association are leased to or become vested in another housing association or trustees for another housing association, or are leased to or become vested in the Housing Corporation, the Secretary of State may pay to that association or the Corporation the whole or any part of any basic residual subsidy or special residual subsidy which he would otherwise have paid to the former association for any year beginning with the year in which the houses are so leased or come to be so vested.

(4) For the purposes of this section houses are leased if and only if they are leased for a term exceeding seven years, or for a term not exceeding seven years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

55.—(1) This section has effect, subject to section 56 of this Act, as to the circumstances in which new building subsidy is payable to a housing association and the amount of new building subsidy so payable.

The new building subsidy.

(2) A housing association shall be entitled to new building subsidy as provided by the following provisions of this section and section 56 below, in respect of a building scheme approved by the Secretary of State for the purposes of this section if they incur an initial deficit on it.

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(3) In this section and section 56 of this Act “building scheme” means a scheme approved by the Secretary of State for the erection by a housing association of a house or group of houses for the purpose of letting or for any purpose which in the opinion of the Secretary of State is comparable, and also includes the provision of other buildings or land connected with the requirements of the occupiers of the house or houses comprised in the scheme.

(4) Subject to subsection (11) below, and to subsections (2) and (3) of section 56 of this Act, new building subsidy shall be paid to a housing association for ten years, namely the year of completion of the last or only house comprised in a building scheme (in this section referred to as the “year of completion”) and the nine years immediately following, and the amount of subsidy for a year shall be the percentage of the initial deficit shown for that year in the Table in subsection (6) below.

(5) For the purposes of this section—

- (a) a housing association incur an initial deficit on a building scheme if their income from the scheme for the year immediately following the year of completion is less than their approved expenditure on the scheme for that year ;
- (b) the income from a building scheme for the year immediately following the year of completion is the income which would be obtained for that year from all the buildings and land comprised in the scheme, assuming, subject to subsection (8) below, that every house so comprised were let for the whole of that year at a rent equal to the amount which would be registered as a fair rent for the house under this Part of this Act ;
- (c) the approved expenditure on a building scheme for the year immediately following the year of completion is the association’s expenditure on loan charges in respect of the expenditure on the scheme and on the maintenance and management of the buildings and land comprised in the scheme.

(6) The following is the Table referred to in subsection (4) above:—

<i>Year for which subsidy is payable</i>		TABLE				<i>Percentage of initial deficit to be met by subsidy</i>
Year of completion	100
Second	100
Third	100
Fourth	60

<i>Year for which subsidy is payable</i>						<i>Percentage of initial deficit to be made by subsidy</i>
Fifth	...	...	...	...	...	60
Sixth	...	...	...	...	...	60
Seventh	...	...	...	...	...	30
Eighth	...	...	...	...	...	30
Ninth	...	...	...	...	...	30
Tenth	...	...	...	...	...	10

(7) Income from and approved expenditure on a building scheme shall be estimated in such manner and on such evidence as the Secretary of State may from time to time direct in the case of associations in general or any individual association or description of associations.

(8) The Secretary of State may direct under subsection (7) above that paragraph (b) of subsection (5) above shall have effect with the substitution for the assumption specified in that paragraph of such other assumption as may be specified in the direction.

(9) In any case where a housing association are entitled to new building subsidy but are precluded by their rules or constitution from charging a rent for their houses, the reference in paragraph (b) of subsection (5) above to the amount which would be registered as a fair rent shall be construed, in relation to the association's houses, as a reference to the amount which, in the opinion of the Secretary of State, would be registered as a fair rent if those houses were available for letting at a rent.

(10) In any case to which subsection (9) above applies the Secretary of State may assume, without prejudice to subsections (7) and (8) above, that the houses would be let on such terms and in such circumstances as he considers appropriate.

(11) The Secretary of State shall consult with such bodies representative of housing associations as he considers appropriate—

- (a) before giving a general direction as to the method of estimating approved expenditure ;
- (b) before determining, in any case to which subsection (9) applies, the assumptions as to letting which are to be made under subsection (10) above.

(12) If a housing association, by furnishing to the Secretary of State such information as to their financial position as he may require, satisfy him, in relation to a building scheme, that for any year except—

- (a) the year of completion, or

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(b) the second or third year for which new building subsidy is payable,

payment of an amount of subsidy equal to the percentage of the initial deficit shown in the Table will be inadequate, having regard to their normal sources of income, to enable them to meet such expenditure (including loan charges) as in his opinion it would be reasonable for them to incur for that year in the exercise of their housing functions, he may direct that for that year the percentage of the initial deficit to be met by subsidy shall be greater than that shown in the Table but not greater than 90 per cent. or than the percentage met by subsidy for the immediately preceding year, if that was less than 90 per cent.

New building
subsidy—
supplementary.

56.—(1) The Secretary of State may make his approval of a building scheme subject to compliance by the association who apply for that approval with such conditions as he may specify.

(2) The Secretary of State may make reduced payments of new building subsidy to a housing association in respect of a building scheme, or suspend or discontinue such payments—

(a) if he made his approval of the building scheme subject to compliance with any conditions and is satisfied that any of those conditions has not been complied with ; or

(b) if he is satisfied that a house comprised in the scheme—

(i) has been converted, demolished or destroyed ;

or

(ii) is not fit to be used or is not being used for the purpose for which it was intended ; or

(iii) has been sold or leased ; or

(iv) has ceased for any reason whatsoever to be vested in the association or trustees for the association.

(3) If any of the houses comprised in a building scheme are leased to or become vested in a housing association or trustees for a housing association other than the association who received approval for the scheme, or are leased to or become vested in the Housing Corporation, the Secretary of State may pay to them the whole or any part of any new building subsidy which he would otherwise have paid for any year beginning with the year in which they are so leased or come to be so vested to the association which received approval for the scheme.

(4) For the purposes of this section houses are leased if and only if they are leased for a term exceeding seven years, or for a term not exceeding seven years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

57.—(1) This section has effect as to the circumstances in which improvement subsidy is payable to a housing association and the amount of improvement subsidy so payable.

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The
improvement
subsidy.

(2) A housing association shall be entitled to improvement subsidy as provided by the following provisions of this section in respect of an improvement scheme approved by the Secretary of State for the purposes of this section if they incur an initial deficit on it.

(3) In this section “improvement scheme” means a scheme approved by the Secretary of State for the provision of a house or group of houses by a housing association by means of the conversion of houses or other buildings, or for the improvement of a house or group of houses by a housing association, for the purpose of letting or for any purpose which in the opinion of the Secretary of State is comparable.

(4) Subsections (4) to (12) of section 55, and section 56, of this Act shall apply to improvement subsidy as they apply to new building subsidy except that—

- (a) for any reference to a building scheme there shall be substituted a reference to an improvement scheme ;
- (b) in subsection (4) of section 55 after the words “ section 56 of this Act ”, there shall be inserted the words “ as applied by section 57 of this Act ” ;
- (c) in paragraph (b) of section 55(5) for the words “ buildings and land ” there shall be substituted the word “ houses ” ;
- (d) in paragraph (c) of section 55(5), at the beginning there shall be inserted the words “ subject to subsection (5) of section 57 of this Act ”, for the words “ buildings and land ” there shall be substituted the word “ houses ” and at the end there shall be added the words “ and includes any expenditure incurred by the association in acquiring interests in land for the purpose of giving effect to the scheme ”.

(5) Where an exchequer contribution is payable under section 16 or 17 of the Act of 1968, or an improvement grant or a standard grant has been made to a housing association under section 27 or 40 of the Act of 1968 respectively, towards the cost of works of conversion for the provision of a house, or of improvement of a house, comprised in an improvement scheme, then the cost of such works shall not be included in the approved expenditure on the improvement scheme for the purposes of this section.

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(6) Where improvement subsidy is payable to a housing association in respect of a house comprised in an improvement scheme, then no exchequer contribution shall be payable under section 16 or 17 of the Act of 1968, and a local authority shall not approve an application by the housing association for an improvement grant or a standard grant under section 27 or 40 of the Act of 1968 respectively, towards the cost of works of conversion for the provision of such a house or of improvement of such a house.

*Housing and subsidy agreements*Housing
agreements.

58.—(1) Any term of a housing agreement relating to rent payable in respect of a house to which the agreement relates or contributions towards the cost of maintaining such a house shall cease to have effect on 1st January 1973.

(2) In this section “housing agreement” means any of the following, namely—

1962 c. 28.

- (a) an agreement made between the Secretary of State and a housing association under section 1(1)(d) of the Housing (Scotland) Act 1962 (special arrangements for provision of housing) before this Act comes into force ;
- (b) an agreement for a loan or a grant to a housing association under section 152 of the Act of 1966 (loans and grants to housing associations by local authorities) ;
- (c) an agreement made between a local authority and a housing association under section 153 of that Act (arrangements for provision of housing) ;
- (d) an agreement made between the Secretary of State and a housing association under section 154 of that Act (arrangements for improvement of housing) ;
- (e) an agreement made between a housing association and a local authority under section 155 of that Act (arrangements for improvement of housing) ;
- (f) a scheme under section 157 of that Act (unification of conditions affecting housing associations’ houses) ;
- (g) an agreement made between the Secretary of State and a housing association under section 1(2)(d) of the Act of 1968 (special arrangements for provision of housing) before this Act comes into force ;
- (h) an agreement made between the Secretary of State and a housing association under section 23 of the Act of 1968 (advances by Secretary of State for provision of housing accommodation for letting) ;

1964 c. 56.

- (i) an agreement for a loan to a housing association by the Housing Corporation under section 2 of the Housing Act 1964.

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(3) Any such term as is mentioned in subsection (1) above included in a housing agreement made under section 152, 153 or 155 of the Act of 1966 after the coming into force of this Act shall be void.

(4) Subject to subsection (1) above and subsection (5) below, a housing agreement made before the coming into force of this Act shall continue to have effect after this Act comes into force.

(5) Upon the application of a party to a housing agreement the Secretary of State may, if he thinks fit, direct—

(a) that the agreement shall have effect with such variations, determined by him or agreed by the parties, as may be specified in the direction ; or

(b) that the agreement shall be terminated ;

but no variation shall be directed which would have the effect of including in an agreement any term such as is mentioned in subsection (1) above.

59.—(1) Where an agreement in pursuance of which payments are to be made under or by reference to any of the enactments described in Parts IV and VI of Schedule 1 to this Act (hereafter referred to as a “subsidy agreement”) has been made between a local authority and a housing association, the prohibition on the making of payments under or by reference to such an enactment contained in paragraph 1 of Schedule 8 to this Act shall be construed, subject to subsection (2) below, as extending only to the payment of amounts which the authority are obliged to pay by the relevant enactment ; and accordingly, where such an agreement provides for the payment of greater amounts, the authority shall continue to pay to the housing association sums equal to the difference between the amounts for the payment of which the agreement provides and the amount which they are obliged to pay by that enactment.

(2) Upon the application of a party to a subsidy agreement, the Secretary of State may, if he thinks fit, direct—

(a) that the agreement shall have effect with such variations, determined by him or agreed by the parties, as may be specified in the direction ; or

(b) that the agreement shall be terminated ;

but no variation shall be directed which would have the effect of including in an agreement any term such as is mentioned in section 58(1) above.

PART VI

Rent limit for dwelling-houses let by housing associations and the Housing Corporation

Tenancies to which sections 60 to 66 apply.

60. This section and sections 61 to 66 of this Act apply to a tenancy where—

(a) the interest of the landlord under that tenancy belongs to a housing association or to the Housing Corporation, and

(b) the tenancy would be a protected tenancy but for section 5 of the Act of 1971,

and in this section and the said sections 61 to 66 “tenancy” means, unless the context otherwise requires, a tenancy to which those sections apply.

Rents to be registrable under Part IV of the Act of 1971.

61.—(1) There shall be a separate part of the register under Part IV of the Act of 1971 in which rents may be registered for dwelling-houses which are let, or are, or are to be, available for letting, under a tenancy to which sections 60 to 66 of this Act apply.

(2) Sections 39 to 42, section 43 (except subsection (3) thereof) and section 46 of, and Schedules 6 and 7 to, the Act of 1971 shall, in relation to that part of the register, have effect as if for any reference in those provisions to a regulated tenancy there were substituted a reference to a tenancy to which the said sections 60 to 66 apply.

(3) Subject to section 64 of this Act, registration in the said part of the register shall take effect on the date of registration :

Provided that registration before 1st January 1973 shall be provisional only until that date, and the date of registration shall be 1st January 1973.

(4) From the date of registration any previous registration of a rent for the dwelling-house shall cease to have effect.

(5) A rent registered in any part of the register for a dwelling-house, which becomes or ceases to be a dwelling-house under a tenancy to which sections 60 to 66 of this Act apply, shall be as effective as if it were registered in any other part of the register.

(6) Subject to subsection (5) above, references in the said sections 60 to 66 to registration are, unless the context otherwise requires, references to registration pursuant to this section.

The rent limit.

62.—(1) Where the rent payable under a tenancy would exceed the rent limit determined in accordance with sections 60 to 66 of this Act, the amount of the excess shall be irrecoverable from the tenant.

(2) Where a rent for the dwelling-house is registered, then, subject to sections 63 and 64 of this Act and Part IV of the Schedule to the Fire Precautions Act 1971, the rent limit is the rent so registered :

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1971 c. 40.

Provided that where any rates in respect of the dwelling-house are borne by the landlord the amount of those rates for any rental period, ascertained in accordance with Schedule 4 to the Act of 1971, shall be added to the limit imposed by this subsection, and then, subject to subsection (4) below, any reference in sections 60 to 66 of this Act to the rent registered for the dwelling-house shall be taken as a reference to the registered rent plus the amount of rates borne by the landlord.

(3) Where no rent for the dwelling-house is registered, then, subject to subsection (4) below and Part IV of the Schedule to the Fire Precautions Act 1971, the rent limit shall be determined as follows—

- (a) if the lease or agreement creating the tenancy was made before 1st January 1973, the rent limit is the rent recoverable under the tenancy, as varied by any agreement made before that date (but not as varied by any later agreement),
- (b) if paragraph (a) above does not apply, and, not more than three years before the tenancy began, the dwelling-house was subject to another tenancy (whether before 1973 or later) the rent limit is the rent recoverable under that other tenancy (or, if there was more than one, the last of them) for the last rental period thereof,
- (c) if paragraph (a) and paragraph (b) above do not apply, the rent limit shall be the rent payable under the terms of the lease or agreement creating the tenancy (and not the rent so payable under those terms as varied by any subsequent agreement).

(4) Where for any period there is a difference between the amount (if any) of the rates borne by the landlord in respect of the dwelling-house and the amount (if any) so borne in the rental period on which the rent limit is based, the rent limit under subsection (3) above or paragraph (a) or (b) of section 63(2), or section 64(4), of this Act shall be increased or decreased by the amount of the difference :

Provided that an increase of rent made solely to reflect an increase in the amount of rates borne by the landlord shall be disregarded for the purposes of section 63(3) or (4) of this Act.

(5) Section 31 of the Act of 1971 (enforcement provisions) shall apply as if any amount made irrecoverable by virtue of this section were irrecoverable by virtue of Part III of that Act.

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(6) A tenancy commencing (whether before or after this Act comes into force) while there is in operation a condition relating to rent imposed under any of the enactments mentioned in section 40(5) of the Act of 1971 shall be disregarded for the purposes of subsection (3)(b) above in determining the rent limit under any subsequent tenancy of the dwelling-house.

(7) Section 33 of the Act of 1971 (duty of landlord to supply statement of rent under previous tenancy) shall apply where the rent is subject to the rent limit under subsection (3)(b) above as it applies where rent under a regulated tenancy is subject to the contractual rent limit mentioned in that section.

(8) This section shall not apply to rent for any rental period beginning before 1st January 1973.

Phasing of
progression to
registered
rent.

63.—(1) This section applies where a rent is registered for a dwelling-house (whether it is the first or any subsequent registration) which exceeds the rent limit for the dwelling-house immediately before the date of registration, unless at the date of registration there is no tenant and no person to whom the tenancy has been granted.

1971 c. 40.

(2) The rent limit shall progress from the rent limit immediately before the date of registration to the registered rent in stages, and, subject to section 62(4) of this Act and paragraph 3 of Part IV of the Schedule to the Fire Precautions Act 1971—

- (a) for any rental period beginning in the first stage, the rent limit shall be the rent limit immediately before the date of registration plus £0.75 per week, or the registered rent, whichever is the less,
- (b) for any rental period beginning in the second or any subsequent stage, the rent limit shall be the rent payable for the first rental period of the last previous stage plus £0.75 per week, or the registered rent, whichever is the less.

(3) The first stage shall last for 52 weeks from the date of registration, or from the beginning of the first rental period for which the rent is first increased (by any amount) on or after that date, whichever is the later.

(4) Any subsequent stage shall last for 52 weeks from the end of the last previous stage, or from the beginning of the first rental period for which the rent is first increased (by any amount) after the end of the last previous stage, whichever is the later.

(5) If a tenancy of the dwelling-house is granted at any time when the rent limit is less than the registered rent, and the tenant is neither the person who, at the time when the previous

tenancy (or the last previous tenancy) ended, was the tenant under that tenancy nor a member of that tenant's family who resided with him, the registered rent shall become the rent limit from the beginning of the new tenancy, and the stages by which the rent limit was to progress up to the registered rent shall terminate.

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(6) The registration of a lower or higher rent during the progression from the rent limit in force before the prior registration shall not alter the stages by which the rent limit is to progress, and if a higher rent is registered in the 52 weeks beginning with the first rental period for which the rent is increased up to the rent registered on the prior registration, the first stage in the progression from that rent up to the later registered rent shall not begin until the end of that period of 52 weeks.

64.—(1) Where the rent limit for a dwelling-house immediately before the date of registration of a rent for that dwelling-house exceeded the rent so registered, the registration shall be provisional only until it takes effect in accordance with this section. Previous rent limit exceeding registered rent: special rent limit.

(2) If—

- (a) no application is made under this section to the Secretary of State before the expiration of a period of 28 days beginning with the date of registration, or
- (b) an application duly made to the Secretary of State under this section is refused,

the registration shall cease to be provisional, and shall take effect as from the date of registration.

(3) Notwithstanding section 67(2) of this Act, the reference in subsection (2)(a) above to the date of registration shall be construed, in a case where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, as a reference to the date on which the rent determined by the rent assessment committee was registered.

