















THE LAW REPORTS  
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1938 151

THE

# PUBLIC GENERAL ACTS

Passed in  
The First and Second Years of the Reign of His Majesty

*King George the Sixth*

and the

## Church Assembly Measures

Which received the Royal Assent during that Session  
with

Tables of the Titles,  
Effect of Legislation, Index, and  
Index to the Local and Private Acts  
passed during the Session



LONDON

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# TABLE I.

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A

TABLE

OF

THE TITLES OF THE PUBLIC GENERAL  
ACTS

PASSED in the THIRD SESSION of the THIRTY-SEVENTH  
PARLIAMENT of the UNITED KINGDOM of GREAT  
BRITAIN AND NORTHERN IRELAND.

(OCTOBER 26, 1937—NOVEMBER 4, 1938.)

1 & 2 GEORGE 6—A.D. 1937-38.

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ROYAL ASSENT, 9TH DECEMBER, 1937.

1. An Act to continue certain expiring laws. (*Expiring Laws Continuance.*)
2. An Act to amend the Supreme Court of Judicature (Consolidation) Act, 1925, by increasing to four the number of puisne judges that may be appointed to be attached to the Probate, Divorce and Admiralty Division of the High Court. (*Supreme Court of Judicature (Amendment).*)
3. An Act to amend the National Health Insurance Act, 1936, so as to make certain persons under the age of sixteen eligible for medical benefit, to facilitate the provision of medical benefit to such persons and to other young persons, and for purposes connected with the matters aforesaid. (*National Health Insurance (Juvenile Contributors and Young Persons).*)
4. An Act to amend section one hundred and sixty-three of the Merchant Shipping Act, 1894, as respects contributions out of wages to certain funds established for the provision of superannuation and other like benefits. (*Merchant Shipping (Superannuation Contributions).*)



## ROYAL ASSENT, 22ND DECEMBER, 1937.

5. An Act to prohibit the importation of the common quail during the close season. (*Quail Protection.*)
6. An Act to secure that precautions shall be taken with a view to the protection of persons and property from injury or damage in the event of hostile attack from the air. (*Air-Raid Precautions.*)
7. An Act to grant money for the purpose of certain local loans out of the Local Loans Fund, and for other purposes relating to local loans. (*Public Works Loans (No. 2).*)

## ROYAL ASSENT, 17TH FEBRUARY, 1938.

8. An Act to extend the powers of education authorities with respect to courses of instruction provided under the Unemployment Insurance Act, 1935; to render certain employments insurable in like manner as employment in agriculture; to amend the provisions of the said Act relating to the discharge of the liabilities of the Unemployment Fund and to Treasury advances to that Fund; and to amend the law as to the insurance of discharged seamen, marines, soldiers and airmen. (*Unemployment Insurance.*)

## ROYAL ASSENT, 30TH MARCH, 1938.

9. An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March, one thousand nine hundred and thirty-seven, one thousand nine hundred and thirty-eight and one thousand nine hundred and thirty-nine. (*Consolidated Fund (No. 1).*)
10. An Act to provide for the separation of Dominica from the Leeward Islands, and for purposes connected therewith. (*Dominica.*)
11. An Act to lower from fifty years to forty years the age which blind persons must have attained in order to be entitled to old age pensions under the Old Age Pensions Act, 1936; and to amend the law with respect to the provision of assistance in relation to such persons by local authorities. (*Blind Persons.*)
12. An Act to make further provision for obtaining statistical information with respect to the population of Great Britain; and for purposes connected therewith. (*Population (Statistics).*)

13. An Act to extend the powers conferred by certain enactments relating to superannuation so as to include power to grant the like superannuation benefits, and to permit the like allocation of superannuation benefits to spouses and dependants, as could be granted or permitted in respect of persons in the Civil Service of the State; to provide for distribution without probate of sums not exceeding one hundred pounds due to persons to whom those enactments apply or their legal personal representatives; and for purposes connected with the matters aforesaid. (*Superannuation (Various Services).*)
14. An Act to amend the National Health Insurance Act, 1936, in relation to persons who are, or who since the first day of August nineteen hundred and thirty-five have been, employed in the manner mentioned in subsection (2) of section two of that Act; and to make consequential amendments in the Widows', Orphans' and Old Age Contributory Pensions Act, 1936. (*National Health Insurance (Amendment).*)
15. An Act to prolong the duration of provisions of the Cotton Industry Acts, 1923 to 1933, which would otherwise expire. (*Cotton Industry.*)
16. An Act to amend the law with respect to the making of contributions out of the Exchequer and by local authorities in respect of housing accommodation provided for the working classes, and with respect to arrangements between local authorities and other persons for the provision of housing accommodation; and for purposes connected with the matters aforesaid. (*Housing (Financial Provisions).*)
17. An Act to make further provision for securing the renting and exhibition of a certain proportion of British cinematograph films, and for restricting blind booking and advance booking of cinematograph films; to make provision as to the wages and conditions of employment of persons employed by makers of cinematograph films; and to provide for purposes connected with the matters aforesaid. (*Cinematograph Films.*)

ROYAL ASSENT, 13TH APRIL, 1938.

18. An Act to appoint additional commissioners for executing the Acts granting a land tax. (*Land Tax Commissioners.*)
19. An Act to postpone the making of certain new valuation lists under the Rating and Valuation Act, 1925, and for purposes connected therewith. (*Rating and Valuation (Postponement of Valuations).*)

20. An Act to provide, during twelve months, for the discipline and regulation of the Army and the Air Force. (*Army and Air Force (Annual).*)
21. An Act to amend the Dogs Act, 1871. (*Dogs Amendment.*)
22. An Act to consolidate the Trade Marks Act, 1905, the Trade Marks Act, 1919, and the Trade Marks (Amendment) Act, 1937. (*Trade Marks.*)

## ROYAL ASSENT, 17TH MAY, 1938.

23. An Act to authorise the payment by Poor Law authorities of personal allowances to inmates of the age of sixty-five and over of Poor Law institutions. (*Poor Law (Amendment).*)
24. An Act to amend the law of conveyancing in Scotland. (*Conveyancing Amendment (Scotland).*)
25. An Act to confirm and give effect to certain agreements as to the relations between the United Kingdom and Eire. (*Eire (Confirmation of Agreements).*)

## ROYAL ASSENT, 26TH MAY, 1938.

26. An Act to amend and continue the Rent and Mortgage Interest Restrictions Acts, 1920 to 1935. (*Increase of Rent and Mortgage Interest (Restrictions).*)
27. An Act to amend subsection (1) of section three, and subsection (2) of section five, of the Workmen's Compensation Act, 1925, with respect to persons engaged in plying for hire with any vehicle or vessel the use of which is obtained under a contract of bailment; and for purposes connected therewith. (*Workmen's Compensation (Amendment).*)
28. An Act to amend the Law of Evidence. (*Evidence.*)
29. An Act to give effect to an International Convention for the Protection of Industrial Property and to amend the provisions of the Patents and Designs Acts, 1907 to 1932, relating to matters affected by the said Convention; and to give effect to an International Agreement regarding false indications of origin on goods and to amend the provisions of the Merchandise Marks Acts, 1887 to 1926, relating to matters affected by the said Agreement. (*Patents &c. (International Conventions).*)

## ROYAL ASSENT, 2ND JUNE, 1938.

30. An Act to make provision for the better organisation of the white fish industry; to amend the Sea-Fishing Industry Act, 1933, the Whaling Industry (Regulation) Act, 1934, Part IV of the Merchant Shipping Act, 1894, and other enactments relating to sea fisheries; and to make provision for purposes connected with the matters aforesaid. (*Sea Fish Industry.*)
31. An Act to make provision with regard to the tenure of office and superannuation of members of the Scottish Land Court. (*Scottish Land Court.*)

## ROYAL ASSENT, 23RD JUNE, 1938.

32. An Act to enable local authorities in Scotland to make arrangements for the prevention and treatment of blindness. (*Prevention and Treatment of Blindness (Scotland).*)
33. An Act to increase the maximum amount which may be paid annually by way of subsidies under section one of the Air Navigation Act, 1936; and to make provision with respect to the remuneration and expenses of, and the fees received by, any licensing authority which may be constituted under section five of that Act. (*Air Navigation (Financial Provisions).*)
34. An Act to amend the law as to the enforcement by landlords of obligations to repair and similar obligations arising under leases. (*Leasehold Property (Repairs).*)
35. An Act to amend the Housing (Rural Workers) Acts, 1926 and 1931. (*Housing (Rural Workers) Amendment.*)
36. An Act to repeal and re-enact with modifications the provisions of the Infanticide Act, 1922. (*Infanticide.*)

## ROYAL ASSENT, 13TH JULY, 1938.

37. An Act to empower local authorities to close streets to enable them to be used as playgrounds for children. (*Street Playgrounds.*)
38. An Act to authorise the giving of financial assistance towards the expenses incurred by local authorities in providing housing accommodation for the agricultural population; to promote the provision of new housing accommodation to replace accommodation which is occupied by members of the agricultural population and is unfit for human habitation or overcrowded; to amend the provisions of the Housing (Scotland) Acts, 1925 to 1935, relating to charging orders, insanitary dwelling-houses, the recovery of expenses

by instalments, the provision of waterclosets, and the making of byelaws as to accommodation for seasonal workers; to amend the provisions of section one hundred and twenty-five of the Public Health (Scotland) Act, 1897; to authorise the making of byelaws with respect to premises used for the accommodation of agricultural workers; and for purposes connected with the matters aforesaid. (*Housing (Agricultural Population) (Scotland).*)

39. An Act to amend paragraph (b) of subsection (1) of section nineteen of the Welsh Church Act, 1914. (*Welsh Church (Amendment).*)
40. An Act to extend the powers of courts of summary jurisdiction as to the making of orders for the protection, custody, supervision and care of children and young persons, and for their temporary detention; to make further provision as to children and young persons in respect of whom such orders are made; and to amend the law as to the constitution of juvenile courts in the Metropolitan police court area. (*Children and Young Persons.*)
41. An Act to restrict night work in the baking industry, and for purposes connected therewith. (*Baking Industry (Hours of Work).*)
42. An Act to amend the Herring Industry Act, 1935, to authorise the giving of further financial assistance to the Herring Industry Board and to herring fishermen, and for purposes connected with the matters aforesaid. (*Herring Industry.*)
43. An Act to extend by one month the time within which the Board of Control are required by section eleven of the Mental Deficiency Act, 1913, to determine whether orders made under that Act are to be continued; and to validate orders purporting to have been continued under that section. (*Mental Deficiency.*)
44. An Act to make provision with respect to the remuneration of persons employed in connection with the mechanical transport of goods by road, and with respect to the making of recommendations and reports, and the settlement of disputes, relating to matters affecting such transport. (*Road Haulage Wages.*)
45. An Act to amend the law relating to testamentary dispositions; and for other purposes connected therewith. (*Inheritance (Family Provision).*)

## ROYAL ASSENT, 29TH JULY, 1938.

46. An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with finance. (*Finance.*)
47. An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and thirty-nine, and to appropriate the Supplies granted in this Session of Parliament. (*Appropriation.*)
48. An Act to amend the law of Scotland relating to criminal procedure and to the crime of incest, and to the duties of procurators fiscal in relation to fatal accident inquiries. (*Criminal Procedure (Scotland).*)
49. An Act to enable the Secretary of State for War to delegate the function of executing instruments relating to the acquisition, management and disposal of property. (*War Department Property.*)
50. An Act to amend the law of Scotland with regard to divorce and dissolution of marriage. (*Divorce (Scotland).*)
51. An Act to enable the Board of Trade to obtain information as to commodities which in the opinion of the Board would be essential for the vital needs of the community in the event of war and to make provision for the maintenance of reserves of such commodities; and for purposes connected with the matters aforesaid. (*Essential Commodities Reserves.*)
52. An Act to make provision for the acquisition of the property in all unworked coal and mines of coal and in certain associated minerals, and of certain associated property and rights in land, by a Commission with power of management thereover; for amending the enactments relating to facilities for the working of minerals; for empowering the Commission to promote a reduction in the number of coal-mining undertakings; for continuing Part I of the Coal Mines Act, 1930, and for amending the provisions thereof with respect to committees of investigation; for enabling land to be acquired compulsorily for the purposes of the miners welfare committee; and for purposes connected with the matters aforesaid. (*Coal.*)
53. An Act to amend the law with respect to the hire-purchase and sale upon credit of goods and the law of distress in its relation thereto. (*Hire-Purchase.*)

54. An Act to restrict the use of the name Architect to Registered Architects and to extend the time within which practising architects may apply for registration. (*Architects Registration.*)
55. An Act to provide for the registration of still-births in Scotland. (*Registration of Still-Births (Scotland).*)
56. An Act to consolidate with amendments certain enactments relating to food, drugs, markets, slaughter-houses and knackers' yards. (*Food and Drugs.*)
57. An Act to enable the Treasury and the Postmaster-General to carry out certain arrangements made by His Majesty's Government in the United Kingdom with Cable and Wireless Limited, and in connection with those arrangements to amend the law with respect to the calculation of the Post Office net surplus; and for purposes connected with the matters aforesaid. (*Imperial Telegraphs.*)
58. An Act to repeal the Chimney Sweepers and Chimneys Regulation Acts, 1840 and 1864, the Chimney Sweepers Act, 1875, and the Chimney Sweepers Act, 1894. (*Chimney Sweepers Acts (Repeal).*)
59. An Act to provide for the extension of polling hours at county council and borough council elections. (*Local Government (Hours of Poll).*)
60. An Act to confirm and give effect to an agreement made between His Majesty's Government in the United Kingdom and the Government of the Turkish Republic; and for purposes connected with the matters aforesaid. (*Anglo-Turkish (Armaments Credit) Agreement.*)
61. An Act to extend certain temporary provisions of the Milk Acts, 1934 to 1937; to release milk marketing boards and the Government of Northern Ireland from certain obligations under those Acts; and for purposes connected with the matters aforesaid. (*Milk (Extension and Amendment).*)
62. An Act to enable the Trustees of the British Museum to accept a certain bequest made to them by the late Lord Rothschild; and for purposes connected therewith. (*British Museum.*)
63. An Act to amend the law with respect to assizes and to quarter sessions and with respect to proceedings heretofore usually dealt with on the Crown side of the King's Bench Division of the High Court; to enable effect to be given to international conventions affecting English Courts; to extend the jurisdiction of county courts and to amend the Supreme Court of Judicature (Consolidation) Act, 1925, and the County Courts Act, 1934; to amend the law relating to appeals from the Mayor's and City of London



Court; and for purposes connected with the matters aforesaid. (*Administration of Justice (Miscellaneous Provisions)*.)

64. An Act to provide for subjecting to naval discipline certain persons who engage with the Admiralty to serve His Majesty in ships and agree to become subject to the Naval Discipline Act; and for purposes connected with the matter aforesaid. (*Naval Discipline (Amendment)*.)
65. An Act to provide for relief from rates in respect of air-raid protection works. (*Rating and Valuation (Air-Raid Works)*.)
66. An Act to provide for relief from rates in respect of air-raid protection works in Scotland. (*Rating and Valuation (Air-Raid Works) (Scotland)*.)
67. An Act to amend the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, relating to the number of judges of the Court of Appeal, the performance by such judges of the functions of judges of the High Court, and the filling of vacancies among judges of the Chancery Division. (*Supreme Court of Judicature (Amendment)*.)
68. An Act to amend the law with respect to customs in the Isle of Man. (*Isle of Man (Customs)*.)
69. An Act to regulate the hours of employment of persons under the age of eighteen years employed in certain occupations; to amend the Shops Act, 1934, with respect to the regulation of the hours of employment of persons under the age of sixteen years, and with respect to the determination of the number of working hours of persons under the age of eighteen years; and for purposes connected with the matters aforesaid. (*Young Persons (Employment)*.)
70. An Act to enable wage regulating authorities to make provision for holidays and holiday remuneration for workers whose wages they regulate, and to enable the Minister of Labour to assist voluntary schemes for securing holidays with pay for workers in any industry. (*Holidays with Pay*.)
71. An Act to provide for the better organisation of the bacon industry and the pig producing industry and in that connection to provide for payments out of and into the Exchequer, and the continuance of the regulation of imports; and for purposes connected with the matters aforesaid. (*Bacon Industry*.)
72. An Act to make further provision for fire services in Great Britain and for purposes connected therewith. (*Fire Brigades*.)
73. An Act to provide for the registration and inspection of nursing homes in Scotland and for purposes connected therewith. (*Nursing Homes Registration (Scotland)*.)



T H E  
PUBLIC GENERAL STATUTES.

[1 & 2 GEO. 6.]

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**CHAPTER 1.**

An Act to continue certain expiring laws.  
[9th December 1937.]

**W**HEREAS the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire on the thirty-first day of December nineteen hundred and thirty-seven :

And whereas it is expedient to provide for the continuance, as in this Act mentioned, of those Acts and of the enactments amending or affecting the same :

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

1.—(1) The Acts mentioned in Part I of the Schedule to this Act shall, to the extent specified in column three of that Schedule, be continued until the thirty-first day of December nineteen hundred and thirty-eight. Continuance of Acts in Schedule.

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Schedule, be continued until the thirty-first day of August nineteen hundred and thirty-eight.

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect the enactments continued by the foregoing provisions of this Act, be continued in like manner whether they are mentioned in the Schedule to this Act or not.

Short title and application to Northern Ireland.

2.—(1) This Act may be cited as the Expiring Laws Continuance Act, 1937.

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save as hereinbefore provided, shall not apply to Northern Ireland.

SCHEDULE.

PART I.

1	2	3	4
Session and Chapter.	Short Title.	How far continued.	Amending Act.
(1) 4 Edw. 7. c. 24	The Wireless Telegraphy Act, 1904.	The whole Act -	6 Edw. 7. c. 13. 15 & 16 Geo. 5. c. 67. 16 & 17 Geo. 5. c. 54.
(2) 2 & 3 Geo. 5. c. 2.	The Coal Mines (Minimum Wage) Act, 1912.	The whole Act -	—
(3) 9 & 10 Geo. 5. c. 92.	The Aliens Restriction (Amendment) Act, 1919.	Section one -	—
(4) 9 & 10 Geo. 5. c. 97.	The Land Settlement (Scotland) Act, 1919.	Section two -	12 & 13 Geo. 5. c. 52.
(5) 16 & 17 Geo. 5. c. 28.	The Mining Industry Act, 1926.	Section eighteen -	—
(6) 20 & 21 Geo. 5. c. 50.	The Public Works Facilities Act, 1930.	The following provisions, that is to say, section two, except the	—

1	2	3	4
Session and Chapter.	Short Title.	How far continued.	Amending Act.
20 & 21 Geo. 5. c. 50— <i>cont.</i>	The Public Works Facilities Act, 1930— <i>cont.</i>	words " or statu- tory under- takers ", where- ever those words occur; in section three, the words from the begin- ning of the sec- tion to the word " undertaking "; section five; subsections (1) and (2) of sec- tion six; sections seven and eight; and the First Schedule except paragraph 2 of Part I.	
(7) 24 & 25 Geo. 5. c. 30.	The Cotton Manu- facturing In- dustry (Tempo- rary Provisions) Act, 1934.	Sections one and two.	—
(8) 24 & 25 Geo. 5. c. 31.	The Debts Clear- ing Offices and Import Restric- tions Act, 1934.	The whole Act -	—

## PART II.

1	2	3	4
Session and Chapter.	Short Title.	How far continued.	Amending Act.
(9) 20 & 21 Geo. 5. c. 34.	The Coal Mines Act, 1930.	Part I - -	22 & 23 Geo. 5. c. 29.

**CHAPTER 2.**

An Act to amend the Supreme Court of Judicature (Consolidation) Act, 1925, by increasing to four the number of puisne judges that may be appointed to be attached to the Probate, Divorce and Admiralty Division of the High Court.

[9th December 1937.]

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

Amendment  
of 15 & 16  
Geo. 5. c. 49,  
ss. 4 and 11.

1.—(1) The number of puisne judges that may be appointed to be attached to the Probate, Divorce and Admiralty Division of the High Court shall be increased to four; and accordingly paragraph (iii) of subsection (1) of section four of the Supreme Court of Judicature (Consolidation) Act, 1925 (hereinafter referred to as “the principal Act”) (which determines the constitution of that Division), shall have effect as if for the word “two” there were therein substituted the word “four.”

(2) After proviso (a) to subsection (1) of section eleven of the principal Act there shall be inserted the following additional proviso :—

“(aa) if after the occurrence at any time of a vacancy among the puisne judges attached to the Probate, Divorce and Admiralty Division, the number of those judges amounts to three, the vacancy shall not be filled unless and until an address is presented to His Majesty from both Houses of Parliament representing that the state of business in that Division requires that the vacancy should be filled, but where such an address has been presented, it shall be lawful for His Majesty from time to time without any further address to fill any vacancy which may arise among the said judges at any time within a period of one year next after the date of the presentation to His Majesty of that address; and”.

(3) The said proviso (aa) shall not apply to any appointment made by virtue of the provisions of subsection (1) of this section within a period of one year from the passing of this Act, but for the purposes of the application of the said proviso to any such appointment made after the expiration of that period, the appointment shall be deemed to be the filling of a vacancy which has occurred among the puisne judges attached to the Probate, Divorce and Admiralty Division, notwithstanding that the office to which a judge is thereby appointed may not have been vacated by any other judge.

(4) Any amount by which the sums payable under the Supreme Court of Judicature (Consolidation) Act, 1925, out of the Consolidated Fund of the United Kingdom and out of moneys provided by Parliament respectively, are increased by reason of the provisions of this Act shall be defrayed out of the said Fund and out of such moneys as aforesaid.

2. This Act may be cited as the Supreme Court of Short title. Judicature (Amendment) Act, 1937.

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### CHAPTER 3.

An Act to amend the National Health Insurance Act, 1936, so as to make certain persons under the age of sixteen eligible for medical benefit, to facilitate the provision of medical benefit to such persons and to other young persons, and for purposes connected with the matters aforesaid.

[9th December 1937.]

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

1.—(1) If a person who has attained the school-leaving age, but has not attained the age of sixteen, is at the commencement of this Act, or at any subsequent

Employed boys and girls to be entitled to



medical benefit.  
26 Geo. 5. &  
1 Edw. 8.  
c. 32.

date becomes, employed within the meaning of the National Health Insurance Act, 1936 (in this Act referred to as "the principal Act"), he shall, as from the commencement of this Act or, as the case may be, that subsequent date, become entitled to medical benefit under the principal Act as if he were an insured person and, notwithstanding that he may have ceased to be so employed, shall continue to be so entitled until either—

- (a) the end of the half-year in which he attains the age of sixteen years and six months, or
- (b) the date on which he first becomes, or but for a certificate of exemption would have become, an insured person under section one of the principal Act,

whichever first occurs.

(2) For the purposes of this section, the expression "half-year" means a period of six months ending at the end of June or at the end of December, and the expression "the school-leaving age" means, in relation to any person, the age (not being less than fourteen years) at which, under the law for the time being in force, his parents cease to be under an obligation to cause him to attend school, or, in Scotland, to receive efficient education, unless there is some reasonable excuse :

26 Geo. 5 &  
1 Edw. 8.  
cc. 41, 42.

Provided that a person in respect of whom an employment certificate has been granted under the Education Act, 1936, or the Education (Scotland) Act, 1936, shall be deemed to have attained the school-leaving age on the date as from which the certificate took effect, notwithstanding that it may have subsequently ceased to have effect.

(3) Persons who are entitled to medical benefit by virtue of this section are in this Act referred to as "juvenile contributors".

Contributions by juvenile contributors, their employers and the Treasury.

2.—(1) The provisions of subsection (1) of section twelve of the principal Act (which relates to contributions by insured persons, their employers and the Treasury) shall apply respectively in relation to boys and girls who are juvenile contributors as they apply in relation to men and women who are insured persons.

(2) The contributions payable in respect of juvenile contributors shall comprise contributions by the contributors and contributions by their employers at the following rates, that is to say—

contribution by the contributor—two pence per week;

contribution by the contributor's employer—two pence per week:

Provided that, in the case of juvenile contributors who are serving as seamen on foreign-going ships, the contribution by the contributor and the contribution by his employer shall each be one penny per week.

**3.—(1)** Contributions paid by or in respect of a juvenile contributor who has not joined an approved society within the prescribed time or who, having been a member of an approved society, has been expelled therefrom or has terminated his membership thereof in accordance with the provisions of the principal Act, and has not within the prescribed time joined another approved society (in this Act referred to as a "juvenile deposit contributor") shall be credited to a special fund to be called "the Juvenile Deposit Contributors Fund", and all sums payable in respect of juvenile deposit contributors for the purposes of medical benefit and towards the expenses of administration shall, except so far as they are payable out of moneys provided by Parliament, be paid out of the said fund. Financial provisions.

(2) The sums required to meet expenditure properly incurred under this Act by the Minister, by approved societies and insurance committees, and by the Juvenile Deposit Contributors Fund, shall be paid out of the National Health Insurance Fund, and accordingly in subsection (2) of section one hundred and forty of the principal Act (which relates to the constitution of the National Health Insurance Fund) for the words "and the Deposit Contributors Insurance Section" there shall be substituted the words "the Deposit Contributors Insurance Section and the Juvenile Deposit Contributors Fund" and the like substitution shall also be made in subsection (3) of section one hundred and forty-one of the principal Act (which contains provisions with respect to accounts of approved societies, &c., in the National Health Insurance Fund).

(3) Provision may be made by regulations—

- (a) for prescribing the amounts to be charged and the payments to be made out of the Juvenile Deposit Contributors Fund in respect of the cost of medical benefit to juvenile deposit contributors, in respect of expenses incurred by insurance committees and the Minister in connection with the administration of that benefit and in respect of the administration of the said Fund;
- (b) for carrying from time to time to the credit of the Reserve Suspense Fund so much of any sum standing to the credit of the Juvenile Deposit Contributors Fund as is not required for the purposes of that Fund, and for crediting out of the Reserve Suspense Fund to the Juvenile Deposit Contributors Fund any sum required at any time to make good a deficiency in that Fund; and
- (c) for determining the date as from which a juvenile deposit contributor who joins an approved society shall be deemed to have become a member thereof.

Minister to retain certain sums out of weekly contributions.

4.—(1) Out of each weekly contribution paid by or in respect of a juvenile contributor who is a member of an approved society the sum of one farthing shall be retained by the Minister for the purposes mentioned in the next succeeding subsection.

(2) Out of the sums so retained by the Minister as aforesaid—

- (a) three-sixteenths of a penny in the case of each juvenile contributor shall be periodically apportioned by the Minister in the National Health Insurance Fund among the approved societies in proportion to the number of contributions credited, and the sums so apportioned to any society shall form part of the contingencies fund of the society; and
- (b) one-sixteenth of a penny in the case of each juvenile contributor shall be paid by the

Minister to the Joint Committee and shall be carried by the Joint Committee to the Central Fund :

Provided that subsection (3) of section one hundred and forty-four of the principal Act shall apply in relation to sums retained by the Minister under this section as it applies in relation to sums retained by him under the said section one hundred and forty-four, the reference therein to certain paragraphs (b) and (c) being construed as including a reference to paragraphs (a) and (b) of this subsection.

5.—(1) Subject to the provisions of this Act, a person who has not attained the age of sixteen may apply to an approved society for membership, notwithstanding that he has not become a juvenile contributor.

Applications for membership in approved societies by boys and girls who have not become juvenile contributors.

(2) Where, either before or after the commencement of this Act, a person has, before becoming a juvenile contributor and at a time when he had not attained the age of sixteen, delivered within the appropriate period and in proper form an application for membership to an approved society, or to the duly appointed agent of such a society, being a person receiving applications for membership, then if, within a period of three months after the date on which the application was so delivered, the society—

- (a) has delivered or sent by post to the applicant a notification in writing that his application has been accepted; or
- (b) has not delivered or sent by post to the applicant a notification in writing that his application has been rejected;

the applicant shall be deemed to be or to have been admitted a member of the society as on the date on which he becomes or became a juvenile contributor.

(3) Subject as hereinafter provided, any application to an approved society for membership, being an application made by a person before he becomes a juvenile contributor, shall, if it has been made before the beginning of the appropriate period, be of no effect :

Provided that where, within the appropriate period, a person who becomes a juvenile contributor before the second day of May nineteen hundred and thirty-eight has made applications in proper form to two or more societies for membership, then, if at any time between the twenty-first day of June nineteen hundred and thirty-seven and the date of the passing of this Act, he has applied in writing for admission to one or more of those societies, subsection (2) of this section shall have effect in relation to him as if any reference in that subsection to "the society" were a reference to that one of the societies aforesaid to which he has so applied in writing before the date of the passing of this Act or, as the case may be, to that one of them to which, or to the agent of which, his written application for membership was first delivered as aforesaid before that date.

(4) In this section the expression "the appropriate period" means—

- (a) in relation to an applicant who becomes a juvenile contributor before the second day of May nineteen hundred and thirty-eight the period beginning with the date of the passing of this Act and ending immediately before the date on which he becomes a juvenile contributor; or
- (b) in relation to any other applicant, the period of three months immediately preceding the date on which he becomes a juvenile contributor.

Duty of education authorities to furnish information as to medical history of young persons.  
11 & 12  
Geo. 5. c. 51.

6. It shall be the duty, in England of every local education authority under the Education Act, 1921, and in Scotland of every education authority, to make arrangements for their officers to furnish, on the application of a medical practitioner or of an insurance committee on his behalf, for his confidential information, such particulars as to the school medical record of any young person whom he has accepted for treatment, and such other information in their possession relating to the medical history of that person, as the practitioner may deem necessary for the purposes of his functions in relation to the provision of medical benefit for that person.

In this section "young person" means a person under the age of eighteen years.

7.—(1) This Act shall be construed as one with the principal Act. Application of principal Act.

(2) The provisions of the Schedule to this Act shall have effect for the purpose of extending certain provisions of the principal Act to juvenile contributors (with or without modification), preventing the application of certain other provisions to such contributors and otherwise making clear the application of the principal Act in relation to such contributors.

8.—(1) This Act, so far as it relates to matters with respect to which the Parliament of Northern Ireland has power to make laws, shall not extend to Northern Ireland unless and until provision to that effect is made either— Application to Northern Ireland.

- (a) by an Act of the Parliament of Northern Ireland; or
- (b) by an Order of the Governor of Northern Ireland in Council made in pursuance of such an Act,

and, if and when such provision is made, this Act shall apply to Northern Ireland subject to such exceptions and adaptations as may be specified in such Act or Order as aforesaid.

(2) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall be deemed to be an Act passed before the appointed day. 10 & 11 Geo. 5. c. 67.

9.—(1) This Act may be cited as the National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937, and shall be included among the Acts which may be cited together as the National Health Insurance Acts, 1936 and 1937. Short title, citation and commencement.

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

Provided that where, within the appropriate period, a person who becomes a juvenile contributor before the second day of May nineteen hundred and thirty-eight has made applications in proper form to two or more societies for membership, then, if at any time between the twenty-first day of June nineteen hundred and thirty-seven and the date of the passing of this Act, he has applied in writing for admission to one or more of those societies, subsection (2) of this section shall have effect in relation to him as if any reference in that subsection to "the society" were a reference to that one of the societies aforesaid to which he has so applied in writing before the date of the passing of this Act or, as the case may be, to that one of them to which, or to the agent of which, his written application for membership was first delivered as aforesaid before that date.

(4) In this section the expression "the appropriate period" means—

- (a) in relation to an applicant who becomes a juvenile contributor before the second day of May nineteen hundred and thirty-eight the period beginning with the date of the passing of this Act and ending immediately before the date on which he becomes a juvenile contributor; or
- (b) in relation to any other applicant, the period of three months immediately preceding the date on which he becomes a juvenile contributor.

Duty of education authorities to furnish information as to medical history of young persons.  
11 & 12 Geo. 5. c. 51.

6. It shall be the duty, in England of every local education authority under the Education Act, 1921, and in Scotland of every education authority, to make arrangements for their officers to furnish, on the application of a medical practitioner or of an insurance committee on his behalf, for his confidential information, such particulars as to the school medical record of any young person whom he has accepted for treatment, and such other information in their possession relating to the medical history of that person, as the practitioner may deem necessary for the purposes of his functions in relation to the provision of medical benefit for that person.



In this section "young person" means a person under the age of eighteen years.

7.—(1) This Act shall be construed as one with the principal Act. Application of principal Act.

(2) The provisions of the Schedule to this Act shall have effect for the purpose of extending certain provisions of the principal Act to juvenile contributors (with or without modification), preventing the application of certain other provisions to such contributors and otherwise making clear the application of the principal Act in relation to such contributors.

8.—(1) This Act, so far as it relates to matters with respect to which the Parliament of Northern Ireland has power to make laws, shall not extend to Northern Ireland unless and until provision to that effect is made either— Application to Northern Ireland.

(a) by an Act of the Parliament of Northern Ireland; or

(b) by an Order of the Governor of Northern Ireland in Council made in pursuance of such an Act,

and, if and when such provision is made, this Act shall apply to Northern Ireland subject to such exceptions and adaptations as may be specified in such Act or Order as aforesaid.

(2) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall be deemed to be an Act passed before the appointed day. 10 & 11  
Geo. 5. c. 67.

9.—(1) This Act may be cited as the National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937, and shall be included among the Acts which may be cited together as the National Health Insurance Acts, 1936 and 1937. Short title, citation and commencement.

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

## SCHEDULE.

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### APPLICATION OF PRINCIPAL ACT.

1. In the following provisions of the principal Act, that is to say:—

- (a) subsection (1) of section seventeen and sections eighteen, twenty-one, twenty-three to twenty-seven, thirty and thirty-one (which relate to contributions and the payment thereof);
- (b) section thirty-two (in so far as it relates to medical benefit) and sections thirty-five, thirty-seven, thirty-nine and forty-one (which relate to the administration of medical benefit);
- (c) sections seventy-three, eighty-three, eighty-four, eighty-seven, eighty-eight and eighty-nine (except the proviso to subsection (4)) (which relate to approved societies and membership thereof);
- (d) subsection (3) of section ninety-one and sections ninety-six to one hundred (which relate to insurance committees);
- (e) sections one hundred and one and one hundred and two (being financial provisions relating to approved societies), and section one hundred and eighteen (relating to funds for insurance committees);
- (f) subsection (4) of section one hundred and thirty-five and section one hundred and thirty-seven (which relate to seamen neither domiciled nor resident in the United Kingdom);
- (g) sections one hundred and forty and one hundred and forty-one (relating to the National Health Insurance Fund); and
- (h) Parts VII, VIII, IX and XI (which contain respectively provisions as to central administration, legal and miscellaneous provisions and provisions as to the application of the Act to Scotland and to Wales);

but in no other provisions, references to the expressions mentioned in the first column of the following table shall be construed as

including references to the expressions respectively set opposite thereto in the second column of that table :—

TABLE.

1.		2.
Insured persons -	- }	juvenile contributors.
Employed contributors	- }	
Deposit contributors	-	juvenile deposit contributors.
Contributions - -	-	contributions payable by or in respect of a juvenile contributor.
Employers' contributions	-	contributions payable by an employer in respect of a juvenile contributor.
Insurance business -	- }	business in respect of juvenile contributors.
State business	- }	

2. References in the principal Act to claims of, or claims by or on behalf of, deposit contributors shall, in relation to juvenile deposit contributors, be construed as references to claims made by the Minister on behalf of such contributors.

3. References in the principal Act to insurance cards, insurance books and insurance stamps shall be construed as including references to cards, books and stamps used for paying contributions payable in respect of juvenile contributors, and in subsection (2) of section one hundred and fifty-four of the principal Act (which relates to unclaimed moneys received from the sale of stamps) there shall be inserted, after the words "the Deposit Contributors Insurance Section" the words "or the Juvenile Deposit Contributors Fund."

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## CHAPTER 4.

An Act to amend section one hundred and sixty-three of the Merchant Shipping Act, 1894, as respects contributions out of wages to certain funds established for the provision of superannuation and other like benefits.

[9th December 1937.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

Amendment  
of 57 & 58  
Vict. c. 60,  
s. 163.

**1.**—(1) The provisions of paragraphs (b) and (c) of subsection (1) of section one hundred and sixty-three of the Merchant Shipping Act, 1894 (which places restrictions upon certain dispositions by seamen and apprentices of their wages) shall not apply to any such disposition in so far as it relates to the application of wages in the payment of contributions to a fund to which this Act applies, and the provisions of paragraphs (a) and (d) of that subsection shall not apply to anything done or to be done for giving effect to such a disposition so far as aforesaid.

17 & 18  
Geo. 5. c. 41.

(2) This Act shall apply to the fund known as the Merchant Navy Officers Pension Fund registered under the Superannuation and Other Trust Funds (Validation) Act, 1927 on the eighteenth day of November nineteen hundred and thirty-seven and shall apply also to—

- (a) any other fund registered under the Superannuation and Other Trust Funds (Validation) Act, 1927, being a fund the main purpose of which is the provision of superannuation allowances on retirement;
- (b) any other fund the main purpose of which is the provision of benefits for seamen on retirement, if notice in writing has been given to the Board of Trade by an organisation appearing to the Board to be representative of shipowners and seamen of their desire that the fund should be within the application of this Act, as from the date on which such notice has been given unless and until it has been withdrawn by a further notice in writing given to the Board by that organisation or that organisation has ceased in the opinion of the Board to be representative as aforesaid.

Short title,  
construc-  
tion and  
citation.

**2.**—(1) This Act may be cited as the Merchant Shipping (Superannuation Contributions) Act, 1937.

(2) This Act shall be construed as one with the Merchant Shipping Acts, 1894 to 1937, and shall be included among the Acts which may be cited together as the Merchant Shipping Acts, 1894 to 1937.

## CHAPTER 5.

An Act to prohibit the importation of the common quail during the close season.

[22nd December 1937.]

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

1.—(1) It shall not be lawful for any person to import into the United Kingdom any live quail during the period between the fourteenth day of February and the first day of July in any year. Prohibition of live quail.

(2) During the period aforesaid in every year goods prohibited to be imported by virtue of this Act shall be deemed to be included among the goods enumerated and described in the table of prohibitions and restrictions inwards contained in section forty-two of the Customs Consolidation Act, 1876, and the provisions of that Act, except as hereinafter mentioned, and of any Act amending or extending that Act shall apply accordingly. 39 & 40 Vict. c. 36.

(3) The provisions of section two hundred and seven of the said Act shall not apply, and if the Commissioners of Customs are satisfied that any live birds have been imported in contravention of this Act, such birds shall be deemed and taken to be condemned and no claim for compensation shall be brought against any officer of Customs and Excise in respect thereof.

(4) In this Act the expression "quail" means the bird known as *Coturnix coturnix*.

2. This Act may be cited as the Quail Protection Act, 1937. Short title.

**CHAPTER 6.**

An Act to secure that precautions shall be taken with a view to the protection of persons and property from injury or damage in the event of hostile attack from the air.

[22nd December 1937.]

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

*Functions of Local Authorities.*

Duty of certain local authorities to prepare and submit air-raid precaution schemes.

1.—(1) It shall be the duty of the local authorities hereafter in this section respectively mentioned to submit to the Secretary of State schemes (hereinafter referred to as "air-raid precaution schemes") making provision as to the arrangements to be made in their several areas for the protection of persons and property from injury or damage in the event of hostile attack from the air, and as to the authorities and persons by whom such arrangements are to be carried out.

(2) Air-raid precaution schemes as to the arrangements, other than fire precaution arrangements, to be made for minimising the injury and damage to persons and property likely to result from air raids, (hereinafter referred to as "air-raid general precautions schemes") shall be prepared and submitted to the Secretary of State by the councils of counties and county boroughs :

Provided that—

- (a) any scheme to be so submitted by a county council shall be prepared after consultation with the councils of those county districts within the county that will be affected by the scheme, and it shall be the duty of every such council to assist the county council in the preparation of the scheme and, at the request of the county council, to furnish such information and submit suggestions on

such matters as may be specified in the request; and

- (b) on the application of the council of any borough or urban district within a county, the Secretary of State may, after consultation with the county council, direct that a scheme for the borough or urban district shall, subject to any conditions which may be imposed by him, be prepared and submitted by the council of the borough or urban district instead of by the county council.

(3) Air-raid precaution schemes as to the arrangements to be made for the extinction of fires likely to result from air-raids (hereinafter referred to as "air-raid fire precautions schemes") shall be prepared and submitted to the Secretary of State by the councils of boroughs (including county boroughs) and by the councils of urban districts; and the council of any rural district may, if they think fit, prepare and submit air-raid fire precautions schemes which may contain provisions conferring on the council such functions as to the extinguishing of fires and the protection of life and property in case of fire as may be necessary for giving effect to the schemes.

(4) Subject as hereinafter provided, air-raid precaution schemes shall, in particular, contain provisions as to such matters as may be prescribed by regulations made by the Secretary of State:

Provided that the Secretary of State may in the case of any council dispense with the preparation and submission of a scheme in respect of any matter specified in such regulations, and thereupon the council shall not be required to submit a scheme with respect to that matter.

(5) Air-raid precaution schemes shall, as soon as practicable after the passing of this Act, be submitted by councils in respect of all the matters in respect of which they are required by the foregoing provisions of this section to submit schemes and for the whole of their areas, and any council by whom schemes are to be submitted may, and shall, if so required by the Secretary of State, prepare and submit separate schemes in respect

of any of such matters, and, in the case of a county council, separate schemes in respect of different parts of their area.

(6) An air-raid general precautions scheme or an air-raid fire precautions scheme submitted by any council may, by arrangement with any other council who are required by this section to submit such a scheme, make provision for functions being exercised thereunder by the last-mentioned council as agents for the council submitting the scheme.

(7) An air-raid precaution scheme prepared and submitted by a county council may make provision as to what expenditure, if any, under the scheme is to be dealt with as expenditure for special county purposes.

Application  
of section  
one to  
London.

2.—(1) The Secretary of State shall by order provide for allocating between the London County Council, the common council of the city of London, and the councils of metropolitan boroughs, the duty of preparing and submitting air-raid general precautions schemes under subsection (2) of the last foregoing section, and the order shall in particular determine which of the several matters prescribed by the regulations made under this Act are to be provided for in the schemes prepared and submitted by each of those councils respectively; and section one of this Act shall apply to the administrative county of London subject to such consequential modifications as may be specified in the order.

(2) Air-raid fire precautions schemes for the administrative county of London shall be prepared and submitted to the Secretary of State by the London County Council; and subsection (3) of the last foregoing section, except in so far as it defines air-raid precaution schemes, shall not apply to that county.

(3) Section ninety-seven of the Local Government Act, 1933 (which applies the provisions of Part III of that Act relating to joint committees to the London County Council and to councils of metropolitan boroughs), shall, in relation to the functions imposed by this Act, have effect as if any reference in the said section ninety-seven to the council of a metropolitan borough included a reference to the common council of the city of London.

23 & 24  
Geo. 5. c. 51.



3.—(1) The Secretary of State may approve, with or without modifications, any air-raid precaution scheme submitted to him under this Act, and any such scheme shall, upon being so approved, come into force on such date as may be provided by the scheme as approved.

Approval, effect and amendment of air-raid precaution schemes.

(2) It shall be the duty of every local authority to discharge such functions as may be imposed on the authority by this Act or by any scheme in force thereunder.

(3) Any air-raid precaution scheme in force under this Act may be amended by a subsequent scheme submitted and approved in like manner as the original scheme, and any council by whom such a scheme has been submitted shall, if required so to do by the Secretary of State, prepare and submit a scheme for the amendment thereof in accordance with any directions given by him.

4.—(1) It shall be the duty of all local authorities charged with functions under this Act or any scheme in force thereunder to assist each other where possible in making provision for the protection of persons and property from injury or damage in the event of hostile attack from the air, and any two or more such authorities may enter into mutual arrangements for that purpose, but, except with the approval of the Secretary of State, joint committees shall not be appointed for the purposes of this Act under section ninety-one of the Local Government Act, 1933, nor shall functions under this Act or any scheme in force thereunder be delegated under section two hundred and seventy-four of that Act, except with the like approval.

Duty of local authorities to co-operate and power to act jointly.

(2) The Secretary of State may after consultation with the councils concerned by order direct that the functions of any two or more councils in preparing and submitting air-raid precaution schemes with respect to any matters specified in the regulations made under this Act to which the order relates, or any functions under any air-raid precaution scheme for the time being in force, being functions of councils having power to appoint joint committees under section ninety-one of the Local Government Act, 1933, shall, as respects any area specified in the order, be exercised by a joint committee so appointed.

Compulsory  
purchase of  
land.

5. The council of any county or county borough, the common council of the city of London, and the council of any metropolitan borough or county district may purchase land compulsorily for any of the purposes of this Act by means of an order made by the council and confirmed by the Secretary of State, and the provisions of sections one hundred and sixty-one, one hundred and sixty-two, one hundred and seventy-four, and one hundred and seventy-five of the Local Government Act, 1933, and of paragraphs (a) and (c) of section one hundred and seventy-nine of that Act shall apply with respect to any such order as if for the references to the Minister of Health there were substituted references to the Secretary of State and for the references to a local authority there were substituted references to any such council as aforesaid.

Duty of  
local autho-  
rities to  
assist  
arrange-  
ments for  
evacuation  
of civil  
population.

6. It shall be the duty of all local authorities charged with functions under this Act to furnish to the Secretary of State such information as may be demanded by him for the purpose of assisting the preparation by His Majesty's Government of plans for any necessary transference of the civil population in the event of hostile attack from the air.

#### *Financial Provisions.*

Expendi-  
ture by  
local  
authorities.

7.—(1) Any local authority may incur expenditure for the purpose of making provision for the protection of persons and property from injury or damage in the event of hostile attack from the air whether or not such expenditure is incurred in pursuance of an air-raid precaution scheme.

(2) All expenditure incurred since the ninth day of July nineteen hundred and thirty-five and before the passing of this Act by any local authority for the purpose aforesaid shall be deemed to have been lawfully incurred.

(3) For the purposes of defraying any expenditure of a metropolitan borough council under this Act, the council may borrow money in accordance with and subject to the provisions of the Metropolis Management Acts, 1855 to 1893, as amended by the London Government Act, 1899 :

Provided that the Minister of Health shall, instead of the London County Council, be the authority for

sanctioning the borrowing of any money under the powers conferred by this section, except where those powers are exercised with respect to land used or intended to be used partly for purposes for which money has been or may be borrowed with the consent of the London County Council under some other Act.

**8.—(1)** There shall be paid by the Secretary of State towards the approved expenditure incurred—

Exchequer grants.

- (a) by the council of any county, county borough, or county district, grants calculated in accordance with the provisions of paragraph 1 of the Schedule to this Act;
- (b) by the common council of the city of London or the council of any metropolitan borough grants calculated in accordance with the provisions of paragraph 2 of the said Schedule.

(2) Grants payable under this section shall be paid at such times and in such manner and subject to such conditions as to accounts, certificates, and audit, as may be determined by the Secretary of State with the concurrence of the Treasury.

**9.** Any expenses incurred with the consent of the Treasury by the Secretary of State in the general superintendence and direction of measures taken under this Act, or in providing such services and training such persons and acquiring, on behalf of His Majesty, such equipment, appliances, and other material as the Secretary of State considers it necessary to furnish for the purpose of affording protection to persons and property from injury or damage in the event of hostile attack from the air, and in paying to local authorities the grants payable under this Act, shall be defrayed out of moneys provided by Parliament.

Expenses payable out of moneys provided by Parliament.

**10.** The Secretary of State shall, before the expiration of a period of three years from the passing of this Act, in consultation with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, cause an investigation to be made into the working of the financial provisions of this Act with particular reference to the expense falling to be borne by local rates, and shall cause a report of the result of the investigation to be laid before Parliament.

Investigation of working of financial provisions.

*Supplementary.*

Regulations  
and orders  
by the  
Secretary of  
State.

11.—(1) The Secretary of State may with the concurrence of the Treasury make regulations for the purposes of this Act and such regulations shall provide—

- (a) for the storage of equipment, appliances, or material acquired by him under this Act;
- (b) as to loans, gifts, and sales of such equipment, appliances, or material;
- (c) for the matters as to which provision is to be made by air-raid general precautions schemes and air-raid fire precautions schemes respectively; and
- (d) as to the approval by the Secretary of State of expenditure of councils incurred for the purposes of air-raid precaution schemes, or incurred, with his concurrence, for the purpose of making provision otherwise than in pursuance of such a scheme for the protection of persons and property from injury or damage in the event of hostile attack from the air, and in particular as to the manner in which any such expenditure is to be estimated for the purposes of being so approved;

and such regulations may permit the approval of expenditure incurred at any time after the thirty-first day of December nineteen hundred and thirty-six.

(2) Any order made by the Secretary of State under this Act may be varied or revoked by a subsequent order made by him.

(3) All regulations and orders made by the Secretary of State under this Act shall be laid before Parliament as soon as may be after being made, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such regulations or order as aforesaid have been laid before it resolves that the regulations or order shall be annulled, the regulations or order shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations or a new order.

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

“Approved expenditure” means, in relation to any local authority, so much of the expenditure of the authority as is approved by the Secretary of State in accordance with regulations made under this Act;

“Local authority” includes any authority having power to levy a rate as defined for the purposes of the Rating and Valuation Act, 1925, or for whose expenses a precept may be issued for the levying of such a rate, and any combination or joint committee of any such authorities as aforesaid.

15 & 16  
Geo. 5. c. 90.

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

(2) For any reference to the Local Government Act, 1929, there shall be substituted a reference to the Local Government (Scotland) Act, 1929; for any reference to a “county borough” there shall be substituted a reference to a “large burgh” within the meaning of the Local Government (Scotland) Act, 1929; for any reference to a “county district” or to a “borough or urban district” there shall be substituted a reference to a “small burgh” within the meaning of the aforesaid Act, and for the purposes of this Act, other than those referred to in subsection (3) of section one, a small burgh shall be included within the county in which it is situated.

19 & 20  
Geo. 5. c. 17.  
19 & 20  
Geo. 5. c. 25.

(3) For subsection (3) of section one of this Act the following subsection shall be substituted—

“(3) Air-raid precaution schemes as to the arrangements to be made for the extinction of fires likely to result from air-raids (hereinafter referred to as ‘air-raid fire precautions schemes’) shall be prepared and submitted to the Secretary of State by county and town councils.”

(4) For subsection (7) of section one of this Act the following subsection shall be substituted—

“(7) An air-raid general precautions scheme prepared and submitted by a county council may

provide that any particular part of the expenditure under the scheme shall be charged on a part only of the county (including any small burgh therein). Any expenditure so charged shall, in so far as not met out of grants, be defrayed by a rate levied only in that part of the area on which it is so charged and, as regards any small burgh included in that part, section twenty-one of the Local Government (Scotland) Act, 1929, shall, with any necessary modifications, apply for the purpose of apportioning and allocating the expenditure so charged between such part of the landward area as is included in the part charged and the small burgh."

(5) For references to appointment of joint committees of councils under section ninety-one of the Local Government Act, 1933, there shall be substituted references to combination of local authorities under section eleven of the Local Government (Scotland) Act, 1929, and to appointment of joint committees in pursuance of agreements under that section, and for any reference to section two hundred and seventy-four of the Local Government Act, 1933, there shall be substituted a reference to section thirteen of the Local Government (Scotland) Act, 1929.

54 & 55 Vict.  
c. 34.

(6) The expression "local authority" includes any local authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891.

(7) For any reference to a rate of one penny in the pound there shall be substituted a reference to a rate of four-fifths of one penny in the pound, and for any reference to an amount required by a county council or by a precepting authority to be paid by the council of a county district there shall be substituted a reference to an amount required by a county council to be paid by a town council under subsection (2) of section twenty-one of the Local Government (Scotland) Act, 1929.

(8) For sub-paragraph (b) of paragraph 3 of the Schedule to this Act, the following sub-paragraph shall be substituted—

"(b) the produce of a rate of four-fifths of one penny in the pound for any year levied in any area shall be deemed to be that proportion of the

produce of the consolidated rate which four-fifths of one penny bears to the total amount in the pound of the consolidated rate.

For the purpose of this paragraph the produce of the consolidated rate for any year shall be deemed to be the amount realised in that year by the collection of the consolidated rate levied for that or any previous year, and the total amount in the pound of the consolidated rate shall be deemed to be such sum as bears to a pound the same ratio as the aggregate of the sums assessed for by that rate bears to the mean of (i) the total of the rateable values of lands and heritages in the area on which the share of rates payable by owners is assessed and (ii) the total of such values on which the share of rates payable by occupiers is assessed."

(9) A county or a town council may acquire land for the purposes of their powers and duties under this Act, and, where they are unable to acquire by agreement on terms which are in their opinion reasonable any land which is required for such purposes, they may purchase that land compulsorily by means of an order made by them and confirmed by the Secretary of State, and the following provisions of the Town and Country Planning (Scotland) Act, 1932, viz. : Part III of the First Schedule, Part I of the Third Schedule (except paragraph 2 and sub-paragraph (iii) of paragraph 3), and paragraph 4 (except head (b) of sub-paragraph (i)) of Part II of that Schedule, shall apply to any such order, subject to the following and any other necessary modifications :—

22 & 23  
Geo. 5. c 49.

- (i) for references to the Department of Health for Scotland and to the responsible authority there shall be substituted, respectively, references to the Secretary of State and to the county or town council; and
- (ii) anything which has to be prescribed shall be prescribed by the Secretary of State :

Provided that—

- (i) nothing in this subsection shall authorise the compulsory acquisition of any land which is the site of an ancient monument or other object of archæological interest, or which

belongs to any local authority, or to any public undertakers within the meaning of the Housing (Scotland) Act, 1935; and

25 & 26  
Geo. 5. c. 41.

- (ii) where any land proposed to be acquired by means of a compulsory purchase order under this subsection is situate within such distance as may be prescribed by the Secretary of State, after consultation with the Commissioners of Works, from any of the royal palaces or parks, the county or town council shall communicate with the Commissioners of Works and the Secretary of State shall, before confirming the order, take into consideration any recommendation received from the Commissioners of Works with reference to the order.

(10) A county or town council shall have power to borrow for any purpose of this Act to which capital is properly applicable, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, shall apply to the power hereby conferred. Any sums borrowed in pursuance of this subsection shall be repaid within such period as the Secretary of State may fix.

(11) Any sums payable out of rates by a county or town council in respect of expenditure under this Act shall be paid out of such rate payable by owners and occupiers in equal proportions as the council may determine.

(12) The duties imposed by subsection (2) of section one of this Act on the councils of counties shall in the cases of the counties of—

- (a) Perth and Kinross; and
- (b) Moray and Nairn

be discharged by the joint county council, and any reference in this Act (except in subsection (3) of section one as applied by this section) to a county or the council thereof shall include a reference to a combined county and a joint council.

Provisions  
as to  
Northern  
Ireland.

14. For the removal of doubts it is hereby declared that it is and always has been within the functions of the Government of Northern Ireland to secure that in Northern Ireland precautions shall, as in other parts of



the United Kingdom, be taken with a view to the protection of persons and property from injury or damage in the event of hostile attack from the air, and that the Parliament of Northern Ireland has power to make laws for such purposes.

**15.—(1)** This Act may be cited as the Air-Raid Precautions Act, 1937. Short title  
and extent.

**(2)** This Act, except the provisions thereof relating to the power of the Parliament of Northern Ireland to make laws, shall not extend to Northern Ireland.

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## SCHEDULE.

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Sections 8,  
13.

### CALCULATION OF EXCHEQUER GRANTS TOWARDS APPROVED EXPENDITURE.

#### *Grants to Councils of Counties, County Boroughs and County Districts.*

1. Subject as hereinafter provided, the grants to be paid to the council of a county or county borough of which the weighted population bears to the estimated population thereof the same proportion that any figure within the limits respectively specified in the first column of the following table bears to one, shall be of amounts equal to that percentage of the approved expenditure of the council which is correspondingly specified in the second column of that table :—

TABLE.

Figure of weighted population.	Percentage of approved expenditure.
Not exceeding 1·5 - - - - -	60
Exceeding 1·5 but not exceeding 2·5	65
Exceeding 2·5 but not exceeding 4·0	70
Exceeding 4·0 - - - - -	75

and the grants to be paid to the council of any county district shall be of an amount equal to the same percentage of the approved expenditure of the council as is payable under the foregoing provisions of this paragraph to the council of the county in which the county district is situated in respect of the approved expenditure of that council :

Provided that—

- (a) if the approved expenditure of the council of a county or county borough for any year is greater than the amount of the grant payable for that year to the council under the foregoing provisions of this paragraph by an amount which would cause the levying in their area or, in the case of a county council in any county district therein, of a sum in excess of the produce of a rate of one penny in the pound levied in their area or in that district, as the case may be, then the grant payable to the council of the county or county borough for that year in respect of so much of the approved expenditure as would cause the levying of a rate in excess of one penny in the pound in the area or district shall be of an amount equal to a percentage thereof, which, where the percentage payable in respect of the remainder of the council's approved expenditure does not exceed sixty-five per cent shall be seventy-five per cent, and where the percentage payable in respect of the remainder of the council's approved expenditure exceeds sixty-five per cent shall be eighty-five per cent; and
- (b) if the amount required by the county council to be paid by the council of any county district in respect of approved expenditure for any year would cause the levying in the district of a rate of more than one penny in the pound, then the grant payable to the council of the county district shall be of an amount equal to a percentage of the approved expenditure of that council which, where the percentage otherwise payable would not exceed sixty-five per cent shall be seventy-five per cent, and where the percentage otherwise payable would exceed sixty-five per cent shall be eighty-five per cent; and
- (c) where the grant payable for any year to the council of any county district is not increased under proviso (b) to this paragraph but nevertheless the approved expenditure of the council for that year is greater than the amount of the grant payable for that year to the council under the foregoing provisions of this paragraph by an amount which, together with any amount required by precepting authorities to be paid by the council in respect of approved expenditure for that year, is in excess of the produce of a rate of one penny in the pound levied in their district, then the grant payable in respect of so much of the approved expenditure as would cause the levying of a rate in excess of one penny in the pound shall be of an

amount equal to a percentage thereof which, where the percentage payable in respect of the remainder of the council's approved expenditure does not exceed sixty-five per cent shall be seventy-five per cent, and where the percentage payable in respect of the remainder of the council's approved expenditure exceeds sixty-five per cent shall be eighty-five per cent.

*Grants to the Common Council of the City of London and the Councils of Metropolitan Boroughs.*

2. The grants to be paid to the common council of the city of London or to the council of any metropolitan borough of which the weighted population bears to the estimated population thereof the same proportion that any figure within the limits respectively specified in the first column of the following table bears to one, shall be of amounts equal to that percentage of the approved expenditure of the council which is correspondingly specified in the second column of that table :—

TABLE.

Figure of weighted population.	Percentage of approved expenditure.
Not exceeding 1·25 - - - -	60
Exceeding 1·25 but not exceeding 1·50	65
Exceeding 1·50 but not exceeding 1·75	70
Exceeding 1·75 - - - -	75

so, however, that provisos (b) and (c) to the last foregoing paragraph of this Schedule shall apply with respect to the common council of the city of London and to the council of any metropolitan borough as if those provisos were set out in this paragraph with the substitution of references to those councils for references to the councils of county districts.

3. For the purposes of this Schedule—

(a) the expressions "weighted population" and "estimated population" mean respectively the weighted population and the estimated population as determined at the date of the commencement of this Act for the purpose of the apportionment of the General Exchequer Contribution under the Local Government Act, 1929; and

(b) the produce of a rate of one penny in the pound for any year levied in any area shall be an amount ascertained in accordance with the following provisions :—

(i) the produce of a rate for any period shall be deemed to be the amount actually realised during that period by the collection of rates in that area;

(ii) the produce of a rate of one penny in the pound shall be deemed to be that proportion of the produce of a rate which one penny bears to the total amount in the pound of the rate;

(iii) where it is desired to ascertain the amount of the produce of a rate of one penny in the pound levied in any area comprising two or more parts which are differentially rated, the said amount shall be separately ascertained in respect of each of those parts in accordance with the foregoing sub-paragraphs, and the sum of the amounts so ascertained shall be the produce of a rate of one penny in the pound levied in the said area.

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## CHAPTER 7.

An Act to grant money for the purpose of certain local loans out of the Local Loans Fund, and for other purposes relating to local loans.

[22nd December 1937.]

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

Grants for  
public  
works.

1.—(1) There may be issued by the National Debt Commissioners for the purposes of local loans by the Public Works Loan Commissioners any sum or sums not exceeding in the whole the sum of twenty-five million pounds.

50 & 51 Vict.  
c. 16.

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

Certain  
debts not to  
be reckoned  
as assets of  
the Local  
Loans Fund.

2. Whereas it is expedient that the principal of the several local loans specified in the table contained in the Schedule to this Act should, to the extent specified in the last column of that table, not be reckoned as assets of the Local Loans Fund established under the National Debt and Local Loans Act, 1887:

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

3.—(1) The power of the Public Works Loan Commissioners to make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to any local authority to which this section applies for the purpose of the purchase of land; and accordingly the said section nine shall be amended by inserting after the word “work” the words “or purchase of land”.

Extension of power of Commissioners to make loans. 38 & 39 Vict. c. 89.

(2) This section applies to all local authorities having power under an Act of Parliament or otherwise to borrow for the purpose of the purchase of land and being local authorities within the meaning of the Local Government Act, 1933, or the Local Authorities Loans (Scotland) Act, 1891.

23 & 24 Geo. 5. c. 51. 54 & 55 Vict. c. 34.

4. This Act may be cited as the Public Works Loans (No. 2) Act, 1937.

Short title.

**SCHEDULE.**

Section 2.

**LOANS BY THE PUBLIC WORKS LOAN COMMISSIONERS  
UNDER THE AGRICULTURAL CREDITS ACT, 1923.**

Name of Borrower.	Amount of Loan.		Amount to be written off.	
	£	s. d.	£	s. d.
Mr. John Chapman - - -	6,090	0 0	146	8 4
Mr. Alfred George Cooke - -	2,475	0 0	714	7 1
Mr. Thomas Llewellyn Davies -	1,700	0 0	325	0 7
Mr. Ernest Alfred Dowty - -	1,185	0 0	384	16 2
Mr. Charles Henry Huntley -	3,375	0 0	943	13 9
Mr. Walter Herbert Parris - -	3,300	0 0	1,357	3 9
Mr. Robert Spreckley - - -	1,200	0 0	415	5 3

**CHAPTER 8.**

An Act to extend the powers of education authorities with respect to courses of instruction provided under the Unemployment Insurance Act, 1935; to render certain employments insurable in like manner as employment in agriculture; to amend the provisions of the said Act relating to the discharge of the liabilities of the Unemployment Fund and to Treasury advances to that Fund; and to amend the law as to the insurance of discharged seamen, marines, soldiers and airmen. [17th February 1938.]

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

1. The functions of education authorities in providing courses of instruction under section seventy-six of the Unemployment Insurance Act, 1935, (hereinafter referred to as "the principal Act") shall include power to provide for persons attending such courses—

- (a) meals in the like circumstances and subject to the like conditions as meals may, under sections eighty-two to eighty-five of the Education Act, 1921, be provided by local education authorities for elementary education for children in attendance at public elementary schools in their area;
- (b) during the hours during which instruction is being given, milk and biscuits free of charge subject to such conditions as may be approved by the Minister of Labour (hereinafter referred to as "the Minister"):

Provided that the said powers shall not be exercised by an education authority except in accordance with proposals submitted to the Minister by the authority and approved by him, and the Minister shall not approve any

Extension  
of powers  
of education  
authorities  
with regard  
to courses  
of instruction.  
25 & 26  
Geo. 5. c. 8.  
11 & 12  
Geo. 5. c. 51.

such proposals unless they are in accord with schemes made by him with the consent of the Treasury.

2.—(1) Every employment specified in the Schedule to this Act that is an employment specified in Part I of the First Schedule to the principal Act shall, on and after the fourth day of April nineteen hundred and thirty-eight be an insurable employment for the purposes of the Unemployment Insurance Acts, 1935 and 1936, unless it is an excepted employment, and those Acts and any regulations made thereunder before the commencement of this Act shall on and after the said date have effect as if the said employments were employment in agriculture, and references therein to employment in agriculture shall be construed accordingly.

Certain employments to be insurable in like manner as employment in agriculture.

(2) The power of the Minister to make regulations under the principal Act shall include power by such regulations made with the consent of the Treasury to provide, either unconditionally or subject to such conditions as may be specified in the regulations, for including, on or at any time after the said fourth day of April any class of persons employed wholly or mainly out of doors in an excepted employment in domestic service among the classes of persons employed in insurable employment, and upon the coming into force of such regulations the Unemployment Insurance Acts, 1935 and 1936, and any regulations theretofore made thereunder shall have effect as if the employment specified in the regulations were employment in agriculture, and references therein to employment in agriculture shall be construed accordingly.

(3) For paragraph 2 of Part II of the First Schedule to the principal Act, which contains the general list of excepted employments, there shall on and after the said fourth day of April be substituted the following paragraph :—

“ Employment in domestic service, except where the employed person is employed in any trade or business carried on for the purposes of gain, and except where the employed person is employed in an employment specified in the Schedule to the Unemployment Insurance Act, 1938, or in the order made under section fourteen

26 Geo. 5. &  
1 Edw. 8.  
c. 13.

of the Unemployment Insurance (Agriculture) Act, 1936, or is comprised in a class of persons included by virtue of regulations made under this Act among the classes of persons employed in insurable employment.”

Power to apply moneys of Unemployment Fund in reduction of instalments payable in redemption of debt.

3.—(1) In addition to the power of the Unemployment Insurance Statutory Committee under subsection (2) of section fifty-nine of the principal Act, to make recommendations for the application of sums towards the discharge of the liabilities mentioned in subsection (2) of section sixty of that Act, the Committee may at any time recommend the application of other sums towards the discharge of those liabilities, and the Minister may, under this subsection, apply towards the discharge of those liabilities such amounts as may be specified in such a recommendation out of any moneys forming part of the Unemployment Fund and standing to the credit of the General Account of that fund, including any moneys for the time being invested in accordance with the provisions of subsection (3) of section fifty-eight of the principal Act.

(2) Any sums applied towards the discharge of the liabilities aforesaid, either under the power conferred by the last foregoing subsection or in pursuance of recommendations made by the Committee under subsection (2) of section fifty-nine of the principal Act, shall be paid to the National Debt Commissioners in such amounts and at such times as may be agreed between the said Commissioners and the Minister, and after any such payment has been made every half-yearly instalment subsequently payable out of the Unemployment Fund to the National Debt Commissioners under subsection (2) of section sixty of the principal Act (as reduced by reason of any previous payment made under this subsection) shall be reduced (or further reduced) to a sum calculated by those Commissioners to be such that instalments at that rate will discharge the aforesaid liabilities, together with interest thereon at the appropriate rate as defined by subsection (2) of section sixty of the principal Act, by the thirty-first day of March nineteen hundred and seventy-one.

4.—(1) If at any time the Unemployment Insurance Statutory Committee recommend to the Minister that

Treasury advances



an amount specified in the recommendation should be advanced under this subsection to the Unemployment Fund for the purpose of enabling that fund to meet, either wholly or in part, the liabilities falling to be charged to the General Account of the fund, the Treasury may under this subsection make advances to that fund out of the Consolidated Fund of the United Kingdom or the growing produce thereof not exceeding in the aggregate the amount recommended by the Committee :

to Unem-  
ployment  
Fund.

Provided that no advance shall be made under this subsection which would cause the total amount of the advances so made to exceed an amount determined by the Treasury to be the amount by which the outstanding liabilities mentioned in subsection (2) of section sixty of the principal Act would then have been greater if no sums had been applied towards the discharge of those liabilities under the power conferred by subsection (1) of the last foregoing section.

(2) In determining for the purposes of subsection (2) of section fifty-nine of the principal Act whether the Unemployment Fund is or is likely to become and is likely to continue to be insufficient to discharge its liabilities, the Committee may have regard to the power of the Treasury to make advances under this section.

(3) All sums issued out of the Consolidated Fund under the foregoing provisions of this section shall be repaid to that fund by the Treasury out of moneys borrowed by them for that purpose by means of terminable annuities created for terms ending on the thirty-first day of March nineteen hundred and seventy-one.

(4) All sums due on account of the annuities created under this section shall be charged on, and payable out of, the Unemployment Fund :

Provided that, where the moneys of the Unemployment Fund are insufficient to pay any sum so due or any part thereof, the Treasury shall pay out of the Consolidated Fund or the growing produce thereof the sum required to make good the deficiency, and an amount equal to that sum shall be treated as having been temporarily advanced to the Unemployment Fund under subsection (3) of section sixty of the principal Act, and subsection (6) of that section shall apply accordingly, so,

however, that the period of six months specified in that subsection shall begin with the date on which the deficiency was made good as aforesaid.

Amend-  
ments as  
to dis-  
charged  
seamen,  
marines,  
soldiers and  
airmen.

5.—(1) Subsection (6) of section ninety-six of the principal Act (which excludes from the provision for unemployment made by that section certain seamen, marines, soldiers and airmen discharged at their own request) is hereby repealed.

(2) In subsection (7) of the said section ninety-six the words “ or who is discharged or dismissed in consequence of having been convicted on any proceedings under the Naval Discipline Act, the Army Act, or the Air Force Act, or by any civil court, or to any person who is discharged on account of fraudulent enlistment ” shall cease to have effect; and section thirty of the principal Act (which relates to miscellaneous disqualifications for benefit) shall have effect as if at the end thereof there were inserted the following subsection :—

“ (3) Any seaman, marine, soldier, or airman who is discharged or dismissed in consequence of having been convicted on any proceedings under the Naval Discipline Act, the Army Act, or the Air Force Act, or by any civil court, shall be disqualified for receiving benefit during the period of six weeks next after his discharge or dismissal; and for the purposes of any claim for benefit a certificate purporting to be signed by a person authorised in that behalf by the Admiralty, Army Council, or Air Council, as the case may be, as to the fact of any person having been so discharged or dismissed and as to the date of the discharge or dismissal shall be conclusive evidence thereof, unless it is proved that the certificate was not signed by a person so authorised as aforesaid.”

(3) Where any seaman, marine, soldier, or airman discharged after the commencement of this Act has during his service been lawfully subjected to a forfeiture of all ordinary pay for any complete week, subsection (1) of section ninety-six of the principal Act shall apply in his case as if no contribution had been paid in respect of him for that week.

**6.** This Act in its application to Scotland shall have Application effect as if for paragraph (a) of section one thereof there to Scotland. were substituted the following paragraph:—

“(a) meals and medical (including surgical and dental) treatment in the like circumstances and subject to the like conditions as meals and treatment may under the Education (Scotland) Acts, 1872 to 1936, be provided by an education authority for children under obligation to attend school and attending a school within their area.”

**7.**—(1) Any seaman, marine, soldier, or airman who is discharged or dismissed in consequence of having been convicted on any proceedings under the Naval Discipline Act, the Army Act, or the Air Force Act, or by any civil court, shall be subject to the like disqualification for receiving benefit under the enactments relating to unemployment insurance in force in Northern Ireland as is imposed in relation to benefit under the Unemployment Insurance Acts, 1935 and 1936, by subsection (3) of section thirty of the principal Act; and the provisions of the said subsection (3) as to evidence of such discharge or dismissal shall apply for the purposes of such enactments as they apply in relation to claims for benefit under the said Acts. Provisions as to Northern Ireland.

(2) The provisions of this Act other than this section shall not extend to Northern Ireland save in so far as they affect the provisions of the principal Act which extend to Northern Ireland.

**8.** There shall be defrayed out of moneys provided by Parliament— Expenditure out of moneys provided by Parliament.

(a) any sums by which the expenses of the Minister under the principal Act, or any education grants under any other Act, are increased by reason of the additional functions conferred by this Act on education authorities (without prejudice to the power to make grants towards such expenses out of the Unemployment Fund under section eighty of the principal Act); and

(b) any increase attributable to the passing of this Act in the sums payable out of moneys provided

by Parliament by virtue of sections twenty-one, ninety-four, ninety-five, or ninety-six of the principal Act.

Short title  
and citation.

9. This Act may be cited as the Unemployment Insurance Act, 1938, and this Act and the Unemployment Insurance Acts, 1935 and 1936, may be cited together as the Unemployment Insurance Acts, 1935 to 1938.

Section 2.

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## SCHEDULE.

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### EMPLOYMENTS INSURABLE IN LIKE MANNER AS EMPLOYMENT IN AGRICULTURE.

Employment in domestic service as a gamekeeper, warrener, ghillie, river keeper, water bailiff, groom, or stable man, except where the employed person is employed in any trade or business carried on for the purposes of gain.

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## CHAPTER 9.

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March, one thousand nine hundred and thirty-seven, one thousand nine hundred and thirty-eight and one thousand nine hundred and thirty-nine. [30th March 1938.]

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 King's most Excellent Majesty, by and with the advice and consent

of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom and apply towards making good the supply granted to His Majesty for the service of the years ending on the thirty-first day of March, one thousand nine hundred and thirty-seven and one thousand nine hundred and thirty-eight, the sum of two million, five hundred and eighty-six thousand, five hundred and sixty-one pounds nine shillings and sixpence.

Issue of  
2,586,561l.  
9s. 6d. out  
of the Consoli-  
dated Fund  
for the service  
of the years  
ending  
31st March  
1937 and 1938.

2. The Treasury may issue out of the Consolidated Fund of the United Kingdom and apply towards making good the supply granted to His Majesty for the service of the year ending on the thirty-first day of March one thousand nine hundred and thirty-nine the sum of three hundred and sixteen million, seven hundred and one thousand, seven hundred pounds.

Issue of  
316,701,700l.  
out of the  
Consolidated  
Fund for the  
service of the  
year ending  
31st March  
1939.

3.—(1) The Treasury may borrow from any person by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sum, any sum or sums not exceeding in the whole three hundred and nineteen million, two hundred and eighty-eight thousand, two hundred and sixty-one pounds nine shillings and sixpence.

Power for  
the Treasury  
to borrow.

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

40 & 41 Vict.  
c. 2.

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with interest not exceeding five pounds per centum per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such Fund is available.

(5) The interest on any money borrowed under this section shall be paid out of the permanent annual charge for the National Debt.

Short title.

4. This Act may be cited as the Consolidated Fund (No. 1) Act, 1938.

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## CHAPTER 10.

An Act to provide for the separation of Dominica from the Leeward Islands, and for purposes connected therewith. [30th March 1938.]

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

Separation  
of Dominica  
from  
Leeward  
Islands.

1.—(1) On such day as His Majesty may by Order in Council appoint for the purposes of this Act (hereafter in this Act referred to as “ the appointed day ”) Dominica shall cease to be one of the Presidencies constituting the Colony of the Leeward Islands and shall become a separate colony.

(2) His Majesty may by Order in Council make such provision as His Majesty in Council thinks proper for the government of Dominica on and after the appointed day, and any such Order in Council may delegate to any authority constituted for Dominica (whether by the Order or otherwise) power to make laws for the peace, order and good government of Dominica, without prejudice to the power of His Majesty in Council, notwithstanding such delegation, to make laws from time to time for any of the said purposes.

Any such Order in Council as aforesaid made before the appointed day, and delegating any power to make laws to an authority already in existence at the time of the making of the Order, may be so framed as to enable that authority to exercise the delegated power as from the making of the Order, so, however, that no laws made in exercise of that power shall take effect before the appointed day.

(3) An Order in Council under this section may contain such provisions—

- (a) determining the laws which, after the beginning of the appointed day, are (subject to amendment or repeal by any competent legislature or authority) to remain valid as respects Dominica notwithstanding the separation of Dominica from the Leeward Islands, and
- (b) adapting and modifying any such laws as aforesaid, and any other laws relating or referring to the Leeward Islands or to Dominica,

and such incidental, supplementary and consequential provisions, as His Majesty in Council thinks necessary or expedient in view of the said separation.

In this subsection the expression "laws" includes the Leeward Islands Act, 1871, as amended by any Act of the Legislature of the Leeward Islands, but, save as aforesaid, does not include an Act of Parliament.

34 & 35 Vict.  
c. 107.

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

(5) As from the appointed day Dominica shall be one of the West Indian colonies to which the West Indian Court of Appeal Act, 1919, applies, and accordingly section one of that Act shall, as from the said day, have effect as if, in subsection (2) and in subsection (3) of that section, for the words "and St. Vincent" there were substituted the words "St. Vincent and Dominica".

9 & 10  
Geo. 5. c. 47

2. This Act may be cited as the Dominica Act, 1938.

Short title.

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## CHAPTER 11.

An Act to lower from fifty years to forty years the age which blind persons must have attained in order to be entitled to old age pensions under the Old Age Pensions Act, 1936; and to amend the law with respect to the provision of assistance in relation to such persons by local authorities. [30th March 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

Lowering of age at which non-contributory old age pensions may be paid to blind persons.  
26 Geo. 5. & 1 Edw. 8. c. 31.

1. The age which a blind person must have attained in order to be entitled to receive an old age pension under the Old Age Pensions Act, 1936, shall be forty years instead of fifty years, and accordingly section two of that Act shall have effect as if, in paragraph (a) of subsection (1) of that section, for the word "fifty" there were substituted the word "forty," and as if, in paragraph (b) of that subsection, for the word "thirty" there were substituted the word "twenty."

Duty of local authorities to promote welfare of blind persons.  
10 & 11 Geo. 5. c. 49.

2.—(1) For subsection (1) of section two of the Blind Persons Act, 1920, (hereafter in this Act referred to as "the principal Act") there shall be substituted the following subsections :—

"(1) It shall be the duty of the council of every county or county borough to make arrangements for promoting the welfare of blind persons ordinarily resident in the area of the council, and the things which such a council may do in the performance of their said duty shall include the provision and maintenance, or the making of contributions towards the provision and maintenance, of workshops, hostels, homes or other places (whether in or outside the area of the council) for the reception of blind persons, and any other things the doing of which appears to the council to be desirable for the purpose of the performance of that duty.

In determining, in the case of any blind person, whether or not, or to what extent, to provide financial assistance under the preceding provisions of this subsection, the council shall take into account not only the needs of the blind person, but also the needs of any members of the household of which the blind person is a member who are dependent on him, and the rules laid down in paragraphs (a) to (e) of subsection (3) of section thirty-eight of the Unemployment Act, 1934 (which require certain assets of the person concerned to be disregarded), shall be complied with in computing the resources of any person in order to determine his needs for the purposes of this subsection.

24 & 25 Geo. 5. c. 29.



(1A) The council of any county or county borough may pay, or contribute to the payment of, any expenses payable in connection with the funeral of a person who, at the time of his death, was a blind person ordinarily resident in the area of the council, or who at the time of his death was a member of the household of which such a blind person as aforesaid was at that time a member and was dependent on him."

(2) Any assistance which after the commencement of this Act could, apart from this subsection, be provided either by way of poor relief or by virtue of section two of the principal Act, not being either assistance in an institution or medical assistance, shall be provided exclusively by virtue of that section and not by way of poor relief.

3.—(1) Where, during an appropriate quinquennial period, any assistance is, by virtue of section two of the principal Act, provided by a council in England (hereinafter referred to as "the assisting council") in the case of a blind person who, within the five years immediately preceding that quinquennial period, has been ordinarily resident for the requisite period in the area or in each of the areas of some other council or councils in England having functions under the said section, then, unless the area of the assisting council is the area in England in which the blind person was last ordinarily resident for the requisite period within the said five years, the amount of any expenditure on the part of the assisting council which is specifically attributable to the provision of the said assistance by that council shall be a debt due to them from the other council or, as the case may be, from that one of the other councils in whose area the blind person was last ordinarily resident for the requisite period within the said five years.

Recovery of cost of assistance by one English local authority from another.

In this subsection the expression "appropriate quinquennial period" means, in relation to a blind person, any period of five consecutive years beginning either on the first day after the commencement of this Act on which any assistance is, by virtue of section two of the principal Act, provided in his case by a council in England, or on the expiration of five, or an exact multiple

of five, years from the beginning of the said day; and the expression "requisite period" means a period of twelve or more consecutive months.

(2) If any dispute arises on the question whether or not any sum is recoverable from a council by virtue of this section, or as to the amount of any sum so recoverable, the dispute shall, unless the parties otherwise agree, be referred for determination to the Minister of Health.

Where any dispute is referred under this subsection to the Minister of Health, then at any stage of the proceedings the Minister may, and, if so directed by the High Court, shall, state in the form of a special case for the decision of the Court any question of law arising on the reference, but, save as aforesaid, the decision of the Minister shall be final.

(3) Subsection (7) of section two of the principal Act (which determines for the purposes of that section the area in which a blind person is to be deemed to be ordinarily resident while an inmate of an institution for the blind) shall have effect as if the reference in that subsection to the purposes of that section included a reference to the purposes of this section.

Provisions  
as to blind  
persons em-  
ployed at  
institutions  
in Scotland.

4. Section two of the principal Act shall have effect, and be deemed always to have had effect, as if at the end of subsection (7) thereof the following words were added:—"and a blind person who, after the commencement of this Act, enters into employment at any such institution situated in Scotland, and who immediately before so doing was ordinarily resident in any area in Scotland, shall be deemed to be ordinarily resident in that area so long as he continues to be employed at the institution or while he is in receipt of a superannuation allowance granted by the institution on his retiral from employment thereat."

Interpreta-  
tion.

5. In the principal Act and in this Act the expression "blind person" means a person so blind as to be unable to perform any work for which eyesight is essential; and in this Act the expression "medical assistance" includes the supply of medicine.

Short title,  
citation,  
commence-  
ment and  
extent.

6.—(1) This Act may be cited as the Blind Persons Act, 1938, and the principal Act and this Act may be cited together as the Blind Persons Acts, 1920 and 1938.

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

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

## CHAPTER 12.

An Act to make further provision for obtaining statistical information with respect to the population of Great Britain; and for purposes connected therewith. [30th March 1938.]

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

1. With a view to the compilation of statistical information with respect to the social and civil condition of the population of Great Britain, every person giving information in accordance with the Registration Acts, upon the registration, on or after the first day of July nineteen hundred and thirty-eight, of any birth, still-birth, or death, shall furnish to the registration officer such of the particulars specified in the Schedule to this Act as are appropriate to the registration and are within the knowledge of the person giving the information.

Power to direct information to be furnished.

2.—(1) It shall be the duty of the Registrar-General to make such arrangements and to do all such things as are necessary for the collection and collation of all particulars furnished to registration officers pursuant to this Act, and for that purpose to make arrangements for the preparation and issue of any necessary forms and instructions.

Duty of Registrar-General to collect information, and provision for expenses.

(2) The Registrar-General in the performance of his functions under this Act shall be subject to the control of, and shall comply with any directions given by, the Minister of Health.

(3) Any expenses incurred with the approval of the Treasury by the Minister of Health or by the Registrar-General in connection with the performance of his

functions under this Act shall be defrayed out of moneys provided by Parliament.

Power to  
make regu-  
lations.

**3.**—(1) The power of the Minister of Health, and of the Registrar-General with the approbation of the Minister of Health, under the Registration Acts to make regulations with respect to the performance by registration officers of their functions under those Acts shall include power to make regulations requiring registration officers to perform such functions in connection with the furnishing, collection and collation of particulars directed to be furnished by this Act as may be prescribed, and with respect to the performance by them of those functions.

Functions which registration officers are required to perform by virtue of any such regulations shall be deemed to be functions under the Registration Acts.

6 & 7 Will. 4.  
c. 86.  
37 & 38 Vict.  
c. 88.  
16 & 17  
Geo. 5. c. 48.

(2) In section twenty-nine of the Births and Deaths Registration Act, 1836 (which section, as amended by section thirty-one of the Births and Deaths Registration Act, 1874, and by section seven of the Births and Deaths Registration Act, 1926, determines certain fees payable to registration officers in respect of the registration of births, still-births, and deaths), for the words "one shilling" there shall be substituted the words "one shilling and five pence."

Subsection (1) of section eight of the Births and Deaths Registration Act, 1926, shall cease to have effect.

Penalties.

**4.**—(1) If any person—

- (a) refuses or neglects to furnish in accordance with this Act any information which he is required by this Act to furnish; or
- (b) in furnishing any such information makes any statement which, to his knowledge, is false in a material particular;

he shall be liable on summary conviction to a fine not exceeding ten pounds.

(2) No information obtained by virtue of this Act with respect to any particular person shall be disclosed except so far as may be necessary—

- (a) for the performance by any person of his functions under this Act in connection with

the furnishing, collection or collation of such information; or

- (b) for the performance by the Registrar-General of his functions under section five of the Census Act, 1920; 10 & 11  
Geo. 5. c. 41.

and if any person discloses any such information in contravention of this subsection, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine :

Provided that nothing in this subsection shall apply to any disclosure of information made for the purposes of any proceedings which may be taken in respect of an offence under this section, or for the purposes of any report of such proceedings.

5. Nothing in this Act requiring particulars to be furnished for the purposes of this Act shall affect any provision of the Registration Acts requiring information to be given for the purposes of those Acts. Saving for  
Registra-  
tion Acts.

6. In the application of this Act to Scotland— Application  
to Scotland.

(a) for any reference to the Minister of Health there shall be substituted a reference to the Department of Health for Scotland;

(b) the expression "Registration Acts" means the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1934, and the expression "Registrar-General" means the Registrar-General of Births, Deaths and Marriages in Scotland;

(c) for any reference to a registration officer there shall be substituted a reference to a registrar as defined in the Registration of Births, Deaths and Marriages (Scotland) Act, 1854; 17 & 18 Vict.  
c. 80.

(d) for subsection (2) of section three there shall be substituted the following subsection :—

“(2) Section eighteen of the Registration of Births, Deaths and Marriages (Scotland) 23 & 24 Vict.  
c. 85.

Act, 1860 (which relates to the increase of remuneration of registrars), shall have effect as if after the words 'fiftieth section' there were inserted the words 'or of the fifty-first section'."

Short title,  
interpretation and  
extent.

7.—(1) This Act may be cited as the Population (Statistics) Act, 1938.

(2) In this Act the expression "Registration Acts" means the Births and Deaths Registration Acts, 1836 to 1929, and the expression "registration officer" means any superintendent registrar and registrar of births and deaths.

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

(4) This Act shall continue in force until the thirtieth day of June nineteen hundred and forty-eight and no longer, unless Parliament otherwise determines:

52 & 53 Vict.  
c. 63.

Provided that, in the event of the expiration of this Act, subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply in relation thereto as if this Act had, at the time of its expiration, ceased to have effect by reason of the repeal thereof by another Act.

Section 1.

## SCHEDULE.

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MATTERS WITH RESPECT TO WHICH PARTICULARS  
MAY BE REQUIRED.

1. *On Registration of Birth or Still-birth* :—

(a) the age of the mother ;

(b) the date of the marriage ;

(c) the number of children of the mother by her present husband and how many of them are living ;

(d) the number of children of the mother by any former husband and how many of them are living.

2. *On Registration of Death* :—

- (a) if the deceased was a male, whether he had been married, and, if so, whether he was married at the date of death ;
- (b) if the deceased was a woman and had been married—
- (i) the year in which she was married and the duration of the marriage ;
  - (ii) whether she had children by her husband or any former husband ;
- (c) the age of the surviving spouse, if any, of the deceased.

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## CHAPTER 13.

An Act to extend the powers conferred by certain enactments relating to superannuation so as to include power to grant the like superannuation benefits, and to permit the like allocation of superannuation benefits to spouses and dependants, as could be granted or permitted in respect of persons in the Civil Service of the State ; to provide for distribution without probate of sums not exceeding one hundred pounds due to persons to whom those enactments apply or their legal personal representatives ; and for purposes connected with the matters aforesaid.  
[30th March 1938.]

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

1.—(1) The powers of the appropriate authority, Extension of powers conferred by scheduled enactments.  
under any of the enactments mentioned in the first column of Parts I and II of the Schedule to this Act (hereafter in this section referred to as “ the scheduled enactments ”), shall, subject to the provisions of this section, extend, and be deemed always to have extended, so as to include power—

- (a) to grant the like superannuation benefits to the persons to whom that enactment applies or

their legal personal representatives, widows or dependants; and

(b) to permit the like allocation of superannuation benefits to spouses and dependants;

as could be, or could have been, granted or permitted in respect of persons in the Civil Service of the State under the enactments, rules, regulations and warrants for the time being in force in relation to the last-mentioned persons :

Provided that nothing in this subsection shall be taken to confer power to permit such an allocation as aforesaid after the date of the commencement of this Act in the case of a person who retired from service before that date.

(2) Where, by any of the scheduled enactments, the power of the appropriate authority thereunder to grant, pay or determine superannuation benefits is required to be exercised subject to the approval or sanction of the Treasury or the Board of Trade, the exercise of the powers conferred on that authority by the foregoing subsection shall be subject to the like approval or sanction.

(3) Where, by any of the scheduled enactments, the power of the appropriate authority thereunder to pay or grant superannuation benefits is required to be exercised under a scheme approved by the Treasury or in accordance with regulations, the powers conferred on that authority by subsection (1) of this section shall be exercised in like manner, and the power of the authority to make a scheme or regulations shall be extended accordingly.

(4) Any power of the Treasury under any of the scheduled enactments to determine that allowances and gratuities awarded under that enactment shall be paid wholly or partly out of a particular fund, shall extend to any sums allocated in pursuance of this section to the spouse or dependants of a person to whom the said enactment applies.

(5) The powers conferred by this section shall be in addition to, and not in derogation of, any existing power exercisable under any of the scheduled enactments or otherwise.



(6) Any amount by which the sums payable under any enactment out of moneys provided by Parliament are increased by reason of the provisions of this section shall be defrayed out of moneys so provided.

(7) For the purposes of this section the expression "the appropriate authority" means, in relation to any of the scheduled enactments, the person or body specified in relation to that enactment in the second column of Part I or Part II of the Schedule to this Act.

2.—(1) Where, on the death of a person to whom any of the enactments mentioned in the first column of Part I of the Schedule to this Act applies, any sum not exceeding one hundred pounds is due to that person or his legal personal representatives in respect of salary, wages or superannuation benefits, then, subject to any regulations made by the Treasury, probate or other proof of the title of the legal personal representatives may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the appropriate authority to be beneficially entitled to the personal estate of the deceased person, or to or among any one or more of those persons, or, in the case of the illegitimacy of the deceased person or any of his children, to or among such persons as the appropriate authority may think fit, and the appropriate authority or other person responsible for the payment of any such sum shall be discharged from all liability in respect of any such payment or distribution.

Distribution of money not exceeding one hundred pounds without probate.

(2) For the purposes of this section, the expression "the appropriate authority" means, in relation to any of the said enactments, the person or body specified in relation to that enactment in the third column of Part I of the Schedule to this Act.

3.—(1) This Act may be cited as the Superannuation (Various Services) Act, 1938.

Short title and interpretation.

(2) In this Act the expression "superannuation benefits" includes a superannuation allowance, additional allowance, annual allowance, retiring allowance, compensation allowance, gratuity, pension, compensation and annuity.

## SCHEDULE.

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Sections 1  
and 2.

### ENACTMENTS EXTENDED AND APPROPRIATE AUTHORITY THEREUNDER.

#### PART I.

#### ENACTMENTS TO WHICH SECTIONS ONE AND TWO APPLY.

Enactment.	Appropriate Authority.	
	For the purposes of section one of this Act.	For the purposes of section two of this Act.
<p>23 &amp; 24 Vict. c. 46.</p> <p>9 &amp; 10 Geo. 5. c. 50.</p>	<p>The Caledonian and Crinan Canals Amendment Act, 1860, section thirty-two, as amended by and in pursuance of section two and subsection (2) of section thirty of the Ministry of Transport Act, 1919.</p>	<p>The Minister of Transport.</p> <p>The Minister of Transport.</p>
<p>60 &amp; 61 Vict. c. 26.</p>	<p>The Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and as applied by section five of the Metropolitan Police Courts Act, 1897.</p>	<p>The Secretary of State.</p> <p>The Receiver for the Metropolitan Police District.</p>
<p>57 &amp; 58 Vict. c. 60.</p>	<p>The Merchant Shipping Act, 1894, section six hundred and sixty-five, as amended by paragraph (c) of subsection (1) of section one of the Merchant Shipping (Mercantile Marine Fund) Act, 1898.</p>	<p>A general light-house authority.</p> <p>A general light-house authority.</p>
<p>61 &amp; 62 Vict. c. 44.</p>	<p>The Development and Road Improvement Funds Act, 1910, section two, subsection (1).</p>	<p>The Treasury.</p> <p>The Development Commissioners.</p>
<p>10 Edw. 7. &amp; 1 Geo. 5. c. 7.</p>	<p>The Development and Road Improvement Funds Act, 1910, section two, subsection (2).</p>	<p>The Treasury.</p> <p>The Development Commissioners.</p> <p>The Development Commissioners.</p>

Enactment.	Appropriate Authority.	
	For the purposes of section one of this Act.	For the purposes of section two of this Act.
The Electricity (Supply) Act, 1919, section one, subsection (7), as amended by and in pursuance of subsection (1) of section thirty-nine of that Act and by section fifty of, and the Sixth Schedule to, the Electricity (Supply) Act, 1926.	The Minister of Transport.	The Electricity Commissioners. 9 & 10 Geo. 5. c. 100.  16 & 17 Geo. 5. c. 51.
The Forestry Act, 1919, section ten, subsection (2), as amended by subsection (1) of section six of the Forestry (Transfer of Woods) Act, 1923.	The Forestry Commissioners.	The Forestry Commissioners. 9 & 10 Geo. 5. c. 58.  13 & 14 Geo. 5. c. 21.
The Forestry (Transfer of Woods) Act, 1923, section six, subsection (2), so far as it relates to persons who have held an office in the Civil Service.	The Treasury.	The Forestry Commissioners.
The Forestry (Transfer of Woods) Act, 1923, section six, subsection (2), so far as it relates to persons who have been officers employed by the Forestry Commissioners.	The Forestry Commissioners.	The Forestry Commissioners.
The Railways Act, 1921, section twenty-one, subsection (1).	The Minister of Transport.	The Minister of Transport. 11 & 12 Geo. 5. c. 55.
The Assessor of Public Undertakings (Scotland) Act, 1934, section two.	The Secretary of State.	The Secretary of State. 24 & 25 Geo. 5. c. 22.

## PART II.

### ENACTMENTS TO WHICH SECTION ONE APPLIES.

Enactment.	Appropriate authority for the purposes of section one of this Act.
The Ecclesiastical Commissioners (Superannuation) Act, 1865, as amended by the Superannuation (Ecclesiastical Commissioners and Queen Anne's Bounty) Act, 1914, and the Superannuation (Ecclesiastical Commissioners and Queen Anne's Bounty) Act, 1933.	The Ecclesiastical Commissioners.

Enactment.

Appropriate authority  
for the purposes of  
section one of this Act.

The Queen Anne's Bounty (Superannuation) Act, 1870, as amended by the Superannuation (Ecclesiastical Commissioners and Queen Anne's Bounty) Act, 1914, and the Superannuation (Ecclesiastical Commissioners and Queen Anne's Bounty) Act, 1933.

Queen Anne's Bounty.

## CHAPTER 14.

An Act to amend the National Health Insurance Act, 1936, in relation to persons who are, or who since the first day of August nineteen hundred and thirty-five have been, employed in the manner mentioned in subsection (2) of section two of that Act; and to make consequential amendments in the Widows', Orphans' and Old Age Contributory Pensions Act, 1936.

[30th March 1938.]

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

1.—(1) The National Health Insurance Act, 1936, (hereinafter referred to as “the principal Act”) shall have effect as if in Part II of the First Schedule to that Act (which specifies the employments that are excepted employments for the purposes of that Act) there were inserted, after paragraph (q), the following paragraph :—

“(r) Employment for the purposes of any business of which, within a period of two years immediately preceding the date on which the employment began, the employed person was the owner or part owner, being employment of that person either by a relative or by a company in

Amendment  
of 26 Geo. 5.  
& 1 Edw. 8.  
c. 32, and  
consequen-  
tial amend-  
ment of  
26 Geo. 5. &  
1 Edw. 8.  
c. 33.

the case of which the majority of the voting power or shares is in the hands of the employed person or his relatives or of nominees of the employed person or his relatives.

In this paragraph the expression 'relative' means the husband or wife, son or daughter or son-in-law or daughter-in-law of the employed person, or any of them, and the expression 'nominees' means persons who may be required to exercise their voting power on the directions of, or who hold shares directly or indirectly on behalf of, the employed person or any of his relatives."

(2) Subsection (2) of section two of the principal Act shall cease to have effect; and, for the purposes of that Act and of any Act repealed thereby, employment which was such as is specified in paragraph (r) of Part II of the First Schedule to the principal Act as amended by this section, shall, if and so far as it took place within the period beginning with the second day of August nineteen hundred and thirty-five and ending immediately before the commencement of this Act, be deemed not to have been employment within the meaning of the principal Act or of the Act repealed thereby, as the case may be.

(3) The powers conferred on the Minister of Health and on the Department of Health for Scotland by subsections (1) and (2) of section thirty-one of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, (hereinafter referred to as "the Pensions Act") shall, in relation to any person who, at any time during the period mentioned in subsection (2) of this section, was engaged in such employment as is mentioned in that subsection, include powers, respectively,—

(a) to revise, on the assumption that the employment of that person as aforesaid in that period was not employment within the meaning of the principal Act or of any Act repealed thereby, any award or decision which, before the commencement of this Act, has been made or given with respect to that person by the said Minister or Department, as the case may be, under the Pensions Act or any Act repealed thereby, and

(b) in a case in which a decision with respect to such a person has, before the commencement of this Act, been given by referees upon a reference to them under the Pensions Act or any Act repealed thereby, to direct that the matter shall be referred to referees for reconsideration on the said assumption;

and subsections (3) and (4) of the said section thirty-one shall have effect accordingly.

(4) There shall be paid out of moneys provided by Parliament the sums necessary to defray such increase in any expenditure which by the principal Act or the Old Age Pensions Act, 1936, is directed to be defrayed out of moneys provided by Parliament as is attributable to the operation of this section.

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

Applica-  
tion to  
Northern  
Ireland.

2.—(1) This Act, so far as it amends the principal Act and relates to matters with respect to which the Parliament of Northern Ireland has power to make laws, shall not extend to Northern Ireland unless and until provision to that effect is made either—

(a) by an Act of the Parliament of Northern Ireland,  
or

(b) by an Order of the Governor of Northern Ireland  
in Council made in pursuance of such an Act,

and, if and when such provision is so made, shall apply to Northern Ireland subject to such exceptions and adaptations as may be specified in such Act or Order as aforesaid.

10 & 11  
Geo. 5. c. 67.

(2) For the purposes of section six of the Government of Ireland Act, 1920, this Act, so far as it amends the principal Act, shall be deemed to be an Act passed before the appointed day.

(3) This Act, so far as it amends the Pensions Act, shall not extend to Northern Ireland.

Short title  
and  
citation.

3. This Act may be cited as the National Health Insurance (Amendment) Act, 1938, and the National Health Insurance Acts, 1936 and 1937, and this Act may be cited together as the National Health Insurance Acts, 1936 to 1938.

**CHAPTER 15.**

An Act to prolong the duration of provisions of the Cotton Industry Acts, 1923 to 1933, which would otherwise expire. [30th March 1938.]

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

1. Sections one, two and three of the Cotton Industry Act, 1923 (which, as amended by the Cotton Industry Act, 1928, and the Cotton Industry Act, 1933, are limited to expire on the seventeenth day of July nineteen hundred and thirty-eight), shall, as so amended, continue in force for a period of five years from that date.

Continuance  
of provisions of  
Cotton Industry  
Acts.

13 & 14 Geo. 5.  
c. 22.  
18 & 19 Geo. 5.  
c. 11.  
23 & 24 Geo. 5.  
c. 30.

2. This Act may be cited as the Cotton Industry Act, 1938, and the Cotton Industry Acts, 1923 to 1933, and this Act may be cited together as the Cotton Industry Acts, 1923 to 1938.

Short title  
and citation.

**CHAPTER 16.**

An Act to amend the law with respect to the making of contributions out of the Exchequer and by local authorities in respect of housing accommodation provided for the working classes, and with respect to arrangements between local authorities and other persons for the provision of housing accommodation; and for purposes connected with the matters aforesaid. [30th March 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

*Government Contributions.*

General provision for contributions in respect of housing accommodation provided by local authorities.

1.—(1) Subject to the provisions of this Act, the Minister shall undertake to make, and shall make, in respect of each new house completed after the beginning of the year nineteen hundred and thirty-nine by way of housing accommodation provided by a local authority and approved for the purposes of this section by the Minister, being housing accommodation to which this section applies, payment to that local authority of an annual contribution of the amount of five pounds ten shillings for a period of forty years :

Provided that no contribution shall be payable under this section in respect of any house in respect of which a contribution is payable under the next following section.

(2) The annual amount of any contribution which, under this section, the Minister must make, and undertake to make, in respect of a flat provided in a block of flats on a site the cost of which as developed (ascertained in accordance with the Schedule to this Act) exceeds one thousand five hundred pounds per acre, shall, instead of five pounds ten shillings, be the appropriate amount prescribed by that Schedule.

(3) If, with respect to any proposals of the council of any non-county borough or urban district to provide any housing accommodation to which this section applies, the Minister, upon an application made by the borough or district council, is satisfied after consultation with the county council and having regard to any conditions which may be laid down by the Treasury,—

- (a) that the houses in the borough or district which are occupied by members of the working classes are let at rents substantially less on the average than the average of the rents of houses so occupied in non-county boroughs and urban districts in England generally, and
- (b) that when the amount of the expenditure incurred or to be incurred by the borough or



district council under the enactments relating to housing is considered in relation to the financial resources of the borough or district, the provision of the said accommodation would impose an undue burden on the borough or district, unless the annual amount of any contribution payable under this section in relation to that accommodation exceeds five pounds ten shillings,

then, if the Minister thinks fit so to determine, the annual amount of any contribution which under this section he must make, and undertake to make, in respect of any house provided by the borough or district council in carrying out the said proposals (being a contribution which apart from this subsection would be of the annual amount of five pounds ten shillings) shall, instead of that amount, be six pounds ten shillings.

(4) The last preceding subsection shall have effect in relation to any proposals of the council of a rural district to provide any housing accommodation to which this section applies, as that subsection has effect in relation to proposals of the council of any non-county borough or urban district subject however to the modification that for any reference in that subsection to the borough or district council, to the borough or district, or to non-county boroughs and urban districts there shall be substituted a reference to the rural district council, to the rural district or to rural districts, as the case may be.

(5) This section applies to housing accommodation which—

(a) is rendered necessary—

(i) by displacements of persons occurring in connection with any action taken by the local authority under the principal Act for the demolition of insanitary houses, for dealing with clearance or improvement areas or for closing parts of buildings, or

(ii) by displacements, occurring in the carrying out of re-development in accordance with a re-development plan, from houses which are

unfit for human habitation and are not capable of being rendered fit for human habitation at reasonable expense, or

(b) is required for the purpose of the abatement of overcrowding in the area of the local authority, or rendered necessary by displacements, occurring in the carrying out of re-development as aforesaid, from houses other than such as are mentioned in sub-paragraph (ii) of the preceding paragraph.

(6) As respects the administrative county of London exclusive of the City of London, both the London County Council and the council of a metropolitan borough shall be local authorities for the purposes of this section except subsection (3) thereof.

(7) Subsection (2) of section eighty-nine, subsection (3) of section one hundred and sixty-nine and subsection (2) of section one hundred and seventy-two of the principal Act shall have effect as if the references in those subsections to section one hundred and five of that Act included references to this section.

Contributions in respect of agricultural housing accommodation provided by local authorities.

2.—(1) Subject to the following provisions of this Act, the Minister shall undertake to make, and shall make, in respect of each new house completed after the beginning of the year nineteen hundred and thirty-nine which, with the approval of the Minister, is provided by the council of a county district by way of housing accommodation required for the agricultural population of the district, payment to that council of an annual contribution of the amount of ten pounds for a period of forty years :

Provided that if, with respect to any proposals of such a council to provide such housing accommodation as aforesaid, the Minister, upon an application made by the council, is satisfied, after consultation with the county council and having regard to any conditions which may be laid down by the Treasury, that the provision of the said accommodation would, without an increase of any contribution which would otherwise be payable under this section in relation to

that accommodation, impose an undue burden on the county district by reason of—

- (a) the exceptionally high cost of providing the accommodation, and
- (b) the amount of the rents which it will be practicable for the council of the county district to charge for the accommodation,

then, if the Minister thinks fit so to determine, the annual amount of any contribution which under this section he must make, and undertake to make, in respect of any house provided by the last-mentioned council in carrying out the said proposals shall, instead of ten pounds, be such greater amount not exceeding twelve pounds as the Minister may determine.

(2) The council of a county district shall secure that a number of houses equal to the number of houses (if any) in respect of which contributions are payable under this section to the council are reserved for members of the agricultural population, except in so far as the demand for housing accommodation in the county district on the part of members of the agricultural population can be satisfied without such reservation.

(3) Section one hundred and thirty-six of the principal Act shall apply for the purposes of this section as it applies for the purposes of the provisions of the principal Act which relate to Government contributions to the expenses of local authorities in providing accommodation available for displaced persons; and subsection (2) of section eighty-nine, subsection (3) of section one hundred and sixty-nine and subsection (2) of section one hundred and seventy-two of the principal Act shall have effect as if the references in those subsections to section one hundred and five of that Act included references to this section.

3.—(1) Where the council of a county district are satisfied that in any particular case housing accommodation required for members of the agricultural population of the district could more conveniently be provided by some person other than the council, they may, subject to any conditions imposed by the Minister, make arrangements for the provision of such accommodation by that person; and if the Minister is satisfied that the

Contributions in respect of agricultural housing accommodation provided by persons

other than  
local autho-  
rities.

arrangements are such as to secure that any house provided in pursuance thereof—

(a) is reserved for members of the agricultural population, and

(b) if let, is let at a rent not exceeding—

(i) the weekly rent which, by any order of the appropriate agricultural wages committee in force at the time of the letting, is determined as the value at which the benefit or advantage of a cottage is to be reckoned as payment of wages in lieu of payment in cash for the purpose of any minimum rate of wages fixed by the said committee under the Agricultural Wages (Regulation) Act, 1924, or

(ii) if no such rent is so determined, such weekly rent as may be determined by the council of the county district, and

(c) is suitable in respect of its size and construction,

then, subject to the following provisions of this Act, the Minister may undertake to make, and may make, in respect of each new house which, with his approval, is provided in pursuance of the arrangements, payment to that council of an annual contribution of such amount not exceeding ten pounds as the Minister may determine, being a contribution payable for a period of forty years; and in that event the council shall pay by way of annual grant to the owner of the house an amount not less than the contribution paid by the Minister :

Provided that no contribution under this section shall be payable in respect of any house for any year, unless—

(i) the conditions specified in paragraphs (a) and (b) of this subsection are observed in relation to that house throughout that year, and

(ii) the council of the county district certify to the Minister that all reasonable steps have been taken to secure the maintenance of that house in a proper state of repair during that year.

(2) Where a house provided under arrangements made in pursuance of this section is let together with other land at a single rent, such proportion of that rent as the council of the county district may determine

14 & 15  
Geo. 5. c. 37.

shall be deemed, for the purpose of paragraph (b) of subsection (1) of this section, to be the rent at which the house is let.

4. The sums required for the payment of any contribution which the Minister is required or authorised by the preceding sections of this Act to make shall be paid out of moneys provided by Parliament; and any such contribution as aforesaid, not being a contribution payable under the last preceding section, shall be deemed for the purposes of the principal Act to be an Exchequer contribution.

Contributions to be paid out of Exchequer.

5. Section one hundred and nine of the principal Act (which provides for a review of certain contributions) shall have effect subject to the following amendments, that is to say:—

Review of contributions.

(a) for subsection (1) of that section there shall be substituted the following subsection:—

“(1) In the year nineteen hundred and forty-one, after the beginning of October in that year, and in each third succeeding year, after the beginning of October in that year, the Minister shall, in connection with contributions which he is required to make under section one or section two of the Housing (Financial Provisions) Act, 1938, take into consideration the amount of expenses likely to be incurred by local authorities, in the period of three years beginning with the next following first day of April, in connection with operations relevant to the question whether or not contributions are payable under that section, and also the amount of expenses already incurred by local authorities in connection with such operations”; and

(b) in subsection (3) of that section for the words “nineteen hundred and thirty-seven, be the thirty-first day of March nineteen hundred and thirty-eight” there shall be substituted the words “nineteen hundred and forty-one, be the thirtieth day of September nineteen hundred and forty-two”;

and subsection (2) of that section shall be deemed not to have come into operation until the date of the passing of this Act.

*Contributions out of Rates.*

Local  
authorities'  
contribu-  
tions.

6.—(1) A local authority to whom the Minister has, under section one of this Act, undertaken to make a contribution in respect of any house shall, for each financial year during the period of sixty years from the completion of the house, make out of the general rate fund a contribution of the annual amount, calculated by reference to a period of sixty years, equivalent to half the annual amount of the Minister's contribution payable for a period of forty years :

Provided that, where the annual amount of the contribution which the Minister has so undertaken to make is six pounds ten shillings, the contribution to be made under this subsection by the local authority shall be of the annual amount, calculated as aforesaid, equivalent to two pounds fifteen shillings payable for a period of forty years.

(2) Any council of a county district to whom the Minister has, under section two of this Act, undertaken to make a contribution in respect of any house shall, for each financial year during the period of sixty years from the completion of the house, make out of the general rate fund a contribution of the annual amount, calculated by reference to a period of sixty years, equivalent to one pound a year payable for a period of forty years.

(3) Where a local authority are of opinion that any contribution payable by them under subsection (1) or subsection (2) of this section should be provided by annual instalments during a period of less than sixty years, the Minister may, upon an application made by that local authority, direct that the said subsection (1) or subsection (2), as the case may be, shall have effect in relation to that contribution as if for any reference in that subsection to a period of sixty years there were substituted a reference to such period, not being less than forty years, as the Minister thinks proper.

(4) It shall be a condition of the right of a local authority to receive any contribution which, for the purposes of the principal Act, is or is to be deemed to be an Exchequer contribution, that the local authority shall make out of the general rate fund the contributions which they are required by section one hundred and

fourteen of the principal Act and by this section to make ; and in section one hundred and fourteen of the principal Act the words from " and it shall be a condition " to the end of the section shall cease to have effect.

(5) The following provisions of the principal Act, that is to say, section eighty-six, subsection (1) of section one hundred and twenty-nine and subsection (2) of section one hundred and thirty, shall have effect as if any reference in those provisions to the Eighth Schedule to that Act included a reference to this section.

7.—(1) In respect of each house in respect of which the Minister—

County  
councils'  
contribu-  
tions.

(a) has, under section one of this Act, undertaken to make to the council of any county district payment of an annual contribution of the amount of six pounds ten shillings, or

(b) has, under section two of this Act, undertaken to make to the council of a county district payment of an annual contribution of the amount of ten pounds,

the council of the county of which the county district forms part shall make, for each financial year during the period of forty years from the completion of the house, payment of a contribution of the amount of one pound to the council of the county district.

(2) In respect of each house in respect of which the Minister has, under section two of this Act, undertaken to make to the council of a county district payment of an annual contribution of any amount in excess of ten pounds which is payable by virtue of the proviso to subsection (1) of that section, the council of the county of which the county district forms part shall make, for each financial year during the period of forty years from the completion of the house, payment to the council of the county district of a contribution of the amount of one pound plus a sum equal to the excess.

(3) If, under section one hundred and thirteen of the principal Act as amended by this Act, the amount or the payment of any contribution payable under section two of this Act to the council of a county district is reduced, or, as the case may be, suspended or discontinued, by the Minister on the ground that the council

have failed to discharge the duty imposed upon them by the last-mentioned section to reserve housing accommodation for members of the agricultural population, the county council shall not be under any liability to make to the council of the county district, under the preceding provisions of this section, any contribution for any year in respect of which the Minister's contribution is not paid in full.

(4) Subsection (1) of section one hundred and twenty-nine of the principal Act shall have effect as if the reference in paragraph (c) of that subsection to section one hundred and fifteen of that Act included a reference to this section.

*Amendments as to arrangements between local authorities and other persons.*

Amendment of section ninety-four of the principal Act.

8. Subsection (1) of section ninety-four of the principal Act (which enables local authorities to make arrangements with housing associations for the provision of housing accommodation) shall have effect as if for paragraphs (a) to (c) of that subsection there were substituted the following paragraph:—

“(a) to provide any housing accommodation which the local authority are empowered under this Act to provide;”.

Continuation of Government contributions in certain cases where houses become vested in local authorities.  
13 & 14 Geo. 5. c. 24.

9. Where, after the commencement of this Act, any house which has, with the assistance of a local authority given under section two of the Housing, &c. Act, 1923, been provided by some person other than a local authority becomes vested in the local authority by reason of any default on the part of that person or his successor in title, then, if at the time of the vesting, the house is a house in respect of which a contribution is payable by the Minister under section one of the said Act, the Minister may continue to make payments by way of that contribution as if the house had been provided by the local authority.

*Transitional and supplementary provisions.*

Transitional provisions.

10.—(1) No contribution shall, under any of the provisions of sections one hundred and five to one



hundred and eight of the principal Act or under subsection (2) or subsection (3) of section one hundred and fifteen of that Act, be payable by the Minister or a county council in respect of any new house completed after the beginning of the year nineteen hundred and thirty-nine.

(2) Any house provided by a local authority, with the approval of the Minister, by way of housing accommodation other than such as is mentioned in paragraph (a) of subsection (5) of section one of this Act, being a house for the erection of which no contract has been entered into by that authority before the third day of February nineteen hundred and thirty-eight, shall be treated for the purposes of this Act as if it were a house completed after the beginning of the year nineteen hundred and thirty-nine, notwithstanding that it was in fact completed before the beginning of that year.

(3) Where, by virtue of the preceding provisions of this section, a contribution which the Minister or a county council would otherwise be required or authorised by the principal Act to make is not payable, any duty or power of the Minister or the council to give an undertaking to make such a contribution shall cease.

Any such undertaking which has been given by the Minister or a county council before the date of the passing of this Act shall, if and so far as it relates to a house in respect of which a contribution becomes payable under section one or section two of this Act by the Minister or the county council, be deemed for the purposes of the principal Act not to have been given; and the obligations to contribute which are imposed on local authorities by section one hundred and fourteen of that Act shall be limited accordingly.

#### 11.—(1) In this Act—

- (a) the expression “the principal Act” means the Housing Act, 1936; and
- (b) subject as hereinafter provided, the expression “block of flats” means a building which contains two or more flats, and which consists

Interpretation, and construction of Act with principal Act. 26 Geo. 5. & 1 Edw. 8. c. 51.

of three or more storeys exclusive of any storey constructed for use for purposes other than those of a dwelling;

and (without prejudice to the operation of subsection (3) of section one hundred and eighty-eight of the principal Act) any reference in this Act to a house shall be construed as including a reference to a flat :

Provided that, for the purposes of this Act, a building shall, notwithstanding that it does not in all parts exceed two storeys in height, be deemed to be a building of three storeys, if the Minister is satisfied that the total accommodation provided in that building is not less than the accommodation which could have been provided in a building on the same superficial area if the building had in all parts been of three storeys.

(2) This Act shall be construed as one with the principal Act; and in the principal Act the expression "the Housing Acts" shall, unless the context otherwise requires, be construed as including this Act.

Short title,  
citation and  
extent.

12.—(1) This Act may be cited as the *Housing (Financial Provisions) Act, 1938*; and the principal Act and this Act may be cited together as the *Housing Acts, 1936 and 1938*.

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

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## SCHEDULE.

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Section 1 (2). PROVISIONS FOR ASCERTAINING THE VALUE OF CERTAIN SITES, AND THE AMOUNT OF GOVERNMENT CONTRIBUTIONS IN RESPECT OF FLATS IN BLOCKS ON SUCH SITES.

1. The annual amount of any contribution which, by virtue of subsection (2) of section one of this Act, is payable under that section in respect of a flat shall, if the flat is provided in a block of flats on a site of such cost as is specified in the first column

of the following Table, be the corresponding sum specified in the second column of that Table :—

TABLE.

Where the cost per acre of the site as developed—	£	s.	d.
exceeds £1,500 but does not exceed £4,000 -	11	0	0
exceeds £4,000 but does not exceed £5,000 -	12	0	0
exceeds £5,000 but does not exceed £6,000 -	13	0	0
exceeds £6,000 but does not exceed £8,000 -	14	0	0
exceeds £8,000 but does not exceed £10,000 -	15	0	0
exceeds £10,000 but does not exceed £12,000 -	17	0	0
exceeds £12,000 -	17	0	0
	increased by £1 0s. 0d. for each additional £2,000, or part of £2,000, in the cost per acre of the site as developed :		

Provided that the annual amount of the contribution payable by virtue of this Schedule in respect of any one flat shall not exceed twenty-six pounds.

2. For the purposes of this Act the cost of a site as developed means the cost, or, in the case of a site not purchased by the local authority under any enactment relating to housing, the value as certified by the Minister, of the site, including—

- (a) any such expenses as in the opinion of the Minister are requisite for making the site available for the purpose of the provision of the flats, being expenses incurred by the local authority in the construction or widening of streets, the construction of sewers or the execution of any special works rendered necessary by the physical characteristics of the land, and
- (b) any such expenses incurred in respect of other matters as the Minister, with the consent of the Treasury, may determine to be expenses properly forming part of the cost of making the site available for that purpose.

The amount of the expenses to be included under this paragraph shall be such as may be estimated by the authority and approved by the Minister.

3. In determining the number of acres in a site, any land which is acquired for the purpose of the provision of the flats, and which is used as new street space on which the block of flats will abut, shall be deemed to form part of the site.

4. If the Minister thinks fit so to determine in relation to any two or more buildings, each containing two or more flats, on sites each of which is contiguous with the other or another, as the case may be, or is superficially separated therefrom by a street or public highway only, the several buildings shall, for the purposes of this Schedule, be treated as if they were one building on a single site the cost of which as developed was the sum obtained by adding together the cost of each of the actual sites as developed.

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## CHAPTER 17.

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

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

### PART I.

#### RENTERS' QUOTAS AND EXHIBITORS' QUOTAS.

##### *Provisions relating to Renters' quotas.*

**1.**—(1) Subject to the following provisions of this Part of this Act, where a renter has, in any renters' quota period, acquired for distribution in Great Britain films which are registered as foreign long films, or has, in any such period, so acquired films which are registered as foreign short films, then unless—

(a) in the first case, the films which have been so acquired by him in that period and are registered as long films include films registered as British long films and also as renters' quota films, and having a total length bearing to the total length

Determina-  
tion of  
renters'  
quotas for  
period  
beginning  
1st April  
1938 and  
ending  
31st March  
1948.

PART I.  
—cont.

of all the films which have been so acquired by him in that period and are registered as long films (exclusive of films registered only as exhibitors' quota films) a proportion not less than the proportion prescribed in relation to long films by Part I of the First Schedule to this Act for that period or, as the case may be, for the year beginning with the first day of April in which that period falls, or

- (b) in the second case, the films which have been so acquired by him in that period and are registered as short films include films registered as British short films and also as renters' quota films, and having a total length bearing to the total length of all the films which have been so acquired by him in that period and are registered as short films (exclusive of films registered only as exhibitors' quota films) a proportion not less than the proportion prescribed in relation to short films by Part I of the said Schedule for that period or, as the case may be, for the year beginning with the first day of April in which that period falls,

the renter shall be guilty of a quota offence, except in a case where either the Board of Trade certify, under the following provisions of this Part of this Act, that his failure to fulfil the relevant conditions imposed by this subsection was due to circumstances beyond his control, or the renter proves that fact to the satisfaction of the court.

(2) For the purpose of the preceding subsection, the length of a film shall be taken to be its registered length; but where a film registered as a renters' quota film is also registered as a British long film and also as doubled or trebled for the purpose of renters' quota on the ground of its cost, then, subject to the following provisions of this Part of this Act, the length of the film shall be taken for the purpose of paragraph (a) of that subsection to be twice or, as the case may be, three times its registered length:

Provided that a renter shall be deemed not to have fulfilled the quota conditions imposed by paragraph (a) of the preceding subsection as respects the quota period beginning with the first day of April

PART I.  
—cont.

nineteen hundred and thirty-eight or either of the two renters' quota periods falling in the year beginning with the first day of April nineteen hundred and thirty-nine or in any subsequent year, if the aggregate of the registered lengths of the films acquired by him in that period or year, as the case may be, for distribution in Great Britain which are registered as British long films and also as renters' quota films bears to the aggregate of the lengths which are to be taken, for the purpose of that paragraph, to be the lengths of those films, a proportion being less than one-half.

(3) The Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, may, not later than the end of June in the year nineteen hundred and thirty-eight or any of the eight succeeding years, lay before Parliament the draft of an order directing—

(a) that, in relation to the renters' quota period beginning with the first day of April then next following and in relation to any subsequent renters' quota period specified in the order, this section shall have effect as if for subsection (2) thereof there were substituted the following subsection :

“(2) For the purpose of the preceding subsection, the length of a film shall be taken to be its registered length; but where a film registered as a renters' quota film is also registered as a British long film and also as doubled for the purpose of renters' quota on the ground of its cost, then, subject to the following provisions of this Part of this Act, the length of the film shall be taken, for the purpose of paragraph (a) of that subsection, to be twice its registered length” ; or

(b) that, in relation to the year beginning with the said first day of April and in relation to any subsequent year specified in the order, the proviso to subsection (2) of this section—

(i) shall have effect as if in that proviso for the reference to one-half there were substituted a reference to such other proportion as may be specified in the order, or

(ii) shall have no effect;

and if, not later than the thirty-first day of July next following the date on which the draft of any such order is laid before it, each House of Parliament resolves that the order be made, the Board shall forthwith make the order in terms of the draft.

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

Provided that an order varying or revoking such an order as aforesaid shall not have effect in relation to any period prior to the first day of April next following the date on which the order is made.

2.—(1) Subject to the following provisions of this Part of this Act, no film registered as a British film shall, for the purpose of the fulfilment of any conditions imposed by subsection (1) of the last preceding section (hereafter in this Act referred to as "quota conditions"), be counted more than once by the same renter or counted by any renter other than the renter who has first acquired the film (whether before or after the commencement of this Act) for distribution in Great Britain; and no film so registered shall be counted for the said purpose if it has already been counted for the purpose of complying with the requirements of section thirteen of the Act of 1927.

Restrictions on the counting of a British film more than once, or by more than one renter, for quota purposes.

(2) Where, at any time in a renters' quota period, a renter has acquired, for distribution in a limited area in Great Britain only, a film which is registered as a British film and also as a renters' quota film, and which, at that time, had not been exhibited to the public at a theatre in that area, then if throughout that period or, as the case may be, the part thereof during which he carried on business as a renter in Great Britain—

- (a) that renter has had no right to distribute in Great Britain outside that area any films which are registered as foreign films or are registered as British films and also as renters' quota films, and
- (b) no other renter has had a right to distribute the first-mentioned film in that area,

PART I.  
—cont.

the said film may, for the purpose of the fulfilment of any relevant quota conditions as respects that period, be counted once by the first-mentioned renter, notwithstanding that some other person is also entitled, by virtue of this subsection, to count the film for the said purpose.

(3) Where the films which a renter has, in any renters' quota period, acquired for distribution in Great Britain consist of, or include, old films registered as British films and also as renters' quota films, and old films registered as foreign films, he may, for the purpose of fulfilling any relevant quota conditions as respects that period, count once each of the said old films which is registered as a British film—

- (a) if all the registered films so acquired by him in that period (exclusive of films registered only as exhibitors' quota films) are old films, or
- (b) (in a case where the said registered films include films other than old films) if any such quota conditions would have been fulfilled as respects those other films had they been the only films so acquired by him in that period.

(4) For the purposes of the last preceding subsection, a film which in any renters' quota period a renter acquires for distribution in Great Britain shall, in relation to that period, be deemed to be old if, and only if,—

- (a) the film has previously been acquired as aforesaid by some other renter, and
- (b) not less than one year has elapsed since the end of the year in which the film was previously acquired as aforesaid by any other renter;

and in this subsection the expression “year” means year beginning with the first day of April.

Special provisions with respect to British films rented in foreign countries.

**3.**—(1) Where, by means of such evidence (including statutory declarations) as the Board of Trade may require, a renter carrying on business in Great Britain satisfies the Board with respect to any film registered under Part III of this Act as a British long film and also as doubled or trebled for the purpose of renters' quota—

- (a) that in any renters' quota period the said renter has, for a price of not less than twenty thousand



pounds, acquired the film for distribution in a foreign country, and

- (b) that the said renter has not acquired the film for distribution in Great Britain,

the Board may, if they think fit, give directions that in determining whether any relevant quota conditions have been fulfilled—

- (i) the film shall (except for the purpose of the proviso to subsection (2) of section one of this Act) be treated as if, at the time when the said renter acquired it for distribution in that foreign country, he had acquired it for distribution in Great Britain, and
- (ii) any acquisition of the film by another renter for distribution in Great Britain (whether before or after the giving of the directions) shall be disregarded.

(2) Any directions given under this section by the Board of Trade shall—

- (a) in a case where—

(i) the film to which the directions relate is registered as trebled for the purpose of renters' quota, and

(ii) the Board are satisfied that the price paid or payable by the renter in respect of his acquisition of the film for distribution in the foreign country is not less than thirty thousand pounds,

include a direction that the length of the film shall, for the purpose of determining whether any relevant quota conditions have been fulfilled by that renter in any renters' quota period, be taken to be twice its registered length, or

- (b) in any other case, include a direction that the length of the film shall, for the said purpose, be taken to be its registered length :

Provided that, if the total length of the films which, by virtue of any directions under this section, a renter is to be deemed for any purpose to have acquired in any renters' quota period for distribution in Great Britain exceeds half the total length of films registered as British

PART I.  
—cont.

long films which, apart from those directions, he must have acquired for distribution in Great Britain in order to fulfil the relevant quota conditions as respects that period, the first-mentioned total length shall be deemed to be reduced by the amount of the excess.

(3) If, at any time after giving any directions under this section, the Board of Trade discover that they were misinformed as to any of the material facts by reference to which their decision to give the directions was made, the Board may revoke the directions; and where any such directions are revoked, they shall be deemed never to have been given.

(4) If, and to the extent that, section one of this Act has effect subject to the modification made therein by an order containing such a direction as is authorised by paragraph (a) of subsection (3) of that section, this section shall have effect as if, in subsection (1) of this section, for the words "doubled or trebled for the purpose of renters' quota" there were substituted the words "doubled for the purpose of renters' quota or capable of being doubled under this section", and as if, in subsection (2) of this section, for the words "trebled for the purpose of renters' quota" there were substituted the words "capable of being doubled under this section".

Exemption  
in respect  
of films for  
which  
demand is  
limited.

4.—(1) Upon application made, with respect to a film to which this Act applies, by a renter who has, in any renters' quota period, acquired that film for distribution in Great Britain, or who proposes to acquire it in any such period for distribution in Great Britain, the Board of Trade, if satisfied that the film is a long film and that it has not been exhibited to the public in Great Britain within the twelve months immediately preceding the date on which the application was made, may, if they think fit, direct that, subject to the fulfilment of the conditions set out in the following subsection, the fact that he has, before the end of the year beginning with the said date, acquired the film for distribution in Great Britain, shall, for the purpose of determining whether that renter has fulfilled any quota conditions, be disregarded.

(2) The conditions subject to which any directions given under this section in respect of a film shall have effect are that the film must not, in the year beginning

with the date of the application upon which the directions are given—

PART I.  
—cont.

- (a) be delivered by any other renter to exhibitors in Great Britain for public exhibition therein, or
- (b) be exhibited to the public at more than twelve theatres in Great Britain or at more than six theatres in the administrative county of London, or
- (c) be exhibited to the public at more than one theatre in Great Britain on the same day;

and if the renter delivers the film, after the end of that year, to an exhibitor for exhibition to the public at a theatre in Great Britain, then, for the purpose of determining whether any quota conditions have been fulfilled by him, the film shall (without prejudice to any previous effect of the directions) be treated as if, at the time when he first so delivers it, he had acquired it for distribution in Great Britain.

5. Upon application made to them in that behalf, the Board of Trade, if they think fit, may, in relation to any renters' quota period, designate any two or more renters as an approved combination for the purpose of fulfilling the quota conditions as respects that period in relation to long films; and if, in that period, not more than one of those renters has acquired, for distribution in Great Britain, more than three films which are registered as long films (other than films which are registered only as exhibitors' quota films), the preceding sections of this Act shall, so far as regards the fulfilment of the quota conditions as respects that period in relation to long films, apply to those renters as if they constituted together a single renter:

Combina-  
tions of  
renters for  
"quota  
purposes.

Provided that the preceding provisions of this section shall, in relation to the renters' quota period beginning with the first day of April nineteen hundred and thirty-eight, have effect as if in those provisions for the word "three" there were substituted the word "six."

6. Where, for the purpose of any of the preceding provisions of this Act, it is material to determine what films a renter has acquired in any renters' quota period, a film which he has, in that period, acquired

Provisions  
with respect  
to films  
acquired

PART I.  
—cont.  
and regis-  
tered in  
different  
periods.

for distribution in Great Britain, but which has been registered in any subsequent renters' quota period, shall be deemed to have been acquired by him as aforesaid in the renters' quota period in which the film was registered and not in the renters' quota period in which he actually so acquired it.

*Provisions relating to Exhibitors' quotas.*

Determina-  
tion of  
exhibitors'  
quotas for  
period  
beginning  
1st October  
1938 and  
ending  
30th Sep-  
tember 1948.

7.—(1) Subject to the following provisions of this Part of this Act, where an exhibitor has, in any exhibitors' quota year, exhibited to the public at any theatre in Great Britain films which are registered as foreign long films, or has, in any such year, so exhibited films which are registered as foreign short films, then, unless—

- (a) in the first case, the proportion which the total length of films which have been exhibited by him to the public at that theatre in that year, and are registered as British long films, bears to the total length of films which have been so exhibited and are registered as long films is at least equal to the proportion prescribed in relation to long films for that year by Part II of the First Schedule to this Act, or
- (b) in the second case, the proportion which the total length of films which have been exhibited by him to the public at that theatre in that year, and are registered as British short films, bears to the total length of films which have been so exhibited and are registered as short films is at least equal to the proportion prescribed in relation to short films for that year by Part II of the said Schedule,

the exhibitor shall be guilty of a quota offence, except in a case where either the Board of Trade certify, under the following provisions of this Part of this Act, that his failure to fulfil the relevant conditions imposed by this subsection was due to circumstances beyond his control, or the exhibitor proves that fact to the satisfaction of the court.

(2) For the purpose of the preceding subsection, the total length of films of any class mentioned in that subsection which, in any exhibitors' quota year, has been

exhibited to the public at any particular theatre shall be computed as follows, that is to say:—

PART I.  
—cont.

- (a) the registered length of each film of that class which, in that year, has been exhibited to the public at that theatre during the normal hours in the ordinary programme shall be multiplied by the number of times the film has in that year been so exhibited; and
- (b) the products arrived at under paragraph (a) of this subsection shall be added together.
- (3) In relation to any exhibitor who does not, in any exhibitors' quota year, exhibit registered films to the public at any one theatre in Great Britain on more than six days nor at more than one such theatre at the same time, the preceding provisions of this section shall have effect as if all the registered films which had in that year been exhibited by him to the public at theatres in Great Britain had been so exhibited at one such theatre.

(4) For the purpose of determining whether any conditions imposed by subsection (1) of this section have been fulfilled as respects any exhibitors' quota year, a film which was first registered as a British film more than four years before the beginning of that year shall be disregarded, unless, upon an application made not later than the end of that year by a renter having a right to distribute the film in Great Britain, the Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, direct that the film shall be taken into account for that purpose.

### *General Provisions.*

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

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

## PART I.

—cont.

Licensing of  
renters and  
exhibitors.

9.—(1) No person shall, in the year beginning at the commencement of this Act or any of the nine succeeding years, carry on the business of distributing registered films in Great Britain, unless—

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

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

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

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

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

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

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

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

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

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

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

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

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

10.—(1) An exhibitor shall not, in the period beginning at the commencement of this Act and ending with the thirty-first day of March nineteen hundred and forty-eight, exhibit on any occasion to the public at a theatre in Great Britain any film to which this Act applies, unless—

(a) he has acquired the right to exhibit the film to the public at that theatre on that occasion from a person who, at the time of the acquisition, was lawfully carrying on business as a renter in Great Britain, or

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

PART I.  
—cont.

(b) the exhibitor is himself lawfully carrying on business as aforesaid, and has acquired the film for distribution in Great Britain.

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

Penalties  
for quota  
offences.

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

(2) Where a person is convicted, on indictment, of a quota offence under this Part of this Act, then, in addition to imposing such a fine as aforesaid, the court—

(a) if the offence is an offence under the provisions of this Part of this Act relating to renters' quotas, and the offender has previously been convicted of a renter's offence not less than twice (whether summarily or on indictment), may revoke any renter's licence held by him, and may order, with respect to the offender or any of the following persons, that is to say,—

(i) any person who, at or since the time when the offence occurred, was or has been financially associated with the offender in his business as a renter,

(ii) any person concerned in the management of the offender's said business who was knowingly a party to the offence, and

(iii) any person who has acquired the offender's said business either wholly or in part,

that he shall, for such period as may be specified in the order, be disqualified for holding a renter's licence, and

(b) if the offence is an offence under the provisions of this Part of this Act relating to exhibitors' quotas, and the offender has previously been convicted of an exhibitor's offence not less than twice (whether summarily or on indictment), may revoke any exhibitor's licence held by him



in respect of the theatre in relation to which the offence has occurred, and may order, with respect to—

PART I.  
—cont.

(i) the offender,

(ii) any person who, at or since the time when the offence occurred, was or has been financially associated with the offender in his business as an exhibitor, or

(iii) any person concerned in the management of the offender's said business who was knowingly a party to the offence,

that he shall, for such period as may be specified in the order, be disqualified for holding an exhibitor's licence in respect of that theatre, and may also order that every person in whose case an exhibitor's licence, or a licence granted under the Act of 1927 for the purposes of section twenty of that Act, has been revoked during the year immediately preceding the date of the conviction, shall, for such period as may be specified in the order, be so disqualified :

Provided that an order under paragraph (a) of this subsection shall not operate so as to prevent the offender performing, for a period not exceeding six months, any obligations under any contract entered into by him before the institution of the proceedings leading to the conviction.

(3) Notwithstanding anything in the Summary Jurisdiction Acts, summary proceedings for a quota offence under this Part of this Act may, in the case of an offence under the provisions of this Part of this Act relating to renters' quotas, be instituted at any time within two years after the end of the renter's quota period in relation to which the offence has occurred, or, in the case of an offence under the provisions of this Part of this Act relating to exhibitors' quotas, be instituted at any time within one year after the end of the exhibitors' quota year in relation to which the offence has occurred.

(4) In this section the expression " renter's offence " means a quota offence under the provisions of this Part of this Act relating to renters' quotas, or an offence under section thirteen of the Act of 1927, and the expression " exhibitor's offence " means a quota offence under the

PART I.  
—cont.

provisions of this Part of this Act relating to exhibitors' quotas, or an offence under section nineteen of the Act of 1927.

Record  
books to be  
kept by  
renters and  
exhibitors.

12.—(1) Any renter who has, in the period beginning at the commencement of this Act and ending with the thirty-first day of March nineteen hundred and forty-eight, acquired for distribution in Great Britain a film which is a registered film shall, as soon as practicable, record in a book to be kept by him for the purpose—

- (a) the title and registered length of the film, the fact that it is registered as a British film or registered as a foreign film, as the case may be, and such other particulars with respect to the film as may be prescribed for the purpose of identification, and
- (b) the theatres in Great Britain for public exhibition at which he delivers the film to exhibitors, and the respective dates on which, or periods for which, the film is to be, or has been, exhibited to the public at those theatres on delivery as aforesaid;

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

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

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

Provided that an exhibitor who does not, in any exhibitors' quota year, exhibit registered films to the public at any one theatre in Great Britain on more than six days nor at more than one such theatre at the same time, shall not be obliged to keep under this subsection more than one book in respect of the theatres at which he so exhibits registered films in that year.

PART I.  
—cont.

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

(4) If any person who is required to keep a book under this section fails to keep the book in accordance with the requirements of this section or to record any particular therein in accordance with those requirements, or fails to produce the book on demand for inspection by any person entitled to inspect it, or prevents or attempts to prevent the inspection of the book by any person so entitled, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

13.—(1) If, upon application made to them, the Board of Trade are satisfied that any failure on the part of a person to fulfil any relevant quota conditions was due to circumstances beyond his control, the Board may issue a certificate to that effect:

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

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

(2) For the purposes of this Part of this Act, a failure on the part of a person to fulfil any relevant quota conditions shall be deemed to have been due to circumstances beyond the control of that person if, owing to the character of the films available or to the

**PART I.**  
**—cont.**

excessive cost of such films, it was not commercially practicable to fulfil those conditions, but, in the case of a renter, shall be deemed not to have been due to circumstances beyond his control if it was commercially practicable for him to fulfil those conditions by making, or arranging for the making of, the necessary films.

Provisions  
as to cases  
where dis-  
tribution  
rights in  
respect of  
films pass  
on renters  
going out  
of business.

14.—(1) Where, in any renters' quota period, a person being the holder of a renter's licence for the time being in force has ceased to carry on business as a renter in Great Britain, and, in consequence of the cessation, the right to distribute in any country or area a film to which this Act applies, and which that renter had acquired in that period for distribution in that country or area, passes in that period, by assignment or will or by operation of law, from the said person to some other person being the holder of such a licence, then, subject to the provisions of the following subsection, the first-mentioned person shall, for the purposes of the provisions of this Part of this Act relating to renters' quotas, be deemed never to have acquired the film for distribution in that country or area, or delivered the film to an exhibitor for public exhibition.

(2) If, in relation to any such assignment as is mentioned in the preceding subsection, it appears to the Board of Trade that the assignment was made with a view to the evasion of any of the provisions of this Part of this Act relating to renters' quotas, the Board may direct that the said subsection shall not apply in relation to that assignment.

Power of  
Board of  
Trade to  
alter quotas  
by order.

15.—(1) Subject to the following provisions of this section, the Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, may, not later than the end of June nineteen hundred and thirty-nine, lay before Parliament the draft of an order altering either or both of the proportions prescribed by Part II of the First Schedule to this Act for the year beginning with the first day of October nineteen hundred and thirty-nine; and if, before the end of July nineteen hundred and thirty-nine, each House of Parliament has resolved that the order be made, the Board shall forthwith make the order in terms of the draft, and the order shall come into operation upon the making thereof.

(2) Subject to the provisions of the next following subsection, the Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter,—

PART I.  
—cont.

- (a) may, at any time during the year nineteen hundred and thirty-nine, lay before Parliament the draft of an order altering, either generally or in relation only to long films or short films, all or any of the proportions prescribed by Part I of the First Schedule to this Act for the year beginning with the first day of April nineteen hundred and forty and the next succeeding year, or prescribed by Part II of the said Schedule for the year beginning with the first day of October nineteen hundred and forty and the next succeeding year, and
- (b) may, at any time during the year nineteen hundred and forty-one, lay before Parliament the draft of an order altering as aforesaid all or any of the proportions prescribed by Part I of the said Schedule for the year beginning with the first day of April nineteen hundred and forty-two and the next two succeeding years, or prescribed by Part II of the said Schedule for the year beginning with the first day of October nineteen hundred and forty-two and the next two succeeding years, and
- (c) may, at any time during the year nineteen hundred and forty-four, lay before Parliament the draft of an order altering as aforesaid all or any of the proportions prescribed by Part I of the said Schedule for the year beginning with the first day of April nineteen hundred and forty-five and the two succeeding years, or prescribed by Part II of the said Schedule for the year beginning with the first day of October nineteen hundred and forty-five and the two succeeding years;

and if, before the end of the calendar year in which the draft of such an order is laid before Parliament, each House of Parliament has resolved that the order be made, the Board shall forthwith make the order in terms of the draft, and the order shall come into operation upon the making thereof.

**PART I.**  
—*cont.*

(3) This section shall not authorise the making of an order—

(a) altering any of the proportions prescribed by Part I of the First Schedule to this Act to a proportion being, in relation to long films, less than twenty per cent. or more than thirty per cent. or, in relation to short films, less than fifteen per cent. or more than thirty per cent.,  
or

(b) altering any of the proportions prescribed by Part II of the said Schedule to a proportion being, in relation to long films, less than fifteen per cent. or more than thirty per cent. or, in relation to short films, less than twelve-and-a-half per cent. or more than thirty per cent.

(4) As from the coming into operation of an order under this section altering any of the proportions prescribed by the First Schedule to this Act, that Schedule shall have effect as if it prescribed, instead of that proportion, the proportion substituted therefor by the order.

(5) In this section the expression “calendar year” means year beginning with the first day of January.

**16.** The First Schedule to the Act of 1927 shall have effect, and be deemed always to have had effect, as if the proportion prescribed by Part II of that Schedule as respects the year ending with the thirtieth day of September nineteen hundred and thirty-eight were fifteen per cent. and not twenty per cent.

Reduction  
of exhibi-  
tors' quotas  
for year  
ending  
30th Sept-  
ember, 1938.

**PART II.****RESTRICTIONS ON BLIND BOOKING AND ADVANCE  
BOOKING OF FILMS.**

**17.—**(1) No renter shall, in the period beginning at the commencement of this Act and ending with the thirtieth day of September nineteen hundred and forty-eight, procure the giving by an exhibitor (whether for a consideration or not, and whether orally or in writing) of any such undertaking as would, if it were legally binding on the exhibitor, impose on him an obligation, either actual or contingent, to take delivery of a film to which this Act applies, for public exhibition at a theatre in Great Britain, being a film which had not been trade-shown at the time of his giving the undertaking :

Restriction  
on blind  
booking.

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

PART II.  
—cont.

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

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

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

**18.** No renter shall, in the period beginning at the commencement of this Act and ending with the thirty-first day of March nineteen hundred and forty-eight, procure the giving by an exhibitor (whether for a consideration or not, and whether orally or in writing) of any such undertaking as would, if it were legally binding

Restriction  
on advance  
booking.

**PART II.**  
—*cont.*

on the exhibitor, impose on him an obligation, either actual or contingent, to take delivery of a film to which this Act applies for public exhibition at a theatre in Great Britain at a date later than six months after the date on which he gives the undertaking :

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

**Penalties.**

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

**Invalida-  
tion of  
agreements  
involving  
blind  
booking or  
advance  
booking.**

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

- (a) in the case of an agreement made before the end of September nineteen hundred and forty-eight, it purports to impose on any exhibitor an obligation, either actual or contingent, to take delivery of a film to which this Act applies for public exhibition at a theatre in Great Britain, being a film which has not been trade-shown at the time of the making of the agreement, or
- (b) in the case of an agreement made before the end of March nineteen hundred and forty-eight, it purports to impose on any exhibitor an obligation, either actual or contingent, to take delivery of a film to which this Act applies for public exhibition at a theatre in Great Britain at a date later than six months after the date on which the agreement is made :

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

(2) Any agreement validly made before the commencement of this Act (whether in Great Britain or



elsewhere) which, if made after the commencement of this Act, would be invalid under the preceding subsection, shall, if and so far as it relates to the delivery after the end of September nineteen hundred and thirty-eight, for public exhibition in Great Britain, of a film to which this Act applies, cease to have effect at the end of that month.

PART II.  
—cont.

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

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

### PART III.

#### REGISTRATION OF FILMS.

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

Prohibition of distribution or exhibition of unregistered films.

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

- (a) the delivery or exhibition of any film which has been exhibited in Great Britain to exhibitors or to the public before the commencement of this Act, other than a film which was first so exhibited after the end of September nineteen

PART III.  
—cont.

hundred and twenty-seven and is a film to which the Act of 1927 applies, or

- (b) the delivery or exhibition, in pursuance of valid agreements for its exhibition on not more than three days and at not more than three theatres, of a film which, at the time of the delivery or exhibition, has not been trade-shown.

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

Registration  
of films.

**23.**—(1) Upon application duly made to them, not later than the end of September nineteen hundred and forty-eight, for the registration of a film to which this Act applies, the Board of Trade shall, subject to the following provisions of this Part of this Act, register the film under this Part of this Act in a register to be kept by the Board for the purpose.

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

- (a) the title and length of the film, the fact that it is a British film or a foreign film, as the case may be, and such other particulars (if any) with respect to the film as may be prescribed for the purpose of identification, and
- (b) such other particulars with respect to the film as are required by the following provisions of this Part of this Act to be entered in the register.

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

(4) As soon as may be after the end of the week beginning at the commencement of this Act, and of each subsequent week, the Board of Trade shall publish in the

Board of Trade Journal a list of films registered in that week.

PART III.  
—cont.

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

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

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

Applications for registration, and information to be furnished in connection therewith.

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

Provided that—

(a) a provisional application may be made before the film has been trade-shown, and in that case, if the film is trade-shown within six weeks after the date on which the provisional application is made, the provisional application shall thereupon be treated as if it had been made within fourteen days after the film was trade-shown; and

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

(3) The applicant for the registration of a film, and if the applicant is not the maker of the film, the maker, shall produce to the Board of Trade such books and other documents relating to the film, and furnish to the Board such other information with respect thereto, as the

PART III.  
—cont.

Board may require for the proper discharge of their functions under this Part of this Act in relation to that film; and any information furnished for the purposes of this subsection shall, if the Board so direct, be accompanied by a statutory declaration as to the truth of the information, being a declaration made by the person furnishing the information :

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

Determina-  
tion of films  
to be  
treated as  
British films  
for purposes  
of registra-  
tion.

**25.**—(1) Subject to the following provisions of this section, a film shall, for the purpose of the registration thereof under this Part of this Act, be deemed to be a British film if, and only if,—

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

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

- (a) (in a case where the total labour costs of the film amount to not less than twenty-two thousand five hundred pounds, and the quotient derived

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

PART III.  
—cont.

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

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

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

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

(3) If, upon an application for the registration of a film as a British film, the applicant requests the Board of

PART III.  
—cont.

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

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

18 & 19  
Geo. 5. c. 17.

(5) Section seven of the Finance Act, 1928, (which provides for the reduction of customs duties on negative cinematograph films which are certified by the Board of Trade to satisfy the requirements of subsection (3) of section twenty-seven of the Act of 1927) shall have effect as if the reference in the said section seven to the said subsection (3) included a reference to subsection (1) of this section.

Conditions  
governing  
registration  
of British  
films as  
quota films.

26.—(1) Every film registered under this Part of this Act as a British film shall be registered as an exhibitors' quota film, and, subject to the following provisions of this section, shall, if the applicant so requests, be registered also as a renters' quota film.

(2) A film registered under this Part of this Act as a British film shall not be registered as a renters' quota film unless—

- (a) the maker of the film was, throughout the time during which the film was being made, a person carrying on business in the United Kingdom and having his principal place of business therein, and
- (b) the studio, if any, used in making the film (exclusive of any portion of the film which, by virtue of subsection (3) of the last preceding section, is to be treated as not forming part of the film) was within the United Kingdom, and

PART III.  
—cont.

- (c) at least half the requisite amount of labour costs, as defined by subsection (2) of the last preceding section, represents payments which, as part of the labour costs of the film, have been paid or are payable in respect of the labour or services of British subjects ordinarily resident in, or persons domiciled in, the United Kingdom.
- (3) A film registered under this Part of this Act as a British long film shall not be registered as a renters' quota film unless—
- (a) the total labour costs of the film amount to not less than seven thousand five hundred pounds, and
- (b) the quotient derived from dividing the amount of the said total labour costs by the number of feet comprised in the length of the film is a sum of not less than one pound :

Provided that the Board of Trade may exempt any particular film from the operation of this subsection if, after consulting the Cinematograph Films Council and considering its advice in the matter, the Board are of opinion that the film has special value for purposes of entertainment.

(4) The Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, may lay before Parliament the draft of an order directing that the last preceding subsection shall, subject to such modifications of that subsection as may be specified in the order, apply in relation to films registered under this Part of this Act as British short films, as it applies in relation to films registered as British long films; and if each House of Parliament resolves that the order be made, the Board shall make the order in terms of the draft, and the order shall come into operation on such date as may be specified therein.

(5) The Board of Trade, after consulting the Cinematograph Films Council and considering its advice in the matter, may lay before Parliament the draft of an order providing that the Board, upon representations made to them within the prescribed period after there has been trade-shown a film which is the subject of an application for the registration thereof as a British film and also as a renters' quota film, or which has been registered as aforesaid, may, notwithstanding that the

**PART III.**  
**—cont.**

conditions as to cost imposed in relation to the film by subsection (3) of this section, or by an order under the last preceding subsection are fulfilled, either refuse to register the film as a renters' quota film or, as the case may be, cancel the registration of the film as a renters' quota film, if, after consulting the Cinematograph Films Council and considering its advice in the matter, the Board are satisfied that the film has insufficient value for purposes of entertainment; and if each House of Parliament resolves that the order be made, the Board shall make the order in terms of the draft, and the order shall come into operation on such date, falling not earlier than twelve months after the date on which the order is made, as may be specified in the order :

Provided that an order under this subsection shall not apply in relation to short films unless and until an order under the last preceding subsection is in operation.

(6) Where, in the case of a film registered under this Part of this Act as a British long film and also as a renters' quota film,—

- (a) the total labour costs of the film amount to not less than twenty-two thousand five hundred pounds but to less than thirty-seven thousand five hundred pounds, and
- (b) the quotient derived from dividing the amount of the said total labour costs by the number of feet comprised in the length of the film is a sum of not less than three pounds but of less than five pounds,

the film shall be registered as doubled for the purpose of renters' quota; and where, in the case of a film registered as a British long film and also as a renters' quota film,—

- (i) the total labour costs of the film amount to not less than thirty-seven thousand five hundred pounds, and
- (ii) the quotient derived from dividing the amount of the said total labour costs by the number of feet comprised in the length of the film is a sum of not less than five pounds,



the film shall be registered as trebled for the purpose of renters' quota.

PART III.  
—cont.

(7) If, and to the extent that, section one of this Act has effect subject to the modification made therein by an order containing such a direction as is authorised by paragraph (a) of subsection (3) of that section, subsection (6) of this section shall have effect as if, in that subsection, for the words "trebled for the purpose of renters' quota" there were substituted the words "capable of being doubled under section three of this Act".

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

Power to disregard items of labour costs in certain circumstances.

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

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

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

Registration of serial films.

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

PART III.  
—cont.

any order under this subsection may be revoked by a subsequent order of the Board.

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

Prohibition  
of registra-  
tion of films  
exhibited or  
registered  
before  
commence-  
ment of Act.

**29.** A film which has been exhibited in Great Britain to the public before the commencement of this Act (other than a film which was first so exhibited after the end of September nineteen hundred and twenty-seven and is a film to which the Act of 1927 applies) shall not be registered after the commencement of this Act, and a film which has been duly registered under Part II of the Act of 1927 shall not be registered under this Part of this Act :

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

Corrections  
of register.

**30.** If, at any time after the registration of a film, the Board of Trade, upon making any such inquiries as they think desirable, are satisfied that the film either ought not to have been registered or is incorrectly registered in any particular, they shall cause the necessary deletion or correction to be made in the register and, if the Board think proper, issue to the maker of the film, or, if the film has been acquired by a renter for distribution in Great Britain, issue to the renter, a certificate of registration to take the place of any such certificate previously issued in respect of the film; but the Board, if in any particular case they think fit so to do, may direct that, for the purpose of any of the provisions of Part I of this Act relating to renters' quotas and exhibitors' quotas, the film shall, to such extent as may be specified in the direction, be treated as if the deletion or correction in the register had not been made.

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

PART III.  
—cont.  
Reference  
of disputes  
to High  
Court or  
Court of  
Session.

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

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

Evidence of  
registration.

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

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

**33.**—(1) A renter who, in the period beginning at the commencement of this Act and ending with the thirtieth day of September nineteen hundred and forty-eight, delivers a registered film to an exhibitor in Great Britain for public exhibition therein shall, in such manner, and at such time, as may be prescribed, notify to the exhibitor the title and registered length of the film, the fact that it is registered as a British film or registered as a foreign film, as the case may be, and any such other particulars for the time being recorded in the register with respect to the film as may be prescribed.

Information  
to be given  
to exhibitors  
with respect  
to registra-  
tion of  
films.

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

## PART IV.

PROVISIONS AS TO PERSONS EMPLOYED BY MAKERS  
OF CINEMATOGRAPH FILMS.

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

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

(2) Where any matter is referred to the industrial court under this section, the court, in arriving at its decision, shall have regard to any determination that may be brought to its notice relating to the wages or conditions of service of persons employed in a capacity similar to that of the persons to whom the reference relates, being a determination contained in a decision of a joint industrial council, conciliation board or other similar body, or in an agreement between organisations representative of employers and workpeople.

(3) Where any award has been made by the industrial court upon a dispute referred to that court under this section, then, as from the date of the award or from such later date as the court may direct, it shall be an implied term of the contract between the employer and workers to whom the award applies that the rate of wages to be paid, or the conditions of employment to be observed, under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

## PART V.

## GENERAL AND SUPPLEMENTARY PROVISIONS.

**35.** The films to which this Act applies are all cinematograph films other than—

Films to which Act applies.

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

25 & 26  
Geo. 5. c. 24.

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

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

- (a) the labour costs of a film, or the quotient arrived at by dividing the amount of the labour costs of the film by the length thereof, or
- (b) the price paid or payable for the acquisition of the right to distribute a film in a foreign country,

must amount for any particular purpose, shall have effect as if for any reference in those provisions to the said sum there were substituted a reference to such other sum as may be specified in the order; and if each House of Parliament resolves that the order be made, the Board shall make the order in terms of the draft, and the order shall come into operation on such date as may be specified therein.

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

## PART V.

—cont.

Annual  
returns to  
be made by  
renters and  
exhibitors.

**37.—(1)** Every person who has, in the year beginning at the commencement of this Act or any of the nine succeeding years, carried on business as a renter in Great Britain shall—

- (a) within one month after the end of that year, or within such longer period as the Board of Trade may in any particular case allow, furnish to the Board a return stating whether or not he has in that year acquired for distribution in Great Britain any film which is a registered film, and, if he has done so, giving with respect to each registered film which has been so acquired by him in that year such particulars as may be prescribed, being particulars which the Board consider necessary for the purposes of this Act, and
- (b) not later than the end of April in the year next following that in which a return has been made by him in pursuance of paragraph (a) of this subsection, furnish to the Board of Trade a supplementary return giving, with respect to any registered film acquired by him as aforesaid in the year to which the original return relates, such of the prescribed particulars as could not have been given in the original return :

Provided that, in relation to any such person who has ceased in any such year to carry on business as a renter in Great Britain, paragraph (a) of this subsection shall have effect as if for the reference in that paragraph to the end of that year, there were substituted a reference to the date in that year on which he ceased to carry on business as aforesaid.

(2) Any such return as aforesaid shall be admissible in evidence for the purpose of determining whether the films mentioned in the return as having been acquired by the person by whom the return was made were acquired by him for distribution in Great Britain.

(3) Every person who has, in any exhibitors' quota year, carried on business as an exhibitor at a theatre in Great Britain, shall, within one month after the end of that year, furnish to the Board of Trade a return stating whether or not he has in that year exhibited to the

public at a theatre in Great Britain a film which is a registered film, and, if so—

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

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

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

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

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

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

## PART V.

—cont.

Penalties in connection with the furnishing of information.

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

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

Offences by corporations.

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

Regulations of Board of Trade.

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

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

and also regulations providing that any statutory declaration which a person is required by this Act to make shall be deemed to be properly made if it is made on his behalf by any such person as may be specified in the



regulations; but no such regulations prescribing the payment of fees shall be of any effect unless those regulations have been made with the consent of the Treasury.

(2) Any regulations prescribing the amount of any fees shall be so framed as to secure, as nearly as may be, that the aggregate amount produced by those fees will be equal to the amount of the expenses incidental to the carrying out of this Act and the carrying out of the Act of 1927 after the commencement of this Act; but the amount of the fees payable on applications for the registration of films or for licences under this Act shall not exceed the amounts specified in the Second Schedule to this Act.

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

The Cine-  
matograph  
Films  
Council.

- (a) eleven (of whom one shall be the chairman of the Council) shall be persons appointed as being independent persons,
- (b) two shall be persons appointed as representing makers of British films,
- (c) two shall be persons appointed as representing renters,
- (d) four shall be persons appointed as representing exhibitors, and
- (e) two shall be persons appointed as representing persons employed by makers of British films.

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

PART V.  
—cont.

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

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

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

- (a) to keep under review the progress of the cinematograph film industry in Great Britain, with particular reference to the development of that branch of the said industry which is engaged in the making of films, and to report thereon to the Board of Trade at such times as the Council thinks fit,
- (b) to advise the Board in any matter relating to the cinematograph film industry in which the advice of the Council is sought by the Board (whether at the request of any persons appearing to the Board to have a substantial interest in the matter or otherwise), and
- (c) to make to the Board, as soon as may be after the end of the year beginning at the commencement of this Act and each subsequent year, a report of the proceedings of the Council during that year.

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

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

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

(7) A member of the said Council shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, and a member of the

Council who ceases to hold office shall be eligible for re-appointment; but no person shall, on any occasion, be appointed to be a member of the Council for more than three years :

PART V.  
—cont.

Provided that, if any member of the said Council is convicted of an offence under the Act of 1927 or this Act, his office as a member of the Council shall forthwith become vacant.

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

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

Institution of proceedings, and service of process.

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

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

Exercise of powers of Board of Trade.

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

Interpretation.

“ the Act of 1927 ” means the Cinematograph Films Act, 1927;

17 & 18  
Geo. 5. c. 29.

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

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

“ exhibitor’s licence ” means, in relation to any person, a licence under Part I of this Act authorising him to carry on business as an exhibitor;

PART V.  
—cont.

“exhibitors’ quota year” means the year beginning with the first day of October nineteen hundred and thirty-eight or any of the nine succeeding years;

“foreign country” means a country or territory which for the time being does not form part of His Majesty’s dominions;

“labour costs,” in relation to a film, means the total amount of the payments paid or payable by the maker of the film in respect of the labour or services of persons directly engaged in the making of the film, in so far as those payments are attributable to the making of that film, but does not include payments in respect of copyright; and for the purposes of this definition—

(a) the author of the scenario of a film shall be deemed to be a person directly engaged in the making of the film, and

(b) a person shall not be taken to be directly engaged in the making of a film by reason only—

(i) that he is financially interested in the making of a film, or is engaged, in an administrative or clerical capacity, as an officer or servant of an undertaking concerned with the making of the film, or

(ii) that he supplies goods used in the making of the film or is in the employment of a person who supplies such goods;

“long film” means a film the length of which is not less than three thousand feet;

“maker,” in relation to a film, means the person by whom the arrangements necessary for the making of the film are undertaken;

“the register” means the register of films registered under Part III of this Act, and “registration” means registration under that Part of this Act;

“registered” means registered either under Part III of this Act or under Part II of the Act of 1927;

“registered length,” in relation to a film, means the length of the film as registered for the time being;

- “renter” means a person who carries on the business of distributing cinematograph films to exhibitors, and, in relation to any renters’ quota period, includes a person who has carried on that business in that period;
- “renter’s licence” means, in relation to any person, a licence under Part I of this Act authorising him to carry on business as a renter;
- “renters’ quota period” means the year beginning with the first day of April nineteen hundred and thirty-eight, or the period of six months beginning with the first day of April or October in the year nineteen hundred and thirty-nine or in any of the eight succeeding years;
- “serial film or series of films” means a serial film or series of films consisting of a number of parts not exceeding thirteen, each of which does not exceed two thousand feet in length, and which are intended to be exhibited on successive dates at intervals not exceeding fourteen days;
- “short film” means a film the length of which is less than three thousand feet;
- “studio” means a building constructed or adapted for the purpose of making films therein, and includes any land occupied with such a building, and a studio shall be deemed to be used in making a film if any part of that film, or of any other film used in making it, consists of photographs taken in that studio; and “studio scenes” shall be construed accordingly;
- “theatre” means any premises used for the exhibition of films to the public, except that the expression shall not, in relation to any year,—

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

PART V.  
—cont.

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

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

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

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

(2) Any film registered under the Act of 1927 as a British film (not being a film which, by virtue of paragraph (ii) of the proviso to subsection (1) of section twenty-seven of that Act, is to be deemed to be a registered film for the purposes of the provisions of that Act other than those relating to the renters' quota) shall be deemed, for the purposes of this Act, to be registered also as a renters' quota film.

(3) A person shall, for the purposes of this Act, be deemed to acquire a film for distribution in any manner if he acquires the right to distribute the film in that manner.

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

(5) For the purposes of this Act, the making of a film shall be deemed not to include the production of

blank film or of positives intended for public exhibition, or the production of negatives by means of any process used for making copies of negatives.

PART V.  
—cont.

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

15 & 16  
Geo. 5. c. 36.

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

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

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

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

45.—(1) The provisions of the Act of 1927 specified in the Third Schedule to this Act are hereby repealed.

Repeals  
and trans-  
itional  
provisions.

(2) No film shall be registered under Part II of the Act of 1927 after the end of March nineteen hundred and thirty-eight; and any application for the registration of a film under the said Part II, being an application which has been made before the commencement of this Act and has not been determined before the commencement of this Act, shall be treated as an application made under Part III of this Act for the registration of the film under that Part of this Act.

(3) Any reference in the Act of 1927 to a licence or to a licensed person shall be construed as a reference to a licence granted under that Act or, as the case may be, to a person holding an appropriate licence granted under that Act which is for the time being in force; but

**PART V.**  
—*cont.*

the power of the court under paragraph (a) or paragraph (b) of subsection (2) of section twenty-four of the said Act to order that no licence shall be issued to a person may be exercised with respect to the issue of a licence under this Act, as well as with respect to the issue of a licence under that Act.

(4) Section eighteen of the Act of 1927 shall not apply in relation to any acquisition of a film after the end of March nineteen hundred and thirty-eight, and section twenty-one of the said Act shall not apply in relation to any exhibition of a film after the end of September nineteen hundred and thirty-eight.

(5) The reference in subsection (2) of section twenty-three of the Act of 1927 to the advisory committee thereinafter mentioned shall be construed as a reference to the Cinematograph Films Council.

(6) Any regulations made by the Board of Trade under section twenty-nine of the Act of 1927 shall, if and so far as those regulations were in force immediately before the commencement of this Act and provide for matters other than the charging of fees, continue in force notwithstanding the repeal of that section, but may be revoked as if they were regulations under this Act; and the sum by which the aggregate amount produced up to the commencement of this Act by the fees charged under the Act of 1927 exceeds the expenses incidental to the carrying out of that Act up to the commencement of this Act shall be deemed to form part of the amount produced by the fees chargeable under this Act.

(7) The expressions "registered", "registration" and "the register", wherever used in the Act of 1927, shall be construed as meaning respectively registered under that Act, registration under that Act and the register of films registered under that Act, except that in section nineteen of the said Act the expression "registered" shall, in relation to the year ending with the thirtieth day of September nineteen hundred and thirty-eight, be construed as meaning registered either under Part II of that Act or under Part III of this Act.

(8) Any Order in Council made in pursuance of subsection (5) of section twenty-seven of the Act of 1927, shall, if and so far as the Order was in force immediately



before the commencement of this Act, have effect as if any reference in the Order to the said subsection (5) included a reference to subsection (8) of the last preceding section of this Act, and may be varied or revoked as if it were an Order under the said subsection (8).

PART V.  
—cont.

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

Short title,  
commence-  
ment and  
extent.

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

10 & 11  
Geo. 5. c. 67.

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

## SCHEDULES.

### FIRST SCHEDULE.

#### PART I.

#### RENTERS' QUOTAS.

Sections 1  
and 15.

<u>Year.</u>	<u>Long Films.</u>	<u>Short Films.</u>
For the year beginning with the 1st April 1938	15 per cent.	15 per cent.
„ „ „ „ 1939	20	15
„ „ „ „ 1940	22½	17½
„ „ „ „ 1941	22½	17½
„ „ „ „ 1942	25	20
„ „ „ „ 1943	25	20
„ „ „ „ 1944	27½	22½
„ „ „ „ 1945	27½	22½
„ „ „ „ 1946	30	25
„ „ „ „ 1947	30	25

## PART II.

Sections 7  
and 15.

## EXHIBITORS' QUOTAS.

<u>Year.</u>				<u>Long</u> <u>Films.</u>	<u>Short</u> <u>Films.</u>
For the year beginning with the 1st October 1938				12½ per cent.	12½ per cent.
"	"	"	"	1939 15	12½ "
"	"	"	"	1940 17½	15 "
"	"	"	"	1941 17½	15 "
"	"	"	"	1942 20	17½ "
"	"	"	"	1943 20	17½ "
"	"	"	"	1944 22½	20 "
"	"	"	"	1945 22½	20 "
"	"	"	"	1946 25	22½ "
"	"	"	"	1947 25	22½ "

## SECOND SCHEDULE.

Section 40.

## MAXIMUM FEES.

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

## THIRD SCHEDULE.

Section 45.

## PROVISIONS REPEALED IN THE ACT OF 1927.

Sections one to five.

In section six, the proviso to subsection (1).

Sections ten and eleven.

Sections twenty-nine and thirty.

Subsection (4) of section thirty-three.

**CHAPTER 18.**

An Act to appoint additional commissioners for executing the Acts granting a land tax.

[13th April 1938.]

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

1.—(1) The persons named in a Schedule signed by and deposited with the Clerk of the House of Commons shall (being where so required duly qualified by inhabitancy) be Commissioners, within the respective counties, shires and places in England in the said Schedule respectively mentioned, for putting into execution the Acts for granting an aid to His Majesty by a land tax in Great Britain, as fully and effectually as if they had been designated with the other Commissioners in the Land Tax Commissioners Act, 1827.

Additional  
land tax  
commis-  
sioners.

7 & 8 Geo. 4.  
c. 75.

(2) On the passing of this Act the said Schedule shall be printed in the London Gazette, which shall be sufficient evidence of that Schedule for all purposes whatsoever.

2. This Act may be cited as the Land Tax Com-  
missioners Act, 1938.

Short title.

**CHAPTER 19.**

An Act to postpone the making of certain new valuation lists under the Rating and Valuation Act, 1925, and for purposes connected therewith.

[13th April 1938.]

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

1.—(1) Notwithstanding anything in section nine-  
teen of the Rating and Valuation Act, 1925, the third

Postpone-  
ment of

third  
valuation  
till 1941.  
15 & 16  
Geo. 5. c. 90.

new valuation list under that Act shall be made so as to come into force on the first day of April nineteen hundred and forty-one, and thereafter new valuation lists thereunder shall be made from time to time so that the interval between the dates on which one valuation list and the next succeeding list respectively come into force shall be a period of five years :

Provided that the Minister shall have the like powers with respect to the alteration of the dates fixed by this subsection as are by the provisos to subsection (1) of the said section nineteen conferred on him with respect to the dates fixed by that subsection.

(2) Any draft of the said third new valuation list prepared, or prepared and approved, under the said Act before the passing of this Act shall be void, and a rating authority which has before the passing of this Act issued notices under section forty of the said Act requiring returns with a view to the making of the said third new valuation list may to such extent as it thinks fit issue fresh notices thereunder and shall, notwithstanding anything in section twenty-five of the said Act, be under no obligation to take the steps mentioned in the said section twenty-five sooner than appears to it to be expedient having regard to the postponement effected by this section of the date on which the list is to come into force.

(3) Nothing in this section applies to any area where the second new valuation list under the said Act came into force before the year nineteen hundred and thirty-four unless by virtue of an order made by the Minister before the passing of this Act under proviso (a) of subsection (1) of the said section nineteen the third new valuation list would, apart from the provisions of this Act, come into force therein on the first day of October nineteen hundred and thirty-eight.

Short title  
and  
citation.

2. This Act may be cited as the *Rating and Valuation (Postponement of Valuations) Act, 1938*, and the *Rating and Valuation Acts, 1925 to 1937*, and this Act may be cited together as the *Rating and Valuation Acts, 1925 to 1938*.

**CHAPTER 20.**

An Act to provide, during twelve months, for the discipline and regulation of the Army and the Air Force. [13th April 1938.]

**W**HEREAS the raising or keeping of a standing army within the United Kingdom in time of peace, unless it be with the consent of Parliament, is against law :

And whereas it is adjudged necessary by His Majesty and this present Parliament that a body of land forces should be continued for the safety of the United Kingdom and the defence of the possessions of His Majesty's Crown, and that the whole number of such forces should consist of one hundred and seventy thousand, exclusive of the numbers actually serving in India or Burma :

And whereas under the Air Force (Constitution) Act, 1917, His Majesty is entitled to raise and maintain the air force, and it is judged necessary that the whole number of such force should consist of eighty-three thousand, exclusive of the numbers serving as aforesaid : 7 & 8 Geo. 5.  
c. 51.

And whereas it is also judged necessary for the safety of the United Kingdom and the defence of the possessions of this realm that a body of Royal Marine forces should be employed in His Majesty's fleet and naval service under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral aforesaid :

And whereas the said marine forces may frequently be quartered or be on shore, or be sent to do duty or be on board transport ships or vessels, merchant ships or vessels, or other ships or vessels, or they may be under other circumstances in which they will not be subject to the laws relating to the government of His Majesty's forces by sea :

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm, by martial law, or in any other manner than by the judgment of his peers and according to the known and established laws of this realm ; yet, nevertheless, it being requisite, for the retaining all the before-mentioned forces, and other persons subject to military law or to the Air Force Act, in their duty, that

an exact discipline be observed and that persons belonging to the said forces who mutiny, or stir up sedition, or desert His Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military or air force discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow :

And whereas the Army Act and the Air Force Act will expire in the year one thousand nine hundred and thirty-eight on the following days :—

- (a) In Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, on the thirtieth day of April; and
- (b) Elsewhere, whether within or without His Majesty's dominions, on the thirty-first day of July :

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

Short title.

**1.** This Act may be cited as the Army and Air Force (Annual) Act, 1938.

Army Act and Air Force Act to be in force for specified times.

**2.**—(1) The Army Act and the Air Force Act shall be and remain in force during the periods hereinafter mentioned, and no longer, unless otherwise provided by Parliament, that is to say :—

- (a) Within Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, from the thirtieth day of April one thousand nine hundred and thirty-eight to the thirtieth day of April one thousand nine hundred and thirty-nine, both inclusive; and
- (b) Elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July one thousand nine hundred and thirty-eight to the thirty-first day of July one thousand nine hundred and thirty-nine, both inclusive.

(2) The Army Act and the Air Force Act, while in force, shall apply to persons subject to military law or to

the Air Force Act, as the case may be, whether within or without His Majesty's dominions.

(3) A person subject to military law or to the Air Force Act shall not be exempted from the provisions of the Army Act or Air Force Act by reason only that the number of the forces for the time being in the service of His Majesty, exclusive of the marine forces, is either greater or less than the numbers hereinbefore mentioned.

3. There shall be paid to the keeper of a victualling house for the accommodation provided by him in pursuance of section one hundred and six of the Army Act or the Air Force Act the prices specified in the Schedule to this Act. Prices in respect of billeting.

## AMENDMENTS OF THE ARMY AND AIR FORCE ACTS.

### PART I.

#### AMENDMENT OF THE ARMY ACT APPLICABLE ALSO (SUBJECT TO MODIFICATIONS) TO THE AIR FORCE ACT.

4.—(1) Section one hundred and thirty-six of the Army Act shall be amended by the addition of the following subsection:— Amendment of Army Act, s. 136, and Air Force Act, s. 136.

“(2) Notwithstanding anything in any law in force as aforesaid in India or Burma no part of the pay of an officer or soldier of the regular forces shall be attached by direction of a court in satisfaction of any decree or order enforceable against him :

Provided that nothing in this subsection affects any attachment order made by a court in India or Burma in respect of any liability incurred before the end of the year nineteen hundred and thirty-eight.”