(4) The Secretary of State may, on an application made to him within the said period of 28 days, grant the application and direct that the rent limit for the dwelling-house shall, subject to Part IV of the Schedule to the Fire Precautions Act 1971, be such amount as is specified in the direction, being an amount not more than the said previous rent limit, but more than the rent which is provisionally registered. 1971 c. 40.

The Secretary of State may include in a direction under this subsection such conditions as he thinks fit, and if any condition is not complied with the direction shall cease to have effect.

(5) The period for which the direction has effect shall begin with the date of the provisional registration, and the date when, subject to subsections (6) and (7) below, that period is to end shall be specified in the direction, being a date not more than

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three years and six months from the date of the provisional registration.

(6) The direction shall cease to have effect—

- (a) if on a subsequent application for registration a different rent is registered for the dwelling-house and that rent is equal to or exceeds the rent specified in the direction, or
- (b) the rent assessment committee determine a rent in substitution for the rent registered by the rent officer, and that rent is equal to or exceeds the rent specified in the direction, or
- (c) the applicant ceases to be the landlord of the dwelling-house.

(7) Subject to subsection (6) above, if on the date specified as the end of the period under subsection (5) above a subsequent application for registration is pending, the direction shall continue in force until that application has been disposed of by the rent officer.

(8) When the period for which a direction has effect ends, and the provisional registration is not superseded by a new registration under paragraph (a) or paragraph (b) of subsection (6) above, the registration shall cease to be provisional and, except for the purposes of section 40 of the Act of 1971 (right to apply for registration of a new rent after 3 years), shall take effect at the time when the period ends.

(9) Where a registration is by virtue of this section a provisional registration, the reference in section 40(4)(b) of the Act of 1971 to the date on which the registration of rent took effect shall be construed as a reference to the date of the provisional registration.

(10) The rent officer shall notify the tenant of any case where a registration is by virtue of this section a provisional registration.

(11) This section applies whether the registration mentioned in subsection (1) above is the first or any subsequent registration and, in the case of a subsequent registration, whether or not the rent limit immediately before the date of registration was that fixed by a direction under this section.

(12) A confirmation of a rent by the rent officer shall be treated for the purposes of this section as a registration of a rent which supersedes the registration, whether or not it is a provisional registration, prior to the confirmation.

Special rent
limit;
procedure on
application.

65.—(1) An application under the last preceding section shall be in such form as the Secretary of State may direct either generally or in any particular case, and the applicant shall give notice of the application to the rent officer and shall take all reasonable steps to give notice of the application to the tenant

of each dwelling-house which would be affected by a direction given on the application. PART VI

(2) The Secretary of State in entertaining the application—

- (a) shall take into consideration the information about the finances of the applicant given to him on the application, and any further information given by the applicant at his request, and
- (b) shall not give a direction unless he is satisfied that the direction is necessary having regard to the applicant's normal sources of income and to the expenditure (including loan charges) which in his opinion it is reasonable for the applicant to incur in the exercise of housing functions.

(3) The Secretary of State shall give notice in writing of his decision on the application to the applicant and to the rent officer and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.

(4) The rent officer shall note in the register—

- (a) any application notified to him by the applicant, and
- (b) any direction given and the period for which it is effective, and
- (c) any decision of the Secretary of State not to grant an application.

(5) The applicant shall take all reasonable steps to notify the tenant of each dwelling-house affected of any case where the Secretary of State decides to grant or not to grant an application and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.

66. Subsections (1) to (4) of section 62 of the Act of 1969 (increase of rents of houses belonging to certain authorities without notice of removal) shall apply to a housing association or the Housing Corporation as they apply to any authority to which that section applies, except that in subsection (4) for the reference to the date of the commencement of that Act there shall be substituted a reference to the date of the coming into force of this Act. Increase of rent without notice to quit

67.—(1) Section 34 of the Act of 1971 (adjustment for differences in lengths of rental periods) shall apply for the purposes of sections 60 to 66 of this Act as it applies for the purposes of Part III of that Act. Supplemental to sections 60 to 66.

(2) Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the date of registration shall be deemed for the purposes of sections 60 to 66 of this Act to be the date on which the rent determined by the rent officer was registered:

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Provided that a landlord shall not, by virtue of this subsection, be entitled to recover any rent for a rental period beginning before the date when the rent determined by the rent assessment committee was registered.

(3) The sheriff shall have jurisdiction, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question as to the rent limit under the said sections 60 to 66, or as to any matter which is or may become material for determining any such question; and section 123(1) of the Act of 1971 shall apply to any application to the sheriff under this subsection as it applies to any application under any of the provisions mentioned in section 123(3) of that Act.

Interpretation

Interpretation
of Part VI.

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

“housing functions” means constructing, improving or managing or facilitating or encouraging the construction or improvement of houses by conversion and the acquisition of houses, and includes functions which are supplementary or incidental to any of those functions.

“loan charges” includes any loan charges made by a housing association (including charges for debt management) whether in respect of borrowing from any capital fund kept by the housing association, or in respect of borrowing between accounts kept by the housing association for different functions, or otherwise.

(2) In this Part of this Act, expressions which are used in this Part of this Act which are also used in Parts III and IV of the Act of 1971 shall, unless the context otherwise requires, have the same meaning as in those Parts.

PART VII

MISCELLANEOUS AND GENERAL

Miscellaneous

All payments
under
overspill
agreements to
be voluntary.
1957 c. 38.

69.—(1) No payment shall be made by an exporting authority to a receiving authority under subsection (4)(b) of section 9 of the Housing and Town Development (Scotland) Act 1957 for the year 1972-73 or any subsequent year in pursuance of an overspill agreement; but such an agreement whether made before or after this Act comes into force, may provide with the consent of the Secretary of State, for such payment from the exporting authority to the receiving authority as may be specified in the agreement.

(2) In consequence of subsection (1) above the said section 9 shall have effect for the year 1972-73 and subsequent years as if—

- (a) subsection (4)(b) were omitted ; and
- (b) for subsection (5) there were substituted the following subsection—

“ (5) An overspill agreement (whether entered into before or after this Act comes into force) may provide, with the consent of the Secretary of State, for the making by the exporting authority to the receiving authority of such payment as may be specified in the agreement.”.

(3) Nothing in this section shall affect the continuance of any payment being made in pursuance of subsection (5) of the said section 9 immediately before this Act comes into force.

(4) A receiving authority may abrogate an overspill agreement entered into before this Act comes into force if the Secretary of State is satisfied, on an application made to him by the receiving authority, that, if they were to implement the agreement, an unduly large burden would fall on the authority's housing revenue account.

70. Schedule 8 to this Act shall have effect as to—

- (a) the termination, for the year 1972-73 and subsequent years, of payments under the enactments described in Schedule 1 to this Act, and
- (b) the termination or modification of certain other provisions about assistance for housing authorities or other persons providing housing accommodation.

Termination of certain existing exchequer contributions and related provisions.

71.—(1) A local authority for the purposes of Part VII of the Act of 1966 shall, in the performance of the functions of management of houses conferred on them by section 149(1) of that Act, have power, subject to subsections (2) and (3) below, in every case where a tenant of a house to which the housing revenue account relates moves to another house, whether or not that other house is also owned by the local authority—

Financial assistance towards tenants' removal expenses.

- (a) to pay any expenses of the removal ;
- (b) where the tenant is purchasing the house, to pay any expenses incurred by him in connection with the purchase other than the purchase price.

(2) Paragraph (b) of subsection (1) above shall only apply in a case where a tenant of a house to which the housing revenue account relates moves to another house of the local authority if that house has never been let.

(3) A local authority may make their payment of expenses in connection with the purchase of a house subject to such conditions as they think fit.

PART VII

(4) Nothing in this section shall affect the operation of section 160 of the Act of 1966 (which gives a local authority power in certain circumstances to pay reasonable allowances to persons displaced from buildings).

Default by local authority. 72. Section 195 of the Act of 1966 (default powers of Secretary of State in relation to rents) shall have effect as if—

(a) In subsection (1) for the words from “there has” to “this Act” there were substituted the words “a local authority—

(a) have failed effectively to discharge any of their functions under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972 ; or

(b) have failed so to discharge any function conferred on them by that Act or any other enactment as to secure the effective discharge of any of their functions under those Parts of that Act ;

(b) after subsection (4) there were inserted the following subsections—

“ (4A) Without prejudice to subsection (4) above, where a local authority have failed to comply with any requirement of—

(a) a default order within the time specified therein, being a default order in which the Secretary of State has declared the local authority to be in default in respect of a failure such as is mentioned in subsection (1) of this section, but has not directed them to comply with a rents scheme, or

(b) a rents scheme to which they have been directed under this section (whether in a default order or in a supplementary order), the Secretary of State may make an order rendering exercisable by him such functions of the local authority under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972 as are specified in the order and such other functions of the local authority as the Secretary of State considers necessary or expedient for the performance of those functions and as are so specified, and he may direct that the authority shall not during such time as the order is in force perform any function conferred by the order on him.

(4B) Section 194 of this Act shall apply for the purposes of subsection (4A) above as it applies for the purposes of section 193 of this Act.

(4C) It shall be the duty of a local authority, any of whose functions the Secretary of State is exercising by virtue of an order under subsection (4A) above, and any officer or servant of such an authority, to take all reasonable steps to facilitate the performance of those functions by the Secretary of State."

(c) after subsection (5) there were inserted the following subsection—

“ (5A) The Secretary of State may—

(a) in a default order in which he has not directed a local authority to comply with a rents scheme made under this section, or

(b) in a default order or supplementary order in which he has so directed the local authority, or

(c) in an order under subsection (4A) above, require the local authority or, as the case may be, empower himself to treat during such period as may be specified in the order any provision of the Housing (Financial Provisions) (Scotland) Act 1972 so specified—

(i) as having effect with such exceptions, adaptations and modifications as may be so specified,

(ii) as not having effect.”

73. Section 58 of the Act of 1968 shall have effect as if—

Power of Secretary of State to reduce, suspend or discontinue housing subsidies.

(a) in subsection (1) at the end there were added the words “ ; and he may, in the circumstances mentioned in paragraph (aa) or (c) of subsection (3) of this section reduce the amount of any subsidy payable under Part I of the Housing (Financial Provisions) (Scotland) Act 1972 or suspend or discontinue the payment of such subsidy or part thereof.” ;

(b) in subsection (3) after paragraph (a) there were inserted the following paragraph—

“ (aa) that the subsidy falls to be paid to a local authority and the Secretary of State is satisfied that the authority have failed to discharge any of their functions under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972 ; ” ;

(c) in subsection (3)(c) after the word “ made ” there were inserted the words “ or the subsidy falls to be paid ”.

PART VII
Application
of receipts
from disposal
of certain
land.
1947 c. 43.

74. Notwithstanding section 168 of the Local Government (Scotland) Act 1947, any money received by a local authority from the disposal of land, being land in respect of which income and expenditure is accounted for in the housing revenue account or the slum clearance revenue account, shall be applied, except where the Secretary of State otherwise approves, for a purpose for which the land which was the subject of the transaction was held.

Adjustment
of accounts on
appropriation
of land.

75.—(1) Where after the coming into force of this section land is appropriated by a local authority for the purposes of Part II or Part VII of the Act of 1966 or Part I of the Act of 1969, or on the discontinuance of use for that purpose, such adjustment shall be made in the accounts of the local authority as the Secretary of State may direct.

(2) Any direction under this section may be either a general direction or a direction for any particular case.

1959 c. 70.

(3) Where this section applies, section 25 of the Town and Country Planning (Scotland) Act 1959 (which also relates to the adjustment of accounts on appropriation of land) shall not apply.

Tenancies
at a rent
unalterable
over a long
period.

76.—(1) This section applies to a tenancy of any of the houses to which a local authority's housing revenue account relates (including a tenancy granted before the coming into force of this Act) other than—

- (a) a house for the time being subject to a weekly or other periodical tenancy,
- (b) a house for the time being subject to a tenancy granted, by the authority or any predecessor in title, before 1st August 1971,
- (c) a house which, whether before the coming into force of this Act or later, was acquired by the authority from a person other than another local authority, which when acquired was regarded by the authority as only likely to be available for use as a house for a period not exceeding ten years and which is for the time being subject to a tenancy which was granted before it was so acquired, or
- (d) a house for the time being excluded from this section by a direction of the Secretary of State subject to such conditions, if any, and for such period, as may be specified in the direction, being a general direction, or a direction given on the application of an authority for a particular case,

if, apart from this section, the authority would not have the rights conferred by subsection (2) of this section.

(2) It shall be an implied term of the tenancy that the authority may increase the rent payable under the tenancy with effect from the beginning of any rental period by a notice given to the tenant not less than four weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

Where in accordance with this section a term is to be so implied for the benefit of the landlord, it shall also be an implied term of the tenancy that the tenant may terminate the tenancy with effect from the beginning of any rental period by a notice given not later than two weeks before the beginning of that rental period.

(3) Where an authority give a notice of increase under subsection (2) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice given by the tenant in accordance with the provisions express or implied of the tenancy, and—

(a) the notice to terminate the tenancy is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and

(b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice given by the tenant on the last day of that period.

(4) An authority's notice of increase under subsection (2) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, the notice to terminate the tenancy must be received by the authority and the tenancy be made to terminate.

(5) If any rental period exceeds six weeks, this section shall apply as if references to the beginning of the rental period included references to the beginning of the second or any subsequent week in the rental period.

77.—(1) Section 1(1) of the Act of 1971 (protected tenancies) shall have effect as if for paragraph (a) there were substituted the following paragraph—

Amendment of sections 1 and 86 of Act of 1971.

“(a) the rateable value of the dwelling-house on the appropriate day exceeded or, as the case may be, exceeds £200 ; or”.

(2) Section 86(1) (dwelling-houses to which Part VII of that Act applies) shall have effect as if for the words from “ which

PART VII has " to the end there were substituted the words " the rateable value of which on the appropriate day did not or, as the case may be, does not exceed £200 " .

General

- Interpretation. 78.—(1) In this Act, unless the context otherwise requires—
- 1966 c. 49. " the Act of 1966 " means the Housing (Scotland) Act 1966 ;
- 1968 c. 31. " the Act of 1968 " means the Housing (Financial Provisions) (Scotland) Act 1968 ;
- 1969 c. 34. " the Act of 1969 " means the Housing (Scotland) Act 1969 ;
- 1971 c. 28. " the Act of 1971 " means the Rent (Scotland) Act 1971 ;
- 1968 c. 16. " development corporation " has the same meaning as in section 2 of the New Towns (Scotland) Act 1968 ;
- " development corporation house " means a house owned by a development corporation and available to them for the purpose of providing rented accommodation and " the number of development corporation houses " for any period means the number of such houses on the relevant date, except that for the purposes of section 8 of this Act for the year 1971-72 it means such number as the Secretary of State deems to be development corporation houses for that year ;
- 1944 c. 36. " house " has the same meaning as in the Act of 1966, except that it includes any structure made available under section 1 of the Housing (Temporary Accommodation) Act 1944 ;
- 1965 c. 12. " housing association " has the same meaning as in the Act of 1966, except that, subject to sections 58 and 59 of this Act, it does not include the Scottish Special Housing Association or a development corporation or any association which is, or is deemed to be, duly registered under the Industrial and Provident Societies Act 1965 and whose rules restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting or assigning of tenancies to persons other than members ;
- " housing authority " means a local authority, a development corporation or the Scottish Special Housing Association ;
- " land " includes any estate or interest in land ;
- " local authority " has the meaning assigned to it by section 1 of the Act of 1966 ;
- 1957 c. 38. " overspill agreement ", has the same meaning as in section 9(1) of the Housing and Town Development (Scotland) Act 1957 ;

- “ the relevant date ” in relation to any period means the date occurring six months after the beginning of that period ;
- “ rental period ” means a period in respect of which a payment of rent falls to be made ;
- “ Scottish Special Housing Association house ” means a house owned by the Scottish Special Housing Association and available to them for the purpose of providing rented accommodation and “ the number of Scottish Special Housing Association houses ” for any period means the number of such houses on the relevant date ;
- “ a service charge ” means any charge referred to in section 32 of this Act ;
- “ standard rent ” means, in relation to a local authority, the rent payable in respect of a house to which the housing revenue account relates before account is taken of any rent rebate, service charge or supplementary charge and, in relation to a development corporation or the Scottish Special Housing Associations, means the rent payable in respect of a development corporation house or a Scottish Special Housing Association house before account is taken of any rent rebate or any sums payable for services or furniture ; and the income receivable from the standard rent of a house for any period means the income which would be received for that period if the house were let throughout that period and the rent were paid in full ;
- “ supplementary charge ” has the meaning assigned to it by section 33(3) of this Act ;
- “ tenant ” includes a joint-tenant and a sub-tenant ;
- “ year ” means, in relation to a local authority, a financial year within the meaning of section 174 of the Local Government (Scotland) Act 1947 and, in relation to a development corporation, the Scottish Special Housing Association or a housing association, means a year ending on 31st March ;
- “ the year 1972-73 ” means the year beginning in 1972 and ending in 1973, and so on.

(2) In this Act any reference to an amount per house or an amount of income per house or an amount of expenditure per house shall be construed as a reference, in the case of a local authority, to an aggregate amount for a period divided by the number of houses to which the local authority's housing revenue account relates for that period and, in the case of a development corporation or the Scottish Special Housing Association, as a reference to an aggregate amount for a period divided by the number of development corporation houses or the Scottish Special Housing Association houses for that period.

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(3) In this Act any reference to houses to which the housing revenue account relates shall be construed as a reference to houses completed and available to a local authority for the purpose of providing rented accommodation and in respect of which income and expenditure is to be accounted for in that account in accordance with section 23 of this Act, and any reference to the number of such houses for any period shall be construed as a reference to the number of houses on the relevant date.

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

Minor and consequential amendments, transitional provisions and repeals.

79.—(1) The enactments specified in Schedule 9 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) The transitional provisions contained in Schedule 10 to this Act shall have effect.

(3) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule, and subject to the provisions of Schedules 8 and 10 to this Act.

Financial provisions.

80.—(1) There shall be paid out of money provided by Parliament—

(a) any expenses of the Secretary of State under this Act, and

(b) any increase in the sums payable out of money provided by Parliament under any Act other than this Act which is attributable to any provision of this Act.

(2) There shall be paid into the Consolidated Fund—

(a) any payments to be made to, or to be recoverable by, the Secretary of State under this Act, and

(b) any increase in the sums so payable under any Act other than this Act which is attributable to any provision of this Act.

Citation, commencement and extent.

81.—(1) This Act may be cited as the Housing (Financial Provisions) (Scotland) Act 1972.

(2) The Housing (Scotland) Acts 1966 to 1971 and this Act (except Part V) may be cited together as the Housing (Scotland) Acts 1966 to 1972, and the Rent (Scotland) Act 1971 and Part V of this Act may be cited together as the Rent (Scotland) Acts 1971 and 1972.

(3) Except as otherwise expressly provided, this Act shall come into force at the expiration of a period of one month beginning with the date on which it is passed:

PART VII

Provided that the Secretary of State may by order made by statutory instrument bring any provision of this Act into force, except any provision which expressly provides otherwise, before the expiration of the said period of one month.

(4) Any reference in any provision of this Act to the coming into force of this Act shall be construed as a reference to the date on which that provision comes into force.

(5) This Act shall extend to Scotland only.

SCHEDULES

SCHEDULE 1

ENACTMENTS RELATING TO EXISTING CONTRIBUTION SYSTEM

PART I

Payments to Local Authorities

<i>Chapter</i>	<i>Act</i>	<i>Section</i>
1919 c. 60.	The Housing, Town Planning, etc. (Scotland) Act 1919.	Section 5 so far as the payments thereunder relate to houses to which the housing revenue account relates.
1923 c. 24.	The Housing, etc. Act 1923.	Section 1.
1924 c. 35.	The Housing (Financial Provisions) Act 1924.	Section 2 as originally enacted and as amended by section 1 of the Housing (Financial Provisions) (Scotland) Act 1933 and so far as the payments thereunder relate to houses to which the housing revenue account relates.
1930 c. 40.	The Housing (Scotland) Act 1930.	Section 23 as originally enacted and as amended by section 32 of the Housing (Scotland) Act 1935.
1931 c. 39.	The Housing (Rural Authorities) Act 1931.	Section 1.
1935 c. 41.	The Housing (Scotland) Act 1935.	Section 30.
1938 c. 38.	The Housing (Agricultural Population) (Scotland) Act 1938.	Section 1.
1938 c. 3.	The Housing (Financial Provisions) (Scotland) Act 1938.	Section 1.
1950 c. 34.	The Housing (Scotland) Act 1950.	Section 84 as originally enacted and as amended by sections 1 and 2 of the Housing (Scotland) Act 1952. Section 85 as originally enacted and as amended by section 5 of the Housing (Scotland) Act 1952. Sections 86, 88 and 91.
1957 c. 38.	The Housing and Town Development (Scotland) Act 1957.	Sections 2, 3 and 4.
1962 c. 28.	The Housing (Scotland) Act 1962.	Sections 1 to 7.
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Sections 2, 4 to 10, 22(1)(a) and 58(4) so far as the payments made under section 58(4) were originally made under any of the other enactments referred to in this Part of this Schedule.

PART II

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Payments to Development Corporations

<i>Chapter</i>	<i>Act</i>	<i>Section</i>
1950 c. 34.	The Housing (Scotland) Act 1950.	Section 87(3).
1957 c. 38.	The Housing and Town Development (Scotland) Act 1957.	Sections 2(2)(f), 3 and 4.
1962 c. 28.	The Housing (Scotland) Act 1962.	Sections 1, 2(1)(c) and 2(2)(b). Sections 4 to 7.
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Sections 2, 4, 6, 7, 9, 10 and 58(4) so far as the payments made under section 58(4) were originally made under any of the other enactments referred to in this Part of this Schedule.

PART III

Payments from Secretary of State to the Scottish Special Housing Association

<i>Chapter</i>	<i>Act</i>	<i>Section</i>
1938 c. 3.	The Housing (Financial Provisions) (Scotland) Act 1938.	Section 2.
1950 c. 34.	The Housing (Scotland) Act 1950.	Section 93.
1957 c. 38.	The Housing and Town Development (Scotland) Act 1957.	Section 23.
1962 c. 28.	The Housing (Scotland) Act 1962.	Sections 1, 2(1)(d). Sections 5, 6, 7.
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Sections 2, 4, 6, 7, 10, 26 and 58(4) so far as the payments made under section 58(4) were originally made under any of the other enactments referred to in this Part of this Schedule.

PART IV

Local authority grants to the Scottish Special Housing Association linked with payments by Secretary of State

<i>Chapter</i>	<i>Act</i>	<i>Section</i>
1935 c. 41.	The Housing (Scotland) Act 1935.	Section 26.

PART V

Payments from Secretary of State to Housing Associations

<i>Chapter</i>	<i>Act</i>	<i>Section</i>
1919 c. 60.	The Housing, Town Planning etc. (Scotland) Act 1919.	Section 16.
1938 c. 3.	The Housing (Financial Provisions) (Scotland) Act 1938.	Section 2.
1962 c. 28.	The Housing (Scotland) Act 1962.	Sections 1 and 2.

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PART VI

*Local Authority Grants to Housing Associations linked with
Payments by Secretary of State*

<i>Chapter</i>	<i>Act</i>	<i>Section</i>
1924 c. 35.	The Housing (Financial Provisions) Act 1924.	Section 2 so far as the payments thereunder relate to houses provided by housing associations.
1935 c. 41.	The Housing (Scotland) Act 1935.	Section 26.
1950 c. 34.	The Housing (Scotland) Act 1950.	Section 87(1).
1957 c. 38.	The Housing and Town Development (Scotland) Act 1957.	Sections 2, 3 and 4.
1962 c. 28.	The Housing (Scotland) Act 1962.	Sections 2, 4, 5, 6 and 7.
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Sections 2, 4, 6, 7, 9 and 10.

Section 17.

SCHEDULE 2

COMPUTATION OF REBATES AND ALLOWANCES

PART I

GENERAL

Introductory

1.—(1) The rebate or allowance to which a tenant is entitled under a scheme shall be a weekly amount calculated in accordance with this Schedule by reference to—

- (a) an amount to be allowed for the needs of the tenant and of any spouse of the tenant or dependent child of the tenant or his spouse (“the needs allowance”);
- (b) the income of the tenant and of any such spouse;
- (c) the amount of the rent;
- (d) a minimum weekly rent;
- (e) a minimum and maximum rebate or allowance;
- (f) amounts to be deducted for non-dependants.

(2) The amounts listed in sub-paragraph (1) above (other than the amount of the rent) shall be ascertained in accordance with this Schedule.

(3) A scheme shall not apply to rent payable in respect of any part of a rental period before the date on which the scheme is made or, if it is expressed to come into force after that date, before the date on which it is expressed to come into force.

(4) No person shall be entitled to benefit under more than one scheme.

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2. In this Schedule—

“dependent child” means a person who resides in the house occupied by the tenant and whose requirements are provided for, in whole or in part, by the tenant or his spouse and who is either under the age of sixteen or of or over that age but receiving full-time instruction at any university, college or other educational establishment ;

“full-time instruction at an educational establishment” includes a reference to a person undergoing training for any trade, profession or vocation in such circumstances that he is required to devote the whole of his time to the training for a period of not less than two years ;

“married couple” includes a man and a woman who lives with him as his wife, but does not include a man and wife who are living apart, and “wife” and, subject to paragraph 9(2)(f) below, “spouse” shall be construed accordingly ;

“non-dependant” means, in relation to a tenant, any person who resides in the house occupied by the tenant, other than the tenant himself, except a spouse of the tenant and a dependent child of the tenant or his spouse.

3.—(1) Where any sum which is payable or calculated otherwise than as a weekly amount falls to be taken into account for the purposes of this Schedule, it shall be converted into the weekly amount which represents it, and that amount shall be treated as the relevant amount for those purposes ; and accordingly in this Schedule references to “weekly rent” and “weekly income” are references to the amount which represents the rent or the income as so converted.

(2) Where an authority for administrative convenience arrange for the year’s rent to be paid irregularly, or so that no rent is payable for or collected in certain periods, or so that rent for different periods in the year is of different amounts, the provisions of this Schedule shall be applied, and all calculations shall be made, by reference to the rent which would have been paid if the arrangements had not been made.

4.—(1) An authority may treat as a sole tenant for the purposes of this Schedule one of two or more joint tenants, and in that case, subject to sub-paragraph (2) below, every joint tenant who resides in the tenant’s house and is not so treated shall be treated as a non-dependant for those purposes.

(2) Neither the spouse nor a dependent child of a tenant shall be treated as a non-dependant by virtue of sub-paragraph (1) above.

5.—(1) If some person who resides in the house occupied by the tenant appears to an authority to have a higher income than the tenant and the authority have grounds for considering that in the special circumstances of the case it would be reasonable to make their calculations under this Schedule by reference to the income of that other person and not of the tenant, they may treat that other

SCH. 2 person as the tenant and make such payments of rebate or allowance (if any) as ought to be made on that basis.

(2) Where an authority exercise the power conferred on them by sub-paragraph (1) above, the tenant shall be treated as a non-dependant for the purposes of this Schedule, but neither the spouse nor a dependent child of the person who is treated as the tenant shall be treated as a non-dependant for those purposes.

6. In the following provisions of this Schedule "tenant" includes a person treated as a tenant under paragraph 4 or 5 above or paragraph 1 of Schedule 3 below.

7. Any question whether a person is a sub-tenant of the tenant or a non-dependant shall be determined, for the purposes of any scheme, by the authority who made the scheme.

Needs allowance

8.—(1) Subject to sub-paragraph (2) below, the needs allowance for each week is—

- (a) for an individual person who has no dependent children£10·50 ;
- (b) for a married couple.....£14·75 ;
- (c) for an individual person who has a dependent child or children£14·75 ;
- (d) for each dependent child of a tenant or his spouse.....£2·75 ;

(2) The needs allowance for each week is—

- (a) for an individual person who has no dependent children and who is a chronically sick or disabled person£11·75 ;
- (b) for a married couple, one of whom is a chronically sick or disabled person£16·00 ;
- (c) for an individual person who is a chronically sick or disabled person and who has a dependent child or children£16·00 ;
- (d) for a married couple, both of whom are chronically sick or disabled persons£16·75.

(3) In sub-paragraph (2) above, any reference to a chronically sick or disabled person is a reference to a person in need under section 12 of the Social Work (Scotland) Act 1968 as read with section 1 of the Chronically Sick and Disabled Persons (Scotland) Act 1972.

1968 c. 49.
1972 c. 51.

Income of tenant and spouse

9.—(1) The weekly income of the tenant and any spouse of the tenant shall be ascertained for the purposes of this Schedule by taking the amount which the authority have assessed under Schedule 3 below as likely to be their income during the rebate period or, as the case may be, the allowance period and disregarding any item mentioned in sub-paragraph (2) below which is included in that income.

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(2) The items to be disregarded are—

- (a) any amount paid to the tenant by a sub-tenant to whom he has sub-let part of his house in respect of rent payable by the sub-tenant by reason of his occupation of the house ;
- (b) any payment made to the tenant or his spouse by a dependent child of his or of his spouse or by a non-dependant ;
- (c) in the case of a married couple £2.50 of the earnings of a woman who is either the tenant or the tenant's wife ;
- (d) any sums payable under section 49 of the Education (Scotland) Act 1962 (financial assistance for education) ;
- (e) any attendance allowance ;
- (f) any sums payable to any person as holder of the Victoria Cross or of the George Cross ;
- (g) any benefit under the Ministry of Social Security Act 1966 ; 1966 c. 20.
- (h) £2.00 of any of the following, namely—
 - (i) a war disablement pension ;
 - (ii) industrial disablement benefit ;
 - (iii) an old cases allowance ;
 - (iv) any payment which the Secretary of State accepts as being analogous to a payment mentioned in sub-paragraphs (i) to (iii) above ;
- (i) £2.00 of so much of—
 - (i) a widow's pension under section 19(3) of the National Insurance (Industrial Injuries) Act 1965 payable by virtue of paragraphs (a) to (e) thereof ; 1965 c. 52.
 - (ii) a special widow's pension (not including any allowance in respect of children) ;
 - (iii) any payment which the Secretary of State accepts as being analogous to a payment mentioned in sub-paragraph (i) or (ii) above,

as exceeds the rate specified in Schedule 3 to the National Insurance Act 1965 for a widow's pension under that Act ; 1965 c. 51
- (j) £2.00 of any voluntary payment other than a payment made by a person who is not a non-dependant for the maintenance of his spouse (including a spouse with whom he is not living) or his former spouse or his children.

(3) The total disregard under paragraphs (h) to (j) of sub-paragraph (2) above shall in no case exceed £2.00, and where a number of voluntary payments (other than payments for maintenance such as are mentioned in paragraph (j) above) are received, they shall be treated as if they were one payment for the purposes of that paragraph.

(4) In sub-paragraph (2) above—

“ attendance allowance ” and “ war disablement pension ” have the meanings assigned to them by any regulations for the time being in force under the Family Income Supplements Act 1970 ; 1970 c. 55.

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1965 c. 52.

“ industrial disablement benefit ” means any weekly payment of disablement benefit under the National Insurance (Industrial Injuries) Act 1965 ;

1967 c. 34.

“ old cases allowance ” means a weekly payment made under a scheme having effect by virtue of the Industrial Injuries and Diseases (Old Cases) Act 1967 ;

“ special widow’s pension ” means—

1916 c. 65.
1917 c. 51.
1939 c. 82.
1939 c. 83.
1947 c. 19.
1951 c. 8.
1969 c. 65.
1914 c. 30.
1914 c. 18.
1915 c. 24.

(a) any widow’s pension or allowance granted under powers conferred by or under the Ministry of Pensions Act 1916, the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, the Home Guard Act 1951 or the Ulster Defence Regiment Act 1969 ;

(b) a pension or allowance for a widow granted under any scheme made under the Injuries in War (Compensation) Act 1914, the Injuries in War Compensation Act 1914 (Session 2), or the Injuries in War (Compensation) Act 1915 or under any War Risk Compensation Scheme for the Mercantile Marine.

(5) The Secretary of State may accept a payment as being analogous to a payment mentioned in sub-paragraph (2) above—

(a) by directing authorities in general to regard payments of that description as analogous for the purposes of this Schedule ;
or

(b) by notifying an authority that he accepts such a payment as analogous for those purposes.

Amount of rebate or allowance

10.—(1) In this Schedule “ minimum weekly rent ” means, subject to sub-paragraphs (2) and (3) below, £1·00 or 40 per cent. of the weekly rent, whichever is the greater.

(2) In any case where the weekly income of the tenant and his spouse is less than the needs allowance, “ minimum weekly rent ” means the amount calculated in accordance with sub-paragraph (1) above less an amount equal to 25 per cent. of the difference between the needs allowance and the weekly income.

(3) In any case where the reduction under sub-paragraph (2) above would be equal to or greater than £1·00 or 40 per cent. of the weekly rent, whichever is the greater, the minimum weekly rent shall be zero.

11.—(1) The amount of rebate or allowance to be granted shall be an amount calculated in accordance with this paragraph but less any sum in respect of non-dependants as mentioned in paragraph 12 below, and subject in any event to paragraphs 13, 14 and 16 below.

(2) If the weekly income of the tenant and his spouse is equal to or less than the needs allowance, the rebate or allowance shall be equal to the amount, if any, by which the weekly rent exceeds the minimum weekly rent.

(3) In any case where the weekly income exceeds the needs allowance, the rebate or allowance shall be calculated in accordance with sub-paragraphs (4) and (5) below.

(4) There shall be added—

- (a) an amount equal to the minimum weekly rent ;
- (b) an amount equal to 17 per cent. of the difference between the weekly income and the needs allowance.

(5) If the sum produced under sub-paragraph (4) is less than the weekly rent, the rebate or allowance shall be equal to the difference between the weekly rent and that sum.

12.—(1) The deductions from a rebate or allowance in respect of non-dependants are for each week—

- (a) for each person aged 18 years or more, but under 21 years and neither undergoing full-time instruction at an educational establishment nor in receipt of supplementary benefit £1·00 ;
- (b) for each person aged 21 years or more, but under pensionable age and neither undergoing full-time instruction at an educational establishment nor in receipt of supplementary benefit except in the case mentioned in paragraph (e) below £1·50 ;
- (c) for each person in receipt of supplementary benefit £0·70 ;
- (d) for each person of pensionable age not in receipt of supplementary benefit, except in the case mentioned in paragraph (e) below £0·70 ;
- (e) for a married couple where the husband is of pensionable age and not in receipt of supplementary benefit £0·70.

(2) If any person is in receipt of supplementary benefit for himself and also for his spouse, they shall be treated as one person for the purposes of this paragraph.

Minimum and maximum rebate and allowance

13. If the amount of a rebate or allowance as calculated in accordance with this Schedule would be less than 20p, an authority may or may not grant the rebate or allowance, as they think fit.

14. If the amount of a rebate or allowance as so calculated would exceed £6·50 the excess shall not be granted.

Treatment of fractional amounts

15. The amount of any rebate or allowance shall be calculated to the nearest new penny by disregarding an odd amount of half a new penny or less, and by treating an odd amount exceeding half a new penny as a whole new penny.

Additional rebate

16.—(1) A local authority may grant to any person an additional rebate of such an amount and for such period and subject to such conditions as the Secretary of State may by general or particular direction provide beginning with the first rental period after their rebate scheme comes into operation if—

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- (a) the whole or part of that person's rent under the tenancy was met for the immediately preceding rental period by a rebate granted by virtue of arrangements for such rebates made under section 151(4) of the Act of 1966 ; and
- (b) the condition mentioned in sub-paragraph (2) below is satisfied in his case.
- (2) The condition which must be satisfied in the case of any person before he is granted an additional rebate by virtue of sub-paragraph (1) above is either—
- (a) that the rent remaining to be met by the tenant after taking account of the amount of any rebate was less during the rental period mentioned in sub-paragraph (1)(a) above than during the first rental period after a rebate scheme in accordance with the provisions of the model scheme came into operation, or—
- (b) that the rebate granted for the rental period immediately preceding that in which the relevant scheme under this Act came into operation consisted of or included an amount granted under a provision which in the opinion of the Secretary of State was comparable to this paragraph.
- (3) Sub-paragraphs (1) and (2) above shall apply to a development corporation and the Scottish Special Housing Association as they apply to a local authority except that in sub-paragraph (1)(a) the words from "granted by" to "1966" shall be omitted.

Provisions applying only to computation of allowances

17.—(1) For the purposes of the computation of allowances, the foregoing provisions of this Schedule shall be modified in accordance with sub-paragraph (2) below.