(2) The reference in subsection (1) of this section to the Army Act shall be deemed to include a reference to the Air Force Act; and the provisions of that subsection shall in their application to the Air Force Act have effect subject to any of the general modifications set out in Part I of the Second Schedule to the Air Force (Constitution) Act, 1917, which apply.

## PART II.

## AMENDMENTS OF THE ARMY ACT.

Extension  
of powers as  
to enlist-  
ment of  
long service  
recruits.

5.—(1) After section seventy-seven of the Army Act there shall be inserted the following section:—

“77A. A person enlisted under this Act may, if the term of his original enlistment is twelve years, the whole of which is to be served in army service, be enlisted upon the terms that at any time within the three years immediately preceding the expiration of the term of his original enlistment he shall, subject to the veto of the Army Council or other authority mentioned in regulations made in pursuance of this Part of this Act and to such other conditions as are specified in such regulations, have the right at his option to re-engage under section eighty-four of this Act.”

(2) Section eighty-three of the Army Act shall be amended by the insertion after paragraph (8) thereof of the following paragraph:—

“(9) A soldier of the regular forces enlisted under section seventy-seven A of this Act with such a right of re-engagement as is mentioned in that section shall be liable at any time to be transferred to any corps, whether in the same arm or branch of the service or not, to which the competent military authority think it desirable to transfer him.”

Amendment  
of Army  
Act, s. 180.

6. Paragraph (g) of subsection (2) of section one hundred and eighty of the Army Act (being an obsolete provision relating to hospital apprentices in India and Burma not appointed by warrant) is hereby repealed.

## PART III.

## AMENDMENT OF THE AIR FORCE ACT.

Attachment  
of officers  
and airmen  
to Indian  
and Burma  
Air Forces.

7. After section one hundred and seventy-nine C of the Air Force Act there shall be inserted the following section:—

“179D.—(1) The Air Council may direct from time to time that any officers or airmen of the regular air force shall, under such conditions



as may be prescribed by regulations made by the Air Council and the Governor-General of India or, as the case may be, by the Air Council and the Governor of Burma, be temporarily attached to an air force raised in India or Burma :

Provided that, except while a state of war exists between His Majesty and any foreign power, no officer or airman shall be so dealt with without his consent.

(2) Where an officer or airman has been so attached the members of the force to which he is attached shall, if it is so provided by regulations made as aforesaid, but subject to any exceptions or limitations specified therein, have the like powers of command over him as they would have if they were officers or airmen of the regular air force holding relative rank.

(3) For the purposes of this section the relative rank of members of an air force raised in India or Burma and of officers and airmen of the regular air force shall be such as may be provided by regulations made as aforesaid."

## SCHEDULE.

### PRICES IN RESPECT OF BILLETING.

Section 3.

Accommodation to be provided.	Maximum price.
Lodging and attendance for a soldier where meals furnished.	Tenpence a night for the first soldier and eightpence a night for each additional soldier.
Breakfast as specified in Part I of the Second Schedule to the Army Act.	Sevenpence each.
Dinner as so specified - - - -	Tenpence.
Supper as so specified - - - -	Fourpence.
Where no meals furnished, lodging and attendance, and candles, vinegar, salt, and the use of fire, and the necessary utensils for dressing and eating his meat.	Tenpence a night for the first soldier and eightpence a night for each additional soldier.

Accommodation to be provided.	Maximum price.
Stable room and ten pounds of oats, twelve pounds of hay, and eight pounds of straw a day for each horse.	Two shillings and threepence a day.
Stable room without forage - - -	Sixpence a day.
Lodging and attendance for an officer -	Three shillings a night.

*Note.*—An officer shall pay for his food.

In the application of this Schedule to the Air Force, references to the Air Force Act and to an airman shall be substituted for references to the Army Act and to a soldier.

## CHAPTER 21.

An Act to amend the Dogs Act, 1871.

[13th April 1938.]

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

Amend-  
ment of  
s. 2 of  
34 & 35  
Vict. c. 56.

1.—(1) Where an order is made by a court of summary jurisdiction under section two of the Dogs Act, 1871, directing a dog to be destroyed, the owner of the dog may appeal to a court of quarter sessions.

(2) Upon any such order as aforesaid being made by a court of summary jurisdiction, then, unless the owner of the dog gives notice to that court that he does not intend to appeal, the order shall, until after the determination of the appeal or until the appeal can no longer be prosecuted under the Summary Jurisdiction Acts, as the case may be, have effect as if it had been an order under the said section two directing the dog to be kept by the owner under proper control.

Short title,  
extent and  
application  
to Scotland.

2.—(1) This Act may be cited as the Dogs Amendment Act, 1938.

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

(3) In the application of this Act to Scotland, section one shall have effect as if—

(a) for subsection (1) the following subsection were substituted:—

“(1) Where an order is made by a court of summary jurisdiction under section two of the Dogs Act, 1871, directing a dog to be destroyed, the owner of the dog shall have the like right of appeal as if the order were a conviction”;

and

(b) in subsection (2) for the words “appeal can no longer be prosecuted under the Summary Jurisdiction Acts” there were substituted the words “expiry of the period specified in section sixty-one of the Summary Jurisdiction (Scotland) Act, 1908.”

8 Edw. 7.  
c. 65.

## CHAPTER 22.

An Act to consolidate the Trade Marks Act, 1905, the Trade Marks Act, 1919, and the Trade Marks (Amendment) Act, 1937. [13th April 1938.]

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

### REGISTRATION, INFRINGEMENT AND OTHER SUBSTANTIVE PROVISIONS.

#### *The register.*

1.—(1) There shall continue to be kept at the Patent Office for the purposes of this Act the record called the register of trade marks, wherein shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of all registered users, disclaimers, conditions, limitations, and such other matters relating to registered trade marks as may be prescribed.

The register  
of trade  
marks.

(2) The register shall continue to be divided into two parts called respectively Part A and Part B.

(3) The register shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed.

(4) The register shall be kept under the control and management of the Comptroller-General of Patents, Designs and Trade Marks, who is in this Act referred to as "the Registrar."

*Effect of registration and the action for infringement.*

No action for infringement of unregistered trade mark.

2. No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark, but nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

Registration to be in respect of particular goods.

3. A trade mark must be registered in respect of particular goods or classes of goods, and any question arising as to the class within which any goods fall shall be determined by the Registrar, whose decision shall be final.

Right given by registration in Part A, and infringement thereof.

4.—(1) Subject to the provisions of this section, and of sections seven and eight of this Act, the registration (whether before or after the commencement of this Act) of a person in Part A of the register as proprietor of a trade mark (other than a certification trade mark) in respect of any goods shall, if valid, give or be deemed to have given to that person the exclusive right to the use of the trade mark in relation to those goods and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

(a) as being use as a trade mark; or

(b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to

the public, as importing a reference to some person having the right either as proprietor or as registered user to use the trade mark or to goods with which such a person as aforesaid is connected in the course of trade.

(2) The right to the use of a trade mark given by registration as aforesaid shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations, the registration does not extend.

(3) The right to the use of a trade mark given by registration as aforesaid shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

(a) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark; or

(b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the goods.

(4) The use of a registered trade mark, being one of two or more registered trade marks that are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration as aforesaid, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

Right given  
by registra-  
tion in  
Part B, and  
infringe-  
ment  
thereof.

**5.—(1)** Except as provided by subsection (2) of this section, the registration (whether before or after the commencement of this Act) of a person in Part B of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the register, and the provisions of the last foregoing section shall have effect in like manner in relation to a trade mark registered in Part B of the register as they have effect in relation to a trade mark registered in Part A of the register.

(2) In any action for infringement of the right to the use of a trade mark given by registration as aforesaid in Part B of the register, otherwise than by an act that is deemed to be an infringement by virtue of the next succeeding section, no injunction or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the trade mark.

Infringe-  
ment by  
breach of  
certain  
restrictions.

**6.—(1)** Where, by a contract in writing made with the proprietor or a registered user of a registered trade mark, a purchaser or owner of goods enters into an obligation to the effect that he will not do, in relation to the goods, an act to which this section applies, any person who, being the owner for the time being of the goods and having notice of the obligation, does that act, or authorises it to be done, in relation to the goods, in the course of trade or with a view to any dealing therewith in the course of trade, shall be deemed thereby to infringe the right to the use of the trade mark given by the registration thereof, unless that person became the owner of the goods by purchase for money or money's worth in good faith before receiving notice of the obligation or by virtue of a title derived through another who so became the owner thereof.

(2) The acts to which this section applies are—

(a) the application of the trade mark upon the goods after they have suffered alteration in any

manner specified in the contract as respects their state or condition, get-up or packing;

- (b) in a case in which the trade mark is upon the goods, the alteration, part removal or part obliteration thereof;
- (c) in a case in which the trade mark is upon the goods, and there is also thereon other matter, being matter indicating a connection in the course of trade between the proprietor or registered user and the goods, the removal or obliteration, whether wholly or partly, of the trade mark unless that other matter is wholly removed or obliterated;
- (d) in a case in which the trade mark is upon the goods, the application of any other trade mark to the goods;
- (e) in a case in which the trade mark is upon the goods, the addition to the goods of any other matter in writing that is likely to injure the reputation of the trade mark.

(3) In this section references in relation to any goods to the proprietor, to a registered user, and to the registration, of a trade mark shall be construed, respectively, as references to the proprietor in whose name the trade mark is registered, to a registered user who is registered, and to the registration of the trade mark, in respect of those goods, and the expression "upon" includes in relation to any goods a reference to physical relation thereto.

7. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date anterior—

Saving for  
vested  
rights.

- (a) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or
- (b) to the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his;

whichever is the earlier, or to object (on such use being proved) to that person being put on the register for that identical or nearly resembling trade mark in respect of those goods under subsection (2) of section twelve of this Act.

**8.** No registration of a trade mark shall interfere with—

- (a) any bona fide use by a person of his own name or of the name of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business; or
- (b) the use by any person of any bona fide description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in paragraph (b) of subsection (1) of section four, or in paragraph (b) of subsection (3) of section thirty-seven, of this Act.

*Registrability and validity of registration.*

**9.**—(1) In order for a trade mark (other than a certification trade mark) to be registrable in Part A of the register, it must contain or consist of at least one of the following essential particulars:—

- (a) the name of a company, individual, or firm, represented in a special or particular manner;
- (b) the signature of the applicant for registration or some predecessor in his business;
- (c) an invented word or invented words;
- (d) a word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname;
- (e) any other distinctive mark, but a name, signature, or word or words, other than such as fall within the descriptions in the foregoing paragraphs (a), (b), (c) and (d), shall not be registrable under the provisions of this paragraph except upon evidence of its distinctiveness.

(2) For the purposes of this section “distinctive” means adapted, in relation to the goods in respect of which a trade mark is registered or proposed to be

Saving for use of name, address, or description of goods.

Distinctiveness requisite for registration in Part A.



registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) In determining whether a trade mark is adapted to distinguish as aforesaid the tribunal may have regard to the extent to which—

- (a) the trade mark is inherently adapted to distinguish as aforesaid; and
- (b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact adapted to distinguish as aforesaid.

**10.**—(1) In order for a trade mark to be registrable in Part B of the register it must be capable, in relation to the goods in respect of which it is registered or proposed to be registered, of distinguishing goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

Capability of distinguishing requisite for registration in Part B.

(2) In determining whether a trade mark is capable of distinguishing as aforesaid the tribunal may have regard to the extent to which—

- (a) the trade mark is inherently capable of distinguishing as aforesaid; and
- (b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact capable of distinguishing as aforesaid.

(3) A trade mark may be registered in Part B notwithstanding any registration in Part A in the name of the same proprietor of the same trade mark or any part or parts thereof.

**11.** It shall not be lawful to register as a trade mark or part of a trade mark any matter the use of which would, by reason of its being likely to deceive or cause confusion or otherwise, be disentitled to protection in a

Prohibition of registration of deceptive, &c., matter.

court of justice, or would be contrary to law or morality, or any scandalous design.

Prohibition of registration of identical and resembling trade marks.

**12.**—(1) Subject to the provisions of subsection (2) of this section, no trade mark shall be registered in respect of any goods or description of goods that is identical with a trade mark belonging to a different proprietor and already on the register in respect of the same goods or description of goods, or that so nearly resembles such a trade mark as to be likely to deceive or cause confusion.

(2) In case of honest concurrent use, or of other special circumstances which in the opinion of the Court or the Registrar make it proper so to do, the Court or the Registrar may permit the registration of trade marks that are identical or nearly resemble each other in respect of the same goods or description of goods by more than one proprietor subject to such conditions and limitations, if any, as the Court or the Registrar, as the case may be, may think it right to impose.

(3) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks that are identical or nearly resemble each other, in respect of the same goods or description of goods, the Registrar may refuse to register any of them until their rights have been determined by the Court, or have been settled by agreement in a manner approved by him or on an appeal (which may be brought either to the Board of Trade or to the Court at the option of the appellant) by the Board or the Court, as the case may be.

Registration in Part A to be conclusive as to validity after seven years.

**13.**—(1) In all legal proceedings relating to a trade mark registered in Part A of the register (including applications under section thirty-two of this Act) the original registration in Part A of the register of the trade mark shall, after the expiration of seven years from the date of that registration, be taken to be valid in all respects, unless—

- (a) that registration was obtained by fraud, or
- (b) the trade mark offends against the provisions of section eleven of this Act.

(2) Nothing in subsection (1) of section five of this Act shall be construed as making applicable to a trade

mark, as being a trade mark registered in Part B of the register, the foregoing provisions of this section relating to a trade mark registered in Part A of the register.

**14. If a trade mark—**

- (a) contains any part not separately registered by the proprietor as a trade mark; or
- (b) contains matter common to the trade or otherwise of a non-distinctive character;

Registration  
subject to  
disclaimer.

the Registrar or the Board of Trade or the Court, in deciding whether the trade mark shall be entered or shall remain on the register, may require, as a condition of its being on the register,—

- (i) that the proprietor shall disclaim any right to the exclusive use of any part of the trade mark, or to the exclusive use of all or any portion of any such matter as aforesaid, to the exclusive use of which the tribunal holds him not to be entitled; or
- (ii) that the proprietor shall make such other disclaimer as the tribunal may consider necessary for the purpose of defining his rights under the registration :

Provided that no disclaimer on the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

**15.—**(1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use, after the date of the registration, of a word or words which the trade mark contains, or of which it consists, as the name or description of an article or substance :

Words used  
as name or  
description  
of an article  
or sub-  
stance.

Provided that, if it is proved either—

- (a) that there is a well-known and established use of the word or words as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark or (in the case of a certification trade mark) goods certified by the proprietor; or

- (b) that the article or substance was formerly manufactured under a patent (being a patent in force on, or granted after, the twenty-third day of December nineteen hundred and nineteen), that a period of two years or more after the cesser of the patent has elapsed, and that the word or words is or are the only practicable name or description of the article or substance;

the provisions of the next succeeding subsection shall have effect.

(2) Where the facts mentioned in paragraph (a) or (b) of the proviso to the foregoing subsection are proved with respect to any word or words, then—

- (a) if the trade mark consists solely of that word or those words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed for the purposes of section thirty-two of this Act to be an entry wrongly remaining on the register;
- (b) if the trade mark contains that word or those words and other matter, the Court or the Registrar, in deciding whether the trade mark shall remain on the register, so far as regards registration in respect of the article or substance in question and of any goods of the same description, may in case of a decision in favour of its remaining on the register require as a condition thereof that the proprietor shall disclaim any right to the exclusive use in relation to that article or substance and any goods of the same description of that word or those words, so, however, that no disclaimer on the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made; and
- (c) for the purposes of any other legal proceedings relating to the trade mark,—
- (i) if the trade mark consists solely of that word or those words, all rights of the proprietor, whether under the common law or

by registration, to the exclusive use of the trade mark in relation to the article or substance in question or to any goods of the same description, or

(ii) if the trade mark contains that word or those words and other matter, all such rights of the proprietor to the exclusive use of that word or those words in such relation as aforesaid,

shall be deemed to have ceased on the date at which the use mentioned in paragraph (a) of the proviso to the foregoing subsection first became well known and established, or at the expiration of the period of two years mentioned in paragraph (b) of that proviso.

(3) No word which is the commonly used and accepted name of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration in force at the commencement of this Act or thereafter shall, notwithstanding anything in section thirteen of this Act, be deemed for the purposes of section thirty-two of this Act to be an entry made in the register without sufficient cause, or an entry wrongly remaining on the register, as the circumstances may require :

Provided that the foregoing provisions of this subsection shall not have effect in relation to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to the public use.

**16.** A trade mark may be limited in whole or in part to one or more specified colours, and in any such case the fact that it is so limited shall be taken into consideration by any tribunal having to decide on the distinctive character of the trade mark.

Effect of limitation as to colour, and of absence thereof.

If and so far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

*Procedure for, and duration of, registration.*

Application  
for registra-  
tion.

17.—(1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Registrar in the prescribed manner for registration either in Part A or in Part B of the register.

(2) Subject to the provisions of this Act, the Registrar may refuse the application, or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think right.

(3) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B and deal with the application accordingly.

(4) In the case of a refusal or conditional acceptance, the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat, and the decision shall be subject to appeal to the Board of Trade or to the Court at the option of the applicant.

(5) An appeal under this section shall be made in the prescribed manner, and on the appeal the tribunal shall, if required, hear the applicant and the Registrar, and shall make an order determining whether, and subject to what amendments, modifications, conditions or limitations, if any, the application is to be accepted.

(6) Appeals under this section shall be heard on the materials stated as aforesaid by the Registrar, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Registrar, other than those so stated as aforesaid by him, except by leave of the tribunal hearing the appeal. Where any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of costs on giving notice as prescribed.

(7) The Registrar or the Board of Trade or the Court, as the case may be, may at any time, whether

before or after acceptance, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as the Registrar or the Board of Trade or the Court, as the case may be, may think fit.

18.—(1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted to be advertised in the prescribed manner, and the advertisement shall set forth all conditions and limitations subject to which the application has been accepted :

Opposi-  
tion to  
registra-  
tion.

Provided that the Registrar may cause an application to be advertised before acceptance if it is made under paragraph (e) of subsection (1) of section nine of this Act, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do, and where an application has been so advertised the Registrar may, if he thinks fit, advertise it again when it has been accepted but shall not be bound so to do.

(2) Any person may, within the prescribed time from the date of the advertisement of an application, give notice to the Registrar of opposition to the registration.

(3) The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

(4) The Registrar shall send a copy of the notice to the applicant, and within the prescribed time after receipt thereof the applicant shall send to the Registrar, in the prescribed manner, a counter-statement of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.

(5) If the applicant sends such a counter-statement as aforesaid, the Registrar shall furnish a copy thereof to the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(6) The decision of the Registrar shall be subject to appeal to the Court.

(7) An appeal under this section shall be made in the prescribed manner, and on the appeal the Court shall, if required, hear the parties and the Registrar, and shall make an order determining whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(8) On the hearing of an appeal under this section any party may, either in the manner prescribed or by special leave of the Court, bring forward further material for the consideration of the Court.

(9) On an appeal under this section no further grounds of objection to the registration of a trade mark shall be allowed to be taken by the opponent or the Registrar, other than those so stated as aforesaid by the opponent, except by leave of the Court. Where any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of the costs of the opponent on giving notice as prescribed.

(10) On an appeal under this section the Court may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting the identity thereof, but in any such case the trade mark as so modified shall be advertised in the prescribed manner before being registered.

(11) If a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice, or an appellant, neither resides nor carries on business in the United Kingdom, the tribunal may require him to give security for costs of the proceedings before the tribunal relative to the opposition or to the appeal, as the case may be, and in default of such security being duly given may treat the opposition or application, or the appeal, as the case may be, as abandoned.

Registra-  
tion.

**19.**—(1) When an application for registration of a trade mark in Part A or in Part B of the register has been accepted, and either—

(a) the application has not been opposed and the time for notice of opposition has expired, or



(b) the application has been opposed and the opposition has been decided in favour of the applicant,

the Registrar shall, unless the application has been accepted in error or unless the Board of Trade otherwise direct, register the trade mark in Part A or Part B, as the case may be, and the trade mark, when registered, shall be registered as of the date of the application for registration, and that date shall be deemed for the purposes of this Act to be the date of registration :

Provided that the foregoing provisions of this subsection, relating to the date as of which a trade mark shall be registered and to the date to be deemed to be the date of registration, shall, as respects a trade mark registered under this Act with the benefit of any enactment relating to international or inter-imperial arrangements, have effect subject to the provisions of that enactment.

(2) On the registration of a trade mark the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Patent Office.

(3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice of the non-completion to the applicant in writing in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

20.—(1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section : Duration and renewal of registration.

Provided that, in relation to a registration as of a date before the appointed day, this subsection shall have effect with the substitution of a period of fourteen years for the said period of seven years.

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of the trade mark for a period of fourteen years from the date of expiration of the original registration or of the last renewal of registration, as the case may

be, which date is in this section referred to as "the expiration of the last registration."

(3) At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove the trade mark from the register, subject to such conditions, if any, as to its restoration to the register as may be prescribed.

(4) Where a trade mark has been removed from the register for non-payment of the fee for renewal, it shall, nevertheless, for the purpose of any application for the registration of a trade mark during one year next after the date of the removal, be deemed to be a trade mark that is already on the register :

Provided that the foregoing provisions of this subsection shall not have effect where the tribunal is satisfied either—

- (a) that there has been no bona fide trade use of the trade mark that has been removed during the two years immediately preceding its removal; or
- (b) that no deception or confusion would be likely to arise from the use of the trade mark that is the subject of the application for registration by reason of any previous use of the trade mark that has been removed.

Registration of parts of trade marks and of trade marks as a series.

21.—(1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and any such part as separate trade marks.

Each such separate trade mark must satisfy all the conditions of an independent trade mark and shall, subject to the provisions of subsection (3) of section twenty-three and subsection (2) of section thirty of this Act, have all the incidents of an independent trade mark.

(2) Where a person claiming to be the proprietor of several trade marks, in respect of the same goods or

description of goods, which, while resembling each other in the material particulars thereof, yet differ in respect of—

- (a) statements of the goods in relation to which they are respectively used or proposed to be used; or
- (b) statements of number, price, quality or names of places; or
- (c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or
- (d) colour;

seeks to register those trade marks, they may be registered as a series in one registration.

*Assignment and transmission.*

22.—(1) Notwithstanding any rule of law or equity to the contrary, a registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible either in connection with the goodwill of a business or not.

Powers of,  
and  
restrictions  
on, assign-  
ment and  
trans-  
mission.

(2) A registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible in respect either of all the goods in respect of which it is registered, or was registered, as the case may be, or of some (but not all) of those goods.

(3) The provisions of the two foregoing subsections shall have effect in the case of an unregistered trade mark used in relation to any goods as they have effect in the case of a registered trade mark registered in respect of any goods, if at the time of the assignment or transmission of the unregistered trade mark it is or was used in the same business as a registered trade mark, and if it is or was assigned or transmitted at the same time and to the same person as that registered trade mark and in respect of goods all of which are goods in relation to which the unregistered trade mark is or was used in that business and in respect of which that registered trade mark is or was assigned or transmitted.

(4) Notwithstanding anything in the foregoing subsections, a trade mark shall not be, or be deemed to have been, assignable or transmissible in a case in which as a result of an assignment or transmission there would in the circumstances subsist, or have subsisted, whether under the common law or by registration, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade marks nearly resembling each other or of identical trade marks, if, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be, or have been, likely to deceive or cause confusion :

Provided that, where a trade mark is, or has been, assigned or transmitted in such a case as aforesaid, the assignment or transmission shall not be deemed to be, or to have been, invalid under this subsection if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, or were, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within the United Kingdom (otherwise than for export therefrom) or in relation to goods to be exported to the same market outside the United Kingdom.

(5) The proprietor of a registered trade mark who proposes to assign it in respect of any goods in respect of which it is registered may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances, and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment of the first-mentioned trade mark would or would not be invalid under the last foregoing subsection, and a certificate so issued shall, subject to the provisions of this section as to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under the last foregoing subsection of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a certificate in favour of validity, only if application for the registration under section twenty-five of this Act of the title of the person becoming entitled

is made within six months from the date on which the certificate is issued.

(6) Notwithstanding anything in subsections (1) to (3) of this section, a trade mark shall not, on or after the appointed day, be assignable or transmissible in a case in which as a result of an assignment or transmission thereof there would in the circumstances subsist, whether under the common law or by registration, an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold, or otherwise traded in, in a place or places in the United Kingdom, and an exclusive right in another of those persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold, or otherwise traded in, in another place or other places in the United Kingdom :

Provided that, on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or of a person who claims that a trade mark has been transmitted to him or to a predecessor in title of his on or after the appointed day, in any such case, the Registrar, if he is satisfied that in all the circumstances the use of the trade marks in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission, and an assignment or transmission so approved shall not be deemed to be, or to have been, invalid under this subsection or under subsection (4) of this section, so, however, that in the case of a registered trade mark this provision shall not have effect unless application for the registration under section twenty-five of this Act of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

(7) Where an assignment in respect of any goods of a trade mark that is at the time of the assignment used in a business in those goods is made, on or after the appointed day, otherwise than in connection with the goodwill of that business, the assignment shall not take effect until the following requirements have been satisfied, that is to say, the assignee must, not

later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, as the Registrar may allow, apply to him for directions with respect to the advertisement of the assignment, and must advertise it in such form and manner and within such period as the Registrar may direct.

(8) Any decision of the Registrar under this section shall be subject to appeal to the Court.

Certain  
trade marks  
to be  
associated  
so as to be  
assign-  
able and  
transmissi-  
ble as a  
whole only.

**23.**—(1) Trade marks that are registered as, or that are deemed by virtue of this Act to be, associated trade marks shall be assignable and transmissible only as a whole and not separately, but they shall for all other purposes be deemed to have been registered as separate trade marks.

(2) Where a trade mark that is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark that is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may at any time require that the trade marks shall be entered on the register as associated trade marks.

Any decision of the Registrar under this subsection shall be subject to appeal to the Board of Trade, or to the Court, at the option of the appellant.

(3) Where a trade mark and any part or parts thereof are, by virtue of subsection (1) of section twenty-one of this Act, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

(4) All trade marks that are, by virtue of subsection (2) of section twenty-one of this Act, registered as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(5) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar

may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by another person in relation to any of the goods in respect of which it is registered, and may amend the register accordingly.

Any decision of the Registrar under this subsection shall be subject to appeal to the Board of Trade, or to the Court, at the option of the appellants.

**24.** Subject to the provisions of this Act, the person for the time being entered in the register as proprietor of a trade mark shall, subject to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for an assignment thereof.

Power of registered proprietor to assign and give receipts.

**25.—(1)** Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall make application to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register.

Registration of assignments and transmissions.

**(2)** Any decision of the Registrar under this section shall be subject to appeal to the Court.

**(3)** Except for the purposes of an appeal under this section or of an application under section thirty-two of this Act, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of subsection (1) of this section shall not be admitted in evidence in any court in proof of the title to a trade mark unless the court otherwise directs.

#### *Use and non-use.*

**26.—(1)** Subject to the provisions of the next succeeding section, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application by any person

Removal from register and imposition

of limita-  
tions on  
ground of  
non-use.

aggrieved to the Court or, at the option of the applicant and subject to the provisions of section fifty-four of this Act, to the Registrar, on the ground either—

- (a) that the trade mark was registered without any bona fide intention on the part of the applicant for registration that it should be used in relation to those goods by him, and that there has in fact been no bona fide use of the trade mark in relation to those goods by any proprietor thereof for the time being up to the date one month before the date of the application; or
- (b) that up to the date one month before the date of the application a continuous period of five years or longer elapsed during which the trade mark was a registered trade mark and during which there was no bona fide use thereof in relation to those goods by any proprietor thereof for the time being :

Provided that (except where the applicant has been permitted under subsection (2) of section twelve of this Act to register an identical or nearly resembling trade mark in respect of the goods in question or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark) the tribunal may refuse an application made under paragraph (a) or (b) of this subsection in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, bona fide use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where in relation to any goods in respect of which a trade mark is registered—

- (a) the matters referred to in paragraph (b) of the foregoing subsection are shown so far as regards non-use of the trade mark in relation to goods to be sold, or otherwise traded in, in a particular place in the United Kingdom (otherwise than for export from the United Kingdom), or in relation to goods to be exported to a particular market outside the United Kingdom; and



(b) a person has been permitted under subsection (2) of section twelve of this Act to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be sold, or otherwise traded in, in that place (otherwise than for export from the United Kingdom), or in relation to goods to be exported to that market, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark;

on application by that person to the Court or, at the option of the applicant and subject to the provisions of section fifty-four of this Act, to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as the tribunal thinks proper for securing that that registration shall cease to extend to such use as last aforesaid.

(3) An applicant shall not be entitled to rely for the purposes of paragraph (b) of subsection (1), or for the purposes of subsection (2), of this section on any non-use of a trade mark that is shown to have been due to special circumstances in the trade and not to any intention not to use or to abandon the trade mark in relation to the goods to which the application relates.

**27.**—(1) Where a trade mark consisting of an invented word or invented words has become so well known as respects any goods in respect of which it is registered and in relation to which it has been used that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then, notwithstanding that the proprietor registered in respect of the first-mentioned goods does not use or propose to use the trade mark in relation to those other goods and notwithstanding anything in the last foregoing section, the trade mark may, on the application in the prescribed manner of the proprietor registered in respect of the first-mentioned goods, be registered in his name in respect of those other goods as a defensive trade mark and, while so registered, shall not be liable to be taken off the register in respect of those goods under the last foregoing section.

Defensive  
registration  
of well  
known trade  
marks.

(2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.

(3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be, and shall be registered as, associated trade marks.

(4) On application by any person aggrieved to the Court or, at the option of the applicant and subject to the provisions of section fifty-four of this Act, to the Registrar, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of subsection (1) of this section are no longer satisfied in respect of any goods in respect of which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark, or may be cancelled as respects any goods in respect of which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in subsection (1) of this section.

(5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

(6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases.

Registered  
users.

**28.**—(1) Subject to the provisions of this section, a person other than the proprietor of a trade mark may be

registered as a registered user thereof in respect of all or any of the goods in respect of which it is registered (otherwise than as a defensive trade mark) and either with or without conditions or restrictions.

The use of a trade mark by a registered user thereof in relation to goods with which he is connected in the course of trade and in respect of which for the time being the trade mark remains registered and he is registered as a registered user, being use such as to comply with any conditions or restrictions to which his registration is subject, is in this Act referred to as the "permitted use" thereof.

(2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed not to be use by a person other than the proprietor, for the purposes of section twenty-six of this Act and for any other purpose for which such use is material under this Act or at common law.

(3) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and, if the proprietor refuses or neglects to do so within two months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant.

A proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(4) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed registered user must apply in writing to the Registrar in the prescribed manner and must furnish him with a statutory declaration made by the proprietor, or by some person authorised to act on his behalf and approved by the Registrar,—

(a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship

will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;

- (b) stating the goods in respect of which registration is proposed;
- (c) stating any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter; and
- (d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof;

and with such further documents, information or evidence as may be required under the rules or by the Registrar.

(5) When the requirements of the last foregoing subsection have been complied with, if the Registrar, after considering the information furnished to him under that subsection, is satisfied that in all the circumstances the use of the trade mark in relation to the proposed goods or any of them by the proposed registered user subject to any conditions or restrictions which the Registrar thinks proper would not be contrary to the public interest, the Registrar may register the proposed registered user as a registered user in respect of the goods as to which he is so satisfied subject as aforesaid.

(6) The Registrar shall refuse an application under the foregoing provisions of this section if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

(7) The Registrar shall, if so required by an applicant, take steps for securing that information given for the purposes of an application under the foregoing provisions of this section (other than matter entered in the register) is not disclosed to rivals in trade.

(8) Without prejudice to the provisions of section thirty-two of this Act, the registration of a person as a registered user—

(a) may be varied by the Registrar as regards the goods in respect of which, or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark to which the registration relates;

(b) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark; or

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, that is to say,—

(i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause, or to be likely to cause, deception or confusion;

(ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for the registration, or that the circumstances have materially changed since the date of the registration;

(iii) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested.

(9) Provision shall be made by the rules for the notification of the registration of a person as a registered user to any other registered user of the trade mark, and for the notification of an application under the last foregoing subsection to the registered proprietor and each registered user (not being the applicant) of the trade mark, and for giving to the applicant on such an application, and to all persons to whom such an application is notified and who intervene in the proceedings

in accordance with the rules, an opportunity of being heard.

(10) The Registrar may at any time cancel the registration of a person as a registered user of a trade mark in respect of any goods in respect of which the trade mark is no longer registered.

(11) Any decision of the Registrar under the foregoing provisions of this section shall be subject to appeal to the Court.

(12) Nothing in this section shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

Proposed  
use of trade  
mark by  
corporation  
to be con-  
stituted,  
&c.

**29.**—(1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark,—

- (a) if the tribunal is satisfied that a body corporate is about to be constituted, and that the applicant intends to assign the trade mark to the corporation with a view to the use thereof in relation to those goods by the corporation; or
- (b) if the application is accompanied by an application for the registration of a person as a registered user of the trade mark, and the tribunal is satisfied that the proprietor intends it to be used by that person in relation to those goods and the tribunal is also satisfied that that person will be registered as a registered user thereof immediately after the registration of the trade mark.

(2) The provisions of section twenty-six of this Act shall have effect, in relation to a trade mark registered under the power conferred by the foregoing subsection, as if for the reference, in paragraph (a) of subsection (1) of that section, to intention on the part of an applicant for registration that a trade mark should be used by him there were substituted a reference to intention on his part that it should be used by the corporation or registered user concerned.

(3) The tribunal may, as a condition of the exercise of the power conferred by subsection (1) of this section in favour of an applicant who relies on intention to assign to a corporation as aforesaid, require him to give security for the costs of any proceedings before the tribunal relative to any opposition or appeal, and in default of such security being duly given may treat the application as abandoned.

(4) Where a trade mark is registered in respect of any goods under the power conferred by subsection (1) of this section in the name of an applicant who relies on intention to assign to a corporation as aforesaid, then, unless within such period as may be prescribed, or within such further period not exceeding six months as the Registrar may on application being made to him in the prescribed manner allow, the corporation has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

**30.**—(1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as the tribunal thinks right, accept use of an associated registered trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

Use of one of associated or substantially identical trade marks equivalent to use of another.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be deemed to be also a use of any registered trade mark, being a part thereof, registered in the name of the same proprietor by virtue of subsection (1) of section twenty-one of this Act.

**31.** The application in the United Kingdom of a trade mark to goods to be exported from the United Kingdom, and any other act done in the United Kingdom in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within the United Kingdom, would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or at common law.

Use of trade mark for export trade.

*Rectification and correction of the register.*

General  
power to  
rectify  
entries in  
register.

**32.**—(1) Any person aggrieved by the non-insertion in or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the Court or, at the option of the applicant and subject to the provisions of section fifty-four of this Act, to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as the tribunal may think fit.

(2) The tribunal may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.

(3) In case of fraud in the registration, assignment or transmission of a registered trade mark, the Registrar may himself apply to the Court under the provisions of this section.

(4) Any order of the Court rectifying the register shall direct that notice of the rectification shall be served in the prescribed manner on the Registrar, and the Registrar shall on receipt of the notice rectify the register accordingly.

(5) The power to rectify the register conferred by this section shall include power to remove a registration in Part A of the register to Part B.

Power to  
expunge or  
vary regis-  
tration for  
breach of  
condition.

**33.** On application by any person aggrieved to the Court, or, at the option of the applicant and subject to the provisions of section fifty-four of this Act, to the Registrar, or on application by the Registrar to the Court, the tribunal may make such order as the tribunal may think fit for expunging or varying the registration of a trade mark on the ground of any contravention of, or failure to observe, a condition entered on the register in relation thereto.

Correction  
of register.

**34.**—(1) The Registrar may, on request made in the prescribed manner by the registered proprietor,—

(a) correct any error in the name, address or description of the registered proprietor of a trade mark;



- (b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;
- (c) cancel the entry of a trade mark on the register;
- (d) strike out any goods or classes of goods from those in respect of which a trade mark is registered; or
- (e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark.

(2) The Registrar may, on request made in the prescribed manner by a registered user of a trade mark, correct any error, or enter any change, in the name, address or description of the registered user.

(3) Any decision of the Registrar under this section shall be subject to appeal to the Board of Trade, or to the Court, at the option of the appellant.

**35.**—(1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit. Alteration  
of registered  
trade mark.

(2) The Registrar may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) Any decision of the Registrar under this section shall be subject to appeal to the Board of Trade, or to the Court, at the option of the appellant.

(4) Where leave as aforesaid is granted, the trade mark as altered shall be advertised in the prescribed manner, unless it has already been advertised, in the form to which it has been altered, in an advertisement under subsection (2) of this section.

Adaptation  
of entries in  
register to  
amended or  
substituted  
classifica-  
tion of  
goods.

**36.**—(1) The Board of Trade may from time to time make such rules, prescribe such forms and generally do such things as they think expedient, for empowering the Registrar to amend the register, whether by making or expunging or varying entries therein, so far as may be requisite for the purpose of adapting the designation therein of the goods or classes of goods in respect of which trade marks are registered to any amended or substituted classification that may be prescribed.

(2) The Registrar shall not, in exercise of any power conferred on him for the purpose aforesaid, make any amendment of the register that would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made, or of antedating the registration of a trade mark in respect of any goods :

Provided that this subsection shall not have effect in relation to goods as to which the Registrar is satisfied that compliance with this subsection in relation thereto would involve undue complexity and that the addition or antedating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

(3) A proposal for the amendment of the register for the purpose aforesaid shall be notified to the registered proprietor of the trade mark affected, shall be subject to appeal by the registered proprietor to the Board of Trade, or at his option to the Court, shall be advertised with any modifications, and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of the last foregoing subsection, and the decision of the Registrar on any such opposition shall be subject to appeal to the Court.

*Certification trade marks.*

Certifica-  
tion trade  
marks.

**37.**—(1) A mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified shall be registrable as a certification trade mark in Part A of the register in respect of those goods in the name, as proprietor thereof, of that person :

Provided that a mark shall not be so registrable in the name of a person who carries on a trade in goods of the kind certified.

(2) In determining whether a mark is adapted to distinguish as aforesaid, the tribunal may have regard to the extent to which—

- (a) the mark is inherently adapted to distinguish as aforesaid in relation to the goods in question; and
- (b) by reason of the use of the mark or of any other circumstances, the mark is in fact adapted to distinguish as aforesaid in relation to the goods in question.

(3) Subject to the provisions of subsections (4) to (6) of this section, and of sections seven and eight of this Act, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods, and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a person authorised by him under the regulations in that behalf using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

- (a) as being use as a trade mark; or
- (b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or by his authorisation under the relevant regulations to use the trade mark or to goods certified by the proprietor.

(4) The right to the use of a certification trade mark given by registration as aforesaid shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any

such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations, the registration does not extend.

(5) The right to the use of a certification trade mark given by registration as aforesaid shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

- (a) in relation to goods certified by the proprietor of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the trade mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the trade mark; or
- (b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor :

Provided that paragraph (a) of this subsection shall not have effect in the case of use consisting of the application of any such mark as aforesaid to any goods, notwithstanding that they are such goods as are mentioned in that paragraph, if such application is contrary to the relevant regulations.

(6) Where a certification trade mark is one of two or more registered trade marks that are identical or nearly resemble each other, the use of any of those trade marks in exercise of the right to the use of that trade mark given by registration shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

(7) There shall be deposited at the Patent Office in respect of every trade mark registered under this

section regulations approved by the Board of Trade for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the trade mark, and may contain any other provisions that the Board of Trade may require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorise the use of the trade mark in accordance with the regulations). Regulations so deposited shall be open to inspection in like manner as the register.

(8) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Board of Trade.

(9) The provisions of the First Schedule to this Act shall have effect with respect to the registration of a mark under this section and to marks so registered.

#### *Sheffield marks.*

38. The provisions of the Second Schedule to this Act shall have effect with respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called "the Cutlers' Company"), and the marks or devices assigned or registered by the master, wardens, searchers and assistants of that Company.

Sheffield  
marks.

#### *Manchester Branch.*

39.—(1) The Manchester Branch of the Trade Marks Registry of the Patent Office (in this section referred to as "the Manchester Branch") shall be continued under a chief officer, who shall be styled "the Keeper of the Manchester Branch" and shall act under the direction of the Registrar.

Trade  
marks  
for textile  
goods.

(2) The rules shall specify certain of the classes for the time being established for the purposes of the registration of trade marks (being such of those classes as consist of, or appear to the Board of Trade to relate materially to, any of the following goods, that is to say, goods included immediately before the appointed day in any of the classes numbered twenty-three to thirty-five and thirty-eight respectively and similar goods made

from artificial silk or from other artificial fibres) as being classes to which this section applies.

In this section the expression "textile goods" means goods of any of the classes for the time being so specified other than goods of a kind as to which it may be provided by the rules that this section is not to apply thereto.

(3) The rules for prescribing the manner in which applications for the registration of trade marks are to be made shall make provision for the sending of an application for the registration of a trade mark in respect of textile goods to the Registrar either at the Patent Office or at the Manchester Branch, at the option of the applicant.

(4) The Keeper of the Manchester Branch shall furnish the Registrar with a report on every application for the registration of a trade mark sent to the Manchester Branch, and, before deciding under subsection (2) of section seventeen of this Act on any such application, the Registrar shall consider the report.

(5) In respect of textile goods being piece goods—

- (a) no mark consisting of a line heading alone shall be registrable as a trade mark;
- (b) a line heading shall not be deemed to be adapted to distinguish or capable of distinguishing;
- (c) the registration of a trade mark shall not give any exclusive right to the use of a line heading.

(6) There shall be kept at the Manchester Branch for the purposes of this Act a record called the Manchester Record wherein shall be entered copies of all entries in the register relating to trade marks registered in respect of textile goods on or after the appointed day and, as soon as may be, copies of all entries relating to trade marks so registered before the appointed day and for the time being subsisting, and the Manchester Record shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed.

(7) The right of inspection conferred by the last foregoing subsection shall extend to and include the

right to inspect all applications whatsoever for registration that were made to the Manchester Branch, between the passing of the Trade Marks Registration Act, 1875, and the appointed day, in respect of cotton goods, whether registered, refused, lapsed, expired, withdrawn, abandoned, cancelled or pending. 38 & 39 Vict.  
c. 91.

(8) Refused marks which, immediately before the appointed day, were included in the collection of refused marks kept under rules one hundred and twelve to one hundred and sixteen of the Trade Marks Rules, 1920, and are at the time of the application for the registration of a trade mark included in that collection under the rules shall be treated for the purposes of subsections (1) and (2) of section twelve of this Act, but for no other purpose, as if they had been registered trade marks.

(9) Before making any rule, or prescribing any form, that is to deal specially with trade marks registered or proposed to be registered in respect of textile goods other than clothing, the Board of Trade shall send a draft thereof to the Trade and Merchandise Marks Committee of the Manchester Chamber of Commerce, and shall, if the said committee so request, give them an opportunity of being heard.

(10) The Registrar, or the Keeper of the Manchester Branch, may consult the said committee where it appears to him to be expedient so to do with respect to any circumstances peculiar to the cotton trade arising on an application to register a trade mark in respect of textile goods other than clothing.

(11) A certificate purporting to be under the hand of the Keeper of the Manchester Branch as to any copy entered in the Manchester Record of an entry in the register shall be prima facie evidence of the entry having been made in the register and of the contents thereof.

(12) The Court of Chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to a trade mark registered or proposed to be registered pursuant to an application sent to the Manchester Branch, where the registered proprietor or the proposed registered proprietor is within, or submits to, the jurisdiction of that Court, have the like jurisdiction under this Act as His Majesty's High Court of

Justice in England, and the expression "the Court" in this Act shall be construed and have effect accordingly :

Provided that every decision of the Court of Chancery of the County Palatine of Lancaster in pursuance of this subsection shall be subject to the like appeal as decisions of that Court in other cases.

#### GENERAL AND MISCELLANEOUS.

##### *Rules and fees.*

Power of  
Board of  
Trade to  
make rules.

40.—(1) The Board of Trade may from time to time make such rules, prescribe such forms and generally do such things as they think expedient—

- (a) for regulating the practice under this Act, including the service of documents;
- (b) for classifying goods for the purposes of registration of trade marks;
- (c) for making or requiring duplicates of trade marks and other documents;
- (d) for securing and regulating the publishing and selling or distributing, in such manner as the Board of Trade think fit, of copies of trade marks and other documents;
- (e) generally, for regulating the business of the Patent Office in relation to trade marks and all things by this Act placed under the direction or control of the Registrar or of the Board of Trade.

(2) Rules made under this Act shall, while in force, be of the same effect as if they were contained in this Act.

(3) Before making any rules under this Act, the Board of Trade shall publish notice of their intention to make the rules and of the place where copies of the draft rules may be obtained, in such manner as the Board consider most expedient so as to enable persons affected to make representations to the Board before the rules are finally settled.

(4) Any rules so made shall be forthwith advertised twice in the Trade Marks Journal, and shall be laid before both Houses of Parliament, if Parliament be in session at the time of the making thereof, or, if not,



as soon as practicable after the beginning of the then next session of Parliament.

(5) If either House of Parliament, within the next forty days after any rules have been so laid before it, resolves that the rules or any of them ought to be annulled, the rule or rules shall thenceforth be of no effect, but without prejudice to the validity of anything previously done thereunder or to the making of any new rule or rules.

**41.** There shall be paid in respect of applications and registration and other matters under this Act such fees as may be, with the sanction of the Treasury, prescribed by the Board of Trade. **Fees.**

*Powers and duties of Registrar.*

**42.**—(1) The power to give to a person who proposes to apply for the registration of a trade mark in Part A or Part B of the register advice as to whether the trade mark appears to the Registrar prima facie to be inherently adapted to distinguish, or capable of distinguishing, as the case may be, shall be a function of the Registrar under this Act. **Preliminary advice by Registrar as to distinctiveness.**

(2) Any such person who is desirous of obtaining such advice must make application to the Registrar therefor in the prescribed manner.

(3) If on an application for the registration of a trade mark as to which the Registrar has given advice as aforesaid in the affirmative, made within three months after the advice is given, the Registrar, after further investigation or consideration, gives notice to the applicant of objection on the ground that the trade mark is not adapted to distinguish, or capable of distinguishing, as the case may be, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the filing of the application.

**43.** Where any discretionary or other power is given to the Registrar by this Act or the rules, he shall not exercise that power adversely to the applicant for registration or the registered proprietor of the trade mark in question without (if duly required so to do within **Hearing before exercise of Registrar's discretion.**

the prescribed time) giving to the applicant or registered proprietor an opportunity of being heard.

Power of Registrar to award costs.

**44.** In all proceedings before the Registrar under this Act, the Registrar shall have power to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may, by leave of the Court or a judge thereof, be enforced in the same manner as a judgment or order of the Court to the same effect.

Annual reports of Registrar.  
7 Edw. 7.  
c. 29.

**45.** The Comptroller-General of Patents, Designs and Trade Marks shall, in his annual report on the execution by or under him of the Patents and Designs Act, 1907, and Acts amending that Act, include a report respecting the execution by or under him of this Act as if it formed a part of or was included in those Acts.

*Legal proceedings and appeals.*

Registration to be prima facie evidence of validity.

**46.** In all legal proceedings relating to a registered trade mark (including applications under section thirty-two of this Act) the fact that a person is registered as proprietor of the trade mark shall be prima facie evidence of the validity of the original registration of the trade mark and of all subsequent assignments and transmissions thereof.

Certificate of validity.

**47.** In any legal proceeding in which the validity of the registration of a registered trade mark comes into question and is decided in favour of the proprietor of the trade mark, the Court may certify to that effect, and if it so certifies then in any subsequent legal proceeding in which the validity of the registration comes into question the proprietor of the trade mark on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between solicitor and client, unless in the subsequent proceeding the Court certifies that he ought not to have them.

Costs of Registrar in proceedings before Court, and payment of costs by Registrar.

**48.—(1)** In all proceedings before the Court under this Act the costs of the Registrar shall be in the discretion of the Court, but, in any proceedings in England or Northern Ireland, the Registrar shall not, except in accordance with the provisions of subsection (2) of this section in a case in which he has appeared in the

proceedings, be ordered to pay the costs of any other of the parties.

(2) Where the Registrar appears in any proceedings before the Court in England or Northern Ireland under this Act, section seven of the Administration of Justice (Miscellaneous Provisions) Act, 1933, or any corresponding enactment which may be passed by the Parliament of Northern Ireland, as the case may be, shall have effect as it has effect in relation to other proceedings to which the Crown is a party in a court having the power to award costs in cases between subjects. 23 & 24  
Geo. 5. c. 36.

**49.** In any action or proceeding relating to a trade mark or trade name, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get-up legitimately used by other persons. Trade usage, &c. to be considered.

**50.**—(1) In any legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the Court. Registrar's appearance in proceedings involving rectification.

(2) Unless otherwise directed by the Court, the Registrar in lieu of appearing and being heard may submit to the Court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting it or of the practice of the Patent Office in like cases or of such other matters relevant to the issues, and within his knowledge as Registrar, as he thinks fit, and the statement shall be deemed to form part of the evidence in the proceeding.

**51.** The Court, in dealing with any question of the rectification of the register (including all applications under the provisions of section thirty-two of this Act), shall have power to review any decision of the Registrar relating to the entry in question or the correction sought to be made. Court's power to review Registrar's decision.

**52.** In any appeal from a decision of the Registrar to the Court under this Act, the Court shall have and exercise the same discretionary powers as under this Act are conferred upon the Registrar. Discretion of Court in appeals.

Procedure  
on appeal to  
Board of  
Trade.

**53.** Where under this Act an appeal is made to the Board of Trade, the Board of Trade may, if they think fit, refer the appeal to the Court in lieu of hearing and deciding it themselves, but, unless the Board so refer the appeal, it shall be heard and decided by the Board, and the decision of the Board shall be final.

Procedure  
in cases of  
option to  
apply to  
Court or  
Registrar.

**54.** Where under any of the foregoing provisions of this Act an applicant has an option to make an application either to the Court or to the Registrar—

- (a) if an action concerning the trade mark in question is pending, the application must be made to the Court;
- (b) if in any other case the application is made to the Registrar, he may, at any stage of the proceedings, refer the application to the Court, or he may, after hearing the parties, determine the question between them, subject to appeal to the Court.

#### *Evidence.*

Mode of  
giving evi-  
dence.

**55.** In any proceeding under this Act before the Board of Trade or the Registrar, the evidence shall be given by statutory declaration in the absence of directions to the contrary, but, in any case in which the tribunal thinks it right so to do, the tribunal may take evidence *viva voce* in lieu of or in addition to evidence by declaration. Any such statutory declaration may in the case of appeal be used before the Court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit.

In case any part of the evidence is taken *viva voce*, the Board of Trade or the Registrar shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as an official referee of the Supreme Court.

Evidence of  
orders, &c.  
of Board of  
Trade.

**56.**—(1) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or an under-secretary or an assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall

be deemed to be such orders without further proof, unless the contrary is shown.

(2) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

**57.**—(1) A printed or written copy of any entry in the register, purporting to be certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence in all courts, and in all proceedings, without further proof or production of the original. Evidence of entries in register.

(2) Any person requiring such a certified copy as aforesaid shall be entitled to obtain it on payment of the prescribed fee.

**58.** A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act or the rules to make or do shall be prima facie evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or not done. Evidence of things done by Registrar.

### *Offences and restraint of use of Royal Arms.*

**59.**—(1) If any person makes or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour. Falsification of entries in register a misdemeanour.

(2) In the Isle of Man the punishment for an offence under this section shall be imprisonment for any term not exceeding two years, with or without hard labour and with or without a fine not exceeding one hundred pounds, at the discretion of the court.

**60.**—(1) Any person who makes a representation— Fine for falsely representing a trade mark as registered.

(a) with respect to a mark not being a registered trade mark, to the effect that it is a registered trade mark; or

(b) with respect to a part of a registered trade mark not being a part separately registered

as a trade mark, to the effect that it is so registered; or

- (c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not registered; or
- (d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered on the register, the registration does not give that right;

shall be liable on summary conviction to a fine not exceeding five pounds.

(2) For the purposes of this section, the use in the United Kingdom in relation to a trade mark of the word "registered", or of any other word referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

- (a) where that word is used in physical association with other words delineated in characters at least as large as those in which that word is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside the United Kingdom, being a country under the law of which the registration referred to is in fact in force;
- (b) where that word (being a word other than the word "registered") is of itself such as to indicate that the reference is to such registration as last aforesaid; or
- (c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside the United Kingdom and in relation to goods to be exported to that country.

(3) An offence under this section committed in the Isle of Man may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

**61.** If any person, without the authority of His Majesty, uses, in connection with any trade, business, calling or profession, the Royal Arms (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised so to use the Royal Arms, or if any person, without the authority of His Majesty or of a member of the Royal Family, uses, in connection with any trade, business, calling or profession, any device, emblem or title in such manner as to be calculated to lead to the belief that he is employed by, or supplies goods to, His Majesty or such member of the Royal Family, he may, at the suit of any person who is authorised to use such arms or such device, emblem or title, or is authorised by the Lord Chamberlain to take proceedings in that behalf, be restrained by injunction from continuing so to use the same :

Restraint of  
use of  
Royal  
Arms, &c.

Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing any such arms, device, emblem or title to continue to use such trade mark.

### *Miscellaneous.*

**62.** The use of a registered trade mark in relation to goods between which and the person using it any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the trade mark has been, or is, used in relation to goods between which and that person or a predecessor in title of his a different form of connection in the course of trade subsisted or subsists.

Change of  
form of  
trade  
connection  
not to be  
deemed to  
cause  
deception.

**63.** Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

Jointly  
owned trade  
marks.

(a) on behalf of both or all of them, or

(b) in relation to an article with which both or all of them are connected in the course of trade,

those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation

to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

Subject as aforesaid, nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

Trusts and  
equities.

**64.**—(1) There shall not be entered in the register any notice of any trust express, implied or constructive, nor shall any such notice be receivable by the Registrar.

(2) Subject to the provisions of this Act, equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property.

Recognition  
of agents.

**65.** Where by this Act any act has to be done by or to any person in connection with a trade mark or proposed trade mark or any procedure relating thereto, the act may under and in accordance with the rules, or in particular cases by special leave of the Board of Trade, be done by or to an agent of that person duly authorised in the prescribed manner.

Saving for  
jurisdiction  
of courts  
in Scotland,  
Northern  
Ireland and  
Isle of Man.

**66.**—(1) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland or Northern Ireland in any proceedings relating to trade marks; and with reference to any such proceedings in Scotland the expression “the Court” means the Court of Session; and with reference to any such proceedings in Northern Ireland the expression “the Court” means the High Court of Justice in Northern Ireland.

(2) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement or in any action or proceeding respecting a trade mark competent to those courts.

Exercise of  
powers of  
Board of  
Trade.

**67.** All things required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President or a secretary or an under-secretary or an assistant secretary of the Board or any person authorised in that behalf by the President of the Board.



*Supplemental.*

**68.**—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :— Interpreta-  
tion.

“ the appointed day ” has the meaning assigned to it by section seventy-one of this Act ;

“ assignment ” means assignment by act of the parties concerned ;

“ the Court ” means (subject to provisions relating to Scotland, Northern Ireland or the Isle of Man) His Majesty’s High Court of Justice in England ;

“ limitations ” means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold, or otherwise traded in, in any place within the United Kingdom, or as to use in relation to goods to be exported to any market outside the United Kingdom ;

“ mark ” includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof ;

“ permitted use ” has the meaning assigned to it by subsection (1) of section twenty-eight of this Act ;

“ prescribed ” means, in relation to proceedings before the Court, prescribed by rules of court, and, in other cases, prescribed by this Act or the rules ;

“ the register ” means the register of trade marks kept under this Act ;

“ registered trade mark ” means a trade mark that is actually on the register ;

“ registered user ” means a person who is for the time being registered as such under section twenty-eight of this Act ;

“ the Registrar ” means the Comptroller-General of Patents, Designs and Trade Marks ;

“the rules” means rules made by the Board of Trade under section thirty-six or section forty of this Act;

“trade mark” means, except in relation to a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to a certification trade mark, a mark registered or deemed to have been registered under section thirty-seven of this Act;

“transmission” means transmission by operation of law, devolution on the personal representative of a deceased person, and any other mode of transfer not being assignment;

“United Kingdom” includes the Isle of Man.

(2) References in this Act to the use of a mark shall be construed as references to the use of a printed or other visual representation of the mark, and references therein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in physical or other relation to, goods.

(3) In the application of this Act to Scotland, the expressions “injunction,” “plaintiff” and “defendant” mean respectively “interdict,” “pursuer” and “defender.”

Transitional provisions.

**69.** The transitional provisions set out in the Third Schedule to this Act shall have effect with respect to the matters therein mentioned respectively.

Repeal and savings.

**70.**—(1) The enactments set out in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Nothing in this Act shall affect any order, rule, regulation or requirement made, table of fees or certificate issued, notice, decision, determination, direction or approval given, application made, or thing done, under any enactment repealed by this Act; and every

such order, rule, regulation, requirement, table of fees, certificate, notice, decision, determination, direction, approval, application or thing shall, if in force at the commencement of this Act, continue in force and shall, so far as it could have been made, issued, given or done under this Act, have effect as if made, issued, given or done under the corresponding enactment of this Act.

(3) Any document referring to any enactment repealed by this Act shall be construed as referring to the corresponding enactment of this Act.

(4) Nothing in this section shall be taken to prejudice the provisions of section thirty-eight of the Interpretation Act, 1889.

52 & 53 Vict.  
c. 63.

71.—(1) This Act may be cited as the Trade Marks Act, 1938.

Short title,  
commence-  
ment and  
extent.

(2) This Act shall come into operation on the date fixed by order made under subsection (5) of section thirty-three of the Trade Marks (Amendment) Act, 1937, for the coming into operation of that Act (in this Act referred to as "the appointed day"), immediately after the coming into operation of that Act.

1 Edw. 8. &  
1 Geo. 6.  
c. 49.

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

(4) This Act shall extend to the Isle of Man.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 37.

#### CERTIFICATION TRADE MARKS.

1.—(1) An application for the registration of a mark under section thirty-seven of this Act must be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof.

(2) The provisions of subsection (2) and of subsections (4) to (7) of section seventeen of this Act shall have effect in relation to an application under the said section thirty-seven as they have effect in relation to an application under subsection (1) of the

1ST SCH.  
—cont.

said section seventeen, except that for references therein to acceptance of an application the shall be substituted references to authorisation to proceed with the application.

(3) In dealing under the said provisions with an application under the said section thirty-seven the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section seventeen of this Act and to any other considerations (not being matters within the competence of the Board of Trade under subparagraph (5) of this paragraph) relevant to applications under the said section thirty-seven, including the desirability of securing that a certification trade mark shall comprise some indication that it is such a trade mark.

(4) An applicant for the registration of a mark under the said section thirty-seven shall transmit to the Registrar draft regulations for governing the use thereof at such time before the decision of the Registrar on the application as he may require in order to enable him to consider the draft, and the Registrar shall report thereon to the Board of Trade.

(5) When authorisation to proceed with an application has been given, the Board of Trade shall consider the application with regard to the following matters, that is to say:—

- (a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered;
- (b) whether the draft regulations are satisfactory; and
- (c) whether in all the circumstances the registration applied for would be to the public advantage;

and may either—

- (i) direct that the application shall not be accepted; or
- (ii) direct the Registrar to accept the application, and approve the regulations, either without modification and unconditionally or subject to any conditions or limitations, or to any amendments or modifications of the application or of the regulations, which they think requisite having regard to any of the matters aforesaid;

but, except in the case of a direction for acceptance and approval without modification and unconditionally, the Board shall not decide the matter without giving to the applicant an opportunity of being heard:

Provided that the Board may, at the request of the applicant made with the concurrence of the Registrar, consider the application with regard to any of the matters aforesaid before authorisation to proceed with the application has been given, so however that the Board shall be at liberty to reconsider any

matter on which they have given a decision under this proviso if any amendment or modification is thereafter made in the application or in the draft regulations.

1ST SCH.  
—cont.

2.—(1) When an application has been accepted, the Registrar shall, as soon as may be after such acceptance, cause the application as accepted to be advertised in the prescribed manner, and the provisions of subsections (2) to (11) of section eighteen of this Act shall have effect in relation to the registration of the mark as if the application had been an application under section seventeen of this Act :

Provided that, in deciding under the said provisions, the tribunal shall have regard only to the considerations referred to in subparagraph (3) of the last foregoing paragraph, and a decision under the said provisions in favour of the applicant shall be conditional on the determination in his favour by the Board of Trade under subparagraph (2) of this paragraph of any opposition relating to any of the matters referred to in subparagraph (5) of the last foregoing paragraph.

(2) When notice of opposition is given relating to any of the matters referred to in subparagraph (5) of the last foregoing paragraph, the Board of Trade shall, after hearing the parties, if so required, and considering any evidence, decide whether, and subject to what conditions or limitations, or amendments or modifications of the application or of the regulations, if any, registration is, having regard to those matters, to be permitted.

3.—(1) The regulations deposited in respect of a certification trade mark may, on the application of the registered proprietor, be altered by the Registrar, with the consent of the Board of Trade.

(2) The Board of Trade may cause an application for their consent to be advertised in any case where it appears to the Board that it is expedient so to do, and, where the Board cause an application to be advertised, if within the prescribed time from the date of the advertisement any person gives notice to the Board of opposition to the application, the Board shall not decide the matter without giving the parties an opportunity of being heard.

4.—(1) The Board of Trade may, on the application in the prescribed manner of any person aggrieved, or on the application of the Registrar, make such order as they think fit for expunging or varying any entry in the register relating to a certification trade mark, or for varying the deposited regulations, on the ground—

(a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the trade mark is registered, to certify those goods ;

1st Sch.  
—cont.

- b) that the proprietor has failed to observe a provision of the deposited regulations to be observed on his part;
- (c) that it is no longer to the public advantage that the trade mark should be registered; or
- (d) that it is requisite for the public advantage that, if the trade mark remains registered, the regulations should be varied;

and neither the Court nor the Registrar shall have any jurisdiction to make an order under section thirty-two of this Act on any of those grounds.

(2) The Registrar shall rectify the register and the deposited regulations in such manner as may be requisite for giving effect to an order made under the foregoing subparagraph.

5. Notwithstanding anything in section forty-four of this Act, the Registrar shall not have any jurisdiction to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the trade mark.

6. The following provisions of this Act shall not have effect in relation to a certification trade mark, that is to say, section four, section six, section nine, sections seventeen and eighteen (except as expressly applied by this Schedule), subsections (4) to (8) of section twenty-two, sections twenty-six to twenty-nine, section sixty-two, and any provisions the operation of which is limited by the terms thereof to registration in Part B of the Register.

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## SECOND SCHEDULE.

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### SHEFFIELD MARKS.

1. The Cutlers' Company shall continue to keep at Sheffield the register of trade marks (in this Schedule called "the Sheffield register") kept by them immediately before the appointed day, and, save as otherwise provided by this Schedule, the Sheffield register shall for all purposes form part of the register.

2. An application by a person carrying on business in Hallamshire, or within six miles thereof, for the registration of a trade mark in respect of metal goods may be made either to the Registrar or to the Cutlers' Company, at the option of the applicant.

3. An application for the registration of a trade mark made to the Cutlers' Company shall be notified to the Registrar in the

Section 38

prescribed manner, and the Cutlers' Company shall not proceed with such an application until authorised so to do by the Registrar.

2ND SCH.  
—cont.

4. The Registrar shall consider an application notified to him as aforesaid and shall either authorise the Cutlers' Company to proceed therewith or, if it appears to him that there is any objection to the application, shall give notice of his objection to the Cutlers' Company, who shall communicate it to the applicant.

5. Within the prescribed time after receipt of a notice of objection under the last foregoing paragraph, the applicant may submit to the Cutlers' Company either orally or in writing arguments against, or proposals for meeting, the objection, and the Cutlers' Company shall notify to the Registrar any arguments or proposals so submitted to them together with any observations that they may desire to make thereon.

6. The Registrar shall consider any arguments, proposals or observations notified to him as aforesaid and shall, if so required by an applicant who has submitted arguments or proposals as aforesaid, give the applicant an opportunity of being heard by him, and may refuse authorisation to proceed with the application or may authorise the Cutlers' Company to proceed therewith either without modification and unconditionally or subject to such conditions, amendments or modifications, or to such limitations, if any, as he may think right.

7. Where the Registrar refuses authorisation to proceed with an application, or authorises the Cutlers' Company to proceed therewith subject as aforesaid, the provisions of subsections (4) to (6) of section seventeen of this Act shall have effect in relation to the refusal or conditional authorisation as they have effect in relation to a refusal to accept, or a conditional acceptance of, an application, except that for references therein to acceptance of the application there shall be substituted references to authorisation to the Cutlers' Company to proceed with the application.

8. Upon the registration of a trade mark in the Sheffield Register, the Cutlers' Company shall give notice thereof to the Registrar, who shall thereupon enter the trade mark in the Register, and such registration shall bear date as of the day of the application to the Cutlers' Company and have the same effect as if the application had been made to the Registrar on that day.

9. The provisions of this Act and of the rules with respect to the registration of trade marks, and all matters relating thereto, shall, subject to the provisions of this Schedule (and notwithstanding anything in any Act relating to the Cutlers' Company),

2ND SOB.  
—cont.

apply to the registration of trade marks in respect of metal goods by the Cutlers' Company and to all matters relating thereto, and this Act and the rules shall, so far as applicable, be construed accordingly with the substitution of the Cutlers' Company, the office of the Cutlers' Company, and the Sheffield register, for the Registrar, the Patent Office, and the register respectively, and notice of every entry, cancellation, or correction made in the Sheffield register shall be given to the Registrar by the Cutlers' Company :

Provided that anything that by virtue of this Schedule is required or authorised to be done by, before or in relation to the Cutlers' Company or at their office may, with the consent of the party or parties concerned, be done by, before or in relation to the Registrar or at the Patent Office, as the case may be.

10. When the Registrar receives an application for the registration of a trade mark in respect of metal goods, he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company.

11. Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the Court or, in a case in which, if the decision had been a decision of the Registrar, the person aggrieved would have had an option under this Act of appealing to the Board of Trade, to the Court or the Board at the option of the appellant.

12.—(1) For the purposes of this Schedule the expression "metal goods" means all metals, whether wrought, unwrought, or partly wrought, and all goods which are comprised in any of such classes as may be prescribed as being classes which refer predominantly to metal goods, and are goods composed wholly or principally of any metal; and for the purpose of determining whether any goods are goods principally of any metal regard shall be had to the importance and nature of the metal part or parts of the goods having regard to the purposes for which the goods are adapted.

(2) Any question arising in connection with an application made to the Cutlers' Company for the registration of a trade mark, as to whether the goods in respect of which the trade mark is proposed to be registered are metal goods, shall be referred to and determined by the Registrar, whose decision shall be final.

(3) The validity of the registration by the Cutlers' Company of a trade mark shall not be questioned on the ground only that the goods in respect of which it is so registered are not metal goods.



13. A certificate purporting to be under the hand of the master of the Cutlers' Company as to any entry, matter or thing that the Cutlers' Company are authorised by this Schedule or the rules to make or do shall be prima facie evidence of the entry having been made and of the contents thereof and of the matter or thing having been done or not done.

2ND SCH.  
—cont.

### THIRD SCHEDULE.

Section 69.

#### TRANSITIONAL PROVISIONS.

##### *Validity of registrations under previous Acts.*

1.—(1) Subject to the provisions of this paragraph and of section thirteen of this Act, the validity of the original entry of a trade mark on the register of trade marks existing at the commencement of the Trade Marks Act, 1905, or on any of the registers of trade marks kept under previous Acts that were deemed part of the same record as the last-mentioned register, shall be determined in accordance with the Acts in force at the date of such entry, and any such trade mark shall retain its original date, but for all other purposes it shall be deemed to have been registered under the Trade Marks Act, 1905. 5 Edw. 7.  
c. 15.

(2) No trade mark which was on the register at the commencement of the Trade Marks Act, 1905, and which under that Act was then a registrable trade mark, shall be removed from the register on the ground that it was not registrable under the Acts in force at the date of its registration.

(3) No trade mark which was on the register at the commencement of the Trade Marks (Amendment) Act, 1937, and which, having regard to any amendment by that Act of the Trade Marks Act, 1905, or of the Trade Marks Act, 1919, whether as respects limitations that might be imposed on registration or as respects any other matter, was then a registrable trade mark under the Trade Marks Acts, 1905 to 1937, shall be removed from the register on the ground that it was not registrable under the Acts in force at the date of its registration. 9 & 10  
Geo. 5. c. 79.

(4) Nothing in the Trade Marks (Amendment) Act, 1937, shall be taken to have invalidated the original registration of a trade mark that immediately before the commencement of that Act was validly on the register.

(5) Nothing in section thirty-six of the Trade Marks Act, 1905, or in the Trade Marks (Amendment) Act, 1937, shall be construed as having subjected any person to any liability in

3RD SCH.  
—cont.

respect of any act or thing done before the commencement of those Acts respectively to which he would not have been subject under the Acts then in force.

*Assignments and transmissions (before appointed day) giving exclusive rights in different places in the United Kingdom.*

2.—(1) The validity of an assignment or transmission of a trade mark effected or claimed to have been effected before the appointed day, in any such case as is mentioned in subsection (6) of section twenty-two of this Act, shall be determined as if the provisions contained in subsections (1) to (5) of that section had not been enacted :

Provided that, on application made in the prescribed manner within two years from the commencement of this Act, by a person who claims that an assignment or transmission of a registered trade mark to him or to a predecessor in title of his has been so effected, the Registrar shall have the like jurisdiction as under the proviso to subsection (6) of section twenty-two of this Act, and an assignment or transmission approved by him shall not be deemed to have been invalid on the ground of the subsistence of such rights as are mentioned in the said subsection (6) or on the ground that the assignment or transmission was effected otherwise than in connection with the goodwill of a business or was effected in respect of some (but not all) of the goods in respect of which the trade mark was registered, if application for the registration under section twenty-five of this Act of the title of the person becoming entitled is made within six months from the date on which the approval is given, or was made before that date.

(2) Any decision of the Registrar under this paragraph shall be subject to appeal to the Court.

*Saving as to retrospective provisions relating to assignments and transmissions.*

3. The retrospective provisions contained in section twenty-two of this Act, and in the last foregoing paragraph, shall have effect without prejudice to any determination of a competent tribunal that was made before the appointed day, or to the determination of any appeal from a determination so made, or to any title acquired for valuable consideration before the appointed day.

*Association of trade marks assignable or transmissible as a whole only under the Trade Marks Act, 1919.*

4. Where immediately before the appointed day a trade mark was registered in Part B of the register subject to a condition rendering it assignable or transmissible only as a whole

with another trade mark registered in the name of the same proprietor or with two or more other trade marks so registered, and not separately, the trade marks shall be deemed to be associated trade marks, and the entries in the register relating thereto may be amended accordingly.

3RD SCH.  
—cont.

*Previous use of a trade mark by person becoming registered user on application made within one year of appointed day.*

5. Where a person is registered as a registered user of a trade mark on an application made within one year from the commencement of this Act, subsection (2) of section twenty-eight of this Act shall have effect in relation to any previous use (whether before or after the commencement of this Act) of the trade mark by that person, being use in relation to the goods in respect of which he is registered and, where he is registered subject to conditions or restrictions, being use such as to comply substantially therewith, as if such previous use had been permitted use.

*Use of trade mark for export trade before appointed day.*

6. Section thirty-one of this Act shall be deemed to have had effect in relation to an act done before the appointed day as it has effect in relation to an act done after the commencement of this Act, without prejudice, however, to any determination of a competent tribunal which was made before the appointed day, or to the determination of any appeal from a determination so made.

*Trade marks registered under section sixty-two of the Trade Marks Act, 1905, to be deemed to have been registered under section thirty-seven of this Act.*

7. Section thirty-seven of this Act shall have effect, in relation to a trade mark that immediately before the appointed day was on the register by virtue of section sixty-two of the Trade Marks Act, 1905, as if the said section thirty-seven had been in force at the date of the registration of the trade mark and it had been registered under that section, subject however to the following modifications, that is to say:—

- (a) the proviso to subsection (1) of the said section thirty-seven shall not apply;
- (b) in a case in which regulations for governing the use of the trade mark are deposited at the Patent Office at the commencement of this Act, those regulations shall be deemed to have been deposited under the said section thirty-seven;

3RD SCH.  
—cont.

- (c) in a case in which no such regulations are deposited at the commencement of this Act, the proprietor shall be at liberty, or may be required by the Board of Trade as a condition of the continuance of the registration, to deposit at any time thereafter such regulations as the Board may permit or require; and
- (d) in a case in which no such regulations are for the time being deposited, the said section thirty-seven shall have effect as if references therein, and in the First Schedule to this Act, to the regulations had been omitted.

*Cotton marks registered before appointed day.*

8. No registration as of a date before the appointed day of a cotton mark as defined in section sixty-four of the Trade Marks Act, 1905, in respect of cotton piece goods or cotton yarn shall give any exclusive right to the use of any letter, numeral, line heading, or any combination thereof.

Section 70

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FOURTH SCHEDULE.

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ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
5 Edw. 7. c. 15.	The Trade Marks Act, 1905.	The whole Act, so far as not already repealed.
9 & 10 Geo. 5. c. 79.	The Trade Marks Act, 1919.	The whole Act, so far as not already repealed.
1 Edw. 8. & 1 Geo. 6. c. 49.	The Trade Marks (Amendment) Act, 1937.	The whole Act.

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## CHAPTER 23.

An Act to authorise the payment by Poor Law authorities of personal allowances to inmates of the age of sixty-five and over of Poor Law institutions. [17th May 1938.]

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

**1.** The enactments relating to the relief of the poor shall have effect as if amongst the powers conferred on councils of counties and county boroughs there was included power to grant a personal allowance not exceeding two shillings per week to any person in receipt of relief from them in a workhouse or other Poor Law institution, being a person aged sixty-five years or upwards.

Power of Poor Law authorities to grant personal allowances to certain inmates aged sixty-five or upwards of Poor Law institutions.

**2.** In the application of this Act to Scotland—

Application to Scotland.

- (a) for any reference to the council of a county or county borough there shall be substituted a reference to a county or town council ;
- (b) for any reference to a workhouse or other Poor Law institution there shall be substituted a reference to a poorhouse.

**3.** This Act may be cited as the Poor Law (Amendment) Act, 1938, and the Poor Law Acts, 1930 and 1934, and this Act, as it applies to England, may be cited as the Poor Law Acts, 1930 to 1938.

Short title and citation.

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## CHAPTER 24.

An Act to amend the law of conveyancing in Scotland. [17th May 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

Provision  
in regard to  
judicial  
factors, &c.

**1.** For the purposes of sections three and four of the Act of 1924, a judicial factor appointed by the Court to administer a trust estate comprising any land or any heritable security or part of any heritable security or any lease or security over a lease, or a trustee appointed by the Court on such a trust estate shall be deemed to be a person having a right within the meaning of the said sections to such land or heritable security or part of a heritable security or lease or security over a lease respectively, and shall with respect to any lease or security over a lease comprised in the trust estate be entitled to the benefit of all enabling powers and rights under section twenty-four of the Act of 1924; and an extract of the act and warrant appointing such judicial factor or trustee shall, for the purposes of deductions of title in terms of the said Act, be a valid midcouple or link of title.

Amendment  
of Act of  
1924, s. 8  
and  
Schedule D.

**2.**—(1) Section eight of the Act of 1924 shall be amended as follows, that is to say :—

(a) in subsection (4) thereof after the word “ is ” where this first occurs there shall be inserted the words “ for any purpose ”; and

(b) after the said subsection (4) the following subsection shall be inserted :—

“ (5) Note 1 to Schedule D to this Act shall apply to a reference competently made to any deed for reservations, real burdens, conditions, provisions, limitations, obligations and stipulations affecting lands and to the form of such reference given in Schedule H of the Conveyancing (Scotland) Act, 1874.”

37 & 38 Vict.  
c. 94.

(2) In Note 1 to Schedule D to the Act of 1924 after the words “ a particular description ” there shall be inserted the words “ or to a Deed containing reservations, real burdens, conditions, provisions, limitations, obligations and stipulations affecting lands ”.

(3) This section shall be deemed to have had effect as from the commencement of the Act of 1924.

Amendment  
of Act of  
1924, s. 14.

**3.** Subsection (2) of section fourteen of the Act of 1924 is hereby repealed.

4. In subsection (1) of section seventeen of the Act of 1924, after the words "forty years" there shall be inserted the words "in the Act of the Parliament of Scotland, 1469, cap. 4 ('anent the prescriptioun of obligationis') in the Act of the Parliament of Scotland, 1474, cap. 9 ('anent the Act of prescripcione of obligationis'), and".

Amendment  
of Act of  
1924, s. 17.

5. Subsection (4) of section twenty-one of the Act of 1924 shall have effect as if for paragraph (a) thereof there were substituted the following paragraph:—

Amendment  
of Act of  
1924, s. 21.

"(a) The right to courtesy of any widower whose wife has died after the commencement of this Act, and the right to terce of any widow whose husband has died after the commencement of this Act, shall not be measured by the infertment of such wife or husband, or depend on the completion of the title of such wife or husband by the recording thereof in the appropriate Register of Sasines, but the widower's right to courtesy shall extend to all estate (being estate to which his right to courtesy would have extended if his deceased wife's title thereto had been completed by infertment) to which his deceased wife had a personal title capable of being completed by infertment, or by being recorded in the appropriate Register of Sasines (including estate to which her title might be completed as aforesaid held in trust for her behoof), or to which she had a personal right capable of enforcement by adjudication in implement or otherwise; and the widow's right of terce shall extend to all estate (being estate to which her right of terce would have extended if her deceased husband's title thereto had been completed by infertment) to which her deceased husband had a personal title capable of being completed by infertment, or by being recorded in the appropriate Register of Sasines (including estate to which his title might be completed as aforesaid held in trust for his behoof), or to which he had a personal right capable of enforcement by adjudication in implement or otherwise."

6.—(1) Where an action of declarator of irritancy *ob non solutum canonem* is raised in the Court of Session by a superior against a vassal, the pursuer shall, in addition

Provisions  
as to  
actions of

declarator  
of irritancy.

to serving the same on the last entered vassal, give such intimation thereof as the Court may direct or require to sub-feuars, heritable creditors and others who at the date of the raising of the action appear to have some real right in or security over the vassal's estate or any part thereof and who from a search in the Register of Sasines made against the vassal's estate for a period of twenty years immediately prior to the date of the raising of the action are disclosed as having such interest.

(2) The expense of such search shall form part of the pursuer's expenses of process.

(3) After decree has been granted in any such action, it shall not be competent to any person to question in any legal proceedings whatsoever the validity or sufficiency of the intimation given to him under and in pursuance of subsection (1) of this section.

31 & 32 Vict.  
c. 100.  
7 Edw. 7.  
c. 51.

(4) Notwithstanding the provisions of section twenty-four of the Court of Session Act, 1868, or of Rule 25 of the First Schedule to the Sheriff Courts (Scotland) Act, 1907, a decree granted in any such action shall, as in a question with third parties who have acted onerously and in *bona fide* in reliance on the Records, be final and not subject to challenge when an extract thereof shall have been recorded in the appropriate Register of Sasines.

Amendment  
of Act of  
1924, s. 44.

19 & 20 Vict.  
c. 79.

7.—(1) Subsection (4) of section forty-four of the Act of 1924 shall be amended as follows, that is to say:—

- (a) in paragraph (b) thereof the words “ section one hundred and three of the Bankruptcy (Scotland) Act, 1856, or of ” and the proviso shall be omitted, and for the words “ a memorandum in the form provided by the said section forty-four of the said Act of 1913, as amended by this Act, which memorandum being so recorded shall have the effect of a memorandum recorded in terms of the said section forty-four as amended as aforesaid ” there shall be substituted the words “ a memorandum in the form provided by Schedule O to this Act ”; and
- (b) in paragraph (c) thereof there shall be inserted after the words “ in such register ” the words “ or have recorded a memorandum in such register in terms of paragraph (b) of this subsection.”



(2) The Act of 1924 shall be amended by the addition after Schedule N thereto of a Schedule in the form contained in the Schedule to this Act.

8. From and after the commencement of this Act all conditions of whatever date to the effect that it shall not be lawful for the proprietor of lands to sub-feu the same or any part thereof shall, with all irritant clauses applicable thereto, be null and void and not capable of being enforced.

Prohibition of subinfeudation annulled.

9.—(1) Any condition or provision whether made before or after the commencement of this Act to the effect that the superior of any feu shall be entitled to a right of pre-emption in the event of a sale thereof or of any part thereof by the proprietor of the feu shall, with all irritant clauses applicable thereto, be in all time coming null and void, and not capable of being enforced as regards such feu or part thereof, as the case may be, unless the person in right of the superiority (whether or not his title thereto is complete) shall within forty days or such shorter period as may be specified in the charter stipulating for such right of pre-emption after an offer has been made to him by the proprietor for the time being intimate his intention to exercise such right of pre-emption.

Limitation of effect of conditions as to pre-emption.

(2) Any such offer may be made by delivering it to such person or to the agent or factor of such person in use to receive and discharge the feu-duty in respect of the feu, or by sending it by registered letter to such person or to such agent or factor at his usual or last known address, or, if such person is unknown or cannot be found, to the Extractor of the Court of Session. An acknowledgment endorsed on such offer, or a copy thereof, by such person or by his agent or factor, or, where the offer is sent by registered letter, a certificate subscribed by the proprietor of the feu or his solicitor that such offer was duly posted and having the Post Office receipt for the registered letter attached shall be sufficient evidence that such offer was duly made on the date stated in the acknowledgment or Post Office receipt. Any such acknowledgment and certificate may be in the form of Form No. 2 and Form No. 3, respectively, of Schedule L to the Act of 1924, the word " Offer " being substituted for the word " Premonition ".

Provisions  
as to  
persons  
deriving  
right from  
widow who  
has rights  
under the  
Intestate  
Husband's  
Estate  
(Scotland)  
Acts.  
1 & 2 Geo. 5.  
c. 10.  
9 & 10  
Geo. 5. c. 9.

**10.**—(1) Any person deriving right, whether immediately or otherwise, from a widow who is or has been entitled to the whole or part of the estate of her deceased husband in terms of the Intestate Husband's Estate (Scotland) Act, 1911, may present an application to the Court in like manner as such a widow as aforesaid may present an application to the Court, under the Intestate Husband's Estate (Scotland) Act, 1919, and such application shall be as nearly as may be in the form of the Schedule to the last mentioned Act.

(2) The procedure in such an application shall be as nearly as may be in accordance with the provisions of section two of the last mentioned Act, and the effect of the decree of the Court shall with the necessary modifications be as provided in section three of the said Act with reference to a decree of court thereunder.

Certain  
testamen-  
tary  
writings to  
be deemed  
to be pro-  
bative.

**11.** Any writing of a testamentary character on which confirmation of executors nominate has prior to the commencement of this Act been issued by the Commissary Court or by any sheriff court shall be deemed to be probative.

Interpreta-  
tion, short  
title, con-  
struction,  
commence-  
ment and  
extent.

**12.**—(1) In this Act the expression "the Act of 1924" means the Conveyancing (Scotland) Act, 1924.

(2) This Act may be cited as the Conveyancing Amendment (Scotland) Act, 1938, and shall be construed as one with the Act of 1924.

14 & 15  
Geo. 5. c. 27.

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

(4) This Act shall apply to Scotland only.

Section 7.

## SCHEDULE.

### SCHEDULE O.

#### FORM OF MEMORANDUM TO BE RECORDED IN THE REGISTER OF SASINES.

Section 44.

Memorandum with regard to the subjects after described :

With reference to the subjects (*describe particularly or by reference*) T. the trustee in the sequestration of B. has obtained a vesting order under section 98 of the Bankruptcy (Scotland) Act 1913 dated (*insert date of order*).

The memorandum should be signed by the trustee or his law agent, dated, and recorded with a warrant of registration in the appropriate division or divisions of the Register of Sasines.

The form may be adapted in the case of a lease thus :—

Memorandum with regard to the lease after-mentioned :

With reference to the lease granted by C in favour of D of the subjects therein described lying in the county of K, dated (*insert date*), and recorded in [*specify Register of Sasines and date of recording*], T. the trustee &c.

and in the case of a heritable security thus :—

Memorandum with regard to the bond and disposition in security after-mentioned :

With reference to the bond and disposition in security for the sum of (*insert sum*) granted by E in favour of F dated (*insert date*) and recorded in (*specify Register of Sasines and date of recording*), T. the trustee &c.

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## CHAPTER 25.

An Act to confirm and give effect to certain agreements as to the relations between the United Kingdom and Eire. [17th May 1938.]

**W**HEREAS the agreements set forth in the First Schedule to this Act have, subject to Parliamentary confirmation, been entered into with a view to the promotion of relations of friendship and good understanding between the United Kingdom and Eire, to the making of a final settlement of all outstanding financial claims of the Governments of those countries against each other, and to the facilitating of trade and commerce between the two countries :

And whereas it is expedient to confirm the said agreements and to make provision for the purpose of giving effect thereto :

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

1. The territory which, in accordance with the provisions of the Irish Free State (Agreement) Act, 1922, and the Irish Free State Constitution Act, 1922, (Session 2) was required to be styled and known as the

Meaning of term "Eire".  
12 & 13  
Geo. 5. c 4.  
13 Geo. 5.  
c. 1.

Irish Free State shall be styled and known as Eire, and accordingly, references in any enactment to the Irish Free State shall be construed as references to Eire.

Confirma-  
tion of  
agreements  
and provi-  
sions for  
giving effect  
thereto.

2.—(1) The Agreements set forth in the First Schedule to this Act (hereinafter referred to respectively as “the Agreement regarding Articles 6 and 7 of the Articles of Agreement of December 6, 1921”, “the Financial Agreement”, and “the Trade Agreement”) are hereby confirmed.

(2) With a view to the fulfilment of the Agreement regarding Articles 6 and 7 of the Articles of Agreement of December 6, 1921, Articles 6 and 7 of the Articles of Agreement for a Treaty between Great Britain and Ireland set forth in the Schedule to the Irish Free State (Agreement) Act, 1922, and in the Second Schedule to the Irish Free State Constitution Act, 1922 (Session 2), and the Annex to the said Articles of Agreement shall cease to have effect.

(3) With a view to the fulfilment of the Financial Agreement, the following provisions shall have effect—

- (a) the sum payable in accordance with the provisions of Article 1 of the said agreement shall, as and when received, be paid into the Exchequer;
- (b) on such day as the Treasury may certify to be the day on which the said sum, or the final instalment thereof, has been paid into the Exchequer (hereinafter referred to as “the certified date”) there shall be paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof to the National Debt Commissioners a sum equal to the aggregate of all sums lent by them to the Treasury under subsection (2) of section four of the Railways (Ireland) Act, 1896, and not repaid before the commencement of this Act together with interest due thereon up to the date of payment;
- (c) as from the certified date section four of the Public Works Loans Act, 1927, shall be hereby repealed, and on that date the sum of three million seven hundred and fifty thousand pounds shall be paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof to the National Debt Commissioners

59 & 60 Vict.  
c. 34.

17 & 18  
Geo. 5. c. 1.

and shall be accepted by them in final settlement of all claims under that section against the Government of Eire in respect of local loans ;

- (d) a sum equal to the amount by which the sum payable in accordance with the provisions of Article 1 of the said agreement exceeds the aggregate of the sums paid under the last two foregoing paragraphs shall be paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof at such times after the certified date as the Treasury may direct and applied in redeeming or paying off debt of such description as the Treasury think fit ;
- (e) there shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof into the Irish Land Purchase fund or account, or other appropriate fund or account, such sums as the National Debt Commissioners may certify to be necessary for defraying all payments specified in the Second Schedule to this Act which become payable out of that fund or account on or after the certified date in respect of land situate in Eire ;
- (f) as from such day as the Treasury may by order declare to be the day on which the Trade Agreement comes into force, the Irish Free State (Special Duties) Act, 1932, shall be hereby repealed.

22 & 23  
Geo. 5. c. 30.

(4) With a view to the fulfilment of the Trade Agreement, the Ottawa Agreements Act, 1932, and any other enactment relating to customs which amends or relates to that Act, shall, as from such day as the Treasury may by order declare to be the day on which it has been mutually agreed under Article 19 of the said agreement that that agreement shall come into force, have effect as if the said agreement were included among the agreements scheduled to the said Act of 1932 and, as from that day, subsection (3) of section two of that Act shall be hereby repealed.

22 & 23  
Geo. 5. c. 53.

3.—(1) His Majesty may, by Order in Council, make such adaptations of any enactments as appear to him necessary or proper for the purpose of giving effect to the provisions of paragraphs (b) and (e) of subsection (3) of the last foregoing section.

Consequen-  
tial provi-  
sions.

(2) The National Debt Commissioners shall credit the sum mentioned in paragraph (c) of subsection (3) of the last foregoing section to the capital account and the income account respectively of the Local Loans Fund in such proportions as they may, with the consent of the Treasury, determine, and shall, subject to the like consent, adjust the capital account of the said Fund accordingly.

1 Edw. 8. &  
1 Geo. 6.  
c. 50.

(3) The power of the Ministers under Part II of the Livestock Industry Act, 1937, to make orders for ensuring the due making of subsidy payments under that Act shall include power to make orders regulating the times and places at which cattle may be imported from Eire into the United Kingdom and making provision as to the routes to be followed by cattle so imported and as to their detention for inspection; and any such order may contain such provisions as appear to the Ministers necessary for securing the due operation and enforcement of the order and may provide for the payment into the Cattle Fund established under the Cattle Industry (Emergency Provisions) Act, 1934, of sums realised on the sale of any cattle forfeited under such provisions.

24 & 25  
Geo. 5. c. 54.

(4) In the event of the Government of the United Kingdom becoming entitled in accordance with Article 4 of the Trade Agreement to regulate imports of eggs or poultry from Eire, the Board of Trade may by order regulate the importation into the United Kingdom of eggs or poultry imported from Eire or exported from Eire to any other country and thence brought into the United Kingdom, and may by any such order make as to eggs or poultry any provision which might be made as to livestock or meat by an order made by the Board under section eleven of the Livestock Industry Act, 1937; and in the event of the Government of the United Kingdom becoming entitled in accordance with the said Article 4 to impose duties on eggs or poultry from Eire, duties of customs on eggs or poultry so imported or brought as aforesaid may be imposed by order of the Treasury; and any order made under this subsection may be varied or revoked by a subsequent order made in like manner:

Provided that the provisions of section ten of the Ottawa Agreements Act, 1932 (which require Parliamentary approval in the case of orders made under that Act) shall apply to orders made by the Board of Trade and to orders made by the Treasury, respectively, under

this subsection as those provisions apply to orders so made under that Act, and subsection (1) of section twelve of that Act shall apply to orders made by the Board of Trade under this subsection.

4. This Act may be cited as the *Eire (Confirmation of Agreements) Act, 1938.* Short title.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 2.

#### AGREEMENTS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF EIRE.

The Government of the United Kingdom and the Government of Eire, being desirous of promoting relations of friendship and good understanding between the two countries, of reaching a final settlement of all outstanding financial claims of either of the two Governments against the other, and of facilitating trade and commerce between the two countries, have, subject to Parliamentary confirmation, entered into the Agreements hereinafter set forth :—

#### AN

#### AGREEMENT REGARDING ARTICLES 6 AND 7 OF THE ARTICLES OF AGREEMENT OF DECEMBER 6, 1921.

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THE Government of the United Kingdom and the Government of Eire have agreed as follows :—

1. The provisions of Articles 6 and 7 of the Articles of Agreement for a Treaty between Great Britain and Ireland signed on the 6th day of December, 1921, and of the Annex thereto shall cease to have effect.

2. Thereafter the Government of the United Kingdom will transfer to the Government of Eire the Admiralty property and rights at Berehaven, and the harbour defences at Berehaven, Cobh (Queenstown) and Lough Swilly now occupied by care and maintenance parties furnished by the United Kingdom, together with buildings, magazines, emplacements, instruments and fixed armaments with ammunition therefor at present at the said ports.

1st Sch.  
—cont.

3. The transfer will take place not later than the 31st December, 1938. In the meantime the detailed arrangements for the transfer will be the subject of discussion between the two Governments.

Done in duplicate at London, this 25th day of April, 1938.

Signed on behalf of the  
Government of the  
United Kingdom :

NEVILLE CHAMBERLAIN.  
JOHN SIMON.  
SAMUEL HOARE.  
MALCOLM MACDONALD.  
T. W. H. INSKIP.

Signed on behalf of the  
Government of Eire :

ÉAMON DE VALÉRA.  
SEÁN F. LEMASS.  
SEÁN MACENTEE.  
SÉAMAS O RIAIN.

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A

FINANCIAL AGREEMENT.

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THE Government of the United Kingdom and the Government of Eire have agreed as follows:—

1. The Government of Eire agree to pay to the Government of the United Kingdom on or before the 30th November, 1938, the sum of £10,000,000 sterling.

2. Subject to the provisions of Article 3 of this Agreement, payment of the sum specified in Article 1 shall constitute a final settlement of all financial claims of either of the two Governments against the other arising out of matters occurring before the date of this Agreement.

3. The provisions of Article 2 of this Agreement shall not affect—

- (i) payments made or liabilities incurred by one Government to the other in respect of agency services or ordinary inter-governmental transactions, whether for goods supplied, services rendered, disbursements made, or otherwise;
- (ii) the payment of £250,000 a year by the Government of Eire to the Government of the United Kingdom in respect of damage to property under the Agreement of the 3rd December, 1925;
- (iii) any payments made or to be made in pursuance of arrangements which have been or may hereafter be reached between the two Governments in respect of the following matters:—

(a) Unredeemed Bank notes;



- (b) Withdrawal of United Kingdom silver coin from Eire;  
 (c) Trustee Savings Banks;  
 (d) Double Taxation.

1ST SCH.  
—cont.

4. The Government of the United Kingdom undertake to abolish, as from the date on which the accompanying Trade Agreement between the United Kingdom and Eire comes into force pursuant to Article 19 thereof, the duties of customs chargeable under the Irish Free State (Special Duties) Act, 1932, on Articles imported from Eire into the United Kingdom, or exported from Eire to any other country and thence brought into the United Kingdom.

5. The Government of Eire undertake to abolish, as from the date on which the accompanying Trade Agreement between the United Kingdom and Eire comes into force pursuant to Article 19 thereof, the duties of Customs known as Customs (Emergency) Duties (Tariff List Reference Nos. 280, 281 and 288) chargeable on goods produced or manufactured in the United Kingdom and imported into Eire.

Done in duplicate at London, this 25th day of April, 1938.

Signed on behalf of the  
Government of the  
United Kingdom :

Signed on behalf of the  
Government of Eire :

NEVILLE CHAMBERLAIN.  
JOHN SIMON.  
SAMUEL HOARE.  
MALCOLM MACDONALD.

ÉAMON DE VALÉRA.  
SEÁN F. LEMASS.  
SEÁN MACENTEE.  
SÉAMAS O RIAIN.

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A

TRADE AGREEMENT.

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THE Government of the United Kingdom and the Government of Eire have agreed as follows :—

ARTICLE 1.

(1) The Government of the United Kingdom undertake that goods grown, produced or manufactured in, and consigned from, Eire, which, on the day on which this Agreement comes into force, are liable to duty under the Import Duties Act, 1932, or under Section 1 of the Ottawa Agreements Act, 1932, and also such goods which are on that day free of duty, shall enjoy

1ST SCH.  
—cont.

entry free of customs duty into the United Kingdom. This paragraph does not apply to goods which, on the day on which this Agreement comes into force, are liable to duty both under the Import Duties Act, 1932, or the Ottawa Agreements Act, 1932, and under some other enactment.

(2) Provided that as regards eggs, poultry, butter, cheese and other milk products, the undertaking contained in the first paragraph of this Article shall operate only until the 20th August, 1940.

#### ARTICLE 2.

(1) The Government of the United Kingdom undertake in respect of the goods enumerated in Schedule I to this Agreement that the difference between the rate of the duties of customs chargeable on such goods produced or manufactured in and consigned from Eire on importation into the United Kingdom and the rate chargeable on similar goods the produce or manufacture of any country not within the British Commonwealth of Nations shall not be less than that set out in that Schedule.

(2) Provided that, except as regards dead guinea fowl and game birds, the undertaking contained in the first paragraph of this Article shall operate only until the 20th August, 1940.

#### ARTICLE 3.

(1) The Government of Eire, recognising that it is the policy of the Government of the United Kingdom to promote the orderly marketing of agricultural products, declare their readiness to co-operate in any arrangements made or approved by that Government for this purpose, and the Government of the United Kingdom, for their part, will not seek to regulate the quantity of any such goods produced in Eire and imported into the United Kingdom unless it appears to them that the orderly marketing of such goods cannot otherwise be secured.

(2) Before any such regulation is put into force, there shall be consultation between the two Governments, and the Government of the United Kingdom undertake that, in determining the quantity or percentage share to be allotted to Eire, regard shall be had so far as practicable to the past position of Eire in the trade and to any special conditions which may have affected, or be affecting, the volume of Eire exports to the United Kingdom.

(3) The Government of Eire, when so requested by the Government of the United Kingdom, will furnish estimates of the quantities of any agricultural product likely to be exported from Eire to the United Kingdom in any period.

(4) This Article shall apply to fish and fishery products as it applies to agricultural products.

1st SCH.  
—cont.

#### ARTICLE 4.

(1) The Government of Eire undertake to consult from time to time with the Government of the United Kingdom as to the quantities of eggs and poultry to be exported from Eire to the United Kingdom, and to exercise such control of exports as may be necessary to make effective any agreement so reached.

(2) Should consultation between the two Governments fail to lead to a satisfactory arrangement, and should imports from Eire so increase as, in the opinion of the Government of the United Kingdom, to endanger the stability of the market for eggs or poultry in the United Kingdom, then the Government of the United Kingdom shall be entitled to regulate quantitatively those imports to such extent as may be necessary for securing the stability of the market. In such cases the quantities to be admitted from time to time shall be the subject of consultation between the two Governments and shall be fixed in accordance with the general principles of this Agreement.

(3) Should, however, the two Governments agree that the purpose in view can be more conveniently effected by means of duties than by quantitative regulation, then, notwithstanding anything to the contrary in Article I of this Agreement, the Government of the United Kingdom may impose such duties as may be necessary for securing the stability of the market. In that case the rate of duty shall be decided after consultation between the two Governments.

#### ARTICLE 5.

(1) The Government of Eire undertake that goods produced or manufactured in the United Kingdom of the classes or kinds enumerated in Part I of Schedule II, which are not now liable to customs duty (other than duties of customs known as Customs (Emergency) Duties (Tariff List Reference Nos. 280, 281 and 282)) or quantitative regulation, shall continue to enjoy entry into Eire free of customs duty (other than Package Duty) and quantitative regulation.

(2) The Government of Eire undertake to admit free of customs duty and quantitative regulation goods of the classes or kinds specified in Part II of Schedule II produced in the United Kingdom.

#### ARTICLE 6.

(1) The Government of Eire undertake, in respect of consignments or parcels of imported goods of United Kingdom

1ST SCH.  
—cont.

origin, to reduce from two shillings and sixpence to one shilling the Minimum Charge of Customs Duty at present applicable to consignments or parcels of all imported goods.

(2) The Government of Eire undertake, in respect of customs entries for imported goods of United Kingdom origin which are not charged with customs duty, to repeal the Stamp Duty which is at present charged in respect of customs entries for all imported goods.

(3) The Government of Eire undertake, in respect of parcels of goods of United Kingdom origin not liable to duty, imported through the post, to abolish the Post Office delivery charge of sixpence per parcel levied in respect of all parcels of goods not liable to customs duty.

(4) The Government of Eire undertake that the duty of customs known as Package Duty shall not be charged upon goods produced or manufactured in the United Kingdom at rates exceeding one penny per pound (or part of a pound) or one penny per pint (or part of a pint).

(5) The Government of Eire undertake that Package Duty shall not be charged upon goods of United Kingdom origin in respect of—

- (a) packages containing goods imported for the personal use of the importer and brought in by such importer or his servant or a member of his family;
- (b) packages containing goods which are gifts for the use or enjoyment of the consignee and are imported through the post;
- (c) packages imported through the post which are not made up of internal packages or which, if made up of internal packages, do not contain more than six such internal packages.

#### ARTICLE 7.

The Government of Eire undertake that, where licences are issued for the admission of dutiable goods into Eire either free of duty or at a rate of duty less than that ordinarily charged on such goods, any goods covered by such licences which are produced or manufactured in the United Kingdom shall be admitted free of duty, and similar goods covered by such licences, produced or manufactured in any country not within the British Commonwealth of Nations, shall be subject to a duty of not less than 10 per cent. *ad valorem* (or an appropriate rate of specific duty) unless they are of a class or kind of which supplies of goods produced or manufactured in the United Kingdom are not for the time being available.

## ARTICLE 8.

1ST SCH.

—*cont.*

(1) The Government of Eire undertake that a review shall be made as soon as practicable by the Prices Commission of existing protective duties and other import restrictions in accordance with the principle that such duties and restrictions upon goods produced or manufactured in the United Kingdom shall be replaced by duties which shall not exceed such a level as will give United Kingdom producers and manufacturers full opportunity of reasonable competition, while affording to Eire industries adequate protection having regard to the relative cost of economical and efficient production, provided that in the application of this principle special consideration may be given to the case of industries not fully established. The tariff on goods produced or manufactured in the United Kingdom will be adjusted, where necessary, to give effect to the recommendations of the Prices Commission.

(2) In regard to any protective duties or restrictions which may be imposed by the Government of Eire after the date of this Agreement, a similar procedure shall be followed at the request of the Government of the United Kingdom.

(3) It is understood that quantitative restrictions may be imposed in accordance with the provisions of Article 10 (2) and may, subject to and in accordance with the recommendations of the Prices Commission, be maintained in respect of any of the goods specified in Schedule III.

## ARTICLE 9.

(1) The Government of Eire undertake to admit free of customs duty, except as provided in the fourth paragraph of this Article, goods of the classes or kinds specified in Schedule IV produced in the United Kingdom.

(2) The Government of the United Kingdom recognise that it may be necessary for the Government of Eire, in pursuance of their agricultural policy, to regulate the imports of certain agricultural products, including those enumerated in Schedule IV.

(3) In such cases the quantities of United Kingdom products to be admitted from time to time shall be the subject of consultation between the two Governments and shall be fixed in accordance with the general principles of this Agreement.

(4) Duties may be imposed by the Government of Eire in agreement with the Government of the United Kingdom in cases where it appears to them that the purpose in view can be more conveniently effected by this means. In such cases the rate of duty, and the margin of preference to be accorded to United Kingdom goods, shall be decided after consultation between the two Governments.

(5) This Article shall apply to fish and fishery products as it applies to agricultural products.

1ST SCH.  
—cont.

## ARTICLE 10.

(1) The Government of Eire undertake that the duties of customs charged upon the importation into Eire of goods produced or manufactured in the United Kingdom of the classes or kinds enumerated in Parts I and II of Schedule V to this Agreement shall not exceed the rates shown in those parts of that Schedule. Provided that, on the abolition of control by quantitative regulation, higher rates of duty may be charged on the goods enumerated in Part II of that Schedule subject to the recommendation of the Prices Commission.

(2) If the imports into Eire of any class or kind of goods enumerated in Parts I and II of Schedule V should increase to such an extent as to endanger the prospects of success of the producers or manufacturers of such goods in Eire, and if it should appear that such increase in imports is due to the reduction of customs duties in pursuance of this Article, then the Government of Eire shall be entitled to apply quantitative regulation to imports of such goods. In that event the quantities of such goods produced or manufactured in the United Kingdom to be admitted into Eire shall be fixed after consultation with the Government of the United Kingdom.

## ARTICLE 11.

(1) The Government of Eire undertake that goods produced or manufactured in the United Kingdom shall be entitled to admission into Eire at the preferential rate of duty wherever such a rate exists and that existing margins between the full and the preferential rates shall not be reduced.

(2) The Government of Eire undertake that the rates of customs duty charged on goods of the classes or kinds specified in Schedule VI, the produce or manufacture of any country not within the British Commonwealth of Nations, shall be not less than those specified in that Schedule, and that the margins of preference thereby accorded to goods of United Kingdom origin of those classes or kinds shall be maintained.

(3) Whenever new duties are imposed or the existing rates of duty charged on any goods on importation into Eire are adjusted in accordance with the provisions of Article 5 (2), Article 8 or Article 9, the difference between the rate of customs duty charged on such goods the produce or manufacture of the United Kingdom and the rate charged on similar goods produced or manufactured in any country not within the British Commonwealth of Nations shall be not less than one-third of the latter rate, or 10 per cent. *ad valorem* (or its equivalent), whichever is the greater.

## ARTICLE 12.

The review provided for in Article 8 shall be held first upon the classes of goods for which the Government of the United Kingdom request early consideration.

## ARTICLE 13.

The Government of Eire undertake that United Kingdom producers and manufacturers shall be entitled to full rights of audience before the Prices Commission when it has under consideration matters arising under Article 8 of this Agreement.

1ST SCH.  
—cont.

## ARTICLE 14.

If the Government of either country are satisfied after enquiry that goods the produce or manufacture of the other country are being imported and sold in the former country at less than their comparable price in the home market, due allowance being made for transport and other charges, they shall be at liberty, after consultation with the Government of the other country, to impose special duties or other import restrictions on such goods.

## ARTICLE 15.

Except to the extent that may be necessary to maintain production in Eire on an economic basis or to secure the effective operation of schemes for the orderly marketing of agricultural products, the Government of Eire undertake to withdraw the export bounties or subsidies that have been paid in respect of goods exported from Eire to the United Kingdom. In particular they undertake to withdraw export bounties and subsidies in so far as the intention of such payments has been to counteract the effect of duties of customs on such goods on importation into the United Kingdom, in all cases where such duties have been abolished.

## ARTICLE 16.

It being the intention of the Government of Eire that coal, coke and manufactured fuel of United Kingdom origin shall continue to be imported into Eire in not less than the proportion which such coal, coke and manufactured fuel formed of total imports of those products into Eire in the year 1937, they undertake to abolish the present control by licence of the importation of coal and to admit into Eire coal, coke and manufactured fuel of United Kingdom origin free of duty and to charge a duty of not less than 3s. per ton on coal, coke and manufactured fuel of other origin.

## ARTICLE 17.

(1) The Government of Eire undertake that complete or substantially complete aggregates of parts for complete or substantially complete motor vehicles, motor vehicle bodies, or motor vehicle chassis, manufactured in the United Kingdom shall not on importation into Eire be subject to quantitative restriction (with the exception of the goods specified in

1ST SCH.  
—cont.

Schedule III and, pending review by the Prices Commission in accordance with Article 8, laminated springs and leaves) and shall not, for the purpose of admission at the rates of duty known as Compounded Duties where such rates are at present applicable, be subjected to more onerous conditions as regards degree of assembly at the time of importation than those at present in operation.

(2) It is, however, understood that on the removal of quantitative restrictions from electric filament lamps in accordance with paragraph (1) of this Article, such lamps may be subjected to rates of duty higher than the rates of duty known as Compounded Duties.

(3) The Government of Eire undertake that completely assembled private motor vehicles of a c.i.f. value of £750 or more, manufactured in the United Kingdom, shall enjoy entry into Eire free of quantitative restriction, and that the rate of Customs duty to be charged on such vehicles shall not exceed 22 $\frac{3}{4}$  per cent.

#### ARTICLE 18.

Should either Government come to the conclusion that the objects of this Agreement are not being attained in any particular respect, or that a change of circumstances necessitates a variation in its terms, the other Government, upon receiving a notification to that effect, will enter immediately into consultation with the first Government, and both Governments will use every endeavour to find an equitable solution of the matter.

#### ARTICLE 19.

This Agreement shall come into force on a date to be mutually agreed between the two Governments. It shall remain in force for a period of three years from the date of its coming into force and, unless notice of termination shall have been given by either Government to the other six months before the expiry of that period, it shall remain in force until the expiry of six months from the date on which notice of termination is given.

Done in duplicate at London, this 25th day of April, 1938.

Signed on behalf of the  
Government of the  
United Kingdom :

NEVILLE CHAMBERLAIN.  
JOHN SIMON.  
SAMUEL HOARE.  
MALCOLM MACDONALD.  
W. S. MORRISON.

Signed on behalf of the  
Government of Eire :

ÉAMON DE VALÉRA.  
SEÁN F. LEMASS.  
SEÁN MACENTEE.  
SÉAMAS O RIAIN.



## SCHEDULE I.

1ST SCH.  
—cont.

## (Article 2.)

Article.	Margin of Preference.
Butter - - - - -	15s. per cwt.
Cheese - - - - -	15% <i>ad valorem</i> or 15s. per cwt., whichever is the less.
†Eggs in shell—	
(a) Not exceeding 14 lb. in weight per great hundred	1s. per great hundred.
(b) Over 14 lb. but not exceeding 17 lb. in weight per great hundred	1s. 6d. per great hundred.
(c) Over 17 lb. in weight per great hundred	1s. 9d. per great hundred.
Condensed milk, whole, not sweetened - -	6s. per cwt.
Condensed milk, whole, sweetened or slightly sweetened	5s. per cwt., in addition to the difference between the full and preferential rates of duty in respect of sugar content.
Condensed milk, sweetened, separated or skimmed	The difference between the preferential rate of duty in respect of the sugar content and either the full rate of duty in respect of the sugar content or 10% <i>ad valorem</i> , whichever may be applicable.
Milk powder and other preserved milk, excluding condensed milk, not sweetened	6s. per cwt.
Cream - - - - -	10% <i>ad valorem</i> .
†Live poultry and game - - - - -	10% <i>ad valorem</i> .
Dead guinea fowl and game birds - - - - -	10% <i>ad valorem</i> .

† These preferential margins apply only so long as the goods are not dutiable under Article 4 (3).

1ST SCH.  
—cont.

## SCHEDULE II.

## PART I.

(Article 5 (1).)

1937 Import List No.	Article.
	<i>Class I.—Live Animals.</i>
9-13	Horses.
15	Other live quadruped animals (except cattle, sheep and pigs).
	<i>Class II, Group A.—Food Stuffs of Animal Origin.</i>
38-41	Fish, preserved, excluding fish filleted, kippered or smoked, or in sealed containers.
	<i>Class II, Group B.—Cereals and Feeding Stuffs.</i>
ex 101	Cotton seed cake meal, otherwise cotton seed meal.
	<i>Class II, Group C.—Fruit, Vegetables, Vegetable Oils and Fats, Edible.</i>
174	Beans in grain, dried.
	<i>Class II, Group D.—Miscellaneous Articles of Food.</i>
209	Hops.
	<i>Class III, Group A.—Non-metalliferous Mine and Quarry Products and Manufactures thereof.</i>
349	Graphite (plumbago).
ex 355	Stone, unworked (other than marble, chippings wholly or partly of marble, granite and limestone).
ex 359	Felspar; potash felspar; rough stone dust; talc.
363	Electrical ware, including insulators, glazed.
387	Stoneware, glazed (other than pipes, tubes and connections, and tiles).
ex 390	Clay products, glazed, viz. :— Baked clay filter candles; mosaics; mosaic tiles; terra-cotta ornaments.
414	Scientific glassware.
ex 415/03	Glassware, other than domestic and illuminating.
ex 422	Cement (other than hydraulic, asbestos, rubber, Keene's and Parian).
432	Slate and slates wholly or mainly manufactured (other than roofing slates).
ex 435	Coving stones; ganister bricks; lithographic stones; stone fireplaces.
	<i>Class III, Group B.—Iron and steel and manufactures thereof (excluding cutlery and machinery).</i>
440	Pig iron.
ex 448	Brassed strips; steel strips for manufacture of corsets; tempered steel lathing.

## SCHEDULE II, PART I—(continued).

1st Sch.  
—cont.

Import List No.	Article.
1937	
ex 450	Cast steel sheets and plates for guillotine knives; mica steel sheets and plates; stainless steel sheets and plates.
ex 455	Asphalt coated sheets and plates; bitumen coated sheets and plates; silver finish sheets and plates; stainless steel sheets and plates coated.
ex 460	Railway and Tramway permanent way material (other than fishplates and steel rails).
504	Chains and chain cables (not transmission, for vehicles).
516/02	Furniture, iron and steel of such descriptions as are not at present liable to duty.
ex 520	Collapsible shop gates; shutter gates.
562	Iron and steel wire cable and rope (except insulated cable).
ex 586 ex 655	} Manufactures of iron and steel, viz. :— Butt hinges; buckles; ball bearings and bushes; can openers; castors; clothes racks; coal tongs; coat hangers and hooks; corkscrews, cork drawers and openers; door bolts, door closers, door mats and scrapers; fireproof doors; fire screens; sash balances, chains, fasteners, fittings and pulleys; bakers' ovens and oven parts; valves; carpet and stair clips, eyes, grips and rods; carburetted water plant; cash carriers, carrying equipment and carrying system parts; coils and coil holders; collapsible steel crates; die blocks; fish hooks; flush fittings; gas light fittings; grain hoppers and shutes; hydrants; figures; jigs and fixtures therefor; patterns; pins; keys and key blocks; latches, locks and lock furniture; letter boxes; loose leaf ledger posts; magnets; mincers; moulds, moulding boxes and box patterns; oil cookers and stoves; oxygen cylinders; picture hooks; revolving shutters; spiral staircases and fittings.
<i>Class III, Group C.—Non-Ferrous Ores, Metals and Manufactures thereof.</i>	
ex 603	Sprinklers for fire extinguishers.
ex 608 ex 655	} Brass, bronze and gun metal manufactures, viz. :— Bearings; binnacles; bird cages; bottle holders; buckles; bushes; burners (gas); candlesticks; carpet and stair clips, eyes, grips and rods; case-ment stays, sash lifts and handles; chains, channels and angles; curtain rail fittings and hooks; display stands; ferrules, filter funnels, strainers and measures; flange cocks; foil (bronze); gas pressure regulators; gongs; hearth furniture; hose fittings, clips and sprayers; keys and key rings; lamp burners and stands; ledger frames; lever handles; locks, latches and fittings; oil cookers and stoves;

1ST SCH.  
—cont.

## SCHEDULE II, PART I—(continued).

1937  
Import List  
No.

Article.

- paper weights and fasteners; parts for cash carrying systems; pedestals; plaque and ornaments; photo frames; pins; port lights; pulleys; rings; saddlery and harness fittings; sockets and shoes; strips; tableware; valves (screw down) less than 1 inch in diameter; washers.
- 609–611 Copper blocks, bars, slabs, ingots, cakes, plates, sheets, strips and rods.
- ex 619 Copper manufactures, viz. :—  
Balls and floats; chains, cordage and tape; funnels and nozzles; gas fittings; gilding metal; hearth furniture; radiators; rings; rollers; stewpans and stills; washers; wire cloth, gauze, screens and sieves.
- 623 Manufactures of lead (other than sheet and piping).
- 624 Nickel and nickel alloys and manufactures thereof.
- 625–627 Tin solder, blocks, ingots, bars, slabs and foil.
- ex 630 Tin manufactures, viz. :—  
Advertising cards; caps and capsules; dish covers; flux; foil discs; frames; gas bowl fittings; graters; sheets and strips; wall plates; wave-set caps.
- 631 Zinc manufactures, viz. :—  
Rolled sheets; plates and discs, excluding printing plates.
- 633–634 White metal alloys (*i.e.*, alloys of tin, lead, zinc, antimony, &c., other than solder) and manufactures thereof.
- 636 Electro-plated ware (other than tankards).
- 644 Manufactures of gold and silver not at present liable to duty.
- 646 Printing type of metal.
- Class III, Group D.—Cutlery, Hardware, Implements and Instruments.*
- ex 654 Hair clippers; scissors.
- ex 675 Engineers' tools, viz. :—  
Acetylene welding outfits; bellows; blow lamps; brazing lamps; garage jacks; hydraulic jacks; surveyors' tapes.
- 678 Dental, surgical, medical and veterinary instruments and appliances :—  
*Excluding* medical instrument tables, holders and frames for charts of body temperatures, bed cradles, walking frames, leg rests, back rests, wheeled stretchers and biers, web and bandages, elastic stockings, socks and bands and foot corrective appliances, such as soles, supports, chiropodists' pads.
- ex 679 Photographic apparatus, component parts and accessories, excluding camera-carrying cases, trays, tanks and dishes.
- 680 Cinematograph films—blanks.
- 690 Photographic plates and films.

## SCHEDULE II, PART I—(continued).

1ST SCH.  
—cont.

1937 Import List No.	Article.
ex 692	Cinematograph screens, spools, projector accessories and reflectors.
693	Scientific instruments and appliances (other than dental, surgical, medical, veterinary, photographic and cinematographic).
702 } 704 }	Clock parts unassembled or assembled by pressing.
<i>Class III, Group E.—Machinery and Electrical Goods and Apparatus.</i>	
Agricultural machinery :—	
709	Combined reapers and binders.
710	Corn grinders, crushers and rollers.
711	Hand-spraying machines.
712	Horse-drawn grubbers or hoes with more than one wheel.
713	Milking machines.
714	Potato graders or sorters.
715	Threshing machines.
ex 737	Mechanical potato diggers; elevators; tractor cultivators; rollers (other than horse-drawn land rollers); grinding mills; seed dressers; agricultural mills; cultivators; binders; sets of fanners; rooters; thistle cutters; lawn, tractor and trailer mowers; rototillers; trussers; clod crushers; sheep shears; gappers; grass harrows; combined grass harrows and ridging ploughs.
739	Agricultural machinery parts, not at present liable to duty.
744	Bread, biscuit and cake-making machinery.
745	Boilers and boiler house plant.
746	Boot and shoemaking machinery.
747	Brewing and distilling machinery.
751	Counter machinery (except weighing scales) and parts.
752	Cranes, hoists and other lifting machinery.
Dairy machinery :—	
753	Butterworkers.
755-756	Churns.
757	Cream separators.
ex 758	Cream coolers; milk filters; butter tubs; dairy washing machines; pumps, mechanical (not made of brass, bronze or gunmetal).
759-760	Electrical motors, generators and dynamos.
762	Grain-milling machinery.
763	Hydraulic machinery.
766	Parts of gas meters.
773/02	Pressing machines which press by means of rollers, and parts.
773/03/04	Washing machines, domestic, and parts.

1st Sch.  
—cont.

## SCHEDULE II, PART I—(continued).

1937 Import List No.	Article.
773/08	Drying cabinets and drying machines and parts (other than for use in relation to textile materials).
774	Prime-movers, not electrical—marine engines and parts.
	Other prime-movers, not electrical :—
775	Internal Combustion—Gas.
776	Internal Combustion—Oil, including Diesel.
777	Internal Combustion—Petrol and other light spirit.
778	Steam.
779	Water (other than hydraulic).
780-785	Printing, bookbinding, cardboard boxmaking, &c., machines and parts.
789	Pumps and parts, viz. :— Hand-spraying; petrol; soda-water; rotary.
795	Sewing machines and parts.
ex 796	Stone-breaking and road repairing machinery and parts, excluding concrete mixers, and tar boilers and heaters.
797	Sweet-making machinery.
798-799	Textile machinery and parts.
801	Tobacco and cigarette-making machinery and parts.
802	Typewriters and parts.
811	Woodworking machinery and parts.
814	Accumulators and parts (not for dutiable use).
825/01/02	Carbon rods for street arc lamps and for cinematographic apparatus.
832	Electric wires and cables—insulated—of which any covering or sheathing, whether internal or external, is made of metal.
833	Telephone and telegraph instruments and apparatus.
ex 840	Wire for bulbs, tungsten wire and push buttons for electric stands.

*Class III, Group G.—Wood and Timber and manufactures thereof.*

960, 961, 962, 964, 965	} Wood and timber, raw or sawn, except boards and planks of soft woods not exceeding 1 inch in thickness.
979	
	} Punnets and chip boxes.

*Class III, Group H.—Textiles (except apparel).*

1050-1054	} Wool and wool waste (except flock).
1124	
ex 1125	
	} Garden and fishing nets.

*Class III, Group K.—Rubber and rubber manufactures (except apparel).*

1489 Toys.

*Class III, Group L.—Paper, cardboard, &c.*

1523 Cellulose wrapping, transparent, in sheets or rolls.

## SCHEDULE II, PART I—(continued).

1st Sch.  
—cont.

1937 Import List No.	Article.
	<i>Class III, Group M.—Oil seeds, oils, fats, resins and gums and manufactures thereof.</i>
1560	Cod liver oil.
1563	Essential oils, refined (other than turpentine).
1580-1582	Natural resins and gums.
1600 ex 1602	} Waxes (other than sealing, paraffin and montan).
	<i>Class III, Group N.—Fertilisers.</i>
1605	Basic slag.
	<i>Class III, Group O.—Chemicals, drugs, perfumery, dyes and colours.</i>
ex 1621	Acids other than sulphuric, phosphoric, nitric and hydrochloric.
ex 1624	Bichromate of ammonia; bromide of ammonia; chlorate of ammonia; ferri citrate of ammonia; ichtliisulphonate of ammonia.
ex 1625	Bleaching earth; chloride of calcium.
ex 1634	Carbolic acid (including crude).
1635	Sulphate of copper.
1640	Magnesium compounds.
1643, 1644,	Potassium compounds.
1646	
1652 ex 1653	} Sodium compounds, other than sodium carbonate crystals, acid sodium phosphate, acid sodium pyrophosphate, sodium hypochlorite and sodium hydroxide.
ex 1657 ex 1658	
1686 1687	} Medicines and medicinal preparations (other than ointments and salves, medicines and medicinal preparations chargeable by reference to dutiable ingredients or as sugar confectionery or as cocoa preparations or as preparations containing sweetening matter).

1ST SCH.  
—cont.

## SCHEDULE II, PART I—(continued).

Import List No.	Article.
ex 1688	} The following dyes and dyestuffs and tanning materials, viz. :— Coal tar dyes; indigo extract; logwood; cutch; myrabolans; tanning extracts.
ex 1689	
ex 1698	
<i>Class III, Group P.—Miscellaneous.</i>	
1704	Feathers and down, raw, not ornamental.
1719	Bulbs and corms of flowering plants.
1727/01	} Seeds for sowing, viz. :— Turnip; mangel; cabbage; other vegetable seeds (except peas); clover; flax; flower.
1729/01	
1730/01	
1731/01	
1732/01	
1733/01	
1736/01	
1744	Fuses—blasting.
ex 1747	Fireworks and sparklers.
ex 1748	Lead shot.
1751	} Small arms and parts thereof (other than air guns and guns for sporting purposes).
1752	
ex 1792	Fancy goods, viz. :— Cigarette cases; flapjacks; imitation jewellery; manicure sets; millinery ornaments; photo frames; tinsel; watch chains.
1802	Gas mantles, incandescent.
1807–1809	Studs and cuff links and parts thereof.
ex 1813	Sewing needles and thimbles.
1829	Lamps and lanterns (except electric).
1868	Pictures and drawings executed by hand.
ex 1892	Music in sheets.
1951/01/02	} Metal toys, mechanical and non-mechanical, electrical and non-electrical.
1952	

## SCHEDULE II.

## PART II.

(Article 5 (2).)

Live cattle.

Live sheep and lambs.

Live poultry which are domestic fowls, turkeys and guinea fowls.



## SCHEDULE II, PART II—(continued).

1ST SCH.  
—cont.

Ducks, geese, game and other live birds.  
Poultry, dead.  
Rabbits and hares, dead.  
Milk, whole, fresh.  
Eggs in shell.  
Wheat offals.  
Pears, raw.  
Rose stocks.

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## SCHEDULE III.

(Article 8 (3).)

Motor cars (completely assembled).  
Assembled motor car chassis.  
Assembled motor car bodies.  
Assembled motor car shells.  
Motor car assemblies, commonly known as balloons.  
Motor cycles (completely assembled).  
Tyres and tubes.  
Sparking plugs.  
Cement.  
Flour and bread.

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## SCHEDULE IV.

(Article 9.)

Live pigs.  
Bacon and hams.  
Fish, fresh.  
Fish, filleted and parts.  
Fish, kippered or smoked.  
Seed oats.  
Seed wheat.  
Wheat and barley in grain.  
Malted barley.  
Feeding-stuffs for animals of the following descriptions :—  
    Linseed cake, linseed cake meal, linseed flakes or nuts.  
    Decorticated or undecorticated cotton-seed cake, flakes or nuts.  
    Cocoa-nut cake, meal, flakes or nuts.  
    Palmnut cake, meal flakes or nuts.  
    Earlnut cake, meal, flakes or nuts.  
    Soya bean cake, meal, flakes or nuts.  
Apples, raw.  
Plums, raw.  
Strawberries, fresh.  
Hot-house grapes.

1st Sch.  
—cont.

## SCHEDULE IV—(continued).

Raw fruit pulp or juice—

Comprising pulp or juice of apples, plums (including damsons, prunes and greengages), cherries, strawberries, raspberries (including loganberries), currants and gooseberries.

Tomatoes, raw.

Dried peas.

Grass seeds.

Forest trees.

Fruit trees, bushes and stocks thereof.

Other trees, shrubs and bushes (excluding rose bushes).

Rose bushes.

Cut flowers, plants in flower, flowers attached to bulbs and foliage.

Other plants (including cuttings and slips) not in flower.

Roots of flowering plants.

## SCHEDULE V.

(Article 10.)

## PART I.

Tariff List Ref. No.	Article.	Rate of Duty.
ex 244	Jams, marmalades and fruit jellies	4 <i>d.</i> per lb.
—	Biscuits, not containing cocoa, not sweetened	3 <i>d.</i> per lb. Not subject to prohibition.
ex 244	Biscuits, not containing cocoa, sweetened	3½ <i>d.</i> per lb. Not subject to prohibition.
ex 244	Confectionery (other than biscuits, jams, marmalades and fruit jellies) made from or containing sugar or other sweetening matter and not containing cocoa	6 <i>d.</i> per lb.
ex 272/2	Linen piece-goods - - - -	20% <i>ad valorem</i> .
ex 58/1	Handkerchiefs made wholly of linen	30% <i>ad valorem</i> .
ex 269/2	Articles made wholly of linen which are suitable for personal, domestic or household use and are not articles of personal clothing or wearing apparel and are not otherwise liable to duty	25% <i>ad valorem</i> .
ex 274	Articles which are ply yarns and are made wholly or mainly of flax	Free.
ex 249	Thread made wholly or mainly of flax	40% <i>ad valorem</i> .
ex 58/1	Shirts - - - - -	30% <i>ad valorem</i> or 1 <i>s.</i> per article, whichever is the greater.
ex 58/1	Shirt collars - - - - -	30% <i>ad valorem</i> or 2 <i>d.</i> per article, whichever is the greater.

## SCHEDULE V, PART I—(continued).

1st Sch.  
cont.

Tariff List Ref. No.	Article.	Rate of Duty.
ex 58/1	Articles of personal clothing or wearing apparel of the following descriptions which are made wholly or mainly of wool and which are wholly or mainly knitted or which are made of knitted fabric :—	
	(a) Hose and half-hose - - -	} 33½% <i>ad valorem</i> .
	(b) Undergarments (excluding shirts and collars)	
	(c) Cardigans, pullovers, jerseys, blouses and similar articles	
	(d) Gloves - - - - -	25% <i>ad valorem</i> .
ex 17/1	Blankets made wholly or mainly of wool	25% <i>ad valorem</i> .
64/1	Cord, rope and twine - - - -	33½% <i>ad valorem</i> .
267	Certain manufactured articles made wholly or mainly of wood	33½% <i>ad valorem</i> .
14	Bags made wholly or mainly of paper	25% <i>ad valorem</i> .
42/1	Certain boxes, cartons and similar articles which are made wholly or mainly of paper or of cardboard, pasteboard, millboard, strawboard, or similar material	25% <i>ad valorem</i> .
169/1	Certain manilla, packing or wrapping paper, unprinted	33½% <i>ad valorem</i> .
ex 232	Paper stationery of the following kinds :—	25% <i>ad valorem</i> .
	Envelopes, notepaper, writing pads, commercial stationery, whether bound or not bound; labels and tags (other than labels and tags of woven materials) imported in bulk quantities; trade catalogues (other than catalogues consisting only of samples of wallpaper) imported in bulk quantities; printed tickets imported in bulk quantities; postcards, visiting cards, business cards, greeting cards, invitation cards, complimentary cards and menu cards	

1ST SCH.  
—cont.

## SCHEDULE V—(continued).

Tariff List Ref. No.	Article.	Rate of Duty.
PART II.		
270	Certain woven tissues made wholly or partly of wool :—	
	(a) Of a value exceeding 1s. 3d. per square yard	15% <i>ad valorem</i> .
	(b) Of a value not exceeding 1s. 3d. per square yard	10% <i>ad valorem</i> .
ex 30	Boots and shoes of which the upper is wholly or mainly of leather and skin, or either of these	20% <i>ad valorem</i> .
203	Soap, soap powders and substitutes	15% <i>ad valorem</i> .
41	Candles, including tapers and night-lights	10% <i>ad valorem</i> .

## SCHEDULE VI.

(Article 11 (2).)

Article.	Full Duty.
Woven piece-goods wholly or mainly of silk, of a value not exceeding 1s. 6d. per square yard	1s. 6d. per square yard.
Woven piece-goods wholly or mainly of artificial silk, of a value not exceeding 1s. 3d. per square yard	8d. per square yard.

LETTER FROM MR. DE VALERA TO  
MR. CHAMBERLAIN ON THE SUBJECT OF ZINC.

Dear Mr. Chamberlain,

April 25, 1938.

With reference to Article 18 of the Trade Agreement signed this day, I have the honour to inform you that the Government of Eire, having taken note of the statements of the United Kingdom Government in the course of the recent discussions (1) that it is essential to the national security that the production of the zinc smelting industry in the United Kingdom should be maintained at a satisfactory level; and (2) that the Government of the United Kingdom would consult the Government of Eire before taking any decision to impose a customs duty on imports

of zinc from Eire into the United Kingdom; agree that it will be open to the United Kingdom Government, after consultation with the Government of Eire, and notwithstanding the provisions of Article 1 of the Trade Agreement, to impose a customs duty on imports of zinc produced or manufactured in Eire.

1ST SCH.  
—cont.

It is understood that no customs duty will be imposed on zinc from Eire which is not equally applicable to zinc from any country within the British Commonwealth of Nations.

Yours sincerely,  
(Signed) ÉAMON DE VALÉRA.

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## SECOND SCHEDULE.

Section 2.

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### PAYMENTS IN RESPECT OF LAND PURCHASE.

1. Payment of dividends on stock issued under section one of the Purchase of Land (Ireland) Act, 1891, and payments to the sinking fund established for the purpose of the redemption of that stock. 54 & 55 Vict.  
c. 48.

2. Payment to the National Debt Commissioners in lieu of sums required to be paid to them under section twenty-seven of the Land Law (Ireland) Act, 1896, of amounts equal to the said sums. 59 & 60 Vict.  
c. 47.

3. Payment of dividends on stock created under section twenty-eight of the Irish Land Act, 1903, as originally enacted, and on stock created under that section, as amended by section two of the Irish Land Act, 1909, and payments which by subsection (2) of section thirty-six of the said Act of 1903 were required to be made by the Land Commission to the National Debt Commissioners by way of sinking fund. 3 Edw. 7.  
c. 37.  
9 Edw. 7.  
c. 42.

4. Payment of dividends on stock issued under subsection (2) of section forty-seven of the Irish Land Act, 1903, as originally enacted, and on stock issued under that section, as amended by section two of the Irish Land Act, 1909, and payments by way of sinking fund for the redemption of those stocks.

5. Payments under subsection (6) of section thirty-six of the Irish Land Act, 1903, as amended by subsection (1) of section seven of the Irish Land Act, 1909, for making good any deficiency arising by reason of stock having been issued at a discount.

2ND SCH.  
—cont.

6. Payment of interest on further advances under the Irish Land Act, 1903, made by virtue of subsection (2) of section thirty-six of that Act, and payments by way of sinking fund in respect of those advances.

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## CHAPTER 26.

An Act to amend and continue the Rent and  
Mortgage Interest Restrictions Acts, 1920 to  
1935. [26th May 1938.]

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

1. The principal Acts shall continue in force until the twenty-fourth day of June nineteen hundred and forty-two.

2.—(1) Subject to the provisions of this Act relating to registration, the principal Acts, as from the twenty-ninth day of September nineteen hundred and thirty-eight, shall not apply to any dwelling-house unless it is a dwelling-house to which they applied immediately before the passing of this Act or then formed part of such a dwelling-house, and it is also a dwelling-house of which the rateable value on the appointed day did not exceed—

- (a) in the metropolitan police district or the city of London, thirty-five pounds;
- (b) in Scotland, thirty-five pounds;
- (c) elsewhere, twenty pounds.

(2) Where part of a dwelling-house to which the principal Acts applied immediately before the commencement of this Act was on the sixth day of December nineteen hundred and thirty-seven lawfully sublet and occupied as, or vacant and to let as, a separate dwelling, the rateable value of the whole dwelling-house on the

Continua-  
tion of  
Acts.

Decontrol  
of certain  
houses.

appointed day shall be treated for the purposes of subsection (1) of this section (but not for the purposes of any other provision of this Act) as not having exceeded the respective amount mentioned therein, if, after subtracting the rateable value on the appointed day of the said part, it would not exceed that amount.

Where the rateable value on the appointed day of the whole of a dwelling-house is by virtue of this subsection treated as not having exceeded a particular amount, then, so long as the principal Acts continue to apply to that dwelling-house, the rateable value on the appointed day of any dwelling-house which forms part thereof shall, irrespective of the actual facts, also be treated as not having exceeded that amount.

(3) The transitional provisions set out in the First Schedule to this Act (being certain transitional provisions of the Act of 1933 adapted for the purposes of this Act) shall have effect in relation to dwelling-houses to which the principal Acts cease to apply by virtue of this section.

3.—(1) Save as provided in this and the next succeeding section, section two of the Act of 1923 (which provides for the exclusion of dwelling-houses from the application of the principal Acts on the landlord recovering possession and in certain other cases) shall cease to have effect.

Discontinu-  
ance, except  
in certain  
cases, of  
system of  
decontrol on  
landlord  
recovering  
possession.

(2) Notwithstanding anything in the preceding subsection, the said section two shall apply to any dwelling-house of which the rateable value on the appointed day did not exceed the respective amount specified in the last preceding section if—

- (a) it consists of a part of premises whereof the rateable value on the appointed day did exceed that amount; and
- (b) the letting which constituted it a separate dwelling-house to which the principal Acts apply was a subletting effected by a person who at the date of the subletting—

(i) was entitled by virtue of the Rent Restrictions Acts to retain possession of the premises in which it was comprised; or

(ii) would have been so entitled if he had not then had some other right to retain possession,

and shall also apply to any dwelling-house to which the principal Acts would have ceased to apply under the last foregoing section but for the provisions of subsection (2) thereof.

Provisions  
as to  
registration.

4.—(1) If the landlord of any dwelling-house let as a separate dwelling immediately before the passing of this Act, being a dwelling-house of which the rateable value on the appointed day did not exceed the respective amount mentioned in section two of this Act, claims that by virtue of the provisions of section two of the Act of 1923 the principal Acts had ceased to apply to the dwelling-house before the passing of this Act, he shall within three months after the passing of this Act make to the council of the county borough or county district in which the dwelling-house is situated application in the prescribed form for the registration of the dwelling-house :

Provided that this subsection shall not apply to any dwelling-house whereof the rateable value on the appointed day did not exceed the respective amount mentioned in subsection (1) of section two of the Act of 1933, that is to say—

- (a) in the metropolitan police district or the city of London, twenty pounds;
- (b) in Scotland, twenty-six pounds five shillings;
- (c) elsewhere, thirteen pounds.

(2) If, in any proceedings with respect to any dwelling-house which is, or immediately before the passing of this Act formed part of, a dwelling-house to which subsection (1) of this section applies, it appears that but for the provisions of the said section two of the Act of 1923 the principal Acts would have applied to the dwelling-house and that no application has been made by or on behalf of the landlord under that subsection within the time therein mentioned, the dwelling-house shall, subject as hereinafter provided, be deemed to be a dwelling-house to which the principal Acts apply :

Provided that, if, on application to the county court of the district in which the house is situated, the court



not later than one year from the passing of this Act certifies that there was reasonable excuse for the failure to make application for the registration of the dwelling-house within the time aforesaid and application for registration is made within seven days after the certificate has been granted, then, if the principal Acts had ceased to apply to the dwelling-house before the passing of this Act, section two of the Act of 1923 shall, notwithstanding anything in the last preceding section, apply to the dwelling-house as if the references in the said section two to the passing of that Act were references to the date on which the application for registration is made.

(3) Subsections (3) to (5) of section two of the Act of 1933 (which relate to registration under that section) shall have effect—

(a) as if, in the proviso to the said subsection (5), for the references to subsection (2) of that section and to the passing of that Act there were, in relation to the dwelling-houses to which subsection (1) of this section applies, substituted references to subsection (2) of this section and to the passing of this Act; and

(b) as if, elsewhere in the said subsections (3) to (5), the references to that section included references to this section;

and subsection (1) of section fourteen of that Act (which confers power on the Minister of Health to make regulations) shall have effect as if the reference in paragraph (c) thereof to section two of that Act included a reference to the provisions of this section.

(4) The provisions of the last preceding section shall not affect the proviso to subsection (2) of section two of the Act of 1933 (which relates to the effect of a certificate of the county court that there was reasonable excuse for failure to register a dwelling-house under that section), but—

(a) no certificate shall be granted under that proviso after the expiration of three months from the passing of this Act;

(b) the said proviso shall, as respects certificates granted after the passing of this Act, have effect as if at the end thereof there were inserted the

words " as if references in the said section two  
 " to the passing of that Act were references to  
 " the date on which the application for registra-  
 " tion is made."

(5) The regulations of the Minister with respect to the form of application for registration under this section or section two of the Act of 1933 shall contain provisions designed to secure that any such application made after the coming into force of the regulations shall contain a statement of one or more of the grounds on which the landlord claims that, by virtue of section two of the Act of 1923, the principal Acts had, before the passing of this Act or, as the case may be, of the Act of 1933, ceased to apply to the dwelling-house.

(6) For the purposes of the proviso to subsection (2) of this section and of the proviso to subsection (2) of section two of the Act of 1933, a person shall not be deemed to have had reasonable excuse for failing to make application for the registration of a dwelling-house unless he was prevented from making the application by illness, absence from the United Kingdom or some other similar cause or the failure to make the application was otherwise attributable to some cause beyond his control.

Amend-  
ment as to  
standard  
rent.

5. Where a dwelling-house to which the principal Acts apply is part of another dwelling-house to which those Acts apply, the standard rent of the first-mentioned dwelling-house as from the twenty-ninth day of September nineteen hundred and thirty-eight shall be a standard rent ascertained by apportioning the standard rent of the second-mentioned dwelling-house, and subsection (3) of section twelve of the Act of 1920 shall apply accordingly notwithstanding that the first-mentioned dwelling-house was let as a separate dwelling on or before the first day of August nineteen hundred and fourteen or on or before the date on which the second-mentioned dwelling-house was first let.

Provision  
of rent  
books.

6.—(1) Where the rent of a dwelling-house to which the principal Acts apply is payable weekly, it shall be the duty of the landlord to provide a rent book or other similar document for use in respect of the dwelling-house.

(2) If the landlord of a dwelling-house fails to comply with the requirements of this section, he, and any person

who on his behalf demands or receives rent in respect of the dwelling-house, shall in respect of each week in which the failure occurs or continues be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds.

(3) This section shall come into force on the expiration of three months from the passing of this Act.

7.—(1) If any question arises in any proceedings whether the principal Acts apply to a dwelling-house, it shall be deemed to be a dwelling-house to which those Acts apply unless the contrary is shown. Miscellaneous amendments.

(2) In computing whether any and, if so, what increase in the rent of a dwelling-house to which the principal Acts apply is permissible under paragraph (b) of subsection (1) of section two of the Act of 1920 (which paragraph relates to increases of rent corresponding to increases in rates) the amount of any allowance made to the landlord under any of the enactments relating to allowances given where rates are paid by the owner instead of by the occupier shall be treated as part of the amount payable by the landlord in respect of rates :

Provided that this subsection shall not come into operation with respect to any dwelling-house in England until the date on which a demand for the general rate in respect thereof is first made on or after the first day of October nineteen hundred and thirty-eight, not being a demand for a sum which had already been demanded before that date.

(3) Accommodation shall not be deemed for the purposes of section three of the Act of 1933 (which relates to alternative accommodation for tenants of dwelling-houses to which the principal Acts apply) to be suitable to the needs of a tenant and his family, if the result of their occupation thereof would be that it would be an over-crowded dwelling-house for the purposes of the Housing Act, 1936.

26 Geo. 5. &  
1 Edw. 8.  
c. 51.

(4) A landlord who is in possession of a dwelling-house to which the principal Acts apply and who would, if a tenant were in possession thereof, be entitled to serve on him a notice of increase of rent, may serve on any prospective tenant of the dwelling-house a notice

in writing stating that the rent proposed to be charged is a rent which has been increased in accordance with the provisions of the principal Acts in the manner specified in the notice, and the principal Acts (including the penal provisions thereof) shall have effect as if the notice were a notice given under subsection (2) of section three of the Act of 1920 :

Provided that—

- (a) if the prospective tenant does not take the dwelling-house, the notice shall have no effect ;
- (b) if the prospective tenant takes the dwelling-house, the increase of rent specified in the notice shall be operative forthwith, notwithstanding that no such period as is mentioned in subsection (2) of the said section three has expired ;
- (c) the power conferred by section fourteen of the Act of 1933 on the Minister of Health to make regulations shall extend so as to enable him to prescribe forms to be followed when notice is given under this subsection, and no notice so given shall be valid unless it complies with those regulations.

(5) Any document authorised or required by the principal Acts to be served by the tenant of a dwelling-house on the landlord thereof shall be deemed to be duly so served if it is served on any agent of the landlord named as such in the rent book or other similar document, or on the person who receives the rent of the dwelling-house ; and if for the purpose of any proceedings brought or intended to be brought under the principal Acts or the Act of 1933 (including any prosecution for an offence under any of those Acts) any person serves upon any such agent or person receiving the rent as aforesaid a notice in writing requiring him to disclose to him the full name and place of abode or place of business of the landlord, it shall be the duty of the agent or person receiving the rent forthwith to comply with the notice, and if he fails or refuses so to do, he shall be liable on summary conviction to a fine not exceeding five pounds, unless he shows to the satisfaction of the court that he did not know, and could not with reasonable diligence

have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

(6) The period fixed by subsection (2) of section eight of the Act of 1923 for the recovery by a tenant or mortgagor of certain over-payments is hereby extended, in relation to payments made not earlier than six months before the passing of this Act, to two years from the date of payment.

(7) The minor and consequential amendments specified in the second column of the Second Schedule to this Act shall be made in the enactments mentioned in the first column of that Schedule.

**8.—(1)** In this Act the expression “ the Act of 1933 ” means the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933.

Interpreta-  
tion and  
application  
to Scotland.  
23 & 24  
Geo. 5. c. 32.

(2) Other expressions have the same meanings as in the Act of 1933, and subsections (2) to (4) of section sixteen of that Act shall have effect as if the references in those subsections to that Act included references to this Act.

(3) This Act shall apply to Scotland subject to the following modifications :—

(a) for any reference to the twenty-fourth day of June nineteen hundred and forty-two, there shall be substituted a reference to the twenty-eighth day of May nineteen hundred and forty-two, and for references to the twenty-eighth and twenty-ninth days of September nineteen hundred and thirty-eight, there shall be substituted respectively references to the twenty-seventh and twenty-eighth days of November nineteen hundred and thirty-eight;

(b) for references to a county borough and a county district there shall be substituted respectively references to a burgh and a county;

(c) for any reference to the Housing Act, 1936, there shall be substituted a reference to the Housing (Scotland) Act, 1935;

26 Geo. 5. &  
1 Edw. 8.  
c. 51.  
25 & 26  
Geo. 5. c. 41.

(d) the second column of the Second Schedule shall have effect as if—

(i) for the amendment to section eighteen of the Rent and Mortgage Interest Restrictions

13 & 14  
Geo. 5. c. 32.

Act, 1923, the following amendments were substituted :—

“ In subsection (1), after the words ‘ reasonable state of repair ’, there shall be inserted the words ‘ or shall state that the dwelling-house is not capable at a reasonable expense of being put into ‘ a reasonable state of repair ’ ”; and

(ii) in the amendment to the First Schedule to the Act of 1933 the words “ Paragraph (f) shall cease to have effect and ” were omitted.

Short title,  
citation and  
extent.

**9.**—(1) This Act may be cited as the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938, and this Act and the Rent and Mortgage Interest Restrictions Acts, 1920 to 1935, may be cited together as the Rent and Mortgage Interest Restrictions Acts, 1920 to 1938.

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

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 2.

#### TRANSITIONAL PROVISIONS.

1. A person who, on the twenty-eighth day of September nineteen hundred and thirty-eight is, by virtue only of the principal Acts, tenant of a dwelling-house to which those Acts cease to apply as from the following day by virtue of the provisions of section two of this Act shall be entitled to retain possession of the dwelling-house until the date specified in a notice served upon the tenant under this paragraph by or on behalf of the landlord after the passing of this Act, and shall be so entitled in the like manner and subject to the like terms and conditions as if the principal Acts had not ceased to apply to the dwelling-house.

2. Any notice served under the last preceding paragraph shall be in writing and shall inform the tenant, either that he is required to give up possession of the dwelling-house on the date specified in the notice, or that he will be so required unless before that date

an agreement for a new tenancy has been made between the tenant and the landlord, so, however, that the date specified in any such notice shall be not earlier than the twenty-ninth day of September nineteen hundred and thirty-eight, and not earlier than one month after the service of the notice.

1st Sch.  
—cont.

3. The acceptance of rent or mesne profits by the landlord after the date specified in a notice served in respect of any dwelling-house under the said paragraph shall not affect the validity of the notice, and if any such notice contains or is accompanied by an offer in writing of the terms on which the landlord is willing to grant a new tenancy of the dwelling-house, and a written statement that, if the tenant retains possession of the dwelling-house after the date aforesaid without having made an agreement with the landlord on any other terms, he will by virtue of this Act be deemed to do so upon the terms so offered as aforesaid, then, if the tenant so retains possession, he shall be deemed to do so on those terms.

4. Where upon the expiration of such a notice as aforesaid a tenant ceases to be entitled by virtue of this Act to retain possession of a dwelling-house, the provisions of the Landlord and Tenant Act, 1927, shall apply in respect of the premises as if they had been held under a lease (as defined by that Act) terminated by that notice, and if, before the expiration of the notice, either—

17 & 18  
Geo. 5. c. 36.

- (a) the tenant has, under section five of that Act, served on the landlord a notice requiring a new lease of the premises; or
- (b) the landlord has under section two or section four of that Act, served on the tenant notice that he is willing and able to grant to the tenant or obtain the grant to him of a renewal of the tenancy,

so much of the last foregoing paragraph as provides that in the circumstances therein mentioned the tenant of a dwelling-house will, if he retains possession thereof after the expiration of a notice requiring him to give up possession, be deemed to do so upon terms offered by the landlord, shall not apply.

5. Where any mortgaged property consists of or comprises one or more dwelling-houses to which the principal Acts cease to apply as from the twenty-ninth day of September nineteen hundred and thirty-eight by virtue of the provisions of section two of this Act, the principal Acts shall, until the expiration of the period of six months next after the passing of this Act, nevertheless have effect in relation to the mortgage as if those Acts had not ceased to apply to that dwelling-house or those dwelling-houses, and any question whether a mortgage is a

1ST SCH.  
—cont.

mortgage to which those Acts apply, or whether or in what manner the principal moneys secured by a mortgage can be apportioned under subsection (5) of section twelve of the Act of 1920, shall be determined accordingly.

Sections 7, 8.

## SECOND SCHEDULE.

### MINOR AND CONSEQUENTIAL AMENDMENTS.

Provision to be amended.	Amendment.
Section 14 of the Act of 1920.	In subsection (2) for the words " ten pounds " there shall be substituted the words " twenty pounds ".
Section 3 of the Rent Restrictions (Notices of Increase) Act, 1923.	Subsection (4) shall cease to have effect.
Section 7 of the Rent and Mortgage Interest Restrictions Act, 1923.	In subsection (1) at the end of the first paragraph there shall be inserted the following proviso :— " Provided that, if the interest of the tenant in the dwelling-house comprised in the tenancy is determined and the sub-tenant becomes the tenant of the landlord, then, notwithstanding anything in subsection (3) of section fifteen of the principal Act (which provides that in such circumstances a sub-tenant becomes the tenant of the landlord on the same terms as he would have held from the tenant if the tenancy had continued) the maximum additional amount of rent which is allowed by this subsection to be charged in respect of the dwelling-house comprised in the sub-tenancy shall be reduced to five per cent. of the net rent thereof."
Section 18 of the Rent and Mortgage Interest Restrictions Act, 1923.	In subsection (1) the words down to " a reasonable state of repair, and " shall cease to have effect, and for the words " the purposes aforesaid " there shall be substituted the words " the purposes of the principal Act and this Act."



Provision to be  
amended.

Amendment.

2ND SCH.  
—cont.

Section 2 of the  
Act of 1933.

Subsection (1) shall cease to have effect; in subsection (2), for the words " it is proved," there shall be substituted the words " it appears "; in subsection (5), after the word " proceedings," there shall be inserted the words " or on any application for that purpose made by the tenant " or by the landlord "; and in subsection (6) for the words " the respective amount mentioned in subsection (1) of this section " there shall be substituted the words " , or is by virtue of subsection (2) of section two of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938, to be treated for the purposes of that section as not having exceeded, in the metropolitan police district, the city of London or Scotland thirty-five pounds, or elsewhere twenty pounds."

The First Schedule  
to the Act of  
1933.

Paragraph (f) shall cease to have effect, and in paragraph (h) for the words " the eleventh day of July, nineteen hundred and thirty-one " there shall be substituted the words " the sixth day of December, nineteen hundred and thirty-seven."

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## CHAPTER 27.

An Act to amend subsection (1) of section three, and subsection (2) of section five, of the Workmen's Compensation Act, 1925, with respect to persons engaged in plying for hire with any vehicle or vessel the use of which is obtained under a contract of bailment; and for purposes connected therewith. [26th May 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

Amend-  
ments of  
ss. 3 (1)  
and 5 (2) of  
15 & 16  
Geo. 5. c. 84.

1.—(1) Subsection (1) of section three of the Workmen's Compensation Act, 1925, (which subsection provides that in the said Act the expression "workman" includes a person engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof for a certain consideration under any contract of bailment or letting to hire other than a hire-purchase agreement) shall have effect as if, in that subsection, for the words "from the owner thereof" there were substituted the words "by that person".

(2) Subsection (2) of section five of the Workmen's Compensation Act, 1925, (which subsection provides that, in relation to a person engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof under a contract of bailment or letting to hire, the owner of the vehicle or vessel shall, for the purposes of the said Act, be deemed to be the employer) shall have effect as if, in that subsection, for the words "from the owner thereof" there were substituted the words "by that person" and for the words "the owner of the vehicle or vessel" there were substituted the words "the person from whom the use of the vehicle or vessel is so obtained".

Short title,  
citation,  
commence-  
ment and  
extent.

2.—(1) This Act may be cited as the Workmen's Compensation (Amendment) Act, 1938; and the Workmen's Compensation Acts, 1925 to 1934, and this Act may be cited together as the Workmen's Compensation Acts, 1925 to 1938.

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

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

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## CHAPTER 28.

An Act to amend the Law of Evidence.

[26th May 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

1.—(1) In any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied, that is to say—

Admissibility of documentary evidence as to facts in issue.

(i) if the maker of the statement either—

(a) had personal knowledge of the matters dealt with by the statement; or

(b) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and

(ii) if the maker of the statement is called as a witness in the proceedings:

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or unfit by reason of his bodily or mental condition to attend as a witness, or if he is beyond the seas and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

(2) In any civil proceedings, the court may at any stage of the proceedings, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in subsection (1) of this section shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence—

(a) notwithstanding that the maker of the statement is available but is not called as a witness;

(b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of

the material part thereof certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.

(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognised by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the foregoing provisions, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner, and where the proceedings are with a jury, the Court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

Weight to  
be attached  
to evidence.

2.—(1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated,

a statement rendered admissible as evidence by this Act shall not be treated as corroboration of evidence given by the maker of the statement.

**3.** Subject as hereinafter provided, in any proceedings, whether civil or criminal, an instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive :

Proof of instrument to validity of which attestation is necessary.

Provided that nothing in this section shall apply to the proof of wills or other testamentary documents.

**4.** In any proceedings, whether civil or criminal, there shall, in the case of a document proved, or purporting, to be not less than twenty years old, be made any presumption which immediately before the commencement of this Act would have been made in the case of a document of like character proved, or purporting, to be not less than thirty years old.

Presumptions as to documents twenty years old.

**5.** It is hereby declared that section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925, and section ninety-nine of the County Courts Act, 1934 (which relate to the making of rules of court) authorise the making of rules of court providing for orders being made at any stage of any proceedings directing that specified facts may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination, notwithstanding that a party desires his attendance for cross-examination and that he can be produced for that purpose.

Explanation of s. 99 of 15 & 16 Geo. 5. c. 49 and s. 99 of 24 & 25 Geo. 5. c. 53.

**6.—(1)** In this Act—

“ Document ” includes books, maps, plans, drawings and photographs ;

“ Statement ” includes any representation of fact, whether made in words or otherwise ;

“ Proceedings ” includes arbitrations and references. and “ Court ” shall be construed accordingly.

Interpretation and savings.

(2) Nothing in this Act shall—

(a) prejudice the admissibility of any evidence which would apart from the provisions of this Act be admissible ; or

- (b) enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Act had not passed.

Short title,  
extent and  
commence-  
ment.

7.—(1) This Act may be cited as the Evidence Act, 1938.

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

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

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## CHAPTER 29.

An Act to give effect to an International Convention for the Protection of Industrial Property and to amend the provisions of the Patents and Designs Acts, 1907 to 1932, relating to matters affected by the said Convention; and to give effect to an International Agreement regarding false indications of origin on goods and to amend the provisions of the Merchandise Marks Acts, 1887 to 1926, relating to matters affected by the said Agreement. [26th May 1938.]

**W**HEREAS a revised international convention for the protection of industrial property and a revised international agreement regarding false indications of origin on goods were signed on behalf of His Majesty at London on the second day of June nineteen hundred and thirty-four :

And whereas it is expedient to give effect to the said convention and amend the provisions of the Patents and Designs Act, 1907, as amended by the Patents and Designs Act, 1914, the Patents and Designs Act, 1919, the Patents and Designs (Convention) Act, 1928 and the Patents and Designs Act, 1932 (which first-mentioned Act as so amended is hereinafter referred to as "the Patents and Designs Act"), relating to matters affected by the said convention :

7 Edw. 7.  
c. 29.  
4 & 5 Geo. 5.  
c. 18.  
9 & 10  
Geo. 5. c. 80.  
18 Geo. 5.  
c. 3.  
22 & 23  
Geo. 5. c. 32.

And whereas it is expedient to give effect to the said agreement and amend the provisions of the Merchandise Marks Acts, 1887 to 1926, relating to matters affected by the said agreement :

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

*Amendments relating to Patents.*

1. After section eleven of the Patents and Designs Act, there shall be inserted the following section :—

Mention of  
inventor  
as such in  
patent.

“ 11A.—(1) The inventor of the whole of an invention or of a substantial part thereof shall, in accordance with and subject to the provisions of this section, be entitled to be mentioned as such inventor as provided by subsection (8) of this section.

For the purposes of this section—

(a) the actual deviser of an invention or a part of an invention shall be deemed to be the inventor thereof, notwithstanding that any other person is for any of the other purposes of this Act treated as the true and first inventor thereof;

(b) no person shall be deemed to be the inventor of an invention or a part of an invention by reason only of the importation thereof by him.

(2) If it is desired by the sole applicant for a patent, or by all the applicants, that any person shall be mentioned as aforesaid, a request in that behalf may be made in the prescribed manner by all the persons concerned (including the person alleged to be the inventor).

(3) If any person (other than a person in respect of whom a request in relation to the application in question has been made under the last foregoing subsection) desires to be mentioned as aforesaid, he may make a claim in the prescribed manner in that behalf.

(4) No request or claim under the foregoing provisions of this section shall be entertained if it appears to the comptroller that the request or claim is based upon facts which, if proved in the case of an opposition under the provisions of paragraph (a) of subsection (1) of section eleven of this Act by the person in respect of or by whom the request or claim is made (in this section referred to as "the claimant"), would have entitled him to relief under that section.

(5) A request or claim under the foregoing provisions of this section must be made not later than two months after the date of the advertisement of the acceptance of the complete specification, or within such further period (not exceeding one month) as the comptroller may, on an application made to him in that behalf and subject to payment of the prescribed fee, allow.

(6) Where a claim is made under subsection (3) of this section, the comptroller shall give notice of the claim to every applicant for the patent (not being the claimant) and to any other person whom the comptroller may consider to be interested.

(7) The comptroller shall, if required, hear a claimant and any person to whom notice of the claim has been given as aforesaid.

(8) If the comptroller is satisfied that a claimant is the inventor of the whole invention or a substantial part thereof, and that the application for the patent is a direct consequence of his being such inventor, the comptroller shall cause the claimant to be mentioned as such inventor in any patent granted in pursuance of the application, on the complete specification and in the register of patents.

(9) Any person who alleges that a claimant, mentioned as aforesaid, ought not to have been so mentioned may at any time apply to the comptroller in the prescribed manner for a certificate that the claimant ought not to have been so mentioned, and the comptroller may, after hearing, if required, any person whom he may consider to



be interested, issue a certificate to that effect, and if he does so, he shall rectify the specification and the register accordingly.

(10) Any decision of the comptroller under this section shall be subject to appeal to the Appeal Tribunal, who shall, if required, hear any person who was entitled to be heard before the comptroller.

(11) The mention of a claimant as aforesaid shall not confer, or derogate from, any rights under the patent."

2.—(1) In subsection (1) of section seventeen of the Patents and Designs Act, for the words "sixteen years from its date" there shall be substituted the words "a term beginning on the date of the patent" and ending at the expiration of sixteen years from the "date (to be entered in the register of patents) on which the specification accepted as a complete specification is treated by the comptroller as having been left."

Term in case of new patents.

(2) This section shall not apply in the case of patents granted before the commencement of this Act.

3. Paragraph (e) of subsection (3) of section twenty-seven of the Patents and Designs Act shall cease to have effect, and there shall be inserted, after subsection (6) of that section, the following subsection:—

No revocation until two years after first compulsory licence.

"(6A) If an application is made under subsection (1) of this section in relation to a patent, and—

- (a) an order has already been made in relation to that patent under paragraph (b), (c) or (d) of subsection (3) of this section;
- (b) a period of not less than two years has elapsed between the date of that order and the date of the application; and
- (c) the comptroller is satisfied that the objects of this section cannot be attained by the exercise of any of the powers conferred by the said subsection (3);

the comptroller may order the patent to be revoked, either forthwith, or after such reasonable interval as may be specified in the order, unless in

the meantime such conditions as may be prescribed in the order with a view to attaining the objects of this section are fulfilled, and the comptroller may, on reasonable cause shown in any case, by subsequent order extend the interval so specified :

Provided that the comptroller shall make no order for revocation which is at variance with any treaty, convention, arrangement or engagement applying to the United Kingdom and to any foreign country or part of His Majesty's dominions outside the United Kingdom."

Construction  
of ss. (2)  
of s. 91 of  
Patents and  
Designs Act.

4. After subsection (2) of section ninety-one of the Patents and Designs Act, there shall be inserted the following subsection :—

“(2A) Where all the rights of each of two or more applicants who have made applications for protection of inventions in any one Convention country have become vested in the same person, those applications shall, for the purposes of the last foregoing subsection, be deemed to have been made by the same applicant.”;

and that section shall be deemed, as from the commencement of the Patents and Designs Act, 1932, to have had effect as if the said subsection (2A) had been therein contained as aforesaid.

Elements of  
invention  
not  
formally  
claimed in  
Convention  
country.

5. After the subsection numbered (2A) directed by the last foregoing section to be inserted in section ninety-one of the Patents and Designs Act, there shall be inserted the following subsection :—

“(2B) In determining for any of the purposes of this Act (and in particular, but without prejudice to the generality of the foregoing words, for the purposes of this section, of paragraph (e) of subsection (1) of section eleven of this Act, or of paragraph (l) of subsection (2) of section twenty-five of this Act) whether an invention described or claimed in a United Kingdom specification is the same as that for which protection has been applied for in a Convention country, regard shall be had to the disclosure contained in the whole of the documents put forward at the same time as,

and in support of, the application in the Convention country, being documents of which copies have been left at the Patent Office within such time and in such manner as may be prescribed.”

**6.** After the subsection numbered (2B) directed by the last foregoing section to be inserted in section ninety-one of the Patents and Designs Act, there shall be inserted the following subsection :—

“(2C) Any refusal by the comptroller to accept an application for a patent, or to accept a specification, on the ground of non-compliance with any requirement of this section, shall be subject to appeal to the Appeal Tribunal.”

Appeal from comptroller's refusal of application under s. 91 of Patents and Designs Act.

*Amendments relating to Patents, Designs and Trade Marks.*

**7.** Proviso (b) to subsection (4) of section ninety-one of the Patents and Designs Act is hereby repealed.

Repeal of proviso (b) to ss. (4) of s. 91 of Patents and Designs Act.

**8.** At the end of section ninety-one of the Patents and Designs Act, there shall be inserted the following subsection :—

“(5) Where a person has applied for protection for any invention, design or trade mark by an application which—

Certain applications abroad equivalent to regular national applications.

(a) in accordance with the terms of a treaty subsisting between any two or more Convention countries, is equivalent to an application duly made in any one of those Convention countries, or

(b) in accordance with the law of any Convention country, is equivalent to an application duly made in that Convention country,

he shall be deemed for the purposes of this section to have applied in that Convention country.”

**9.** After section ninety-one of the Patents and Designs Act, there shall be inserted the following section :—

“91A.—(1) In this Act, the expression ‘ Convention country ’ means a country in the case of

Orders in Council as to Convention countries.

which there is for the time being in force a declaration made by His Majesty by Order in Council, with a view to the fulfilment of a treaty, convention, arrangement or engagement, declaring that that country is a Convention country :

Provided that a declaration may be made as aforesaid for the purposes either of all or of some (but not all) of the provisions of this Act, and a country in the case of which a declaration made for the purposes of some (but not all) of the provisions of this Act is in force shall be deemed to be a Convention country for the purposes of those provisions only.

(2) His Majesty may, further, by Order in Council direct that any of the Channel Islands, any colony, any British protectorate or protected state, or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom, shall be deemed to be a Convention country for the purposes of all or any of the provisions of this Act; and an Order made under this subsection may direct that any such provision shall have effect, in relation to the territory in question, subject to such conditions or limitations, if any, as may be specified in the Order.

(3) For the purposes of subsection (1) of this section, every colony, protectorate, territory subject to the authority or under the suzerainty of another country, and territory in respect of which a mandate on behalf of the League of Nations is being exercised, shall be deemed to be a country in the case of which a declaration may be made under that subsection."

*Amendment relating to Merchandise Marks.*

Amend-  
ment of  
s. 5 of Mer-  
chandise  
Marks Act,  
1887.  
50 & 51 Vict.  
c. 28.

**10.** Section five of the Merchandise Marks Act, 1887, (which relates, among other matters, to the application of a trade mark or trade description to goods by the use of the mark or description in a manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by the mark or description)

as amended by any subsequent enactment, shall have effect as if there were inserted after subsection (2) thereof the following subsection :—

“(2A) Goods delivered in pursuance of a request made by reference to a trade mark or trade description appearing in any sign, advertisement, invoice, wine list, business letter, business paper or other commercial communication, shall, for the purposes of paragraph (d) of subsection (1) of this section, be deemed to be goods in connection with which the trade mark or trade description is used.”

*Miscellaneous and General.*

**11.** The amendments specified in the second column of the Schedule to this Act, being consequential amendments and amendments relating to minor details, shall be made in the sections of the Patents and Designs Act specified in the first column of that Schedule.

Consequential and minor amendments of the Patents and Designs Act.

**12.—(1)** This Act may be cited as the Patents &c. (International Conventions) Act, 1938, and—

Short title, citation, construction, printing and commencement.

- (a) the Patents and Designs Acts, 1907 to 1932, and so much of this Act as relates to patents, designs or trade marks may be cited together as the Patents and Designs Acts, 1907 to 1938; and
- (b) the Merchandise Marks Acts, 1887 to 1926, and so much of this Act as relates to merchandise marks may be cited together as the Merchandise Marks Acts, 1887 to 1938.

(2) Except as provided by subsection (2) of section two of this Act, the provisions of this Act—

- (a) shall apply to patents in force at, as well as to patents granted after, the commencement of this Act;
- (b) shall apply to applications (for patents or for the registration of designs or of trade marks) made before, as well as to applications made after, the commencement of this Act.

(3) For the purpose of identifying references in this Act to subsections and paragraphs contained in the Patents and Designs Act, regard shall be had to consequential renumbering authorised by subsection (2) of

section fourteen of the Patents and Designs Act, 1932, and carried into effect in copies of the Patents and Designs Act, 1907, printed on behalf of His Majesty's printer in accordance with that enactment.

(4) A copy of the Patents and Designs Act, 1907, with the amendments effected by the Patents and Designs Act, 1914, the Patents and Designs Act, 1919, the Patents and Designs (Convention) Act, 1928, the Patents and Designs Act, 1932 and this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print copies of the Patents and Designs Act, 1907 in accordance with the copy so certified.

(5) Any reference, in an Act passed before this Act, to an enactment that is the subject of an amendment effected by a Patents and Designs Act shall, unless the contrary intention appears, be construed as including a reference to that enactment as so amended.

In this subsection, the expression "a Patents and Designs Act" means—

- (a) so much of this Act as relates to patents, designs or trade marks;
- (b) any previous Act that may be cited with the Patents and Designs Act, 1907.

(6) Any reference, in an Act passed before this Act, to an enactment that is the subject of an amendment effected by a Merchandise Marks Act shall, unless the contrary intention appears, be construed as including a reference to that enactment as so amended.

In this subsection, the expression "a Merchandise Marks Act" means—

- (a) so much of this Act as relates to merchandise marks;
- (b) any previous Act that may be cited with the Merchandise Marks Act, 1887.

(7) This Act shall come into operation on such date as His Majesty may by Order in Council appoint.

## SCHEDULE.

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Section 11.

### CONSEQUENTIAL AND MINOR AMENDMENTS OF PATENTS AND DESIGNS ACT.

<u>Section amended.</u>	<u>Amendment.</u>
Eight A	- - In paragraphs (a) and (b) the word “foregoing” shall be omitted.
Eleven	- - In paragraph (e) of subsection (1), for the words from “other than that for which protection has been applied for” to “in that interval” there shall be substituted the words “other than that for which protection has been applied for in the Convention country (regard being had to the provisions of subsection (2B) of that section), and that such other invention either— “ (i) forms the subject of an application made by the opponent for a patent which, if granted, would bear a date in the interval between the leaving of the application in the Convention country and the date of the application in the United Kingdom, or “ (ii) has been made available to the public by publication in any document published in the United Kingdom in that interval”.
Twelve	- - In proviso (b) to subsection (4), after the words “opposition to the grant of the patent” there shall be inserted the words “or by a request or claim under section eleven A of this Act”, and for the words “either of the two last-mentioned cases” there shall be substituted the words “any other such case as aforesaid”.
Twenty-five	- At the beginning of paragraph (b) of subsection (2), there shall be inserted the words “subject to the provisions of section ninety-one of this Act”. In paragraph (l) of the said subsection (2), for the words “is not the same as that for which protection has been applied for in the foreign state, or part of His Majesty’s

## Section amended.

## Amendment.

- Twenty-five—*cont.* “ dominions outside the United Kingdom ” there shall be substituted the words “ is not the same as that for which protection has been applied for in the Convention country (regard being had to the provisions of subsection (2B) of that section ) ”.
- Twenty-seven - In subsection (3), paragraph (e) (including the proviso thereto) shall be omitted.
- Forty-eight - In subsection (1), for the words “ a foreign vessel ” there shall be substituted the words “ a Convention vessel ”, and for the words “ a foreign aircraft or land vehicle ” there shall be substituted the words “ a Convention aircraft or land vehicle ”.
- For subsection (2) there shall be substituted the following subsection :—
- “ (2) In this section, the expression ‘ Convention vessel ’ means a vessel of a Convention country, and the expressions ‘ Convention aircraft ’ and ‘ Convention land vehicle ’ have corresponding meanings.”
- Subsection (4) shall be omitted.
- Eighty-two - After the word “ Act,” where that word first occurs, there shall be inserted the words “ or by the Trade Marks Act, 1938 ”; for the words “ under this Act,” where those words first occur, there shall be substituted the word “ thereunder ”; and after the words “ under this Act,” where those words last occur, there shall be inserted the words “ or under the Trade Marks Act, 1938, as the case may be ”.
- Ninety-one ■ In subsection (1), the words “ If His Majesty is pleased to make any arrangement with the government of any foreign state for mutual protection of inventions, or designs, or trade marks, then ” shall be omitted; for the words “ in that state ” there shall be substituted the words “ in a Convention country ”; and for the words “ in the foreign state ”, in both places where they occur, there shall be substituted the words “ in the Convention country ”.



## Section amended.

## Amendment.

Ninety-one—*cont.* In the said subsection (1), for the word  
 “dated”, in paragraph (a) of the proviso,  
 there shall be substituted the word “made”.

In subsection (2), for the words from the  
 beginning of the subsection to the words  
 “a single patent thereon” there shall be  
 substituted the words “Where the same  
 “applicant has made two or more applica-  
 “tions for protection of inventions in  
 “any one Convention country, then, if—

“ (a) separate applications are made  
 “ at the same time within twelve months  
 “ from the earliest of the applications in  
 “ the Convention country, one in respect  
 “ of each of the applications in the  
 “ Convention country, accompanied by  
 “ a single complete specification; and

“ (b) the comptroller, or on appeal the  
 “ Appeal Tribunal, is of opinion that  
 “ the whole of the inventions in respect  
 “ of which the applications in the Con-  
 “ vention country were made, or so  
 “ much of those inventions as is com-  
 “ prised in that single complete specifica-  
 “ tion, is such as to constitute a single  
 “ invention and may properly be in-  
 “ cluded in one patent;

“ the comptroller may accept that single  
 “ complete specification and grant a single  
 “ patent thereon, or (on appeal) the Appeal  
 “ Tribunal may direct such acceptance  
 “ and grant as aforesaid.”

In the said subsection (2), for the words  
 “foreign applications”, in both places  
 where they occur, there shall be substituted  
 the words “applications in the Convention  
 country”.

In subsection (4), for the words “Provided  
 that—

(a) In the case of patents the applica-  
 tion”

there shall be substituted the words  
 “Provided that, in the case of patents, the  
 application”.

Section amended.

Amendment.

Ninety-one—*cont.* In the said subsection (4), for the words “foreign state”, in both places where they occur, there shall be substituted the words “Convention country”.

In the said subsection (4), the words from “and (b) In the case of trade marks” to the end of the subsection shall be omitted.

Subsections (5) and (6) shall be omitted.

## CHAPTER 30.

An Act to make provision for the better organisation of the white fish industry; to amend the Sea-Fishing Industry Act, 1933, the Whaling Industry (Regulation) Act, 1934, Part IV of the Merchant Shipping Act, 1894, and other enactments relating to sea fisheries; and to make provision for purposes connected with the matters aforesaid.

[2nd June 1938.]

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

### PART I.

#### ORGANISATION OF WHITE FISH INDUSTRY.

#### *The White Fish Commission and the White Fish Industry Joint Council.*

Consti-  
tution and  
general  
functions  
of White  
Fish Com-  
mission.

**1.**—(1) There shall be constituted a Commission to be called “the White Fish Commission” (hereafter in this Act referred to as “the Commission”), which shall have the functions of keeping generally under review matters relating to the white fish industry, and of advising and assisting the Ministers in such matters as aforesaid, and such other functions as are entrusted to the Commission by or under the following provisions of this Act.

(2) The Commission shall consist of five members appointed by the Ministers.

PART I.  
—cont.

(3) The Ministers may appoint a secretary to the Commission, and the Commission may appoint such other officers, and such servants, as the Ministers may, with the approval of the Treasury, determine.

(4) The incidental provisions contained in the First Schedule to this Act shall have effect in relation to the Commission.

2.—(1) For the purpose of giving advice and assistance to the Commission in the discharge of its functions, there shall be constituted a council for Great Britain to be called the White Fish Industry Joint Council (hereafter in this Act referred to as “the Joint Council”).

White Fish  
Industry  
Joint  
Council.

(2) The Joint Council shall consist of a chairman appointed by the Ministers as being an independent person, and such other members as may be appointed by the Ministers to represent respectively the interests of persons who carry on in Great Britain any of the following businesses, that is to say,—

- (a) the business of a home producer of white fish,
- (b) the business of selling white fish by wholesale,
- (c) the business of a fishmonger,
- (d) the business of a fish frier, and
- (e) the business of curing, salting, drying, smoking or canning white fish,

and any such other interests (including the interests of fishermen and others who are employed by persons engaged in the white fish industry) as the Ministers consider to be immediately affected, or likely to be immediately affected, by the operation of this Part of this Act.

Any of the businesses specified in paragraphs (a) to (e) of this subsection is hereafter in this Part of this Act referred to as “a designated business.”

(3) For the purposes of this Part of this Act, a person shall be deemed to carry on the business of selling white fish by wholesale if, in the course of any business carried on by him, he sells any white fish to a person who buys the fish for the purpose of selling them again, and shall be deemed to carry on the business of a fishmonger if,

PART I.  
—cont.

in the course of any business carried on by him, he sells white fish by retail :

Provided that—

- (a) a sale of white fish by auction effected at a port by or on behalf of the catcher of the fish shall be deemed not to be a sale by wholesale ;
- (b) a person shall not be taken to carry on the business of selling white fish by wholesale, or the business of a fishmonger, by reason only that he sells white fish preserved in any air-tight container ;
- (c) a person shall not be taken to carry on the business of a fishmonger by reason only that at any premises he sells white fish for consumption at those premises ; and
- (d) a sale of white fish to a person who, in the course of carrying on any business other than that of a fish-frier, buys white fish for the purpose only of selling them again in a condition in which they are ready for eating without further treatment, shall be deemed to be a sale by retail and not a sale by wholesale ;

and, whenever a person whose business or part of whose business it is to buy white fish for the purpose of selling them again buys any white fish, he shall, until the contrary is proved, be deemed to buy the fish for that purpose.

(4) For the purposes of this Part of this Act, a person shall not be taken to carry on the business of curing or salting white fish by reason only that, in the course of the business of catching and landing white fish, he cures or salts white fish on board a vessel.

(5) Before appointing a person to be a representative member of the Joint Council, the Ministers shall consult such bodies (if any) as appear to them to be representative of the interests concerned.

(6) The incidental provisions contained in the Second Schedule to this Act shall have effect in relation to the Joint Council.

*Regulation of the white fish industry under the  
administration of the Commission.*PART I.  
—cont.

**3.—(1)** It shall be the duty of the Commission to keep a register (hereafter in this Part of this Act referred to as “the Commission’s register”) of persons carrying on in Great Britain any designated business; and the Commission, on application made by any person to be registered in the Commission’s register as a person carrying on such a business in Great Britain and on payment of any fee which, by virtue of the following provisions of this Part of this Act, is payable on such application, shall register him in the said register as a person carrying on that business.

Registration  
of persons  
engaged in  
the white  
fish  
industry.

(2) Subject to the following provisions of this Part of this Act, no person shall, after the expiration of the appropriate period beginning at the commencement of this Act, carry on a designated business unless he either is registered in the Commission’s register as a person carrying on that business or is exempt, by virtue of the following provisions of this Part of this Act, from the obligation to be registered as aforesaid; and if any person contravenes this subsection, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding twenty pounds for every day on which the offence continues after conviction therefor.

In this subsection the expression “the appropriate period” means, in relation to the business of a home producer of white fish, the period of two months or, in relation to any other designated business, the period of six months.

(3) The Commission’s register shall be so kept as to show —

- (a) in relation to a person registered as carrying on the business of a home producer of white fish, the number of fishing boats which for the time being are in the possession of that person; and
- (b) in relation to a person registered as carrying on any other designated business, the several premises at which for the time being he carries on that business in Great Britain, and (if and so far as that business involves the use of vehicles

PART I.  
—cont.

for the purpose of offering or exposing white fish thereon for sale) the number of vehicles used or intended to be used for that purpose which for the time being are in his possession in Great Britain.

(4) A person shall, on making application to be registered in the Commission's register, and also on demand made by the Commission at any time while his name appears in that register, furnish to the Commission such information as it may require for the purpose of performing its duties under this section, and any person registered in the Commission's register as carrying on a designated business shall, whenever requested in writing by the Commission so to do, make to the Commission a written declaration stating whether or not he is carrying on that business as a nominee of another person, and, if so, specifying the name of that other person.

(5) The Commission may, either absolutely or subject to limitations, exempt any class of persons from any obligation to be registered in the Commission's register as carrying on a designated business; and the Commission, on being satisfied that a person whose name is entered in the Commission's register as a person carrying on a designated business has ceased to carry on that business in Great Britain, shall delete that entry in the register.

(6) The Commission's register shall, at all reasonable times, be open to public inspection at the office of the Commission, and any person shall be entitled to take a copy of any entry in the said register.

## 4.—(1) The Commission may make regulations—

(a) for securing that, subject to any exemption for which provision may be made by the regulations, white fish of any description or quality defined by the regulations shall not be sold, or consigned, offered or exposed for sale, unless such designation, mark or other means for indicating that the fish are of the said description or quality as may be prescribed by the regulations is used in relation to the fish, in such manner as may be so prescribed;

(b) for prohibiting, except in relation to white fish of such description or quality as may be so

Power of  
Commission  
to regulate  
marketing  
of white  
fish.

defined, the use, in any manner or circumstances specified in the regulations, of such designation, mark or other means as may be so prescribed for indicating that such fish are of that description or quality :

PART I.  
—cont.

Provided that regulations under this subsection shall be of no effect if and so far as they are inconsistent with any regulations made with regard to fishery produce under section one or section two of the Agricultural Produce (Grading and Marking) Act, 1928, as amended by the Agricultural Produce (Grading and Marking) Amendment Act, 1931.

18 & 19  
Geo. 5. c. 19.  
21 & 22  
Geo. 5. c. 40.

(2) With a view to improving the condition in which white fish are offered for sale, the Commission may make regulations for determining the manner in which white fish are to be graded or packed for purposes of trade.

(3) The Commission may make regulations regulating the carrying on, in Great Britain, of any of the businesses of curing, salting, drying, smoking or canning white fish—

- (a) by prescribing the quality of white fish which may be used for the purpose of that business, and the manner and extent to which any process applied to white fish in the course of that business is to be so applied ;
  - (b) by prescribing the condition in which premises, plant and utensils used for the purpose of that business are to be maintained ;
  - (c) by making provision for securing the cleanliness and purity of the materials used in treating white fish for the said purpose.
- (4) The Commission may make regulations—

- (a) for regulating the holding and conduct of auctions in respect of white fish, and, in particular, for fixing or limiting the number of places at which such auctions may be separately held at any one place or set of premises at the same time ;
- (b) for fixing or limiting the charges that may be made by any person in respect of sales of white fish which are effected by him on behalf of another person (whether by auction or on commission or otherwise), or in respect

PART I.  
—cont.

of goods supplied, or services rendered, by him in connection with the consignment of white fish to him for sale as aforesaid;

- (c) for requiring that where, in the case of any white fish consigned for sale on commission, the salesman makes a charge by way of commission or otherwise, he shall enter in a book kept by him for the purpose the names of the owner or consignor of the fish and of every purchaser, and the price paid or agreed to be paid by each purchaser, and shall, as soon as practicable after the sale, send by post or deliver to the owner or consignor an account containing the following particulars:—

(i) the actual price paid or agreed to be paid for the fish and, where there is any variation in price, the number, weight or quantity sold, or agreed to be sold, at each price,

(ii) the commission or other charge made by the salesman for selling the fish, together with details of any charges made for services in connection with the sale,

(iii) the amounts, if any, paid or payable by the salesman on behalf of the owner or consignor in connection with the sale, with details thereof, and

(iv) if any of the fish are bought by the salesman or by any person on his behalf, a statement that those fish have been so bought.

(5) Any person carrying on the business of effecting sales of white fish by auction or of selling white fish by wholesale or the business of a person who effects sales of white fish consigned to him for sale on commission shall, on demand made in that behalf by any person authorised in writing by the Commission, produce to the person so authorised, and allow him to examine, such books and other documents relating to the said business as he may reasonably require for the purpose of enabling the Commission to enforce any regulations having effect by virtue of paragraph (b) or paragraph (c), as the case may be, of the last preceding subsection and any such regulations may require persons carrying



on business as aforesaid to keep, in such form as may be prescribed by or under the regulations, such books and other documents as the Commission considers necessary for the said purpose.

(6) Any regulations under subsection (2), subsection (3) or subsection (4) of this section may be made so as to relate only to a particular area or a particular description of white fish.

(7) Regulations under this section may provide, in relation to any provisions of such regulations, that a person contravening those provisions shall be liable on summary conviction to such penalties, not exceeding a fine of one hundred pounds or imprisonment for a term of three months or both, as may be specified in the regulations.

(8) With a view to securing compliance with any regulations having effect by virtue of this section, any person authorised in that behalf in writing by the Commission shall, on producing, if so required, some document showing his authority, have a right to enter and inspect, at any reasonable time, any vessel or premises which the Commission has reasonable cause to believe to be used by way of trade for any purpose connected with the marketing of white fish.

(9) Where the amount of any charge is fixed or limited by virtue of any regulations under this section, no sum shall, by way of that charge, be recoverable in excess of the amount at or to which it is so fixed or limited; and if any sum is paid by any person from whom, by virtue of this subsection, it is not recoverable, the amount of that sum shall be a debt due to that person from the person to whom the sum is paid.

(10) No regulations under this section shall be of any effect unless and until they have been confirmed by the Ministers, and the provisions of the Third Schedule to this Act shall have effect with respect to the making, confirmation and publication of such regulations.

#### *Marketing schemes.*

5. The Commission may submit to the Ministers a scheme (hereafter in this Act referred to as "a marketing scheme") for regulating the marketing of white fish by persons carrying on in Great Britain any designated business other than the business of curing, salting,

Submission  
of market-  
ing schemes  
to Ministers.

PART I.  
—cont.

drying, smoking or canning white fish, being a scheme which has been prepared either by the Commission or by some body appearing to the Commission to be substantially representative of the interests of persons so carrying on that designated business; and, subject to the following provisions of this Part of this Act, the Ministers may confirm the scheme :

Provided that the Commission shall not submit a marketing scheme to the Ministers except after consultation with such bodies as appear to the Commission to be substantially representative of the interests of persons carrying on in Great Britain the business to which the scheme relates.

Registration  
under  
marketing  
schemes.

6.—(1) A marketing scheme for regulating any activity on the part of persons carrying on any designated business shall be of no effect unless provision is made by the scheme whereby any person carrying on that business in Great Britain is entitled, on application made by him in that behalf, to be registered under the scheme as carrying on that business, and the scheme may provide that, on and after such date as may be specified in the scheme, no person shall carry on that business unless he is either registered under the scheme or, by virtue of the provisions of the scheme or of this Part of this Act, exempt from registration thereunder.

(2) If any person carries on any business in contravention of any provisions of a marketing scheme which have effect by virtue of the preceding subsection, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding twenty pounds for every day on which the offence continues after conviction therefor and also, in the case of a second or subsequent conviction, to imprisonment for a term not exceeding three months.

(3) If and so long as any person is registered under a marketing scheme as carrying on a designated business,—

- (a) he shall be exempt from any obligation to be registered in the Commission's register as carrying on that business, and
- (b) it shall be the duty of the Commission to secure that he is not so registered.

7.—(1) A marketing scheme shall be of no effect unless provision is thereby made for the administration of the scheme by a board, which shall be constituted as follows, that is to say :—

- (a) the number of members of the board shall be nine, or such greater number being an exact multiple of three as may be specified in the scheme;
- (b) the members of the board shall—
  - (i) as to so many of them, not being less than three nor more than one-third of their number, as the scheme may specify, be persons appointed by the Ministers, and
  - (ii) as to the rest, be persons elected in accordance with the scheme by persons registered thereunder;
- (c) such one of the members so appointed as the Ministers may designate shall be chairman of the board, and such other one of those members as the Ministers may designate shall be vice-chairman of the board :

Provided that during such period, not being longer than twelve months from the day on which the scheme comes into operation as may be specified in the scheme, the members of the board, other than those appointed by the Ministers, shall be persons named in the scheme.

(2) Every person who, by virtue of an appointment of the Ministers, is a member of the board administering a marketing scheme shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but any such person may, notwithstanding anything in such an instrument, resign his office by a notice given under his hand to the Ministers, and, upon ceasing to hold office, shall be eligible for reappointment to the board.

(3) It shall be the duty of the Ministers to satisfy themselves, with respect to any person whom they propose to appoint to be a member of the board to administer a marketing scheme, that that person will have no such financial or commercial interest as is likely to affect him in the discharge of his functions as a member of the board, and also to satisfy themselves from time to time, with respect to any person who, by virtue of an appointment of the Ministers, is a member of the board, that he has no such interest as aforesaid;

PART I.

—cont.

Constitution  
of boards  
to adminis-  
ter market-  
ing schemes.

PART I.  
—*cont.*

and any such person shall, whenever requested by the Ministers so to do, furnish to them such information as they consider necessary for the performance of their duty under this subsection.

## Marketing provisions of producers' marketing schemes.

8.—(1) A marketing scheme for regulating the marketing of white fish by persons carrying on the business of a home producer of white fish (hereafter in this Act referred to as “a producers' marketing scheme”) may provide—

(a) for determining from time to time—

(i) the quantity of white fish which may be sold by any person registered under the scheme;

(ii) the price, at, below or above which, and the terms on which, white fish or any quantity of white fish may be sold as aforesaid;

(b) for determining the manner in which white fish is to be graded, packed, stored, adapted, offered or exposed for sale, or treated by or on behalf of persons registered under the scheme;

and the scheme may provide for determining any of the matters aforesaid either generally or in relation to particular areas or particular descriptions of white fish.

(2) If and so long as a determination of any of the matters mentioned in the preceding subsection, being a determination made, with respect to any class of persons, under provisions of a scheme which are authorised by that subsection, has effect in relation to any area or any description of white fish, any regulations of the Commission under this Part of this Act which provide for the determination of that matter in relation to that area or that description of white fish, shall, so far as those regulations apply to the same class of persons, be of no effect.

## Licensing provisions of producers' marketing schemes.

9.—(1) A producers' marketing scheme may provide for regulating, by means of a system of licences, the landing of white fish in Great Britain, and for that purpose may contain provisions—

(a) for securing that a person registered under the scheme shall not cause any white fish to be landed in Great Britain from a fishing-boat registered in the United Kingdom or any other part of his Majesty's dominions, or from a British

fishing-boat registered at any port of registry established by Order in Council under the Merchant Shipping Act, 1894, except under the authority of a licence granted by the board in respect of that boat;

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—cont.

57 & 58 Vict.  
c. 60.

(b) for determining the period for which any licence granted under the scheme shall remain valid (subject to the renewal, suspension or revocation of the licence), for the renewal and transfer of licences in such circumstances as may be specified in the scheme, and for enabling the board to charge, in respect of the grant, renewal or transfer of a licence, such fee as may be authorised by the scheme;

(c) for enabling the board—

(i) to give with respect to the equipment of, or the operations conducted on board, any boat in relation to which a licence under the scheme is in force, such directions as the board thinks desirable for the purpose of promoting efficiency or economy in the production, storage or treatment of white fish;

(ii) in particular, but without prejudice to the generality of the powers which may be conferred by virtue of the preceding subparagraph, to give, with respect to any such boat as aforesaid, directions for limiting the quantity of white fish (taken either in any waters whatever or in any particular waters) which may be landed from the boat in Great Britain or any part thereof on any particular occasion, or the number of landings of white fish so taken which may be effected from the boat in Great Britain or any part thereof during any specified period;

(iii) to vary from time to time, or revoke, any directions given by virtue of this paragraph, and (without prejudice to any provisions of the scheme requiring the board to impose penalties) to revoke, or suspend the operation of a licence in relation to any boat in the event of a contravention of any such direction given in respect of that boat;

and for securing that any quantity of white fish landed in contravention of any directions

PART I.  
—cont.

having effect by virtue of sub-paragraph (ii) of this paragraph shall become the property of the board and may be disposed of by the board accordingly; and

- (d) (subject to the provisions of the next following subsection with respect to compensation) for enabling the board to suspend the operation of a licence granted under the scheme in respect of any boat, if and so far as it appears to the board to be desirable so to do for the purpose of promoting economy in the production of white fish.

(2) No provisions contained in a producers' marketing scheme by virtue of the preceding subsection shall be of any effect unless provision is also made by such a scheme—

- (a) for securing that the grant of a licence under the scheme shall not be refused, except—

(i) on the ground that, in the opinion of the board, a sufficient number of licences are already in force, regard being had to the demand for white fish, or

(ii) on such other ground (if any) as may be specified in the scheme;

- (b) directing, that until such date after the coming into operation of the scheme as may be specified therein, the grant of a licence under the scheme shall not, except on the ground mentioned in sub-paragraph (i) of the preceding paragraph, be refused in relation to any boat as to which the board is satisfied either—

(i) that, at the time of the coming into operation of the scheme, the boat was in the possession of a home producer of white fish and was being used, or was fit to be used, for the production of white fish, and had been continuously in the possession of one or more home producers of white fish since the beginning of the fourth day of November nineteen hundred and thirty-seven, or

(ii) that, before the fourth day of November nineteen hundred and thirty-seven a contract had been entered into for the construction

of the boat being a contract under which delivery of the boat was to be taken by a home producer of white fish;

(c) for securing—

(i) that where an application for a licence under the scheme is refused on the ground mentioned in sub-paragraph (i) of paragraph (a) of this subsection, or the operation of such a licence is suspended by the board in the exercise of any power conferred on it by virtue of paragraph (d) of subsection (1) of this section, the board shall, in accordance with such principles as may be determined by the scheme, pay to the applicant or the holder of the licence, as the case may be, compensation for any direct loss which he may suffer by reason of the refusal or suspension, and

(ii) that where such an application is refused on any other ground, the board is enabled to pay such compensation to the applicant;

and for determining the manner in which compensation under the scheme is to be claimed and assessed;

(d) enabling any person aggrieved by any refusal of the board to grant, renew or transfer a licence under the scheme, or by any decision of the board to revoke or suspend the operation of such a licence, to appeal to the Commission, and determining the powers exercisable by the Commission on any such appeal; and

(e) for the reference to arbitration of any dispute on the question whether or not any compensation is recoverable under the scheme, or as to the amount of any compensation so recoverable:

Provided that the scheme shall not (except in such circumstances as may be specified therein) require or authorise the board to pay compensation to any person in consequence of any decision of the board to refuse to grant a licence in respect of a boat the construction of which, or a contract for the construction of which, had not been begun or entered into, as the case may be, before the fourth day of November nineteen hundred and thirty-seven.

PART I.  
—cont.

(3) Any reference in the preceding subsection to the construction of a boat shall be construed as including a reference to the adaptation of the boat for use for the purpose of, or in connection with, the taking of white fish.

Special provisions of distributors' marketing schemes.

**10.** A marketing scheme for regulating the marketing of white fish by persons carrying on any designated business, not being either the business of a home producer of white fish or the business of curing, salting, smoking, drying or canning white fish, may provide for determining, subject to any regulations of the Commission,—

- (a) the manner and condition in which any premises or vehicles used by any person registered under the scheme, for the purpose of carrying on the business in respect of which he is so registered, are to be equipped and maintained for that purpose;
- (b) the manner in which white fish may be stored, or adapted, offered or exposed for sale, by any such person;

and the scheme may provide for determining any of the matters aforesaid either generally or in relation to particular areas or particular descriptions of white fish.

Performance of services by boards administering marketing schemes.

**11.** A marketing scheme may provide for enabling the board—

- (a) to conduct, and to promote or encourage by financial assistance or otherwise, research and experiments in matters relating to the production, treatment or distribution of white fish;
- (b) to take measures for increasing the consumption of white fish, whether by means of advertising or the giving of demonstrations and instruction with respect to the use thereof, or otherwise;
- (c) to collect, and to communicate to persons registered under the scheme, statistics and other information the knowledge of which appears to the board to be likely to promote efficiency in the carrying on of the business in respect of which such persons are so registered;
- (d) to purchase on behalf of, or to make arrangements for supplying to, persons registered under the scheme any such commodities (other than



white fish) as are required for the carrying on by such persons of the business in respect of which they are so registered;

PART I.  
—cont.

(e) in the case of a producers' marketing scheme—

(i) to take measures for increasing or conserving the stocks of white fish, or any description of white fish, on any fishing ground, whether by transplantation or otherwise; and

(ii) (so far as appears to the board to be desirable with a view to the progressive renewal of the fleet of boats in relation to which licences under the scheme may be necessary) to purchase by agreement any boats in relation to which such licences are in force; and

(f) to co-operate with any other persons in the exercise of any powers conferred on the board by virtue of the preceding provisions of this section.

12.—(1) Any marketing scheme may provide for the following matters, that is to say,—

Miscellaneous provisions which may be contained in marketing schemes.

(a) for requiring persons registered under the scheme to furnish to the board such estimates, returns, accounts and other information as the board considers necessary for the operation of the scheme;

(b) for empowering any person authorised in writing in that behalf by the board, on production of his authority, to enter or go on board, and to inspect, any premises, boat or vehicle which the board has reason to believe to be used for the purpose of any business the carrying on of which is controlled by the scheme;

(c) for making exemptions from all or any of the provisions of the scheme in respect of such classes of persons, and such activities, as may be specified in the scheme or determined by the board;

(d) for requiring the board to impose on, and to recover from, any person registered under the scheme who contravenes or fails to comply with any provision of the scheme, such monetary penalties as may be specified in the scheme;

PART I.  
—*cont.*

- (e) for securing that the expenses incurred by the board under the scheme shall be defrayed by means of contributions to be made to the board by persons registered under the scheme, and for the assessment and recovery of such contributions; and
- (f) for the reference to arbitration—

(i) of any dispute on the question whether or not any sum is payable by any person by way of contribution under the scheme, or as to the amount of any sum so payable, and

(ii) of disputes as to any such other matters as may be specified in the scheme;

and may further contain such provisions with respect to registration and finance as are authorised by Part I of the Fourth Schedule to this Act:

Provided that a marketing scheme shall not authorise the imposition or recovery of any penalty in respect of any act or omission which constitutes an offence apart from the provisions of such a scheme.

(2) Any agreement made with a person engaged to serve on board a fishing-boat shall be void if and so far as it purports to oblige him to make any payment or allowance, or suffer any charge, in respect of a contribution paid or payable by another person under provisions of a marketing scheme having effect by virtue of paragraph (e) of the preceding subsection.

(3) The provisions of Part II of the Fourth Schedule to this Act (which relate to the incorporation, registration and winding-up of boards), and the provisions of Part III of that Schedule (which relate to the effect of schemes on contracts), shall have effect in relation to any marketing scheme.

Provisions  
as to the  
submission,  
confirmation,  
amendment  
and revoca-  
tion of  
marketing  
schemes.

**13.**—(1) Before submitting a marketing scheme to the Ministers, the Commission shall cause to be published, in the Gazettes and in such other manner as the Ministers may direct with a view to informing persons affected, a notice stating that the scheme has been made, and specifying the place where the scheme may be inspected and copies thereof obtained, and the price (being a price approved by the Ministers) at which such copies will be

supplied, and the time (not being less than twenty-eight days after publication of the said notice in the *Gazettes*) within which written objections and representations with respect to the scheme may be sent to the Ministers.

(2) Where a marketing scheme has been submitted to the Ministers, they shall consider any objections and representations duly made with respect to the scheme, and may, after holding such inquiries (if any) as they think fit, make such modifications in the scheme as they may, after consulting the Commission, think proper :

Provided that—

(a) where an objection to the scheme has been duly made to the Ministers by any person appearing to them to be affected thereby, and has not been withdrawn, the Ministers, unless they consider the objection to be frivolous or irrelevant or unless the scheme has been modified as required by the objection, shall, before taking any further action in the matter of the scheme, direct the holding of an inquiry with respect to the objection and consider the report of the person who held the inquiry; and

(b) if the Ministers decide to make any modifications in the scheme, they shall cause notice of the proposed modifications to be published in such manner as they think best adapted for informing persons affected.

(3) If, after the preceding provisions of this section have been complied with in relation to a marketing scheme, the Ministers decide to proceed in the matter of the scheme, they shall forthwith direct the Commission to cause a poll of the appropriate registered persons to be taken in the prescribed manner, and shall take no further action in the matter of the scheme unless the result of the poll shows that at least half the total number of appropriate registered persons have voted, and that at least two-thirds of all the votes polled have been cast in favour of the scheme.

(4) Subject to the provisions of the last preceding subsection, the Ministers, if satisfied with respect to any marketing scheme that the scheme is desirable in the public interest and would be likely to promote efficiency

PART I.  
—cont.

in the carrying on of the class of business to which the scheme relates, may lay a draft of the scheme before Parliament, and if each House of Parliament resolves that the scheme be approved, the Ministers shall make an order confirming the scheme in terms of the draft.

The Ministers shall, at the same time as they lay any draft of a marketing scheme before either House of Parliament for approval, lay before that House a statement of the result of the poll which, in pursuance of the last preceding subsection, has been taken in relation to that scheme.

(5) Any power conferred by this Part of this Act to prepare, submit or confirm a marketing scheme shall be construed as including a power, exercisable in the like manner and subject to the like conditions, to prepare, submit or confirm a scheme amending or revoking a marketing scheme which is already in operation:

Provided that it shall not be necessary to take any poll under subsection (3) of this section in relation to such an amending scheme if, within one month after a copy of the draft scheme in the terms in which the Ministers propose to lay the draft before Parliament has been delivered by the Ministers to the board administering the scheme to be amended, that board gives written notice to the Ministers that, in the opinion of the board, such a poll in relation to the amending scheme can properly be dispensed with.

(6) If, in the case of any marketing scheme for the time being in force, a request for a poll on the question whether or not the scheme should be revoked is made in writing by or on behalf of the prescribed number of persons registered under the scheme to the board administering the scheme, the board shall forthwith communicate the request to the Commission, and thereupon the Commission shall cause a poll of persons so registered to be taken in the prescribed manner, and shall communicate the result of the poll to the Ministers; and if the result of the poll shows that not less than half the total number of votes polled have been cast in favour of revocation of the scheme, the Ministers shall by order revoke the scheme:

Provided that no poll under this subsection on the question whether or not a scheme should be revoked shall,

without the consent of the board administering the scheme, be taken—

PART I.  
—cont.

(a) within the two years immediately following the date on which the order confirming that scheme was made, or

(b) within such period after the date of the declaration of any previous poll taken under this subsection in relation to that scheme as may be specified in the scheme.

(7) Without prejudice to any other powers conferred on them by this Part of this Act, the Ministers, if, after consulting the Commission, they are of opinion that any provision of a marketing scheme, or any act or omission in the administration of such a scheme, is contrary to the interest of consumers of white fish, or that any such provision, act or omission is contrary to the interest of a substantial number of persons affected by the scheme and is not in the public interest, may lay before Parliament the draft of an order revoking the scheme, and if each House of Parliament resolves that the order be approved, the Ministers shall make the order in terms of the draft.

(8) The provisions contained in Part IV of the Fourth Schedule to this Act (being incidental provisions with respect to the revocation of schemes) shall have effect in relation to any marketing scheme.

(9) The revocation of a marketing scheme shall be without prejudice to the making, submission and approval of a new scheme.

(10) In this section—

(a) the expression “ appropriate registered persons ” means—

(i) in relation to an original marketing scheme, persons who, at the beginning of the relevant day, are persons registered in the Commission's register as carrying on the class of business to which the scheme relates and are not exempted by the provisions of the scheme from registration thereunder; or

(ii) in relation to a scheme amending or revoking a marketing scheme, persons who, at the beginning of the relevant day,

PART I.  
—cont.

are persons registered under the scheme which it is proposed to amend or revoke, or registered in the Commission's register as carrying on the class of business to which the scheme relates, not being persons exempted from registration by the provisions of the revoking scheme or, as the case may be, by the provisions of the original scheme as proposed to be amended;

- (b) the expression "the relevant day" means such day falling after the expiration of two months from the commencement of this Act as may be prescribed; and
- (c) the expression "prescribed" means prescribed by regulations of the Ministers.

(11) In relation to a marketing scheme for regulating, in any respect, the carrying on of two or more designated businesses, this section shall have effect as if for subsections (3) and (6) thereof there were respectively substituted the subsections directed by the Fifth Schedule to this Act to be substituted therefor.

Regulations governing the conduct of polls.

14.—(1) The Ministers may make, in relation to schemes generally or in relation to any particular scheme or class of schemes, regulations prescribing the manner in which polls are to be taken for the purposes of the last preceding section, and containing provisions for determining the number of votes which a person entitled to vote at any poll so taken may cast; and the regulations shall secure that, for the purpose of determining the said number of votes, there is taken into account the extent (calculated by reference to such factors as may be specified in the regulations) to which the voter has been or is carrying on the relevant designated business in Great Britain.

(2) Any such regulations as aforesaid—

(a) may apply, with any necessary modifications, any enactments (including the penal provisions thereof) relating to parliamentary or local government elections and to the prevention of corrupt and illegal practices thereat;

(b) may prescribe the information which, before or at the time of voting, is to be furnished

by every person entitled to vote, and the manner in which the information is to be furnished, and may require the rejection of the vote of any person who fails to furnish the prescribed information in the prescribed manner.

PART I.  
—cont.

15.—(1) If a marketing scheme takes effect, the Ministers shall constitute two committees, of which one shall be a consumers' committee for the purposes of this Part of this Act and is hereafter in this Part of this Act referred to as "the consumers' committee", and the other shall be a committee of investigation for the said purposes and is hereafter in this Part of this Act referred to as "the committee of investigation".

Appointment and functions of consumers' committee and committee of investigation.

(2) The consumers' committee—

(a) shall consist of a chairman and not less than six other members, who shall be persons appointed by the Ministers to represent the interests of consumers of white fish, and

(b) shall be charged with the duty of considering and reporting to the Ministers on—

(i) the effect of any marketing scheme which is for the time being in force, on consumers of white fish, and

(ii) any complaints made to the committee as to the effect of any such scheme on consumers of white fish.

(3) The committee of investigation—

(a) shall consist of a chairman and four other members appointed by the Ministers, and

(b) shall be charged with the duty, if the Ministers in any case so direct, of considering, and reporting to the Ministers on any report made by the consumers' committee and any complaint made to the Ministers as to the operation of any marketing scheme which, in the opinion of the Ministers, could not properly be considered by the consumers' committee under the last preceding subsection.

(4) For the purpose of enabling either of the committees appointed under this section to consider any matter which it is its duty under this section to consider,

PART I.  
—cont.

the board administering the scheme to which the matter relates shall furnish to the committee such accounts and other information relating to the affairs of the board as the committee may reasonably require, and shall be entitled to make representations to the committee with respect to the matter in such manner as may be prescribed by regulations of the Ministers.

(5) If the committee of investigation reports to the Ministers that any provision of a marketing scheme or any act or omission of a board administering such a scheme is contrary to the interests of consumers of white fish, or that any such provision, act or omission is contrary to the interests of any persons affected by the scheme and is not in the public interest, the Ministers, if they think fit so to do after considering the report,—

- (a) may by order make such amendments in the scheme as they consider necessary or expedient for the purpose of rectifying the matter ;
- (b) may by order revoke the scheme ;
- (c) in the event of the matter being one which it is within the power of the board administering the scheme to rectify, may by order direct the board to take such steps to rectify the matter as may be specified in the order ;

and it shall be the duty of the board administering such a scheme to comply with any directions applying to that board which are contained in an order under paragraph (c) of this subsection :

Provided that—

- (i) every order under paragraph (a) or paragraph (c) of this subsection shall, as soon as may be after it is made, be laid before Parliament, and if either House of Parliament within the next twenty-eight days on which that House has sat after any such order is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making of a new order ;
- (ii) an order under paragraph (b) of this subsection shall not take effect unless and until it has been approved by a resolution of each House of Parliament ; and



(iii) before taking any action under this subsection the Ministers shall give the board administering the scheme notice of the action which they propose to take, and shall consider any representations made by the board within fourteen days after the date of the notice.

PART I.  
—cont.

(6) In considering for the purpose of this section whether any person represents the interests of consumers of white fish, or whether any provision of a marketing scheme or any act or omission of the board administering such a scheme is contrary to the interests of consumers of white fish, regard shall be had to the interests of persons who individually or collectively purchase white fish for their own consumption or use, and not to the interests of persons who purchase white fish for the purpose of any trade or industry carried on by them.

16.—(1) The Ministers may appoint a secretary to each of the committees constituted under the last preceding section, and each of those committees may employ such other officers, and such servants, as the Ministers may, with the approval of the Treasury, determine.

Incidental provisions as to consumers' committee and committee of investigation.

(2) The members of each of the said committees shall hold and vacate office in accordance with the terms of the respective instruments under which they are appointed, and the meetings, quorum and procedure of the said committees shall be regulated in accordance with such regulations as may be made by the Ministers for the purpose, and the committees shall have power to act notwithstanding any vacancy among the members thereof.

17.—(1) Upon the coming into operation of a marketing scheme, the board shall pay to the Commission, and, if the Ministers so direct, pay to any other person designated by the Ministers, the amounts certified by the Ministers to represent the expenses properly incurred by the Commission and by that other person, respectively, in connection with the taking of the relevant poll or otherwise in connection with the preparation and promotion of the scheme; and any expenses incurred by the board under this subsection shall be deemed to be expenses incurred by it under the scheme.

Payment of expenses of promoting marketing schemes.

PART I.  
—*cont.*

(2) Where a motion made in either House of Parliament on behalf of His Majesty's Government for the approval of a marketing scheme, the draft of which has been laid before that House in accordance with this Part of this Act, is negatived or withdrawn, the Minister of Agriculture and Fisheries may, with the approval of the Treasury, pay to any person such amount, if any, as may be certified by the Ministers to represent the expenses properly incurred by that person in connection with the preparation and promotion of the scheme.

*Co-operative Schemes for In-shore Fishermen.*

Co-operative  
schemes.

18.—(1) If, with respect to any class of persons carrying on the business of a home producer of white fish within an area in Great Britain, the Commission is satisfied—

- (a) that no useful purpose would be served by the application of a marketing scheme to such persons, and
- (b) that measures should be taken to promote co-operation between such persons in the marketing of white fish,

the Commission may, subject to the following provisions of this Part of this Act, submit to the appropriate Minister a scheme (hereafter in this Part of this Act referred to as "a co-operative scheme") applicable to that area, for enabling a body constituted under the scheme as representing the interests of such persons as aforesaid (hereafter in this Part of this Act referred to as "the authorised body") to exercise such control, and perform such services, as may be authorised under the following provisions of this section.

- (2) A co-operative scheme may make provision—
  - (a) incorporating the authorised body, providing for the manner in which that body is to be constituted, and specifying the class of persons whose interests are to be represented by that body;
  - (b) enabling the authorised body—
    - (i) to direct that no person registered under the scheme shall sell white fish, or any particular description of white fish, otherwise than to or through the agency

of the authorised body or such persons as that body may designate ;

(ii) to acquire, deal with and dispose of white fish, and any such other property as the said body considers it desirable, for the discharge of its functions under the scheme, to acquire ;

(iii) to purchase on behalf of, or to make arrangements for supplying to, persons registered under the scheme any such things as are required by them for the carrying on of their business ;

(iv) to take such other measures as the authorised body thinks desirable with a view to promoting or encouraging economy and efficiency in the carrying on of their business by such persons as aforesaid ;

(v) to co-operate with any persons in the exercise of any powers conferred upon the authorised body by virtue of sub-paragraphs (ii), (iii) and (iv) of this paragraph ;

and to make such charges in respect of services performed by the said body as may be authorised by the scheme ;

- (c) for making exemptions from all or any of the provisions of the scheme in respect of such classes of persons, and such activities, as may be specified in the scheme or determined by the authorised body ;
- (d) for securing that the expenses lawfully incurred by the authorised body in connection with the operation of the scheme shall be defrayed by means of contributions to be made to that body by persons registered under the scheme, and for the assessment and recovery of such contributions ;
- (e) for requiring persons registered under the scheme to furnish to the authorised body such estimates, returns, accounts and other information as that body considers necessary for the operation of the scheme ;
- (f) for the reference to arbitration of any dispute on the question whether or not any sum is

PART I.  
—cont.

payable by any person by way of contribution under the scheme, or as to the amount of any sum so payable.

(3) A co-operative scheme containing such provisions as are authorised by sub-paragraph (i) of paragraph (b) of subsection (2) of this section shall be of no effect unless provision is made by such a scheme requiring the authorised body to impose on, and to recover from, any person who contravenes or fails to comply with the said provisions such monetary penalties as may be specified in the scheme :

Provided that a co-operative scheme shall not authorise the imposition or recovery of any penalty in respect of any act or omission which constitutes an offence apart from the provisions of such a scheme.

Registra-  
tion under  
co-operative  
schemes.

**19.**—(1) A co-operative scheme shall be of no effect unless provision is made by the scheme whereby any person of the class whose interests are, by virtue of the scheme, to be represented by the authorised body is entitled, on application made by him in that behalf, to be registered under the scheme; and the scheme may provide that, on and after such date as may be specified in the scheme, no such person shall carry on business as a home producer of white fish in the area to which the scheme is applicable, unless he is either registered under the scheme or, by virtue of the provisions of the scheme, exempt from registration thereunder.

(2) If any person carries on business in contravention of any provisions of a co-operative scheme which have effect by virtue of the preceding subsection, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding twenty pounds for every day on which the offence continues after conviction therefor.

(3) If and so long as any person is registered under a co-operative scheme,—

(a) he shall be exempt from any obligation to be registered in the Commission's register, or under a producers' marketing scheme, as carrying on the business of a home producer of white fish, and

PART I.  
—cont.

- (b) it shall be the duty of the Commission and of the board administering any producers' marketing scheme to secure that he is not so registered as aforesaid.

20.—(1) Where a co-operative scheme is duly submitted to the appropriate Minister, then, if he is satisfied—

Provisions with respect to submission, confirmation, amendment and revocation of co-operative schemes.

- (a) that the scheme is likely to promote efficiency or economy in the production and marketing of white fish or to increase the demand for white fish, and is desirable in the public interest, and
- (b) that there is a preponderating opinion in favour of confirmation of the scheme among the persons of the class whose interests are by virtue of the scheme to be represented by the authorised body,

he may, subject to the following provisions of this section, lay a draft of the scheme before Parliament, and if each House of Parliament resolves that the scheme be approved, the appropriate Minister shall make an order confirming the scheme in terms of the draft.

(2) The Commission shall, before submitting a co-operative scheme to the appropriate Minister, cause to be published, in such manner as he may direct, a notice stating that the scheme has been made, and specifying the place where the scheme may be inspected and copies thereof obtained, and the price (being a price approved by the said Minister) at which such copies will be supplied, and the time (not being less than twenty-eight days after publication of the notice) within which objections to the scheme and representations with respect thereto may be made in writing to the said Minister.

(3) The appropriate Minister, before laying the draft of a co-operative scheme before Parliament, shall consider any objections to the scheme and representations with respect thereto which have been duly made to him, and may, after holding such inquiries (if any) as he thinks fit, make such modifications in the scheme as he may, after consulting the Commission, consider desirable :

Provided that—

- (a) where an objection to the scheme has been duly made by any person appearing to the

PART I.  
—cont.

appropriate Minister to be affected thereby, and has not been withdrawn, the said Minister, unless he considers the objection to be frivolous or irrelevant or unless the scheme has been modified as required by the objection, shall, before taking any further action with respect to the scheme, direct the holding of an inquiry with respect to the objection and consider the report of the person holding the inquiry; and

- (b) if the appropriate Minister decides to make any modifications in the scheme, he shall cause notice of the proposed modifications to be published in such manner as he thinks best adapted for informing persons affected.

(4) Any power conferred by this Part of this Act to make, submit or confirm a co-operative scheme shall include a power, exercisable in the like manner and subject to the like conditions, to make, submit or confirm a scheme amending or revoking a co-operative scheme.

(5) The appropriate Minister may by order revoke a co-operative scheme, if it appears to him, after consultation with the Commission, that there is a preponderating opinion in favour of revocation of the scheme among the persons of the class whose interests are by virtue of the scheme to be represented by the authorised body, or that the scheme is not serving the purposes for which it was made, or that the continued operation of the scheme would be contrary to the public interest, but the revocation of a co-operative scheme shall be without prejudice to anything previously done under the scheme or to the making, submission or confirmation of a new scheme.

(6) An order revoking a co-operative scheme may make provision with respect to the winding up of the authorised body, and with respect to the disposal of any assets of that body remaining after the payment of its debts and liabilities and of the cost and expenses of the winding up.

Loans to  
meet initial  
expenses of  
authorised  
bodies.

**21.**—(1) The Minister of Agriculture and Fisheries, upon a recommendation of the Commission in that behalf, may make such advances by way of loan to the authorised body constituted under a co-operative scheme as the Ministers and the Treasury may approve

as being necessary for the purpose of providing for expenses incurred by that body in connection with the initial operation of the scheme.

PART I.  
—cont.

(2) Every loan under this section shall be made on such terms, and subject to such conditions, as the Ministers, with the approval of the Treasury, may determine.

(3) No such loan as aforesaid shall be made after the expiration of the period of five years from the commencement of this Act, and not more than ten thousands pounds in all shall be advanced by way of loans under this section.

### *General and Supplementary Provisions.*

22.—(1) Every person who applies to be registered in the Commission's register as carrying on the business of a home producer of white fish, shall pay to the Commission, for each fishing-boat which is in his possession at the date of the application, such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business; and every person who applies to be registered in the Commission's register as carrying on any other designated business, shall pay to the Commission—

Registration fees  
payable to  
Commission.

(a) for each set of premises at which he is carrying on that business in Great Britain at the said date, and

(b) (if and so far as that business involves the use of vehicles for the purpose of offering or exposing white fish thereon for sale) for each vehicle used or intended to be used for that purpose which, at the said date, is in his possession in Great Britain,

such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business.

(2) Every person who, at the beginning of any financial year after the date on which he was first registered in the Commission's register as carrying on the business of a home producer of white fish, is a person registered in that register as carrying on that business, shall pay to the Commission, for every fishing-boat which, at the beginning of that year, is shown in the said

PART I.  
—*cont.*

register as being in his possession, such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business; and every person who, at the beginning of any financial year after the date on which he was first registered in the Commission's register as carrying on any other designated business, is a person registered in that register as carrying on that business, shall pay the Commission—

- (a) for each set of premises which, at the beginning of that year, is shown in the said register as premises at which he is carrying on that business in Great Britain, and
- (b) for each vehicle which, at the beginning of that year, is shown in the register as being in his possession in Great Britain,

such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business.

(3) Any fee payable by a person to the Commission under the last preceding subsection shall be taken to accrue due from that person to the Commission at the beginning of the financial year in respect of which the fee is payable; and any fee so payable may (without prejudice to the recovery thereof as a debt due to the Crown) be recovered by the Commission summarily as a civil debt.

(4) Any order under this section shall be laid before Parliament as soon as may be after it is made, and if either House of Parliament, within the next twenty-eight days on which that House has sat, after any such order is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making of a new order.

Power of  
Commission  
to receive  
and apply  
voluntary  
contribu-  
tions for  
general  
benefit of

23.—(1) The Commission shall have power to accept payments voluntarily made to it by any person, and may, after consulting the Joint Council, apply such payments for the purpose of promoting or conducting research and experiments in matters affecting the white fish industry, for the purpose of taking any measures which the Commission thinks likely to increase the consumption of white fish, and for any other purpose



the effecting of which appears to the Commission to be likely to be of benefit to the said industry as a whole.

(2) The board administering any marketing scheme shall have power to make voluntary contributions to the Commission, to be applied by the Commission in the exercise of its powers under the preceding subsection; and any payment made by the board under this subsection shall be deemed to be expenses incurred by it under the scheme.

(3) All sums received by the Commission under this section shall be paid into a fund, which shall be established under the control of the Commission, and all expenditure of the Commission under subsection (1) of this section, and such other expenses of the Commission as may be determined by the Treasury to be attributable to the discharge of the functions of the Commission under this section, shall be defrayed out of that fund.

(4) The Commission shall prepare and submit to the Ministers, at such time, and in such form and manner, as they may determine, an account for each accounting period of sums received, and payments made, by the Commission under this section; and the Minister of Agriculture and Fisheries shall, on or before the thirtieth day of November next following the end of each accounting period transmit to the Comptroller and Auditor General the accounts for that accounting period which have been submitted to him under this subsection, and the Comptroller and Auditor General shall examine and certify the said accounts and lay copies thereof, together with his report thereon before Parliament.

(5) In this section the expression "accounting period" means—

- (a) the period beginning at the commencement of this Act and ending with the thirty-first day of March nineteen hundred and thirty-nine;
- (b) the financial year ending with the thirty-first day of March nineteen hundred and forty or any subsequent financial year.

24. Without prejudice to any special provisions having effect by virtue of this Part of this Act, the Commission may from time to time serve on any person registered in the Commission's register, or on the board administering any marketing scheme, or on the

PART I.  
—cont.  
white fish  
industry.

General  
power of  
Commission  
to obtain  
information.

PART I.  
—cont.

authorised body constituted under a co-operative scheme, a written notice requiring that person, board or body to furnish to the Commission such returns and other information specified in the notice as the Commission may require for the discharge of its functions under this Part of this Act or any scheme or regulations having effect by virtue of this Part of this Act.

Offences in connection with the making of returns, and in connection with obstruction.

**25.**—(1) If any person fails to produce or furnish to any authority or person any book or other document, or any estimate, return, account or other information, which he is required under or by virtue of this Part of this Act to produce or furnish to that authority or person, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for every day on which the failure continues, and if, in furnishing any information for the purposes of any of the provisions of this Part of this Act or any scheme made thereunder, any person knowingly or recklessly makes a statement false in a material particular, he shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

(2) Every person who wilfully obstructs any person in the exercise of any powers conferred on him by or under this Part of this Act shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for every day on which the offence continues after conviction therefor.

Restrictions on disclosure of information.

**26.** No information with respect to any particular undertaking which has been obtained under or by virtue of this Part of this Act shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of this Part of this Act or the execution of any regulations or scheme having effect by virtue of this Part of this Act; and if any person discloses any such information in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine or, on conviction on indictment, to imprisonment for a term not exceeding

two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine :

PART I.  
—cont.

Provided that nothing in this section shall apply to any disclosure of any information made for the purposes of any proceedings pursuant to this Part of this Act (including arbitrations), or any criminal proceedings which may be taken whether by virtue of this Part of this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

**27.**—(1) Any regulations or scheme under this Part of this Act may make provision for such matters as are incidental and supplementary to any of the matters for which provision is made by the regulations or scheme by virtue of the preceding provisions of this Part of this Act. Incidental provisions as to regulations and schemes.

(2) As soon as may be after making or confirming any regulations under this Part of this Act, the Ministers shall lay the regulations before Parliament, and if either House of Parliament, within the next twenty-eight days on which that House has sat after any such regulations are laid before it, resolves that the regulations be annulled, they shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making or confirmation of new regulations.

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

**28.**—(1) The Commission may hold such inquiries as it considers necessary or desirable for the discharge of any of its functions; and if the Ministers are satisfied that, for the purposes of any inquiry on the part of the Commission into a particular matter, it is necessary so to do, the Ministers may by order, specifying the matter to be inquired into, direct that in respect of any meeting of the Commission held for the purpose of inquiring into that matter, being a meeting at which not less than three members of the Commission are present, the Tribunals of Inquiry (Evidence) Act, 1921, shall apply to the Commission as if it were a tribunal established in accordance with that Act and as if that Act had been applied to the Commission in the manner prescribed : Power of Commission to hold inquiries.  
  
11 & 12 Geo. 5. c. 7.

PART I.  
—cont.

Provided that the said Act shall in its application to the Commission have effect as if for paragraph (a) of section two of the Act there were substituted the following paragraph :—

“(a) may refuse to allow the public or any portion of the public to be present at the proceedings of the Commission, if and so far as it is, in the opinion of the Commission, necessary so to do for reasons connected with the subject-matter of the inquiry or the nature of the evidence to be given ;”.

(2) Any order under this section shall, as soon as may be after it is made, be laid before Parliament, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after the order is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making of a new order.

Provisions  
as to  
inquiries  
held by  
Ministers.

**29.**—(1) For the purpose of any inquiry which, in relation to any regulations or scheme under this Part of this Act is held by direction of the Ministers or the appropriate Minister, the person appointed to hold the inquiry may by summons require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined :

Provided that no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him.

(2) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which he may be required to produce for the purpose of this section, shall be guilty of an offence and liable, on summary conviction, to a fine

not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

PART I.  
—cont.

**30.** The Commission shall, as soon as may be after the end of each financial year, prepare and submit to the Ministers a report on the operation in that year of any schemes under this Part of this Act which have been in force in that year and generally on the discharge of the functions of the Commission in that year, and the Ministers, upon receiving any report submitted to them under this section, shall lay copies of the report before Parliament.

Annual reports to be made by Commission.

**31.—(1)** An order confirming a scheme under this Part of this Act shall set forth the scheme in a schedule to the order, and the scheme shall come into operation at the same time as the order confirming it.

Form, publication, validity and commencement of confirming schemes.

**(2)** As soon as may be after such an order as aforesaid has been made, the Ministers or the appropriate Minister, as the case may be, shall cause to be published in the Gazette, and in such other manner as appears to them or him to be best adapted for informing persons affected, a notice stating that the order has been made and specifying the place where copies of the order may be obtained.

The reference in the preceding provisions of this subsection to the Gazette shall, in relation to an order confirming a co-operative scheme applicable to an area wholly in England, be construed as a reference to the London Gazette, or, in relation to an order confirming a co-operative scheme applicable to an area wholly in Scotland, be construed as a reference to the Edinburgh Gazette.

**(3)** The validity of such an order as aforesaid shall not be called in question except in proceedings duly begun during the period of six weeks from the beginning of the day on which notice of the order having been made is published in accordance with this section; and unless the final decision in proceedings duly begun during the said period is that the order is invalid, the order shall be conclusive evidence that the requirements of this Part of this Act have been complied with in relation to the making of the order, and that the order and the scheme confirmed thereby have been duly made and

PART I.  
—cont.

confirmed respectively and are within the powers conferred by this Part of this Act.

(4) Subject as hereinafter provided, such an order as aforesaid shall come into operation at the end of the period of six weeks from the beginning of the day on which notice of the making of the order is published in accordance with this section :

Provided that, if proceedings for the purpose of questioning the validity of such an order are duly begun within the period aforesaid, the court before which such proceedings are taken may, at any time before the end of the said period, direct that the order shall not come into operation before the final determination of the proceedings.

Service of  
notices, &c.

**32.** Any notice or demand to be served for the purposes of this Part of this Act, or of any regulations or scheme under this Part of this Act, may be served by post, and—

(a) if it is to be served on the owner or occupier of any premises, may be addressed “the owner” or “the occupier,” as the case may be, of those premises (identifying them by their postal address), or

(b) if it is to be served on the owner, charterer or skipper of a fishing-boat, may be addressed “the owner,” “the charterer,” or “the skipper,” as the case may be, of the fishing-boat (identifying it by name or otherwise);

and any such notice or demand to be served on the skipper of a fishing-boat shall be deemed to be duly served if it is delivered or sent by post to, or to the agent of, the owner or the charterer (if any) of the fishing-boat, together with a written request that it be transmitted to the skipper.

Registration  
of partner-  
ships.

**33.**—(1) Any two or more persons jointly carrying on a designated business (whether in partnership or otherwise) shall, in so far as it is material, for the purposes of this Part of this Act or any scheme under this Part of this Act, to ascertain the number of votes to which those persons are entitled in connection with any poll, or the amount of any fee or contribution payable by them to the Commission or to the board or authorised body, be treated as constituting together a single person.

(2) Registration, in the Commission's register or under a marketing or co-operative scheme, in the name or style under which two or more persons carry on any designated business in partnership, shall operate as the registration of all the partners for the time being.

PART I.  
—cont.

**34.** For the purposes of this Part of this Act, a person shall be deemed to carry on the business of a home producer of white fish if, and only if, while carrying on the business of catching and landing white fish, he causes white fish to be landed in Great Britain from a fishing-boat registered in the United Kingdom or in any other part of His Majesty's dominions, or from a British fishing-boat registered at any port of registry established by Order in Council under the Merchant Shipping Act, 1894.

Meaning of  
home pro-  
ducer of  
white fish.

**35.** Where a marketing scheme or co-operative scheme is amended by any subsequent scheme or schemes, then, for the purposes of so much of this Part of this Act as determines the provisions which must or may be contained in any marketing scheme or co-operative scheme, as the case may be, the original scheme and the amending scheme or schemes shall be treated as a single scheme.

Provisions  
as to  
amending  
schemes.

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

(a) to the members, officers and servants of the Commission, and to the members, officers and servants of the consumers' committee and of the committee of investigation, such remuneration (whether by way of salaries or by way of fees) as the Ministers, with the approval of the Treasury, may determine,

(b) the amounts necessary to defray such expenses of the Commission (other than expenses which, by virtue of this Part of this Act, are to be defrayed out of the fund established under the control of the Commission), such expenses of the Joint Council, and such expenses of the consumers' committee and of the committee of investigation, as the Ministers and the Treasury may approve, and

(c) the amounts necessary to defray any expenses incurred in pursuance of this Part of this Act by the Minister of Agriculture and Fisheries or a Secretary of State.

Expenses of  
Ministers,  
Commission,  
Joint  
Council,  
consumers'  
committee  
and com-  
mittee of  
investiga-  
tion, and  
receipts of  
Commission.

PART I.  
—cont.

(2) All sums received under this Part of this Act by the Commission (other than sums which, by virtue of this Part of this Act, are to be paid into the fund established under the control of the Commission) shall be paid into the Exchequer.

Extension  
of Part I to  
Northern  
Ireland.

**37.**—(1) His Majesty may, by an Order in Council made in pursuance of a resolution passed by both Houses of the Parliament of Northern Ireland, direct that the provisions of this Part of this Act or any of them (except in so far as they relate to co-operative schemes) shall with such adaptations and modifications as may be specified in the order extend to Northern Ireland. Any such order may be varied or revoked by a subsequent Order in Council made in pursuance of such a resolution as aforesaid.

(2) If any provisions of this Part of this Act are so extended to Northern Ireland, such sums paid out of the Exchequer of the United Kingdom in connection with the execution of those provisions as may be determined by the Joint Exchequer Board to be properly payable by the Government of Northern Ireland shall be made good by means of deductions from the Northern Ireland residuary share of reserved taxes.

(3) Subject to the provisions of any Order in Council under this section, this Part of this Act shall not extend to Northern Ireland.

## PART II.

### AMENDMENTS OF THE SEA-FISHING INDUSTRY ACT, 1933.

Provisions  
for giving  
effect to  
convention  
as to meshes  
of nets and  
size limits  
for fish.  
23 & 24  
Geo. 5. c. 45.

**38.** Whereas a convention for the regulation of the meshes of fishing nets and size limits for fish was signed in London on the twenty-third day of March nineteen hundred and thirty-seven on behalf of His Majesty's Government in the United Kingdom :

And whereas it is expedient to make such amendments of the Sea-Fishing Industry Act, 1933, as are necessary for giving effect to the said convention, and, in connection therewith, to make further amendments of the said Act :

Now, therefore, the following sections shall be substituted for sections three and four of the Sea-Fishing



Industry Act, 1933, (hereafter in this Part of this Act referred to as "the principal Act") :—

PART II.  
—cont.

<sup>"Mesh of nets.</sup> 3.—(1) The appropriate Ministers may make an order for securing that the fishing nets carried in any British fishing-boat registered in the United Kingdom are constructed in such manner, and have a mesh of at least such size, as may be prescribed by the order, and an order under this section, or any provisions of such an order, may be framed so as to apply only in relation to fishing for specified descriptions of sea-fish, to specified methods of fishing or to fishing in specified areas or during specified periods.

(2) An order under this section prescribing minimum sizes of mesh may also—

- (a) prescribe the manner in which the sizes of mesh are to be measured and, in the case of any class of nets, prescribe different sizes for the nets when in different conditions;
  - (b) make provision for securing that the restrictions imposed by the order are not evaded by the use of any nets in such manner as practically to diminish their mesh, or by the covering of nets with canvas or any other material, or by the use of any other artifice;
  - (c) provide for exempting any nets from any such restrictions as aforesaid, either generally or in relation to particular fishing-boats or classes of fishing-boats, if and so long as such conditions as may be imposed by or under the order for securing that the nets will be used only for taking sea-fish of the descriptions specified in the order are complied with.
- (3) Nothing in any order under this section shall—
- (a) affect the carrying of any nets for the purpose of fishing only within the limits of the territorial waters adjacent to the United Kingdom, or

PART II.  
—cont.

(b) apply in relation to fishing operations which, under the authority of one of the appropriate Ministers, are conducted for the purpose of scientific investigation or for the purpose of transplanting fish from one fishing ground to another.

(4) If any order under this section is contravened in the case of any fishing-boat, the master, the owner and the charterer (if any) shall each be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine, and the court by which the offender is convicted may order the forfeiture of the net in respect of which the contravention occurred.

(5) Section six hundred and eighty-four of the Merchant Shipping Act, 1894, (which relates to the jurisdiction of courts) shall apply for the purposes of this section as it applies for the purposes of that Act.

(6) Any British sea-fishery officer may seize any net in respect of which a contravention of an order under this section has been, or is being, committed.

(7) Any restrictions imposed by an order under this section shall be in addition to, and not in substitution for, any restriction imposed by or under any other Act, and nothing in this section shall affect any power conferred by any Act to regulate sea-fishing.

“Size  
limits for  
fish.

4.—(1) No person shall, in Great Britain, land, sell, expose or offer for sale, or have in his possession for the purpose of sale, any sea-fish of any description being a fish of a smaller size than such size as may be prescribed in relation to sea-fish of that description by an order of the Minister of Agriculture and Fisheries and the Secretary of State for Scotland :

Provided that nothing in this subsection shall restrict the landing of fish taken in the course of fishing operations which, under the authority

of the said Minister or Secretary of State, are conducted for the purpose of scientific investigation.

PART II.  
—cont.

(2) If the Minister of Agriculture and Fisheries and the Secretary of State for Scotland by order so direct, no person shall, in Great Britain, land, sell, expose or offer for sale, or have in his possession for the purpose of sale, any lobster which is carrying any spawn attached to the tail or some other exterior part of the lobster, or which is in such a condition as to show that, at the time when it was taken, it was carrying spawn so attached.

(3) Every person who contravenes either of the two preceding subsections shall, for each offence, be liable on summary conviction to a fine not exceeding fifty pounds.

(4) Where, in the course of any fishing operations conducted by means of a fishing-boat, any sea-fish of any description which are of less than the minimum size prescribed in relation to sea-fish of that description by any order under subsection (1) of this section are taken on board the boat, those fish shall be returned to the sea forthwith:

Provided that the preceding provisions of this subsection shall not apply in relation to fishing operations which, under the authority of one of the appropriate Ministers, are conducted for the purpose of scientific investigation or for the purpose of transplanting fish from one fishing ground to another.

(5) The last preceding subsection shall apply to all fishing-boats within the limits of the territorial waters adjacent to the United Kingdom and also to British fishing-boats registered in the United Kingdom, wherever they may be; and if that subsection is not complied with in the case of any fishing-boat, the master, the owner and the charterer (if any) shall each be liable on summary conviction to a fine not exceeding fifty pounds, and the court by which the offender is convicted may order the forfeiture of any fish in respect of which the offence was committed.

PART II.  
—*cont.*

(6) With a view to enforcing any order under this section, any of the following officers, that is to say,—

- (a) any officer authorised by the Minister of Agriculture and Fisheries or the Fishery Board for Scotland,
- (b) any officer of police,
- (c) any officer of a market authority, acting within the limits of any market which that authority has power to regulate,
- (d) any fishery officer of a local fisheries committee acting within the district of the committee,
- (e) any officer authorised by the Fishmongers' Company and acting within the city of London;

may, at all reasonable times, go on board any fishing-boat or enter any premises used for carrying on any business in connection with the treatment, storage or sale of sea-fish, may search for and examine any sea-fish in any place, whether on board a fishing-boat or elsewhere, and whether in a receptacle or not, and may seize any sea-fish which have been landed, sold or exposed or offered for sale by any person in contravention of this section, or which any person has in his possession in contravention of this section; and a local fisheries committee may take proceedings in respect of any contravention of this section occurring within the district of the committee.

For the purposes of this subsection, the district of a local fisheries committee shall be deemed to extend throughout the area of any council liable to pay, or contribute to the payment of, the expenses of the committee, except that the powers conferred by this subsection on the committee or any officer thereof shall not be exercisable in respect of any matter arising within the limits of any market under the control of the council of any county borough or county district.

(7) On the date on which the first order under subsection (1) of this section relating to crabs comes into operation, paragraph (1) of section

eight of the Fisheries (Oysters, Crabs and Lobsters) Act, 1877, shall cease to have effect in Great Britain; and on the date on which the first order under this section relating to lobsters comes into operation, section nine of that Act, shall cease to have effect in Great Britain.

PART II.  
—cont.  
40 & 41 Vict.  
c. 42.

“Powers  
of British  
sea-fishery  
officers.

4A. Any British sea-fishery officer may exercise, with respect to any fishing-boat within the limits of the territorial waters adjacent to the United Kingdom and with respect to any British fishing-boat registered in the United Kingdom, wherever it may be, such of the powers conferred on British sea-fishery officers by paragraphs (1) to (8) of section twelve of the Sea Fisheries Act, 1883, as may be conferred on him by order of the appropriate Ministers, being powers which the said Ministers consider necessary for the enforcement of sections three and four of this Act, and of any orders under those sections; and for the purpose of an order under this section—

46 & 47 Vict.  
c. 22.

- (a) section twelve of the Sea Fisheries Act, 1883, shall apply as if any reference in paragraph (7) of that section to that Act or to an Order in Council thereunder included a reference to sections three and four of this Act or to an order under either of those sections, as the case may be; and
- (b) section fourteen of the Sea Fisheries Act, 1883, as amended by any subsequent enactment, (which section provides for the protection of sea-fishery officers and for the punishment of persons obstructing such officers) shall apply as if any reference in that section to that Act included a reference to this section.

“Applica-  
tion to  
Isle of  
Man and  
Channel  
Islands,  
and fish-  
ing-boats  
registered  
therein.

4B. His Majesty may by Order in Council direct—

- (1) that, subject to such exceptions, adaptations and modifications (if any) as may be specified in the Order, the provisions of sections three and four of this Act shall apply in relation to British fishing-boats registered in the Isle of Man or

PART II.  
—cont.

any of the Channel Islands, as those provisions apply in relation to British fishing-boats registered in the United Kingdom;

- (2) that, subject as aforesaid, the said provisions shall extend to the Isle of Man or any of the Channel Islands.”

Provisions  
as to orders  
regulating  
and pro-  
hibiting  
landing of  
sea-fish.

**39.**—(1) On the date on which the first producers' marketing scheme under Part I of this Act comes into operation, subsection (3) of section one of the principal Act (which provides that no order regulating the landing of sea-fish shall be made under that section unless orders made under sections two, three and four of the said Act are in force) shall cease to have effect.

(2) An order under section two of the principal Act (which enables the appropriate Ministers temporarily to prohibit the landing in the United Kingdom of sea-fish caught in certain waters) may be made so as to apply either to all sea-fish or to sea-fish of a particular description, and so as to apply to sea-fish caught in any specified waters; and accordingly subsection (1) of the said section shall have effect as if in that subsection after the word “sea-fish” there were inserted the words “or any particular description of sea-fish, being fish,” and as if the words from “being waters situate” to the end of the subsection were omitted.

Abolition  
of Sea-Fish  
Commission.

**40.** Section five of the principal Act (under which the Sea-Fish Commission for the United Kingdom was constituted) shall cease to have effect.

Amendment  
of definition  
of “sea-  
fish”.

**41.** References to sea-fish in the principal Act, as amended by this Part of this Act, shall be construed as including references to parts of sea-fish, and accordingly subsection (1) of section nine of the said Act shall have effect as if, in the definition of the expression “sea-fish” contained in that subsection, after the word “shell-fish” there were inserted the words “and includes parts of such fish as aforesaid.”

Citation of  
Part II.

**42.** The principal Act and this Part of this Act may be cited together as the Sea-Fishing Industry Acts, 1933 and 1938.

## PART III.

AMENDMENTS OF THE WHALING INDUSTRY (REGULATION)  
ACT, 1934.

**43.** Grey whales shall be included among the classes of whales the killing or taking of which is prohibited by section three of the Whaling Industry (Regulation) Act, 1934 (hereafter in this Part of this Act referred to as "the principal Act"), and accordingly—

Extension  
of category  
of protected  
whales.  
24 & 25  
Geo. 5.c. 49.

(a) the said section shall have effect as if in paragraph (a) of subsection (1) thereof, after the words "right whale," there were inserted the words "or a grey whale" and as if at the end of subsection (3) of the said section there were inserted the following paragraph:—

"(e) the expression 'grey whale' means a whale known by any of the names set out in Part IV of the Schedule to this Act;"

and

(b) the following Part shall be inserted at the end of the Schedule to the principal Act:—

## "PART IV.

*Grey Whales.*

California grey.  
Devil fish.  
Grey back.

Grey whale.  
Hard head.  
Mussel digger.  
Rip sack."

**44.** A licence under section five of the principal Act authorising the use of a ship or factory for taking whales or for treating whales may be granted for a shorter period than one year, and the fee charged in respect of the grant of such a licence for such a shorter period may be less than that charged in respect of the grant of such a licence for a year; and accordingly the said section shall have effect as if at the end of subsection (3) thereof there were added the following words "or for such shorter period beginning on the said day as may be specified in the licence; and subject to the provisions of the last preceding subsection, different fees may be charged in respect of the grant of licences for different periods."

Duration of,  
and fees for,  
whaling  
licences.

## PART III.

—cont.

Further  
conditions  
of whaling  
licences.

45.—(1) The following subsection shall be inserted in section six of the principal Act after subsection (1) of that section :—

“(1A). There shall be attached to every licence under this Act authorising the use of a ship or factory for treating whales a condition that the remuneration of the persons employed in treating whales on board the ship or at the factory must, so far as it is calculated by reference to the results of their work, be calculated by reference to the size, species, oil-yield and value of the whales treated.”

(2) At the end of subsection (3) of section six of the principal Act (which prescribes the conditions to be attached to every licence under that Act) there shall be inserted the words “and also a condition requiring “the master or occupier of the ship or factory to which “the licence relates to furnish, at such time, in such “form and to such authority, as may be specified in “the licence, an account showing the remuneration of “each gunner and member of the crew of the ship, “or of each person employed at the factory, as the “case may be, and the manner in which that remuneration is calculated”.

(3) The following subsection shall be substituted for subsection (4) of section six of the principal Act :—

“(4) There may be attached to any licence under this Act such conditions (if any), in addition to the conditions required by the foregoing provisions of this section, as appear to the licensing authority to be necessary or expedient for the purpose of preventing, so far as practicable,—

- (a) any excessive destruction of whales and any wastage of whales or whale products;
- (b) the taking of whales in particular areas;
- (c) the killing of whales otherwise than by a particular method;

and any conditions attached to such a licence as aforesaid for the purpose of preventing the taking of whales in any particular area, or, for the purpose of preventing the killing of whales otherwise than by a particular method, may prohibit



the taking, in that area, of any whales whatever or particular descriptions of whales, either at any time whatever or during particular periods, or, as the case may be, may prohibit the killing of whales otherwise than by that method either generally or in a particular area."

PART III.  
—cont.

46. The principal Act and this Part of this Act may be cited together as the Whaling Industry (Regulation) Acts, 1934 and 1938.

Citation  
of Part III

#### PART IV.

##### PROVISIONS WITH RESPECT TO CREWS OF FISHING-BOATS.

47. The following section shall be substituted for section three hundred and eighty-eight of the Merchant Shipping Act, 1894, (hereafter in this Part of this Act referred to as "the principal Act") :—

Accounts  
to be  
rendered by  
owners with  
respect to  
profits of  
fishing-  
boats.

" 388.—(1) Where the skipper or any other member of the crew of a fishing-boat is paid, wholly or in part, by a share in the catch, an account in a form approved by the Board of Trade, certified by or on behalf of the owner of the boat to be true, and showing the amounts for which the fish have been sold and all deductions from the said amounts which are made for the purpose of arriving at the net value of the catch, shall be delivered by the owner of the boat to the skipper and to the second hand, and shall be kept by the owner at such place, and in such manner, as the Board may direct with a view to ensuring that the account is readily available for inspection at any reasonable time by any member of the crew so paid as aforesaid.

(2) The account which under the preceding subsection must be delivered by the owner of a fishing-boat to members of the crew who are paid, wholly or in part, by a share in the catch shall, in the case of a fishing-boat being a trawler of twenty-five tons tonnage or upwards, also be delivered by the owner to the superintendent at or nearest the port at which payment is made.

PART IV.  
—cont.

(3) Where the skipper or any other member of the crew of a fishing-boat is paid, wholly or in part, by a share in the catch, a further account in such form as may be approved by the Board of Trade, showing the amount of the remuneration payable to him in respect of his share in the catch and the amount of all deductions to be made therefrom on any account whatever, shall be rendered by the owner of the boat to the skipper and by the owner or skipper of the boat to every seaman who is so paid as aforesaid; and a deduction from the said remuneration shall not be allowed unless it is included in the account so rendered or is in respect of a matter happening after the account has been so rendered.

(4) The Board of Trade may, for the purposes of this section, approve different forms of accounts for use in different circumstances.

(5) If the owner or skipper of a fishing-boat fails without reasonable cause to comply with the foregoing provisions of this section, he shall for each offence be liable to a fine not exceeding five pounds; and if any person gives in relation to such an account as aforesaid a certificate which, to his knowledge, is false, he shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

(6) A superintendent may inquire into the correctness of any account prepared in pursuance of this section; and, for the purpose of any inquiry which he may make under this subsection, a superintendent shall have all the powers of a Board of Trade inspector under this Act, and the provisions of the last preceding section shall apply in relation to any decision that the superintendent may give as to the correctness of the account which is the subject of the inquiry, as those provisions apply in relation to a decision given by a superintendent on determining a dispute under that section.

(7) If a dispute arises as to the amount payable to the skipper, or any other member of

the crew of a fishing-boat in respect of his share of the catch, he or some person acting on his behalf shall be entitled to inspect, at all reasonable times, the owner's accounts and books relating to the catch; and if the owner, upon demand, fails without reasonable cause to submit his said accounts or books for inspection as aforesaid at a reasonable time, he shall for each offence be liable to a fine not exceeding twenty pounds."

PART IV.  
—cont.

48.—(1) The following section shall be inserted in Part IV of the principal Act as the first of the sections under the heading "Provisions applying to Trawlers":—

Deductions  
from pro-  
ceeds of  
sale of  
catch.

"398A. Where the skipper or any other member of the crew of a fishing-boat, being a trawler of twenty-five tons tonnage or upwards, is paid wholly or in part by a share in the catch, any deduction from the amount for which the fish have been sold shall, for the purpose of arriving at the net value of the catch be deemed not to be lawful, unless it is made in accordance with express provisions in that behalf contained in the agreement under which he was engaged, being provisions which specify the item in respect of which the deduction is to be made and the manner in which the amount of the deduction is to be calculated."

(2) Section four hundred of the principal Act (which prescribes the terms to be contained in every agreement under which a seaman is engaged as a member of the crew of a trawler of twenty-five tons tonnage or upwards) shall have effect as if at the end of subsection (2) of that section there were inserted the following paragraph:—

"(h) in a case where the remuneration of a seaman is wholly or in part by share in the catch, the items in respect of which it is agreed that deductions from the amount for which the fish are sold will be made for the purpose of arriving at the net value of the catch and the manner in which it is agreed that the amounts of any such deductions will be calculated."

PART IV.  
—cont.  
Functions of super-  
intendents in relation  
to engage-  
ment of  
and dis-  
charge of  
seamen.

49. The following section shall be inserted in the principal Act after section four hundred and eleven thereof :—

“ 411A.—(1) In relation to fishing-boats, being trawlers of twenty-five tons tonnage or upwards, the Board of Trade may by order direct—

- (a) that, subject to the provisions of subsection (3) of section four hundred and one of this Act (which relates to the engagement of substitutes), every fishing-boat's agreement under which a seaman is engaged, at any port specified in the order, to serve as one of the crew of such a fishing-boat as aforesaid shall be signed by the seaman in the presence of a superintendent, and that the duties of ascertaining that the seaman understands the agreement and of attesting his signature thereof which are imposed on the skipper by subsection (1) of the said section shall be performed instead by the superintendent;
- (b) that whenever, in pursuance of section four hundred and four of this Act, an endorsement with respect to engagements of seamen at such a port as aforesaid, or discharges of seamen engaged at such a port, is made by the skipper of a fishing-boat of the said class on a fishing-boat's running agreement, the skipper shall deliver the agreement so endorsed to the superintendent, and that the superintendent shall, if the provisions of this Part of this Act relating to fishing-boats' agreements have been complied with, sign the endorsement and return the agreement to the skipper;
- (c) that, whenever a seaman engaged at any such port is discharged from such a fishing-boat as aforesaid, he shall be discharged in the presence of a superintendent, and that the certificate of

discharge required by section four hundred and ten of this Act to be signed by the skipper and delivered by him to the seaman, shall be so signed and delivered in the presence of a superintendent;

PART IV.  
—cont.

and in relation to any case in which, by virtue of any provisions of an order which are authorised by paragraph (a) of this subsection, a fishing-boat's agreement must be signed in the presence of a superintendent, subsection (2) of section four hundred and one of this Act shall have effect as if in that subsection for the word 'sent' there were substituted the word 'delivered.'

(2) If any skipper fails without reasonable cause to comply with an order under this section, he shall be liable to a fine not exceeding five pounds.

(3) Any order under this section may be varied or revoked by a subsequent order made in like manner."

**50.** The Merchant Shipping Acts, 1894 to 1937, Citation and this Part of this Act may be cited together as the Merchant Shipping Acts, 1894 to 1938. of Part IV.

## PART V.

### SEA FISHERIES.

**51.**—(1) The Sea Fisheries Regulation Act, 1888, (hereafter in this Part of this Act referred to as "the principal Act") shall, subject to the provisions of the next following subsection, have effect as if for subsection (2) of section one of the principal Act (which subsection relates to the constitution of local fisheries committees) there were substituted the following subsection:—

Constitu-  
tion of local  
fisheries  
committees.  
51 & 52 Vict.  
c. 54.

"(2) The local fisheries committee for a sea-fisheries district shall be a committee of such county council, or a committee of such borough council, or a joint committee of such councils, being county councils or borough councils, as may be determined by the order creating the district, and shall consist of—

(a) such number of members to be appointed by the council, or by the constituent

PART V.  
—cont.

councils in such proportions as may be so determined, and

- (b) such number of additional members, not exceeding the number of members required to be appointed by the council or constituent councils, as may be appointed in accordance with the following provisions of this section.

The additional members of such a committee shall include one person appointed by each fishery board having jurisdiction within the district of the committee, and as to the rest shall be persons appointed by the Minister of Agriculture and Fisheries as being persons acquainted with the needs and opinions of the fishing interests of that district."

(2) In relation to any local fisheries committee constituted by an order made before the commencement of this Act, the preceding subsection shall not take effect until the first day of April nineteen hundred and forty.

(3) The persons who, immediately before the first day of April nineteen hundred and forty are members of such a committee shall cease to hold office on that day, and their places shall be filled by newly appointed members, who shall come into office on that day; and the term of office of any person who becomes a member of such a committee on or after that day shall expire not later than the end of the triennial period in which he takes office.

In this subsection the expression "triennial period" means the period of three years beginning with the first day of April nineteen hundred and forty and with every third anniversary of that day.

(4) At the beginning of the first day of April nineteen hundred and forty so much of any order made before the commencement of this Act as relates to the additional members of a local fisheries committee or to the term of office of the members of such a committee shall cease to have effect.

(5) Subsection (3) of section one of the principal Act shall have effect as if in that subsection after the word "subject" there were inserted the words "to the provisions of the last preceding subsection and of

“ section fifty of the Sea Fish Industry Act, 1938,  
“ and to ”.

PART V.  
—cont.

(6) In the definition of “ fishing interests ” contained in section fourteen of the principal Act, the words “ and any board of salmon conservators ” shall be omitted.

52. In section fourteen of the principal Act for the words “ The expression ‘ sea-fish ’ shall not include salmon as defined by any Act relating to salmon ” there shall be substituted the words “ The expression ‘ sea-fish ’ shall not include salmon as defined by the Salmon and Freshwater Fisheries Act, 1923, or migratory trout as so defined ”, and for the words “ The expression ‘ salmon conservators ’ means conservators under the Salmon and Freshwater Fisheries Acts, 1861 to 1886, or any of them ” there shall be substituted the words “ The expression ‘ board of salmon conservators ’ means any board of conservators or other similar body constituted under the Salmon and Freshwater Fisheries Act, 1923, or any enactment repealed by that Act, for the regulation of fisheries in a fishery district.”

Amendment of definitions of “ sea-fish ” and “ salmon conservators.”  
13 & 14  
Geo. 5. c. 16.

53.—(1) Where any vessel is used for fishing in any manner constituting a contravention of any byelaw of a local fisheries committee having effect by virtue of paragraph (a) of subsection (1) of section two of the principal Act, as amended by section seven of the Fisheries Act, 1891, the skipper and the owner of the vessel shall each be guilty of an offence and liable on summary conviction to a fine not exceeding, in the case of a first offence, fifty pounds, or in the case of a second offence, one hundred and fifty pounds, or, in the case of a third or subsequent offence, to imprisonment for a term not exceeding three months, or to a fine not exceeding three hundred pounds or to both such imprisonment and such fine:

Liability of owners of fishing boats for illegal fishing.  
54 & 55 Vict.  
c. 37.

Provided that, in any proceedings which by virtue of this section are taken against the owner of a vessel in respect of an offence under this section committed by the skipper, it shall be a good defence for the owner to prove that he exercised all due diligence to prevent the commission of that offence.

(2) The preceding subsection shall, in relation to any vessel which at the material time is under charter, have

**PART V.**  
—*cont.*

effect as if any reference in that subsection to the owner were a reference to the charterer.

**Increase of  
certain  
penalties.**

**54.**—(1) The maximum penalty for refusing to allow a fishery officer to exercise the powers conferred upon him by the principal Act, or for resisting or obstructing any such officer in the performance of his duty, shall be fifty pounds and, accordingly, in subsection (3) of section six of the principal Act for the word “five” there shall be substituted the word “fifty.”

(2) Without prejudice to the operation of the last preceding section, any person who contravenes any byelaw made, whether before or after the commencement of this Act, by a local fisheries committee shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or any subsequent conviction, to a fine not exceeding one hundred pounds.

(3) Section three of the principal Act (which relates to penalties and forfeitures for the contravention of byelaws) is hereby repealed, and so much of any byelaw made by a local fisheries committee as imposes penalties or forfeitures on persons contravening byelaws so made shall be deemed to have been revoked, and subsection (2) of section six of the principal Act shall have effect as if in paragraph (c) of that subsection for the words “liable to be forfeited in pursuance” there were substituted the words “taken or used in contravention”.

(4) The maximum fine under subsection (3) of section seven of the Sea Fisheries Act, 1883, (which section relates to foreign sea-fishing boats entering within exclusive fishery limits) shall be, in the case of a first offence fifty pounds, and in the case of a second or any subsequent offence one hundred pounds, and accordingly in the said subsection (3) for the words “ten” and “twenty” there shall be substituted respectively the words “fifty” and “one hundred.”

(5) His Majesty may by Order in Council extend the provisions of the last preceding subsection and of section five of the Fisheries Act, 1891, to the Channel Islands.

**Power of  
Minister  
to revoke  
byelaws.**

**55.** If it appears to the Minister of Agriculture and Fisheries that the revocation of a byelaw made by any local fisheries committee is necessary or desirable for the maintenance or improvement of fisheries, he may, after



giving notice to the committee and considering any objection raised by them and, if so required by them, holding a public inquiry, revoke the byelaw.

PART V.  
—cont.

**56.**—(1) A local fisheries committee shall have the following further powers, that is to say—

Extension  
of powers of  
local  
fisheries  
committees.

(a) the committee may, with the approval of the Minister of Agriculture and Fisheries and subject to such conditions as he may impose, undertake, or cause to be undertaken, the destruction of predatory fish, predatory marine animals, predatory birds and eggs of predatory birds, if and so far as such destruction appears to the committee to be desirable for the preservation and improvement of the fisheries within their district, and is not illegal under any Act other than this Act;

(b) the committee may contribute to the payment of the cost of executing works for the maintenance or improvement of any small harbour situate wholly or in part within the district of the committee, being a harbour as to which the Minister of Agriculture and Fisheries is satisfied that it is principally used by persons engaged in the sea-fishing industry; and

(c) if the committee or any of its officers is authorised in that behalf under subsection (4) of section seven of the Oil in Navigable Waters Act, 1922, the committee may institute proceedings for any offence under that Act committed within the district of the committee.

12 & 13  
Geo. 5. c. 39.

(2) In this section the expressions “harbour” and “works” have the meanings respectively assigned to them by paragraph (4) of section two of the Fishery Harbours Act, 1915.

5 & 6 Geo. 5.  
c. 48.

**57.** The power to vary an order under section one of the principal Act (which enables the Minister of Agriculture and Fisheries to constitute local fisheries committees for specified districts) shall include a power, exercisable in the like manner, to revoke such an order, and an order varying or revoking a previous order made under the said section may be made on the application

Variation  
and  
revocation  
of orders  
constituting  
local  
fisheries  
commit-  
tees.

PART V.  
*cont.*

of the local fisheries committee and after consultation with every county or borough council concerned, and accordingly subsection (1) of that section shall have effect as if in that subsection for the words "on like application by subsequent order vary" there were substituted the words "by a subsequent order made on like application or made on the application of the local fisheries committee and after consultation with every county or borough council concerned, vary or revoke".

Amend-  
ments of  
Part III of  
31 & 32 Vict.  
c. 45.  
47 & 48 Vict.  
c. 27.

58.—(1) The provisions of sections thirty-two and thirty-three of the Sea Fisheries Act, 1868, as amended by the Sea Fisheries Act, 1884, (which sections require the making of an inquiry with respect to any proposed order under Part III of that Act for the establishment or improvement, or the maintenance and regulation, of an oyster, mussel and cockle fishery) shall apply in relation to any such proposed order as aforesaid only in a case where an objection with respect to the proposed order, being an objection which the Minister of Agriculture and Fisheries considers to be neither frivolous nor irrelevant, has been duly made to the said Minister and has not been withdrawn; but the said Minister may, in any case, cause any such inquiry as he thinks fit to be held with respect to any such proposed order.

(2) In section thirty-four of the Sea Fisheries Act, 1868, for the words "proceed to consider the objections or representations that have been made respecting the proposed order and also the report of the inspector, and thereupon they shall" there shall be substituted the words "after considering the objections or representations, if any, that have been made with respect to the proposed order, and also the report of the person by whom any inquiry with respect thereto has been held."

(3) The following section shall be substituted for section thirty-seven of the Sea Fisheries Act, 1868:—

"37.—(1) As soon as may be after the making of an order under this Part of this Act, the promoters shall cause to be published in such manner as the Minister of Agriculture and Fisheries thinks sufficient for giving information to all

parties interested, and shall, in such manner as the said Minister may direct or approve, give to the persons to whom notices are required to be given under section thirty-five of this Act, a notice stating that the order will become final and come into operation unless within such period, not being less than thirty days, as may be specified in the notice, a memorial praying that the order shall not become law without confirmation by Parliament is presented to the said Minister by some person affected by the order.

PART V.  
—cont.

(2) If no such memorial has been presented within the period aforesaid, or if every such memorial so presented has been withdrawn, the order shall thereupon come into operation; but if such a memorial has been so presented and has not been withdrawn, the order shall have no effect until confirmed by Parliament."

**59.** Except in so far as it amends the Sea Fisheries Act, 1883, and the Sea Fisheries Act, 1868, this Part of this Act shall not extend to Scotland or to Northern Ireland.

Extent of  
Part V.

## PART VI.

### SUPPLEMENTARY PROVISIONS.

**60.** Where any offence under Part I or Part V of 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 officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by  
corpora-  
tions.

**61.**—(1) Section three of the Illegal Trawling (Scotland) Act, 1934, shall have effect as if the reference in that section to section five of that Act included a reference to the Sea-Fishing Industry Act, 1933, as amended by Part II of this Act.

Application  
to Scotland.  
24 & 25  
Geo. 5. c. 18.

(2) Section fifty-eight of this Act and section thirty-seven of the Sea Fisheries Act, 1868, as amended by the

PART VI.  
—cont.

said section fifty-eight, shall, in their application to Scotland, have effect as if for any reference in those sections to the Minister of Agriculture and Fisheries there were substituted a reference to the Secretary of State.

(3) Subsection (3) of section twenty-two of this Act shall, in its application to Scotland, have effect as if the word “summarily” were omitted.

Interpreta-  
tion.

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

“fishing-boat” means (except for the purposes of Part IV of this Act) a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea-fishing or in the sea-fishing service;

“local fisheries committee” means a local fisheries committee constituted by an order under section one of the Sea Fisheries Regulation Act, 1888;

“production,” in relation to white fish, means the catching and first landing of white fish;

“the appropriate Minister” means—

(a) in relation to a co-operative scheme applicable to an area wholly in England, the Minister of Agriculture and Fisheries;

(b) in relation to a co-operative scheme applicable to an area wholly in Scotland, the Secretary of State concerned with the sea-fishing industry of Scotland, or

(c) in relation to a co-operative scheme applicable to an area partly in England and partly in Scotland, the Minister of Agriculture and Fisheries and the Secretary of State concerned with the sea-fishing industry of Scotland;

“the board,” in relation to a marketing scheme, means the board constituted to administer the scheme;

“the Gazettes” means the London Gazette and the Edinburgh Gazette;

“ the Ministers ” means the Minister of Agriculture and Fisheries and the Secretary of State concerned with the sea-fishing industry of Scotland;

“ white fish ” means fish of any kind found in the sea, other than—

(a) herring,

(b) fish of the salmon species, or

(c) trout which migrate to and from the sea,

and includes shell-fish; and references to white fish shall be construed as including references to parts of white fish.

(2) Any reference in an Act passed before this Act to an enactment which is amended by this Act shall, unless the contrary intention appears, be construed as including a reference to that enactment as so amended.

**63.**—(1) This Act may be cited as the Sea Fish Industry Act, 1938. Short title and extent

(2) Subject to any special provisions contained in this Act, this Act extends to the whole of the United Kingdom.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 1.

#### INCIDENTAL PROVISIONS AS TO THE WHITE FISH COMMISSION.

##### *Constitution of the Commission.*

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

2. The functions of the Commission and of its officers and servants shall be deemed to be exercised on behalf of the Crown.

3. Every member of the Commission shall hold and vacate office in accordance with the terms of the instrument under which

1st SCH.  
—cont.

he is appointed; but notwithstanding anything in such an instrument, any member of the Commission may resign his office by a notice given under his hand to the Ministers, and a member of the Commission who ceases to hold office shall be eligible for re-appointment to the Commission:

Provided that a person shall not hold office as a member of the Commission for more than five years under any one appointment.

4. A person shall be disqualified for membership of the Commission, if and so long as he is a member of the Commons House of Parliament.

5. It shall be the duty of the Ministers to satisfy themselves, with respect to any person whom they propose to appoint to be a member of the Commission, that that person will have no such financial or commercial interest as is likely to affect him in the discharge of his functions as a Commissioner, and also to satisfy themselves from time to time, with respect to any person who is a member of the Commission, that he has no such interest as aforesaid; and any such person shall, whenever requested by the Ministers so to do, furnish to them such information as they consider necessary for the performance of their duty under this paragraph.

*Meetings and Proceedings of the Commission.*

6. Unless and until the Commission otherwise determines, three shall be a quorum at any meeting of the Commission and the Commission shall have power to act notwithstanding a vacancy among the members thereof.

7. If at any meeting of the Commission the votes are equally divided on any question, the person acting as Chairman of the meeting shall have a second or casting vote.

8. All acts done at any meeting of the Commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the Commission, be as valid as if that defect had not existed.

9. Minutes shall be kept of the proceedings of the Commission, and any such minutes shall, if signed by a person purporting to have acted as chairman of the meeting to which the minutes relate, or of a meeting at which they were read, be evidence of the proceedings at the first-mentioned meeting, and a meeting to which any such minutes relate shall, unless the contrary is proved, be deemed to have been regularly convened and constituted.

10. Subject to the preceding provisions of this Schedule, the Commission shall have power to regulate its own procedure.

*Incidental Duties and Powers of the Commission.*1ST SCH.  
—cont.

11. The Commission shall have an office at which communications and notices will at all times be received, and shall notify to the Ministers the address of that office and any change of that address.

12. The Commission may enter into such agreements, acquire such property, and do such things (including the employment from time to time of technical and professional agents), as may, in the opinion of the Commission, be necessary or desirable for the exercise or performance of any of its powers or duties, and may dispose, as it thinks fit, of any property acquired by it.

*The Common Seal.*

13. The application of the common seal of the Commission to any document shall be attested by at least one member of the Commission and by the person for the time being acting as secretary to the Commission.

*Instruments executed or issued by the Commission.*

14. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Commission by any person generally or specially authorised by it for that purpose.

15. Any document purporting to be a document duly executed or issued under the seal of the Commission or on behalf of the Commission shall, until the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

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**SECOND SCHEDULE.**


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Section 2.

**INCIDENTAL PROVISIONS AS TO WHITE FISH  
INDUSTRY JOINT COUNCIL.**

1. Every member of the Joint Council shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but, notwithstanding anything in such an instrument, any member of the Council may resign his office by a notice given under his hand to the Ministers, and a member of the Council who ceases to hold office shall be eligible for re-appointment.

2ND SCH.  
—cont.

2. Unless and until the Council otherwise determines, the quorum of the Council shall be such number as may be fixed by the Ministers, and the Council shall have power to act notwithstanding any vacancy among the members thereof.

3. Subject to any directions which may be given by the Ministers, the Council shall have power to regulate its own procedure.

4. The Commission shall appoint a person to act as secretary to the Council.

Section 4.

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### THIRD SCHEDULE.

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#### PROVISIONS WITH RESPECT TO THE MAKING, CONFIRMATION AND PUBLICATION OF COMMISSION'S REGULATIONS.

1. At least two months before making any regulations under Part I of this Act the Commission shall cause to be published in the Gazettes and in such other manner as it thinks best adapted for informing persons affected, a notice of the Commission's intention to make the regulations—

- (a) specifying the place where the draft regulations may be inspected and copies thereof obtained, and the price (being a price approved by the Ministers) at which such copies will be supplied, and
- (b) stating that the Commission is prepared to receive and consider any objection to the proposed regulations which may be made to the Commission in writing within such period after the date of the publication of the notice, not being less than two months, as may be specified in the notice;

and the Commission shall, before making the regulations, take into consideration any such objection so made to it before the end of the period specified on that behalf in the said notice.

2. When submitting any such regulations as aforesaid to the Ministers for confirmation, the Commission shall transmit to them any objection to the regulations which has been duly made to the Commission and has not been withdrawn.

3. Before confirming any such regulations as aforesaid submitted to them for confirmation, the Ministers shall consider any objections to the regulations which have been transmitted to them under the last preceding paragraph, and may, after



holding such inquiries (if any) as they think fit, make such modifications in the regulations as they may, after consultation with the Commission, consider desirable :

3RD SCH  
—cont.

Provided that—

- (a) where an objection to the regulations has been duly made by any person appearing to the Ministers to be affected thereby, and has not been withdrawn, the Ministers, unless they consider the objection to be frivolous or irrelevant or unless the regulations have been modified as required by the objection, shall, before taking any further action with respect to the regulations, direct the holding of an inquiry with respect to the objection and consider the report of the person holding the inquiry ; and
- (b) if the Ministers decide to make any modifications in the regulations, they shall cause notice of the proposed modifications to be published in such manner as they think best adapted for informing persons affected.

4. As soon as may be after confirming any such regulations as aforesaid, the Ministers shall cause to be published by advertisement in the Gazettes, and in such other manner as they think best adapted for informing persons affected, a notice stating that the regulations have come into operation, and specifying the place where copies of the regulations may be obtained.

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## FOURTH SCHEDULE.

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Sections 12  
and 13.

### PROVISIONS CORRESPONDING TO CERTAIN PROVISIONS OF THE AGRICULTURAL MARKETING ACTS, 1931 TO 1934.

#### PART I.

#### PROVISIONS WITH RESPECT TO REGISTRATION UNDER MARKETING SCHEMES, AND FINANCIAL POWER OF BOARDS.

1. A marketing scheme may provide for securing the removal from the register to be kept under the scheme of the names of persons who have ceased to carry on in Great Britain the business by virtue of which they may have been registered in the said register or who are exempted from registration under the scheme.

4TH SCH.  
—cont.

2. For the purpose of determining the financial powers and duties of the board, a marketing scheme may provide—

- (a) for the establishment of a fund to be administered and controlled by the board, for the payment into the said fund of all moneys received by the board, and for the payment out of the said fund of all expenses lawfully incurred by the board;
- (b) for determining the manner in which any moneys standing to the credit of the said fund may be invested, and for the keeping, audit and publication of accounts relating to the fund;
- (c) for empowering the board to borrow money for the purpose of discharging its functions under the scheme;
- (d) for empowering the board to lend money to any person registered under the scheme, on such terms, and against such security, as may be specified in the scheme.

## PART II.

### PROVISIONS WITH RESPECT TO INCORPORATION, REGISTRATION AND WINDING-UP OF BOARDS.

1. The board constituted to administer a marketing scheme shall be a body corporate with a common seal and power to hold land without licence in mortmain.

2. The board administering any such scheme shall notify to the Ministers the address of the office of the board at which communications and notices will at all times be received, and of any change in that address; and the Ministers shall cause a register to be kept showing the address of every such board, and the register shall be open for inspection by the public at such times and at such places as the Ministers may direct.

19 & 20  
Geo. 5. c. 23.

3. A marketing scheme may provide for the winding-up of the board, and for that purpose may apply Part X of the Companies Act, 1929, subject to the following modifications, that is to say:—

- (a) for the purpose of section three hundred and thirty-eight of the Companies Act, 1929, the principal place of business of the board shall be deemed to be the office of the board registered under this Part of this Schedule;
- (b) sub-paragraph (ii) of paragraph (e) of subsection (1) of section three hundred and thirty-eight of the Companies Act, 1929, shall not apply, and sub-paragraph (iii) of that paragraph shall apply as if the words “or any member thereof as such” were omitted;

- (c) a petition for winding-up a board may be presented by the Ministers as well as by any person authorised under the provisions of the Companies Act, 1929, to present a petition for winding-up a company; and
- (d) in the event of the winding-up of a board, every person who, at any time during the relevant period, was a person registered under the scheme shall be liable to contribute to the payment of the debts and liabilities of the board and of the payment of the costs and expenses of the winding-up an amount assessed in such manner and subject to such limitations as may be provided by the scheme, but save as aforesaid no person shall be liable to contribute to the assets of the board in the winding-up by reason only of his being or having been a person registered under the scheme or a member of the board.

4TH SCH.  
—cont.

In this paragraph the expression "the relevant period" means—

- (a) in a case where, before the commencement of the winding-up, the scheme has been revoked, the year immediately before the revocation of the scheme, or
- (b) in any other case, the year immediately before the commencement of the winding-up.

### PART III.

#### EFFECT OF MARKETING SCHEMES ON CONTRACTS.

1. Subject as hereinafter provided, a contract of which neither the making nor the performance was, at the time when the contract was made, prohibited by or under any marketing scheme in force shall not, unless the terms of the contract otherwise provide, be void or unenforceable by reason that, at the time for the performance of any provision of the contract, the performance thereof is so prohibited:

Provided that, where the performance of any such contract is prohibited by or under any such scheme, this paragraph shall cease to apply to that contract upon the expiration of three months after the prohibition first takes effect, unless the contract is registered under this Part of this Schedule.

2. It shall be the duty of the board administering a marketing scheme, on the application of any party to such a contract as aforesaid, to register the contract within the period of fourteen days after the application unless—

- (a) the application is made after the time at which it is provided by the proviso to the preceding paragraph that that paragraph shall cease to apply to the contract; or

4TH SCH.  
—cont.

(b) the board is of opinion—

- (i) that the contract is unenforceable by any party thereto by virtue of the provisions of section four of the Statute of Frauds or section four of the Sale of Goods Act, 1893; or
- (ii) in the case of a contract made during the relevant period, that the contract was made with a view to evading the operation of the scheme;

and if any party to a contract is aggrieved by the omission of a board to register the contract within the period aforesaid, he may, within twenty-one days after the expiration of that period, appeal to the court, and, pending the determination of any such appeal, paragraph 1 of this Part of this Schedule shall, notwithstanding anything in the proviso to that paragraph, continue to apply to the contract.

3. On any appeal under the last preceding paragraph the board concerned and any party to the contract may appear and be heard, and if, on the hearing of any such appeal, the court finds—

- (a) that the application for registration of the contract was made before the time at which it is provided by the proviso to paragraph 1 of this Part of this Schedule that that paragraph shall cease to apply to the contract; and
- (b) that the contract is not unenforceable by any party thereto by virtue of the provisions of section four of the Statute of Frauds or section four of the Sale of Goods Act, 1893; and
- (c) in the case of a contract made during the relevant period, that the contract was not made with a view to evading the operation of the scheme;

the court shall by order direct the registration of the contract, and thereupon the contract shall be deemed to be registered as from the date of the order; but where, in the case of a contract made during the relevant period, the court does not direct the registration of the contract, any party to the contract certified by the court to have entered into the contract bona fide without a view to the evasion of the operation of the scheme may recover the amount of any damage suffered by him by reason of the avoidance of the contract from any party certified by the court to have entered into the contract with a view to such evasion as aforesaid.

4. For the purposes of an appeal under this Part of this Schedule with respect to any contract, the court shall be any county court within the district in which any party to the contract has dwelt or carried on business at any time during the period within which the appeal may be brought:

Provided that—

4TH SCH.  
—cont.

- (a) if, before proceedings in respect of any such appeal are commenced in the county court, the board and all parties to the contract agree that the appeal should be heard by the High Court, the High Court shall be the court for the purposes of the appeal; and
- (b) section one hundred and eleven of the County Courts Act, 1934, which provides for the removal of matters from the county court to the High Court shall apply with respect to any appeal under this section as if the appeal were a matter commenced in the county court under that Act.

24 & 25  
Geo. 5. c. 53.

5. No person shall be liable to any penalty in respect of a contravention of any marketing scheme, if he proves that the contravention was necessary for the performance of a contract which, by virtue of this Part of this Schedule, was not, at the time of the contravention, void or unenforceable.

6. For the purposes of this Part of this Schedule, the expression "the relevant period" means, in relation to a scheme, a period beginning twelve months before the date when notice of the submission of the scheme was published in the Gazette and ending six months after the date when the scheme comes into force.

#### PART IV.

##### INCIDENTAL PROVISIONS WITH RESPECT TO REVOCATION OF MARKETING SCHEMES.

1. Where a marketing scheme is revoked by a subsequent scheme, the subsequent scheme may provide for the transfer to the new board of the whole or any part of the property, rights and liabilities of the existing board, for the continuation by or against the new board of any legal proceedings instituted by or against the existing board which are pending at the time of the revocation, and for the dissolution, without winding-up, of the existing board.

In this paragraph the expression "the new board" means the board administering the subsequent scheme, and the expression "the existing board" means the board administering the scheme revoked.

2. The Ministers shall by order revoke a marketing scheme if an order is made for the winding-up of the board.

3. The board administering a marketing scheme shall not be deemed to be dissolved by reason only that the scheme has been revoked, and (except in a case where the board is dissolved

4TH SCH.  
—cont.

without winding-up under paragraph 1 of this Part of this Schedule) so much of the scheme as relates to the winding-up of the board shall continue in force notwithstanding the revocation.

52 & 53 Vict.  
c. 63.

4. Where a marketing scheme or any provision of such a scheme is revoked, subsection (2) of section thirty-eight of the Interpretation Act, 1889, (which relates to the effect of repeals) shall apply as if the revocation of the scheme or of that provision, as the case may be, were the repeal of an enactment by another Act.

Section 13.

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## FIFTH SCHEDULE.

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PROVISIONS TO BE SUBSTITUTED FOR SUBSECTIONS (3) AND (6) OF SECTION THIRTEEN OF THIS ACT IN RELATION TO A MARKETING SCHEME FOR REGULATING THE CARRYING ON OF TWO OR MORE DESIGNATED BUSINESSES.

*Subsection to be substituted for subsection (3) of section thirteen.*

(3) If, after the preceding provisions of this section have been complied with in relation to a marketing scheme for regulating, in any respect, the carrying on of two or more designated businesses, the Ministers decide to proceed in the matter of the scheme, they shall forthwith direct the Commission to cause to be taken in the prescribed manner, in relation to each of those businesses, a poll of appropriate registered persons, being persons who are registered in the Commission's register as carrying on that business, and shall take no further action in the matter of the scheme unless, in the case of each poll so taken, the result of the poll shows that at least half the total number of appropriate registered persons entitled to vote have voted, and that at least two-thirds of all the votes polled have been cast in favour of the scheme.

*Subsection to be substituted for subsection (6) of section thirteen.*

(6) If, in the case of any marketing scheme for the time being in force which is a scheme for regulating, in any respect, the carrying on of two or more designated businesses, a request for a poll on the question whether or not the scheme should be revoked is made in writing to the board administering the scheme by or on behalf of the prescribed number of persons registered

under the scheme as carrying on a particular designated business, the board shall forthwith communicate the request to the Commission, and thereupon the Commission shall cause to be taken in the prescribed manner a poll of persons registered under the scheme as carrying on that business, and shall communicate the result of the poll to the Ministers; and if the result of the poll shows that not less than half of the total number of votes polled have been cast in favour of revocation of the scheme, the Ministers shall by order revoke the scheme :

5TH SCH.  
—*cont.*

Provided that no poll of persons registered under the scheme as carrying on a particular designated business shall, without the consent of the board, be taken under this subsection—

- (a) within the two years immediately following the date on which the order confirming the scheme was made; or
- (b) within such period after the date of the declaration of any previous poll of persons registered under the scheme as carrying on that business, being a poll taken under this subsection in relation to the scheme, as may be specified in the scheme.

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## CHAPTER 31.

An Act to make provision with regard to the tenure of office and superannuation of members of the Scottish Land Court. [2nd June 1938.]

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

**1.**—(1) Every member of the Scottish Land Court (other than the Chairman) appointed after the passing of this Act shall vacate his office on attaining the age of sixty-five years, and every member (other than the Chairman) holding office at the passing of this Act, (hereinafter referred to as an existing member) shall vacate his office on attaining the age of sixty-five years, or on the passing of this Act, if he has attained that age prior thereto.

Tenure of office and superannuation of members of Scottish Land Court.

(2) The Superannuation Acts, 1834 to 1935, shall apply to every member of the Scottish Land Court (other than the Chairman) appointed after the passing of this

Act in like manner as those Acts apply to persons in the permanent civil service of the State.

(3) Any existing member of the Scottish Land Court who vacates his office in pursuance of subsection (1) of this section shall be entitled to a retiring allowance at the rate of five hundred pounds per annum paid out of moneys provided by Parliament :

Provided that, if any existing member who has not attained the age of sixty-five years at the passing of this Act gives, within three months thereafter, written notice to the Secretary of State that he desires that the Superannuation Acts, 1834 to 1935, shall apply to him, the said Acts shall, in lieu of the foregoing provisions of this subsection, apply to him in like manner as if subsection (2) of this section had been enacted prior to his appointment.

Citation.

2. This Act may be cited as the Scottish Land Court Act, 1938.

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## CHAPTER 32.

An Act to enable local authorities in Scotland to make arrangements for the prevention and treatment of blindness. [23rd June 1938.]

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

Power of local authorities in respect of the prevention and treatment of blindness.

1. A local authority may make such arrangements as they think desirable and as may be sanctioned by the Department of Health for Scotland for assisting in the prevention of blindness, and in particular for the treatment of persons who are suffering from any disease of, or injury to, the eyes.

Expenses of local authority. 60 & 61 Vict. c. 38.

2. Any expenses incurred under this Act by the local authority shall be defrayed in like manner as expenses incurred by the authority under the Public Health (Scotland) Act, 1897.



**3. In this Act—**Interpreta-  
tion.

“local authority” means—

(a) in the case of a large burgh within the meaning of the Local Government (Scotland) Act, 1929, the town council; 19 & 20  
Geo. 5. c. 25.

(b) in the case of counties combined for the purposes mentioned in subsection (7) of section ten of the last mentioned Act, the joint county council; and

(c) in the case of any other county, the county council;

“county” means a county inclusive of any small burgh within the meaning of the Local Government (Scotland) Act, 1929, situate in the county.

**4.—**(1) This Act may be cited as the Prevention and Treatment of Blindness (Scotland) Act, 1938. Short title and extent.

(2) This Act shall apply to Scotland only.

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### CHAPTER 33.

An Act to increase the maximum amount which may be paid annually by way of subsidies under section one of the Air Navigation Act, 1936; and to make provision with respect to the remuneration and expenses of, and the fees received by, any licensing authority which may be constituted under section five of that Act.

[23rd June 1938.]

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

**1.** The sum which the aggregate amount of the Increase of subsidies payable under all agreements made in pursuance subsidies

for air transport.  
26 Geo. 5. & 1 Edw. 8. c. 44.  
20 & 21 Geo. 5. c. 30.

of section one of the Air Navigation Act, 1936, and in pursuance of the Air Transport (Subsidy Agreements) Act, 1930, must not exceed in any financial year shall be increased from one million five hundred thousand pounds to three million pounds; and accordingly the said section one shall have effect as if, in paragraph (a) of the proviso to subsection (1) of that section, for the words "one million five hundred thousand" there were substituted the words "three million".

Remuneration and expenses of air transport licensing authority, and appropriation of fees paid thereto.

2.—(1) The Secretary of State may pay out of moneys provided by Parliament—

- (a) to the members of any licensing authority which may be constituted by an Order in Council under section five of the Air Navigation Act, 1936, such remuneration (if any) as the Secretary of State, with the approval of the Treasury, may determine, and
- (b) the amounts necessary to defray such expenses of the said licensing authority as the Secretary of State and the Treasury may approve.

(2) The amount of any fee received under such an Order in Council by any such licensing authority shall be paid by that authority to the Secretary of State, and, when received by him, shall be paid into the Exchequer.

Short title and citation.

3. This Act may be cited as the Air Navigation (Financial Provisions) Act, 1938; and the Air Navigation Acts, 1920 and 1936, and this Act may be cited together as the Air Navigation Acts, 1920 to 1938.

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### CHAPTER 34.

An Act to amend the law as to the enforcement by landlords of obligations to repair and similar obligations arising under leases.

[23rd June 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

1.—(1) Where a lessor serves on a lessee under subsection (1) of section one hundred and forty-six of the Law of Property Act, 1925, a notice that relates to a breach of a covenant or agreement to keep or put in repair during the currency of the lease a house of a rateable value of one hundred pounds or less, and at the date of the service of the notice five years or more of the term of the lease remain unexpired, the lessee may within twenty-eight days from that date serve on the lessor a counter-notice to the effect that he claims the benefit of this Act.

Restriction on enforcement of repairing covenants in long leases of small houses.  
15 & 16  
Geo. 5. c. 20.

(2) A right to damages for a breach of such a covenant as aforesaid shall not be enforceable by action commenced at any time at which five years or more of the term of the lease remain unexpired unless the lessor has served on the lessee not less than one month before the commencement of the action such a notice as is specified in subsection (1) of section one hundred and forty-six of the Law of Property Act, 1925, and where a notice is served under this subsection, the lessee may, within twenty-eight days from the date of the service thereof, serve on the lessor a counter-notice to the effect that he claims the benefit of this Act.

(3) Where a counter-notice is served by a lessee under this section, then, notwithstanding anything in any enactment or rule of law, no proceedings, by action or otherwise, shall be taken by the lessor for the enforcement of any right of re-entry or forfeiture under any proviso or stipulation in the lease for breach of the covenant or agreement in question, or for damages for breach thereof, otherwise than with the leave of the court.

(4) A notice served under subsection (1) of section one hundred and forty-six of the Law of Property Act, 1925, in the circumstances specified in subsection (1) of this section, and a notice served under subsection (2) of this section shall not be valid unless it contains a statement, in characters not less conspicuous than those used in any other part of the notice, to the effect that the lessee is entitled under this Act to serve on the lessor a counter-notice claiming the benefit of this Act, and

a statement in the like characters specifying the time within which, and the manner in which, under this Act a counter-notice may be served and specifying the name and address for service of the lessor.

(5) Leave for the purposes of this section shall not be given unless the lessor proves—

- (a) that the immediate remedying of the breach in question is requisite for preventing substantial diminution in the value of his reversion, or that the value thereof has been substantially diminished by the breach;
- (b) that the immediate remedying of the breach is required for giving effect in relation to the house to the purposes of any enactment, or of any byelaw or other provision having effect under an enactment, relating to the safety, repair, maintenance, or sanitary condition of houses, or for giving effect to any order of a court or requirement of a local authority under any such enactment, byelaw, or other provision as aforesaid;
- (c) in a case in which the lessee is not in occupation of the whole of the house, that the immediate remedying of the breach is required in the interests of the occupier of the house or of part thereof;
- (d) that the breach can be immediately remedied at an expense that is relatively small in comparison with the much greater expense that would probably be occasioned by postponement of the necessary work; or
- (e) special circumstances which in the opinion of the court, render it just and equitable that leave should be given.

(6) The court may, in granting or in refusing leave for the purposes of this section, impose such terms and conditions on the lessor or on the lessee as it may think fit.

Restriction on right to recover expenses of survey, &c.

2. A lessor on whom a counter-notice is served under the preceding section shall not be entitled to the benefit of subsection (3) of section one hundred and forty-six of the Law of Property Act, 1925, (which relates to

costs and expenses incurred by a lessor in reference to breaches of covenant), so far as regards any costs or expenses incurred in reference to the breach in question, unless he makes an application for leave for the purposes of the preceding section, and on such an application the court shall have power to direct whether and to what extent the lessor is to be entitled to the benefit thereof.

**3.** This Act shall not apply to a breach of a covenant or agreement in so far as it imposes on the lessee an obligation to put a house in repair that is to be performed upon the lessee taking possession of the premises or within a reasonable time thereafter.

Saving for obligation to repair on taking possession.

**4.** The application of this Act to a house shall not be excluded by reason only that part thereof is used as a shop or office, or for business, trade, or professional purposes.

Application to house used partly as shop, &c.

**5.** This Act applies to leases created, and to breaches occurring, before or after the commencement of this Act.

Application to past breaches.

**6.**—(1) In this Act the expression “the court” means the county court, except in a case in which any proceedings by action for which leave may be given would have to be taken in a court other than the county court, and means in the said excepted case that other court.

Court having jurisdiction under this Act.

(2) The County Courts Act, 1934, shall have effect as if this Act had been one of the enactments referred to in subsection (3) of section fifty-two of that Act, and set out in the first column of the Second Schedule to that Act, and as if all cases other than the said excepted case had been mentioned in the second column of that schedule.

24 & 25  
Geo. 5. c. 53.

**7.**—(1) In this Act the expressions “lessor,” “lessee” and “lease” have the meanings assigned to them respectively by sections one hundred and forty-six and one hundred and fifty-four of the Law of Property Act, 1925, except that they do not include any reference to such a grant as is mentioned in the said section one hundred and forty-six, or to the person making, or to the grantee under such a grant, or to persons deriving title under such a person; and “lease” means a lease for a term of twenty-one years or more.

Application of certain provisions of 15 & 16 Geo. 5. c. 20.

(2) The provisions of section one hundred and ninety-six of the said Act (which relate to the service of notices) shall extend to notices and counter-notices required or authorised by this Act.

Short title  
and extent.

8.—(1) This Act may be cited as the Leasehold Property (Repairs) Act, 1938.

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

## CHAPTER 35.

An Act to amend the Housing (Rural Workers) Acts, 1926 and 1931. [23rd June 1938.]

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

Extension  
of time for  
applying for  
assistance  
under s. 2  
of 16 & 17  
Geo. 5. c. 56.

1.—(1) Subsection (2) of section two of the Housing (Rural Workers) Act, 1926 (in this Act referred to as "the principal Act") shall have effect as if the thirtieth day of September nineteen hundred and forty-two were therein substituted for the twenty-fourth day of June nineteen hundred and thirty-eight, and section four of the principal Act (which relates to Government contributions to expenses of local authorities under the principal Act) shall have effect accordingly.

25 & 26  
Geo. 5. c. 40.

(2) Subject to the provisions of any amending scheme made by a local authority with the approval of the Minister, any reference in a scheme under the principal Act to any date, being a reference which is by virtue of subsection (2) of section thirty-seven of the Housing Act, 1935, to be construed as a reference to the twenty-fourth day of June nineteen hundred and thirty-eight, shall be construed as a reference to the thirtieth day of September nineteen hundred and forty-two.

Power to  
pay lump  
sum grants  
in instal-  
ments.

2.—(1) In paragraph (a) of subsection (4) of section two of the principal Act (which specifies the ways in which a grant may be made thereunder), for the words "by way of a lump sum payment to be made after the

completion of the works", there shall be substituted the words "by way of a lump sum payment, to be made either after the completion of the works or partly in instalments from time to time as the works progress and as to the balance after the completion of the works, so however that, where the payment is to be made partly in instalments, the aggregate of the instalments paid shall not at any time before the completion of the works exceed one-half of the aggregate cost of the works executed up to that time".

(2) In paragraph 3 of the Schedule to the principal Act, after the words "by way of loan", there shall be inserted the words "or by way of grant to be made partly in instalments".

- 3.** The sums repayable under the principal Act—
- |   |  |
|---|--|
| <p>(a) by the owner of a dwelling, to the local authority, by virtue of proviso (ii) to subsection (1) of section three thereof, on any exercise of the option to repay conferred by that proviso; and</p> <p>(b) by the local authority to the Minister, by virtue of subsection (4) of section four thereof, on any such exercise of option as aforesaid;</p> | <p>Repayments of grant to be proportionate to unexpired part of period for observance of conditions.</p> |
|---|--|

shall, if the option is exercised, after the commencement of this Act, in lieu of being ascertained by reference to the whole amount of a grant paid by the local authority, or of contributions made by the Minister, as the case may be, be ascertained by reference to a part thereof proportionate to the extent to which the relevant period of application of conditions remains unexpired at the time of the exercise of the option.

- 4.** In paragraph (b) of subsection (1) of section three of the principal Act (which defines the expression "normal agricultural rent" in relation to the rent payable in respect of a dwelling to which conditions apply by virtue of the principal Act), for the words "average rent for the time being paid by agricultural workers in the district", there shall be substituted the words "rent normally paid by agricultural workers in the district, or, if it appears to the local authority that the number of agricultural workers in the district is insufficient for the determination of any sum as being

Amendment of definition of normal agricultural rent.

“such rent as aforesaid, the rent normally paid by persons of substantially the same economic condition in the district”, and after the words “rent normally paid by agricultural workers in the district”, there shall be inserted the words “or, if it appears to the local authority that the number of agricultural workers in the district is insufficient for the determination of any sum as being such rent as aforesaid, than the rent normally paid by persons of substantially the same economic condition in the district”.

Additional condition as to dwellings in respect of which assistance given by way of grant.

5.—(1) In the case of a dwelling in respect of which any payment in respect of assistance by way of grant is made under the principal Act after the commencement of this Act, the following condition shall apply in relation to the dwelling for a period of twenty years from the date on which it first becomes fit for occupation after the completion of the works, in addition to the conditions specified in section three of the principal Act, that is to say, all reasonable steps shall be taken to secure the maintenance of the dwelling so as to be in all respects fit for habitation as a dwelling by persons of the working-classes.

(2) Proviso (ii) to subsection (1) of section three of the principal Act (which relates to the cesser of conditions on repayment of grant), and paragraph (b) of subsection (5) of that section (which relates to the recovery of sums payable by reason of breach of conditions), shall have effect as if the condition aforesaid were contained in, and applicable by virtue of, the said section three.

Amendment of condition as to maximum rent where further assistance given by way of grant.

6. Where assistance by way of grant has been given under the principal Act (whether before or after the commencement of this Act) in respect of a dwelling, and subsequently further assistance has been so given in respect of that dwelling, subsection (1) of section three of the principal Act shall have effect with the substitution for the condition specified in paragraph (b) thereof of the following condition, that is to say, the rent payable by the occupier in respect of the dwelling shall not exceed the amount permissible before the execution of the works in respect of which the further assistance was given, increased by a sum equal to the following percentage of the amount by which the estimated cost of those works exceeds the amount of the further assistance, that is to



say, if those works were completed before the first day of January nineteen hundred and thirty-five, three per cent. or, if they were completed on or after that day, four per cent., and no fine, premium or other like sum shall be taken in addition to the rent.

7. Where a dwelling in respect of which assistance has been given under the principal Act (whether before or after the commencement of this Act) is let to an occupier together with other land at a single rent, such proportion of that rent as the local authority may determine shall be deemed, for the purposes of paragraph (b) of subsection (1) of section three of the principal Act, to be the rent payable by the occupier in respect of the dwelling.

Apportionment of rent of dwelling let with other land.

8. In the proviso to subsection (3) of section five of the principal Act, after the words "the expenses of the council of the county under this Act" where those words first occur, there shall be inserted the words "(other than expenses in connection with assistance given by the county council in respect of a house or building situated in the county district)", and after the words "on account of the expenses", there shall be inserted the words "(other than as aforesaid)".

Amendment as to expenses of county councils.

9.—(1) Where a dwelling, in respect of which assistance by way of grant was given under the principal Act on an application received by the local authority before the second day of August nineteen hundred and thirty-five, is overcrowded within the meaning of Part IV of the Housing Act, 1936, and an application is made to the local authority for further assistance in respect of works proposed to be executed in respect of the dwelling for the purpose of the abatement of the overcrowding, the local authority may give further assistance by way of grant in respect of the dwelling in excess of the amount which apart from this section would have been permissible, but in other respects subject to and in accordance with the provisions of the principal Act, so however that the amount of the further assistance shall not exceed two-thirds of the estimated cost of any works proposed to be executed or one hundred pounds, whichever is the less, and that the total amount of all the grants made in respect of the dwelling shall not exceed one hundred and fifty pounds:

Power to give increased assistance for abatement of overcrowding. 26 Geo. 5. & 1 Edw. 8. c. 51.

Provided that no further assistance shall be given under this section unless the local authority are satisfied that upon the completion of the works the dwelling will cease to be overcrowded as aforesaid.

(2) Any increase attributable to the exercise of the powers conferred by this section in the sum payable out of moneys provided by Parliament by virtue of section four of the principal Act shall be defrayed out of moneys so provided.

Special provisions as to Scotland.

**10.**—(1) Any contributions made under section four of the principal Act towards any expenses incurred by a local authority being a county council in the Highlands and Islands in making any grant under the principal Act in pursuance of an application for assistance received by them after the twenty-ninth day of March nineteen hundred and thirty-eight, shall, in lieu of being an amount equal to one-half, be an amount equal to three-quarters of the estimated average annual payments referred to in subsection (2) of the said section.

In this subsection the expression “Highlands and Islands” means the counties specified in the Schedule to this Act.

(2) Paragraph (e) of section eight of the principal Act is hereby repealed and in lieu thereof the provisions of subsection (3) of this section shall have effect.

(3) Where assistance by way of grant has been given in respect of a dwelling situated on a holding occupied by a landholder, the following provisions shall have effect :—

(a) where the assistance has been given to the landholder, the local authority shall intimate to the landlord of the holding that assistance has been so given and the amount thereof, and such intimation shall be given—

(i) in any case where assistance has been so given before the commencement of this Act, within three months after the commencement of this Act;

(ii) in any other case, within one month after assistance has been so given :

Provided that nothing in this paragraph shall require such intimation to be given in any case where before the commencement of this Act the conditions applicable in relation to the dwelling by virtue of the principal Act have ceased to have effect;

- (b) if at any time within the period during which conditions apply by virtue of the principal Act in relation to the dwelling compensation becomes payable by the landlord to the landholder under the Small Landholders (Scotland) Acts, 1886 to 1931, in respect of permanent improvements, including the dwelling, so much of the value of the dwelling as is attributable to the assistance shall be taken into account in assessing the compensation so payable and shall be deducted therefrom;
- (c) notwithstanding the provisions of paragraph (d) of section eight of the principal Act, the landholder for the time being in occupation of the holding shall for the purposes of sections two and three of the said Act be deemed to be the owner of the dwelling if the works in respect of which such assistance has been given constitute a permanent improvement in respect of which he would on the termination of his tenancy be entitled to compensation under the Small Landholders (Scotland) Acts, 1886 to 1931;
- (d) the landlord of the holding shall not at any time within the period during which conditions apply by virtue of the principal Act be entitled to obtain any consideration by way of rent or otherwise in respect of so much of the value of the dwelling as is attributable to the assistance;
- (e) so long as the holding is subject to the provisions of the Small Landholders (Scotland) Acts, 1886 to 1931, paragraph (b) of subsection (1) of section three of the principal Act and section seven of this Act shall not apply in relation to the dwelling, and paragraph (c) of subsection (1) of the said section three shall have effect as if for the words "conditions (a) and (b) are", there were substituted the words "condition (a) is".

25 & 26  
Geo. 5. c. 41.

(4) Subsection (2) of section one of this Act shall have effect as if for the reference to section thirty-seven of the Housing Act, 1935, there were substituted a reference to section thirty-four of the Housing (Scotland) Act, 1935.

(5) Section nine of this Act shall have effect as if for the reference to Part IV of the Housing Act, 1936, there were substituted a reference to Part I of the Housing (Scotland) Act, 1935, and as if for the words " the abatement of the " there were substituted the words " putting an end to ".

(6) This section shall extend to Scotland only.

Additional provisions with respect to loans by local authorities in Scotland.

**11.**—(1) Where in pursuance of section two of the principal Act a local authority give assistance by way of loan to the owner of a dwelling, then, subject to the provisions of this section and to such conditions as may be approved by the Department, the loan may, in lieu of being secured by a bond and disposition in security or other deed of security, be secured by an order (in this section referred to as a " charging order ") made by the local authority providing and declaring the dwelling, or the dwelling and such other subjects belonging to the owner of the dwelling as the local authority and such owner may agree, to be charged and burdened with an annuity to repay the amount of the loan.

(2) The annuity charged shall commence from the date of the order, and shall be a sum of such amount and shall be payable to the local authority or their assignees for such period of years, not exceeding twenty, as the local authority and the owner may agree.

(3) A local authority shall not make a charging order, and a charging order shall not be effectual, unless—

(a) the local authority have served on every person appearing in the Register of Sasines as the proprietor of, or as holding a heritable security over, the subjects or any part thereof to be charged and burdened with the said annuity, notice that if no objection is intimated to them in writing by such person within twenty-one days from the date of service of the notice, they intend to make such charging order; and

(b) no objection has been so intimated by any person on whom notice has been so served.

(4) The provisions of section twenty-two of the Housing (Scotland) Act, 1925, shall apply to a charging order made under this section in like manner as they apply to a charging order made under section twenty-one of the said Act, subject to the following and any other necessary modifications—

15 & 16  
Geo. 5. c. 15.

(a) subsection (2) shall apply as if after the words “advances of public money” there were inserted the words—

“(d) any rentcharge secured on the premises by absolute order made under and in terms of the Improvement of Land Act, 1864, or the Lands Improvement Company’s Acts, 1853 to 1920;

(e) any loan made for agricultural purposes in pursuance of the Agricultural Credits (Scotland) Act, 1929, by any company incorporated for the purposes of that Act, where such loan has been secured on the premises by a bond and disposition in security or other deed of security duly registered in the appropriate Register of Sasines; and

(f) any charge on the premises created under any provision in any Act authorising a charge for recovery of expenses incurred by a local authority under section one hundred and twenty-five of the Public Health (Scotland) Act, 1897, or by a local authority or an owner under section twenty of the Housing (Scotland) Act, 1925, or section fifteen of the Housing (Scotland) Act, 1930”;

(b) subsection (3) shall not apply.

(5) For the purpose of this section, a notice may be served by delivering it to the person on whom it is required to be served or by sending it by registered letter to such person at his usual or last known address, or if such person cannot be found, to the Extractor of the Court of Session. An acknowledgment endorsed on such notice or a copy thereof, by such person, or where the notice is sent by registered letter, a certificate subscribed by the clerk to the local authority that such notice was duly posted and having the Post Office receipt for the

registered letter attached shall be conclusive evidence that such notice was duly served on the date stated in the acknowledgment or Post Office receipt.

20 & 21  
Geo. 5. c. 40. (6) In this section the expression "owner" has the like meaning as in section forty-nine of the Housing (Scotland) Act, 1930.

(7) This section shall extend to Scotland only.

Short title,  
citation,  
construction  
and extent.

**12.**—(1) This Act may be cited as the Housing (Rural Workers) Amendment Act, 1938.

(2) This Act shall be construed as one with the Housing (Rural Workers) Acts, 1926 and 1931, and, in its application to England, with sections thirty-seven and thirty-eight of the Housing Act, 1935, and, in its application to Scotland, with sections thirty-four and thirty-five of the Housing (Scotland) Act, 1935.

(3) The Housing (Rural Workers) Acts, 1926 and 1931, sections thirty-seven and thirty-eight of the Housing Act, 1935, and this Act may be cited together as the Housing (Rural Workers) Acts, 1926 to 1938, and the Housing (Rural Workers) Acts, 1926 and 1931, sections thirty-four and thirty-five of the Housing (Scotland) Act, 1935, and this Act may be cited together as the Housing (Rural Workers) (Scotland) Acts, 1926 to 1938.

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

(5) This Act shall not apply to Northern Ireland or to the administrative county of London.

Section 10.

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## SCHEDULE.

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The counties of—

Argyll  
Caithness  
Inverness  
Ross and Cromarty  
Sutherland  
Orkney and  
Zetland.

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**CHAPTER 36.**

An Act to repeal and re-enact with modifications the provisions of the Infanticide Act, 1922.

[23rd June 1938.]

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

1.—(1) Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder, she shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child. Offence of infanticide.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this Act they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this Act shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section sixty of the Offences against the Person Act, 1861, except that for the purposes of the proviso to that section a child shall be deemed to have recently been born if it had been born within twelve months before its death. 24 & 25 Vict.  
c. 100.

(4) The said section sixty shall apply in the case of the acquittal of a woman upon an indictment for infanticide as it applies upon the acquittal of a woman upon an indictment for murder.

Short title,  
extent and  
repeal.

2.—(1) This Act may be cited as the *Infanticide Act, 1938.*

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

(3) The *Infanticide Act, 1922*, is hereby repealed.

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## CHAPTER 37.

An Act to empower local authorities to close streets to enable them to be used as playgrounds for children. [13th July 1938.]

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

Power to  
prohibit  
traffic on  
roads to  
be used as  
playgrounds.

1.—(1) The council of any county (other than the administrative county of London), metropolitan borough, county borough, borough or urban district, shall have power, for the purpose of enabling any roads within their area in respect of which they are the highway authority to be used as playgrounds for children, to make an order prohibiting or restricting, subject to such exceptions and conditions as to occasional user or otherwise as may be specified in the order, the use of any specified road by vehicles, or by vehicles of any specified class or description, either generally or on particular days or during particular hours :

Provided that an order made under this section with respect to any road shall make provision for permitting reasonable access to premises situated on or adjacent to the road.

(2) No order made under this section shall be of any effect unless and until it is confirmed by the Minister of Transport, and the Minister, if he confirms the order, may



confirm it either without modification or subject to such modifications as he thinks fit, but he shall not confirm an order until twenty-eight days at least have elapsed since the making of the order and, before confirming it, shall consider any objections which may have been made to him against the order and, if he thinks fit, may cause a public inquiry to be held.

(3) Any order made under this section may be revoked, varied or amended by an order made in like manner as the original order.

(4) The Minister of Transport may at any time after giving notice in writing to the council by whom an order under this section was made and after holding, if he thinks fit, a public inquiry, revoke, vary or amend the order.

(5) Any person who uses a vehicle, or causes or permits a vehicle to be used, in contravention of an order in force under this section shall be liable on summary conviction to a fine not exceeding five pounds and, in the case of a second or subsequent conviction, to a fine not exceeding ten pounds.

(6) The power of the Minister of Transport under subsection (6) of section twenty-nine of the Road and Rail Traffic Act, 1933, to make regulations with respect to the making and confirmation of orders under that section shall include power to make regulations for prescribing the procedure to be followed in connection with the making of orders by a council under this section and the confirmation thereof and for prescribing the manner in which the council shall publish notice of the fact that any such order has been made and confirmed and of its effect.

23 & 24  
Geo. 5. c. 53.

2.—(1) A council by whom an order may be made under the foregoing section, shall have power, in relation to any road as respects which an order is made by them prohibiting or restricting the use of the road by vehicles, or by vehicles of any specified class or description, for the purpose of enabling the road to be used as a playground for children, to make byelaws authorising the use of the road for that purpose, and making provision with respect to the admission of children to the road when used as a playground, and with respect to the

Power to  
make bye-  
laws with  
respect to  
roads used  
as play-  
grounds.

safety of children so using the road and their protection from injury by vehicles using the road for access to premises situated on or adjacent to the road or otherwise, and generally with respect to the proper management of the road when used as a playground as aforesaid.

(2) The Minister of Transport shall be the confirming authority as respects byelaws made under this section.

Provisions  
as to  
inquiries.

**3.**—(1) For the purpose of any inquiry held by the Minister of Transport in pursuance of this Act, the person appointed to hold the inquiry may by summons require any person to attend at such time and place as is specified in the summons to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined :

Provided that no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence unless the necessary expenses of his attendance are paid or tendered to him.

(2) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he may be required to produce for the purpose of this section, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(3) Where any such inquiry is held, the Minister 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 five guineas a day, as he may determine, for the services of any officer engaged in the inquiry) by such party to the inquiry as he may direct, and the Minister may certify the amount of the costs so incurred, and any amount so certified and directed by the Minister to be paid by any party shall be

recoverable from that party either as a debt to the Crown or by the Minister summarily as a civil debt.

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

- (a) the powers conferred by subsection (1) of section one of this Act on the councils therein mentioned shall be exercisable as regards roads in a county by the county council, and as regards roads in a burgh by the town council;
- (b) in subsection (5) of section one of this Act for the words “on summary conviction” there shall be substituted the words “on conviction by a court of summary jurisdiction”;
- (c) for subsection (2) of section two of this Act the following subsection shall be substituted :—

“(2) Sections one hundred and eighty-three to one hundred and eighty-seven of the Public Health (Scotland) Act, 1897, shall apply in like manner as they apply to byelaws made under that Act by a local authority to byelaws made under this section by a county or town council, with the substitution of the Minister of Transport for the Board, and any penalty under any such byelaw shall be recoverable on conviction by a court of summary jurisdiction”;

60 & 61 Vict.  
c. 38.

- (d) in section three of this Act for the word “summons” there shall be substituted the word “order”, and the word “summarily” shall be omitted.

**5.**—(1) This Act may be cited as the Street Play- Short title and extent.  
grounds Act, 1938.

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



**CHAPTER 38.**

**An Act to authorise the giving of financial assistance towards the expenses incurred by local authorities in providing housing accommodation for the agricultural population; to promote the provision of new housing accommodation to replace accommodation which is occupied by members of the agricultural population and is unfit for human habitation or overcrowded; to amend the provisions of the Housing (Scotland) Acts, 1925 to 1935, relating to charging orders, insanitary dwelling-houses, the recovery of expenses by instalments, the provision of water-closets, and the making of byelaws as to accommodation for seasonal workers; to amend the provisions of section one hundred and twenty-five of the Public Health (Scotland) Act, 1897; to authorise the making of byelaws with respect to premises used for the accommodation of agricultural workers; and for purposes connected with the matters aforesaid. [13th July 1938.]**

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

**PART I.****CONTRIBUTIONS TOWARDS EXPENSES OF ACCOMMODATION FOR AGRICULTURAL POPULATION.**

Exchequer contributions towards expenses of accommodation for agricultural population.

**1.**—(1) The Department shall, subject to the provisions of this Part of this Act, undertake to make, and make, contributions out of moneys provided by Parliament towards any expenses incurred by a local authority in providing under Part III of the Act of 1925 housing accommodation for the agricultural population, in so far as such accommodation is provided with the approval of

the Department in houses the erection of which has been, or is, begun on or after the third day of November nineteen hundred and thirty-seven.

(2) Before undertaking to make any contribution under this section, the Department shall be satisfied with the adequacy of the measures being taken by the local authority for dealing with the clearance of unhealthy areas and the demolition or closing of insanitary houses, and for providing accommodation for the persons to be displaced by or in consequence of the measures so taken and for the purpose of putting an end to overcrowding.

(3) A contribution under this section shall be of such amount not being less than ten pounds ten shillings as the Department may with the sanction of the Treasury determine, payable annually for a period of forty years in respect of each house provided with the approval of the Department; and in determining the amount of the contribution so payable by them, the Department shall take into consideration the cost of providing the house, the rent which it will be practicable to obtain therefor, the expenditure already incurred and to be incurred by the local authority under the enactments relating to housing, and the general financial resources of the local authority :

Provided that the amount of the contribution payable in respect of any house shall not exceed fifteen pounds unless the Department are satisfied that the annual expenditure likely to be incurred by the local authority in respect of the house is, in consequence of the remoteness of the site thereof from centres of supply of building labour and material, substantially greater than the equivalent of nineteen pounds ten shillings per annum for forty years.

(4) No contribution shall be made under this section towards any expenses in respect of which the Department are required to make contributions by virtue of section twenty-three of the Act of 1930 or of section thirty of the Act of 1935.

2.—(1) A local authority to whom the Department have undertaken to make a contribution under the foregoing section of this Act in respect of any house shall

Local  
authorities'  
contribu-  
tions

**PART I.**  
 —*cont.*  
 towards  
 expenses of  
 accom-  
 modation  
 for agri-  
 cultural  
 population.

make in respect thereof a contribution out of the appropriate rate in accordance with the provisions of this section.

(2) A contribution under this section shall be provided by equal annual instalments during a period of sixty years from the date of the completion of the house, and shall be of such amount as to be equivalent, when so provided, to the appropriate sum (as hereinafter defined) provided annually for a period of forty years :

Provided that, where the local authority are of opinion that the contribution should be provided by annual instalments during a period of less than sixty years, the Department may on the application of the local authority direct that this subsection shall have effect in relation to the contribution as if there had been substituted therein, for the reference to a period of sixty years, a reference to such period, not being less than forty years, as the Department may think proper.

(3) For the purposes of this section, the appropriate sum shall be a sum equal to one-third of the amount of the Department's contribution (any fractional part of one shilling exceeding sixpence being reckoned as one shilling, and any fractional part of one shilling not exceeding sixpence being disregarded) or the sum of four pounds ten shillings, whichever is the less.

Amendment  
 of Act of  
 1935.

**3.**—(1) Section thirty-three of the Act of 1935 (which relates to the review of Exchequer contributions) shall have effect as if—

(a) in subsection (1), after the words "this Act" there were inserted the words "and section one of the Housing (Agricultural Population) (Scotland) Act, 1938"; and

(b) in subsection (8), after the words "section thirty of this Act," and after the words "the said section thirty," there were inserted respectively the words "or under section one of the Housing (Agricultural Population) (Scotland) Act, 1938" and the words "or in subsection (3) of the said section one."

(2) Subsection (3) of section forty-seven of the Act of 1935 (which relates to the conditions to be observed

by local authorities) shall have effect as if at the end thereof there were added the following words:—

PART I.  
—cont.

“and that a number of houses equal to the number in respect of which the Department have undertaken to make a contribution under section one of the Housing (Agricultural Population) (Scotland) Act, 1938, are reserved for the agricultural population.”

(3) Subsection (5) of the said section forty-seven shall in its application to houses which are, under subsection (3) of the said section, reserved for the agricultural population, have effect as if for the reference to persons of the working classes there were substituted a reference to the agricultural population.

(4) The Third Schedule to the Act of 1935 shall have effect as if—

(a) to Part I thereof, there were added the following words:—

“9. Section one of the Housing (Agricultural Population) (Scotland) Act, 1938”; and

(b) in Part III thereof, after paragraph (8) there were inserted the following paragraph:—

“8A. The contributions payable by the local authority under section two of the Housing (Agricultural Population) (Scotland) Act, 1938.”

## PART II.

### REPLACEMENT OF UNSATISFACTORY HOUSES OCCUPIED BY AGRICULTURAL WORKERS AND OTHERS.

4.—(1) A local authority may, and if so required by the Department shall, submit to the Department a scheme or schemes for assisting the provision of housing accommodation in new houses in replacement of—

Schemes  
for  
replacing  
unsatis-  
factory  
houses.

(a) houses or other premises which, being unfit for human habitation and not capable at a reasonable expense of being rendered so fit, are to be demolished or closed under Part II of the Act

PART II  
—cont.

of 1930, and which come within any of the following descriptions, that is to say:—

- (i) houses, bothies or chaumers or similar premises situated on a farm and occupied in accordance with their contracts of service by agricultural workers employed thereon;
- (ii) houses occupied by persons who, being owner occupiers of farms which either do not exceed fifty acres in area or are entered in the valuation roll at a gross annual value not exceeding fifty pounds, are of substantially the same economic condition as agricultural workers;
- (iii) houses occupied by statutory small tenants;
- (iv) houses occupied by landholders;
- (v) houses in the Highlands and Islands occupied by members of the agricultural population who are of substantially the same economic condition as landholders;
- (b) houses, bothies or chaumers or similar premises situated on a farm and occupied in accordance with their contracts of service by agricultural workers employed thereon, which are not in all respects fit for human habitation or are overcrowded, and which by the execution of the works of reconstruction hereinafter mentioned will be combined with adjoining occupied houses or premises and will cease to be occupied as separate houses or premises;

and on approval by the Department of any scheme so submitted, a local authority may in accordance therewith give assistance in the manner hereinafter provided.

(2) Assistance under this section shall be given by way of payment on the completion of the house of a lump sum not exceeding either—

- (a) one half of the cost of the house; or
- (b) one hundred and sixty pounds in the case of a house containing three apartments, or two hundred pounds in the case of a house containing more than three apartments.



For the purpose of this subsection, the reasonable cost of obtaining a title to land on which there is to be erected a house in replacement of any house such as is mentioned in sub-paragraph (v) of paragraph (a) of subsection (1) of this section shall be deemed to form part of the cost of the house.

(3) No assistance under this section shall be given in respect of any house unless—

- (a) the application for assistance is made to the local authority within five years after the passing of this Act;
- (b) the house contains at least three apartments of superficial areas not less than such areas as may be specified in the scheme of assistance;
- (c) the house contains a watercloset, a scullery with a sink and drainage therefor, a fixed bath in a bathroom and such other conveniences as may be specified in the scheme of assistance:

Provided that, where it is not reasonably practicable to provide a watercloset, the local authority may, with the approval of the Department, and subject to such conditions as the Department may impose, dispense with the provision thereof.

(4) Without prejudice to the provisions of the last foregoing subsection, no assistance under this section shall be given in respect of the replacement of any house or other premises such as are mentioned—

- (a) in paragraph (a) of subsection (1) of this section, unless such action has been taken under Part II of the Act of 1930 as will secure that the house or premises will be demolished on the completion of the house provided in replacement thereof or will not thereafter be used for human habitation;
- (b) in paragraph (b) of the said subsection (1), unless the local authority are satisfied that such works of reconstruction will be executed in accordance with plans approved by them, as will combine the house or premises with an adjoining occupied house or premises and will convert both

PART II.  
— *cont.*

houses or premises into a single house in all respects fit for human habitation and containing, unless the local authority with the approval of the Department otherwise permit, at least three apartments of such superficial areas as may be specified in the scheme of assistance, a scullery with a sink and drainage therefor, a fixed bath in a bathroom and such other conveniences as may be specified in the said scheme and where reasonably practicable a watercloset;

- (c) in sub-paragraph (i) of paragraph (a), or in paragraph (b), of the said subsection (1), unless the house provided in replacement is required for the accommodation of an agricultural worker employed on the farm and accommodation suitable to the requirements of the worker and of his employment is not available in the locality and it is not practicable for the local authority to provide such accommodation under a scheme for the provision of housing accommodation for the agricultural population of the locality.

(5) The rules contained in the First Schedule to this Act shall apply with respect to applications for and the giving of assistance under this section.

(6) Where assistance is given under this section in respect of the replacement of a house or premises and an undertaking has been given that the house or premises will not be used for human habitation or a closing order has been made with respect thereto, then, notwithstanding anything in Part II of the Act of 1930, it shall not be competent for such undertaking to be cancelled, or such closing order to be determined.

(7) A local authority may in any case refuse to give assistance under this section on any grounds which seem to them sufficient.

Conditions applying to houses in respect of which assistance has been given.

5.—(1) The conditions specified in this section shall, in so far as they apply to any house and subject as hereinafter provided, apply in relation to the house for a period of forty years from the date of its completion and shall, so long as they continue to have effect, be deemed to be part of the terms of any lease, agreement for a lease, or tenancy of the house granted by the owner thereof, and shall be enforceable accordingly.

(2) It shall be a condition applicable in relation to every house in respect of which assistance has been given under section four of this Act—

- (a) that the house shall during the said period of forty years be so maintained as to be in all respects fit for human habitation; and
- (b) that the owner of the house shall from time to time, on being so required by the local authority, furnish to the authority a certificate to the effect that the conditions applicable in relation to the house are being complied with, and any tenant of the house shall, on being so required in writing by the owner, furnish to him such information as he may reasonably require for the purpose of enabling him to comply with this condition.

(3) It shall also be a condition applicable in relation to any house in respect of which assistance has been given as being a house provided in replacement of any house or other premises such as are mentioned in—

- (a) sub-paragraph (i) of paragraph (a), or paragraph (b), of subsection (1) of section four of this Act, that if at any time within the said period of forty years it is not required for the accommodation of an agricultural worker employed by the person who pays occupier's rates in respect thereof, it shall not be let otherwise than to a member of the agricultural population and at such rent as the local authority may approve;
- (b) sub-paragraphs (ii) and (iii) of paragraph (a) of the said subsection, that if at any time within the said period of forty years it is not required for the accommodation of the person working the farm or holding on which it is situated, it shall not be let otherwise than to a member of the agricultural population and at such rent as the local authority may approve;
- (c) sub-paragraph (iv) of paragraph (a) of the said subsection, that if at any time within the said period of forty years the holding on which it is situated ceases to be subject to the provisions of the Small Landholders (Scotland) Acts, 1886

PART II.  
—cont.

to 1931, the house shall not be let otherwise than to a member of the agricultural population and at such rent as the local authority may approve;

(d) sub-paragraph (v) of paragraph (a) of the said subsection, that it shall not at any time within the said period of forty years be let otherwise than to a member of the agricultural population and at such rent as the local authority may approve.

(4) In the event of a breach of any of the conditions which apply by virtue of this section in relation to any house in respect of which assistance has been given, the owner for the time being of the house shall forthwith become liable to repay to the local authority a sum bearing the same proportion to the sum paid by way of assistance as the period between the date when the said breach occurred and the expiration of the period of forty years during which the condition is applicable, bears to the said period of forty years, together with compound interest thereon as from the date on which assistance was given, calculated at the prescribed rate and with yearly rests: and on repayment being so made the conditions aforesaid shall cease to apply in relation to the house:

Provided that, if the local authority in any such case are satisfied that the breach was not due to the act, default, or connivance of the owner, the authority may, with the consent of the Department and subject to such conditions, if any, as the Department may approve, waive the liability of the owner to make repayment under the foregoing provision, and in the case of a continuing breach may, with the like consent and subject to such conditions as aforesaid, suspend the enforcement of that liability for such period as appears to them to be necessary for enabling the owner to remedy the breach.

Voluntary  
repayment  
of assistance  
by owners.

6. The owner of a house in respect of which assistance has been given under section four of this Act may at any time within the period of forty years during which conditions apply by virtue of this Part of this Act in relation to the house pay to the local authority a sum bearing the same proportion to the sum paid by way of assistance as the period between the date on which such

payment is made and the expiration of the said period of forty years bears to the said period of forty years, together with compound interest thereon as from the date on which assistance was given, calculated at the prescribed rate and with yearly rests and thereupon the conditions aforesaid shall cease to apply in relation to the house.

PART II.  
—cont.

7.—(1) Where under section four of this Act assistance is given to a landholder or statutory small tenant in respect of a house on his holding, the local authority shall forthwith intimate to the landlord of the holding that assistance has been so given and shall inform him of the amount thereof.

Special provisions with respect to payment of compensation, &c.

(2) If at any time within the period of forty years during which conditions apply by virtue of this Part of this Act in relation to a house provided on a farm or holding otherwise than by the landlord thereof compensation becomes payable in respect of the house as for an improvement under the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or the Small Landholders (Scotland) Acts, 1886 to 1931, so much of the value of the house as is attributable to the sum paid by way of assistance under section four of this Act shall be taken into account in assessing the compensation so payable and shall be deducted therefrom.

(3) The landlord of a farm or holding on which there is a house in relation to which conditions apply by virtue of this Part of this Act shall not at any time within the period during which the conditions apply be entitled to obtain any consideration by way of rent or otherwise in respect of so much of the value of the house as is attributable to the sum paid by way of assistance under section four of this Act.

8.—(1) The Department shall, subject to such conditions as to records, certificates, audit or otherwise as they may with the approval of the Treasury determine and subject to the provisions of this section, make or undertake to make contributions towards any expenses incurred by a local authority in giving assistance under section four of this Act.

Exchequer contributions to expenses of local authorities under s. 4 of Act.

(2) Any such contributions shall be made by way of annual payments for a period of forty years from the completion of the house in respect of which assistance is given, and shall be of an amount equal, in any case where

**PART II.**  
—*cont.*

assistance is given in respect of a house provided in replacement of any such house as is mentioned in sub-paragraphs (ii), (iii), (iv) or (v) of paragraph (a) of subsection (1) of section four of this Act which is situated in the Highlands and Islands, to seven-eighths, and in any other case in which assistance is given under the said section, to three-quarters of the estimated average annual payments falling to be made by the local authority in respect of the charges on account of loans raised by them for the purposes of payments made under the said section four, or which would have fallen to be made if the sums so expended by them had been raised by means of loans.

(3) In the event of a breach of any condition applicable by virtue of this Part of this Act in relation to a house, the local authority shall be liable to repay to the Department in respect of each payment already made by the Department a sum bearing the same proportion to the amount of the payment as the sum (excluding interest) repayable to the local authority by the owner of the house under subsection (4) of section five of this Act bears to the sum paid by them by way of assistance, together with compound interest thereon as from the date on which the payment was made, calculated at the prescribed rate and with yearly rests :

Provided that—

- (a) the provisions of this subsection shall not apply if the liability of the owner to make repayment in respect of the breach of the condition has been duly waived in accordance with the provisions of this Part of this Act, or if and so long as the enforcement of that liability is duly suspended in accordance with those provisions; and
- (b) if the local authority show to the satisfaction of the Department that, notwithstanding that they have taken all practicable steps for the purpose, they have been unable to recover the whole or some part of any sum repayable to them by reason of the breach of the condition, the Department may remit the repayment of the whole or any part of the sum repayable to them under this subsection.

(4) Where under section six of this Act any sum is repaid to the local authority in respect of any house, the local authority shall be liable to repay to the Department in respect of each payment already made by the Department a sum bearing the same proportion to the amount of the payment as the sum (excluding interest) repaid to the local authority bears to the sum paid by them by way of assistance, together with interest as aforesaid.

PART II.  
—cont.

9.—(1) Any expenses incurred by the Department under this Part of this Act shall be defrayed out of moneys provided by Parliament.

Expenses of Department, borrowing power of local authorities for the purposes of Part II of Act and interpretation.

(2) Section sixty-eight of the Act of 1925 (which confers on local authorities power to borrow for certain purposes) shall have effect as if the purposes of this Part of this Act had been included amongst the purposes specified in subsection (1) of that section; and the raising of money by a local authority for the purposes of this Part of this Act shall be a purpose for which the Public Works Loans Commissioners may lend to the local authority.

(3) In this Part of this Act the expression “prescribed rate” means such rate as may be prescribed by the Department with the approval of the Treasury.

10. It is hereby declared that a person to whom assistance is given by a local authority under this Part of this Act is not thereby disqualified for being elected or being a member of the local authority or of any committee or sub-committee thereof.

Acceptance of assistance not to disqualify for membership of local authority.

### PART III.

#### MISCELLANEOUS.

11.—(1) Where under section one hundred and twenty-five of the Public Health (Scotland) Act, 1897, or section twenty of the Act of 1925, or section fifteen of the Act of 1930, a local authority have themselves incurred expenses in the execution of works, it shall be competent for them to make a charging order in favour of themselves in respect of such expenses in like manner as they may make a charging order in favour of an owner under section twenty-one of the Act of 1925, and the provisions

Provisions with respect to charging orders and the recovery by instalments of cost of executing works.

**PART III.**  
—*cont.*  
60 & 61 Vict.  
c. 38.

of sections twenty-one and twenty-two of the said Act shall, subject to any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made in favour of an owner.

(2) The provisions of subsection (3) of section fifteen of the Act of 1930 (which relate to the recovery of certain expenses by instalments) shall apply to the recovery of expenses incurred by a local authority in themselves executing works under section one hundred and twenty-five of the Public Health (Scotland) Act, 1897, or section twenty of the Act of 1925, in like manner as they apply to the recovery of expenses incurred under subsection (1) of the said section fifteen.

Inter-  
pretation  
and amend-  
ment of  
60 & 61 Vict.  
c. 38, s. 125.

**12.**—(1) For the avoidance of doubt it is hereby declared that for the purposes of section one hundred and twenty-five of the Public Health (Scotland) Act, 1897, a house shall be deemed to be without a proper supply of wholesome water if in any case in which it is reasonably practicable to introduce such supply into the house, such supply has not been so introduced.

(2) The said section one hundred and twenty-five shall have effect as if after the words “into the house” there were inserted the words “with a sink and drainage therefor.”

Amendment  
of s. 20 of  
Act of  
1925.

**13.** Any watercloset provided under section twenty of the Act of 1925 shall, where it is reasonably practicable, be provided inside the dwelling-house or part thereof for which it is provided, or where that is not reasonably practicable, in a position readily accessible therefrom.

Application  
of Part II of  
Act of 1930  
to certain  
premises.

**14.** The provisions of Part II of the Act of 1930 relating to insanitary dwelling-houses shall have effect in relation to premises occupied by agricultural workers, in like manner as if they were dwelling-houses notwithstanding that they are used for sleeping purposes only.

Amendment  
of s. 46 of  
Act of 1935.

**15.** Section forty-six of the Act of 1935 (which relates to the power to withhold contributions in the event of default) shall have effect as if in paragraph (a) thereof after the words “this Act” there were inserted the words “or the Housing (Agricultural Population) (Scotland) Act, 1938.”



**16.** Where the Department, after having caused a public local inquiry to be held in pursuance of section thirty-seven of the Act of 1930, are satisfied that the local authority have failed to exercise any of their powers under Part III of the Act of 1925 to provide housing accommodation for persons of the working classes who are members of the agricultural population, or under section one hundred and twenty-five of the Public Health (Scotland) Act, 1897, in a case where these powers ought to have been exercised, the Department may, before making such an order as is mentioned in the said section thirty-seven, make an order declaring the local authority to be in default and directing the authority to exercise for the purpose of remedying the default such of their said powers, and in such manner, and within such time or times, as may be specified in the order; and if the local authority fail to comply with any requirement of the order within the time limited thereby for compliance with that requirement, the Department may make such an order as is mentioned in the said section thirty-seven.

PART III.  
—cont.  
Additional  
power of  
Department  
where local  
authority  
are in  
default.

**17.** A tenant, landholder, or statutory small tenant shall for the purposes of Part II of this Act be deemed to be the owner of any house on his farm or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Agricultural Holdings (Scotland) Acts, 1923 and 1931, or the Small Landholders (Scotland) Acts, 1886 to 1931, as for an improvement; and a landholder shall for the purposes of section twenty of the Act of 1925 be deemed to be the owner, and for the purposes of Part II of the Act of 1930 be deemed to be the owner and the person having control, of any house on his holding in respect of which he would be entitled to compensation as aforesaid under the Small Landholders (Scotland) Acts, 1886 to 1931.

Certain  
persons  
to be  
deemed to  
be owners  
for certain  
purposes.

**18.**—(1) Within six months of the passing of this Act or within such longer period as the Department may allow, a local authority shall make, with respect to bothies, chaumers and similar premises which are used for the accommodation of agricultural workers and are not part of a farmhouse, byelaws regarding any of the following matters, that is to say :—

Byelaws  
relating to  
accommo-  
dation for  
agricultural  
workers.

- (a) the provision of a separate entrance in any case where the premises form part of other premises;

PART III.  
—cont.

- (b) the provision of ventilation, floor area, and furnishing, including the provision of a separate bed and bedding for each worker;
- (c) the provision of adequate heating and lighting;
- (d) the provision of accommodation for personal clothing, and of facilities for personal ablution;
- (e) the painting, whitewashing or other cleansing of the premises at regular intervals;
- (f) the prevention of and safety from fire;
- (g) intimation to the local authority by farmers of the number of workers employed by them who are accommodated in bothies or in chaumers or similar premises;
- (h) the provision of a ventilated larder and a fire-place or stove suitable for cooking food and sufficient cooking utensils;
- (i) such other matters as the Department may from time to time prescribe:

Provided that, if a local authority show to the satisfaction of the Department that it is unnecessary to make byelaws under this section, the Department may dispense with the making of such byelaws.

(2) Byelaws relating to paragraph (h) of the foregoing subsection shall apply only to premises in which the occupants cook their meals.

(3) Byelaws made by a local authority under this section may be limited to particular parts of the authority's district.

(4) Where a local authority fail within the said period of six months or within such longer period as aforesaid, to make, with respect to any of the matters specified in subsection (1) of this section, byelaws which are in the opinion of the Department sufficient and satisfactory, the Department themselves may make such byelaws, which shall be of the like force and effect as if they had been made by the local authority.

(5) Section eighty-four of the Act of 1925 shall have effect as if in proviso (a) after the words "seasonal workers" there were inserted the words "or any byelaws made under section eighteen of the Housing (Agricultural Population) (Scotland) Act, 1938".

**19.**—(1) A local authority who at the date of the passing of this Act have not made byelaws under section eighty-three of the Act of 1925, which are in the opinion of the Department sufficient and satisfactory, shall within six months of the passing of this Act, or within such longer period as the Department may allow, make such byelaws :

Provided that, if the local authority show to the satisfaction of the Department that it is unnecessary to make byelaws under the said section, the Department may dispense with the making of such byelaws.

(2) Where a local authority fail within the said period of six months, or within such longer period as aforesaid, to make byelaws under the said section which are in the opinion of the Department sufficient and satisfactory, the Department themselves may make such byelaws, which shall be of the like force and effect as if they had been made by the local authority.

(3) Section eighty-three of the Act of 1925 shall have effect as if for subsection (3) thereof there were substituted the following subsection—

“(3) If in consequence of any byelaws made under this section a farmer or a fruit grower is required to provide accommodation involving the erection of additional buildings, he may require the landlord to erect such buildings on terms and conditions to be determined, failing agreement, by the Department of Agriculture for Scotland.”

**20.**—(1) Where in pursuance of section seventy-five of the Act of 1925 a local authority advance money to any person constructing a house in respect of which they have undertaken to give assistance under Part II of this Act, being a person entitled to grant a heritable security over the house, then, subject to the provisions of this section and to such conditions as may be approved by the Department, the advance may, in lieu of being secured by bond and disposition in security or other deed of security, be secured by an order (in this section referred to as a “charging order”) made by the local authority providing and declaring the house, or the house and such other subjects belonging to the person receiving the advance as the local authority and such person may agree, to be charged and burdened with an annuity to repay the amount of the advance.

PART III.  
—*cont.*  
Amend-  
ment of  
s. 83 of Act  
of 1925.

Additional  
provisions  
with respect  
to loans by  
local  
authorities.

PART III.  
—cont.

(2) The annuity charged shall commence from the date of the order, and shall be a sum of such amount and shall be payable to the local authority or their assignees for such period of years, not exceeding thirty, as the local authority and the person receiving the advance may agree.

(3) A local authority shall not make a charging order, and a charging order shall not be effectual, unless—

- (a) the local authority have served on every person appearing in the Register of Sasines as the proprietor of, or as holding a heritable security over, the subjects or any part thereof to be charged and burdened with the said annuity, notice that if no objection is intimated to them in writing by such person within twenty-one days from the date of service of the notice, they intend to make such charging order; and
- (b) no objection has been so intimated by any person on whom notice has been so served.

(4) The provisions of section twenty-two of the Act of 1925, shall apply to a charging order made under this section in like manner as they apply to a charging order made under section twenty-one of the said Act, subject to the following and any other necessary modifications—

- (a) subsection (2) shall apply as if after the words “advances of public money” there were inserted the words—

“(d) any rentcharge secured on the premises by absolute order made under and in terms of the Improvement of Land Act, 1864, or the Lands Improvement Companies’ Acts, 1853 to 1920;

(e) any loan made for agricultural purposes in pursuance of the Agricultural Credits (Scotland) Act, 1929, by any company incorporated for the purposes of that Act, where such loan has been secured on the premises by a bond and disposition in security or other deed of security duly registered in the appropriate Register of Sasines; and

(f) any charge on the premises created under any provision in any Act authorising

27 & 28 Vict.  
c. 114.

19 & 20  
Geo. 5. c. 13.

a charge for recovery of expenses incurred by a local authority under section one hundred and twenty-five of the Public Health (Scotland) Act, 1897, or section twenty of the Act of 1925, or section fifteen of the Act of 1930, or by an owner under Part I of the Act of 1925 ”;

**PART III.**  
—*cont.*

(b) subsection (3) shall not apply.

(5) For the purpose of this section, a notice may be served by delivering it to the person on whom it is required to be served or by sending it by registered letter to such person at his usual or last known address, or if such person cannot be found, to the Extractor of the Court of Session. An acknowledgment endorsed on such notice or a copy thereof, by such person, or, where the notice is sent by registered letter, a certificate subscribed by the clerk to the local authority that such notice was duly posted and having the Post Office receipt for the registered letter attached, shall be conclusive evidence that such notice was duly served on the date stated in the acknowledgment or Post Office receipt.

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

**Interpre-  
tation.**

“ the Act of 1935 ” means the Housing (Scotland) Act, 1935;

25 & 26  
Geo. 5. c. 41.

“ agricultural population ” means—

(a) in relation to persons resident within a large burgh, persons of the working classes who are engaged in agriculture, and includes the dependants of such persons; and

(b) in relation to persons resident outside a large burgh, persons of the working classes who are, or in their latest occupation were, engaged in agriculture or in an industry mainly dependent on agriculture, and includes the dependants of such persons;

“ agriculture ” means the use of land for agricultural or pastoral purposes, or for the purpose of poultry farming or market gardening, or as an orchard or woodlands, or for the purpose of afforestation, and “ agricultural worker ” shall be construed accordingly;

PART III.  
—*cont.*

“Highlands and Islands” means the areas specified in the Second Schedule to this Act, excluding any large burgh;

“landholder,” “holding” and “statutory small tenant” have the meanings assigned to them by the Small Landholders (Scotland) Acts, 1886 to 1931.

(2) In the Act of 1930 the expression “this or the principal Act,” and in the Act of 1930, the Act of 1935, and section one hundred and forty-seven of the Public Health (Scotland) Act, 1897, the expression “Housing (Scotland) Acts, 1925 to 1935,” shall, unless the context otherwise requires, be construed as including references to this Act.

Short title,  
citation,  
construction and  
extent.

22.—(1) This Act may be cited as the Housing (Agricultural Population) (Scotland) Act, 1938, and shall be construed as one with the Housing (Scotland) Acts, 1925 to 1935, and those Acts and this Act may be cited together as the Housing (Scotland) Acts, 1925 to 1938.

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

(3) This Act shall extend only to Scotland.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 4.

#### RULES AS TO APPLICATIONS FOR AND GIVING OF ASSISTANCE UNDER PART II OF ACT.

1. The applicant for assistance shall furnish to the local authority full particulars of the house proposed to be erected, and of the house or other premises which it is to replace, together with a statement (approved by an officer of the local authority authorised in that behalf) of the estimated cost of the house, and such plans and specifications thereof as the local authority may require.

2. If the local authority approve the application they shall issue to the applicant a certificate of their approval which shall set out the terms and conditions upon which assistance will be given.

3. On the completion of the house the applicant shall furnish the local authority with such information as they may require as to the cost of the house and shall satisfy them that it has been erected in accordance with the terms and conditions of the certificate, and the local authority shall not be liable to give assistance until they are so satisfied.

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## SECOND SCHEDULE.

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Section 21.

### HIGHLANDS AND ISLANDS.

The counties of—

Argyll;  
Caithness;  
Inverness;  
Ross and Cromarty;  
Sutherland;  
Orkney; and  
Zetland.

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## CHAPTER 39.

An Act to amend paragraph (b) of subsection (1) of section nineteen of the Welsh Church Act, 1914.  
[13th July 1938.]

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

1. Paragraph (b) of subsection (1) of section nineteen of the Welsh Church Act, 1914 (which made provision, among other things, as to the application by the University of Wales of part of the property referred to in that paragraph for the benefit of the Colleges of the

Amendment  
of 4 & 5  
Geo. 5. c. 91,  
s. 19 (1) (b).

University) shall have effect as if after the word "Monmouthshire" there were therein inserted the words "the University College of Swansea", and as if for the words "one-fourth" there were therein substituted the words "three-sixteenths."

Short title,  
construc-  
tion and  
citation.

2. This Act may be cited as the Welsh Church (Amendment) Act, 1938, and shall be construed as one with the Welsh Church Acts, 1914 and 1919, and those Acts and this Act may be cited together as the Welsh Church Acts, 1914 to 1938.

## CHAPTER 40.

An Act to extend the powers of courts of summary jurisdiction as to the making of orders for the protection, custody, supervision and care of children and young persons, and for their temporary detention; to make further provision as to children and young persons in respect of whom such orders are made; and to amend the law as to the constitution of juvenile courts in the Metropolitan police court area.

[13th July 1938.]

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

Enlarge-  
ment of  
powers of  
juvenile  
courts  
under s. 64  
of principal  
Act.  
23 Geo. 5.  
c. 12.

1. The Children and Young Persons Act, 1933 (hereinafter referred to as "the principal Act") shall have effect as if the powers conferred on a juvenile court by section sixty-four of that Act (which enables a juvenile court to make certain orders in relation to refractory children and young persons) included a power to make (without making any other order, or in addition to making an order placing the child or young person under the supervision of a probation officer or of some other person appointed for the purpose by the court) an order committing the child or young person to the care of any fit person, whether a relative or not, who is willing to undertake the care of him.



2. The power of a juvenile court under section eighty-four of the principal Act to revoke an order committing a child or young person to the care of a fit person shall include a power to substitute for that order an order placing the child or young person, for a specified period not exceeding three years, under the supervision of a probation officer or of some other person appointed for the purpose by the court, and section sixty-six of the principal Act shall apply in relation to the substituted order as if it were an order made under Part III of that Act:

Supervision order in place of order committing to care of fit person.

Provided that an order under the said section, placing a young person under the supervision of a probation officer or of some other person appointed for the purpose by the court, shall be of no effect after the time at which the person to whom the order relates attains the age of eighteen years.

3.—(1) The powers of a court under section forty-five of the Education Act, 1921 (which determines the orders which may be made by a court on the hearing of a complaint of non-compliance with a school attendance order) shall include a power to make, with respect to the child in relation to whom such a complaint is made to the court, an order placing him, for a specified period not exceeding three years, under the supervision of a probation officer or of some other person appointed for the purpose by the court; and the court may make such an order either without making any other order or in addition to making an order committing the child to the care of a fit person.

Power of courts acting under Education Act, 1921, to make supervision orders.  
11 & 12  
Geo. 5. c. 51.

(2) If a court before which any complaint of non-compliance with a school attendance order is duly made under section forty-five of the Education Act, 1921, is not in a position to decide what order ought to be made under that section with respect to the child to whom the complaint relates, the court may make such interim order as it thinks fit for his detention or continued detention in a place of safety.

An interim order under this subsection shall not remain in force for more than twenty-eight days; but if, at the expiration of that period, the court deems it expedient so to do, it may make a further interim order.

(3) Without prejudice to the effect of section one hundred and forty of the Education Act, 1921, the court before which a complaint is duly made under section forty-five of that Act, may authorise a person to bring before the court the child to whom the complaint relates.

Provisions which may be contained in, and variation and revocation of, supervision orders.

4.—(1) Any order made under section sixty-two, section sixty-four or section eighty-four of the principal Act, as amended by this Act, or under section forty-five of the Education Act, 1921, as so amended, placing a child or young person under the supervision of a probation officer or of some other person appointed for the purpose by the court, may contain such provisions (including provisions determining the place at which the child or young person is to reside), as the court, having regard to the particular circumstances of the case, considers necessary for effecting the purpose of the order :

Provided that—

(a) no such order shall—

(i) if it contains any such provisions with respect to residence, be made in relation to a young person, without the consent of that person, or

(ii) be made so as to require a person to reside in any institution which is not subject to inspection by the Secretary of State, unless the said person is, while residing in the institution, to be employed, or to seek employment, outside it;

(b) where such an order is made containing provisions requiring a person to reside in an institution—

(i) the court by which the order is made shall forthwith give notice of the terms of the order to the Secretary of State; and

(ii) the Secretary of State may at any time, if he considers that it is in the interests of that person so to do, cause an application to be made to any court having power to vary the order, and thereupon that court may vary the provisions of the order by excluding therefrom the provisions with

respect to residence or by substituting the name of some other institution; and

- (c) any provisions with respect to residence which are contained in such an order shall be of no effect after the time when the person to whom the order relates attains the age of eighteen years.

(2) The court by which an order, under any of the following sections, as amended by this Act, that is to say, sections sixty-two, sixty-three, sixty-four and eighty-four of the principal Act and section forty-five of the Education Act, 1921, is made after the commencement of this Act, placing a child or young person for a specified period under the supervision of a probation officer or of some other person appointed for the purpose by the court, may at any time, upon application made by any person before the end of that period,—

- (a) substitute for the said period a period not exceeding three years from the beginning of the original period,
- (b) (subject to the limitations imposed by the preceding subsection) vary the order, or
- (c) if satisfied that the conduct of the child or young person has been such as to make it unnecessary that he any longer be under supervision, revoke the order;

and where any application under this subsection is duly made in relation to any person by the person under whose supervision he has been placed by such an order, the applicant may, for the purpose of the application, bring before the court the person who is the subject of the application, whether or not that person has attained the age of seventeen years.

(3) The court by which, under any of the sections mentioned in the last preceding subsection, such an order as is mentioned in that subsection is made after the commencement of this Act may by the order provide that the powers which, by that subsection, are conferred on that court with respect to the variation or revocation of the order may be exercised by any juvenile court acting for the petty sessional division or place in which the person to whom the order relates may for the time being reside.

Incidental powers of courts dealing with children and young persons.

5. Where any court before which a child or young person is brought upon an application for an order under any of the provisions of sections sixty-two to sixty-six of the principal Act, as amended by this Act, is not in a position to decide what order ought to be made, the court may (whether or not it also makes an interim order under subsection (2) of section sixty-seven of that Act) record a finding of the fact that the child or young person is in need of care or protection or is beyond the control of his parent or guardian, or is refractory, as the case may be; and the said record shall be admissible as evidence of that fact for the purpose of any further hearing of that application.

Power to deal with children and young persons who become in need of medical treatment while under detention.

6.—(1) Where, with respect to a child or young person who is being detained in a place of safety under an interim order having effect by virtue of subsection (2) of section sixty-seven of the principal Act, or by virtue of subsection (2) of section three of this Act, the court by which the order was made is satisfied, on any occasion that, by reason of illness or accident, he is unable to appear personally before the court, any further interim order which the court has power to make on that occasion, may be made in the absence of the child or young person.

(2) If at any time while there is in force an order made by a court under section thirty-three, section fifty-four, section sixty-seven, or section sixty-nine of the principal Act or under subsection (2) of section three of this Act for the detention of a child or young person in a remand home or in some other place of safety the child or young person is found, by reason of illness or accident, or for any other reason, to be in need of any medical treatment or examination which cannot properly be given or made in the remand home or other place of safety, the person in charge of the remand home or other place of safety, may remove the child or young person therefrom to any place of safety being a place in which the necessary treatment or examination can be given or made; and the order shall, so long as it remains in force—

(a) apply to the child or young person as if, whilst being so removed to the last-mentioned place of safety, whilst detained therein for the purpose

of the giving of the treatment or the making of the examination, and whilst being taken back to the place from which he was so removed, he continued to be detained in the remand home or other place of safety specified in the order, and

(b) be deemed to authorise the child or young person to be taken to the court from any place to which he has lawfully been removed by virtue of this subsection.

(3) Whenever, in pursuance of the last preceding subsection, a child or young person is removed from any remand home or other place of safety for his detention in which such an order as is mentioned in that subsection has been made, being an order in force at the time of the removal, the person by whom he is so removed shall forthwith give written notice of the fact to the clerk of the court by which the order was made.

7. The following sub-paragraph shall be substituted for sub-paragraph (2) of paragraph 2 of the Second Schedule to the principal Act :—

“(2) Every juvenile court in the metropolitan police court area shall, according as the Secretary of State may direct,—

Constitu-  
tion of  
juvenile  
courts in  
metro-  
politan  
police court  
area.

(a) be constituted of a metropolitan police magistrate nominated by the Secretary of State to act as a chairman of juvenile courts within the said area, and two justices of the peace for the county of London, both of whom shall be selected, in such manner as may be directed by Order in Council, from a panel of such justices nominated from time to time by the Secretary of State, or

(b) be constituted of three such justices of the peace so selected as aforesaid, one of whom shall be a person nominated by the Secretary of State to act as a chairman of juvenile courts within the said area ;

and of the members of any juvenile court one at least shall be a man and one at least shall be a woman :

Provided that—

(i) if at any time, by reason of illness or other emergency, no person so nominated is available to act as chairman of a juvenile court, any metropolitan police magistrate (whether so nominated or not), or, with the consent of the Secretary of State, any justice of the peace selected from the said panel, may act temporarily as chairman ; and

(ii) where it appears to the chairman that the court cannot, without adjournment, be fully constituted, and that the adjournment would be inexpedient in the interests of justice, the chairman may sit with one justice selected from the said panel (whether a man or a woman) or, if a metropolitan police magistrate, may sit alone."