(2) It shall be the duty of every authority, for the purpose of computing the amount of an allowance—

- (a) if they consider that the tenant is in occupation of a house larger than he reasonably requires, or
- (b) if they consider that, by virtue of the location of the tenant's house, its rent is exceptionally high by comparison with the rent payable under comparable private tenancies of similar houses in the authority's district,

to consider whether they ought in all the circumstances to treat the rent as reduced by an appropriate amount, and if in their opinion they ought to treat it as reduced, to grant an allowance only in respect of the rent as so reduced.

PART II

PERSONS RECEIVING SUPPLEMENTARY BENEFIT

18. The provisions of this Part of this Schedule have effect as respects the amount of rebate or allowance to be granted to a person for a week which is the ninth or any later week in any period for which he, or any person whose income is to be aggregated with

his under paragraph 9 of this Schedule, is in receipt of supplementary benefit. SCH. 2

19.—(1) The said amount shall be the amount if any by which the weekly rent exceeds £1·00 or 40 per cent. of the weekly rent, whichever is the greater, but less any sum in respect of non-dependants as mentioned in paragraph 12 of this Schedule, and subject to paragraphs 13, 14, 15 and 17 of this Schedule.

(2) Paragraph 11 of this Schedule shall not apply where this paragraph applies.

20.—(1) The last preceding paragraph shall not apply where, assuming it did apply, the amount of supplementary benefit payable for the week would fall to be reduced under paragraph 5 of Schedule 2 to the Ministry of Social Security Act 1966 (adjustment of benefit to normal earnings), but Part I of this Schedule shall then apply subject to the following provisions of this paragraph. 1966 c. 20.

(2) The weekly income of the tenant and any spouse of the tenant shall be ascertained for the purposes of this Schedule by taking for the rebate period or allowance period the amount of the gross weekly income which the person in receipt of supplementary benefit would have if he were engaged in full time work in his normal occupation, and the amount of any gross income of the spouse, and disregarding to the extent mentioned in paragraph 9(3) of this Schedule any item mentioned in paragraph 9(2) of this Schedule which is included in that income.

(3) The amounts mentioned in sub-paragraph (2) above shall be those amounts as estimated or determined by the Supplementary Benefits Commission.

(4) The preceding provisions of this paragraph shall be in substitution for paragraph 9(1) of this Schedule.

21.—(1) In this Schedule “ period of supplementary benefit ” means a continuous period for which the person in question is in receipt of supplementary benefit, but the Secretary of State may give directions as to the circumstances in which two periods of supplementary benefit with a break between are to be regarded as one continuous period.

(2) This Part of this Schedule applies whether or not the period of supplementary benefit began before the coming into operation of the scheme.

SCHEDULE 3

Section 17.

REBATES AND ALLOWANCES: PROCEDURE

PART I

GENERAL

Introductory

1.—(1) Subject to the provisions of this Schedule, an authority may pay a rebate or allowance at any time and in any manner that they think fit.

SCH. 3 (2) Where in the case of a rental period exceeding one month a local authority—

- (a) receive an application for a rebate or allowance ; or
- (b) determine under paragraph 5 or 6 below that the rebate period or allowance period shall terminate ; or
- (c) determine under paragraph 5 or 6 below that the rebate or allowance shall be altered ; or
- (d) receive an application for a further rebate or allowance under paragraph 10 below,

the provisions of this Schedule shall have effect as if any reference to a rental period were a reference to a period of one month and as if the rental period had always been one month since the commencement of the rental period.

(3) Where an authority for administrative convenience arrange for the year's rent to be paid irregularly, or so that no rent is payable for or collected in certain periods, or so that rent for different periods in the year is of different amounts, the provisions of this Schedule shall be applied, and all calculations shall be made, by reference to the rent which would have been paid if the arrangements had not been made.

(4) Where—

- (a) a house to which a local authority's housing revenue account relates or a development corporation house or a Scottish Special Housing Association house is let to one of two spouses, or one of two spouses is a private tenant, and
- (b) the house is not occupied by the tenant, and
- (c) the other spouse is in occupation of the house and has paid the rent in respect of any rental period,

the authority may, if in their opinion it is reasonable to do so, treat the spouse who has paid the rent as the tenant for the purposes of this Schedule and grant a rebate, or, as the case may be, an allowance accordingly.

(5) In the following provisions of this Schedule "tenant" includes, subject to paragraph 16(6) below, a person treated as a tenant under this paragraph or paragraph 4 or 5 of Schedule 2 above.

(6) In this paragraph "spouse" has the same meaning as in paragraph 2 of Schedule 2 to this Act except that it includes a spouse living apart, but otherwise in this Schedule "spouse" has the same meaning as in the said paragraph 2.

Applications for rebates and allowances

2.—(1) When an authority receive an application for a rebate or allowance whether before or after their rebate scheme or allowance scheme comes into operation, it shall be their duty, subject to sub-paragraph (2) below, to determine whether the applicant is entitled to a rebate or an allowance and, if so, the amount to which he is so entitled ; and they shall request him in writing to furnish

such information and such evidence as they may reasonably require for that purpose as to the following matters namely—

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- (a) the persons who reside in the house occupied by him ;
- (b) the rent and other charges in respect of any sub-letting of the house ;
- (c) his other income and, if he has a spouse, the income of his spouse,

and shall include with the request a notice to the applicant of the duty under paragraph 5 of this Schedule to report to the authority changes of circumstances such as are mentioned in that paragraph.

(2) An authority shall be under no duty to grant a rebate or an allowance unless they are satisfied that the applicant has furnished all such information and evidence as they require for the purpose of determining whether he is entitled to a rebate or an allowance.

(3) An application may be withdrawn at any time, and if an application is withdrawn the authority shall upon the withdrawal cease to be under any duty to make a determination on it, or to take any further step in relation to it.

Assessment of income

3.—(1) If an authority are satisfied on an application for a rebate or an allowance that the applicant is eligible for consideration for a rebate or an allowance, it shall be their duty to assess the amount which is likely to be the income of the applicant and of any spouse of his during the rebate period or, as the case may be, the allowance period.

(2) In so far as a person's income consists of earnings from a gainful occupation, the amount which is likely to be the income shall be calculated or estimated by reference to the average of his earnings from that occupation over a period ending with his last pay-day before the application and being a period—

- (a) of five weeks, if he is paid weekly,
- (b) of two months, if he is paid monthly,

so, however, that in any case the authority may have regard to the average of a person's earnings from a gainful occupation over such other period or periods as appear to them to be appropriate in order properly to assess the amount which is likely to be his income during the rebate period or the allowance period, as the case may be.

(3) In so far as a person's earnings from any gainful occupation comprise salary, wages or fees related to a fixed period, the gross amount of his salary, wages or fees shall be taken into account ; and in so far as a person's earnings from any gainful occupation do not comprise salary, wages or fees related to a fixed period, the net profit derived from that occupation shall be taken into account.

(4) In so far as a person's income does not consist of earnings from a gainful occupation, its weekly amount shall be calculated or estimated, subject to sub-paragraph (5) below, on such basis as appears to the authority to be appropriate in the circumstances of the particular case.

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(5) The Secretary of State may give directions to authorities in general as to the manner in which they are to calculate the income of persons who belong to classes of persons to whom payments are made by virtue of any enactment which in his opinion are not taxable and are of amounts calculated on the basis that they are not taxable.

(6) In this paragraph—

“net profit” means profit after deduction of expenses but without deduction of income tax or of contributions payable by him under the National Insurance Act 1965 except contributions paid otherwise than as an insured person; and

“pay-day” means an occasion on which earnings are paid.

(7) Where any amount which is payable or calculated otherwise than as a weekly amount falls to be taken into account for the purposes of this paragraph, it shall be converted into the weekly amount which represents it, and that amount shall be treated as the relevant amount for those purposes.

Rebate period and allowance period

4.—(1) Where a rebate or an allowance is first granted, the rebate period or allowance period shall commence at the commencement of the rental period in which the application for a rebate or an allowance was received.

(2) A rebate period and an allowance period shall end, subject to paragraphs 5 and 6 below—

(a) if the tenant is of pensionable age, not later than twelve months after the date on which he was notified that his application for a rebate or an allowance was granted; and

(b) in any other case, not later than six months after that date.

5.—(1) If at any time between the making of an application for a rebate or an allowance and any determination made on that application there is a change of circumstances such that the applicant may be reasonably expected to know that it may reduce the amount to which he is entitled, it shall be the duty of the applicant to notify the authority of that change.

(2) If after a rebate or an allowance has been granted to a tenant and before the end of the rebate period or allowance period there is a change of circumstances such that the tenant may be reasonably expected to know that it may affect his entitlement or reduce the amount to which he is entitled, it shall be the duty of the tenant to notify the authority of that change.

(3) If during a rebate period or an allowance period an authority receive a notification of a change of circumstances under subparagraph (2) above, or consider, without receiving such a notification, that there has been such a change in the tenant's circumstances as will affect the tenant's entitlement or reduce the amount to which he is entitled, the authority shall determine, according to the circumstances, either that the period shall terminate on a date earlier than it would otherwise terminate or that the amount of rebate or allowance shall be altered in respect of such rental period or periods as they consider appropriate.

1965 c. 51.

6.—(1) If during a rebate period or an allowance period an authority receive from a tenant a notification of a change of circumstances relating to him which might entitle him to a higher rebate or allowance, the authority, if they are of the opinion, after obtaining and considering such information and evidence as they require, that the tenant is entitled to a higher rebate or allowance, shall determine, according to the circumstances, either that the period shall terminate on a date earlier than that on which it would otherwise terminate, or that the amount of rebate or allowance shall be increased in respect of any rental period or periods commencing after the date on which the circumstances changed.

(2) If an authority determine under sub-paragraph (1) above that a rebate period or allowance period ought to terminate, they shall invite the tenant to submit a further application for a rebate, or, as the case may be, an allowance.

7. If there is such an alteration in the terms of a rebate scheme or allowance scheme or in the rent as to affect the amount of rebate or allowance to which a tenant is entitled, the authority shall make such alterations as may be appropriate in the amount of his rebate or allowance.

8. It shall not be the duty of an authority to alter a rebate or allowance under paragraph 5, 6 or 7 above if the alteration would be equal to or less than 20 new pence.

9. Without prejudice to any other right to recover the amount of any rebate or allowance which has been wrongly granted, where any person has received a rebate or allowance to which he was not entitled, it may be recovered from him by deduction from sums which would otherwise be granted to him by way of rebate or allowance.

Application for further rebate or allowance

10.—(1) A tenant to whom a rebate or allowance has been granted may apply to the authority for a further rebate or allowance commencing with the first rental period after the end of the current rebate period or allowance period.

(2) An application under sub-paragraph (1) above need not be entertained if it is made more than one month before the end of the current period.

(3) If the application is made not later than one month after the end of that period, the new rebate period or allowance period shall commence with the first rental period to commence after the end of the former rebate or allowance period.

(4) If the application is made at any later date, the new period shall commence with the first rental period after the date of the application:

Provided that the authority may, if in their opinion the circumstances are exceptional, allow the new period to commence with the first rental period to commence after the end of the former rebate or allowance period.

(5) Subject to this paragraph, the provisions of this Schedule shall apply on an application for a further rebate or allowance as they apply on a first application.

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Transitional

11. Where—

- (a) the whole or part of a person's rent under a tenancy was met by a rebate for the rental period immediately preceding that in which the rebate scheme under this Act of the authority who granted him that rebate comes into operation ; and
- (b) the terms on which the rebate was granted for that rental period are identical with those on which rebates are to be granted under the rebate scheme under this Act, or conform with directions made by the Secretary of State,

the authority may treat him, for all the purposes of this Schedule or Schedule 2 to this Act, as if he were a person to whom they had granted under this Act a rebate for the first rental period after the rebate scheme under this Act came into operation.

Provisions applying only to allowances

12.—(1) An authority may require from any person who has applied for or who is in receipt of an allowance evidence—

- (a) of his interest in the house in respect of which his application was made or the allowance is paid ;
- (b) of the rent paid for the house in respect of the rental period in which his application was made or any other rental period in the allowance period.

(2) An authority may terminate an allowance period or pay the allowance to the tenant's landlord for any rental period within the allowance period if they are satisfied that the tenant is not paying rent regularly to his landlord or if the tenant is unable to show the amount of rent paid in respect of any rental period within the allowance period.

(3) In paying an allowance, an authority—

- (a) shall comply with such general or particular directions as the Secretary of State may from time to time give as to the frequency of payment ;
- (b) shall have regard, subject to sub-paragraph (2) above, to the reasonable needs and convenience of the tenant.

13. The authority may withhold an allowance where the landlord of a private tenant is residing with the tenant, or where the landlord is a member of the family of a private tenant and it appears to the authority that the tenancy was created to take advantage of any allowance scheme.

14. In ascertaining the amount of an allowance the authority shall have regard, where the rent is registered, to any amount noted on the register in pursuance of section 43(1A) of the Act of 1971.

15.—(1) In ascertaining the amount of an allowance the authority shall disregard—

- (a) where the rent is payable under a controlled tenancy, any rent paid in excess of the rent limit under Part V of the Act of 1971,

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- (b) where the rent is payable under a regulated tenancy and a rent is registered for the dwelling-house, any rent paid in excess of the rent limit under Part III of the Act of 1971 or in excess of the amount which is for the time being recoverable under Schedule 13 to the Act of 1971 or under Schedule 6 to this Act,
- (c) where the rent is payable under such a tenancy as is described in paragraph (b) above, but no rent is registered for the dwelling-house, or where the rent is payable under such a tenancy as is described in paragraph (d) below and the rent limit is determined under section 62(3) of this Act, and the authority are not satisfied that the rent paid is equal to or less than the fair rent, as estimated by the authority, any rent paid in excess of that estimated fair rent,
- (d) where the rent is payable under a tenancy to which sections 60 to 66 of this Act apply and the rent limit is not determined under section 62(3) of this Act, any rent paid in excess of the rent limit under those sections,
- (e) where there is in operation, with respect to the dwelling-house, any such condition relating to rent as is described in section 40(5) of the Act of 1971 (conditions attached to financial assistance for housing), any rent paid in excess of any limit of rent imposed by the conditions,
- (f) where the rent is not payable under a regulated or controlled tenancy or a tenancy to which sections 60 to 66 of this Act apply and the authority are not satisfied that the rent is equal to or less than the fair rent as estimated by the authority which would be determined if the tenancy were subject to rent regulation, any rent paid in excess of that estimated rent.

(2) Nothing in sub-paragraph (1) above shall affect the operation of paragraph 17 of Schedule 2 to this Act.

(3) Where after paying any rent a tenant becomes entitled, under section 31 of the Act of 1971 or otherwise, to recover part of that rent as being in excess of any such limit as is described in sub-paragraph (1) above, the authority shall ascertain what the amount of the allowance would have been if the tenant had not paid the rent he is entitled to recover; and the excess of the allowance actually granted over that amount shall be treated for the purposes of paragraph 9 of this Schedule as an allowance which has been wrongly granted.

(4) Expressions used in this paragraph and in the Act of 1971 have the same meaning in this paragraph as in that Act.

General duty of authority as to determinations

16.—(1) It shall be the duty of an authority to notify a tenant in writing of every determination which they make under their rebate scheme or allowance scheme in relation to him.

(2) A tenant may make representations to an authority concerning a determination which they make in relation to him, and if an authority receive such a representation from a tenant within one

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month of their notification to him of such a determination they shall consider the representation and may alter or confirm the determination according to the circumstances, and if they alter or confirm it they shall notify the tenant in writing of their reasons for doing so.

(3) Every notification of a determination shall include a notice to the tenant explaining the provisions of sub-paragraph (2) above.

(4) When an authority determine to treat as the tenant, in pursuance of paragraph 5 of Schedule 2 above, a person who is not the tenant within the meaning of section 22 of this Act, it shall be their duty to notify of that determination both the person who will fall to be treated as the tenant as a result of the determination and the person who would have been considered eligible for a rebate or an allowance but for the determination.

(5) When an authority determine to treat as the tenant, in pursuance of paragraph 4 of Schedule 2 above or paragraph 1 of this Schedule, a person who is not the tenant or, as the case may be, not the sole tenant, within the meaning of section 22 of this Act, it shall be their duty to notify of that determination the person who will fall to be treated as the tenant as a result of it and to take such (if any) steps as they consider reasonable to notify of the determination the person or persons who would have been considered eligible for a rebate or an allowance but for the determination.

(6) The references to the tenant in sub-paragraphs (2) and (3) above shall accordingly be construed as including every person to whom sub-paragraph (4) or (5) above applies.

(7) Where an authority notify a tenant of a determination to grant him a rebate or an allowance their notification shall state the amount of the rebate or allowance granted, the rebate period or allowance period and the circumstances in which the amount or the period may be altered, and draw his attention to the duty imposed on him by paragraph 5(2) above.

PART II

PERSONS IN RECEIPT OF SUPPLEMENTARY BENEFIT

17.—(1) The Secretary of State may give directions, either generally or in any particular case, as to the application of Part II of this Act (including the last preceding Schedule and this Schedule) to persons who may be entitled to receive supplementary benefit or are or have been in receipt of such benefit, and to persons whose income or resources have been or may be aggregated for the purposes of this Act, or of the Ministry of Social Security Act 1966, with those of persons who may be entitled to receive supplementary benefit or are or have been in receipt of such benefit.

1966 c. 20.

(2) Directions under this paragraph may in particular make provision as to—

- (a) the beginning or ending of any rebate or allowance period ;
- (b) the procedures to be adopted in cases where a person is or may be entitled both to a rent rebate or a rent allowance and to supplementary benefit, and the method of disposing of any application for rent rebate or rent allowance which is pending when a person becomes entitled to supplementary benefit ; and

(c) the method of dealing with cases where it is difficult to ascertain whether a person has been in receipt of supplementary benefit for more than eight weeks.

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(3) Any direction under this paragraph shall have effect notwithstanding anything in Part I of this Schedule.

18.—(1) An authority shall not, under this Schedule, require the tenant, as respects any period for which he is in receipt of supplementary benefit, to give any information to the authority, other than such information as may for the time being be specified for the purposes of this paragraph by any direction given by the Secretary of State, either generally or in any particular case.