Consequential amendments of principal Act and of Education Act, 1921.

**8.** The amendments specified in the Schedule to this Act, being amendments consequential upon the preceding provisions of this Act, shall be made in the principal Act and in the Education Act, 1921.

Short title, construction, citation, extent and commencement.

**9.**—(1) This Act may be cited as the Children and Young Persons Act, 1938, and shall be construed as one with the principal Act; and that Act and this Act may be cited together as the Children and Young Persons Acts, 1933 and 1938.

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

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

SCHEDULE.

Section 8.

CONSEQUENTIAL AMENDMENTS OF THE PRINCIPAL ACT  
AND OF THE EDUCATION ACT, 1921.*Amendments of the principal Act.*

In section sixty-four after the words "appointed for the purpose by the court", there shall be inserted the words "or (without making any other order or in addition to making such an order as last mentioned) may commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him,".

In section sixty-six, in subsection (1), after the word "Act" there shall be inserted the words "or under section eighty-four of this Act."

In section eighty-four, in subsection (6), after the word "residing" there shall be inserted the words "and the court by which any such order is revoked may, upon the application of any person, substitute for that order an order placing the child or young person for a specified period not exceeding three years, under the supervision of a probation officer or of some other person appointed for the purpose by the court :

"Provided that an order under this subsection placing a young person under the supervision of a probation officer or of some other person appointed by the court shall be of no effect after the time at which the person to whom the order relates attains the age of eighteen years."

In the Third Schedule, the provisions substituting a section for section forty-five of the Education Act, 1921, shall cease to have effect.

*Amendment of the Education Act, 1921.*

For section forty-five there shall be substituted the following section :

"45.—(1) Where a school attendance order is not complied with, without any reasonable excuse, a court of summary jurisdiction, on complaint made by the local education authority, may, if they think fit, order as follows :—

- (a) in the first case of non-compliance if the parent of the child does not appear, or appears and fails to satisfy the court that he has used all reasonable efforts to enforce compliance with the order,

Proceedings on disobedience of order of court for attendance at school.

the court may impose a fine not exceeding with the costs twenty shillings; but if the parent satisfies the court that he has used all reasonable efforts as aforesaid, the court may, without inflicting a fine, order the child to be sent to an approved school or to be committed to the care of a fit person in accordance with the provisions of the Children and Young Persons Act, 1933, or (without making an order committing the child to the care of a fit person or in addition to making such an order) make an order placing the child, for a specified period not exceeding three years under the supervision of a probation officer or of some other person appointed for the purpose by the court; and

- (b) in the second or any subsequent case of non-compliance with the order, the court may order the child to be sent to an approved school or to be committed to the care of a fit person in accordance with the provisions of the Children and Young Persons Act, 1933, or (without making an order committing the child to the care of a fit person or in addition to making such an order) make an order placing the child, for a specified period not exceeding three years, under the supervision of a probation officer or of some other person appointed for the purpose by the court, and may further in their discretion inflict any such fine as aforesaid, or they may for each such non-compliance inflict any such fine as aforesaid without dealing with the child as aforesaid :

Provided that a complaint under this section with respect to a continuing non-compliance with a school attendance order shall not be repeated by the local education authority at any less interval than two weeks.

(2) Where an order is made under this section either sending a child to an approved school, or committing him to the care of a fit person, or placing him under the supervision of a probation officer or of some other person appointed for the purpose by the court, the provisions of the Children and Young Persons Act, 1933, shall apply in relation to the order as if it were an order made under that Act."

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**CHAPTER 41.**

An Act to restrict night work in the baking industry, and for purposes connected therewith.

[13th July 1938.]

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

1.—(1) Subject to the provisions of this Act, no person shall be employed in any factory in the manufacture of bread or flour confectionery or in any other work incidental thereto between the hours of eleven o'clock in the evening and five o'clock in the morning.

Restriction of night work in the manufacture of bread and flour confectionery.

(2) The Secretary of State may, on the application of any trade board or association of employers or workers which appears to him to be concerned, make regulations restricting the extent to which persons who, otherwise than in pursuance of a contract of service, engage by way of trade or for purposes of gain in the manufacture of bread or flour confectionery or in any other work incidental thereto, may be so engaged between the hours of eleven o'clock in the evening and five o'clock in the morning.

2.—(1) The occupier of a factory may secure in accordance with the provisions of this Act that the special exception for which this section provides shall apply in respect of that factory, and, whilst that special exception so applies, no other special exception for which this Act provides shall apply in respect of that factory.

First special exception.

(2) Whilst the said special exception applies in respect of a factory, section one of this Act shall not operate so as to prohibit the employment of a person in that factory between the hours of eleven o'clock in the evening and five o'clock in the morning on any night unless he was employed in that factory between the said hours in the manufacture of bread or flour confectionery or in any other work incidental thereto on five previous nights in the same week.

3.—(1) The occupier of a factory may secure in accordance with the provisions of this Act that the special exception.

Second special exception.

exception for which this section provides shall apply in respect of that factory, and, whilst that special exception so applies, no other special exception for which this Act provides shall apply in respect of that factory.

(2) Whilst the said special exception applies in respect of a factory, section one of this Act shall not operate so as to prohibit the employment of persons in that factory between the hours of eleven o'clock in the evening on Fridays and five o'clock in the morning on Saturdays, or between the hours of four o'clock and five o'clock in the morning on any day of the week.

Third  
special  
exception.

4.—(1) The occupier of a factory may secure in accordance with the provisions of this Act that the special exception for which this section provides shall apply in respect of that factory, and, whilst that special exception so applies, no other special exception for which this Act provides shall apply in respect of that factory.

(2) Whilst the said special exception applies in respect of a factory, section one of this Act shall not operate so as to restrict the employment of a person in that factory in any week unless he was employed in that factory in the manufacture of bread or flour confectionery or in any other work incidental thereto between the hours of eleven o'clock in the evening and five o'clock in the morning in more than one-half of the weeks in the period of five weeks immediately preceding the said week.

(3) The Secretary of State may by order direct that as respects any factory specified in the order the provisions of the foregoing subsection shall have effect as if for the reference to five weeks there were substituted a reference to such alternative number of weeks as may be specified in the order.

Require-  
ments  
relating to  
special  
exceptions.

5.—(1) If the occupier of a factory gives notice in such manner as the Secretary of State may by order prescribe to the inspector for the district in which the factory is situate and to persons employed in the factory of his intention to avail himself in respect of that factory, as from a date specified in the notice, not being earlier than seven days from the date upon which the notice is given, of one of the special exceptions for which this Act provides, that special exception shall apply in respect of that factory as from the date so specified.

(2) If the occupier of a factory in respect of which such a special exception applies gives notice, in such manner as the Secretary of State may by order prescribe, to the inspector for the district in which the factory is situate and to persons employed in the factory that he desires that the special exception shall cease to apply in respect of that factory as from a date specified in the notice, not being earlier than seven days from the date on which the notice is given, that special exception shall cease to apply in respect of that factory as from the date so specified.

(3) A special exception shall continue to apply in respect of a factory until either—

- (a) it ceases by virtue of the provisions of the foregoing subsection to apply in respect of that factory, or
- (b) a notice applying a different special exception in respect of that factory takes effect in accordance with the provisions of subsection (1) of this section.

(4) Whilst a special exception applies in respect of a factory, the occupier shall keep such records and keep posted in the factory such notices relating to work in the factory as the Secretary of State may by order prescribe, and if the occupier fails to keep the said records or to keep the said notices posted, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding twenty pounds.

6.—(1) The Secretary of State may by regulations provide that the restrictions imposed by this Act shall not apply, or shall apply subject to such modifications as may be specified in the regulations, in respect of employment in factories—

- (a) in dough-making,
- (b) in oven-firing,
- (c) in work undertaken by reason of a breakdown of machinery or plant, or other unforeseen emergency,
- (d) in work for the purpose of providing supplies for public holidays and feast days,
- (e) in work for the purpose of providing supplies to meet seasonal demands in holiday resorts, and

Power of Secretary of State to provide for modifications of, and exemptions from, the restrictions imposed by this Act.

(f) in work done in any other circumstances or for any other purpose in or for which the Secretary of State is satisfied that it is desirable that special provision for work at night should be made.

(2) The Secretary of State may order that the restrictions imposed by this Act shall not apply, or shall apply subject to such modifications as may be specified in the order—

(a) in respect of employment in any factory in work for the purpose of meeting a sudden and unexpected demand for bread, and

(b) where the occupier of a factory is acquiring or erecting new plant or premises, in respect of employment in that factory during such period, not extending beyond two years from the commencement of this Act, as the Secretary of State considers reasonable in the circumstances.

Saving for  
work in  
biscuit  
factories.

**7.**—(1) This Act shall not apply in respect of the employment of persons in a factory in which the sole or principal work carried on is the manufacture of biscuits, or in such part of any factory as may be specified in an order made by the Secretary of State, being a part in which the Secretary of State is satisfied that the sole or principal work carried on is the manufacture of biscuits :

Provided that the Secretary of State may, on the application of any trade board or association of employers or workers which appears to him to be concerned, by regulations provide that this Act shall apply, to the extent specified in the regulations, in respect of the employment of persons in such factories or parts of factories as aforesaid in work in or incidental to the manufacture of bread or flour confectionery other than biscuits, and whilst this Act so applies every reference therein to the manufacture of bread or flour confectionery shall, as respects the factories or parts of factories to which the regulations relate, be construed as a reference to the manufacture of bread or flour confectionery other than biscuits.

(2) Whilst any such order as aforesaid is in force with respect to a part of a factory, that part of the factory

and the rest of the factory shall, for the purposes of this Act, be deemed to be separate factories.

**8.**—(1) Section sixteen of the public local and personal Act of the third year of the reign of His late Majesty King George the Fourth, chapter one hundred and six (which regulates the making and sale of bread), and section fourteen of the Bread Act, 1836, are hereby repealed.

Provisions  
as to baking  
on Sundays.  
3 Geo. 4.  
c. cvi.  
6 & 7  
Will. 4.  
c. 37.

(2) The restrictions relating to work on Sundays contained in the Sunday Observance Act, 1677, shall, so far as they affect the manufacture of bread or flour confectionery or any other work incidental thereto, cease to have effect.

29 Cha. 2.  
c. 7.

**9.** Sections one hundred and twenty-three to one hundred and twenty-five of the Factories Act, 1937 (which relate to the powers and duties of inspectors for the purpose of the execution of that Act and to matters connected therewith), shall apply for the purpose of the execution of the provisions of this Act which relate to employment in factories as if those provisions were contained in that Act, and shall apply for the purpose of the execution of any regulations made under this Act which relate to persons who, otherwise than in pursuance of a contract of service, engage by way of trade or for purposes of gain in the manufacture of bread or flour confectionery or in any other work incidental thereto, as if those regulations were made under that Act, and as if—

Administra-  
tion.  
1 Edw. 8. &  
1 Geo. 6.  
c. 67.

- (a) premises in which persons so engage in such work were a factory,
- (b) the persons who so engage in the work were the occupiers of the factory, and
- (c) for the word “employed” in the said sections there were substituted the words “engaged  
“ in the manufacture of bread or flour con-  
“ fectionery or in any other work incidental  
“ thereto.”

**10.**—(1) If any person is employed in a factory in contravention of the provisions of this Act, the occupier of the factory shall be guilty of an offence in respect of

Offences  
and  
penalties.

each night on which that person is so employed in that factory, and shall be liable on summary conviction to a fine not exceeding twenty pounds for each offence.

(2) If any person engages in the manufacture of bread or flour confectionery or any other work incidental thereto in contravention of regulations made by the Secretary of State under section one of this Act, he shall be guilty of an offence in respect of each night on which he so engages in such work, and shall be liable on summary conviction to a fine not exceeding twenty pounds for each offence.

Power of  
county  
court to  
modify  
agreements.

**11.** Where, by reason of an agreement in force at the commencement of this Act between the lessor and the lessee of premises the whole or any part of which is used for the manufacture of bread or flour confectionery or any other work incidental thereto, the lessee is prevented from carrying out structural or other alterations in the premises, the lessee may apply, in accordance with county court rules, to the county court, and, if the court is satisfied that, having regard to the restrictions on hours of work imposed by or under this Act, the lessee ought reasonably to be allowed to carry out any such structural or other alterations, the court may make such order setting aside or modifying the terms of the agreement as the court considers just and equitable in the circumstances of the case.

Provisions  
as to regu-  
lations and  
orders of  
Secretary of  
State.

**12.—(1)** Any regulations or order made by the Secretary of State under this Act may be made for a limited period or without limit of period, and may be made subject to such conditions as he thinks fit, and may contain such supplemental and consequential provisions as he considers necessary for giving full effect to the regulations or order.

(2) Any regulations made by the Secretary of State under this Act may be made either generally, or in relation to any area or any description of factory or premises.

(3) Any regulations made by the Secretary of State under this Act shall be laid as soon as may be before Parliament.

(4) Any order made by the Secretary of State under this Act may be varied or revoked by a subsequent order made by him.

**13.—(1)** In this Act—

- “calendar year” has the same meaning as in the Factories Act, 1937, Interpretation.
- “chief inspector” means the chief inspector appointed under the Factories Act, 1937,
- “factory” means premises which are a factory within the meaning of subsection (1) of section one hundred and fifty-one of the Factories Act, 1937,
- “inspector” means an inspector appointed under the Factories Act, 1937,
- “week” means the period between noon on any Sunday and noon on the succeeding Sunday,
- “work incidental to the manufacture of bread or flour confectionery” includes slicing, wrapping, or otherwise preparing bread or flour confectionery for sale or distribution, but save as aforesaid does not include work in or incidental to distribution.

(2) The chief inspector may direct that for the purposes of this Act—

- (a) a part of a factory shall be deemed to be a separate factory, or
- (b) two or more factories shall, whilst in the occupation of the same person, be deemed to be a single factory,

and may revoke any such direction at any time.

(3) Any such direction or revocation as aforesaid shall take effect after the expiration of seven days from the date upon which notice in writing thereof is given by the chief inspector to the occupier of the factory or factories to which the direction or revocation relates.

**14.** In the application of this Act to Scotland—

- (a) section nine shall have effect as if after the words “one hundred and twenty-five” there

Application  
to Scotland.

were inserted the words “and subsection (9) of section one hundred and fifty-six,” and

- (b) section eleven shall have effect as if for the references to the county court and to county court rules there were respectively substituted references to the sheriff and to rules made by Act of Sederunt.

**15.**—(1) This Act may be cited as the Baking Industry (Hours of Work) Act, 1938.

(2) This Act shall come into operation—

- (a) if, before the first day of January nineteen hundred and forty the Secretary of State lays before Parliament a certificate that he is satisfied that a trade board has been established under the Trade Boards Acts, 1909 and 1918, for a trade which comprises, or substantially comprises, the manufacture of bread and flour confectionery, upon such date as, upon the presentation to His Majesty by both Houses of Parliament after the said first day of January nineteen hundred and forty of an address praying that this Act may be brought into operation, His Majesty may by Order in Council appoint, or
- (b) if the Secretary of State has not laid such a certificate before Parliament before the said first day of January nineteen hundred and forty, on that date.

(3) Any certificate laid before Parliament under this section shall be deemed to be a statutory rule for the purposes of section three of the Rules Publication Act, 1893.

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

Short title,  
commence-  
ment and  
extent.

56 & 57 Vict.  
c. 66.



**CHAPTER 42.**

An Act to amend the Herring Industry Act, 1935, to authorise the giving of further financial assistance to the Herring Industry Board and to herring fishermen, and for purposes connected with the matters aforesaid. [13th July 1938.]

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

**1.**—(1) As from the appointed day the Herring Industry Board shall be reconstituted and shall consist of a chairman and two other members appointed by the Ministers, and, subject to the provisions of the First Schedule to the Herring Industry Act, 1935 (hereinafter referred to as “the principal Act”), every member of the Board shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.

Reconstitu-  
tion of  
Herring  
Industry  
Board.  
25 & 26  
Geo. 5. c. 9.

(2) It shall be the duty of the Ministers to satisfy themselves, with respect to any person whom they propose to appoint to be a member of the Board after the appointed day, that that person will have no such financial or commercial interest as to be likely to affect him in the discharge of his functions as a member of the Board, and also to satisfy themselves from time to time, with respect to any person so appointed that he has no such interest as aforesaid; and any such person shall, whenever requested by the Ministers so to do, furnish to them such information as they consider necessary for the performance of their duty under this subsection.

(3) The Board shall, in addition to their functions under the principal Act, have the function of keeping generally under review matters relating to the herring industry, including the conditions of employment of persons employed therein.

Herring  
Industry  
Advisory  
Council.

2.—(1) For the purpose of giving advice and assistance to the Board in the discharge of their functions, there shall, on or as soon as may be after the appointed day, be constituted a council to be called the Herring Industry Advisory Council (hereinafter referred to as “the Council”).

(2) The Council shall consist of a chairman, who shall be such member of the Board as may from time to time be appointed by the Board, and of such other members as may be appointed by the Ministers to represent the interests of the different sections of the herring industry and any such other interests (including those of persons employed in the industry) as the Ministers may consider to be affected.

(3) Before appointing to the Council a member to represent any such interests as aforesaid, the Ministers shall consult such bodies, if any, as appear to them to be representative of the interests concerned.

(4) The provisions of the First Schedule to this Act shall have effect with regard to the Council.

3.—(1) There shall be paid out of moneys provided by Parliament in respect of the general administrative expenses of the Board (including the expenses of any committee appointed by the Board) approved by the Ministers, being expenses incurred during the period beginning with the appointed day and ending with the thirty-first day of March nineteen hundred and forty-four, such sums not exceeding sixty thousand pounds as Parliament may from time to time determine.

(2) There shall be paid out of moneys provided by Parliament in respect of any expenses incurred by the Board during the said period and approved by the Ministers in the exercise of any powers exercisable by the Board for promoting the sale of herring or products thereof, promoting market development, promoting schemes for the revival of winter fisheries, or promoting or carrying out schemes of research or experiment, such sums as Parliament may from time to time determine :

Provided that—

- (a) the sums paid under this subsection in respect of the expenses so incurred by the Board in any financial year shall not exceed one-half of the expenses so incurred in that year; and

Payment of  
certain  
expenses of  
the Board  
out of  
moneys  
provided by  
Parliament.

- (b) the aggregate of the sums paid under this subsection shall not exceed the amount which with the sums paid under the foregoing subsection will amount to one hundred and twenty-five thousand pounds.

4. The Ministers may with the approval of the Treasury make arrangements for the payment, during the period beginning with the appointed day and ending with the thirty-first day of March nineteen hundred and forty-four of grants to herring fishermen for the purpose of assisting in the provision of new motor boats which could not be provided without such assistance, and may on the recommendation of the Board make out of moneys provided by Parliament such grants as may be provided for by the arrangements :

Grants for provision of new motor boats.

Provided that—

- (a) no grant made under this section in respect of any boat shall exceed one-third of the total cost thereof; and
- (b) the aggregate of the grants made under this section shall not exceed two hundred and fifty thousand pounds.

5.—(1) Sums may be issued under section nine of the principal Act from the Herring Fund Advances Account and from the Herring Marketing Fund at any time not later than the thirty-first day of March nineteen hundred and forty-four.

Extension of period for advances from Herring Fund

(2) There shall be paid out of moneys provided by Parliament into the Herring Fund Advances Account, in addition to the sum so paid under the said section nine, such sums, not exceeding in the aggregate one hundred and fifty thousand pounds, as Parliament may from time to time determine.

Advances Account, and further payments into the account.

6.—(1) Section three of the principal Act (which specifies certain purposes of a scheme under that Act) and subsection (3) of section nine of the principal Act (which specifies the purposes for which advances may be made to the Board) shall each have effect as if after paragraph (b) thereof the following paragraph were inserted :—

Provision for loans to societies for acquiring nets, gear, fuel, &c.

“(bb) the making of loans to any society or organisation formed for the purpose of acquiring

nets and gear, fuel for boats, or other requisites for herring fishing, or requisites for the curing, kippering or processing of herring, and of selling or hiring any such requisites to the members of the society or organisation.”

(2) Subsection (4) of the said section nine (which provides for the payment into the Exchequer of sums received by the Ministers by way of interest on, or repayment of the principal of, advances made by them to the Board for certain purposes) shall apply to advances made to the Board for the purposes specified in the aforesaid paragraph (*bb*).

7. The said section three of the principal Act shall have effect as if after paragraph (*g*) thereof the following paragraph were inserted:—

“(*gg*) the prohibition, in accordance with rules and subject to any exemption for which provision may be made by the rules, of the sale, or the consignment, offer or exposure for sale, or the export, of herring of any description or quality defined in the rules, unless such designation, mark or other means for indicating that the herring are of the said description or quality as may be prescribed by the rules is used, in relation to the herring, in such manner as may be so prescribed, and the prohibition, except in relation to herring of such description or quality as may be so defined, of the use, in any manner or circumstances specified in the rules, of such designation, mark or other means as may be so prescribed for indicating that such herring are of that description or quality :

Provided that—

(i) rules under this paragraph shall be of no effect if and so far as they are inconsistent with any regulations made with regard to fishery produce under section one or section two of the Agricultural Produce (Grading and Marking) Act, 1928, as amended by the Agricultural Produce (Grading and Marking) Amendment Act, 1931; and

Provision  
for  
designating  
quality of  
herring and  
prescribing  
standards  
of quality  
for exported  
herring.

18 & 19  
Geo. 5. c. 19.  
21 & 22  
Geo. 5. c. 40.

(ii) this paragraph shall not apply to herrings branded in pursuance of any of the enactments referred to in section eleven of this Act ;”

and as if after paragraph (h) thereof the following paragraph were inserted :—

“(hh) the prohibition or restriction of the export of herring which do not comply with such standards of quality as may be prescribed by rules.”

8.—(1) The Board may make such payments in respect of the expenses of the Herring Industry Advisory Council as the Ministers and the Treasury may approve, and any such payments shall be deemed to be part of the general administrative expenses of the Board.

Expenses of Advisory Council, consumers' committee and committee of investigation.

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

(a) to the members, officers and servants of the consumers' committee and of the committee of investigation appointed under section four of the principal Act such remuneration (whether by way of salaries or by way of fees) as the Ministers, with the approval of the Treasury may determine, and

(b) the amount necessary to defray such expenses of the said committees as the Ministers and the Treasury may approve.

9. The amendments specified in the second column of the Second Schedule to this Act, being amendments of a consequential or minor nature, shall be made in the provisions of the principal Act mentioned in the first column of that Schedule :

Minor amendments of principal Act.

Provided that the amendments in subsection (2) of section one of the principal Act shall not take effect until the appointed day.

10.—(1) This Act may be cited as the Herring Industry Act, 1938, and shall be construed as one with the principal Act, and that Act and this Act may be cited as the Herring Industry Acts, 1935 and 1938.

Citation, interpretation, extent and repeal.

(2) In this Act the expression “appointed day” means such day, not before the termination of the period

of office of the members of the Board holding office at the passing of this Act, as the Ministers may by order appoint.

(3) This Act shall extend to Northern Ireland and the provisions of section fifteen of the principal Act, except so far as they relate to the making of an Order in Council extending the provisions of that Act to Northern Ireland, shall apply to this Act as they apply to the principal Act.

(4) The provisions of the principal Act mentioned in the Third Schedule to this Act are hereby repealed :

Provided that the repeal of the provisions of the First Schedule to the principal Act there mentioned shall not take effect until the appointed day.

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## SCHEDULES.

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### FIRST SCHEDULE.

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#### PROVISIONS WITH RESPECT TO THE HERRING INDUSTRY ADVISORY COUNCIL.

1. Every member of the Council other than the Chairman shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but, notwithstanding anything in such an instrument, any such member of the Council may resign his office by a written notice given under his hand to the Ministers, and a member of the Council who ceases to hold office shall be eligible for re-appointment.

2. Unless and until the Council otherwise determines, the quorum of the Council shall be such number as may be fixed by the Ministers, and the Council shall have power to act notwithstanding any vacancy among the members thereof.

3. Subject to any directions which may be given by the Ministers, the Council shall have power to regulate its own procedure.

4. The Board shall appoint a person to act as secretary to the Council.

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## SECOND SCHEDULE.

Section 9.

MINOR AND CONSEQUENTIAL AMENDMENTS OF PRINCIPAL  
ACT.

Section of principal Act.	Nature of amendment.
Section one -	- In subsection (2) after the word "established" there shall be inserted the word "is," and the words from "shall consist" to "the industry" shall be omitted; and in subsection (5) for the words "either of the two last foregoing subsections" there shall be substituted the words "this section".
Section three	- In paragraph (f) for the words "and exporters" there shall be substituted the words "exporters and persons dealing wholesale in fresh herring at ports"; and in paragraph (h) after the word "processes" there shall be inserted the words "dealing wholesale in fresh herring at ports".
Section nine -	- In the first proviso to subsection (3) for the word "four" there shall be substituted the word "eight", and in the fourth proviso to that subsection for the words "nineteen hundred and forty" there shall be substituted the words "nineteen hundred and forty-four"; in subsection (4) for the words "and (b)" there shall be substituted the words "(b) and (bb)", and in subsections (5) and (10) for the words "nineteen hundred and forty" there shall be substituted the words "nineteen hundred and forty-four".

## THIRD SCHEDULE.

Section 10.

## PROVISIONS OF PRINCIPAL ACT REPEALED.

Subsections (3), (6) and (7) of section one.  
Paragraphs 1, 5 and 9 of the First Schedule.

**CHAPTER 43.**

An Act to extend by one month the time within which the Board of Control are required by section eleven of the Mental Deficiency Act, 1913, to determine whether orders made under that Act are to be continued; and to validate orders purporting to have been continued under that section.

[13th July 1938.]

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

Amend-  
ment of  
3 & 4 Geo. 5.  
c. 28, s. 11,  
and valida-  
tion of  
orders  
purporting  
to have  
been  
continued  
thereunder.

**1.**—(1) An order made under the Mental Deficiency Act, 1913, that a defective be sent to an institution or placed under guardianship (hereinafter referred to as “ a detention order ”) may be continued by an order made by the Board of Control under subsection (2) of section eleven of that Act at any time within one month after the date on which, but for the provisions of this subsection, the detention order would be limited to expire in accordance with the provisions of the said section eleven, and accordingly every detention order shall, for the purpose of enabling the Board to consider the question of its continuance, remain in force for one month after any such date as aforesaid.

(2) Where, before the commencement of this Act, the Board have purported to make an order under the said subsection (2) for the purpose of continuing a detention order but have failed to do so within the time limited by the said section eleven, then, unless it is shown that the order purported to have been made under the said subsection (2) was not made in good faith, the detention order purported to have been continued shall be deemed not to have expired and to have been duly continued as if the order purporting to continue it had been made within the required time and otherwise in conformity with the provisions of the said section eleven :

Provided that nothing in this subsection shall affect any legal proceedings commenced on or before the



twenty-fourth day of May nineteen hundred and thirty-eight or any order which has been the subject of such proceedings.

2. This Act may be cited as the Mental Deficiency Act, 1938, and this Act and the Mental Deficiency Acts, 1913 to 1927, may be cited together as the Mental Deficiency Acts, 1913 to 1938. Short title.

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## CHAPTER 44.

An Act to make provision with respect to the remuneration of persons employed in connection with the mechanical transport of goods by road, and with respect to the making of recommendations and reports, and the settlement of disputes, relating to matters affecting such transport.  
[13th July 1938.]

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

### PART I.

#### REGULATION OF REMUNERATION OF WORKERS EMPLOYED BY PUBLIC CARRIERS AND LIMITED CARRIERS IN CONNECTION WITH THE MECHANICAL TRANSPORT OF GOODS BY ROAD.

1.—(1) For the purpose of regulating the remuneration of workers employed upon road haulage work to which this Part of this Act applies, there shall be established by the Minister of Labour (hereinafter referred to as "the Minister") the following boards :—

Constitution  
of Central  
Board and  
of area  
boards.

- (a) a board (hereinafter referred to as "the Central Board") for Great Britain to be called the Road Haulage Central Wages Board; and

PART I.  
—cont.

(b) boards (hereinafter referred to as “ area boards ”) of which there shall be one for Scotland to be called the Scottish Road Haulage Area Wages Board, and one for each of the areas in England hereinafter mentioned to be called, respectively, the Road Haulage Area Wages Board for the area for which the board is established,

and the provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Central Board and of the area boards.

(2) The work to which this Part of this Act applies is road haulage work in connection with any goods vehicle specified in an A licence or a B licence granted under the Road and Rail Traffic Act, 1933 :

23 & 24  
Geo. 5. c. 53.

Provided that this Part of this Act shall not apply to work for which a minimum rate of wages has been fixed by or under any other enactment, or to the work of persons in the employment of any railway company constituted under the Railways Act, 1921, whose remuneration falls to be determined by machinery established by agreement between such companies and the Railway Trade Unions.

11 & 12  
Geo. 5. c. 55.

(3) The areas in England for each of which an area board is to be established shall be the areas specified in the First Schedule to the Road and Rail Traffic Act, 1933, as originally enacted :

Provided that the Minister may, after consultation with the Central Board and any area board appearing to him to be concerned, by order alter such areas in England, either by combining two or more areas or otherwise, and any such order may contain such consequential and other provisions as may be necessary for constituting, re-constituting, or dissolving, the area board for any area thereby affected.

Functions  
of Central  
Board and  
of area  
boards.

2.—(1) Subject to and in accordance with the provisions of this Act, the Central Board shall have power —

(a) to submit to the Minister proposals for fixing the remuneration to be paid to any road haulage workers in respect of any road haulage work to which this Part of this Act applies ;

- (b) to make such recommendations as the Board thinks fit to any government department with respect to safety on the roads, the health and comfort of workers employed on work to which this Part of this Act applies, and any other matter affecting the efficiency of, and conditions of work in connection with, the transport of goods in or on vehicles for which A licences or B licences are granted under the Road and Rail Traffic Act, 1933; and
- (c) to consider and report upon any question referred to the Board by the Minister with reference to any of the matters aforesaid :

Provided that, before exercising its powers under paragraph (a) of this subsection, the Board shall transmit a draft of its proposals to the area board for every area thereby affected, and the procedure in relation thereto shall be in accordance with the provisions of the Second Schedule to this Act.

(2) The power of the Central Board under the said paragraph (a) to submit proposals for fixing the remuneration to be paid to any workers shall include power to submit proposals for fixing holiday remuneration and for requiring such remuneration to be paid to them in addition to the remuneration payable for the road haulage work actually done by them.

(3) In making proposals for fixing remuneration under this Part of this Act, the Board shall have regard to the various conditions of service of workers employed on road haulage work and the varying conditions under which and circumstances in which such work is performed and may frame its proposals accordingly, and without prejudice to the generality of the provisions of the said paragraph (a) empowering the Board so to do, the Board shall, in particular, have power to specify the time during which a worker must be employed on road haulage work to which this Part of this Act applies in any day or in any week respectively in order to render payable any daily or weekly rate proposed by the Board, to specify the number of hours of employment by his employer after which any overtime payment proposed is to be payable, and generally to make such provision as may be necessary for specifying

PART I.  
—cont.

the work in respect of which any remuneration proposed is to be payable and for enabling the remuneration payable to any worker to be ascertained.

(4) In framing proposals for fixing remuneration under this Part of this Act in respect of any work, the Board shall take into consideration any decision of a joint industrial council, conciliation board or other similar body relating to the remuneration of workers employed on road haulage work which may be brought to the notice of the Board.

(5) The Central Board shall have power to refer any matter which the Board thinks fit to an area board for the report of that board, and shall also have power to delegate to any committee of the Central Board or to an area board any of the functions of the Central Board under this Act except the power of submitting proposals for fixing remuneration.

(6) The Central Board and every area board shall have power to make or assist in making arrangements for the settlement of disputes or differences between road haulage workers employed on work to which this Part of this Act applies and their employers, and to promote the voluntary organisation of such employers and workers.

Submission  
of proposals  
and making  
of road haul-  
age wages  
orders.

3.—(1) When the provisions of the Second Schedule to this Act have been complied with with respect to any proposals of the Central Board, the Board may submit the proposals as settled by it to the Minister, and upon the receipt thereof the Minister shall, unless he considers it necessary to refer the proposals back to the Central Board, as soon as may be make an order (in this Act referred to as a "road haulage wages order") giving effect to the proposals.

(2) If the Minister refers back to the Central Board any proposals submitted to him, the Board shall reconsider them having regard to any observations made by the Minister, and may amend the proposals and may re-submit them to the Minister.

(3) Upon any proposals being re-submitted to the Minister under the last foregoing subsection, he may, if in his opinion any amendments made by the Central Board do not effect important alterations in the character

PART I.  
—cont.

of the proposals originally submitted to him, make the road haulage wages order, but if in the Minister's opinion the amendments do effect such important alterations as aforesaid, the Minister shall remit the amended proposals to the Central Board with the direction that the like notice of the amended proposals is to be given as in the case of fresh proposals, and in that case the provisions of the Second Schedule to this Act as to notices and objections and the provisions of paragraph 5 of the said Schedule shall apply thereto accordingly.

(4) As soon as the Minister has made a road haulage wages order, he shall give notice of the making thereof to the Central Board, and that Board shall give such notice of the order and of the contents thereof as may be prescribed for the purpose of informing, so far as practicable, all persons who will be thereby affected, and the remuneration specified in the order (hereinafter referred to as "statutory remuneration") shall on such date as may be provided by the order come into force as between all workers for whom such remuneration is thereby fixed and their employers.

(5) The Central Board may make proposals for the amendment or cancellation of any road haulage wages order in force under this Act, and the provisions of this Act shall apply in relation to any such proposals as they apply in relation to original proposals.

## PART II.

PROVISIONS WITH RESPECT TO THE REMUNERATION  
OF WORKERS EMPLOYED BY PRIVATE CARRIERS  
IN CONNECTION WITH THE MECHANICAL TRANSPORT  
OF GOODS BY ROAD.

4.—(1) If, in the case of any road haulage worker employed on work to which this Part of this Act applies, he, or a trade union of which he is a member, or a trade union which in the opinion of the Minister represents a substantial number of workers employed in road haulage work, considers that the remuneration paid to him in respect of that work is unfair, the worker or trade union may, in the prescribed manner, make an application to the Minister requesting that the matter be referred under this Part of this Act for settlement.

Power to  
refer ques-  
tions as to  
unfair  
wages.

PART II.  
—cont.

(2) The work to which this Part of this Act applies is road haulage work in connection with any goods vehicle specified in a C licence granted under the Road and Rail Traffic Act, 1933 :

Provided that this Part of this Act shall not apply to work for which a minimum rate of wages has been fixed by or under any other enactment.

(3) For the purposes of this Part of this Act, the remuneration paid by an employer to a worker in respect of any work shall not be deemed to be unfair if either—

- (a) it is equivalent to that which would have been payable under any road haulage wages order in respect of that work if the work had been work to which Part I of this Act applies; or
- (b) it is in accordance with any agreement in force made between the employer or any organisation of employers of which he is a member and any trade union, being an agreement regulating the remuneration in respect of that work of workers employed in the same trade or industry as the worker; or
- (c) it is equivalent to the remuneration payable in respect of that work to similar workers by other employers in the district engaged in the same trade or industry as the employer, in pursuance of any agreement made between an organisation of employers which represents a substantial number of employers in that trade or industry and any trade union, being an agreement regulating the remuneration in respect of similar work of workers employed in that trade or industry; or
- (d) it is equivalent to the remuneration payable in respect of that work to similar workers by employers in the district engaged in the same trade or industry as the employer, in pursuance of any decision of a joint industrial council, conciliation board, or other similar body, regulating the remuneration in respect of similar work of workers employed in that trade or industry; or
- (e) it is equivalent to the remuneration which, in accordance with a decision of the Industrial

Court given upon a reference to that Court under this Part of this Act, is payable in respect of that work to a worker employed by some other employer in the district engaged in the same trade or industry as the employer.

PART II.  
—cont.

(4) Where an application is made to the Minister under subsection (1) of this section, then, unless he is satisfied that the complaint is frivolous or vexatious, the Minister shall, if the application is not withdrawn after representations have been made by him to the employer of the worker by or on whose behalf it was made, refer the matter under this Part of this Act to the Industrial Court for settlement :

Provided that, if in the trade or industry in which the employer is engaged or any branch thereof, arrangements exist for the settlement of disputes by conciliation or arbitration, made in pursuance of an agreement to which the parties are organisations of employers and trade unions which, in the opinion of the Minister, are representative respectively of substantial proportions of the employers and workers engaged or employed in that trade or industry, then, unless the employer is not a member of any of those organisations, the Minister shall refer the matter for settlement in accordance with the arrangements and shall not refer it for settlement by the Industrial Court, except in the event of his being requested so to do by both parties to the agreement after there has been a failure to obtain a settlement by means of the arrangements made in pursuance of the agreement.

(5) Where, upon an application made to him, a matter is to be referred by the Minister for settlement in accordance with the provisions of the last foregoing subsection, the matter shall be so referred within one month from the date on which the application was received by the Minister, unless in his opinion the special circumstances of the case make it necessary or desirable to postpone the reference of the matter.

(6) Nothing in this Act shall affect the power of the Minister to refer trade disputes to the Industrial Court under the Industrial Courts Act, 1919, and the provisions of this Act relating to references to that Court, to proceedings upon such a reference, to the powers of the Court upon such a reference, and to the

9 & 10  
Geo. 5. c. 69.

PART II.  
—cont.

effect of decisions of the Court made upon such a reference, shall apply only where the reference by the Minister is expressed to be a reference under this Part of this Act.

Power of  
Industrial  
Court to fix  
statutory  
remunera-  
tion.

**5.**—(1) If in any proceedings upon a reference to the Industrial Court under this Part of this Act the Court finds that the remuneration paid to the worker in respect of the road haulage work on which he was employed was unfair, it shall be the duty of the Court to fix the remuneration to be paid in respect of that work, and in the provisions of this Act hereinafter contained references to “statutory remuneration” shall be construed as including references to remuneration so fixed.

(2) The power of the Industrial Court under this Part of this Act to fix statutory remuneration to be paid to any workers shall include power to fix holiday remuneration and to require such remuneration to be paid to them in addition to remuneration payable for the road haulage work actually done by them.

(3) In determining whether the remuneration paid to a worker in respect of the work on which he was employed was unfair, and in fixing any statutory remuneration, the Industrial Court shall have regard not only to the provisions of subsection (3) of the last foregoing section but also to any agreements brought to its notice which are in force between organisations of employers and trade unions and regulate the remuneration of workers engaged on work similar to that of the worker in trades or industries which in the opinion of the Court are comparable to the trade or industry in which the worker is employed, to the general level of remuneration paid to workers in that trade or industry other than road haulage workers, and to such further circumstances as the Court considers relevant.

(4) In fixing any statutory remuneration, the Industrial Court shall specify the nature of the work in respect of which the remuneration is to be payable, and if a daily or weekly rate is fixed, the time for which the worker must be employed on road haulage work in any day or in any week respectively in order to render the daily or the weekly rate payable, and if any overtime payment is fixed, the number of hours of employment by his employer after which the overtime payment is to be payable to the worker, and the order shall contain such further provisions as may be necessary for defining the



employment in respect of which the statutory remuneration is to be payable and for enabling the remuneration payable to the worker to be ascertained.

PART II.  
—cont.

(5) The Minister may make regulations as to the publication of decisions of the Industrial Court upon references under this Part of this Act.

(6) The statutory remuneration fixed by the Industrial Court in respect of any work upon a reference to the Court under this Part of this Act shall, as between the employer of the worker by whom or on whose behalf application for the reference was made and all workers employed by that employer on that work, be in force for a period of three years from the beginning of the week next after the date on which the statutory remuneration was so fixed, and as between that employer and the worker by whom or on whose behalf application for the reference was made the statutory remuneration shall also be deemed to have been in force for such earlier period not exceeding six months as the Court may direct :

Provided that, while statutory remuneration is in force under this section as between an employer and any worker, the employer or an organisation of employers of which he is a member or any such worker or a trade union of which such a worker is a member may, in the prescribed manner, make an application to the Minister for a review of the remuneration and thereupon the Minister shall refer the matter to the Industrial Court, and that Court may proceed thereon in like manner in all respects as in the case of an original reference, so, however, that no application for a review of any statutory remuneration fixed by the Court shall be made within three months after the remuneration has been so fixed or has last been reviewed by that Court.

(7) In any proceedings upon a reference to the Industrial Court under this Part of this Act, any organisation of employers or any trade union appearing to the Court to have an interest in the question referred to the Court shall have a right to attend and be heard.

### PART III.

#### GENERAL.

6.—(1) Where under this Act statutory remuneration is or is deemed to have been in force in respect of any work during any period as between an employer and a

Duty to pay  
statutory  
remunera-  
tion.

PART III.  
—cont.

worker, the employer shall in respect of that work during that period pay remuneration to the worker not less than the statutory remuneration clear of all deductions, and if the contract between the employer and the worker provides for the payment of less remuneration in respect of that work, it shall have effect as respects the said period as if for that less remuneration there were substituted the statutory remuneration clear of all deductions.

(2) For the purposes of the last foregoing subsection, the net remuneration obtainable by a worker in respect of any work after allowing for his necessary expenditure, if any, in connection with the work shall be deemed to be the remuneration paid to him and the expression "deductions" includes deductions in respect of any matter whatsoever except deductions under the Unemployment Insurance Act, 1935, the National Health Insurance Act, 1936, or any enactment authorising deductions to be made from the remuneration of a worker in respect of contributions to any superannuation or other provident fund, and except any deduction or payment authorised to be made under section one, section two or section three of the Truck Act, 1896.

25 & 26  
Geo. 5. c. 8.  
26 Geo. 5. &  
1 Edw. 8.  
c. 32.

59 & 60 Vict.  
c. 44.

(3) Where the remuneration paid by an employer to a worker includes remuneration in respect of other work as well as in respect of road haulage work, the amount of the remuneration which is attributable to road haulage work shall, if not apparent from the terms of the contract between the employer and the worker, be deemed to be an amount bearing the same proportion to the total remuneration as the time spent on road haulage work during the period in respect of which the total remuneration is payable bears to the whole of the time in respect of which that remuneration is payable.

Remedies  
for default.

7.—(1) Any person who, in contravention of the provisions of this Act, fails to pay remuneration not less than the statutory remuneration, shall be liable on summary conviction to a fine not exceeding twenty pounds for each offence, and, if notice of intention so to do has been served with the summons, warrant or complaint, evidence may be given of any like contravention on the part of the employer in respect of any period during the two years immediately preceding the date of the offence, and on proof of the failure the court may order the

employer to pay such sum as is found by the court to represent the difference between the amount which ought to have been paid during that period to the worker by way of remuneration, if the provisions of this Act had been complied with, and the amount actually so paid.

(2) Where an offence for which an employer is under this section liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be prosecuted for the offence in the same manner as if he were the employer, and either together with, or before or after the conviction of, the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

(3) Where an employer who is charged with an offence under this section proves to the satisfaction of the court that he has used due diligence to secure compliance with the provisions of this Act, and that the offence was in fact committed by his agent or some other person without his consent, or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from conviction for the offence.

(4) Where the holder of a licence granted under Part I of the Road and Rail Traffic Act, 1933, is convicted of an offence under this section, the licensing authority by whom the licence was granted may exercise the like powers under section thirteen of the said Act (which relates to the revocation and suspension of licences) as would be exercisable by that authority if a condition of the licence had not been complied with.

(5) Any officer appointed by the Minister and any officer of any government department assisting in carrying this Act into effect may institute proceedings for an offence under this section and may, although not of counsel or a solicitor, conduct any such proceedings.

(6) Any officer authorised in that behalf by special or general directions of the Minister may, if it appears to him that a sum is due from an employer to a worker on account of the payment of remuneration to him less than the statutory remuneration in force in respect of the work, institute on behalf of or in the name of the worker civil proceedings for the recovery of that sum, and in any such proceedings the court may make an order

PART III.  
—cont.

for the payment of costs by the officer as if he were a party to the proceedings.

(7) The powers given by this section for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings.

(8) If any person is convicted under Part I of the Road and Rail Traffic Act, 1933, of using a goods vehicle for a purpose for which an A licence, a B licence or a C licence is required, otherwise than under such a licence, any road haulage work performed by a road haulage worker in connection with the vehicle while it was being so used shall be deemed for the purposes of this Act to have been road haulage work in connection with a goods vehicle specified in an A licence, a B licence or a C licence granted under that Act as the case may be, and the provisions of this and of the last foregoing section shall apply accordingly.

Proof of  
statutory  
remunera-  
tion fixed  
by Indus-  
trial Court.

8.—(1) In any legal proceedings a certificate signed by the secretary of the Industrial Court or other officer having the custody of the records of that Court certifying that the Court has fixed statutory remuneration and setting out the effect, extent and duration of the statutory remuneration so fixed shall be conclusive evidence of the facts stated therein.

(2) A certificate purporting to be signed by the secretary of the Industrial Court or such other officer as aforesaid shall be received in evidence and be deemed to be so signed without further proof unless the contrary is shown.

Persons  
working  
under  
arrange-  
ments to be  
deemed  
to be  
employed.

9.—(1) Where any person who is the holder of a licence granted under Part I of the Road and Rail Traffic Act, 1933, or who carries on the business of a goods transport clearing house makes by way of trade an arrangement expressed or implied with any worker in pursuance of which the worker performs any work with respect to which statutory remuneration would, if the worker were employed by that person, be in force under this Act, the worker shall be deemed for the purposes of this Act to be employed by that person and references in this Act to an employer shall be construed accordingly :

Provided that, where the only work performed by the worker in pursuance of the arrangement is work in connection with a goods vehicle specified in a licence of which the worker is the holder, being an A licence other than a licence granted under subsection (1) of section seven of the Road and Rail Traffic Act, 1933, or a B licence, then—

- (a) in a case where the arrangement was made by way of sub-contract with the worker for the purpose of enabling the employer to execute a contract for the transport of goods entered into by him, the employer shall be deemed not to have contravened the provisions of section six of this Act if he proves that the sum paid to the worker in respect of the work performed by him was not more than ten per cent. less than the amount payable to the employer under his contract in respect of that work ;
- (b) in a case where the person by whom the arrangement with the worker was made is neither the holder of an A licence or a B licence nor a person who carries on the business of a goods transport clearing house, and the arrangement was made by him only for the carriage of goods for or in connection with any trade or business carried on by him, the foregoing provisions of this section shall not apply.

(2) In this section the expression “business of a goods transport clearing house” means the business of arranging for the mechanical transport of goods by road.

**10.**—(1) When statutory remuneration is in force under this Act as between an employer and any workers employed by him, it shall be the duty of the employer to keep such records as are necessary to show that the provisions of this Act are being complied with as respects those workers.

Duty of  
employers  
to keep  
records.

(2) The Minister may make regulations prescribing the form in which such records as aforesaid are to be kept by an employer, and the period for which any such records are to be retained by him, and requiring employers to post in the prescribed manner such notices as may be prescribed for the purpose of informing persons employed by them of proposals to fix remuneration under this Act and of any remuneration so fixed.

PART III.  
—cont.

(3) If any employer fails to comply with the requirements of this section or of any regulations made thereunder, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(4) Before making any regulations prescribing the form of the records to be kept under this section or the periods for which such records are to be retained, the Minister shall consult, in the case of regulations as to records of work to which Part I of this Act applies, the Central Board, and, in the case of regulations as to records of work to which Part II of this Act applies, such organisations of employers and workers as he thinks proper.

Appoint-  
ment and  
powers of  
officers.

11.—(1) The Minister, with the approval of the Treasury as to numbers and salaries, may appoint such officers as he thinks necessary for the purpose of securing the proper observance of this Act and any such officer shall have power—

- (a) to require the production of any licence or certificate granted under the Road and Rail Traffic Act, 1933, and of any records kept in pursuance of section sixteen of that Act or in pursuance of this Act, and to examine and copy any part of them;
- (b) to require any person whom he has reasonable cause to believe to be, or to have been, employed on work with respect to which statutory remuneration is or was in force under this Act as between him and his employer, or to require his employer or any agent of his employer, to give such information as it is in his power to give with respect to that employment and the remuneration paid in respect thereof, and to sign a written statement setting out such information; and
- (c) at all reasonable times to enter any premises or place at or in connection with which the officer has reasonable cause to believe road haulage workers to be employed on work in respect of which statutory remuneration is in force under this Act.

(2) Every officer appointed by the Minister under this section shall be furnished by the Minister with a certificate of his appointment, and when acting under

or exercising any power conferred upon him by this Act shall, if so required by any person affected, produce the certificate to him.

(3) Any person who obstructs any such officer as aforesaid in the exercise of any power conferred by this section, or refuses to comply with any requirement of such an officer made in the exercise of any such power, shall be liable on summary conviction to a fine not exceeding twenty pounds.

12. If any person makes or causes to be made or knowingly allows to be made any entry in a record required to be kept under this Act, which he knows to be false in a material particular, or for purposes connected with this Act produces or furnishes or causes or knowingly allows to be produced or furnished any record or information which he knows to be false in a material particular, he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

13.—(1) All fines imposed in respect of offences under this Act shall be dealt with in the manner specified in section one hundred and seventeen of the Road Traffic Act, 1930, in relation to the fines therein mentioned, and the provisions of that section shall apply accordingly.

(2) The expenses of the Minister in carrying this Act into effect and any expenses authorised by the Minister with the consent of the Treasury to be incurred by the Central Board or by any area board shall be defrayed out of moneys provided by Parliament.

14. All regulations made under this Act shall be laid as soon as may be before Parliament, and if either House within the next twenty-eight days on which that House has sat after any such regulation has been laid before it resolves that the regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything done in the meantime thereunder or to the making of a new regulation.

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

“ A licence ”, “ B licence ”, “ C licence ”, “ goods vehicle ”, “ motor vehicle ”, and “ trailer ”,

PART III.  
—cont.

Penalty for altering records, producing false records or giving false information.

Financial provisions.  
20 & 21  
Geo. 5. c. 43.

Regulations to be laid before Parliament.

Interpretation.

PART III.  
—cont.

have the same meanings, respectively, as in Part I of the Road and Rail Traffic Act, 1933;

“ Prescribed ” means prescribed by regulations made by the Minister under this Act;

“ Railway Trade Unions ” means the National Union of Railwaymen, the Associated Society of Locomotive Engineers and Firemen and the Railway Clerks’ Association;

“ Road haulage work ” and “ Road haulage worker ” have respectively the meanings assigned to them by the Third Schedule to this Act;

“ Trade Union ” has the meaning assigned to it by section two of the Trade Union Act, 1913, except that it does not include a combination of which one of the principal objects is the regulation of relations between masters and masters.

2 & 3 Geo. 5.  
c. 30.

(2) In the case of licences authorising the use of vehicles in accordance with the provisions of paragraph (b) or paragraph (c) of subsection (6) of section two of the Road and Rail Traffic Act, 1933, the following provisions shall have effect, that is to say, any goods vehicle, being a motor vehicle, from time to time in the possession of the holder of the licence under an agreement for hire or loan, and any goods vehicle, being a trailer, for the time being belonging to the holder of the licence or in his possession under an agreement for hire purchase, hire, or loan shall, whether or not in excess of the maximum number specified in the licence, be deemed for the purposes of this Act to be specified in an A licence or a B licence :

Provided that—

(a) where the licence held is a C licence and the holder thereof does not hold another such licence being an A licence or a B licence, all such goods vehicles as aforesaid shall be deemed for the purposes of this Act to be specified in a C licence;

(b) where any of such licences held is an A licence or a B licence, if the holder proves with respect to any of such goods vehicles as



aforesaid that in any week it was not used for any purpose for which an A licence or a B licence is required under the said Act, road haulage work done in connection with the vehicle during that week shall be deemed to be work to which Part II of this Act applies;

- (c) whatever classes of such licences are held, if the holder proves with respect to any such goods vehicle as aforesaid that in any week it was not used for any purpose for which any licence is required under Part I of the said Act, work done in connection with the vehicle during that week shall be deemed to be work to which neither Part I nor Part II of this Act applies.

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

(4) Any power to make an order under this Act shall be construed as including power to vary or revoke the order by a subsequent order.

**16.**—(1) The Scottish Road Haulage Area Wages Board may at any time make recommendations to the Central Board as to the remuneration to be paid to workers in Scotland to whom Part I of this Act applies, and the Central Board shall consider any such recommendations.

Special provisions as to Scotland.

(2) Before transmitting, in accordance with the provisions of subsection (1) of section two of this Act, a draft of any proposals affecting Scotland, the Board shall give to the Scottish Road Haulage Area Wages Board not less than twenty-one days' notice of its intention to do so, and shall consider any recommendations made to the Board under the last foregoing subsection within those twenty-one days.

(3) Subsection (5) of section seven of this Act shall not apply in relation to proceedings in Scotland.

**17.**—(1) This Act may be cited as the Road Haulage Wages Act, 1938.

Short title, extent, repeal and commencement.

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

PART III.  
—cont.

(3) Subsection (2) of section eight and subsection (2) of section thirty-two of the Road and Rail Traffic Act, 1933, are hereby repealed as from the date on which Part II of this Act comes into operation.

(4) The Minister shall by order bring Part II of this Act into operation on the date on which the first road haulage wages order comes into force.

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## SCHEDULES.

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## Section 1.

### FIRST SCHEDULE.

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#### CONSTITUTION AND PROCEEDINGS OF ROAD HAULAGE WAGES BOARDS.

##### *Constitution of Central Board.*

1.—(1) The Central Board shall consist of the following persons appointed by the Minister, that is to say,—

- (a) not less than twelve nor more than eighteen representative members;
- (b) representative members appointed by the Minister from among the members of the area boards; and
- (c) not less than three nor more than five independent members of whom the Minister shall appoint one as chairman and may appoint another to act as deputy chairman in the absence of the chairman.

(2) Of the representative members other than those appointed from among members of the area boards, one-half shall be persons who in the opinion of the Minister represent employers of workers to whom Part I of this Act applies and one-half shall be persons who in his opinion represent such workers, and before determining the number of such representative members and before appointing any such members the Minister shall consult any organisations appearing to him to represent such employers and workers respectively.

(3) Of the representative members appointed from among the members of the area boards two shall be appointed from each area board in England and four from the Scottish Road

Haulage Area Wages Board, and of the number so appointed from each area board one-half shall be appointed to represent employers and one-half shall be appointed to represent workers. For every member appointed under this paragraph the Minister shall appoint a substitute member who may be deputed by the member to act for him in the event of his unavoidable absence; and a substitute member while so deputed shall be deemed for all purposes to be a member of the Board. Before appointing any such member or substitute member, the Minister shall consult the area board concerned.

1st Sch.  
—cont.

(4) In appointing members and substitute members under either of the last two foregoing sub-paragraphs, the Minister shall have regard to the types of trades and businesses affected, the numbers of vehicles connected therewith, and the various circumstances in which the vehicles are operated.

(5) The independent members shall be persons who in the opinion of the Minister are not connected with the transport of goods.

#### *Constitution of Area Boards.*

2.—(1) Every area board shall consist of such number of persons appointed by the Minister as he thinks fit having regard to the circumstances affecting the area, including the size of the area and the number of goods vehicles licensed therein, so, however, that one-half of the number of members shall be persons who in the opinion of the Minister represent such employers as aforesaid in the area and the other half shall be persons who in his opinion represent such workers as aforesaid in the area, and before determining the number of members of which any area board is to consist and before appointing any member, the Minister shall consult with organisations appearing to him to represent such employers and workers respectively in the area.

(2) Every area board shall elect one of its members to be chairman of the area board.

(3) Any independent member of the Central Board shall, if requested by that Board to do so, have a right to attend any meeting of an area board and may speak but shall not vote thereat.

#### *Supplementary Provisions as to Constitution of Boards.*

3. The Minister may appoint a secretary to the Central Board and to any area board.

4. There may be paid to independent members of the Central Board such fees, and to members of the Central Board and of

1ST SCH.  
—cont.

any area board such travelling and other allowances, as the Minister may, with the consent of the Treasury, determine, and all such fees and allowances shall be defrayed as part of the expenses of the Minister in carrying this Act into effect.

5. Any person appointed to be a member or substitute member of the Central Board or a member of an area board shall hold office for such term and on such conditions as to retirement as may be determined by the Minister.

6. The proceedings of the Central Board or of any area board shall not be invalidated by reason of any vacancy in the board or by any defect in the appointment of any member or substitute member.

7. Subject as hereinafter provided, a quorum shall not be formed at a meeting of the Central Board or of an area board unless there are present at least one-third of the whole number of members appointed to represent employers and at least one-third of the whole number of members appointed to represent workers, and in the case of a meeting of the Central Board at least one of the independent members :

Provided that, if, at the end of half-an-hour after the time appointed for any such meeting, the quorum required by the foregoing provisions of this paragraph is not formed, or if thereafter such a quorum ceases to be present, the meeting shall, in accordance with regulations made by the Minister, stand adjourned to a future day, and at the adjourned meeting a quorum shall be formed if at least one-third of the whole number of members of the board, exclusive of the independent members, is present and, in the case of the Central Board, at least one of the independent members is also present.

8. The Minister may make regulations as to the meetings and proceedings of the Central Board or of any area board including the method of voting and, subject to the last foregoing paragraph, the quorum.

Section 2, 3.

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## SECOND SCHEDULE.

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### PROCEDURE IN RELATION TO PROPOSALS OF CENTRAL BOARD FOR FIXING REMUNERATION.

1. Upon receiving from the Central Board a draft of any proposals for the fixing of remuneration or for the amendment or cancellation of any road haulage wages order, an area board shall consider the proposals and within the period of twenty-eight

days next after the receipt thereof shall report thereon to the Central Board.

2ND SCH.  
—cont.

2. After considering any report sent to it by an area board within the said period of twenty-eight days the Central Board may, if it thinks fit, amend the proposals, and shall give such notice of the proposals as may be prescribed for the purpose of informing, so far as practicable, all persons who will be thereby affected, and the notice shall specify the place where copies of the proposals may be obtained and of the time (which shall not be less than twenty-one days) within which any objection made with respect to the proposals by or on behalf of the persons affected must be sent to the Central Board.

3. Every objection must be in writing and state the specific grounds of objection, and the omissions, additions or other modifications asked for.

4. The Central Board shall consider any objection made by or on behalf of any persons appearing to the Board to be affected which is sent to the Board within the required time, and shall furnish copies of all such objections, except any which appear to the Board to be frivolous, to the area board for every area appearing to be affected by the objection, and the area board shall report thereon to the Central Board within the period of twenty-one days next after the receipt of the copies aforesaid.

5. After considering any report sent to it by an area board within the last mentioned period of twenty-one days, the Central Board may amend the proposals, but if in the opinion of the Central Board any such amendments effect important alterations in the proposals of which notice was given under paragraph 2 of this Schedule, the Board shall not submit the proposals to the Minister unless an opportunity has been given to the area boards to make representations with respect thereto.

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### THIRD SCHEDULE.

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Section 15.

#### DEFINITIONS OF ROAD HAULAGE WORKER AND ROAD HAULAGE WORK.

1. For the purposes of this Act, the expression "road haulage worker" means a person who is employed on all or any of the following work, that is to say :—

- (i) driving or assisting in the driving or control of a goods vehicle;

3RD SCH.  
—cont.

- (ii) collecting or loading goods to be carried in or on the vehicle;
- (iii) attending to goods while so carried;
- (iv) unloading or delivering goods after being so carried;
- (v) acting as attendant to the vehicle;

and who is required to travel on or accompany the vehicle for the purpose of doing any such work; and, subject to the provisions hereinafter contained in this Schedule, the expression "road haulage work" shall be construed accordingly:

Provided that a person who is employed in loading goods to be carried in or on a goods vehicle, or in unloading goods after being so carried, and who is required to travel on or accompany the vehicle partly for that purpose, shall not be deemed to be a road haulage worker by reason only of that employment, if the main purpose for which he is required to travel on or accompany the vehicle is that of executing work other than road haulage work after its arrival at his destination.

2. For the purpose of determining the road haulage work for which statutory remuneration may be fixed under this Act, a road haulage worker shall be deemed to be employed on road haulage work while employed on any work mentioned in the last foregoing paragraph and also during any time during which he is—

- (a) doing any work incidental to work so mentioned;
- (b) travelling in or on or accompanying a goods vehicle in connection with his employment on work so mentioned;
- (c) under the orders or at the disposal of his employer while waiting in connection with his employment on work so mentioned;
- (d) waiting (whether overnight or otherwise) in accordance with the instructions of his employer as a necessary consequence of his employment on any work so mentioned.

3. The Minister may, after consultation with the Central Board and with such organisations of employers and workers as he thinks proper, by order modify the foregoing provisions of this Schedule, but no such order shall come into force unless and until it has been approved by a resolution of each House of Parliament.

**CHAPTER 45.**

An Act to amend the law relating to testamentary dispositions; and for other purposes connected therewith. [13th July 1938.]

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

**1.**—(1) Where, after the commencement of this Act, a person dies domiciled in England leaving—

Power for court to order payment out of net estate of testator for benefit of surviving spouse or child.

- (a) a wife or husband;
- (b) a daughter who has not been married, or who is, by reason of some mental or physical disability, incapable of maintaining herself;
- (c) an infant son; or
- (d) a son who is, by reason of some mental or physical disability, incapable of maintaining himself;

and leaving a will, then, if the court on application by or on behalf of any such wife, husband, daughter or son as aforesaid (in this Act referred to as a “dependant” of the testator) is of opinion that the will does not make reasonable provision for the maintenance of that dependant, the court may order that such reasonable provision as the court thinks fit shall, subject to such conditions or restrictions, if any, as the court may impose, be made out of the testator's net estate for the maintenance of that dependant:

Provided that no application shall be made to the court by or on behalf of any person in any case where the testator has bequeathed not less than two-thirds of the income of the net estate to a surviving spouse and the only other dependant or dependants, if any, is or are a child or children of the surviving spouse.

(2) The provision for maintenance to be made by an order shall, subject to the provisions of subsection (4) of this section, be by way of periodical payments of

income, and the order shall provide for their termination not later than—

- (a) in the case of a wife or husband, her or his re-marriage;
- (b) in the case of a daughter who has not been married, or who is under disability, her marriage or the cesser of her disability, whichever is the later;
- (c) in the case of an infant son, his attaining the age of twenty-one years;
- (d) in the case of a son under disability, the cesser of his disability;

or, in any case, his or her earlier death.

(3) The amount of the annual income which may be made applicable for the maintenance of a testator's dependants by an order or orders to be in force at any one time shall in no case be such as to render them entitled under the testator's will as varied by the order or orders to more than the following fraction of the annual income of his net estate, that is to say :—

- (a) if the testator leaves both a wife or husband and one or more other dependants, two-thirds;  
or
- (b) if the testator does not leave a wife or husband, or leaves a wife or husband and no other dependant, one-half.

(4) Where the value of a testator's net estate does not exceed two thousand pounds, the court shall have power to make an order providing for maintenance, in whole or in part, by way of a payment of capital, so however that the court, in determining the amount of the provision, shall give effect to the principle of the last preceding subsection.

(5) In determining whether, and in what way, and as from what date, provision for maintenance ought to be made by an order, the court shall have regard to the nature of the property representing the testator's net estate and shall not order any such provision to be made as would necessitate a realisation that would be improvident having regard to the interests of the



testator's dependants and of the person who, apart from the order, would be entitled to that property.

(6) The court shall, on any application made under this Act, have regard to any past, present or future capital or income from any source of the dependant of the testator to whom the application relates, to the conduct of that dependant in relation to the testator and otherwise, and to any other matter or thing which in the circumstances of the case the court may consider relevant or material in relation to that dependant, to the beneficiaries under the will, or otherwise.

(7) The court shall also, on any such application, have regard to the testator's reasons, so far as ascertainable, for making the dispositions made by his will, or for not making any provision or any further provision, as the case may be, for a dependant, and the court may accept such evidence of those reasons as it considers sufficient, including any statement in writing signed by the testator and dated, so, however, that in estimating the weight, if any, to be attached to any such statement the court shall have regard to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement.

2.—(1) Except as provided by section four of this Act, an order under this Act shall not be made save on an application made within six months from the date on which representation in regard to the testator's estate for general purposes is first taken out.

Time within which application must be made.

(2) For the purposes of subsection (1) of section one hundred and sixty-two of the Supreme Court of Judicature (Consolidation) Act, 1925, (which relates to the discretion of the court as to the persons to whom administration is to be granted), a dependant of a testator by whom or on whose behalf an application under this Act is proposed to be made shall be deemed to be a person interested in his estate.

15 & 16  
Geo. 5. c. 49.

3.—(1) Where an order is made under this Act, then for all purposes, including the purposes of the enactments relating to death duties, the will shall have effect, and shall be deemed to have had effect as from the testator's death, as if it had been executed with such

Effect and form of order.

variations as may be specified in the order for the purpose of giving effect to the provision for maintenance thereby made.

(2) The court may give such consequential directions as it thinks fit for the purpose of giving effect to an order made under this Act, but no larger part of the net estate shall be set aside or appropriated to answer by the income thereof the provision for maintenance thereby made than such a part as, at the date of the order, is sufficient to produce by the income thereof the amount of the said provision.

(3) An office copy of every order made under this Act shall be sent to the principal probate registry for entry and filing, and a memorandum of the order shall be endorsed on, or permanently annexed to, the probate of the will of the testator or the letters of administration with the will annexed, as the case may be.

Variation of  
orders.

4.—(1) On an application made at a date after the expiration of the period specified in section two of this Act, the court may make such an order as is hereinafter mentioned, but only as respects property the income of which is at that date applicable for the maintenance of a dependant of the testator, that is to say—

- (a) an order for varying a previous order on the ground that any material fact was not disclosed to the court when the order was made, or that any substantial change has taken place in the circumstances of the dependant or of a person beneficially interested under the will in the property; or
- (b) an order for making provision for the maintenance of another dependant of the testator.

(2) An application to the court for an order under paragraph (a) of the preceding subsection may be made by or on behalf of a dependant of the testator or by the trustees of the property or by or on behalf of a person beneficially interested therein under the will.

Interpre-  
tation.

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

“annual income” means in relation to a testator’s net estate, the income that the net estate might

be expected at the date of the order, when realised, to yield in a year;

“ the court ” means the High Court and also the Court of Chancery of the county palatine of Lancaster or the Court of Chancery of the county palatine of Durham where those courts respectively have jurisdiction;

“ death duties ” means estate duty, succession duty, legacy duty and every other duty leviable or payable on death;

“ net estate ” means all the property of which a testator had power to dispose by his will (otherwise than by virtue of a special power of appointment) less the amount of his funeral, testamentary and administration expenses, debts and liabilities and estate duty payable out of his estate on his death;

“ will ” includes codicil;

“ son ” and “ daughter,” respectively, include a male or female child adopted by the testator by virtue of an order made under the provisions of the Adoption of Children Act, 1926, and also a son or daughter of the testator en ventre sa mere at the date of the death of the testator. 16 & 17  
Geo. 5. c. 29.

(2) References in this Act to any enactment or any provision of any enactment shall, unless the context otherwise requires, be construed as references to that enactment or provision as amended by any subsequent enactment including this Act.

**6.—(1)** This Act may be cited as the Inheritance (Family Provision) Act, 1938. Short title,  
commence-  
ment and  
extent.

(2) This Act shall come into operation at the expiration of one year from the passing thereof.

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

**CHAPTER 46.**

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with finance.

[29th July 1938.]

Most Gracious Sovereign,

**WE**, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART I.****CUSTOMS AND EXCISE.**

**1.**—(1) The rate of the customs duty chargeable under section two of the Finance Act, 1928, on hydro-carbon oils shall be increased from eightpence per gallon to ninepence per gallon.

(2) The rate of any rebate allowed under subsection (3) of the said section on the delivery for home consumption of any oils other than light oils shall be increased from sevenpence per gallon to eightpence per gallon.

(3) This section shall be deemed to have had effect as from six o'clock in the evening on the twenty-sixth day of April nineteen hundred and thirty-eight.

Increase of  
customs duty  
on hydro-  
carbon oils.  
18 & 19  
Geo. 5. c. 17.

2.—(1) During the period of twelve years from the passing of this Act, the preference in respect of—

PART I.  
—*cont.*

Preference  
for home  
produced  
oils.

- (a) light oils manufactured in the United Kingdom from indigenous materials (hereafter in this Act referred to as “home produced light oils”); and
- (b) heavy oils manufactured as aforesaid and used in the United Kingdom as road fuel (hereafter in this Act referred to as “home produced road fuel oils”);

shall not be less than the appropriate rate per gallon for the time being in force.

(2) For the purposes of this section—

(a) the appropriate rate shall be—

(i) for the period ending on the fifth day of May nineteen hundred and forty-two, eightpence;

(ii) for the remainder of the said twelve years, eightpence, subject to any adjustments made in accordance with Part I of the First Schedule to this Act;

(b) the expression “preference” in respect of home produced light oils means—

(i) so long as no excise duty is payable in respect of home produced light oils, the rate per gallon of the customs duty payable in the United Kingdom on light oils;

(ii) if during the said twelve years any such excise duty is payable, the difference between the rate per gallon of the excise duty so payable and the rate per gallon of the customs duty payable as aforesaid;

(c) the expression “preference” in respect of home produced road fuel oils means—

(i) so long as no excise duty is payable in respect of home produced road fuel oils, the rate per gallon of the customs duty payable in the United Kingdom on heavy oils used as road fuel;

PART I.  
—cont.

(ii) if during the said twelve years any such excise duty is payable, the difference between the rate per gallon of the excise duty so payable and the rate per gallon of the customs duty payable as aforesaid;

(d) the expression "light oils" has the same meaning as in subsection (3) of section two of the Finance Act, 1928, except that it does not include turpentine;

25 & 26  
Geo. 5. c. 24.

(e) the expression "heavy oils" has the same meaning as in section two of the Finance Act, 1935;

(f) the expression "indigenous materials" means coal, shale or peat indigenous to the United Kingdom, or products produced from those substances;

(g) the expression "road fuel" means fuel for mechanically propelled vehicles constructed or adapted for use on roads;

and in the First Schedule to this Act the expressions "light oils," "heavy oils", "indigenous materials" and "road fuel" have the meanings respectively assigned to them by the last four foregoing paragraphs.

(3) The provisions of Part II of the First Schedule to this Act shall have effect for the purpose of supplementing the provisions of this section and Part I of that Schedule.

24 & 25  
Geo. 5. c. 4.

(4) The British Hydrocarbon Oils Production Act, 1934, shall cease to have effect.

Excise duty  
on power  
methylated  
spirits.

**3.**—(1) There shall be charged, on all spirits used for making power methylated spirits, a duty of excise of ninepence for every gallon of the spirits so used.

(2) The duty charged under this section shall be paid by the methylator immediately after the spirits have been used as aforesaid.

(3) There shall be allowed—

(a) on the exportation of any power methylated spirits from the United Kingdom; or

- (b) on the shipment, or deposit in a bonded warehouse, of any such spirits for use as ships' stores; or
- (c) on the loading into any aircraft of any such spirits for use on a voyage to a place outside the United Kingdom;

PART I.  
—cont.

a drawback equal to the amount of the duty shown to the satisfaction of the Commissioners to have been paid under this section in respect of the spirits.

(4) The foregoing provisions of this section shall be deemed to have had effect as from the second day of May nineteen hundred and thirty-eight.

(5) The power of the Commissioners to make regulations with respect to methylated spirits under section sixteen of the Finance Act, 1921, shall include power to make regulations for securing the payment of the duty charged under this section.

11 & 12  
Geo. 5. c. 32.

(6) In this section the expression "power methylated spirits" means spirits methylated in the manner prescribed for making power methylated spirits by regulations for the time being in force under section thirteen of the Finance Act, 1924 (which enables the Commissioners to prescribe what substances are to be mixed with spirits for the purpose of making power methylated spirits).

14 & 15  
Geo. 5. c. 21.

4.—(1) Subsection (8) of section two of the Finance Act, 1928 (which provides for repayment of duty paid in respect of hydrocarbon oil used on fishing-boats) shall be extended as follows—

Relief of fishing-boats and lifeboats from duties on oil and power methylated spirits.

- (a) an application may be made under the said subsection by the master instead of the owner of a fishing-boat;
- (b) a fishing-boat entered in the fishing-boat register shall be treated as a fishing-boat within the meaning of the said subsection if it is used for the purposes of fishing by any person gaining a substantial part of his livelihood by fishing, whether that person is the owner of the boat or not.

(2) The said subsection (8) and section seven of the Finance Act, 1930 (which provides for repayment of duty

20 & 21  
Geo. 5. c. 28.

PART I.  
—cont.

paid in respect of hydrocarbon oil used on lifeboats) shall be extended so as to apply to duty paid in respect of power methylated spirits as they apply to duty paid in respect of hydrocarbon oil.

Increased  
customs  
duties on  
tea.

26 Geo. 5. &  
1 Edw. 8.  
c. 34.

**5.**—(1) The duties of customs chargeable on tea under section one of the Finance Act, 1936, shall be at the following increased rates, that is to say :—

Tea not being an Empire product - the lb. 8*d.*

Tea being an Empire product - the lb. 6*d.*

(2) This section shall be deemed to have had effect as from the twenty-seventh day of April nineteen hundred and thirty-eight.

Amendment  
as respects  
duties on  
motor cars,  
musical in-  
struments,  
clocks,  
films, &c.

15 & 16  
Geo. 5. c. 36.

22 & 23  
Geo. 5. c. 8.

**6.**—(1) As from the appointed day, section three of the Finance Act, 1925 (which imposes duties on motor cars, musical instruments, clocks, films, &c.) shall be repealed, and accordingly the enactments (which amend or relate to that section) set out in the Second Schedule to this Act shall also be repealed as from that day to the extent specified in the third column of that schedule.

(2) The Treasury shall by order direct that as from the appointed day—

(a) there shall be charged under section three of the Import Duties Act, 1932, on all goods to which this section applies (except mouth-organs), an additional duty of such an amount as will, with the general ad valorem duty, amount to the rate of the duty chargeable thereon immediately before the appointed day under section three of the Finance Act, 1925; and

(b) drawback of the duty or duties chargeable under Part I of the Import Duties Act, 1932, shall be allowed under the Second Schedule to that Act in respect of all goods to which this section applies.

(3) For the purpose of any order for the time being in force (whether made under the last foregoing subsection or otherwise) providing for the allowance of drawback of any duty or duties chargeable under Part I of the Import Duties Act, 1932, in respect of any goods to which this section applies, any duty paid in respect of



any such goods before the appointed day under section three of the Finance Act, 1925, shall be deemed to have been chargeable under the said Part I.

PART I.  
—cont.

(4) Section five of the Import Duties Act, 1932, and section two of the Ottawa Agreements Act, 1932 (which exempt Empire goods from the general ad valorem duty and any additional duty), shall not apply to any goods to which this section applies; but, as from the appointed day, any such goods which, but for this subsection, would be exempt by virtue of those sections from the general ad valorem duty and any additional duty (hereafter in this section referred to as "Empire goods") shall, subject to the next following subsection—

22 & 23  
Geo. 5. c. 53.

- (a) be charged with those duties at the preferential rate of two-thirds of the aggregate full rate of those duties applicable to the goods; or
- (b) in the case of goods on which the general ad valorem duty alone is chargeable, be charged with that duty at the preferential rate of two-thirds of the full rate of that duty applicable to the goods.

(5) If at any time the Treasury are satisfied that any agreement set out in the First Schedule to the Ottawa Agreements Act, 1932, which is for the time being deemed to be in force for the purposes of that Act, requires that, in the case of goods of any class or description produced or manufactured in and consigned from the country the Government of which is a party to that agreement, any duty or duties charged at a preferential rate under the last foregoing subsection shall not be charged or shall be charged at a reduced preferential rate, the Treasury shall by order direct that that duty or those duties shall not be charged or shall be charged at that reduced preferential rate, as the case may be, on any goods of that class or description being Empire goods:

Provided that—

- (a) the Treasury shall revoke any such order or any provision thereof directing that any such duty or duties shall not be charged on Empire goods of any class or description, if

PART I.  
—*cont.*

and when they are satisfied that no such agreement so in force requires that the duty or duties shall not be charged on goods of that class or description produced or manufactured in and consigned from any country the Government of which is a party to any of the said agreements; and

- (b) the Treasury shall revoke any such order or any provision thereof directing that any such duty or duties shall be charged on Empire goods of any class or description at a reduced preferential rate, if and when they are satisfied that no such agreement so in force requires that goods of that class or description produced or manufactured in and consigned from any country the Government of which is a party to any of the said agreements shall be charged at that reduced rate; and
- (c) every such order shall provide that, in relation to any goods produced or manufactured in a country the Government of which is a party to one of the said agreements, the provisions of the order shall not in any case have effect at any time when that agreement is not deemed to be in force as aforesaid.

23 & 24  
Geo. 5. c. 19.

(6) Paragraph 4 of the Fifth Schedule to the Finance Act, 1933 (which enables the Commissioners to require proof that any goods are, under any provision of the Import Duties Act, 1932, exempt from duty or chargeable with duty at a rate less than the full rate), shall have effect as if the last two foregoing subsections were provisions of the Import Duties Act, 1932.

(7) Any order made by the Treasury under this section shall be deemed for all purposes to have been made under the Import Duties Act, 1932 :

Provided that an order made under paragraph (a) of subsection (2) of this section—

- (a) for the purposes of section nineteen of that Act shall be deemed not to be an order imposing a duty of customs; and

(b) for the purposes of proviso (b) to subsection (5) of the said section nineteen (which provides that an order may not be varied without a further recommendation so as to increase the rate of an additional duty above the rate specified in the original recommendation) shall be deemed to have been made on a recommendation of the Import Duties Advisory Committee specifying the rates of duty imposed by the order.

PART I.  
—cont.

(8) For the purpose of this section, the expression "the appointed day" means the twentieth day of August nineteen hundred and thirty-eight, and the goods to which this section applies are all goods which immediately before the appointed day were chargeable with a duty of customs under section three of the Finance Act, 1925.

7.—(1) No film printed, or produced by any other process, in the United Kingdom and exported therefrom shall, on its subsequent importation into the United Kingdom, be exempt from customs duty by virtue of section fourteen of the Import Duties Act, 1932 (which relates to the exemption of reimported goods) unless it is shown to the satisfaction of the Commissioners either—

Customs  
duty on  
re-imported  
films.

- (a) that no imported film was used in the printing or production of the film as aforesaid; or
- (b) that the customs duty chargeable on all imported films so used has been duly paid; or
- (c) if the film so printed or produced has previously been imported, that the customs duty chargeable thereon was duly paid and not drawn back.

(2) For the purposes of this section, the expression "film" means a positive cinematograph film (that is to say, a cinematograph film containing a picture for exhibition, whether developed or not) or a negative cinematograph film (that is to say, a cinematograph film containing a photograph, whether developed or not, from which positive cinematograph films can be printed), or a positive or negative sound track, whether developed or not.

## PART I.

—*cont.*

Extension of period of stabilisation of imperial preference in case of sugar, &c. 16 & 17 Geo. 5. c. 22. 1 Edw. 8. & 1 Geo. 6. c. 54.

**8.**—(1) Subsection (1) of section seven of the Finance Act, 1926 (which as extended by section four of the Finance Act, 1936, and section two of the Finance Act, 1937, provides for the stabilisation of rates of imperial preference during a period ending on the nineteenth day of August nineteen hundred and thirty-eight) shall, in so far as it relates to the duties of customs chargeable on sugar, molasses, glucose and saccharin, have effect as if the said period were extended by two years :

Provided that the Treasury, if satisfied at any time within those two years that the international sugar agreement has been put into force, shall by order make a declaration to that effect, and thereupon the said subsection shall, in so far as it relates to the said duties, have effect as if the said period were further extended so as to expire on the thirty-first day of August nineteen hundred and forty-two.

(2) In this section the expression “ the international sugar agreement ” means the international agreement regarding the regulation of production and marketing of sugar which was signed in London on behalf of His Majesty’s Government on the sixth day of May nineteen hundred and thirty-seven.

Continuance of exemption of radium compounds from customs duty.

11 & 12 Geo. 5. c. 47.

**9.** Radium compounds (which, by virtue of an order made under subsection (5) of section ten of the Finance Act, 1926, are exempt from the customs duty chargeable under Part I of the Safeguarding of Industries Act, 1921, until the first day of September nineteen hundred and thirty-eight) shall continue to be exempt from that duty on and after that date.

Exemption from customs duty of vehicles, vessels and aircraft temporarily imported.

**10.**—(1) The Treasury may make regulations providing for the exemption of the following goods, or any class or description thereof, from any duties of customs for the time being chargeable thereon, namely—

- (a) any vehicle, vessel or aircraft imported into the United Kingdom by a person making only a temporary stay therein, and exported within such period as the regulations may provide ; and
- (b) any accessories or component parts required for any such vehicle, vessel or aircraft.

(2) In this section the expression "vessel" includes a boat or other craft of any description.

PART I.  
—cont.

(3) Different regulations may be made under this section as respects goods imported by sea, by air and by land respectively, and as respects vehicles, vessels and aircraft respectively.

11.—(1) Section twelve of the Finance Act, 1924 (which provides that the annual value of any premises for the purpose of the duty on any excise licence charged by reference to the annual value shall be the income tax value or, if no income tax value is applicable, an amount determined by the Commissioners), shall have effect subject to the following provisions:—

Relief of  
air-raid  
protection  
works from  
duty on  
excise  
licences.

(a) in determining under paragraph (b) of subsection (1) of the said section the annual value of any premises where no income tax value is applicable, no regard shall be had—

(i) to any room or other part of the premises which has been added at any time after an excise licence was first granted in respect of the premises, or was included in the premises before an excise licence was first granted in respect thereof, solely for the purpose of affording protection in the event of hostile attack from the air, and is not occupied or used for any other purpose; or

(ii) to any structural alterations or improvements of the premises (not being the addition of any such room or other part as aforesaid) made, at any time after an excise licence was first granted in respect of the premises, solely for the purpose of affording such protection;

(b) in any case where—

(i) regard has been had to the matters aforesaid in estimating the income tax value of the premises; or

(ii) any part of the premises would, by reason that it is intended to be used and

PART I.  
—cont.

occupied for the purpose of such protection as aforesaid and is not used or occupied for any other purpose, be exempt from income tax under Schedule A if it were not let;

the person applying for the excise licence may require the Commissioners to assess the annual value of the premises for the purposes of the duty as if there were no income tax value applicable.

10 Edw. 7.  
& 1 Geo. 5.  
c. 8.

(2) Where, in fixing the annual licence value of any premises under subsection (2) of section forty-four of the Finance (1909–10) Act, 1910 (which provides that the annual licence value shall be the amount by which the annual value of the premises as licensed premises exceeds the annual value which the premises would bear if they were not licensed premises), the annual value which any premises would so bear is taken to be the annual value of the site thereof cleared of buildings, no regard shall be had, in computing the annual value of the premises as licensed premises, to any of the matters referred to in paragraph (a) of the last foregoing subsection.

Amend-  
ments as  
respects  
brewing  
books.  
43 & 44 Vict  
c. 20.

**12.**—(1) Section twenty of the Inland Revenue Act, 1880, (which requires brewers for sale to keep a book containing particulars of brewing, hereafter in this section referred to as “the brewing book”) shall have effect subject to the following provisions—

- (a) the part of the brewer’s entered premises in which the brewing book is to be kept shall be approved by the Commissioners; and accordingly paragraph (1) of the said section shall be amended by inserting the words “approved by the Commissioners” after the word “part”;
- (b) notwithstanding anything in paragraph (7) of the said section, a brewer may cancel any entry in the brewing book of the day and hour when his next brewing is intended to take place not less than two hours before the hour specified in the entry.

(2) If any brewing by a brewer for sale does not take place on the day and at the hour entered in the brewing book, the brewer shall be liable to an excise penalty of one hundred pounds, unless he shows that the entry was duly cancelled in accordance with paragraph (b) of the last foregoing subsection or that the brewing did not take place on that day and at that hour by reason only of circumstances which he could not have prevented or forestalled.

**13.**—(1) The Commissioners may make regulations as respects—

Regulations as respects sugar kept by brewers for sale.

- (a) the receipt, storage, removal and disposal of sugar by brewers of beer for sale; and
- (b) the books and other documents relating to sugar to be kept by such brewers; and
- (c) the powers of officers of Customs and Excise to inspect and take copies of any such book or other document and to take stock of the sugar in the possession of any such brewer.

(2) If any such brewer contravenes or fails to comply with the regulations made under this section, he shall be liable to an excise penalty of fifty pounds.

(3) If, on taking stock at any time, the proper officer of Customs and Excise finds that the quantity of any description of sugar in the possession of any such brewer differs from the quantity of that description which ought to be in his possession according to any book or other document kept by him under the said regulations, then—

- (a) if the quantity in his possession exceeds the quantity which ought to be in his possession, the excess shall be forfeited;
- (b) if the quantity in his possession is less by more than two per cent. than the quantity which ought to be in his possession, the deficiency above two per cent. shall, unless accounted for to the satisfaction of the Commissioners, be deemed to have been used in the brewing of beer without due entry in the brewing book, and duty shall be charged in respect thereof as if that deficiency had been so used.

PART I.  
—cont.

(4) In this section the expression “sugar” includes cane sugar, saccharum, glucose, any other saccharine substance or extract, and syrup, and the expression “brewing book” means the book kept under section twenty of the Inland Revenue Act, 1880.

48 & 49 Vict.  
c. 51.

(5) Section seven of the Customs and Inland Revenue Act, 1885 (which relates to sugar kept by a brewer for sale) shall cease to have effect, and the reference to that

59 & 60 Vict.  
c. 28.

section in subsection (3) of section eleven of the Finance Act, 1896 (which relates to the receipt of sugar by dealers in and retailers of beer) shall be construed as a reference to the regulations made under this section.

PART II.

INCOME TAX (CHARGE OF TAX AND MISCELLANEOUS).

*Charge of tax, reliefs, &c.*

Income Tax  
for 1938-39.

**14.**—(1) Income tax for the year 1938-39 shall be charged at the standard rate of five shillings and sixpence in the pound, and, in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess over two thousand pounds as Parliament may hereafter determine.

(2) All such enactments as had effect with respect to the income tax charged for the year 1937-38 shall have effect with respect to the income tax charged for the year 1938-39.

Higher  
rates of  
income tax  
for 1937-38.

**15.** Income tax for the year 1937-38 in respect of the excess of the total income of an individual over two thousand pounds shall be charged at rates in the pound which respectively exceed the standard rate by amounts equal to the amounts by which the rates at which income tax was charged in respect of the said excess for the year 1936-37 respectively exceeded the standard rate for that year.

Payment of  
Schedule A  
tax by  
instalments  
in certain  
cases.

**16.**—(1) Where—

(a) the tenant occupier of any land is authorised, under the provisions of Rule 1 of No. VIII of Schedule A, to make a deduction from the



rent payable in respect of the land on account of the tax chargeable under that Schedule for any year of assessment; and

PART II.  
—cont.

- (b) the amount of the said deduction would exceed the next payment of rent from which it is authorised to be made;

he may, on giving notice to the collector in such form and within such time and containing such particulars as the Commissioners of Inland Revenue may require, pay the said tax for that year by two instalments as follows, that is to say—

- (i) on or before the date or the last date on which the tax would, but for this section, be due and payable, the whole amount of the tax less the said excess;
- (ii) on or before the expiration of three months from that date, the remainder of the tax.

(2) The provisions of the Income Tax Acts as to recovery of tax shall apply to each such instalment of tax in like manner as they apply to the whole amount of the tax.

(3) In this section the expression “land” means lands, tenements, hereditaments and heritages.

**17.**—(1) In estimating for the purposes of income tax under Schedule A the annual value of any building, no regard shall be had—

Relief of  
air-raid  
protection  
works from  
tax under  
Schedule A.

- (a) to any room or other part of the building which has been added at any time after the building was first assessed to tax, or was included in the building before it was so assessed, solely for the purpose of affording protection in the event of hostile attack from the air, and is not occupied or used for any other purpose; or
- (b) to any structural alterations or improvements of the building (not being the addition of any such room or other part as aforesaid) made, at any time after the building was first assessed to tax, solely for the purpose of affording such protection :

PART II.  
—cont.

Provided that this subsection shall not apply if the building or any part thereof is let and the rent or any other consideration for the lease is greater than it would have been if the room or other part referred to in paragraph (a) had not been added or included, or the structural alterations or improvements referred to in paragraph (b) had not been made, as the case may be.

(2) If, in any year of assessment for which the annual value of any building has been estimated in accordance with paragraph (a) of the last foregoing subsection, any room or other part of the building to which no regard has been had by virtue of that paragraph is occupied or used for any purpose other than the purpose of affording such protection as aforesaid, an assessment or additional assessment shall be made so as to include in the annual value of the building the value of that room or other part.

(3) Exemption shall be granted from income tax under Schedule A in respect of any separate unit of assessment which is intended to be occupied and used solely for the purpose of affording such protection as aforesaid and is not occupied or used for any other purpose :

Provided that this subsection shall not apply to any unit of assessment the whole or part of which is let.

(4) In any case where—

(a) a deduction is to be allowed in respect of the depreciation of any premises, being mills, factories or other similar premises, under subsection (2) of section fifteen of the Finance Act, 1937 (which provides for a deduction in computing profits of an amount equal to the repairs allowance or the appropriate fraction of the rating value of the premises, whichever is the less); and

(b) the repairs allowance of the premises is less than it would have been if subsection (1) of this section had not been enacted;

there shall be computed the annual value of any room or other part, or any structural alterations or improvements, to which regard has not been had under the said subsection (1), and the amount of the deduction to be

allowed as aforesaid shall be increased by the amount of the repairs allowance which would have been authorised in respect of the annual value as so computed if it had been separately assessed to tax under Schedule A.

PART II.  
—cont.

**18.** Subsection (2) of section forty of the Finance Act, 1927 (which, as amended by section twenty-two of the Finance Act, 1935, provides for the reduction of the tax remaining chargeable after the allowance of other reliefs by a sum equal to two-thirds of the amount so remaining chargeable or two-thirds of the tax on one hundred and thirty-five pounds, whichever is the less), shall have effect as if the words "twenty-three thirty-thirds" were substituted for the words "two-thirds" in both places where they occur.

Increase of reduced rate allowance.  
17 & 18  
Geo. 5. c. 10.

**19.** Subsection (3) of section thirty-two of the Income Tax Act, 1918 (which, as amended by section twenty-three of the Finance Act, 1935, provides in paragraph (f) thereof that in certain cases no allowance shall be given in respect of life insurance premiums and other payments at a rate of tax greater than one-third of the standard rate) shall have effect as if the words "ten thirty-thirds" were substituted in the said paragraph (f) for the words "one-third".

Amendment as to relief in respect of life insurance premiums, &c.  
8 & 9 Geo. 5.  
c. 40.

**20.**—(1) Section twenty-one of the Finance Act, 1920 (which provides for a deduction in respect of children over the age of sixteen receiving full-time instruction at an educational establishment), shall have effect as if the references in subsections (1) and (2) thereof to a child receiving such instruction included references to a child undergoing training by any person (hereafter referred to as "the employer") for any trade, profession or vocation in such circumstances that—

Deduction in respect of children over sixteen undergoing training.  
10 & 11  
Geo. 5. c. 18.

- (a) the child is required to devote the whole of his time to the training for a period of not less than two years; and
- (b) while the child is undergoing the training, the emoluments, if any, receivable by the child, or payable by the employer in respect of the child, do not exceed thirteen pounds a year, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training.

PART II.  
—cont.

For the purpose of paragraph (b) of this subsection, where a premium has been paid in respect of the training of a child, all emoluments at any time receivable by the child, or payable by the employer in respect of the child, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.

(2) In this section the expression “ emoluments ” means any salary, fees, wages, perquisites, or profits or gains whatsoever, and includes the value of free board, lodging, or clothing.

(3) For the purpose of a claim in respect of a child undergoing training, the surveyor may require the employer to furnish particulars with respect to the training and the emoluments of the child in such form as may be prescribed by the Commissioners of Inland Revenue.

Deduction  
in certain  
cases in  
respect of  
dependent  
relatives.  
24 & 25  
Geo. 5. c. 29.

21. If any person proves that during any year of assessment he has a relative living with him—

- (a) who in that year has been denied wholly or in part unemployment allowance under Part II of the Unemployment Act, 1934, or public assistance, on the ground that the relative was being maintained wholly or partly by him; and
- (b) in respect of whom he is entitled to no deduction for that year under section twenty-two of the Finance Act, 1920;

he shall be entitled to a deduction from the amount of tax with which he is chargeable for that year equal to tax at the standard rate on the amount deemed to have been paid by him in that year towards such maintenance, but not exceeding tax on twenty-five pounds.

Increase of  
additional  
allowance in  
case of  
machinery  
and plant.  
22 & 23  
Geo. 5. c. 25.

22. Section eighteen of the Finance Act, 1932 (which provides for the allowance of an additional deduction in the case of machinery and plant equal to one-tenth of the amount of the deduction for wear and tear allowed under Rule 6 of the rules applicable to Cases I and II of Schedule D) shall have effect as if the words “ one-fifth ” were substituted for the words “ one-tenth ”.

*Provisions as respects dividends, interest, &c.*

PART II.

—*cont.*

**23.**—(1) Where a banker or any other person in the United Kingdom, by means of coupons received from any other person or otherwise on his behalf, obtains payment of any dividends elsewhere than in the United Kingdom, the tax under Schedule C shall extend to the dividends, and the banker or other person so obtaining payment thereof shall be treated for the purpose of the paying agents rules as if he were intrusted with the payment thereof.

Amendments of Schedule C and consequential amendments of Schedule D.

(2) Where—

- (a) any banker in the United Kingdom sells or otherwise realises coupons for any dividends and pays over the proceeds to any person or carries them to his account; or
- (b) any dealer in coupons in the United Kingdom purchases any such coupons as aforesaid otherwise than from a banker or another dealer in coupons;

the tax under Schedule C shall extend to the proceeds of the sale or other realisation, and the paying agents rules shall apply to those proceeds as if they were dividends to which those rules apply, and shall apply to the banker or dealer as if he had been intrusted with the payment thereof:

Provided that, where tax in respect of the proceeds of the sale or realisation of any such coupon has been accounted for under the said rules by any banker or dealer and the Special Commissioners are satisfied that the coupon has been subsequently paid in such manner that tax has been deducted from the payment under any of the rules applicable to Schedule C, the tax so deducted shall be repaid.

(3) For all the purposes of Schedule C, of Rule 1 of the rules applicable to Case III of Schedule D, and of this section, the expression “public revenue” shall, except where the context otherwise requires, include the public revenue of any Government whatsoever, and the revenue of any public authority or institution in any country outside the United Kingdom.

PART II.  
—cont.

(4) Paragraph (c) of Rule 2 of the general rules applicable to Schedule C (which exempts ministers of foreign States) shall apply to any sums chargeable with tax by virtue of subsection (2) of this section as it applies to interest, and paragraph (d) of that rule (which exempts non-residents) shall apply to any sums chargeable with tax by virtue of any of the foregoing provisions of this section as it applies to the interest or dividends on any securities of a foreign State or British possession which are payable in the United Kingdom.

(5) Subsections (1) and (2) of this section shall apply for the purposes of Rule 7 of the miscellaneous rules applicable to Schedule D (which relates to interest, &c. from colonial and foreign companies) as they apply for the purposes of Schedule C, subject to the following modifications—

(a) references to Schedule D shall be substituted for references to Schedule C;

(b) references to dividends shall be construed as references to any such payments as are referred to in sub-paragraphs (a) and (b) of paragraph (1) of the said Rule 7.

(6) In this section—

(a) the expression “banker” includes a person acting as a banker and, notwithstanding anything in the paying agents rules, includes the Bank of England and the Bank of Ireland;

(b) the expressions “coupons” and “coupons for any dividends” include warrants for or bills of exchange purporting to be drawn or made in payment of any dividends;

(c) the expression “dividends” means any interest, annuities, dividends or shares of annuities payable elsewhere than in the United Kingdom (whether they are also payable in the United Kingdom or not) out of any public revenue other than the public revenue of the United Kingdom;

(d) the expression “paying agents rules” means the rules applicable to Schedule C as to interest,

&c. with the payment of which persons other than the Bank of England, the Bank of Ireland and the National Debt Commissioners are intrusted.

PART II.  
—cont.

(7) Rule 7 of the paying agents rules and paragraph (3) of Rule 7 of the miscellaneous rules applicable to Schedule D shall not have effect.

(8) Subject to the provisions of this subsection, the foregoing provisions of this section shall be deemed always to have had effect :

Provided that—

(a) nothing in this section shall affect—

(i) the determination of any commissioners or the judgment of any court made or given before the twenty-seventh day of April nineteen hundred and thirty-eight; or

(ii) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment; or

(iii) any appeal against an assessment if notice of the appeal was given before that date; and

(b) nothing in this section shall apply to the proceeds of any sale or other realisation of coupons sold or realised at any time after the twenty-ninth day of July nineteen hundred and thirty-seven, and before the said twenty-seventh day of April, being coupons for any dividends or other payments payable at any time before the said twenty-seventh day of April in respect of which provision was not made for payment at the due date in accordance with the obligations undertaken by the debtor.

**24.**—(1) Where in any year of assessment the owner of any securities (in this section referred to as “the owner”) sells or transfers the right to receive any interest payable (whether before or after the sale or transfer) in respect of the securities without selling or transferring the securities, then, for all the purposes of the Income Tax Acts, that interest, whether it would or would not be

Provisions as respects transfers of income arising from securities.

PART II.  
—cont.

chargeable to tax apart from the provisions of this section—

- (a) shall be deemed to be the income of the owner or, in a case where the owner is not the beneficial owner of the securities and some other person (hereafter in this section referred to as “a beneficiary”) is beneficially entitled to the income arising from the securities, the income of the beneficiary; and
- (b) shall be deemed to be the income of the owner or beneficiary for that year; and
- (c) shall not be deemed to be the income of any other person :

Provided that, in the case of a sale or other realisation the proceeds whereof are chargeable to tax under Schedule C or Rule 7 of the miscellaneous rules applicable to Schedule D, the interest so deemed to be the income of the owner or beneficiary shall be deemed to be equal in amount to the amount of those proceeds.

(2) Nothing in the foregoing provisions of this section shall affect any provision of the Income Tax Acts authorising or requiring the deduction of tax from any interest which is deemed to be the income of the owner or beneficiary as aforesaid or from the proceeds of any subsequent sale or other realisation of the right to receive that interest :

Provided that the proceeds of any such subsequent sale or other realisation shall not, for any of the purposes of those Acts, be deemed to be the income of the seller or the person on whose behalf the right is otherwise realised.

(3) Where the securities are of such a character that the interest payable in respect thereof may be paid without deduction of tax, the owner or beneficiary shall be chargeable to tax at the standard rate under Case VI of Schedule D in respect of any interest which is deemed to be his income by virtue of this section, unless he shows that it has borne tax at the standard rate or that the proceeds of any sale or other realisation of the right to receive that interest have been charged to tax under Schedule C or the said Rule 7 :

Provided that, in any case where, if the interest had been chargeable under Case IV or Case V of



Schedule D, the computation of tax would have been made by reference to the amount received in the United Kingdom, the tax under Case VI shall be computed on the full amount of the sums which have been or will be received in the United Kingdom in the year of assessment or any subsequent year in which the owner remains the owner of the securities.

(4) For the purposes of this section—

(a) the expression “interest” includes dividends, annuities and shares of annuities; and

(b) the expression “securities” includes stocks and shares.

(5) The Commissioners of Inland Revenue may by notice in writing require any person to furnish them within such time as they may direct (not being less than twenty-eight days) in respect of all securities of which he was the owner at any time during the period specified in the notice, with such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether—

(a) tax has been borne in respect of the interest on all those securities; or

(b) the proceeds of any sale or other realisation of the right to receive the interest on the securities have been charged to tax under Schedule C or the said Rule 7;

and if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding fifty pounds, and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues.

(6) The provisions of this section shall be deemed always to have had effect:

Provided that—

(a) nothing in this section shall affect—

(i) the determination of any commissioners or the judgment of any court made or given before the twenty-seventh day of April nineteen hundred and thirty-eight; or

(ii) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment; or

PART II.  
—cont.

(iii) any appeal against an assessment if notice of the appeal was given before that date; and

(b) nothing in this section shall apply to any sale or other realisation the proceeds whereof are not chargeable to tax by virtue of proviso (b) to subsection (8) of the last foregoing section.

Charge of  
tax on  
funding  
bonds issued  
in respect of  
interest on  
certain  
debts.

**25.**—(1) Where any funding bonds are issued to a creditor in respect of any liability to pay interest on any debt to which this section applies—

- (a) the issue of the bonds shall be treated for all the purposes of the Income Tax Acts as if it were the payment of an amount of that interest equal to the value of the bonds at the time of the issue thereof; and
- (b) the redemption of the bonds shall not be treated for those purposes as the payment of any amount of that interest.

(2) Where an issue of bonds is treated as aforesaid as if it were the payment of an amount of interest, and any person by or through whom the bonds are issued would be required, by virtue of any provision of the Income Tax Acts, to deduct tax from that amount of interest if it had been actually paid by or through him, the following provisions shall have effect—

- (a) subject to the provisions of the next following paragraph, any such person—
- (i) shall retain bonds the value whereof at the time of their issue is equal to tax on the said amount of interest at the standard rate for the year of assessment in which the bonds are issued; and
- (ii) shall be acquitted in respect of any such retention in like manner as if he had deducted such tax from the interest; and
- (iii) shall be chargeable with the said tax accordingly, but may tender the bonds so retained in satisfaction of that tax;
- (b) where the Commissioners of Inland Revenue are satisfied that it is impracticable to retain bonds

on account of tax under the last foregoing paragraph—

PART II.  
—cont.

(i) they may relieve any such person from the obligation to retain bonds and account for tax under that paragraph on his furnishing to them a statement of the names and addresses of the persons to whom the bonds have been issued and the amount of the bonds issued to each such person; and

(ii) tax in respect of the amount of interest treated by virtue of this section as having been paid by the issue of the bonds shall be charged under Case VI of Schedule D for the year of assessment in which the bonds are issued on the persons receiving or entitled to the bonds.

(3) This section applies to any debt incurred, whether in respect of any money borrowed or otherwise, by any Government, public authority or public institution whatsoever, or by any body corporate whatsoever.

(4) For the purpose of this section, the expression "funding bonds" includes any bonds, stocks, shares, securities or certificates of indebtedness.

(5) Subject to the provisions of this subsection, the foregoing provisions of this section shall be deemed always to have had effect:

Provided that—

(a) nothing in this section shall affect—

(i) the determination of any commissioners or the judgment of any court made or given before the twenty-seventh day of April nineteen hundred and thirty-eight; or

(ii) any appeal from or case stated in respect of any such determination, or any appeal from any such judgment; or

(iii) any appeal against an assessment if notice of the appeal was given before that date; and

(b) nothing in this section shall apply to any funding bonds issued at any time after the twenty-ninth day of July nineteen hundred and thirty-seven and before the said twenty-seventh day of April.

*Miscellaneous.*

## PART II.

—cont.

Valuation of trading stock on discontinuance of trades.

**26.**—(1) In computing for any purpose of the Income Tax Acts the profits or gains of a trade which has been discontinued, any trading stock belonging to the trade at the discontinuance thereof shall be valued as follows :—

(a) in the case of any such trading stock—

(i) which is sold or transferred for valuable consideration to a person who carries on or intends to carry on a trade in the United Kingdom; and

(ii) the cost whereof may be deducted by the purchaser as an expense in computing for any such purpose the profits or gains of that trade;

the value thereof shall be taken to be the amount realised on the sale or the value of the consideration given for the transfer;

(b) in the case of any other such trading stock, the value thereof shall be taken to be the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade.

(2) Any question arising under paragraph (a) of the last foregoing subsection shall be determined as follows, for the purpose of computing as aforesaid the profits or gains of both the trades concerned :—

(a) in a case where the same body of General Commissioners have jurisdiction with respect to both the trades concerned, any such question shall be determined by those Commissioners, unless all parties concerned agree that it shall be determined by the Special Commissioners;

(b) in any other case, any such question shall be determined by the Special Commissioners;

(c) any such Commissioners shall determine the question in like manner as if it were an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to such an appeal shall apply accordingly with any necessary modifications.

(3) Where, by virtue of any provision of Rule 11 of the rules applicable to Cases I and II of Schedule D, a trade is treated as having been discontinued for the purpose of computing tax, it shall also be so treated for the purpose of this section, but this section shall not apply in a case where a trade carried on by a single individual is discontinued by reason of his death.

(4) For the purposes of this section, the expression "trading stock," in relation to any trade, means property of any description, whether real or personal, being either—

- (a) property such as is sold in the ordinary course of the trade or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or
- (b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in the last foregoing paragraph.

**27.**—(1) Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person. Losses of capital redemption business.

(2) In ascertaining whether and to what extent any person has sustained a loss in the carrying on by him of capital redemption business, for the purpose either—

- (a) of setting off the loss under Rule 13 of the rules applicable to Cases I and II of Schedule D against the profits of any other business carried on by him; or
- (b) of giving relief in respect of the loss under section thirty-four of the Income Tax Act, 1918;

any income of that person derived from investments held in connection with the capital redemption business shall be treated as part of the profits arising to him from that business.

PART II.  
—cont.

(3) In this section the expression “ capital redemption business ” means the business (not being life assurance business or industrial assurance business) of effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby in return for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future.

(4) This section shall not apply to any capital redemption business, in so far as it consists of carrying out such contracts as aforesaid effected before the first day of January nineteen hundred and thirty-eight.

Amend-  
ments as  
respects  
avoidance  
of tax by  
transfer of  
income to  
persons  
abroad.

**28.**—(1) Section eighteen of the Finance Act, 1936 (which contains provisions for the purpose of preventing the avoiding by individuals of liability to income tax by means of transfers of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, income becomes payable to persons resident or domiciled out of the United Kingdom) shall be amended in accordance with the following provisions of this section.

(2) The proviso to subsection (1) shall cease to have effect and the following two subsections shall be inserted immediately after the said subsection (1):—

“(1A) Where, whether before or after any such transfer, such an individual receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operation, any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a person resident or domiciled out of the United Kingdom shall, whether it would or would not have been chargeable to income tax apart from the provisions of this section, be deemed to be the income of that individual for all the purposes of the Income Tax Acts.

In this subsection the expression ‘ capital sum ’ means—

(a) any sum paid or payable by way of loan or repayment of a loan; and

- (b) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth.

(1B) The last two foregoing subsections shall not apply if the individual shows in writing or otherwise to the satisfaction of the Special Commissioners either—

- (a) that the purpose of avoiding liability to taxation was not the purpose or one of the purposes for which the transfer or associated operations or any of them were effected; or
- (b) that the transfer and any associated operations were bona fide commercial transactions and were not designed for the purpose of avoiding liability to taxation."

(3) In paragraph (d) of subsection (3) of the said section, the following words shall be inserted after the word "income":—

" or may, in the event of the exercise of any power vested in any other person, become entitled to the beneficial enjoyment of the income ".

(4) After subsection (4) the following subsection shall be inserted:—

"(4A) For the purpose of this section any body corporate incorporated outside the United Kingdom shall be treated as if it were resident out of the United Kingdom whether it is so resident or not."

(5) The foregoing amendments of the said section eighteen shall take effect for the purpose of assessment to income tax for the year 1937-38 and subsequent years and shall apply in relation to transfers of assets and associated operations whether carried out before or after the commencement of that year :

Provided that, as respects income tax at the standard rate for the year 1937-38, the said section eighteen shall have effect as originally enacted, but surtax for that year shall be assessed and charged as if any income which would, but for this proviso, have been charged under the said section eighteen as amended by this section had in fact been so charged.

PART II.  
—*cont.*  
Amendment  
as to appeals  
under  
Schedule B  
in the case  
of nurseries  
and gardens.

**29.** Where the profits arising from lands occupied as nurseries or gardens have, in pursuance of Rule 8 of the rules applicable to Schedule B, been estimated according to the provisions and rules applicable to Schedule D but assessed under Schedule B, an appeal against the assessment may be made to the Special Commissioners instead of to the General Commissioners under section one hundred and forty-eight of the Income Tax Act, 1918; and accordingly subsection (1) of that section shall have effect as if the following paragraph were inserted immediately after paragraph (b) thereof:—

“ (c) an assessment under Schedule B made in pursuance of Rule 8 of the rules applicable to that Schedule.”

### PART III.

#### INCOME TAX (ADMINISTRATION OF ESTATES).

Provisions  
as to limited  
interests in  
residue.

**30.**—(1) The following provisions of this section shall have effect in relation to a person who, during the period commencing on the death of a deceased person and ending on the completion of the administration of his estate (in this Part of this Act referred to as “ the administration period ”) or during a part of that period, has a limited interest in the residue of the estate or in a part thereof.

(2) When any sum has been paid during the administration period in respect of that limited interest the amount thereof shall, subject to the provisions of the next following subsection, be deemed for all the purposes of the Income Tax Acts to have been paid to that person as income for the year of assessment in which that sum was paid, or, in the case of a sum paid in respect of an interest that has ceased, for the last year of assessment in which it was subsisting.

(3) On the completion of the administration of the estate—

(a) the aggregate amount of all sums paid before, or payable on, the completion of the administration in respect of that limited interest shall be deemed to have accrued due to that person from day to day during the administration period or the part thereof during which he had that



interest, as the case may be, and to have been paid to him as it accrued due ;

PART III.  
—cont.

(b) the amount deemed to have been paid to that person by virtue of the foregoing paragraph in any year of assessment shall be deemed for all the purposes of the Income Tax Acts to have been paid to him as income for that year ; and

(c) where the amount which is deemed to have been paid to that person as income for any year by virtue of this subsection is less or greater than the amount deemed to have been paid to him as income for that year by virtue of the last foregoing subsection, such adjustments shall be made as are hereafter provided in this Part of this Act.

(4) Any amount which is deemed to have been paid to that person as income for any year by virtue of this section shall—

(a) in the case of a United Kingdom estate, be deemed to be income of such an amount as would after deduction of standard tax for that year be equal to the amount deemed to have been so paid, and to be income that has borne standard tax ;

(b) in the case of a foreign estate, be deemed to be income of the amount deemed to have been so paid, and shall be chargeable to standard tax under Case IV of Schedule D as if it were income arising from securities in a place out of the United Kingdom.

(5) Where a person has been charged to standard tax for any year by virtue of this section in respect of an amount deemed to have been paid to him as income in respect of an interest in a foreign estate and any part of the aggregate income of that estate for that year has borne United Kingdom income tax by deduction or otherwise, the tax so charged on him shall, on proof of the facts to the satisfaction of the General or Special Commissioners, be reduced by an amount bearing the same proportion thereto as the amount of the said income which has borne United Kingdom income tax,

PART III.  
—cont.

less the tax so borne, bears to the amount of the said aggregate income, less the tax so borne :

Provided that, where relief has been so given, such part of the amount in respect of which he has been charged to standard tax as corresponds to the said proportion shall, for the purposes of surtax, be deemed to represent income of such an amount as would after deduction of standard tax be equal to that part of the amount charged.

Provisions  
as to  
absolute  
interests in  
residue.

**31.**—(1) The following provisions of this section shall have effect in relation to a person who, during the administration period or during a part of that period, has an absolute interest in the residue of the estate of a deceased person or in a part thereof.

(2) There shall be ascertained in accordance with the next succeeding section the amount of the residuary income of the estate for each whole year of assessment, and for each broken part of a year of assessment, during which—

- (a) the administration period was current; and
- (b) that person had that interest;

and the amount so ascertained in respect of any year or part of a year, or, in the case of a person having an absolute interest in a part of a residue, a proportionate part of that amount, is in this Part of this Act referred to as the “residuary income” of that person for that year of assessment :

Provided that, when the legacy duty charged on the residue, or on the part thereof in which that person has an absolute interest, as the case may be, has been paid in respect of income for any such year or part of a year as aforesaid, his residuary income for that year shall thereafter be treated for the purposes of surtax as reduced by the amount of that duty so far as paid in respect of such income.

(3) When any sum or sums has or have been paid during the administration period in respect of that absolute interest, the amount of that sum or the aggregate amount of those sums shall, subject to the provisions of the next following subsection, be deemed for all the purposes of the Income Tax Acts to have been paid to that person as income to the extent to which, and for the year or years of assessment for which, he would have been

treated for those purposes as having received income if he had had a right to receive in each year of assessment—

PART III.  
—cont.

- (a) in the case of a United Kingdom estate, his residuary income for that year less standard tax for that year, or
- (b) in the case of a foreign estate, his residuary income for that year,

and that sum or the aggregate of those sums had been available for application primarily in or towards satisfaction of those rights as they accrued and had been so applied.

In the case of a United Kingdom estate, any amount which is deemed to have been paid to that person as income for any year by virtue of this subsection shall be deemed to be income of such an amount as would after deduction of standard tax for that year be equal to the amount deemed to have been so paid, and to be income that has borne standard tax.

(4) On the completion of the administration of the estate—

- (a) the amount of the residuary income of that person for any year of assessment shall be deemed for all the purposes of the Income Tax Acts to have been paid to him as income for that year, and in the case of a United Kingdom estate shall be deemed to have borne tax by reference to the standard rate; and
- (b) where the amount which is deemed to have been paid to that person as income for any year by virtue of this subsection is less or greater than the amount deemed to have been paid to him as income for that year by virtue of the last foregoing subsection, such adjustments shall be made as are hereafter provided in this Part of this Act.

(5) In the case of a foreign estate, any amount which is deemed to have been paid to that person as income for any year by virtue of this section shall be deemed to be income of that amount, and shall be chargeable to standard tax under Case IV of Schedule D as if it were income arising from securities in a place out of the United Kingdom.

(6) Where a person has been charged to standard tax for any year by virtue of this section in respect of

PART III.  
—cont.

an amount deemed to have been paid to him as income in respect of an interest in a foreign estate and any part of the aggregate income of that estate for that year has borne United Kingdom income tax by deduction or otherwise, the tax so charged on him shall, on proof of the facts to the satisfaction of the General or Special Commissioners, be reduced by an amount bearing the same proportion thereto as the amount of the said income which has borne United Kingdom income tax bears to the amount of the said aggregate income.

Supple-  
mentary  
provisions  
as to  
absolute  
interests in  
residue.

**32.**—(1) The amount of the residuary income of an estate for any year of assessment shall be ascertained by deducting from the aggregate income of the estate for that year—

- (a) the amount of any annual interest, annuity, or other annual payment for that year which is a charge on residue and the amount of any payment made in that year in respect of any such expenses incurred by the personal representatives as such in the management of the assets of the estate as, in the absence of any express provision in a will, would be properly chargeable to income, but excluding any such interest, annuity or payment allowed or allowable in computing the aggregate income of the estate; and
- (b) the amount of any of the aggregate income of the estate for that year to which a person has on or after assent become entitled by virtue of a specific disposition either for a vested interest during the administration period or for a vested or contingent interest on the completion of the administration.

(2) In the event of its appearing, on the completion of the administration of an estate in the residue of which, or in a part of the residue of which, a person had an absolute interest at the completion of the administration, that the aggregate of the benefits received in respect of that interest does not amount to as much as the aggregate for all years of the residuary income of the person having that interest, his residuary income for each year shall be reduced for the purpose of the last foregoing section by an amount bearing the same proportion

thereto as the deficiency bears to the aggregate for all years of his residuary income.

PART III.  
—cont.

In this subsection the expression “ benefits received ” in respect of an absolute interest means the following amounts in respect of all sums paid before, or payable on, the completion of the administration in respect of that interest, that is to say—

- (a) as regards a sum paid before the completion of the administration, in the case of a United Kingdom estate such an amount as would, after deduction of standard tax for the year of assessment in which that sum was paid, be equal to that sum, or in the case of a foreign estate the amount of that sum ; and
- (b) as regards a sum payable on the completion of the administration, in the case of a United Kingdom estate such an amount as would, after deduction of standard tax for the year of assessment in which the administration is completed, be equal to that sum, or in the case of a foreign estate the amount of that sum.

(3) In the application of the last foregoing subsection to a residue or a part of a residue in which a person other than the person having an absolute interest at the completion of the administration had an absolute interest at any time during the administration period, the aggregates therein mentioned shall be computed in relation to those interests taken together, and the residuary income of that other person also shall be subject to reduction thereunder.

**33.**—(1) Where the personal representatives of a deceased person have as such a right in relation to the estate of another deceased person such that, if that right were vested in them for their own benefit, they would have an absolute or limited interest in the residue of that estate or in a part thereof, they shall be deemed to have that interest notwithstanding that that right is not vested in them for their own benefit, and any amount deemed to be paid to them as income by virtue of this Part of this Act shall be treated as part of the aggregate income of the estate of the person whose personal representatives they are.

Special provisions as to certain interests in residue.

(2) Where different persons have successively during the administration period absolute interests in the residue

PART III.  
—cont.

of the estate of a deceased person or in a part thereof, sums paid during that period in respect of the residue or of that part thereof, as the case may be, shall be treated for the purpose of this Part of this Act as having been paid in respect of the interest of the person who first had an absolute interest therein up to the amount of—

- (a) in the case of a United Kingdom estate, the aggregate for all years of that person's residuary income less standard tax, or
- (b) in the case of a foreign estate, the aggregate for all years of that person's residuary income,

and, as to any balance up to a corresponding amount, in respect of the interest of the person who next had an absolute interest therein, and so on.

(3) Where upon the exercise of a discretion any of the income of the residue of the estate of a deceased person for any period (being the administration period or a part thereof) would, if the residue had been ascertained at the commencement of that period, be properly payable to any person, or to another in his right, for his benefit, whether directly by the personal representatives or indirectly through a trustee or other person, the amount of any sum paid pursuant to an exercise of the discretion in favour of that person shall be deemed for all the purposes of the Income Tax Acts to have been paid to that person as income for the year of assessment in which it was paid, and the provisions of subsections (4) and (5) of section thirty of this Act shall have effect in relation to an amount which is deemed to have been paid as income by virtue of this subsection.

Provisions  
as to adjust-  
ments and  
furnishing of  
information.

**34.—**(1) Where, on the completion of the administration of an estate, any amount is deemed by virtue of this Part of this Act to have been paid to any person as income for any year of assessment and—

- (a) that amount is greater than the amount that has previously been deemed to have been paid to him as income for that year by virtue of this Part of this Act; or
- (b) no amount has previously been so deemed to have been paid to him as income for that year;

an assessment or additional assessment may be made upon him for that year and tax charged accordingly or,

on a claim being made for the purpose, any relief or additional relief to which he may be entitled shall be allowed accordingly.

PART III.  
— cont.

(2) Where, on the completion of the administration of an estate, any amount is deemed by virtue of this Part of this Act to have been paid to any person as income for any year of assessment, and that amount is less than the amount that has previously been so deemed to have been paid to him, then—

(a) if an assessment has already been made upon him for that year, such adjustments shall be made in that assessment as may be necessary for the purpose of giving effect to the provisions of this Part of this Act which take effect on the completion of the administration, and any tax overpaid shall be repaid;

(b) if—

(i) any relief has been allowed to him by reference to the amount which has been previously deemed as aforesaid to have been paid to him as income for that year; and

(ii) the amount of that relief exceeds the amount of relief which could have been given by reference to the amount which, on the completion of the administration, is deemed to have been paid to him as income for that year;

the relief so given in excess may, if not otherwise made good, be charged under Case VI of Schedule D and recovered from that person accordingly.

(3) Notwithstanding anything contained in the Income Tax Acts, the time within which an assessment or additional assessment may be made for the purposes of this Part of this Act, or an assessment may be adjusted for those purposes, or a claim for relief may be made by virtue of this Part of this Act, shall not expire before the end of the third year following the year of assessment in which the administration of the estate in question was completed.

(4) The General or Special Commissioners may by notice in writing require any person being or having been a personal representative of a deceased person,

PART III.  
—cont.

or having or having had an absolute or limited interest in the residue of the estate of a deceased person or in a part thereof, to furnish them (within such time as they may direct, not being less than twenty-eight days) with such particulars as they think necessary for the purposes of this Part of this Act, and if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding fifty pounds, and, after judgment has been given for that penalty, to a further penalty of the like amount for each day during which that failure continues.

Interpreta-  
tion of  
Part III.

**35.**—(1) The following provisions of this section shall have effect for the purpose of the interpretation of the foregoing provisions of this Part of this Act.

(2) A person shall be deemed to have an “absolute interest” in the residue of the estate of a deceased person, or in a part thereof, if and so long as the capital of the residue or of that part thereof, as the case may be, would, if the residue had been ascertained, be properly payable to him, or to another in his right, for his benefit, or is properly so payable, whether directly by the personal representatives or indirectly through a trustee or other person.

(3) A person shall be deemed to have a “limited interest” in the residue of the estate of a deceased person, or in a part thereof, during any period, being a period during which he has not an absolute interest in the residue or in that part thereof, as the case may be, where the income of the residue or of that part thereof, as the case may be, for that period would, if the residue had been ascertained at the commencement of that period, be properly payable to him, or to another in his right, for his benefit, whether directly or indirectly as aforesaid.

(4) The expression “personal representatives” means, in relation to the estate of a deceased person, his personal representatives as defined in relation to England by section fifty-five of the Administration of Estates Act, 1925, and persons having in relation to the deceased under the law of another country any functions corresponding to the functions for administration purposes under the law of England of personal representatives as so defined, and references to personal representatives as such shall be construed as references to the personal representatives in their capacity as having such functions as aforesaid.



(5) The expression “specific disposition” means a specific devise or bequest made by a testator, and includes the disposition of personal chattels made by section forty-six of the Administration of Estates Act, 1925, and any disposition having, whether by virtue of any enactment or otherwise, under the law of another country an effect similar to that of a specific devise or bequest under the law of England.

Real estate included (either by a specific or general description) in a residuary gift made by the will of a testator shall be deemed to be a part of the residue of his estate and not to be the subject of a specific disposition.

(6) The expression “charges on residue” means, in relation to the estate of a deceased person, the following liabilities properly payable thereout and interest payable in respect of those liabilities, that is to say,—

- (a) funeral, testamentary and administration expenses and debts;
- (b) general legacies (including in the case of an intestacy the sum of one thousand pounds charged by virtue of section forty-six of the Administration of Estates Act, 1925), demonstrative legacies and annuities; and
- (c) any other liabilities of his personal representatives as such;

but, in the case of any such liabilities which, as between persons interested under a specific disposition or in such a legacy as aforesaid or in an annuity and persons interested in the residue of the estate, fall exclusively or primarily upon the property that is the subject of the specific disposition or upon the legacy or annuity, includes only such part (if any) of those liabilities as falls ultimately upon the residue.

(7) References to the “aggregate income of the estate” of a deceased person for any year of assessment shall be construed as references to the aggregate income from all sources for that year of the personal representatives of the deceased as such, treated as consisting of—

- (a) any such income which is chargeable to United Kingdom income tax by deduction or otherwise, such income being computed at the amount on which that tax falls to be borne for that year, and

PART III.  
—*cont.*

- (b) any such income which would have been so chargeable if it had arisen in the United Kingdom to a person resident and ordinarily resident therein, such income being computed at the full amount thereof actually arising during that year, less such deductions as would have been allowable if it had been charged to United Kingdom income tax,

but excluding any income from property devolving on the personal representatives otherwise than as assets for payment of the debts of the deceased.

(8) The expressions “ United Kingdom estate ” and “ foreign estate ” mean respectively, as regards any year of assessment—

- (a) an estate the income whereof comprises only income which either has borne United Kingdom income tax by deduction or in respect of which the personal representatives are directly assessable to United Kingdom income tax, not being an estate any part of the income of which is income in respect of which the personal representatives are entitled to claim exemption from United Kingdom income tax by reference to the fact that they are not resident, or not ordinarily resident, in the United Kingdom; and
- (b) an estate other than a United Kingdom estate.

(9) In a case in which different parts of the estate of a deceased person are the subjects respectively of different residuary dispositions, this Part of this Act shall have effect in relation to each of those parts, with the substitution for references to the estate of references to that part of the estate, and for references to the personal representatives of the deceased as such of references to his personal representatives in their capacity as having the functions referred to in subsection (4) of this section in relation to that part of the estate.

(10) References to sums paid or payable in respect of an absolute or limited interest in the residue of the estate of a deceased person, or in a part thereof, shall, in the application of this Part of this Act for the purposes of surtax, be construed as excluding any sum paid or payable in discharge of any legacy duty charged in respect of that absolute or limited interest.

(11) The expression "standard tax" means United Kingdom income tax at the standard rate.

PART III.

—cont.

(12) References to sums paid include references to assets that are transferred or that are appropriated by a personal representative to himself, and to debts that are set off or released; references to sums payable include references to assets as to which an obligation to transfer or a right of a personal representative to appropriate to himself is subsisting on the completion of the administration and to debts as to which an obligation to release or set off, or a right of a personal representative so to do in his own favour, is then subsisting; and references to amount shall be construed, in relation to such assets, as references to the value thereof at the date on which they were transferred or appropriated, or at the completion of the administration, as the case may require, and, in relation to such debts, as references to the amount thereof.

**36.**—(1) For the purpose of the application of this Part of this Act to Scotland—

Applica-  
tion of  
Part III  
to Scotland  
and  
Northern  
Ireland.

(i) any reference to the completion of the administration of an estate shall be construed as a reference to the date at which, after discharge of, or provision for, liabilities falling to be met out of the deceased's estate (including, without prejudice to the foresaid generality, debts, legacies immediately payable, and legal rights of surviving spouse or children) the free balance held in trust for behoof of the residuary legatees has been ascertained;

(ii) for paragraph (b) of subsection (1) of section thirty-two of this Act, the following paragraph shall be substituted—

“(b) the amount of any of the aggregate income of the estate for that year to which a person has become entitled by virtue of a specific disposition;”

(iii) the expression "real estate" means heritable estate;

(iv) for any reference to the sum of one thousand pounds charged by virtue of section forty-six of the Administration of Estates Act, 1925, there shall be substituted a reference to the sum of five hundred pounds to which a widow is entitled by

## PART III.

—*cont.*1 & 2 Geo. 5.  
c. 10.

virtue of the Intestate Husband's Estate (Scotland) Act, 1911;

- (v) the expression "charges on residue" shall include in addition to the liabilities specified in subsection (6) of the last foregoing section any sums required to meet claims in respect of legal rights by surviving spouse or children.

(2) For the purpose of the application of this Part of this Act to Northern Ireland, for any reference to the sum of one thousand pounds charged by virtue of section forty-six of the Administration of Estates Act, 1925, there shall be substituted a reference to the sum of five hundred pounds to which a widow is entitled by virtue of section two of the Intestates' Estates Act, 1890.

53 & 54 Vict.  
c. 29.Commence-  
ment of  
Part III.

**37.**—(1) This Part of this Act shall have effect, in relation to amounts deemed by virtue thereof to have been paid as income—

- (a) in the case of amounts so deemed by virtue of section thirty of this Act, or by virtue of subsection (3) of section thirty-three of this Act, for the purpose of assessment to income tax and reliefs for the year 1937–38 and subsequent years; and
- (b) in the case of amounts so deemed by virtue of section thirty-one of this Act, for the purpose of assessment to income tax and reliefs for the year 1938–39 and subsequent years;

and shall apply in relation to the estate of a deceased person whether he died before or after the commencement of the year 1937–38 or the year 1938–39, as the case may be:

Provided that no income shall be charged to standard tax by virtue of this Part of this Act for the year 1937–38 in a case to which paragraph (a) of this subsection applies, but surtax shall be assessed and charged as if any income which would, but for this proviso, have been charged as aforesaid had in fact been so charged.

12 &amp; 13

Geo. 5. c. 17.

(2) Section thirty of the Finance Act, 1922 (which relates to cases where a charity is entitled to a residue) shall not apply to income for the year 1938–39 or for any subsequent year.

(3) Any relief given to any person before the commencement of this Act in respect of any income in respect of which that person is entitled to relief by virtue of this Part of this Act shall be taken as having been given on account of the relief to which he is so entitled.

## PART IV.

## INCOME TAX (SETTLEMENTS).

**33.**—(1) If and so long as the terms of any settlement are such that—

Income arising under certain settlements to be treated as income of settlor.

(a) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof and, in the event of the exercise of the power, the settlor or the wife or husband of the settlor will or may cease to be liable to make any annual payments payable by virtue or in consequence of any provision of the settlement; or

(b) the settlor or the wife or husband of the settlor may, whether immediately or in the future, cease, on the payment of a penalty, to be liable to make any annual payments payable by virtue or in consequence of any provision of the settlement;

any sums payable by the settlor or the wife or husband of the settlor by virtue or in consequence of that provision of the settlement in any year of assessment shall be treated as the income of the settlor for that year and not as the income of any other person :

Provided that, where any such power as is referred to in paragraph (a) of this subsection cannot be exercised within the period of six years from the time when the first of the annual payments so referred to becomes payable, and the like annual payments are payable in each year throughout that period, the said paragraph (a) shall not apply so long as the said power cannot be exercised.

(2) If and so long as the terms of any settlement are such that—

(a) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof; and

(b) in the event of the exercise of the power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the

PART IV  
—cont.

whole or any part of the property then comprised in the settlement or of the income arising from the whole or any part of the property so comprised;

any income arising under the settlement from the property comprised in the settlement in any year of assessment or from a corresponding part of that property, or a corresponding part of any such income, as the case may be, shall be treated as the income of the settlor for that year and not as the income of any other person:

Provided that, where any such power as aforesaid cannot be exercised within six years from the time when any particular property first becomes comprised in the settlement, this subsection shall not apply to income arising under the settlement from that property, or from property representing that property, so long as the power cannot be exercised.

(3) If and so long as the settlor has an interest in any income arising under or property comprised in a settlement, any income so arising during the life of the settlor in any year of assessment shall, to the extent to which it is not distributed, be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year, and not as the income of any other person:

Provided that—

(a) if and so long as that interest is an interest neither in the whole of the income arising under the settlement nor in the whole of the property comprised in the settlement, the amount of income to be treated as the income of the settlor by virtue of this subsection shall be such part of the income which, but for this proviso, would be so treated as is proportionate to the extent of that interest; and

(b) where it is shown that any amount of the income which is not distributed in any year of assessment consists of income which falls to be treated as the income of the settlor for that year by virtue of either of the last two foregoing subsections, that amount shall be deducted from the amount of income which, but for this proviso, would be treated as his for that year by virtue of this subsection.

(4) For the purpose of the last foregoing subsection, the settlor shall be deemed to have an interest in income arising under or property comprised in a settlement, if any income or property which may at any time arise under or be comprised in that settlement is, or will or may become, payable to or applicable for the benefit of the settlor or the wife or husband of the settlor in any circumstances whatsoever :

Provided that the settlor shall not be deemed to have an interest in any income arising under or property comprised in a settlement—

(a) if and so long as that income or property cannot become payable or applicable as aforesaid except in the event of—

(i) the bankruptcy of some person who is or may become beneficially entitled to that income or property; or

(ii) any assignment of or charge on that income or property being made or given by some such person; or

(iii) in the case of a marriage settlement, the death of both the parties to the marriage and of all or any of the children of the marriage; or

(iv) the death under the age of twenty-five or some lower age of some person who would be beneficially entitled to that income or property on attaining that age; or

(b) if and so long as some person is alive and under the age of twenty-five during whose life that income or property cannot become payable or applicable as aforesaid except in the event of that person becoming bankrupt or assigning or charging his interest in that income or property.

(5) The provisions of Part I of the Third Schedule to this Act shall have effect as respects the recovery by a settlor of tax with which he becomes chargeable, and the recovery from a settlor of any additional relief to which he becomes entitled, by virtue of this section.

(6) No repayment shall be made under section twenty-five of the Income Tax Act, 1918 (which relates to relief from tax in respect of income accumulated under trusts) on account of tax paid in respect of any income

PART IV.  
—cont.

which by virtue of this section has been treated as the income of a settlor.

(7) The foregoing provisions of this section shall apply for the purposes of assessment to income tax for the year 1937–38 and subsequent years and shall apply in relation to any settlement, wherever made and whether made before or after the passing of this Act :

Provided that—

- (a) for the year 1937–38 no income shall be charged to tax at the standard rate by virtue of this section, but surtax shall be assessed and charged as if any income which would, but for this proviso, have been charged as aforesaid had in fact been so charged ; and
- (b) for the purpose of granting relief from tax at the standard rate in respect of any income which for the year 1937–38 is treated as the income of a settlor by virtue of subsection (1) or subsection (2) of this section but would be treated as the income of some other person but for that subsection, that income shall be treated as the income of that other person ; and
- (c) the provisions of this subsection shall have effect, in relation to a settlement made before the twenty-seventh day of April nineteen hundred and thirty-eight, subject to the provisions of Part II of the Third Schedule to this Act, and in that Part of that Schedule this section is referred to as “the relative section”.

Disallow-  
ance of  
deduction  
from total  
income of  
certain sums  
paid by  
settlor.

**39.**—(1) Where, by virtue or in consequence of any settlement to which this section applies, the settlor pays directly or indirectly in any year of assessment to the trustees of the settlement any sums which would, but for this subsection, be allowable as deductions in computing his total income for that year for the purposes of surtax, those sums shall not be so allowable to the extent to which the aggregate amount thereof falls within the amount of income arising under the settlement in that year which has not been distributed, less—

- (a) so much of any income arising under the settlement in that year which has not been distributed as is shown to consist of income which has been



treated as the income of the settlor by virtue of subsection (1) or subsection (2) of the last foregoing section; and

PART IV.  
—cont.

- (b) the amount of income so arising in that year which is treated as the income of the settlor by virtue of subsection (3) of the last foregoing section.

(2) For the purpose of the last foregoing subsection, any sum paid in any year of assessment by the settlor to any body corporate connected with the settlement in that year shall be treated as if it had been paid to the trustees of the settlement in that year by virtue or in consequence of the settlement.

(3) No relief shall be given under any of the provisions of the Income Tax Acts on account of tax paid in respect of so much of any income arising under a settlement in any year of assessment as is equal to the aggregate amount of any sums paid by the settlor in that year which are not allowable as deductions by virtue of this section.

(4) This section shall apply to any settlement (wherever made) made after the twenty-sixth day of April nineteen hundred and thirty-eight, and where income arising under any settlement (wherever made) made on or before that date is treated as the income of the settlor by virtue of subsection (1) or subsection (2) of the last foregoing section but ceases to be so treated by reason of any variation of the terms of the settlement made after that date, or would have been so treated but for such a variation, this section shall apply to that settlement as from the date when the variation takes effect.

(5) In this section references to sums paid by a settlor shall include references to sums paid by the wife or husband of the settlor.

**40.**—(1) Any capital sum paid directly or indirectly in any relevant year of assessment by the trustees of a settlement to which this section applies to the settlor shall—

Sums paid to settlor otherwise than as income.

- (a) to the extent to which the amount of that sum falls within the amount of income available up to the end of that year, be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year;

## PART IV.

—cont.

- (b) to the extent to which the amount of that sum exceeds the amount of income available up to the end of that year but falls within the amount of the income available up to the end of the next following year, be treated for the purposes aforesaid as the income of the settlor for the next following year;

and so on.

(2) For the purpose of the last foregoing subsection, the amount of income available up to the end of any year shall, in relation to any capital sum paid as aforesaid, be taken to be the aggregate amount of income arising under the settlement in that year and any previous relevant year which has not been distributed, less—

- (a) the amount of any other capital sums paid to the settlor in any relevant year before that sum was paid; and
- (b) so much of any income arising under the settlement in that year and any previous relevant year which has not been distributed as is shown to consist of income which has been treated as income of the settlor by virtue of subsection (1) or subsection (2) of section thirty-eight of this Act; and
- (c) any income arising under the settlement in that year and any previous relevant year which has been treated as the income of the settlor by virtue of subsection (3) of section thirty-eight of this Act; and
- (d) any sums paid by virtue or in consequence of the settlement, to the extent that they are not allowable, by virtue of the last foregoing section, as deductions in computing the settlor's income for that year or any previous relevant year; and
- (e) an amount equal to tax at the standard rate on—
- (i) the aggregate amount of income arising under the settlement in that year and any previous relevant year which has not been distributed, less
- (ii) the aggregate amount of the income and sums referred to in paragraphs (b), (c) and (d) of this subsection.

(3) For the purpose of this section, any capital sum paid to the settlor in any year of assessment by any body corporate connected with the settlement in that year shall be treated as having been paid by the trustees of the settlement in that year.

(4) Where the whole or any part of any sum is treated by virtue of this section as income of the settlor for any year, it shall be treated as income of such an amount as, after deduction of tax at the standard rate for that year, would be equal to that sum or that part thereof.

(5) This section applies to any settlement wherever made and whether made before or after the commencement of this Act, and in this section—

(a) the expression “capital sum” means—

(i) any sum paid by way of loan or repayment of a loan; and

(ii) any other sum paid otherwise than as income, being a sum which is not paid for full consideration in money or money's worth;

but does not include any sum which could not have become payable to the settlor except in one of the events specified in the proviso to subsection (4) of section thirty-eight of this Act;

(b) the expression “relevant year” means any year of assessment after the year 1937–38;

(c) references to sums paid to the settlor include references to sums paid to the wife or husband of the settlor.

41.—(1) The provisions of Part III of the Third Schedule to this Act shall have effect for the purpose of carrying this Part of this Act into effect and otherwise for supplementing the provisions thereof. Supplementary provisions as to settlements.

(2) Paragraph (a) of subsection (1) of section twenty of the Finance Act, 1922, shall cease to have effect, and shall be deemed to have ceased to have effect for the purpose of assessment to surtax for the year 1937–38.

(3) Subject to the last foregoing subsection, the provisions of this Part of this Act shall be in addition to and not in derogation of any other provisions of the Income Tax Acts.

PART IV.  
—cont.

(4) For the purposes of this Part of this Act—

(a) the expression “income arising under a settlement” includes—

(i) any income chargeable to income tax by deduction or otherwise, and any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled, resident and ordinarily resident in the United Kingdom; and

(ii) where the amount of the income of any body corporate has been apportioned under section twenty-one of the Finance Act, 1922, for any year or period, or could have been so apportioned if the body corporate were incorporated in any part of the United Kingdom, so much of the income of the body corporate for that year or period as is equal to the amount which has been or could have been so apportioned to the trustees of or a beneficiary under the settlement;

but, where the settlor is not domiciled, or not resident, or not ordinarily resident, in the United Kingdom in any year of assessment, does not include income arising under the settlement in that year in respect of which the settlor, if he were actually entitled thereto, would not be chargeable to income tax by deduction or otherwise by reason of his not being so domiciled, resident or ordinarily resident;

(b) the expression “settlement” includes any disposition, trust, covenant, agreement or arrangement, and the expression “settlor” in relation to a settlement means any person by whom the settlement was made;

(c) a person shall be deemed to have made a settlement if he has made or entered into the settlement directly or indirectly, and in particular (but without prejudice to the generality of the foregoing words of this paragraph) if he has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement;

(d) income arising under a settlement in any year of assessment shall be deemed not to have been distributed if and to the extent that it exceeds the aggregate amount of—

(i) the sums paid in that year by the trustees of the settlement to any persons (not being a body corporate connected with the settlement and not being the trustees of another settlement made by the settlor or the trustees of the settlement) in such manner that they fall to be treated in that year, otherwise than by virtue of the last preceding section, as the income of those persons for the purposes of income tax, or would fall to be so treated if those persons were domiciled, resident and ordinarily resident in the United Kingdom and the sums had been paid to them therein; and

(ii) any expenses of the trustees of the settlement paid in that year which, in the absence of any express provision of the settlement, would be properly chargeable to income, in so far as such expenses are not included in the sums mentioned in the last foregoing sub-paragraph; and

(iii) in a case where the trustees of the settlement are trustees for charitable purposes, the amount by which any income arising under the settlement in that year in respect of which exemption from tax may be granted under section thirty-seven of the Income Tax Act, 1918, or section thirty of the Finance Act, 1921, exceeds the aggregate amount of any such sums or expenses as aforesaid paid in that year which are properly chargeable to that income;

(e) a body corporate shall be deemed to be connected with a settlement in any year of assessment if any of the income thereof for any year or period ending in that year of assessment—

(i) has been apportioned to the trustees of or a beneficiary under the settlement under section twenty-one of the Finance Act, 1922, or could have been so apportioned if the

PART IV.  
—cont.

body corporate had been incorporated in the United Kingdom ; or

(ii) could have been so apportioned if the income of the body corporate for that year or period had not been distributed to the members thereof and, in the case of a body corporate incorporated outside the United Kingdom, if the body corporate had been incorporated in the United Kingdom.

PART V.

NATIONAL DEFENCE CONTRIBUTION.

Further provisions as to subsidiary companies.

42.—(1) For the purposes of this section and section twenty-two of the Finance Act, 1937 (which provides for the amalgamation for the purposes of the national defence contribution of the profits or losses of bodies corporate with the profits or losses of their subsidiaries), a body corporate shall be deemed to be a subsidiary of another body corporate if and so long as not less than three quarters of its ordinary share capital is owned by that other body corporate, whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate.

(2) The amount of ordinary share capital of one body corporate owned by a second body corporate through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate, shall be determined in accordance with the provisions of Part I of the Fourth Schedule to this Act.

(3) In this section and Part I of the said Schedule references to ownership shall be construed as references to beneficial ownership, and the expression “ordinary share capital”, in relation to a body corporate, means all the issued share capital (by whatever name called) of the body corporate, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but have no other right to share in the profits of the body corporate.

(4) The provisions of subsection (1) of the said section twenty-two relating to the giving of a notice by a principal company as respects a subsidiary shall

have effect subject to the provisions of Part II of the Fourth Schedule to this Act, and the time within which such a notice may be given in respect of any chargeable accounting period shall be extended to six months from the end of that period or such longer time as the Commissioners of Inland Revenue may in any case allow.

PART V.  
—cont.

(5) Where any interest, annuity or other annual payment, or any royalty or rent, is paid by one body corporate resident, or carrying on a trade or business, in the United Kingdom to another body corporate, whether so resident or carrying on a trade or business or not, and one of those bodies corporate is a subsidiary of the other, or both are subsidiaries of a third body corporate, then, for the purposes of the national defence contribution—

- (a) notwithstanding anything in section twenty of, or paragraph 4 of the Fourth Schedule to, the Finance Act, 1937, no deduction shall be allowed in respect of the payment in computing the profits of the trade or business carried on by the body corporate making the payment; and
- (b) notwithstanding anything in paragraph 7 of that Schedule, the payment shall not be included in computing the profits of the trade or business carried on by the body corporate to which it is made.

(6) This section shall be deemed to have had effect as from the date on which Part III of the Finance Act, 1937, came into operation :

Provided that where, within six months from the passing of this Act, or such longer time as the Commissioners of Inland Revenue may in any case allow, a notice is duly given under the said section twenty-two, as amended by this section, as respects any chargeable accounting period which ended before the passing of this Act, the notice shall have effect for the purposes of that section as if it had been given within six months from the end of that period.

**43.**—(1) No loss sustained in a trade or business shall be carried forward and deducted or set off under subparagraph (2) of paragraph 2 of the Fourth Schedule to the Finance Act, 1937, if and to the extent that that loss has been deducted from or set off against the profits arising from another trade or business in computing

Amendment as respects carrying forward of losses.

PART V.  
—cont.

those profits for the purposes of the national defence contribution.

(2) Where, in computing for the purposes of the national defence contribution the profits arising from the trade or business carried on by a principal company (including profits treated as so arising by virtue of section twenty-two of the said Act), those profits have been diminished by a loss sustained, or treated as aforesaid as having been sustained, in that trade or business, that loss shall, to the extent to which those profits have been thereby diminished, be treated for the purpose of this section as having been deducted from the profits arising from another trade or business in computing them as aforesaid.

(3) This section shall be deemed to have had effect as from the date on which Part III of the Finance Act, 1937, came into operation.

Increase of  
deduction  
for wear  
and tear.

**44.** Sub-paragraph (1) of paragraph 3 of the Fourth Schedule to the Finance Act, 1937 (which provides for the deduction in respect of any accounting period of a sum representing the diminution in value by reason of wear and tear during that period of plant or machinery, plus ten per cent. of that sum) shall have effect, in respect of any accounting period beginning after the thirty-first day of March nineteen hundred and thirty-eight, and in respect of such part of any accounting period as falls after that date, as if the words "twenty per cent." were substituted for the words "ten per cent."

Limitation  
of amount of  
investment  
income to  
be included  
in profits of  
certain  
assurance  
businesses.

**45.**—(1) In the case of any assurance business to which this section applies carried on by a body corporate, the amount of income arising from investments or other property to be included, by virtue of paragraph 7 of the Fourth Schedule to the Finance Act, 1937, in the profits of the business for any period for which the accounts of the business are made up shall not exceed such a sum as bears to the investment income the same proportion as one-and-a-half times the net premium revenue bears to the value of the investments.

(2) In this section, in relation to any such business and any such period—

(a) the expression "investment income" means the aggregate amount of income arising from investments and other property which would, but for this section, have been included in the



profits of the business for that period by virtue of the said paragraph 7;

PART V.  
—cont.

- (b) the expression “ net premium revenue ” means the aggregate amount of the premiums received, less any re-insurance premiums paid, for the purposes of the business in that period or, in a case where the period is less than twelve months, a sum which bears the same proportion to that amount as twelve months bears to the length of that period; and
- (c) the expression “ value of the investments ” means the average value over that period of all the investments and other property held in that period by the body corporate, other than investments and property held in connection with any assurance business to which this section does not apply.

(3) This section applies to all assurance business, except life assurance business within the meaning of the Assurance Companies Act, 1909, and capital redemption business as defined in subsection (3) of section twenty-seven of this Act. 9 Edw. 7.  
c. 49.

(4) In relation to any such period beginning before the first day of April nineteen hundred and thirty-eight, references in this section to income arising from investments and other property shall be construed as not including income so arising before that date.

**46.** Paragraph 12 of the Fourth Schedule to the Finance Act, 1937 (which enables an individual to claim, within one month from the end of a chargeable accounting period, that he shall be treated as respects that period as if he were a company for certain purposes of the national defence contribution), shall have effect and shall be deemed always to have had effect as if the following sub-paragraph were substituted for sub-paragraph (2) thereof :—

Extension of time for making certain claims.

“(2) Any claim under this paragraph shall be made by notice in writing to the Commissioners of Inland Revenue within six months from the end of the chargeable accounting period in question, or such longer time as the Commissioners may in any case allow.”

## PART VI.

## ESTATE DUTY.

Estate duty  
on cesser by  
death of a  
limited  
interest in  
unascertained  
residue.  
57 & 58 Vict.  
c. 30.

**47.**—(1) The following provisions of this section shall have effect for the purpose of the operation of Part I of the Finance Act, 1894 (in this Part of this Act referred to as “the principal Act”) in relation to the death of a person on whose death an interest in the residue of the estate of a testator or intestate, or in a part thereof, is limited to cease, and who dies before the completion of the administration of the estate.

(2) Such an interest shall, until the completion of the administration, be deemed to be an interest in the unadministered estate of the testator or intestate, as for the time being held by his personal representatives subject to outstanding charges on residue and to any adjustments between capital and income remaining to be made in a due course of administration, and in the property (if any) representing ascertained residue.

(3) Such an interest shall be deemed to have become an interest in possession on the date as from which the income of the residue would have been attributable to that interest if the residue had been ascertained immediately after the death of the testator or intestate.

(4) Where such an interest is an interest in a part only of the residue of an estate, the references in the foregoing provisions of this section to the unadministered estate, to residue and to charges on residue, shall be construed as references to a corresponding part thereof.

(5) In this section—

(a) the expression “unadministered estate” means all the property for the time being held by the personal representatives of a testator or intestate as such, excluding property devolving on the personal representatives otherwise than as assets for payment of his debts and property that is the subject of a specific disposition;

(b) the expression “ascertained residue” means property which, having ceased to be held by the personal representatives as such, is held as part of the residue;

- (c) the expressions “personal representatives,” “charges on residue” and “specific disposition” have the meanings assigned to them respectively by Part III of this Act;
- (d) references to personal representatives as such shall be construed as provided in the said Part III.
- (6) In the application of this section to Scotland—
- (a) references to the completion of the administration of an estate shall be construed as provided in the said Part III;
- (b) for subsection (2) the following subsection shall be substituted:—

“(2) Such an interest shall, until the completion of the administration, be deemed to be an interest in the estate of the testator or intestate, as for the time being held by his personal representatives subject to outstanding charges on residue and to any adjustments between capital and income remaining to be made in a due course of administration.”

(7) This section shall have effect, and shall be deemed always to have had effect, whether the person on whose death such an interest is limited to cease died before or dies after the commencement of this Act:

Provided that, in a case where that person died before the commencement of this Act and no estate duty was paid in respect of the cesser of that interest before the commencement of this Act, any question as to the operation of Part I of the Finance Act, 1894, in relation to his death shall be determined without regard to the provisions of this section.

**48.** Subsection (3) of section five of the principal Act (which provides that, in the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death) shall have effect, in the case of a person dying after the passing of this Act, as if there had been inserted at the end thereof the words “by reason only of the failure or determination of that interest”.

Amendment as respects settled property.

## PART VI.

—cont.

Amendments as respects property transferred to, and shares in, certain companies.

**49.**—(1) In relation to a person dying after the passing of this Act, sections thirty-four to thirty-eight of the Finance Act, 1930 (which charge estate duty where property has been transferred to certain companies and provide for the valuation of shares in such companies) shall have effect subject to the provisions of this section.

(2) For the purpose of determining the rate of estate duty, property which is deemed to pass on the death of any such person by virtue of the provisions of section thirty-four or section thirty-five of the said Act shall not be an estate by itself, but shall be aggregated with other property which is to be aggregated under section four of the principal Act; and accordingly subsection (7) of the said section thirty-four and subsection (3) of the said section thirty-five shall cease to have effect.

(3) For the purpose of the definition of “the value of the total assets of the company” contained in section thirty-eight of the said Act, the deduction to be made in respect of any debentures, debenture stock or preference shares of the company shall, instead of being the par or redemption value thereof, whichever is the greater, be the principal value thereof ascertained in accordance with the provisions of subsection (5) of section seven of the principal Act; and accordingly paragraph (i) of that definition shall be amended by substituting the words “the principal value so ascertained” for the words “the par or redemption value, whichever is the greater”.

## PART VII.

## MISCELLANEOUS AND GENERAL.

Restriction of relief from stamp duty on transfers from one associated company to another.

**50.**—(1) Section forty-two of the Finance Act, 1930 (which relieves from stamp duty any instrument the effect whereof is to convey or transfer a beneficial interest in property from one associated company to another, in this section respectively referred to as the “transferor” and “transferee”) shall not apply to any such instrument, unless it is shown to the satisfaction of the Commissioners of Inland Revenue that the instrument was not executed in pursuance of or in connection with an arrangement whereunder—

(a) the consideration for the transfer or conveyance was to be provided directly or indirectly by a person other than a company which at the

time of the execution of the instrument was associated with either the transferor or the transferee; or

PART VII.  
—cont.

(b) the beneficial interest in the property was previously conveyed or transferred directly or indirectly by such a person as aforesaid.

(2) For the purpose of this section, a company shall be deemed to be associated with another company if, but not unless, both are companies with limited liability, and either—

(i) one of them is the beneficial owner of not less than ninety per cent. of the issued share capital of the other; or

(ii) not less than ninety per cent. of the issued share capital of each of them is in the beneficial ownership of a third company with limited liability.

**51.** Stamp duty shall cease to be chargeable under the following headings in the First Schedule to the Stamp Act, 1891, namely, "DOCKET made on passing any instrument under the Great Seal," "GRANT or LETTERS PATENT," and "WARRANT under the sign manual."

Repeal of stamp duties in respect of honours and dignities.  
54 & 55 Vict. c. 39.

**52.** Section twelve of the Finance Act, 1898 (which, as amended by section sixty-three of the Finance Act, 1920, and section fifty-four of the Finance Act, 1927, provides that if, before land tax is paid, the owner of the land produces a certificate that his income does not exceed one hundred and sixty pounds or four hundred pounds, the whole or one-half of the tax, as the case may be, shall not be collected), shall be amended by inserting immediately after subsection (1) thereof the following subsection:—

Extension of relief in respect of land tax.  
61 & 62 Vict. c. 10.

"(1A) Where any such owner, who has paid or borne land tax for any year for which that tax is assessed, produces any such certificate as aforesaid to the collector of land tax not later than the end of the twelve months next following the end of that year, he shall be entitled to be repaid such amount of the tax so paid or borne by him as would not have been collected if the certificate had been produced before the tax was paid."

## PART VII.

—cont.

Provisions  
as to per-  
manent  
annual  
charge for  
the  
National  
Debt.

9 & 10  
Geo. 5. c. 37.

**53.**—(1) The permanent annual charge for the National Debt for the financial year ending on the thirty-first day of March nineteen hundred and thirty-nine shall be the sum of two hundred and thirty million pounds instead of the sum of three hundred and fifty-five million pounds.

(2) The Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under and for the purposes of subsection (1) of section one of the War Loan Act, 1919, for providing any sums required during the said financial year for the purposes mentioned in paragraph (a) or paragraph (b) of subsection (4) of section twenty-three of the Finance Act, 1928, and the amount required by the said subsection (4) to be issued from the permanent annual charge for the National Debt for the purposes aforesaid in that year shall be decreased by the amount raised under this subsection.

(3) Any securities created and issued to raise money under the last preceding subsection shall be deemed for all purposes to have been created and issued under subsection (1) of section one of the War Loan Act, 1919.

Prolonga-  
tion of  
currency  
of certain  
savings cer-  
tificates.  
21 & 22  
Geo. 5. c. 28.

**54.** Proviso (b) to subsection (1) of section forty-three of the Finance Act, 1931 (which prohibits the prolongation beyond the thirty-first day of March nineteen hundred and forty of the currency of any savings certificate issued on or before the thirty-first day of March nineteen hundred and twenty-two) shall cease to have effect.

Short title,  
construc-  
tion, extent  
and repeals.  
39 & 40 Vict.  
c. 36.

**55.**—(1) This Act may be cited as the Finance Act, 1938.

(2) Part I of this Act, so far as it relates to duties of customs, shall be construed as one with the Customs Consolidation Act, 1876, and so far as it relates to duties of excise shall be construed as one with the Acts which relate to the duties of excise and to the management of those duties; and in that Part of this Act the expression "the Commissioners" means the Commissioners of Customs and Excise.

(3) Parts II, III and IV of this Act shall be construed as one with the Income Tax Acts.

(4) Part VI of this Act shall be construed as one with the Finance Act, 1894.

(5) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment, including (unless the context otherwise requires) this Act.

PART VII.  
—cont.

(6) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

(7) The enactments set out in the Fifth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 2.

#### SUPPLEMENTARY PROVISIONS AS RESPECTS PREFERENCE FOR BRITISH HYDROCARBON OILS.

##### PART I.

##### ADJUSTMENT OF APPROPRIATE RATE OF PREFERENCE.

1. On or before the thirty-first day of March in the year nineteen hundred and forty-two and each of the eight next following years, the Board of Trade shall lay before both Houses of Parliament a certificate signed by the President or any Secretary of the Board stating, according to the information before the Board—

- (a) the average value per gallon of all motor spirit imported into the United Kingdom in the year nineteen hundred and thirty-seven as declared by the importers on importation (in this Part of this Schedule referred to as the "datum price of motor spirit");
- (b) the average value per gallon of all motor spirit so imported in the last preceding calendar year as so declared (in this Part of this Schedule referred to as the "previous year's price of motor spirit");
- (c) the average value per gallon of all gas oil so imported in the year nineteen hundred and thirty-seven as so declared (in this Part of this Schedule referred to as the "datum price of gas oil");
- (d) the average value per gallon of all gas oil so imported in the last preceding calendar year as so declared (in

1st Sch.  
—cont.

this Part of this Schedule referred to as the "previous year's price of gas oil");

- (e) the number of gallons of home produced light oils delivered for home consumption during the last preceding calendar year (in this Part of this Schedule referred to as the "light oil home production figure");
- (f) the aggregate number of gallons of imported light oils and home produced light oils delivered for home consumption during the last preceding calendar year (in this Part of this Schedule referred to as the "light oil consumption figure");
- (g) the number of gallons of heavy oils manufactured in the United Kingdom from indigenous materials which have been delivered for home consumption for use as road fuel during the last preceding calendar year (in this Part of this Schedule referred to as the "road fuel home production figure");
- (h) the aggregate number of gallons of the oils referred to in the last preceding paragraph and of imported heavy oils delivered for home consumption for use as road fuel during the last preceding calendar year (in this Part of this Schedule referred to as the "road fuel consumption figure").

2. If any such certificate shows that the previous year's price of motor spirit exceeds the datum price of motor spirit by one penny or more, the appropriate rate per gallon as respects home produced light oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one half-penny for the first penny of the said excess and an additional half-penny for each additional half-penny of the said excess.

3. If any such certificate shows that the light oil home production figure amounts to twenty per cent. or more of the light oil consumption figure, the appropriate rate per gallon as respects home produced light oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one penny plus an additional one penny for each additional five per cent. beyond twenty per cent. of the light oil consumption figure which the light oil home production figure amounts to or exceeds.

4. If any such certificate shows both that the previous year's price of motor spirit exceeds the datum price of motor spirit by one penny or more and that the light oil home production figure amounts to twenty per cent. or more of the light oil consumption figure, the appropriate rate per gallon as respects home produced light oils for the following preference year shall be eightpence less the authorised deductions to be made under both the last foregoing paragraphs.



5. If any such certificate shows that the previous year's price of gas oil exceeds the datum price of gas oil by one penny or more, the appropriate rate per gallon as respects home produced road fuel oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one half-penny for the first penny of the said excess and an additional half-penny for each additional half-penny of the said excess.

6. If any such certificate shows that the road fuel home production figure amounts to twenty per cent. or more of the road fuel consumption figure, the appropriate rate per gallon as respects home produced road fuel oils for the following preference year shall be eightpence less the authorised deduction, that is to say, one penny plus an additional one penny for each additional five per cent. beyond twenty per cent. of the road fuel consumption figure which the road fuel home production figure amounts to or exceeds.

7. If any such certificate shows both that the previous year's price of gas oil exceeds the datum price of gas oil by one penny or more and that the road fuel home production figure amounts to twenty per cent. or more of the road fuel consumption figure, the appropriate rate per gallon as respects home produced road fuel oils for the following preference year shall be eightpence less the authorised deductions to be made under both the last foregoing paragraphs.

8. For the purposes of this Part of this Schedule—

- (a) average values shall be computed in pence to three places of decimals;
- (b) the expression "calendar year" means the twelve months beginning on the first day of January;
- (c) the expression "following preference year", in relation to any certificate, means the twelve months beginning on the sixth day of May next after the certificate is laid before Parliament, or in the case of a certificate so laid in the year nineteen hundred and fifty, the period beginning on the sixth day of May in that year and ending at the expiration of twelve years from the passing of this Act.

## PART II.

### POWER TO OBTAIN INFORMATION.

1. It shall be the duty of all persons engaged in the manufacture in the United Kingdom of either—

- (a) home produced light oils; or
- (b) heavy oils manufactured from indigenous materials and capable of being used as road fuel;

1st Sch.  
—cont.

to furnish to the Board of Trade in such manner and form as the Board may direct, such particulars, statistics and other information with respect to—

- (i) the quantities of such oils manufactured, and the types and quantities of the materials from which they are so manufactured; and
- (ii) the quantities of such light oils delivered for home consumption; and
- (iii) the quantities of such heavy oils delivered for home consumption for use as road fuel;

as the Board may at any time require.

2. If any person fails to comply with any requirements of the Board made under this Part of this Schedule, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding twenty pounds for every day during which the failure continues.

3. Except for the purposes of paragraph 1 of Part I of this Schedule, no information furnished to the Board under this Part of this Schedule may be published in such a form as to disclose information in regard to a particular undertaking unless the owner of the undertaking consents to the publication thereof.

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## SECOND SCHEDULE.

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Section 6.

### ENACTMENTS RELATING TO CERTAIN CUSTOMS DUTIES REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
15 & 16 Geo. 5. c. 36.	The Finance Act, 1925	In section eleven the words "section three" and the words "(whether under this Act or under the Finance (No. 2) Act, 1915)"; the First Schedule; paragraph 3 of Part III of the Second Schedule; and in Part III of the Third Schedule the words "Goods on which a duty is imposed by section 3 of this Act . . . Two thirds of the full rate".
16 & 17 Geo. 5. c. 22.	The Finance Act, 1926	Section three.
17 & 18 Geo. 5. c. 10.	The Finance Act, 1927	Sections three and four.

Session and Chapter.	Short Title.	Extent of Repeal.
18 & 19 Geo. 5. c. 17.	The Finance Act, 1928	Sections seven and eight.
23 & 24 Geo. 5. c. 19.	The Finance Act, 1933	Subsections (1), (2), (4) and (5) of section thirteen; in subsection (2) of section twenty the words "a duty of customs chargeable under section three of the Finance Act, 1925, and"; section twenty-one; the Fourth Schedule; and Part I of the Sixth Schedule.
1 Edw. 8. & 1 Geo. 6. c. 54.	The Finance Act, 1937	Subsection (4) of section three.
1 & 2 Geo. 6. c. 17.	The Cinematograph Films Act, 1938.	Subsection (5) of section twenty-five.

### THIRD SCHEDULE.

Sections  
38 to 41.

#### SUPPLEMENTARY PROVISIONS AS TO SETTLEMENTS.

##### PART I.

##### ADJUSTMENTS BETWEEN THE SETTLOR AND TRUSTEES.

1. Where by virtue of any provision of section thirty-eight of this Act any income tax becomes chargeable on and is paid by a settlor, he shall be entitled—

- (a) to recover from any trustee, or other person to whom income arises under the settlement, the amount of the tax so paid; and
- (b) for that purpose to require the Commissioners concerned to furnish to him a certificate specifying the amount of income in respect of which he has so paid tax and the amount of tax so paid.

2. Any certificate furnished under the last foregoing paragraph shall be conclusive evidence of the facts stated therein.

3. Where any person obtains, in respect of any allowance or relief, a repayment of income tax in excess of the amount of the repayment to which he would, but for the provisions of the said section, have been entitled, an amount equal to the excess shall be paid by him to the trustees or other person to whom income arises under the settlement, or where there are two or more such persons shall be apportioned among those persons, as the case may require.

3RD SCH.  
—cont.

4. If any question arises as to the amount of any payment or as to any apportionment to be made under the last foregoing paragraph, that question shall be decided by the General Commissioners whose decision thereon shall be final.

5. Any income which is treated by virtue of any provision of the said section as income of a settlor shall be deemed for the purpose of this Schedule to be the highest part of his income.

## PART II.

### SPECIAL PROVISIONS AS RESPECTS SETTLEMENTS MADE BEFORE 27TH APRIL, 1938.

1. Subject to the provisions of this Part of this Schedule, in the case of a settlement made before the twenty-seventh day of April nineteen hundred and thirty-eight, subsection (1) of the relative section shall not, by reason only of the provisions of paragraph (a) thereof, apply to sums payable by the settlor by virtue or in consequence of any provision of the settlement in a year to which this Part of this Schedule applies, if—

(a) at the expiration of three months from the date of the passing of this Act—

(i) no person has or can have any such power as is referred to in the said paragraph (a); and

(ii) the settlor has not received and is not entitled to receive any consideration in respect of the release or disclaimer of any such power; or

(b) the like annual payments have been payable by the settlor by virtue or in consequence of that provision of the settlement in each of the seven years of assessment ending with a year to which this Part of this Schedule applies; or

(c) before the expiration of three months from the date of the passing of this Act—

(i) the settlement, or the provision by virtue or in consequence whereof the annual payments are payable, has been revoked; and

(ii) a new settlement has been made by the settlor by virtue or in consequence whereof the settlor is liable to make the like annual payments and cannot, except in the event of his death, cease to be liable to make those payments before the expiration of six years from the date when the first of the annual payments payable by virtue or in consequence of the revoked settlement became payable :

Provided that, where any income arising under the settlement in a year to which this Part of this Schedule applies has not been distributed, the foregoing provisions of this paragraph shall have effect as if there were substituted for the reference to sums payable by the settlor in that year a reference to the amount, if any, by which the sums so payable in that year exceed the income arising under the settlement in that year which has not been distributed.

3RD SOB.  
—cont.

2. Subject to the provisions of this Part of this Schedule, in the case of a settlement made before the twenty-seventh day of April nineteen hundred and thirty-eight, income arising under the settlement in any year to which this Part of this Schedule applies which would, but for this paragraph, be treated by virtue of subsection (2) of the relative section as the income of the settlor and not as the income of any other person, shall not be so treated or, in a case where any income arising under the settlement in that year has not been distributed, shall not be so treated to the extent that it exceeds the amount of income arising under the settlement in that year which has not been distributed if, at the expiration of three months from the date of the passing of this Act—

- (a) no person has or can have any such power as is referred to in the said subsection (2); and
- (b) the settlor has not received and is not entitled to receive any consideration in respect of the release or disclaimer of any such power.

3. The foregoing provisions of this Part of this Schedule shall not apply to any settlement if, in any year to which this Part of this Schedule applies, any capital sum within the meaning of section forty of this Act has been paid to the settlor directly or indirectly by the trustees of the settlement or any body corporate connected with the settlement in that year.

4. Notwithstanding that the payments payable by virtue or in consequence of any such new settlement as is referred to in sub-paragraph (c) (ii) of paragraph 1 of this Part of this Schedule are payable to or applicable for the benefit of another person for a period which cannot exceed six years from the date when the settlement was made, they shall not be treated as the income of the settlor by virtue of paragraph (b) of subsection (1) of section twenty of the Finance Act, 1922.

5. Paragraphs 1 and 2 of this Part of this Schedule shall not apply to any income which would have been treated as the income of the settlor for any purpose by virtue of paragraph (a) of subsection (1) of section twenty of the Finance Act, 1922, but for the provisions of this Act relating to that paragraph.

3ED SCH.  
—cont.

6. In this Part of this Schedule references to the settlor, except where that expression first occurs in paragraph 2, include references to the wife or husband of the settlor.

7. The years to which this Part of this Schedule applies are the year 1937-38 and the year 1938-39.

### PART III.

#### MISCELLANEOUS.

1. Tax chargeable at the standard rate by virtue of sections thirty-eight or forty of this Act shall be charged under Case VI of Schedule D.

2. In computing the liability to income tax of a settlor chargeable by virtue of any of the provisions of section thirty-eight of this Act, the same deductions and reliefs shall be allowed as would have been allowed if the income treated as his by virtue of that provision had been received by him.

3. In computing the liability to income tax of a settlor chargeable by virtue of section forty of this Act, the same deductions and reliefs shall be allowed as would have been allowed if the amount treated as his income by virtue of that section had been received by him as income.

4. The General or Special Commissioners may by notice in writing require any person, being a party to a settlement, to furnish them (within such time as they may direct, not being less than twenty-eight days) with such particulars as they think necessary for the purposes of any of the provisions of Part IV of this Act, and if that person without reasonable excuse fails to comply with the notice he shall be liable to a penalty not exceeding fifty pounds and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues.

5. Without prejudice to the provisions of the last foregoing paragraph, if any party to a settlement fails to furnish any particulars required under the last foregoing paragraph, or if the General or Special Commissioners are not satisfied with any particulars furnished under that paragraph, they may make an estimate of the amount of income which by virtue of any of the provisions of sections thirty-eight or forty of this Act, is to be treated as the income of the settlor.

## FOURTH SCHEDULE.

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Section 42.

### PROVISIONS RELATING TO SUBSIDIARY COMPANIES FOR PURPOSE OF NATIONAL DEFENCE CONTRIBUTION.

#### PART I.

#### PROVISIONS FOR DETERMINING AMOUNT OF CAPITAL HELD THROUGH OTHER BODIES CORPORATE.

1. Where, in the case of a number of bodies corporate, the first directly owns ordinary share capital of the second and the second directly owns ordinary share capital of the third, then, for the purposes of this Schedule, the first shall be deemed to own ordinary share capital of the third through the second, and, if the third directly owns ordinary share capital of a fourth, the first shall be deemed to own ordinary share capital of the fourth through the second and third, and the second shall be deemed to own ordinary share capital of the fourth through the third, and so on.

2. In this Part of this Schedule—

(a) any number of bodies corporate of which the first directly owns ordinary share capital of the next and the next directly owns ordinary share capital of the next but one and so on, and, if they are more than three, any three or more of them, are referred to as “a series”;

(b) in any series—

(i) that body corporate which owns ordinary share capital of another through the remainder is referred to as “the first owner”;

(ii) that other body corporate the ordinary share capital of which is so owned is referred to as “the last owned body corporate”;

(iii) the remainder, if one only, is referred to as an “intermediary” and, if more than one, referred to as “a chain of intermediaries”;

(c) a body corporate in a series which directly owns ordinary share capital of another body corporate in the series is referred to as an “owner”;

(d) any two bodies corporate in a series of which one owns ordinary share capital of the other directly, and not through one or more of the other bodies corporate in the series, are referred to as being directly related to one another.

3. Where every owner in a series owns the whole of the ordinary share capital of the body corporate to which it is directly

4TH SCH.  
—cont.

related, the first owner shall be deemed to own through the intermediary or chain of intermediaries the whole of the ordinary share capital of the last owned body corporate.

4. Where one of the owners in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related, and every other owner in the series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own that fraction of the ordinary share capital of the last owned body corporate through the intermediary or chain of intermediaries.

5. Where—

- (a) each of two or more of the owners in a series owns a fraction, and every other owner in the series owns the whole, of the ordinary share capital of the body corporate to which it is directly related; or
- (b) every owner in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related;

the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned body corporate as results from the multiplication of those fractions.

6. Where the first owner in any series owns a fraction of the ordinary share capital of the last owned body corporate in that series through the intermediary or chain of intermediaries in that series, and also owns another fraction or other fractions of the ordinary share capital of the last owned body corporate, either—

- (a) directly; or
- (b) through an intermediary or intermediaries which is not a member or are not members of that series; or
- (c) through a chain or chains of intermediaries of which one or some or all are not members of that series; or
- (d) in a case where the series consists of more than three bodies corporate, through an intermediary or intermediaries which is a member or are members of the series, or through a chain or chains of intermediaries consisting of some but not all of the bodies corporate of which the chain of intermediaries in the series consists;

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned body corporate owned by the first owner, all those fractions shall be aggregated and the first owner shall be deemed to own the sum of those fractions.

## PART II.

### PROVISIONS AS RESPECTS NOTICES.

1. No principal company, being itself a subsidiary of another principal company, may give a notice as respects a subsidiary of



itself, if and so long as a notice previously given as respects that principal company by that other principal company is in force.

4TH SCH.  
—cont.

2. Subject to the provisions of the next following paragraph, no principal company may give a notice as respects a subsidiary—

(a) if and so long as a notice previously given as respects that subsidiary by another principal company is in force; or

(b) if and so long as a notice previously given by that subsidiary as respects a subsidiary of itself is in force.

3. Notwithstanding anything in the last foregoing paragraph, where a notice previously given by a principal company (hereafter referred to as the "first subsidiary") as respects a subsidiary (hereafter referred to as the "second subsidiary") is in force, and both the first subsidiary and the second subsidiary are subsidiaries of another principal company (hereafter referred to as the "first principal company"), the first principal company may give a notice as respects both the first subsidiary and the second subsidiary, but not as respects one or the other alone :

Provided that, where a notice previously given by the first subsidiary as respects one or more other subsidiaries besides the second subsidiary is in force, the first principal company may not give a notice under this paragraph unless—

(a) that other subsidiary or all those other subsidiaries are subsidiaries of the first principal company; and

(b) the first principal company gives a notice as respects that other subsidiary or all those other subsidiaries as well as the first and second subsidiaries.