(2) An authority shall afford to the Secretary of State such information in their possession as he may require to give effect to the Ministry of Social Security Act 1966 as amended by this Act, and the Secretary of State and the Supplementary Benefits Commission shall afford to every authority such information concerning claims for, and payments of, supplementary benefit as the authority may require to give effect to Schedule 2 to this Act and this Schedule.

1966 c. 20.

(3) Without prejudice to the generality of sub-paragraph (2) above, where the authority are to ascertain the amounts specified in paragraph 20(2) of Schedule 2 to this Act for a person who is in receipt of supplementary benefit, whether in the first eight weeks or later (or for a person whose income is to be aggregated with that of a person in receipt of supplementary benefit) it shall be the duty of the Commission to notify the authority of those amounts as estimated or determined by the Commission and to supply the authority with such particulars of the resources of the tenant and any spouse as will enable the authority to ascertain the weekly income of the tenant and any spouse.

(4) An authority and the Secretary of State may from time to time enter into any arrangements for purposes of administrative convenience which, without affecting the total relief available to any tenant—

(a) authorise the authority to grant a rebate or allowance greater than, or less than, the amount required by or under the authority's scheme, or to grant, or refrain from granting, a rebate or allowance where the provisions of the scheme provide otherwise, and

(b) require the authority to pay to the Secretary of State such amount, estimated in a manner determined by the arrangements, as reflects any liability to give relief to the tenant transferred by the arrangements from the authority to the Secretary of State,

and where any arrangements within paragraph (a) above were made in the period from the beginning of the year 1972-73 until the coming into force of this Act, the authority shall have power to pay to the Secretary of State such amount in respect of any liability to give relief to the tenant transferred by the arrangements to the Secretary of State as may be determined by them on a formula agreed with the Secretary of State.

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(5) Without prejudice to paragraph 17 above, the Secretary of State may give directions to authorities in general or any individual authority or description of authority requiring them in such cases and circumstances as may be specified in the direction to grant a rebate or allowance greater than, or less than, the amount required by or under their scheme, or to grant, or refrain from granting, a rebate or allowance where the provisions of the scheme provide otherwise, and to pay to the Secretary of State such amount, to be estimated in such manner as may be so specified, as reflects any liability to give relief to the authority's tenants which is transferred in accordance with the directions from the authority to the Secretary of State.

(6) Any reference in this Act to the amount of rebates or allowances granted by an authority for a year or other period shall include an amount which in the opinion of the Secretary of State represents the rebates or allowances which would have been granted but for any arrangements under sub-paragraph (4) or directions under sub-paragraph (5) above, estimated in such manner as the Secretary of State may direct ; and a corresponding adjustment shall be made in arriving at the amount to be treated for any purpose of this Act as an authority's standard amount of rent rebates or rent allowances.

Section 23.

SCHEDULE 4

THE HOUSING REVENUE ACCOUNT

Credits

1.—(1) For each year a local authority shall carry to the credit of the housing revenue account amounts equal to—

- (a) the income receivable by the local authority from standard rents ;
- (b) any income receivable by the local authority for that year in respect of service charges, supplementary charges, feuduties and any other charges in respect of houses and other property to which the account relates ;
- (c) the following subsidies, if any, payable to the local authority for that year, that is—
 - (i) the residual subsidy, excluding any subsidy payable under section 2(7)(b) of this Act,
 - (ii) the housing expenditure subsidy,
 - (iii) the high cost subsidy ;
- (d) any contribution out of the general rate fund associated with either of the subsidies referred to in sub-paragraph (c)(ii) and (iii) above which is made by the local authority for that year ;
- (e) any contribution payable to the local authority for that year in respect of houses or other property to which the account relates under any of the following enactments (which relate to contributions out of money provided by Parliament towards costs of improvement and conversions), that is
 - (i) section 2 of the Housing (Scotland) Act 1949,
 - (ii) section 105 of the Housing (Scotland) Act 1950,
 - (iii) section 13 of the Act of 1968 ;

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- (f) any contribution payable to the local authority for that year under section 59 of the Act of 1969 towards expenditure incurred by them on property to which the account relates under section 58 of that Act (powers of local authority in respect of improvement of amenities of residential areas) ;
 - (g) any payments received by the local authority from another local authority in pursuance of any overspill agreement, being payments such as are mentioned in paragraph 2(e) of this Schedule ;
 - (h) any contributions received by the local authority under section 101(1) of the Housing Act 1964, in so far as amounts equal to the expenditure towards which those contributions are made fall to be debited to the account ; 1964 c. 56.
 - (i) income, and receipts in the nature of income, being income or receipts arising for that year from the investment or other use of money carried to the account ;
 - (j) any other income of any description, except a contribution out of the general rate fund, receivable by the local authority for that year, being income relating to expenditure falling to be debited to the account for that year ;
 - (k) such other income of the local authority as the Secretary of State may direct.

(2) Subject to sub-paragraph (3) below, where any house or other property to which the account relates has been sold or otherwise disposed of, an amount equal to any income of the local authority arising from the investment or other use of capital money received by the authority in respect of the transaction shall be carried to the credit of the account.

(3) Sub-paragraph (2) above shall not apply—

- (a) where the Secretary of State otherwise directs as respects the whole or any part of such income, or
- (b) as respects income from capital money carried to a capital fund under section 9 of the Local Government (Development and Finance) (Scotland) Act 1964. 1964 c. 67.

(4) An amount equal to any income of the local authority arising from an investment or other use of borrowed moneys in respect of which the authority are required under paragraph 2 below to debit loan charges to the account shall be carried to the credit of the account.

(5) Where for any year a deficit is shown in the account, the local authority shall carry to the credit of the account, in respect of that year, an amount equal to the amount of the deficit, but, subject to sub-paragraph (6) below, shall repay the amount so credited to the general rate fund within the two immediately succeeding years.

(6) The obligation to repay referred to in sub-paragraph (5) above shall not apply if—

- (a) the deficit occurred for any year for which the local authority were required to limit the increase in standard rents by virtue of the proviso to section 28(2) of this Act or for which they were required to increase standard rents under section 29(1) of this Act, and

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- (b) where the deficit occurred in the year 1973-74 or any subsequent year, for every preceding year since the year 1972-73 the local authority were required to so limit the increase in standard rents or increase standard rents under the said section 29(1).

(7) For any year, the local authority may, with the consent of the Secretary of State, carry to the credit of the account, in addition to the amounts required by the foregoing provisions of this Schedule, such further amounts, if any, as they think fit.

Debits

2. Subject to paragraph 3 of this Schedule, for each year a local authority shall debit to the housing revenue account amounts equal to—

- (a) the loan charges which the local authority are liable to pay for that year in respect of money borrowed by a local authority for the purpose of—

(i) the provision by them after 12th February 1919 of housing accommodation under the enactments referred to in section 23(1)(a) of this Act,

(ii) the execution of works in respect of which the Secretary of State has made an exchequer contribution under section 35 of the Housing (Scotland) Act 1935,

(iii) the provision or improvement by them of dwellings in accordance with improvement proposals approved by the Secretary of State under section 2 of the Housing (Scotland) Act 1949 or under section 105 of the Housing (Scotland) Act 1950 or under section 13 of the Act of 1968,

(iv) meeting expenditure on the repair of houses and other property to which the account relates including any deficit referred to in paragraph 2(2) of Schedule 10 to this Act,

(v) the improvement of amenities of residential areas under section 58 of the Act of 1969 on land to which the account relates:

Provided that a local authority may, with the approval of the Secretary of State, debit to the account any payments, of which the amount and the period over which they are payable have been approved by him, to meet outstanding capital debt in respect of any house to which the account relates and which is demolished after the coming into force of this Act;

- (b) the taxes, feuduties, rents and other charges which the local authority are liable to pay for that year in respect of houses and other property to which the account relates;
- (c) the expenditure incurred by the local authority for that year in respect of the repair, maintenance, supervision and management of houses and other property to which the account relates, other than the expenditure incurred by them in the administration of a rent rebate scheme;

1935 c. 41.

1949 c. 61.
1950 c. 34.

- (d) the arrears of rent which have been written off in that year as irrecoverable, and the income receivable from any houses to which the account relates during any period in that year when they were not let ;
- (e) any payments made by the local authority to another local authority or a development corporation in pursuance of any overspill agreement, being payments towards expenditure which, if it had been incurred by the first-mentioned authority, would have been debited by them to their housing revenue account in pursuance of this paragraph ;
- (f) any amount repaid to the general rate fund in that year under paragraph 1(5) above ;
- (g) such other expenditure incurred by the local authority as the Secretary of State directs shall be debited to the housing revenue account.

3. A local authority shall not debit to the housing revenue account for the year 1972-73 and subsequent years amounts equal to—

- (a) expenditure on the provision of anything after the beginning of the year 1972-73 under section 139 or 141 of the Act of 1966 (which relate respectively to the powers of a local authority to provide shops, etc., and laundry facilities) or the supply of anything under section 140 of that Act (which relates to the power of a local authority to provide furniture, etc.), being anything in respect of which no expenditure was incurred before the year 1972-73, or
- (b) any part of expenditure attributable to site works and services of a house or houses or other property to which the housing revenue account relates which exceeds the expenditure required for the provision of the house or houses or other property :

Provided that nothing in sub-paragraph (a) above shall apply to expenditure on the provision of—

- (i) anything referred to in paragraph (a) and (b) of section 32(1) of this Act in respect of which the local authority are required to make a service charge,
- (ii) any garage, car-port or other car-parking facilities provided by the local authority, whether before the year 1972-73 or not, under the terms of the tenancy of a house.

Transitional

4.—(1) Where, but for the coming into force of this Act, any adjustment of a housing revenue account for the year 1971-72, or for an earlier year, would have been effected by entering a credit or debit in that account for the year 1972-73, or any later year, the adjustment shall be so made notwithstanding the provisions of this Act as to the nature of the credits or debits to be entered in the housing revenue account for the year 1972-73 and later years.

(2) Any direction given under paragraph 1(2) of Schedule 7 to the Act of 1968 (crediting of income from proceeds of sale of property) shall, in the year 1972-73 and later years, have effect as if given under paragraph 1(3)(a) of this Schedule.

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(3) Any direction given under paragraph 3 of the said Schedule 7 shall, as respects those years, have effect as if it had been given under paragraph 8 or 9 of this Schedule.

Working Balances

5.—(1) Subject to paragraph 6 of this Schedule, the local authority may retain in the account any amount by way of working balance and any such amount shall be treated as a debit to the account for the purposes of section 28 or 29 of this Act.

(2) An amount so retained in the account for any year shall be carried forward and treated as an item of income in the account for the next following year for the purposes of section 28 or 29 of this Act.

6.—(1) Subject to sub-paragraph (2) below, the working balance at the end of a year shall not exceed an amount per house of £30.

(2) A local authority shall not create or hold a working balance for any year for which they are required to carry an amount to the credit of the account under paragraph 1(5) of this Schedule.

Supplemental

7. Any requirement of this Schedule as respects any amount to be debited or credited to the account may be met by taking in the first instance an estimate of the amount, and by making adjustments in the account for a later year when the amount is more accurately known or is finally ascertained.

8. A local authority may, with the consent of the Secretary of State, exclude from the housing revenue account any of the items of income or expenditure mentioned in the foregoing provisions of this Schedule, or may with such consent include any items of income or expenditure not mentioned in those foregoing provisions.

9. Where it appears to the Secretary of State that amounts in respect of any items of income or expenditure other than those mentioned in the foregoing provisions of this Schedule ought properly to be credited or debited to a housing revenue account, or that amounts in respect of any of the items of income and expenditure mentioned in the foregoing provisions of this Schedule which ought properly to have been credited or debited to the account have not been so credited or debited, or that any amounts have been improperly credited or debited to the account, he may, after consultation with the local authority, give directions for the appropriate credits or debits to be made or for the rectification of the account, as the case may require.

10. The Secretary of State may direct that items of income or expenditure, either generally or of a specific category, shall be included in or excluded from the account.

11. Any surplus shown in a housing revenue account at the end of a year shall be carried forward to the next following year and included as an item of income for the purposes of section 28 or 29 of this Act.

12. References in this Schedule to houses and other property to which the housing revenue account of a local authority relates shall be construed as references to houses, buildings, land and dwellings in respect of which the authority are required by section 23 of this Act to keep the account.

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SCHEDULE 5

Section 26.

THE SLUM CLEARANCE REVENUE ACCOUNT

Credits

1. For each year a local authority shall carry to the credit of the slum clearance revenue account amounts equal to—
 - (a) the income from the rents, feu duties and other charges in respect of houses and other property to which the account relates ;
 - (b) any slum clearance subsidy payable to the local authority for that year ;
 - (c) any income from the investment or other use of capital obtained from the disposal of houses and other property to which the account relates ;
 - (d) any expenses incurred by the local authority in the demolition of a building to which the account relates which they have recovered from the owner of the building ;
 - (e) such other income of the local authority as the Secretary of State may direct.
2. Where for any year a deficit is shown in the account, the local authority shall carry to the credit of the account in respect of that year an amount equal to the amount of the deficit.

Debits

3. For each year a local authority shall debit to the slum clearance revenue account amounts equal to—
 - (a) the loan charges which the local authority are liable to pay for that year referable to the amount of expenditure incurred by the local authority which falls within paragraph (a) or (b) of section 26(1) of this Act ;
 - (b) the taxes, feu duties, rents and other charges which the local authority are liable to pay for that year in respect of houses and other property to which the account relates ;
 - (c) the expenditure incurred by the local authority for that year in respect of the repair, maintenance, supervision and management of houses and other property to which the account relates ;
 - (d) the expenditure incurred by the local authority for that year in respect of the purchase, demolition, and clearance of sites of houses and other property to which the account relates where that expenditure is not met from capital ;
 - (e) the arrears of rent which have been written off in that year as irrecoverable and the income receivable from any houses to which the account relates during any period in that year when they were not let ;

- SCH. 5 (f) such other expenditure incurred by the local authority as the Secretary of State directs.

Supplemental

4. Any surplus shown in a slum clearance revenue account at the end of a year shall be credited to the general rate fund.

5. A local authority may, with the consent of the Secretary of State, exclude from the slum clearance revenue account any of the items of income or expenditure mentioned in the foregoing provisions of this Schedule, or may with such consent include any items of income or expenditure not mentioned in those foregoing provisions.

6. The Secretary of State may direct that items of income or expenditure either generally or of a specific category, shall be included in or excluded from the slum clearance revenue account.

Section 37.

SCHEDULE 6

RESTRICTION ON RENT INCREASES

Restriction on rent increases after first registration

1. Where a rent for a dwelling-house which is subject to a regulated tenancy is registered under Part IV of the Act of 1971 and the registration is the first registration to take effect after the tenancy has become a regulated tenancy by virtue of section 34 of this Act, then if the rent payable under the tenancy for any statutory period beginning during the period of delay imposed by paragraph 2 of this Schedule is less than the rent so registered, it shall not be increased by a notice of increase under section 21(2)(b) of the Act of 1971 except to the extent (if any) permitted under the following provisions of this Schedule; and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

Period of delay

2. There shall be a period of delay with respect to any rent registered as mentioned in paragraph 1 of this Schedule which shall be a period of two years beginning with the date of registration.

Permitted increase

1971 c. 40.

3.—(1) Subject to paragraph 3(1)(c) of Part III of the Schedule to the Fire Precautions Act 1971, the rent may be increased to the aggregate of the following—

- (a) the amount of the previous limit calculated in accordance with paragraph 4 of this Schedule; and
- (b) the appropriate proportion of the difference between the registered rent and the amount specified in paragraph (a) above.

(2) The appropriate proportion mentioned in sub-paragraph (1)(b) of this paragraph shall be ascertained for any rental period in accordance with the following Table, in which the year of the period of delay in which the rental period begins is shown in the first column and the appropriate proportion in the second column.

TABLE

Year of period of delay	Appropriate proportion
first year second year	one-third two-thirds

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the amount to which the rent may be increased for any rental period shall not in any case be less than 50p a week above the following, that is to say—

- (a) if the rental period begins in the first year of the period of delay, the amount specified in sub-paragraph (1)(a) of this paragraph ;
- (b) if the rental period begins in the second year of the period of delay, the amount to which the rent could be increased for a rental period beginning in the previous year ;

but nothing in this paragraph shall be taken to enable the rent to be increased above the amount registered.

Previous limit

4.—(1) For the purposes of this Schedule the previous limit of a rent shall be taken to be, subject to sub-paragraph (2) of this paragraph, the amount which at the date of registration was recoverable by way of the rent or would have been so recoverable if all notices of increase authorised by the Act of 1971 or by section 36(2) of this Act had been served.

(2) Where the rent includes an amount payable in respect of rates, the amount so payable, ascertained in accordance with Schedule 4 to the Act of 1971, shall be deducted from the amount specified in sub-paragraph (1) of this paragraph in calculating the previous limit of the rent.

Restriction on rent increases in cases of further registration during period of delay

5.—(1) Where a rent (in this paragraph referred to as the first rent) for a dwelling-house which is subject to a regulated tenancy has been registered as mentioned in paragraph 1 of this Schedule and, in any year of the period of delay imposed by paragraph 2 of this Schedule, a new rent for the dwelling-house is registered under Part IV of the Act of 1971, then, if the new rent exceeds the rent for the time being recoverable under the regulated tenancy, the following provisions of this paragraph shall apply and the foregoing provisions of this Schedule shall not apply.

(2) The rent for any statutory period beginning before the end of the period of delay shall not be increased by a notice of increase under section 21(2)(b) of the Act of 1971 except to the extent permitted by the following provisions of this paragraph ; and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

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(3) If the new rent is less than the first rent, the rent payable under the regulated tenancy may be increased (up to the amount registered) to the same extent as if the first rent had remained registered.

(4) If the new rent exceeds the first rent, the rent payable for any statutory period beginning after the date of registration may be increased by the difference between the first rent and the new rent, but, apart from that increase, the amount to which the rent may be increased thereafter (up to the new rent) is to be determined as if the first rent had remained registered.

Successive tenancies

6. Where a rent for a dwelling-house which is subject to a regulated tenancy is registered as mentioned in paragraph 1 of this Schedule and, during the period of delay imposed by paragraph 2 of this Schedule with respect to the rent, the tenant, or any person who might succeed him as a statutory tenant, becomes the tenant under a new regulated tenancy of the dwelling-house—

(a) the rent limit for any contractual period of the new regulated tenancy beginning during that period of delay shall be the amount to which, if the first-mentioned tenancy had continued, the rent payable thereunder could have been increased in accordance with this Schedule for a statutory period beginning at the same time, and in relation to such a contractual period the reference in section 43(3)(a) of the Act of 1971 to section 19(2) of that Act shall be construed as a reference to this paragraph ; and

(b) in relation to any statutory period of the new tenancy beginning during that period of delay the provisions of this Schedule shall have effect as if it were a statutory period of the first mentioned tenancy.

7. Where a controlled tenancy of a dwelling-house becomes a regulated tenancy by virtue of section 34 of this Act, and the tenant, or any person who might succeed him as a statutory tenant, becomes the tenant under a new regulated tenancy of the dwelling-house, then, if during the continuance of the new regulated tenancy a rent for the dwelling-house is registered under Part IV of the Act of 1971 and the registration would be such a registration as is mentioned in paragraph 1 above had the first mentioned regulated tenancy continued, and the provisions of this Schedule shall apply as if it had continued and in particular paragraph 6 above shall, subject to paragraph 9 below, apply with the necessary modifications.

Rent Agreements

8. Where, after a controlled tenancy of a dwelling-house becomes a regulated tenancy by virtue of section 34 of this Act, an agreement increasing the rent under the tenancy (but without creating a new regulated tenancy) takes effect, whether before or after the beginning of the period of delay imposed by paragraph 2 of this Schedule, then, subject to paragraph 9 below,—

- (a) the rent limit for any contractual period of the regulated tenancy beginning during that period of delay shall be the amount to which, if the agreement had not been made, the rent payable under the tenancy could have been increased in accordance with this Schedule for a statutory period beginning at the same time, and, in relation to such a contractual period, the reference in section 43(3)(a) of the Act of 1971 to section 19(2) of that Act shall be construed as a reference to this paragraph ; and
- (b) in relation to any statutory period of the regulated tenancy, beginning during that period of delay, the provisions of this Schedule shall have effect as if the agreement had not been made.

9. If, in the period between the time when the controlled tenancy of a dwelling-house becomes a regulated tenancy by virtue of section 34 of this Act and the registration of such a rent as is mentioned in paragraph 1 of this Schedule, a rent agreement with a tenant having security of tenure takes effect as respects the dwelling-house and the provisions of sections 42 and 43 of this Act have been observed as respects the agreement, then the provisions of this Schedule shall apply as respects the period after the actual date when the rent was registered for the dwelling-house as if the date of registration had been the date on which the agreement took effect.

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10. In ascertaining for the purposes of this Schedule whether there is any difference between amounts or what that difference is, such adjustments shall be made as may be necessary to take account of periods of different lengths ; and for that purpose a month shall be treated as one-twelfth and a week as one fifty-second of a year.

11. Where a registration takes effect from a date earlier than the date of registration, references in this Schedule to the date of registration shall nonetheless be references to the later date.

12. Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the foregoing provisions of this Schedule shall have effect as if only the rent determined by the rent assessment committee had been registered ; but the date of registration shall be deemed for the purpose of this Schedule (but not for the purposes of section 21(2)(b) of the Act of 1971) to be the date on which the rent determined by the rent officer was registered.

13. This Schedule shall not apply where a registration is also the first after the completion, during the existence of the regulated tenancy, of works towards the cost of which a grant was payable under Part II of the Act of 1968.

Section 48.

SCHEDULE 7**MODIFICATIONS OF PART VI OF THE RENT (SCOTLAND) ACT 1971**

1. In section 70 (conversion of controlled tenancies of dwelling-houses provided with standard amenities and in good repair),—

- (a) in subsection (2), the word “or” occurring after the word “certificate” and the words from “on such” to the end shall cease to have effect;
- (b) subsection (3) shall cease to have effect.

2. In section 71 (application for qualification certificate), for subsections (1) and (2) there shall be substituted the following subsections—

“(1) Where the landlord considers that the dwelling-house satisfies the qualifying conditions, he may make an application for a qualification certificate under this subsection.

(2) An application for a qualification certificate may be made under this subsection with respect to a dwelling-house (whether or not as part of or in conjunction with an application for a grant under Part II of the Act of 1968) notwithstanding that at the time of the making of the application the dwelling-house does not satisfy the qualifying conditions.”

3. In section 73 (procedure on applications under section 71(2)),—

- (a) in subsection (1), for the words “and send a copy thereof” there shall be substituted the words “, but if it does not so appear to the local authority they shall give notice to the applicant of their refusal to issue such a certificate; and they shall send a copy of the certificate or of the notice”;
- (b) for subsection (3) there shall be substituted the following subsection—

“(3) After the works specified in the application for a qualification certificate have been carried out and on being satisfied that the dwelling-house satisfies the qualifying conditions, the local authority shall issue the qualification certificate, but if they are not so satisfied they shall give notice to the applicant of their refusal to issue that certificate; and they shall send a copy of the certificate or of the notice to the tenant.”

4. In section 74 (registration of rent on issue of qualification certificate),—

- (a) in subsection (1), for the words from “if the certificate” to the end there shall be substituted the words “if a certificate of fair rent has been issued on an application under Part I of Schedule 12 to this Act, also by a copy of that certificate.”;
- (b) in subsection (2), for the words from “qualification” to the end there shall be substituted the words “certificate of fair rent has been issued on an application under Part I of the said Schedule 12.”

5. In section 76 (appeal in certain cases against issue or refusal of qualification certificate),—

- (a) in subsection (1), after the word “72(2)” there shall be inserted the words “or 73(1) or (3)”, and for the words “certificate ought to be issued” there shall be substituted the words “qualification certificate or, as the case may be, the certificate of provisional approval ought to be issued”;
- (b) in subsection (2), after the word “72(2)” there shall be inserted the words “or 73(3)”, and after the words “qualification certificate” there shall be inserted the words “or under section 73(1) of this Act of a copy of a certificate of provisional approval”.

6. Section 77 (postponement in certain cases of effect of qualification certificate) shall cease to have effect.

7. Section 78 (modifications of that Act in relation to tenancies converted under Part VI of that Act) shall cease to have effect.

8. In section 80 (consent of tenant),—

- (a) subsection (1) shall cease to have effect;
- (b) in subsection (2), after the words “statutory tenancy” there shall be inserted the words “(whether a controlled or a regulated tenancy)” the words “or confirm” shall cease to have effect, and for paragraph (a) there shall be substituted the following paragraph—

“(a) those works were specified in an application for a qualification certificate under section 71(2) of this Act and a certificate of provisional approval has been issued; or”;
- (c) in subsection (4), after the word “circumstances” there shall be inserted the words “(other than the means of the tenant)”, after the words “from the works,” there shall be inserted the word “and”, and the words from “his means” to the end shall cease to have effect.

9. Subject to paragraphs 10, 11 and 12 below, Schedule 13 shall have effect with respect to any year of a period of delay imposed under that Schedule which begins on and after 1st January 1973 subject to the following modifications—

- (a) in paragraph 3(1), at the beginning there shall be added the words “Subject to paragraph 3(1)(c) of Part III of the Schedule to the Fire Precautions Act 1971”, at the end of sub-paragraph (a) there shall be added the word “and”, sub-paragraph (b) shall cease to have effect and in sub-paragraph (c) for the words “aggregate of the amounts specified in paragraphs (a) and (b) above” there shall be substituted the words “amount specified in sub-paragraph (a) above”;
- (b) in paragraph 3(3) for the reference to 37½ new pence there shall be substituted a reference to 50 new pence, and in sub-paragraph (a) for the words “aggregate of the amounts specified in sub-paragraphs (1)(a) and (1)(b)” there shall be substituted the words “amount specified in sub-paragraph(1)(a)”;

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- (c) in paragraph 4(1) for the words from “the Rent” to the end there shall be substituted the words “this Act or section 36(2) of the Housing (Financial Provisions) (Scotland) Act 1972 had been served.”;
- (d) paragraphs 5, 9, 11 and 12 shall cease to have effect;
- (e) in paragraph 7(b) the word “foregoing” shall cease to have effect;
- (f) in paragraph 8 for the words from “paragraphs 1 to 6” to the end there shall be substituted the words “the provisions of this Schedule shall apply as if it had continued and in particular paragraph 7 of this Schedule shall, subject to paragraph 8B below, apply with the necessary modifications”.
- (g) after paragraph 8 there shall be inserted the following—

“Rent Agreements

8A. Where, after a tenancy becomes a regulated tenancy by virtue of Part VI of this Act or, as the case may be, after the completion of the works referred to in paragraph 1(b) above, an agreement increasing the rent under the tenancy (but without creating a new regulated tenancy) takes effect, whether before or after the beginning of the period of delay imposed by paragraph 2 above, then, subject to paragraph 8B below,—

- (a) the rent limit for any contractual period of the regulated tenancy beginning during that period of delay shall be the amount to which, if the agreement had not been made, the rent payable under the tenancy could have been increased in accordance with this Schedule for a statutory period beginning at the same time, and, in relation to such a contractual period, the reference in section 43(3)(a) of this Act to section 19(2) of this Act, shall be construed as a reference to this sub-paragraph, and
- (b) in relation to any statutory period of the regulated tenancy beginning during that period of delay, the provisions of this Schedule shall have effect as if the agreement had not been made.

8B. If, in the period between the time when the controlled tenancy of a dwelling-house becomes a regulated tenancy by virtue of Part VI of this Act or, as the case may be, the time when the works referred to in paragraph 1(b) of this Schedule are completed, and the registration of such a rent as is mentioned in paragraph 1 of this Schedule, a rent agreement with a tenant having security of tenure within the meaning of Part V of the Housing (Financial Provisions) (Scotland) Act 1972 takes effect as respects the dwelling-house and the provisions of sections 42 and 43 or, as the case may be, sections 42 and 44, of that Act have been observed as respects the agreement, then the provisions of this Schedule shall apply as respects the period after the actual date when the rent was registered for the dwelling-house as if the date of registration had been on the date when the agreement took effect.”;

(h) after paragraph 10 there shall be inserted the following paragraph—

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“10A. Where a registration takes effect from a date earlier than the date of registration, references in this Schedule to the date of registration shall nonetheless be references to the later date.”

10. If in a period of delay imposed under Schedule 13, the registration at the beginning of the period of delay is superseded by a later registration of a higher rent and the later registration is on or after 1st January 1973, then for paragraph 6(4) of that Schedule there shall be substituted the following sub-paragraph—

“(4) If the new rent exceeds the first rent, the rent payable for any statutory period beginning after the date of registration may be increased by the difference between the first rent and the new rent but, apart from that increase, the amount to which the rent may be increased thereafter (up to the new rent) is to be determined as if the first rent had remained registered.”

11. Without prejudice to paragraphs 9 and 10 above, in the case of a registration of a rent on or after 1st January 1973 the said Schedule shall have effect on and after that date subject to the additional modification that in paragraph 2 (period of delay) for sub-paragraphs (a) and (b) there shall be substituted the words “a period of two years”.

12. Without prejudice to paragraphs 9 and 10 above, in the case of a rent registered before 1st January 1973 with respect to which there is a period of delay imposed by paragraph 2 of Schedule 13, the Schedule shall have effect on and after that date subject to the following additional modifications—

- (a) where the second year of a period of delay of four years under the Schedule begins on or after 1st January 1973 the period of delay shall instead be two years, and the fraction in the third column of the Table in paragraph 2(2) for the second year shall be three fifths, and not two fifths;
- (b) where paragraph (a) above does not apply and any year of a period of delay of four years begins on or after 1st January 1973, the period of delay shall instead be three years, and, if the said date falls in the second year of delay, the fraction in the said third column for the third year shall be four fifths, and not three fifths.

SCHEDULE 8

Section 70.

TERMINATION OF PART OF EXISTING CONTRIBUTION SYSTEM

Enactments described in Schedule 1 to this Act

1.—(1) No payment shall be made under any of the enactments described in Schedule 1 to this Act for the year 1972-73 or any subsequent year.

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(2) Subject to section 59 of this Act and without prejudice to the generality of sub-paragraph (1) above, no payment shall be made by a local authority for the year 1972-73 or any subsequent year in pursuance of any undertaking or agreement made under or by reference to any of the enactments described in Parts IV and VI of the said Schedule 1 (which includes—

- (a) provisions authorising a local authority to enter into undertakings to make payments to other persons, and authorising payments out of money provided by Parliament to local authorities entering into such undertakings, and
- (b) provisions requiring or authorising a local authority, on receipt of any sum, to pay to another person an amount not less than that sum).

2.—(1) This paragraph has effect where information given to the Secretary of State on an application duly made for a payment for the year 1971-72 or any earlier year under any enactment described in Schedule 1 to this Act includes any particulars which are, and are stated to be, based on an estimate.

(2) Subject to the following provisions of this Schedule, if it appears to the Secretary of State—

- (a) that the estimate is reasonable, and
- (b) that, assuming the estimate were correct, the information and other particulars given on the application are sufficient to enable him to determine the amount of the payment,

he may accept the estimate and make a payment accordingly.

(3) Any payment made in pursuance of this paragraph so far as it is based on an estimate of the cost of land may be adjusted when the final cost of the land is ascertained.

(4) Where a payment is made in pursuance of this paragraph neither the housing authority nor the housing association receiving the payment nor, where the payment is made under a provision requiring a local authority to pay over to a development corporation or a housing association an amount not less than that received, the development corporation or housing association, shall be entitled to question the amount of the payment on a ground which means that the estimate was incorrect.

(5) Where the Secretary of State is not satisfied that the estimate is reasonable, he may, if he thinks fit, accept the application and make a payment of such amount as appears to him reasonable.

3. The right to receive any payment from the Secretary of State under any of the enactments described in Schedule 1 to this Act shall be extinguished unless an application has been duly made for the payment before 1st September 1972, or such later date as he may in exceptional circumstances allow, and unless the Secretary of State is satisfied that the information and other particulars given (before that date) on the application—

- (a) are sufficient to enable him to determine the amount of the payment, or
- (b) are such as to enable him to make a payment based on an estimate in pursuance of paragraph 2 of this Schedule.

4. For the purpose of calculating the amount of exchequer contribution payable for the year 1971-72 under subsection (1) of section 2 of the Act of 1968, "financial year" in subsections (2) and (3) of that section shall have the same meaning as "year" in this Act; and accordingly subsection (6) of that section shall not apply for that purpose.

5.—(1) The Secretary of State may determine the total amount payable to a housing authority or to any housing association under the enactments described in Schedule 1 to this Act for any period ending not later than the end of the year 1971-72, and in determining that total amount he may take into account any over-payment made or any amount already paid to the authority or association not under statute.

(2) The Secretary of State may direct that a local authority shall, in consequence of a determination made by him under sub-paragraph (1) above, make such adjustment in the housing revenue account as he thinks fit.

(3) The Secretary of State shall pay to the housing authority or the housing association the total amount determined by him under sub-paragraph (1) above, and he may recover from the housing authority or the association any overpayment made by him under the said enactments for any period ending not later than the end of the year 1971-72.

6.—(1) Any sum paid, before the coming into force of this Act, by the Secretary of State for the year 1972-73 under any enactment described in Parts I, II and III of Schedule 1 to this Act shall be brought into account as follows.

(2) A sum so paid shall be treated as paid on account of any sums payable to the housing authority under Part I of this Act for the year 1972-73, and if the total of sums so paid exceeds the total of the sums payable under Part I of this Act for the year 1972-73, the excess shall be recoverable by the Secretary of State from the housing authority.

(3) If it appears to the Secretary of State at any time that, when the sums payable under Part I of this Act for the year 1972-73 are finally ascertained, any amount will be recoverable by him under sub-paragraph (2) above, he may require the housing authority to pay that amount to him forthwith, but without prejudice to any further adjustment, either way, when those sums are finally ascertained.

Temporary accommodation provided in war buildings

7.—(1) No payments shall be made under section 22(1)(b) of the Act of 1968 for the year 1972-73 or any subsequent year.

(2) Section 22(3) of the Act of 1968 shall cease to have effect, except where the buildings were demolished before the coming into force of this Act.

Aluminium houses in unsatisfactory state

8.—(1) Payments under subsection (2) of section 92 of the Housing Act 1964 shall not be made for the year 1972-73 or any subsequent year.

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(2) Sub-paragraph (3) below relates to a house—

- (a) in respect of which a payment is made for the year 1971-72 under subsection (2) of the said section 92, or
- (b) to which the said section 92 applies and which is vacated in the year 1971-72 and in respect of which, apart from the provisions of sub-paragraph (1) above, a payment would be made under the said subsection (2).

(3) The Secretary of State may pay to the local authority in respect of any house referred to in sub-paragraph (2) above a sum of such amount as, in his opinion, is appropriate having regard to the residuary contribution years within the meaning of subsection (8)(d) of the said section 92 in relation to that house:

Provided that any sum paid under this sub-paragraph shall be applied by the local authority to extinguish the outstanding debt in respect of any such house and, in so far as not so required, to reduce any debt in respect of which loan charges are required to be debited to the housing revenue account under paragraph 2 of Schedule 4 to this Act or to such other purpose as may be approved by the Secretary of State.

1964 c. 56.

(4) Section 93 of the Housing Act 1964 shall cease to have effect, except where the request by the local authority for the demolition of the house was duly made before the date of the coming into force of this Act, and the local authority, before that date, satisfied the Secretary of State that they had taken the appropriate steps, including the disconnection of services, to enable the demolition to be carried out safely and efficiently, or the house is such a house as is referred to in sub-paragraph (2)(b) above.

(5) Notwithstanding sub-paragraph (4) above, subsection (2) of the said section 93 shall not have effect where—

- (a) the request by the local authority for the demolition of the house was duly made before the date of the coming into force of this Act, and the local authority, before that date, satisfied the Secretary of State as described in sub-paragraph (4) above, or
- (b) the house was demolished before the coming into force of this Act,

and the house would be such a house as is referred to in sub-paragraph (2)(b) above except that it is vacated in the year 1972-73.

Housing (Rural Workers) Acts

9. The Housing (Rural Workers) Acts 1926 to 1942, except in relation to any loan made before the coming into force of this Act under section 2 of the Housing (Rural Workers) Act 1926 (and excepting any enactment so far as it relates to the rate of interest payable on such a loan), and except in relation to any contribution payable before the coming into force of this Act under section 4 of that Act, shall cease to have effect.

Temporary housing under Act of 1944

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10.—(1) The Housing (Temporary Accommodation) Act 1944, and 1944 c. 36.
any agreement under section 1 of that Act, shall cease to have effect.