4. Where a notice is duly given by the first principal company under the last foregoing paragraph, the notice previously given by the first subsidiary as respects the second subsidiary and any other subsidiary shall cease to be in force.

5. Where a notice is given simultaneously by two or more bodies corporate, the notice given by such one of them as may be agreed upon between them or, in default of agreement, may be determined by the Commissioners of Inland Revenue, shall be treated for the purpose of this Part of this Schedule as having been given before the other notice or notices.

6. For the purpose of this Part of this Schedule, the expression "notice" means a notice under subsection (1) of section twenty-two of the Finance Act, 1937, and a notice duly given under that subsection by a principal company as respects a subsidiary shall, subject to paragraph 4 of this Part of this Schedule, be deemed to continue in force so long as the subsidiary continues to be a subsidiary of the principal company.

## Section 55.

## FIFTH SCHEDULE.

## MISCELLANEOUS ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
48 & 49 Vict. c. 51.	The Customs and Inland Revenue Act, 1885.	Section seven.
54 & 55 Vict. c. 39.	The Stamp Act, 1891	In the First Schedule, the words "DOCKET made on passing any instrument under the Great Seal of the United Kingdom . . . . . 0 2 0," the words "CONGÉ D'ÉLIRE <i>see</i> GRANT," the words from "GRANT or LETTERS PATENT," to "And <i>see</i> section 74," and the words "WARRANT" under the sign manual of "Her Majesty . . . . 0 10 0."
8 & 9 Geo. 5. c. 40.	The Income Tax Act, 1918.	Rule 7 of the rules applicable to Schedule C as to interest, &c. with the payment of which persons other than the Bank of England, the Bank of Ireland and the National Debt Commissioners are intrusted; paragraph (3) of Rule 7 of the miscellaneous rules applicable to Schedule D.
12 & 13 Geo. 5. c. 17.	The Finance Act, 1922	In subsection (1) of section twenty, paragraph (a) and the words from "Provided that" to "made the disposition" where <i>they</i> secondly occur and the word "also"; and section thirty.
20 & 21 Geo. 5. c. 28.	The Finance Act, 1930.	Subsection (7) of section thirty-four and subsection (3) of section thirty-five.
21 & 22 Geo. 5. c. 28.	The Finance Act, 1931.	Proviso (b) to subsection section forty-three.

Session and Chapter.	Short Title.	Extent of Repeal.
24 & 25 Geo. 5. c. 4.	The British Hydrocarbon Oils Production Act, 1934.	The whole Act.
26 Geo. 5. & 1 Edw. 8. c. 34.	The Finance Act, 1936.	The proviso to subsection (1) of section eighteen.
1 Edw. 8. & 1 Geo. 6. c. 54.	The Finance Act, 1937.	Paragraphs (a) and (b) of subsection (3) of section twenty-two; and section thirty.

## CHAPTER 47.

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and thirty-nine, and to appropriate the Supplies granted in this Session of Parliament.

[29th July 1938.]

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

### GRANT OUT OF CONSOLIDATED FUND.

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom, and apply towards making good the supply granted to His Majesty for the service of the year ending on the thirty-first day of March one thousand nine hundred and thirty-nine the sum of four hundred and sixty-five million, one hundred and sixty-four thousand, nine hundred and eighty-seven pounds.

Issue of  
£465,164,987  
out of the  
Consolidated Fund.

Power for  
the Trea-  
sury to  
borrow.

2.—(1) The Treasury may borrow from any person, by the issue of Treasury Bills or otherwise, and the Bank of England and the Bank of Ireland may advance to the Treasury on the credit of the said sum, any sum or sums not exceeding in the whole four hundred and sixty-five million, one hundred and sixty-four thousand, nine hundred and eighty-seven pounds.

40 & 41 Vict.  
c. 2.

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

(3) Any money borrowed otherwise than on Treasury Bills shall be repaid, with interest not exceeding five pounds per cent. per annum, out of the growing produce of the Consolidated Fund, at any period not later than the next succeeding quarter to that in which the money was borrowed.

(4) Any money borrowed under this section shall be placed to the credit of the account of the Exchequer, and shall form part of the said Consolidated Fund, and be available in any manner in which such Fund is available.

(5) The interest on any money borrowed under this section shall be paid out of the permanent annual charge for the National Debt.

#### APPROPRIATION OF GRANTS.

Appropriation of sums voted for supply services.

3. All sums granted by this Act and the other Acts mentioned in Schedule (A) annexed to this Act out of the said Consolidated Fund towards making good the supply granted to His Majesty, amounting, as appears by the said schedule, in the aggregate, to the sum of seven hundred and eighty-four million, four hundred and fifty-three thousand, two hundred and forty-eight pounds, nine shillings and sixpence are appropriated, and shall be deemed to have been appropriated as from the date of the passing of the Acts mentioned in the said Schedule (A), for the services and purposes expressed in Schedule (B) annexed hereto.

The abstract of schedules and schedules annexed hereto, with the notes (if any) to such schedules, shall be deemed to be part of this Act in the same manner as if they had been contained in the body thereof.

In addition to the sums hereby granted out of the Consolidated Fund, there may be applied out of any money directed under section two of the Public Accounts and Charges Act, 1891, to be applied as appropriations in aid of the grants for the services and purposes specified in Schedule (B) annexed hereto the sums respectively set forth in the last column of the said schedule.

54 & 55 Vict.  
c. 24.

4.—(1) So long as the aggregate expenditure on navy, army and air services respectively is not made to exceed the aggregate sums appropriated by this Act for those services respectively, any surplus arising on any vote for those services, either by an excess of the sum realised on account of appropriations in aid of the vote over the sum which may be applied under this Act as appropriations in aid of that vote, or by saving of expenditure on that vote, may, with the sanction of the Treasury, be temporarily applied either in making up any deficiency in the sums realised on account of appropriations in aid of any other vote in the same department, or in defraying expenditure in the same department which is not provided for in the sums appropriated to the service of the department by this Act, and which it may be detrimental to the public service to postpone until provision can be made for it by Parliament in the usual course.

Treasury may, in certain cases of exigency, authorise expenditure unprovided for; provided that the aggregate grants for navy, army and air services respectively be not exceeded.

(2) A statement showing all cases in which the sanction of the Treasury has been given to the temporary application of a surplus under this section, and showing the circumstances under which the sanction of the Treasury has been given, shall be laid before the House of Commons with the appropriation accounts of the navy, army and air services for the year, in order that any temporary application of any surplus sanctioned by the Treasury under this section may be submitted for the sanction of Parliament.

5. Whereas under the powers given for the purpose by the Appropriation Acts, 1936 and 1937, surpluses arising on certain votes for navy, army and air services have been applied so far as necessary to meeting deficits

Sanction for navy, army and air expenditure for 1936 unprovided for.  
26 Geo. 5. &  
1 Edw. 8. c. 37.  
1 Edw. 8. &  
1 Geo. 6. c. 55.

on those services respectively as shown in the statements set out in Schedule (C) to this Act :

It is enacted that the application of those surpluses as shown in the said statements is hereby sanctioned.

Declaration required in certain cases before receipt of sums appropriated.

**6.**—(1) A person shall not receive any payment out of a grant which may be made in pursuance of this Act for half-pay or army, navy, air force, or civil non-effective services, until he has subscribed such declaration as may from time to time be prescribed by a warrant of the Treasury before one of the persons prescribed by the warrant :

Provided that the Treasury may dispense with the production of a declaration under this section in respect of any payment if either—

- (a) such a declaration has been subscribed within a period of twelve calendar months preceding the date of the payment, or such longer period as the Treasury may in any particular case allow ; or
- (b) the payment is made through a banker who has entered into an undertaking in such form as may be approved by the Treasury with respect to the notification of circumstances coming to the knowledge of the banker which might affect the right to such payments of the person to whom the payment is made.

(2) Any person who makes a declaration for the purpose of this section knowing the same to be untrue in any material particular shall be guilty of a misdemeanour.

Short title.

**7.** This Act may be cited for all purposes as the Appropriation Act, 1938.

A B S T R A C T  
OF  
SCHEDULES (A) and (B) to which this  
Act refers.

SCHEDULE (A).

Section 3.

	<i>£</i>	<i>s.</i>	<i>d.</i>
Grants out of the Consolidated Fund - -	784,453,248	9	6

SCHEDULE (B.)—APPROPRIATIONS OF GRANTS.

Section 3.

	Sums not exceeding					
	Supply Grants.			Appropriations in Aid.		
	<i>£</i>	<i>s.</i>	<i>d.</i>	<i>£</i>	<i>s.</i>	<i>d.</i>
1936 and 1937.						
Part 1. Civil Departments Excesses, 1936 - -	12,737	9	6	2,434	8	10
„ 2. Navy (Supplementary), 1937	100	0	0	—		
„ 3. Army (Supplementary), 1937	100	0	0	—		
„ 4. Air (Supplementary), 1937	100	0	0	*—180,000	0	0
„ 5. Civil and Revenue Departments (Supplementary), 1937	2,573,524	0	0	584,950	0	0
<i>£</i>	2,586,561	9	6	407,384	8	10

\* Deficit.

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SCHED. (B.)  
Appropriations  
of  
Grants.

SCHEDULE (B.)—APPROPRIATIONS OF GRANTS—*cont.*

	Sums not exceeding					
	Supply Grants.			Appropriations in Aid.		
	£	s.	d.	£	s.	d.
1938.						
Part 6. Navy - -	96,117,500	0	0	34,079,019	0	0
„ 7. Army - -	85,357,000	0	0	29,062,000	0	0
Army (Royal Ordnance Factories) -	684,000	0	0	19,592,000	0	0
„ 8. Air Force - -	73,501,000	0	0	60,902,000	0	0
£	255,659,500	0	0	143,635,019	0	0
Part 9. Civil, Class I -	2,552,784	0	0	2,275,249	0	0
„ 10. Civil, Class II -	8,558,165	0	0	680,622	0	0
„ 11. Civil, Class III -	27,542,995	0	0	2,675,087	0	0
„ 12. Civil, Class IV -	65,487,490	0	0	6,658,782	0	0
„ 13. Civil, Class V -	172,350,593	0	0	16,508,084	0	0
„ 14. Civil, Class VI -	49,589,545	0	0	4,899,172	0	0
„ 15. Civil, Class VII -	11,696,759	0	0	3,408,495	0	0
„ 16. Civil, Class VIII -	43,094,156	0	0	54,745	0	0
„ 17. Civil, Class IX -	54,248,000	0	0	95,000	0	0
TOTAL, CIVIL £	435,120,487	0	0	37,255,236	0	0
Part 18. Revenue De- partments -	91,086,700	0	0	4,455,337	0	0
GRAND TOTAL £	784,453,248	9	6	185,752,976	8	10



SCHEDULE (A.)

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SCH.ED. (A.)

GRANTS OUT OF THE CONSOLIDATED FUND.

	<i>£</i>	<i>s.</i>	<i>d.</i>
For the service of the year ended on the 31st day of March 1937—			
Under Act 1 & 2 Geo. 6. c. 9     -     -	12,737	9	6
For the service of the year ending on the 31st day of March 1938—			
Under Act 1 & 2 Geo. 6. c. 9     -     -	2,573,824	0	0
For the service of the year ending on the 31st day of March 1939—			
Under Act 1 & 2 Geo. 6. c. 9     -     -	316,701,700	0	0
Under this Act     -     -     -     -	465,164,987	0	0
TOTAL     -     -     -     -	£ 784,453,248	9	6

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SCHED. (B.)  
PART 1.  
Civil  
Departments  
(Excesses),  
1936.

SCHEDULE (B.)—PART 1.

CIVIL DEPARTMENTS EXCESSES, 1936.

SUMS granted to make good EXCESSES on certain GRANTS for  
CIVIL DEPARTMENTS for the year ended 31st March 1937.

	Sums not exceeding					
	Supply Grants.			Appropriations in Aid.		
	£	s.	d.	£	s.	d.
Class VI.						
Vote.						
2. Mercantile Marine Services -	10	0	0	714	19	3
Class VII.						
15. Works and Buildings in Ire- land.	1,464	14	11	258	12	5
Class VIII.						
4. Superannuation and Retired Allowances - - -	11,262	14	7	1,460	17	2
£	12,737	9	6	2,434	8	10

## SCHEDULE (B.)—PART 2.

## NAVY (SUPPLEMENTARY), 1937.

SCHED. (B.)  
PART 2.  
Navy  
(Supple-  
mentary),  
1937.

SCHEDULE OF SUPPLEMENTARY SUM granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Navy Services for the year ended on the 31st day of March 1938.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote. 2. Victualling and Clothing for the Navy - - - - -	300,000	—
8. Shipbuilding, repairs, maintenance, &c.—		
Section I—Personnel - -	400,000	—
Section II—Matériel - -	860,000	—
Section III—Contract work -	Cr.930,000	—
9 Naval armaments - - - -	Cr.360,000	—
10. Works, buildings, and repairs at home and abroad - - -	Cr.269,900	—
<b>TOTAL, NAVY (SUPPLEMENTARY), 1937 - - - - -</b>	<b>100</b>	<b>—</b>

SCHED. (B.)  
PART 3.  
Army  
(Supple-  
mentary),  
1937.

SCHEDULE (B.)—PART 3.

ARMY (SUPPLEMENTARY), 1937.

SCHEDULE OF SUPPLEMENTARY SUM granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Army Services for the year ended on the 31st day of March 1938.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote. 10. Works, buildings and lands - -	100	—
<b>TOTAL, ARMY (SUPPLEMENTARY), 1937 - - - - £</b>	100	—

## SCHEDULE (B.)—PART 4.

SCHED. (B.)  
PART 4.  
Air (Supple-  
mentary),  
1937.

## AIR (SUPPLEMENTARY), 1937.

SCHEDULE OF SUPPLEMENTARY SUM granted, and of the sums which may be applied as appropriations in aid in addition thereto, to meet expenditure beyond the sum already provided in the grants for Air Services for the year ended on the 31st day of March 1938.

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. Pay, &c., of the Royal Air Force -	<i>Cr.</i> 126,000	50,000
2. Quarters, stores (except technical), supplies and transportation -	304,000	—
3. Technical and warlike stores (including experimental and research services) - - - -	100	200,000
4. Works, buildings, and lands -	836,000	*—373,000
6. Technical training and educational services - - - -	61,500	—
7. Auxiliary and Reserve Forces -	<i>Cr.</i> 393,500	—
8. Civil aviation - - - -	<i>Cr.</i> 390,000	*—57,000
9. Meteorological and miscellaneous effective services - - - -	<i>Cr.</i> 292,000	—
<b>TOTAL, AIR (SUPPLEMENTARY), 1937 - - - -</b>	<b>100</b>	<b>*—180,000</b>

\* Deficit.

SCHED. (B.)  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

SCHEDULE (B.)—PART 5.

CIVIL AND REVENUE DEPARTMENTS (SUPPLEMENTARY),  
1937.

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges for the Services herein particularly mentioned for the year ended on the 31st day of March 1938, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
<b>CIVIL.</b>		
<b>CLASS I.</b>		
Vote.		
5. For the salaries and expenses of the Department of His Majesty's Most Honourable Privy Council - -	10	954
6. For the salaries and expenses of the Office of the Lord Privy Seal -	1,850	—
13. For a grant in aid of the Government Hospitality Fund - - -	5,000	—
<b>CLASS II.</b>		
1. For the salaries and expenses of the department of His Majesty's Secretary of State for Foreign Affairs - - - - -	10	8,780
Carried forward - - - £	6,870	9,734

SCHEDULE (B.)—PART 5—*continued.*

SCHED. (B.)  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
CIVIL— <i>cont.</i>	£	£
Brought forward - - -	6,870	9,734
CLASS II.— <i>cont.</i>		
Vote.		
2. For the expenses in connection with His Majesty's embassies, missions and consular establishments abroad, and other expenditure chargeable to the Consular Vote; certain special grants and payments, including grants in aid; and sundry services arising out of the War - - - - -	85,664	*—24,000
3. For a contribution towards the expenses of the League of Nations and for other expenses in connection therewith, including United Kingdom Representation before the Permanent Court of International Justice, and for a grant in aid of the expenses of the settlement of Assyrians of Iraq -	10	—
9. For sundry Colonial and Middle Eastern Services under His Majesty's Secretary of State for the Colonies, including certain non-effective services and grants in aid - - - - -	10	439,500
CLASS III.		
4. For the salaries and expenses of the office of the Prison Commissioners and of the prisons in England and Wales - - - - -	10	—
Carried forward - £	92,564	425,234

\* Deficit.

SCHED. (B).  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

SCHEDULE (B.)—PART 5—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
CIVIL— <i>cont.</i>		
Brought forward - - - -	92,564	425,234
CLASS III.— <i>cont.</i>		
<i>Vote.</i>		
5. For grants in respect of the expenses of the managers of approved schools in England and Wales; the expenses of local authorities in respect of children and young persons committed to their care; and the expenses of the councils of counties and county boroughs in respect of remand homes -	61,900	3,000
10. For the salaries and expenses of the Law Officers' Department, the salaries and expenses of the departments of His Majesty's Procurator General and of the Solicitor for the Affairs of His Majesty's Treasury, and of the department of the Director of Public Prosecutions; the costs of prosecutions, of other legal proceedings, and of Parliamentary Agency - - -	4,000	—
CLASS IV.		
12. For a grant to the British Broadcasting Corporation - - -	360,000	—
15. For the salaries and expenses of the National Library, Scotland, including certain grants in aid -	50	2,956
Carried forward - - - £	518,514	431,190



SCHEDULE (B.)—PART 5—*continued.*SCHED. (B.)  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
CIVIL— <i>cont.</i>		
Brought forward - -	518,514	431,190
CLASS V.		
<sup>Vote.</sup> 6. For Old Age Pensions, Pensions to Blind persons, and for certain administrative expenses in con- nection therewith - - -	197,000	3,000
8. For the salaries and expenses of the Ministry of Labour, including sums payable by the Exchequer to the Unemployment Fund, grants to local authorities, asso- ciations and other bodies under the Unemployment Insurance, Labour Exchanges and other Acts; grant in aid of the National Coun- cil of Social Service; expenses of transfer and resettlement; ex- penses of training of unemployed persons and, on behalf of the Army Council and Air Council, of soldiers and airmen for employ- ment; contribution towards the expenses of the International Labour Organisation (League of Nations); expenses of the Indus- trial Court; and sundry services -	10	90
Carried forward - - £	715,524	434,280

SCHED. (B.)  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

SCHEDULE (B.)—PART 5—*continued.*

		Sums not exceeding	
		Supply Grants.	Appropriations in Aid.
		£	£
CIVIL— <i>cont.</i>			
Brought forward - - -			
CLASS VI.			
Vote.	2. For the salaries and expenses of certain services transferred from the Mercantile Marine Fund and other services connected with the Mercantile Marine, including services under the British Shipping (Assistance) Act, 1935, the Coast-guard, General Register and Record Office of Shipping and Seamen and Merchant Seamen's Fund Pensions - - - - -	715,524	434,280
	4. For the salaries and expenses of the Department of Overseas Trade, including grants in aid of the Imperial Institute and the Travel and Industrial Development Association of Great Britain and Ireland - - - - -	15,200	7,000
	8. For the salaries and expenses of the Ministry of Agriculture and Fisheries, and of the Royal Botanic Gardens, Kew, including grants and grants in aid in respect of agricultural education and research, eradication of diseases of animals, and fishery research; and grants, grants in aid, and expenses in respect of improvement of breeding, &c., of live stock, land settlement, improvement of cultivation, drainage, &c., regulation of agricultural wages, agricultural credits, and marketing, control of diseases of fish, fishery development; and sundry other services - - - - -	87,810	*—6,300
		229,450	*—42,850
	Carried forward - - £	1,047,984	392,130

\* Deficit.

SCHEDULE (B.)—PART 5—*continued.*

SCHED. (B.)  
PART. 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
CIVIL— <i>cont.</i>		
Brought forward - -	£ 1,047,984	£ 392,130
CLASS VI— <i>cont.</i>		
Vote.		
17. For grants to public utility undertakings in Great Britain - -	50,000	—
19. For the salaries and expenses of the State Management Districts, including the salaries of the central office, and the cost of provision and management of licensed premises - - - -	10	19,990
20. For the salaries and expenses of the Anglo-Spanish, Anglo-Roumanian, Anglo-Italian and Anglo-Turkish Clearing Offices under the Debts Clearing Offices and Import Restrictions Act, 1934 - - -	10	8,990
CLASS VII.		
1. For expenditure in respect of Art and Science Buildings, Great Britain -	20,000	*—6,500
4. For expenditure in respect of miscellaneous legal buildings, including the whole additional cost of a new Sheriff Court House at Edinburgh - - - - -	7,350	—
6. For the salaries and expenses of the Office of the Commissioners of His Majesty's Works and Public Buildings - - - - -	81,000	*—63,000
7. For expenditure in respect of sundry public buildings in Great Britain, not provided for on other Votes, including historic buildings, ancient monuments, Brompton Cemetery, and certain housing estates	64,000	*—61,500
Carried forward - £	1,270,354	290,110

\* Deficit.

SCHED. (B.)  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

SCHEDULE (B.)—PART 5—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
CIVIL— <i>cont.</i>		
Brought forward - - -	1,270,354	290,110
CLASS VII— <i>cont.</i>		
Vote.		
9. For expenditure in respect of Royal Palaces, including a grant in aid -	10	6,990
10. For expenditure in respect of Customs and Excise, Inland Revenue, Post Office and telegraph buildings in Great Britain, certain post offices abroad, and for certain expenses in connection with boats and launches belonging to the Customs and Excise Department -	59,000	—
13. For stationery, printing, paper, binding, and printed books for the public service; for the salaries and expenses of the Stationery Office; and for sundry miscellaneous services, including reports of Parliamentary Debates - -	308,160	128,850
15. For expenditure in respect of public works and buildings in Ireland -	6,000	—
CLASS VIII.		
4. For superannuation, and other non-effective annual allowances, additional allowances and gratuities under sundry statutes; compassionate allowances, gratuities, and supplementary pensions awarded by the Treasury and, under the Government of Ireland Act, 1920, by the Civil Service Committee for Northern Ireland	30,000	—
Carried forward - £	1,673,524	425,950

SCHEDULE (B.)—PART 5—*continued.*

SCHED. (B.)  
PART 5.  
Civil and  
Revenue  
Departments  
(Supple-  
mentary),  
1937.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
<b>CIVIL—<i>cont.</i></b>		
	£	£
Brought forward - -	1,673,524	425,950
<b>REVENUE DEPARTMENTS.</b>		
<i>Vote.</i> 3. For the salaries and expenses of the Post Office, including Telegraphs and Telephones - - - -	900,000	159,000
<b>TOTAL, CIVIL AND REVENUE DEPARTMENTS (SUPPLEMEN- TARY), 1937 - - - -</b>	<b>£ 2,573,524</b>	<b>584,950</b>

SCHED. (B.)  
PART 6.  
Navy.

SCHEDULE (B.)—PART 6.

NAVY.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the NAVY SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, including provision for officers, seamen, boys and royal marines to a number not exceeding 119,000, and for royal marine police to a number not exceeding 913, in addition to reserve forces, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote.		
1. For wages, &c., of officers and men of the royal navy and royal marines, and civilians employed on fleet services (including a Supplementary sum of £1,090,000) -	16,117,000	25,220
2. For victualling and clothing for the navy, including the cost of victualling establishments at home and abroad - - -	4,421,000	745,990
3. For medical services, including the cost of medical establishments at home and abroad - - -	441,000	72,150
4. For the fleet air arm - - -	5,718,000	—
5. For educational services - - -	223,600	76,160
6. For scientific services - - -	656,000	110,880
7. For the royal naval reserve, the royal fleet reserve and the royal naval volunteer reserve, &c. -	355,800	190
Carried forward - - - £	27,932,400	1,030,590

SCHEDULE (B.)—PART 6—*continued.*SCHED. (B.)  
PART 6.  
Navy.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	27,932,400	1,030,590
Vote. 8. Section 1. For the personnel for shipbuilding, repairs, maintenance, &c. including the cost of establishments of dockyards and naval yards at home and abroad (including a Supplementary sum of £27,400) -	10,121,400	44,220
„ Section 2. For the matériel for shipbuilding, repairs, maintenance, &c., including the cost of establishments of dockyards and naval yards at home and abroad (revised sum) - - - - -	10,625,400	4,551,350
„ Section 3. For contract work for shipbuilding, repairs, maintenance, &c. (including a Supplementary sum of £1,713,300) - - -	21,455,300	19,254,708
9. For naval armaments (including a Supplementary sum of £94,500) -	10,486,500	5,843,800
10. For works, buildings and repairs at home and abroad, including the cost of superintendence, purchase of sites, grants and other charges connected therewith - - -	2,317,000	3,151,000
11. For various miscellaneous effective services (revised sum) - - -	1,680,300	94,670
12. For the Admiralty Office - - -	1,602,500	6,630
13. For non-effective services (naval and marine)—officers - - -	3,049,000	16,841
14. For non-effective services (naval and marine)—men - - - - -	5,485,500	82,500
15. For civil superannuation and other non-effective annual allowances, additional allowances and gratuities	1,362,200	2,710
<b>TOTAL, NAVY SERVICES</b> £	<b>96,117,500</b>	<b>34,079,019</b>

SCHED. (B.)  
PART 7.  
Army.

SCHEDULE (B.)—PART 7.

ARMY.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the ARMY SERVICES herein particularly mentioned which will come in course of payment during the year ending on the 31st day of March 1939, including provision for a number not exceeding 170,000, all ranks, of the Land Forces (exclusive of those serving in India and Burma), in addition to the Territorial Army and Reserve Forces, viz. :—

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. For the pay, &c., of the Army -	10,819,000	2,910,000
2. For the Army Reserve (to a number not exceeding 142,500), the Supplementary Reserve (to a number not exceeding 56,396), the Territorial Army (to a number not exceeding 201,707), the Officers' Training Corps, and Colonial Militia, &c. - - - -	9,775,000	50,000
3. For medical services - - -	1,105,000	56,000
4. For educational establishments -	1,327,000	130,000
5. For quartering and movements -	2,446,000	373,000
6. For supplies, road transport and remounts - - - - -	8,677,000	399,000
7. For clothing - - - - -	1,995,000	257,000
8. For general stores - - - - -	4,098,000	228,000
9. For warlike stores, including technical establishments - - - - -	27,242,000	16,068,000
10. For works, buildings, and lands, including military and civilian staff and other charges in connection therewith - - - -	6,515,000	7,338,000
Carried forward - - -	£ 73,999,000	27,809,000



SCHEDULE (B.)—PART 7—*continued.*SCHED. (B.)  
PART 7.  
Army.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	73,999,000	27,809,000
Vote. 11. For miscellaneous effective services	1,622,000	182,000
12. For the War Office - - -	1,195,000	14,000
13. For rewards, half-pay, retired pay, widows' pensions and other non-effective charges for officers - -	3,639,000	473,000
14. For the Royal Hospital, Chelsea; out-pensions, rewards for distinguished service, widows' pensions, and other non-effective charges for warrant officers, non-commissioned officers, men, &c. - - -	4,648,000	579,000
15. For civil superannuation and other non-effective annual allowances, additional allowances and gratuities - - - - -	254,000	5,000
<b>TOTAL, ARMY SERVICES -</b>	<b>£ 85,357,000</b>	<b>29,062,000</b>
<b>ARMY (ROYAL ORDNANCE FACTORIES).</b>		
For the Royal Ordnance Factories, the cost of productions of which will be charged to the navy, army, air force, &c. - - - - -	684,000	19,542,000
Together with a sum to be transferred from the Supplies Suspense Account - - - - -	—	50,000
<b>TOTAL, ARMY (ROYAL ORDNANCE FACTORIES) - } £</b>	<b>684,000</b>	<b>19,592,000</b>

SCHED. (B.)  
PART 8.  
Air.

SCHEDULE (B.)—PART 8.

AIR.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the AIR SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, including provision for a number not exceeding 96,000, all ranks, of the Royal Air Force (exclusive of those serving in India), in addition to reserve and auxiliary forces, viz. :—

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. For the pay, &c., of the Royal Air Force (including a Supplementary sum of £892,000) - - -	11,067,000	820,000
2. For quartering, non-technical stores, supplies and transportation (including a Supplementary sum of £1,346,000) - - -	7,490,000	164,000
3. For technical and warlike stores (including experimental and research services) (revised sum) -	39,492,000	38,763,000
4. For works, buildings, and lands, including civilian staff and other charges connected therewith -	3,800,000	20,762,000
5. For medical services (including a Supplementary sum of £53,000) -	577,000	34,500
6. For technical training and educational services (including a Supplementary sum of £130,000) - -	1,170,000	15,000
7. For reserve and auxiliary forces (to a number not exceeding 50,000 all ranks of the Royal Air Force Reserve (including the Royal Air Force Volunteer Reserve) and 11,550 all ranks of the Auxiliary Air Force and Auxiliary Air Force Reserve) (including a Supplementary sum of £432,000) - -	2,092,000	2,000
Carried forward - - - £	65,688,000	60,560,500

SCHEDULE (B.)—PART 8—*continued.*SCHED. (B.)  
PART 8.  
Air.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	65,688,000	60,560,500
Vote. 8. For Civil Aviation (including a Supplementary sum of £1,000) -	2,926,000	236,000
9. For meteorological and miscellaneous effective services (including a Supplementary sum of £166,000) -	2,753,000	43,500
10. For the Air Ministry (including a Supplementary sum of £120,000) -	1,610,000	20,000
11. For half-pay, pensions and other non-effective services - - -	524,000	42,000
<b>TOTAL, AIR SERVICES -</b>	<b>£ 73,501,000</b>	<b>60,902,000</b>

SCHED. (B.)  
PART 9.  
Civil.  
Class I.

## SCHEDULE (B.)—PART 9.

## CIVIL.—CLASS I.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. For the salaries and expenses of the offices of the House of Lords -	52,802	13,650
2. For the salaries and expenses of the House of Commons - - -	465,802	10,500
3. For expenses in respect of the registration of electors - - -	245,000	—
4. For the salaries and other expenses in the department of His Majesty's Treasury and subordinate departments, the salary of a Minister for Co-ordination of Defence, and the additional salary of the Chancellor of the Duchy of Lancaster as a member of the Cabinet (including a Supplementary sum of £3,175) - - - - -	392,804	16,095
5. For the salaries and expenses of the department of His Majesty's most Honourable Privy Council - -	15,564	4,400
6. For the salaries and expenses of the office of the Lord Privy Seal - -	6,247	—
7. For the salaries and expenses of the Charity Commission for England and Wales - - - - -	39,492	2,900
8. For the salaries and expenses of the Civil Service Commission - -	18,800	68,500
9. For the salaries and expenses of the department of the Comptroller and Auditor General - - -	148,065	24,475
10. For making good the deficiency on the Income Account of the Fund for Friendly Societies - - -	5,500	—
Carried forward - - -	£ 1,390,076	140,520

SCHEDULE (B.)—PART 9—*continued.*SCHED. (B.)  
PART 9.  
Civil.  
Class I.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	1,390,076	140,520
Vote. 11. For the salaries and expenses of the department of the Government Actuary - - - - -	32,127	4,000
12. For the salaries and expenses of the department of the Government Chemist - - - - -	83,138	400
13. For a grant in aid of the Government Hospitality Fund - -	12,000	—
14. For the salaries and expenses of the Import Duties Advisory Committee - - - - -	63,455	—
15. For the salaries and expenses of the Mint, including the expenses of coinage (Imperial, Colonial and Foreign), and the expenses of the preparation of medals, dies for postage and other stamps, and His Majesty's seals - - - -	100	1,705,300
16. For the salaries and expenses of the National Debt Office - - -	2,648	24,435
17. For the salaries and expenses of the National Savings Committee -	110,959	—
18. For the salaries and expenses of the Public Record Office and of the Office of Land Revenue Records and Inrolments - - - -	40,036	615
19. For the salaries of the establishment under the Public Works Loan Commission and the expenses of the Commission - - - -	100	23,746
20. For making the payment due to the Local Loans Fund in respect of advances in Northern Ireland and for making good certain sums written off from the assets of the Local Loans Fund - - -	56,287	—
Carried forward - - - £	1,790,926	1,899,016

SCHED. (B.)  
PART 9.  
Civil.  
Class I.

SCHEDULE (B.)—PART 9—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	1,790,926	1,899,016
<b>Vote.</b>		
21. For the salaries and other expenses of Royal Commissions, Committees, and special inquiries, &c., including provision for shorthand; and the expenses of surplus stores, &c. liquidation - - - -	40,500	1,000
22. For certain miscellaneous expenses, including certain grants in aid -	36,151	1,150
23. For His Majesty's foreign and other secret services - - - -	450,000	—
24. For making good the net loss on transactions connected with the raising of money for the various Treasury Chests abroad in the year 1936 - - - -	4,171	—
25. For the salaries and expenses of the Tithe Redemption Commission -	100	372,383
26. For the salaries and expenses of the offices of His Majesty's Secretary of State for Scotland in London and Edinburgh; expenses in respect of private legislation procedure in Scotland; a subsidy for transport services to the Western Highlands and Islands; a grant in lieu of Land Tax; contributions towards the expenses of Probation, and of Remand Homes; and grants and expenses in connection with physical training and recreation - - - -	223,321	1,700
27. For repayment to the Civil Contingencies Fund of certain miscellaneous advances - - - -	7,615	—
<b>TOTAL, CIVIL, CLASS I -</b>	<b>£ 2,552,784</b>	<b>2,275,249</b>

## SCHEDULE (B.)—PART 10.

SCHED. (B.)  
PART 10.  
Civil.  
Class II.

## CIVIL.—CLASS II.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. For the salaries and expenses of the department of His Majesty's Secretary of State for Foreign Affairs - - - - -	106,143	241,602
2. For the expenses in connection with His Majesty's embassies, missions and consular establishments abroad, and other expenditure chargeable to the consular vote; certain special grants and payments, including grants in aid; and sundry services arising out of the war (including a Supplementary sum of £35,195) -	1,557,138	299,585
3. For a contribution towards the expenses of the League of Nations and for other expenses in connection therewith, including United Kingdom Representation before the Permanent Court of International Justice, and for a grant in aid of the expenses of the settlement of Assyrians of Iraq -	141,000	—
Carried forward - £	1,804,281	541,187

SCHED. (B.)  
PART 10.  
Civil.  
Class II.

SCHEDULE (B.)—PART 10—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	1,804,281	541,187
Vote.		
4. For the salaries and expenses of the department of His Majesty's Secretary of State for Dominion Affairs - - - - -	52,956	5
5. For sundry Dominion services, including certain grants in aid, and for expenditure in connection with ex-service men in Eire, and for a grant in aid to Eire in respect of compensation to transferred officers	504,715	—
6. In substitution for payments formerly made by the Government of Eire	1,145,100	—
7. For the expenses connected with Oversea Settlement - - -	43,075	22,500
8. For the salaries and expenses of the department of His Majesty's Secretary of State for the Colonies	177,078	3,500
9. For sundry Colonial and Middle Eastern services under His Majesty's Secretary of State for the Colonies, including certain non-effective services and grants in aid	1,892,255	3,230
10. For a grant in aid of the Colonial Development Fund - - -	650,000	—
Carried forward - - - £	6,269,460	570,422



SCHEDULE (B.)—PART 10—*continued.*SCHED. (B.)  
PART 10.  
Civil.  
Class II.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	6,269,460	570,422
Vote. 11. For the salaries and expenses of the department of His Majesty's Secretary of State for India and His Majesty's Secretary of State for Burma, and a grant in aid of military expenditure from Indian Revenues - - - - -	1,812,291	110,200
12. For certain salaries and expenses of the Imperial War Graves Com- mission, including purchase of land in the United Kingdom, and a grant in aid of the Imperial War Graves Commission Fund formed under Royal Charter, 21 May 1917, and a contribution towards an endowment fund - - -	476,414	—
TOTAL, CIVIL, CLASS II - £	8,558,165	680,622

SCHED. (B.)  
PART 11.  
Civil.  
Class III.

SCHEDULE (B.)—PART 11.

CIVIL.—CLASS III.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. For the salaries and expenses of the office of His Majesty's Secretary of State for the Home Department and subordinate offices, liquidation expenses of the Royal Irish Constabulary and contributions towards the expenses of probation - - - - -	763,068	66,744
2. For air raid precautionary services, including grants to local authorities - - - - -	8,493,400	8,300
3. For the expenses of the maintenance of criminal lunatics in the Broadmoor Criminal Lunatic Asylum -	73,876	4,232
4. For the salaries of the Commissioner and Assistant Commissioners of the Metropolitan Police, and of the Receiver for the Metropolitan Police District; the contribution towards the expenses of the Metropolitan Police; the salaries and expenses of the Inspectors of Constabulary; the cost of special Services, and other grants in respect of Police Expenditure, including a grant in aid of the Police Federation, and a contribution towards the expenses of the International Criminal Police Commission -	12,721,744	410
Carried forward - - - £	22,052,088	79,686

SCHEDULE (B.)—PART 11—*continued.*SCHED. (B.)  
PART 11.  
Civil.  
Class III.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	22,052,088	79,686
Vote. 5. For the salaries and expenses of the office of the Prison Commissioners and of the Prisons in England and Wales - - - - -	1,334,637	331,000
6. For grants in respect of the expenses of the managers of approved schools in England and Wales; the expenses of local authorities in respect of children and young persons committed to their care; and the expenses of the councils of counties and county boroughs in respect of remand homes - -	550,850	19,000
7. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal as are not charged on the Consolidated Fund, and a grant in aid; and the salaries and expenses of pensions appeals tribunals - - -	100	557,079
8. For the salaries and expenses in connection with the County Courts, and the expenses of the Arrears Investigation Committee - -	100	806,122
9. For the salaries and expenses of the office of Land Registry - -	100	285,690
10. For the salaries and expenses of the office of Public Trustee - -	100	260,862
Carried forward - - £	23,937,975	2,339,439

SCHED. (B.)  
PART 11.  
Civil.  
Class III.

SCHEDULE (B.)—PART 11—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward -	23,937,975	2,339,439
Vote.		
11. For the salaries and expenses of the Law Officer's department; the salaries and expenses of the departments of His Majesty's Procurator-General and of the Solicitor for the Affairs of His Majesty's Treasury, and of the department of the Director of Public Prosecutions; the costs of prosecutions, of other legal proceedings, and of Parliamentary Agency - - - -	133,668	39,473
12. For certain miscellaneous legal expenses, for the salaries and expenses of arbitrators, &c., in connection with the acquisition of land, and for grants in aid of the expenses of the Law Society and of the Solicitors' Discipline (Scotland) Committee - - - -	42,724	13,250
13. For the salary and expenses of the Inspector of Constabulary; grants in respect of Police expenditure and a grant in aid of the Police Federation in Scotland - -	1,237,482	—
14. For the salaries and expenses of the Prisons Department for Scotland and of the prisons under their control, including the maintenance of criminal lunatics, defectives, and inmates of the State Inebriate Reformatory, and the preparation of judicial statistics - - -	266,140	19,570
Carried forward - - - £	25,617,989	2,411,732

SCHEDULE (B.)—PART 11—*continued.*SCHED. (B.)  
PART 11.  
Civil.  
Class III.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	25,617,989	2,411,732
Vote. 15. For grants in respect of the expenses of the managers of approved schools, and of the expenses of Education Authorities in Scotland in respect of children and young persons committed to their care -	67,365	4,850
16. For the salaries and expenses of the office of the Scottish Land Court	8,233	380
17. For the salaries and expenses of the Lord Advocate's department, and other law charges, the salaries and expenses of the Courts of Law and Justice, and of pensions appeals tribunals in Scotland -	44,313	152,000
18. For the salaries and expenses of the offices in His Majesty's General Register House, Edinburgh - -	100	67,016
19. For the cost of certain Northern Ireland services, including expenditure in connection with ex-service officers and men in Northern Ireland - - - - -	6,583	7,000
Carried forward - - £	25,744,583	2,642,978

SCHED. (B.)  
PART 11.  
Civil.  
Class III.

SCHEDULE (B.)—PART 11—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	25,744,583	2,642,978
Vote.		
20. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal of Northern Ireland, and of the Land Registry of Northern Ireland, as are not charged on the Consolidated Fund, and other expenses (including certain expenses in connection with Land Purchase in Northern Ireland) - - - - -	20,208	32,015
21. For charges in connection with land purchase in Ireland, including payment of land purchase annuities in respect of Northern Ireland and the expenses of certain land purchase services in Eire reserved as an imperial liability - -	1,778,204	94
TOTAL, CIVIL, CLASS III - £	27,542,995	2,675,087

## SCHEDULE (B.)—PART 12.

SCHED. (B.)  
PART 12.  
Civil.  
Class IV.

## CIVIL.—CLASS IV.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

Vote.	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
1. For the salaries and expenses of the Board of Education, and of the various establishments connected therewith, including sundry grants in aid, and grants and expenses in connection with physical training and recreation - - - -	51,002,330	5,760,575
2. For the salaries and expenses of the British Museum, including a grant in aid - - - - -	203,332	33,270
3. For the salaries and expenses of the British Museum (Natural History), including a grant in aid - - -	119,445	1,950
4. For the salaries and expenses of the Imperial War Museum, including a grant in aid - - - -	12,326	725
5. For the salaries and expenses of the London Museum, Lancaster House, including a grant in aid -	5,983	1,430
6. For the salaries and expenses of the National Gallery and of the Tate Gallery, Millbank, including a grant in aid - - - -	35,136	2,075
Carried forward - - -	£ 51,378,552	5,800,025

SCHED. (B.)  
PART 12.  
Civil.  
Class IV.

SCHEDULE (B.)—PART 12—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	51,378,552	5,800,025
<i>Vote.</i>		
7. For the salaries and expenses of the National Maritime Museum, including a grant in aid - - -	12,318	250
8. For the salaries and expenses of the National Portrait Gallery, including a grant in aid - - -	9,294	1,280
9. For the salaries and expenses of the Wallace Collection - - -	11,348	1,650
10. For sundry grants in aid of scientific investigation, &c., and other grants - - -	263,981	61,000
11. For grants in aid of the expenses of certain Universities, Colleges, Medical Schools, &c., in Great Britain, and for a grant in aid of the British Post Graduate Medical School - - -	2,262,000	—
12. For a grant to the British Broadcasting Corporation - - -	3,640,000	—
13. For public education in Scotland, and for the Royal Scottish Museum, Edinburgh, including sundry grants in aid - - -	7,893,527	789,375
14. For the salaries and expenses of the National Gallery, Scotland, the Scottish National Portrait Gallery, and the Museum of Antiquities, including certain grants in aid - - -	12,603	185
15. For the salaries and expenses of the National Library, Scotland, including a grant in aid - - -	3,867	5,017
<b>TOTAL, CIVIL, CLASS IV -</b>	<b>£ 65,487,490</b>	<b>6,658,782</b>



## SCHEDULE (B.)—PART 13.

SCHED. (B.)  
PART 13.  
Civil.  
Class V.

## CIVIL.—CLASS V.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote.		
1. For the salaries and expenses of the Ministry of Health; including grants, a grant in aid and other expenses in connection with housing, certain grants to local authorities, &c., grants in aid in respect of national health insurance benefits, &c., certain expenses in connection with widows', orphans' and old age contributory pensions; a grant in aid of the Civil Service Sports Council; and other services (including a Supplementary sum of £20,000) - - - - -	22,752,572	1,395,900
2. For the salaries and expenses of the Board of Control and grants in respect of the maintenance of certain ex-service mental patients	164,991	14,524
3. For the salaries and expenses of the Department of the Registrar General of Births, &c. - - -	84,551	42,990
4. For the salaries and expenses of the National Insurance Audit Department - - - - -	165,890	7,200
Carried forward - - -	£ 23,168,004	1,460,614

SCHED. (B.)  
PART 13.  
Civil.  
Class V.

SCHEDULE (B.)—PART 13—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	23,168,004	1,460,614
Vote. 5. For the salaries and expenses of the Registry of Friendly Societies -	46,180	4,750
6. For the payment of Old Age Pensions, pensions to blind persons, and for certain administrative expenses in connection therewith -	47,717,000	15,000
7. For the sum payable to the Treasury Pensions Account in respect of widows', orphans' and old age contributory pensions - -	17,000,000	—
8. For the salaries and expenses of the Ministry of Labour, including sums payable by the Exchequer to the Unemployment Fund, grants to local authorities, associations and other bodies in respect of unemployment insurance, employment exchange and other services; grant in aid of the National Council of Social Service; expenses of transfer and resettlement; expenses of training of unemployed persons and, on behalf of the Army Council and Air Council, of soldiers and airmen for employment; contribution towards the expenses of the International Labour Organisation (League of Nations); expenses of the Industrial Court; and sundry services - - - - -	24,587,000	6,829,000
Carried forward -	£ 112,518,184	8,309,364

SCHEDULE (B.)—PART 13—*continued.*SCHED. (B.)  
PART 13.  
Civil.  
Class V.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	112,518,184	8,309,364
Vote. 9. For grants to local authorities, &c., in respect of employment and development schemes, including adjustments of grant in certain cases - - - - -	3,520,000	—
10. For the salaries and expenses of the office of the Commissioner for Special Areas (England and Wales), and the expenses of the Com- missioner, including grants in aid -	100	6,000,000
11. For the salaries and expenses of the department of the Unemployment Assistance Board and of certain Appeal Tribunals; and sums payable by the Exchequer to the Unemployment Assistance Fund - - - - -	44,235,000	—
12. For a grant in aid of the Special Areas Fund - - - - -	7,500,000	—
13. For financial assistance to site- companies providing factories in certain areas and to new indus- trial undertakings in the Special and other areas - - - - -	801,344	—
Carried forward - -	£ 168,574,628	14,309,364

SCHED. (B.)  
PART 13.  
Civil.  
Class V.

SCHEDULE (B.)—PART 13—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	168,574,628	14,309,364
Vote.		
14. For the salaries and expenses of the department of Health for Scotland; including grants, a grant in aid and other expenses in connection with housing, certain grants to local authorities, &c., grant in aid of the Highlands and Islands medical service, grants in aid in respect of national health insurance benefits, &c.; certain expenses in connection with widows', orphans' and old age contributory pensions, and other services - -	3,741,449	195,427
15. For the salaries and expenses of the Board of Control for Scotland, and grants in respect of the maintenance of certain ex-service mental patients - - - - -	16,530	450
16. For the salaries and expenses of the department of the Registrar General of Births, &c., in Scotland	17,886	2,843
17. For the salaries and expenses of the Office of the Commissioner for Special Areas (Scotland), and the expenses of the Commissioner, including grants in aid - - -	100	2,000,000
<b>TOTAL, CIVIL, CLASS V -</b>	<b>£ 172,350,593</b>	<b>16,508,084</b>

## SCHEDULE (B.)—PART 14.

SCHED. (B.)  
PART 14.  
Civil.  
Class VI.

## CIVIL.—CLASS VI.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
<i>Vote.</i>		
1. For the salaries and expenses of the office of the Committee of Privy Council for Trade, and subordinate departments, including certain services arising out of the War -	320,444	588,255
1A. For a grant in aid to the Essential Commodities Reserves Fund -	8,500,000	
2. For the salaries and expenses of certain Mercantile Marine services, including the expenses of Coast-guard and General Register and Record Office of Shipping and Seamen - - - - -	422,970	232,668
3. For the salaries and expenses of the Department of Overseas Trade, including grants in aid of the Imperial Institute and the Travel and Industrial Development Association of Great Britain and Ireland - - - - -	581,134	168,076
Carried forward - - - £	9,824,548	988,999

SCHED. (B.)  
PART 14.  
Civil.  
Class VI.

SCHEDULE (B.)—PART 14—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	9,824,548	988,999
Vote. 4. For guarantees in connection with the export of goods from the United Kingdom and for the salaries and expenses of the Export Credits Guarantee Department - - - - -	100	588,555
5. For the salaries and expenses of the Mines Department of the Board of Trade - - - - -	263,804	17,173
6. For the salaries and expenses of the office of Commissioners of Crown Lands - - - - -	37,402	—
7. For the salaries and expenses of the Ministry of Agriculture and Fisheries, and of the Royal Botanic Gardens, Kew, including grants and grants in aid and expenses in respect of agricultural education and research, eradication of diseases of animals, and improvement of breeding, &c., of live stock, land settlement, improvement of cultivation, drainage, &c., regulation of agricultural wages, agricultural credits, and marketing, fishery organisation research and development, control of diseases of fish, &c., and sundry other services (including a Supplementary sum of £4,525) - - -	3,448,303	547,876
8. For a subsidy on sugar manufactured from beet grown in Great Britain	2,550,000	—
Carried forward - - -	£ 16,124,157	2,142,603

SCHEDULE (B.)—PART 14—*continued.*

SCHED. (B).  
PART 14.  
Civil.  
Class VI.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	16,124,157	2,142,603
Vote. 9. For payments in respect of milk used for manufacture in England and Wales and Northern Ireland, payments for improving the quality of the milk supply in England and Wales, and contributions towards certain expenses of the Milk Marketing Board in England and Wales (including a Supplementary sum of £238,000) - - -	628,000	—
10. For the salaries of the Livestock Commission; for a grant in aid of the Cattle Fund; and for certain expenses in connection with experimental slaughter-house schemes -	4,575,000	57,500
11. For the salaries and expenses of the Land Fertility Committee, and contributions towards the cost of acquiring and transporting lime and basic slag incurred by occupiers of agricultural land in the United Kingdom - - -	1,282,439	200
12. For a subsidy in respect of land under oats or barley in England and Wales and Northern Ireland -	100,000	—
12A. For payments in respect of pigs sold on long contracts and made into bacon in Great Britain - -	150,000	—
13. For the expenses of the survey of Great Britain and of minor services connected therewith - -	390,337	252,710
14. For a grant in aid of the Forestry Fund - - - - -	800,000	—
Carried forward - £	24,049,933	2,453,013

SCHED. (B.)  
PART 14.  
Civil.  
Class VI.

SCHEDULE (B.)—PART 14—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	24,049,933	2,453,013
Vote.		
15. For the salaries and expenses of the Ministry of Transport, including expenses of the Railway Rates Tribunal, of the Road and Rail Appeal Tribunal, and of maintaining Holyhead Harbour, the Caledonian and Crinan Canals; annuities in respect of Light Railways; and other services - -	383,530	614,440
16. For a grant in aid of the Road Fund; for the maintenance and reconstruction of Menai Bridge; for payments to local authorities in reimbursement of expenses incurred in the collection of motor vehicle duties, &c., and the registration of motor vehicles; and for other services - - - -	22,000,000	450,000
17. For a grant in aid of the Development Fund - - - -	708,000	—
18. For grants to public utility undertakings in Great Britain - -	750,000	—
Carried forward - £	47,891,463	3,517,453



SCHEDULE (B.)—PART 14—*continued.*SCHED. (B.)  
PART 14.  
Civil.  
Class VI.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	47,891,463	3,517,453
Vote. 19. For the salaries and expenses of the Department of Scientific and Industrial Research, including the Geological Survey of Great Britain and Museum of Practical Geology, and a grant in aid - - -	704,067	259,017
20. For the salaries and expenses of the State Management Districts, including the salaries of the central office, and the cost of provision and management of licensed premises - - -	100	574,650
21. For the salaries and expenses of the Anglo-Spanish, Anglo-Roumanian, Anglo-Italian and Anglo-Turkish Clearing Offices - - -	100	85,900
22. For the salaries and expenses of the Department of Agriculture for Scotland, including grants for land improvement, agricultural education, research and marketing, expenses in respect of regulation of agricultural wages, a grant in respect of agricultural credits, and certain grants in aid - - -	628,597	137,723
Carried forward - £	49,224,327	4,574,743

SCHED. (B.)  
PART 14.  
Civil.  
Class VI.

SCHEDULE (B.)—PART 14—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	49,224,327	4,574,743
Vote. 23. For payments in respect of milk used for manufacture in Scotland, pay- ments for improving the quality of the milk supply in Scotland, and contributions towards certain ex- penses of Milk Marketing Boards in Scotland (including a Supple- mentary sum of £28,700) - -	92,200	—
24. For a subsidy in respect of land under oats or barley in Scotland - -	103,000	—
25. For the salaries and expenses of the Fishery Board for Scotland, and a grant in aid of piers or quays	147,168	48,929
26. For grants in aid of the general administrative and other expenses of the Herring Industry Board, and the Herring Marketing Fund, grants to herring fishermen for assistance in the provision of new motor-boats, and expenses of Committees (including a Supple- mentary sum of £22,750) - -	22,850	275,500
TOTAL, CIVIL, CLASS VI -	£ 49,589,545	4,899,172

## SCHEDULE (B.)—PART 15.

SCHED. (B.)  
PART 15.  
Civil.  
Class VII.

## CIVIL.—CLASS VII.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote. 1. For expenditure in respect of art and science buildings, Great Britain -	355,715	45,500
2. For expenditure in respect of Houses of Parliament buildings -	155,355	900
3. For expenditure in respect of labour and health buildings, Great Britain - - - -	418,650	804,670
4. For expenditure in respect of miscellaneous legal buildings, including the whole additional cost of a new Sheriff Court House at Edinburgh - - - -	154,285	1,120
Carried forward - - - £	1,084,005	852,190

SCHED. (B.)  
PART 15.  
Civil.  
Class VII.

SCHEDULE (B.)—PART 15—*continued.*

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	1,084,005	852,190
<i>Vote.</i>		
5. For expenditure in respect of Osborne - - - - -	11,640	5,575
6. For the salaries and expenses of the office of the Commissioners of His Majesty's Works and Public Buildings - - - - -	574,770	661,500
7. For expenditure in respect of sundry public buildings in Great Britain, not provided for on other Votes, including historic buildings, ancient monuments, Brompton Cemetery and certain housing estates (including a Supplementary sum of £5,250) - - -	2,077,515	347,325
8. For expenditure in respect of public buildings overseas - - -	236,185	17,290
9. For expenditure in respect of Royal Palaces, including a grant in aid	139,100	16,920
10. For expenditure in respect of Customs and Excise, Inland Revenue, Post Office and telegraph buildings in Great Britain, certain post offices abroad, and for certain expenses in connection with boats and launches belonging to the Customs and Excise Department - - - - -	1,941,470	31,415
11. For expenditure in respect of Royal parks and pleasure gardens - -	229,390	45,700
Carried forward - - - £	6,294,075	1,977,915

SCHEDULE (B.)—PART 15—*continued.*SCHED. (B.)  
PART 15.  
Civil.  
Class VII.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - - -	6,294,075	1,977,915
Vote. 12. For rates and contributions in lieu of rates, &c., in respect of property in the occupation of the Crown for the public service, and for rates on buildings occupied by representatives of British Do- minions and of Foreign Powers; and for the salaries and expenses of the Rating of Government Property Department, and a grant in aid of the expenses of the London Fire Brigade - - -	2,812,842	155,465
13. For stationery, printing, paper, bind- ing, and printed books for the public service; for the salaries and expenses of the Stationery Office; and for sundry miscella- neous services, including reports of Parliamentary Debates - -	2,510,082	1,272,615
14. For constructing a new harbour of refuge at Peterhead - - -	32,000	—
15. For expenditure in respect of public works and buildings in Ireland -	47,760	2,500
TOTAL, CIVIL, CLASS VII	£ 11,696,759	3,408,495

SCHED. (B.)  
PART 16.  
Civil.  
Class VIII.

SCHEDULE (B.)—PART 16.

CIVIL.—CLASS VIII.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote.		
1. For War pensions and allowances (including cost of treatment) to merchant seamen and fishermen and their dependants and the administrative expenses connected therewith - - - - -	253,322	—
2. For the salaries and expenses of the Ministry of Pensions, payments in respect of War pensions, gratuities and allowances, sundry contributions in respect thereof and other services - - - - -	39,400,000	14,500
3. For the expenses of pensions, compensation allowances and gratuities awarded to retired and disbanded members and staff of the Royal Irish Constabulary, and to widows and children of such members, including annuities to the National Debt Commissioners in respect of commutation of compensation allowances and certain extra-statutory payments - -	1,385,036	—
Carried forward - - - £	41,038,358	14,500

SCHEDULE (B.)—PART 16—*continued.*SCHED. (B.)  
PART 16.  
Civil.  
Class VIII.

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Brought forward - -	41,038,358	14,500
Vote. 4. For superannuation and other non-effective annual allowances, additional allowances, gratuities, compassionate allowances and supplementary pensions awarded by the Treasury and by the Civil Service Committee for Northern Ireland -	2,055,798	40,245
TOTAL, CIVIL, CLASS VIII £	43,094,156	54,745

SCHED. (B.)  
PART 17.  
Civil.  
Class IX.

SCHEDULE (B.)—PART 17.

CIVIL.—CLASS IX.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several CIVIL SERVICES herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote.		
1. For the General Exchequer Contribution and certain other grants to local authorities in England and Wales - - - - -	47,277,000	95,000
2. For the General Exchequer Contribution and certain other grants to local authorities in Scotland - -	6,971,000	—
TOTAL, CIVIL, CLASS IX	£ 54,248,000	95,000



## SCHEDULE (B.)—PART 18.

SCHED. (B.)  
PART 18.  
Revenue  
Depart-  
ments.

## REVENUE DEPARTMENTS.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several REVENUE DEPARTMENTS herein particularly mentioned, which will come in course of payment during the year ending on the 31st day of March 1939, viz. :—

	Sums not exceeding	
	Supply Grants.	Appropriations in Aid.
	£	£
Vote, 1. For the salaries and expenses of the Customs and Excise Department -	6,065,200	245,100
2. For the salaries and expenses of the Inland Revenue Department -	8,219,500	237,550
3. For the salaries and expenses of the Post Office, including Telegraphs and Telephones - - - -	76,802,000	3,972,687
<b>TOTAL, REVENUE DEPARTMENTS</b>	<b>£ 91,086,700</b>	<b>4,455,337</b>

SCHED. (C.)  
PART I.  
Navy  
Services.  
Section 5.

SCHEDULE (C.)—PART I.

NAVY SERVICES, 1936, VOTES.	Deficits.		Surpluses.	
	Excesses of actual over estimated gross Expenditure.	Deficiencies of actual as compared with estimated Receipts.	Surpluses of estimated over actual gross Expenditure.	Surpluses of actual as compared with estimated Receipts.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Wages, &c., of Officers, Seamen, Boys and Royal Marines and Civilians employed on Fleet Services.	88,734 0 7	—	—	6,375 9 1
2. Victualling and Clothing -	—	—	1,800 12 10	8,459 3 7
3. Medical Establishments and Services.	15,446 5 10	—	—	12,874 5 0
4. Fleet Air Arm - - -	—	—	—	—
5. Educational Services - - -	2,662 16 9	—	—	1,789 14 7
6. Scientific Services - - -	—	—	8,212 16 10	9,211 7 11
7. Royal Naval Reserves - - -	—	59 17 1	25,781 15 4	—
8. Shipbuilding Repairs, Maintenance, &c.				
Section I.—Personnel -	51,148 9 4	—	—	14,897 15 11
Section II.—Matériel -	—	117,891 9 9	111,190 6 8	—
Section III.—Contract Work	255,222 3 9	—	—	18,970 15 9
9. Naval Armaments - - -	—	—	453,480 2 5	10,792 17 7
10. Works, Buildings and Repairs	—	—	128,053 16 6	5,356 7 6
11. Miscellaneous Effective Services.	39,484 6 8	—	—	16,660 1 5
12. Admiralty Office - - -	26,275 18 7	—	—	1,739 13 0
13. Non-effective Services (Naval and Marine)—Officers.	—	—	58,652 19 2	1,201 17 11
14. Non-effective Services (Naval and Marine)—Men.	—	1,252 19 7	15,117 14 11	—
15. Civil Superannuation, Compensation Allowances and Gratuities.	—	70 5 1	9,703 0 4	—
Balances Irrecoverable and Claims Abandoned.	9,098 2 11	—	—	—
	488,072 4 5	119,274 11 6	811,993 5 0	108,329 9 3
	Total Deficits : £607,346 15s. 11d.		Total Surpluses : £920,322 14s. 3d.	
	Net Surplus : £312,975 18s. 4d.			

## SCHEDULE (C.)—PART II.

SCHED. (C.)  
PART II.  
Army  
Services.  
Section 5.

ARMY SERVICES, 1936, VOTES.	Deficits.		Surpluses.	
	Excesses of actual over estimated gross Expenditure.	Deficiencies of actual as compared with estimated Receipts.	Surpluses of estimated over actual gross Expenditure.	Surpluses of actual as compared with estimated Receipts.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Pay, &c., of the Army -	—	—	116,360 10 5	490,352 3 6
2. Territorial Army and Reserve Forces.	—	1,620 12 10	56,910 16 3	—
3. Medical Services - - -	31,357 5 5	—	—	18,354 15 7
4. Educational Establishments -	1,608 1 3	—	—	4,980 2 4
5. Quarters and Movements -	2,501 6 6	—	—	20,669 6 6
6. Supplies, Road Transport and Remounts.	48,473 0 8	—	—	58,312 14 7
7. Clothing - - - -	65,601 15 8	—	—	29,375 18 8
8. General Stores - - -	—	—	57,564 19 3	54,621 15 9
9. Warlike Stores - - -	—	—	635,844 17 4	84,901 19 4
10. Works, Buildings and Lands -	—	—	244,916 3 2	19,388 7 4
11. Miscellaneous Effective Services.	69,141 9 3	—	—	21,640 14 2
12. War Office - - - -	18,175 12 7	272 5 0	—	—
13. Half-pay, Retired Pay and other Non-effective Charges for Officers.	—	—	16,596 0 8	3,535 10 3
14. Pensions and other Non-effective Charges for Warrant Officers, Non-commissioned Officers, men and others.	14,439 14 3	—	—	13,642 15 8
15. Civil Superannuation Compensation and Gratuities.	6,731 18 5	—	—	529 10 6
Balances Irrecoverable and Claims Abandoned.	2,564 10 3	—	—	—
	260,595 3 3	1,892 17 10	1,128,193 7 1	820,305 14 2
	Total Deficits : £262,488 1s. 1d.		Total Surpluses : £1,948,499 1s. 3d.	
	Net Surplus :		£1,686,011 0s. 2d.	

SCHED. (C.)  
PART III.  
Air  
Services.  
Section 5.

SCHEDULE (C.)—PART III.

AIR SERVICES, 1936, VOTES.	Deficits.		Surpluses.	
	Excesses of actual over estimated gross Expenditure.	Deficiencies of actual as compared with estimated Receipts.	Surpluses of estimated over actual gross Expenditure.	Surpluses of actual as compared with estimated Receipts.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Pay, &c., of the Royal Air Force.	—	—	103,915 1 8	5,990 14 7
2. Quarters Stores (except Technical), Supplies and Transportation.	—	—	1,948 6 1	6,486 6 1
3. Technical and Warlike Stores (including Experimental and Research Services).	—	—	39,241 16 4	34,732 13 8
4. Works, Buildings and Lands -	—	—	187,125 4 3	2,484 0 1
5. Medical Services - - - -	20,607 18 0	—	—	12,092 19 5
6. Technical Training and Educational Services.	—	589 14 10	6,549 18 2	—
7. Auxiliary and Reserve Forces	—	37 6 11	102,082 4 3	—
8. Civil Aviation - - - -	—	28,920 5 0	187,044 5 3	—
9. Meteorological and Miscellaneous Effective Services.	—	—	19,408 12 9	3,953 13 10
10. Air Ministry - - - -	—	—	12,174 11 11	3,471 7 2
11. Half-Pay, Pensions and other Non-effective Services.	—	1,357 8 8	29,488 2 2	—
Balances Irrecoverable and Claims Abandoned.	2,273 16 2	—	—	—
	22,881 14 2	30,904 15 5	688,978 2 10	69,211 14 10
	Total Deficits : £53,786 9s. 7d.		Total Surpluses : £758,189 17s. 8d.	
	Net Surplus : £704,403 8s. 1d.			

**CHAPTER 48.**

An Act to amend the law of Scotland relating to criminal procedure and to the crime of incest, and to the duties of procurators fiscal in relation to fatal accident inquiries. [29th July 1938.]

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

**1.**—(1) Where a court of summary jurisdiction imposes a fine on a person convicted of an offence, the court may, either at the same or at any subsequent time, order payment of the fine by instalments of such amounts, and at such times, as it may think fit, and where any instalment is not paid by the time so ordered, the accused shall be liable to imprisonment for such period as bears to the period appropriate to the total amount of the fine the same proportion, as nearly as may be, as the sum of the unpaid instalments bears to that amount. In this subsection the expression “ period appropriate to the total amount of the fine ” means the period specified by the court in default of payment of the fine, or, if no such period is specified, the maximum period applicable to a fine of that amount in pursuance of section forty-eight of the Summary Jurisdiction (Scotland) Act, 1908.

Payment  
of fines by  
instalments.

8 Edw. 7.  
c. 65.

(2) In the application of the Fine or Imprisonment (Scotland and Ireland) Act, 1899, to any person imprisoned in default of payment of any instalment of a fine, the sum of the unpaid instalments shall be deemed to be the sum adjudged to be paid.

62 & 63 Vict.  
c. 11.

**2.**—(1) Where a court of summary jurisdiction has imposed a fine on a person convicted of an offence and it appears to the court that he is resident in a place outside the jurisdiction of the court and within the jurisdiction of some other court of summary jurisdiction, the first-mentioned court may, if it appears in the circumstances expedient to do so, make with respect to such

Transfer  
of juris-  
diction as  
to person  
fined.

fine an order for the purposes of this section. An order made for the purposes of this section shall be termed a "transfer of fine order," shall specify the court within whose jurisdiction the accused is resident, and shall be in such form as may be prescribed by Act of Adjournal. No such order shall be made except on the application of the person on whom the fine was imposed, and any such application may be made either in open court by that person or by a solicitor or a person, not being a solicitor, who satisfies the court as to his authority to do so, or in writing addressed to the clerk of the court.

(2) As from the date on which a transfer of fine order is made with respect to any fine, all functions in relation thereto which, if the order had not been made, would have been exercisable under any enactment (including this Act) by the court which imposed the fine or by the clerk of such court shall be exercisable by the court specified in the order or by the clerk thereof, as the case may be, and not otherwise :

Provided that any payment received by virtue of a transfer of fine order by the clerk of the court specified therein shall be forthwith transmitted by him to the clerk of the court which imposed the fine.

(3) Where it appears to the court specified in a transfer of fine order that the person on whom the fine was imposed is residing in a place outside the jurisdiction of such court and within the jurisdiction of some other court of summary jurisdiction, the court so specified may make a further transfer of fine order with respect to such fine and shall cause a copy thereof to be sent to the clerk of the court which imposed the fine.

(4) The court to be specified in a transfer of fine order shall, in any case where the fine was imposed by the sheriff court, be a sheriff court.

Amendment  
of 4 & 5  
Geo. 5. c. 58,  
s. 42 (2).

**3.** Section forty-two of the Criminal Justice Administration Act, 1914, shall have effect as if the words "within its jurisdiction" in paragraph (a) of the provisions directed by paragraph (2) of the said section to be substituted for section one of the Act, were omitted.

Objections  
to relevancy  
plea of not

**4.—(1)** In any proceedings in a court of summary jurisdiction objections to the competency or relevancy of the complaint or proceedings may be stated, in the

absence of the accused, by counsel or by a solicitor on his behalf, and, where such objections are so stated, the provisions of the Summary Jurisdiction (Scotland) Act, 1908, shall apply in like manner as if the accused had appeared and stated the objections. guilty in absence of accused.

(2) Where in any proceedings in a court of summary jurisdiction either—

- (a) the prosecutor produces to the court written intimation that the accused pleads not guilty to the charge and the court is satisfied that such written intimation has been made or authorised by the accused, or
- (b) a solicitor, or a person not being a solicitor who satisfies the court that he is authorised by the accused, appears on behalf of the accused and tenders a plea of not guilty,

the provisions of the Summary Jurisdiction (Scotland) Act, 1908 (except paragraph (1) of section thirty-two), shall apply in like manner as if the accused had appeared and tendered such plea.

(3) In the foregoing provisions of this section any reference to a plea of not guilty shall include a reference to a plea of guilty to part only of the charge which is not accepted by the prosecutor.

5. Paragraph (2) of section thirty-three of the Summary Jurisdiction (Scotland) Act, 1908 (which empowers a court in certain circumstances to hear and dispose of a case in the absence of the accused), shall have effect as if for the words "involving the imposition of a pecuniary penalty only" there were substituted the words "for which a sentence of imprisonment cannot be imposed." Amendment of 8 Edw. 7. c. 65, s. 33 (2).

6. The power conferred on a court of summary jurisdiction by section fifty-four of the Summary Jurisdiction (Scotland) Act, 1908, to alter or modify a sentence shall be exercisable without requiring the attendance of the accused, and, without prejudice to the generality of the said power, shall include power in the case where payment of a fine by instalments has been ordered, to reduce the amount, or allow further time for the payment, Modification of sentences.

of any instalment (whether the time for payment thereof has or has not expired), or to order payment of the fine, so far as unpaid, by instalments of smaller amounts, or at longer intervals than originally ordered.

S. 37 of  
24 & 25  
Geo. 5. c. 50  
to apply to  
breaches of  
regulations.  
20 & 21  
Geo. 5. c. 43.

**7.** For removal of doubts it is hereby declared that section thirty-seven of the Road Traffic Act, 1934, applies to a contravention of or failure to comply with any regulation made under the Road Traffic Act, 1930, or the Road Traffic Act, 1934, in like manner as the said section applies to a contravention of any provision of either of those Acts which is directed to be prosecuted under the Summary Jurisdiction Acts.

Amendment  
of s. 1 of  
8 Edw. 7.  
c. 59.  
4 & 5 Geo. 5.  
c. 58.

**8.** For the purpose of section one of the Prevention of Crime Act, 1908, as amended by paragraph (8) of section forty-two of the Criminal Justice Administration Act, 1914, a person under the age of seventeen years shall be deemed to be convicted of an offence for which he is liable to be sentenced to imprisonment, if he is convicted of an offence for which he could competently have been sentenced to imprisonment had he been over seventeen years of age.

Amend-  
ment of  
58 & 59 Vict.  
c. 36, s. 5.

**9.** Subsection (1) of section five of the Fatal Accident Inquiry (Scotland) Act, 1895, in so far as it requires, in order to enable a depute procurator fiscal to discharge the duties imposed by the said subsection on the procurator fiscal, that the cause of the procurator fiscal's absence shall be stated in open court and held by the sheriff to be sufficient, shall cease to have effect.

Statutory  
offences  
punishable  
by penal  
servitude  
may be  
tried in the  
sheriff court.

**10.—(1)** Proceedings for a statutory offence, in the case of which it is enacted by any Act, whether passed before or after this Act, that a person shall be liable on conviction of such offence to penal servitude or to penal servitude or imprisonment, may be brought either in the High Court of Justiciary, or in a sheriff court.

**(2)** Proceedings in a sheriff court in pursuance of this section may be on indictment or summary, and in any such proceedings the court shall have power to award imprisonment for any period not exceeding, on conviction on indictment, two years, and on summary conviction, six months.



(3) This section shall, in relation to any Act passed before this Act, be deemed to have had effect as from the commencement of that Act.

(4) In this section “statutory offence” means any offence against or contravention of any Act.

**11.**—(1) Subsection (1) of section four of the Criminal Evidence Act, 1898, shall apply as regards any offence mentioned in the First Schedule to the Children and Young Persons (Scotland) Act, 1937, in like manner as the said subsection applies as regards the offences therein referred to.

S. 4 (1) of 61 & 62 Vict. c. 36 to apply to certain offences. 1 Edw. 8. & 1 Geo. 6. c. 37.

(2) Section twenty-six of the Children and Young Persons (Scotland) Act, 1937, is hereby repealed.

**12.** After subsection (2) of section twenty of the Administration of Justice (Scotland) Act, 1933 (which section relates to admissions by parties in trials on indictment) the following subsection shall be added :—

Amendment of 23 & 24 Geo. 5. c. 41, s. 20.

“ (3) Any reference in this section to proof or admission of a document shall include a reference to proof or admission as to the person by whom a document was written, executed, or received, and as to the time and place of such writing, execution, or receipt.”

**13.** For removal of doubts it is hereby declared that carnal connection between a man and a woman whose marriage to each other is authorised by the Marriage (Prohibited Degrees of Relationship) Acts, 1907 to 1931, or would be so authorised on the death of any person, is not incest.

Amendment of the law as to incest.

**14.**—(1) This Act shall extend to Scotland only, and may be cited as the Criminal Procedure (Scotland) Act, 1938.

Extent and citation.

(2) In this Act the expression “fine” includes any pecuniary penalty or forfeiture imposed or ordered by a court in respect of a conviction.

## CHAPTER 49.

An Act to enable the Secretary of State for War to delegate the function of executing instruments relating to the acquisition, management and disposal of property. [29th July 1938.]

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

Execution of instruments on behalf of Secretary of State.

1.—(1) Any instrument in connection with the acquisition, management or disposal of any land or other property, being an instrument to which the Secretary of State for War is expressed to be a party, shall be deemed to be validly executed by him if it is executed on his behalf by an Under Secretary of State or any other person authorised in that behalf by the Secretary of State, and any such instrument purporting to have been executed as aforesaid on behalf of the Secretary of State shall, until the contrary is proved, be deemed to have been so executed on his behalf.

(2) The method provided by this section for the execution of such an instrument as aforesaid shall be in addition to any other method available by law for the execution of such an instrument on behalf of a Secretary of State, and this section shall not be construed as affecting the validity of any method by which other instruments may be executed on behalf of a Secretary of State.

Short title and extent.

2.—(1) This Act may be cited as the War Department Property Act, 1938.

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

(3) His Majesty may by Order in Council direct that the foregoing provisions of this Act shall extend, subject however to such exceptions, adaptations and modifications, if any, as may be specified in the Order, to the Channel Islands or the Isle of Man.

## CHAPTER 50.

An Act to amend the law of Scotland with regard to divorce and dissolution of marriage.

[29th July 1938.]

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

1.—(1) Without prejudice to the power of the Court to grant decree of divorce on the ground of adultery, it shall be competent for the Court to grant decree of divorce on any of the following grounds, that is to say, that the defender—

Additional grounds of divorce.

- (a) has wilfully and without reasonable cause deserted the pursuer and persisted in such desertion for a period of not less than three years; or
- (b) is incurably insane; or
- (c) has been guilty of such cruelty towards the pursuer as would justify, according to the law and practice existing at the passing of this Act, the granting of a decree of separation a mensa et thoro; or
- (d) has since the date of the marriage been guilty of sodomy or bestiality :

Provided that, where the ground of action is incurable insanity, the Court shall not be bound to grant a decree of divorce if in the opinion of the Court the pursuer has during the marriage been guilty of such wilful neglect or misconduct as has conduced to the insanity.

(2) For the purposes of paragraph (d) of the foregoing subsection, the defender's guilt of sodomy or bestiality shall be held to be proved if an extract of a conviction therefor in any part of the United Kingdom is produced, and the application of such conviction to the defender is admitted or proved.

Effects of  
divorce on  
property  
rights.

2.—(1) A decree of divorce granted on any of the grounds specified in the foregoing section, except that specified in paragraph (b) thereof, shall have the like effect as regards the estates of the parties and their rights and interests in and to any property, whether under marriage contract or otherwise, as if the decree had been granted on the ground of the defender's adultery.

(2) Where a decree of divorce has been granted on the ground specified in paragraph (b) of the foregoing section, the Court may make such order, if any, as having regard to the respective means of the parties it shall think fit, for the payment by the pursuer, or out of any estate belonging to him or held for his behoof, or, in the event of his predeceasing the defender, by his executors, of a capital sum or an annual or periodical allowance to or for behoof of the defender and any children of the marriage.

(3) Any order made under the last foregoing subsection may be varied or recalled by a subsequent order.

Special  
provisions  
as to  
divorce on  
ground of  
insanity.

3. The Court shall appoint a curator ad litem to the defender in any action of divorce on the ground of incurable insanity, and it shall be the duty of the General Board of Control for Scotland, on the request of the Court, to furnish to it a report as to the probability of recovery in the case of the defender to any such action.

Divorce  
proceedings  
after grant  
of judicial  
separation.

4.—(1) A person shall not be prevented from bringing an action of divorce, or the Court from pronouncing a decree of divorce, by reason only that the pursuer has at any time been granted a decree of separation a mensa et thoro, upon the same or substantially the same facts as those proved in support of the action of divorce.

(2) In any such action of divorce, the Court may treat the decree of separation as sufficient proof of the adultery or cruelty in respect of which the decree was granted, but the Court shall not pronounce a decree of divorce without administering the oath of calumny to the pursuer and receiving evidence from him.

Proceedings  
for decree

5.—(1) Any married person who alleges that reasonable grounds exist for supposing that the other party to

the marriage is dead may present a petition to the Court craving a decree of dissolution of the marriage on the ground of the presumed death of the other party, and the Court, if satisfied that such reasonable grounds exist, may grant such a decree. of presumption of death and dissolution of marriage.

(2) In any proceedings on a petition presented under the last foregoing subsection, the fact that for a period of seven years or upwards the other party to the marriage has been continually absent from the petitioner, and the petitioner has no reason to believe that the other party has been living within that time, shall be evidence that he or she is dead unless the contrary is proved.

**6.**—(1) In this Act the expression “the Court” means the Court of Session. Interpretation.

(2) In any action of divorce on the ground of incurable insanity, the defender shall not be held to be incurably insane, unless it is proved that he is, and has been for a period of five years continuously immediately preceding the raising of the action, under care and treatment as an insane person, and where such care and treatment as aforesaid is proved, the defender shall, unless the contrary is shown to the satisfaction of the Court, be presumed to be incurably insane.

(3) A person shall be deemed to be under care and treatment as an insane person—

(a) while any order or warrant for his detention or custody as a lunatic under the Lunacy (Scotland) Acts, 1857 to 1919, the Army Act, the Air Force Act, the Naval Discipline Act, the Naval Enlistment Act, 1884, or the Yarmouth Naval Hospital Act, 1931, is in force; 47 & 48 Vict.  
c. 46.  
21 & 22  
Geo. 5. c. 15.

(b) while he is under care and treatment (other than treatment as a voluntary patient) within the meaning of section one hundred and seventy-six of the Supreme Court of Judicature (Consolidation) Act, 1925, as amended by the Matrimonial Causes Act, 1937; 15 & 16  
Geo. 5. c. 49.  
1 Edw. 8. &  
1 Geo. 6.  
c. 57.

and not otherwise.

**7.** The Act of the Parliament of Scotland, 1573, cap. 55, and section eleven of the Conjugal Rights Repeal.  
24 & 25 Vict.  
c. 86.

(Scotland) Amendment Act, 1861, which enactments relate to divorce for desertion, are hereby repealed.

Citation.

8. This Act may be cited as the Divorce (Scotland) Act, 1938.

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## CHAPTER 51.

An Act to enable the Board of Trade to obtain information as to commodities which in the opinion of the Board would be essential for the vital needs of the community in the event of war and to make provision for the maintenance of reserves of such commodities; and for purposes connected with the matters aforesaid.

[29th July 1938.]

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

Power to  
obtain in-  
formation.

1.—(1) The Board of Trade may by notice served upon any trader concerned with an essential commodity require him to make periodical and other returns, at such times and containing such particulars as may be specified in the notice, as to the stocks of the commodity from time to time held by him, and as to the facilities available for storing and for utilising stocks of the commodity.

(2) Any Government Department, and any body of persons having, by virtue of any Act, power to obtain for any purpose information as to matters with respect to which the Board of Trade are empowered by the last foregoing subsection to require returns to be made, shall, if required so to do by the Board, exercise that power for the purpose of assisting the Board in obtaining information as to the stocks of essential commodities held by

traders, or as to the facilities available for storing or for utilising stocks of such commodities; and any such information obtained by any Government Department or by any such body of persons as aforesaid, whether upon the requisition of the Board or otherwise may, notwithstanding anything in any enactment, be furnished to the Board.

(3) No information with respect to any particular undertaking which has been obtained under or by virtue of this Act shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in pursuance of the performance by the Board of Trade of their functions under this Act; and if any person discloses any such information in contravention of this subsection, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine :

Provided that nothing in this subsection shall apply to any disclosure of information made for the purposes of any legal proceedings which may be taken under, by virtue of, or in consequence of, this Act.

2.—(1) The Board of Trade may, in accordance with arrangements approved by the Treasury, make payments by way of grant or loan to any trader concerned with an essential commodity for the purpose of inducing the augmentation of the stock of any such commodity held by him, or the improvement of the facilities available for the storage of any stocks thereof which may from time to time be so held. Creation  
of reserves.

(2) In accordance with arrangements approved by the Treasury the Board of Trade may acquire and store stocks of any essential commodity, and for the purpose of such storage, do all such things (including the execution of works and the erection of buildings) as may appear to them necessary for the storage, preservation, and transport of such stocks.

(3) The Board of Trade may from time to time vary the stocks of commodities held by them under this section,

but, except so far as may be expedient for preventing deterioration or for securing that stocks are maintained by the Board of such commodities and of such quantities only as the Board consider to be, for the time being, required for the purpose of giving effect to the objects of this Act, the stocks held by the Board shall not be disposed of otherwise than in such manner as may be authorised by or under an Act of Parliament passed after the commencement of this Act.

Financial  
provisions.

**3.**—(1) There shall, in accordance with directions given by the Treasury, be established a fund to be called “the Essential Commodities Reserves Fund” (hereinafter referred to as “the fund”) which shall be under the control and management of the Board of Trade.

(2) There shall be paid into the fund such sums as Parliament may from time to time determine, and any sums received by the Board of Trade in the performance of their functions under this Act; and, subject as herein-after provided, all expenses of the Board incurred with the approval of the Treasury for the purposes of this Act shall be defrayed out of the fund :

Provided that any such expenses incurred by the Board in respect of remuneration and allowances payable to any of the officers or servants of the Board shall be defrayed either out of the fund or out of moneys provided by Parliament as the Treasury may direct.

(3) Any expenses incurred by the Board of Trade in pursuance of arrangements made before the passing of this Act for the purpose of creating or assisting the creation of a reserve of any such commodity as is described in the Schedule to this Act shall be defrayed out of the fund as if this Act had then been in operation and the commodity had been declared by order of the Board to be a commodity which in their opinion would be essential for the vital needs of the community in the event of war.

(4) The Treasury may out of the Consolidated Fund of the United Kingdom or the growing produce thereof make temporary advances to the fund, but any sum so advanced shall be repaid out of the fund to the Exchequer not later than the thirtieth day of September next



following the end of the financial year in which the advance was made.

(5) The Board of Trade shall prepare, in such form and manner as the Treasury may direct, an account of the sums received into and paid out of the fund in each financial year, and shall, on or before the thirtieth day of November in each year, transmit the said account to the Comptroller and Auditor General who shall examine and certify the account and lay copies thereof together with his report thereon before both Houses of Parliament.

4.—(1) If any person makes default in making any return or furnishing any information which he is duly required to make or furnish under this Act, he shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds, and if after being so convicted he continues to make the like default, he shall be guilty of a further offence and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds for each day on which the default has continued after the first mentioned conviction. Enforce-  
ment.

(2) If any person duly required under this Act to make any return or furnish any information knowingly or recklessly makes a false return or furnishes false information, or if any person for the purpose of obtaining any payment under this Act, either for himself or for any other person, knowingly or recklessly makes any untrue statement or untrue representation, he shall be guilty of an offence and shall, in respect of each such offence, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or approval of, or to have been facilitated by 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 the offence and shall be liable to be proceeded against and punished accordingly.

Provisions  
as to orders  
and powers  
of Board of  
Trade.

5.—(1) Any order made under this Act by the Board of Trade may be varied or revoked by an order made in like manner.

(2) All orders made under this Act by the Board of Trade shall be laid before Parliament.

(3) Any order authorised under this Act to be made by the Board of Trade may be made by the President of the Board, or in his absence by a Secretary of State, and any other thing required or authorised under this Act to be done by, to, or for the Board of Trade may be done by, to, or for the Board by any person authorised by him in that behalf.

Interpreta-  
tion.

6. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“Essential commodity” means any commodity described in the Schedule to this Act which may be declared by order of the Board of Trade to be a commodity which in the opinion of the Board would be essential for the vital needs of the community in the event of war;

18 & 19  
Geo. 5. c. 31

“Food” has the same meaning as in the Food and Drugs (Adulteration) Act, 1928;

“Forage” includes all feeding stuffs for animals, whether natural, artificial, dried, or undried;

“Trader”, in relation to an essential commodity, means any person who for the purposes of any trade or business carried on by him (whether as a producer, merchant, broker, warehouseman, or otherwise) holds from time to time a stock of that commodity.

Short title  
and extent

7.—(1) This Act may be cited as the Essential Commodities Reserves Act, 1938.

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

**SCHEDULE.**

Sections 3, 6.

**COMMODITIES WHICH MAY BE DECLARED TO BE  
ESSENTIAL COMMODITIES.**

Any commodity which in the opinion of the Board of Trade may be required as food for man, forage for animals or fertiliser for land, and any raw material from which any such commodity can be produced.

Petroleum, and any product of petroleum.

**CHAPTER 52.**

An Act to make provision for the acquisition of the property in all unworked coal and mines of coal and in certain associated minerals, and of certain associated property and rights in land, by a Commission with power of management thereover; for amending the enactments relating to facilities for the working of minerals; for empowering the Commission to promote a reduction in the number of coal-mining undertakings; for continuing Part I of the Coal Mines Act, 1930, and for amending the provisions thereof with respect to committees of investigation; for enabling land to be acquired compulsorily for the purposes of the miners welfare committee; and for purposes connected with the matters aforesaid. [29th July 1938.]

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

**PART I.****UNIFICATION OF COAL MINING ROYALTIES.***The Coal Commission.*

1.—(1) There shall be a Coal Commission (in this Act called "the Commission") to exercise and perform the powers and duties set out in this Act.

Constitu-  
tion of Coal  
Com-  
mission.

PART I.  
—cont.

(2) The Commission shall be a body corporate by the name of "the Coal Commission", with perpetual succession and a common seal, and with power to hold land without licence in mortmain.

(3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and procedure of the Commission.

General provisions as to functions of the Commission under Part I.

2.—(1) It shall be the duty of the Commission to exercise their functions as owners of the fee simple in coal and mines of coal, and of the property and rights to be acquired by them therewith, in such manner as they may think best for promoting the interests, efficiency, and better organisation of the coal-mining industry.

(2) The Commission shall not themselves engage in the business of coal-mining or carry on any operations for coal-mining purposes, other than searching and boring for coal, but shall grant leases for those purposes :

Provided that the Commission may carry on any operations for those purposes which may be requisite for preserving in good order premises that are not for the time being subject to a coal-mining lease.

(3) The Board of Trade may give to the Commission general directions as to the exercise by the Commission of their functions under this Part of this Act in relation to matters appearing to the Board to affect the national interest, including all matters affecting the safety of the working of coal, and the Commission shall give effect to any such directions :

1 & 2 Geo. 5.  
c. 50.

Provided that nothing in this subsection shall be construed as conferring on the Board any power to give a direction inconsistent with any provisions of the Coal Mines Act, 1911, or of any other enactment relating to the control or management of a mine within the meaning of that Act, or of any regulations made under that Act or any such other enactment.

*Unification of ownership of coal in the hands of the Commission.*

Commission to acquire fee simple in coal.

3.—(1) The Commission shall acquire in accordance with the provisions of this Part of this Act the fee simple in all coal and mines of coal, together with such property

and rights annexed thereto and such rights to withdraw support as are hereinafter mentioned, subject to such servitudes, restrictive covenants and other matters adversely affecting any of the said coal or mines as are hereinafter mentioned, and subject to the provisions of this Part of this Act with respect to the retention of interests arising under coal-mining leases and of certain other interests.

PART I.  
—cont

(2) During the period between the first day of January nineteen hundred and thirty-nine (in this Act referred to as the “valuation date”) and the first day of July nineteen hundred and forty-two (in this Act referred to as the “vesting date”) all coal and mines of coal shall be held as if all the existing owners thereof had, in respect of all their interests therein other than retained interests and with full capacity so to do, entered into a contract on the valuation date for the sale thereof to the Commission, at a price to be ascertained by valuation, with provision for completion of the contract on the vesting date.

(3) On the vesting date all coal and mines of coal as existing at that date shall vest in the Commission for a title comprising all interests then subsisting in any such coal or mine other than retained interests.

(4) In this Part of this Act the expression “coal”—

(a) means bituminous coal, cannel coal and anthracite; but

(b) shall, in a case in which minerals or substances other than bituminous coal, cannel coal or anthracite are comprised in a lease subsisting at the valuation date which confers a right to work and carry away both that coal or anthracite and those other minerals or substances, include those other minerals or substances, so however that the Commission may, by direction given in the prescribed manner before the expiration of six months from the valuation date, exclude any such other minerals or substances from the operation of this paragraph, and, in the case of any such other minerals or substances which in the opinion of the Commission are or would

PART I.  
—cont.

normally be worked by surface workings and not in association with that coal or anthracite, the Commission shall, if any person interested therein makes application to the Commission in that behalf before the expiration of six months from the valuation date, by direction exclude them from the operation of this paragraph; and

- (c) except in the case of references to the making merchantable or disposing of coal, means coal that is unworked, that is to say, not so severed as to have become a chattel.

Property and rights with which, and matters subject to which, coal is to be acquired.

4.—(1) The premises comprised in the contract relating to any coal or mine referred to in subsection (2) of the last preceding section shall be deemed to include all property and rights, other than rights to withdraw support or rights created by working facilities orders, that would pass with that coal or mine under a conveyance thereof such as is specified in Part I of the Second Schedule to this Act taking effect on the valuation date, and all such property and rights (in this Act referred to as “acquired property and rights”) shall be held during the interim period accordingly.

(2) The said contract shall be deemed to have been for a sale subject to all matters subject to which the premises comprised therein would pass on such a conveyance as aforesaid.

(3) On the vesting date there shall vest in the Commission with any coal or mine of coal—

- (a) all property and rights, other than rights to withdraw support or rights created by working facilities orders, that would pass with that coal or mine under a conveyance thereof such as is specified in Part I of the Second Schedule to this Act taking effect on the vesting date; and
- (b) such right, if any, to withdraw support as is under the provisions of Part II of the Second Schedule to this Act to vest therewith.

(4) The vesting of any coal, mine of coal, property or rights in the Commission shall take effect subject to all matters subject to which those premises would pass

on such a conveyance as is mentioned in the last preceding subsection.

PART I.  
—cont.

5.—(1) Except as provided by subsection (2) of this section, interests in coal or a mine of coal that arise under a coal-mining lease shall be retained interests. Retention of certain leasehold and other interests.

(2) The following interests, that is to say—

- (a) interests arising under a coal-mining lease in coal or a mine of coal which is sub-demised by a coal-mining lease derived out of that lease, or which is, by virtue of any other form of disposition taking effect directly or indirectly out of that lease, held in like manner as if it had been so sub-demised; and
- (b) interests arising under a coal-mining lease where neither the lessee nor any person claiming under him is a person carrying on the business of coal-mining and having a substantial beneficial interest in the exercise of the rights conferred by the lease;

shall not be retained interests unless the Commission so direct.

(3) Any direction to be given for the purposes of the last preceding subsection shall be given by means of a notice in writing served on the lessee under the lease under which the interests in question arise, and must be given not later than the expiration of six months from the valuation date, or, if later, from the time when the Commission have received notice of the subsistence of that lease and also, in a case to which paragraph (a) of that subsection applies, of the sub-demise or other disposition.

Where a direction might be given both as respects interests arising under a lease and as respects interests arising under a lease derived out of that lease, a direction shall not be given as respects the former unless a direction has been given, or is to be given, as respects the latter also.

(4) A right to work granted by a working facilities order shall, in so far as it creates an interest in any coal or mine of coal, be a retained interest.

(5) Where coal or a mine of coal comprised in a coal-mining lease is subject to a right to work that

PART I.  
—cont.

coal or to use that mine for a coal-mining purpose as the case may be, granted by a working facilities order to a person other than the person in whom the corresponding right arising under the lease is vested this section shall have effect in relation to interests in that coal or mine arising under the lease in like manner as if that coal or mine had been sub-demised by a coal-mining lease derived out of that lease.

(6) Interests in coal or a mine of coal in or under land formerly copyhold which were preserved to the tenant on the enfranchisement thereof shall be retained interests, except in a case in which the tenant has, by custom or otherwise (except by virtue of a coal-mining lease), the right to work coal in or under the land without the licence of the lord.

(7) In this Part of this Act—

- (a) references to an interest arising under a lease shall be construed as references to the interest of the lessee thereunder as such lessee and any interest held by a person claiming under him as so claiming, but shall not include any option to acquire, or any right of pre-emption over, an interest in coal or a mine of coal, that may be conferred by the lease;
- (b) references to retained interests shall be construed, in relation to any coal or mine of coal, as references to interests therein that are retained interests by virtue of this section or of section thirty-four of this Act, and, in relation to any property or rights annexed to that coal or mine, as references to the corresponding interests therein;
- (c) references to a retained copyhold interest shall be construed as references to an interest that is a retained interest by virtue of subsection (6) of this section.

*Compensation of existing owners.*

Compensation payable in respect of acquisition as a whole.

6.—(1) The Commission shall pay, as compensation to existing owners for the acquisition of their interests, sums ascertained in accordance with the provisions of this and the next succeeding section in respect of all coal and mines of coal, of all acquired property and rights, and of



all rights to withdraw support that are to vest in the Commission under Part II of the Second Schedule to this Act.

PART I.  
—cont.

(2) The compensation shall be ascertained separately in accordance with the next succeeding section in respect of—

(a) all the said matters in respect of which compensation is to be payable, with the exception of—

(i) minerals or substances other than bituminous coal, cannel coal or anthracite, and property and rights annexed to any such minerals or substances and not to any such coal or anthracite or to a mine thereof, and

(ii) surface servitudes,

which matters are in this Act referred to as “principal coal hereditaments”;

(b) the matters within the exception aforesaid, in this Act referred to as “subsidiary coal hereditaments.”

(3) The aggregate amount of the compensation payable in respect of all principal coal hereditaments shall be the sum of sixty-six million, four hundred and fifty thousand pounds.

(4) The Central Valuation Board established under the Third Schedule to this Act shall prepare and deposit with the Board of Trade a map showing a division of the whole of Great Britain into regions (in this Act referred to as “valuation regions”), and shall allocate to each valuation region a part (in this Act referred to as a “regional allocation”) of the said sum of sixty-six million four hundred and fifty thousand pounds, being a part bearing the same proportion to the whole of that sum as they may estimate the value of all principal coal hereditaments in the region to bear to the value of all principal coal hereditaments in Great Britain.

7.—(1) The sums to be paid for compensation as aforesaid shall be ascertained by valuation, in accordance with the provisions of this section, of the interests, other than retained interests, that subsist at the valuation date in coal, mines of coal and acquired property and rights (in this Act referred to as “acquired interests”).

Ascertainment and distribution of compensation.

PART I.  
—cont.

(2) The subject of each valuation shall be a unit (in this Act referred to as “a holding”) consisting of an acquired interest, or of a group of such interests, that is under the provisions of the Third Schedule to this Act to constitute a unit for compensation purposes.

(3) In order for compensation to be payable in respect of any holding, the requirements of the Third Schedule to this Act as to—

(a) the registration of particulars under the Coal (Registration of Ownership) Act, 1937 (in this Act referred to as the “Registration Act”); and

(b) the making of claims for compensation;

must be satisfied within the limits of time specified in that Schedule.

(4) The value of a holding shall be taken to be the amount which the holding might have been expected to realise if this Act had not been passed and the holding had been sold on the valuation date in the open market by the existing owners thereof, selling as willing vendors to a willing purchaser, under a contract providing for completion thereof on the vesting date, so however that, where a right to withdraw support is to vest in the Commission with coal or a mine of coal in which a holding subsisted, it shall be valued as if each of the existing owners thereof, having power to grant that right to the purchaser for an interest corresponding to the existing owner’s interest in the coal or mine, had agreed so to grant it in addition to any acquired rights in which the holding subsisted.

(5) The said amount shall be ascertained, subject to the provisions of the Third Schedule to this Act, by the Regional Valuation Board established under the Third Schedule to this Act, and where the premises in which a holding subsisted include subsidiary coal hereditaments, the Regional Valuation Board shall also ascertain the parts of that amount that are attributable to principal and to subsidiary coal hereditaments respectively.

(6) The Regional Valuation Board shall certify to the Commission the amounts ascertained by them under the preceding subsection in respect of each holding in their region for which compensation is payable, indicating which of those amounts are amounts attributable to

1 Edw. 8. &  
1 Geo. 6.  
c. 56.

principal and to subsidiary coal hereditaments respectively.

PART I.  
—cont.

(7) There shall be paid in respect of each holding in any valuation region for which compensation is payable—

(a) a sum bearing to the amount certified in respect thereof as attributable to principal coal hereditaments the same proportion as the amount of the regional allocation for that valuation region bears to the aggregate of the amounts so certified in respect of all such holdings in that valuation region; and

(b) a sum equal to any amount certified in respect thereof as attributable to subsidiary coal hereditaments.

(8) The sum or sums to be paid in respect of any holding shall be a debt due from the Commission to the person entitled, in accordance with the provisions of the Third Schedule to this Act, to the compensation for the holding, payable on the vesting date, and the said sum or sums, or, where any payment on account thereof is made, the part thereof for the time being remaining due, shall carry interest from the vesting date to the date of actual payment thereof at the rate per cent. equivalent to the average yield (as ascertained by the Treasury) as on the vesting date of the Government securities prescribed by the Treasury in accordance with the provisions of Part II of the Land Settlement (Facilities) Act, 1919.

9 & 10  
Geo. 5. c. 59.

(9) Subject as aforesaid, the compensation payable under section six of this Act shall be ascertained and paid subject to and in accordance with the provisions of the Third Schedule to this Act.

### *Transitional provisions.*

8. The rules of law and equity that regulate rights and obligations in relation to land that is the subject of a contract for sale in respect of the period between the date of the contract and the date fixed for completion thereof shall have effect in relation to the premises that are to vest in the Commission by virtue of this Part of this Act in respect of the interim period, subject to

Rights and obligations arising from contract for sale to have effect in respect of interim period.

PART I. and in accordance with the following provisions, that  
—cont. is to say:—

- (a) the said rules shall have effect subject to such modifications as are requisite by virtue of the fact that the said premises are to vest by virtue of this Part of this Act in lieu of being conveyed;
- (b) full regard shall be had to the nature of the said premises in all respects and, in particular, in determining whether any act or omission involves a breach of the obligation imposed on a vendor by the said rules to take due care of land that is the subject of a contract for sale, no person shall be treated as under obligation to exercise any greater measure of care in relation to any of the said premises than is exercised under the ordinary practice of the management of mineral estates by prudent owners in relation to property that is to continue in their ownership; and
- (c) the contract for sale to be assumed for the purposes of the said rules shall be a contract providing expressly that the vendor should be entitled to the possession and enjoyment of the property until the date fixed for completion and to the benefit of the rents and profits thereof accruing up to that date, and that rents and profits accruing, or coal worked, before that date from a mine of coal that is opened after the date of the contract should be treated in like manner as if the mine had been open at the date thereof.

Notice to the Commission, and effect, of dispositions made during interim period.

9.—(1) Where it is proposed to grant during the interim period (otherwise than in accordance with the provisions of section twelve of this Act) a coal-mining lease of or comprising any premises that are to vest in the Commission by virtue of this Part of this Act, or to vary or renew such a lease, a draft of the proposed lease or other instrument must be delivered to the Commission at least two months before the date on which it is to be executed.

(2) Where it is proposed to make during the interim period any other disposition of or affecting any of the said premises, notice in writing of the proposal may be delivered to the Commission.

(3) A lease, variation, renewal or other disposition granted or effected pursuant to a proposal notified to the Commission under either of the preceding subsections shall be deemed to have been granted or effected in conformity in all respects with the rules mentioned in the last preceding section unless, in proceedings commenced by the Commission within two months from the date on which they have been notified of the proposal, the Court makes a declaration that the proposal is not in conformity therewith.

(4) If—

(a) any such lease, variation or renewal as is mentioned in subsection (1) of this section is granted or effected during the interim period otherwise than pursuant to a proposal notified to the Commission as required by that subsection; or

(b) any such lease, variation or renewal as aforesaid, or any other disposition of or affecting any premises that are to vest in the Commission by virtue of this Part of this Act, is granted or effected during the interim period in such manner as to contravene any of the said rules;

then, unless it is so granted or effected with the consent of the Commission or is saved by the provisions of the last preceding subsection, it shall, so far as regards the title for which the premises in question vest in the Commission, be void, and any right accruing to the Commission to sue for damages in respect of any act or omission that contravenes any of the said rules may be enforced as well after as before the vesting date, notwithstanding that the Commission became aware thereof before that date.

**10.** It shall be within the competence of the Commission to take from the person entitled thereto an assignment of any debt due from a lessee in respect of rent payable before the vesting date for premises that are to vest or have vested in the Commission, and, in the case of such rent becoming payable at any time within the twelve months next before the vesting date, the Commission shall, on being required so to do by notice in writing served on them by the person entitled

Acquisition by the Commission of right to arrears of rent.

PART I.  
—cont.

thereto at any time before the expiration of twelve months from the vesting date, take an assignment of any debt due from the lessee in respect thereof at a price to be determined by agreement between that person and the Commission or, in default of agreement, by arbitration.

Apportionment of rent and determination of questions on severance of subsisting leases.

**11.**—(1) In the case of every coal-mining lease subsisting on the vesting date in the case of which either—

- (a) a severance of the reversion immediately expectant on the lease is effected, by the vesting in the Commission by virtue of this Part of this Act of that reversion as regards a part only of the premises which are comprised in the lease; or
- (b) a severance of the interests arising under the lease is effected, by the vesting in the Commission by virtue of this Part of this Act of those interests as regards a part only of the premises which are comprised in the lease and the immediate reversion in which is vested in the Commission;

and the lease does not reserve separate rents for the several parts of the premises, the rent reserved by the lease shall be apportioned, and the parts of that rent to be apportioned to the several parts of the premises shall, in default of agreement between the Commission and any other person entitled in reversion immediately expectant on the lease and the lessee, be determined by an arbitrator selected by agreement between the parties or, in default of agreement, by the Lord Chancellor in the case of England or the Lord President of the Court of Session in the case of Scotland.

(2) Where an apportionment of the rent reserved by a lease has been made for the purposes of a valuation of a part of the premises under the Third Schedule to this Act, an arbitrator shall have regard to that apportionment for the purposes of a determination under the preceding subsection.

(3) In the case of every coal-mining lease subsisting on the vesting date in the case of which such a severance as aforesaid is effected as aforesaid, the Commission shall pay the costs reasonably incurred by any person in connection with a reference to arbitration under subsection (1)

of this section, or with any application to the Court that may be requisite for the purpose of determining any question as to the rights or liabilities of any person under the lease that arises in consequence of the severance :

Provided that the arbitrator or the Court, as the case may be, may direct that the Commission shall not be liable to pay any such costs as aforesaid incurred by a person who appears to the Court to have made a reference or application or prosecuted proceedings thereon unreasonably, or to have been guilty of any such unreasonable failure to agree with the Commission or with any other party, or of any such negligence or default, as to disentitle him to payment of those costs; and, if it appears to the Court that the necessity for the determination of the question raised on an application arose in part only in consequence of such a severance as aforesaid, the Court may direct that the Commission shall be liable to pay a proportionate part only of such costs as aforesaid.

(4) A Regional Valuation Board shall cause proper records to be kept of apportionments of rent made by them for the purposes of valuations made by them and of any alteration of any such apportionment made by a referee on a review of a valuation made by them, and any entry in any book or other document kept for the purposes of this subsection, or a copy thereof upon which is endorsed a certificate purporting to be signed by a person authorised in that behalf by the Board stating that the copy is a true copy, shall in all legal proceedings be evidence of the entry and of the apportionment referred to.

**12.—(1)** Where rights to work a number of parcels of coal are subsisting under a number of coal-mining leases in the same working lessee and it appears to the Commission that it is expedient that arrangements should be made during the interim period for the working of that coal as a whole under a single lease, the Commission may make, in agreement with the working lessee, a scheme for the purposes of this section (in this section and in the Fourth Schedule to this Act referred to as a "lease consolidation scheme").

Powers of the Commission for consolidation of leases before the vesting date.

(2) A single lease to be granted pursuant to a lease consolidation scheme that relates to any colliery area must comprise all the coal and mines of coal in that colliery area.

PART I.  
cont.

(3) The provisions of the Fourth Schedule to this Act shall have effect as to the procedure for making, and as to the operation of, a lease consolidation scheme.

(4) In connection with each lease consolidation scheme, provision shall be made in the manner specified in the Fourth Schedule to this Act for ascertaining an amount (in this section and in that Schedule referred to as the "standard amount of rent") representing the amount of rent which, after deduction of income tax, mineral rights duty and royalties welfare levy, might reasonably have been expected to become receivable, if the scheme had not been made, in right of each reversion (whether immediate or superior) on a subsisting working lease in premises that are to be comprised in the single lease, for each half year (or other period in respect of which rent is to be receivable under the single lease) between the coming into operation of the scheme and the vesting date.

(5) If the amount of the rent receivable, after such deduction as aforesaid, under the single lease, in respect of the premises comprised therein, being premises that were comprised in any of the subsisting working leases, for any period for which standard amounts of rent are fixed in connection with the scheme, is less than the aggregate of those standard amounts, the Commission shall pay to the person entitled to recover that rent such a sum as after deduction of income tax will yield an amount equal to the deficiency, and any sum so paid for any period shall be deemed to be income for that period of the respective persons entitled beneficially to that rent.

(6) If the amount of the rent receivable as aforesaid is greater than the aggregate aforesaid, the person entitled to recover that rent shall pay to the Commission an amount equal to the excess.

(7) In this section and in the Fourth Schedule to this Act—

(a) the expression "colliery area" means an area comprising all parcels of coal which are capable of being conveniently and economically worked to the shafts of a single colliery, and in respect of which the same person is working lessee;

(b) the expression "working lessee" means, in relation to any parcels of coal, a person carrying



on the business of coal-mining who has rights to work those parcels by virtue of a number of coal-mining leases held by him in possession (that is to say not subject to any under-lease) or so held by another for his benefit; and

- (c) the expression “subsisting working lease” means a coal-mining lease which comprises any coal in a colliery area to which a lease consolidation scheme relates and which is held as aforesaid by or for the benefit of the working lessee.

**13.**—(1) A person carrying on the business of coal-mining immediately before the vesting date, who is then beneficially entitled (whether or not subject to a mortgage) to the entire fee simple in coal or a mine of coal that is not subject at that date to any coal-mining lease, shall have the right, if he has made an application in writing in that behalf to the Commission before the vesting date, to a grant from the Commission of a coal-mining lease comprising any coal or mine of coal specified in his application to which he is so entitled and any property and rights that vest in the Commission therewith :

Right of freeholder of coal, who carries on coal-mining business, to lease thereof.

Provided that—

- (a) the right under this section to a grant of a lease of any coal or mine shall be conditional upon the applicant's satisfying the requirements of the Third Schedule to this Act as to the registration of particulars thereof under the Registration Act and the making of a claim for compensation for the fee simple therein, and to his complying with the provisions of that Schedule that impose upon him any duty in connection with the valuation of the fee simple therein; and
- (b) a person shall not be entitled under this section to a lease the grant of which would interfere with the exercise of a right granted by a working facilities order, or with the use or exercise under a coal-mining lease of any property or right comprised therein.

(2) A lease granted under this section shall be granted for such a term, commencing on the vesting date, as the

PART I.  
—cont.

person entitled to the lease may require, not being longer as regards the coal comprised therein than may be reasonably requisite for enabling that coal to be worked out, and subject to conditions with respect to rent and otherwise which shall not in any case be more onerous to the lessee than the conditions customary in the district or, where there are no customary conditions or the customary conditions are not applicable, than the conditions to which a person not entitled to the benefit of this section might reasonably have been expected to agree; and the conditions of the lease shall, where the person entitled thereto acquired the fee simple in the coal before the tenth day of November nineteen hundred and thirty-seven, be so framed as to secure that his financial position in respect of his business of working the coal shall neither be adversely affected nor improved by the fact that, in lieu of his remaining entitled to the fee simple in the coal, compensation of the amount ascertained under section seven of this Act becomes payable in respect thereof, and he becomes liable to a periodical payment of rent of an amount fixed by reference to the time requisite for enabling the coal to be worked out, and ceases to be liable as proprietor thereof for the payment of mineral rights duty and royalties welfare levy.

(3) The provisions of the Fifth Schedule to this Act shall have effect with respect to the granting of leases under this section, and the substitution or variation of securities in the case of premises that were subject to a mortgage.

(4) No stamp duty shall be chargeable upon a lease granted and expressed to be granted under this section, or upon a substituted security, or an instrument making provision for the variation of a subsisting security, made and expressed to be made pursuant to the provisions of the Fifth Schedule to this Act.

Provisions as to documents and information for purposes of Part I.

14.—(1) The lessee under every coal-mining lease subsisting at the date of the passing of this Act, or granted between that date and the valuation date, shall within one month from the date of the passing of this Act or of the grant of the lease, as the case may be, deliver to the Commission notice in writing of the subsistence of the lease stating the date thereof and the parties thereto and

indicating generally the situation of the premises comprised therein, and, if required by the Commission so to do, shall deliver to the Commission within one month after being so required a copy of the lease or, if the lease is by parole, a statement in writing setting out all the terms of the lease.

A person required by this subsection to deliver a copy of a lease or a statement shall be entitled to be paid by the Commission all costs reasonably incurred by him in the preparation and delivery thereof.

(2) On the vesting date the property in, and the right to possession of, the following documents relating solely to the management of coal or a mine of coal shall vest in the Commission, that is to say, all plans, sections, records of survey and other similar documents, that belonged immediately before the vesting date to a person interested in coal or a mine of coal, other than—

- (a) documents that belonged to a person having a retained interest and that relate to the premises in which that interest subsists;
- (b) documents that belonged to a person who has duly made application under section thirteen of this Act for a grant from the Commission of a lease of any premises and that relate to those premises; and
- (c) documents which, whilst relating solely to the management of coal or a mine of coal, relate to matters of management that touch or concern other land in which the person to whom the documents belonged is interested at the vesting date.

(3) Where after the vesting date a person retains possession of any document relating to the title to, or to the management of, coal or a mine of coal, he shall be deemed to have given to the Commission an acknowledgment in writing of the right of the Commission to production of that document and to delivery of copies thereof, and section sixty-four of the Law of Property Act, 1925, shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

15 & 16  
Geo. 5. c. 20.

PART I.  
—cont.

(4) Any person authorised in writing by the Commission, by the Central Valuation Board or by a Regional Valuation Board, a referee appointed under the Third Schedule to this Act and any person authorised in writing by such a referee, shall be entitled, on production in the case of a person authorised as aforesaid of his authority if so required, with or without workmen or other assistants at all reasonable times to enter upon, inspect and examine any premises where operations for coal-mining purposes or purposes connected therewith are carried on and to take plans and measurements of workings therein and to inspect all or any plans, sections, or particulars of such premises or workings, and to use free of charge all machinery and other facilities therein requisite or convenient for the exercise of any of the powers aforesaid, and it shall be the duty of all persons competent in that behalf to refrain from any act which might obstruct, and to give all assistance requisite for, the exercise of the powers conferred by this subsection.

(5) Any person who makes default in compliance with the provisions of subsection (1) of this section, or who, on being duly required by virtue of the provisions of subsection (3) or (4) of this section to produce any document or to do or refrain from doing any other act, makes default without reasonable cause or excuse in complying with the requirement, shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding fifty pounds, and to a further fine, not exceeding ten pounds, for every day on which he is in default.

*Provisions supplemental to, and consequential on,  
unification.*

Powers  
of the  
Commission  
in relation  
to under-  
ground land  
other than  
coal.

15. In respect of any underground land not vested in them by virtue of this Part of this Act, the Commission shall themselves have the right, and shall have power to grant a licence to any person, to do any of the following acts in the course of operations carried on for coal-mining purposes on or after the vesting date, that is to say, to enter upon, remove, execute works in, pass through and occupy any such land and to do all such other acts in relation to any such land as are

requisite or convenient for the purposes of any such operations :

PART I.  
—cont.

Provided that neither the Commission nor a person to whom a licence has been granted under this section shall be entitled by virtue of this section or of the licence—

- (a) to interfere with the carrying on of underground operations carried on for a purpose other than a coal-mining purpose ;
- (b) to interfere with the surface of any land ;
- (c) to withdraw support from any land ;
- (d) to do any other act in respect of any land which, if this section had not been enacted, would be actionable by virtue of any servitude, restrictive covenant, or statutory prohibition or restriction adversely affecting that land ; or
- (e) to do any other act which, if this section had not been enacted, would be actionable as a trespass or as a nuisance and which, if done, would be likely to cause actual damage other than of a purely nominal amount.

**16.** On and after the vesting date it shall not be lawful for any person, other than the Commission or a person authorised by them so to do, or a person having the right so to do by virtue of a retained interest subject to which the coal in question is vested in the Commission, to search or bore for coal.

Commission to have exclusive right to search and bore for coal.

**17.—(1)** A power to acquire land compulsorily conferred by or under any enactment (including, unless the contrary intention appears therein, an enactment passed after the date of the passing of this Act) shall not be exercisable on or after the date of the passing of this Act in respect of any coal or mine of coal, other than coal that is necessary to be dug or carried away in the course of operations for the purposes of which the power is conferred or a mine that is necessary to be used in the course of such operations.

Coal not to be alienated from the Commission.

(2) No right adverse to the title to any coal or mine of coal vested in the Commission by virtue of this Part of this Act shall be capable of being acquired under the Real

## PART I.

—cont.

3 &amp; 4 Will. 4.

c. 27.

7 Will. 4.

c. 28.

37 &amp; 38 Vict.

c. 57.

Property Limitation Acts, 1833, 1837, and 1874, or any of them or under any enactment (including, unless the contrary intention appears therein, an enactment passed after the date of the passing of this Act) that amends, or repeals and re-enacts any of those Acts.

(3) The Commission shall not alienate for any freehold interest any coal or mine of coal, other than coal that is necessary to be dug or carried away in the course of operations for purposes other than coal-mining or a mine that is necessary to be used in the course of such operations, or coal present among other minerals that is of so small value that the working thereof is unlikely to be undertaken except as an operation subsidiary to the working of those other minerals, or a mine used primarily for purposes other than coal-mining.

(4) In this section references to coal shall not be construed as including references to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act.

(5) Nothing in the foregoing provisions of this section shall affect the acquisition or granting of a servitude adversely affecting coal or a mine of coal, or the acquisition or granting under any enactment of any liberty, privilege, easement, right or advantage, adversely affecting coal or a mine of coal.

Coal not to be dealt with to the prejudice of the Commission after passing of this Act.

**18.** As from the date of the passing of this Act until the valuation date, all persons interested in coal or a mine of coal shall be treated as holding their respective interests in a fiduciary capacity for giving effect to the provisions of this Part of this Act, and as being subject accordingly to an obligation to refrain from any dealing therewith (not being a disposition or other dealing which might reasonably have been effected in the ordinary course of business if this Act had not been passed) calculated to give a factitious or artificial value to a holding or to prejudice the interests or powers to be acquired by the Commission under this Part of this Act.

Restriction on certain dispositions by lessees of coal.

**19.—(1)** On and after the valuation date no term of years in coal or a mine of coal shall be capable of being created either at law or in equity by way of underlease out of a term of years therein :

Provided that this subsection shall not apply to the creation as aforesaid of a term of years by way of mortgage or pursuant to a lease consolidation scheme made under section twelve of this Act, or to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act or to a mine thereof.

(2) In every lease granted by the Commission there shall be implied, and every coal-mining lease the immediate reversion whereon is vested in the Commission by virtue of this Part of this Act, either as to the whole or as to part of the premises comprised therein, shall have effect as from the vesting date as if it had contained, a covenant on the part of the lessee or of the lessees jointly and severally, as the case may be, not to assign or to part with the possession of any coal or mine of coal comprised therein without first obtaining the written consent of the Commission (which may be withheld without reason given and at the sole discretion of the Commission), and a condition of re-entry in the event of a breach of the said covenant :

Provided that, where such a lease as aforesaid comprises premises the immediate reversion wherein is vested in the Commission and other premises, the condition of re-entry shall extend only to the first-mentioned premises.

(3) The covenant mentioned in the last preceding subsection shall have effect as a covenant to which section seventy-nine of the Law of Property Act, 1925, applies and which does not contain any such expression of contrary intention as is therein mentioned.

**20.** On and after the valuation date, a clause shall be included in all leases of coal or mines granted by the Commission providing for arbitration in the case of any dispute between the Commission and the lessee in respect of any provision of the lease or any matter arising therefrom.

Provision  
as to  
arbitration.

**21.** In any proceedings in which the Commission claim to recover possession of premises vested in them from a lessee thereof, or other relief in respect of a breach by the lessee of his obligations under the lease, the Court in which the proceedings are pending may, on the application of the Commission, make such order as it thinks fit for the purpose of enabling operations for coal-mining purposes to be carried on on the premises, or for the

Power of  
the Court  
to appoint  
receiver and  
manager on  
the applica-  
tion of the  
Commission.

PART I.  
—cont.

preservation thereof, during the continuance of the lease and during any period that may elapse between the determination thereof and the granting of a new lease and the provision to be made by any such order may include the appointment of a receiver of the rents and profits of the premises, with liberty, subject to such terms and conditions as the Court may think fit to impose, to manage the undertaking, to use for the purposes of the order any fixed or movable plant or machinery of the lessee in or upon the premises, and to do all such other acts and things as may be or become requisite for those purposes.

Amend-  
ments of  
working  
facilities  
enactments.  
13 & 14  
Geo. 5. c. 20.  
16 & 17  
Geo. 5. c. 28.

22.—(1) Section one of the Mines (Working Facilities and Support) Act, 1923, and subsection (1) of section thirteen of the Mining Industry Act, 1926 (which relate to the granting by the Railway and Canal Commission of rights to search for or work minerals), shall, on the vesting date, cease to have effect as respects coal within the meaning of this Part of this Act :

Provided that—

- (a) this subsection shall not apply to the granting of a right required by reason of the subsistence of a retained copyhold interest; and
- (b) this subsection shall not affect the power conferred on the Railway and Canal Commission by section eighteen of the Railway and Canal Traffic Act, 1888, to review and rescind or vary a working facilities order subsisting on the vesting date.

51 & 52 Vict.  
c. 25.

(2) No order shall be made under section two of the Mines (Working Facilities and Support) Act, 1923 (which relates to the granting of rights in the case of a failure or refusal of lessors of mines to concur in an adjustment of boundaries) on the ground of any failure or refusal on the part of the Commission.

(3) To the rights specified in paragraphs (a) to (e) of subsection (2) of section three of the Mines (Working Facilities and Support) Act, 1923 (which specifies certain ancillary rights that may be conferred where required in order that minerals may be properly and conveniently worked) there shall be added the following right, so far as it may be required in order that coal within the



meaning of this Part of this Act may be properly and conveniently worked, that is to say—

PART I.  
—cont.

“(f) In a case in which the surface has been used for the erection of any works for a coal-mining purpose within the meaning of Part I of the Coal Act, 1938, or of dwellings for persons employed in connection with the working of coal within the meaning of that Part of that Act, or with any such works as aforesaid or as are mentioned in paragraph (c) of this subsection, a right to use and occupy the works or dwellings for the purposes for which they were erected.”

(4) Where such a right as is specified in the last preceding subsection is to be granted on the termination of a lease, and a right to erect or use the works or dwellings was comprised in that lease, the Railway and Canal Commission, in determining whether any compensation or consideration is to be paid or given in respect of the right to be granted by them and the amount thereof, if any, shall have regard to the fact that the right comprised in the lease was therein comprised and to the amount of any rent reserved by the lease in respect thereof.

(5) In subsection (2) of section ten of the Mines (Working Facilities and Support) Act, 1923, there shall be inserted, after the words “The Board of Trade and any other Government Department”, the words “and the Coal Commission”.

(6) Any right which under the Mines (Working Facilities and Support) Act, 1923, or under section thirteen of the Mining Industry Act, 1926, may be granted to a person having the right to work coal may be granted to the Commission where required by them for the purpose of searching and boring for coal.

#### *Financial provisions.*

23. All sums received by the Commission shall be paid into a separate fund, to be called “the Coal Fund”, and all payments by the Commission shall be made out of that fund.

Receipts of,  
and pay-  
ments by,  
the Commis-  
sion.

24.—(1) The Commission shall establish a reserve fund, and shall carry to the credit of that fund,

Reserve  
fund of the  
Commission.

PART I.  
—cont.

immediately after their accounts for each financial year have been made up, an amount equal to any excess of their revenues for that year over their liabilities for that year properly chargeable to revenue account, whether in respect of salaries, allowances, remuneration, pensions, gratuities or expenses payable under the First or Third Schedule to this Act or of other administrative expenses, of interest on any loan raised or stock issued by them, of any sums which by the terms of the raising or issue of any such loan or stock they are bound to set aside towards the repayment of the principal thereof, or of any other matter involving a liability properly so chargeable (which excess is in this and the next succeeding section referred to as the Commission's "annual surplus").

(2) The reserve fund shall be applicable primarily for the purposes of meeting any deficiency at any time arising on the revenue account of the Commission and of meeting any extraordinary claim or demand at any time arising against the Commission, and the Board of Trade shall from time to time, with the approval of the Treasury, by regulation prescribe—

- (a) an amount, in this and the next succeeding section referred to as "the prescribed minimum reserve", being such an amount as may be required by the Board with the approval of the Treasury to be held for the time being to the credit of the reserve fund for answering those purposes; and
- (b) an amount, in this and the next succeeding section referred to as "the prescribed appropriation to reserve", being such an amount as may be required by the Board with the approval of the Treasury to be made available for carrying to the credit of the reserve fund at the end of each financial year of the Commission whilst the regulation remains in force.

(3) At any time at which the value of the reserve fund is greater than the prescribed minimum reserve, the Commission may apply a part thereof, not exceeding in value the amount of the excess, in purchasing for cancellation stock issued by them under this Part of this Act or otherwise for the redemption of debt.

(4) Sums credited to the reserve fund shall be invested from time to time in such securities of the Government of

the United Kingdom as the Commission may, with the approval of the Board of Trade, think fit, and references in this and the next succeeding section to the value of the reserve fund or of any part thereof shall be construed as references to the value of the investments and cash of which the reserve fund or that part thereof consists, as determined by the Treasury.

(5) If any question arises as to whether any liability of the Commission ought to be treated as properly chargeable to revenue account, or any claim or demand arising against the Commission ought to be treated as of an extraordinary character, it shall be referred to the Board of Trade whose decision shall be conclusive.

**25.**—(1) If at any time, on an estimate made by the Commission, it appears to them that their annual surplus for future financial years is likely on the average to exceed the amount which is at that time the prescribed appropriation to reserve, they may reduce any such rents within their control as are specified in the next succeeding subsection by amounts not exceeding in the aggregate one-half, or if the value of the reserve fund is then greater than the prescribed minimum reserve the whole, of the estimated excess of their annual surplus over the prescribed appropriation to reserve.

Reduction  
by the Com-  
mission  
of rents.

(2) The rents which may be reduced under the preceding subsection shall be any of the following at the discretion of the Commission, that is to say,—

- (a) rents payable in respect of underground way-leaves, whether expressly reserved in respect thereof or not;
- (b) rents payable by particular lessees working coal in any district or part of a district which are, having regard to all the circumstances, more onerous than the average of the rents payable by lessees working coal under similar conditions in that district or part of a district; and
- (c) rents payable by lessees generally working coal in any district or part of a district which are, having regard to all the circumstances, more onerous than the average of the rents payable by lessees generally working coal under similar conditions in other districts or in another part of that district :

PART I.  
—cont.

Provided that, if at any time the Commission report to the Board of Trade that such reduction of rents as they have power to effect under the foregoing provisions of this subsection has been substantially completed, the Board of Trade may make and lay before Parliament an order making provision to the effect that the preceding subsection shall apply to rents within the control of the Commission generally or to any class of such rents, and, if each House of Parliament resolves that the order be approved, the order shall have effect from such date as the Board of Trade may appoint.

(3) Subject as aforesaid the Commission shall not reduce any rent during the currency of the lease by which it is reserved, and in granting leases the Commission shall reserve the best rent which in their opinion can reasonably be obtained, regard being had to any power to reduce rents for the time being exercisable by them in accordance with the preceding provisions of this section, to any money laid out or to be laid out by the lessee and generally to the circumstances of the case :

Provided that—

- (a) this subsection shall have effect without prejudice to the right of the Commission, in a case in which it appears to them requisite for the proper discharge of their duty under section two of this Act so to do, to grant relief to a lessee from payment of particular instalments of rent reserved by a lease ; and
- (b) the Commission may reduce the rent reserved by a lease, or may grant a lease reserving a rent less than the best rent, if they are satisfied that other provision made by the lease in consideration of their so doing affords a financial advantage substantially equivalent in value to the amount of the reduction or to the amount by which the rent is less than the best rent, as the case may be.

2 & 3 Geo. 5.  
c. 2. (4) In this section the expression “ district ” means the area for the time being treated under the Coal Mines (Minimum Wage) Act, 1912, as a district for the purposes of the minimum rate.

Power of the  
Commission  
to borrow.

**26.**—(1) For the purposes hereinafter mentioned the Commission may, in accordance with regulations made

by the Board of Trade with the approval of the Treasury, borrow money in such manner and subject to such provisions as to the repayment thereof and as to re-borrowing for the purpose of paying off a loan previously raised as may be prescribed by the regulations.

PART I.  
—cont.

(2) The regulations may empower the Commission to borrow temporarily from bankers or otherwise, and may apply with or without modifications any enactment relating to borrowing by any local authority.

(3) Except in the case of a temporary borrowing from bankers or otherwise for the purpose of defraying, pending the raising of a loan, expenses intended to be defrayed by means of the loan, the consent of the Board of Trade shall be requisite as respects the times at which the Commission are to exercise the powers of borrowing conferred on them by this Part of this Act.

27.—(1) Subject to the provisions of this section, the Commission may borrow for all or any of the following purposes:—

Purposes for which the Commission may borrow.

- (a) the payment of the principal sums payable by way of compensation under section six of this Act and of the interest on those sums;
- (b) the payment of the sums payable by the Commission under the Registration Act, or this Part of, or the Third, Fourth or Fifth Schedule to, this Act, in respect of costs;
- (c) the payment of the sum payable by the Commission under this Act to the Board of Trade in respect of the expenses incurred by the Board under the Registration Act;
- (d) the payment of the sums payable by the Commission under paragraph 5 of the Third Schedule to this Act in respect of remuneration and expenses;
- (e) the payment of interest accrued up to the first anniversary of the vesting date on money borrowed by the Commission, of the administrative expenses of the Commission incurred before the said first anniversary, and of any other expenditure properly incurred by the Commission before the said first anniversary on revenue account;

PART I.  
—cont.

- (f) the payment of any sums payable by the Commission in respect of assignments to them of debts due in respect of rent payable before the vesting date;
- (g) any purpose within the powers of the Commission the cost of which ought in the opinion of the Board of Trade to be spread over a term of years.

(2) Any money borrowed under this section and the interest thereon shall be charged on all the property and revenues of the Commission.

(3) The Commission shall not have power to borrow under subsection (1) of this section more than the aggregate of amounts sufficient to raise seventy-six million, four hundred and fifty thousand pounds.

(4) The Commission may borrow for the purpose of paying off moneys previously borrowed by them under subsection (1) of this section or under this subsection which are intended to be repaid, so far as provision has not been made for the repayment of those moneys under the regulations in accordance with which they were borrowed.

Power of the  
Commission  
to issue  
stock.

**28.**—(1) The Commission may, for the purpose of raising money which they are authorised to borrow under this Part of this Act, create and issue stock to be called Coal Commission Stock.

(2) Any stock issued by the Commission and the interest thereon shall be charged on all the property and revenues of the Commission.

(3) Subject to the provisions of this Act, any stock created by the Commission shall be issued, transferred, dealt with and redeemed in accordance with regulations made by the Board of Trade with the approval of the Treasury.

38 & 39 Vict.  
c. 83.

(4) Any such regulations may apply for the purposes of this section, with or without modifications, any provisions of the Local Loans Act, 1875, or of any enactment relating to stock issued by any local authority.

Power of the  
Treasury to  
guarantee  
loans raised  
by the Com-  
mission.

**29.**—(1) The Treasury may guarantee in such manner and on such conditions as they think fit the payment of the principal and interest on any loan proposed to be raised by the Commission.

(2) Any sums required by the Treasury for fulfilling any guarantee given under this section shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof, and any sums received by way of repayment of any sums so issued or of interest thereon shall be paid into the Exchequer.

(3) All the property and revenues of the Commission shall be charged with the repayment of any sums so issued out of the Consolidated Fund, including interest thereon at such rates as the Treasury may determine, next after the principal and interest of any loan guaranteed by them under this section and any sums which by the terms of the raising or issue of any such loan the Commission are bound to set aside towards the repayment of the principal thereof, and in priority to any other charge not existing at the date on which the loan in respect of which such issue has been made from the Consolidated Fund was raised.

(4) The Treasury shall, so long as any such guarantee is in force, lay before both Houses of Parliament within one month after each thirty-first day of March a statement of the guarantees, if any, given during the last preceding year ending on that date, and an account of the total sums, if any, which have up to that date been either issued out of the Consolidated Fund under this section or received by way of repayment of any sums so issued.

**30.**—(1) The Commission shall prepare accounts of their transactions in respect of the period between the date of the passing of this Act and the thirty-first day of March next following and of each subsequent period of twelve months (each of which periods shall be deemed to be a financial year of the Commission) in such form and manner as the Board of Trade, with the approval of the Treasury, may direct, and shall transmit the accounts to the Board of Trade at such time as the Board, with the approval of the Treasury, may direct.

Com-  
mission's  
accounts  
and audit  
thereof.

(2) The Board shall, on or before the thirtieth day of November in each year transmit to the Comptroller and Auditor General the accounts prepared by the Commission under the preceding subsection for their financial year last ended, and the Comptroller and Auditor General shall examine and certify them and lay copies thereof, together with his report thereon, before both Houses of Parliament.

## PART I.

—cont.

Commission not to be exempt from taxation, &c.

**31.** Nothing in this Act shall be deemed to exempt the Commission from liability for any tax, duty, rate, royalties welfare levy, or other charge whatsoever, whether general or local.

Competence of the Commission to acquire certain interests and rights.

**32.**—(1) It shall be within the competence of the Commission to acquire—

- (a) a retained copyhold interest in coal or a mine of coal;
- (b) the fee simple or a term of years or other interest in any minerals or substances other than coal that are capable of being economically gotten in association with the working of coal that is being, or is proposed to be, worked; and
- (c) the benefit of any right to be exercised in respect of any land for a coal-mining purpose.

(2) The provisions of section fifteen of this Act shall have effect in relation to minerals acquired by the Commission under this section as if the references therein to operations for coal-mining purposes included references to operations for the like purposes as regards those minerals.

Restriction on working of coal vested in statutory undertakers.

**33.**—(1) Subject to the provisions of this section, coal the fee simple in which is at the date of the passing of this Act vested in statutory undertakers (that is to say, a local authority, company or other body or person authorised by or under an Act of Parliament, or an order having the force of an Act of Parliament, to construct, work, or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, sewage disposal, or other public undertaking), having been acquired, under powers in that behalf conferred by any such Act or order as aforesaid, for the purposes of their undertaking, shall vest in the Commission subject, in addition to the matters mentioned in subsection (4) of section four of this Act, to the restriction that the coal shall not be worked without the previous consent in writing of the persons in whom the undertaking is for the time being vested.

(2) The foregoing subsection shall not apply to any such coal as aforesaid in a case in which the undertakers are not at the date of the passing of this Act interested in



any land supported thereby, and, where any such coal as aforesaid vests in the Commission subject to the restriction aforesaid, the restriction shall have effect so long only as the persons in whom the undertaking is for the time being vested are interested in land supported thereby.

(3) Subsection (1) of this section shall not apply to any such coal as aforesaid which is subject at the date of the passing of this Act to a coal-mining lease.

(4) A restriction imposed by this section shall not have effect in relation to working carried on in exercise of a right subject to which the coal in question vests in the Commission by virtue of this Part of this Act.

(5) A consent in relation to a restriction imposed by this section shall not be unreasonably withheld, but this provision does not preclude the right of undertakers whose consent is sought—

- (a) to give consent subject, as far as may be reasonably requisite, to a condition that working shall not be such as to let down any land in which the undertakers are interested, or shall be limited to working in particular places or in a particular manner, or to other conditions or limitations as regards the working consented to or the payment of proper compensation for, or the making good of, damage arising therefrom; or
- (b) to require, as a condition of consent, payment of a reasonable sum in respect of any legal or other expenses incurred in connection with the consent.

Any question arising under this subsection shall be referred to and determined by the Railway and Canal Commission, who shall have power to dispense with consent either without conditions or limitations or subject to any such conditions or limitations as aforesaid. In determining any such question the Railway and Canal Commission shall have regard primarily to the safety and efficient working of the undertaking in question.

(6) A restriction imposed by this section shall be enforceable by the persons in whom the undertaking is for the time being vested in the like manner, and against the like persons, as if it had been imposed by a covenant entered into by the Commission on the vesting date.

PART I.  
—cont.

(7) A holding subsisting in coal that is to vest in the Commission subject to a restriction imposed by this section shall (notwithstanding the provisions of section seven of this Act which require the value of a holding to be ascertained by reference to the amount which it might have been expected to realise if this Act had not been passed) be valued as if provision had been made before the valuation date for that restriction to take effect on the vesting date.

Saving for  
certain  
statutory  
rights.

34.—(1) The matters subject to which by virtue of section four of this Act the vesting in the Commission of any coal, mine of coal, property or rights is to take effect, and the contract referred to in that section for the sale of any coal, mine of coal, property or rights is to be deemed to have been made, shall include the following rights, that is to say :—

- (a) any right vested in a railway company by virtue of the provisions substituted by Part II of the Mines (Working Facilities and Support) Act, 1923, for sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, or by virtue of those sections as originally enacted, any right vested in undertakers by virtue of sections twenty-two to twenty-six of the Waterworks Clauses Act, 1847, and any right vested by virtue of those provisions or of those sections respectively in any other person in a capacity corresponding to that of the company or undertakers thereunder ;
- (b) any right vested in a local authority by virtue of the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883 ; and
- (c) any right to prevent or restrict the working of coal vested in the Crown or in any local authority, highway authority or statutory undertakers by virtue of any enactment or of any order having effect, with or without confirmation by Parliament, under any enactment ;

and those rights shall not be treated for the purposes of this Part of this Act as constituting or conferring any interest in the coal or mine in respect of which they are exercisable.

8 & 9 Vict.  
c. 20.

10 & 11 Vict.  
c. 17.

46 & 47 Vict.  
c. 37.

(2) An interest in coal or a mine of coal that arises under a coal-mining lease, the lessee whereunder is a Committee appointed for the purposes of a drainage scheme made under section eighteen of the Mining Industry Act, 1920, shall be a retained interest, and any such Committee that is immediately before the vesting date entitled to the fee simple in any coal or mine of coal held by them for the purposes of such a scheme as aforesaid shall have the right, on making application in writing in that behalf to the Commission, to a grant from the Commission of a coal-mining lease thereof at a peppercorn rent for such term and on such conditions as they may reasonably require.

PART I.

—cont.

10 & 11  
Geo. 5. c. 50.

*Provisions as to registration, valuation, &c.*

**35.**—(1) The functions of the Board of Trade under the Registration Act, other than any power thereby conferred on the Board to make rules, are hereby transferred to, and shall be performed by, the Commission, and the Registration Act shall accordingly have effect with the substitution for references to the Board of references to the Commission.

Execution of Registration Act and amendment as to inspection of the register.

(2) The Commission shall pay to the Board a sum equal to the expenses incurred by the Board under the Registration Act, and section two of that Act shall cease to have effect.

Any difference arising between the Commission and the Board as to the amount payable under this section by the Commission shall be determined by the Treasury, and any sum so payable shall be recoverable as a debt due from the Commission to the Crown and, when received by the Board, shall be paid into the Exchequer.

(3) As from the vesting date the particulars registered in respect of a holding in the case of which notice of the registration has been duly given to the Regional Valuation Board under the Third Schedule to this Act shall be open to the inspection of the public at all convenient times, subject to such regulations as may be prescribed, and subsection (7) of section one of the Registration Act shall have effect subject to this provision.

(4) The obligation of the Commission under subsection (2) of section one of the Registration Act to receive an application made under that Act in respect of any

PART I.  
—cont.

holding shall cease at the expiration of the period within which such an application is required by the Third Schedule to this Act to be made in order for compensation to be payable in respect of the holding.

Limitation  
as to infor-  
mation  
required to  
be given  
under the  
Registration  
Act.

**36.**—(1) Where it appears to a person who is required to give information for the purposes of the Registration Act of the circumstances of a holding relevant to any matter particulars whereof may be registered under that Act, that complete information thereof would include information of no material importance for valuation purposes as to rights annexed to coal or a mine that affect adversely numerous small parcels of land, or would include any other information of no material importance for valuation purposes, he shall be deemed to have complied with the requirements of that Act as to the information to be given with respect to that matter if he gives with respect thereto such information as the Commission indicate to be in their opinion of material importance for valuation purposes, notwithstanding that the information does not extend to all the circumstances of the holding relevant to that matter.

(2) The preceding subsection shall have effect in a case in which a person gives or has given with respect to any such matter as aforesaid such information as the Board of Trade have, before the date of the passing of this Act, indicated to be in their opinion of material importance.

(3) Registered particulars, or draft particulars settled by the Commission, shall not be open to objection as being incomplete, or as omitting relevant particulars, by reason of their not recording any circumstances of a holding being circumstances information whereof is of no material importance for valuation purposes.

(4) Regard shall be had to the foregoing provisions of this section in determining whether any costs the payment whereof is claimed under the Registration Act were reasonably incurred.

**37.** The period specified in sub-paragraph (3) of paragraph 5 of the Second Schedule to the Registration Act as the period within which applications for registration of particulars in respect of a holding must be made

Extension  
of time  
limit on  
applications  
for registra-

in order for such costs as are therein mentioned to be payable shall be extended so as to terminate (without prejudice to the provisions of that sub-paragraph as to cases in which sufficient cause is shown for no application having been made within the specified period) on the valuation date, or, in the case of a holding coming into existence within six months before that date, at the expiration of six months from its coming into existence, or, in the case of a holding constituted by virtue of rules made under paragraph 2 of the Third Schedule to this Act, on such later date as may be prescribed :

PART I.  
—cont.  
tion in  
respect of  
which costs  
are to be  
payable.

Provided that this section shall not have effect in relation to a holding that is ultimately certified to have no value.

**38.** Where any period or date is specified in this Part of this Act or prescribed thereunder as the period within which or the date on or before which any act or thing is to be done by any person other than the Commission, the Commission shall have power, on application being made to them in that behalf, to extend that period or to fix a later date for the doing of that act or thing :

General  
power to  
extend time  
limits.

Provided that this section shall have effect, in relation to an act or thing to be done to or before the Board of Trade, with the substitution for the reference to the Commission of a reference to the Board.

**39.** The provisions of this Part of this Act and the provisions of the Registration Act with respect to the payment of costs by the Commission (other than the provisions of section eleven of this Act) shall have effect subject to the following limitation, namely, that their liability shall not extend to costs incurred after the date of the passing of this Act that are occasioned by any proceedings for the determination of disputes between adverse claimants, and in giving effect to the provisions of this section regard shall be had so far as practicable to the principles observed in giving effect to the corresponding provisions of section eighty of the Lands Clauses Consolidation Act, 1845.

Limitation  
of costs  
payable in  
case of  
disputes  
between  
adverse  
claimants.

8 & 9 Vict.  
c. 18.

**40.** In the application of the provisions of this Part of this Act and of the Third, Fourth and Fifth Schedules to this Act that relate to the valuation of holdings, to registration or rectification of the register under the Registration Act, or to the preparation of leases or other instruments

Persons to  
act for  
purposes of  
valuations,  
&c., in  
case of

PART I.  
—*cont.*  
death or  
incapacity.

or of lease consolidation schemes, to a case in which a person, by or to whom any notice is required or authorised to be given, information furnished, or other act or thing done for the purposes of proceedings under those provisions, dies or is or becomes otherwise unable to act, references in those provisions to that person shall be construed as including references to a person substituted for that person in accordance with rules made by the Board of Trade.

*Application and interpretation of Part I.*

Application  
of Part I  
to registered  
land.  
15 & 16  
Geo. 5. c. 21.

41. This Part of this Act shall have effect in relation to premises that are registered land within the meaning of the Land Registration Act, 1925, as if they had not been registered land, and all rights and title conferred on the Commission by this Part of this Act shall be overriding interests within the meaning of that Act.

Application  
of Part I  
to the  
Crown and  
the Duchy  
of Cornwall.

42.—(1) This Part of this Act binds the Crown and shall accordingly apply to land belonging to His Majesty or forming part of the possessions of the Duchy of Cornwall, or belonging to a Government department or held in trust for His Majesty for the purposes of a Government department:

Provided that paragraph (b) of subsection (4) of section three of this Act shall not bind the Crown as regards gold, gold ore, silver or silver ore, and accordingly the expression "coal" in this Part of this Act shall not in any case include those minerals or substances.

(2) In the application of the provisions of the Third Schedule to this Act that relate to the payment and disposal of compensation payable under section six of this Act to holdings that consist of or comprise interests in land specified in the preceding subsection, those provisions shall have effect subject to the following modifications, that is to say, that the persons entitled to the compensation for such holdings shall be the persons specified in the second column of the Table set out at the end of that Schedule in the case of holdings consisting of or comprising interests in the lands respectively specified in the first column of that Table, and those persons shall, notwithstanding anything in any other enactment, dispose of the principal sums and interest attributable to such interests in the manner specified in the third column of that Table.

(3) In this section and in the said Table, "possessions of the Duchy of Cornwall" has the meaning assigned to it by section thirty-seven of the Duchy of Cornwall Management Act, 1863, and "private estates of His Majesty" has the meaning assigned to it by section one of the Crown Private Estates Act, 1862.

PART I.

—*cont.*26 & 27 Vict.  
c. 49.25 & 26 Vict.  
c. 37.

43.—(1) This Part of this Act shall have effect in its application to land in the Forest of Dean or in any other part of the Hundred of Saint Briavels in the county of Gloucester, being land in respect of which the privileges of free miners are exercisable, subject to the following modifications.

Application  
of Part I  
to Forest of  
Dean.

(2) The provisions of subsections (1) to (3) of section three, and sections four and five, of this Act, and the Second Schedule to this Act, shall not have effect, but this Part of this Act shall have effect as if for the said provisions there had been substituted the following provision, that is to say, on the vesting date the interest of the Forestry Commissioners in the coal and mines of coal comprised in the said land shall vest in the Commission, subject to and in accordance with the provisions of the Dean Forest (Mines) Act, 1838, and of any other enactment relating to the said land (in this section referred to as "the Dean Forest enactments") and to all interests subsisting or to be created under or by virtue thereof.

1 & 2 Vict.  
c. 43.

(3) In the application of sections six and seven of this Act, and of the Third Schedule to this Act, to the coal and mines of coal comprised in the said land, the interest therein subsisting in the Forestry Commissioners at the valuation date, and no other interest, shall be treated as an acquired interest, and provision shall be made by rules made by the Board of Trade under the power in that behalf conferred upon them by the Third Schedule to this Act for treating the said interest as constituting a unit for compensation purposes and (in substitution for the provisions of that Schedule relating to registration under the Registration Act and the notification to the Regional Valuation Board of such registration) for the notification to that Board by the Forestry Commissioners of particulars thereof, and the Forestry Commissioners shall be the persons entitled to the compensation therefor.

PART I.  
—cont.

(4) Sections eight to thirteen, subsections (1) to (3) of section fourteen and section nineteen of this Act, and the Fourth and Fifth Schedules to this Act, shall not have effect.

(5) References to coal shall not be construed as including references to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act.

(6) All powers conferred by the Dean Forest enactments that were vested in the Forestry Commissioners immediately before the vesting date shall continue to be exercisable by them notwithstanding the vesting in the Commission of the said interest, and accordingly—

- (a) rent attributable to the said interest shall continue to be recoverable by the Forestry Commissioners until other provision in that behalf is made under the next succeeding subsection, but they shall pay to the Commission all such rent recovered by them that accrues after the vesting date; and
- (b) the Commission shall pay to the Forestry Commissioners sums equal to such part of the expenses incurred by them in exercising the said powers after the vesting date as are attributable to the management of the said interest.

Any difference arising between the Commission and the Forestry Commissioners as to the amount of the rent, or of the expenses, to be paid under this subsection shall be determined by the Treasury.

(7) His Majesty may by Order in Council make provision for vesting in the Commission any of the powers conferred by the Dean Forest enactments that were vested in the Forestry Commissioners immediately before the vesting date in so far as they relate to coal or mines of coal, and any such order may make provision for any requisite modification of the Dean Forest enactments.

The Board of Trade shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty in Council to make under this subsection,



and no further proceedings shall be taken in relation thereto except in pursuance of an Address presented to His Majesty by both Houses of Parliament praying that the Order may be made in the terms of the draft.

PART I.  
—cont.

44.—(1) 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 :—

Interpreta-  
tion  
of Part I.

“ Acquired interest ” has the meaning assigned to it by subsection (1) of section seven of this Act ;

“ Acquired property and rights ” has the meaning assigned to it by subsection (1) of section four of this Act ;

“ Claiming under ” shall be construed, in relation to a person referred to as claiming under the estate owner in respect of the fee simple, or under the estate owner in respect of a term of years, in any land, as referring to any person interested in that land in respect of—

(a) any equitable interest enforceable against that estate owner (other than an equitable term of years under a coal-mining lease or an interest created out of such a term of years),

(b) a legal mortgage, or charge by way of legal mortgage, of that fee simple or of that term of years, as the case may be,

(c) a rentcharge in possession which confers a right to take the income incident to that fee simple or to that term of years, as the case may be, or

(d) a term of years under a lease, other than a coal-mining lease, which is derived out of that fee simple or of that term of years, as the case may be (either immediately or by way of under-lease derived out of a lease other than a coal-mining lease), or an interest created out of such a term of years ;

“ Coal ” has the meaning assigned to it by subsection (4) of section three of this Act ;

PART I.  
—cont.

- “Coal-mining lease” means in relation to any coal a lease that confers a right to work and carry away that coal, and means in relation to any mine of coal a lease that confers a right to use it for a coal-mining purpose;
- “Coal-mining purpose” means searching and boring for, winning, working, getting, carrying away, making merchantable or disposing of, coal;
- “Existing owners” means, in relation to any coal or mine of coal, all persons who have at the valuation date an acquired interest therein;
- “Interested” shall be construed, in relation to a person referred to as interested in any coal or mine of coal, or in any other land, as referring to any person entitled to, or to exercise, or interested in, or in the exercise of, any estate, interest, charge or power (including an option or right of pre-emption, and including a contingent executory or future interest or a possibility coupled with an interest whether or not the object of the gift or limitation of such interest or possibility be ascertained) in, on or over that coal or mine or that other land, as the case may be, or in, on or over the rents and profits thereof, otherwise than in respect only of the benefit of a servitude or restrictive covenant adversely affecting that coal or mine or that other land, as the case may be, and “interest” has a corresponding meaning;
- “Interim period” means the period between the valuation date and the vesting date;
- “Lease” includes an under-lease, a tenancy and an agreement for a lease, under-lease, or tenancy (but not an option to take a lease, under-lease, or tenancy), and in relation to such an agreement the expressions “term of years” and “estate owner” mean respectively the term agreed to be created and the person entitled to have that term vested in him; “lease” and “under-lease” each include a licence (whether personal or by way of profit à prendre) that confers a right to work and carry away coal or a right to use a mine of

coal for a coal-mining purpose, and in relation to a licence the expressions "rent," "reversion," "term of years" and other expressions importing a reference to a lease shall be construed accordingly with the requisite adaptations; neither "lease" nor "under-lease" includes a mortgage;

"Mine of coal" means a space which is occupied by coal or which has been excavated underground for a coal-mining purpose, and includes a shaft and an adit made for a coal-mining purpose;

"Mortgage" includes any charge or lien on any property for securing money or money's worth;

"Prescribed" means prescribed by rules made by the Board of Trade;

"Registration Act" means the Coal (Registration of Ownership) Act, 1937;

"Rent" includes yearly or other rent, and any toll, duty, royalty, or other annual or periodical payment in the nature of rent, whether payable in money or money's worth or otherwise, but does not include mortgage interest;

"Retained interest" has the meaning assigned to it by section five of this Act;

"Servitude" means any liberty, privilege, easement, right or advantage annexed to any land and adversely affecting other land; "surface servitude" means any servitude annexed to coal or a mine of coal in so far as it adversely affects the surface of any land (with the exception of a right to withdraw support); and "annexed to" means, in relation to any coal or mine of coal, or to any other land, appertaining or reputed to appertain thereto or to any part thereof, or demised, occupied, or enjoyed therewith or with any part thereof, or reputed or known as part or parcel thereof or appurtenant thereto or to any part thereof;

"Working facilities order" means an order of the Railway and Canal Commission under the Mines (Working Facilities and Support) Act,

PART I.  
—cont.

1923, either as originally enacted or as extended by section thirteen of the Mining Industry Act, 1926.

(2) For the purposes of this Part of this Act, a person shall not be deemed to be carrying on the business of coal mining unless a substantial part of his business consists of working, getting, and carrying away coal.

(3) Unless the context otherwise requires, references in this Part of this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

Application  
of Part I  
to Scotland.

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

(2) “Covenant” means agreement or stipulation and “restrictive covenant” shall be construed accordingly and shall include a real burden *ad factum præstandum*; “fee simple” and “freehold interest” mean the estate or interest of the proprietor of the *dominium utile*; “demised” means let; “sub-demised” means sub-let; “under-lease” and “sub-demise” mean sub-lease; any reference to a lease or an under-lease derived out of another lease shall be construed as a reference to a sub-lease granted by a superior lessee; “mortgage” means a heritable security and “mortgagee” and “mortgagor” respectively mean the creditor and the debtor in a heritable security; “chattel” means corporeal moveable; “condition of re-entry” means power to bring a lease to an end or to resume possession; “leasehold interest” means the interest of the lessee in premises subject to a lease; any reference to a term of years shall be construed as a reference to the lessee’s interest under a lease; references to a reversion or a reversionary interest or an immediate reversion or a reversion expectant on a lease shall be construed as references to the interest of the landlord in property subject to a lease, and the expression “reversioner” shall be construed accordingly; “freehold reversion” means the interest of the proprietor of the *dominium utile* in property subject to a lease, and “leasehold reversion” means the interest of a lessee of property who is the landlord under a sub-lease thereof; any reference to rent reserved under a lease shall be construed as a

reference to rent payable under or stipulated for in a lease; any reference to a charge or power in, on or over any subjects shall include a reference to a heritable security affecting such subjects and any reference to a lease by parole shall be construed as a reference to a verbal lease.

PART I.  
—cont.

(3) The definition in section forty-four of this Act of the expression "claiming under" shall not apply and the expression "person claiming under" shall have the meaning assigned thereto by paragraph 3 of the First Schedule to the Registration Act.

(4) "Heritable creditor" means the creditor in a heritable security, and "heritable security" means a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a real burden *ad factum præstandum* but inclusive of a security constituted by *ex facie* absolute disposition; "superior" includes the Crown (without prejudice to the Crown's inherent right of superiority over all land in Scotland) and a subject superior or mid-superior. 14 & 15  
Geo. 5. c. 27.

(5) In this Act and in the Registration Act, any reference to the proprietor of the *dominium utile* shall as regards any coal or mine of coal in the undivided ownership of the Crown, be construed as a reference to the Crown.

(6) For references to the Lands Clauses Consolidation Act, 1845, and to section eighty thereof there shall be substituted respectively references to the Lands Clauses Consolidation (Scotland) Act, 1845, and to section seventy-nine thereof; for references to the Railways Clauses Consolidation Act, 1845, and to sections seventy-eight to eighty-five thereof there shall be substituted respectively references to the Railways Clauses Consolidation (Scotland) Act, 1845, and to sections seventy-one to seventy-eight thereof; for any reference to the High Court there shall be substituted a reference to the Court of Session and for any reference to a receiver of the rents and profits of premises there shall be substituted a reference to a judicial factor. 8 & 9 Vict.  
c. 19.  
  
8 & 9 Vict.  
c. 33.

(7) Any question which is required in pursuance of this Act to be referred to arbitration shall be referred to a single arbiter agreed on by the parties or appointed in default of agreement by the Lord President of the Court of Session.

PART I.  
—cont.

(8) In any arbitration in pursuance of this Act, the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the arbitration.

(9) Subsection (1) of section three of this Act shall have effect as if the words “the fee simple in” were omitted, and subsection (2) of that section shall have effect as if after the words “completion of the contract on” the words “and entry at” were inserted.

(10) For subsection (3) of section three of this Act the following subsection shall be substituted:—

“(3) On the vesting date all interests then subsisting in any coal or mine of coal other than retained interests shall vest in the Commission subject only to the inherent right of superiority of the Crown.”

(11) Subsection (4) of section nine of this Act shall have effect as if for the words “so far as regards the title “for which the premises in question vest in the Commission” there were substituted the words “so far as conflicting with the title of the Commission”.

(12) Subsection (3) of section fourteen of this Act shall have effect as if all the words occurring after the words “copies thereof” were omitted.

(13) Subsection (2) of section seventeen of this Act shall not apply, but no right adverse to the title to any coal or mine of coal given to the Commission by the vesting thereof in them by this Act shall be capable of being acquired by prescriptive possession.

(14) For subsection (1) of section nineteen of this Act the following subsection shall be substituted:—

“(1) On and after the valuation date it shall not be competent to grant a sub-lease of coal or a mine of coal:

Provided that this subsection shall not apply to the grant of a sub-lease pursuant to a lease consolidation scheme made under section twelve of this Act or to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act.”

(15) Subsection (3) of section nineteen of this Act shall not apply.

(16) The aggregate of the values of (a) any coal or mine of coal and any property and rights vested in the Commission by virtue of this Act, and (b) any erections or structural improvements used exclusively for the purpose of working or cleaning such coal, entered in any Valuation Roll or Supplementary Valuation Roll for any period ending after the vesting date, shall not exceed the value or values at which such coal, mine of coal, property and rights and such erections or improvements would have been so entered if this Act had not passed, and, notwithstanding anything contained in section six of the Lands Valuation (Scotland) Act, 1854, as amended by any subsequent enactment, no entry shall be made in any such roll in respect of erections or structural improvements used exclusively for the purpose of working or cleaning coal by reason only of the fact, that in consequence of the vesting of the coal in the Commission under this Act, the land on which the said erections or structural improvements are situated is not included in the lease of the coal.

PART I.  
—cont.

17 & 18 Vict.  
c. 91.

## PART II.

### REDUCTION IN NUMBER OF COAL-MINING UNDERTAKINGS.

**46.**—(1) The functions of the Coal Mines Reorganisation Commission constituted by Part II of the Coal Mines Act, 1930, are hereby transferred to and shall be performed by the Commission and the Coal Mines Reorganisation Commission shall cease to exist, and accordingly the said Part II shall have effect with the substitution, for references therein to the Coal Mines Reorganisation Commission, of references to the Commission.

Transfer  
to the  
Commission  
of functions  
of the Coal  
Mines Re-  
organisation  
Commission.  
20 & 21  
Geo. 5. c. 34.

(2) Such expenses of the Commission in connection with the preparation, submission and carrying out of schemes under Part I of the Mining Industry Act, 1926, as the Board of Trade may, with the approval of the Treasury, determine shall be paid to the Commission by the Board, and any expenses of the Board under this subsection shall be defrayed out of moneys provided by Parliament.

(3) Section eleven of the Coal Mines Act, 1930, is hereby repealed.

## PART II.

—cont.

Duty of the Commission to reduce number of coal-mining undertakings where necessary in interests of efficiency.

47.—(1) Where in the opinion of the Commission the number of separate undertakings consisting of or comprising coal mines (hereinafter referred to as “coal-mining undertakings”) to which the coal in any area is leased is so great as to be detrimental to the economical and efficient working, treating or disposing thereof, it shall be the duty of the Commission, to endeavour to effect a reduction in the number of such undertakings :

Provided that the Commission shall not, under the powers conferred by section thirteen of the Coal Mines Act, 1930, submit to the Board of Trade any scheme under Part I of the Mining Industry Act, 1926, until after the thirty-first day of December nineteen hundred and thirty-nine, nor shall they thereafter exercise the powers of submitting such a scheme except in pursuance of an order made under this section.

(2) The Commission may, at any time, if they are of opinion that adequate progress in the reduction of the number of coal-mining undertakings is not being made, make a report to the Board of Trade recommending that the powers of the Commission under the said section thirteen of submitting amalgamation and absorption schemes should become exercisable in any area specified in the report as an area in which such progress has in the opinion of the Commission been inadequate, and such report shall set forth the proposals of the Commission in regard to that area and the advantages which are expected to follow therefrom.

(3) After receiving any such recommendation from the Commission, the Board of Trade may lay before Parliament the report in which the recommendation was contained and may then make a provisional order declaring that it is expedient in the national interest that the number of coal-mining undertakings should be reduced in the area with respect to which the recommendation was made and directing that the said powers of the Commission shall become exercisable in that area in manner proposed by such report with such modifications (if any) as the said Board may think fit and within such period as may be prescribed by such provisional order :

Provided that any such provisional order shall so define the area in which the said powers are to become exercisable as to show so far as practicable what undertakings are likely to be affected by their exercise, and



the order when made shall be published in the London Gazette (or, in the case of an order relating to an area in Scotland, in the Edinburgh Gazette) and in at least one newspaper circulating in the area to which the order relates.

(4) A provisional order made under this section shall be of no effect unless it is confirmed by Parliament, but if the order is so confirmed, either without modifications or with modifications as to the area with respect to which the order is to have effect, it shall come into force on the date of the passing of the Act confirming the order or on the first day of January nineteen hundred and forty, whichever is the later date.

(5) The said section thirteen shall have effect subject to the amendments specified in the Sixth Schedule to this Act.

48.—(1) Where information is required by the Commission for the discharge of the functions to be performed by them by virtue of this Part of this Act and the Commission consider it necessary for the purpose of obtaining such information to cause an inspection to be made at any premises used in connection with the carrying on of a coal-mining undertaking, the Commission may, after serving upon the persons carrying on the undertaking a notice showing the general nature of the information required, authorise in writing any member or officer of, or technical or professional agent appointed by, the Commission, to make inquiries on their behalf as to the coal-mining undertaking specified in the authority, and any person so authorised may, so far as is reasonably necessary for the purpose of obtaining such information, enter any premises used in connection with the carrying on of that undertaking, and may inspect any such premises and may measure or weigh any stocks, and may take copies or extracts of any accounts, books, plans, or other documents, and may require copies or extracts of any such accounts, books, plans or other documents to be delivered to the Commission.

Powers of the Commission as to obtaining information for purposes of Part II.

(2) The Commission may require the owner of any coal-mining undertaking in an area in which their powers under section thirteen of the Coal Mines Act, 1930, of submitting schemes are exercisable, to prepare such accounts, plans, or other documents, relating to the

PART II.  
—cont.

undertaking and such valuations of the property and liabilities of the undertaking as are reasonably necessary for the discharge of the functions aforesaid, and may require copies thereof to be delivered to the Commission.

(3) Any member or officer of, or technical or professional agent appointed by, the Commission, before exercising his powers under subsection (1) of this section shall, if required to do so, produce his written authority to make inquiries on behalf of the Commission as to the coal-mining undertaking with respect to which the powers are exercised; and any person required under this section to deliver any copies or extracts to the Commission shall be entitled to be paid by the Commission all costs reasonably incurred by him in the preparation and delivery thereof.

(4) Any person who, after having had produced to him the written authority of any such member, officer or agent as aforesaid, obstructs him in the exercise of his powers under this section or refuses or neglects when required to produce any accounts, books, plans or other documents under his control, any person who refuses or neglects when required to deliver to the Commission any copy or extract of such accounts, books, plans or other documents, and any owner of a coal-mining undertaking who makes default in complying with any requirement made under subsection (2) of this section, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a person convicted of a second or subsequent offence under this section, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and fine.

Exemption  
from stamp  
duty in  
respect of  
amalgama-  
tion or  
absorption  
schemes and  
instruments  
executed  
thereunder.

49.—(1) No stamp duty shall be payable—

- (a) in respect of any amalgamation or absorption scheme confirmed under Part I of the Mining Industry Act, 1926; or
- (b) in respect of any amalgamation scheme framed in accordance with the provisions of Part I of that Act by the owners of two or more coal-mining undertakings, if the Board of Trade are satisfied, on the recommendation of the Commission, that the scheme is in the national

interest, and, on the recommendation of the owners by whom the scheme was framed, that it is unnecessary for the purpose of giving effect to the scheme that it should be referred to and confirmed by the Railway and Canal Commission under that Act; or

PART II.  
—cont.

- (c) in respect of any share or loan capital issued, or any conveyance agreement assignment or transfer made, or document executed, or thing done, in pursuance of any scheme exempt from stamp duty under the foregoing provisions of this section, or in pursuance of any arrangements for combining the financial interests in coal-mining undertakings by the formation of holding companies or otherwise, being arrangements approved on the recommendation of the Commission by the Board of Trade as being in the national interest, if in either case the Board certify that the issue, making, execution or the doing thereof is reasonably required for the purposes of such a scheme, or of such arrangements, and of conducting to the more economical and efficient working or disposing of coal.

(2) Subsection (2) of section five of the Mining Industry Act, 1926, and subsection (7) of section thirteen of the Coal Mines Act, 1930, are hereby repealed.

### PART III.

#### AMENDMENT AND CONTINUANCE OF PART I OF THE COAL MINES ACT, 1930.

**50.** Sections five and eight of the Coal Mines Act, 1930, shall have effect subject to the amendments specified in the Seventh Schedule to this Act, and Part I of that Act (which, as continued by subsequent enactments, is limited to expire on the thirty-first day of August nineteen hundred and thirty-eight) shall, as amended by this Act, continue in force until the thirty-first day of December nineteen hundred and forty-two, and no longer unless Parliament otherwise determines.

Amendment  
and  
continuance  
of Part I of  
20 & 21  
Geo. 5. c. 34.

## PART IV.

## MISCELLANEOUS AND GENERAL.

Acquisition  
of sites  
for pithead  
baths, &c.

24 & 25  
Geo. 5. c. 9.

**51.** The powers of the Railway and Canal Commission under the Mines (Working Facilities and Support) Act, 1923, in relation to the grant of ancillary rights shall include power to make orders under that Act with a view to assisting the miners' welfare committee in the performance of their duty under section seventeen of the Mining Industry Act, 1926 or under subsection (1) of section three of the Mining Industry (Welfare Fund) Act, 1934 (which relate respectively to the provision of accommodation and facilities for workmen taking baths and drying clothes and of accommodation and facilities which can be conveniently and properly combined therewith) by conferring rights to use and occupy land for buildings, or any other right in respect of any land, upon trustees for the benefit of workpeople employed in or about coal mines.

Right to  
inspection  
and copies  
of Com-  
mission's  
plans of  
working.

**52.** Any person who satisfies the Commission that he is interested in land that is supported by coal, or that was before the working thereof supported thereby, or in land situate below, adjoining, or near to coal, shall be entitled, upon making an application to the Commission and payment of such reasonable fee as may be prescribed in that behalf, to inspect at any time during usual office hours all plans of workings of that coal in the possession of the Commission, and to be furnished by them with a copy of, or of any part of, any such plan.

Prevention  
of disclosure  
of informa-  
tion.

**53.** Any person who discloses any information obtained by him in the exercise of powers conferred upon him by section fourteen or section forty-eight of this Act shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and fine :

Provided that nothing in this section shall apply to the disclosure of any information in so far as it is required to be published or disclosed for the purposes of the performance of functions to be performed under or by virtue of this Act by the Board of Trade, the Commission, the Central Valuation Board, a referee appointed

under the Third Schedule to this Act, or a Regional Valuation Board, or for the purposes of any legal proceedings (including arbitrations), or in so far as it may be contained in any scheme submitted under section thirteen of the Coal Mines Act, 1930.

PART IV.  
—cont.

**54.** Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any 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.

Liability of directors, &c. of bodies corporate for offences.

**55.** Any notice, application in writing or other document required or authorised to be served, made or delivered under this Act may be served, made or delivered either—

Service of notices, &c.

- (a) by delivering it to the person on whom it is to be served, or to whom it is to be made or delivered; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
- (d) in the case of an incorporated company or body, the Central Valuation Board or a Regional Valuation Board, by delivering it to the secretary or clerk of the company, body or Board at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company, body or Board at that office; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person on whom it should be served, or to whom it should be made or delivered, as being a person having any interest in land, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates, and delivering it to some

PART IV.  
—cont.

person on the premises or, if there is no person on the premises to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part of the premises.

Powers as  
to inquiries,  
&c.  
37 & 38 Vict.  
c. 40.

**56.** The Board of Trade Arbitrations, &c. Act, 1874 (which relates to the powers of the Board of Trade with respect to inquiries, appointments and other matters under special Acts) shall apply as if this Act were a special Act within the meaning of the first mentioned Act.

Reports to  
Board of  
Trade.

**57.** The Commission shall—

- (a) after receiving the certified valuations from the respective Regional Valuation Boards under subsection (6) of section seven of this Act forthwith transmit the same to the Board of Trade, and the Board shall as soon as may be lay before Parliament statements showing the total amounts of the certified valuations in each region in respect of principal and subsidiary coal hereditaments respectively; and
- (b) annually, at such date and in such form as the Board of Trade may direct, make to the Board a report as to their proceedings under this Act during the preceding year, and the Board shall lay every such report before Parliament, and the Commission shall also, if at any time they are directed by the Board so to do, make to the Board a report as to any matter relating to their functions specified in the direction.

Short title  
and extent.

**58.**—(1) This Act may be cited as the Coal Act, 1938.

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

## SCHEDULES.

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### FIRST SCHEDULE.

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Sections 1,  
24.

#### CONSTITUTION AND PROCEDURE OF THE COAL COMMISSION.

1. The Commission shall consist of a chairman and four other members appointed by the Board of Trade. The Board of Trade shall nominate one of the members of the Commission other than the chairman to act as deputy chairman.

2. At least two of the members of the Commission shall be persons who have had administrative or other practical experience in the coal-mining industry, and one of those two members shall be a person who has been a wage earner in the coal-mining industry.

3. The appointment of a member of the Commission shall, subject to the provisions of this Schedule, be for such term, not being less than five years or more than ten years, as may be determined by the Board of Trade with the approval of the Treasury before his appointment, and shall be subject to such conditions as may be so determined.

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

5. A person shall be disqualified for being appointed or being a member of the Commission so long as he is an officer or servant of an organisation of employers or of workpeople in the coal-mining industry, a practising mining engineer, or in any other manner directly connected with that industry. For the purposes of this paragraph, membership of such an organisation as aforesaid shall not of itself be treated as constituting a direct connection with the coal-mining industry.

6. A member of the Commission shall, within three months after his appointment, sell or dispose of any interest or securities which he may hold in his own name or in the name of a nominee for his benefit in any undertaking carrying on the business of coal-mining or supplying or selling coal or the manufacture or sale of by-products of coal.

7. It shall not be lawful for a member of the Commission while he holds office to acquire, directly or indirectly, for his own benefit any interest or securities in any such undertaking as aforesaid, and if a member of the Commission becomes entitled for his own benefit under any will or succession or otherwise to

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any interest or securities in any such undertaking, he shall sell or dispose of it or them within three months after he has so become entitled thereto.

8. If a member of the Commission becomes disqualified for holding office, or is absent from meetings of the Commission for more than six months consecutively except for some reason approved by the Board of Trade, or fails to comply with either of the two last preceding paragraphs, the Board shall forthwith declare his office to be vacant and shall notify the fact in such manner as they think fit, and thereupon his office shall become vacant.

9. The Commission shall appoint a secretary and such other officers, agents and servants as the Commission may determine.

10. There shall be paid out of the revenues of the Commission—

- (a) to the members of the Commission, or to any of them, such salaries and allowances for expenses as the Board of Trade with the approval of the Treasury may determine; and
- (b) to the secretary, officers, agents and servants of the Commission such salaries and remuneration, and, on the retirement or death of any of them, to them or their personal representatives or to their dependants such pensions and gratuities, as the Commission may determine.

11. The Commission may act notwithstanding a vacancy in their number, but a quorum of the Commission shall be not less than three.

12. The seal of the Commission shall be authenticated by the signature of the chairman of the Commission or some other member of the Commission authorised by the Commission to act in that behalf, and of the secretary or some other person authorised by the Commission so to act.

13. Every document purporting to be an order or other instrument issued by the Commission, and to be sealed with the seal of the Commission authenticated in the manner provided by this Schedule, or to be signed by the secretary or any person authorised to act in that behalf, shall be received in evidence and be deemed to be such an order or instrument without further proof unless the contrary is shown.

14. Subject to the provisions of this Schedule, the Commission shall have power to regulate their own procedure.

15. In this Schedule the expression "securities" includes shares, stock, debentures and debenture stock.



## SECOND SCHEDULE.

Sections 4, 6,  
43.PROVISIONS FOR DEFINING PROPERTY AND  
RIGHTS WITH WHICH, AND MATTERS SUBJECT TO WHICH,  
COAL IS TO BE ACQUIRED.

## PART I.

*General.*

1. The conveyance of any coal or mine of coal to be assumed for the purposes of section four of this Act shall be a conveyance, to which all persons having any interest other than a retained interest in that coal or mine are conveying parties, to a purchaser for money or money's worth with notice of all matters whereof notice is material, containing, in the cases mentioned in paragraph 2 of this Schedule provisions to the effect therein mentioned, but subject as aforesaid not containing any such term or provision as might have limited the application of section sixty-two or sixty-three of the Law of Property Act, 1925, to the conveyance.

2.—(1) In a case in which any of the conveying parties has, besides the interest in respect of which he is a conveying party, a retained interest in the coal or mine, he shall be deemed not to be a conveying party in respect of his retained interest.

(2) In a case in which any of the conveying parties has an interest in land that would be adversely affected by a surface servitude that the conveyance might include, or might operate to grant, for any interest, by virtue either—

(a) of section sixty-two of the Law of Property Act, 1925; or

(b) of any rule of law relating to the grant of servitudes as servitudes of necessity;

the conveyance shall not operate further or otherwise, as regards the inclusion or the grant of that servitude or the interest (if any) for which it is to be included, than it would have operated if none of the conveying parties had had any interest in that land.

(3) In a case in which any of the conveying parties has an interest in land to which a servitude that adversely affects the coal or mine is annexed, or with which the benefit of a restrictive covenant that adversely affects the coal or mine runs, the conveyance shall reserve that servitude for the greatest interest for

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which it could be reserved by that party, or shall reserve any right to enforce that covenant which would have subsisted in right of that party's interest in land with which the benefit of that covenant runs if he had not been a conveying party, as the case may be.

(4) In a case in which any of the conveying parties might, after the conveyance, be subject to any personal liability in respect of a restrictive covenant that adversely affects the coal or mine, the conveyance shall be deemed to contain a covenant entered into by the Commission with that party with the object and intent of affording to him and his successors in title a full and sufficient indemnity, but not further or otherwise, that the Commission will at all times after the vesting date duly perform and observe that restrictive covenant in relation to the coal or mine and will at all times keep that party and his successors in title effectually indemnified against all actions, proceedings, costs, charges, claims, and demands whatsoever in respect of that restrictive covenant.

3. A person having an interest vested in him without power to convey it, or having power to convey an interest with or on some consent, approval or request or on giving some notice, shall be deemed for the purposes of this Schedule to have had that power or to have received that consent, approval or request or to have given that notice, as the case may be.

## PART II.

### *Vesting of rights to withdraw support.*

4. The following provisions of this Part of this Schedule shall have effect with respect to the vesting in the cases therein mentioned in the Commission with any coal or mine of coal of a right to withdraw support.

5. In a case in which the fee simple in the coal or mine, or the term of years under a coal-mining lease thereof, was vested on the valuation date in a person other than the person in whom the fee simple in land supported thereby was then vested, and any right to withdraw support from that land, other than a right granted by a working facilities order, was then annexed to the coal or mine, there shall vest in the Commission therewith a right to withdraw support from that land similar in all respects, whether as regards terms, conditions, extent, duration (save as in this paragraph provided) or otherwise, to the said right that was then annexed to the coal or mine :

Provided that, where the fee simple in the coal or mine and the fee simple in land supported thereby was vested in the same person but the term of years under a coal-mining lease was

subsisting in the coal or mine and a right to withdraw support was annexed thereto, the duration of the right that vests in the Commission shall extend to the whole of the period during which any coal to which the first-mentioned right was annexed remains ungotten.

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6.—(1) In a case in which the fee simple in the coal or mine and the fee simple in land supported thereby was vested on the valuation date in the same person and no coal-mining lease of that coal or mine was then subsisting, there shall vest in the Commission with the coal or mine such a right as is hereinafter mentioned, to the extent to which the existing owners of the coal or mine were competent on the valuation date to grant such a right by virtue of their interests in that land, that is to say, a right to withdraw support from that land so far as may be reasonably requisite for the working of any coal, subject to an obligation either—

- (a) to pay proper compensation for damage arising from such working to that land; or
- (b) with the consent (which shall not be unreasonably withheld) of the person who would otherwise be entitled to claim compensation for that damage, to make good that damage to the reasonable satisfaction of that person and without expense to him;

which obligation shall extend to buildings and works on that land whether constructed before or after the vesting date.

(2) The Commission shall on the occasion of their first exercising, or granting to a lessee the benefit of, a right vested in them by this paragraph give public notice that they propose so to do by advertisement in the London Gazette and in one or more newspapers circulating in the locality.

(3) When the construction of any buildings or works is to be begun after the first publication of such a notice as aforesaid on land liable to be damaged by the exercise of the right to which the notice relates, the following provisions of this paragraph shall have effect:—

- (a) before the construction thereof is begun, the person at whose expense they are to be constructed (in this subparagraph referred to as “the building owner”) shall notify the Commission of the proposal to construct them, and shall, if so requested by the Commission within fourteen days from the receipt by them of the notice, produce for the inspection of a person duly authorised by them in that behalf plans and specifications of the buildings or works showing the design thereof and the proposed materials for and method of construction of the foundations thereof, and shall,

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if so requested within that period or within seven days after the plans and specifications have been produced as aforesaid, furnish the Commission with copies of any such plans or specifications;

- (b) at any time within twenty-eight days from the time when any request made by the Commission with respect to the production or furnishing of copies of the plans and specifications has been complied with, or within such further period as the building owner may allow, the Commission may make such proposals as to the materials for and method of construction of the foundations as appear to them to be desirable for minimising damage in the event of subsidence, and, if they do so and the foundations are constructed otherwise than in accordance with the Commission's proposals, the obligation to pay compensation or to make good referred to in sub-paragraph (1) of this paragraph shall not extend to any damage that would have been avoided if they had been so constructed;
- (c) the Commission shall have the right to have the foundations inspected by a person duly authorised by them in that behalf from time to time during the construction thereof as that person may reasonably require, and if it is alleged by the Commission that the foundations are being constructed otherwise than in accordance with any plans or specifications produced or furnished to them, or otherwise than in accordance with any such plans or specifications as modified in accordance with proposals made by the Commission, as the case may be, the Commission shall notify the building owner of the matter alleged to constitute a departure therefrom, and any question arising in relation thereto shall be determined by arbitration;
- (d) the Commission shall pay all costs reasonably incurred by the building owner in the production or furnishing of copies of plans and specifications pursuant to a request made by the Commission under this sub-paragraph, and the amount of any addition to the expense incurred by him in constructing the buildings or works which is attributable to giving effect to the Commission's proposals or to any postponement or interruption of the construction thereof consequent upon an allegation on the part of the Commission of a departure from plans and specifications which is determined not to have been well founded, and any question as to the subsistence of a liability of the Commission by virtue of this provision, or as to the amount payable by them in respect of any such liability, shall be determined by arbitration;

2ND SCH.  
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(e) if the building owner fails to give notice to the Commission in accordance with this sub-paragraph of the proposal to construct the buildings or works or fails to comply with a request made by the Commission thereunder, the obligation to pay compensation or to make good referred to in sub-paragraph (1) of this paragraph shall be limited to damage which could not have been avoided by reasonable and proper precautions taken in the design and construction of the foundations to minimise damage in the event of subsidence.

(4) On an application under section eight of the Mines (Working Facilities and Support) Act, 1923 (which provides for the imposition by the Railway and Canal Commission of restrictions on the working of minerals where a person having an interest in land is not entitled to support or to sufficient support for buildings or works), the applicant shall not be required to pay or give any compensation or consideration in respect of the imposition of restrictions appearing to the Railway and Canal Commission to be justified by circumstances due to the subsistence of a right to withdraw support vested in the Commission by this paragraph :

Provided that this sub-paragraph shall not have effect in the case of an application sent to the Board of Trade after the expiration of six months from the date of the first publication in relation to the right in question of the notice required by sub-paragraph (2) of this paragraph.

(5) Notwithstanding anything in section thirteen of the Mines (Working Facilities and Support) Act, 1923, restrictions, the imposition of which appears to the Railway and Canal Commission to be justified as aforesaid, may be imposed under section eight of that Act on the application of, and so as to vest the right to enforce the restrictions in, any such company, authority or body as is mentioned in the said section thirteen, and such restrictions may be so imposed on the application of, and so as to vest the right to enforce the restrictions in, any company or other body or person carrying on an undertaking primarily for the supply of gas, electricity, water or hydraulic power for public purposes or to members of the public.

7.—(1) Any person interested in land damaged by the working of coal in exercise of a right to withdraw support therefrom which vests in the Commission under either of the two preceding paragraphs subject to an obligation to pay proper compensation for or to make good damage arising from such working, and which has been granted by the Commission to a lessee, shall be entitled to enforce against the Commission any liability to pay proper compensation for or to make good that damage pursuant to that obligation which the lessee fails to discharge :

2ND SCH.  
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Provided that nothing in this sub-paragraph shall be construed as rendering invalid any provision contained in a lease granted by the Commission requiring the lessee to indemnify the Commission against liability in respect of any such obligation as aforesaid, and the Commission may require the inclusion of such a provision in a lease which they are under obligation by virtue of section thirteen of this Act to grant.

(2) Any question as to the subsistence by virtue of either of the two preceding paragraphs of an obligation to pay proper compensation for or to make good damage to any land, or as to the rights or liabilities of any person in respect of the enforcement of such an obligation so subsisting, shall be determined by arbitration.

### PART III.

#### *Application to Scotland.*

8. This Schedule shall apply to Scotland, subject to the following modifications:—

(a) For paragraph 1 the following paragraph shall be substituted—

“ 1. The conveyance of any coal or mine of coal to be assumed for the purposes of section four of this Act shall be a conveyance in common form (including a clause of assignation of writs) duly recorded in the appropriate Register of Sasines and granted by all persons having any interest other than a retained interest in that coal or mine (each of such persons being assumed to be of full age and capacity) and conveying all their rights, titles and interests in and to the said coal or mine of coal, to the effect and intent of vesting the said coal or mine of coal absolutely in the Commission freed from all feudal prestations, and rights in security, if any, and subject only to the inherent right of superiority of the Crown :

Provided that, in the case of any coal or mine of coal which is held on a title comprising other subjects also, the conveyance to be assumed as aforesaid shall be deemed to contain a clause of assignation of writs to the effect only of enabling the Commission to maintain and defend their right to the coal or mine and, for that purpose, an obligation to make the writs forthcoming on a proper receipt and undertaking to redeliver.”

(b) For sub-paragraph (2) of paragraph 2 the following sub-paragraph shall be substituted:—

“ (2) In a case in which any of the conveying parties has an interest in land that would be adversely affected by a surface servitude that the conveyance might include

or might operate to grant for any interest by virtue of any rule of law relating to the grant of implied servitudes or of servitudes of necessity, the conveyance shall not operate as regards the inclusion or the grant of that servitude further or otherwise than it would have operated if none of the conveying parties had had any interest in that land."

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(c) For any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.

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### THIRD SCHEDULE.

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Sections 6,  
7, 11, 13, 14,  
24, 27, 35,  
37, 40, 42,  
43, 53.

#### PROVISIONS AS TO COMPENSATION PAYABLE UNDER SECTION SIX OF THIS ACT.

##### PART I.

##### PRELIMINARY.

##### *Units for Compensation Purposes.*

1. Subject to the provisions of paragraph 2 of this Schedule, each of the following acquired interests, or groups of such interests, in coal, mines of coal, and acquired property and rights, shall constitute a unit for compensation purposes,—

- (a) each freehold reversion (that is to say, in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease derived immediately out of the fee simple and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the fee simple in the coal and mines together with the interests therein of all persons claiming under him);
- (b) each acquired leasehold reversion (that is to say, in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease being an under-lease and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the term created by the lease out of which that under-lease was immediately derived together with the interests therein of all persons claiming under him, with the exception of any such interest that is a retained interest by virtue

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of a direction under subsection (2) of section five of this Act);

- (c) each freehold in possession in any valuation region (that is to say, in the case of all the coal and mines of coal in any valuation region that are not on the valuation date comprised in any coal-mining lease, and are in the legal ownership as respects the fee simple of the same estate owner, and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the fee simple in the coal and mines together with the interests therein of all persons claiming under him).

2.—(1) If the estate owner in respect of a unit for compensation purposes as ascertained under paragraph 1 of this Schedule, or a person claiming under him, makes application in writing in that behalf to the Commission not later than the expiration of six months from the valuation date and satisfies them that, by reason of the subsistence of different interests in different parcels of coal or different mines in the ownership of the estate owner, the interests in those parcels or mines respectively and in acquired property and rights annexed thereto ought to be treated as constituting separate units for compensation purposes, they shall be so treated.

(2) Provision may be made by rules made by the Board of Trade for the consolidation of two or more units for compensation purposes as ascertained under the preceding provisions of this Schedule, or for the division of a unit as so ascertained into two or more units, or for treating as included in any unit as so ascertained, or as constituting a separate unit for compensation purposes, any acquired interest or interests, and for the manner in which the compensation for units to which the rules relate is to be ascertained and paid having regard to the special circumstances of such units.

#### *Constitution of Valuation Boards.*

3.—(1) There shall be a Central Valuation Board consisting of the following members, that is to say—

- (a) an independent person, being a member of the legal profession or a person who has had experience in the management of land or with business experience, appointed to act as chairman of the Board;
- (b) two other independent persons; and
- (c) in respect of each valuation region, one person who is at the date of his appointment engaged in the management of mineral estates in that region and who has a knowledge of coal-mining and experience in the valuation of minerals :



Provided that, for the purpose of the exercise by the Board of their duty under subsection (4) of section six of this Act to divide Great Britain into valuation regions, the Board shall consist of the chairman, the two other independent members, and such number of other members, being persons engaged in the management of mineral estates and having such knowledge and experience as aforesaid, as the Board of Trade may determine.

(2) The appointments aforesaid shall be made by the Board of Trade after consultation, in the case of the chairman of the Board, with the Lord Chancellor, and, in the case of the other members thereof, with the chairman of the Mineral Owners' Joint Committee and the president of the Chartered Surveyors Institution.

(3) The Board of Trade may, after such consultation as aforesaid, make a temporary appointment of a person to act as chairman or other member of the Board at any time when the chairman or another member is temporarily absent or unable to act.

(4) The quorum of the Board shall be such number of the members of the Board as may be prescribed.

(5) A determination of the Board shall be taken by the votes of the members of the Board present and voting, or, in case of difference between them, of the majority, and in the case of an equality of votes the chairman shall be entitled to a second or casting vote.

(6) In this and the next succeeding paragraph the expression "independent person" means a person who is not at the date of his appointment, and has not recently been, engaged in or connected with the management of mineral estates and is not a member, or an officer or servant, of an organisation of employers or of workpeople in the coal-mining industry, a practising mining engineer, or in any other manner directly connected with that industry.

4.—(1) There shall be a Regional Valuation Board for each valuation region, consisting of the following members, that is to say—

- (a) an independent person, being a member of the legal profession, appointed to act as chairman of the Board; and
- (b) such number of other members, being persons engaged in the management of mineral estates in the region and having a knowledge of coal-mining and experience in the valuation of minerals, as the Board of Trade may determine.

(2) The appointments aforesaid shall be made by the Board of Trade after consultation, in the case of the chairman of the Board, with the Lord Chancellor, and, in the case of the other members thereof, with the chairman of the Mineral Owners' Joint Committee and the president of the Chartered Surveyors Institution.

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(3) The Board of Trade may, after such consultation as aforesaid, make a temporary appointment of a person to act as chairman of the Board at any time when he is temporarily absent or unable to act.

(4) The quorum of the Board shall be such number of the members of the Board as may be prescribed, and the rules may prescribe different numbers as respects different Regional Valuation Boards.

(5) A determination of the Board shall be taken by the votes of the members of the Board present and voting, or, in case of difference between them, of the majority, and in the case of an equality of votes the chairman shall be entitled to a second or casting vote.

(6) In this Act references to the Regional Valuation Board mean in relation to any holding the Regional Valuation Board for the valuation region in which the holding is. A holding shall be deemed to be in the valuation region that comprises the premises in which the holding subsisted or the greater part thereof, and if any question arises as to which of two or more valuation regions a holding is in, the question shall be referred to the Central Valuation Board whose decision shall be conclusive.

5.—(1) The Board of Trade shall, after consultation with the Central Valuation Board or the Regional Valuation Board, as the case may be, appoint a person to act as clerk to each of the said Boards, and such number of persons as the Board of Trade think fit to act as officers and servants of each of the said Boards.

(2) The Commission shall pay to the chairman and to the members of each of the said Boards and to the officers and servants of each of the said Boards and to a referee appointed under this Schedule, such remuneration, and such allowances for expenses properly incurred by any of them as the Board of Trade may determine, and the Commission shall pay such other expenses of the Central Valuation Board and of a Regional Valuation Board and of a referee appointed under this Schedule as the Board of Trade may determine.

(3) No person who has an acquired interest, or who has acted in any capacity in connection with the valuation under this Schedule of a holding on behalf of a person having an acquired interest, shall be appointed to be the chairman or an independent member of the Central Valuation Board or of a Regional Valuation Board, and neither the chairman nor an independent member of any such Board shall act as aforesaid. None of the other members of any such Board shall vote on the taking of any determination of the Board as to the value of a holding in respect of which he has acted as aforesaid or, if he has any acquired interest, of a holding that comprises that interest.

Any person who contravenes the provisions of this paragraph shall be liable on summary conviction to a fine not exceeding ten pounds in respect of every day on which he acts in contravention thereof.

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(4) The Central Valuation Board and a Regional Valuation Board may cause any inquiry or inspection required to be made by them to be made on their behalf by one or more of the members or officers or servants of the Board.

(5) It shall be the duty of each person having an acquired interest that is comprised in a holding to furnish to the Central Valuation Board, or a referee appointed under this Schedule, or the Regional Valuation Board, on being requested so to do by the Board or the referee, all such information with respect to any matter relevant to the valuation of the holding as the Board or the referee may reasonably require, and the Board or the referee may require any such person to verify any information given by him in such manner by statutory declaration or otherwise as may be reasonably requisite.

(6) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—

- (a) the administration of oaths and the taking of affirmations;
- (b) the correction of mistakes and errors in awards; and
- (c) the summoning, attendance and examination of witnesses and the production of documents;

shall apply in respect of proceedings before the Central Valuation Board, or a referee appointed under this Schedule, or a Regional Valuation Board, but save as aforesaid the said Acts shall not apply to or at any such proceedings.

(7) Subject to the provisions of this Schedule and of rules made thereunder, the Central Valuation Board, a referee appointed under this Schedule, and a Regional Valuation Board shall have power to regulate their own procedure.

## PART II.

### PROVISIONS AS TO REGISTRATION UNDER THE REGISTRATION ACT.

6. In order for compensation to be payable under section six of this Act in respect of a holding, an application for the registration under the Registration Act of particulars in respect thereof must have been made before the valuation date, or, if not so made, must be made within the period of six months beginning on that date.

7. For the purposes of proceedings for registration taken under the Registration Act on or after the valuation date, and

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for the purposes of the operation on or after that date of the provisions of that Act relating to the rectification of the register—

- (a) references in that Act to property and rights held in association with coal or a mine of coal shall be construed as references to acquired property and rights, references in that Act to matters subject to which coal hereditaments are held shall be construed as references to the matters specified in subsection (2) of section four of this Act, and references in that Act to a proprietary interest shall be construed as references to an acquired interest;
- (b) the information to be furnished in relation to an application for registration shall extend to the circumstances of the holding relevant to the ascertainment of the right, if any, to withdraw support that is to vest in the Commission under Part II of the Second Schedule to this Act with any coal or mine in which the holding subsisted, and those circumstances shall be included in the matters particulars whereof may be registered;
- (c) information given to the Commission which is by that Act required to be related to the circumstances as existing at the date when the information is given shall be related to the circumstances as existing on the valuation date; and
- (d) references in that Act to particulars being incorrect shall include references to the omission of any relevant particulars.

8.—(1) In the case of a holding in respect of which an application for the registration of particulars has been duly made under the Registration Act before the valuation date, the person by whom the application for registration was made, or any person having an acquired interest that is comprised in the holding, may, at any time during the period of six months beginning on the valuation date, give notice in the prescribed form to the Commission of any matter in respect of which—

- (a) if registration has been effected before the notice is given, the registered particulars; or
- (b) if registration has not then been effected but a draft of the particulars to be registered has been settled and any copy thereof sent, the draft particulars; or
- (c) if no copy of the draft particulars has then been sent, the particulars contained in the statement and other information furnished;

appear to him to be incorrect or incomplete having regard to the circumstances of the holding subsisting on the valuation date and to the provisions of this Act.

(2) Where a notice is given to the Commission under this paragraph in a case in which registration has been effected, the provisions of the Registration Act with respect to rectification of the register shall have effect, so, however, that, if it appears to the Commission that no alteration of the particulars registered is required, they shall notify the person by whom the notice was given of their decision not to make any such alteration, and he shall be entitled to make an application to the Court for a direction to the Commission to make therein the alterations appearing to him to be requisite at any time within one month from the service of the Commission's notice on him.

(3) Where a notice is given to the Commission under this paragraph in a case in which registration has not been effected but a draft of the particulars has been settled and any copy thereof sent, the Commission may settle a substituted draft thereof and—

- (a) if they do so, the provisions of the Registration Act with respect to draft particulars shall have effect in relation to the substituted draft to the exclusion of the original draft, without prejudice, however, to any right in respect of costs incurred in relation to the original draft;
- (b) if they do not do so, they shall notify the person by whom the notice was given of their decision not to do so, and he shall be entitled to make an application to the Court for the variation of the original draft at any time within one month from the service of the Commission's notice on him.

(4) An application to the Court made under this paragraph shall be deemed for the purposes of the Registration Act to be made under Part I of the Second Schedule thereto.

(5) Where a notice is given to the Commission under this paragraph by a person other than the person by whom the application for registration of particulars in respect of the holding to which the notice relates was made or a person to whom the application has been notified under sub-paragraph (2) (a) of paragraph 2 of the Second Schedule to the Registration Act, the person by whom the notice was given shall have the like rights under the Registration Act in connection with the settling of the particulars to be registered, the payment of costs and all other matters, and the like duties thereunder, as a person entitled under that sub-paragraph to be notified of the application.

### PART III.

#### VALUATION.

##### *Claims and Valuation Proceedings.*

9.—(1) In order for compensation to be payable under section six of this Act in respect of a holding, a notice of claim

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for compensation to be paid in respect thereof must be served on the Commission within the period of six months beginning on the valuation date.

(2) A notice of claim for compensation must be in the prescribed form and must be served by a person who has an acquired interest that constitutes or is comprised in the holding :

Provided that, in the case of a holding belonging to an ecclesiastical corporation to which the Ecclesiastical Leasing Acts apply, a notice must be served by the Ecclesiastical Commissioners, and in any other case the Commission may receive a notice served by a person who has not such an interest as aforesaid if they are satisfied that, by reason of that person being concerned in the administration of the holding or on other grounds appearing to the Commission to be sufficient, it is convenient that the notice should be served by him.

(3) A notice of claim for compensation for a holding in respect of which an application for the registration of particulars has been made before the valuation date must, if the person by whom the notice is served (in this Schedule referred to as "the claimant") is aware of any error or omission in such particulars relating to the registration as are mentioned in paragraph 8 of this Schedule, be accompanied by such a notice as is therein mentioned given by him, and must in any event include a statement, verified in such manner by statutory declaration or otherwise as the Commission may reasonably require, to the effect that the claimant has examined the said particulars and has made such investigation of the circumstances of the holding as is reasonably requisite for discovering any error or omission therein and is not aware of any matter, or of any other matter, as the case may be, in respect of which such a notice may be given :

Provided that, in the application of this sub-paragraph to a matter with respect to which the Commission or the Board of Trade have given such an indication as to the information material in their opinion for valuation purposes as is mentioned in section thirty-six of this Act, the omission from the particulars of matter outside the scope of the indication given may be disregarded.

(4) A notice of claim for compensation must be accompanied by a statement in the prescribed form, and verified as aforesaid, of all the circumstances of the holding relevant to the ascertainment of the person entitled to the compensation for the holding and known to the claimant at the time when the notice is served, and the claimant shall, on being requested by the Commission so to do, give to them such further information as to the circumstances relevant to the ascertainment of that person as the Commission may reasonably require.

10.—(1) In the case of each holding in respect of which an application for the registration of particulars has been duly made

under the Registration Act and a notice of claim for compensation has been duly served, the Commission shall, as soon as may be after the registration of particulars in respect thereof has been effected, give notice thereof to the Regional Valuation Board:

3RD SCH.  
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Provided that—

- (a) in a case in which registration in respect of a holding has been effected before the expiration of the period during which notice may be given under paragraph 8 of this Schedule, the Commission shall not give notice of the registration under this paragraph until that period has expired or, where any notice is given under that paragraph, until the proceedings consequent thereon have been completed; and
- (b) the Commission shall not in the case of any holding give notice of registration under this paragraph if it appears to the Commission that there is any error or omission that renders the particulars registered in respect thereof open to objection, or that any such error or omission is likely to appear from proceedings still to be taken in connection with the registration of particulars in respect of another holding.

(2) When the Commission give notice of registration under this paragraph in relation to any holding, they shall serve a copy of the notice on the claimant, and also on the following persons, that is to say, the person, if other than the claimant, by whom the application for registration was made, any person entitled under sub-paragraph (2) (a) of paragraph 2 of the Second Schedule to the Registration Act to be notified of the application, and any other person by whom a notice has been given to the Commission under paragraph 8 of this Schedule (who are hereinafter in this Schedule referred to as “persons intervening”).

(3) The valuation of a holding shall be made on the basis of the particulars registered in respect thereof on the date on which notice of registration is given to the Regional Valuation Board in relation thereto under this paragraph, and as from that date the provisions of the Registration Act with respect to the rectification of the register shall cease to have effect in relation to the holding:

Provided that, if from any information in the possession of the Regional Valuation Board it appears to them that there is in the particulars so registered as aforesaid an error or omission of material importance for valuation purposes, they may, at any time before they have settled their draft valuation of the holding, notify the Commission that they are of that opinion and thereupon the said provisions shall again come into effect, and, if any alteration is made thereunder in the particulars so registered as aforesaid, the valuation shall be made on the basis of the particulars as altered.

3RD SCH.  
—cont.

(4) The particulars registered in respect of a holding on the date on which notice of registration is given to the Regional Valuation Board in relation thereto under this paragraph, or, in the case of particulars that are altered after that date under the proviso to the last preceding sub-paragraph, those particulars as so altered, shall be assumed conclusively to be correct and complete for the purposes of the valuation of the holding, and shall also, as against the estate owner in respect of the holding and all persons claiming under him and their successors in title respectively be assumed prima facie to be correct and complete for the purpose of ascertaining the premises that vest in the Commission on the vesting date and the title for which they so vest, but the inclusion therein, or the omission therefrom, of any matter shall not be treated as affecting any right or liability, or as binding on any person, for any other purpose.

(5) The estate owner in respect of a holding, in respect of which the payment of compensation under this Act is claimed, and all persons claiming under him and their successors in title respectively shall be estopped from asserting after the vesting date any matter adversely affecting the premises in which the holding subsisted, unless it is shown that there was furnished for the purposes of the Registration Act information of all the circumstances of the holding relevant to that matter, or, if it was a matter with respect to which the Commission or the Board of Trade gave such an indication as to the information material in their opinion for valuation purposes as is mentioned in section thirty-six of this Act, such information with respect to that matter as was thereby indicated.

11.—(1) The claimant in respect of a holding must deliver to the Regional Valuation Board an estimate of the value of the holding in such form, and accompanied by such plans and other documents, as may be prescribed, together with a certificate signed by the person by whom the estimate was made to the effect that it was made on the basis on which holdings are, under the provisions of subsection (4) of section seven of this Act and of this Schedule, required to be valued.

(2) The said estimate may be delivered at any time after the date on which the notice of claim was served, and, if it has not been delivered at the date on which notice of the registration of particulars in respect of the holding is given to the Regional Valuation Board, it must be delivered within such period as the Board may specify by notice requiring delivery thereof served on the claimant after that date, so however that the period specified shall not be less than one month from the service of the notice requiring delivery thereof.

(3) As soon as may be after notice of the registration of particulars in respect of a holding has been given to the Regional Valuation Board and an estimate of the value thereof has been delivered to them, they shall, after making such inquiries and



inspections and taking such other steps as they think requisite, review the estimate and settle a draft of their valuation of the holding :

3RD SCH.  
—cont.

Provided that, if default is made in the delivery of an estimate, the Regional Valuation Board shall settle a draft of their valuation in such manner as they think fit as soon as may be after the notice of registration has been given and the time for the delivery of the estimate has expired.

(4) When the Regional Valuation Board have settled a draft of their valuation of a holding, they shall give notice thereof in the prescribed form to the claimant, and, if the valuation relates to subsidiary coal hereditaments within the meaning of section six of this Act or to coal or a mine of which a person is entitled to require a lease to be granted to him under section thirteen of this Act, to the Commission, and, if the claimant, or, in either of the cases aforesaid, the Commission, so require in the prescribed manner and within the prescribed period, the Board shall give him or them an opportunity of being heard by a person experienced in the valuation of minerals or in the management of mineral estates, or in the case of a claimant, in person, and where in either of the cases aforesaid a hearing is required either by the Commission or the claimant, the Board shall give to the other of them also an opportunity of being heard as aforesaid. The said notice to the claimant shall contain an intimation of his right to be so heard.

(5) As soon as may be after giving effect to the preceding provisions of this paragraph in the case of any holding, the Board shall settle their valuation thereof and shall give notice of their valuation in the prescribed form to the claimant and to each of the persons intervening if any, and in either of the cases aforesaid, to the Commission. The said notice to the claimant or any person intervening shall contain an intimation of the right of the person to whom it is given to have the valuation reviewed under the provisions of paragraph 12 of this Schedule.

12.—(1) Within the prescribed period after service upon him by the Regional Valuation Board of notice of their valuation of a holding, the claimant or any person intervening may give notice in the prescribed manner to the Board of Trade that he claims to have the valuation reviewed under this paragraph.

(2) Where a claim for review is made to the Board of Trade under the preceding sub-paragraph, they shall cause the valuation to be reviewed by a referee selected from a panel of referees to be appointed by them. The panel may include all or any of the members, other than the independent members, of the Central Valuation Board or of any Regional Valuation Board, but shall include at least two persons who are not members of

3RD SCH.  
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any of those Boards, and the referee selected in any particular case shall not be a member of the Regional Valuation Board whose valuation is to be reviewed.

(3) The proceedings on a reference under this paragraph shall be held in public, and the Regional Valuation Board and the person by whom the reference was claimed shall be entitled, if the Board or that person, as the case may be, so desire, to appear thereat and to be heard by such representative as the Board or that person, as the case may be, may appoint, or, in the case of the person claiming the reference, to be heard in person, and the Board and that person shall each of them be entitled to call one (and, unless the referee otherwise directs, not more than one) expert witness to give evidence as to the value of the holding.

Where a claim for review of the valuation of a holding is made by the claimant and also by a person intervening, or by two or more persons intervening, one person only shall be entitled to be heard on behalf of all of them and the single expert witness shall be called on behalf of all of them. In the event of difference between the persons aforesaid as to the person to be heard, or to be called as an expert witness, the difference shall be determined by the referee.

(4) A referee shall have power to direct the Regional Valuation Board to alter their valuation in any case in which an alteration therein appears to him to be requisite, and the Board shall give effect to any such direction.

(5) In any case in which it appears to a referee that a claim for a reference was frivolous or was not justified by a substantial error or omission in the valuation of the Regional Valuation Board, he shall direct that the person claiming the reference shall not be entitled to payment of any costs incurred by that person in connection with the reference, or of such part of those costs as the referee may think fit, and may, if he thinks fit, direct that that person shall pay the whole, or such part as the referee may think fit, of the costs incurred by the Regional Valuation Board in connection with the reference.

(6) In the case of a valuation that relates to subsidiary coal hereditaments within the meaning of section six of this Act or to coal or a mine of which a person is entitled to require a lease to be granted to him under section thirteen of this Act, the foregoing provisions of this paragraph shall have effect subject to the following modifications, that is to say,—

- (a) the Commission may give notice as specified in subparagraph (1) of this paragraph of a claim for review thereof;
- (b) on a reference made at the instance of the Commission, the claimant in respect of the holding, and, on a reference made at the instance of the claimant or of a person

intervening, the Commission, shall be entitled to the like rights as are conferred by sub-paragraph (3) of this paragraph on the person by whom a reference is claimed; and

3RD SCH.  
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- (c) the costs that the person claiming the reference, whether the Commission or another, may be directed under sub-paragraph (5) of this paragraph to pay shall include the costs incurred by the claimant in respect of the holding or of the Commission, as the case may be, in the exercise of the rights conferred on him or them by head (b) of this sub-paragraph.

13. In the valuation of a holding regard shall be had to the following rules, that is to say—

- (a) no allowance shall be made on account of the compulsory acquisition by the Commission of the premises in which the holding subsisted; and
- (b) the state in which the said premises were at the valuation date shall be taken into consideration;

and also to such rules as may be prescribed for securing uniformity of valuation.

14. The Central Valuation Board shall have power to make, with the approval of the Board of Trade, rules as to the procedure to be followed in giving effect to the three last preceding paragraphs and for prescribing anything that is therein directed to be prescribed, and in those paragraphs the expression "prescribed" means prescribed by rules made under this paragraph:

Provided that rules under this paragraph shall not be made until a draft thereof has been approved by a resolution passed by each House of Parliament.

#### *Costs of Valuation Proceedings.*

15.—(1) Subject to the provisions of this paragraph and of sub-paragraph (5) of paragraph 12 of this Schedule, the Commission shall pay the costs reasonably incurred by the claimant, or a person intervening, in respect of any holding in giving effect in relation to that holding to the preceding provisions of this Part of this Schedule, or of the rules made thereunder, relating to his rights and duties in relation to the valuation of the holding.

(2) If two or more notices of claim are served in relation to the same holding, the liability of the Commission under this paragraph shall be limited to such a sum as would have been payable by them if a single notice only had been served, so however, that the Commission may pay costs in excess of that sum in any case in which it appears to them that the service of more than one notice was justified having regard to any special circumstances.

3RD SCH.  
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(3) The Commission shall not be liable under this paragraph to pay any costs in a case in which the holding in question is ultimately certified to have no value.

(4) The Commission shall not be liable to pay any costs under this paragraph incurred by a person who has neglected to comply at the due time with any of the preceding provisions of this Schedule that impose upon him a duty in connection with the valuation of the holding in question, whether with respect to the delivery of an estimate of the value of the holding, to the furnishing of information with relation thereto or to any other matter.

(5) The Commission shall not be liable to pay any costs under this paragraph incurred by a person intervening in respect of any intervention on his part which was not reasonably requisite for the proper valuation of the holding in question.

(6) The High Court shall have power, on the application of a person aggrieved by a denial on the part of the Commission by virtue of any of the four preceding sub-paragraphs of liability to pay any such costs as aforesaid, to give such directions as to the matter in question as appear to the Court to be just.

(7) The Commission shall have power to enter into undertakings to pay, and to pay, any costs other than those aforesaid reasonably incurred by any person in connection with the valuation of a holding.

(8) The amount of any costs that the Commission are liable under or by virtue of this paragraph to pay shall be determined by reference to a scale to be prescribed by the Treasury.

(9) In case of difference as to the amount of any costs that the Commission are liable under or by virtue of this paragraph to pay, or as to an apportionment required to be made for the purposes of sub-paragraph (2) of this paragraph, the Board of Trade may direct in what manner those costs are to be taxed, or the apportionment is to be settled, as the case may be.

*Certification of values for purposes of payment of compensation.*

16.—(1) When a Regional Valuation Board have settled the valuations of all the holdings in their region for which compensation is payable, and the proceedings on all claims for reference under paragraph 12 of this Schedule relating to any such holdings have been completed, and the time within which any other claim for such reference may be made has expired, the Board shall certify the amounts ascertained by those valuations respectively to the Commission in accordance with subsection (6) of section seven of this Act, and the Commission shall send to the

claimant in respect of each such holding a copy of the certificate that relates to that holding, together with a statement of the aggregate of the amounts certified in respect of all such holdings as attributable to principal coal hereditaments.

3RD SCH.  
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(2) The provisions of this paragraph and of the preceding paragraphs of this Schedule, that relate to the notification of an amount ascertained by a valuation, whether in draft, settled, revised, or certified, shall extend to the notification of a nil valuation.

17.—(1) So soon as may be after the Commission have received from a Regional Valuation Board certificates sent by them under the last preceding paragraph, the Commission shall publish in one or more newspapers circulating in the valuation region a notice to the effect that certificates relating to that region have been sent to them under that paragraph, and naming a place where the certificates may be seen at all reasonable hours by any person having an acquired interest comprised in a holding in that region or a successor in title of any such person.

(2) If any person aggrieved desires to question the validity of any certificate relating to a valuation region in respect of which a notice has been published by the Commission under the preceding sub-paragraph, or the propriety of the omission from the certificates sent in relation to that region of a certificate relating to any holding, on the ground that any requirement of this Act or of the Registration Act or of any rules made under either of them has not been complied with, he may, within six weeks after the first publication of the notice, make an application for the purpose to the High Court, and, where any such application is duly made, the Court—

(a) may by interim order direct the Commission to suspend the payment of compensation on the basis of the certificates sent; and

(b) if satisfied upon the hearing of the application that the interests of the applicant have been substantially prejudiced by any such requirement as aforesaid not having been complied with, may quash a certificate relating to any holding that appears to the Court to be affected, and give such directions as appear to the Court to be requisite for remedying the default and enabling the giving of valid certificates as respects all holdings in the valuation region for which compensation is payable to be completed.

(3) Subject as aforesaid the amounts specified in certificates relating to a valuation region in respect of which such a notice as aforesaid has been published shall be deemed to have been properly certified for the purposes of subsection (7) of section seven of this

3RD SCH.  
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Act, and the holdings to which the certificates relate shall be deemed for those purposes to be the holdings in that region for which compensation is payable, and the right of the Commission to make payments on the basis of such certificates shall not, after the expiration of the said period of six weeks, be questioned by prohibition or certiorari or in any other legal proceedings whatsoever.

## PART IV.

### PAYMENT AND DISPOSAL OF COMPENSATION.

#### *Ascertainment of person entitled.*

18. For the purposes of any provision of this Act under which a payment is to be made at any date to the person entitled to the compensation for a holding, that person shall be ascertained as follows :—

(a) if the holding could at the valuation date have been sold and conveyed to a purchaser in such manner as to bind or over-reach all acquired interests comprised in the holding (either in the actual circumstances or if any requisite consent, approval, request or notice had been received or given) either—

(i) by, or by the direction of, a single person in whom the whole beneficial interest comprised in the holding was vested,

(ii) under the powers conferred by the Settled Land Act, 1925, or under any additional powers conferred by a settlement, or

(iii) by trustees for sale, or

(iv) by a personal representative in the exercise of his paramount powers, or

(v) under powers conferred by any other enactment,

the person who could have given a valid discharge for the purchase money arising on such a sale if paid on the date in question shall be the person entitled ;

(b) in a case in which the preceding sub-paragraph would have applied but for the subsistence at the valuation date of a mortgage not capable of being over-reached as therein mentioned, then, if the mortgage has been discharged before the date in question, the person who would have been entitled if the preceding sub-paragraph had applied shall be the person entitled, and, if the mortgage is still subsisting at that date, then—

(i) except in a case in which at the valuation date the mortgagee or a receiver appointed by him was in

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possession, or in receipt of the income, of the mortgaged premises, the Commission may serve notice in writing on the mortgagee that they propose to act under this provision, and, if within one month after service of the notice, the mortgagee does not give notice in writing to the Commission that he objects to their so acting, the person who would have been entitled if the preceding sub-paragraph had applied shall be the person entitled;

(ii) in the excepted case aforesaid, and in a case in which the Commission do not think fit to serve notice as aforesaid or a mortgagee served with such a notice gives notice of objection as aforesaid, the mortgagee shall be the person entitled;

- (c) in any other case, and also in any such case as aforesaid if the Commission consider it expedient in order to avoid expense or delay or for any special reason, the Commission may make payment to the proper officer of the Supreme Court or, in a case where the sum to be paid does not exceed five hundred pounds, of the county court, in accordance with rules of court, or to trustees appointed by the Commission, and that officer or the trustees, as the case may be, shall be the person entitled.

*Payments on account.*

19.—(1) At any time before the vesting date, or after that date but before the relevant certificates have become conclusive under paragraph 17 of this Schedule, the Commission, if they are satisfied that the compensation for any holding, or the aggregate of the compensation for a number of holdings to which the same person is entitled, will be not less than a particular amount, may make payment of such sum not exceeding that amount as they may think fit on account of the compensation for the holding or holdings :

Provided that no payment on account shall be made under this paragraph, except with the consent of the person entitled, either—

- (a) before the first day of January nineteen hundred and forty; or
- (b) unless the Commission have given to the person entitled not less than three months' notice in writing of their intention to make the payment.

(2) A payment on account made under this paragraph to the person entitled to the compensation for more than one holding shall be deemed to have been paid on account of the compensation for such of those holdings as the Commission may direct when making

3RD SCH.  
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the payment, or, if no such direction is given, on account of the compensation for each of them rateably in proportion to the amount thereof.

(3) A payment on account made under this paragraph before the vesting date, together with interest thereon for the period between the date on which the payment is made and the vesting date at the rate of three pounds per cent. per annum less income tax at the standard rate, shall be treated in account as a payment on account of the capital of the compensation made on the vesting date, and the said interest shall be deemed for the purposes of the Income Tax Acts to be paid on each anniversary of the date of the payment on account that occurs before the vesting date and on the vesting date and accordingly shall be treated as a proper deduction from income.

(4) A payment on account made under this paragraph after the vesting date shall be treated in account as a payment made primarily in or towards discharge of any interest on the compensation that is due at the date of the payment, and the residue thereof, if any, shall be treated in account as a payment on account of the capital of the compensation.

20.—(1) If in the case of any valuation region the relevant certificates have not become conclusive under paragraph 17 of this Schedule at the vesting date, the claimant or any person intervening in respect of a holding in the region for which compensation is to be payable may require the Commission to make, at the expiration of each quarter thereafter until the certificates become conclusive, a payment on account under the last preceding paragraph of an amount not less than that specified in this paragraph, and, as from the date of any such requirement, the Commission shall be liable to make payments to the person entitled to the compensation for the holding accordingly.

(2) The amount of a quarterly payment that may be required as aforesaid shall be an amount equal to interest for three months at the rate mentioned in subsection (8) of section seven of this Act on three-quarters of either—

- (a) the draft valuation of the holding settled under subparagraph (3) of paragraph 11 of this Schedule, if at the date of the payment that draft has been settled but the certificate relating to the holding has not been sent to the Commission; or
- (b) the amount certified, if the certificate has been so sent at that date :

Provided that, if before the beginning of any quarter at the expiration of which a quarterly payment becomes due any payment on account has been made in respect of the holding



under the last preceding paragraph otherwise than by way of quarterly payment required as aforesaid, the amount of the quarterly payment shall be reduced by an amount equal to interest for three months at the rate aforesaid on the amount of the said payment on account.

(3) In the case of a holding consisting of a reversion, if at a date on which a quarterly payment becomes due the draft valuation of the holding has not been settled, the amount of that payment shall be an amount equal to one-eighth of—

- (a) the rent which became payable to the person entitled to the reversion immediately expectant on the lease, in respect of coal, mines of coal and acquired property and rights comprised therein, during the year ending on the vesting date (or, in the case of a lease that has expired before the vesting date, during the last year of its subsistence), less
- (b) the mineral rights duty and royalties welfare levy payable or allowable by that person in respect of that rent;

so however that that amount shall be subject to the reduction mentioned in the proviso to the last preceding sub-paragraph in the case therein mentioned :

Provided that, in a case in which there is reasonable ground for apprehending that, if a payment of the amount so ascertained were made, the aggregate of that payment and of any other payment on account theretofore made might exceed the aggregate of the compensation for the holding and the interest thereon, the Commission may withhold that payment.

(4) In a case in which the proviso to the last preceding sub-paragraph has effect and in a case of a holding other than a reversion, if at a date on which a quarterly payment becomes due the draft valuation of the holding has not been settled, that payment shall be deferred until the draft has been settled and the amount thereof shall be ascertained under sub-paragraph (2) of this paragraph.

(5) In this paragraph—

- (a) the expression “quarter” means a period of three months beginning on the first day of July, October, January or April;
- (b) the references to rent payable to the person entitled to a reversion and to mineral rights duty and royalties welfare levy payable or allowable by that person shall, in their application to a leasehold reversion, be construed as references respectively to the rent which that person was entitled to receive from his

3RD SCH.  
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lessee less the rent which he was liable to pay to his lessor, and to the duty and levy which he was liable to pay or allow less so much thereof as he was entitled to deduct from the rent payable to his lessor.

*Disposal of compensation as between beneficial interests.*

21.—(1) The compensation for a holding when paid by the Commission to the person entitled to receive it from them, including any sum paid on account thereof under paragraph 19 or 20 of this Schedule, and the income thereof, shall, in order to its being applied as compensation to the persons whose interests are comprised in the holding, be held and disposed of for the benefit of those persons, or their personal representatives or assigns, in accordance with the succeeding provisions of this paragraph.

(2) In the case of a holding that consists of or comprises an estate or other interest subject to a settlement within the meaning of the Settled Land Act, 1925, or to a trust for sale the proceeds whereof are subject to a settlement by way of succession, the trustees of the settlement or any Court having jurisdiction in relation to the execution of the trusts of the settlement, and in the case of the Court on the application of any beneficiary under the settlement, may require and cause the compensation, or the part thereof attributable to that estate or other interest, as the case may be, to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the Court, as the case may be, will give to the beneficiaries under the settlement the like benefit therefrom as they might lawfully have had from that estate or other interest, or as near thereto as may be, regard being had to the terms of the settlement and to all relevant circumstances affecting the premises in which the holding subsisted, including—

- (a) the terms of any subsisting coal-mining lease and the operation of any provision therein contained as to undergettings, short workings, and other like matters;
- (b) the period within which coal being worked might have been expected to be worked out or coal not being worked might have been expected to come into working and to be worked out; and
- (c) the extent to which, having regard to those circumstances, the premises ought to be regarded as property of a wasting character :

Provided that—

- (i) where a payment on account of the compensation for the holding has been made under paragraph 19 of this Schedule before the vesting date, the net income

accruing to the trustees before the vesting date from the investment of the sum paid, up to an amount sufficient to make good to the capital of the settlement the interest on that sum brought into account under paragraph 19 of this Schedule against the capital of the compensation, shall be set aside as capital of the settlement;

3RD SCH.  
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- (ii) subject as aforesaid no part of the income of the compensation shall be required or caused by virtue of this sub-paragraph to be set aside as capital of the settlement.

(3) In the case of a holding that comprises an estate or other interest subject to a mortgage, the compensation (other than any part thereof that is attributable to an estate or other interest not subject to the mortgage) shall be held and disposed of in like manner as if it had been money arising under a power of sale conferred by the mortgage.

(4) In the case of a holding that could have been sold as mentioned in sub-paragraph (a) of paragraph eighteen of this Schedule under powers conferred by the Ecclesiastical Leasing Acts, the compensation paid in respect thereof and the income thereof shall be held and disposed of, and the said Acts shall have effect, in like manner as if the compensation had been money paid to the Ecclesiastical Commissioners upon a sale under the said Acts of the premises in which the holding subsisted :

Provided that—

- (a) if the holding was a reversion and the rent reserved by the lease was subject, by virtue of a scheme in force under the said Acts, to a direction for the payment thereof to the Ecclesiastical Commissioners for the benefit of their common fund, the direction shall have effect in relation to the income of the compensation as it had effect in relation to the rent; and
- (b) where a payment on account of the compensation for the holding has been made under paragraph 19 of this Schedule before the vesting date, the net income accruing before the vesting date from the investment of the sum paid shall be set aside as capital of the compensation.

(5) Money representing compensation attributable to an estate or other interest subject to such a settlement or trust for sale as is mentioned in sub-paragraph (2) of this paragraph, or

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vested in trustees on or for charitable, ecclesiastical or public trusts or purposes, may, notwithstanding anything in the relevant trust instrument, be invested not only as authorised by law or by the trust instrument but also in or on—

- (a) the stock or other securities of any local authority in the United Kingdom, or
- (b) the stock, shares or other securities of any statutory undertakers within the meaning of section thirty-three of this Act, or
- (c) the debentures or debenture stock or the preference or wholly or partially guaranteed stock or shares of any company incorporated by a special Act of, or provisional order confirmed by, or by or under a public general Act of, the Parliament of the United Kingdom, or incorporated by Royal Charter, being a company which has paid dividends upon its ordinary capital at the rate of at least three per cent. per annum for at least the five years next before the time of investment (of which fact a letter purporting to be signed by the secretary of the company or by a banker or member of a firm of bankers or by the secretary or manager of a joint stock bank or of any branch thereof shall be sufficient evidence), or
- (d) the ordinary or other stock or shares of any company incorporated as aforesaid, being a company which has paid dividends upon its ordinary capital at the rate of at least four per cent. per annum for at least the ten years next before the time of investment (of which fact such a letter as aforesaid shall be sufficient evidence):

Provided that the power conferred by this sub-paragraph—

- (i) shall not extend to any stocks shares or securities to bearer or subject to any liability for calls or other payments; and
- (ii) shall be exercisable subject to any consent that would have been requisite if the money had been proposed to be invested as authorised by law or by the trust instrument.

(6) Subject as aforesaid the compensation for a holding and the income thereof shall be held and disposed of in such manner as to confer on the existing owners whose interests are comprised in the holding, their personal representatives or assigns, the like benefits so far as may be, as they would have had from their respective interests in the premises in which the holding subsisted if those premises had not been acquired by the Commission.

*Costs of payment and disposal.*3RD SCH.  
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22.—(1) Subject to the provisions of this paragraph and of section thirty-nine of this Act, the Commission shall pay the costs reasonably incurred by any person having an acquired interest that is comprised in a holding or a successor in title of his—

- (a) in connection with the ascertainment of the person entitled to the compensation for the holding; and
- (b) in a case in which the compensation for the holding is paid into court under sub-paragraph (c) of paragraph 18 of this Schedule, in connection with the investment and re-investment of the sums paid and of obtaining orders for that purpose, of obtaining orders for the payment of the interest on the investments made, and of obtaining orders for the payment out of court of the sums paid or of the investments thereof; or
- (c) in a case in which the compensation is paid otherwise than as aforesaid, in connection with any application to the Court that may be requisite for the purpose of determining the manner in which the compensation ought to be held and disposed of.

(2) The Commission shall not be liable to pay under this paragraph any costs incurred by a person who or whose predecessor in title has neglected to furnish to the Commission information, relevant to the ascertainment of the person entitled to the compensation for the holding, that he is required by this Schedule, or has been reasonably required by the Commission, to furnish to them. The High Court shall have power, on the application of a person aggrieved by a denial on the part of the Commission by virtue of this sub-paragraph of liability to pay any such costs as aforesaid, to give such directions as to the matter in question as appear to the Court to be just.

(3) In case of difference as to the amount of any costs, other than costs of Court proceedings, that the Commission are liable under this paragraph to pay, the Board of Trade may direct in what manner they are to be taxed.

## PART V.

## APPLICATION TO SCOTLAND.

23. The foregoing provisions of this Schedule shall apply to Scotland, subject to the following modifications:—

- (i) For heads (a), (b) and (c) of paragraph 1 the following shall be substituted:—

“ (a) in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease granted by the proprietor of the dominium utile and in the case of acquired property and rights

3RD SCH.  
—cont.

annexed to any such coal or mine, the interest therein of such proprietor (hereinafter referred to as the estate owner) together with the interests therein of all persons claiming under him;

(b) in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease that is a sub-lease and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the lessee who is the landlord under the sub-lease (hereinafter referred to as the estate owner), together with the interests of all persons claiming under him with the exception of any such interest that is a retained interest by virtue of a direction under subsection (2) of section five of this Act;

(c) in the case of all the coal and mines of coal in any valuation area that are not on the valuation date comprised in any coal-mining lease, and are in the ownership of the same person, as proprietor of the dominium utile (hereinafter referred to as the estate owner), and in the case of acquired property and rights annexed to any such coal or mine the interest therein of that person, together with the interests therein of all persons claiming under him.”

- (ii) In the application of paragraph 4 to a valuation region in Scotland, a reference to the Lord Advocate shall be substituted for the reference to the Lord Chancellor.
- (iii) For sub-paragraph (6) of paragraph 5 the following sub-paragraph shall be substituted:—

“(6) The Court of Session or the sheriff court shall in respect of proceedings before the Central Valuation Board, or a referee appointed under this Schedule, or a Regional Valuation Board have the like powers to grant warrant to enforce the attendance of witnesses or the production of documents as in any arbitration, and it shall be competent in any such proceedings to examine witnesses on oath or affirmation.”

- (iv) For paragraph 18 the following paragraph shall be substituted:—

“18. For the purposes of any provision of this Act under which a payment is to be made at any date to the person entitled to the compensation for a holding, that person shall be ascertained as follows—

(a) where the whole interests comprised in one holding were vested immediately before the valuation date in a single person, he shall be the person entitled;

(b) if the holding could, immediately before the valuation date have been sold and conveyed to a purchaser—

3RD SCH.  
—cont.

- (i) by any person holding the same in a fiduciary capacity, or
- (ii) by the heir at law duly served of a deceased owner, or
- (iii) under powers conferred by any enactment in such manner as to give the purchaser a valid title free from all feudal prestations and subject only to the inherent right of superiority of the Crown, the person who could have given a valid discharge for the purchase money arising on such a sale if paid on the date on which the compensation is paid shall be the person entitled ;

(c) in a case in which either of the preceding sub-paragraphs would have applied but for the existence of the rights of a superior or the subsistence of a heritable security—

- (i) except in a case in which immediately before the valuation date the creditor in a heritable security was in possession or in receipt of the income of the premises in which the holding subsisted, the Commission may serve notice in writing on the superior or the creditor or both, as the case may be, that they propose to act under this provision, and if within one month after the service of the notice no superior or creditor gives notice in writing to the Commission that he objects to their so acting, the person who would have been entitled if sub-paragraph (a) or (b), as the case may be, of this paragraph had applied shall be the person entitled ;
- (ii) in the excepted case aforesaid the Commission may serve notice on the superior or superiors, if any, that they propose to act under this provision and if within one month after the service of the notice no superior gives notice in writing to the Commission that he objects to their so acting, the creditor in the heritable security shall be the person entitled ;

(d) in any other case and also in any such case as aforesaid if the Commission consider it expedient

3RD SCH.  
—cont.

in order to avoid expense or delay or for any special reason, the Commission may consign or deposit the compensation in a bank subject to the orders of the Court of Session or, where such compensation does not exceed five hundred pounds, of the sheriff court, and the compensation shall thereafter be paid in such proportions to such persons as the Court of Session or sheriff court, as the case may be, shall determine :

Provided that, in the case of any person under disability or holding under a limited title, the Court of Session or the sheriff court, as the case may be, may direct that any compensation in which such person may have an interest shall be invested, distributed or otherwise applied in such manner as the Court of Session or the sheriff court may deem just."

(v) Paragraph 21 shall have effect as if for any reference to an estate or other interest subject to a settlement within the meaning of the Settled Land Act, 1925, there were substituted a reference to an estate or other interest subject to a trust within the meaning of the Trusts (Scotland) Act, 1921, or to an entail or to a liferent and any reference to the trustees of the settlement shall be construed accordingly.

11 & 12  
Geo. 5. c. 58.

(vi) After paragraph 21 the following paragraph shall be inserted :—

" 21A. Where any coal or mine of coal or acquired property or rights vested in the Commission by virtue of this Act shall, immediately prior to the valuation date, be subject to a feu-duty or a heritable security, which affects also other property not so vested, and compensation is paid to the person entitled to such feu-duty or the creditor in such heritable security, such person or creditor shall be bound to execute a discharge or deed of restriction to such extent and on such conditions as may, failing agreement, be determined by the sheriff. The Commission shall be liable to pay the costs incurred in connection with the preparation, execution, stamping and recording in the Register of Sasines of any such discharge or deed of restriction as the same may be taxed by the auditor of the sheriff court."

(vii) In this Schedule references to a freehold in possession, shall be construed as references to the whole interests specified in head (c) of paragraph 1 of this



Schedule as modified by this paragraph, and references to payment into Court under sub-paragraph (c) of paragraph 18 shall be construed as references to consignment or deposit in bank under sub-paragraph (d) of the paragraph directed by the foregoing provisions to be substituted for paragraph 18.

3RD SOB.  
—cont.

TABLE.

Section 42.

*Person entitled to, and disposal of, compensation for Crown lands.*

Land.	Person entitled.	Manner of disposal of principal and interest.
Land under the management of the Commissioners of Crown Lands.	The Commissioners of Crown Lands.	As capital and income respectively of the land revenues of the Crown.
Land held by His Majesty in right of the Duchy of Lancaster.	The person to whom the purchase money for land sold under the Duchy of Lancaster Lands Act, 1855, is payable.	As sums representing such purchase money and sums representing interest thereon respectively.
Land held by His Majesty in right of His private estates.	Such person as may be nominated under His Majesty's royal sign manual.	In such manner as His Majesty may be pleased to direct.
Land forming part of the possessions of the Duchy of Cornwall.	The person to whom gross sums of money receivable in respect of a sale of any of the said possessions under the Duchy of Cornwall Management Acts, 1863 to 1893, are payable.	As such gross sums and sums representing interest thereon respectively.
Land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department.	Such person as that department may direct.	In such manner as the Treasury may direct.

Sections 12,  
27, 40, 43.

## FOURTH SCHEDULE.

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### LEASE CONSOLIDATION SCHEMES.

1.—(1) A lease consolidation scheme, and the single lease to be granted pursuant thereto, shall be prepared by the Commission in agreement with the working lessee.

(2) The said lease may comprise, in addition to the coal and mines of coal in the colliery area, any other premises that are to vest in the Commission by virtue of Part I of this Act and are comprised in any of the subsisting working leases, and may, if the person competent to grant a lease thereof consents to the inclusion thereof but not otherwise, comprise also any premises that are so to vest but are not comprised in any of the subsisting working leases and any premises that are not so to vest.

(3) The said lease shall not (except with his consent) impose upon any person any liability not being a liability to which he would have been subject by virtue of a subsisting working lease, or render more onerous whether as regards extent, duration, terms, conditions or otherwise, any liability to which any person would have been so subject, or deprive him of the benefit of any covenant, condition or provision of a subsisting working lease affecting or relating to any premises other than coal or a mine of coal.

2.—(1) The said lease shall be a lease granted, in the case of any premises to be comprised therein, being premises comprised in any of the subsisting working leases, out of the freehold reversion in those premises, or, if two or more coal-mining leases thereof by way of lease and under-lease are subsisting, out of the leasehold reversion in those premises immediately expectant on the subsisting working lease, and accordingly the term to be granted in the case of premises that are so subject to two or more leases shall not be longer than the residue of the term for which that immediate reversion is held.

(2) The said lease shall, notwithstanding anything in subsection (2) of section twelve of this Act, not include any premises that are comprised in a subsisting working lease being an under-lease in a case in which interests in those premises arising under a superior lease are to be retained by virtue of a direction under subsection (2) of section five of this Act.

3. A lease consolidation scheme must—

- (a) specify a date on which it is to take effect;
- (b) specify the subsisting working leases and any superior lease out of which any of the subsisting working leases is derived; and

(c) contain provisions for rendering the rent reserved by the single lease to be granted pursuant thereto and the benefit of every covenant or provision contained in that lease having reference to the subject matter thereof and on the lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained, capable of being recovered, received, enforced and taken advantage of during the period between the date on which the scheme takes effect and the vesting date, by a person acting as agent or in trust for all the persons interested in reversion expectant on that lease during that period.

4TH SCH.  
—cont.

4. At least six months before the date specified in a lease consolidation scheme for its coming into effect, a copy of the scheme shall be delivered to the person for the time being entitled to recover the rent attributable to the reversion immediately expectant on each of the leases specified therein.

5.—(1) The standard amount of rent in respect of any reversion may be determined by agreement between the Commission and the person for the time being entitled to recover the rent attributable to that reversion, or, in default of agreement either the Commission or that person may refer it for determination to an arbitrator selected by agreement between them, or in default of agreement, by the Lord Chancellor in the case of England or the Lord President of the Court of Session in the case of Scotland.

(2) In the case of a reversion that is a leasehold reversion, the standard amount of rent in respect thereof shall be determined on the basis of the net rent, that is to say the amount which the reversioner would have been entitled to receive, less the amount that he would have been liable to pay, by way of rent in respect of premises that are to be comprised in the single lease to be granted pursuant to the scheme.

6. If any person upon whom a copy of a lease consolidation scheme is required to be served objects to any of the provisions included in the scheme under sub-paragraph (c) of paragraph 3 of this Schedule, he may require those provisions to be determined by an arbitrator selected by agreement between the Commission and all the persons upon whom a copy of the scheme is required to be served, or, in default of agreement, by the Lord Chancellor in the case of England or the Lord President of the Court of Session in the case of Scotland.

7.—(1) It shall be the duty of each person whose grant or concurrence is requisite to the taking effect of a lease prepared by the Commission under paragraph 1 of this Schedule as respects

4TH SCH.  
—cont.

any premises comprised therein and of the lessee thereunder, to execute the lease on being required by the Commission so to do at any time after the date of the taking effect of the scheme.

If any person makes default in the performance of the duty imposed upon him by this paragraph, the Commission may execute the lease in his name and on his behalf.

(2) A lease executed under this paragraph shall be deemed to have taken effect on the date of the taking effect of the scheme, and as from that date the subsisting working leases shall be deemed to have been determined so far as regards the premises comprised in the lease so executed.

(3) The provisions of section eleven of this Act shall have effect in relation to a severance effected by the determination of a subsisting working lease under the last preceding sub-paragraph as regards a part of the premises comprised therein, as they have effect in relation to such a severance as is mentioned in that section of the reversion on a lease subsisting on the vesting date, so however that the apportionment of the rent reserved by the subsisting working lease shall be made on the basis of the apportionment made for the purpose of the determination under this Schedule of the standard amount of rent.

8.—(1) The person entitled by virtue of the provisions inserted in a lease consolidation scheme under sub-paragraph (c) of paragraph 3 of this Schedule to recover the rent reserved by the single lease granted pursuant thereto shall be deemed to be the immediate lessor for the purposes of the provisions of section twenty-four of the Finance (1909–10) Act, 1910, that relate (as originally enacted and as applied by Part III of the Mining Industry Act, 1926) to the assessment, collection and recovery of mineral rights duty and royalties welfare levy, in respect of the period between the date on which the lease takes effect and the vesting date.

(2) The powers conferred by the provisions inserted as aforesaid shall be exercisable during the period aforesaid as regards the matters to which those provisions relate, as statutory powers, to the exclusion of any other power that might otherwise have been exercisable as regards those matters.

(3) The said person shall—

(a) if the amount of the rent receivable by him for any period in respect of premises that were comprised in any of the subsisting working leases, after deduction of income tax, mineral rights duty and royalties welfare levy, is less than the aggregate of the standard amounts of rent determined under this Schedule for that period, distribute that rent, together with the

amount of the deficiency payable by the Commission under subsection (5) of section twelve of this Act, among the persons entitled in reversion (whether immediate or superior) expectant on that lease in proportion to the said standard amounts of rent; or

- (b) if the amount of that rent, after such deduction as aforesaid, is greater than the said standard amounts, distribute that rent, after deducting the sum payable to the Commission under subsection (6) of section twelve of this Act, among the persons and in the proportions aforesaid.

(4) A superior reversioner who is entitled to a payment under the preceding sub-paragraph in respect of any premises for any period shall not be entitled to recover from his immediate lessee any rent in respect of those premises for that period.

9.—(1) The costs reasonably incurred in giving effect to the provisions of this Schedule by any person other than the Commission or the working lessee shall be paid by the Commission, under and subject to the provisions of this paragraph :

Provided that, in relation to costs payable by virtue of sub-paragraph (3) of paragraph 7 of this Schedule, the provisions of section eleven of this Act shall have effect to the exclusion of the provisions of this paragraph.

(2) In case of difference as to the amount of the costs other than costs of a reference or award, to be paid under this paragraph, the Board of Trade may direct in what manner they are to be taxed.

(3) An arbitrator may direct that the Commission shall not be liable to pay any such costs as aforesaid, being costs of a reference or award incurred by a party to a reference who appears to the arbitrator to have been guilty of any such unreasonable failure to agree with the Commission or any other party, or of any such negligence or default, as to disentitle him to payment thereof.

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## FIFTH SCHEDULE.

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Sections 13,  
27, 40, 43.

### GRANT OF LEASES TO FREEHOLDERS OF COAL CARRYING ON COAL-MINING BUSINESS.

1. Where application has been duly made to the Commission for the grant of a lease under section thirteen of this Act, the Commission shall prepare a draft of the proposed lease and deliver a copy thereof to the person entitled to the grant of the lease (in this Schedule referred to as "the lessee").

5TH SCH.  
—cont.

2.—(1) Where the premises to be demised are at the date of the application subject to a mortgage otherwise than by way of floating charge, the Commission shall give notice in writing to the mortgagee of the fact of the application having been made, and the mortgagee may, at any time before the compensation in respect of the premises is paid, give notice in writing to the Commission that he elects to have, in lieu of any interest in such compensation a charge upon the interest of the lessee under the lease.

(2) Where notice is duly given by a mortgagee under the preceding sub-paragraph, the provisions of the Third Schedule to this Act relating to the person entitled to the compensation shall have effect as if the premises had not been subject to the mortgage, and the Commission shall prepare a draft of such instrument, whether being a substituted security or an instrument making provision for the variation of a subsisting security, as may be requisite for preserving so far as may be the rights and liabilities of the mortgagee and of the lessee and deliver a copy thereof to each of them.

3. A person to whom a copy of a draft has been delivered under either of the two last preceding paragraphs may within six weeks after the delivery thereof serve notice on the Commission of his objection to the terms thereof on the ground that the proposed lease does not comply with the provisions of section thirteen of this Act, or that the proposed substituted security or other instrument does not comply with the provisions of the last preceding paragraph, as the case may be, and where notice is so served, the terms of the draft may be modified by agreement between the parties concerned, and in default of agreement the terms thereof shall be settled by an arbitrator selected by agreement between the parties or, in default of agreement, by the Lord Chancellor in the case of England or the Lord President of the Court of Session in the case of Scotland.

4. Subject to any agreement between the parties named in the draft of a lease, substituted security or other instrument settled under this Schedule, it shall be the duty of each of those parties, on being required by any other of them so to do, to execute a lease, security or other instrument in the terms of the draft.

5. Subject as aforesaid the procedure for giving effect to the provisions of section thirteen of this Act shall be such as may be prescribed.

6. The costs reasonably incurred in giving effect to the provisions of this Schedule by a person other than the Commission shall be paid by the Commission, and sub-paragraphs (2) and (3) of paragraph 9 of the Fourth Schedule to this Act shall have effect in relation to such costs.

## SIXTH SCHEDULE.

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Section 47.

### AMENDMENTS OF 20 & 21 GEO. 5. C. 34, S. 13.

1. In section thirteen, after subsection (1) thereof, there shall be inserted the following subsection :—

“ (1A) The following provisions shall have effect with respect to any scheme submitted to the Board of Trade by the Coal Commission—

- (a) the scheme shall provide for the consideration to be given to each of the constituent companies from which property is to be transferred (hereinafter referred to as a transferor company) being given out of the securities of the new company or of the constituent company to which that property is transferred, as the case may be (hereinafter referred to as the transferee company) and, except in so far as may be otherwise agreed between all the transferor companies and the transferee company, only out of such securities, and for the amount of the consideration being determined upon the basis of the value at the date of transfer of the property and liabilities of each transferor company transferred by the scheme; the value of the property being assessed at what would have been the value thereof at the date of transfer as between a willing buyer and a willing seller;
- (b) the scheme shall determine the classes of securities of the transferee company which are to be given to the transferor companies in respect of the different classes of property transferred to it, and shall make provision for the determination of the amount of the consideration to be given to each of the transferor companies out of those securities, in so far as it is not determined by the terms of the scheme, being finally determined upon principles specified therein, by arbitration or otherwise, after the scheme has come into operation;
- (c) the scheme may provide for any property of a transferor company thereby transferred to a transferee company being so transferred either subject to, or freed from, all liabilities for the repayment of money lent which immediately before the date of transfer were secured on that

6TH SCH.  
—cont.

property, but if a scheme provides for the transfer of any property freed from all such liabilities, the scheme shall make provision for entitling all persons who immediately before the date of transfer had, by way of security for such repayment, an interest in that property, to participate in the consideration to be received by the transferor company by means of a charge on that consideration or any part thereof, and with the like priorities between each other as existed before the coming into force of the scheme ;

- (d) the scheme may make provision for making in any trust affecting property or liabilities transferred to the transferee company, including any compensation trust created in accordance with the provisions of the Workmen's Compensation (Coal Mines) Act, 1934, such modifications as may be consequential upon the amalgamation or absorption to be effected by the scheme."

24 & 25  
Geo. 5. c. 23.

2. For subsection (2) of the said section thirteen there shall be substituted the following subsection :—

"(2) In relation to any scheme submitted to the Board of Trade under this section by the Coal Commission, the Act of 1926 shall have effect as if for the proviso to subsection (2) of section seven thereof and section eight thereof (which both relate to the consideration of schemes by the Railway and Canal Commission) there were substituted the following proviso, that is to say :—

Provided that the Railway and Canal Commission—

- (a) shall hear such persons, whether in support of or against the scheme, as they think fit, including representatives of persons employed in any undertakings affected by the scheme ; and
- (b) shall not have power to make, or require to be made, in the scheme modifications inconsistent with the enactments relating to the matters which are required to be provided for by schemes submitted to the Board of Trade by the Coal Commission but subject as aforesaid may make such modifications, if any, as they consider necessary for enabling the amalgamation or absorption affected by the scheme to be carried out upon terms and conditions that are fair and equitable to all persons affected by the scheme, and are calculated to avoid financial injury to any of



the constituent companies and to enable the undertaking of the transferee company to be efficiently carried on; and

6TH SCH.  
—cont.

- (c) shall (after giving notice of any modifications proposed to be made by them not only to the Commission but also to the constituent companies in like manner as they would have been required by section ten of the Act of 1926 to do if the scheme had been submitted by those companies) confirm the scheme if they are satisfied that it conforms to the enactments relating thereto and, consistently with those enactments, that the amalgamation or absorption affected by the scheme will be carried out upon such terms and conditions as aforesaid."

3. Subsection (4) of the said section thirteen is hereby repealed.

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## SEVENTH SCHEDULE.

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Section 50.

### AMENDMENTS OF 20 & 21 GEO. 5. C. 34, SS. 5 AND 8.

1. After subsection (1) of section five there shall be inserted the following new subsection :—

"(1A) If it appears to the Board of Trade to be expedient that more than one district committee of investigation should be constituted for any district with a view to the investigation of complaints relating to different matters or to different localities by different committees, two or more such committees may be constituted therefor and shall be charged respectively with the duty of investigating any complaint with respect to the operation of the district scheme for that district made in relation to such matters or to such localities as the Board may direct."

2. In subsection (2) of section five, after the words "Board of Trade", there shall be inserted the words following—"the person to be appointed as chairman shall be a member of the legal profession,".

3. For subsection (3) of section five there shall be substituted the following subsections :—

"(3) A committee of investigation may act notwithstanding any vacancy in their number.

7TH SCH  
— cont.

(3A) The Board of Trade shall cause to be constituted a panel of persons suitable to exercise the functions of the chairman of any committee of investigation in the event of the chairman of any such committee being unable to act on the investigation of any complaint, and in such an event a person shall, in such manner as the Board may direct, be selected from the panel to act as the chairman, and a person so selected for the investigation of any complaint shall, in relation to that investigation, be deemed to be the chairman of the committee, and references in this section to 'the chairman' shall be construed accordingly.

(3B) Upon the occasion of the appointment of a member of a committee of investigation as a representative of any interest, the Board shall, after consultation with such bodies as appear to them to represent that interest, appoint two persons, one of whom shall, in the event of that member being unable to act on the investigation of any complaint, be selected in such manner as the Board may direct to act as the member of the committee representative of that interest and a person so selected for the investigation of any complaint shall, in relation to that investigation, be deemed to be the member of the committee representative of that interest, and references in this section to 'the members' shall be construed accordingly.

(3C) The chairman shall be present at every meeting of a committee of investigation. Any such committee may take evidence on oath, and for that purpose the chairman shall have power to administer an oath. Any evidence taken by a committee shall, except in so far as it relates to any particular business or undertaking or unless the committee for any special reason otherwise decide, be taken in public, and the decision of the committee upon every complaint shall be delivered in public. Subject to the foregoing provisions of this subsection, the meetings and procedure of every committee of investigation shall be regulated in accordance with rules made by the Board of Trade for the purpose."

4. At the end of subsection (5) of section five the following words shall be added:—

"and the complainant also shall furnish the committee with such returns, accounts and other information as the committee considers relevant to the investigation."

5. In subsection (7) of section five the words "subject as hereinafter provided" and the proviso to that subsection are hereby repealed.

6. In subsection (8) of section five for the words from "make representations with respect thereto" to the end of the subsection there shall be substituted the words following—  
 "make to the persons having power under the scheme to rectify  
 "the matter such representations as the committee think desirable  
 "for that purpose, and those persons shall exercise their functions  
 "under the scheme in conformity with the representations."

7TH SCH.  
 —cont.

7. After subsection (8) of section five there shall be inserted the following new subsections:—

"(8A) Where a committee of investigation has given a decision under the last foregoing subsection upon a complaint made with respect to the operation of a scheme, any person aggrieved by the decision, or the executive board charged with the duty of administering the scheme, or the central council, as the case may be, may within fourteen days from the date upon which the decision was given (or within such longer period as the Central Appeal Tribunal may in any particular case allow) refer the matter for arbitration by the Central Appeal Tribunal to be constituted as hereinafter provided.

(8B) The Central Appeal Tribunal shall consist of a chairman and two other members appointed by the Board of Trade, and the Board shall appoint as chairman a member of the legal profession and as the other members persons who appear to the Board to be substantially independent of the coal industry or of any other industry in which large quantities of coal are used, and who are not members, or officers or servants, of an organisation of employers or workpeople in the coal-mining industry, practising mining engineers, or in any other manner directly connected with that industry.

(8C) The Board of Trade shall appoint persons having the same qualifications respectively as are requisite in the case of the chairman and other members of the Central Appeal Tribunal to exercise the functions of the chairman and members of the Tribunal in the event of the chairman or any other member being unable to act on any arbitration, and a person so appointed shall, in relation to any arbitration as respects which he is exercising such functions, be deemed to be the chairman or a member, as the case may be, of the Central Appeal Tribunal, and references in this section to 'the chairman' and to 'the members' shall be construed accordingly.

(8D) The Central Appeal Tribunal shall not have power to act except in the presence of the chairman and both members thereof. Such of the provisions of subsection (3C) of this section as relate to the power to take,

7TH SCH.  
—cont.

and the taking of, evidence by committees of investigation shall apply with respect to the Central Appeal Tribunal as they apply with respect to such committees. Subject to the preceding provisions of this subsection, the procedure of the Central Appeal Tribunal shall be regulated in accordance with rules made by the Board of Trade for the purpose.

(8E) Upon the hearing of any arbitration by the Central Appeal Tribunal, the council or executive board charged with the duty of administering the relevant scheme shall furnish to the Tribunal such returns, accounts and other information relating to the scheme as the Tribunal considers relevant for the purposes of the arbitration.

(8F) The powers of the Board of Trade under subsection (4) of this section shall extend to the Central Appeal Tribunal in like manner as they extend to committees of investigation, but shall include power to pay such remuneration to the members, as well as to the chairman, of the Central Appeal Tribunal as the Board may, with the approval of the Treasury, determine."

8. In subsection (9) of section five for the words from the beginning of the subsection to the words "foregoing subsection" there shall be substituted the following words—"After a decision of the committee of investigation or of the Central Appeal Tribunal as to any complaint has become binding, the committee or the Central Appeal Tribunal, as the case may be,"; the words "the arbitrators' decision and" shall be omitted; paragraph (b) of subsection (10) and subsection (11) are hereby repealed.

9. At the end of section five the following subsection shall be inserted:—

"(11) Any appointment to be made by the Board of Trade under this section of a person who is thereby required to be a member of the legal profession shall be made after consultation with the Lord Chancellor, or where the appointment is of the chairman of a district committee of investigation for a district in Scotland, after consultation with the Lord Advocate."

10. In section eight after the words "executive board" where those words first occur there shall be inserted the words "the Central Appeal Tribunal"; after the words "conferred upon any such committee" there shall be inserted the words "or upon the Central Appeal Tribunal"; in the proviso to the said section there shall be inserted after the words "the central council" the words "the Central Appeal Tribunal";

and at the end of the said section there shall be added the words following :—“; and any such information published or disclosed “ to the Board of Trade or to the Central Appeal Tribunal or to “ any committee of investigation which is relevant to the pro- “ ceedings upon any inquiry or arbitration or investigation held “ by them may be published or disclosed by them to any person “ being a party to or otherwise directly concerned in those pro- “ ceedings, but only in such form as does not disclose information “ relating to any particular business or undertaking.”

7TH SCH.  
—cont.

## CHAPTER 53.

An Act to amend the law with respect to the hire-purchase and sale upon credit of goods and the law of distress in its relation thereto.

[29th July 1938.]

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

1. This Act shall apply in relation to all hire-purchase agreements and credit-sale agreements under which the hire-purchase price or total purchase price, as the case may be, does not exceed—

Application  
of Act.

- (a) where the agreement relates to a motor vehicle or railway wagon or other railway rolling stock, the sum of fifty pounds,
- (b) where the agreement relates to livestock, the sum of five hundred pounds, and
- (c) in any other case, the sum of one hundred pounds,

and the expressions “ hire-purchase agreement ” and “ credit-sale agreement ” shall be construed accordingly.

2.—(1) Before any hire-purchase agreement is entered into in respect of any goods, the owner shall state in writing to the prospective hirer, otherwise than in

Require-  
ments  
relating to

hire-  
purchase  
agreements.

the note or memorandum of the agreement, a price at which the goods may be purchased by him for cash (in this section referred to as the "cash price"):

Provided that this subsection shall be deemed to have been sufficiently complied with—

- (a) if the hirer has inspected the goods or like goods and at the time of his inspection tickets or labels were attached to or displayed with the goods clearly stating the cash price, either of the goods as a whole or of all the different articles or sets of articles comprised therein, or
- (b) if the hirer has selected the goods by reference to a catalogue, price list, or advertisement, which clearly stated the cash price either of the goods as a whole or of all the different articles or sets of articles comprised therein.

(2) An owner shall not be entitled to enforce a hire-purchase agreement or any contract of guarantee relating thereto or any right to recover the goods from the hirer, and no security given by the hirer in respect of money payable under the hire-purchase agreement or given by a guarantor in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the hirer or guarantor by any holder thereof, unless the requirement specified in the foregoing subsection has been complied with, and—

- (a) a note or memorandum of the agreement is made and signed by the hirer and by or on behalf of all other parties to the agreement, and
- (b) the note or memorandum contains a statement of the hire-purchase price and of the cash price of the goods to which the agreement relates and of the amount of each of the instalments by which the hire-purchase price is to be paid and of the date, or the mode of determining the date, upon which each instalment is payable, and contains a list of the goods to which the agreement relates sufficient to identify them, and
- (c) the note or memorandum contains a notice, which is at least as prominent as the rest of the contents

of the note or memorandum, in the terms prescribed in the Schedule to this Act, and

- (d) a copy of the note or memorandum is delivered or sent to the hirer within seven days of the making of the agreement :

Provided that, if the court is satisfied in any action that a failure to comply with the requirement specified in the foregoing subsection or any requirement specified in paragraph (b), (c), or (d) of this subsection has not prejudiced the hirer, and that it would be just and equitable to dispense with the requirement, the court may, subject to any conditions that it thinks fit to impose, dispense with that requirement for the purposes of the action.

**3.**—(1) Before making any credit-sale agreement under which the total purchase price exceeds five pounds, the seller shall state in writing to the prospective buyer, otherwise than in the note or memorandum of the agreement, a price at which the goods may be purchased by him for cash (in this section referred to as the “cash price”):

Require-  
ments  
relating to  
credit-sale  
agreements.

Provided that this subsection shall be deemed to have been sufficiently complied with—

- (a) if the buyer has inspected the goods or like goods and at the time of his inspection tickets or labels were attached to or displayed with the goods clearly stating the cash price, either of the goods as a whole or of all the different articles or sets of articles comprised therein, or
- (b) if the buyer has selected the goods by reference to a catalogue, price list, or advertisement which clearly stated the cash price either of the goods as a whole or of all the different articles or sets of articles comprised therein.

(2) A person who has sold goods by a credit-sale agreement under which the total purchase price exceeds five pounds shall not be entitled to enforce the agreement or any contract of guarantee relating thereto, and no security given by the buyer in respect of money payable under the credit-sale agreement or given by a

guarantor in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the buyer or guarantor by any holder thereof, unless the requirement specified in the foregoing subsection has been complied with, and —

- (a) a note or memorandum of the agreement is made and signed by the buyer and by or on behalf of all other parties to the agreement, and
- (b) the note or memorandum contains a statement of the total purchase price and of the cash price of the goods to which the agreement relates and of the amount of each of the instalments by which the total purchase price is to be paid and of the date, or the mode of determining the date, upon which each instalment is payable, and contains a list of the goods to which the agreement relates sufficient to identify them, and
- (c) a copy of the note or memorandum is delivered or sent to the buyer within seven days of the making of the agreement :

Provided that, if the court is satisfied in any action that a failure to comply with the requirement specified in the foregoing subsection or any requirement specified in paragraph (b) or (c) of this subsection has not prejudiced the buyer, and that it would be just and equitable to dispense with the requirement, the court may, subject to any conditions that it thinks fit to impose, dispense with that requirement for the purposes of the action.

Right of  
hirer to  
determine  
hire-  
purchase  
agreement.

4.—(1) A hirer shall, at any time before the final payment under a hire-purchase agreement falls due, be entitled to determine the agreement by giving notice of termination in writing to any person entitled or authorised to receive the sums payable under the agreement, and shall, on determining the agreement under this section, be liable, without prejudice to any liability which has accrued before the termination, to pay the amount, if any, by which one-half of the hire-purchase price exceeds the total of the sums paid and the sums due in respect of the hire-purchase price immediately before the termination, or such less amount as may be specified in the agreement.



(2) Where a hire-purchase agreement has been determined under this section, the hirer shall, if he has failed to take reasonable care of the goods, be liable to pay damages for the failure.

(3) Where a hirer, having determined a hire-purchase agreement under this section, wrongfully retains possession of the goods, then, in any action brought by the owner to recover possession of the goods from the hirer, the court shall, unless it is satisfied that having regard to the circumstances it would not be just and equitable so to do, order the goods to be delivered to the owner, without giving the hirer an option to pay the value of the goods.

(4) Nothing in this section shall prejudice any right of a hirer to determine a hire-purchase agreement otherwise than by virtue of this section.

**5. Any provision in any agreement—**

Avoidance  
of certain  
provisions.

- (a) whereby an owner or any person acting on his behalf is authorised to enter upon any premises for the purpose of taking possession of goods which have been let under a hire-purchase agreement, or is relieved from liability for any such entry, or
- (b) whereby the right conferred on a hirer by this Act to determine the hire-purchase agreement is excluded or restricted, or whereby any liability in addition to the liability imposed by this Act is imposed on a hirer by reason of the termination of the hire-purchase agreement by him under this Act, or
- (c) whereby a hirer, after the determination of the hire-purchase agreement or the bailment in any manner whatsoever, is subject to a liability which exceeds the liability to which he would have been subject if the agreement had been determined by him under this Act, or
- (d) whereby any person acting on behalf of an owner or seller in connection with the formation or conclusion of a hire-purchase or credit-sale agreement is treated as or deemed to be the agent of the hirer or the buyer, or

(e) whereby an owner or seller is relieved from liability for the acts or defaults of any person acting on his behalf in connection with the formation or conclusion of a hire-purchase agreement or credit-sale agreement, shall be void.

Duty of owners and sellers to supply documents and information.

6.—(1) At any time before the final payment has been made under a hire-purchase agreement or credit-sale agreement, any person entitled to enforce the agreement against the hirer or buyer shall, within four days after he has received a request in writing from the hirer or buyer and the hirer or buyer has tendered to him the sum of one shilling for expenses, supply to the hirer or buyer a copy of any memorandum or note of the agreement, together with a statement signed by the said person or his agent showing—

- (a) the amount paid by or on behalf of the hirer or buyer,
- (b) the amount which has become due under the agreement but remains unpaid, and the date upon which each unpaid instalment became due, and the amount of each such instalment, and
- (c) the amount which is to become payable under the agreement, and the date or the mode of determining the date upon which each future instalment is to become payable, and the amount of each such instalment.

(2) In the event of a failure without reasonable cause to comply with the last foregoing subsection, then, while the default continues—

- (a) no person shall be entitled to enforce the agreement against the hirer or buyer or to enforce any contract of guarantee relating to the agreement, and, in the case of a hire-purchase agreement, the owner shall not be entitled to enforce any right to recover the goods from the hirer, and
- (b) no security given by the hirer or buyer in respect of money payable under the agreement or given by a guarantor in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the hirer or buyer or the guarantor by any holder thereof,

and, if the default continues for a period of one month, the defaulter shall be liable on summary conviction to a fine not exceeding ten pounds.

7.—(1) Where by virtue of a hire-purchase agreement a hirer is under a duty to keep the goods comprised in the agreement in his possession or control, the hirer shall, on receipt of a request in writing from the owner, inform the owner where the goods are at the time when the information is given or, if it is sent by post, at the time of posting.

Duty of hirer to give information as to whereabouts of goods.

(2) If a hirer fails without reasonable cause to give the said information within fourteen days of the receipt of the notice, he shall be liable on summary conviction to a fine not exceeding ten pounds.

8.—(1) In every hire-purchase agreement there shall be—

Conditions and warranties to be implied in hire-purchase agreements.

- (a) an implied warranty that the hirer shall have and enjoy quiet possession of the goods;
- (b) an implied condition on the part of the owner that he shall have a right to sell the goods at the time when the property is to pass;
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party at the time when the property is to pass;
- (d) except where the goods are let as second hand goods, and the note or memorandum of the agreement made in pursuance of section two of this Act contains a statement to that effect, an implied condition that the goods shall be of merchantable quality, so, however, that no such condition shall be implied by virtue of this paragraph as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or, if the hirer has examined the goods or a sample thereof, as regards defects which the examination ought to have revealed.

(2) Where the hirer expressly or by implication makes known the particular purpose for which the goods are required, there shall be an implied condition that the goods shall be reasonably fit for such purpose.

(3) The warranties and conditions set out in subsection (1) of this section shall be implied notwithstanding any agreement to the contrary, and the owner shall not be entitled to rely on any provision in the agreement excluding or modifying the condition set out in subsection (2) of this section unless he proves that before the agreement was made the provision was brought to the notice of the hirer and its effect made clear to him.

(4) Nothing in this section shall prejudice the operation of any other enactment or rule of law whereby any condition or warranty is to be implied in any hire-purchase agreement.

Appropriation of payments made in respect of hire-purchase agreements.

**9.** A hirer who is liable to make payments in respect of two or more hire-purchase agreements to the same owner shall, notwithstanding any agreement to the contrary, be entitled, on making any payment in respect of the agreements which is not sufficient to discharge the total amount then due under all the agreements, to appropriate the sum so paid by him in or towards the satisfaction of the sum due under any one of the agreements, or in or towards the satisfaction of the sums due under any two or more of the agreements in such proportions as he thinks fit, and, if he fails to make any such appropriation as aforesaid, the payment shall by virtue of this section be appropriated towards the satisfaction of the sums due under the respective hire-purchase agreements in the proportions which those sums bear to one another.

Evidence of adverse detention in actions by owners to recover possession of the goods.

**10.** Where, in an action by an owner of goods which have been let under a hire-purchase agreement to enforce a right to recover possession of the goods from the hirer, the owner proves that, before the commencement of the action and after the right to recover possession of the goods accrued, the owner made a request in writing to the hirer to surrender the goods, the hirer's possession of the goods shall, for the purpose of the owner's claim to recover possession thereof, be deemed to be adverse to the owner.

Nothing in this section shall affect a claim for damages for conversion.

Restriction of owner's right to recover possession

**11.—**(1) Where goods have been let under a hire-purchase agreement and one-third of the hire-purchase price has been paid, whether in pursuance of a judgment or otherwise, or tendered by or on behalf of the hirer

or any guarantor, the owner shall not enforce any right to recover possession of the goods from the hirer otherwise than by action.

of goods otherwise than by action.

(2) If an owner recovers possession of goods in contravention of the foregoing subsection, the hire-purchase agreement, if not previously determined, shall determine, and—

(a) the hirer shall be released from all liability under the agreement and shall be entitled to recover from the owner in an action for money had and received all sums paid by the hirer under the agreement or under any security given by him in respect thereof, and

(b) any guarantor shall be entitled to recover from the owner in an action for money had and received all sums paid by him under the contract of guarantee or under any security given by him in respect thereof.

(3) The provisions of this section shall not apply in any case in which the hirer has determined the agreement or the bailment by virtue of any right vested in him.

**12.**—(1) Where, in any case to which the last foregoing section applies, an owner commences an action to enforce a right to recover possession of goods from a hirer after one-third of the hire-purchase price has been paid or tendered as aforesaid, the action shall be commenced in the county court for the district in which the hirer resides or carries on business or resided or carried on business at the date on which he last made a payment under the hire-purchase agreement, and after the action has been commenced the owner shall not take any step to enforce payment of any sum due under the hire-purchase agreement or under any contract of guarantee relating thereto, except by claiming the sum in the said action.

Powers of court in certain actions by owners to recover possession of the goods.

(2) Subject to such exceptions as may be provided for by county court rules, all the parties to the agreement and any guarantor shall be made parties to the action.

(3) Pending the hearing of the action the court shall, in addition to any other powers, have power, upon the application of the owner, to make such orders as the court thinks just for the purpose of protecting the goods from damage or depreciation,

including orders restricting or prohibiting the user of the goods or giving directions as to their custody.

(4) On the hearing of the action the court may, without prejudice to any other power,—

- (a) make an order for the specific delivery of all the goods to the owner, or
- (b) make an order for the specific delivery of all the goods to the owner and postpone the operation of the order on condition that the hirer or any guarantor pays the unpaid balance of the hire-purchase price at such times and in such amounts as the court, having regard to the means of the hirer and of any guarantor, thinks just, and subject to the fulfilment of such other conditions by the hirer or a guarantor as the court thinks just, or
- (c) make an order for the specific delivery of a part of the goods to the owner and for the transfer to the hirer of the owner's title to the remainder of the goods.

(5) No order shall be made under paragraph (b) of the last foregoing subsection unless the hirer satisfies the court that the goods are in his possession or control at the time when the order is made.

(6) The court shall not make an order transferring to the hirer the owner's title to a part of the goods unless it is satisfied that the amount which the hirer has paid in respect of the hire-purchase price exceeds the price of that part of the goods by at least one-third of the unpaid balance of the hire-purchase price.

(7) Where damages have been awarded against the owner in the proceedings, the court may treat the hirer as having paid in respect of the hire-purchase price, in addition to the actual amount paid, the amount of the damages, or such part thereof as the court thinks fit, and thereupon the damages shall accordingly be remitted either in whole or in part.

(8) In this section the expression "order for the specific delivery of the goods" means an order for the delivery of the goods to the owner without giving the hirer an option to pay their value, and the expression "price" in relation to any goods means such part of the hire-purchase price as is assigned to those goods by the

note or memorandum of the hire-purchase agreement, or, if no such assignment is made, such part of the hire-purchase price as the court may determine.

(9) If at any time before the hearing of an action to which this section applies the owner has recovered possession of a part of the goods, the references in subsection (4) hereof to all the goods shall be construed as references to all the goods which the owner has not recovered, and, if the parties have not agreed upon an adjustment of the hire-purchase price in respect of the goods so recovered, the court may for the purposes of paragraphs (b) and (c) of subsection (4) hereof make such reduction of the hire-purchase price and of the unpaid balance thereof as the court thinks just.

(10) Where an owner has recovered a part of the goods let under a hire-purchase agreement, and the recovery was effected in contravention of the last foregoing section, the provisions of this section shall not apply in relation to any action by the owner to recover the remainder of the goods.

**13.**—(1) While the operation of an order for the specific delivery of goods to the owner is postponed under the last foregoing section, the hirer shall be deemed to be a bailee of the goods under and on the terms of the hire-purchase agreement :

Effect of postponement of operation of an order for specific delivery of goods to the owner.

Provided that—

- (a) no further sum shall be or become payable by the hirer or a guarantor on account of the unpaid balance of the hire-purchase price, except in accordance with the terms of the order, and
- (b) the court may make such further modification of the terms of the hire-purchase agreement and of any contract of guarantee relating thereto as the court considers necessary having regard to the variation of the terms of payment.

(2) If while the operation of an order for the specific delivery of the goods to the owner is so postponed the hirer or a guarantor fails to comply with any condition of the postponement, or with any term of the agreement as varied by the court, or wrongfully disposes of the goods, the owner shall not take any civil proceedings against

the hirer or guarantor otherwise than by making an application to the court by which the order was made :

Provided that, in the case of a breach of any condition relating to the payment of the unpaid balance of the hire-purchase price, it shall not be necessary for the owner to apply to the court for leave to execute the order unless the court has so directed.

(3) When the unpaid balance of the hire-purchase price has been paid in accordance with the terms of the order, the owner's title to the goods shall vest in the hirer.

(4) The court may at any time during the postponement of the operation of such an order as aforesaid—

- (a) vary the conditions of the postponement, and make such further modification of the hire-purchase agreement and of any contract of guarantee relating thereto as the court considers necessary having regard to the variation of the conditions of the postponement ;
- (b) revoke the postponement ;
- (c) make an order, in accordance with the provisions of the last foregoing section, for the specific delivery of a part of the goods to the owner and for the transfer to the hirer of the owner's title to the remainder of the goods.

Powers of the court to deal with payments arising on determination of hire-purchase agreements.

**14.**—(1) Where a hire-purchase agreement validly provides for the payment by the hirer on or after the determination of the agreement or the bailment of such sum as, when added to the sums paid and the sums due in respect of the hire-purchase price before the determination, is equal to a fixed amount, and a claim is made in respect of any such sum in an action to which section twelve of this Act applies, then—

- (a) if the court makes an order for the specific delivery of a part of the goods to the owner and the transfer to the hirer of the owner's title to the remainder of the goods, the claim shall be disallowed,
- (b) if the court postpones the operation of an order for the specific delivery of the goods to the



owner, it shall not entertain the claim unless and until the postponement is revoked, and shall then deal with the claim as if the agreement had just been determined.

(2) Where the hirer or a guarantor has paid or has been ordered to pay any such sum as aforesaid, and the owner subsequently seeks to recover the goods in an action to which section twelve of this Act applies, the court may treat the said sum as a sum paid or payable, as the case may be, in respect of the hire-purchase price.

**15.** Where goods have been let under a hire-purchase agreement and at any time after one-third of the hire-purchase price has been paid or tendered the owner makes a further hire-purchase agreement with the hirer comprising those goods, the provisions of sections eleven and twelve of this Act shall have effect in relation to that further agreement as from the commencement thereof.

Successive hire-purchase agreements between the same parties.

**16.—(1)** Where, under the powers conferred by this Act, the court has postponed the operation of an order for the specific delivery of goods to any person, the goods shall not, during the postponement, be treated as goods which are by the consent or permission of that person in the possession, order, or disposition of the hirer for the purposes of section four of the Law of Distress Amendment Act, 1908, or of section thirty-eight of the Bankruptcy Act, 1914.

Provisions as to bankruptcy of hirer and distress on hirer's premises.  
8 Edw. 7.  
c. 53.  
4 & 5 Geo. 5.  
c. 59.

(2) After the determination of a hire-purchase agreement, or after an owner, having a right to recover from a hirer goods which have been let under a hire-purchase agreement, has commenced an action to enforce that right, the goods which have been let under the agreement, or the goods claimed in the action, as the case may be, shall not (notwithstanding that the court in any such action postpones the operation of an order for the specific delivery of the goods to the owner) be treated as goods comprised in the hire-purchase agreement for the purposes of section four of the Law of Distress Amendment Act, 1908.

**17.** If, whilst by virtue of this Act the enforcement by an owner of a right to recover possession of goods from a hirer is subject to any restriction, the hirer refuses to give up possession of the goods to the owner the hirer

Hirer's refusal to surrender goods not to

be conversion in certain cases.

shall not, by reason only of the refusal, be liable to the owner for conversion of the goods.

Provision for the exercise by inferior courts other than county courts of the jurisdiction conferred by this Act.

**18.**—(1) His Majesty may by Order in Council direct that the jurisdiction conferred upon county courts by this Act may be exercised by any inferior court specified in the Order, and whilst any such Order is in force with respect to any inferior court, an action to which section twelve of this Act applies may, where the hirer resides or carries on business within the jurisdiction of that inferior court or resided or carried on business within the jurisdiction of that court at the date on which he last made a payment under the hire-purchase agreement, be commenced either in a county court in accordance with the provisions of the said section or in that inferior court.

(2) The Order may contain such provisions as appear to His Majesty to be expedient with respect to the rules of court for regulating the procedure to be followed in any such action, and may also, where it appears to His Majesty to be necessary, contain provisions authorising the making of such rules.

(3) Any Order made under this section may be revoked or varied by a subsequent Order in Council made in like manner.

Special provisions as to installation charges.

**19.**—(1) Where under any hire-purchase agreement made after the commencement of this Act the owner is required to carry out any installation, and the note or memorandum of the agreement specifies as part of the hire-purchase price the amount to be paid in respect of the installation, the references in section four of this Act to one-half of the hire-purchase price and in sections eleven, twelve and fifteen of this Act to one-third of the hire-purchase price shall be construed as references to the aggregate of the said amount and either one-half of the remainder of the hire-purchase price or one-third of the remainder of the hire-purchase price as the case may be.

(2) For the purpose of this section the expression “ installation ” means—

(a) the installing of any electric line as defined by the Electric Lighting Act, 1882, or any gas or water pipe,

- (b) the fixing of goods to which the agreement relates to the premises where they are to be used, and the alteration of premises to enable any such goods to be used thereon, and
- (c) where it is reasonably necessary that any such goods should be constructed or erected on the premises where they are to be used, any work carried out for the purpose of such construction or erection.

**20.**—(1) The following sections of this Act shall, to the extent hereinafter specified, apply in relation to all hire-purchase agreements whether made before or after the commencement of this Act, that is to say :—

Application of Act in relation to existing agreements.

- (a) section nine of this Act, so far as it relates to payments made after the commencement of this Act,
- (b) sections eleven and fifteen of this Act, so far as they relate to the recovery of possession of goods after the commencement of this Act,
- (c) sections ten, twelve, thirteen, fourteen and fifteen of this Act, so far as they relate to actions commenced after the commencement of this Act,
- (d) subsection (1) of section sixteen of this Act, so far as it relates to orders made after the commencement of this Act, and subsection (2) of the said section so far as it relates to agreements determined or actions commenced, as the case may be, after the commencement of this Act, and
- (e) section seventeen of this Act, so far as it relates to a refusal to give up possession of goods after the commencement of this Act.

(2) Where goods have been let under a hire-purchase agreement made before the commencement of this Act, and the owner has, as part of the consideration for the hire-purchase price, carried out in relation to those goods any installation within the meaning of the last foregoing section, then, if the owner has served upon the hirer a notice specifying a sum not exceeding the expense actually incurred by the owner in respect of the installation, sections eleven, twelve and fifteen of this Act, so far as by virtue of the last foregoing subsection they apply in relation to that agreement, shall, as respects the

recovery of possession of goods after the expiration of twenty-eight days from the service of the notice, and as respects actions commenced after the expiration of the said period, have effect as if for the references in the said sections to one-third of the hire-purchase price there were substituted references to the aggregate of the said sum and one-third of the amount which remains after deducting that sum from the hire-purchase price.

(3) Save as aforesaid this Act shall not apply in relation to any hire-purchase agreement or credit-sale agreement made before the commencement of this Act.

Interpre-  
tation.

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

“ Action,” “ buyer,” “ delivery,” “ goods,”  
“ property,” “ sale,” “ seller,” “ warranty ”  
have the meanings respectively assigned to  
them by the Sale of Goods Act, 1893 ;

56 & 57 Vict.  
c. 71.

“ Hire-purchase agreement ” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, and where by virtue of two or more agreements, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and either the bailee may buy the goods, or the property therein will or may pass to the bailee, the agreements shall be treated for the purposes of this Act as a single agreement made at the time when the last of the agreements was made ;

“ Credit-sale agreement ” means an agreement for the sale of goods under which the purchase price is payable by five or more instalments ;

“ Hire-purchase price ” means the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of goods to which the agreement relates, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement ;

“ Owner ” means the person who lets or has let goods to a hirer under a hire-purchase agreement and includes a person to whom the owner’s property in the goods or any of the owner’s rights or liabilities under the agreement has passed by assignment or by operation of law ;

“ Hirer ” means the person who takes or has taken goods from an owner under a hire-purchase agreement and includes a person to whom the hirer’s rights or liabilities under the agreement have passed by assignment or by operation of law ;

“ Contract of guarantee ” means, in relation to any hire-purchase agreement or credit-sale agreement, a contract, made at the request express or implied of the hirer or buyer, to guarantee the performance of the hirer’s or buyer’s obligations under the hire-purchase agreement or credit-sale agreement, and the expression “ guarantor ” shall be construed accordingly ;

“ Total purchase price ” means the total sum payable by the buyer under a credit-sale agreement, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement ;

“ Motor vehicle ” has the same meaning as in the Road Traffic Act, 1930 ;

20 & 21  
Geo. 5. c. 43.

“ Livestock ” means horses, cattle, sheep, goats, pigs, or poultry.

(2) Where an owner has agreed that any part of the hire-purchase price may be discharged otherwise than by the payment of money, any such discharge shall, for the purposes of sections four, six, eleven, twelve, thirteen, fourteen and fifteen of this Act, be deemed to be a payment of that part of the hire-purchase price.

**22.**—(1) This Act may be cited as the Hire-Purchase Act, 1938.

Short title,  
commence-  
ment and  
extent.

(2) This Act shall come into force on the first day of January nineteen hundred and thirty-nine.

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

## Section 2.

**SCHEDULE.**  

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**NOTICE TO BE INCLUDED IN NOTE OR MEMORANDUM  
OF HIRE-PURCHASE AGREEMENT.****NOTICE.***Right of Hirer to terminate Agreement.*

1. The hirer may put an end to this agreement by giving notice of termination in writing to any person who is entitled to collect or receive the hire-rent.

2. He must then pay any instalments which are in arrear at the time when he gives notice. If, when he has paid those instalments, the total amount which he has paid under the agreement is less than (*here insert the minimum amount which the hirer is required to pay in accordance with the provisions of sections four and nineteen of this Act*) he must also pay enough to make up that sum.

3. If the goods have been damaged owing to the hirer having failed to take reasonable care of them, the owner may sue him for the amount of the damage unless that amount can be agreed between the hirer and the owner.

4. The hirer should see whether this agreement contains provisions allowing him to put an end to the agreement on terms more favourable to him than those just mentioned. If it does, he may put an end to the agreement on those terms.

*Restriction of Owner's right to recover Goods.*

1.\* [After (*here insert an amount calculated in accordance with the provisions of sections eleven and nineteen of this Act*) has been paid, then,] unless the hirer has himself put an end to the agreement, the owner of the goods cannot take them back from the hirer without the hirer's consent unless the owner obtains an order of the court.

2. If the owner applies to the court for such an order, the court may, if the court thinks it just to do so, allow the hirer to keep either—

- (a) the whole of the goods, on condition that the hirer pays the balance of the price in the manner ordered by the court; or
- (b) a fair proportion of the goods having regard to what the hirer has already paid.

\* If the agreement is a “further” agreement within the meaning of section fifteen of this Act, the words in square brackets should be omitted.

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## CHAPTER 54.

An Act to restrict the use of the name Architect to Registered Architects and to extend the time within which practising architects may apply for registration. [29th July 1938.]

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

**1.**—(1) Subject to the provisions of this Act, a person shall not practise or carry on business under any name, style or title containing the word “Architect” unless he is a person registered under the principal Act: Use of title  
“Architect.”

Provided that nothing in this section shall affect—

- (a) the use of the designation “Naval architect,” “Landscape architect” or “Golf-course architect,” or
- (b) the validity of any building contract in customary form;

and where at the date of the passing of this Act any person—

- (i) holds in the service of a local authority an office by virtue of which he has the control and management of the architectural work of the local authority; and

(ii) is a member of any of the following institutions, that is to say—

- The Institution of Civil Engineers;
- The Institution of Structural Engineers;
- The Chartered Surveyors' Institution; and
- The Institution of Municipal and County Engineers;

nothing in this section shall prevent the use of the word "architect" in the description of that person as the holder of such an office in the service of that or any other local authority, if and so long as the local authority's servant or servants engaged under him for the purposes of such work is or include a person registered under the principal Act.

(2) In this section the expression "local authority" means a local authority within the meaning of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937.

1 Edw. 8. &  
1 Geo. 6.  
oc. 68, 69.

(3) For the words "Registered Architects" in subsection (3) of section three of the principal Act, and for the words "Registered Architect" in section seventeen of that Act, there shall be respectively substituted the word "Architects" and the word "Architect."

(4) Section ten of the principal Act shall cease to have effect.

(5) This section shall come into operation on the first day of August nineteen hundred and forty.

Date of  
application  
for registra-  
tion.

2.—(1) Notwithstanding anything in the principal Act, a person shall, on application made to the Council in the prescribed manner after the passing of this Act and before the first day of August nineteen hundred and forty, and on payment of the prescribed fee, be entitled to be registered under the principal Act, if he proves, to the satisfaction of the Council or, on an appeal under this section, to the satisfaction of the tribunal hearing the appeal, that at the date of the passing of this Act he was, or had been, practising as an architect in the United Kingdom or in some other part of His Majesty's Dominions.

(2) Where, upon an application made under this section, the Council decide not to register the applicant under the principal Act, he may, within one month from the date on which notice of the decision was served on



him under subsection (2) of section six of that Act, appeal to the Tribunal of Appeal constituted under the following provisions of this section (hereinafter referred to as "the Tribunal"); and on any such appeal the Tribunal may give such directions in the matter as it thinks proper, and the decision of the Tribunal shall be final and conclusive.

(3) The Tribunal shall consist of the following persons, not being members of the Council, that is to say:—

A chairman appointed by the Lord Chancellor;

One person appointed by the Minister of Health;

One person appointed by the Department of Health for Scotland;

One person appointed by the Governor of Northern Ireland;

One person appointed by the President of the Law Society;

One person appointed by the Chairman of the General Council of Solicitors in Scotland; and

One person appointed by the President of the Incorporated Law Society of Northern Ireland:

Provided that, unless and until this Act comes into operation in Northern Ireland, the members for the time being of the Tribunal shall not include any person appointed by the Governor of Northern Ireland or by the President of the Incorporated Law Society of Northern Ireland.

(4) The Council shall pay to any member of the Tribunal such remuneration (if any), and such travelling and other allowances, as may be determined by the Lord Chancellor; and any expenses reasonably incurred by the Tribunal shall be defrayed by the Council.

(5) Three shall be a quorum at any meeting of the Tribunal, and the Tribunal shall have power to act notwithstanding any vacancy among the members thereof; and the procedure of the Tribunal shall be such as it may determine.

**3.** If any person contravenes the provisions of this Act, he shall be liable, on summary conviction, to a fine not exceeding fifty pounds and to a further fine not

**Offences.**

exceeding ten pounds for every day on which the offence continues after conviction therefor :

Provided that a person shall not be guilty of an offence by reason of the occurrence of such a contravention on any particular date, if he proves—

- (a) in a case where the contravention is occasioned by the fact that an application on the part of the defendant for registration under the principal Act has not been granted, that notice of the decision of the Council not to grant the application had not been duly served under subsection (2) of section six of the principal Act before the said date; or
- (b) in a case where the contravention is occasioned by the removal of the defendant's name from the Register, that notice of the removal had not been duly served under section eight of the principal Act before the said date; or
- (c) that at the said date—
  - (i) the time for bringing any appeal under the principal Act or this Act against the said decision or removal, as the case may be, had not expired, or
  - (ii) such an appeal had been duly brought and had not been determined.

Interpreta-  
tion.

21 & 22  
Geo. 5. c. 33.

**4.—(1)** In this Act the expression “ principal Act ” means the Architects (Registration) Act, 1931.

(2) A person shall not, for the purposes of the principal Act and this Act, be treated as not practising by reason only that he is in the employment of another person.

Short title,  
construc-  
tion and  
citation.

**5.—(1)** This Act may be cited as the Architects Registration Act, 1938.

(2) This Act shall be construed as one with the Architects (Registration) Acts, 1931 and 1934, and those Acts and this Act may be cited together as the Architects (Registration) Acts, 1931 to 1938.

Application  
to Northern  
Ireland.

**6.—(1)** This Act shall not extend to Northern Ireland unless and until provision to that effect is made by an Order of His Majesty in Council made in pursuance of a resolution passed by both Houses of the Parliament

of Northern Ireland and any such Order may make such adaptations of this Act in its application to Northern Ireland as may appear to His Majesty in Council to be necessary.

(2) In the event of this Act being so extended to Northern Ireland, then, for the purposes of section six of the Government of Ireland Act, 1920, this Act shall be deemed to be an Act passed before the appointed day.

10 & 11  
Geo. 5. c. 67.

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## CHAPTER 55.

An Act to provide for the registration of still-births in Scotland. [29th July 1938.]

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

1.—(1) Subject to such exceptions as may be prescribed, the provisions of the Registration Acts shall apply to still-births in like manner as they apply to births of children born alive, with the substitution of references to the Schedule to this Act for references to Schedule A to the Act of 1854.

Registration  
of still-  
births.

(2) Every person upon giving information regarding a still-birth shall—

(a) deliver to the registrar a certificate in the prescribed form stating that the child was not born alive, and, where possible, the cause or probable cause of death, which certificate shall, if a registered medical practitioner was in attendance at the birth or has examined the body of the child, be signed by him, and otherwise shall be signed by a certified midwife who was in attendance or examined the body; or

(b) make a declaration in the prescribed form to the effect that no registered medical practitioner

or certified midwife was present at the birth or has examined the body, or that his or her certificate cannot be obtained and that the child was not born alive.

(3) The registrar upon registering a still-birth shall, if so required by the person giving information relating to the still-birth, give to such person, without fee, a certificate under his hand in the prescribed form that he has registered the still-birth.

(4) The keeper or other person having charge of a burial ground in which the body of a still-born child shall have been buried shall, unless a certificate given under the last foregoing subsection in respect of the still-birth has been delivered to him, give, within three days after such burial, notice thereof in the prescribed form to the registrar of the district in which the still-birth took place.

(5) The provisions of section seventy-four of the Act of 1854 relating to the alteration of schedules to that Act annexed shall apply to the alteration of the Schedule to this Act.

Registrar to  
furnish  
returns to  
local autho-  
rities.  
60 & 61 Vict.  
c. 38.

2. The provisions of section fifteen of the Public Health (Scotland) Act, 1897, so far as requiring registrars to furnish to local authorities periodical returns of births and deaths, shall apply to still-births as they apply to deaths.

Penalties.

3. Any person who contravenes or fails to comply with any of the provisions of this Act shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding twenty shillings.

Definitions.

4. In this Act, unless the context otherwise requires—

17 & 18 Vict.  
c. 80.

“ Act of 1854 ” means the Registration of Births, Deaths and Marriages (Scotland) Act, 1854;

“ burial ground ” includes the places of burial described in section forty-four of the Act of 1854;

5 & 6 Geo. 5.  
c. 91.

“ certified midwife ” means a woman certified under the Midwives (Scotland) Act, 1915;

“prescribed” means prescribed by regulations made under section six of the Act of 1854;

“Registration Acts” means the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1934;

“still-born” and “still-birth” shall apply to any child which has issued forth from its mother after the twenty-eighth week of pregnancy and which did not at any time after being completely expelled from its mother breathe or show any other signs of life.

**5.**—(1) This Act may be cited as the Registration of Still-Births (Scotland) Act, 1938, and shall be construed as one with the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1934, and this Act and those Acts may be cited together as the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938. Short title, commencement and extent.

(2) This Act shall be included among the Acts referred to in paragraph (b) of section six of the Population (Statistics) Act, 1938.

1 & 2 Geo. 6.  
c. 12.

(3) This Act shall come into operation on the first day of January nineteen hundred and thirty-nine.

(4) This Act shall extend to Scotland only.

**SCHEDULE.**

Section 1.

**FORM OF REGISTER OF STILL-BIRTHS.**

No.	When and where born.	Sex.	Name, Surname and Rank or Profession of Father. Name and Maiden Surname of Mother. Date and Place of Marriage.	Signature and Qualification of Informant, and Residence if out of the House in which the Still-Birth occurred.	Nature of Evidence upon which registered as Still-born.	Cause or Probable Cause of Death, if known.	When and where Registered and Signature of Registrar.
	(1)	(2)	(3)	(4)	(5)	(6)	(7)

**CHAPTER 56.**

An Act to consolidate with amendments certain enactments relating to food, drugs, markets, slaughter-houses and knackers' yards.

[29th July 1938.]

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

**PART I.****GENERAL PROVISIONS AS TO FOOD AND DRUGS.***Composition of food and drugs.*

1.—(1) No person shall add, or direct or permit any other person to add—

- (a) any substance to any food so as to render the food injurious to health; or
- (b) any substance to any drug so as to affect injuriously the quality or potency of the drug,

with the intent that the food or drug may be sold in that state.

(2) No person shall sell, or have in his possession for the purpose of sale, any food or drug to which any substance has been so added.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

2.—(1) No person shall abstract, or direct or permit any other person to abstract, from any food any constituent thereof so as to affect injuriously the nature, substance or quality of the food with intent that it may be sold in its altered state—

- (a) without notice to the purchaser of the alteration ;
- or

Restrictions on the addition of other substances to any food or drug.

Restrictions on the abstraction from any food of any constituent thereof.

PART I.  
—cont.

(b) whether with or without such notice, if in that state the food does not comply with any relevant provisions contained in regulations made under this Act for prescribing the composition of food.

(2) A person who contravenes any of the provisions of this section shall be guilty of an offence.

Prohibition  
against sale  
of any food  
or drug  
not of  
the nature,  
substance or  
quality  
demanded.

**3.**—(1) If a person sells to the prejudice of the purchaser any food or drug which is not of the nature, or not of the substance, or not of the quality, of the food or drug demanded by the purchaser, he shall, subject to the provisions of the next succeeding section, be guilty of an offence.

(2) Where regulations made under this Act contain provisions prescribing the composition of, or prohibiting or restricting the addition of any substance to, any food, a purchaser of that food shall, unless the contrary is proved, be deemed for the purposes of this section to have demanded food complying with the provisions of the regulations.

(3) In proceedings under this section it shall not be a defence to allege that the purchaser bought for analysis or examination and therefore was not prejudiced.

Defences  
available  
in proceed-  
ings under  
section  
three.

**4.** In proceedings under the last preceding section it shall be a defence for the defendant to prove—

(1) where some substance has been added to the food or drug in question—

(a) in the case of a food, that the substance is not, and its addition has not rendered the food, injurious to health; or, in the case of a drug, that the addition has not affected injuriously the quality or potency of the drug; and

(b) that the addition was not made fraudulently to increase the bulk, weight or measure, or conceal the inferior quality, of the food or drug; and

(c) either—

(i) that the addition was required for the production or preparation of the



food or drug as an article of commerce in a state fit for carriage or consumption ;  
or

(ii) that a label satisfying the requirements of the next succeeding section was attached to, or printed on the wrapper or container of, the article sold ;

(2) where some constituent has been abstracted from the food or drug in question—

(a) that the abstraction has not rendered the food injurious to health, or, as the case may be, affected injuriously the quality or potency of the drug, and was not made fraudulently to conceal the inferior quality of the food or drug ; and

(b) either—

(i) that the abstraction was required for the production or preparation of the food or drug as an article of commerce in a state fit for carriage or consumption ; or

(ii) that a label satisfying the requirements of the next succeeding section was attached to, or printed on the wrapper or container of, the article sold ;

(3) where the food or drug in question is the subject of a patent in force, that it was supplied in the state required by the specification of the patent ;

(4) where the food or drug in question contains some extraneous matter, that the presence of that matter was an unavoidable consequence of the process of collection or preparation ;

(5) that the article supplied was a proprietary medicine and was supplied in response to a demand for that medicine ;

(6) where the proceedings are in respect of diluted whisky, brandy, rum or gin, that the spirit in question had been diluted with water only and that its strength was still not lower than thirty-five degrees under proof :

PART I. Provided that—  
—cont.

- (a) none of the defences specified in paragraphs (1) to (4) of this section shall be available in the case of any food which does not comply with any relevant provisions contained in regulations made under this Act for prescribing the composition of, or prohibiting or restricting the addition of any substance to, food; and
- (b) nothing in paragraph (6) of this section affects the provisions of section fourteen of the Finance Act, 1935, with respect to the dilution of spirits after computation of duty.

25 & 26  
Geo. 5. c. 24.

Provisions  
as to labels.

**5.**—(1) A label shall afford no defence under sub-paragraph (c) (ii) of paragraph (1) or sub-paragraph (b) (ii) of paragraph (2) of the last preceding section unless the following requirements are satisfied:—

- (a) the label must state explicitly what substance has been added to, or what constituent has been abstracted from, the food or drug; and
- (b) it must be of adequate size, and have the notice of addition or abstraction distinctly and legibly printed and conspicuously visible.

(2) Notwithstanding anything in the preceding subsection, the requirements thereof shall, as respects a mixture, be deemed to be satisfied by a label which has been continuously in use without any material variation since the first day of January eighteen hundred and ninety-three and bears a statement to the effect that the article in question is mixed, or by a label which has been continuously in use without any material variation since the first day of October nineteen hundred and thirty-two and bears such a statement distinctly and legibly printed and unobscured by other matter on the label.

Labels and  
advertisements  
describing in-  
correctly  
food or  
drugs.

**6.**—(1) A person who gives with any food or drug sold by him a label, whether attached to or printed on the wrapper or container or not, which falsely describes that food or drug, or is otherwise calculated to mislead as to its nature, substance or quality, shall be guilty of an offence, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid.

(2) A person who publishes, or is a party to the publication of, an advertisement (not being such a label so given by him as aforesaid) which falsely describes any food or drug, or is otherwise calculated to mislead as to its nature, substance or quality, shall be guilty of an offence :

PART I.  
—cont.

Provided that in proceedings under this subsection it shall be a defence for the defendant to prove either—

- (a) that he did not know, and could not with reasonable diligence have ascertained, that the advertisement was of such a character as aforesaid; or
- (b) that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

In any such proceedings as aforesaid against the manufacturer, producer or importer of the food or drug, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

7. Where regulations made under this Act contain provisions prohibiting or restricting the addition of any substance to any food, the addition of that substance—

Presump-  
tive evi-  
dence as to  
injuriously  
nature of  
food.

- (a) if made in contravention of any of the regulations which is expressed to be made for the prevention of danger to health, shall; and
- (b) if made to an amount not exceeding the limit, if any, specified by any of the regulations, shall not,

or the purposes of this Part of this Act be deemed to render the food injurious to health.

*Regulations as to food.*

8.—(1) The Minister of Health (hereafter in this Act referred to as “the Minister”) may, subject to the provisions of this section, make regulations (in this Act

Power of  
Minister  
of Health

PART I.  
—cont.  
to make  
regulations  
as to the  
importation,  
preparation,  
storage, sale,  
delivery,  
&c. of food.

referred to as “Food Regulations”) for all or any of the purposes mentioned in any of the following paragraphs, that is to say:—

- (a) authorising measures to be taken for the prevention of danger to health from the importation, preparation, transport, storage, exposure for sale, and delivery of food of various kinds intended for sale or sold for human consumption;
- (b) requiring wrappers or containers enclosing or containing food of various kinds to be labelled or marked in accordance with the regulations;
- (c) prohibiting or restricting the addition of any substance to, and regulating generally the composition of, any food.

(2) Regulations shall not be made under this section with respect to bread or flour.

(3) Regulations for any of the purposes mentioned in paragraph (b) or paragraph (c) of subsection (1) of this section may be made with respect to cream, but, save as aforesaid, regulations shall not be made under this section with respect to milk.

(4) Regulations shall not be made for any of the purposes mentioned in the said paragraph (c) unless they are expressed to be in the opinion of the Minister necessary or expedient for preventing danger to health or loss of nutritional value, or otherwise for protecting purchasers.

#### *Unsound food.*

Penalty for  
sale, &c. of  
unsound  
food.

9.—(1) A person who—

- (a) sells, or offers or exposes for sale, or has in his possession for the purpose of sale or of preparation for sale; or
- (b) deposits with, or consigns to, any person for the purpose of sale or of preparation for sale,

any food intended for, but unfit for, human consumption shall, subject to the provisions of this section, be guilty of an offence.

PART I.  
—cont.

(2) Where food in respect of which an offence under paragraph (a) of the preceding subsection has been committed was sold to the offender by some other person, that person also shall, subject to the provisions of this section, be guilty of an offence.

(3) Where a person is charged with an offence under paragraph (b) of subsection (1) of this section or under the last preceding subsection, it shall be a defence for him to prove either that he gave notice to the person with whom he deposited, or to whom he consigned or sold, the food in question that it was not intended for human consumption, or that, at the time when he delivered or dispatched it to that person, either it was fit for human consumption or he did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

(4) A person guilty of an offence under this section shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.

(5) If a person licensed under this Act, or the Public Health (London) Act, 1936, to keep a slaughter-house is convicted of an offence under this section, the court may, in addition to any other penalty, cancel his licence.

26 Geo. 5. &  
1 Edw. 8.  
c. 50.

(6) The justice of the peace before whom any food is brought under the next succeeding section may, but need not, be a member of the court before which a person is charged with an offence under this section in relation to that food.

**10.**—(1) An authorised officer of a local authority may at all reasonable times examine any food intended for human consumption which has been sold, or is offered or exposed for sale, or is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale, and, if it appears to him to be unfit for human consumption, may seize it and remove it in order to have it dealt with by a justice of the peace.

Examina-  
tion of food  
and seizure  
of unsound  
food.

(2) An officer who seizes any food under the preceding subsection shall inform the person in whose possession it was found of his intention to have it dealt with by a justice of the peace, and any person who under the last

PART I.  
—cont.

preceding section might be liable to a prosecution in respect of the food shall, if he attends before the justice upon the application for its condemnation, be entitled to be heard and to call witnesses.

(3) If it appears to a justice of the peace that any food brought before him, whether seized under the provisions of this section or not, is unfit for human consumption, he shall condemn it and order it to be destroyed, or to be so disposed of as to prevent it from being used for human consumption.

(4) If a justice of the peace refuses to condemn any food seized under this Part of this Act by an authorised officer of a local authority, the authority shall compensate the owner of the food for any depreciation in its value resulting from its seizure and removal.

Provisions  
as to food  
offered as  
prizes, &c.

11.—(1) The foregoing provisions relating to unsound food shall apply in relation to any food which is intended for human consumption and is—

- (a) offered as a prize or reward in connection with any entertainment to which the public are admitted, whether on payment of money or not; or
- (b) offered as a prize or reward or given away for the purpose of advertisement, or in furtherance of any trade or business; or
- (c) exposed or deposited in any premises for the purpose of being so offered or given away as aforesaid,

as if that food were, or had been, exposed for sale—

- (i) in a case falling within paragraph (a), by each person concerned in the organisation of the entertainment;
- (ii) in a case falling within paragraph (b), by the person offering or giving away the food;
- (iii) in a case falling within paragraph (c), by the occupier of the premises in question.

(2) In this section the expression “entertainment” includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

12. If an authorised officer of a local authority has reason to suspect that any cart, barrow or other vehicle, or any container contains any food intended for sale for human consumption, or in the course of delivery after sale for human consumption, he may examine the contents of the vehicle, or, as the case may be, of the container, and for that purpose may, if necessary, detain the vehicle or the container, and, if he finds any food which appears to him to be intended for, but unfit for, human consumption, he may deal with it as food falling within subsection (1) of section ten of this Act and subsections (2) to (4) of that section shall apply accordingly:

PART I.  
—cont.  
Power to examine food in course of transit.

Provided that—

(a) nothing in this section shall authorise the examination of the contents of—

(i) any vehicle belonging to a railway company and used by them for the purposes of their undertaking; or

(ii) any authorised vehicle used for the purpose of his business as a carrier of goods by a person holding an A licence or a B licence under Part I of the Road and Rail Traffic Act, 1933; or

23 & 24  
Geo. 5. c. 53.

(iii) any container in the possession of a railway company or of any such person as aforesaid as carriers or carrier thereof; and

(b) where the duties of an officer of customs and excise with respect to any goods have not been wholly discharged, nothing in this section shall authorise the examination of those goods without his consent.

*Precautions against contamination of food.*

13.—(1) Subject to the provisions of this section, the following provisions shall have effect in relation to every room in which any food intended for human consumption, other than milk, is prepared for sale or sold, or offered or exposed for sale, or deposited for

Provisions as to rooms where food intended for sale is prepared or stored, &c.

PART I. the purpose of sale or of preparation for sale, that is  
—cont. to say—

- (a) no sanitary convenience, dustbin or ashpit shall be within, or communicate directly with, the room, or be so placed that offensive odours therefrom can penetrate into the room;
- (b) no cistern for the supply of water to the room shall be in direct communication with, or discharge directly into, a sanitary convenience, and there shall not be within the room any outlet for the ventilation of a drain, or, except with the approval of the local authority, an inlet into any drain conveying sewage or foul water;
- (c) the walls, ceiling, floor, windows and doors of the room shall be kept in a proper state of repair;
- (d) the walls, ceiling and doors of the room shall be painted, whitewashed, cleansed, or purified as often as may be necessary to keep them clean and the windows of the room shall be kept clean;
- (e) the room shall not be used as a sleeping place, and, so far as may be necessary to prevent risk of infection or contamination of food in the room, no sleeping place adjoining the room shall communicate therewith except through the open air, or through an intervening ventilated space;
- (f) except in the case of an artificially refrigerated room, suitable and sufficient means of ventilation shall be provided and suitable and sufficient ventilation shall be maintained;
- (g) no refuse or filth, whether solid or liquid, shall be deposited or allowed to accumulate in the room, except so far as may be necessary for the proper carrying on of the trade or business for which the room is used, and the floor of the room shall be cleansed as often as may be necessary to keep it clean;
- (h) cleanliness shall be observed by persons employed in the room, both in regard to the room



and all articles, apparatus and utensils therein, and in regard to themselves and their clothing; and

PART I.  
—cont.

- (i) there shall be provided in, or within reasonable distance of, the room suitable washing basins and a sufficient supply of soap, clean towels, and clean water, both hot and cold, for the use of persons employed in the room :

Provided that paragraph (i) of this subsection shall not apply in relation to a room which is used for the sale or storage, or for the sale and storage, of food contained in containers of such materials, and so closed, as to exclude all risk of contamination, but is not otherwise used for any purpose in connection with the preparation, storage or sale of food.

(2) If, in the case of a room to which the preceding subsection applies—

- (a) any of the requirements of that subsection are not complied with; or
- (b) any person does or permits any act or thing in contravention of that subsection, or fails to take all such steps as may be reasonably necessary to prevent risk of contamination of food in the room; or
- (c) any person prevents the owner of the room from executing any work necessary to make the room comply with the said requirements,

then, in the first-mentioned case, the occupier of the room and, in the other cases mentioned, the person in question, whether he be the occupier or not, shall be liable to a fine not exceeding twenty pounds and to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor.

(3) If, in the case of a room to which subsection (1) of this section applies, any of the requirements specified in paragraphs (a), (b), (c) or (f) of that subsection is not complied with, then, in so far as that requirement is of a structural character, the owner of the room shall, if he let it for the purpose of being used for the preparation, sale or storage of food, or, if not having so let it, he permits it to be so used after receiving notice from

PART I.  
—cont.

the local authority, be liable to the penalty mentioned in the last preceding subsection, but without prejudice to the liability of the occupier under that subsection.

(4) Where the owner of a room who did not let it for the purpose of being used for the preparation, sale or storage of food executes any work necessary to make the room comply with the requirements of subsection (1) of this section, he may recover the expenses incurred by him in so doing from the occupier of the room summarily as a civil debt.

(5) In this section, the expression "room" includes a shop or cellar or any other part of a building, and a shed, store or outbuilding or any part thereof, and the provisions of this section, except paragraphs (e) and (f) of subsection (1) thereof, shall, so far as applicable, apply in relation to a yard, forecourt or area as they apply in relation to a room.

(6) Save in so far as may be expressly provided by Food Regulations, neither this nor the next succeeding section shall apply in relation to premises which are used for the preparation, sale or storage of articles prepared from, or consisting of, materials other than those of animal or vegetable origin, but are not otherwise used for any purpose in connection with the preparation, storage or sale of food.

Registration of premises used in connection with the manufacture or sale of ice-cream, or preserved food, &c.

**14.**—(1) Subject to the provisions of this section, and of subsection (6) of the last preceding section, no premises shall be used for—

- (a) the sale, or the manufacture for the purpose of sale, of ice-cream, or the storage of ice-cream intended for sale; or
- (b) the preparation or manufacture of sausages or potted, pressed, pickled or preserved food intended for sale,

unless they are registered under this section for that purpose by the local authority, and a person who uses any premises in contravention of the provisions of this subsection shall be guilty of an offence.

For the purposes of this subsection, the preparation of meat or fish by any process of cooking shall be deemed to be the preservation thereof.

(2) Subject to the following provisions of this section, the local authority shall, on the application of the occupier of, or of a person proposing to occupy, any premises, register those premises for the purposes of this section.

(3) If it appears to the local authority that any premises for the registration of which application has been made under this section, or which are registered under this section, do not satisfy the requirements of the last preceding section, or are otherwise unsuitable for use for the purpose for which they are proposed to be used or are being used, the authority shall serve on the applicant for registration or, as the case may be, on the occupier for the time being of the premises, a notice stating the place and time, not being less than seven days after the date of the service of the notice, at which they propose to take the matter into consideration and informing him that he may attend before them, with any witnesses whom he desires to call, at the place and time mentioned to show cause why the authority should not, for reasons specified in the notice, refuse the application or, as the case may be, cancel the registration of the premises.

(4) If a person on whom a notice is served under the last preceding subsection fails to show cause to the satisfaction of the local authority, they may refuse the application or, as the case may be, cancel the registration of the premises, and shall forthwith give notice to him of their decision in the matter, and shall, if so required by him within fourteen days of their decision, give to him within forty-eight hours a statement of the grounds on which it was based.

(5) A person aggrieved by the decision of a local authority under this section to refuse to register any premises, or to cancel the registration of any premises, may appeal to a court of summary jurisdiction.

(6) Upon any change in the occupation of premises registered under this section, the incoming occupier shall, if he intends to use them for the purpose for which they are registered, forthwith give notice of the change to the local authority, who shall thereupon make any necessary alteration in their register.

PART I.  
—*cont.*

If a person required to give a notice under this sub-section fails to do so, he shall be liable to a fine not exceeding five pounds.

(7) This section shall not apply in relation to premises used primarily as a club, hotel, inn or restaurant, and in relation to premises used as a theatre, cinematograph theatre, music hall or concert hall shall have effect as if in paragraph (a) of subsection (1) the words "the sale, or" and the words "or the storage of ice-cream intended for sale" were omitted.

(8) If at the commencement of this Act local Act provisions with respect to the registration of premises used for any of the purposes mentioned in subsection (1) of this section were in force in a district, this section shall not apply to that district until the Minister, on the application of the local authority, declares it to be in force therein.

(9) Where on an application made by a local authority under the last preceding subsection the Minister declares this section to be in force in the district of the authority, then, upon the declaration taking effect, such of the local Act provisions as may be specified in the declaration shall be repealed or, as the case may be, shall be repealed as respects the district of the authority, but any premises which immediately before the repeal of those provisions were registered thereunder for any purpose mentioned in subsection (1) of this section shall be deemed to have been registered under this section for that purpose.

Byelaws  
with respect  
to the  
handling,  
wrapping,  
&c. of food,  
and the  
sale of food  
in the open  
air.

**15.—(1)** A local authority may make byelaws for securing the observance of sanitary and cleanly conditions and practices in connection with the handling, wrapping and delivery of food sold or intended for sale for human consumption, and in connection with the sale or exposure for sale in the open air of food intended for human consumption :

Provided that in London the authority to make byelaws under this section shall be—

- (a) as respects the City of London, the Common Council; and
- (b) as respects the rest of London, the county council.

(2) Byelaws made under this section by the London County Council may be made to apply to the whole or any part of London outside the City and it shall be the duty of every local authority to enforce within their district any byelaws so made.

PART I.  
—cont.

(3) If and so far as a byelaw made under this section is inconsistent with any regulation made under this Act, the latter shall prevail.

(4) An authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with any other statutory requirements, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

**16.**—(1) Every dealer in ice-cream who in a street or other place of public resort sells, or offers or exposes for sale, ice-cream from a stall, or from a cart, barrow or other vehicle, or from a basket, pail, tray or other container used without a stall or vehicle, shall have his name and address legibly and conspicuously displayed on the stall, vehicle or container, as the case may be, and, if he fails to comply with the requirements of this section, shall be liable to a fine not exceeding forty shillings.

Notices to be displayed by persons selling ice-cream, &c. from stalls, carts, baskets, &c.

(2) A local authority may at any time resolve that, as from such date, not being less than four weeks from the passing of the resolution, as may be specified therein and until the resolution is revoked, this section shall apply within their district in relation to all kinds of food, or to any kinds of food specified in the resolution, as it applies in relation to ice-cream, and while any such resolution is in force, this section shall apply accordingly :

Provided that nothing in this subsection shall have effect in relation to milk.

(3) A local authority shall forthwith give notice to the Minister of the passing or revocation of a resolution under this section, and shall take such steps as he may direct for publishing notice of the coming into operation, or revocation, of any such resolution.

## PART I.

—cont.

*Food poisoning.*Notification  
of cases of  
food  
poisoning.

**17.**—(1) If a registered medical practitioner becomes aware, or suspects, that a patient whom he is attending within the district of any local authority is suffering from food poisoning, he shall forthwith send to the medical officer of health of that district a certificate stating—

- (a) the name, age and sex of the patient, and the address of the premises where the patient is; and
- (b) particulars of the food poisoning from which he is, or is suspected to be, suffering,

and also stating whether the case occurs in the private practice of the practitioner, or in his practice as medical officer of a public body or institution.

(2) A local authority shall pay to a registered medical practitioner for each certificate duly sent by him under the preceding subsection to their medical officer of health a fee of two shillings and sixpence if the case occurs in his private practice, and a fee of one shilling if it occurs in his practice as medical officer of any public body or institution.

(3) Where the medical practitioner attending a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which, if he were not the medical officer of health, he would have been entitled in respect of a certificate sent by him to the medical officer.

(4) Notwithstanding any enactment which in London might entail such a disqualification, the acceptance by a medical practitioner of a fee under this section shall not subject him to disqualification for being a member of any authority or holding any other public office.

Provisions  
as to sus-  
pected  
food.

**18.**—(1) If the medical officer of health of a district has reasonable ground for suspecting that any food of which he, or any other officer of the local authority of the district, has procured a sample under the provisions of this Act is likely to cause food poisoning, he may give notice to the person in charge of the food that, until his investigations are completed, the food, or any specified portion thereof, is not to be used for human consumption and either is not to be removed, or is not to be removed except to some place specified in the notice.

PART I.  
—cont.

A person who uses or removes any food in contravention of the requirements of a notice given under this subsection shall be liable to a fine not exceeding ten pounds.

(2) If, as a result of his investigations, the medical officer is satisfied that the food in question, or any portion thereof, is likely to cause food poisoning, he may deal with it as food falling within subsection (1) of section ten of this Act and subsections (2) and (3) of that section shall apply accordingly, but, if he is satisfied that it may safely be used for human consumption, he shall forthwith withdraw his notice.

(3) If a notice given under subsection (1) of this section is withdrawn by the medical officer of health, or if the justice of the peace before whom any food is brought under this section refuses to condemn it, the local authority shall compensate the owner of the food to which the notice related for any depreciation in its value resulting from the action taken by the medical officer.

*Meat from knackers' yards.*

**19.**—(1) No person shall sell, or offer or expose for sale, for human consumption any part of an animal which has been slaughtered in a knacker's yard.

(2) A person who contravenes the provisions of this section shall be guilty of an offence and, if he is licensed under this Act, or the Public Health (London) Act, 1936, to keep either a slaughter-house or a knacker's yard, the court may, in addition to any other penalty, cancel his licence.

No part of an animal slaughtered in a knacker's yard to be sold for human consumption.

## PART II.

## PROVISIONS AS TO MILK, DAIRIES AND ARTIFICIAL CREAM.

*Milk and Dairies.*

**20.**—(1) The Minister may make regulations (in this section referred to as "Milk and Dairies Regulations") for or any of the purposes mentioned in any of the following paragraphs, that is to say—

(a) for the registration of persons carrying on, or proposing to carry on, the trade of a dairyman

Milk and Dairies Regulations.

PART II.  
— cont.

- and the registration of dairies, and prohibiting any person from carrying on the said trade unless he and any premises used by him as a dairy are duly registered;
- (b) for the inspection of dairies, and of persons in or about dairies who have access to the milk, or to the churns or other milk vessels;
  - (c) with respect to the lighting, ventilation, cleansing, drainage, and water supply of dairies;
  - (d) for securing the cleanliness of churns and other milk vessels and appliances;
  - (e) prescribing the precautions to be taken for protecting milk against infection or contamination;
  - (f) for preventing danger to health from the sale of infected, contaminated, or dirty milk, and in particular for prohibiting the supply or sale of milk suspected of being infected;
  - (g) imposing obligations on dairymen and their employees in regard to cases of infectious illness;
  - (h) regulating the cooling, conveyance, and distribution of milk;
  - (i) with respect to the labelling, marking, or identification, and the sealing or closing, of churns and other vessels used for the conveyance of milk, the labelling of vessels in which milk is sold or offered or exposed for sale or delivered, and the display of the vendor's name and address on any stall, or any cart, barrow or other vehicle, from which milk is sold or delivered;
  - (j) in cases where no express provision is made by this Act, prohibiting or restricting—
    - (i) the addition of any substance to, or the abstraction of fat or any other constituent from, milk;
    - (ii) the sale of milk to which any such addition, or from which any such abstraction, has been made, or which has been otherwise artificially treated;
  - (k) for preventing danger to health from the importation of milk.



In this subsection the expression "milk" means milk intended for sale or sold for human consumption, or intended for manufacture into products for sale for human consumption.

PART II.

—cont.

(2) Regulations made under paragraph (i) or paragraph (j) of the preceding subsection shall not apply in relation to cream in so far as they are made for any purpose for which regulations with respect to cream may be made under paragraph (b) or paragraph (c) of subsection (1) of section eight of this Act.

(3) Regulations made under this section may be general regulations or regulations limited to a specified area.

**21.**—(1) Milk and Dairies Regulations may contain provisions for all or any of the purposes mentioned in any of the following paragraphs, that is to say—

Use of special designations in connection with milk.

- (a) prescribing, in relation to milk of any description, such designation (hereinafter referred to as a "special designation") as the Minister considers appropriate;
- (b) providing, as respects any special designation, for the granting by the Minister, or by county councils or local authorities, of licences to producers and purveyors of milk authorising the use of that special designation;
- (c) prescribing the periods for which, and the conditions (including conditions as to the payment of fees) subject to which, licences, or licences of any particular class, are to be so granted;
- (d) providing for the suspension or revocation of a licence in the event of a breach of any condition subject to which it was granted; and
- (e) entitling any person aggrieved by the refusal, suspension or revocation of a licence by a county council or local authority to appeal to the Minister.

(2) No person shall, for the purpose of the sale or advertisement of any milk—

- (a) use a special designation in any manner calculated to suggest that it refers to that milk, unless he holds a licence authorising the use of that designation in connection with that milk; or

PART II.  
—*cont.*

(b) refer to that milk by any such description, not being a special designation, as is calculated falsely to suggest—

(i) that there is in force a licence authorising the use of a special designation in connection with that milk; or

(ii) that the milk is tested, approved or graded by any competent person; or

(iii) that the cows from which the milk is derived are free from the infection of tuberculosis or of any other disease.

(3) A person who contravenes any of the provisions of the last preceding subsection shall be guilty of an offence, and in any proceedings taken by virtue of paragraph (b) of that subsection it shall rest on the defendant to prove the truth of any suggestion which, in the opinion of the court, his acts or conduct, as proved by the prosecution, are or is calculated to convey.

(4) It shall be the duty, in London, of Food and Drugs authorities and, elsewhere, of councils of counties and county boroughs, to enforce the provisions of subsection (2) of this section, except that in a county district it shall be the duty of the local authority to enforce them in the case of persons who are not producers of milk.

Power to  
refuse,  
or cancel,  
registration  
of dairy-  
men.

22.—(1) If it appears to an authority by whom dairymen are registered in pursuance of Milk and Dairies Regulations that the public health is, or is likely to be, endangered by any act or default of a person who has applied to be, or is, registered as a retail purveyor of milk, being an act or default, committed whether within or without the district of the authority, in relation to the quality, storage or distribution of milk, they shall serve on him a notice stating the place and time, not being less than seven days after the date of the service of the notice, at which they propose to take the matter into consideration, and informing him that he may attend before them, with any witnesses whom he desires to call, at the place and time mentioned to show cause why they should not, for reasons specified in the notice, refuse to register him as a retail purveyor of milk, or, as the case may be, cancel his registration as such, either generally or in respect of any specified premises.

(2) If a person on whom a notice is served under the preceding subsection fails to show cause to the satisfaction of the authority, they may refuse to register him as a retail purveyor or, as the case may be, cancel his registration as such, and shall forthwith give notice to him of their decision in the matter, and shall, if so required by him within fourteen days of their decision, give to him within forty-eight hours a statement of the grounds on which it was based.

PART II.  
—*cont.*

(3) A person aggrieved by the decision of an authority under this section to refuse to register him, or to cancel his registration, may appeal to a court of summary jurisdiction.

(4) The court before which a person registered as a retail purveyor of milk is convicted of an offence under any of the provisions of this Act relating to milk, or under any Milk and Dairies Regulations may, in addition to any other penalty, cancel his registration as such.

(5) An authority may require a person who applies to them for registration as a retail purveyor of milk to give to them, before his application is considered, information as to whether he is, or has been, registered as such a purveyor, either in their district or in the district of any other authority, and, if an applicant who is so required gives to the authority any information which is false in any material respect, he shall be guilty of an offence.

(6) Where under this section a person's application for registration as a retail purveyor of milk is refused, or his registration is cancelled, he shall not be liable for any breach of a contract for the purchase of further supplies of milk from another person, if such refusal or cancellation was due to the quality of milk supplied by that person.

(7) In London the provisions of this section shall apply also in relation to dairymen who are not retail purveyors of milk as they apply in relation to dairymen who are such purveyors.

**23.**—(1) The Minister of Agriculture and Fisheries may make regulations for determining what deficiency in any of the normal constituents of milk, or what proportion of water, in a sample shall for the purposes

Regulations as to presumptive evidence of adulteration of milk.

PART II.  
—cont.

of this Act raise a presumption, until the contrary is proved, that the article sampled is not genuine milk.

(2) Regulations made under this section shall be laid before Parliament as soon as may be after they are made.

Certain additions not to be made to milk, and certain liquids not to be sold as milk.

24.—(1) No person shall—

- (a) add any water or colouring matter, or any dried or condensed milk or liquid reconstituted therefrom, to milk intended for sale for human consumption; or
- (b) add any separated milk, or mixture of cream and separated milk, to unseparated milk intended for such sale; or
- (c) sell, or offer or expose for sale, or have in his possession for the purpose of sale, for human consumption any milk to which any addition has been made in contravention of the provisions of this subsection.

(2) No person shall sell, or offer or expose for sale, under the designation of milk any liquid in the making of which any separated milk or any dried or condensed milk has been used.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

Prohibition of sale of tuberculous milk, or milk of cows suffering from tuberculosis, &c.

25.—(1) No person shall—

- (a) sell, or offer or expose for sale, for human consumption; or
- (b) use in the manufacture of products for sale for human consumption,

the milk of any cow which to his knowledge has given tuberculous milk, or is suffering from emaciation due to tuberculosis, or from tuberculosis of the udder or any other disease of cows to which this section applies.

(2) In proceedings under this section, the defendant shall be deemed to have known that a cow had given tuberculous milk, or was so suffering as aforesaid, if he could with ordinary care have ascertained the fact.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

(4) The diseases of cows to which this section applies are those specified in Part I of the First Schedule

to this Act and any other disease to which the provisions of this section are extended by Milk and Dairies Regulations.

PART II.  
—cont.

(5) It shall be the duty of the council of every county and county borough to enforce the provisions of this section.

**26.** Where the local authority of a district outside London are not a welfare authority for the purposes of Part VII of the Public Health Act, 1936, they may, with the approval of the Minister, establish depots for the sale, at not less than cost price, of milk specially prepared for consumption by infants under two years of age, and for that purpose may purchase and prepare milk and provide any necessary plant.

Establishment by certain councils of milk depots.  
26 Geo. 5. &  
1 Edw. 8.  
c. 49.

*Artificial cream.*

**27.**—(1) No person shall sell, or offer or expose for sale, for human consumption under a description or designation including the word “cream” any substance purporting to be cream or artificial cream, unless—

Regulation of sale of artificial cream.

(a) the substance is cream; or

(b) where the substance is artificial cream, the word “cream” is immediately preceded by the word “artificial.”

(2) No person shall use any vessel for conveying artificial cream intended for sale for human consumption, or for containing artificial cream at any time when it is exposed for such sale, unless the words “artificial cream” are printed in large and legible letters of uniform size and conspicuously visible either on the vessel itself, or on a label securely attached thereto.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

**28.**—(1) Artificial cream shall not be manufactured, sold, or exposed or kept for sale for human consumption except on premises registered by the Food and Drugs authority:

Premises where artificial cream is

## PART II.

—cont.

manu-  
factured or  
sold to be  
registered.

Provided that registration under this section shall not be required in respect of—

- (a) the manufacture of artificial cream by any person solely for his domestic purposes; or
- (b) the manufacture of artificial cream on any premises for use in the preparation on those premises of some other food; or
- (c) the sale, exposure or keeping for sale of artificial cream on any premises where it is supplied only in the properly closed and unopened vessels in which it is delivered to those premises.

(2) A person who uses any unregistered premises in contravention of the foregoing provisions of this section shall be guilty of an offence, and the court may order that any machine found on the premises which is suitable for use in the manufacture of artificial cream shall be forfeited.

(3) A Food and Drugs authority shall, on the application of the occupier of, or of a person proposing to occupy, any premises, register those premises for the purposes of this section.

(4) Upon any change in the occupation of premises registered under this section, the incoming occupier shall, if he intends to use them for the purpose for which they are registered, forthwith give notice of the change to the authority, who shall thereupon make any necessary alteration in their register.

If a person required to give a notice under this subsection fails to do so, he shall be liable to a fine not exceeding five pounds.

(5) Where any substance having the composition of cream or artificial cream is sold or exposed or kept for sale on premises registered under this section, it shall be presumed to be artificial cream, unless the contrary is proved.

Application to artificial cream of certain provisions relating to cream.

29. Such of the provisions of this Part of this Act and of any Milk and Dairies Regulations as relate to cream, other than provisions relating to the registration of dairymen and dairies, shall, unless, in the case of regulations, the regulations otherwise provide, apply in relation to artificial cream.

## PART III.

## PROVISIONS AS TO OTHER KINDS OF FOOD.

*Bread and flour.*

30.—(1) The Minister may make regulations (in this Act referred to as “Bread and Flour Regulations”) for all or any of the purposes mentioned in any of the following paragraphs, that is to say:—

Regulations as to the composition of bread and the addition of substances to flour.

- (a) prescribing the kinds of flour other than wheat flour and the other substances which may be used in the making of bread for sale;
- (b) prescribing the descriptions under which bread made of flour other than wheat flour may be sold, and the manner in which any such bread is to be marked;
- (c) prohibiting or restricting the addition of any substance, or the application of any treatment, to flour intended for sale or for use in the making of bread for sale;
- (d) prescribing the descriptions under which, and conditions subject to which, flour may be sold; and
- (e) for preventing danger to health from the importation, preparation, transport, storage, exposure for sale and delivery of bread or flour.

(2) Regulations shall not be made for any of the purposes mentioned in paragraph (a) or paragraph (c) of the preceding subsection, unless they are expressed to be in the opinion of the Minister necessary or expedient for preventing danger to health or loss of nutritional value, or otherwise for protecting purchasers.

31. If any flour or other substance which under Bread and Flour Regulations may not be used in the making of bread for sale is found in a bakehouse, or any substance which under those regulations may not be added to flour is found in a flour-mill, the occupier of the bakehouse or mill, as the case may be, shall be guilty of an offence, unless he proves that the substance in question was not intended to be used in the making of bread for sale, or, as the case may be, was not intended to be added to any flour intended for sale.

Prohibition of adulterants in bakehouses and mills.

PART III.  
—cont.*Margarine, margarine-cheese, butter and milk-blended butter.*

Limit of water in butter, &c., and provisions as to butter in margarine.

**32.**—(1) A person who sells, or offers or exposes for sale, or has in his possession for the purpose of sale—

- (a) any butter which contains more than sixteen per cent. of water; or
- (b) any margarine which contains more than sixteen per cent. of water, or the fat of which contains more than ten per cent. of fat derived from milk; or
- (c) any milk-blended butter which contains more than twenty-four per cent. of water,

shall be guilty of an offence.

(2) Any label or advertisement which states or suggests that margarine with which it is given, or to which it relates, contains butter shall state the percentage of butter which it contains :

Provided that no offence shall be deemed to have been committed under this subsection, if the figure stated as the percentage of butter does not differ by more than two from the actual percentage.

A person who gives with any margarine sold by him a label, whether attached to or printed on the wrapper or container or not, which does not comply with the requirements of this subsection, or who publishes, or is a party to the publication of, an advertisement which does not comply therewith, shall be guilty of an offence.

Conditions to be observed in dealings in margarine, margarine-cheese, and milk-blended butter.

**33.**—(1) A person who sells, or forwards by any public conveyance, any margarine, margarine-cheese or milk-blended butter, shall sell or consign it as margarine or margarine-cheese, or, in the case of milk-blended butter, under an approved name.

(2) Every person dealing in margarine, whether wholesale or by retail, and whether as manufacturer, importer, consignor, consignee, commission agent or otherwise, shall conform to such of the following regulations as may be applicable, that is to say:—

- (a) every container containing margarine shall have the word "Margarine" branded or durably marked on the bottom and sides and also, if it be closed, on the top thereof, in block



letters not less than three-quarters of an inch long, the brand or mark being on the container itself and not only on a label, ticket or other thing attached thereto;

PART III.  
—cont.

- (b) there shall be attached to every parcel of margarine exposed for sale by retail, in such manner as to be clearly visible to a purchaser, a label marked "Margarine" in printed block letters not less than one and a half inches long;
- (c) margarine when sold by retail, save in a container branded or durably marked as aforesaid, shall be delivered to the purchaser in a paper wrapper, with the word "Margarine" printed on the outside of the wrapper, or, if more wrappers than one are used, on the outside of the outer wrapper, in block letters not less than half an inch long and distinctly legible, and the outside of that wrapper shall bear no other printed matter, except such matter as may be required by or under any enactment;
- (d) margarine shall not be described on, or on a label enclosed within, any wrapper enclosing or container containing it, or on any label attached to a parcel thereof, or in any advertisement or invoice thereof, by any name other than either "Margarine" or a name combining the word "Margarine" with an approved fancy or other descriptive name printed in type not larger than, and in the same colour, as the letters of the word "Margarine."

(3) The requirements of paragraphs (a), (b) and (c) of the last preceding subsection shall apply in relation to margarine-cheese and to persons dealing therein with the substitution of "Margarine-cheese" for "Margarine":

Provided that, where margarine-cheese is sold or dealt in otherwise than by retail, it shall be sufficient compliance with those requirements if it is itself conspicuously marked with the words "Margarine-cheese."

PART III.  
—cont.

(4) The requirements of the said paragraphs (a) (b) and (c) shall apply in relation to milk-blended butter and to persons dealing therein with the substitution of an approved name for the word "Margarine," but on the outside of the wrapper referred to in the said paragraph (c) there shall, in addition to the approved name, be printed in an approved manner an approved description of the article, setting out the percentage of water contained therein.

(5) A person who contravenes any of the foregoing provisions of this section shall be guilty of an offence.

(6) Any substance resembling butter or cheese which is exposed for sale and is not marked in the manner in which margarine, milk-blended butter or margarine-cheese is required by this section to be marked shall be presumed to be exposed for sale as butter or cheese, as the case may be.

(7) In this section the expression "approved" means approved by the Minister of Agriculture and Fisheries, who, in approving for the purposes of this section names to be used in relation to margarine or milk-blended butter, shall not approve any name which refers to, or is suggestive of, butter or anything connected with the dairy interest.

Registration  
of factories  
and whole-  
sale pre-  
mises.

34.—(1) No premises shall be used—

- (a) as a factory of margarine, margarine-cheese, or milk-blended butter;
- (b) for carrying on the business of a wholesale dealer in margarine, margarine-cheese, or milk-blended butter; or
- (c) as a butter factory, that is to say, a place at which by way of trade butter is blended, re-worked, or subjected to any other treatment, but not so as to cease to be butter,

unless they are registered by the Food and Drugs authority for the purpose in question.

(2) Subject to the provisions of the next succeeding subsection, a Food and Drugs authority shall, on the application of the occupier of, or of a person proposing to occupy, any premises, register those premises for the purposes of this section.

PART III.  
—cont.

(3) Premises shall not be registered or used as a butter factory if they form part of, or communicate otherwise than by a highway with, any other premises which are required to be registered under paragraph (a) or paragraph (b) of subsection (1) of this section.

(4) A person who on premises not registered for the purpose in question carries on any such manufacture, business or trade as is mentioned in subsection (1) of this section, or who uses any premises as a butter factory in contravention of the provisions of the last preceding subsection, shall be guilty of an offence.

(5) Upon any change in the occupation of premises registered under this section, the incoming occupier shall, if he intends to use them for the purpose for which they are registered, forthwith give notice of the change to the Food and Drugs authority, who shall thereupon make any necessary alteration in their register.

If a person required to give a notice under this subsection fails to do so, he shall be liable to a penalty not exceeding five pounds.

(6) A Food and Drugs authority shall forthwith give notice to the Minister of Agriculture and Fisheries of any registration of premises under this section, of any change in the occupation of registered premises and of the deletion from the register of any premises which have ceased to be used for the purpose for which they were registered.

**35.**—(1) Every occupier of a factory of margarine, margarine-cheese, or milk-blended butter, and every wholesale dealer in any such substance, shall keep a register showing the quantity and destination of each consignment of margarine, margarine-cheese, or milk-blended butter, as the case may be, sent out from his factory or place of business, and the register shall be open to the inspection of any officer of the Minister of Agriculture and Fisheries.

Register  
of consign-  
ments to be  
kept in  
factories  
&c.

(2) If any such occupier or dealer—

(a) fails to keep such a register posted up to date;  
or

PART III.  
—cont.

(b) wilfully makes in the register an entry which is false in any particular, or wilfully omits to enter in the register any particular which ought to be entered; or

(c) refuses to produce the register when required to do so by an officer of the Minister of Agriculture and Fisheries,

he shall be guilty of an offence.

Prohibition  
of adulterants in  
butter  
factories.

**36.** If any substance intended to be used for the adulteration of butter is found in a butter factory, the occupier of the factory shall be guilty of an offence, and, if any oil or fat capable of being so used is found in such a factory, it shall be presumed to be intended to be so used, unless the contrary is proved.

*Ice-cream.*

Provisions  
as to  
ice-cream  
likely to  
cause milk-  
borne  
disease.

**37.**—(1) Every manufacturer of, or dealer in, ice-cream shall, upon the occurrence of any milk-borne disease among the persons living or working in or about the premises on which the ice-cream is manufactured, stored or sold, forthwith give notice thereof to the medical officer of health of the district and, if he fails to do so, shall be liable to a fine not exceeding five pounds.

(2) If the medical officer of health of a district has reasonable ground for suspecting that any ice-cream, or substance intended for use in the manufacture of ice-cream, is likely to cause any milk-borne disease, he may give notice to the person in charge thereof that, until further notice, the ice-cream or substance in question, or any specified portion thereof, is not to be used for human consumption and either is not to be removed, or is not to be removed except to some place specified in the notice.

A person who uses or removes any ice-cream or substance in contravention of the requirements of a notice given under this subsection shall be liable to a fine not exceeding ten pounds.

(3) If on further investigation the medical officer is satisfied that the ice-cream or substance in question may safely be used for human consumption, he shall forthwith withdraw his notice, but, if he is not so satisfied, he shall cause it to be destroyed, and he shall also cause to be destroyed any other ice-cream or such substance as

aforesaid then on the premises as to which he is not so satisfied.

PART III.  
—cont.

(4) Subject as hereinafter provided, where a notice given under subsection (2) of this section is withdrawn by the medical officer, or the medical officer acting under subsection (3) of this section causes any ice-cream or other substance to be destroyed, the local authority shall compensate the owner of the ice-cream or other substance in question for any depreciation in its value resulting from the action taken by the medical officer or, as the case may be, for the loss of its value :

Provided that—

- (a) no compensation shall be payable under this section in respect of the destruction of any ice-cream or substance if the local authority prove that it was likely to cause any milk-borne disease ;
- (b) no compensation shall in any case be payable under this section—

(i) in respect of any ice-cream or substance manufactured on, or brought within, any premises while a notice given under subsection (2) of this section with respect to anything on those premises was operative ; or

(ii) in any case where the owner of the ice-cream or substance in question has failed to give a notice which he was required by subsection (1) of this section to give.

For the purposes of this subsection, the value of any ice-cream or other substance shall not be assessed at a value exceeding the cost incurred by the owner in making or purchasing it.

(5) In this section the expression “milk-borne disease” means any disease specified in Part II of the First Schedule to this Act and any other disease which the Minister may by order declare to be for the purposes of this section a milk-borne disease.

#### *Horseflesh.*

**38.**—(1) No person shall sell, or offer or expose for sale, or have in his possession for the purpose of sale, or offer for sale, horseflesh for human consumption elsewhere than in a shop, or in a place where the sign to be displayed on shops, &c., where

PART III.  
—cont.  
horseflesh is  
sold for  
human con-  
sumption.

a shop, stall, or place over or on which a notice in legible letters stating that horseflesh is sold there is displayed in a conspicuous position so as to be visible whenever horseflesh is being sold, or offered or exposed for sale.

(2) No person shall supply horseflesh for human consumption to a purchaser who has not asked to be supplied with horseflesh, or who has asked to be supplied with some compound article of food not ordinarily made of horseflesh.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

(4) If any horseflesh is exposed for sale elsewhere than in a shop, stall or place distinguished as aforesaid without anything to show that it was not intended for sale for human consumption, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.

(5) In this section the expression "horseflesh" means the flesh of horses, asses and mules, and includes any such flesh whether cooked or uncooked and, whether alone, or accompanied by, or mixed with, any other substance, and the expression "flesh" includes any part of an animal.

#### *Shell-fish.*

Provision of  
means for  
cleansing  
shell-fish.

**39.**—(1) A county council or a local authority may provide, whether within or without their county or district, tanks or other apparatus for cleansing shell-fish and may make charges in respect of the use of any tank or other apparatus so provided.

(2) A county council or a local authority may contribute towards the expenses incurred under this section by any other council or any joint committee, or towards expenses incurred by any other person in providing, and making available to the public, means for cleansing shell-fish.

(3) Any expenses incurred by a county council under this section shall, if the Minister by order so directs, be defrayed as expenses for special county purposes chargeable upon such part of the county as may be provided by the order, but any such order may be revoked or varied by a subsequent order.

(4) In London, a local authority may, with the consent of the Minister, borrow for the purposes of this section as if they were purposes of the Public Health (London) Act, 1936.

(5) In this section the expression "cleansing shell-fish" includes the subjection of shell-fish to any germicidal treatment.

(6) Nothing in this section shall authorise the establishment of any tank or other apparatus, or the execution of any other work, on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with such plans and sections, and subject to such restrictions and conditions, as may, before the work is commenced, be approved by the Board of Trade under the hand of one of the secretaries, under-secretaries or assistant secretaries of the Board.

PART III.  
—cont.

#### PART IV.

##### PROVISIONS AS TO IMPORTATION.

40. If there is imported into the United Kingdom, within the meaning of that expression as used in the Customs Consolidation Act, 1876—

Restrictions  
on the im-  
portation of  
certain  
foods.  
39 & 40 Vict.  
c. 36.

- (a) any margarine or margarine-cheese, except in containers conspicuously marked "Margarine" or "Margarine-cheese," as the case may require;
- (b) any adulterated or impoverished milk, except in containers conspicuously marked with a name or description indicating that the milk has been so treated;
- (c) any other adulterated or impoverished food to which His Majesty may by Order in Council direct that this section shall be applied, except in containers conspicuously marked with a name or description indicating that the food has been so treated;
- (d) any milk-blended butter, except in containers conspicuously marked with a name approved for the purpose by the Minister of Agriculture and Fisheries, not being a name which refers to, or is suggestive of, butter or anything connected with the dairy interest;

PART IV.  
—cont.

- (e) any butter, margarine or milk-blended butter the sale of which would be an offence under subsection (1) of section thirty-two of this Act; or
- (f) any food which does not comply with any relevant provisions contained in regulations made under this, or any other, Act with respect to the importation of food,

the importer shall be guilty of an offence under this Part of this Act.

Power of Commissioners of Customs and Excise to have imported food sampled.

41.—(1) The Commissioners of Customs and Excise (in this Part of this Act referred to as “the Commissioners”) shall, in accordance with directions given by the Treasury, take such samples of consignments of imported food as may be necessary for the enforcement of the provisions of this Part of this Act.

(2) Where the Commissioners take a sample of any consignment in pursuance of such directions, they shall divide it into not less than three parts, and send one part to the importer and one part to the Government Chemist and retain one part.

(3) Where a sample taken under this section has been analysed and it appears from the certificate of the Government Chemist that an offence under this Part of this Act has been committed, the Commissioners shall forthwith send a copy of the certificate to the importer.

Prosecutions and penalties for offences under Part IV.

42.—(1) Prosecutions for offences under this Part of this Act shall be undertaken by the Commissioners.

(2) Whenever the Commissioners are of opinion that an offence under this Part of this Act has been committed, they shall communicate to the Minister of Agriculture and Fisheries the name of the importer and such other facts as they possess, or may obtain, as to the destination of the consignment.

(3) A person who commits an offence under this Part of this Act shall be liable in the case of a first offence to a customs penalty not exceeding twenty pounds, and in the case of a subsequent offence, to a customs penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such a penalty and such imprisonment :



Provided that, if in any particular case the Commissioners so elect, the maximum customs penalty shall be a sum equal to the value of the goods imported bearing the same mark or description, to be estimated and taken according to the rate and price for which goods of the like kind, but of the best quality, were sold at, or about, the time of the importation.

PART IV.  
—cont.

(4) For the purposes of this Part of this Act, food shall be deemed to be adulterated or impoverished if any other substance has been added to it, or if any part of it has been abstracted, so as in either case to affect injuriously its nature, substance, or quality :

Provided that, where regulations made under this, or any other, Act contain provisions prohibiting or restricting the addition of any substance to food, the addition of any such substance—

(a) if made in contravention of the regulations shall, and

(b) if made to an amount not exceeding the limit, if any, specified in the regulations shall not,

for the purposes of this subsection be deemed to affect injuriously the nature, substance or quality of the food in question.

(5) In any proceedings for an offence under this Part of this Act, the certificate of the Government Chemist of the result of an analysis shall be sufficient evidence of the facts therein stated, unless the defendant requires that the person who made the analysis shall be called as a witness, and the defendant shall not be entitled so to do unless at least three clear days before the day on which the summons is returnable he gives notice to the prosecutor that he requires that person's attendance.

The reasonable costs and expenses of such a person's attendance shall be paid by the prosecutor or defendant, as the court may order.

(6) In any such proceedings, the part of the sample retained by the Commissioners shall be produced at the hearing and the court may, if it thinks fit, and upon the request of either party shall, cause it to be sent for a further analysis and report to the Government Chemist or some other person holding such qualifications as may be prescribed for the office of public analyst, and the

PART IV.  
—cont.

costs of the analysis shall be paid by the prosecutor or defendant as the court may order.

(7) For the purposes of this section, a document purporting to be a certificate of the Government Chemist and produced by the prosecution, shall, until the contrary is proved, be taken to be such a certificate.

Construc-  
tion of  
Part IV.

**43.** This Part of this Act shall be construed as one with the Customs Consolidation Act, 1876, as amended by any subsequent enactment, and shall be deemed not to be part of this Act :

Provided that in this Part of this Act—

- (a) any expression to which a meaning is assigned by section one hundred of this Act shall have that meaning;
- (b) any reference to this Act shall be construed as such a reference and not as a reference to the said Act of 1876.

## PART V.

### MARKETS, SLAUGHTER-HOUSES AND COLD-AIR STORES.

#### *Markets.*

Establish-  
ment, or  
acquisition  
of market  
by local  
authority.

**44.**—(1) Subject to the provisions of this section, an urban authority and, with the consent of the Minister, a rural authority may—

- (i) establish a market within their district;
- (ii) acquire by agreement (but not otherwise), either by purchase or on lease, the whole or any part of an existing market undertaking within their district, and any rights enjoyed by any person within their district in respect of a market and of tolls;

and, in either case, may provide—

- (a) a market place with convenient approaches thereto;
- (b) a market-house and other buildings convenient for the holding of a market.

(2) Without the consent of the person concerned, no market shall be established in pursuance of this section so as to interfere with any rights, powers or privileges enjoyed within the district in respect of a market by any person :

PART V.  
—cont.

Provided that, for the purposes of this subsection, another local authority shall not be deemed to be enjoying any rights, powers or privileges within the district by reason only of the fact that they have established a market within their own district either under paragraph (i) of the preceding subsection or (otherwise than by acquisition of a then existing market) under any corresponding provision repealed by this Act, or by the Public Health Act, 1875.

38 & 39 Vict.  
c. 55.

(3) In the following provisions of this Act relating to markets, the expression "market authority" means a local authority who have established or acquired a market under this section, or under any corresponding enactment repealed by this Act or by the Public Health Act, 1875.

**45.** The owner of a market undertaking, or of any rights in respect of a market and of tolls, whether established under, or enjoyed by virtue of, statutory powers or not, may sell or lease to a local authority the whole or any part of his market undertaking or rights, but subject to all liabilities attaching thereto :

Power of  
owner of  
market to  
sell it to a  
local  
authority.

Provided that a sale by a market company under this section must be authorised, if the company is a company within the meaning of the Companies Act, 1929, by a special resolution of the members passed in the manner provided in Part IV of that Act, and, if the company is not such a company, by a resolution passed by three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened for the purpose with notice of the business to be transacted.

**46.** A market authority may, with the approval of the Minister, appoint the days on which, and the hours during which, markets are to be held.

Market days  
and hours.

**47.**—(1) The Minister may, on the application of a market authority, approve for the purposes of the market a table of stallages, tolls and charges, and the authority may demand in respect of the market, and

Stallages,  
tolls and  
other  
charges.

PART V.  
—cont.

in respect of the weighing and measuring of articles and vehicles, either the stallages, tolls and charges approved by the Minister, or such less stallages, tolls and charges as they may from time to time determine.

(2) A market authority who provide a weighing machine for weighing cattle, sheep or swine may demand in respect of the weighing of such animals charges not exceeding those specified in the Second Schedule to this Act, or such other charges as the Minister may from time to time approve.

(3) The authority shall keep exhibited in conspicuous places in the market place and in any market house tables stating in large and legibly printed characters the several stallages, tolls and charges payable under this Act, and shall keep so much of the tables as relates to charges payable in respect of the weighing of vehicles, or, as the case may be, in respect of the weighing of animals, conspicuously exhibited at every weighing machine provided by them in connection with the market for the purpose in question.

(4) A person who demands or accepts a stallage, toll or charge greater than that for the time being authorised shall be liable to a fine not exceeding forty shillings.

(5) Nothing in this section shall apply in relation to rents charged by a market authority in respect of the letting of accommodation within their market for any period longer than one week.

Time for  
payment of  
stallages,  
&c.

48.—(1) Subject to the provisions of this section, stallages, tolls and charges payable in respect of the market shall be paid from time to time on demand to an authorised market officer.

(2) Charges payable in respect of the weighing or measuring of articles, vehicles or animals shall be paid to an authorised market officer by the persons bringing the articles, vehicles or animals to be weighed or measured before they are weighed or measured.

(3) Tolls payable in respect of animals brought to the market for sale shall be payable and may be demanded by an authorised market officer so soon as the animals in respect of which they are payable are brought into the

market place and before they are put into any pen, or tied up in the market place, but further tolls shall be payable and may be demanded in respect of any of the animals which are not removed within one hour after the close of the market.

49.—(1) If a person liable to pay any stallage, toll or charge authorised to be taken under this Act does not pay it when lawfully demanded, the market authority may, by any authorised market officer, levy it by distress of all or any of the animals, poultry or other articles in respect of which the stallage, toll or charge is payable, or of any other animals, poultry or articles in the market belonging to, or in charge of, the person liable.

Recovery of  
stallages,  
&c.

(2) Any such stallage, toll or charge may also be recovered either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction.

50. Any person, other than a licensed hawker or certificated pedlar, who on a market day and during market hours sells or exposes for sale in any place within the district of the market authority and within such distance from the market as the authority may by byelaw declare, except in his own dwelling place or shop or in, or at the door of, any premises to a person resident therein, any articles specified in the byelaw, being articles commonly sold in the market, shall be liable to a fine not exceeding forty shillings.

Sales elsewhere than  
in market, or  
in shops, &c.  
prohibited  
during  
market  
hours.

The market authority shall keep exhibited in conspicuous positions in the vicinity of the market notices stating the effect of any byelaw made under this section.

51.—(1) A market authority shall provide sufficient scales, weights, measures and weighing machines for weighing or measuring articles sold in the market and vehicles in which articles are brought for sale in the market, and shall appoint officers to attend to the weighing and measuring of such articles and vehicles.

Provision  
and verification  
of  
weighing  
machines,  
scales, &c.

(2) A market authority in whose market cattle, sheep or swine are sold shall, unless there is in force an order of the Minister of Agriculture and Fisheries declaring that the circumstances are such as to render compliance

PART V.  
—cont.

with this subsection unnecessary, provide to the satisfaction of that Minister a weighing machine, or weighing machines, adapted for weighing such animals and appoint officers to attend to the weighing thereof.

16 & 17  
Geo. 5. c. 21.

A weighing machine provided under this subsection shall for the purposes of section one of the Markets and Fairs (Weighing of Cattle) Act, 1926, be deemed to have been provided for the purpose of complying with the provisions of the principal Act therein referred to.

(3) The authority shall cause all such scales, weights, measures and weighing machines to be verified at least twice in every year by the inspector of weights and measures acting for, or for the area comprising, their district.

Provisions  
as to the  
weighing of  
articles  
and of  
vehicles with  
their loads  
and after  
discharge.

**52.**—(1) A person selling, or offering for sale, any articles in the market shall, if required so to do by the buyer, cause them to be weighed or measured by the scales and weights or measures provided by the market authority and, if he refuses so to do, shall be liable to a fine not exceeding forty shillings.

(2) The person in charge of any vehicle in which articles are brought for sale in the market shall, on the request of the buyer or seller of the articles, or his agent, take the vehicle with its load to the nearest weighing machine provided by the market authority in connection with the market and permit it to be weighed and, after its load has been discharged, shall, on such request as aforesaid, take it to the weighing machine so provided which is nearest to the place of discharge, and permit it to be re-weighed without its load.

(3) If the person in charge of any such vehicle as aforesaid refuses to comply with the provisions of the last preceding subsection, or refuses to assist in the weighing of the vehicle, he shall be liable to a fine not exceeding forty shillings.

Information  
as to number,  
weight, &c.  
of animals  
and articles  
brought to  
the market.

**53.** The person in charge of any vehicle in which, and any other person by whom, animals, poultry or other articles are brought for sale in the market shall give to any authorised market officer such information as to their number and kind or, in the case of articles on which

tolls are chargeable by reference to weight, as to their weight, as that officer may call for.

PART V.  
—cont.

**54.** If an officer appointed by a market authority to attend to the weighing or measuring of articles sold in the market, or of vehicles bringing articles for sale in the market, or of animals brought for sale in the market, refuses or neglects on demand to perform his duties with respect to any such article, vehicle or animal, he shall be liable to a fine not exceeding forty shillings.

Penalty for refusal to weigh.

**55.** A person who—

- (a) commits any fraud with respect to the weighing or measuring of any article, or the weighing of any vehicle, whether loaded or unloaded, or the weighing of any animal, for the purposes of the foregoing provisions of this Part of this Act, or with respect to the recording of the weight of any article or of any vehicle or its load, or of any animal; or
- (b) with intent to evade payment of the whole or a part of any toll or other charge, gives to an authorised market officer false information as to the number, kind or weight of any animals, poultry or other articles,

Frauds in connection with weighing, or with tolls, &c.

shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.