(2) So far as any agreement under the said section 1 provides for a payment by a local authority to the Secretary of State, or by the Secretary of State to a local authority, sub-paragraph (1) above shall have effect as respects payments to be made for the year 1972-73 and subsequent years.

(3) All rights of property and other rights of the Secretary of State as respects any structure being used by a local authority in pursuance of an agreement under the said section 1 when this Act comes into force, and any obligation of the Secretary of State to any person other than the local authority as respects the removal or demolition of the structure, shall be transferred to the local authority.

(4) Subject to sub-paragraph (3) above, all obligations of the Secretary of State as respects any such structure shall be terminated.

(5) The provisions of the Act of 1966 relating to houses provided by a local authority under Part VII of that Act shall continue to have effect in relation to any such structure, and housing accommodation provided in any such structure shall be deemed to have been provided under the said Part VII:

Provided that any such structure, and any land on which it is situated, which immediately before the coming into force of this Act was deemed to be land acquired for the purposes of the said Part VII, may be appropriated, or disposed of, by the local authority in the same way as any other land provided under the said Part VII.

(6) The preceding provisions of this paragraph shall not affect any obligation of a local authority to any other person as respects the removal or demolition of any structure.

(7) Where, under section 2 of the Act of 1944, the local authority have, before the date when this Act comes into force, duly requested the Secretary of State to cause the structure to be taken down and removed, and the local authority have, before that date, satisfied the Secretary of State that they have taken the appropriate steps, including the disconnection of services, to enable the demolition to be carried out safely and efficiently, the Secretary of State shall, notwithstanding the preceding provisions of this paragraph, comply with the request and subsections (2) and (3) of the said section 2 shall apply as respects structures, fittings and materials removed in compliance with the request.

(8) References in this paragraph to any structure include references to any fittings forming part of the structure.

Exchequer contributions for unfit houses retained by local authorities

11.—(1) Payments under section 19 of the Act of 1968—

(a) shall not be made for the year 1972-73 or any subsequent year, and

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(b) shall only be made (and only for the year 1971-72 and earlier years) as regards a house approved by the Secretary of State for the purposes of the said section 19 before the end of the year 1971-72.

(2) Where payments under the said section 19 as regards a house approved before the end of the year 1971-72 would, apart from this paragraph, fall to be paid for the year 1972-73, or for that and later years, the Secretary of State shall, subject to subsection (3) below, pay to the local authority a sum, calculated by such method as he may determine, equivalent to the value of those payments, as at the end of the year 1971-72.

(3) In the case of payments under subsection (2)(a) of the said section 19 (payments for years during which the house is used for approved housing purposes), it shall be assumed for the purposes of sub-paragraph (2) above—

(a) that no payment would, apart from this paragraph, fall to be paid under the said subsection (2)(a) for the year 1972-73 or any later year if the first such payment were for the year 1961-62 or any earlier year, and

(b) if the first such payment were for the year 1962-63 that no such payment would be made for the year 1972-73 or any later year, and correspondingly that if the first such payment were for a year after 1962-63, that no such payment would be made for any year beginning more than ten years after the beginning of the year for which the first such payment was made,

(c) that any house is used in the year 1972-73, and later years, for the said approved housing purposes.

(4) Where a local authority have taken possession of a house before the end of the year 1971-72, and—

(a) the house has not been approved for the purposes of the said section 19, but

(b) apart from the provisions of this paragraph, it would have been eligible for approval under that section, or would have been so eligible if the local authority had purchased it,

the Secretary of State may pay to the local authority a sum of such amount as, in his opinion, is appropriate having regard to the period for which the house is likely to be used for housing purposes, and to the date when the local authority might be expected to incur expenditure on purchasing the house.

(5) Any capital sum paid under sub-paragraph (2) or (4) above shall be applied by the local authority to reduce the capital debt relating to any house referred to in those sub-paragraphs, and, in so far as not so required, to reduce any debt in respect of which loan charges are required to be debited to the slum clearance revenue account under paragraph 3 of Schedule 5 to this Act.

Agricultural housing accommodation

12.—(1) A local authority shall not approve an application for assistance under section 44 of the Act of 1968 on or after the coming into force of this Act.

(2) An exchequer contribution under subsection (1) of section 48 of the Act of 1968 shall not be made for the year 1972-73 or any subsequent year.

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(3) Where, apart from sub-paragraph (2) above, an exchequer contribution would be made under subsection (1) of the said section 48 towards the expense incurred by a local authority in giving assistance under the said section 44 in respect of the provision of a house, the Secretary of State may pay to the local authority a sum of such amount as, in his opinion, is appropriate having regard to the number of years outstanding for which, apart from the said sub-paragraph, the exchequer contribution would be payable by virtue of subsection (2) of the said section 48.

(4) Sub-paragraphs (2) and (3) above apply, with any necessary modifications, to an exchequer contribution under section 8 of the Housing (Agricultural Population) (Scotland) Act 1938, section 104 of the Housing (Scotland) Act 1950 or section 4 of the Housing (Scotland) Act 1952, as they apply to an exchequer contribution under the said section 48.

1938 c. 38.
1950 c. 34.
1952 c. 63.

Determination of disputes

13. Any dispute between two or more housing authorities, or between any housing authority and any other person, as to a claim for a payment from a housing authority under any of the enactments described in Schedule 1 to this Act or this Schedule, shall be referred to and determined by the Secretary of State.

Duty to supply information

14. Every housing authority and housing association shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to make any determination or calculation as respects payments for the year 1971-72, or any earlier year under the enactments described in Schedule 1 to this Act or this Schedule, or any determination or calculation related to the termination of the housing contribution system superseded by this Act.

Expenses of Secretary of State

15. Any payments to be made by the Secretary of State under this Schedule shall be defrayed out of money paid by Parliament.

SCHEDULE 9

MINOR AND CONSEQUENTIAL AMENDMENTS

Section 79.

THE LOCAL GOVERNMENT (SCOTLAND) ACT 1947 (c. 43)

1. In Schedule 6 (enactments for purposes of which money may be borrowed by local authorities repayable within periods other than 30 years) in column 1 of paragraph 14 for the words "1925 to 1946" there shall be substituted the words "1966 to 1972."

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THE LOCAL GOVERNMENT (FINANCIAL PROVISIONS) (SCOTLAND) ACT 1963 (c. 12)

2. In section 3 (reduction of rate support grants in respect of low rent income)—

(a) in subsection (3), in paragraph (a) for the words from “under paragraph (a)” to “received” there shall be substituted the words “under paragraphs 1(a) and (b), 1(2) and 1(4) of Schedule 4 to the Housing (Financial Provisions) (Scotland) Act 1972 less any rent rebates payable by them for that year under a rebate scheme;” and in the proviso for the words from “in pursuance” to the end there shall be substituted the words “under a rebate scheme.”;

(b) in subsection (4), for paragraphs (c) and (d) there shall be substituted the following paragraph—

“(c) the expression ‘rebate scheme’ has the same meaning as in section 15 of the Housing (Financial Provisions) (Scotland) Act 1972;”.

THE LOCAL GOVERNMENT (DEVELOPMENT AND FINANCE) (SCOTLAND) ACT 1964 (c. 67)

3. In section 9 (local authorities’ capital funds) after subsection (2) there shall be inserted the following subsection—

“(2A) Except with the consent of the Secretary of State, money received from the disposal of any property to which the local authority’s housing revenue account relates shall not be paid into any such capital fund”.

THE MINISTRY OF SOCIAL SECURITY ACT 1966 (c. 20)

1966 c. 20.

4. In section 16 of the Ministry of Social Security Act 1966 (prevention of duplication of payments) after subsection (2) there shall be inserted—

“(2B) Where, in determining the amount of any benefit, the requirements of any person have been taken into account for the whole or part of a period in respect of which rebate or allowance under Part II of the Housing (Financial Provisions) (Scotland) Act 1972 might be afforded to him, and before the whole or part of it has been afforded, the authority are notified by the Commission of the amount by which the amounts paid under this Act exceed what the Commission have determined they would have been had the rebate or allowance been afforded before the amount of the benefit was determined, the amount of the rebate or allowance to be afforded shall be reduced by the amount so notified.”

Supplementary benefit: rent brought into calculation of requirements

5. At the end of paragraph 13 of Schedule 2 to the Ministry of Social Security Act 1966 (supplementary benefit: the rent to be included in calculation of requirements) there shall be added the following sub-paragraph:—

“(4A) Where any amount of the rent or rates is met by a rebate or allowance under Part II of the Housing (Financial Provisions) (Scotland) Act 1972, or by any rate rebate, the

amount so met shall be deducted from the increase to be made under sub-paragraph (1)(a) of this paragraph.” SCH. 9

6.—(1) The provisions of this paragraph have effect as respect the exercise of the power under sub-paragraph (1)(a) of paragraph 13 of Schedule 2 to the Ministry of Social Security Act 1966 to take account of part only of the net rent payable (reduced where appropriate under sub-paragraph (2) of that paragraph) for any period for which a rent rebate or rent allowance is made to a person in receipt of supplementary benefit, or to a person whose requirements are aggregated with his under paragraph 3(1) of the said Schedule 2. 1966 c. 20.

(2) The said power shall not be exercisable—

(a) subject to sub-paragraph (3) below, on the ground that the rent is an excessive rent for the house, or

(b) subject to sub-paragraph (4) below, on the ground that the rent is excessive because of the size, location or character of the house, or

(c) on the ground that the rent is excessive having regard to the resources of the tenant and of any person whose requirements are aggregated with his under the said paragraph 3(1).

(3) Sub-paragraph (2)(a) above shall not apply to rent disregarded in pursuance of paragraph 15 of Schedule 3 to this Act.

(4) Sub-paragraph (2)(b) above—

(a) shall not apply where a rent allowance is granted for the period and a reduction falls to be made under sub-paragraph (2) of paragraph 13 of Schedule 2 to the Ministry of Social Security Act 1966 (adjustment for non-dependants sharing the accommodation), and

(b) where rent is reduced under paragraph 17 of Schedule 2 to this Act, shall only apply to the amount of the rent after the reduction.

(5) The preceding provisions of this paragraph shall not apply where the rebate or allowance has been restricted under paragraph 14 of Schedule 2 to this Act.

(6) Regulations under section 5 of the Ministry of Social Security Act 1966 may vary the provisions of this paragraph as if they were contained in Part II of Schedule 2 to that Act.

(7) This paragraph shall not affect the provisions of the said sub-paragraph (1)(a) so far as they relate to any amount which is not rent for the purposes of Part II of this Act.

THE HOUSING (SCOTLAND) ACT 1966 (C. 49)

7. In section 145 (powers of dealing with land acquired or appropriated for purposes of Part VII), for subsection (6) there shall be substituted the following subsection—

“(6) Notwithstanding anything in section 27(1) of the Town and Country Planning (Scotland) Act 1959 (power of local and other public authority to dispose of land without consent of a 1959 c. 70.)

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Minister), a local authority shall not, in the exercise of their powers under subsection (1)(d) of this section, sell or lease any house to which the housing revenue account, kept under section 23 of the Housing (Financial Provisions) (Scotland) Act 1972, relates, except with the consent of the Secretary of State; and, in giving his consent to such transactions as are referred to in this subsection, the Secretary of State may make general directions or a direction related to a specific transaction."

8. In section 146 (power of Secretary of State in certain cases to impose conditions on sale of local authority's houses) for the words "60 of the Housing (Financial Provisions) (Scotland) Act 1968" there shall be substituted the words "23 of the Housing (Financial Provisions) (Scotland) Act 1972".

9. In section 151 (conditions to be observed in management of local authority's houses)—

(a) in subsection (1) for the words "60 of the Housing (Financial Provisions) (Scotland) Act 1968" there shall be substituted the words "23 of the Housing (Financial Provisions) (Scotland) Act 1972";

(b) in subsection (3), paragraphs (a) and (b) shall cease to have effect.

10. In section 175 (compulsory purchase of land by Scottish Special Housing Association), in subsection (1)(a) for the words from "in the circumstances" to "1968" there shall be substituted the words "under the terms of an agreement between them and the Secretary of State".

11. In section 195 (default powers of Secretary of State in relation to rents)—

(a) for subsection (3)(b) there shall be substituted the following paragraph—

(b) for ensuring compliance by the local authority with the requirements of Part II of the Housing (Financial Provisions) (Scotland) Act 1972;";

(b) in subsection (5) the words "subject to subsection (6) of this section" shall cease to have effect, and for the words "subsections (4) or (5) of section 151 of this Act" there shall be substituted the words "section 27 of the Housing (Financial Provisions) (Scotland) Act 1972.";

(c) subsection (6) shall cease to have effect.

(d) in subsection (7), after the words "supplementary order" there shall be inserted the words "or an order under subsection (4A) above", and at the end there shall be added the words "and the provisions which may be included in an order by virtue of that section shall include any matters connected with the coming into force of such an order or its termination";

(e) after subsection (7) there shall be added the following subsection—

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“(8) Section 356(1) of the Local Government (Scotland) Act 1947 shall have effect for the purposes of this section as if for the words from ‘have failed’ to ‘statutory order’ there were substituted the words—

‘(a) have failed effectively to discharge any of their functions under Part II, III or IV of the Housing (Financial Provisions) (Scotland) Act 1972; or

(b) have failed so to discharge any function conferred on them by that Act or any other enactment as to secure the effective discharge of any of their functions under those Parts of that Act;’”.

THE LOCAL GOVERNMENT (SCOTLAND) ACT 1966 (c. 51)

12. In section 2 (rate support grants) in the definition of “housing subsidies” in subsection (6) for the words “the provision of housing accommodation” there shall be substituted the word “housing”.

13. In section 46(1) (general interpretation) in the definition of “housing revenue account” for the words “137 of the Housing (Scotland) Act 1950” there shall be substituted the words “23 of the Housing (Financial Provisions) (Scotland) Act 1972”.

14. In Schedule 1 (rate support grants), in paragraph 4(2) of Part II after the word “1963” there shall be inserted the words “as amended by paragraph 2 of Schedule 9 to the Housing (Financial Provisions) (Scotland) Act 1972”.

THE HOUSING (FINANCIAL PROVISIONS) (SCOTLAND) ACT 1968 (c. 31)

15. In section 21 (exchequer contributions for hostels), in subsection (4) the words from “Section 12(2)” to the end shall cease to have effect and at the end of the section there shall be inserted the following subsection—

“(5) Any reference in subsection (4) of this section to a house shall be construed as including a reference to any residential accommodation provided for occupation by not more than two persons and equipped with cooking facilities for the exclusive use of those persons, notwithstanding that it is not equipped with facilities of other kinds for such exclusive use.

In this subsection the expression “cooking facilities” in relation to any residential accommodation means facilities suitable for the preparation of food for the number of persons for which the accommodation is provided, and if any question arises whether any particular facilities fall within that description it shall be decided by the Secretary of State”.

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16. In section 25 (advances to Scottish Special Housing Association) for subsection (6) there shall be substituted the following subsection—

“(6) Any reference in this section to a house shall be construed as including a reference to any residential accommodation provided for occupation by not more than two persons and equipped with cooking facilities for the exclusive use of those persons, notwithstanding that it is not equipped with facilities of other kinds for such exclusive use.

In this subsection the expression “cooking facilities” in relation to any residential accommodation means facilities suitable for the preparation of food for the number of persons for which the accommodation is provided, and if any question arises whether any particular facilities fall within that description it shall be decided by the Secretary of State.”

17. In section 27 (power of local authorities to make improvement grants)—

(a) in subsection (7) after the word “and” there shall be inserted the words “subject to subsection (7A) of this section” and at the end there shall be added the following paragraph:—

“(f) section 57 of the Housing (Financial Provisions) (Scotland) Act 1972”;

(b) after subsection (7) there shall be inserted the following subsection—

“(7A) A local authority may approve an application for an improvement grant in respect of a dwelling where a grant has been made in respect of that dwelling under any of the enactments referred to in subsection (7) of this section other than paragraph (f) of that subsection (in this subsection referred to as “the earlier grant”) if—

(a) any conditions applied to the dwelling or relating to the payment of the earlier grant have ceased to apply, or

(b) the earlier grant has for any reason been fully repaid.”

18. In section 29 (amount of improvement grants and payment thereof) in the provisos (i) and (ii) to subsection (1) and in subsection (2), after the words “under paragraph (b) thereof” there shall be inserted the words “or specified in or prescribed under paragraph (bb) thereof.”

19. In section 40 (duty of local authorities to make standard grants), at the end there shall be added the following subsection:—

“(7) An application under this section shall not be approved if it relates to a dwelling in respect of which improvement subsidy is payable under section 57 of the Housing (Financial Provisions) (Scotland) Act 1972”.

20. In section 58 (power of Secretary of State to reduce, suspend, discontinue or transfer particular exchequer contributions)— SCH. 9

(a) in subsection (5)—

(i) before the definition of “the subsidised unit” there shall be inserted the following definition—

“recipient authority” means a local authority, a development corporation, a housing association or the Scottish Special Housing Association.

(ii) the words from “and the provisions” to the end shall cease to have effect;

(b) after subsection (5) there shall be added the following subsection—

“(6) References in this section to

(a) authorised arrangements made with a local authority, in relation to a development corporation or a housing association, are references to arrangements made between the development corporation or a housing association and a local authority, with the approval of the Secretary of State, under section 153 of the principal Act;

(b) special arrangements made by a housing association with the Secretary of State are references to arrangements which the Secretary of State may have made with a housing association for the provision of houses with a view to their approval under this Act or any Act passed before the Housing (Financial Provisions etc.) (Scotland) Act 1967.”

21. In Schedule 3 (conditions to be observed with respect to dwellings provided or improved with the help of improvement grants or standard grants), paragraphs 3 and 7 shall cease to have effect.

THE RENT (SCOTLAND) ACT 1971 (c. 28)

22. In section 5(5) (conditions for a housing association tenancy to be excluded from the Act of 1971), at the end there shall be added the following paragraph—

“(f) that the dwelling-house was comprised in a scheme approved for the purposes of section 55 or section 57 of the Housing (Financial Provisions) (Scotland) Act 1972.”

23. In section 21(2)(b) (limit of rent during statutory periods), after the word “below” there shall be inserted the words “and section 37 of the Housing (Financial Provisions) (Scotland) Act 1972”.

24. In section 46 (regulations), in subsection (2) for the words “44 or 45” there shall be substituted the words “or 44” but this paragraph shall not come into force until 1st January 1973.