**56.** Any local authority who maintain a market, whether they are a market authority within the meaning of that expression as used in this Act or not, may make byelaws for—

- (a) regulating the use of the market place, and the buildings, stalls, pens and standings therein;
- (b) preventing nuisances or obstructions in the market place, or in the immediate approaches thereto;
- (c) regulating porters and carriers resorting to the market, and fixing the charges to be made for carrying articles therefrom within the district.

Power of any local authority maintaining a market to make market byelaws.

## PART V.

—cont.

Licensing of  
slaughter-  
houses and  
knackers'  
yards.*Slaughter-houses and knackers' yards.*

57.—(1) It shall not be lawful—

- (a) for the occupier of any premises to use them as a slaughter-house or knacker's yard or permit them to be so used, unless he holds a licence granted under this section by the local authority authorising him to keep those premises as a slaughter-house or, as the case may be, as a knacker's yard; or
- (b) for any person other than the occupier to use any premises as a slaughter-house or knacker's yard, unless the occupier of those premises holds in respect thereof such a licence as aforesaid :

Provided that the occupier of any premises which immediately before the commencement of this Act were registered or licensed as a slaughter-house or knacker's yard under any enactment repealed by this Act, and were then in use as such, shall be deemed to hold in respect of those premises a licence granted under this section and expiring at the expiration of four months from the commencement of this Act.

(2) A local authority on receiving from the occupier of, or a person proposing to occupy, any premises an application for the grant or renewal of a licence authorising him to keep those premises as a slaughter-house, or as a knacker's yard, may grant or renew to him a licence in respect of those premises :

Provided that the authority—

- (a) shall not grant a licence, otherwise than by way of renewal of an existing licence, until an officer of the authority has inspected the premises named in the application and has made a report thereon;
- (b) shall not refuse to grant or renew a licence in respect of premises which immediately before the commencement of this Act either were registered as a slaughter-house or, as the case may be, a knacker's yard, or were premises in respect of which a licence without limitation of time authorising their use as a



slaughter-house or, as the case may be, a knacker's yard was in operation at that date, and in either case were then in use as such, unless they are satisfied that the applicant is not a proper person to keep such a place, or that the premises named in the application are not suitable for use for the purpose in question.

PART V.  
—cont.

(3) If, on an application for the grant or renewal of a licence in respect of any such premises as are mentioned in proviso (b) to the last preceding subsection, it appears to the local authority that the premises are not suitable for use as a slaughter-house or, as the case may be, a knacker's yard, then, unless they are satisfied that it is not reasonably practicable to render the premises suitable, they shall adjourn the application and serve on the applicant a notice specifying the works which, in their opinion, must be carried out in order to render the premises suitable and allowing a reasonable time, not being less than three months from the service of the notice, for the execution of those works.

A notice served under this subsection shall operate as a grant or renewal of a licence to the applicant until the expiration of one month after the expiration of the time fixed by the notice, or of any extension thereof granted by the authority.

(4) A local authority may require a person who applies for the grant or renewal of a licence under this section to give to them, before his application is considered, information as to any similar licence which he holds, or has held, either in their district or in the district of any other local authority, and, if an applicant who is so required gives to the authority any information which is false in any material respect, he shall be guilty of an offence.

(5) If a local authority refuse to grant or renew a licence under this section, they shall forthwith give notice to the applicant of their decision in the matter, and shall, if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

PART V.  
— *cont.*

(6) A person aggrieved by the refusal of a local authority to grant or renew a licence under this section may appeal to a court of summary jurisdiction.

(7) A licence under this section shall remain in force for such period not exceeding thirteen months as may be fixed by the local authority, but may from time to time be renewed by them for a period not exceeding thirteen months at any one time.

(8) A person who uses any premises as a slaughter-house or knacker's yard in contravention of the provisions of this section, or permits any premises to be so used, shall be guilty of an offence.

Byelaws as  
to slaughter-  
houses and  
knacker's  
yards.

**58.**—(1) A local authority may make byelaws—

(a) for securing that slaughter-houses and knacker's yards are kept in a sanitary condition and are properly managed, and for preventing cruelty therein; and

(b) requiring persons licensed under this Act to keep knacker's yards to keep, and produce when required, records of animals brought into the yards and of the manner in which those animals and the different parts thereof were disposed of :

23 & 24  
Geo. 5. c. 39.

(2) Nothing in the Slaughter of Animals Act, 1933, shall be construed as restricting any power to make byelaws under paragraph (a) of the preceding subsection or as rendering invalid any byelaw made under any corresponding enactment repealed by this Act.

(3) If a person convicted of an offence against any byelaws made under this section holds a licence under the last preceding section, the court may, in addition to any other penalty, cancel the licence.

Sign to be  
displayed on  
slaughter-  
house or  
knacker's  
yard.

**59.**—(1) The occupier of a slaughter-house or knacker's yard in respect of which a licence under this Act is in force shall display in a conspicuous position on the premises a legible notice with the words "Licensed Slaughter-house" or "Licensed Knacker's Yard," as the case may be.

(2) A person who fails to comply with the provisions of this section shall be liable to a fine not exceeding forty shillings.

**60.**—(1) A local authority may provide public slaughter-houses :

PART V.

—cont.

Provided that any proposal to provide under this section a slaughter-house within the district of another local authority shall require the consent of that authority, but such consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Minister.

Power of local authority to provide public slaughter-houses.

(2) A local authority by whom a public slaughter-house has been provided under this section, or under any enactment repealed by this Act, or by the Public Health Act, 1875,—

- (a) shall make byelaws for securing that the slaughter-house is kept in a sanitary condition and is properly managed and for preventing cruelty therein ;
- (b) may make such charges in respect of the use of the slaughter-house as the Minister may have approved, or such less charges as they may from time to time determine ;
- (c) may provide plant or apparatus for treating or disposing of waste matters and refuse resulting from the slaughtering of animals in the slaughter-house.

(3) Nothing in the three last preceding sections shall apply in relation to a public slaughter-house provided by a local authority under this, or any other, Act.

**61.**—(1) A local authority may with a view to reducing the number of private slaughter-houses—

Elimination of private slaughter-houses.

- (a) acquire by agreement any premises within the district which are used as a slaughter-house and discontinue the use of the premises for that purpose ;
- (b) agree with the persons interested in any premises within the district which are used as a slaughter-house for the discontinuance of slaughtering on those premises.

(2) Subject to the following provisions of this section, a local authority who have provided a public slaughter-house may determine that, after such date as may be fixed by their resolution, no fresh licence to keep premises

PART V.  
—cont.

as a slaughter-house shall be granted by them under this Act, and that on the said date all such licences then in force shall cease to have effect and shall not be renewable :

Provided that the resolution shall not have effect until it has been approved by the Minister.

(3) So soon as any such resolution as aforesaid has been passed, it shall be published in one or more local newspapers circulating in the district and a copy shall be served on every person licensed under this Act to keep a slaughter-house within the district, and the Minister, before approving the resolution, shall take into consideration any representation received by him within two months after the publication of the resolution, and shall not approve the resolution unless he is satisfied that there will be slaughter-house accommodation adequate to meet the needs of the inhabitants of the district.

(4) A resolution under this section may exempt from the operation thereof any specified existing slaughter-house and may reserve power for the local authority, with the approval of the Minister, to grant for special reasons a fresh licence, and the Minister in approving a resolution may modify it by inserting such an exemption or reservation.

(5) The licence of an existing slaughter-house exempted by virtue of the last preceding subsection and a fresh licence granted by virtue thereof shall, notwithstanding anything in the foregoing provisions of this Part of this Act, be made subject to such conditions, including a condition that during a specified period a renewal of the licence shall not be refused on any ground except the unsuitability of the holder or of the premises, as the Minister in approving the resolution, or, as the case may be, in approving the grant of the fresh licence, may determine to be reasonable.

(6) The owner and the occupier of any premises in the district which at the date when the resolution of the local authority became operative were lawfully being used as a slaughter-house shall be entitled to receive compensation from the authority for any loss sustained by them by reason of it being no longer lawful to use those premises as a slaughter-house :

Provided that if a slaughter-house is structurally defective, or otherwise open to objection on sanitary grounds, the arbitrator in determining the amount of compensation shall have regard to that fact.

PART V.  
—*cont.*

(7) Where under a local Act a local authority are required to pay or tender compensation in respect of slaughter-houses of any specified class the use of which is rendered unlawful by reason of the provision of a public slaughter-house by the authority, then for the purposes of that requirement a slaughter-house which immediately before the commencement of this Act was a slaughter-house of any such class shall be deemed to continue to be such a slaughter-house so long as it remains licensed under this Act.

*Cold-air stores and refrigerators.*

62.—(1) A local authority who have provided, or are about to provide, a public slaughter-house, or a market, may, with the approval of the Minister, provide a cold-air store or refrigerator for the storage and preservation of meat and other articles of food, and may make charges in respect of the use of any such store or refrigerator :

Establishment by local authority of cold-air stores and refrigerators.

Provided that any proposal to provide under this section a cold-air store or refrigerator within the district of another local authority shall require the consent of that authority, but such consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Minister.

(2) A local authority who intend to apply for the approval of the Minister under this section shall, one month at least before making the application, give notice of their intention by advertisement in one or more local newspapers circulating in their district, and, where the consent of the local authority of another district is required, in one or more local newspapers circulating in that district, and the Minister shall consider any objection to the authority's proposals which he may receive within four weeks after the publication of the advertisement from any person appearing to him to be interested, and, in the event of any such objection being received and not withdrawn, shall cause a local inquiry to be held.

## PART V.

—cont.

Saving for  
Port of  
London  
Authority  
and Mersey  
Docks and  
Harbour  
Board.

*Saving.*

**63.** Nothing in this Part of this Act shall apply to any slaughter-house or knacker's yard belonging to the Port of London Authority or the Mersey Docks and Harbour Board and forming part of an imported animals' wharf or landing place approved by the Minister of Agriculture and Fisheries under the Diseases of Animals Acts, 1894 to 1937, for the purpose of the landing of imported animals.

## PART VI.

## GENERAL AND MISCELLANEOUS.

*Administration.*

“ Local  
authority ”  
and “ Food  
and Drugs  
authority.”

**64.** In this Act the expression “ local authority ” means—

- (a) as respects the City of London, the Common Council and, as respects a metropolitan borough, the council thereof;
- (b) as respects the Inner Temple and the Middle Temple, the respective overseers thereof; and
- (c) as respects any other borough and any urban district or rural district, the council of the borough or district :

Provided that, in the case of a rural district with respect to which there is in force such a direction as is mentioned in subsection (2) of section forty-two of the Local Government Act, 1933, the council by whom the affairs of the district are being temporarily administered shall be deemed to be the local authority ;

23 & 24  
Geo. 5. c. 51.

and the expression “ Food and Drugs authority ” means—

- (i) as respects the City of London, the Common Council and, as respects a metropolitan borough, the council thereof;
- (ii) as respects a county borough, and also as respects any non-county borough or urban district which has according to the last published census for the time being a population of forty thousand or upwards, the local authority; and
- (iii) as respects any other area, the county council :

Provided that—

PART VI.  
—cont.

- (a) if a county council satisfy the Minister that the area or areas in respect of which they would be the Food and Drugs authority would be rendered inconvenient in size, shape or situation for the efficient performance of their duties as the Food and Drugs authority, the Minister may direct that the county council shall be the Food and Drugs authority as respects the district or districts of any one or more of the local authorities who, but for such a direction, would be Food and Drugs authorities under this Act, but were not such authorities under the law in force immediately before the commencement thereof;
- (b) on the application of the local authority of any non-county borough or urban district which has according to the last published census for the time being a population of twenty thousand or upwards but less than forty thousand, the Minister may direct that the local authority shall, in lieu of the county council, be the Food and Drugs authority as respects their district.

**65.**—(1) It shall be the duty of every Food and Drugs authority within their area to carry into execution and enforce the provisions of—

Duty to enforce provisions of Act.

- (a) sections one to seven of this Act (which relate to the composition of food and drugs);
- (b) section twenty-four of this Act (which relates to additions not to be made to milk and liquids not to be sold as milk);
- (c) sections twenty-seven to twenty-nine of this Act (which relate to artificial cream);
- (d) sections thirty-two to thirty-six of this Act (which relate to margarine, margarine-cheese, butter and milk-blended butter); and
- (e) any other section of this Act which they are specifically directed to enforce,

with a view to securing that food and drugs are sold only in a pure and genuine condition.

PART VI.  
—cont.

(2) It shall be the duty of every local authority within their district to carry into execution and enforce the provisions of any section of this Act with respect to which the duty is not expressly, or by necessary implication, imposed on some other authority.

(3) A county council or local authority may institute proceedings under any section of, or regulation made under, this Act, notwithstanding that they are not the authority charged with the execution and enforcement thereof.

Public  
analysts.

**66.**—(1) Every Food and Drugs authority shall appoint in accordance with the provisions of this section one or more persons (in this Act referred to as “public analysts”) to be analysts of food and drugs within their area.

(2) No person shall be appointed a public analyst unless he possesses either the prescribed qualifications or such other qualifications as the Minister may approve, and no person shall be appointed public analyst for any area who is engaged directly or indirectly in any trade or business connected with the sale of food or drugs in that area.

(3) The appointment of a public analyst and the terms of his appointment and the removal of a public analyst shall require the approval of the Minister.

(4) A Food and Drugs authority shall pay to a public analyst such remuneration as may be agreed, and such remuneration may be expressed to be payable either in addition to any fees received by him under this Part of this Act, or on condition that any fees so received by him are paid over by him to the authority.

(5) Regulations prescribing qualifications for the purposes of subsection (2) of this section shall be laid before Parliament as soon as may be after they are made.

(6) A Food and Drugs authority who appoint only one public analyst may appoint also a deputy to act during any vacancy in the office of public analyst, or during the absence or incapacity of the holder of the office.



The foregoing provisions of this section with respect to the qualifications, appointment, removal and remuneration of a public analyst shall apply also in relation to a deputy public analyst, and any reference in the subsequent sections of this Act to a public analyst shall be construed as including a reference to a deputy public analyst appointed under this section.

PART VI.  
—cont.

**67.** A county council or local authority may provide facilities for bacteriological and other examinations of samples of food and drugs.

Facilities for  
examination  
of food and  
drugs.

**68.**—(1) An authorised officer of a Food and Drugs authority, or of a local authority not being a Food and Drugs authority, may exercise such powers of procuring samples of food and drugs for analysis, or for bacteriological or other examination, as are conferred upon him by this section, and any such officer is in this Act referred to as a “sampling officer.”

Powers of  
sampling.

(2) A sampling officer may purchase samples of any food or drug :

Provided that nothing in this section shall be construed as authorising any purchase or sale of drugs in contravention of the Dangerous Drugs Acts, 1920 to 1932, or regulations made thereunder.

(3) A sampling officer may take samples of—

(a) any butter or cheese, or substances resembling butter or cheese, exposed for sale and not marked in the manner in which margarine, milk-blended butter or margarine-cheese is required to be marked under this Act;

(b) any food, or substance capable of being used in the preparation of food, found on premises which he has entered in the execution of his duties under this Act.

(4) A sampling officer, or an inspector of the Minister, may take samples of milk at any dairy, or at any time while it is in transit, or at the place of delivery to the purchaser, consignee or consumer.

An authorised officer of a county council who, as respects the whole or some part of their county, are not the Food and Drugs authority may exercise the like powers throughout the county or, as the case may be,

PART VI.  
—cont.

in that part thereof, and, for the purposes of the subsequent sections of this Act, such an officer shall be deemed to be a sampling officer.

(5) Where milk sold or exposed for sale within the area of any council is obtained from a dairy situate outside that area, the medical officer of health or any other authorised officer of the council may by notice in writing to the medical officer of health or other authorised officer of a Food and Drugs authority within whose area the dairy is situate, or through whose area the milk passes in transit, request him to procure samples of the milk at that dairy, or while it is in transit, and it shall be the duty of an officer who receives such a notice to procure, as soon as is practicable, samples of the milk in question and to forward those samples to the officer who gave the notice, or to such person as that officer may direct, and, for the purposes of this Act, samples so procured shall be deemed to have been procured within the area for which the last-mentioned officer acts.

(6) Any power of an authorised officer in respect of procuring samples of milk may be exercised at a place outside the area of the council whose officer he is, if the Food and Drugs authority of the area within which that place is situate have consented to samples of milk being procured within their area by officers of the first-mentioned council, and, for the purposes of this Act, any samples so procured shall be deemed to have been procured within the area for which the officer in question acts.

A Food and Drugs authority shall not unreasonably withhold consent for the purposes of this subsection and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Minister.

(7) A sampling officer may, at the request or with the consent of the purchaser, consignee or consumer, take at the place of delivery samples of any food delivered, or about to be delivered, to the purchaser, consignee or consumer in pursuance of a contract for the sale thereof to him :

Provided that this subsection shall not apply in relation to milk.

(8) If a sampling officer has reason to believe that any container forwarded by a public conveyance contains margarine, margarine-cheese or milk-blended butter which is not consigned in accordance with the provisions of this Act, he may examine and take samples of the contents of that container.

PART VI.  
—cont.

(9) In the exercise on any railway premises of the powers conferred upon him by this section in relation to the taking of samples of milk in course of transit, an officer shall conform to such reasonable requirements of the railway company as are necessary to prevent the working of the traffic of the company being obstructed or interfered with.

**69.**—(1) If a sampling officer who has procured a sample of any food or drug considers that it should be analysed, he shall submit it to be analysed by the public analyst for the area in which the sample was, or is deemed to have been, procured.

Right to  
have  
samples  
analysed.

(2) A person, other than a sampling officer, who has purchased any food or drug may submit a sample of it to be analysed by the public analyst for the area in which the purchase was made.

(3) The public analyst shall analyse as soon as practicable any sample sent to him in pursuance of this section, and give to the person by whom it was submitted a certificate in the prescribed form specifying the result of the analysis :

Provided that, in the case of a sample submitted by a person not being an officer of the Food and Drugs authority, the analyst may demand in advance such fee, not exceeding one guinea, as may be fixed by that authority.

In giving his certificate, the analyst shall have regard to the provisions of any regulation made under section twenty-three of this Act.

(4) If the office of public analyst for the area in question is vacant, the sample shall be submitted to the public analyst for some other area and, upon payment to him of such sum as may be agreed, he shall analyse it and give to the person by whom it was submitted such a certificate as aforesaid.

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—cont.

Division  
of, and  
dealings  
with,  
samples.

70.—(1) A person purchasing a sample of any food or drug with the intention of submitting it to be analysed by a public analyst, or taking a sample of food on any premises with the intention of submitting it to be so analysed, shall, after the purchase has been completed or the sample has been taken, forthwith inform the seller or his agent who sold the sample, or, as the case may be, the occupier of the premises or the person for the time being in charge thereof, of his intention to have the sample analysed by the public analyst, and shall then and there divide it into three parts, each part to be marked, and sealed or fastened up, in such manner as its nature will permit, and shall—

- (a) if required so to do, deliver one part to the seller or his agent, or, as the case may be, to the occupier of the premises or the person for the time being in charge thereof;
- (b) retain one part for future comparison; and
- (c) if he thinks fit to have an analysis made, submit one part to the public analyst:

Provided that, in relation to samples taken in such circumstances as are mentioned in either of the two next succeeding subsections, the foregoing provisions with respect to the giving of information and the manner of dealing with samples shall have effect as modified by those subsections.

(2) A person taking a sample of any food while it is in transit, or at the place of delivery to the purchaser, consignee or consumer shall, if he intends to submit it to be analysed by a public analyst, deal with it in the manner provided by the preceding subsection, except that he shall retain the first-mentioned part of the sample unless the name and address of the consignor appear on the container containing the article sampled, in which case he shall forward that part of the sample to the consignor by registered post or otherwise, together with a notice informing that person that he intends to have part of the sample analysed by the public analyst.

(3) A person purchasing a sample of any food or drug from an automatic machine shall, if he intends to submit it to be analysed by a public analyst, deal with it in the manner provided by subsection (1) of

this section, except that he shall send the first mentioned part of the sample by registered post or otherwise, together with such a notice as aforesaid—

- (a) if the name and address of a person stated to be the proprietor of the machine appear thereon, to that person; and
- (b) in any other case, to the occupier of the premises on which the machine stands or to which it is affixed.

**71.**—(1) The provisions of this Act relating to the procuring of samples by sampling officers, and proceedings in connection therewith, shall, in relation to milk, have effect subject to the provisions of the Third Schedule to this Act.

PART VI.  
—cont.  
  
Special provisions as to the sampling of milk and proceedings subsequent thereto.

(2) It shall be a defence for a defendant charged with any offence under this Act, or under Milk and Dairies Regulations or Food Regulations, in respect of a sample of milk taken after the milk has left his possession, to prove that the churn or other vessel in which the milk was contained was effectively closed and sealed at the time when it left his possession, but had been opened before the person by whom the sample was taken had access to it.

(3) So much of any contract as requires a purveyor of milk, on a sample of milk being procured under this Act, to send to the person from whom he obtained the milk any part of such sample, or to give to that person notice that a sample has been so procured, shall be void.

**72.**—(1) The Minister, in relation to any matter appearing to him to affect the general interests of consumers, and the Minister of Agriculture and Fisheries, in relation to any matter appearing to him to affect the general interests of agriculture in the United Kingdom, may direct an officer of his department to procure samples of any specified food, and thereupon the officer shall have all the powers of a sampling officer, and this Act shall apply as if he were a sampling officer, except that—

Power of Ministers of Health and Agriculture to have foods analysed and examined.

- (a) if he intends to submit any sample procured by him to be analysed, he shall divide it into four parts, and shall deal with three of those parts in the manner directed by the last but

PART VI.  
—cont.

one foregoing section, and send the fourth part to the Minister concerned; and

- (b) any fee for analysis shall be payable to the analyst by the Food and Drugs authority of the area in which the sample is procured.

(2) The Minister concerned shall communicate the result of the analysis of any such sample to the Food and Drugs authority and, thereupon, they shall have the like duty to cause proceedings to be taken as if one of their officers had procured the sample and sent it to be analysed.

Powers of  
Minister of  
Agriculture  
as to  
inspection  
of premises  
where  
margarine,  
milk-  
blended  
butter, &c.,  
produced or  
subjected to  
treatment.

**73.**—(1) An officer of the Minister of Agriculture and Fisheries shall, on producing, if so required, some duly authenticated document showing his authority, have power to enter at all reasonable times any premises registered under section thirty-four of this Act, and to inspect any process of manufacture, blending, reworking, or treatment carried on therein, and to take samples of any butter, margarine, margarine-cheese, or milk-blended butter, or of any substance capable of being used in the manufacture, treatment or adulteration of any of those articles.

(2) If the Minister of Agriculture and Fisheries has reason to believe—

- (a) that any process of manufacture, blending, reworking, or treatment, or any wholesale dealing, being a process or dealing which under this Act may not be carried on except on registered premises, is being carried on on any premises not registered for the purpose in question; or
- (b) that on any premises butter is by way of trade either made or stored, and that for the purposes of this Act inspection is desirable,

he may specially authorise any of his officers to enter the premises, and in that case the officer shall have the like powers of entry, inspection, and sampling as if the premises were registered.

Quarterly  
reports by  
analysts.

**74.**—(1) Every public analyst shall, as soon as may be after the last day of March, the last day of June, the last day of September and the last day of December in every year, report to the authority by whom he was appointed the number of articles which have been analysed by him under this Act in his capacity of public analyst

for their area during the preceding quarter of a year and the result of each analysis.

PART VI.  
—cont.

(2) Every Food and Drugs authority shall transmit to the Minister, at such time as he may direct, a copy of each quarterly report received by them from a public analyst.

**75.**—(1) Expenses incurred under this Act by the Common Council of the City of London, or by the council of a metropolitan borough, shall be defrayed out of the general rate. Expenses.

(2) Expenses incurred under this Act by the London County Council shall be defrayed as expenses for general county purposes.

(3) Expenses incurred by a county council as a Food and Drugs authority shall, if the council are not the Food and Drugs authority for the whole county, be defrayed as expenses for special county purposes charged on those county districts the councils of which are not Food and Drugs authorities.

(4) Expenses incurred under this Act by a sampling officer in procuring samples and causing samples to be analysed shall be defrayed by the authority whose officer he is :

Provided that expenses incurred by an officer in complying with a notice given to him under subsection (1) of section sixty-eight of this Act shall be borne by the authority whose officer gave the notice, and any dispute as to the amount of any such expenses shall be referred to and determined by the Minister.

(5) A county council may, as part of their expenses as a Food and Drugs authority, make a contribution towards any expenses incurred by the council of a county district within the county, not being a Food and Drugs authority, in connection with the procuring and analysis and examination of samples and the institution of proceedings under this Act.

**76.**—(1) Orders made by the Minister under section three, section six or section eight, as the case may be, of the Public Health Act, 1936, may— Provisions as to port health authorities and joint boards.

(a) assign to a port health authority any of the functions, rights and liabilities of a local authority or Food and Drugs authority under this Act;

PART VI.  
*cont.*

- (b) constitute a united district for the purposes of any functions under this Act which are functions of a local authority, whether as a Food and Drugs authority or otherwise; or
- (c) empower councils of counties and county boroughs to discharge through a joint board any of their functions, in whatever capacity, under this Act, and amending orders may be made by the Minister accordingly under section nine of the said Act.

For the purposes of section three hundred and eleven of the said Act, as incorporated in this Act, orders made under that Act by virtue of this subsection shall be deemed to be made under this Act.

(2) The functions, rights and liabilities which the Minister may by an order under subsection (1) of section six of the Public Health (London) Act, 1936, vest in or impose on the port health authority of the port of London shall include any functions, rights and liabilities of a local authority or Food and Drugs authority under this Act, and the provisions and byelaws which any such order may extend as mentioned in subsection (3) of the said section shall include any of the provisions of this Act which it is the function of a local authority or Food and Drugs authority to carry into effect and any byelaws made under any of those provisions, and any order previously made under the said section six may be amended accordingly.

For the purposes of this subsection, the making of byelaws under section fifteen of this Act shall, notwithstanding anything in the proviso to subsection (1) of that section, be deemed to be a function of a local authority.

*Entry, obstruction, &c.*

Power to  
enter  
premises.

**77.**—(1) Subject to the provisions of this section, any authorised officer of a council shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

- (a) for the purpose of ascertaining whether there is or has been on, or in connection with, the premises any contravention of the provisions of this Act or of any regulations or byelaws made



thereunder, being provisions which the council are required or empowered to enforce; and

- (b) generally for the purpose of the performance by the council of their functions under this Act or any such regulations or byelaws :

Provided that admission to any premises used only as a private dwelling-house shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and

- (b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the justice may by warrant under his hand authorise the council by any authorised officer to enter the premises, if need be by force, and, where the justice is satisfied that there is reasonable ground for supposing that the premises in question are unregistered premises used for the manufacture of artificial cream contrary to the provisions of this Act, the warrant may also authorise a search for and the seizure of any machine suitable for use in the manufacture of artificial cream :

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force for a period of one month.

PART VI.

—cont.

PART VI.  
—cont.

(5) If any person who, in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months.

(6) Nothing in this section shall authorize any person, except with the permission of the local authority under the Diseases of Animals Acts, 1894 to 1937, to enter any cowshed or other place in which an animal affected with any disease to which those Acts apply is kept and which is situated in a place declared under those Acts to be infected with such a disease.

(7) In the exercise on any railway premises of the powers conferred upon him by this section, an officer shall conform to such reasonable requirements of the railway company as are necessary to prevent the working of the traffic of the company being obstructed or interfered with.

Penalty for  
obstructing  
execution  
of Act.

**78.**—(1) A person who wilfully obstructs any person acting in the execution of this Act or of any regulation, byelaw, order or warrant made or issued thereunder, shall be liable to a fine not exceeding five pounds :

Provided that, if the court is satisfied that he committed the offence with intent to prevent the discovery of some other offence under this Act, or if he has within the twelve months last preceding been convicted of an offence under this subsection, he shall be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding one month.

(2) If a sampling officer applies to purchase any food or drug exposed for sale, or on sale by retail, and tenders the price for the quantity which he requires as a sample, and the person exposing the food or drug for sale, or having it for sale, refuses to sell to the officer such quantity thereof as aforesaid, or if the seller or consignor, or any person having for the time being the charge, of any food of which an officer is empowered to take a sample refuses to allow the officer to take the quantity which he requires as a sample, the person so refusing

shall, for the purposes of the preceding subsection, be deemed to have wilfully obstructed the officer :

PART VI.  
—cont.

Provided that, where any food or drug is exposed for sale in an unopened container duly labelled, no person shall be required to sell it except in the unopened container in which it is contained.

(3) A person who fails to give to any person acting in the execution of this Act or of any regulation, byelaw, order or warrant made or issued thereunder, any assistance which that person may reasonably request him to give, or any information which that person is expressly authorised by this Act to call for or may reasonably require, or who, when required to give any such information, knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding five pounds :

Provided that nothing in this section shall be construed as requiring a person to answer any question or give any information, if to do so might incriminate him.

#### *Legal Proceedings.*

**79.** A person guilty of an offence under this Act shall, unless a special penalty for that offence is provided by this Act, be liable in the case of a first offence, to a fine not exceeding twenty pounds and, in the case of a subsequent offence, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment. Penalties.

**80.**—(1) Subject to the provisions of this Act, all offences under this Act and regulations and byelaws made thereunder may be prosecuted under the Summary Jurisdiction Acts : Prosecutions.

Provided that—

(a) where a sample has been procured under this Act, no prosecution in respect of the article sampled shall be commenced after the expiration of twenty-eight days from the time when the sample was procured unless the justice of the peace before whom the information is laid, on being satisfied on oath that having regard to the circumstances of the particular case it was not practicable to lay the information at an earlier date, gives a certificate to that effect, and in no case shall the

PART VI.  
—cont.

prosecution be commenced after the expiration of forty-two days from the said time;

- (b) the time within which proceedings may be commenced under section eighty-five of this Act in respect of the giving of a false warranty shall be twelve months instead of six months.

(2) Subject as hereinafter provided, where a sample has been procured under this Act, any proceedings in respect of the article sampled shall be taken before a court having jurisdiction in the place where the sample was procured :

Provided that—

- (a) where a sample procured within one area is for the purposes of this Act deemed to have been procured within another area, proceedings may, at the option of the prosecutor, be taken either before a court having jurisdiction within the area within which the sample was procured, or before a court having jurisdiction within the area within which it is deemed to have been procured; and
- (b) where the article sampled was sold and actually delivered to the purchaser, proceedings may, if the prosecutor so elects, be taken before a court having jurisdiction at the place of delivery.

(3) In any proceedings under this Act in respect of an article sampled, the summons shall not be made returnable less than fourteen days from the day on which it is served, and a copy of any certificate of analysis obtained on behalf of the prosecutor, and of any certificate given by a justice under proviso (a) to subsection (1) of this section, shall be served with the summons.

(4) In any proceedings under this Act, where a sample has been procured in such circumstances that its division into parts is required by this Act, the part of the sample retained by the person who procured it shall be produced at the hearing.

Evidence of  
certificates  
of analysis,  
and pre-  
sumptions.

**81.**—(1) In any proceedings under this Act, the production by one of the parties of a document purporting to be a certificate of a public analyst in the prescribed form, or of a document supplied to him by

the other party as being a copy of such a certificate, shall be sufficient evidence of the facts stated therein, unless, in the first-mentioned case, the other party requires that the analyst shall be called as a witness.

PART VI.  
—cont.

(2) In any such proceedings, if a sample of milk has been taken by an officer of one authority at the request of an officer of another authority, a document purporting to be a certificate signed by the officer who took the sample and stating that the provisions of this Act with respect to the manner in which samples are to be dealt with were complied with shall, if a copy thereof has been served on the defendant with the summons, be sufficient evidence of compliance with those provisions, unless the defendant requires that the officer shall be called as a witness.

(3) In any such proceedings, if a defendant intends to produce a certificate of a public analyst, or under subsection (1) of this section, to require that the public analyst shall be called as a witness, or under the last preceding subsection to require that a sampling officer shall be called as a witness, notice of his intention together, in the first-mentioned case, with a copy of the certificate shall be given to the other party at least three clear days before the day on which the summons is returnable, and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it deems proper.

(4) For the purposes of this Act and of any regulations made thereunder—

(a) articles commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold, or, as the case may be, to have been or to be intended for sale, for human consumption;

(b) any article commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that article and any article commonly used in the manufacture of products for human consumption which is found on premises used for the preparation, storage or sale of those products, shall be presumed, until the contrary is proved,

PART VI.  
—cont.

to be intended for sale, or for manufacturing products for sale, for human consumption ;

- (c) any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises on which that article is prepared, shall, until the contrary is proved, be presumed to be intended for such use.

Power of court to require analysis by Government Chemist.

**82.**—(1) The court before which any proceedings are taken under this Act may, if it thinks fit, and upon the request of either party shall, cause the part of any sample produced before the court under subsection (4) of the last but one preceding section to be sent to the Government Chemist, who shall make an analysis, and transmit to the court a certificate of the result thereof, and the costs of the analysis shall be paid by the prosecutor or the defendant as the court may order.

(2) If, in a case where an appeal is brought, no action has been taken under the preceding subsection, the provisions thereof shall apply also in relation to the court by which the appeal is heard.

Defence available to defendant where some other person is responsible for the commission of the offence charged.

**83.**—(1) A person against whom proceedings are brought under this Act 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 the provisions in question was due brought before the court in the proceedings, and, if, after the contravention has been proved, the original defendant 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 defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the preceding subsection—

- (a) the prosecution, as well as the person whom the defendant 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.

PART VI.  
—cont.

(3) Where it appears to the authority concerned that an offence has been committed in respect of which proceedings might be taken under this Act against some person and the authority are reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1) of this section, they may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant 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 first-mentioned person might have been charged.

**84.**—(1) Subject to the provisions of this section, in the case of any prosecution under Part I, Part II or Part III of this Act in respect of selling, exposing or offering for sale, or having in possession for sale, an article which was not of a nature, substance or quality entitling a person to sell or otherwise deal with it under the description or in the manner under, or in, which the defendant dealt with it, it shall be a defence for the defendant to prove—

Conditions under which a warranty may be pleaded as defence.

- (a) that he purchased it as being an article of such a nature, substance and quality as would have so entitled him and with a written warranty to that effect; and
- (b) that he had no reason to believe at the time of the commission of the alleged offence that it was otherwise; and
- (c) that it was then in the same state as when he purchased it.

(2) A warranty shall only be a defence to proceedings under this Act if—

- (a) the defendant has within seven days of the service of the summons sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the

PART VI.  
—cont.

name and address of the person from whom he received it, and 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 defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein; and
- (c) in the case of a prosecution in respect of a sample of milk, the defendant has within sixty hours after the sample was procured served such a notice as is mentioned in paragraph (2) of the Third Schedule to this Act.

(3) Where the defendant is a servant of the person who purchased the article under a warranty, he shall be entitled to rely on the provisions of this section in the same way as his employer would have been entitled to do if he had been the defendant.

(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) For the purposes of this and the next succeeding section, a name or description entered in an invoice shall be deemed to be a written warranty that the food or drug to which the entry refers is of such a nature, substance and quality that a person can sell, or otherwise deal with it, under that name or description without contravening any of the provisions of this Act or of regulations made thereunder.

**85.**—(1) A defendant who in any proceedings under this Act wilfully applies to any food or drug a warranty or certificate of analysis given in relation to any other food or drug shall be guilty of an offence.

(2) A person who, in respect of any food or drug sold by him, 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.

Offences in  
relation to  
warranties  
and certifi-  
cates of  
analysis.



(3) Where the defendant in a prosecution under this Act relies successfully on a warranty given to him or to his employer, any proceedings under the last preceding subsection in respect of the warranty may, at the option of the prosecutor, be taken either before a court having jurisdiction in the place where a sample of the food or drug to which the warranty relates was procured, or before a court having jurisdiction in the place where the warranty was given.

PART VI.  
—cont.

### *Compensation.*

**86.** Where by any of the foregoing provisions of this Act provision is made for the payment of compensation to any person, any dispute arising as to the fact of damage or loss, or as to the amount of compensation, shall be determined by arbitration under this Act :

Disputes as  
to compen-  
sation.

Provided that, if the compensation claimed does not exceed fifty pounds, all questions as to the fact of damage or loss, liability to pay compensation and the amount of compensation may on the application of either party be determined by, and any compensation awarded may be recovered before, a court of summary jurisdiction.

### *Appeals.*

**87.**—(1) Where any enactment in, or regulation made under, this Act provides for an appeal to a court of summary jurisdiction against a refusal or other decision of an authority, the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.

Appeals to  
courts of  
summary  
jurisdiction  
against  
decisions of  
authorities.

(2) The time within which such an appeal may be brought shall be twenty-one days from the date on which notice of the authority's refusal or other decision is served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the authority in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

## PART VI.

—*cont.*

Appeals to  
quarter ses-  
sions against  
decisions of  
courts of  
summary  
jurisdiction.

Effect of  
decision of  
court upon  
an appeal.

Right to  
carry on  
business in  
certain cases  
while appeal  
is pending.

**88.** Where a person aggrieved by an order, determination or other decision of a court of summary jurisdiction under this Act, or under any regulation made under this Act, is not by any other enactment authorised to appeal to a court of quarter sessions, he may appeal to such a court.

**89.** Where upon an appeal under this Act a court varies or reverses any decision of an authority, it shall be the duty of the authority to give effect to the order of the court, and, in particular, to grant any necessary licence and to make any necessary entry in any register.

**90.**—(1) Where a decision of an authority under this Act refusing, cancelling, suspending or revoking, registration or a licence, or a decision of a court of summary jurisdiction on appeal against such a decision, makes it unlawful for a person to carry on any business which he, or his immediate predecessor in the business, was lawfully carrying on at the date when the decision of the authority was given, or to use any premises for any purpose for which he, or his immediate predecessor in the business was lawfully using them at the said date, he may carry on that business and use those premises for that purpose until the time for appealing has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned, or has failed for want of prosecution.

(2) The foregoing provisions with respect to the right to continue to carry on a business and to use premises shall apply also where the decision of a court in proceedings in respect of an offence under this Act makes it unlawful for a person to carry on a business which he was lawfully carrying on immediately before the decision was given, or to use any premises for any purpose for which he was then lawfully using them.

*Miscellaneous.*

Byelaws.

**91.**—(1) The Minister shall be the confirming authority as respects byelaws made under this Act.

(2) Section two hundred and seventy-seven of the Public Health (London) Act, 1936, so far as it relates to byelaws made under that Act by the Common Council of the City of London and the port health authority of the port of London shall, with any necessary adaptation,

apply in relation to byelaws made under this Act by the Common Council or, by virtue of an order of the Minister under section seventy-six of this Act, by the port health authority.

PART VI.  
—cont.

**92.**—(1) This section applies to all Food Regulations, Milk and Dairies Regulations and Bread and Flour Regulations made under this Act.

Supple-  
mentary  
provisions  
as to certain  
regulations.

(2) Without prejudice to the generality of the provisions under which they are made, the regulations may—

- (a) provide for the taking and examination of samples;
- (b) apply, as respects matters to be dealt with by the regulations, any provision in any Act (including this Act) dealing with the like matters, with the necessary modifications and adaptations;
- (c) provide for an appeal to a court of summary jurisdiction against any refusal or other decision of an authority by whom the regulations are to be enforced and executed;
- (d) authorise the making of charges for the purposes of the regulations or for any services performed thereunder, and provide for the recovery of charges so made;
- (e) contain provisions for imposing on persons offending against the regulations penalties not exceeding the maximum penalties specified in section seventy-nine of this Act;
- (f) make such ancillary and incidental provisions as appear to the Minister to be necessary or desirable.

(3) The regulations shall specify the authorities, whether county councils, local authorities, Food and Drugs authorities or port health authorities, by whom they are to be enforced and executed, and may provide for the giving of assistance and information by any authority concerned in the administration of the regulations, or of this Act, to any other authority so concerned for the purposes of their respective duties thereunder.

(4) Before making the regulations, the Minister shall consult with such representative organisations as he thinks fit.

PART VI.  
—cont.

(5) The regulations shall be laid before Parliament as soon as may be after they are made.

(6) Any expenses incurred by a county council in the enforcement and execution of the regulations shall, if the Minister by order so directs, be defrayed as expenses for special county purposes charged on such part of the county as may be provided by the order, but any such order may be revoked or varied by a subsequent order.

Default of  
Food and  
Drugs  
authority.

**93.**—(1) If the Minister or the Minister of Agriculture and Fisheries, after communication with a Food and Drugs authority, is of opinion that the authority have failed in relation to any kind of food to execute or enforce any of the provisions of this Act which it is their duty to execute or enforce, and that their failure affects the general interests of consumers, or the general interests of agriculture in the United Kingdom, as the case may be, the Minister concerned may by order empower an officer of his department to execute and enforce, or procure the execution and enforcement of, those provisions in relation to food of that kind.

(2) Expenses incurred under any such order by either of the said Ministers or his officer shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Minister concerned shall, on demand, be paid to him by the Food and Drugs authority and shall be recoverable by him from them as a debt due to the Crown, and the authority shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them as a Food and Drugs authority.

(3) Nothing in this section affects any other power exercisable by the Minister or a county council with respect to defaults of local authorities.

Protection  
for officers  
of local  
authority  
or county  
council  
acting in the

**94.**—(1) An officer of a local authority shall not be personally liable in respect of any act done by him in the execution or purported execution of this Act and within the scope of his employment, if he did that act in the honest belief that his duty under this Act required or entitled him to do it :

Provided that nothing in this subsection shall be construed as relieving a local authority from any liability in respect of acts of their officers.

**PART VI.**  
*—cont.*  
execution of their duty.

(2) Where an action has been brought against an officer of a local authority in respect of an act done by him in the execution or purported execution of this Act and the circumstances are such that he is not legally entitled to require the authority to indemnify him, the authority may, nevertheless, indemnify him against the whole or a part of any damages and costs which he may have been ordered to pay or may have incurred, if they are satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under this Act required or entitled him to do it.

(3) The provisions of this section shall apply in relation to a county council and the officers thereof as they apply in relation to a local authority and the officers thereof.

**95.—**(1) If, in consequence of a local authority ceasing, as respects the whole or any part of their area, to be a Food and Drugs authority, either upon the commencement of this Act or at any subsequent date, or in consequence of any such vesting of functions as is mentioned in subsection (2) of section seventy-six of this Act or any transfer or relinquishment of functions under any of the provisions of the Public Health Act, 1936, which are incorporated in this Act, the appointment of any officer of a local authority is determined or his emoluments are diminished, the provisions of subsections (2) to (4) and (6) of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, shall apply in relation to him—

Provision for compensation in certain cases to officers of local authorities and county councils.

(a) as if the cesser, vesting, transfer or relinquishment had taken effect by virtue of an order made by the Minister under Part VI of the said Act of 1933 and coming into operation upon the commencement of this Act or, as the case may be, upon the date on which the cesser, vesting, transfer or relinquishment took effect; and

(b) as if the said order provided that any officer who by virtue or in consequence of the order

PART VI.  
—cont.

might suffer any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, and for whose compensation for that loss no other provision was made by or under any enactment for the time being in force, should be entitled to receive compensation from such authority, or from such authorities and in such proportions, as the Minister might determine.

(2) The provisions of this section shall apply in relation to a county council and the officers thereof as they apply in relation to a local authority and the officers thereof.

(3) For the purposes of this section, a public analyst shall be deemed to be an officer of the authority by whom he was appointed.

Incorporation of certain provisions of the Public Health Act, 1936.

**96.**—(1) The following provisions of the Public Health Act, 1936, shall be deemed to be incorporated in this Act, that is to say:—

- Section 271 (Interpretation of “provide”);
- Section 272 (Power of councils to combine for purposes of Act);
- Section 273 (Provisions as to sub-committees);
- Section 277 (Power of councils to require information as to ownership of premises);
- Section 283 (Notices to be in writing; form of notices, &c.);
- Section 284 (Authentication of documents);
- Section 285 (Service of notices, &c.);
- Section 286 (Proof of resolutions, &c.);
- Section 289 (Power to require occupier to permit works to be executed by owner);
- Section 303 (Mode of reference to arbitration);
- Section 304 (Judges and justices not to be disqualified by liability to rates);
- Section 306 (Compulsory purchase of land by means of provisional order);

- Section 311 (Loans by Public Works Loan Commissioners);
- Section 313 (Orders for amendment or adaptation of local Acts);
- Section 317 (Amendment of 38 & 39 Vict. c. 55, s. 303);
- Section 318 (Local inquiries);
- Section 319 (Provisions as to regulations required to be laid before Parliament);
- Sections 320 to 325 (Relinquishment and transfer of powers and duties of councils);
- Section 328 (Powers of Act to be cumulative);
- Section 345 (Transitional provisions as to offences and notices).

PART VI.  
—cont.

(2) For the purposes of the application of the preceding subsection to London—

- (a) as respects section three hundred and six of the Public Health Act, 1936, the provisions of the Local Government Act, 1933, relating to the compulsory acquisition of land by means of a provisional order shall, for the purposes of this Act, be deemed to extend to London and shall have effect as if any reference therein to a local authority were a reference to a local authority as defined by this Act;
- (b) as respects section three hundred and eighteen of the Public Health Act, 1936, the provisions of section two hundred and ninety-seven of the Public Health (London) Act, 1936, shall apply in relation to any inquiry held by the Minister under this Act in London.

**97.** Where a person who holds a licence, or is registered in respect of any premises, under this Act or any regulations made thereunder dies, the licence or registration shall, unless previously revoked or cancelled, enure for the benefit of his widow, or any other member of his family, until the expiration of two months from his death, or until the expiration of such longer period as the licensing or registering authority may allow.

Temporary continuance of licence or registration on death of person licensed or registered.

## PART VI.

—cont.

6 & 7 Will. 4.  
c. 37, ss. 5,  
14 and  
3 Geo. 4.  
c. cvi, ss. 5,  
16 to  
cease to  
have effect.

**98.** Sections five and fourteen of the Bread Act, 1836, which relate respectively to the use by bakers of avoirdupois weight and to baking on Sunday, and sections five and sixteen of the local Act chapter cvi of the third year of the reign of King George the Fourth, being the corresponding enactments in force in London, shall cease to have effect.

Saving for  
markets of  
Woolwich  
Borough  
Council.

**99.** No repeal effected by this Act shall affect any rights, duties or privileges vested in, or imposed on, the council of the metropolitan borough of Woolwich in relation to their markets.

*Interpretation, repeals, &c.*

Definitions.

**100.**—(1) In this Act, unless the context otherwise requires—

“ animal ” does not include bird;

“ area ” in relation to a county council and to officers of such a council means, as the case may require, either the county or that part of the county for which the council are the Food and Drugs authority and, in relation to a local authority and to officers of such an authority, means their district;

“ article,” in relation to food, does not include a live animal or bird, but save as aforesaid includes in the case of an animal, bird or fish the whole or any part thereof;

“ artificial cream ” means an article of food which, though not cream, resembles cream and contains no ingredient which is not derived from milk except water or any substance which may lawfully be contained in an article sold as cream, being some substance not injurious to health which in the case of cream may be required for its production or preparation as an article of commerce in a state fit for carriage or consumption and which has not been added fraudulently to increase bulk, weight or measure or conceal inferior quality;

“ authorised market officer ” means an officer of a market authority specially authorised by them



to collect tolls, stallages and other charges in their market;

PART VI.  
—cont.

“ authorised officer ” means, as respects any council, an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind or in any specified matter and, for the purposes of the provisions of this Act relating to the taking of samples, includes a police constable so authorised with the approval of the police authority concerned :

Provided that—

- (a) the medical officer of health and sanitary inspector of a council shall by virtue of their appointments be deemed to be authorised officers for all the purposes of this Act;
- (b) any member of the Royal College of Veterinary Surgeons employed by the council for the purpose of the inspection of food shall be deemed to be an authorised officer for the purpose of the examination and seizure of meat under the provisions of this Act relating to unsound food;
- (c) no officer of a council other than the medical officer of health, a sanitary inspector or a member of the Royal College of Veterinary Surgeons employed as aforesaid shall be authorised to act in relation to the examination and seizure of meat;

“ Bread and Flour Regulations ” has the meaning assigned to it by section thirty of this Act;

“ butter ” means the substance usually known as butter, made exclusively from milk with or without salt or other preservative, and with or without the addition of colouring matter;

“ cheese ” means the substance usually known as cheese, containing no fat other than fat derived from milk;

“ container ” includes a package or receptacle of any kind, whether open or closed;

PART VI.  
--cont.

- “ county ” means an administrative county ;
- “ county district ” means a non-county borough, urban district or rural district ;
- “ cream ” means that part of milk rich in fat which has been separated by skimming or otherwise ;
- “ dairy ” includes any farm, cowshed, milk store, milk shop, or other premises from which milk is supplied on or for sale, or in which milk is kept or used for purposes of sale or of manufacture into butter, cheese, dried milk or condensed milk for sale, or in which vessels used for the sale of milk are kept, but does not include a shop from which milk is supplied only in the properly closed and unopened vessels in which it is delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only ;
- “ dairyman ” includes an occupier of a dairy, a cowkeeper, and a purveyor of milk ;
- “ district,” in relation to the local authority of a borough, or any local authority in London, and in relation to the officers of such an authority, means the borough or other area for which the authority acts ;
- “ drug ” includes medicine for internal or external use ;
- “ food ” means any article used as food or drink for human consumption, other than drugs or water, and includes—
- (a) any substance which is intended for use in the composition or preparation of food ;
- (b) any flavouring matter or condiment ;  
and
- (c) any colouring matter intended for use in food :

provided that, notwithstanding anything in this definition, the addition of any colouring or flavouring matter or condiment to an article used as food or drink shall be deemed to be the addition of a substance to food ;

- “ Food and Drugs authority ” has the meaning assigned to it by section sixty-four of this Act ;
- “ Food Regulations ” has the meaning assigned to it by section eight of this Act ;
- “ functions ” includes powers and duties ;
- “ ice-cream ” includes any similar commodity ;
- “ importer, ” in relation to an imported article, includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of, or in any way entitled to the custody or control of, the article ;
- “ knacker’s yard ” means any premises used in connection with the business of slaughtering, flaying or cutting up animals, the flesh of which is not intended for human consumption ;
- “ local authority ” has the meaning assigned to it by section sixty-four of this Act ;
- “ London ” means the administrative county of London ;
- “ margarine ” means any food, whether mixed with butter or not, which resembles butter and is not milk-blended butter ;
- “ margarine-cheese ” means any substance prepared in imitation of cheese and containing fat not derived from milk ;
- “ market authority ” has the meaning assigned to it by section forty-four of this Act ;
- “ Milk and Dairies Regulations ” has the meaning assigned to it by section twenty of this Act ;
- “ milk-blended butter ” means any mixture produced by mixing or blending butter with milk ;
- “ Minister ” means Minister of Health ;
- “ officer ” includes servant ;
- “ premises ” includes messuages, buildings, land, easements and hereditaments of any tenure ;
- “ prepare, ” in relation to food, includes manufacture and “ preparation ” shall be construed accordingly ;

PART VI.  
—cont.

- “prescribed” means prescribed by the Minister;
- “public analyst” has the meaning assigned to it by section sixty-six of this Act;
- “purveyor,” in relation to milk, includes any person who sells milk, whether wholesale or by retail;
- “rural authority” means the council of a rural district;
- “sampling officer” has the meaning assigned to it by section sixty-eight of this Act;
- “sanitary convenience” means a closet, privy or urinal;
- “separated,” in relation to milk, includes skimmed;
- “shop” has the same meaning as in the Shops Act, 1934;
- “slaughter-house” means any premises used in connection with the business of slaughtering animals, the flesh of which is intended for sale for human consumption;
- “substance” includes a liquid;
- “transit” includes all stages of transit from the dairy, place of manufacture or other source of origin, to the consumer;
- “urban authority” means the council of a borough or urban district;
- “vessel” includes a receptacle of any kind, whether open or closed.

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

- (a) any reference to milk shall be construed as including a reference to cream and to separated milk, but not as including a reference to dried milk or to condensed milk; and
- (b) any reference to food of any kind sold, or offered, exposed, intended or in preparation, for sale for human consumption shall be construed as including a reference to that food sold, or offered, exposed, intended or in preparation, for sale for the manufacture of products for human consumption.

101.—(1) The enactments mentioned in the First Part of the Fourth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Part, and the said repeal shall as respects the Acts mentioned in the Second Part of the said Schedule, to the extent specified in the third column of that Part, extend to Scotland and shall as respects the Act mentioned in the Third Part of the said Schedule, to the extent specified in the third column of that Part, extend to Northern Ireland and the Isle of Man.

(2) The provisions of the Public Health Act, 1875, specified in paragraph (2) of Part I of the Third Schedule to the Public Health Act, 1936, as repealed by that Act except so far as they might be material for the purposes of any unrepealed enactment in the said Act of 1875, or any Act directed to be construed therewith, shall be deemed to be repealed except so far as they may be material for the purposes of any enactment in any such Act which remains unrepealed after the commencement of this Act.

(3) In so far as any provision in an order or regulation made under any enactment repealed by this Act could have been made under a corresponding enactment in this Act, or, in the case of a provision in a Milk and Dairies Order, under an enactment in this Act relating to Milk and Dairies Regulations, it shall not be invalidated by this repeal, but shall have effect as if it had been made under that corresponding, or other, enactment in this Act, and may be amended, varied, revoked or enforced accordingly, and any person who is guilty of a contravention of, or non-compliance with, any such provision shall be guilty of an offence under this Act.

(4) Subject to any express provision in this Act to the contrary, in so far as any appointment, agreement or byelaw made, or any resolution passed, or any notice, direction, consent, approval, or certificate given under any enactment repealed by this Act, or any licence granted or deemed to have been granted, registration effected, or deemed to have been effected, proceeding instituted or other thing done under any such enactment could have been made, passed, given, granted, effected, instituted or done under a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as

PART VI.  
—cont.  
Repeals and  
construction  
of refer-  
ences.

PART VI.  
—cont.

if it had been made, passed, given, granted, effected, instituted or done under that corresponding provision and may be amended, varied, revoked or enforced accordingly, and, in the case of any legal proceeding, may be continued and appealed against as if this Act had not been passed.

(5) Any document referring to an Act or enactment repealed by this Act shall be construed as referring to this Act or, as the case may be, to the corresponding enactment, if any, in this Act.

52 & 53 Vict.  
c. 63.

(6) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

Application  
to Scotland  
and  
Northern  
Ireland.

**102.**—(1) This Act, except the provisions of—

- (i) Sections eight, thirty, thirty-one, and thirty-three;
- (ii) Part IV;
- (iii) Subsection (4) of section eighty-one;
- (iv) Subsections (1) to (4) of section ninety-two (so far as relating to Food Regulations and Bread and Flour Regulations);
- (v) Section ninety-eight, so far as relating to the Bread Act, 1836;
- (vi) Subsection (1) of section one hundred so far as relating to the interpretation of the expressions “container”, “cream”, “preparation” and “substance”, and subsection (2) of the said section;
- (vii) Section one hundred and one, so far as relating to the enactments mentioned in the Second Part of the Fourth Schedule to this Act; and
- (viii) Subsection (1) of section one hundred and three,

shall not apply to Scotland, and the above mentioned provisions shall apply subject to the following modifications:—

- (a) the said provisions (other than Part IV of this Act) shall be construed as one with the Food

and Drugs (Adulteration) Act, 1928, and shall be deemed to be included in Part I thereof:

PART VI.  
—cont.

Provided that—

(i) the expression “food” shall have the meaning assigned to it by section one hundred of this Act instead of the meaning assigned to it by the said Act of 1928; and

(ii) any reference in the last mentioned Act to regulations made under the Public Health (Regulations as to Food) Act, 1907, shall include a reference to regulations made under section eight or section thirty of this Act;

7 Edw. 7.  
c. 32.

(b) for any reference to the Minister of Health there shall be substituted a reference to the Department of Health for Scotland;

(c) for any reference to the Minister of Agriculture and Fisheries there shall be substituted a reference to the Department of Agriculture for Scotland;

(d) for paragraph (e) of section forty of this Act the following paragraph shall be substituted—

“(e) any such butter, margarine or milk-blended butter as is referred to in subsection (1) of section thirty-two of this Act”;

(e) the proviso to subsection (4) of section forty-two of this Act shall have effect as if the reference to the regulations therein mentioned included a reference to orders made under subsection (2) of section twelve of the Milk and Dairies (Scotland) Act, 1914;

4 & 5 Geo. 5.  
c. 46.

(f) in the application of subsection (5) of section forty-two of this Act, for any reference to the day on which a summons is returnable there shall be substituted a reference to the day on which the case proceeds to trial;

(g) in the application of subsection (2) of section ninety-two of this Act, for any reference to a court of summary jurisdiction there shall be substituted a reference to the sheriff, and for

PART VI.  
—cont.

any reference to section seventy-nine of this Act there shall be substituted a reference to subsection (3) of section twenty-seven of the Food and Drugs (Adulteration) Act, 1928; and

- (h) section two of the Public Health (Regulations as to Food) Act, 1907, and section three hundred and nineteen of the Public Health Act, 1936, shall, notwithstanding that the last-mentioned enactment does not apply to Scotland, apply to all Food Regulations and to all Bread and Flour Regulations, in like manner as those enactments apply to the regulations respectively mentioned therein.

(2) Part IV of this Act, section one hundred and one so far as relating to the enactments mentioned in the Third Part of the Fourth Schedule and subsection (1) of section one hundred and three shall apply to Northern Ireland, subject to the following modifications:—

- (a) for any reference to the Minister of Agriculture and Fisheries there shall be substituted a reference to the Ministry of Agriculture for Northern Ireland;
- (b) for paragraph (e) of section forty of this Act the following paragraph shall be substituted—

“(e) any such butter, margarine or milk-blended butter as is referred to in subsection (1) of section thirty-two of this Act”;

but save as aforesaid, this Act shall not apply to Northern Ireland.

Short title,  
date of  
commence-  
ment and  
extent.

**103.**—(1) This Act may be cited as the Food and Drugs Act, 1938, and shall come into operation on the first day of October nineteen hundred and thirty-nine.

(2) Part V of this Act shall not extend to London.

(3) This Act shall not, save as mentioned in the last preceding section, extend to Scotland or Northern Ireland.



**SCHEDULES.**  

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**FIRST SCHEDULE.**  

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Sections 25  
(4), 37 (5).**PART I.****DISEASES OF COWS TO WHICH SECTION TWENTY-FIVE APPLIES.**

Acute mastitis.

Actinomycosis of the udder.

Suppuration of the udder.

Any infection of the udder or teats which is likely to convey disease.

Any comatose condition.

Any septic condition of the uterus.

Anthrax.

Foot and mouth disease.

**PART II.****MILK-BORNE DISEASES.**

Enteric fever (including typhoid and paratyphoid fevers).

Dysentery.

Diphtheria.

Scarlet fever.

Acute inflammation of the throat.

Gastro-enteritis.

Undulant fever.

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**SECOND SCHEDULE.**  

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Section  
47 (2).**CHARGES FOR WEIGHING ANIMALS.**

For every head of cattle - - - - - sixpence.

For every five (or a less number) of sheep or swine - threepence.

Sections 71  
(1), 84 (2).

### THIRD SCHEDULE.

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#### SPECIAL PROVISIONS AS TO THE SAMPLING OF MILK.

(1) Where a sample of milk is procured from a purveyor of milk, he shall, if required to do so by the person by whom or on whose behalf the sample was procured, state the name and address of the seller or consignor from whom he received the milk.

(2) Within sixty hours after the sample was procured from the purveyor, he may serve on the authority by whose officer it was procured, or, if it was not procured by an officer of any authority, on the Food and Drugs authority within whose area it was procured, a notice stating the name and address of the seller or consignor from whom he received the milk and the time and place of delivery to himself of milk from a corresponding milking, and requesting the authority to take immediate steps to procure, as soon as practicable, a sample of milk from a corresponding milking in the course of transit or delivery to himself from the seller or consignor :

Provided that—

- (a) if such a sample has been so procured since the sample in question was procured, or had been so procured within twenty-four hours prior to that sample being procured, it shall not be necessary for the authority to procure another sample in accordance with the notice; and
- (b) the purveyor shall have no right to require that such a sample shall be procured if the milk from which the sample procured from him was taken was a mixture of milk obtained by him from more than one person.

(3) If a purveyor has served on the authority such a notice as aforesaid, and the authority have, in a case not falling within proviso (a) to the preceding paragraph, omitted to procure a sample of milk from the seller or consignor in accordance with the foregoing provisions, no proceedings under this Act shall be taken against the purveyor in respect of the sample procured from him.

(4) Any sample so procured in the course of transit or delivery shall be submitted for analysis to the analyst to whom the sample procured from the purveyor is or was submitted.

(5) If proceedings are taken against the purveyor, a copy of the certificate of the result of the analysis of every sample so procured in the course of transit or delivery shall be furnished to him, and every such certificate and copy shall, subject to the provisions of section eighty-one of this Act, be admissible as

evidence on any question whether the milk sold by the purveyor was sold in the same state as it was in when he purchased it.

3RD SCH.  
—cont.

(6) The authority by whose officer, or within whose area, the first-mentioned sample was procured may, instead of, or in addition to, taking proceedings against the purveyor, take proceedings against the seller or consignor.

(7) If a sample of milk of cows in any dairy is procured in course of transit or delivery from that dairy, the dairyman may, within sixty hours after the sample was procured, serve on the authority by whose officer the sample was procured a notice requesting them to take immediate steps to procure as soon as practicable a sample of milk from a corresponding milking of the cows and, thereupon, paragraphs (2) to (5) of this Schedule shall, so far as applicable, apply with any necessary modifications :

Provided that the person procuring the sample shall be empowered to take any such steps at the dairy as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when properly and fully milked.

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## FOURTH SCHEDULE.

Section 101.

### PART I.

#### ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
2 Henry 8. c. 40.	Conōning Phisicians	Section two.
Mary : Sess. 2. c. 9.	An Acte touching thincorporations of the Phisitions in London.	Section three.
Anne, c. 68	An Act for repealing the Act of the First year of King James the First intituled an Act for the well garbling of Spices.	The whole Act.
Geo. 1. c. 11	The Adulteration of Coffee Act, 1718.	The whole Act.

4TH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
11 Geo. 1. c. 30.	The Adulteration of Tea and Coffee Act, 1724.	Section nine.
7 Geo. 2. c. 19	The Adulteration of Hops Act, 1733.	The whole Act.
26 Geo. 3. c. 71.	The Knackers Act, 1786.	The whole Act.
55 Geo. 3. c. 194.	The Apothecaries Act, 1815.	Sections three and four, and in section eight the words from "save and except" (where those words first occur) to "medicines, and also".
3 Geo. 4. c. cvi.	An Act to repeal the Acts in force relating to bread to be sold in the City of London and the Liberties thereof, and for other purposes in the said Act mentioned.	The whole Act.
6 & 7 Will. 4. c. 37.	The Bread Act, 1836	The whole Act.
7 & 8 Vict. c. 87.	The Knackers Act, 1844.	The whole Act.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Sections one hundred and sixteen to one hundred and nineteen, and one hundred and sixty-six to one hundred and seventy; the Third Schedule and, in the Fourth Schedule, Forms L, M and O.
41 & 42 Vict. c. 49.	The Weights and Measures Act, 1878.	Part II of the Sixth Schedule, so far as respects any local authority outside London who are a market authority for the purposes of this Act.
47 & 48 Vict. c. 12.	The Public Health (Confirmation of Byelaws) Act, 1884.	Section three, so far as it relates to byelaws made under section one hundred and twenty-eight of the Towns Improvement Clauses Act, 1847, or section forty-two of the Markets and Fairs Clauses Act, 1847, by virtue of their incorporation with the Public Health Act, 1848, the Local Government Act, 1858, or the Public Health Act, 1875.

Session and Chapter.	Short Title.	Extent of Repeal.
50 & 51 Vict. c. 27.	The Markets and Fairs (Weighing of Cattle) Act, 1887.	Sections four to nine, so far as respects any local authority outside London who are a market authority for the purposes of this Act.
52 & 53 Vict. c. 11.	The Sale of Horseflesh, &c., Regulation Act, 1889.	The whole Act.
53 & 54 Vict. c. 34.	The Infectious Disease (Prevention) Act, 1890.	The whole Act.
53 & 54 Vict. c. 59.	The Public Health Acts Amendment Act, 1890.	Paragraph (2) of section three and sections twenty-eight to thirty-one, and fifty.
54 & 55 Vict. c. 70.	The Markets and Fairs (Weighing of Cattle) Act, 1891.	Sections one and two, so far as respects any local authority outside London who are a market authority for the purposes of this Act.
56 & 57 Vict. c. 73.	The Local Government Act, 1894.	In section sixteen, subsection (1) so far as regards functions of a rural district council which are functions under this Act; in section twenty-five, subsections (1) and (7) so far as regards functions of a council which are functions under this Act; subsection (2) of section twenty-seven and section sixty-three so far as regards functions of a council which are functions under this Act.
7 Edw. 7. c. 32.	The Public Health (Regulations as to Food) Act, 1907.	The whole Act.
7 Edw. 7. c. 53.	The Public Health Acts Amendment Act, 1907.	In section one, the reference to Part IV—Infectious diseases; in section thirteen, the definitions of "dairy", "dairyman" and "infectious disease"; and sections fifty-three and fifty-four.

4TH SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Edw. 7. c. 6.	The Public Health Act, 1908.	The whole Act.
5 & 6 Geo. 5. c. 66.	The Milk and Dairies (Consolidation) Act, 1915.	The whole Act.
12&13Geo.5. c. 28.	The Bread Acts Amendment Act, 1922.	The whole Act.
12&13Geo.5. c. 54.	The Milk and Dairies (Amendment) Act, 1922.	The whole Act.
15&16Geo.5. c. 71.	The Public Health Act, 1925.	Sections seventy-one and seventy-two.
16&17Geo.5. c. 21.	The Markets and Fairs (Weighing of Cattle) Act, 1926.	The following provisions so far as respects any local authority outside London who are a market authority for the purposes of this Act, that is to say—in section two the words from the beginning to “facilities for weighing cattle and” and the word “respectively”; section three, and the Schedule.
18&19Geo.5. c. 31.	The Food and Drugs (Adulteration) Act, 1928.	The whole Act.
19 & 20 Geo. 5. c. 17.	The Local Government Act, 1929.	In section fifty-seven, subsections (2) and (3) so far as regards functions relating to public health which are functions under this Act.
19&20Geo.5. c. 32.	The Artificial Cream Act, 1929.	The whole Act.
22&23Geo.5. c. 28.	The Public Health (Cleansing of Shellfish) Act, 1932.	The whole Act.
23 & 24 Geo. 5. c. 51.	The Local Government Act, 1933.	In section one hundred and fifty-nine, subsection (2) so far as it relates to purposes which are purposes of this Act.
24&25Geo.5. c. 51.	The Milk Act, 1934.	Section ten.

Session and Chapter.	Short Title.	Extent of Repeal.
26 Geo. 5. & 1 Edw. 8. c. 50.	The Public Health (London) Act, 1936.	Subsections (1) to (7) and (9) to (11) of section one hundred and eighty; sections one hundred and eighty-one to one hundred and eighty-three, one hundred and eighty-five to one hundred and ninety-one, two hundred and six and two hundred and seven; in section two hundred and seventy-four, the proviso to subsection (1); in section two hundred and seventy-six, proviso (b) to subsection (1) and subsection (2); and in section three hundred and one the words in subsection (2) from "relating to the registration" to "preserved food, or."
1 Edw. 8. & 1 Geo. 6. c. 67.	The Factories Act, 1937.	Subsection (1) of section one hundred and fifty-seven and Part I of the Third Schedule.

4TH SCH.  
—cont.

## PART II.

## REPEALS EXTENDING TO SCOTLAND.

Section  
102 (1).

6 & 7 Will. 4. c. 37.	The Bread Act, 1836	The whole Act.
7 Edw. 7. c. 32.	The Public Health (Regulations as to Food) Act, 1907.	The whole Act, in so far as it empowers regulations to be made regarding food (excluding milk).
12 & 13 Geo. 5. c. 28.	The Bread Acts Amendment Act, 1922.	The whole Act.
18 & 19 Geo. 5. c. 31.	The Food and Drugs (Adulteration) Act, 1928.	Section six (except subsections (2) and (7)); sections twelve, twenty and twenty-three; the proviso to subsection (3) of section twenty-seven and subsections (5) and (6) of section twenty-eight.

4TH SOL.  
—cont.Section  
102 (2).

## PART III.

REPEALS EXTENDING TO NORTHERN IRELAND  
AND THE ISLE OF MAN.

Session and Chapter.	Short Title.	Extent of Repeal.
18 & 19 Geo. 5. c. 31.	The Food and Drugs (Adulteration) Act, 1928.	Sections twelve and twenty; the proviso to subsection (3) of section twenty - seven; subsections (5) and (6) of section twenty-eight and sec- tion thirty-six.

## CHAPTER 57.

An Act to enable the Treasury and the Postmaster-General to carry out certain arrangements made by His Majesty's Government in the United Kingdom with Cable and Wireless Limited, and in connection with those arrangements to amend the law with respect to the calculation of the Post Office net surplus; and for purposes connected with the matters aforesaid. [29th July 1938.]

19 & 20  
Geo. 5. c. 7.

**W**HEREAS in pursuance of the recommendations of the Conference referred to in the recitals of the Imperial Telegraphs Act, 1929, certain telegraphic undertakings were transferred to a company, therein referred to as "the Communications Company" and now named "Cable and Wireless Limited":

And whereas by a lease (hereinafter referred to as "the said lease") dated the fourth day of September nineteen hundred and twenty-nine and made between the Postmaster-General on behalf of His Majesty of the first part, Cable and Wireless Limited (by its then name of Imperial and International Communications Limited) of the second part and Cable and Wireless (Holding) Limited (by its then name of Cables and Wireless Limited) of the third part, the Postmaster-General demised to



Cable and Wireless Limited certain freehold land and premises more particularly described in the said lease together with certain plant (all which freehold land and premises and plant are hereinafter referred to as "the beam wireless stations") for the term of twenty-five years from the first day of April nineteen hundred and twenty-eight at the yearly rent of two hundred and fifty thousand pounds and, in certain events, an additional rent calculated by reference to any excess of the net revenue of Cable and Wireless Limited over a standard revenue :

And whereas by an agreement (hereinafter referred to as "the circuits agreement") dated the said fourth day of September and made between the Postmaster-General and Cable and Wireless Limited (by its said then name) provision was made for the appropriation for the use of the said company of certain circuits connecting the beam wireless stations and the Central Telegraph Office, or of other circuits substituted therefor, but the said agreement was by the terms thereof in no event to continue after the said lease had ceased to be in force :

And whereas the Postmaster-General has a claim (hereinafter referred to as "the Kenya claim") against Cable and Wireless Limited in respect of a right conceded to the said company to operate a wireless telegraph service with Kenya, the amount of which claim has not been finally determined but does not exceed thirty-five thousand pounds :

And whereas certain arrangements have been made between His Majesty's Government in the United Kingdom and Cable and Wireless Limited with a view to the maintenance of a satisfactory system of imperial communications and the reduction of certain telegraphic rates charged to the public :

And whereas the carrying out of the said arrangements involves, amongst other things,—

- (a) the sale, to take effect as from the beginning of March nineteen hundred and thirty-eight, by the Postmaster-General to the said company of his estate and interest in the beam wireless stations in reversion expectant on the determination of the said lease, and the making over to the Treasury, in consideration of the

said sale as well as of other matters provided for by the said arrangements, of certain fully paid shares in the said company, together with the right to dividends declared thereon in respect of any period beginning after the said date and to a proportionate part of dividends declared thereon in respect of a period which includes the said date;

- (b) the continuation of the circuits agreement with certain alterations;
- (c) the waiver by the Postmaster-General of the Kenya claim; and
- (d) the sharing in agreed proportions by the Postmaster-General and the said company of certain sums which, under the International Telegraph Regulations, fall to be received and retained by them in respect of telegrams within the European telegraph system as defined for the purposes of those Regulations :

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

Power of  
Treasury  
and Post-  
master-  
General to  
carry out  
arrange-  
ments with  
Cable and  
Wireless  
Limited.

1.—(1) The Treasury may accept any fully paid shares in Cable and Wireless Limited made over to it as aforesaid, and any dividends or other sums received by the Treasury in respect of those shares (other than any part of any dividends on any shares transferred to the Treasury which the Treasury may be liable to pay to the transferors of those shares) shall be paid into the Exchequer.

(2) The Postmaster-General may enter into an agreement with Cable and Wireless Limited whereby the circuits agreement is, with certain alterations, continued for such period as may be determined by or under the agreement for the continuation thereof.

(3) The Postmaster-General may waive the Kenya claim.

(4) The Postmaster-General may make an arrangement with the said company whereby—

- (a) an account is from time to time prepared, as from such date as may be agreed, of certain

sums to be specified in the arrangement, being certain of the sums which, under the International Telegraph Regulations, fall to be received and retained by the Postmaster-General and the company in respect of telegrams within the European telegraph system as defined for the purposes of those Regulations, being telegrams passing to or from or through the area consisting of the United Kingdom, the Isle of Man and the Channel Islands, and

- (b) such payments are from time to time made to the Postmaster-General by the company and by the Postmaster-General to the company as are necessary to secure that, as between the Postmaster-General and the company, the benefit of the said specified sums is shared in such proportions as may be specified by or under the arrangement.

Any payments made by the Postmaster-General to the company under this subsection shall be treated as payments which may be deducted from the gross revenue of the Post Office before that revenue is paid into the Exchequer.

(5) In this section the expression "the International Telegraph Regulations" means the telegraph regulations for the time being in force under the International Telecommunication Convention signed at Madrid in the year nineteen hundred and thirty-two or any international convention substituted in lieu thereof.

**2.** For the purpose of the statement required to be made under section thirty-eight of the Finance Act, 1933 (which relates to the Post Office Fund), there shall, as from the beginning of March nineteen hundred and thirty-eight, be included in the revenue of the Post Office a sum calculated at the rate of one hundred and fifty thousand pounds per annum.

Amendment  
as to calculation of  
Post Office  
net surplus.  
23 & 24  
Geo. 5. c. 19.

**3.** This Act may be cited as the Imperial Telegraphs Act, 1938.

Short title.

**CHAPTER 58.**

An Act to repeal the Chimney Sweepers and Chimneys Regulation Acts, 1840 and 1864, the Chimney Sweepers Act, 1875, and the Chimney Sweepers Act, 1894. [29th July 1938.]

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

Repeals,  
short title  
and extent.  
38 & 39 Vict.  
c. 70.  
57 & 58 Vict.  
c. 51.

**1.**—(1) The Chimney Sweepers and Chimneys Regulation Acts, 1840 and 1864, the Chimney Sweepers Act, 1875, and the Chimney Sweepers Act, 1894, are hereby repealed.

(2) This Act may be cited as the Chimney Sweepers Acts (Repeal) Act, 1938, and shall not apply to Scotland or to Northern Ireland.

**CHAPTER 59.**

An Act to provide for the extension of polling hours at county council and borough council elections. [29th July 1938.]

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

Extension  
of hours of  
poll.  
23 & 24  
Geo. 5. c. 51.

**1.** Paragraph 3 of Part III of the Second Schedule to the Local Government Act, 1933, shall have effect as though the following were added thereto :—

“ Provided that where—

(a) a candidate nominated at an election of a councillor for an electoral division of a county, or

(b) a number of candidates nominated at an election of councillors for a borough not divided into wards, or at an election of

councillors for a ward of a borough divided into wards, not being less than the number of councillors to be elected at the election, by notice or notices in writing signed by him, or, as the case may be, by them, and delivered at the place at which notices of withdrawals from candidatures are required to be delivered not later than the time appointed for that purpose by Part II of this Schedule, requests, or as the case may be, request, that the poll at that election may be kept open till nine o'clock in the afternoon of the day on which the poll commences, then, subject to the succeeding provisions of this paragraph, the poll shall be kept open until nine o'clock in the afternoon of that day and no longer.

A notice given by any candidate for the purposes of the foregoing proviso shall be of no effect if the candidate is not validly nominated, or if he withdraws, or is deemed to have withdrawn, from his candidature, or if he withdraws the notice by a further notice in writing signed by him and delivered at the place aforesaid not later than the time appointed for the delivery of the first-mentioned notice."

2.—(1) This Act may be cited as the Local Government (Hours of Poll) Act, 1938.

Short title  
and repeal.

(2) Section two hundred and forty-two of the Barking Corporation Act, 1933 (which relates to the hours of poll at municipal elections at the borough of Barking), is hereby repealed.

23 & 24  
Geo. 5.  
c. Lxviii.

## CHAPTER 60.

An Act to confirm and give effect to an agreement made between His Majesty's Government in the United Kingdom and the Government of the Turkish Republic; and for purposes connected with the matters aforesaid. [29th July 1938.]

**W**HEREAS His Majesty's Government in the United Kingdom and the Government of the Turkish Republic have entered into the agreement set forth in the Schedule to this Act:

And whereas it is expedient that the said agreement should be confirmed and that provision should be made for giving effect thereto :

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

Confirma-  
tion of  
agreement  
and power  
to make  
advances.

1.—(1) The agreement set forth in the Schedule to this Act is hereby confirmed, and the Treasury shall have power to make advances, not exceeding in the aggregate six million pounds, in accordance with the provisions thereof.

(2) Any sums certified by the Treasury to be payable by way of such advances as aforesaid shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof, (hereinafter referred to as "the Consolidated Fund") and any sums received by His Majesty's Government in respect of such advances shall be paid into the Exchequer.

Provisions  
as to  
raising of  
money for  
advances  
and dealing  
with  
receipts in  
respect of  
advances.  
9 & 10  
Geo. 5. c. 37.

2.—(1) For the purpose of providing money for the issue of sums out of the Consolidated Fund under the foregoing section or any part of such sums or for the replacement of all or any part of sums so issued, the Treasury may from time to time raise money in any manner in which they are authorised to raise money under and for the purposes of subsection (1) of section one of the War Loan Act, 1919; and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under subsection (1) of section one of that Act.

(2) Sums paid into the Exchequer under the foregoing section shall be issued out of the Consolidated Fund at such times as the Treasury may direct and applied by the Treasury as follows :—

(a) so much thereof as represents repayments of the principal sum as defined by paragraph (2) of Article two of the said agreement shall be applied in redeeming or paying off debt of such description as the Treasury think fit; and

- (b) the remainder thereof shall be applied in payment of an equivalent amount of the interest which would, but for this provision, have been paid out of the permanent annual charge for the National Debt.

**3.** This Act may be cited as the *Anglo-Turkish Short title.  
(Armaments Credit) Agreement Act, 1938.*

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## SCHEDULE.

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Section 1.

Whereas the Government of the Turkish Republic have adopted an economic programme, which was approved by the National Assembly of the Turkish Republic on the twenty-third day of December, nineteen hundred and thirty-seven, whereby provision is made for substantial increases in the amount and value of the mineral and certain other products to be exported from the Turkish Republic in future years :

And whereas the Trade and Clearing Agreement, signed on the second day of September, nineteen hundred and thirty-six, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Turkish Republic, has been supplemented by an Agreement signed on the twenty-seventh day of May, nineteen hundred and thirty-eight, providing in Article 4 (2) (iv) (E) thereof for payments to be made to the Government of the United Kingdom, out of the receipts of United Kingdom companies known as the Anglo-Turkish Comptoir, Limited, and Anglo-Turkish Commodities, Limited, in respect of credits granted by that Government to the Government of the Turkish Republic for the purchase in the United Kingdom of material necessary for the defence of Turkey :

Now, therefore, with a view to facilitating such purchases, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Turkish Republic have agreed, subject to confirmation by the Parliament of the United Kingdom and by the National Assembly of the Turkish Republic, as follows :—

### ARTICLE 1.

The Government of the United Kingdom undertake to advance by way of loan to the Government of the Turkish Republic such sums, not exceeding in the aggregate six million pounds sterling, as may be payable by the Government of the

Turkish Republic under any contracts concluded by that Government with the approval of the Government of the United Kingdom for the purchase in the United Kingdom of material necessary for the defence of Turkey.

#### ARTICLE 2.

(1) There shall be added to each advance, made in accordance with Article 1 of this Agreement, interest, compounded half-yearly, at a rate of one per cent. per annum above the Bank of England discount rate in force from time to time or at a rate of three per cent. per annum, whichever is the greater, from the date on which each such advance is made until the date on which it is repaid or until the first day of January, nineteen hundred and forty-three, whichever date is the earlier, and thereafter at such rate (hereinafter referred to as the "certified rate") not being less than three per cent. per annum as the Lords Commissioners of the Treasury of the United Kingdom shall certify to be the appropriate rate on the first day of January, nineteen hundred and forty-three, for a loan of similar term guaranteed by the Government of the United Kingdom.

(2) The total amount of the advances, together with the interest thereon, unpaid on the first day of January, nineteen hundred and fifty-two (hereinafter referred to as the "principal sum"), shall be repaid by the Government of the Turkish Republic to the Government of the United Kingdom in pounds sterling by means of twenty equal half-yearly instalments, payable on the first day of July and the first day of January, of such amount as will secure the repayment by the first day of January, nineteen hundred and sixty-two, of the principal sum, together with interest on the amount thereof from time to time outstanding at the certified rate.

#### ARTICLE 3.

After the first day of January, nineteen hundred and fifty-two, the Government of the Turkish Republic shall have the option of discharging in whole or in part its obligations to pay instalments as provided in the preceding article by the repayment to the Government of the United Kingdom on the first day of January or on the first day of July of any year in pounds sterling of the principal sum or any part thereof then outstanding, and after any such repayment of a part of the principal sum the subsequent instalments shall be proportionately reduced.

#### ARTICLE 4.

The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Angora. The present Agreement shall enter into force on the date of the exchange of ratifications.



In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement and have affixed thereto their seals.

Done in duplicate in London, in the English language, this twenty-seventh day of May, nineteen hundred and thirty-eight.

A translation shall be made into the Turkish language as soon as possible and agreed between the Contracting Governments.

Both texts shall then be considered equally authentic for all purposes.

(L.S.) HALIFAX.

(L.S.) FEHTI OKYAR.

(L.S.) M. ERIS.

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## CHAPTER 61.

An Act to extend certain temporary provisions of the Milk Acts, 1934 to 1937; to release milk marketing boards and the Government of Northern Ireland from certain obligations under those Acts; and for purposes connected with the matters aforesaid. [29th July 1938.]

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

1. In sections one, two and three of the principal Act (which provide for the making of payments out of the Exchequer in respect of milk sold or used for manufacture before the beginning of October nineteen hundred and thirty-eight) for the words "the fifty-four consecutive months falling between the end of March nineteen hundred and thirty-four and the beginning of October nineteen hundred and thirty-eight" (wherever those words occur) there shall be substituted the words "the sixty-six consecutive months falling between the end of

Extension of period of period for Exchequer payments in connection with milk sold or used for manufacture.

“ March nineteen hundred and thirty-four and the beginning of October nineteen hundred and thirty-nine ”.

Extension of period, and increase of amount, of Exchequer payments in connection with schemes for increasing the demand for milk.

**2.** In subsection (1) of section eleven of the principal Act (which enables the Minister to pay to milk marketing boards, out of moneys provided by Parliament, sums not exceeding two million pounds in all in respect of expenses incurred by such boards in giving effect to arrangements for increasing the demand for milk, being expenses which appear to the Minister to be attributable to any time before the first day of October nineteen hundred and thirty-eight) for the words “ nineteen hundred and thirty-eight ” there shall be substituted the words “ nineteen hundred and thirty-nine ”, and for the words “ two million ” there shall be substituted the words “ two million seven hundred and fifty thousand ”.

Release of milk marketing boards and Government of Northern Ireland from obligation to make payments to Exchequer.

**3.—(1)** In section five, and subsection (2) of section six, of the principal Act (which respectively require milk marketing boards and the Government of Northern Ireland to make to the Exchequer, in certain circumstances, payments in respect of milk used for manufacture before the beginning of October nineteen hundred and forty) for the words “ the fifty-four consecutive months falling between the end of March nineteen hundred and thirty-six and the beginning of October nineteen hundred and forty ” (wherever those words occur) there shall be substituted the words “ the eighteen consecutive months falling between the end of March nineteen hundred and thirty-six and the beginning of October nineteen hundred and thirty-seven ”.

(2) This section shall be deemed to have come into operation on the first day of October nineteen hundred and thirty-seven.

Supplemental and consequential provisions.

24 & 25 Geo. 5. c. 51.

26 Geo. 5. & 1 Edw. 8. c. 9.  
1 Edw. 8. & 1 Geo. 6. c. 66.

**4.—(1)** In this Act the expression “ the principal Act ” means the Milk Act, 1934, as amended by the Milk (Extension of Temporary Provisions) Act, 1936, and by the Milk (Amendment) Act, 1937.

(2) The amendments set out in the Schedule to this Act, being amendments consequential on the preceding provisions of this Act, shall be made in the enactments mentioned in that Schedule.

5. This Act may be cited as the Milk (Extension and Amendment) Act, 1938, and shall be construed as one with the principal Act; and the Milk Acts, 1934 to 1937, and this Act may be cited together as the Milk Acts, 1934 to 1938.

Short title,  
construc-  
tion and  
citation.

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## SCHEDULE.

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Section 4.

### CONSEQUENTIAL PROVISIONS.

1. In subsection (2) of section seven of the principal Act, for the word "fifty-four" there shall be substituted the word "eighteen" and for the words "nineteen hundred and forty" there shall be substituted the words "nineteen hundred and thirty-seven."

2. In subsection (4) of the said section seven, for the words "nineteen hundred and forty" there shall be substituted the words "nineteen hundred and thirty-nine".

3. Subsections (2) and (3) of section eight of the principal Act shall cease to have effect.

4. In subsection (5) of section five of the Milk (Amendment) Act, 1937, for the words "nineteen hundred and forty" there shall be substituted the words "nineteen hundred and thirty-nine".

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## CHAPTER 62.

An Act to enable the Trustees of the British Museum to accept a certain bequest made to them by the late Lord Rothschild; and for purposes connected therewith. [29th July 1938.]

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

1. Whereas by a codicil, the material parts of which are set out in the Schedule to this Act, the second Baron Rothschild bequeathed to the Trustees of the British

Power of  
Trustees  
to accept

Lord  
Rothschild's  
bequest.

Museum, on certain conditions, certain lands and buildings at Tring (hereinafter referred to as "the Tring Museum") and certain collections and objects which he had assembled thereat :

Now therefore—

- (1) The Trustees shall have, and be deemed always to have had, power to accept the said bequest and give effect to the said conditions; and
- (2) If the Trustees accept the said bequest, the said collections shall thereupon become collections belonging to the Natural History Departments of the British Museum, and any of the various specimens from time to time comprised in any of the collections of those Departments may be kept either at the Tring Museum or at the Natural History Museum at South Kensington, as the Trustees may determine.

Short title.

2. This Act may be cited as the British Museum Act, 1938.

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## SCHEDULE.

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### EXTRACT FROM CODICIL TO THE WILL OF THE SECOND BARON ROTHSCHILD.

Whereas in a former will I left to various museums and institutions a number of specimens from my zoological collection in my museum at Tring Park, I now revoke all these bequests and I give and bequeath to the Trustees of the British Museum my freehold property known as the Zoological Museum, Tring, inclusive of all the collections and all the objects it contains, as well as the garden in front of the Museum at the other side of Park Street and the house in Akeman Street now used as a laboratory, provided that the Trustees of the British Museum will accept this my legacy as an annexe of the British Museum and use this my Museum in a modified form for zoological research. The "types" and other specimens necessary for the collections of the British Museum may be transferred to that institute as the Trustees of the British Museum may decide.

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**CHAPTER 63.**

An Act to amend the law with respect to assizes and to quarter sessions and with respect to proceedings heretofore usually dealt with on the Crown side of the King's Bench Division of the High Court; to enable effect to be given to international conventions affecting English Courts; to extend the jurisdiction of county courts and to amend the Supreme Court of Judicature (Consolidation) Act, 1925, and the County Courts Act, 1934; to amend the law relating to appeals from the Mayor's and City of London Court; and for purposes connected with the matters aforesaid. [29th July 1938.]

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

*Quarter Sessions.*

**1.**—(1) The court of quarter sessions for any county may at any time apply to the Lord Chancellor for the appointment as chairman or deputy chairman of the court of a person who is or has been a barrister or solicitor of not less than ten years' standing having such legal experience as to qualify him in the opinion of the Lord Chancellor to act as chairman or deputy chairman of quarter sessions, and where such an application has been made, it shall be lawful for His Majesty, on the recommendation of the Lord Chancellor, to appoint such a chairman or deputy chairman accordingly:

Appoint-  
ment of  
legally  
qualified  
chairman  
and deputy  
chairman of  
quarter  
sessions.

Provided that, before making any recommendation for an appointment under this section, the Lord Chancellor shall consider any representations which may be made to him with respect thereto by the court of quarter sessions and shall take into account the expediency of recommending where practicable a person residing in, or otherwise connected with, the county in or for which

the court of quarter sessions is held and, in the case of any county in Wales or the county of Monmouth, a person able to speak the Welsh language.

(2) Where a separate court of quarter sessions is held for any division or part of a county, or a court of quarter sessions for a whole county is held in two or more divisions or parts of the county, the Lord Chancellor may upon the application of the court recommend under the foregoing subsection the appointment of such a person as aforesaid as chairman or deputy chairman of the separate court of quarter sessions for the division or part, or, as the case may be, of the quarter sessions held in the division or part, and His Majesty may accordingly appoint such a chairman or deputy chairman.

(3) Any chairman or deputy chairman appointed under this section shall hold his office for such term and on such conditions as to retirement as may be specified in his appointment and shall, if not already a justice of the peace for the county for which he is appointed, be a justice of the peace for that county by virtue of his office, but he shall not act as chairman or deputy chairman or as a justice of the peace until he has taken the oaths required to be taken by a justice of the peace for the county.

(4) In this Act the expression "deputy chairman" means, in relation to any court of quarter sessions, a person, by whatsoever name styled, performing or nominated to perform the duty of presiding over the court in the absence of the chairman and of presiding over any second court, and the said expression includes, in relation to any court, any number of such persons.

(5) This section shall not apply to the court of quarter sessions for the county of London or for the county palatine of Lancaster, or to the court of the recorder of any borough having a separate court of quarter sessions.

Extension  
of jurisdic-  
tion of  
quarter  
sessions.

2.—(1) At any session of a court of quarter sessions presided over by a legally qualified chairman of the court, the court shall (in addition to such jurisdiction with respect to the trial of offences as is vested in courts of quarter sessions at the commencement of this Act)

have jurisdiction to try a person charged with any of the offences specified in the First Schedule to this Act.

(2) For the purposes of this section, a person shall not, in relation to a court of quarter sessions, be deemed to be a legally qualified chairman of the court unless he is—

- (a) a chairman or a deputy chairman of the court appointed under this Act;
- (b) a person who is or has been the holder of an office mentioned in the next following subsection and who has been elected by the court as chairman or deputy chairman thereof;
- (c) a chairman or a deputy chairman of the court appointed under section forty-two of the Local Government Act, 1888, or a person appointed under section two of the Quarter Sessions (London) Act, 1896, to act as chairman or deputy chairman of the court; 51 & 52 Vict.  
c. 41.  
59 & 60 Vict.  
c. 55.
- (d) a chairman or a deputy chairman of the court appointed under the Lancashire Quarter Sessions Act, 1928; 18 & 19  
Geo. 5.  
c. xxx.
- (e) a chairman or a deputy chairman of the court appointed before the commencement of this Act under section ninety of the Middlesex County Council Act, 1934; 24 & 25  
Geo. 5.  
c. lxxxix.
- (f) in the case of the court of quarter sessions for a borough having a population of not less than fifty thousand, the recorder, a deputy recorder or an assistant recorder of the borough for which the court is held.

(3) The offices referred to in paragraph (b) of the last foregoing subsection are the following offices, that is to say, member of the Judicial Committee of the Privy Council, judge of the Supreme Court, official referee attached to that Court, Railway and Canal Commissioner, judge of a county court, His Majesty's Attorney-General, His Majesty's Solicitor-General, Director of Public Prosecutions, and recorder of any borough having a separate court of quarter sessions and a population of not less than fifty thousand.

(4) For the purposes of this section, a borough shall be deemed to have a population of not less than fifty thousand if, according to the census last published before the commencement of this Act or according to any census published after the commencement of this Act, it contained or contains a population of fifty thousand or more.

(5) Where at any session of a court of quarter sessions having a legally qualified chairman no legally qualified chairman is present, the court shall nevertheless have jurisdiction to try a person charged with any of the offences specified in the First Schedule to this Act if the court is presided over by a justice of the peace for the county deputed to preside at that session by a legally qualified chairman of the court and the justice so deputed is either a person who holds or has held one of the offices mentioned in subsection (3) of this section or a person approved by the Lord Chancellor as being qualified to act as such a deputy :

Provided that this subsection shall not apply to the court of quarter sessions for the county of London or to the court of the recorder of any borough having a separate court of quarter sessions.

(6) Where a person charged with any of the offences specified in the First Schedule to this Act is committed to a court of quarter sessions and that court has not for the time being jurisdiction to try him for that offence, the power of the court under subsection (2) of section fourteen of the Criminal Justice Act, 1925, shall nevertheless include power to direct that the trial of the accused shall take place before a court of assize or before a court of quarter sessions for some other place.

15 & 16  
Geo. 5. c. 86.

Power to  
adjourn  
quarter  
sessions  
generally.

3.—(1) The powers of a court of quarter sessions for any county or division or part of a county shall include power to adjourn the sessions generally without fixing any date for the adjourned sessions or to a date to be subsequently fixed by the chairman or otherwise as the court ordering the adjournment may direct, but if, after such an order has been made, adjourned sessions in pursuance of the order are not held, or are held but not concluded, before the date fixed under section twenty-two or section twenty-three of the Criminal Justice Act, 1925, for the next general or quarter sessions of the peace, then the sessions



at which the order was made or the adjourned sessions, as the case may be, shall be deemed to be concluded immediately before the commencement of the sessions to be held on the date fixed under that Act, and any proceedings which might have been dealt with at adjourned sessions held in pursuance of the order may be dealt with as if they had been adjourned to the sessions commencing on that date, and any recognisances entered into in connection with any such proceedings shall have effect accordingly as if they had been expressed to relate to those sessions.

(2) The manner in which and the persons to whom notice is to be given of the holding of adjourned sessions in pursuance of an order made under this section and the manner in which the date of the holding of such adjourned sessions is to be published shall be such as may be from time to time determined by the court of quarter sessions at a session held on a date fixed under section twenty-two or section twenty-three of the Criminal Justice Act, 1925.

4.—(1) If at any time it is agreed between the court of quarter sessions for any county or division or part of a county and the county council that a salary should be paid to a chairman or deputy chairman of the court appointed under this Act, the county council shall pay to that chairman or deputy chairman a salary at such rate as may be so agreed as aforesaid and be approved by the Lord Chancellor.

Power to remunerate legally qualified chairmen and deputy chairmen of quarter sessions.

(2) It shall be the duty of any chairman or deputy chairman of a court of quarter sessions to whom a salary is payable under this section to act as the chairman or as a member of the rating appeal committee appointed under section thirty-two of the Rating and Valuation Act, 1925, if he is appointed by quarter sessions as such a chairman or member, unless it has been agreed between him, the court of quarter sessions, and the county council that the rate of his salary shall be determined on the assumption that he will not so act.

15 & 16  
Geo. 5. c. 90.

(3) Subject as hereinafter provided, the provisions of section ninety of the Middlesex County Council Act, 1934, and the provisions of section one hundred and fourteen of the Hertfordshire County Council Act, 1935, shall not apply to any chairman or deputy chairman of

25 & 26  
Geo. 5.  
c. cxiii.

a court of quarter sessions appointed under this Act unless with his consent the court of quarter sessions resolves that those provisions, respectively, shall apply to him, but if at any time such a resolution is passed with respect to any such chairman or deputy chairman, the provisions of the said section ninety or of the said section one hundred and fourteen, as the case may be, shall apply to him in lieu of the foregoing provisions of this section :

Provided that subsection (11) of section ninety of the Middlesex County Council Act, 1934, shall have effect whether the salaried chairman or salaried deputy chairman in office is in receipt of a salary under that Act or under this Act.

#### *Assizes and Committal.*

Amendment  
as to  
power to  
cancel  
assizes.  
15 & 16  
Geo. 5. c. 49.

**5.** The power exercisable under section seventy-seven of the Supreme Court of Judicature (Consolidation) Act, 1925, by the Lord Chief Justice, with the concurrence of the Lord Chancellor, to direct that assizes shall not be held at any place on a circuit where there is no business, or no substantial amount of business, to be transacted at the assizes then about to be held at any place on a circuit, shall be exercised in his sole discretion by the judge going the circuit or, if the place is a place at which two judges will be on circuit together, by the senior of them.

Amend-  
ments as to  
committal  
to assizes  
or quarter  
sessions.  
52 & 53 Vict.  
c. 12.

**6.—(1)** The power conferred on justices by section one of the Assizes Relief Act, 1889, to direct that a person charged with an indictable offence triable at quarter sessions shall be tried before a court of assize instead of at the next practicable court of quarter sessions having jurisdiction to try the offence shall not be exercised unless they are of opinion that there are circumstances which make the case an unusually grave or difficult one, or that serious delay or inconvenience would be occasioned by committal to quarter sessions :

Provided that nothing in this subsection shall affect the power of the Lord Mayor of the City of London or any alderman of that city to direct that a person charged with an offence before him shall be tried at the Central Criminal Court.

(2) Subsection (2) of section thirty-eight of the Larceny Act, 1916 (which requires justices in certain circumstances to commit persons charged with burglary to assizes) shall cease to have effect. 6 & 7 Geo. 5.  
c. 50.

(3) For paragraph (a) of the proviso to subsection (1) of section fourteen of the Criminal Justice Act, 1925 (which restricts the power of justices to commit to other assizes or quarter sessions) there shall be substituted the following paragraph, that is to say:—

“(a) unless, at the date of the committal, it appears to the examining justices to be unlikely that, in the case of a committal to assizes, the next assizes, or, in the case of a committal to quarter sessions, the next quarter sessions, to which but for this section he might have been committed, will be held within one month from that date; or”.

*Amendment of Law with respect to proceedings heretofore usually dealt with on the Crown side of King's Bench Division.*

7.—(1) The prerogative writs of mandamus, prohibition and certiorari shall no longer be issued by the High Court.

(2) In any case where the High Court would, but for the provisions of the last foregoing subsection, have had jurisdiction to order the issue of a writ of mandamus requiring any act to be done, or a writ of prohibition prohibiting any proceedings or matter, or a writ of certiorari removing any proceedings or matter into the High Court or any division thereof for any purpose, the Court may make an order requiring the act to be done, or prohibiting or removing the proceedings or matter, as the case may be.

(3) The said orders shall be called respectively an order of mandamus, an order of prohibition and an order of certiorari.

(4) No return shall be made to any such order and no pleadings in prohibition shall be allowed, but the order shall be final, subject to any right of appeal therefrom.

Orders of mandamus, prohibition and certiorari to be substituted for prerogative writs of mandamus, prohibition and certiorari.

(5) In any enactment references to any writ of mandamus, prohibition or certiorari shall be construed as references to the corresponding order and references to the issue or award of any such writ shall be construed as references to the making of the corresponding order.

Power to make orders of mandamus in certain other cases.

**8.** The power of the High Court under any enactment to require justices of the peace or a judge or officer of a county court to do any act relating to the duties of their respective offices, or to require any court of summary jurisdiction or court of quarter sessions to state a case for the opinion of the Court, in any case where immediately before the commencement of this Act the Court had by virtue of any enactment jurisdiction to make a rule absolute or to make an order, as the case may be, for any of those purposes, shall be exercisable by order of mandamus.

Abolition of informations in the nature of quo warranto.

**9.—(1)** Informations in the nature of quo warranto are hereby abolished.

(2) In any case where any person acts in an office in which he is not entitled to act and an information in the nature of quo warranto would, but for the provisions of the last foregoing subsection, have lain against him, the High Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the office to be vacant.

(3) No proceedings for an injunction under this section shall be taken by a person who would not immediately before the commencement of this Act have been entitled to apply for an information in the nature of quo warranto.

Rules to be made under s. 99 of 15 & 16 Geo. 5. c. 49.

**10.—(1)** Rules of court shall be made under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925,—

- (a) prescribing the procedure in cases where an order of mandamus, prohibition or certiorari is sought, or proceedings are taken for an injunction under the last foregoing section;
- (b) requiring, except in such cases as may be specified in the rules, that leave shall be obtained before an application is made for any such order or before any such proceedings are commenced;

- (c) requiring that, where leave is so obtained, no relief shall be granted and no ground relied upon, except with the leave of the court, other than the relief and grounds specified when the application for leave was made.

(2) Section five of the Administration of Justice (Miscellaneous Provisions) Act, 1933, shall cease to have effect. 23 & 24  
Geo. 5. c. 36.

**11.**—(1) Save as hereinafter provided, no indictment or inquisition shall be tried in the King's Bench Division of the High Court or removed into that Division for trial therein :

Powers  
of High  
Court with  
respect to  
the trial of  
indictments,  
&c.

Provided that—

- (a) the High Court may direct that any indictment or inquisition shall be tried at bar in that Division; and
- (b) any indictment found in accordance with subsection (4) of section one of the Administration of Justice (Miscellaneous Provisions) Act, 1933, by a grand jury of the county of London and county of Middlesex shall, unless the High Court orders otherwise under the powers conferred by this section, be tried in that Division.

(2) The High Court shall have power, instead of directing that any indictment or inquisition shall be tried at bar in the King's Bench Division, to direct that it shall be tried at the Central Criminal Court before three judges of the King's Bench Division; and with respect to any such indictment as is mentioned in paragraph (b) of the last foregoing subsection may, without directing that it shall be tried before three judges of the King's Bench Division, direct that it shall be tried at the Central Criminal Court.

(3) If it appears to the High Court to be expedient in the interests of justice, the court may direct that an indictment or inquisition shall, instead of being tried at the court of assize or quarter sessions at which it would but for the direction be tried, be proceeded with and tried at such other court of assize, or, if the offence is within the jurisdiction of quarter sessions, at such other

court of quarter sessions, as may be specified in the direction.

8 Edw. 7.  
c. 15.

(4) Where a person is to be tried by a court in a different county or borough from that in which he would have been tried but for a direction made under the foregoing provisions of this section, any costs payable in the case under the Costs in Criminal Cases Act, 1908, shall in the first instance be paid in the same manner as if the offence had been committed in the county or borough in which the offender is tried, but shall be recoverable by the treasurer of that county or borough from the treasurer of the county or borough in which the offence was committed.

(5) His Majesty may from time to time by Order in Council make such provision as to the jurisdiction of the court of trial and the attendance, jurisdiction, authority and duty of sheriffs, coroners, justices, gaolers, officers, jurors and persons, the use of any prison, the removal of prisoners, the alteration of any commissions, writs, precepts, indictments, recognisances, inquisitions, depositions (including exhibits thereto), and documents, and the expenses of maintaining and removing prisoners, as seems necessary or expedient for the purposes of the foregoing provisions of this section.

Abolition of  
certain pro-  
ceedings  
in the High  
Court.

**12.** Outlawry proceedings, the exhibiting of articles of the peace in the High Court, and criminal informations, other than informations filed ex officio by His Majesty's Attorney-General, are hereby abolished.

*Miscellaneous Amendments of Law.*

Inter-  
national  
Conventions  
affecting  
jurisdiction  
of English  
Courts.

**13.**—(1) The provisions of this section shall apply for the purpose of giving effect as respects England to any Convention for the time being in force, by virtue of which the High Contracting Parties to the Convention, or their property, are rendered liable to legal proceedings in the courts of the other High Contracting Parties.

(2) As from such day as His Majesty may by Order in Council certify to be the day on which any such Convention comes into force as respects England, every High Contracting Party to the Convention shall, for the purposes of any proceedings brought in the Supreme

Court against that party or in respect of property of that party in accordance with the provisions of the Convention, be deemed to have submitted to the jurisdiction of the Court; and the Court shall, in determining whether or to what extent any such proceedings are within its jurisdiction, give effect to any provision of the Convention (including any Protocol thereto) prescribing the mode of proof of any material circumstance.

(3) His Majesty may by Order in Council from time to time certify who are the High Contracting Parties to any such Convention, in respect of what territories they are respectively parties, and to what extent they have availed themselves of any provision of the Convention for suspending or modifying the operation of the Convention, and any such Order shall, except in so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

14.—(1) Where under the Supreme Court of Judicature (Consolidation) Act, 1925, the court has made, whether before or after the passing of this Act, any of the following orders, that is to say:—

Power of High Court to discharge or vary orders for alimony and maintenance.

- (a) an order under section one hundred and eighty-seven of that Act for the making or securing of periodical payments;
- (b) an order under subsection (2) of section one hundred and ninety of that Act for the payment of any monthly or weekly sum for the maintenance and support of either party to the marriage;
- (c) an interim order under subsection (3) of the said section one hundred and ninety for the payment of money by way of alimony or otherwise to either party to the marriage, or the like order in proceedings for judicial separation;
- (d) an order under subsection (4) of the said section one hundred and ninety for alimony to either party to the marriage, or any other order for alimony;
- (e) an order under subsection (2) of section one hundred and ninety-one of that Act for the making of periodical payments out of profits of trade or earnings;

or where before the commencement of that Act the court has made any similar order under the enactments thereby repealed, the court shall have power to discharge or vary the order or to suspend any provisions thereof temporarily and to revive the operation of any provisions so suspended.

(2) In exercising the powers conferred by this section, the court shall have regard to all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage.

Provisions  
as to appeals  
from the  
Mayor's and  
City of  
London  
Court.  
10 & 11  
Geo. 5.  
c. cxxxiv.

**15.**—(1) Subject to the provisions of this section, all appeals from causes and proceedings in the Mayor's and City of London Court shall be to the Court of Appeal.

(2) In the case of any such cause or proceedings as aforesaid in which, in accordance with section eight of the Mayor's and City of London Court Act, 1920, the procedure of the Supreme Court (as applied or modified by the rules made for the purposes of that section) has been adopted, an appeal shall lie in the like circumstances in all respects as if the cause or proceedings had been in the High Court; and in the case of any other cause or proceedings in the Mayor's and City of London Court an appeal shall lie in the like circumstances in all respects as if the cause or proceedings had been in a county court.

(3) In this section the expression "appeal" includes any motion for a new trial or to set aside a verdict, finding or judgment.

(4) Nothing in this section shall affect any of the following enactments, that is to say—

16 & 17 Vict.  
c. 137.

(a) sections thirty-seven to forty of the Charitable Trusts Act, 1853;

37 & 38 Vict.  
c. 42.

(b) section thirty-six of the Building Societies Act, 1874;

41 & 42 Vict.  
c. 76.

(c) section four of the Telegraph Act, 1878;

49 & 50 Vict.  
c. 27.

(d) section ten of the Guardianship of Infants Act, 1886;

49 & 50 Vict.  
c. 57.

(e) section one of the Parliamentary Elections (Returning Officers) Act (1875) Amendment Act, 1886.



**16.**—(1) The amounts by reference to which the jurisdiction of a county court in actions of contract or tort or for money recoverable by statute is limited by sections forty and forty-one of the County Courts Act, 1934, shall be increased by one hundred pounds, and accordingly for references in those sections to one hundred pounds there shall be substituted references to two hundred pounds :

Extension of jurisdiction of county court.  
24 & 25 Geo. 5.  
c. 53.

Provided that, if the amount claimed exceeds one hundred pounds, the defendant may, within such time as may be prescribed by county court rules, give notice that he objects to the action being tried in the county court, and, where such notice is given, the judge shall order that the action be transferred to the High Court.

(2) Nothing in this section shall apply to causes and proceedings in the Mayor's and City of London Court, and in section one hundred and eighty-six of the County Courts Act, 1934, the reference to the jurisdiction of a county court shall be construed accordingly.

**17.** The power of the High Court under section fifty-four of the County Courts Act, 1934, to transfer to a county court actions or matters assigned to the Chancery Division of the High Court shall be exercisable whether or not an application for the transfer has been made by a party to the action or matter.

Transfer of equity proceedings from High Court to county court without application.

**18.** Section ninety-nine of the County Courts Act, 1934, (which confers power to make county court rules) shall have effect as if the following paragraph were added to subsection (3) of that section :—

Jurisdiction of county court registrars.

“(e) authorising the registrar to hear and determine any proceedings other than actions, and any actions in which the defendant fails to appear at the hearing or admits the claim, and, on the application of the parties and by leave of the judge, any actions in which the sum claimed or the amount involved does not exceed ten pounds.”

#### General.

**19.**—(1) The enactments mentioned in the first column of the Second Schedule to this Act shall have effect subject to the amendments specified in the second

Consequential and minor amendments.

column of that Schedule (being amendments consequential upon the foregoing provisions of this Act or relating to matters of minor detail).

(2) The enactments mentioned in the first column of the Third Schedule to this Act, being enactments which to the extent specified in the second column of that Schedule have become obsolete or unnecessary, whether by lapse of time or by reason of its having become lawful and expedient for rules of court to regulate or provide for the matters thereby dealt with, or otherwise, shall cease to have effect to the extent so specified.

Short title,  
construc-  
tion, extent,  
repeal and  
commence-  
ment.

**20.**—(1) This Act may be cited as the *Administration of Justice (Miscellaneous Provisions) Act, 1938*.

(2) In this Act references to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment, including this Act and any Act passed during the same session of Parliament as this Act.

(3) The Acts mentioned in the first and second columns of the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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

(5) This Act shall come into operation on the first day of January nineteen hundred and thirty-nine.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 2.

#### ADDITIONAL OFFENCES TRIABLE AT QUARTER SESSIONS.

7 Geo. 4.  
c. 16.

1. Offences under section thirty-eight of the Chelsea and Kilmainham Hospitals Act, 1826.

2 & 3 Will. 4.  
c. 53.

2. Offences under section forty-nine of the Army Prize Act, 1832.

1ST SCH.  
—cont.

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|---|--|
| 3. Offences under section fourteen of the Malicious Damage Act, 1861.   | 24 & 25 Vict. c. 97.                           |
| 4. Offences under section sixty of the Offences Against the Person Act, 1861.   | 24 & 25 Vict. c. 100.                          |
| 5. Offences under section eleven of the Criminal Law Amendment Act, 1885.   | 48 & 49 Vict. c. 69.                           |
| 6. Offences under section thirteen of the Stamp Duties Management Act, 1891.  | 54 & 55 Vict. c. 38.                           |
| 7. Offences under sections two, three, four, five and six of the Perjury Act, 1911.   | 1 & 2 Geo. 5. c. 6.                            |
| 8. Offences under paragraph (a) of subsection (2) of section two of the Forgery Act, 1913, in relation to any document, being an accountable receipt, where the amount of the money or the value of the property in respect of which the offence is committed does not exceed twenty pounds, offences under section four of that Act, and offences under that Act which would, before the passing of that Act, have constituted offences under section thirteen of the Stamp Duties (Management) Act, 1891. | 3 & 4 Geo. 5. c. 27.                           |
| 9. Offences under section thirty-six of the Criminal Justice Act, 1925.   | 54 & 55 Vict. c. 38.<br>15 & 16 Geo. 5. c. 86. |
| 10. Offences under the Coinage Offences Act, 1936, other than offences under paragraph (a) of subsection (1) of section one, section two, subsections (1) and (2) of section nine, and section ten of that Act.   | 26 Geo. 5. & 1 Edw. 8. c. 16.                  |
| 11. Conspiracies to commit offences punishable on summary conviction.   |  |
| 12. Offences consisting of the forgery of any document or thing, being offences triable on indictment or alternatively by a court of summary jurisdiction, except offences under section one of the Official Secrets Act, 1920.   |  |

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## SECOND SCHEDULE.

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Section 19.

### CONSEQUENTIAL AND MINOR AMENDMENTS.

Act to be amended.	Amendment.
The Justices Protection Act, 1848. 11 & 12 Vict. c. 44.	For section five there shall be substituted the following section :— “ 5. In all cases where a justice of the peace refuses to do any act relating

2ND SCH.  
—cont.

Act to be amended.

Amendment.

The Justices Protec-  
tion Act, 1848  
—cont.  
11 & 12 Vict. c. 44  
—cont.

to the duties of his office, it shall be lawful for the party requiring the act to be done to apply to the High Court for an order of mandamus, and, if the Court make the order, no action or proceeding whatsoever shall be commenced or prosecuted against the justice for having obeyed the order."

The Summary Juris-  
diction Act, 1857.  
20 & 21 Vict. c. 43.

For section five there shall be substituted the following section :—

"5. Where justices refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the High Court for an order of mandamus, and, if the Court make the order, the justice or justices shall state the case accordingly, upon the appellant entering into such recognizance as is hereinbefore provided."

The Summary Juris-  
diction Act, 1879.  
42 & 43 Vict. c. 40.

In subsection (1) of section thirty-three, for the word "order", where it secondly occurs, there shall be substituted the words "order of mandamus".

The Supreme Court of  
Judicature (Con-  
solidation) Act,  
1925.  
15 & 16 Geo. 5. c. 49.

In subsection (2) of section thirty, the words "or in proceedings on the Crown side of the King's Bench Division" shall be omitted.

In subsection (2) of section fifty, the words "or in proceedings on the Crown side of the King's Bench Division" shall be omitted.

In subsection (1) of section seventy-seven, for the words "Lord Chief Justice" there shall be substituted the words "judge going the circuit or if the place "is a place at which two judges will be "on circuit together, the senior of "them," and the words "with the concurrence of the Lord Chancellor" shall be omitted; in subsection (3) of that section, for the words "Lord Chief Justice" there shall be substituted the word "judge".

## Act to be amended.

## Amendment.

2ND SEM.  
—cont.

The Supreme Court of  
Judicature (Con-  
solidation) Act,  
1925—cont.  
15 & 16 Geo. 5.  
c. 49—cont.

In subsection (1) of section seventy-eight, the words "by Order in Council" shall be omitted.

For subsection (3) of section ninety-nine there shall be substituted the following subsection :—

"(3) The power to make rules of court under this section shall include power to make rules as to proceedings by and against the Crown."

At the end of subsection (3) of section one hundred and sixteen there shall be added the following proviso :—

"Provided that a master of the Supreme Court shall be qualified to be so appointed to act as a deputy for a registrar in bankruptcy of the High Court."

In section two hundred and twenty, for the words "department of the Central Office," in both places where they occur, there shall be substituted the words "office of the Supreme Court," and for the word "department," wherever that word otherwise occurs, there shall be substituted the word "office"; and in subsection (3) of that section, for the words "the Lord Chancellor, the Lord Chief Justice and the senior master of the Supreme Court (King's Bench Division)" there shall be substituted the words "the Lord Chancellor, with the concurrence of the Lord Chief Justice and the President of the Probate Division".

The Criminal Justice  
Act, 1925.  
15 & 16 Geo. 5. c. 86.

For subsection (4) of section twenty the following subsection shall be substituted :—

"(4) Where a court of quarter sessions refuses to state a case, the applicant may apply to the High Court for an order of mandamus, and the High Court may make an order accordingly."

2ND SCH.  
—cont.

Act to be amended.

Amendment.

The County Courts  
Act, 1934.  
24 & 25 Geo. 5. c. 53.

In sections forty and forty-one, for the words "one hundred pounds," wherever those words occur, there shall be substituted the words "two hundred pounds."

For section forty-two there shall be substituted the following section:—

"42.—(1) Where a plaintiff has a cause of action for more than two hundred pounds in which, if it were not for more than two hundred pounds, a county court would have jurisdiction, the plaintiff may abandon the excess, and thereupon a county court shall have jurisdiction to hear and determine the action.

(2) Where a plaintiff has a cause of action for more than one hundred pounds, he may abandon the excess and shall thereupon be deemed, for the purposes of section forty-four of this Act, to claim a sum of one hundred pounds only.

(3) Where any action, in which the plaintiff has abandoned part of his claim under this section, is heard in a county court, the plaintiff shall not recover an amount exceeding two hundred pounds or one hundred pounds, as the case may be, and the judgment of the court in the action shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be made accordingly."

For section forty-four there shall be substituted the following section:—

"44.—(1) Where there is commenced in a county court any action founded on contract or tort or for the recovery of any penalty, expenses, contribution or other like demand, wherein the plaintiff claims a sum exceeding one hundred pounds, the defendant may within such time as

## Act to be amended.

## Amendment.

2ND SCH.  
—cont.

The County Courts  
Act, 1934—cont.  
24 & 25 Geo. 5. c. 53  
—cont.

may be prescribed by county court rules give notice that he objects to the action being tried in the court, and, where such a notice is given, the judge shall order that the action be transferred to the High Court.

(2) Where there is commenced in a county court—

- (a) any action founded on contract wherein the plaintiff claims a sum exceeding twenty pounds but not exceeding one hundred pounds; or
- (b) any action founded on tort wherein the plaintiff claims a sum exceeding ten pounds but not exceeding one hundred pounds;

the defendant may within such time as may be prescribed by county court rules give notice that he objects to the action being tried in the court, and where such a notice is given, the judge shall order that the action be transferred to the High Court, if—

- (i) the defendant gives security approved by the Registrar for the amount claimed and the costs of trial in the High Court, not exceeding in the aggregate a sum of one hundred and fifty pounds; and
- (ii) the judge certifies that in his opinion some important question of law or fact is likely to arise."

For subsection (1) of section fifty-four, the following subsection shall be substituted—

"(1) Where there is commenced in the High Court any action or matter to which this section applies, the court or judge may, if it or he thinks fit, whether

2ND SECT.  
—cont.

Act to be amended.

Amendment.

The County Courts  
Act, 1934—cont.  
24 & 25 Geo. 5. c. 53  
—cont.

upon the application of any party thereto or otherwise, order that the action or matter be transferred to any county court which the court or judge may deem the most convenient.”

For the proviso to section eighty-seven the following proviso shall be substituted:—

“ Provided that nothing in this section shall affect the power to make county court rules authorising the registrar to exercise jurisdiction and powers conferred on the court by this or any other Act.”

In subsection (1) of section one hundred and thirteen for the words “ an order “ or summons to show cause why a “ writ of certiorari or prohibition “ should not issue to a county court ” there shall be substituted the words “ leave to make an application for an “ order of certiorari or prohibition to “ a county court ”, and for the words “ order or summons ”, where those words secondly occur, there shall be substituted the word “ application ”.

For section one hundred and fourteen the following section shall be substituted:—

“ 114. Any party requiring any act to be done by a judge or officer of a county court relating to the duties of his office may apply to the High Court for an order of mandamus, and that court may make an order accordingly, and the judge or officer of the county court, on being served with the order, shall obey it on pain of attachment.”

The Middlesex County  
Council Act, 1934.  
24 & 25 Geo. 5.  
c. lxxxix.

In subsection (8) of section ninety except so far as it applies to any salaried chairman or salaried deputy chairman appointed before the commencement of this Act for the words “ in pursuance of this section ” there shall be substituted the words “ on the termination of his appointment ”.



## Act to be amended.

## Amendment.

2ND SCH.  
—cont.

<p>The Hertfordshire County Council Act, 1935. 25 &amp; 26 Geo. 5. c. cxiii.</p>	<p>In subsection (8) of section one hundred and fourteen for the words "in pursuance of this section" there shall be substituted the words "on the termination of his appointment".</p>
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**THIRD SCHEDULE.**

Section 19.

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**ENACTMENTS WHICH HAVE BECOME OBSOLETE OR  
UNNECESSARY.**

Title or Short Title, Session and Chapter.	Extent to which Obsolete or Unnecessary.
<p>An Act to prevent malicious infor- mations in the Court of King's Bench. 4 Will. &amp; Mary, c. 18.</p>	<p>Section six.</p>
<p>The Quarter Sessions Appeal Act, 1731. 5 Geo. 2. c. 19.</p>	<p>Sections two and three.</p>
<p>The Bail Bonds Act, 1808. 48 Geo. 3. c. 58.</p>	<p>Sections one and three.</p>
<p>The Pleading in Mis- demeanour Act, 1819. 60 Geo. 3. &amp; 1 Geo. 4. c. 4.</p>	<p>The whole Act.</p>

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## FOURTH SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
18 Edw. 3. St. 1.	Concerning exigents	The whole Act.
18 Edw. 3. St. 2, c. 5.	No exigent in trespass, unless against the peace.	The whole chapter.
25 Edw. 3. St. 5, c. 14.	Process against persons indicted of felony.	The whole chapter.
6 Hen. 6. c. 1.	Indictment found in the King's Bench by jurors suspected or unduly procured, etc.	The whole Act.
8 Hen. 6. c. 10.	Malicious indictments or appeals of persons in one county who are dwelling in another, etc.	The whole chapter.
10 Hen. 6. c. 6.	St. 8 Hen. 6. c. 10, recited, as to process upon the indictments of persons in one county who are dwelling in another; the statute confirmed, etc.	The whole Act.
6 Hen. 8. c. 4.	Act for proclamations to be made before the exigent be awarded into foreign shires.	The whole Act.
6 Hen. 8. c. 6.	An Act concerning felons and murderers.	The whole Act.
27 Hen. 8. c. 24.	An Act for re-continuing certain liberties and franchises heretofore taken from the Crown.	In section one the words "or any outlawries for any such offences".

Session and Chapter.	Title or Short Title.	Extent of Repeal.
1 Edw. 6. c. 10.	An Act for exigents and proclamations in Wales and in the county palatine of Chester and also in the city of Chester.	The whole Act.
5 & 6 Edw. 6. c. 11.	An Act for the punishment of diverse treasons.	In section four, the words from "and that all process of outlawry" to the end of the section; section five; and in section six the words "or process of outlawry".
5 & 6 Edw. 6. c. 26.	An Act for writs upon proclamations and exigents to be current within the county palatine of Lancaster.	The whole Act.
31 Eliz. c. 9.	An Act for writs upon proclamations and exigents to be current within the county palatine of Durham.	The whole Act.
21 James 1. c. 8.	An Act to prevent and punish the abuses in procuring process and Superseas of the Peace and Writ of Certiorari.	The whole Act.
4 W. & M. c. 18.	An Act to prevent malicious informations in the Court of King's Bench.	The whole Act.
4 W. & M. c. 22.	An Act for regulating Proceedings in the Crown Office of the Court of Kings Bench at Westminster.	The whole Act.
5 & 6 W. & M. c. 11.	An Act to prevent delays of Proceedings at the Quarter Sessions of the Peace.	The whole Act.

4TH SCH.  
—cont.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
7 & 8 Will 3. c. 3.	An Act for regulating trials in cases of treason and mis-prison of treason.	Section three.
1 Ann. c. 12	An Act to explain and alter the Act made in the Two and twentieth Year of King Henry the Eighth concerning repairing and amending of Bridges in the Highways and for repealing an Act made in the Twenty third year of Queen Elizabeth for the re-edifying of Cardiff Bridge in the County of Glamorgan and also for changing the Day of Election of the Wardens and Assistants of Rochester Bridge.	Section five.
5 Geo. 2. c. 19.	The Quarter Sessions Appeal Act, 1731.	Sections two and three.
38 Geo. 3. c. 52.	The Counties of Cities Act, 1798.	In section one the words " or by " the leave of the court of " King's Bench", the words " and in all cases where any " person or persons shall plead " to or traverse any of the facts " contained in the return to " any writ of mandamus ", and the words " or if such writ of " mandamus be directed to " any person or persons, body " politick or corporate ' .
48 Geo. 3. c. 58.	The Bail Bonds Act, 1808.	The whole Act.
60 Geo. 3. & 1 Geo. 4. c. 4.	The Pleading in Mis-demeanour Act, 1819.	The whole Act.
4 & 5 Will. 4. c. 36.	The Central Criminal Court Act, 1834.	Sections sixteen and eighteen.
5 & 6 Will. 4. c. 50.	The Highways Act, 1835.	The proviso to section ninety-five.

4TH SCH.  
—cont.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
12 & 13 Vict. c. 45.	The Quarter Sessions Act, 1849.	In section seven the words "or " if upon the return to any " writ of certiorari", and the proviso to that section.
19 & 20 Vict. c. 16.	The Central Criminal Court Act, 1856.	The whole Act.
20 & 21 Vict. c. clvii.	The Mayor's Court of London Procedure Act, 1857.	Sections four, eight, nine and ten.
25 & 26 Vict. c. 65.	An Act for the more speedy Trial of certain Homicides committed by Persons subject to the Mutiny Act.	Section sixteen.
33 & 34 Vict. c. 23.	The Forfeiture Act, 1870.	The proviso to section one.
33 & 34 Vict. c. 77.	The Juries Act, 1870	In section ten the words "nor " any man who is under out- " lawry".
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	In section two hundred and forty-three the words "certiorari or".
51 & 52 Vict. c. 3.	The Statute Law Revision Act, 1888.	Subsection (2) of section one, and Part III of the Schedule.
8 Edw. 7. c. 15.	The Costs in Criminal Cases Act, 1908.	In subsection (2) of section six the words "or information".
6 & 7 Geo. 5. c. 50.	The Larceny Act, 1916.	Subsection (2) of section thirty-eight.
5 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act, 1925.	In subsection (2) of section thirty the words "or in proceedings on the Crown side of the King's Bench Division"; in subsection (2) of section fifty the words "or in proceedings on the Crown side of the King's Bench Division"; in subsection (1) of section seventy-seven the words "with the concurrence of the Lord Chancellor"; in subsection (1) of section seventy-eight the words "by Order in Council". The provisos to subsection (2) of section one hundred and ninety; and section one hundred and ninety-six.

4TH SCH.  
—cont.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
23 & 24 Geo. 5. c. 36.	The Administration of Justice (Miscellaneous Provisions) Act, 1933.	Section five.
24 & 25 Geo. 5. c. 53.	The County Courts Act, 1934.	So much of the Third Schedule as reproduces section ninety and section ninety-two of the County Courts Act, 1888.
24 & 25 Geo. 5. c. lxxxix.	The Middlesex County Council Act, 1934.	In section ninety, subsection (1), subsections (2) and (7) <i>except</i> so far as they apply to any salaried chairman or salaried deputy chairman appointed before the commencement of this Act, and subsections (3), (4) and (10).
25 & 26 Geo. 5. c. cxiii.	The Hertfordshire County Council Act, 1935.	In section one hundred and fourteen, subsections (1), (2), (3), (4), (7) and (9).

## CHAPTER 64.

An Act to provide for subjecting to naval discipline certain persons who engage with the Admiralty to serve His Majesty in ships and agree to become subject to the Naval Discipline Act; and for purposes connected with the matter aforesaid.

[29th July 1938.]

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

Amendment  
of Naval  
Discipline  
Act.

1. The following section shall be substituted for section ninety of the Naval Discipline Act:—

“90.—(1) If any person who would not otherwise be subject to this Act enters into an

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Amend

the Act to  
of air-rai

BE it enact  
by and  
spiritual and

engagement with the Admiralty to serve His Majesty—

(a) in a particular ship, or

(b) in a particular ship or in such ships as the Admiralty may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person as if, while subject to this Act, he belonged to His Majesty's navy and were borne on the books of one of His Majesty's ships in commission.

(2) His Majesty may by Order in Council direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Admiralty, persons of any such class as may be specified in the Order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such Order may be varied or revoked by a subsequent Order in Council."

2. This Act may be cited as the Naval Discipline **Short title.**  
(Amendment) Act, 1938.

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## CHAPTER 65.

**An Act to provide for relief from rates in respect of air-raid protection works. [29th July 1938.]**

**Enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present**

Parliament assembled, and by the authority of the same, as follows :—

Relief of  
air-raid pro-  
tection  
works from  
rates.

1.—(1) In ascertaining under the principal Act the value for rating purposes of a hereditament, no regard shall be had—

- (a) to any room or other part of the hereditament which has been added at any time after the hereditament was first assessed, or was included in the hereditament before it was first assessed, solely for the purpose of affording protection in the event of hostile attack from the air, and which is not occupied or used for any other purpose;
- (b) to any structural alterations or improvements to the hereditament (not being the addition of any such room or other part as aforesaid) made at any time after the hereditament was first assessed, solely for the purpose of affording such protection as aforesaid.

(2) No person shall, in respect of any period, be liable to pay rates in respect of a hereditament which is intended to be occupied and used solely for the purpose of affording such protection as aforesaid, and which is not occupied or used for any other purpose, or be deemed to be in occupation thereof for rating purposes, and notwithstanding anything in the principal Act no such hereditament shall be included in any rate made in respect of any period.

(3) The fact of any such room or other part of a hereditament as is referred to in paragraph (a) of subsection (1) of this section, or of any such hereditament as is referred to in the last foregoing subsection, having been occupied or used for any purpose other than that of affording such protection as aforesaid, shall, as respects a hereditament in the administrative county of London, for the purposes of section forty-seven of the principal Act, be a ground for making and sending to the assessment committee a provisional list and for making a requisition for such a list to be made and sent.



(4) In this Act, the expression “ the principal Act ” means—

- (a) in relation to places outside the administrative county of London, the Rating and Valuation Act, 1925, as amended by any subsequent enactment; and 15 & 16  
Geo. 5. c. 90.
- (b) in relation to the administrative county of London, the Valuation (Metropolis) Act, 1869, as amended by any subsequent enactment. 32 & 33 Vict.  
c. 67.

2.—(1) This Act may be cited as the Rating and Valuation (Air-Raid Works) Act, 1938. Citation  
and con-  
struction.

(2) The Rating and Valuation Acts, 1925 to 1938, and this Act shall be construed as one, and this Act shall be included amongst the Acts which may be cited together as the Rating and Valuation Acts, 1925 to 1938.

(3) The Rating and Valuation (Metropolis) Acts, 1869 to 1930, and this Act shall be construed as one, and may be cited together as the Rating and Valuation (Metropolis) Acts, 1869 to 1938.

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## CHAPTER 66.

An Act to provide for relief from rates in respect  
of air-raid protection works in Scotland.

[29th July 1938.]

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

- 1.—(1) Where any lands and heritages comprise—
- (a) any room or other part which has been added at any time after the lands and heritages were first entered in the valuation roll, or was included in such lands and heritages prior to such entry, solely for the purpose of affording protection in the event of hostile attack from the air, and which is not occupied or used for any other purpose; or Relief of  
air-raid pro-  
tection  
works from  
rates.

(b) any structural alterations or improvements (other than the addition of any such room or other part as aforesaid) made after such entry as aforesaid solely for the said purpose; the yearly rent or value of such lands and heritages shall be estimated as if such room or other part had not been so added or included or such structural alterations or improvements had not been so made.

17 & 18 Vict.  
c. 91.

(2) Section six of the Lands Valuation (Scotland) Act, 1854, in so far as it directs a yearly rent conditioned as the fair annual value of any lands and heritages to be taken as the yearly rent or value thereof shall not apply to any such lands or heritages as are referred to in the foregoing subsection, and the proviso added to the said section six by section four of the Lands Valuation (Scotland) Amendment Act, 1895, shall not apply to any such room or part or structural alterations or improvements as are referred to in the foregoing subsection.

58 & 59 Vict.  
c. 41.

(3) No person shall be liable to pay any rate or assessment in respect of any lands and heritages which are intended to be occupied and used solely for the purpose of affording protection in the event of hostile attack from the air, and which are not occupied or used for any other purpose.

Citation and  
construc-  
tion.

2. This Act may be cited as the Rating and Valuation (Air-Raid Works) (Scotland) Act, 1938, and shall be construed as one with the Lands Valuation (Scotland) Act, 1854, and any Acts amending that Act.

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## CHAPTER 67.

An Act to amend the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, relating to the number of judges of the Court of Appeal, the performance by such judges of the functions of judges of the High Court, and the filling of vacancies among judges of the Chancery Division. [29th July 1938.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

Parliament assembled, and by the authority of the same, as follows :—

**1.** The number of ordinary judges of the Court of Appeal shall be increased to eight; and accordingly subsection (1) of section six of the Supreme Court of Judicature (Consolidation) Act, 1925, (in this Act referred to as “the principal Act”) shall have effect as if for the word “five” there were therein substituted the word “eight.”

Amendment  
of 15 & 16  
Geo. 5. c. 49,  
s. 6.

**2.**—(1) The duties of an ordinary judge of the Court of Appeal appointed after the commencement of this Act shall include the duties of sitting and acting as a judge of the High Court when requested by the Lord Chancellor so to do, and of performing, when so requested, any other acts which a judge of the Court of Appeal is empowered to perform by section three of the principal Act.

Amendment  
of 15 & 16  
Geo. 5. c. 49,  
s. 3.

(2) Paragraph (a) of the proviso to subsection (1) of the said section three (which makes provision as to the concurrence of the Lord Chief Justice or of the President of the Probate Division where persons who have held judicial offices are requested to act as judges of the King’s Bench Division or Probate Division respectively) shall apply in relation to any such request as aforesaid to any judge of the Court of Appeal.

(3) Paragraph (b) of the said proviso (which makes provision as to the consent of persons who have ceased to hold judicial offices) shall apply to any person holding office as a judge of the Court of Appeal except an ordinary judge of that Court appointed after the commencement of this Act.

**3.**—(1) Paragraph (i) of subsection (1) of section four of the principal Act shall have effect as if after the word “and” there were therein inserted the words “(subject to the provisions of this Act)”.

Amendment  
of 15 & 16  
Geo. 5. c. 49,  
ss. 4 and 11.

(2) Subsection (1) of section eleven of the principal Act (which relates to the filling of vacancies among judges of the Supreme Court) shall have effect as if after paragraph (a) of the proviso to that subsection there were therein inserted the following paragraph :—

“(aa) if after the occurrence at any time of a vacancy among the puisne judges attached to

the Chancery Division the number of those judges amounts to five, the vacancy shall not be filled unless and until the Lord Chancellor, with the concurrence of the Treasury, advises His Majesty that the state of business in that Division requires that the vacancy should be filled; and ”.

Expenses.

4. Any increase in the sums payable under section fifteen of the principal Act in respect of the salaries and pensions payable to the additional judges of the Court of Appeal appointed by virtue of this Act shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof, and any increase in the sums payable under section one hundred and twenty-one of the principal Act in respect of the salaries payable to the clerks attached to such judges shall be defrayed out of moneys provided by Parliament.

Short title.

5. This Act may be cited as the Supreme Court of Judicature (Amendment) Act, 1938.

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## CHAPTER 68.

An Act to amend the law with respect to customs  
in the Isle of Man. [29th July 1938.]

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

Continua-  
tion of  
certain  
annual  
duties.

1.—(1) Subject to the provisions of this Act, the duties of customs imposed on goods removed or imported into the Isle of Man, being goods of the descriptions set out in the first column of the following table, by the respective enactments set out in the second column of that table, shall continue to be payable as from the first day of August, nineteen hundred and thirty-eight until

the first day of August nineteen hundred and thirty-nine :—

TABLE

Description of Goods.	Enactment imposing Duty.
Ale and Beer - - -	Section 8 of the second Act of 1932 and section 4 of the Act of 1936. 22 & 23 Geo. 5. c. 41. 26 Geo. 5. & 1 Edw. 8. c. 45.
Cocoa - - - - -	Section 4 of the Act of 1924. 14 & 15 Geo. 5. c. 24.
Hops and extracts, essences and other similar preparations (other than hop oil) made from hops.	Section 5 of the Act of 1925. 15 & 16 Geo. 5. c. 56.
Hop oil - - - - -	Section 3 of the Act of 1929. 20 & 21 Geo. 5. c. 1.
Matches - - - - -	Section 1 of the Act of 1933. 23 & 24 Geo. 5. c. 40.
Silk and artificial silk and articles made wholly or in part of silk or artificial silk.	Section 7 of the Act of 1925, as amended by section 8 of the Act of 1926, section 9 of the second Act of 1932, section 4 of the Act of 1933, section 3 of the Act of 1936 and section 3 of the Act of 1937. 16 & 17 Geo. 5. c. 27. 1 Edw. 8. & 1 Geo. 6. c. 64.
Spirits - - - - -	Section 2 of the Act of 1930. 20 & 21 Geo. 5. c. 42.
Sweets - - - - -	Section 2 of the Act of 1929, as amended by section 3 of the Act of 1933.
Tobacco - - - - -	Section 19 of the first Act of 1932. 22 & 23 Geo. 5. c. 16.
Wines - - - - -	Section 1 of the Act of 1927, as amended by section 8 of the Act of 1933. 17 & 18 Geo. 5. c. 20.

(2) Where any enactment set out in the second column of the foregoing table confers power on the Governor to make orders varying or repealing the duties of customs payable on the goods referred to in that enactment or imposing a new duty on such goods, the provisions of that enactment relating to the said power shall continue in force until the said first day of August

nineteen hundred and thirty-nine, and the foregoing provisions of this section shall have effect subject to any orders made in pursuance of any such power (whether before or after the commencement of this Act) which are for the time being in force.

**2.—(1) Both—**

- (a) the rate of the customs duty payable on hydrocarbon oils under section four of the Act of 1930 (as amended by section one of the Act of 1931 and section twenty of the first Act of 1932); and
- (b) the rate of the rebate to be allowed under subsection (2) of the said section four (as so amended) on the delivery for home consumption of any goods other than light oils;

shall be increased from eightpence per gallon to ninepence per gallon.

(2) Subsection (3) of the said section four (which provides for repayment of duty paid in respect of hydrocarbon oil used for fishing-boats) shall be amended as follows:—

- (a) an application may be made under the said subsection by the master instead of the owner of a fishing-boat;
- (b) a fishing-boat entered in the fishing-boat register shall be treated as a fishing-boat within the meaning of the said subsection if it is used for the purposes of fishing by any person gaining a substantial part of his livelihood by fishing, whether that person is the owner of the boat or not.

(3) Subsection (1) of this section shall be deemed to have had effect as from the fourth day of May nineteen hundred and thirty-eight.

**3.—(1)** Subject to the provisions of section two of the Customs (Isle of Man) Tariff Act, 1874 (which provides that no duty shall be chargeable on British goods upon which a duty of excise has been paid and not drawn back), a duty of customs of ninepence per gallon shall be payable on the removal or importation into the

Increase and amendment of duty on hydro-carbon oils.  
21 & 22  
Geo. 5. c. 34.

Customs duty on power methylated spirits.  
37 & 38 Vict.  
c. 46.

Isle of Man of spirits methylated in the United Kingdom in the manner prescribed for making power methylated spirits.

(2) In this section the expression "prescribed" means prescribed by regulations for the time being in force under section thirteen of the Finance Act, 1924 (which enables the Commissioners to prescribe what substances are to be mixed with spirits for the purposes of making power methylated spirits). 14 & 15  
Geo. 5. c. 21.

(3) The foregoing provisions of this section shall be deemed to have had effect as from the first day of June nineteen hundred and thirty-eight.

(4) Subsection (3) of section four of the Act of 1930, as amended by this Act, and subsection (2) of section twenty of the first Act of 1932 (which provide for repayment of duty paid in respect of hydrocarbon oil used for fishing-boats and lifeboats) shall be extended so as to apply to duty paid under this section as they apply to duty paid in respect of hydrocarbon oil.

**4.**—(1) No duty of customs shall be payable under section two of the Act of 1930 (which charges a duty on spirits) on the removal to the Isle of Man of spirits methylated in the United Kingdom. Exemption  
of British  
methylated  
spirits from  
duty on  
spirits.

(2) This section shall be deemed to have had effect as from the first day of June nineteen hundred and thirty-eight.

**5.**—(1) In lieu of the duties of customs payable under section one of the Act of 1936, there shall, until the first day of August nineteen hundred and thirty-nine, be payable on tea removed or imported into the Isle of Man duties of customs at the following increased rates, that is to say :— Increased  
duties on  
tea.

Tea, not being an Empire product - the lb. 8*d*.

Tea, being an Empire product - - the lb. 6*d*.

(2) In this section the expression "Empire product" has the same meaning as in section five of the Act of 1919 as amended by any subsequent enactment. 9 & 10  
Geo. 5. c. 74.

(3) This section shall be deemed to have had effect as from the fourth day of May nineteen hundred and thirty-eight.

Duties on  
motor cars,  
clocks,  
musical in-  
struments,  
films, &c.

18 & 19  
Geo. 5. c. 38.  
25 & 26  
Geo. 5. c. 34.

22 & 23  
Geo. 5. c. 8.

**6.**—(1) On the removal or importation into the Isle of Man of goods of the descriptions set out in the First Schedule to this Act, there shall continue to be payable, as from the first day of August nineteen hundred and thirty-eight, until the appointed day, the duties of customs imposed by section six of the Act of 1925, as amended by the following enactments, that is to say, section six of the Act of 1926, sections eleven and twelve of the Act of 1927, section fourteen of the Act of 1928, section five of the Act of 1933, section four of the Act of 1935 and section two of the Act of 1937.

(2) For the purpose of subsection (1) of section two of the second Act of 1932 and subsection (1) of section fourteen of the Act of 1933 (which enable the Governor to direct that, on the removal or importation into the Isle of Man of goods specified in an order made by the Treasury under section three of the Import Duties Act, 1932, there shall be payable such additional duties of customs as are equivalent to those specified in the Treasury order) any order made by the Treasury, directing that as from the appointed day additional duties shall be charged under the said section three on goods of any description set out in the First Schedule to this Act, shall be deemed to have been made under the said section three.

(3) Section three of the first Act of 1932 and section ten of the Act of 1933 (which exempt Empire goods from the general ad valorem duty and any additional duty), as amended by any subsequent enactment, shall not apply to goods of any description set out in the First Schedule to this Act, except goods produced or manufactured in the United Kingdom; but goods of any such description (except as aforesaid) which would, but for this subsection, be exempt from the general ad valorem duty and any additional duty by virtue of those sections as so amended, shall, as from the appointed day,—

- (a) be charged with those duties at the preferential rate of two-thirds of the aggregate full rate of those duties applicable to the goods; or
- (b) in the case of goods on which the general ad valorem duty alone is chargeable, be charged with that duty at the preferential rate of two-thirds of the full rate of that duty applicable to the goods:



Provided that the Governor may from time to time make such orders as may be necessary to provide—

- (i) that, so long as goods of any such description produced or manufactured in any country are, by virtue of any order made by the Treasury, exempt from duty on importation into the United Kingdom, goods of that description produced or manufactured in that country shall be exempt from duty on removal or importation into the Isle of Man; and
- (ii) that, so long as goods of any such description produced or manufactured in any country are, by virtue of any order made by the Treasury, chargeable with duty at a reduced preferential rate on importation into the United Kingdom, goods of that description produced or manufactured in that country shall be charged at a corresponding rate on removal or importation into the Isle of Man.

(4) Paragraph 4 of the Fourth Schedule to the Act of 1933 (which enables the Commissioners to require proof that any goods are, under the provisions of certain enactments, exempt from duty or chargeable with duty at a rate less than the full rate) shall have effect as if the words “under any enactment for the time being in force” were substituted for the words “under any provision of Part I of the first Act of 1932 or of Part I of the second Act of 1932 or of this Act”.

(5) In this section the expression “the appointed day” means the twentieth day of August nineteen hundred and thirty-eight.

**7.**—(1) Subsection (3) of section ten of the Act of 1933, section ten of the Act of 1936 and section four of the Act of 1937 (which provide for the imposition of certain duties of customs in relation to Eire) shall cease to have effect and shall be deemed to have ceased to have had effect as from the first day of June nineteen hundred and thirty-eight.

Provisions  
as respects  
imports  
from Eire.

(2) If an order is made by the Treasury under subsection (4) of section three of the Eire (Confirmation of Agreements) Act, 1938, imposing duties of customs on eggs or poultry imported from Eire or exported from

1 & 2  
Geo. 6. c. 25.

Eire to any other country and thence brought into the United Kingdom, the Governor may by order direct that in respect of goods of such classes and descriptions as are specified in the Treasury order, being goods so imported or brought into the Isle of Man, there shall be payable, subject to and in accordance with the Treasury order, such duties of customs as are specified in the Treasury order.

(3) Where an order made by the Treasury as aforesaid is varied or revoked, any corresponding order made by the Governor under this section may be varied or revoked accordingly by a subsequent order of the Governor.

Continuation of exemption of radium compounds.

**8.** Radium compounds (which, by virtue of an order made by the Governor under section thirteen of the Act of 1926 as amended by section fifteen of the Act of 1927, are exempt from the duty of customs chargeable under the said section thirteen until the first day of September nineteen hundred and thirty-eight) shall continue to be exempt from that duty on and after that date.

Exemption of vehicles, vessels and aircraft temporarily removed or imported.

**9.—(1)** The Governor may make regulations providing for the exemption of the following goods, or any class or description thereof, from any duties of customs for the time being chargeable thereon, namely:—

- (a) any vehicle, vessel or aircraft removed or imported into the Isle of Man by a person making only a temporary stay therein, and exported within such period as the regulations may provide; and
- (b) any accessories or component parts required for any such vehicle, vessel or aircraft.

(2) In this section the expression “ vessel ” includes a boat or other craft of any description.

(3) Different regulations may be made under this section as respects goods removed and goods imported respectively, as respects goods removed or imported by sea and by air respectively, and as respects vehicles, vessels and aircraft respectively.

Provision as to exemption of works of art.

**10.** Any order made by the Governor under subsection (3) of section one of the first Act of 1932 directing that there shall be added to the First Schedule to that

Act any works of art to which section four of the Finance Act, 1937, applies, or any class or description thereof, may provide that no article shall be exempt from duty as being a work of art of a class or description to which the order relates unless it has been exempted from duty on importation into the United Kingdom by virtue of the provisions of the corresponding order made by the Treasury under subsection (3) of section one of the Import Duties Act, 1932, as amended by the said section four.

1 Edw. 8. &  
1 Geo. 6.  
c. 54.

11.—(1) If at any time an order is made by the Treasury under paragraph (d) of subsection (3) of section three of the Finance Act, 1937 (which relates to Imperial preference in respect of silk stockings and socks) directing that the operation of paragraphs (b) and (c) of that subsection shall be suspended, the Governor may by order direct that the operation of subsections (3) and (4) of section three of the Act of 1937 shall be suspended so long as the order made by the Treasury remains in force.

Amendment  
as respects  
preferential  
duty on  
silk  
stockings  
and socks.

(2) In relation to articles manufactured in any country the Government of which is a party to one of the agreements set out in the First Schedule to the Ottawa Agreements Act, 1932, as amended by any subsequent enactment, the provisions of subsections (3) and (4) of section three of the Act of 1937 shall not in any case have effect at any time when that agreement is not in force under the Ottawa Agreements Act, 1932, as so amended.

22 & 23  
Geo. 5. c. 53.

12.—(1) This Act may be cited as the *Isle of Man (Customs) Act, 1938.*

Short title  
and repeals.

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

- (a) in the case of the enactment set out in Part I of that Schedule, as from the fourth day of May nineteen hundred and thirty-eight;
- (b) in the case of the enactments set out in Part II of that Schedule, as from the first day of June nineteen hundred and thirty-eight; and
- (c) in the case of the enactments set out in Part III of that Schedule, as from the twentieth day of August nineteen hundred and thirty-eight.

## SCHEDULES.

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## Section 6.

### FIRST SCHEDULE.

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#### GOODS TO WHICH SECTION SIX OF THIS ACT APPLIES.

Motor cars, including motor bicycles and motor tricycles.

Accessories and component parts of motor cars, motor bicycles and motor tricycles.

Musical instruments, including gramophones, pianolas and other similar instruments.

Accessories and component parts of musical instruments and records and other means of reproducing music.

Clocks, watches and component parts of clocks and watches.

Cinematograph films removed or imported for the purpose of the exhibition of pictures or other optical effects by means of a cinematograph or other similar apparatus.

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### SECOND SCHEDULE.

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## Section 13.

#### ENACTMENTS REPEALED.

##### PART I.

#### ENACTMENT REPEALED AS FROM 4TH MAY, 1938.

Session and Chapter.	Short Title.	Extent of Repeal.
26 Geo. 5. & 1 Edw. 8. c. 45.	The Isle of Man (Customs) Act, 1936.	Section one.

## PART II.

2ND SCH.  
—cont.

## ENACTMENTS REPEALED AS FROM 1ST JUNE, 1938.

Session and Chapter.	Short Title.	Extent of Repeal.
23 & 24 Geo. 5. c. 40.	The Isle of Man (Customs) Act, 1933.	Subsection (3) of section ten.
26 Geo. 5. & 1 Edw. 8. c. 45.	The Isle of Man (Customs) Act, 1936.	Section ten and the First Schedule.
1 Edw. 8. & 1 Geo. 6. c. 64.	The Isle of Man (Customs) Act, 1937.	Section four.

## PART III.

## ENACTMENTS REPEALED AS FROM 20TH AUGUST, 1938.

Session and Chapter.	Short Title.	Extent of Repeal.
15 & 16 Geo. 5. c. 56.	The Isle of Man (Customs) Act, 1925.	Section six and paragraph 3 of Part II of the Schedule.
16 & 17 Geo. 5. c. 27.	The Isle of Man (Customs) Act, 1926.	Section six.
17 & 18 Geo. 5. c. 20.	The Isle of Man (Customs) Act, 1927.	Sections eleven and twelve.
18 & 19 Geo. 5. c. 38.	The Isle of Man (Customs) Act, 1928.	The whole Act.
23 & 24 Geo. 5. c. 40.	The Isle of Man (Customs) Act, 1933.	Section five and the Second Schedule.
1 Edw. 8. & 1 Geo. 6. c. 64.	The Isle of Man (Customs) Act, 1937.	Section two.

## CHAPTER 69.

An Act to regulate the hours of employment of persons under the age of eighteen years employed in certain occupations; to amend the Shops Act, 1934, with respect to the regulation of the hours of employment of persons under the age of sixteen years, and with respect to the determination of the number of working hours of persons under the age of eighteen years; and for purposes connected with the matters aforesaid. [29th July 1938.]

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

### PART I.

#### EMPLOYMENT OF PERSONS UNDER THE AGE OF EIGHTEEN YEARS.

##### *Hours and Holidays.*

Conditions  
of employ-  
ment.

1.—(1) The total number of hours worked by a young person to whom this Part of this Act applies, exclusive of intervals allowed for meals and rest, shall,—

- (a) in the case of a person who has attained the age of sixteen years, not exceed forty-eight in any week ;
- (b) in the case of a person who has not attained the age of sixteen years, not exceed, during one year from the commencement of this Act, forty-eight in any week, and thereafter, forty-four in any week :

Provided that, a person who has attained the age of sixteen years may, on occasions of seasonal or other special pressure or in cases of emergency, work overtime, that is to say, in excess of the permitted weekly hours, so, however, that the number of hours overtime

that may be worked by that person shall not exceed six in any week or fifty in any year, and where in any year, in connection with a business carried on at any premises, overtime employment of any young persons to whom this Part of this Act applies under an employer has taken place in twelve weeks (whether consecutive or not), no further overtime employment of any such persons under that employer or under any person succeeding to his business shall, during the remainder of that year, take place in connection with the business carried on at those premises.

(2) A young person to whom this Part of this Act applies shall not be employed continuously for more than five hours without an interval of at least half an hour for a meal or rest, and where the hours of employment include the hours from half-past eleven in the morning to half-past two in the afternoon, an interval of not less than three-quarters of an hour shall be allowed between those hours for dinner.

(3) On at least one weekday in each week, to be notified in the prescribed form and manner, a young person to whom this Part of this Act applies shall not be employed after one o'clock in the afternoon.

(4) A young person to whom this Part of this Act applies shall, in every period of twenty-four hours between midday on one day and midday on the next day, be allowed an interval of at least eleven consecutive hours which shall include the hours from ten o'clock in the evening until six o'clock in the morning.

(5) A young person to whom this Part of this Act applies shall not be employed on a Sunday unless he receives in respect of his employment on that Sunday a whole holiday on a weekday either in the week beginning with that Sunday or in the previous week, being a weekday other than that on which under subsection (3) of this section he is not to be employed after one o'clock in the afternoon.

(6) The Secretary of State may by regulations prescribe further conditions for the purpose of safeguarding the welfare and interests of young persons to whom this Part of this Act applies or any class of them, including, if he thinks fit, conditions with respect to the daily period of employment of those persons, and no such

**PART I.**  
—*cont.*

person shall be employed otherwise than in accordance with those conditions.

(7) The Secretary of State may by regulations increase, as respects any class or description of business, the number of hours overtime that may be worked in any week by a young person to whom this Part of this Act applies, or the number of weeks in any year in which overtime employment can take place in connection with a business carried on at any premises under an employer or any person succeeding to his business, if he is satisfied that owing to the exigencies of businesses of that class or description the increase is necessary.

(8) In the case of any contravention of, or failure to comply with, the foregoing provisions of this section, the employer shall be liable on summary conviction to a fine not exceeding ten pounds.

(9) Any regulations made under this section may contain such supplemental and consequential provisions as the Secretary of State considers requisite for giving full effect to the regulations, and shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such regulations have been laid before it resolves that the regulations shall be annulled, the regulations shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.

**Records and  
notices.**

2.—(1) The employer of any young persons to whom this Part of this Act applies shall, in the prescribed form and in the prescribed manner, keep a record of the prescribed particulars as to those persons, including particulars of the hours worked by them, and of the intervals allowed for rest and meals to them; and particulars of all employment overtime shall be separately entered on the record.

(2) The employer of any young persons to whom this Part of this Act applies shall, in the prescribed form and in the prescribed manner, keep exhibited on the premises a notice setting forth the number of hours in the week during which those persons may, in accordance with the provisions of this Part of this Act, be employed, and such other particulars as may be prescribed.



(3) In the case of any contravention of, or failure to comply with, the foregoing provisions of this section, the employer shall be liable on summary conviction to a fine not exceeding five pounds for every day on which the contravention or failure to comply occurs or continues.

(4) If any person with intent to deceive makes, or causes or allows to be made, in any such record or notice as aforesaid an entry which is to his knowledge false in any material particular, or wilfully omits or causes or allows to be omitted from any such record or notice an entry required to be made therein, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

*Supplementary.*

**3.**—(1) It shall be the duty of the local authority to enforce within its area the provisions of this Part of this Act, and for that purpose to institute and carry on such proceedings in respect of contraventions of, or failures to comply with, those provisions as may be necessary to secure the observance thereof, and to appoint inspectors; and an inspector so appointed shall for the purposes of his powers and duties have in relation to any premises in connection with a business carried on at which young persons to whom this Part of this Act applies are employed all the powers conferred on inspectors in relation to factories by section one hundred and twenty-three of the Factories Act, 1937, and that section and section one hundred and twenty-five of that Act shall have effect accordingly; and an inspector may, if so authorised by the local authority, institute and carry on any proceedings on behalf of the local authority :

Enforce-  
ment.

1 Edw. 8. &  
1 Geo. 6.  
c. 67.

Provided that, for the purpose of the enforcement of the provisions of this Part of this Act in their application to young persons employed as mentioned in the two following subsections, the provisions of those subsections respectively shall have effect to the exclusion of the provisions of this subsection.

(2) An inspector appointed under the Factories Act, 1937, shall have the same powers and duties for the purpose of the enforcement of the provisions of this

**PART I.**  
—*cont.*

Part of this Act in their application to young persons employed by a railway company elsewhere than at a residential hotel, or employed in the employment mentioned in paragraph (d) or (h) of subsection (1) of section seven of this Act, as he would have if those provisions were provisions of that Act, and as if the premises in connection with the business carried on at which those persons are employed were a factory.

1 & 2 Geo. 5.  
c. 50.  
35 & 36 Vict.  
c. 77.

(3) Inspectors appointed under the Coal Mines Act, 1911, and the Metalliferous Mines Regulation Act, 1872, respectively, shall have the same powers and duties for the purpose of the enforcement of the provisions of this Part of this Act in their application to young persons employed in or in connection with a coal mine, or metalliferous mine or quarry, as the case may be, as they would have if those provisions were provisions of those Acts respectively.

Provisions  
as to  
offences.

4. Sections one hundred and thirty-six, one hundred and thirty-seven, one hundred and forty except subsections (3), (4) and (6) thereof, one hundred and forty-one and subsection (2) of section one hundred and forty-two of the Factories Act, 1937 (which relate to offences against and proceedings under that Act), and section one hundred and forty-four of that Act (which relates to the service and sending of documents), shall apply with respect to the provisions of this Part of this Act as they apply with respect to the provisions of that Act, and accordingly in the application of the said sections with respect to the provisions of this Part of this Act, references therein to factories shall be deemed to include references to premises in connection with a business carried on at which young persons to whom this Part of this Act applies are employed, and references to the occupier or owner of a factory shall be deemed to include references to the employer of those persons.

Provisions  
as to birth  
certificates.

5. Where the age of any person is required to be ascertained or proved for the purposes of this Part of this Act, any person shall, on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Registrar-General and on payment of a fee of sixpence, be entitled to obtain a certified copy under the hand of a registrar or superintendent registrar of the entry in the register

under the Births and Deaths Registration Acts, 1836 to 1929, of the birth of that person; and such a form of requisition shall on request be supplied without charge by every registrar or superintendent registrar of births, deaths and marriages.

PART I.  
—cont.

- 6.—(1) The local authority for the purposes of this Part of this Act shall be—
- Provisions  
as to  
local  
authorities.
- (a) as respects the City of London, the Common Council;
  - (b) as respects any municipal borough, the council of the borough;
  - (c) as respects any urban district with a population according to the last published census of twenty thousand or more, the district council;
  - (d) elsewhere, the council of the county.

(2) The expenses under this Part of this Act of the Common Council of the City of London shall be defrayed out of the general rate.

(3) The expenses under this Part of this Act of the council of a county shall be defrayed as expenses for special county purposes.

7.—(1) Except as provided by subsection (3) of this section, this Part of this Act shall apply to a young person employed by an employer in any of the following employments, where his employment by that employer is wholly or mainly in that employment or in two or more of those employments taken together, that is to say:—

Young  
persons to  
whom Act  
applies.

- (a) employment in the collection or delivery of goods, or in any carrying, loading or unloading of goods incidental to the collection or delivery thereof;
- (b) employment in connection with a business carried on at any premises in carrying messages or running errands, being employment wholly or mainly outside the premises;
- (c) employment at a residential hotel or club in carrying messages or running errands, or in connection with the reception of guests or members thereat;

**PART I.**  
—*cont.*

- (d) employment in connection with the business carried on at any premises where a newspaper is published, in carrying messages or running errands ;
- (e) employment at a place of public entertainment or amusement, or at a public swimming bath, bathing place or turkish bath, in carrying messages or running errands, or in the reception of or attendance upon persons resorting thereto ;
- (f) employment elsewhere than in a private dwelling-house, in the operation of a hoist or lift connected with mechanical power ;
- (g) employment in, or in connection with, the operation of cinematograph apparatus ;
- (h) employment at any premises occupied for the purposes of the business of a laundry, dyeing or cleaning works or other factory, in receiving or despatching goods.

(2) Except as provided by the next following subsection, this Part of this Act shall apply to a young person employed by an employer in any of the employments mentioned in the foregoing subsection, and, at a residential hotel or in or about a theatre, in connection with a retail trade or business carried on therein, where his employment by that employer is wholly or mainly in those employments taken together.

(3) Nothing in this Part of this Act shall apply—

- (a) with respect to the employment of a young person whose hours of employment are regulated by or under the Factories Act, 1937, the Coal Mines Act, 1911, and the Acts amending that Act, the Metalliferous Mines Regulation Acts, 1872 and 1875, or (except in the case of a young person to whom this Part of this Act applies by virtue of an election made under subsection (1) of the next following section) the Shops Acts ;
- (b) with respect to the employment of any young person in or in connection with agriculture or in a ship.

8.—(1) An employer who employs young persons at, or in connection with the business carried on at, a residential hotel, a place of public entertainment or amusement, or a public swimming bath, bathing place or turkish bath, being young persons to whom apart from this section the provisions of this Part of this Act would apply or the provisions of the Shops Acts would apply, may give notice that he elects that the provisions of this Part of this Act shall apply to all such young persons as aforesaid for the time being so employed by him as aforesaid or may give notice that he elects that the provisions of the Shops Acts shall apply to all of them.

PART I.  
—cont.  
Option to apply either this Act or the Shops Acts in certain cases.

(2) When a notice given under the foregoing subsection has taken effect, then, until another notice withdrawing that notice takes effect, the provisions of this Part of this Act or of the Shops Acts, as the case may be, shall apply to all the young persons aforesaid, and, in the case of young persons to whom apart from this section those provisions would not have applied, shall apply to them subject to the prescribed adaptations and to the exclusion of the provisions of the Shops Acts or of this Part of this Act, as the case may be :

Provided that, where the provisions that are to apply are the provisions of the Shops Acts,—

(a) those provisions shall have effect with the substitution in subsection (5) of section nine of the Shops Act, 1934, and in section one of the Shops Act, 1912, for references to half-past one o'clock of references to one o'clock; and

24 & 25  
Geo. 5. c. 42.  
2 & 3 Geo. 5.  
c. 3.

(b) section five of the Shops Act, 1934, shall have effect only in the case of young persons employed at, or in connection with the business carried on at, a residential hotel, and in the case of those persons shall have effect notwithstanding anything in subsection (6) of that section (which enacts that the provisions of the Shops Act, 1934, shall not apply to any person employed in a residential hotel who is not such a shop assistant as is therein mentioned).

(3) A notice to be given under subsection (1) of this section, and a notice withdrawing such a notice, shall be given to the local authority in such form, in such manner and subject to such conditions as may be prescribed,

**PART I.** and any such notice shall have effect as from such date  
—*cont.* after it is given as may be prescribed.

Interpreta-  
tion of  
Part I.

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

14 & 15  
Geo. 5. c. 37.

“agriculture” has the same meaning as in the Agricultural Wages (Regulation) Act, 1924;

“premises” means premises occupied by the employer of a young person to whom this Act applies for the purposes of the business in connection with which that person is employed, and includes the site of any building operation or work of engineering construction, and “building operation”, “work of engineering construction” and “factory” have the same meaning as in the Factories Act, 1937;

“prescribed” means prescribed by order of the Secretary of State;

“residential hotel”, “retail trade or business”, “theatre”, “week” and “year” have the same meaning as in the Shops Act, 1934;

“ship” means a ship or boat registered in the United Kingdom as a British ship, or a British fishing-boat entered in the fishing-boat register;

“young person” does not include a child whose employment is regulated by section eighteen of the Children and Young Persons Act, 1933, but save as aforesaid means a person who has not attained the age of eighteen years.

23 & 24  
Geo. 5. c. 12.

(2) Where a young person who is employed as mentioned in subsection (1) or (2) of section seven of this Act, is also employed by the same employer in any other employment (not being employment mentioned in subsection (3) of that section), any reference in section one or two of this Act to employment or to hours worked shall, in relation to that young person, include a reference to that other employment and to hours worked therein.

(3) For the purposes of this Part of this Act, the carrying on of a club shall be deemed to be a business

notwithstanding that the club is not carried on for the purpose of profit.

(4) For the purposes of this Part of this Act, a young person shall be deemed to be employed by the person for whom he works, notwithstanding that he receives no wages for his work.

(5) For the purposes of this Part of this Act, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.

(6) Where a young person to whom this Part of this Act applies, who in any week is employed in connection with a business carried on at any premises and in that week is employed by the same employer in connection with a business carried on at other premises, works overtime, the overtime employment of that person shall be deemed to have taken place at the premises in connection with the business carried on at which he was mainly employed.

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

(8) An order under this Part of this Act may be varied or revoked by a subsequent order.

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

(2) The local authority for the purposes of this Part of this Act shall be the county council in a county and the town council in a burgh, and any expenses incurred by a county or a town council shall be defrayed in like manner as expenditure for the purposes of the Public Health (Scotland) Act, 1897.

60 & 61 Vict.  
c. 38.

(3) References to provisions of the Factories Act, 1937, shall be construed as references to those provisions as applied to Scotland; for references to the Registrar-General and the Births and Deaths Registration Acts, 1836 to 1929, there shall be substituted respectively references to the Registrar-General for Scotland and the Registration of Births, Deaths and Marriages (Scotland)

**PART I.**  
—*cont.*

1 Edw. 8. & be substituted respectively references to the Agricultural  
1 Geo. 6. Wages (Regulation) Act, 1924, and to section eighteen  
c. 53. of the Children and Young Persons Act, 1933, there shall  
1 Edw. 8. & be substituted respectively references to the Agricultural  
1 Geo. 6. Wages (Regulation) (Scotland) Act, 1937, and to section  
c. 37. twenty-eight of the Children and Young Persons (Scotland) Act, 1937.

(4) An offence against any provision of this Part of this Act which is directed to be enforced by a county or town council may be prosecuted by the council of the county or town in which such offence was committed, and any such council may appear in any proceedings instituted by them under this Part of this Act by their clerk or other officer duly authorised in that behalf.

(5) It shall not be an objection to the competency of an inspector or of any person prosecuting in pursuance of the power conferred by the last foregoing subsection to give evidence as a witness in any prosecution for an offence against this Part of this Act that the prosecution is brought at his instance or conducted by him.

(6) Any offence against this Part of this Act for which the maximum penalty that may be imposed does not exceed ten pounds may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1908, having jurisdiction in the place where the offence was committed.

8 Edw. 7.  
c. 65.

**PART II.**

**AMENDMENTS RELATING TO SHOPS.**

Hours of  
employment  
of young  
persons  
under  
sixteen em-  
ployed in  
shops.

**11.**—(1) As from the expiration of the first year after the commencement of this Act, subsection (1) of section one of the Shops Act, 1934, shall have effect, in the case of a young person who has not attained the age of sixteen years, with the substitution for the reference to forty-eight working hours of a reference to forty-four working hours.

(2) The following section shall be inserted after section one of the Shops Act, 1934, and shall have effect as from the expiration of the first year after the commencement of this Act :—

“ 1A. The occupier of a shop may, by exhibiting a notice to that effect, secure that the provisions



of this section shall be applicable to the shop during the week within which Christmas Day falls and either the week before or the week after that week, as may be specified in the notice; and when such a notice has been duly exhibited in the prescribed form and in the prescribed manner and at such time before the period therein specified as may be prescribed, then, in relation to a young person employed about the business of the shop, who has not attained the age of sixteen years, the normal maximum working hours shall, as respects the period specified in the notice, be neither more than forty-eight in either week of that period nor more than eighty-eight throughout that period, and section one of this Act shall have effect accordingly."

PART II.  
—cont.

**12.** Subsection (3) of section one of the Shops Act, 1934, shall have effect as if the reference therein to employment in a factory or workshop included a reference to employment in any of the employments mentioned in subsection (1) of section seven of this Act.

Determina-  
tion of  
number of  
working hours  
of young  
persons em-  
ployed in  
shops.

**13.** Employment wholly or mainly outside a factory in collecting, carrying or delivering goods, carrying messages or running errands, being employment for the purposes of retail trade or business carried on from the factory, shall, for the purposes of subsection (5) of section fifteen of the Shops Act, 1934, be deemed not to be employment in the business of the factory and accordingly the Shops Acts shall apply with respect to that employment.

Hours of  
young  
persons  
employed in  
retail trade  
from  
factory.

**14.—(1)** This Act may be cited as the Young Persons (Employment) Act, 1938.

Short title,  
interpre-  
tation,  
citation,  
commence-  
ment and  
extent.

(2) In this Act the expression "the Shops Acts" means the Shops Acts, 1912 to 1936, and those Acts and Part II of this Act may be cited together as the Shops Acts, 1912 to 1938.

(3) This Act shall come into operation on the first day of January nineteen hundred and thirty-nine.

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

**CHAPTER 70.**

An Act to enable wage regulating authorities to make provision for holidays and holiday remuneration for workers whose wages they regulate, and to enable the Minister of Labour to assist voluntary schemes for securing holidays with pay for workers in any industry.

[29th July 1938.]

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

Holidays.

1.—(1) Subject to the provisions of this Act, a wage regulating authority may direct that any workers for whom a minimum rate of wages or statutory remuneration is being or has been fixed by them shall be entitled to be allowed holidays of such duration as may be directed by the authority.

(2) Any direction given under this section shall provide for the duration of any holiday which an employer is thereby required to allow to a worker being related to the duration of the period for which the worker shall have been employed or engaged to be employed by him, and, subject as aforesaid, any such direction may make provision as to the times at which or the periods within which, and the circumstances in which, any such holiday shall be allowed :

14 & 15  
Geo. 5. c. 37.  
1 Edw. 8. &  
1 Geo. 6.  
c. 53.

Provided that no such direction shall provide for a worker whose rates of wages are fixed under the Trade Boards Acts, 1909 and 1918, the Agricultural Wages (Regulation) Act, 1924, or the Agricultural Wages (Regulation) (Scotland) Act, 1937, being entitled to be allowed holidays for periods exceeding in the aggregate one week in any period of twelve months, or, in the case of a worker whose rates of wages are fixed under the said Act of 1924 or the said Act of 1937, to be allowed holidays of continuous periods exceeding three consecutive days.

(3) For the purposes of the last foregoing subsection, the expression "week" means, in relation to any worker whose rates of wages are fixed under the said Act of

1924 or the said Act of 1937 a period of seven days, and in relation to any other worker such period as may be determined by the wage regulating authority to be his normal working week.

(4) The holidays which a worker is entitled to be allowed in pursuance of any direction given under this section shall, unless the direction otherwise provides, be in addition to any holidays or half-holidays to which he may be entitled under any other enactment.

(5) If any employer who is required in pursuance of a direction given under this section to allow to a worker a holiday of any duration fails to allow to him a holiday of that duration, the employer shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds.

(6) All fines imposed under this section in respect of contraventions of a direction given by the Road Haulage Central Wages Board shall be dealt with in like manner as fines imposed in respect of offences under the Road Haulage Wages Act, 1938.

1 & 2 Geo. 6.  
c. 44.

2.—(1) Where a wage regulating authority in exercise of the powers conferred by this Act direct that any workers shall be entitled to be allowed holidays, the authority shall make provision for securing that the workers shall receive pay in respect of the period of the holiday, and, without prejudice to any other power of a wage regulating authority in that behalf, the power of any Trade Board or Agricultural Wages Committee to fix minimum rates of wages for any workers shall include power to fix separate minimum rates of wages to be paid to those workers by way of pay in respect of such holidays and, subject to the provisions of any regulations made under this Act, references in the Trade Boards Acts, 1909 and 1918, the Agricultural Wages (Regulation) Act, 1924, and the Agricultural Wages (Regulation) (Scotland) Act, 1937, respectively, to minimum rates of wages shall be construed accordingly.

Holiday  
remunera-  
tion.

(2) Any holiday remuneration (whether fixed as aforesaid or fixed by the Road Haulage Central Wages Board) shall accrue, and shall become payable, respectively, at such times and subject to such conditions as may be directed by the wage regulating authority, and, notwithstanding the provisions of this Act requiring that holiday remuneration shall be payable in respect

of the period of the holiday which a worker is entitled to be allowed thereunder, such directions may make provision for securing that any holiday remuneration which has accrued due to a worker during his employment by any employer shall, in the event of his ceasing to be employed by that employer before he becomes entitled to be allowed a holiday by him, nevertheless become payable by the employer to the worker.

Application of certain enactments and power to make regulations in connection therewith.

3.—(1) The following provisions, that is to say:—

- (a) the provisions of the Trade Boards Acts, 1909 and 1918, relating to the procedure for fixing, cancelling and varying minimum rates and for making orders confirming such rates and the cancellation and variation thereof;
- (b) the provisions of the Agricultural Wages (Regulation) Act, 1924, and the Agricultural Wages (Regulation) (Scotland) Act, 1937, as the case may be, relating to the procedure for fixing, cancelling and varying minimum rates and for making orders giving effect to such rates and the cancellation and variation thereof; and
- (c) the provisions of the Road Haulage Wages Act, 1938, relating to the procedure for the submission of proposals for fixing remuneration and for the amendment and cancellation of road haulage wages orders and the making of such orders,

shall, subject to any modifications prescribed by regulations made by the appropriate Minister, apply in relation to the giving, cancellation, variation and amendment of directions under this Act; and the provisions mentioned in paragraphs (a) and (b) of this subsection shall, subject to any such modifications as aforesaid, apply in relation to the fixing, cancellation, and variation of holiday remuneration by a Trade Board, and an Agricultural Wages Committee, respectively, and to the making of orders confirming or giving effect to such rates and the cancellation and variation thereof.