SCH. 9 25. In section 85 (contracts), at the end of subsection (3) there shall be added the following paragraph:—

“(d) to a contract which creates a controlled tenancy if that tenancy subsequently becomes a converted tenancy within the meaning of section 36(1) of the Housing (Financial Provisions) (Scotland) Act 1972.”

26. In section 88(1) (power of rent tribunals on reference of contracts), for the words “60 of the Housing (Financial Provisions) (Scotland) Act 1968” there shall be substituted the words “23 of the Housing (Financial Provisions) (Scotland) Act 1972”.

27. In section 125 (powers of local authorities for the purposes of giving information), in subsection (1)(a) for the words “and under the provisions of this Act” there shall be substituted the words “under the provisions of this Act and Part V and sections 60 to 67 of the Housing (Financial Provisions) (Scotland) Act 1972”.

28. At the end of Schedule 6 (applications for registration of rent for regulated tenancies) there shall be added the following—

“ PART III

SUPPLEMENTAL

15. There shall be included among the matters with respect to which representations may be made or consultations are to be held or notices to be given under Parts I and II of this Schedule, any amount to be noted in the register in pursuance of section 43(1A) of this Act.”

29. At the end of Schedule 7 (certificates of fair rent) there shall be added the following paragraph—

“10. Where the rent specified in a certificate of fair rent includes any amount which, if the rent specified in the certificate had been registered, would require to be noted on the register in pursuance of section 43(1A) of this Act, that amount shall be noted on the certificate; and there shall be included among the matters with respect to which representations may be made or consultations are to be held or notices to be given under this Schedule, any amount to be noted on the certificate in pursuance of this paragraph.”

30. At the end of Part II of Schedule 12 (applications for registration of rent for converted tenancies) there shall be added the following—

“ Supplemental

15. There shall be included among the matters with respect to which representations may be made or consultations are to be held or notices to be given under this Part of this Schedule, any amount to be noted in the register in pursuance of section 43(1A) of this Act.”

THE FIRE PRECAUTIONS ACT 1971 (c. 40)

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31.—(1) In section 34 (modification of Rent Act 1968 and corresponding Scottish Acts), the word “and” shall be omitted and at the end there shall be added the following words “and the provisions of Part IV of that Schedule shall have effect for purposes of the modification in connection with certain provisions of this Act, of sections 60 to 66 of the Housing (Financial Provisions) (Scotland) Act 1972”.

(2) On and after 1st January 1973, in Part III of the Schedule (modifications of Rent (Scotland) Act 1971), in paragraph 1(2)(b) for the words “respectively of sections 20(5) and” there shall be substituted the words “of section”.

(3) At the end of paragraph 3(1) of the said Part III there shall be added the following—“and

(c) if there are restrictions on rent increases imposed under Schedule 13 to the Act of 1971 or under Schedule 6 to the Housing (Financial Provisions) (Scotland) Act 1972, the provisions of that Schedule shall have effect, in relation to any rental period of that regulated tenancy (whether contractual or statutory) beginning while the registration of that rent continues to have effect, as if the amount to which the rent payable in any statutory period could be increased in accordance with the provisions of that Schedule had been simultaneously increased by the same amount (that is to say, by the amount specified in the order of the sheriff)”.

(4) At the end of the Schedule there shall be added the following—

“ PART IV

MODIFICATIONS OF SECTIONS 60 TO 66 OF THE HOUSING (FINANCIAL PROVISIONS) (SCOTLAND) ACT 1972

Modifications of the said sections 60 to 66 in cases where rent is increased by virtue of section 28(3)(b) of this Act

1. Where, in the case of any premises consisting of a dwelling-house let on a tenancy to which sections 60 to 66 of the Act of 1972 apply, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act and that increase takes effect while a rent for the dwelling-house is registered in pursuance of section 61 of the Act of 1972, being a rent that was so registered before the completion of the alterations or other things falling within section 28(3) of this Act of which the expense was taken into account by the sheriff in making the order, then the amount of the increase shall be added to the rent limit imposed by section 62(2) of the Act of 1972 and, subject to paragraph 3 below, references to the registered rent in sections 63 to 64 of that Act shall be construed accordingly.

2. Where, in the case of any premises consisting of a dwelling-house let on a tenancy to which the said sections 60 to 66 apply, the rent payable in respect of the premises is increased by an order of the sheriff made by virtue of section 28(3)(b) of this

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Act and that increase takes effect while no rent for the dwelling-house is registered in pursuance of section 61 of the Act of 1972, then the amount of the increase shall be added to the rent limit imposed by section 62(3) of that Act.

3. Where, in the case of any premises consisting of a dwelling-house let on a tenancy to which the said sections 60 to 66 apply, the rent is increased by an order of the sheriff made by virtue of section 28(3)(b) of this Act and that increase takes effect when the rent limit is determined under paragraph (a) or (b) of section 63(2), or is the amount specified in a direction by the Secretary of State under section 64(4) of the Act of 1972, then the amount of the increase shall be added to the rent limit so determined or, as the case may be, the amount so specified.

4. Expressions used in this Part of this Schedule and in Part VI of the Act of 1972 have the same meaning in this Part as in that Part and "the Act of 1972" means the Housing (Financial Provisions) (Scotland) Act 1972."

THE SHERIFF COURTS (SCOTLAND) ACT 1971 (c. 58)

32. In Schedule 1 (minor and consequential amendments) for paragraph 4 there shall be substituted the following paragraph—

"The Rent (Scotland) Act 1971

4. In subsection (1) of section 123 (applications and appeals to sheriff), for the words from 'conducted' to the end there shall be substituted the words 'made by way of a summary cause within the meaning of the Sheriff Courts (Scotland) Act 1971'."

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SCHEDULE 10

TRANSITIONAL PROVISIONS

Residual subsidy

1.—(1) Any amount of residual subsidy payable for the year 1972-73 under section 2(7)(b) of this Act shall be treated by the local authority as a capital receipt for that year, and the local authority shall apply it to reduce any debt in respect of which loan charges are required to be debited to the housing revenue account under paragraph 2 of Schedule 4 to this Act.

(2) In complying with the requirements of this paragraph a local authority shall act in accordance with such directions, if any, as may be given by the Secretary of State.

Housing Repairs Account

2.—(1) No housing repairs account shall be kept for the year 1972-73 or any subsequent year.

(2) Any deficit or surplus in a housing repairs account as at the end of the year 1971-72 where such deficit or surplus exceeds an amount per house which is £1 for the year 1971-72 shall be treated for the year 1972-73 as a capital sum; and any such deficit shall be

met by a loan for such period as may be specified, either generally or in any particular case, by the Secretary of State the charges relating to which shall be debited to the housing revenue account under paragraph 2 of Schedule 4 to this Act, and any such surplus shall be applied to reduce any debt in respect of which loan charges are required to be debited to the housing revenue account under the said paragraph 2 or to such other purpose as may be approved by the Secretary of State.

(3) Any deficit or surplus in a housing repairs account as at the end of the year 1971-72 where such deficit or surplus is an amount per house which is £1 or less for that year shall be debited or, as the case may be, credited to the local authority's housing revenue account for the year 1972-73, and any such deficit shall be treated as if it represented expenditure on repairs for that year in addition to any repairs actually carried out.

(4) Any investment under section 63 of the Act of 1968 (temporary application of money in housing accounts) of money credited to a housing repairs account shall be realised not later than the end of the year 1972-73 and the amount realised shall be applied to reduce the deficit or, as the case may be, increase the surplus referred to in sub-paragraphs (2) and (3) above or to create such a surplus.

(5) In complying with the requirements of this paragraph a local authority shall act in accordance with such directions, if any, as may be given by the Secretary of State.

(6) Any charges debited to the housing revenue account arising from a loan, or any reduction in loan charges debited to that account arising from any reduction of debt, resulting from the provisions of sub-paragraph (2) above shall be disregarded for the purposes of section 3 of this Act.

Housing Equalisation Account

3.—(1) No housing equalisation account shall be kept for the year 1972-73 or any subsequent year.

(2) Any balance in a housing equalisation account as at the end of the year 1971-72 shall be treated for the year 1972-73 by the local authority as a capital receipt, and the local authority shall apply it to reduce any debt in respect of which loan charges are required to be debited to the housing revenue account under paragraph 2 of Schedule 4 to this Act or to such other purpose as may be approved by the Secretary of State.

(3) For each year the local authority shall carry to the credit of the housing revenue account amounts equal to any income, and receipts in the nature of income, being income or receipts arising to the local authority for that year from the investment or other use of money representing any sum treated as a capital receipt in pursuance of this paragraph.

(4) In complying with the requirements of this paragraph a local authority shall act in accordance with such directions, if any, as may be given by the Secretary of State.

SCH. 10 (5) Any reduction in loan charges debited to the housing revenue account arising from any reduction of debt resulting from the provisions of sub-paragraph (2) above shall be disregarded for the purposes of section 3 of this Act.

Modifications of Part VI of the Act of 1971

4. An application under Part VI of the Act of 1971 as originally enacted for a qualification certificate which has not been disposed of before the coming into force of this Act shall be treated as if made under the said Part VI as modified by Schedule 7 to this Act.

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SCHEDULE 11

REPEALS

PART I

HOUSING ACCOUNTS

Chapter	Short Title	Extent of Repeal
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Sections 60 to 63. In section 68, the proviso to subsection (1). Schedule 7.

The repeals in this Part of this Schedule have effect as respects accounts for the year 1972-73 and subsequent years.

PART II

SCH. 11

CONTROLLED AND REGULATED TENANCIES

Chapter	Short Title	Extent of Repeal
1971 c. 28.	The Rent (Scotland) Act 1971.	Section 8. Section 19(3). Section 20. Section 26. Section 27 except subsection (2). Section 28. In section 29, the words "section 20(5) or, as the case may be,". In Schedule 13, paragraphs 3(1)(b) and 5. In paragraph 7(b) the word "foregoing". Paragraphs 9, 11 and 12. In Schedule 19, in paragraph 10 the words "without prejudice to section 28(3) of this Act" and paragraph 16(4).
1971 c. 40.	The Fire Precautions Act 1971.	In Part III of the Schedule, in paragraph 3, sub-paragraphs (2) and (3) and in sub-paragraph (4)(a) the words "and after the word 'below' in subsection (3)".

This Part of this Schedule comes into force on 1st January 1973.

The repeals of section 19(3) and section 20 of the Rent (Scotland) Act 1971, and of references to those enactments, have effect subject to the saving in section 41 of this Act.

PART III

HOUSING SUBSIDIES

Chapter	Short Title	Extent of Repeal
13 & 14 Geo. 5. c. 24.	The Housing, etc. Act 1923.	Section 1.
20 & 21 Geo. 5. c. 40.	The Housing (Scotland) Act 1930.	The whole Act.
21 & 22 Geo. 5. c. 39.	The Housing (Rural Authorities) Act 1931.	The whole Act.
23 & 24 Geo. 5. c. 16.	The Housing (Financial Provisions) (Scotland) Act 1933.	The whole Act.
25 & 26 Geo. 5. c. 41	The Housing (Scotland) Act 1935.	Sections 30 and 32.

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Chapter	Short Title	Extent of Repeal
1 & 2 Geo. 6. c. 38.	The Housing (Agricultural Population) (Scotland) Act 1938.	The whole Act.
2 & 3 Geo. 6. c. 3.	The Housing (Financial Provisions) (Scotland) Act 1938.	The whole Act.
7 & 8 Geo. 6. c. 36.	The Housing (Temporary Accommodation) Act 1944.	The whole Act.
8 & 9 Geo. 6. c. 39.	The Housing (Temporary Accommodation) Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act 1947.	In Schedule 6, paragraph 16.
14 Geo. 6. c. 34.	The Housing (Scotland) Act 1950.	Sections 84 to 88. Section 91. Sections 93 to 96. Sections 100 to 104. Sections 127 and 128. Schedule 7.
15 & 16 Geo. 6. and 1 & 2 Eliz. 2. c. 63.	The Housing (Scotland) Act 1952.	The whole Act.
5 & 6 Eliz. 2. c. 38.	The Housing and Town Development (Scotland) Act 1957.	Sections 1 to 7. Section 23. In Schedule 1, paragraphs 2 and 3.
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	In section 54(1) in the definition of "grant-aided function" the words "and any Exchequer subsidy under any of the enactments specified in Part I of Schedule 6 to the Housing (Scotland) Act 1950".
10 & 11 Eliz. 2. c. 28.	The Housing (Scotland) Act 1962.	Part I. Sections 19 and 20. Section 32. Schedules 1 to 3. In Schedule 4, paragraphs 2, 3, 7 and 8.
1964 c. 56.	The Housing Act 1964.	Sections 92 and 93. Section 98.
1967 c. 20.	The Housing (Financial Provisions etc.) (Scotland) Act 1967.	The whole Act except sections 18, 21 22, and 23 and paragraph 6 of Schedule 5.
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Sections 1 to 12. Section 19. In section 21(4) the words from "Section 12(2)" to the end. Section 22. Section 26. Sections 44 to 48. Section 55. In section 57, in subsection (1)(a) the words "other than section 19 thereof, or", and subsections (1)(b) and (2).

Chapter	Short Title	Extent of Repeal
1968 c. 31 <i>cont.</i>	The Housing (Financial Provisions) (Scotland) Act 1968. <i>cont.</i>	<p>In section 58(5) the words from " and the provisions " to the end.</p> <p>Section 59(2) so far as relating to the Housing (Scotland) Act 1950.</p> <p>In section 64, in paragraph (a) the words " sections 100 and 104 and ", and in paragraph (b) the word " 48 ".</p> <p>Section 70(4).</p> <p>Schedules 1 and 2.</p> <p>Schedule 4.</p> <p>Schedule 5 so far as relating to the Housing (Scotland) Act 1925, the Housing (Scotland) Act 1930, the Housing (Rural Authorities) Act 1931, the Housing (Financial Provisions) (Scotland) Act 1933, the Housing (Scotland) Act 1935, the Housing (Agricultural Population) (Scotland) Act 1938, the Housing (Financial Provisions) (Scotland) Act 1938 and the Housing and Town Development (Scotland) Act 1957.</p> <p>Schedule 6 so far as relating to the Housing (Scotland) Act 1930, the Housing (Rural Authorities) Act 1931, the Housing (Scotland) Act 1935, the Housing (Agricultural Population) (Scotland) Act 1938, the Housing (Financial Provisions) (Scotland) Act 1938, sections 84 to 88, 89(3) and (4), 91, 93 and 104 of the Housing (Scotland) Act 1950, the Housing and Town Development (Scotland) Act 1957, sections 1 to 7 and 9 of the Housing (Scotland) Act 1962 and the Housing Act 1964.</p>

The repeals in this Part of this Schedule have effect only as respects payments for the year 1972-73 and subsequent years, and have effect subject to Schedule 8 to this Act.

SCH. 11

PART IV
THE HOUSING (RURAL WORKERS) ACTS

Chapter	Short Title	Extent of Repeal
16 & 17 Geo. 5. c. 56.	The Housing (Rural Workers) Act 1926.	The whole Act.
25 & 26 Geo. 5. c. 41.	The Housing (Scotland) Act 1935.	Section 34.
1 & 2 Geo. 6. c. 35.	The Housing (Rural Workers) Amendment Act 1938.	The whole Act.
5 & 6 Geo. 6. c. 32.	The Housing (Rural Workers) Act 1942.	The whole Act.
1966 c. 49.	The Housing (Scotland) Act 1966.	Section 151(7).
1968 c. 13.	The National Loans Act 1968.	In section 6(1) the words "section 2(5)(a) of the Housing (Rural Workers) Act 1926".
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	Section 59(2) so far as relating to the Housing (Rural Workers) Act 1926. Schedule 5 so far as relating to the Housing (Rural Workers) Acts 1926 to 1942. Schedule 6 so far as relating to the Housing (Rural Workers) Act 1926.

The repeals in this Part of this Schedule have effect subject to paragraph 9 of Schedule 8 to this Act.

PART V
OTHER REPEALS

Chapter	Short Title	Extent of Repeal
5 & 6 Eliz. 2. c. 38.	The Housing and Town Development (Scotland) Act 1957.	Section 9(4)(b).
1966 c. 49.	The Housing (Scotland) Act 1966.	In section 149(1), the words from "and the authority" to the end. In section 151, paragraphs (a) and (b) of subsection (3) and subsections (4) and (5). In section 153(2) the words "and the rents at which the houses provided are to be let". In section 155(2) the words from "including" to "let". Section 157.

Chapter	Short Title	Extent of Repeal
1966 c. 49 <i>cont.</i>	The Housing (Scotland) Act, 1966. <i>cont.</i>	In section 193, in subsection (1) the words "Subject to the provisions of this section" and subsection (2). In section 195, in subsection (5) the words "subject to subsection (6) of this section", and subsection (6).
1968 c. 31.	The Housing (Financial Provisions) (Scotland) Act 1968.	In Schedule 3, paragraph 3, in paragraph 5 the words "and 3" and paragraph 7.
1969 c. 30.	The Town and Country Planning (Scotland) Act 1969.	Section 39.
1971 c. 28.	The Rent (Scotland) Act 1971.	Section 27(2). In section 40(5)(d) the words "paragraph 4(b) of Schedule 3, and". Section 45. In section 70(2) the word "or" occurring after the word "certificate" and the words from "on such" to the end. Section 70(3). Sections 77 and 78. Section 80(1). In section 80(2) the words "or confirm". In section 80(4) the words from "his means" to the end. In section 128(2)(d), the words "paragraph 4(b) of Schedule 3, and".
1971 c. 40.	The Fire Precautions Act 1971.	In section 34, the words from "the provisions of Part II" to "1968" and the word "and". Part II of the Schedule.

The repeal of section 9(4)(b) of the Housing and Town Development (Scotland) Act 1957 has effect only as respects payments for the year 1972-73 and subsequent years.

The repeal of subsections (4) and (5) of section 151 and the repeals in section 195 of the Housing (Scotland) Act 1966 take effect on 1st October 1972 so far as the rent is payable in respect of houses to which the housing revenue account relates. Otherwise those repeals take effect on 1st January 1973.

The repeals in sections 153(2) and 155(2) of the Housing (Scotland) Act 1966 take effect on 1st January 1973.

The repeals in sections 40(5)(d) and 128(2)(d) of the Rent (Scotland) Act 1971 and the repeal of section 45 of that Act take effect on 1st January 1973.

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