(2) The appropriate Minister may make regulations for giving effect to the purposes of this Act, and, in particular, for modifying any provisions of the Acts aforesaid in their application for the purposes of this Act

and for applying, with or without modifications, for the purposes of this Act any such provisions in addition to those expressly made applicable thereby.

(3) All regulations made under this section shall be laid as soon as may be before Parliament, and, if either House within the next twenty-eight days on which that House has sat after any such regulation has been laid before it resolves that the regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything done in the meantime thereunder or to the making of a new regulation.

4.—(1) Where a scheme for securing holidays with pay for any workers in an industry or in a branch of an industry is, on the joint application of an organisation representing employers and an organisation representing workers in the industry or branch, approved by the Minister of Labour, the Minister may in accordance with arrangements made by him with the consent of the Treasury assist the administration of the scheme by attaching officers of the Ministry of Labour to help in the administration thereof and by such other means as he thinks fit.

Power of  
Minister to  
assist  
schemes for  
securing  
holidays  
with pay.

(2) The Minister of Labour may, in accordance with such arrangements as aforesaid, issue on behalf of employers to workers to whom any such scheme applies sums by way of holiday payments, but any arrangement making provision for the issue of any such sums shall also make provision for paying to the Minister any sums to be so issued by him and any expenses incurred by him which are attributable to the scheme.

(3) Any expenses incurred by the Minister of Labour in connection with any such scheme as aforesaid shall be defrayed out of moneys provided by Parliament.

5. In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

Definitions.

“Appropriate Minister” means in relation to the Trade Boards Acts, 1909 and 1918, and in relation to the Road Haulage Wages Act, 1938, the Minister of Labour, in relation to the Agricultural Wages (Regulation) Act, 1924, the Minister of Agriculture and Fisheries, and in

relation to the Agricultural Wages (Regulation) (Scotland) Act, 1937, the Department of Agriculture for Scotland;

“ Holiday remuneration ” means remuneration in accordance with a separate minimum rate of wages fixed under subsection (1) of section two of this Act or holiday remuneration fixed under the Road Haulage Wages Act, 1938, as the case may be;

“ Wage regulating authority ” means a Trade Board, an Agricultural Wages Committee or the Road Haulage Central Wages Board, as the case may be.

Short title  
and extent.

6.—(1) This Act may be cited as the Holidays with Pay Act, 1938.

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

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## CHAPTER 71.

An Act to provide for the better organisation of the bacon industry and the pig producing industry and in that connection to provide for payments out of and into the Exchequer, and the continuance of the regulation of imports; and for purposes connected with the matters aforesaid.  
[29th July 1938.]

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

### PART I.

#### ORGANISATION.

Establish-  
ment of new  
Bacon De-  
velopment  
Board.

1.—(1) For the purposes of this Act, and in particular for the purpose of administering this Act so far as no other provision is made thereby for the administration thereof, there shall be a Board, to be called the Bacon Development Board, which shall be a body corporate

with a common seal and power to hold land without licence in mortmain.

PART I.  
—cont.

(2) The said Board (hereinafter referred to as “the Development Board”) shall consist of—

- (a) five persons appointed by the Minister, being persons who in the opinion of the Minister are by reason of their financial, commercial or administrative experience, fitted to serve on the Board;
- (b) four persons nominated by the Pigs Marketing Board; and
- (c) four persons nominated by the Bacon Marketing Board.

(3) The Development Board shall pay to each of its members such remuneration, and each of its members shall hold office for such period (not exceeding three years) and on such terms, as the Minister may determine at the time of his appointment or nomination :

Provided that—

- (a) before making any such determination as respects a nominated member, the Minister shall consult the Board by which he was nominated; and
- (b) any member of the Development Board may, by notice under his hand addressed to the secretary of that Board, resign his office.

(4) The provisions of the First Schedule to this Act shall have effect with respect to the Development Board and its proceedings.

(5) The Board established by the Bacon Development Scheme, 1935, shall cease to exist, and that scheme shall cease to have effect, and any property and rights acquired and liabilities incurred by the Board established by the said Scheme shall, by virtue of this Act and without more, become property, rights and liabilities of the Development Board established by this Act.

2.—(1) The Development Board shall exercise its functions under this Act in consultation, so far as may be, with the Pigs Marketing Board and the Bacon Marketing Board, and those Marketing Boards shall, as respects the exercise of their respective functions

Relations  
between  
Marketing  
Boards and  
Develop-  
ment Board.

PART I.  
—*cont.*

under the subsequent provisions of this Act, save in so far as they are expressly directed by this Act to act independently of the Development Board, act in accordance with any directions given to them by the Development Board in writing.

The power of the Development Board to give directions to a Marketing Board as respects the exercise of the Marketing Board's functions shall be deemed to include power to direct the Marketing Board to abstain from exercising its powers to such extent as may be specified in the direction.

(2) If on the application of the Development Board the Minister is satisfied that either of the two Marketing Boards has failed to comply with any directions given to it by the Development Board under subsection (1) of this section or is acting in a manner inconsistent with the policy of the Development Board, or if he is jointly requested so to do by the Development Board and either of the two Marketing Boards, the Minister may by order transfer to the Development Board such of the functions of that Marketing Board as may be specified in the order.

Any decision of a Marketing Board whether or not to join with the Development Board in making a request under this subsection shall be taken by the Marketing Board independently of the Development Board.

(3) Any order so made may contain such incidental and consequential provisions as may appear necessary or expedient for the purpose of enabling the Development Board properly to exercise the functions transferred, including provisions adapting the provisions of this Act, and rendering exercisable by the Development Board concurrently with the Marketing Board such powers of the Marketing Board as may be specified in the order, being powers which it appears necessary or expedient should be exercisable by the Development Board in connection with the functions transferred to it.

(4) Any order under this section may be revoked or varied by a subsequent order of the Minister made on the application of the Board or Boards on whose application the original order was made :

Provided that, where a power has been transferred to the Development Board on the ground that the



Marketing Board has failed to carry out any directions given to it by the Development Board under subsection (1) of this section, or is acting in a manner inconsistent with the policy of the Development Board, nothing in this section shall authorise the re-transfer of that power until five years have elapsed from the date of the order effecting the transfer.

PART I.  
—cont.

(5) The Minister, as soon as may be after an order is made under this section, shall lay the order before each House of Parliament.

(6) An order under this section made on the application of the Development Board only shall not have effect until it has been approved by a resolution of each House of Parliament.

(7) An order under this section made on the joint application of the Development Board and the Marketing Board affected shall have effect as from such date as may be specified in the order, but if either House within the next subsequent twenty-eight days on which that House has sat after the order has been laid before it resolves that the order be annulled the order shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

**3.**—(1) If the Bacon Marketing Scheme, 1933, is revoked, there shall be constituted a Bacon Curers' Advisory Committee which shall, in relation to the matters set out in the Second Schedule to this Act, have the functions which would otherwise be performed by the Bacon Marketing Board.

Provision in the event of the winding-up of either of the Marketing Boards.

(2) The provisions of the Third Schedule to this Act shall have effect in relation to the said Committee.

(3) During any period after the said Committee has been dissolved and during any period elapsing between the revocation of the Bacon Marketing Scheme, 1933, and the election of that Committee, the functions which would be performed by that Committee shall be functions of such body of persons as the Minister may from time to time consider to be representative of registered curers.

(4) If the Pigs Marketing Scheme, 1933, is revoked, the functions which would otherwise be performed by the Pigs Marketing Board in relation to the nomination

PART I.  
—cont.

of members of the Development Board, to the determination of the period for which and the terms on which those members are to hold office and to the making of representations and complaints to the Minister shall, as from the date of the revocation, be functions of such body of persons as the Minister may from time to time consider to be representative of registered producers of pigs.

(5) Subject to the provisions of this section, the provisions of the last preceding section with respect to failure or neglect by a Marketing Board to perform its functions shall apply with the necessary modifications if either of the said Schemes is revoked, and shall so apply as if any power to transfer functions of the Marketing Board to the Development Board included power to confer on the Development Board functions and powers which the Marketing Board would have had but for the revocation of the Scheme :

Provided that the Development Board shall, in performing any functions which were functions of the Pigs Marketing Board, act as far as may be in consultation with the body of persons mentioned in the last preceding subsection.

Winding-up  
of Develop-  
ment Board.  
19 & 20  
Geo. 5. c. 23.

4.—(1) The provisions of Part X of the Companies Act, 1929, shall, subject to the provisions of the Fourth Schedule to this Act and to the provisions of this section, apply in relation to the Development Board as they apply in relation to unregistered companies.

(2) The Development Board may be wound up if the Development Board resolves that it is expedient that it should be wound up, as well as in the circumstances mentioned in paragraph (d) of subsection (1) of section three hundred and thirty-eight of the said Act :

Provided that no such resolution shall be passed except at a meeting of the Board held at least fourteen days after notice of the intention to propose the resolution thereat has been given to every member of the Board.

(3) On the making of an order for the winding-up of the Development Board, the Pigs Marketing Scheme, 1933, and the Bacon Marketing Scheme, 1933, shall be deemed to be revoked, and, save so far as may be necessary for the purpose of the winding-up of the Development Board, the Pigs Marketing Board and the Bacon Marketing Board, this Act shall cease to have effect :

Provided that the provisions of section thirty-eight of the Interpretation Act, 1889 (which relate to the effect of repeals) shall have effect in relation to this Act as if the cessation thereof by virtue of this section were a repeal thereof by a subsequent Act.

PART I.  
—cont.  
52 & 53 Vict.  
c. 63.

## PART II.

### FACTORY RATIONALISATION SCHEME.

**5.**—(1) For the purpose of regulating the extent of the facilities for producing bacon in Great Britain and increasing the efficiency of the bacon industry, there may be prepared in accordance with the provisions of the next succeeding section a scheme, hereinafter called “ a factory rationalisation scheme ”.

Factory  
rationalisa-  
tion  
schemes.

(2) A factory rationalisation scheme may for the purpose aforesaid—

- (a) regulate the manner in which all or any of the powers conferred by this Act on the Development Board are to be exercised; and
- (b) make such other provision as is by any provision of this Act authorised to be made by a factory rationalisation scheme.

**6.**—(1) A factory rationalisation scheme may be prepared by the Development Board or the Bacon Marketing Board, and when prepared shall be submitted to the Minister :

Preparation  
of factory  
rationalisa-  
tion  
schemes.

Provided that—

- (a) if within four weeks of the passing of this Act the Bacon Marketing Board gives to the Minister notice in writing that it intends to prepare such a scheme for submission to him, no scheme prepared by the Development Board shall be submitted to him until six months have expired from the receipt by him of the notice;
- (b) the Development Board shall not submit a factory rationalisation scheme to the Minister while such a scheme prepared by the Bacon Marketing Board is in force or is under consideration by the Minister.

(2) Any scheme prepared by the Development Board shall be submitted by it to the Minister, and

PART II.  
—cont.

any scheme prepared by the Bacon Marketing Board shall be sent by it to the Development Board and the Development Board shall, within six weeks of receiving such a scheme, submit the scheme to the Minister with its own observations thereon.

(3) Where any such scheme has been submitted to the Minister, the Minister shall cause to be published in the London and Edinburgh Gazettes and in such other manner as he thinks best for informing the persons affected, notice of the submission of the scheme, of the place where copies thereof may be obtained (on payment of such fee as may be prescribed by the notice) and inspected, and of the time (which shall not be less than six weeks after the publication in the Gazettes) within which objections and representations with respect to the scheme may be made.

(4) Every objection shall be sent to the Minister in writing and must state the grounds of the objection and the specific modifications required.

(5) The Minister, after considering any scheme duly submitted to him and the observations (if any) of the Development Board thereon and any objections and representations duly made with respect thereto, and after holding such inquiries (if any) as he thinks fit, may make such modifications in the scheme as he thinks proper :

Provided that, where an objection has been duly made to the scheme by any person affected thereby and has not been withdrawn, the Minister, unless he considers the objection to be frivolous, or unless he has modified the scheme as required by the objection, shall, before taking any further action under this section, direct a public inquiry to be held and consider the report of the person who held the inquiry.

The provisions of subsections (6) and (7) of section one of the Agricultural Marketing Act, 1931, (which relate to inquiries held under that section) shall apply also in relation to inquiries held under this subsection.

(6) If the Minister, after making such modifications (if any) as aforesaid, is satisfied that the scheme satisfactorily provides for regulating the extent of the facilities for producing bacon in Great Britain and will increase the efficiency of the bacon industry in Great Britain, he may lay before each House of Parliament a draft of the scheme, and if each House resolves that the

scheme shall be approved, the Minister shall make an order approving the scheme in terms of the draft and the scheme shall come into force on such date after the date of the passing of the last of the resolutions of approval as may be specified in the order :

PART II.  
—*cont.*

Provided that, before laying a draft of a scheme before Parliament, the Minister shall communicate the draft to the Bacon Marketing Board and shall not lay the draft unless, within twenty-eight days or such longer time as the Minister may allow, that Board has by resolution approved the draft.

(7) In exercising its functions under this section, the Bacon Marketing Board shall act independently of the Development Board.

7.—(1) A factory rationalisation scheme may be amended by an amendment thereof prepared, submitted and approved in the like manner, and the provisions of the last foregoing section (other than the provisos to subsection (1) thereof) shall apply in relation to an amendment of a scheme as they apply in relation to a scheme :

Amendment  
and revoca-  
tion of  
factory  
rationalisa-  
tion  
scheme.

Provided that, except in a case where the Minister is required to direct a public inquiry to be held with respect to an amendment, the Minister may make an order approving the amendment at any time after he has laid the draft thereof before each House of Parliament, notwithstanding that no resolutions have been passed by the Houses of Parliament approving the amendment, and the amendment shall in that event come into force on such date as may be specified in the order.

(2) If it is represented to the Minister by the Development Board, or by the Bacon Marketing Board, or by the prescribed number of holders of producers' licences, or by the holders of producers' licences in respect of premises on which there is together produced, in a prescribed period, at least the prescribed proportion of the bacon produced in Great Britain, that a factory rationalisation scheme is operating injuriously to the interests of the persons engaged in the bacon industry and can be revoked without injury to the public interest, the Minister shall direct the committee of investigation to consider the representation.

(3) If the committee of investigation reports that the representation is well-founded, the Minister shall

PART II.  
—*cont.*

bring the findings of the committee to the notice of the persons who made the representation and shall, unless he is of opinion that the matter can properly be dealt with under the next succeeding subsection, by order revoke the scheme and the scheme shall thereupon cease to have effect on such date as may be specified in the order.

(4) If in the opinion of the Minister the matters complained of in the representation are capable of being remedied without the revocation of the scheme, he may, after consulting the persons who made the representation, by order do one or both of the following things, that is to say—

- (a) he may, after consulting the Development Board and the Bacon Marketing Board as to the terms of the amendment, amend the scheme;
- (b) he may direct the Development Board to exercise its powers in such manner as may be specified in the order,

and, where such a direction is given, it shall be the duty of the Development Board to comply :

Provided that any such order shall, as soon as may be after it is made, be laid before each House of Parliament, and if either House within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it resolves that the order shall be annulled, the order shall thenceforth be void and the scheme shall cease to have effect.

(5) In this section “prescribed” means prescribed by regulations made by the Minister.

(6) In exercising its functions under this section, the Bacon Marketing Board shall act independently of the Development Board.

## PART III.

## LICENSING OF BACON FACTORIES.

**8.**—(1) No bacon shall be produced on any premises unless there is in force in respect of the premises a licence (in this Act referred to as a “producer’s licence”) granted by the Development Board authorising the production of bacon thereon :

Provided that—

- (a) the said Board may exempt any class of premises or any description of bacon from

Licensing of  
bacon  
factories.

the provisions of this subsection and may revoke any exemption so granted;

PART III.  
—cont.

(b) in any event, premises shall be exempt from the said provisions so long as either of the following conditions is satisfied with respect to them, that is to say—

(i) that the Development Board has certified that it is satisfied that not more than forty hundredweight of bacon has been produced on the premises in any period of eight consecutive weeks beginning on or after the first day of January nineteen hundred and thirty-eight, or such later day as the Board may from time to time prescribe for the purposes of this proviso, and has not revoked its certificate or has only revoked it within the last four weeks; or

(ii) that no licence has at any time been granted in respect of the premises under the Bacon Development Scheme, 1935, or this Part of this Act, and the Board either has never requested the occupier of the premises to satisfy it as aforesaid or has only made such a request within the last four weeks.

(2) Every person who knowingly causes or permits the production of bacon (otherwise than in accordance with an exemption granted by or under this section) on any premises with respect to which no producer's licence is in force shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds and an additional fine not exceeding the value of the bacon produced, or, in the case of a second or subsequent offence, to both such imprisonment and fines.

(3) References in this Act to the holder of a producer's licence shall be construed as references to the person who is for the time being the occupier of the premises to which the licence relates.

9.—(1) Every application to the Development Board for a producer's licence in respect of any premises shall be made in writing by the person who is, or when

Applications  
for, and  
form of  
licences.

**PART III.**  
—*cont.*

the licence comes into force will be, the occupier of those premises, and shall be made at such time and in such form and shall contain such particulars as may be prescribed by the Development Board, including—

- (a) particulars, including, if it is so prescribed, plans, sections and specifications, of the premises, of the buildings and plant thereon and of any alterations or additions which it is proposed to make with respect to the premises, buildings or plant, and particulars of the manner in which the various parts of the premises will be used;
- (b) particulars of the descriptions of bacon which it is proposed should be produced on the premises, the maximum quantity of bacon of each description which it is proposed should be so produced and the processes by which it is proposed that it should be so produced :

Provided that, if and so far as the processes by which it is proposed that bacon should be produced on any premises are secret processes, an applicant for a licence in respect of those premises shall not be bound to give any particulars of those processes which would reveal the nature thereof so far as it is secret.

(2) Any person who knowingly or recklessly makes a false statement in an application for a producer's licence shall be liable on summary conviction to imprisonment for a period not exceeding three months, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine.

(3) Each producer's licence granted shall embody such conditions as in the opinion of the Board are necessary or expedient in order to secure that the bacon produced on the premises is produced in an efficient, hygienic and economical manner, and may also embody conditions designed to secure that, except with the consent of the Development Board, no departure is made from the statements and proposals contained in the application for the licence as respects—

- (a) the state of the premises and of the buildings and plant thereon and the manner in which the various parts of the premises are used;
- (b) the quantity, description and process of production of the bacon produced on the premises,



and different conditions may be embodied in licences for different premises or classes of premises :

PART III.  
—cont.

Provided that a licence in respect of premises in respect of which a licence was in force immediately before the passing of this Act under Part III of the Bacon Development Scheme, 1935, may contain conditions designed to secure that all or any of the several parts of the premises shall not be used except to the extent to which and in the manner in which they could lawfully be used respectively under the licence under the said Part III.

(4) Without prejudice to the generality of the foregoing provisions of this section, there shall be a special class of producer's licence (hereinafter referred to as a "small curer's licence") which shall be issued where application is made for a licence of that class in respect of premises in respect of which a licence was, immediately before the passing of this Act, in force under Part III of the Bacon Development Scheme, 1935, and may be issued where application for a licence of that class is made in respect of any other premises, and which shall embody—

- (a) the condition that while the licence is in force not more than sixty hundredweight of bacon shall be produced in any four consecutive weeks on the premises to which the licence relates; and
- (b) no other conditions except such as, in the opinion of the Development Board, are necessary or expedient in order to secure that the bacon produced on the premises is produced in a hygienic manner :

Provided that nothing in this subsection shall render it obligatory on the Development Board to issue a small curer's licence in respect of any premises if a producer's licence previously granted under this Act in respect thereof has ceased to have effect.

(5) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order, or if any such scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, no licence other than a small curer's licence shall contain any conditions except such as in the opinion of the Board are necessary or expedient

**PART III.**  
—*cont.*

in order to secure that the bacon produced on the premises is produced in a hygienic manner.

Licences only to be refused on specified grounds.

**10.**—(1) An application which is duly made for a producer's licence shall not be refused except on one or more of the following grounds, that is to say—

- (a) that, immediately before the passing of this Act, no licence was in force in respect of the premises under Part III of the Bacon Development Scheme, 1935, and that, having regard to the existing and prospective consumption and the existing and prospective sources of supply of bacon, whether produced in Great Britain or elsewhere, it is, in the opinion of the Development Board, inexpedient that the premises should be used for the production of the bacon proposed to be produced thereon;
- (b) that, immediately before the passing of this Act, no licence was in force in respect of the premises under Part III of the Bacon Development Scheme, 1935, and that, in the opinion of the Development Board, the situation of the premises is unsuitable, having regard to the places at which pigs are being produced in Great Britain by registered producers of pigs and to the facilities for the disposal of bacon produced on the premises;
- (c) that, in the opinion of the Development Board, the premises are not, and (regard being had to any alterations or additions which it is proposed to make with respect to the premises, or the buildings or plant thereon) will not be, equipped for the efficient, hygienic and economical production of bacon;
- (d) that a licence granted under Part III of the Bacon Development Scheme, 1935, in respect of the premises was revoked, or that a producer's licence previously granted under this Act in respect of the premises has ceased to have effect;
- (e) that it will be lawful to use the premises in the manner in which they are proposed to be used without any producer's licence being granted in respect thereof:

Provided that—

PART III.  
—cont.

(i) a factory rationalisation scheme may provide for the refusal of applications for producers' licences (not being small curers' licences) on grounds other than the grounds specified in this section;

(ii) if no such scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order or if any such scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, applications for producers' licences shall thereafter only be refused on the ground that in the opinion of the Development Board the premises are not, and (regard being had to any alterations or additions which it is proposed to make with respect to the premises, or the buildings or plant thereon) will not be, equipped for the hygienic production of bacon.

(2) When the Development Board is proposing to refuse an application for a producer's licence, the Board shall serve upon the applicant a written notice stating—

- (a) that the Board proposes to refuse the application upon the grounds specified in the notice; and
- (b) that the matter of the application will be finally determined at a meeting of the Board, to be held at an office of the Board, at such address and at such time and on such day (not being less than twenty-one days from the day on which the notice is served) as may be specified in the notice, and that the Board will consider any representations with respect to the matter which the applicant may make at the meeting, either in person or by any agent, and any written representations with respect to the matter on the part of the applicant which may have been received by the secretary of the Board before the time fixed for the meeting;

and before finally deciding the matter, the Board shall consider any representations on the part of the applicant

PART III.  
—cont.

which, by the terms of the said notice, it has undertaken to consider.

Duration  
of licences  
and penalty  
for breach  
of con-  
ditions.

**11.**—(1) Subject to the provisions of this Part of this Act with respect to factory rationalisation schemes, a producer's licence, once granted, shall remain in force until it ceases to have effect by reason of the surrender or revocation thereof in accordance with the provisions of this and the next succeeding section.

(2) The Development Board may revoke a producer's licence if any of the conditions thereof have been contravened or if the premises have ceased to be used for the production of bacon.

(3) Where any of the conditions of a producer's licence have been contravened and the Development Board does not think fit to revoke the licence, it may in lieu thereof by resolution impose upon, and recover from, the person who was the holder of the licence at the time of the contravention a monetary penalty not exceeding five hundred pounds.

(4) The holder of a producer's licence may at any time surrender it to the Board and it shall thereupon cease to have effect, and the Board may, in consideration of an agreement by the holder of a licence to surrender the licence to the Board, agree to issue a new licence in respect of the same or other premises or to pay to him such sum as may be determined by or under the agreement or both to issue such a new licence and to pay such a sum.

Procedure  
where  
licences are  
proposed to  
be revoked.

**12.**—(1) As soon as may be after deciding to revoke a producer's licence, the Development Board shall serve on the holder thereof a written notice of its decision setting out the grounds thereof and the licence shall be deemed to continue in force until the expiration of thirty days from the day of the service of the notice.

(2) Where a notice has been so served, the holder of the licence may within fourteen days by notice in writing to the Development Board refer the matter to arbitration, and in that event the licence shall continue in force until the expiration of thirty days from the date of the award of the arbitrator.

(3) Where such an arbitration is held, the arbitrator shall by his award reverse the decision of the Board to revoke the licence unless he is satisfied that the conditions

of the licence have been contravened or that the premises have ceased to be used for the production of bacon.

PART III.  
—cont.

(4) If in any such arbitration the arbitrator is satisfied that the said conditions have been contravened but is of opinion that it is not proper that the licence should be revoked, he shall award that the licence shall remain in force and may award that there shall be paid to the Board by the person who referred the matter to arbitration such monetary penalty, not exceeding the maximum penalty which could have been imposed by the Board, as may be specified in the award.

(5) If in any such arbitration the arbitrator either—

(a) is satisfied that the conditions of the licence have been contravened and is of opinion that it is proper that the licence should be revoked; or

(b) is satisfied that the premises have ceased to be used for the production of bacon,

he shall by his award confirm the revocation thereof and thereupon the licence shall become void on the expiration of thirty days from the date of the award.

**13.**—(1) The conditions of a producer's licence may be varied by the Development Board subject to and in accordance with the provisions of this section but not otherwise. Variation of conditions.

(2) The Development Board may, if it appears to it to be necessary or expedient to effect a general rise in the standards of efficiency, hygiene or economy prevailing as respects any class of bacon factory, publish, in such manner as it thinks best adapted for the purpose of bringing the matter to the attention of persons affected, a notice of proposals for the variation of the conditions of producers' licences of any specified class in the manner specified in the notice.

(3) Any such notice shall state that, within such period (not being less than one month from the date of the publication of the notice) as may be specified in the notice, any holder of a producer's licence who will be affected by the proposals may send a written objection thereto to the Board.

(4) If at the expiration of the said period no objections have been sent as aforesaid to the Board or if all

PART III.  
—cont.

the objections so sent have been withdrawn, the Board may by resolution vary the conditions of any licence in such manner as may be necessary in order to give effect to the proposals, and, as from such date, not being earlier than three months from the publication of the proposals, as may be specified in the resolution, the conditions of the licence shall be varied accordingly.

(5) If any objections are sent to the Board as aforesaid during the said period and are not withdrawn, the Board shall consider those objections and, unless it decides to abandon the proposals, shall transmit the objections to the Minister, and the Minister shall, if any objections are so transmitted to him, direct the committee of investigation to consider the matter in accordance with section nine of the Agricultural Marketing Act, 1931, as adapted for the purposes of this Act.

(6) If, on receiving the report of the committee of investigation, the Minister informs the Board that he does not propose to make an order, the Development Board may by resolution vary the conditions of any producer's licence in such manner as may be necessary in order to give effect to the proposals, and, as from such date as may be specified in the resolution (not being less than one month from the date on which the Minister gives notice to the Board as aforesaid), the conditions of the licence shall be varied accordingly.

(7) If, as a result of the report of the committee of investigation, an order is made by the Minister requiring the Board to vary its proposals, it shall publish a notice of amended proposals and the foregoing provisions of this section shall apply accordingly, except that—

- (a) the notice shall not contain any statement as to the making of objections to the amended proposals and the amended proposals shall be treated as proposals to which no objection is made; and
- (b) the minimum period which must elapse between the publication of the proposals, and the time when the variation of the conditions of the licences affected thereby takes effect, shall be one month instead of three months.

(8) A factory rationalisation scheme may contain proposals for the variation of the conditions of producers' licences in the manner specified in the scheme in the case of such classes of premises as may be so specified and may authorise the Board by resolution to vary the conditions of any licence in such manner as may be necessary in order to give effect to the said proposals; and where any such resolution is passed with respect to a licence, the conditions thereof shall, as from such date as may be specified in the resolution, not being earlier than a date to be specified in the scheme, be varied accordingly.

PART III.  
— cont.

14.—(1) A factory rationalisation scheme may provide for the revocation of a producer's licence (other than a small curer's licence) by or under the scheme, notwithstanding that no condition of the licence has been broken and that the premises have not ceased to be used for the production of bacon, but a scheme which so provides—

Provisions  
as to  
factory  
rationalisa-  
tion  
schemes.

- (a) shall also provide for the payment by the Development Board of compensation in respect of the revocation and for the determination by arbitration of any dispute whether or not a person is entitled to compensation under the scheme or as to the amount of compensation to which he is entitled thereunder, and
- (b) may also provide for the determination by arbitration of any dispute whether or not the terms of the scheme authorise or effect the revocation of a producer's licence.

(2) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order, or if any such scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, so much only of the conditions of any producer's licence (other than a small curer's licence) as provides for securing that the bacon is produced in a hygienic manner shall continue in force and the remainder of the said conditions shall cease to have effect.

## PART III.

—cont.

Register of  
holders of  
producers'  
licences.

**15.** It shall be the duty of the Development Board to keep at its office in England a register in which shall be entered particulars of the situation of all premises licensed by the Board for the production of bacon, and—

- (a) to permit any person to inspect the register at any time between ten in the morning and four in the evening on any weekday, not being a Saturday, Christmas Day, Good Friday, or a Bank Holiday; and
- (b) on the request of any person and on payment by him of such fee as the Board thinks fit, but not exceeding five shillings, to supply him with a copy of a list of the entries in the register.

## PART IV.

## SYSTEM OF PIG SUPPLY.

*General Provisions.*Prohibition  
of certain  
transactions  
by un-  
registered  
producers  
and curers.

**16.**—(1) Subject to the provisions of this Part of this Act, a producer of pigs who is not registered shall not sell any pigs to any registered curer.

(2) A curer who is neither registered nor exempt from registration shall not sell any bacon.

(3) Any producer or curer who knowingly sells any pigs or bacon in contravention of this section shall for each offence be liable on summary conviction to a fine not exceeding five pounds or on conviction on indictment to a fine not exceeding two hundred pounds and in either case to an additional fine not exceeding half the price at which the pigs or bacon were sold :

Provided that the fines imposed on summary conviction for any offence under this subsection shall not exceed in the aggregate one hundred pounds.

(4) It shall be part of the functions of the Pigs Marketing Board to enforce the provisions of this section as respects producers of pigs, and part of the functions of the Bacon Marketing Board to enforce the provisions thereof as respects curers, but nothing in this subsection shall be construed as authorising either of the said Boards to institute proceedings in Scotland for any offence against the said provisions.



**17.**—(1) Subject to the provisions of this Part of this Act— PART IV.  
—cont.

- (a) no registered producer of pigs shall sell any pigs to any registered curer except under a long contract as defined for the purposes of this Act by the subsequent provisions of this Part thereof; Pigs for  
bacon to be  
supplied  
to curers  
under long  
contracts.
- (b) no registered curer shall buy any pigs except under such a contract;
- (c) no registered curer shall buy any carcase or part of a carcase of a pig unless the pig has been bought, either by him or by some other person, under such a contract; and
- (d) no registered curer shall produce or sell any bacon unless it is produced from a pig bought, either by him or by some other person, under such a contract.

(2) If any registered producer sells any pigs in contravention of subsection (1) of this section, the Pigs Marketing Board shall by resolution impose upon, and shall recover from, him a monetary penalty not exceeding five pounds for each pig so sold.

(3) If any registered curer buys any pigs, carcasses or parts of carcasses, or produces or sells any bacon, in contravention of the said subsection (1), the Bacon Marketing Board shall by resolution impose upon, and shall recover from, him a monetary penalty not exceeding five pounds for each pig, carcase or part of a carcase so bought, or, as the case may be, for each hundredweight of the bacon so produced or sold.

**18.**—(1) Subject to the provisions of this section, the Development Board may by general or special determination from time to time exempt from the provisions of the last preceding section such sales and purchases of pigs, carcasses or parts of carcasses as may be specified in the determination, or by a Marketing Board acting under and in accordance therewith; and if any such determination is made it shall be lawful, notwithstanding anything in the last preceding section, for any registered curer to produce and sell bacon made from pigs, carcasses or parts of carcasses sold or purchased in accordance with the determination. Power of  
Develop-  
ment Board  
to grant  
exemptions  
from the  
long  
contract  
system.

PART IV.  
—cont.

(2) Any such exemption may be absolute or conditional and, without prejudice to the generality of the foregoing provisions of this section, may be made conditional on a permit being obtained from a Marketing Board or on the sale or purchase in question being made at, below or above a price, and on terms, specified in the determination, or by a Marketing Board acting under and in accordance therewith :

Provided that, if no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act, or such lesser period as the Minister may order, or if such a scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, any exemption of purchases granted under this section shall either be a general and unconditional exemption or a general exemption limited only by specifying the prices at, below or above which, and the terms on which, the purchases may be made.

(3) No determination shall be made under this section, other than a determination exempting specified sales to or purchases by a specified curer, unless a draft of the determination has been submitted to the Minister and the Minister has informed the Development Board that in his opinion the determination will not result in the exemption of an excessive number or quantity of, or of any description of, pigs, carcasses or parts of carcasses.

General  
exemp-  
tions.

**19.**—(1) Nothing in the foregoing provisions of this Part of this Act shall prohibit a producer of pigs, whether registered or not, from selling in any manner to a registered curer—

- (a) any pigs not more than sixteen weeks old ; or
- (b) any pigs, if the seller has reasonable cause to believe that bacon will not be produced therefrom, or will only be produced therefrom on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force.

(2) Nothing in the foregoing provisions of this Part of this Act shall prohibit a registered curer—

- (a) from purchasing in any manner or from any person any pigs not more than sixteen weeks

old or any pigs from which no bacon is produced, or from which bacon is produced only on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force; or

(b) from producing and selling bacon—

(i) produced only on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force, or

(ii) if his business includes the production of pigs, produced from pigs which are for the purposes of this Part of this Act to be treated as pigs sold under long contracts, or

(iii) produced from pigs, carcases or parts of carcases lawfully bought by him or his predecessor in his business before such day as the Minister may appoint for the purposes of this provision :

Provided that it shall be conclusively presumed for the purposes of this subsection that bacon has been produced from a pig and has been so produced otherwise than on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force, if it is proved that a mark or indication has been duly affixed to the carcase or part of the carcase of the pig in pursuance of the provisions of this Act which prohibit the production of bacon, otherwise than on such premises as aforesaid, from carcases or parts of carcases to which no such mark or indication has been affixed.

(3) Nothing in the foregoing provisions of this Part of this Act shall prevent a registered curer from purchasing in any manner, and from producing and selling bacon produced from, any pigs, or carcases or parts of carcases of pigs, not produced in Great Britain if it is shown in such manner as may be specified by regulations made by the Minister that the pigs, carcases or parts of carcases were taken into account for the purposes of any such order or arrangements as may be so specified, being an order or arrangements regulating the importation from

PART IV.  
—*cont.*

the country where the pigs in question were produced into the United Kingdom or into Great Britain of bacon or of pigs, and carcasses and parts of carcasses of pigs.

(4) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act, or such lesser period as the Minister may order, or if such a scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, subsection (2) of this section shall have effect as if for sub-paragraph (ii) of paragraph (b) thereof there were substituted the following sub-paragraph :—

“(ii) if his business includes the production of pigs, produced from pigs bred or purchased when not more than sixteen weeks old by him or his predecessor in his business and thereafter kept on premises in Great Britain occupied for the purposes of that business by him or his predecessor therein.”

### *Long Contracts.*

Long  
contracts  
to be made  
in a pre-  
scribed  
form and  
through the  
Pigs  
Marketing  
Board.

20.—(1) Subject to the following provisions of this Part of this Act, the Pigs Marketing Board may, before the beginning of any of the following periods (hereinafter referred to as “contract periods”), that is to say—

- (a) the twelve months beginning with such day as the Minister may appoint for the purposes of this provision,
- (b) any subsequent period of twelve months beginning on the expiration of a previous contract period,

determine forms of contract to be used for sales to registered curers of pigs to be delivered in that period, which shall, among other things, fix, or provide for the fixing of, the prices to be paid for the pigs delivered thereunder.

For the purposes of this Part of this Act, a contract shall be deemed to provide for the sale of pigs to be delivered in a period notwithstanding that the terms thereof allow for the delivery of certain of those pigs, at the option of one or other of the parties to the contract, before the beginning or after the end of that period.

(2) Contracts in a form so determined, made through the Pigs Marketing Board in accordance with the subsequent provisions of this Part of this Act, are in this Act referred to as "long contracts."

PART IV.  
—cont.

**21.**—(1) Before determining forms of contract under the last preceding section, the Pigs Marketing Board shall consult the Bacon Marketing Board, and may consult the Development Board.

Procedure  
for deter-  
mining  
form of long  
contracts.

(2) The Development Board shall be entitled to be represented, if it so desires, at any meeting of, or of representatives of, the two Marketing Boards held for the purpose of such consultation between them as aforesaid, and the two Marketing Boards shall give such notice of any such meeting to the Development Board as will enable that Board to be represented thereat; and whether the Development Board is represented at any such meeting or not, the two Marketing Boards shall jointly send to the Development Board an agreed record of the proceedings at the meeting or, if no such record can be agreed upon, shall each of them send to the Development Board a separate record of those proceedings; and any such record shall include a copy of any document which was before the representatives of both Marketing Boards at the meeting.

(3) No form of contract shall be determined by the Pigs Marketing Board under the last preceding section later than the beginning of the ten weeks immediately preceding the contract period to which it relates or, except with the consent of the Bacon Marketing Board, later than the beginning of the fourteen weeks immediately preceding that period.

(4) If ten weeks before the beginning of a contract period no forms of contract have been determined for that period, the Development Board may, at any time before the commencement of that period, determine the forms of contract therefor, and the like consequences shall ensue as if the determination had been a determination of the Pigs Marketing Board :

Provided that, if before the Development Board has made such a determination the two Marketing Boards furnish that Board with a statement of the matters on which they have agreed, that Board shall

**PART IV.** not in its determination depart from the agreement of  
 —*cont.* the two Marketing Boards except after consulting them.

(5) Except with the consent of the Development Board, no provision shall be included in any form of contract which would require pigs sold thereunder to be transported or insured in a particular manner or on particular terms, but save as aforesaid and save as otherwise expressly provided in this section, the two Marketing Boards shall, as respects the determination of the forms of contract for a contract period, act independently of the Development Board.

Require-  
ments as to  
manner of  
exercise of  
power to  
determine  
form of long  
contracts.

**22.**—(1) The power to determine forms of contract shall be exercised as follows, that is to say :—

- (a) there shall be one or more main forms of contract, according as the determination may provide, for use according to the option of the producer ;
- (b) in the case of each of those main forms of contract there shall be the five variants mentioned in the next succeeding subsection.

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

- (a) a variant, in this Act referred to as “the nominated buyer variant,” to be used in the case of pigs sold to a curer whom the seller has duly nominated as the person to whom he wishes those pigs to be sold ;
- (b) a variant, in this Act referred to as “the open offer variant,” to be used where the seller has not so nominated a curer and does not desire to avail himself of the group contract arrangements mentioned in the next succeeding paragraph ;
- (c) a variant, in this Act referred to as “the group contract variant,” to be used where a producer has not so nominated a curer as aforesaid and desires to avail himself of any arrangements made by or under authority of the Pigs Marketing Board (in this Act referred to as “group contract arrangements”) under which two or more sellers are to employ the same agent for the purpose of arranging the deliveries under their respective contracts ;

- (d) a variant, in this Act referred to as “the transferred pig variant,” to be used where a registered producer of pigs has exercised his right of nomination aforesaid but the pigs are nevertheless being sold to another curer; and
- (e) a variant, in this Act referred to as “the transferred pig (producer-curers) variant,” to be used in the circumstances specified in the provisions of this Act relating to curers who produce pigs:

PART IV.  
—cont.

Provided that, where any of the main forms of contract provides for a price calculated by reference to dead weight, a seller shall not be deemed to have duly nominated a curer as the person to whom he wishes pigs to be sold unless he has specified the premises at which he wishes the carcasses of those pigs to be graded.

(3) In the case of each main form of contract, all the said variants shall be identical except for the differences specified in the following provisions of this section.

(4) The nominated buyer variant of any of the main forms of contract which provides for a price calculated by reference to dead weight shall also provide (without prejudice to any other provision thereof relating to the place at which the carcasses of the pigs are to be graded) for an addition of sixpence to the price of each pig the carcass of which is graded at premises other than those specified as aforesaid by the seller as the premises at which he wishes the carcasses to be graded.

The said addition of sixpence is hereafter in this Act referred to as “a change of premises premium”.

(5) The open offer variant shall be identical with the nominated buyer variant except that it shall not contain any provision for a change of premises premium but must provide—

- (a) for the addition to the price of each pig delivered thereunder of a specified sum, hereinafter referred to as “the allocation premium”; and
- (b) for the Pigs Marketing Board guaranteeing to the seller in a specified manner and subject to specified conditions the performance of all the obligations of the purchaser.

PART IV.  
—*cont.*

(6) The group contract variant shall be identical with the open offer variant, except that it may contain—

- (a) provisions relating to the identity, powers, rights and duties of the agent;
- (b) provisions designed to secure that, as between the various producers who employ that agent, the burden of any particular class of risk or expense is shared in a specified manner;
- (c) provisions designed to secure that where several producers who employ the same agent enter into contracts with one curer, that curer is, as nearly as may be, in the same position as respects deliveries under those contracts as he would be in if all the pigs to which those contracts relate were being sold to him under one contract in the open offer variant of the main form of contract in question.

(7) The transferred pig variant shall be identical with the open offer variant, except that the allocation premium must be one shilling of which sixpence must be made payable to the Pigs Marketing Board.

The said sum of sixpence shall be so payable for the benefit of the curer nominated by the seller as the person to whom he wished the pigs to be sold.

(8) The transferred pig (producer-curers) variant shall be identical with the open offer variant, except that the allocation premium must be one shilling.

(9) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order, or if such a scheme which comes into force ceases to have effect by reason of an order for the revocation thereof, there shall be determined, in relation to each of the main forms of contract, the following three variants only, that is to say, the nominated buyer variant, the open offer variant and the group contract variant.

Proceedings  
subsequent  
to deter-  
mination of  
forms of  
contract.

23.—(1) Where forms of long contract have been determined, the Pigs Marketing Board shall forthwith publish, in such manner as it thinks best calculated to bring the matter to the notice of registered producers of pigs and registered curers, a notice stating that the forms have been determined, and specifying a place at which registered producers and registered curers can obtain



copies thereof free of charge, and inviting registered producers to declare to the Board within a specified time and in a specified manner, in relation to each of the main forms of contract, if there is more than one—

- (a) the quantities of pigs, of each of the descriptions mentioned in the form of contract, which they are respectively prepared to sell to registered curers for delivery during the contract period under a long contract or long contracts;
- (b) the times at which they are prepared to deliver the pigs thereunder;
- (c) whether or not they desire to avail themselves of the group contract arrangements; and
- (d) whether or not they wish, in relation to all or any of the pigs which they are willing to contract to deliver (not being pigs contracted to be delivered under contracts in the group contract variant of the form of contract), to nominate a curer as the person to whom they wish the pigs to be sold, and, if so, what is his name and address and (in the case of pigs to be sold for a price calculated by reference to their dead weight) what are the premises at which they wish the carcasses of the pigs in question to be graded.

(2) The said notice shall also embody a statement of the circumstances, if any (being such circumstances as the Board may determine), in which, where a producer has duly nominated a curer as the person to whom he wishes pigs to be sold, the Board may nevertheless cause those pigs to be sold to another curer :

Provided that, if no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order, or if such a scheme which comes into force ceases to have effect by reason of an order for the revocation thereof, the foregoing provisions of this subsection shall cease to have effect and, where the producer has so nominated a curer, the Board shall in no circumstances be entitled to cause the pigs in question to be sold otherwise than to that curer.

(3) Where, within the time and in the manner specified in the notice aforesaid, a registered producer

PART IV.  
—*cont.*

declares to the Pigs Marketing Board that he is willing to sell pigs under long contracts, the declaration shall, subject to the following provisions of this section, operate as an irrevocable authority to the Board to enter on his behalf into such contracts or contracts in the appropriate variant or variants of the main form or main forms of contract as the Board may determine.

(4) The authority conferred on the Board as aforesaid shall be so exercised as to secure that no producer is, under the contracts entered into by virtue of that authority, under obligation to deliver, either altogether or at any time within the contract period, more pigs or more pigs of any description than he has declared to the Board that he is willing to contract to deliver either altogether or at that time under long contracts (or, if there is more than one main form of contract, under long contracts in variants of that one of those main forms which is specified in that behalf in his declaration).

(5) The contracts shall be made with such registered curer or curers as the Board may determine, so however, that in so far as a producer has nominated a curer as the person to whom he wishes pigs to be sold, the Board shall not cause those pigs to be sold otherwise than to that curer except in the circumstances specified in a statement embodied by virtue of subsection (2) of this section in the notice published under subsection (1) thereof.

(6) Where the Board reasonably believes that a producer has declared that he is willing to sell more pigs or more pigs of any description than he would, apart from circumstances beyond his control, be in a position to deliver out of pigs bred or purchased when not more than sixteen weeks old by him or his predecessor in his business and thereafter kept on premises in Great Britain occupied for the purposes of that business by him or his predecessor therein, the Board shall in any case restrict the pigs or, as the case may be, the pigs of that description, which he contracts to sell under long contracts, to the number of pigs or pigs of that description which in the opinion of the Board he will, apart from such circumstances, be in a position so to deliver :

Provided that the Board may by general or special determination from time to time exempt from this subsection such producers as may be specified in the determination.

(7) The Pigs Marketing Board shall so exercise its powers of making contracts under this section as to secure that the total quantity of pigs, or of pigs of any description, contracted to be delivered in the contract period in question under long contracts does not exceed such quantity as the Development Board may direct in relation to pigs generally, or, as the case may be, in relation to pigs of that description.

PART IV.  
—cont.

24.—(1) As soon as may be after the end of every contract period, the Bacon Marketing Board shall ascertain in relation to each registered curer to whom allocated or transferred pigs have been delivered—

Pooling as  
between  
buyers of  
burden of  
allocation  
premiums.

- (a) the amount which bears to the total of the allocation premiums paid or payable, or deemed for the purposes of this section to have been paid, by the buyers of allocated or transferred pigs the same proportion as the number of allocated or transferred pigs delivered to him bears to the total number of allocated or transferred pigs;
- (b) the total amount of the allocation premiums paid or payable, or deemed for the purposes of this section to have been paid, by him in respect of allocated or transferred pigs.

For the purposes of this section, the expression “allocated or transferred pigs” means, in relation to a contract period, pigs delivered under long contracts for that period, being pigs in respect of which allocation premiums or change of premises premiums are payable; and a registered curer who has paid or by whom there is payable a change of premises premium in respect of a pig, shall be deemed for the purposes of this section to have paid an allocation premium of one shilling in respect thereof.

(2) There shall be paid to the Bacon Marketing Board by, or by the Bacon Marketing Board to, each such curer (according as in his case the amount mentioned in paragraph (a) of the last preceding subsection exceeds or falls short of the amount mentioned in paragraph (b) thereof) a sum equal to the difference between those amounts.

(3) No sum shall be payable under subsection (2) of this section in respect of a contract period until three months after the conclusion of that period, but the

PART IV.  
—cont.

Board may make to, and by resolution require from, buyers of allocated or transferred pigs such payments on account of the sum which the Board estimates will become payable by or to those buyers respectively under that subsection as it may think proper, and any payment required from a curer by such a resolution shall be a debt due to the Board and shall be recoverable accordingly; and any necessary adjustments shall be made at the expiration of the said three months.

Safeguards  
for pro-  
ducers and  
curers as  
respects  
long  
contracts.

**25.**—(1) If after a determination of the forms of long contract has been made with respect to a contract period it is agreed between the two Marketing Boards, or, in default of agreement, decided by arbitration between them, that the determination is such that the general body of producers or the general body of curers cannot reasonably be expected to contract thereunder or that the performance or further performance of any contracts which may be or have been made under the determination will be unreasonably onerous, the determination shall stand annulled.

As respects anything to be done by virtue of this subsection, the two Marketing Boards shall act independently of the Development Board.

(2) Where a determination stands annulled as aforesaid, the Pigs Marketing Board, in agreement with the Bacon Marketing Board, may, within one week of the date of the award or agreement annulling the determination, or, if those Boards fail to agree within that period, the Development Board may thereafter, make a new determination with respect to the contract period, or with respect to so much thereof as remains unexpired on a date to be specified in the new determination, and the provisions of this Part of this Act shall with the necessary modifications apply with respect to such a determination as if it were a determination made in accordance with the provisions of the last preceding section.

(3) Any contract made in pursuance of an annulled determination before the annulment thereof shall, on the expiration of eight weeks from the date of the award or agreement annulling the determination, or as from the beginning of the period with respect to which a new determination has effect, whichever first occurs, become void :

Provided that—

- (a) if the contract provided for monthly deliveries, the time at which it is to become void as aforesaid shall be the end of the month during which it would under this subsection become void if it were a contract which did not provide for monthly deliveries ;
- (b) the avoidance of a contract under this subsection shall not affect the rights or liabilities of the parties thereto with respect to pigs which the producer has delivered or was obliged to deliver before the date on which it becomes void.

PART IV.  
—cont.

*Special Provision for first three Contract Periods.*

**26.**—(1) The provisions of this and the succeeding sections of this Part of this Act shall have effect with respect to the first three contract periods.

Special provisions with respect to the first three contract periods.

(2) Each form of contract shall—

- (a) fix for each month the price which (subject to the special additions and subtractions provided for by the subsequent provisions of this Part of this Act, to the addition of any allocation or change of premises premium, to any deduction falling to be made under the contract in respect of any undertaking by the buyer to bear losses from death or damage during transit or from disease, and to any addition falling to be made under the contract in respect of loss of weight during transit) is to be paid per score of twenty pounds dead weight in the case of a standard pig duly delivered in that month free on rail at the railway station nearest to the seller's premises or free on board at the place of loading nearest to the seller's premises ;
- (b) so fix the said monthly prices that the average of the twelve figures fixed amounts in the first contract period to twelve shillings and sixpence, in the second contract period to twelve shillings and fivepence, and in the third contract period to twelve shillings and threepence :

PART IV.  
—cont.

Provided that nothing in this section shall prevent any form of contract from providing for the payment of higher or lower prices for pigs which are not standard pigs or which are delivered otherwise than free on rail or free on board as aforesaid, or which, in pursuance of an option reserved to one of the parties, are delivered in a month other than that in which they would have had to be delivered if no such option had been exercised.

(3) In this section the expression "standard pig" means a pig of such weight, quality and kind as may be prescribed by regulations of the Minister.

(4) The total quantity of pigs contracted to be delivered in a contract period under long contracts shall not exceed, in the first contract period two million one hundred thousand pigs, in the second contract period two million four hundred thousand pigs, and in the third contract period two million five hundred thousand pigs; and if, in the case of any contract period, documents which would but for the provisions of this subsection be valid long contracts are executed which, taken together, purport to provide for delivery of a quantity of pigs exceeding the limit aforesaid, those of the said documents which were last executed by the Board shall be void until the quantity is so reduced that the said limit is no longer exceeded.

Increases  
and de-  
creases in  
price on  
account  
of rises and  
falls of costs  
of feeding  
stuffs.

**27.**—(1) There shall be added to, or, as the case may be, subtracted from, the price per score of twenty pounds dead weight which would otherwise be paid under a long contract in respect of any pig due to be delivered in any month one hundred and three one hundred and twentieths of the amount by which the price for that month of the standard ration for pigs exceeds, or, as the case may be falls short of, eight shillings and sixpence.

(2) In this section the expression "the price of the standard ration for pigs" means in relation to any month a sum ascertained by the Minister as follows:—

(a) before the beginning of the contract period during which the month occurs, he shall, in accordance with regulations to be made by him with the consent of the Treasury, determine the composition of a ration which in his opinion is suitable to be taken as the standard ration of feeding stuffs for pigs for the purposes of this section;

- (b) before the beginning of the month in question he shall, in accordance with regulations so made, determine what, in the sixteen weeks ending with the Wednesday next preceding the fifteenth day of the preceding month, was the average cost per hundredweight of the standard ration; and
- (c) the average cost so determined shall be deemed to be the price of the standard ration for pigs.

PART IV.  
—cont.

(3) In ascertaining the amount to be added to or deducted from the price to be paid in respect of any pig in accordance with the provisions of this section, the amount to be added or deducted per score of twenty pounds dead weight shall be calculated to the nearest penny, any odd halfpenny being left out of account.

**28.**—(1) Where pigs are delivered to and accepted by a curer under a long contract, there shall, subject to the provisions of this section, be paid by the Minister to the curer out of moneys provided by Parliament the sums following, that is to say,—

Payments to and by curers by and to Exchequer.

- (a) an amount equal to any additions to the price of those pigs falling to be made under the provisions of the last preceding section;
- (b) in respect of each hundredweight of the bacon produced from those pigs on premises in respect of which a producer's licence, other than a small curer's licence, is in force, a sum equal to the amount, if any, by which the ascertained bacon price falls below, in the case of the first contract period ninety-four shillings and ninepence per hundredweight, in the case of the second contract period ninety-three shillings and ninepence per hundredweight and in the case of the third contract period ninety-one shillings and ninepence per hundredweight.

(2) Where pigs are delivered to and accepted by a curer under such a contract as aforesaid, there shall, subject to the provisions of this section, be paid by the curer to the Minister the sums following, that is to say,—

- (a) an amount equal to any subtraction from the price of those pigs falling to be made under the provisions of the last preceding section;

PART IV.  
—cont.

(b) in respect of each hundredweight of bacon produced from those pigs on premises in respect of which a producer's licence, other than a small curer's licence, is in force, a sum equal to the amount, if any, by which the ascertained bacon price exceeds, in the case of the first contract period ninety-four shillings and ninepence per hundredweight, in the case of the second contract period ninety-three shillings and ninepence per hundredweight and in the case of the third contract period ninety-one shillings and ninepence per hundredweight.

(3) No amount shall be payable in respect of any pig under paragraph (a) of subsection (1), or paragraph (a) of subsection (2), of this section, unless bacon has been produced from the pig on premises in respect of which a producer's licence, other than a small curer's licence, is in force; and where the weight of the bacon produced on such premises from a pig is less than the prescribed fraction of the dead weight thereof, any amount payable under either of those paragraphs shall be reduced by applying thereto a fraction the numerator whereof is the number of pounds comprised in the weight of the bacon produced and the denominator whereof is the number of pounds comprised in the prescribed fraction of the dead weight of the pig; and except so far as the contrary is proved to the Minister by the curer in accordance with regulations made under this section, it shall be presumed—

- (a) for all the purposes of subsection (1) of this section, that no bacon has been produced from a pig on such premises;
- (b) for all the purposes of subsection (2) of this section, that a quantity of bacon equal in weight to the prescribed fraction of the dead weight of the pig has been produced therefrom on such premises.

(4) In this section—

- (a) the expression "the ascertained bacon price" means, in relation to the bacon made from a pig, such sum (calculated to the nearest penny per hundredweight, any odd halfpenny being reckoned as a complete penny) as the Development Board may in accordance with regulations under this section determine to be the



average price per hundredweight at which whole sides of green Wiltshire style bacon of all selections produced by the tank cure process from pigs produced in Great Britain (being bacon produced on premises specified from time to time by the Minister, after consultation with the Bacon Marketing Board, acting independently of the Development Board) were sold by the curers thereof during the month beginning with the sixteenth day of the month during which, under the provisions of the contract, the pig is due to be delivered; and

(b) the expression “the prescribed fraction” means four-fifths or such other fraction as may from time to time be prescribed by regulations under this section.

(5) The regulations under this section shall be made by the Minister with the consent of the Treasury, and regulations so made may contain provisions as to the methods by which the sums payable under this section are to be calculated, and in particular may contain provisions—

- (a) enabling the Minister to determine in relation to any premises, according to the method of production adopted thereon, how much bacon may be presumed by him to have been produced from any pig or part of a pig which is dealt with thereon;
- (b) directing that in the case of bacon other than Wiltshire style bacon there shall be added to the weight of the bacon an amount designed to correspond to the weight lost by the removal of bones and skin not removed in the case of bacon cured in the said style;
- (c) specifying the times at which payments are to be made under this section; and
- (d) specifying the documents and other information which a curer is to produce in connection with any claim by or against him under this section.

(6) All sums payable under this section by a curer to the Minister may be recovered by the Minister as a debt due from the curer to the Crown and, when received by the Minister, shall be paid into the Exchequer.

## PART V.

## QUOTAS.

Quotas for  
bacon.

**29.**—(1) The Bacon Marketing Board may from time to time determine—

- (a) the descriptions of bacon which may be produced by any registered curer, either generally or on any particular premises;
- (b) the quantity of bacon of any, or of any specified, description which may be produced by any registered curer, either generally or on any particular premises;
- (c) the descriptions of bacon, and the quantity of bacon of any, or any specified, description, which may be sold by any registered curer:

Provided that nothing in this subsection applies to bacon produced only on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force, or to the sale by a registered curer of bacon purchased by himself or by his predecessor in his business.

(2) If any registered curer produces or sells any bacon in contravention of any determination of the Bacon Marketing Board under this section, that Board shall by resolution impose upon, and shall recover from, him a monetary penalty not exceeding one hundred pounds or five pounds for each hundredweight of bacon so produced or sold, whichever is the larger.

(3) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order, or if any such scheme ceases to have effect by reason of an order for the revocation thereof, the provisions of this section shall cease to have effect.

(4) If it is represented to the Minister by the Bacon Marketing Board, by the Pigs Marketing Board, by the prescribed number of registered curers or by registered curers who in a prescribed period produce a prescribed proportion of the bacon produced in Great Britain, that any direction given by the Development Board as to the manner in which the powers conferred by this section are to be exercised is inequitable or is not in the interests of the bacon industry or of the

pig industry so far as it relates to the production of pigs for bacon purposes, and in either case is not in the public interest, the Minister shall direct the committee of investigation to consider the representation, and if that committee report that the representation is well founded, the Board's direction shall be void, but without prejudice to the making of a new direction.

The Bacon Marketing Board and the Pigs Marketing Board shall, as respects the making of any such representations as aforesaid, act independently of the Development Board.

(5) In making any such new direction the Development Board shall have regard to the findings of the committee.

(6) In this section "prescribed" means prescribed by regulations made by the Minister.

## PART VI.

### MISCELLANEOUS AND GENERAL.

#### *Regulation of Imports.*

**30.** For the purposes of section one of the Agricultural Marketing Act, 1933, (which enables orders to be made regulating the importation into the United Kingdom of agricultural products in the interests of branches of the agricultural industry in the United Kingdom which are being or have been reorganised under agricultural marketing schemes or development schemes), the reorganisation provided for by this Act shall be treated as if it were a reorganisation by means of agricultural marketing schemes regulating the marketing of pigs and bacon and a development scheme under that Act organising the production of bacon; and for the purposes of section two of that Act (which relates to the regulation of sales of home-produced agricultural products) the Development Board shall be treated as if it were a board administering an agricultural marketing scheme.

Continuation of regulation of imports, &c.  
23 & 24  
Geo. 5. c. 31.

#### *Provisions as to Curers who produce pigs.*

**31.**—(1) A registered curer whose business includes the production of pigs in Great Britain shall, whether or not he is a registered producer of pigs, be entitled to declare to the Pigs Marketing Board, at the time and in the manner fixed under Part IV of this Act in relation

Application of Part IV of this Act to curers who produce pigs.

PART VI.  
—cont.

to registered producers of pigs, that he is willing to sell pigs under long contracts for delivery within a contract period, and subject to the provisions of this section the provisions of the said Part IV shall apply accordingly.

(2) The right which a producer of pigs has to nominate a curer as the person to whom he desires any of his pigs to be sold shall, where that producer is such a curer as is mentioned in subsection (1) of this section, include a right to request the Board to reduce by a specified quantity of pigs of any description both the quantity of pigs of that description which the Board would otherwise have contracted on his behalf to sell under long contracts for the period in question, and the quantity of pigs of that description which would otherwise have been sold to him under long contracts for that period; and where such a request is made, the Board shall be bound to give effect thereto to the same extent as it would have been bound to give effect to a declaration by the curer that he desired the pigs in question to be sold to another curer, being a curer whose position was in all material respects similar to his own.

(3) If, when a request has been made under the last preceding subsection, the circumstances are such that the Board has the right, notwithstanding the request, to make long contracts on behalf of the curer for the sale to any other registered curer of any of the pigs covered by the request, and the Board exercises that right, the contract shall be made in the transferred pig (producer-curers) variant of the form of contract.

(4) Subject to the provisions of this section, the Board may, and, where it has complied with such a request as aforesaid, shall, execute and issue to such a curer as aforesaid a certificate stating that it has made a reduction in the quantity of pigs of any description which would otherwise have been so contracted to be sold by and to him and specifying the amount of the reduction; and where such a certificate is validly executed and issued, the curer may cause to be graded and marked during the contract period, under the provisions of this Act relating to grading and marking by persons employed in that behalf by the Pigs Marketing Board, a quantity of pigs of that description not exceeding the quantity specified in the certificate, and those pigs shall, for the purposes of Part IV of this Act, be treated as pigs sold under a long contract.

(5) For the purposes of any provision of this Act imposing a limit on the total quantity of pigs, or of pigs of any description, which may be contracted to be delivered in a contract period under long contracts, a certificate under this section shall be deemed to be a long contract providing for the delivery in the contract period in question of the quantity of pigs specified in the certificate; and any reference in subsection (4) of section twenty-six of this Act to long contracts or to documents which would, but for the provisions of that subsection, be valid long contracts, shall be construed accordingly.

(6) There shall be payable to the curer by the Minister out of moneys provided by Parliament and by the curer to the Minister, in respect of any pigs which are to be treated for the purposes of Part IV of this Act as sold under long contracts, being pigs bred or purchased, when not more than sixteen weeks old, by the curer or his predecessor in his business and thereafter kept on premises in Great Britain occupied for the purposes of that business by him or his predecessor therein, the same amounts, if any, as would be payable if those pigs had been duly delivered to and accepted by the curer, on the dates on which they were slaughtered respectively, under a long contract providing for the delivery thereof on those dates, and any additions or subtractions which would in that event be required by section twenty-seven of this Act to be made to or from the price thereof had been duly made.

(7) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act or such lesser period as the Minister may order, or if such a scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, this section shall cease to have effect.

#### *Compensation and Safeguards.*

**32.**—(1) The validity of anything done by either of the two Marketing Boards shall not be called in question by reason only that it is in contravention of a direction given to that Board by the Development Board, but where a registered producer of pigs or a registered curer suffers damage by reason of any contravention by either of the two Marketing Boards of any

PART VI.  
—cont.

Validity of  
acts of  
Boards  
and com-  
pensation.

PART VI  
—cont.

such direction, he shall be entitled to receive from that Marketing Board such sum by way of compensation as represents the amount of that damage.

(2) Where any power of either of the Marketing Boards has been transferred by order of the Minister under this Act to the Development Board, it shall be the duty of the Development Board from time to time to formulate as principles for its own guidance the principles which it would, if the power had not been transferred to it, have formulated as directions to the Marketing Board with respect to its exercise of that power.

(3) The validity of anything done by the Development Board shall not be called in question by reason only that it is in contravention of any principle so formulated, but where a registered producer of pigs or a registered curer suffers damage by reason of any act or omission of the Development Board which amounts to a contravention of any such principle, he shall be entitled to recover from the Development Board such sum by way of compensation as represents the damage which he has suffered by reason of the contravention.

(4) It shall be the duty of the Development Board to keep at its office in England a register in which shall be entered copies of any such directions given, or principles formulated, as are mentioned in the foregoing provisions of this section, and—

- (a) to permit any person to inspect the register at any time between ten in the morning and four in the evening on any weekday, not being a Saturday, Christmas Day, Good Friday or a Bank Holiday;
- (b) on the request of any person and on payment by him of such fee as the Board thinks fit not exceeding one shilling, to supply to him a copy of any specified entry in the register.

(5) Any dispute between a Board and any other person as to whether that person is entitled to any and, if so, what compensation under this section from that Board shall be decided by arbitration.

**33.**—(1) The provisions of section nine of the Agricultural Marketing Act, 1931, (which relates to consumers' committees and committees of investigation) shall, subject to the provisions of this section, apply in relation to such of the provisions of this Act and of any factory rationalisation scheme in force thereunder, as relate to the powers of the Development Board, as if those provisions were an agricultural marketing scheme regulating the marketing of bacon in England and Scotland and as if the Development Board were the Board administering that scheme.

PART VI.  
—cont.  
General  
safeguards.

(2) Without prejudice to the generality of subsection (3) of the said section nine as so applied, it shall be the duty of the Minister to direct the committee of investigation to consider any complaint made to him as to the operation of the said provisions of this Act or of any factory rationalisation scheme, being a complaint made by either of the two Marketing Boards, by the prescribed number of registered curers, by registered curers who in a prescribed period have produced the prescribed proportion of the bacon produced in Great Britain, by the prescribed number of holders of producers' licences or by the holders of producers' licences in respect of premises on which there is together produced in a prescribed period the prescribed proportion of the bacon produced in Great Britain.

As respects the making of any such complaint, the two Marketing Boards shall act independently of the Development Board.

(3) Subsection (5) of the said section nine shall not have effect in relation to the said provisions of this Act or of any such factory rationalisation scheme, but if the committee of investigation reports to the Minister that any provision of a factory rationalisation scheme or any act or omission of the Development Board is contrary to the interest of consumers of bacon or is contrary to the interest of any persons affected by this Act and is not in the public interest, the Minister may—

- (a) by order revoke or amend the factory rationalisation scheme, if any;
- (b) by order direct the Board to take such steps to rectify the matter as may be specified in the order, whereupon it shall be the duty of the Board forthwith to comply with the order:

PART VI.  
—*cont.*

Provided that—

- (i) before finally deciding whether to take any and if so what action the Minister shall give the Development Board notice of the course which he proposes to take and shall consider any representations made by that Board within fourteen days from the date of the notice; and
- (ii) if the report of the committee relates to such a complaint as is mentioned in subsection (2) of this section, the Minister shall, if his final decision is to take no action, prepare and lay before Parliament a statement of his reasons for that decision.

(4) The power conferred by the last preceding subsection to make an order directing the Development Board to take steps specified in the order shall be deemed to include power to direct the Board to abstain wholly or to a specified extent from exercising such of its powers as may be specified in the order, either for a period so specified or until the Minister by order otherwise directs.

(5) An order under this section revoking a factory rationalisation scheme shall not take effect unless and until it has been approved by a resolution passed by each House of Parliament.

(6) Any other order under this section shall, as soon as may be after it is made, be laid before each House of Parliament and if either House within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it resolves that the order shall be annulled, the order shall thenceforth be void, but without prejudice to anything previously done thereunder or to the making of a new order.

(7) The foregoing provisions of this section shall be in addition to and not in derogation of any other provision of this Act requiring the Minister to direct the committee of investigation to consider a matter and—

- (a) any matter which under any provision of this Act the Minister directs the committee of investigation to consider shall be deemed for the purposes of subsection (4) of section nine of the Agricultural Marketing Act, 1931, (which relates to the procedure of committees) to be a matter



which it is the duty of the committee under that section to consider;

PART VI.  
—cont.

- (b) a complaint or representation as to a factory rationalisation scheme made by persons who have, under the provisions of Part II of this Act relating to the revocation of factory rationalisation schemes, the right to make representations to the Minister shall be treated as such a complaint as is mentioned in subsection (2) of this section unless it expressly purports to be a representation under the said provisions of the said Part II.

(8) Notwithstanding anything in the foregoing provisions of this section, the Minister shall not direct the Committee of Investigation to consider, and that Committee shall not consider, any allegation that a determination of the Development Board under section eighteen of this Act, being a determination a draft whereof was submitted to the Minister, was such as to result in the exemption from the provisions of that section of an excessive number or quantity of, or of any description of, pigs, carcasses or parts of carcasses.

(9) In this section “prescribed” means prescribed by regulations made by the Minister.

*Ancillary provisions.*

**34.**—(1) No bacon shall be produced on any premises in respect of which a licence is required under Part III of this Act (not being premises in respect of which a small curer’s licence is in force) unless a person employed by the Pigs Marketing Board to grade and mark carcasses and parts of carcasses has graded the carcase or the part of the carcase from which the bacon is produced and affixed thereto such mark or other indication as may be prescribed by the Development Board in relation to carcasses or parts of carcasses of the description in question.

Grading  
and mark-  
ing of  
carcasses.

(2) It shall be the duty of the Pigs Marketing Board to employ a sufficient number of persons to grade and mark carcasses and parts of carcasses of pigs and to cause those persons to attend for the purposes specified in this section at such times and places as may be reasonably requested by a registered curer; and it shall be the duty of any person so attending to grade the carcase or, as

PART VI.  
—*cont.*

the case may be, the part of a carcase of a pig and to affix thereto such a mark or indication as is mentioned in subsection (1) of this section, if there is delivered to him a written statement stating the name and address of the person by whom, and identifying the contract under which or, if there was no written contract, the occasion on which, the pig or the carcase or part of the carcase of the pig, as the case may be, was sold to the registered curer, or otherwise accounting for his possession thereof.

(3) If any person—

- (a) knowingly causes or permits any bacon to be produced in contravention of this section, or
- (b) not being a person authorised in that behalf by the Pigs Marketing Board affixes to a carcase or part of a carcase any such mark or indication as aforesaid, or
- (c) affixes to a carcase or part of a carcase any mark or other indication so closely resembling any such mark or indication as aforesaid as to be calculated to deceive,

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such imprisonment and fine :

Provided that this subsection shall not render any person liable to conviction for affixing, or causing to be affixed, to a carcase or part of a carcase any trade mark in use at the passing of this Act of which he is the owner.

(4) In this section the expression “grade” means, in relation to the carcase or part of the carcase of a pig sold under a long contract or on terms specified by a Board, grade in such manner as may be required for the purposes of that contract or those terms, and, in relation to any other carcase or part of a carcase, grade in such manner as may be required by any determination in that behalf of the Pigs Marketing Board; and if, in the case of any carcase or part of a carcase, no grading is required as aforesaid, this section shall, in relation to that carcase or part of a carcase, have effect as if the references therein to grading were omitted.

(5) The Development Board may pay to the Pigs Marketing Board such sums, if any, as it thinks fit

towards the expenses of the Pigs Marketing Board under this section.

PART VI.  
—cont.

**35.**—(1) Any person authorised in that behalf in writing by the Development Board may for the purpose of securing compliance with any provision of this Act enter and inspect, at any reasonable time, on production of his authority—

Power of  
Boards to  
enter  
premises.

- (a) any part of the premises occupied by a registered producer of pigs which is used for producing pigs, or
- (b) any premises in respect of which a producer's licence under this Act is in force, or
- (c) any premises which the Board has reasonable cause to suspect are being used for the production of bacon,

being in any case premises specified in the authority.

(2) Where under the provisions of the last foregoing subsection a person is empowered to enter and inspect any premises in respect of which a producer's licence is in force, he may also take such measurements and carry out such inspections, tests or other investigations (including the taking of samples) as he thinks fit in order to ascertain the condition of the premises, and of any plant, machinery or fittings thereon, the size or quantity, and the condition, of any pigs, or any carcasses or parts of carcasses of pigs, on the premises (including carcasses or parts of carcasses which have been or are being made into bacon), and the condition, composition and quality of any pickle, salt or other curing materials stored or in use on the premises.

(3) The powers conferred on the Development Board by subsection (1) of this section shall, as respects premises in the occupation of registered producers of pigs, be exercisable also by the Pigs Marketing Board and, as respects premises in the occupation of registered curers, be exercisable also by the Bacon Marketing Board.

(4) Any person who obstructs any person authorised under this section in the exercise of the powers conferred on him thereunder shall be liable on summary conviction to a fine not exceeding one hundred pounds or in the case of a second or subsequent offence to a fine not exceeding two hundred and fifty pounds.

PART VI.  
—*cont.*  
Power of  
Boards to  
obtain in-  
formation.

**36.**—(1) The Development Board may, whenever it considers it necessary for the operation of this Act so to do, serve on any registered producer of pigs, on any registered curer or on any holder of any producer's licence, a demand in writing requiring him—

- (a) to furnish to the Board such estimates, returns and other information as may be specified in the demand, being estimates, returns and information relating, in the case of a registered producer of pigs, to the purchase, ownership, production, sale or disposal of any pigs, and, in the case of a registered curer or the holder of a producer's licence, to the purchase, ownership, sale or disposal of any pigs, carcasses, parts of carcasses, or other products of the slaughtering of pigs, or to the ownership, production, sale or disposal of any bacon;
- (b) to produce for the inspection of representatives of the Board, at any reasonable time and place specified in the notice, such books, records or documents in his possession or under his control as may be so specified.

The representatives mentioned in paragraph (b) of this subsection shall not be entitled to disclose to the Board any information other than information which the Board could have required under paragraph (a) of this subsection, and shall, if the person on whom the demand is made so requests, be professional accountants who are not in the service of the Board; and where such a request is made, the person on whom the demand was made shall repay to the Board any fees reasonably paid by the Board to the representatives.

(2) The powers conferred on the Development Board by subsection (1) of this section shall be exercisable also as respects registered producers of pigs by the Pigs Marketing Board, and as respects registered curers by the Bacon Marketing Board.

(3) If any person fails without reasonable excuse to comply with any demand made on him under this section or knowingly makes any false statement in reply thereto, the Board by which the demand was made shall by resolution impose upon him and recover from him a monetary penalty not exceeding one hundred pounds.

(4) It shall be the duty of each of the two Marketing Boards to furnish to the Development Board such information as the Development Board may require, being information as to the manner in which that Marketing Board is exercising any of its powers (other than powers in the exercise of which it is under this Act directed to act independently of the Development Board) or information which that Marketing Board is empowered under this Act to obtain from registered producers of pigs or registered curers, as the case may be.

PART VI.  
—cont.

(5) The Development Board and each of the two Marketing Boards shall, on being required by him, furnish to the Minister such information (being information which that Board is under this Act empowered to obtain) as he may request for any purpose connected with the payments required to be made to and by him under the provisions of this Act relating to the first three contract periods or for any purpose connected with the making of orders under section one or section two of the Agricultural Marketing Act, 1933 (which sections relate to the regulation of importation of agricultural products and of sales of home-produced agricultural products), and may furnish to him any other information which he may request should be furnished to him.

**37.** No information with respect to the business of any particular producer of pigs, curer or holder of a producer's licence which has been obtained under or by virtue of this Act shall, without the consent of the producer, curer or holder, be disclosed otherwise than in connection with the execution of this Act; and if any person discloses any such information in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine:

Restrictions  
on dis-  
closure of  
information.

Provided that nothing in this section—

- (a) shall prevent the disclosure of any information by a Marketing Board to the Development Board, or by the Development Board to a

PART VI.  
—cont.

Marketing Board, or by the Development Board or a Marketing Board to the Minister;

- (b) shall apply to any disclosure made for the purposes of any proceedings pursuant to this Act (including arbitrations) or of any criminal proceedings which may be begun whether by virtue of this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

*Provision of funds for Boards.*

Contribu-  
tions to  
expenses of  
Develop-  
ment Board.

**38.**—(1) There shall be paid to the Development Board—

- (a) by every registered producer of pigs who delivers pigs to a registered curer under a long contract;
- (b) by every registered curer who causes to be graded and marked, under the provisions of this Act relating to grading and marking by persons employed in that behalf by the Pigs Marketing Board, any quantity of pigs which, under the provisions of this Act relating to the application of Part IV thereof to curers who produce pigs, are to be treated as pigs sold under a long contract;

such sum in respect of each such pig as may be prescribed by a resolution of the Development Board for the time being in force.

(2) There shall be paid to the Development Board by every registered curer in respect of each pig purchased by him otherwise than under a long contract (not being a pig purchased while not more than sixteen weeks old or a pig not produced in Great Britain or a pig from which no bacon is produced or a pig from which bacon is produced only on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which there is in force a small curer's licence) such sum as may be prescribed by a resolution of the Development Board for the time being in force, and different sums may be prescribed in relation to pigs purchased at different times, at different prices, on different terms, or in different circumstances.

(3) There shall be paid to the Development Board by every registered curer in respect of every hundred-weight of bacon produced by him otherwise than on

premises in respect of which no producer's licence is required under Part III of this Act, such sum as may be prescribed by a resolution of the Development Board for the time being in force, so however that a smaller sum may be prescribed in relation to bacon produced on premises in respect of which a small curer's licence is in force.

PART VI.  
—cont.

(4) The sums payable to the Development Board under the preceding provisions of this section shall be prescribed by that Board by reference to the amount estimated to be required for the expenses and liabilities of that Board other than any expenses and liabilities incurred or to be incurred in connection with the payment of any compensation payable under a factory rationalisation scheme or otherwise exclusively referable to a factory rationalisation scheme :

Provided that—

- (a) nothing in this subsection shall be deemed to limit the power of the Development Board to apply any moneys belonging to it in the exercise of any functions of that Board under this Act ;
- (b) the validity of anything done by the Development Board shall not be called in question by reason only that it was done otherwise than in accordance with the provisions of this subsection.

(5) Where a factory rationalisation scheme has come into force in accordance with the provisions of this Act, there shall, in addition to any contributions payable under the foregoing provisions of this section, be paid to the Development Board by the holders of producers' licences other than small curers' licences, such contributions as may be fixed by or under the scheme :

Provided that such contributions shall be so fixed by or under the scheme that the contributions shall not exceed the sum of one shilling in respect of every hundred-weight of bacon in respect of which a sum is payable under subsection (3) of this section unless the Minister shall approve, and shall then only exceed such sum during such period and to such extent as the Minister shall approve.

(6) If no factory rationalisation scheme has come into force by the expiration of two years from the passing of this Act, or such lesser period as the Minister may order,

PART VI.  
—cont.

or if such a scheme which has come into force ceases to have effect by reason of an order for the revocation thereof, subsection (1) of this section shall have effect as if for paragraph (b) thereof there were substituted the following paragraph:—

“(b) by every registered curer who produces bacon from pigs bred or purchased when not more than sixteen weeks old by him or his predecessor in his business and thereafter kept on premises occupied for the purposes of that business by him or his predecessor therein.”

(7) It shall be the duty of the Pigs Marketing Board and the Bacon Marketing Board to perform on behalf of the Development Board such services in connection with the recovery of the sums due under this section to the Development Board from registered producers of pigs or, as the case may be, registered curers, as the Development Board may require.

Contribu-  
tions to  
expenses  
of Market-  
ing Boards.

**39.**—(1) There shall be paid to the Pigs Marketing Board by the persons mentioned in subsections (1) and (2) of the last preceding section in respect of each pig in respect of which a sum may become payable thereunder such sum not exceeding one shilling and sixpence as may be specified by a resolution of that Board for the time being in force.

(2) There shall be paid to the Bacon Marketing Board by the persons mentioned in subsection (3) of the last preceding section in respect of the bacon in respect of which a sum may become payable thereunder such sum per hundredweight as may be specified by a resolution of that Board for the time being in force, so however that—

- (a) except with the consent of the Minister (to be embodied in an order made by him) the sum specified shall not exceed sixpence; and
  - (b) a smaller sum may be specified in relation to bacon produced on premises in respect of which a small curer's licence is in force.
- (3) An order of the Minister under this section—
- (a) may be revoked or varied by a subsequent order of the Minister made thereunder;
  - (b) shall be laid before Parliament as soon as may be after it is made;



and if either House within the next subsequent twenty-eight days on which that House has sat after the order has been laid before it resolves that the order be annulled the order shall thenceforth be void, but without prejudice to the making of a new order.

(4) In the exercise of their functions under this section, the two Marketing Boards shall act independently of the Development Board.

*Miscellaneous powers of Development Board.*

40.—(1) The Development Board may, for the purposes of this Act, borrow money and pledge, mortgage or charge any of its property, and may lend money to either of the Marketing Boards.

Miscellaneous powers of Development Board.

(2) If and when authorised so to do by a factory rationalisation scheme, but not otherwise, the Development Board may acquire by agreement any premises in respect of which a producer's licence has been revoked or surrendered by virtue of the provisions of the scheme, or any interest in any such premises, and may sell or otherwise dispose of any premises or interest so acquired.

(3) The Development Board may, either alone or in co-operation with any other person, advertise bacon or any description of bacon.

41.—(1) The Development Board shall from time to time submit to the Minister a programme for the carrying out, either alone or in co-operation with any other person, of research and education in matters affecting the production and marketing of pigs suitable for bacon or the production and marketing of bacon, and shall submit with it an estimate of the amount of expenditure to be incurred in carrying out that programme; and if the Minister approves the programme and estimate so submitted to him, the Board shall cause that programme to be carried out and may for that purpose expend an amount not exceeding that specified in the estimate.

Encouragement of research and education.

(2) The amount to be expended under this section shall not in any financial year exceed fifty thousand pounds.

(3) Without prejudice to the generality of the foregoing provisions, provision may be made by such a programme as aforesaid for the carrying on by the Board,

PART VI.  
—cont.

either alone or in co-operation with any other person, of any activities designed to secure an improvement in the breed of pigs.

(4) Where in pursuance of this section the Board renders any services to any person, it may make such charges in respect thereof as may be agreed upon between the Board and that person.

Pig census.

**42.**—(1) The Development Board may from time to time serve on any person who it has reason to believe is producing pigs in Great Britain a notice requiring him to send to the Board such particulars with respect to the number and description of pigs which he possesses or intends to produce as may be specified in the notice; and if any person who at the date of the service of the notice on him is a registered producer of pigs or is in possession of more than the prescribed number of pigs fails to comply with the notice or wilfully makes any false statement therein he shall be liable on summary conviction to a fine not exceeding five pounds.

(2) Every such notice shall contain a statement to the effect that the recipient thereof, if when the notice is served upon him he is neither a registered producer of pigs nor in possession of more than the said number of pigs, is under no obligation to reply thereto.

(3) The Minister shall, at the request of the Development Board, cause a list to be compiled containing the names of all such persons as he has reason to believe are producers of pigs, together with their respective addresses so far as known to him, and forward a copy of the list to the Board, and, notwithstanding anything in the Agricultural Returns Act, 1925, any returns made under that Act may be used for the purpose of compiling any such list:

Provided that, except in the case of the first such list, there shall be payable to the Minister by the Board in respect of each list compiled and forwarded to it in pursuance of such a request a fee of such amount as may be certified by the Minister to represent the cost of compiling the list.

(4) The Development Board and the Pigs Marketing Board may agree that the powers of the Development Board under this section shall, while the agreement is

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in force, be exercisable by the Pigs Marketing Board, and the said powers shall be exercisable accordingly.

PART VI.  
—cont.

The Pigs Marketing Board shall, as respects the making of any such agreement, act independently of the Development Board, and any such agreement may provide for the making of payments by the Development Board to the Pigs Marketing Board.

(5) In this section “prescribed” means prescribed by regulations made by the Minister.

*Miscellaneous provisions as to Marketing Boards.*

43.—(1) The provisions of this Act shall have effect in lieu of Part VI of the Pigs Marketing Scheme, 1933, and Part VI of the Bacon Marketing Scheme, 1933, and accordingly those Parts of those Schemes shall cease to have effect and shall not be capable of being replaced by any amendment of those Schemes.

Modifica-  
tions of  
Agricultural  
Marketing  
Schemes.

(2) The remainder of the said Schemes shall, notwithstanding anything in the Agricultural Marketing Act, 1931, requiring particular provisions to be included in schemes thereunder, continue to have effect subject to the adaptations and modifications set out in the Fifth Schedule to this Act and to such other adaptations and modifications as the Minister may, after consulting the Marketing Board affected, by order prescribe, being adaptations and modifications appearing to him to be necessary or expedient for bringing the provisions of those Schemes into accord with the provisions of this Act.

(3) Any power to amend or revoke either of the said Schemes shall be deemed to include power to amend or revoke the Scheme as modified and adapted in accordance with the provisions of any such order; and section nine of the Agricultural Marketing Act, 1931, (which relates to consumers' committees and committees of investigation) shall apply in relation to the Schemes as if any reference therein to a Scheme included a reference to so much of this Act as confers or imposes powers and duties on the Marketing Board in question other than powers and duties as respects which those Boards are by this Act required to act in accordance with any directions given to them by the Development Board; but nothing in this section shall authorise the amendment or revocation, under any provision of the Agricultural Marketing Act, 1931, of any provision of this Act.

## PART VI.

—cont.

Miscel-  
laneous  
powers of  
Pigs  
Marketing  
Board.

44.—(1) The Pigs Marketing Board may from time to time determine, for such period as may be fixed by that Board on the occasion of each determination, the manner in which and the terms on which pigs or any description or quantity of pigs sold to, or to any class of, registered curers shall be transported or insured by or on behalf of registered producers of pigs: and if any registered producer causes any pig to be transported or insured in contravention of any determination in force under this section, the Pigs Marketing Board shall impose upon, and shall recover from, him a monetary penalty not exceeding one pound for each pig so transported or insured:

Provided that nothing in this subsection shall apply in relation to any pigs not produced in Great Britain, or in relation to any pigs from which bacon cannot lawfully be produced under this Act in Great Britain except on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force.

(2) The said Board may also—

- (a) buy and sell pigs;
- (b) produce from pigs bacon or any other commodity normally produced from pigs by persons whose business it is to slaughter pigs or to produce bacon;
- (c) sell, grade, pack, store, adapt for sale, insure, advertise and transport any pigs bought or commodities produced by it as aforesaid;
- (d) for the purpose of producing from pigs any such commodities as aforesaid, establish slaughter-houses;
- (e) buy and sell or let for hire to registered producers of pigs anything required for the production of pigs;
- (f) co-operate with any other person in doing any of the things previously mentioned in this subsection; and
- (g) do such things as appear to the Board to be calculated to encourage co-operation among producers of pigs, or education or research conducted in connection with the production or marketing of pigs or bacon, and, in particular (but without prejudice to the generality

of the foregoing provisions) may provide or join in providing for producers of pigs the services known as "pig recording" and "litter testing" and any services for similar purposes;

and where in pursuance of paragraph (g) of this subsection the Board renders any services to any producer, it may make such charges in respect thereof as may be agreed upon between it and the producer.

(3) In exercising the powers referred to in paragraphs (e) and (g) of the last preceding subsection (including its powers of making charges for services rendered), the Pigs Marketing Board shall act independently of the Development Board, and, as respects its powers to produce and sell bacon, the Pigs Marketing Board shall be subject to the provisions of this Act relating to the production and sale of bacon.

(4) The Pigs Marketing Board, acting independently of the Development Board, may lend money to the Bacon Marketing Board, the Development Board or any registered producer of pigs who has contracted to sell pigs under a long contract, upon such terms as to interest, security or otherwise as it thinks fit:

Provided that the Pigs Marketing Board shall not lend to a registered producer of pigs any sum in excess of two-thirds of the total amount (if any) which the Board estimates to be then due or growing due to that producer under any such contract.

45.—(1) If the Bacon Marketing Board so determines with respect to any period, such expenses as may be specified in the determination of the Board, being expenses of or incidental to the transport, by or on behalf of registered curers, of pigs to which the determination applies, shall, to such extent as may be specified in the determination, be shared, in the manner hereinafter specified, among the registered curers in proportion to the number of pigs for which they are respectively accountable for that period.

Provisions  
as to  
transport  
of pigs on  
behalf of  
curers.

(2) A determination under subsection (1) of this section may be made applicable to all or any of the following pigs:—

(a) pigs delivered to registered curers during the period to which the determination relates under

PART VI.  
—cont.

long contracts or contracts made in pursuance of a determination of the Development Board under subsection (1) of section eighteen of this Act, including pigs which, after being transported by or on behalf of a curer, are rejected by him ;

- (b) pigs slaughtered in that period, being pigs which are, by virtue of the provisions of this Act relating to curers who produce pigs, to be treated for the purposes of Part IV of this Act as pigs sold under long contracts ;

and references in this section to the number of pigs for which a registered curer is accountable for any period to which such a determination relates shall be construed as references to the number of pigs to which that determination applies which in that period are so delivered to, or, as the case may be, slaughtered by or on behalf of, that curer.

## (3) Any such determination—

- (a) may provide, as respects all or any specified classes of cases, that any pigs to which the determination applies shall be transported on behalf of the registered curer affected only by such person, in such manner, in pursuance of such contract and on such terms as may be specified (either generally or in relation to the particular curer or in relation to the particular pigs) in the determination, or, if and so far as the determination so provides, by the Bacon Marketing Board acting thereunder ;

- (b) may provide, as respects all or any specified classes of cases, that the Bacon Marketing Board shall do such one or more of the following things as may be specified (either generally or in relation to the particular curer or in relation to the particular pigs) in the determination or, if and so far as the determination so provides, by the Bacon Marketing Board acting thereunder, that is to say—

(i) itself defray all or any of the expenses of or incidental to the transport by or on

behalf of the registered curer affected, of such pigs as aforesaid;

PART VI.  
—cont.

(ii) repay to the registered curer affected all or any of the said expenses incurred by him;

(iii) pay to the curer affected, in respect of all or any of the said expenses incurred by him, such sums as may be specified in the determination or, if and so far as the determination so provides, by the Bacon Marketing Board acting thereunder.

- (c) may require that, in all or any specified classes of cases, the registered curer affected shall insure any pigs to which the determination applies in such manner as may be specified (either generally or in relation to the particular curer or in relation to the particular pigs) in the determination, or, if and so far as the determination so provides, by the Bacon Marketing Board acting thereunder.

(4) Any such determination may require any registered curer to act as respects the exercise of any option which he has under any contract for the purchase of pigs to which the determination applies, being an option affecting the extent to which the pigs will be transported by or on behalf of a curer, in such manner as may be specified in the determination, or, if and so far as the determination so provides, by the Bacon Marketing Board acting thereunder; and where any such requirement is made by any determination, the determination may require any registered curer affected to pay to the Bacon Marketing Board an amount equal to any payment made to him or any deduction allowed to him from the price of any pigs to which the determination applies, being a payment or deduction to which he becomes entitled by reason of the exercise or, as the case may be, the non-exercise, of the option in question.

(5) Every determination under any of the foregoing provisions of this section shall require the payment to the Bacon Marketing Board by each registered curer, in respect of each pig for which he is accountable for the period to which the determination relates, of a contribution of an amount specified in the determination, being

PART VI.  
—cont.

such amount as the Board estimates is as nearly as may be equal to the total expenses which it will incur by reason of the determination, divided by the number of pigs to which the determination applies :

Provided that the Board, if it appears that the amount specified as aforesaid will be insufficient or more than sufficient to make good to it the said expenses, may amend the determination by fixing a higher or lower amount, and thereupon the determination shall be deemed always to have had effect as so amended, and any sums underpaid by any curer to the Board shall be recoverable from him by the Board as a debt and any sums overpaid by any curer shall be repaid or allowed to him by the Board.

(6) The Bacon Marketing Board shall, at least six weeks before the beginning of the period to which a determination under the foregoing provisions of this section relates, publish a draft of the determination in such manner as it thinks best adapted for the purpose of bringing the matter to the notice of the curers affected, and shall consider any representations made to it during the four weeks following the date of the publication of the draft by or on behalf of any of those curers, and may then make the determination either in the form of the draft or with modifications.

(7) If any registered curer causes any pig to be transported or insured in contravention of any determination in force under this section, the Bacon Marketing Board shall by resolution impose upon, and shall recover from, him a monetary penalty not exceeding one pound for each pig so transported or insured.

For the purposes of this subsection—

- (a) a curer who fails to insure a pig when he is required to do so by a determination shall be deemed to have caused that pig to be insured in contravention of that determination ;
- (b) a curer who contravenes any provision of a determination requiring him to act in a particular manner as respects the exercise of an option shall be deemed to have caused each pig affected by the contravention to be transported in contravention of the determination.



(8) The power conferred by the foregoing provisions of this section on the Bacon Marketing Board to make a determination with respect to any period shall be construed as including power to specify, as the period to which the determination relates, a period beginning with a specified date and ending at the end of the contract period within which that date falls or at such earlier time as may be determined by the Board.

(9) References in the foregoing provisions of this section to pigs shall, in relation to pigs slaughtered before being transported by or on behalf of the curer, be construed as including references to the carcasses thereof.

(10) Any sum duly required to be paid to the Bacon Marketing Board by a determination under the foregoing provisions of this section shall be recoverable by that Board as a debt.

(11) The Bacon Marketing Board may—

- (a) contract with any person for the carriage by him, on behalf of any registered curer, of pigs or carcasses of pigs;
- (b) enter into an arrangement with any person whereby that person undertakes to contract on specified terms with any registered curer, or any registered curer of a specified class, for the carriage on behalf of that curer of pigs or carcasses of pigs;
- (c) enter into an arrangement with any person whereby that person undertakes to insure any registered curer, or any registered curer of a specified class, against loss in respect of pigs by death, or damage during transit, or by disease;

but, save in so far as a determination under the foregoing provisions of this section applies,—

- (i) a curer shall not be bound to avail himself of anything done by the Board under this subsection; and
- (ii) if he does avail himself thereof with respect to any pigs or carcasses, he shall repay to the Board any sums which the Board may become liable to pay to any other person in connection with the carriage of those pigs or carcasses.

PART VI.  
—cont.

(12) References in this section, in relation to pigs or carcasses, to expenses of or incidental to the transport thereof, shall be deemed to include references—

- (a) to any addition to the price of any pig ascribable to the fact that, in pursuance of a term of the contract in that behalf, that pig or the carcase thereof is wholly or partly transported by or on behalf of the seller instead of by or on behalf of the buyer; and
- (b) to the cost of insurance; and
- (c) to any loss borne or sum payable by the registered curer in question in respect of death, damage, or loss of weight during transit or in respect of disease;

and where a determination under this section is so made as to relate to any losses so borne, a registered curer who receives any payment, or is, under any contract, allowed any deduction from the price payable by him, in return for an undertaking by him to bear the whole or any part of such a loss in the case of pigs to which the determination applies, shall pay to the Board a sum equal to that payment or, as the case may be, that deduction.

Power of  
Bacon  
Marketing  
Board to  
regulate  
grading of  
bacon.

**46.**—(1) The Bacon Marketing Board may regulate sales of bacon by determining the grade designations to be employed, either generally or in particular circumstances, in connection with the sale of bacon by or on behalf of any registered curer, not being bacon produced only on premises in respect of which no producer's licence is required under Part III of this Act or in respect of which a small curer's licence is in force, and by determining the meanings to be attached to any such grade designation :

Provided that nothing in this subsection shall operate so as to affect the free use by any registered curer of any trade mark of which he is the owner.

(2) If bacon is sold in contravention of the determination under this section, the Bacon Marketing Board shall by resolution impose upon, and shall recover from, the curer by or on whose behalf the bacon was sold a monetary penalty not exceeding fifty pounds.

(3) In this section "grade designation" means, in relation to bacon, a designation indicating the nature, size, weight or quality of that bacon.

47.—(1) The Bacon Marketing Board, acting independently of the Development Board, may, either alone or in co-operation with any other person, advertise bacon or any description of bacon, and may do such things as it thinks fit to encourage any form of agricultural co-operation, research or education connected with the production or marketing of pigs or bacon.

PART VI.  
—cont.  
Miscellaneous powers of Bacon Marketing Board.

(2) The Bacon Marketing Board may also—

- (a) buy and sell pigs;
- (b) produce from pigs bacon or any other commodity normally produced from pigs by persons whose business it is to slaughter pigs or to produce bacon;
- (c) sell, grade, pack, store, adapt for sale, insure, advertise and transport any pigs bought or commodities produced by it as aforesaid;
- (d) for the purpose of producing from pigs any such commodities as aforesaid, establish slaughter houses;

so, however, that, as respects its powers to produce and sell bacon the Bacon Marketing Board shall be subject to the provisions of this Act relating to the production and sale of bacon.

(3) The Bacon Marketing Board, acting independently of the Development Board, may lend money to the Pigs Marketing Board or the Development Board upon such terms as to interest, security or otherwise as it thinks fit.

*Fair Wages.*

48.—(1) The wages paid by the holder of a producer's licence or a registered curer to persons employed by him in the production of bacon and the conditions of their employment shall, unless agreed upon by the employer and by an organisation representative of those persons or by a joint industrial council, not be less favourable to those persons than the wages which would be payable and the conditions which would have to be observed under a contract which complied with the requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government

Wages and conditions of employment of persons employed in producing bacon.

PART VI.  
—cont.

Departments, and if any dispute arises as to what wages ought to be paid or what conditions ought to be observed in accordance with this section, it shall, if not otherwise disposed of, be referred by the Minister to the Industrial Court for settlement.

(2) Where any matter is referred to the Industrial Court under this section, the Court, in arriving at its decision, shall have regard to any determination that may be brought to its notice relating to the wages or conditions of service of persons employed in a capacity similar to that of the persons to whom the reference relates, being a determination contained in a decision of a joint industrial council, conciliation board, or other similar body, or in an agreement between organisations representative of employers and workpeople.

(3) Where an award has been made by the Industrial Court upon a dispute referred to that Court under this section, then, as from the date of the award or such later date as the Court may direct, it shall be an implied term of the contract between the employer and workers to whom the award applies that the rate of wages to be paid and the conditions of employment to be observed under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

*Supplemental.*

General provisions as to penalties, arbitration, and service of notices.

**49.**—(1) Where under any of the provisions of this Act a Board has power to impose upon and to recover from any person a monetary penalty, the following provisions shall have effect:—

- (a) no penalty shall be imposed under this Act in respect of any act or omission which constitutes an offence under any Act other than this Act;
- (b) no penalty shall be so imposed on any person unless he has had a reasonable opportunity of being heard in person or by his agent;
- (c) every penalty so imposed shall, subject as hereinafter provided, be a debt due to the Board and be recoverable accordingly.

(2) Immediately on the passing of any resolution imposing a penalty, notice of the resolution shall be served

on the person in question, and he may within fourteen days from the day on which the notice was so served on him give notice to the Board referring the matter to arbitration, and if the matter is so referred no proceedings shall be taken by the Board otherwise than in or for the purposes of the arbitration or to enforce the award of the arbitrator, and the arbitrator may award payment of such penalty, if any (not exceeding the maximum penalty which could have been imposed by the Board), as he thinks just.

(3) Where under the provisions of this Act any dispute is referred to arbitration, it shall be referred to such single arbitrator as may be agreed upon between the parties or, in default of agreement, nominated by the Minister, and any such arbitration shall, if any of the parties thereto who carries on business in Scotland so requires and the matter in dispute relates to that business, be held in, and in accordance with the law of, Scotland.

(4) Any provision of this Act which authorises the imposition of a penalty in respect of an act or omission of any registered producer of pigs or registered curer shall be construed as authorising the imposition of such a penalty on any person who was at the time of the act or omission a registered producer of pigs or a registered curer, as the case may be, and a penalty may be imposed accordingly, notwithstanding that the person in question has ceased to be a producer of pigs or a curer or has ceased to be registered as such.

(5) Where an offence punishable on summary conviction under this Act is committed by a body corporate and 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 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.

(6) Any document authorised or required by this Act to be served on any person may be served by post, and any document so authorised or required to be served on the holder of a producer's licence in respect of any premises may be addressed to "the occupier"

PART VI. of those premises, specifying them, without any further  
—*cont.* name or description.

Form, pub-  
lication,  
validity  
and com-  
mencement  
of orders.

**50.**—(1) As soon as may be after any order approving a factory rationalisation scheme or an amendment of such a scheme, or transferring functions of a Marketing Board to the Development Board, has been made by the Minister under this Act, the Minister shall cause to be published in the London and Edinburgh Gazettes, and in such other manner as appears to him to be best adapted for informing persons affected, a notice stating that the order has been made and specifying the place where copies of the order can be obtained.

(2) The validity of any such order shall not be called in question except in proceedings duly begun during the period of six weeks beginning with the day on which notice of the order having been made is published in accordance with this section, and, unless the final decision in proceedings duly begun during the said period is that the order is invalid, the order shall be conclusive evidence that the requirements of this Act have been complied with in relation to the making of the order, and that the order and any scheme or amendment approved thereby have been duly made and approved respectively, and are within the powers conferred by this Act.

(3) Subject as hereinafter provided, any such order shall come into operation at the end of the period of six weeks beginning with the day on which the notice of the making of the order is published in accordance with this section :

Provided that, if proceedings for the purpose of questioning the validity of such an order are duly begun within the said period, the court before which those proceedings are begun may, at any time before the end of the period, direct that the order shall not come into operation before the final determination of the proceedings.

(4) Nothing in the foregoing provisions of this section affects so much of any provision of this Act as provides for an order ceasing to have effect on the passing of a resolution by either House of Parliament.

(5) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, an order

under this Act shall not be deemed to be a statutory rule to which that section applies.

PART VI.  
—cont.

**51.**—(1) Any power of a Board under this Act to specify, whether by determining a form of contract or otherwise, the terms on which pigs, carcasses, or parts of carcasses may be sold or purchased, shall (without prejudice to the power of the Board to include any other terms) include power to require that the Pigs Marketing Board shall be a party to the contract of sale with such rights or obligations thereunder as may be specified therein, including in particular rights or obligations designed to secure all or any of the following purposes :—

Miscellaneous provisions as to contracts.

- (a) that that Board guarantees to a party to the contract the performance by any other party to the contract of all or any of his obligations thereunder ;
- (b) in the case of long contracts, that, as between persons who enter into those contracts as sellers, the burden of any particular class of risk or expense is shared in a specified manner ;
- (c) that that Board can recover and retain for its own benefit so much of the price payable in respect of the pigs sold under the contract as is equal to any contributions payable by the seller to that Board in respect of those pigs ;
- (d) that where by virtue of any provision of this Act any sum becomes payable to or for the benefit of any Board which, or person who, is not a party to the contract, being a sum payable out of the purchase price of any pigs sold under the contract or a sum payable by the seller in respect of any of those pigs, the Pigs Marketing Board can recover from the purchaser, for the benefit of that other Board or person, so much of the price of those pigs as is equal to that sum ;
- (e) that the Pigs Marketing Board is entitled to recover any damages or other sums payable by any other party to the contract in respect of that other party's failure to perform any of his obligations thereunder, and to retain for its own benefit such part, if any, of such damages or other sums as may be specified therein ;

and the form of contract may be framed accordingly.

PART VI.  
—cont.

(2) Any power of a Board under this Act to specify, whether by determining a form of contract or otherwise, the terms on which pigs, carcasses, or parts of carcasses may be sold or purchased shall, in relation to any form of contract to be used for the sale of pigs where two or more registered producers are to employ the same agent for the purpose of arranging deliveries under their respective contracts, be deemed (without prejudice to the power of the Board to include any other terms) to include power to make all or any of the following requirements:—

- (a) that the agent shall be a person appointed by the Pigs Marketing Board and that that Board shall have power to remove him and appoint another agent in his place;
- (b) that the terms of the employment of the agent shall be such as may be specified by the Pigs Marketing Board;
- (c) that the agent shall be a party to the contract;
- (d) that the agent shall have the right to recover, as or towards his remuneration, a part of the sums payable by the purchaser under the contract;
- (e) that the agent shall be wholly or partly liable to the purchaser, to the Pigs Marketing Board, or both to the purchaser and to that Board, for the performance of the seller's obligations under the contract;

and the form of contract may be framed accordingly.

(3) Where any contract made in a form determined by, or on terms specified by, a Board in pursuance of this Act provides for the payment by any party to the contract, in the event of a breach by him of his part of the contract, of a sum either to a Board or to another party thereto, that provision shall be enforceable notwithstanding any rule of law or equity relating to the enforceability of stipulations for penalties.

Expenses of  
administra-  
tion of Act.

**52.** Any administrative expenses incurred for the purposes of this Act by the Minister shall be defrayed out of moneys provided by Parliament.

Definition  
of "bacon."

**53.**—(1) In this Act, in the Pigs Marketing Scheme, 1933, and in the Bacon Marketing Scheme, 1933, "bacon" includes hams and any other part of the carcase of a pig which has in any way been cured by



salting or pickling or by any other process which will in any way alter the character of the meat, except the feet, the offal, and the head without the chaps :

PART VI.  
—cont.

Provided that in considering whether—

- (a) a curer is or is not exempt from registration ; or
- (b) premises are or are not exempt from the necessity for a producer's licence ; or
- (c) the conditions embodied in a small curer's licence are or are not contravened ;

no part of the carcase of a pig the weight whereof does not exceed one-fifth of the dead weight of the whole pig shall be deemed to be bacon unless it is subjected to a process of curing for a period exceeding forty-eight hours or, when the period includes any part of a public holiday, sixty hours.

(2) The Minister may by order amend the provisions of subsection (1) of this section in such manner as may be specified in the order.

(3) An order under this section may be revoked or varied by a subsequent order made thereunder by the Minister.

(4) The Minister, as soon as may be after an order is made under this section, shall lay the order before each House of Parliament, and if either House within the next subsequent twenty-eight days on which that House has sat after the order is laid before it resolves that the order shall be annulled, the order shall thenceforth be void, but without prejudice to anything previously done thereunder or to the making of a new order.

(5) Except so far as is expressly provided thereby, nothing in this Act or the said Schemes applies to bacon produced outside Great Britain, and references to bacon shall be construed accordingly.

**54.**—(1) In this Act, in the Pigs Marketing Scheme, 1933, and in the Bacon Marketing Scheme, 1933, "curer" means a producer of bacon, and where, by arrangement between two persons, pigs, carcasses or parts of carcasses belonging to one of those persons are converted into bacon on premises in the occupation of the other, then (whosoever servants the individuals actually engaged in the processes resulting in the production of the bacon may be) the

Definitions of "curer" and "production of bacon."

PART VI.  
—cont.

bacon shall for the purposes of this Act and those Schemes be treated as having been produced by the person to whom the pig, carcase or part of a carcase belonged.

(2) Any references in this Act to the production of bacon shall be construed as referring also to any of the processes which together make up the production of bacon, and the process of the production thereof shall be deemed to commence—

- (a) if the pig from which the bacon is made is slaughtered by or on behalf of the producer of the bacon, from the commencement of the process of the slaughtering of the pig;
- (b) in any other case, from the arrival of the carcase or part of a carcase from which the bacon is made at any premises occupied by the producer of the bacon, or by any person who on his behalf subjects the carcase or part of a carcase to any process of curing, or by any person who permits the producer of the bacon to subject the carcase or part of a carcase to any process of curing on any premises in that person's occupation;

and to continue until the bacon is fit for sale as green bacon.

(3) In determining for any of the purposes of this Act how much bacon has been produced, any reference in this Act to a weight or quantity of bacon shall be taken as a reference to the weight of the part of the carcase which becomes bacon after that part of the carcase has been dressed but before the application thereto of any pickle, salt, or other curing material.

Inter-  
pretation.

**55.**—(1) In this Act unless the context otherwise requires—

“registered” means, in relation to a producer of pigs or curer, registered under the Pigs Marketing Scheme, 1933, or the Bacon Marketing Scheme, 1933, as the case may be, or if the scheme in question has been revoked, registered in a register kept by the Development Board by virtue of the transfer to it under this Act of the power of the Marketing Board to keep such a register, and “registration” shall be construed accordingly;

“ the Pigs Marketing Board ” and “ the Bacon Marketing Board ” mean respectively the Boards established under the Pigs Marketing Scheme, 1933, and the Bacon Marketing Scheme, 1933, and “ the Marketing Boards ” and “ the two Marketing Boards ” mean the Pigs Marketing Board and the Bacon Marketing Board ;

PART VI.  
—*cont.*

“ calendar year ” means a year commencing with the first day of January ;

“ financial year ” means a year ending with the thirty-first day of March ;

“ Minister ” means the Minister of Agriculture and Fisheries and the Secretary of State for Scotland acting in conjunction ;

“ committee of investigation ” means the committee of investigation for Great Britain established under section nine of the Agricultural Marketing Act, 1931 ;

“ dead weight ” means the weight (after the animal heat has departed) of a dressed carcass including the skin, the head with the tongue, the kidneys, the tenderloins, the fleck or flare, the tail, the backbone and the feet.

(2) For the purposes of this Act, any person whose business it is to keep pigs for the purpose of breeding from them or using or selling them in an improved condition shall be deemed to produce pigs ; and a person who produces pigs shall be deemed to sell pigs if he sells the carcasses of pigs produced in Great Britain by him.

**56.**—(1) This Act may be cited as the Bacon Industry Act, 1938.

Short title,  
commence-  
ment and  
extent.

(2) This Act shall come into force on such day as the Minister may appoint, and different days may be appointed for different purposes and different provisions of this Act.

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

## SCHEDULES.

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Section 1 (4).

### FIRST SCHEDULE.

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#### PROVISIONS WITH RESPECT TO THE DEVELOPMENT BOARD AND TO ITS PROCEEDINGS.

1. A member of the Board, on vacating his office, shall be eligible for re-appointment.

2. The Board may act notwithstanding that the office of any member is vacant.

3. The quorum of the Board shall be five, and such of the members appointed by him as the Minister may select in that behalf shall be chairman and vice-chairman of the Board.

4. The common seal of the Board shall not be applied to any document except in pursuance of a resolution of the Board, and the application of the seal shall be attested by two members of the Board, and by the Secretary of the Board.

5. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Board by any person authorised by the Board, either generally or in the particular case, so to do.

6.—(1) A contract entered into by the Board shall not be avoided by reason only that a member of the Board is also a party thereto or is interested therein.

(2) A member of the Board shall not be liable to account to the Board for any profits realised by him out of any contract by reason only of the fact that the Board is a party to the contract or is interested therein.

(3) A member of the Board shall disclose to the Board—

(a) any interest which he has or acquires in any contract in which the Board has or acquires any interest, and

(b) any interest which he has or acquires in any other contract whatsoever, if that interest in any way conflicts with his duty as a member of the Board,

immediately after he becomes a member, or the interest is acquired, as the case may be.

(4) A member of the Board shall not vote upon any question relating to a contract in which he has an interest, and if he does vote, his vote shall not be counted :

Provided that nothing in this paragraph shall preclude a member of the Board from voting on any question relating to the general policy of the Board.

1ST SCH.  
—cont.

7. Subject to the provisions of this Schedule, the procedure of the Board shall be such as the Board may from time to time determine.

8. The Board shall have an office in England and an office in Scotland, and shall notify to the Minister the addresses of those offices and any change in those addresses.

9. The Board may enter into such agreements, acquire such property, and do such things as may, in its opinion, be necessary or expedient for the performance of any of its functions under this Act, and may sell or otherwise dispose of any property so acquired which is not required for the purpose for which it was so acquired.

10. The moneys of the Board may be left on current or deposit account in any bank or invested in any securities in which trustees may lawfully invest trust moneys under section one of the Trustee Act, 1925, as extended by any subsequent enactment.

15 & 16  
Geo. 5. c. 19.

11. The Board may appoint such secretaries and other officers and such servants, and may pay to them such salaries and allowances, as the Board may determine.

12.—(1) The Board may appoint such advisory committees as it thinks fit to consider such matters as the Board may specify and to report thereon to the Board.

(2) Any such committee may consist wholly or partly of persons who are not members of the Board.

(3) In particular the Board shall appoint an advisory committee (to be called "the Retailers Committee") consisting of not more than twelve representatives of such organisations as the Board may consider best qualified to express the views of retailers of bacon, in order to consider and report to the Board on matters particularly affecting the retailers of bacon and matters affecting the retail trade in bacon generally.

(4) The quorum and proceedings of any such committee shall be such as the Board may determine.

13. The Board may pay to any member of the Board or of any committee thereof such travelling and other expenses as the Board may determine.

14. In the case of an equality of votes at any meeting of the Board or any committee thereof, the chairman of the meeting shall have a second or casting vote.

1st Sch,  
—cont.

15. A member of the Board (not being a member appointed by the Minister) may by writing appoint a deputy to act for him at any meeting which he does not attend either of the Board or of a committee thereof, and any such deputy may, in the case of a meeting of the Board, with the consent of the chairman of the meeting, or, in the case of a meeting of the committee, without such consent, be present at the meeting, and in that case, notwithstanding anything in his appointment, he shall have such rights as the person appointing him would have had if he had been present at the meeting.

16. All acts done at any meeting of the Board or any committee thereof shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member of the Board or of the committee, be as valid as if that defect had not existed.

17. Minutes shall be kept of the proceedings of the Board and of every committee thereof, and any such minutes shall, if signed by a person purporting to have acted as chairman of the meeting to which the minutes relate or of a meeting at which they were confirmed, be evidence of the proceedings at the first mentioned meeting, and the meeting to which any such minutes relate shall be presumed, until the contrary is proved, to have been regularly convened and constituted.

18.—(1) The Board shall, in respect of each financial year, make out a balance sheet and either an income and expenditure account or a profit and loss account as the circumstances of the case may require, and shall cause those accounts to be audited by an auditor to be nominated by them and approved by the Minister.

(2) Where a factory rationalisation scheme has come into force in accordance with the provisions of this Act, the Board shall, in making out any such balance sheet or account as aforesaid, distinguish the payments made and expenses and liabilities incurred in connection with the payment of any compensation payable under the scheme, or otherwise exclusively referable to the scheme.

(3) As soon as may be after the auditor has reported on the accounts and in any case within three months after the close of the period covered by the income and expenditure account or the profit and loss account as the case may be, the Board shall send the Minister a copy of the accounts (including the balance sheet) and of the report of the auditor thereon and also a report by the Board as to the working of this Act in the period covered by the income and expenditure account or the profit and loss account.

(4) The Minister shall lay a copy of any reports and accounts so sent to him under this paragraph before Parliament.

1st Sch.  
—cont.

19. The Board shall, at the request of any person and on payment of such fee, not exceeding one shilling, as may be fixed by the Board, furnish to him a copy of any of its balance sheets

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## SECOND SCHEDULE.

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Section 3 (1).

### MATTERS WITH RESPECT TO WHICH FUNCTIONS OF THE BACON MARKETING BOARD ARE TO BE FUNCTIONS OF THE BACON CURERS' ADVISORY COMMITTEE.

1. The nomination of members of the Development Board and consultation with the Minister as to the determination of their remuneration and the period for which and the terms on which they shall hold office.

2. Consultation with the Development Board on matters of policy.

3. The settling of forms of contract under Part IV of this Act.

4. The preparation and approval of factory rationalisation schemes.

5. The making of representations and complaints to the Minister.

6. Such other matters, if any, as may from time to time be determined by agreement between the Development Board and the Committee with the consent of the Minister :

Provided that the Development Board, the Committee, or the Minister may at any time declare as respects any matter that it or he is no longer willing that functions with respect thereto should be functions of the Committee, and thereupon the Committee shall, unless and until a further agreement in that behalf is made under this paragraph, cease to have functions with respect to that matter.

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Section 3 (2).

**THIRD SCHEDULE.**  

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**PROVISIONS AS TO THE BACON CURERS' ADVISORY  
COMMITTEE.**

1. Such of the provisions of the Bacon Marketing Scheme, 1933 (as in force immediately before the revocation of that scheme) as relate to the composition of the Bacon Marketing Board, its quorum and its procedure (including the provisions relating to elections of members and other ancillary provisions) shall, with such exceptions and subject to such adaptations and modifications as the Minister may by order prescribe, have effect with respect to the Committee.

2. All acts done at any meeting of the Committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Committee, be as valid as if that defect had not existed.

3. The Development Board shall at its own expense provide and remunerate for the use of the Committee such secretary or other officer or officers, and shall provide for the Committee such office accommodation, as the Development Board considers necessary for the purposes of the Committee.

4. The Committee shall from time to time submit to the Development Board for approval estimates of its expenditure (which may include sums for travelling or hotel expenses or remuneration of members of the Committee) and the Board may approve the estimate with or without modification; and any expenditure of the Committee incurred in accordance with an estimate so submitted to and approved by the Board shall be defrayed by the Board.

5. The Committee shall be dissolved if at a meeting of the Committee it is resolved by a majority of all the existing members thereof that it be dissolved.

Section 4 (1).

**FOURTH SCHEDULE.**  

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**PROVISIONS AS TO WINDING-UP OF DEVELOPMENT BOARD.**

1. For the purposes of section three hundred and thirty-eight of the Companies Act, 1929, the offices of the Board in England and Scotland shall be deemed to be a principal place of business of the Board.



2. Sub-paragraph (ii) of paragraph (e) of subsection (1) of the said section three hundred and thirty-eight shall not apply, and sub-paragraph (iii) of that paragraph shall apply as if the words " or any member thereof as such " were omitted.

4TH SCH.  
—cont.

3.—(1) Every person who at any time during the relevant period was a registered producer of pigs or a registered curer shall be liable to contribute to the payment of the debts and liabilities of the Board (other than the liabilities mentioned in sub-paragraph (3) of this paragraph) and of the costs and expenses of the winding-up a contribution proportionate, in the case of a registered producer of pigs, to the total number of pigs contracted to be sold by him to any registered curer or to the Pigs Marketing Board for delivery at any time during the relevant period, and, in the case of a registered curer, to the total quantity of bacon produced by him during that period :

Provided that, where under any contract of sale the period allowed for delivery of any pigs does not fall wholly within the relevant period, those pigs shall, for the purposes of this paragraph, be deemed to have been contracted to be sold for delivery on the first day of the period allowed by the contract for delivery thereof.

(2) Contributions under the last preceding sub-paragraph shall be assessed as between the persons liable to contribute thereunder at a flat rate not exceeding one shilling in respect of each pig so contracted to be sold or each hundredweight of bacon so produced, as the case may be, and so that the like sum shall be assessed in respect of each such hundredweight of bacon as is assessed in respect of each such pig.

(3) Where a factory rationalisation scheme has come into force in accordance with the provisions of this Act, every person who at any time during the relevant period was the holder of a producer's licence, other than a small curer's licence, in respect of any premises shall be liable to contribute to any sum required for the payment of any outstanding liabilities of the Board incurred in connection with the payment of any compensation payable under the scheme or otherwise exclusively referable to the scheme, a sum proportionate to the quantity of bacon produced during the relevant period on the premises while he was the holder of the licence, so however that the sum payable by any person under this paragraph shall not exceed such sum as may have been specified in the scheme in respect of each hundredweight of bacon so produced.

(4) For the purposes of this paragraph, " the relevant period " means the period of twelve months ending with the day of the commencement of the winding-up.

4. A proof for an amount agreed or awarded to be due in respect of compensation under the provisions of this Act relating

4TH SCH.  
—cont.

to compensation may be rejected in whole or in part on the ground that in view of the winding-up of the Board it is just that no compensation, or as the case may be, less compensation should be paid.

5. Any surplus remaining in the hands of the liquidator after the liabilities of the Board have been discharged shall be applied for the benefit of the agricultural industry in such manner as the Minister may by order direct.

An order of the Minister under this paragraph shall be laid before each House of Parliament as soon as may be after it is made, and if either House within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it resolves that the order shall be annulled, the order shall thenceforth be void but without prejudice to the making of a new order.

Section 43  
(2).

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## FIFTH SCHEDULE.

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### ADAPTATIONS AND MODIFICATIONS OF PIGS MARKETING SCHEME, 1933, AND BACON MARKETING SCHEME, 1933.

1. Any reference in either of the Schemes to that Scheme shall be deemed to include a reference to so much of this Act as confers powers or imposes duties on the Board constituted under the Scheme :

Provided that nothing in the Bacon Marketing Scheme, 1933, providing for the exemption of persons from the operation of that Scheme, shall exempt any person from the operation of any provision of this Act.

2. Paragraph 67 of the Pigs Marketing Scheme, 1933, and paragraph 60 of the Bacon Marketing Scheme, 1933, (which enable persons aggrieved by acts or omissions of the Boards constituted under those Schemes respectively to refer the matter to arbitration) shall not apply in relation to acts or omissions of the Boards in relation to any functions conferred on them by this Act, as respects which the Boards are under this Act required to act in accordance with any directions given to them by the Development Board.

3. Any surplus remaining in the hands of the liquidator of either of the Marketing Boards shall be applied for the benefit

of the pig-production industry or, as the case may be, the bacon-curing industry, in such manner as the Minister may by order direct.

An order of the Minister under this paragraph shall be laid before each House of Parliament as soon as may be after it is made, and if either House within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it resolves that the order shall be annulled, the order shall thenceforth be void but without prejudice to the making of a new order.

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## CHAPTER 72.

An Act to make further provision for fire services in Great Britain and for purposes connected therewith. [29th July 1938.]

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

### *Fire Authorities.*

**1.**—(1) The council of every county borough and of every county district (hereinafter referred to as a "fire authority") shall make provision for the extinction of fires and the protection of life and property in case of fire by securing—

Provision  
of fire  
services.

- (a) the services for their borough or district of such a fire brigade and of such fire engines, appliances and equipment as may be necessary to meet efficiently all normal requirements;
- (b) the efficient training of the members of the fire brigade;
- (c) efficient arrangements for enabling persons to call the fire brigade in case of fire, for summoning the members of the fire brigade and for manning the fire engines; and
- (d) efficient arrangements for obtaining, by inspection or otherwise, information required for the

purposes of the fire brigade with respect to the character of the buildings and other property in the borough or district, the available water supplies and the means of access thereto, and other material local circumstances,

and the services secured for a borough or district under this subsection are in this Act referred to as "local fire services."

(2) The Secretary of State may by order prescribe standards of efficiency with respect to any of the matters mentioned in the foregoing subsection, and the standards may vary according to the requirements of, and facilities available in, different kinds of locality, and any fire authority whose local fire services are of a standard so prescribed shall, as respects the matter for which the standard is prescribed, be deemed to have complied with the provisions of the foregoing subsection.

(3) A fire authority may secure local fire services for their borough or district by themselves providing and maintaining, either wholly or in part, such fire services or by entering into arrangements for the provision and maintenance, either wholly or in part, of such fire services by other fire authorities or persons.

(4) An officer of a fire authority, authorised in writing by the authority, shall, for the purpose of carrying out such arrangements as are mentioned in paragraph (d) of subsection (1) of this section, have the like powers of entering premises as are conferred upon authorised officers of councils by section two hundred and eighty-seven of the Public Health Act, 1936, and accordingly that section shall have effect as if the references to an authorised officer of a council included references to an officer of a fire authority authorised as aforesaid, and as if among the purposes specified in subsection (1) of that section there were included the aforesaid purpose.

(5) Every fire authority shall, so far as practicable, enter into arrangements with other fire authorities and persons who maintain fire brigades to secure the provision of assistance by those authorities and persons for the purpose of dealing with fires occurring in the borough or district of the first named authority which cannot adequately be dealt with by the local fire services, and the Secretary of State may by order prescribe scales of

payments to be made, unless otherwise agreed, by the authority receiving the assistance provided in accordance with such arrangements.

(6) The powers of a fire authority shall include power—

- (a) to provide accommodation for any fire brigade, fire engines, appliances or equipment serving their borough or district, including housing and other accommodation for members of any such fire brigade and furniture reasonably required for such accommodation;
- (b) to purchase compulsorily by means of an order made by the authority and confirmed by the Minister of Health any land required for the purposes of their functions under this Act;
- (c) to pay to any persons who render services in connection with the extinction of fires and the protection of life and property in case of fire such rewards as they think fit, which in the case of members of a fire brigade may be in addition to their remuneration;
- (d) to employ a fire brigade maintained by them, or use any fire engine, appliance or equipment so maintained, outside their borough or district; and
- (e) to make payments in respect of any fire services provided for their borough or district by another fire authority or by any other person.

(7) Where a fire authority, who are the council of a borough having a separate police force, delegate to the watch committee their functions under this Act, the watch committee may employ the chief officer of police, an assistant chief constable or the deputy chief constable on administrative duties in connection with a fire brigade maintained by that authority and may employ other constables as members of the brigade :

Provided that, as from the expiration of a period of five years from the passing of this Act, no such other constables shall be employed as part-time members of a fire brigade.

(8) A fire authority may provide and maintain fire alarms in such positions in any street or public place

as they think proper, after consultation with the chief officer of police for the police area in which the fire alarms are to be placed, and any such fire alarm may be affixed to any wall or fence adjoining a street or public place :

Provided that—

(a) a fire authority before exercising the powers conferred by this subsection in relation to any trunk road shall consult with the Minister of Transport, and, before exercising those powers in relation to any county road maintained by a county council, shall consult with the county council, and the said powers shall not be so exercised as to obstruct or render less convenient the access to or exit from any station or goods yard belonging to a railway company, or any premises belonging to other statutory undertakers and used for the purposes of their undertaking ;

(b) nothing in this subsection shall affect any privilege conferred on the Postmaster-General by the Telegraph Act, 1869.

32 & 33 Vict.  
c. 73.

Fire-  
hydrants  
and water  
supply in  
case of  
fire.

2.—(1) Every fire authority shall provide and maintain, or cause to be provided and maintained, such fire-hydrants as are necessary for securing the best practicable use of the available supply of water in case of fire, and the situation of every such hydrant shall be plainly indicated by a notice or distinguishing mark which may be placed on any wall or fence adjoining a street or public place.

10 & 11 Vict.  
c. 17.

(2) The provisions of sections thirty-eight, thirty-nine, forty and forty-three of the Waterworks Clauses Act, 1847, (which require undertakers to provide and maintain fire-hydrants) as incorporated with or applied by any enactment, with or without modifications, shall have effect as if for the references to the town commissioners there were substituted references to the fire authority :

Provided that the Minister of Health may by order modify the provisions of the said section thirty-eight, in their application to any rural district, so as to extend the distances at which fire-hydrants are required to be placed under that section.

(3) Where any fire-hydrant which is being maintained at the expense of a fire authority under section forty of the Waterworks Clauses Act, 1847, is damaged as the result of any person using the hydrant (otherwise than for fire brigade purposes) with the authority of the water company or person to whom the hydrant belongs, the fire authority shall not be liable for the cost of repairing or replacing the hydrant incurred as the result of the damage.

(4) Any person who uses a fire-hydrant, otherwise than for the purpose of extinguishing fires or for any fire brigade purpose or any purpose authorised by the water company or person to whom the fire-hydrant belongs, or damages or obstructs any fire-hydrant, otherwise than in consequence of its use for such a purpose as aforesaid, shall be liable on summary conviction to a fine not exceeding ten pounds.

(5) At least seven days before any fire-hydrant is placed in any street, the fire authority shall give notice in writing to the authority or person by whom the street is maintained, and at least seven days before any works which affect any fire-hydrant are commenced, the authority or person by whom the works are to be executed shall give notice in writing to the fire authority.

(6) A fire authority may enter into agreements with any water company or person for securing the provision for their borough or district of an adequate supply of water in case of fire.

(7) A fire authority may use for the purpose of extinguishing fires any convenient or suitable supply of water, but shall be liable to pay reasonable compensation therefor :

Provided that nothing in this subsection shall affect the duty of undertakers to whom section forty-two of the Waterworks Clauses Act, 1847, applies, to supply water for the said purpose without compensation.

(8) Every council who are a fire authority shall take such steps within the powers of the council as are reasonable and practicable to improve the access to or otherwise to facilitate the use of any water supply (other than a water supply available for use by means of fire hydrants) which may be required for the purpose of extinguishing fires.

Power of  
fire autho-  
rity to  
require  
proposed  
water  
works to be  
constructed  
in manner  
specified  
by them.

3.—(1) Where a person proposes to carry out any works for the purpose of supplying water to any part of the borough or district of a fire authority, he shall, not less than fourteen days before the works are commenced, give notice in writing thereof to the authority and the authority may, within fourteen days of the receipt of the notice, give a notice in writing to that person requiring him to carry out the works in such a manner as regards material, size and situation of pipes, pressure of water, provision for storage of water and otherwise as may be specified by the authority for the purpose of securing the best practicable supply of water in case of fire, and it shall be his duty to comply with the requirements of the fire authority :

Provided that, if he is aggrieved by the requirements of the authority, he may, within twenty-eight days of the receipt of the notice from the fire authority, appeal to the Minister of Health who may either disallow the requirements or allow them with or without modification.

(2) A fire authority who exercise the powers conferred upon them by this section shall repay to the person carrying out the works the extra expenses reasonably incurred by him in complying with their requirements and shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining the works as may be attributable to their requirements having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, that question shall in default of agreement be determined by an arbitrator appointed by the Minister of Health and the decision of the arbitrator shall be final.

(3) If any person who under this section has been required by a fire authority to carry out works in a particular manner carries them out otherwise than in accordance with the requirements of the authority, he shall, without prejudice to the right of the authority to avail themselves of any other remedy, be liable on summary conviction to a fine not exceeding fifty pounds, and the court may, in addition to inflicting a fine, order him within the time specified in the order to take such steps as may be so specified for remedying the matters in respect of which he was convicted, and if he fails to comply with the order he shall be liable on



summary conviction to a fine not exceeding five pounds for each day on which the default continues.

4. The expenses of a rural district council under sections two and three of this Act shall, notwithstanding anything in any enactment or statutory order, be general expenses of the council.

Expenses of rural district council in connection with fire hydrants and water supply.

5. A fire authority shall not be entitled to require the owners or occupiers of property on which fires occur to make any payment in respect of local fire services or any fire services provided in pursuance of arrangements made under subsection (5) of section one of this Act or in pursuance of a scheme made under this Act, and all enactments under which fire authorities may require payments to be made by the owners or occupiers of property on which fires occur in respect of the expenses of a fire brigade in attending the fires shall cease to have effect :

No payments to be made by owners and occupiers in respect of certain fire services.

Provided that this section, so far as it relates to the powers of fire authorities under any enactment mentioned in Part II of the Third Schedule to this Act or under any enactment incorporating or applying with or without modifications section thirty-three of the Town Police Clauses Act, 1847, to require payments in respect of the expenses of fire brigades in attending fires outside the borough or district of the authority by whom the brigade is maintained, shall not come into operation until the expiration of a period of two years from the passing of this Act.

10 & 11 Vict. c. 89.

6.—(1) As from the expiration of a period of six months from the passing of this Act, the functions of parish councils, of parish meetings and of inspectors appointed for the purposes of the Lighting and Watching Act, 1833, (hereinafter referred to as "parish authorities") in connection with the extinction of fires and the protection of life and property in case of fire in any parish, shall cease to be exercisable by them, and all rights and property vested in, and all liabilities incurred by, any parish authority for the purposes of those functions shall by virtue of this section be transferred to the fire authority for the district in which the parish is situated :

Cessation of functions and transfer of property of parish authorities. 3 & 4 Will. 4. c. 90.

Provided that the Secretary of State may by order postpone the operation of this subsection, in relation to any parish, to such date as may be specified in the order.

(2) A fire authority to whom property rights and liabilities are transferred from a parish authority under this section shall, if the value of the property and rights is more than sufficient to defray the liabilities, pay to the parish authority such sum as may be agreed upon or, in default of agreement, may be determined by arbitration under this section, and any capital sum so paid shall be treated as capital, and applied with the consent of the Minister of Health and subject to any conditions which he may impose either in the payment of debt or for any other purpose for which capital money may properly be applied :

Provided that any such sum may, with the consent of the parish authority, be held by the fire authority and applied by them, subject to and in accordance with the foregoing provisions with respect to capital sums, for the benefit of the parish.

(3) All deeds, bonds and agreements made or entered into by a parish authority for the purposes of the functions aforesaid shall, so far as they relate to property, rights and liabilities transferred to a fire authority under this section, have effect as from the date of the transference with the substitution of the fire authority for the parish authority and may be enforced by or against the fire authority accordingly; and all proceedings relating to any such property, rights and liabilities, which are pending at the said date, may be carried on thereafter with the substitution of the fire authority as party to the proceedings in lieu of the parish authority.

(4) Any question as to the property, rights or liabilities transferred to, or as to the compensation to be paid by, a fire authority under this section shall be determined by an arbitrator appointed by the Secretary of State, and the decision of the arbitrator shall be final.

(5) The provisions of this section shall be without prejudice to the provisions of sections eighty-seven and eighty-eight of the Local Government Act, 1933, as to the delegation of the functions of a rural district council to a parochial committee or parish council.

7. On the date when the functions of any parish authority cease to be exercisable by that authority by virtue of the last foregoing section, any person who was, immediately before that date, employed by a parish authority for the purposes of those functions, shall be employed by the fire authority in whose district the parish is situated on the terms and conditions on which he was so employed immediately before that date, and any of his service in the brigade of the parish authority, which is approved service within the meaning of the Fire Brigade Pensions Act, 1925, shall be reckoned for the purposes of that Act as approved service in the brigade of the fire authority; and the provisions of subsections (2) (3) and (6) of section one hundred and fifty of the Local Government Act, 1933, and of the Fourth Schedule to that Act shall apply to persons transferred to employment by a fire authority under this section as they apply to officers transferred under a scheme or order made under the said section one hundred and fifty, with such adaptations as may be made by an order of the Secretary of State.

Provisions for transfer and compensation of employees of parish authorities.

15 & 16  
Geo. 5. c. 47.

*Co-ordination of fire services.*

8.—(1) A Commission shall be constituted under this Act, to be called "the Fire Service Commission," for the purpose of considering the arrangements made by fire authorities for the provision of assistance for the purpose of dealing with fires which cannot adequately be dealt with by the local fire services, and of reviewing generally the fire services provided by fire authorities under this Act, and of reporting to the Secretary of State on the matters aforesaid.

Appointment of Fire Service Commission to report on fire services.

(2) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Fire Service Commission.

(3) The Fire Service Commission may, for the purposes of the exercise of their functions, hold such local inquiries as they think fit, and subsections (2) and (3) of section two hundred and ninety of the Local Government Act, 1933, shall apply to such inquiries.

9.—(1) If the Fire Service Commission report, as respects any fire authorities, that adequate arrangements have not been made for the provision of such assistance as aforesaid, they may submit to the Secretary of State

Schemes for co-ordination of fire services.

a scheme (hereinafter referred to as a "co-ordination scheme") for ensuring the provision by those authorities of such assistance :

Provided that, before submitting any co-ordination scheme to the Secretary of State, the Fire Service Commission shall give an opportunity to all fire authorities affected by the scheme and to any other persons appearing to the Commission to be specially concerned to make representations with respect thereto, and shall submit any such representations together with the scheme.

(2) A co-ordination scheme shall provide for the payments to be made by the fire authorities to whom the scheme applies in respect of assistance provided under the scheme, and, if the Secretary of State has by order prescribed scales for such payments, the scheme shall apply those scales with or without modifications, and the scheme may provide that the payments shall be made out of a common fund to which the fire authorities shall contribute in such proportions as may be specified in the scheme, and may make provision for the management of the fund, the enforcement of contributions thereto, and the auditing of the accounts of the fund by the district auditor.

(3) A co-ordination scheme may contain such provisions requiring uniformity of appliances and equipment as appear to the Fire Service Commission to be necessary for the purpose of ensuring that the fire brigades affected will be able to render efficient assistance in pursuance of the scheme.

(4) A co-ordination scheme shall come into operation when approved by the Secretary of State, either without modifications or after making such modifications therein as he thinks fit, and when a scheme has been so approved, it shall be the duty of the fire authorities to whom the scheme applies to carry it into effect, and any arrangements made under subsection (5) of section one of this Act which are not in conformity with the scheme shall cease to have effect.

(5) If at any time the Fire Service Commission, after consultation with the fire authorities affected, submit to the Secretary of State proposals for amending any co-ordination scheme, the Secretary of State may amend the scheme in accordance with the proposals, subject to any modifications which he may think fit.

**10.**—(1) Where any fire authority have requested another fire authority to provide the whole or any part of the local fire services for the borough or district of the first named fire authority, and the other fire authority are unwilling to provide such services, or the authorities cannot agree as to the extent of the services to be provided or the terms on which they are to be provided, the first named fire authority may make an application to the Fire Service Commission.

Power of Fire Service Commission to recommend provision of local fire services for any district by another fire authority.

(2) If the Fire Service Commission, after giving an opportunity to the fire authorities concerned to make representations and, if they think fit or if any such fire authority requests them to do so, after holding a local inquiry, are satisfied that it is expedient, with a view to securing greater efficiency or economy, that the whole or any part of the local fire services for the borough or district of the applicant fire authority should be provided by the other fire authority, they may recommend to the Secretary of State that such local fire services shall be so provided on such terms as they may specify, and the Secretary of State may by order give effect to the recommendations, with or without modifications, and thereupon it shall be the duty of the fire authorities concerned to give effect to the order.

(3) The costs of the Fire Service Commission in holding a local inquiry for the purposes of this section shall be paid by such fire authority, or by such fire authorities in such proportions, as the Commission may direct, and the Commission may certify the amount of the said costs and, if they are to be paid by two or more authorities, the amounts to be paid by the several authorities, and any amount so certified and directed to be paid by a fire authority shall be recoverable from that authority as a debt to the Crown, or by the Secretary of State summarily as a civil debt.

**11.**—(1) If the Secretary of State is satisfied, at any time after the expiration of two years from the passing of this Act, after holding a local inquiry, that efficient fire services have not been provided or are not being maintained for any borough or district in accordance with section one of this Act, he may appoint a board, to be called "a fire service board," for such area as he may specify.

Fire service boards.

(2) The provisions set out in the Second Schedule to this Act shall have effect with respect to the constitution, proceedings and dissolution of fire service boards.

(3) As from the date of the appointment of a fire service board, no arrangements shall be entered into under section one of this Act by the fire authorities of the boroughs or districts situated in the area for which the board was appointed without the approval of the fire service board.

Fire service  
area  
schemes.

**12.—**(1) Where a fire service board has been appointed for any area, the board shall prepare and submit to the Secretary of State a scheme (hereinafter referred to as "an area scheme") for ensuring the provision and maintenance by the fire authorities under the general supervision of the board of efficient fire services throughout the area for which the board was appointed.

(2) An area scheme shall come into operation when approved by the Secretary of State, either without modifications, or after making such modifications therein as he thinks fit, and when a scheme has been so approved, it shall be the duty of the fire authorities in the area to carry it into effect and to exercise their functions under the foregoing provisions of this Act in accordance with the scheme, and any arrangements entered into by any such fire authorities under section one of this Act which are not in conformity with the scheme shall cease to have effect.

(3) If at any time the fire service board for any area, after consultation with the fire authorities in the area, submit to the Secretary of State proposals for amending the area scheme, the Secretary of State may amend the scheme in accordance with the proposals, subject to any modifications which he may think fit.

Default  
powers of  
fire service  
boards.

**13.—**(1) If a complaint is made to the Secretary of State by a fire service board that any fire authority have failed in any respect to carry out the area scheme, the Secretary of State may cause a local inquiry to be held into the matter, and if he is satisfied after the inquiry that there has been such a failure on the part of the authority, he may make an order transferring to the fire service board such of the functions of the defaulting authority under this Act as may be specified in the order,

and, while the order is in force, the fire service board shall discharge those functions in place of the authority, and in respect of those functions references in this Act to a fire authority shall, except where the context otherwise requires, be construed as including references to the fire service board.

(2) A fire service board to whom functions are transferred under the foregoing subsection may borrow money for the purpose of meeting any expenses incurred by them in the discharge of those functions, and Part IX of the Local Government Act, 1933 (which relates to borrowing by local authorities) shall apply, subject to such adaptations as may be made by the order transferring the functions, to fire service boards in like manner as they apply to local authorities.

(3) A fire service board shall have power to issue precepts to any fire authority, whose functions have been transferred to the board, requiring them, within a time limited by the precept, to pay such amounts as will in the opinion of the board be sufficient to defray expenses incurred or to be incurred in the discharge of functions so transferred, including payments, whether of principal or interest, in respect of any money borrowed under the last foregoing subsection; and any sum for which a precept has been issued under this section to a fire authority shall be a debt due from that authority to the fire service board, and may be recovered accordingly, without prejudice, however, to the right of the board to exercise any powers conferred upon precepting authorities by section thirteen of the Rating and Valuation Act, 1925.

15 & 16  
Geo. 5. c. 90.

(4) Where functions have been transferred to a fire service board under this section, the accounts of the board shall be so kept as to show in a separate account such income and expenses of the board as are attributable to the exercise of functions so transferred, and if functions have been transferred to the board from two or more fire authorities, separate accounts shall be kept in respect of each authority.

(5) Where an order transferring functions to a fire service board is revoked, the functions shall again be exercisable by the authority from whom they were transferred, and the revoking order may provide for the transference to that authority, upon such terms as may

be agreed or, in default of agreement, determined in accordance with the order, of any property rights and liabilities acquired or incurred by the board for the purpose of the exercise of those functions.

*Miscellaneous.*

Powers of  
fire brigades  
and police  
in extin-  
guishing  
fires.

14.—(1) Any member of a fire brigade which provides local fire services under this Act being on duty, and any police constable, may enter and if necessary break into any premises or place in which a fire has or is reasonably supposed to have broken out, or any premises or place which it is necessary to enter for the purpose of extinguishing a fire, without the consent of the owner or occupier thereof, and may do all such acts and things as they may deem necessary for extinguishing fire or for protecting from fire any such premises or place or rescuing any person or property therein.

(2) Any person who wilfully obstructs or interferes with any member of a fire brigade engaged in operations for the extinction of a fire or the protection or rescue of any person or property from fire shall be liable on summary conviction to a fine not exceeding ten pounds.

(3) At any fire the senior officer present of the fire brigade maintained for the borough or district in which the fire originates, or, if any scheme or arrangement made under this Act provides that any other person shall have charge of the operations for the extinction of the fire, that other person, shall have the sole charge and control of all operations for the extinction of the fire including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or the use of any water supply, and the selection of the parts of the building on fire or of adjoining buildings against which the water is to be directed, and may require the water to be shut off from the mains and pipes in any area in order to give a greater supply and pressure of water for extinguishing the fire, and no authority, company, or person shall be liable to any penalty or claim by reason of the interruption of the supply of water occasioned only by compliance with such a requirement.



(4) The senior officer of police present at any fire may close for traffic any street or may stop or regulate the traffic in any street whenever in the opinion of that officer it is necessary or desirable to do so for the purpose of extinguishing fire or for the safety or protection of life or property.

**15.** The Minister of Transport may by regulations provide that, in such cases and subject to such conditions as may be specified by the regulations, vehicles used for fire brigade purposes shall be exempt from the provisions of section eighteen of the Road Traffic Act, 1930 (which restricts the number of trailers to be drawn by motor vehicles); and the provisions of the said Act as to regulations made thereunder shall apply in like manner to regulations made under this section.

Power to exempt trailers used for fire services from traffic restrictions. 20 & 21 Geo. 5. c. 43.

**16.**—(1) Where any member of a fire brigade maintained by a fire authority under this Act, who has been a professional fireman or member of a police force, is wholly but not permanently employed on fire brigade duties and while so employed is incapacitated for the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default, or dies from the effects of an injury received in, or disease resulting from, the execution of his duty without his own default, the like special pension to himself or pension to his widow and allowances or gratuities to his children or dependants shall be payable under the Fire Brigade Pensions Act, 1925, as would have been payable under that Act if he had been a professional fireman when incapacitated, but based on his current rate of pay and his service with the brigade since he last joined it.

Extension of Fire Brigade Pensions Act, 1925, to temporary firemen.

(2) Where any special pension is payable under the foregoing subsection in respect of a person to whom an ordinary pension is already payable under the Police Pensions Act, 1921, or the Fire Brigade Pensions Act, 1925, the special pension shall be payable in addition to his ordinary pension, but no increase shall be made in his ordinary pension in respect of service to which this section relates and the aggregate amount of the two pensions shall not exceed his annual pay at the date of his retirement on which the ordinary pension became payable.

11 & 12 Geo. 5. c. 31.

(3) Where pensions, allowances, or gratuities are payable under any local Act to members of a fire brigade who have been wholly and permanently employed on fire brigade duties, the Secretary of State may direct that the provisions of this section shall apply with respect to that fire brigade with such modifications as he considers necessary.

Definition of "fire brigade duties" for purposes of Fire Brigade Pensions Act, 1925, and this Act.

**17.**—(1) For the purposes of the Fire Brigade Pensions Act, 1925, and this Act, the expression "fire brigade duties" includes any of the following duties, that is to say:—

- (a) duties carried out on the direction of the fire authority in connection with fire prevention;
- (b) duties in connection with the construction, repair or maintenance of any fire engines, or of any vehicles, appliances, or equipment used for fire brigade, ambulance or police purposes, or duties consisting of the driving or manning of ambulances; and
- (c) other duties ancillary to or connected with fire brigade purposes, being duties carried out on the direction of the fire authority.

(2) For the purposes of the said Fire Brigade Pensions Act, 1925, in its application to any member of a fire brigade maintained by a fire authority who is wholly and permanently employed on the said duties at the passing of this Act, not being a person to whom the next following subsection applies, the said expression shall be deemed to have had the said meaning during any period before the passing of this Act during which he was treated as subject to the said Fire Brigade Pensions Act, 1925, or any period during which the fire authority may in their discretion certify that he was wholly and permanently employed on the said duties.

(3) Where any person, who at the passing of this Act holds a post by virtue of which he is or is being treated as subject to the Local Government and other Officers' Superannuation Act, 1922 (hereinafter referred to as "the Act of 1922"), or to a local Act scheme, becomes by virtue of this section a professional fireman and would, if he did not exercise his option under this subsection, be subject to the Fire Brigade Pensions Act, 1925, the fire authority shall, as soon as may be after regulations have been made by the Minister of Health under

12 & 13  
Geo. 5. c. 59.

the next following subsection give him written notice of the effect of this section, and if, within one month after receiving that notice, he gives written notice to the fire authority that he desires that the provisions of the Act of 1922 or of the local Act scheme, as the case may be, should continue to apply to him, the said provisions shall apply to him, and be deemed to have applied to him as from the passing of this Act, in lieu of the provisions of the Fire Brigade Pensions Act, 1925.

(4) If any such person as aforesaid does not give a written notice under the last foregoing subsection, the provisions of the Fire Brigade Pensions Act, 1925, shall apply to him and be deemed to have applied to him as from the passing of this Act, in lieu of the provisions of the Act of 1922 or of the local Act scheme, as the case may be, and—

(a) account shall be taken for the purposes of the Fire Brigade Pensions Act, 1925, in such manner as may be prescribed by regulations made by the Minister of Health, of his previous service with any local authority;

(b) a transfer value ascertained in accordance with the provisions of the Local Government Officers' Superannuation (Transfer Value) Rules, 1930, shall be paid out of the superannuation fund maintained under the Act of 1922, or under the local Act scheme, as the case may be, to the fire brigade pension fund or, if there is no such fund, to the general rate fund of the borough or district; and

(c) for the purposes of any return or application of his rateable deductions under section eighteen of the Fire Brigade Pensions Act, 1925, there shall be included in the aggregate amount of his rateable deductions so much of the said transfer value as represents contributions or additional contributory payments paid or made by him under the Act of 1922 or the local Act scheme.

(5) At the end of paragraph 2 of Part II of the First Schedule to the Local Government Superannuation Act, 1937 (which specifies persons who shall not become contributory employees or local Act contributors within the meaning of that Act), there shall be added the words

1 Edw. 8. &  
1 Geo. 6.  
c. 68.

“ not being a fireman who has given a written notice under subsection (2) of section twenty-four of the Fire Brigade Pensions Act, 1925, or under subsection (3) of section seventeen of the Fire Brigades Act, 1938 ”.

(6) Any person who at the passing of this Act is in the service of a local authority as respects whom the Act of 1922 is in operation, or of a local authority administering a local Act scheme, and is being treated as subject to the Fire Brigade Pensions Act, 1925, but is not a professional fireman, shall by virtue of this subsection—

- (a) be deemed to hold a post by virtue of which he is subject to the Act of 1922, or the local Act scheme, as the case may be; and
- (b) be entitled to reckon any period of service during which he was treated as subject to the Fire Brigade Pensions Act, 1925, as contributing service for the purposes of the Act of 1922, or the local Act scheme, as the case may be, and any deductions made from his pay during such a period shall be deemed to be contributions for all purposes of the Act of 1922 or the local Act scheme; and

the authority shall transfer from the fire brigade pension fund or, if there is no such fund, the general rate fund of the borough or district to the superannuation fund maintained under the Act of 1922, or the local Act scheme, as the case may be, an amount equal to twice the aggregate amount of the said deductions.

(7) All regulations made by the Minister of Health under this section shall be laid as soon as may be before Parliament, and if either House within the next twenty-eight days on which that House has sat after any regulation has been laid before it, resolves that the regulation be annulled, the regulation shall be of no effect, but without prejudice to the validity of anything done in the meantime thereunder or to the making of a new regulation.

(8) In this section the expression “ additional contributory payment ” has the same meaning as in the Local Government Superannuation Act, 1937, and the expression “ local Act scheme ” means a superannuation scheme administered by a local authority under a local Act

18.—(1) The Secretary of State shall appoint a Council, to be called the Central Advisory Council for Fire Services, for the purpose of advising the Secretary of State on any question which may be referred by him to the Council with respect to any matter arising in connection with the operation of this Act.

Central  
Advisory  
Council  
for Fire  
Services.

(2) The Secretary of State may, after consultation with such associations as represent fire authorities, by order make provision with respect to the constitution and proceedings of the Council.

19. The Secretary of State may, for the purpose of obtaining reports as to the manner in which this Act is carried out, appoint such inspectors and there shall be paid to them such remuneration as the Secretary of State may with the consent of the Treasury determine, and such remuneration shall be defrayed as part of the expenses of the Secretary of State incurred for the purposes of this Act.

Appoint-  
ment of  
inspectors.

20.—(1) The Secretary of State may establish a training centre for providing special courses of instruction for members of fire brigades, and the expenses incurred in connection with the training centre shall, to such amount as may be approved by the Treasury, be defrayed as part of the expenses of the Secretary of State incurred for the purposes of this Act.

Establish-  
ment of  
training  
centre.

(2) The Secretary of State may approve training centres established by fire authorities for providing courses of instruction for members of their own or other fire brigades and for training persons for service in fire brigades.

21. Regulations made by the Secretary of State under section eleven of the Air-Raid Precautions Act, 1937, may provide for the use by fire authorities for the purposes of their functions under this Act of any equipment, appliances or material acquired by the Secretary of State on behalf of His Majesty under the said Air-Raid Precautions Act, 1937, and lent to those authorities for the purposes of that Act.

Loan to fire  
authorities  
of appliances  
provided  
under the  
Air-Raid  
Precautions  
Act, 1937.  
1 & 2 Geo. 6.  
c. 6.

22. The Secretary of State may by order impose such requirements with respect to uniformity of appliances, equipment, and fire hydrants provided for the purposes of this Act as appear to him to be necessary

Power of  
Secretary of  
State to  
require  
uniformity

of appli-  
ances and  
equipment.

for securing efficient fire services and in particular the rendering of efficient mutual assistance by fire brigades, and it shall be the duty of fire authorities to comply with any such requirements.

*Supplementary.*

Notices.

**23.** Any notice required or authorised by this Act to be given to any person may be given either—

- (a) by delivering it to that person, or by leaving it or sending it in a prepaid letter addressed to him at his usual or last known residence; or
- (b) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office.

Provisions  
as to orders  
of Secretary  
of State.

**24.**—(1) Any order made by the Secretary of State under this Act may be varied or revoked by a subsequent order made in like manner as the original order.

(2) Before making any order prescribing scales of payments for fire services or any order requiring uniformity of appliances and equipment and fire hydrants, the Secretary of State shall consult the Central Advisory Council for Fire Services, and before making any order prescribing standards of efficiency for fire services, the Secretary of State shall consult with the said Council and with such associations representing fire authorities as appear to him to be concerned and with any fire authorities with whom consultation appears to him to be desirable.

(3) Any order made by the Secretary of State prescribing standards of efficiency for fire services and any order made by him requiring uniformity of appliances and equipment and fire hydrants shall be laid as soon as may be before Parliament, and if either House within the next twenty-eight days on which that House has sat after the order has been laid before it resolves that the order be annulled, the order shall be of no effect, but without prejudice to the validity of anything done in the meantime thereunder or to the making of a new order.

Power of  
Secretary of  
State to hold  
inquiries.

**25.** The Secretary of State may hold a local inquiry into the manner in which any fire authority are performing their functions under this Act.

26. All expenses of the Secretary of State incurred for the purposes of this Act in the administration thereof, in the payment of remuneration or allowances to any person appointed thereunder, or in connection with the training centre established by him, and any expenses authorised by the Secretary of State with the consent of the Treasury to be incurred by the Fire Service Commission, by any fire service board or by any Central Advisory Council for Fire Services shall, except as is herein otherwise expressly provided, be defrayed out of moneys provided by Parliament.

Expenses of the Secretary of State, Fire Service Commission, fire service boards and Central Advisory Council.

27.—(1) The provisions of subsections (3) to (7) of section two and the provisions of sections three, five, fifteen and twenty-one of this Act shall apply to the administrative county of London and the London County Council, and accordingly—

Provisions as to London.

(a) the references in those provisions to a fire authority and to the borough or district of a fire authority shall be construed as including references to the London County Council and the administrative county of London, respectively; and

(b) the reference in section twenty-one to this Act shall be construed as including a reference to the Metropolitan Fire Brigade Act, 1865:

28 & 29 Vict. c. 90.

Provided that nothing in the said section five shall be taken to affect section sixty of the London County Council (General Powers) Act, 1934.

24 & 25 Geo. 5. c. xl.

(2) The provisions of section one of this Act, so far as they relate to the provision of fire services for any borough or district by other fire authorities, shall have effect so as to enable such fire services to be provided by the London County Council, and accordingly the references in subsections (3) and (5) of section one to other fire authorities and the references in subsection (4) thereof to a fire authority shall be construed as including references to the London County Council; and the duty of a fire authority (not including the London County Council) under subsection (5) of section one of this Act may be discharged, either in whole or in part, by entering into arrangements with the London County Council under section forty-nine of the London County Council (General Powers) Act, 1936.

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

(3) The London County Council shall have power to purchase compulsorily by means of an order made by the Council and confirmed by the Minister of Health any land required for the purposes of their functions under the Metropolitan Fire Brigade Act, 1865, and the provisions of sections one hundred and sixty-one, one hundred and sixty-two, one hundred and seventy-four, and one hundred and seventy-five of the Local Government Act, 1933, and of paragraphs (a) and (c) of section one hundred and seventy-nine of that Act shall apply with respect to any such order as if for the references to a local authority there were substituted references to the London County Council.

(4) The power of the London County Council under section thirty of the Metropolitan Fire Brigade Act, 1865, to permit any part of their fire brigade establishment to be employed on special services shall include a power to permit such employment without requiring any remuneration from the persons to whom the services are rendered.

(5) Save as is in this section provided, this Act shall not apply to the administrative county of London or to the London County Council.

Application  
to Scotland.

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

(2) For any reference to the Minister of Health there shall be substituted a reference to the Secretary of State.

1 Edw. 8. &  
1 Geo. 6.  
cc. 68, 69.

(3) For any reference to the Local Government Superannuation Act, 1937, there shall be substituted a reference to the Local Government Superannuation (Scotland) Act, 1937; for any reference to the Local Government Officers' Superannuation (Transfer Value) Rules, 1930, there shall be substituted a reference to the Local Government Officers' Superannuation (Transfer Value) (Scotland) Rules, 1924; for any reference to a county borough or a borough there shall be substituted a reference to a burgh, for any reference to a county district there shall be substituted a reference to a county; for any reference to the general rate fund of a borough or district there shall be substituted a reference to the burgh or the county fund; and for any reference to audit by a district auditor there shall be substituted a



reference to audit by a person appointed by the Secretary of State.

(4) The Secretary of State may, after consultation with the county council of any of the following counties videlicet: Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland, Zetland, or with the town council of any burgh situated in any such county, by order direct that the provisions of this Act in their application to such county or burgh shall have effect as if—

- (a) subsections (1) to (5) of section one and sections eight to thirteen were omitted; and
- (b) the word “ may ” were substituted for the word “ shall ”—
  - (i) where that word first occurs in subsection (1) of section two; and
  - (ii) in subsection (8) of the said section.

(5) The council of any county or burgh to which an order under the last foregoing subsection applies may make such provision for the extinction of fires and the protection of life and property in case of fire as they may deem necessary and practicable, and for that purpose may either themselves provide and maintain fire services or enter into arrangements with other county and town councils or other persons to secure the provision and maintenance of such services.

The council of any such county as aforesaid may by resolution determine that the powers conferred by this subsection shall be exercised in respect of such part or parts only of the county as may be specified in the resolution.

(6) The expression “ street ” shall have the meaning assigned to it by the Public Health (Scotland) Act, 1897. 60 & 61 Vict.  
c. 38.

(7) Subsection (4) of section one of this Act shall apply in like manner as if section two hundred and eighty-seven of the Public Health Act, 1936, applied to Scotland.

(8) Subsection (6) of section one of this Act shall have effect as if paragraph (b) were omitted.

(9) For subsection (7) of section one of this Act, the following subsection shall be substituted—

“ (7) A fire authority (being a county council or the town council of a burgh having a separate

police force) may employ any constable holding the rank of inspector or any higher rank on administrative duties in connection with a fire brigade maintained by that authority and may employ any constable (other than the chief officer of police or an assistant or deputy chief constable) as a member of the fire brigade :

Provided that no such constable (other than as aforesaid) shall be employed—

(a) on administrative duties after the expiry of two years from the passing of this Act; or

(b) as a part-time member of a fire brigade unless he was so employed at the passing of this Act.”

In this subsection the expression “deputy chief constable” includes an officer of a police force appointed under section ninety of the Burgh Police (Scotland) Act, 1892, to act as a temporary substitute for the chief constable.

55 & 56 Vict.  
c. 55.

(10) Subsection (8) of section one of this Act shall have effect as if in the proviso—

(a) after the words “Minister of Transport, and” there were inserted the words “a fire authority  
“ (being the town council of a small burgh  
“ within the meaning of the Local Government  
“ (Scotland) Act, 1929) ”; and

(b) for the words “any county road” there were substituted the words “any road”.

(11) Subsection (2) of section two of this Act shall have effect as if for the words “rural district” there were substituted the words “county or part thereof”.

(12) Where in pursuance of this Act a local inquiry is held by the Secretary of State or by the Fire Service Commission in Scotland, subsections (2) and (3) of section two hundred and ninety of the Local Government Act, 1933, shall apply to such inquiry in like manner as if that Act applied to Scotland, with the substitution however of references to an order for references to a summons.

(13) Subsection (3) of section ten of this Act shall have effect as if the word “summarily” were omitted.

19 & 20  
Geo. 5. c. 25.

(14) For subsection (2) of section thirteen of this Act the following subsection shall be substituted—

“(2) A fire service board to whom functions are transferred by an order under this section may, with the sanction of the Secretary of State and subject to such conditions as may be specified in the order, borrow money for the purpose of meeting any expenses incurred by them in the discharge of those functions.”

(15) There shall be appointed a separate Central Advisory Council for Fire Services for Scotland, to be called the Scottish Central Advisory Council for Fire Services, and the provisions of this Act with regard to the Central Advisory Council for Fire Services shall apply to the said Scottish Council.

(16) Any expenditure incurred by a county council for the purposes of this Act shall be defrayed out of such rate payable by owners and occupiers in equal proportions as the council may determine, and any expenditure incurred by a town council for the purpose of this Act shall be defrayed out of the rate or assessment to which the expenses of a fire brigade would have been chargeable if this Act had not passed :

Provided that, where the county council of any county have resolved, in pursuance of subsection (5) of this section, that the powers thereby conferred shall be exercised in respect of one or more parts only of the county, the expenditure incurred by the county council for the purposes of this Act in respect of any such part shall be defrayed out of a rate levied only in that part.

(17) A county or town council shall have power to borrow money for any purpose of this Act to which capital is properly applicable, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, shall apply to the power hereby conferred. Any sums borrowed in pursuance of this subsection shall be repaid within such period as the Secretary of State may fix.

19 & 20  
Geo. 5. c. 25.

(18) A county or a town council shall have the like power to acquire land for the purposes of their powers and duties under this Act as they have for the purposes of their powers and duties under the Air-Raid Precautions Act, 1937, and subsection (9) of section thirteen of that Act shall apply in relation to the power hereby conferred.

1 & 2 Geo. 6.  
c. 6.

Interpreta-  
tion.

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

“ Chief officer of police,” “ police area ” and “ police force ” have the same respective meanings as in the Police Pensions Act, 1921 ;

“ Enactment ” includes a local Act and a provisional order confirmed by an Act ;

“ Professional fireman ” has the same meaning as in the Fire Brigade Pensions Act, 1925 ;

“ Street,” “ railway company,” “ statutory undertakers,” and “ statutory order ” have the same respective meanings as in the Public Health Act, 1936.

(2) In relation to a rural district with respect to which there is in force such a direction as is mentioned in subsection (2) of section forty-two of the Local Government Act, 1933, any reference in this Act to the council of a county district shall be construed as a reference to the council by whom the affairs of the district are being temporarily administered.

(3) The references in sections sixteen and seventeen of this Act to a fire authority shall include references to any parish authority whose functions in connection with the extinction of fires and the protection of life and property in case of fire have not ceased to be exercisable by them.

(4) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment including this Act.

Short title,  
extent and  
repeals.

**30.**—(1) This Act may be cited as the Fire Brigades Act, 1938.

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

(3) The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule and there shall also be repealed so much of any enactment as incorporates or applies, with or without modifications, section one hundred and twenty-four of the Towns Improvement Clauses Act, 1847, or section thirty-two or section thirty-three of the Town Police Clauses Act, 1847 :

Provided that—

- (a) the repeal of the enactments mentioned in Part II of the said Schedule and of any enactment incorporating or applying, with or without modifications, section thirty-three of the Town Police Clauses Act, 1847, shall not take effect until the expiration of a period of two years from the passing of this Act; and
- (b) the repeal of such of the enactments mentioned in the said Schedule as relate to the functions of parish authorities shall not take effect, as respects any such authority, until those functions cease to be exercisable by that authority.

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## SCHEDULES.

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### FIRST SCHEDULE.

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Section 8.

#### CONSTITUTION AND PROCEEDINGS OF FIRE SERVICE COMMISSION.

1. The Fire Service Commission shall consist of a chairman and not less than three nor more than five other members appointed by the Secretary of State, who shall hold office for such term and on such conditions as to retirement as may be determined by the Secretary of State.

2. The Secretary of State shall appoint a secretary or secretaries to the Fire Service Commission; and there shall be paid to the chairman, members and secretaries or secretaries such remuneration and such travelling and other allowances as the Secretary of State may with the consent of the Treasury determine, and all such remuneration and allowances shall be defrayed as part of the expenses of the Secretary of State incurred for the purposes of this Act.

3. The proceedings of the Fire Service Commission shall not be invalidated by reason of any vacancy in the Commission or by any defect in the appointment of any member, and subject to any directions which may be given by the Secretary of State, the Fire Service Commission shall have power to regulate its own quorum and procedure.

**SECOND SCHEDULE.**

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**CONSTITUTION, PROCEEDINGS AND DISSOLUTION OF FIRE SERVICE BOARDS.**

1. A fire service board shall consist of a chairman appointed by the Secretary of State and such other members as may be so appointed, and shall be a body corporate by the name of the Fire Service Board together with the name of the area for which it is constituted, and shall have a common seal and power to hold land without licence in mortmain.

2. The chairman and members of a fire service board shall hold office for such term and on such conditions as to retirement as may be determined by the Secretary of State.

3. The Secretary of State shall appoint a secretary to the board, and the board may, with the approval of the Secretary of State, appoint such other officers and servants as they may require for the execution of their duties.

4. There shall be paid to the chairman, members, secretary, officers and servants of a fire service board such remuneration and such travelling and other allowances as the Secretary of State may with the consent of the Treasury determine, and all such remuneration and allowances, except so far as they are attributable to the exercise of functions transferred to the board from a defaulting authority under section thirteen of this Act, shall be defrayed as part of the expenses of the Secretary of State incurred for the purposes of this Act.

5. A fire service board may enter into such agreements, acquire, deal with, and dispose of such property, and do such things, as may in their opinion be necessary or desirable for the execution of their duties.

6. The proceedings of a fire service board shall not be invalidated by reason of any vacancy in the board or by any defect in the appointment of any member, and, subject to any directions which may be given by the Secretary of State, a fire service board shall have power to regulate its own quorum and procedure.

7. The accounts of a fire service board shall be subject to audit by a district auditor.

8. The Secretary of State may by order dissolve a fire service board and provide for the winding-up of the board.

## THIRD SCHEDULE.

Sections  
5 & 30.

## ENACTMENTS REPEALED.

## PART I.

## ENACTMENTS REPEALED AS FROM THE PASSING OF THIS ACT.

Session and Chapter.	Short Title.	Extent of Repeal.
3 & 4 Will. 4. c. 90.	The Lighting and Watching Act, 1833.	Section forty-four.
10 & 11 Vict. c. 34.	The Towns Improvement Clauses Act, 1847.	Section one hundred and twenty-four.
10 & 11 Vict. c. 89.	The Town Police Clauses Act, 1847.	Section thirty-two.
10 & 11 Vict. c. cclxxxiv.	An Act to purchase and define the manorial and market rights of Stockport, to establish public parks, to purchase or lease waterworks, to build bridges and to make other communications within the borough of Stockport.	Section twenty-three.
25 & 26 Vict. c. cciii.	The Aberdeen Police and Waterworks Act, 1862.	Sections one hundred and forty-nine to one hundred and fifty-one, sections one hundred and fifty-three to one hundred and fifty-six and section one hundred and fifty-eight so far as relating to fires within the limits of the Act.
25 & 26 Vict. c. ccv.	The Salford Improvement Act, 1862.	Section two hundred and seventy-four, so far as it relates to payments by owners of property.
28 & 29 Vict. c. ccl.	The Newcastle-upon-Tyne Improvement Act, 1865.	Section one hundred and one.
29 & 30 Vict. c. xxix.	The Manchester Town Hall and Improvement Act, 1866.	Section twenty.
29 & 30 Vict. c. li.	The Tynemouth Improvement Act, 1866.	Section forty-five.

3RD SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. cclxxiii.	The Glasgow Police Act, 1866.	Sections one hundred and fifty-eight to one hundred and sixty-one, sections one hundred and sixty-three to one hundred and sixty-six and section one hundred and sixty-eight so far as relating to fires within the city.
30 & 31 Vict. c. 106.	The Poor Law Amendment Act, 1867.	Section twenty-nine.
33 & 34 Vict. c. oxx.	The Newcastle-upon-Tyne Improvement Act, 1870.	Section one hundred and four.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Section sixty-six, in section one hundred and sixty-three, the words "fire engines hose," and paragraph (2) of section one hundred and seventy-one so far as it incorporates section thirty-two of the Town Police Clauses Act, 1847.
45 & 46 Vict. c. clxxxv.	The Dundee Police and Improvement Consolidation Act, 1882.	Section two hundred and thirty-five in so far as it incorporates the provisions of section three hundred and forty-five of the General Police and Improvement (Scotland) Act, 1862, relating to the expenses of extinguishing fires or of section three hundred and forty-six of that Act, and sections two hundred and thirty-six to two hundred and thirty-nine and section two hundred and forty-two.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act, 1892.	Section two hundred and ninety in so far as relating to the expenses of extinguishing fires; sections two hundred and ninety-one to two hundred and ninety-five and section two hundred and ninety-nine.
56 & 57 Vict. c. 10.	The Police Act, 1893	Section two.



Session and Chapter.	Short Title.	Extent of Repeal.
56 & 57 Vict. c. 73.	The Local Government Act, 1894.	In sub-paragraph (ii) of paragraph (c) of subsection (1) of section six, the words "and of a fire engine, fire escape".
58 & 59 Vict. c. cxliii.	The Glasgow Corporation and Police Act, 1895.	Section thirty.
61 & 62 Vict. c. 38.	The Parish Fire-engines Act, 1898.	The whole Act.
7 Edw. 7. c. 53	The Public Health Acts Amendment Act, 1907.	Sections eighty-seven to ninety.
7 Edw. 7. c. lxii.	The Dundee Corporation Order Confirmation Act, 1907.	Section seventy-nine of the Order contained in the Schedule.
8 Edw. 7. c. 62	The Local Government (Scotland) Act, 1908.	Section eight except subsections (4) and (5).
9 Edw. 7. c. cxxix.	The Greenock Corporation Act, 1909.	Sections three hundred and seventy-seven to three hundred and seventy-nine, sections three hundred and eighty-one, and three hundred and eighty-two, and section three hundred and eighty-four except in so far as relating to section two hundred and ninety-eight of the Burgh Police (Scotland) Act, 1892.
15 & 16 Geo. 5. c. 71.	The Public Health Act, 1925.	Section fifteen.
20 & 21 Geo. 5. c. clxxvii.	The Glasgow Corporation Act, 1930.	Section thirty-nine in so far as it relates to section one hundred and sixty-six of the Glasgow Police Act, 1866.
22 & 23 Geo. 5. c. xlvi.	The Dundee Corporation Order Confirmation Act, 1932.	Section forty-nine of the Order contained in the Schedule in so far as it relates to section three hundred and forty-six of the General Police and Improvement (Scotland) Act, 1862, or to section two hundred and forty-two of the Dundee Police and Improvement Consolidation Act, 1882.

3RD SCH.  
—cont.

3RD SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
24 Geo. 5. c. v.	The Edinburgh Corporation Order Confirmation Act, 1933.	Sections one hundred and thirty-four to one hundred and thirty-eight and subsection (2) of section one hundred and forty of the Order contained in the Schedule.
25 Geo. 5. c. ii.	The Aberdeen Corporation Order Confirmation Act, 1934.	Section one hundred and twenty-four of the Order contained in the Schedule in so far as it relates to section one hundred and fifty-six of the Aberdeen Police and Waterworks Act, 1862.

## PART II.

ENACTMENTS REPEALED AS FROM TWO YEARS AFTER THE  
PASSING OF THIS ACT.

Session and Chapter.	Short Title.	Extent of Repeal.
10 & 11 Vict. c. 89.	The Town Police Clauses Act, 1847.	Section thirty-three.
25 & 26 Vict. c. cciii.	The Aberdeen Police and Waterworks Act, 1862.	Section one hundred and fifty-seven, and section one hundred and fifty-eight so far as relating to fires beyond the limits of the Act.
25 & 26 Vict. c. ccv.	The Salford Improvement Act, 1862.	Section two hundred and seventy-three.
28 & 29 Vict. c. 90.	The Metropolitan Fire Brigade Act, 1865.	In section thirty the words from "In such case" to "summary manner".
29 & 30 Vict. c. li.	The Tynemouth Improvement Act, 1866.	Section forty-six.

3RD SCH.

—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. cclxxiii.	The Glasgow Police Act, 1866.	Section one hundred and sixty-seven, and section one hundred and sixty-eight so far as relating to fires beyond the City.
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Paragraph (2) of section one hundred and seventy-one so far as it incorporates section thirty-three of the Town Police Clauses Act, 1847.
45 & 46 Vict. c. clxxxv.	The Dundee Police and Improvement Consolidation Act, 1882.	Section two hundred and thirty-five in so far as it incorporates section three hundred and forty-seven of the General Police and Improvement (Scotland) Act, 1862.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act, 1892.	Section two hundred and ninety-eight.
8 Edw. 7. c. 62	The Local Government (Scotland) Act, 1908.	Subsections (4) and (5) of section eight.
9 Edw. 7. c. cxxix.	The Greenock Corporation Act, 1909.	Section three hundred and eighty-four in so far as relating to section two hundred and ninety-eight of the Burgh Police (Scotland) Act, 1892.
20 & 21 Geo. 5. c. clxxvii.	The Glasgow Corporation Act, 1930.	Section thirty-nine in so far as it relates to sections one hundred and sixty-seven and one hundred and sixty-eight of the Glasgow Police Act, 1866.
22 & 23 Geo. 5. c. xlvi.	The Dundee Corporation Order Confirmation Act, 1932.	Section forty-nine of the Order contained in the Schedule in so far as it relates to section three hundred and forty-seven of the General Police and Improvement (Scotland) Act, 1862.
24 & 25 Geo. 5. c. v.	The Edinburgh Corporation Order Confirmation Act, 1933.	Subsections (1) and (3) of section one hundred and forty of the Order contained in the Schedule.

3RD SCH.  
—cont.

Session and Chapter.	Short Title.	Extent of Repeal.
25 & 26 Geo. 5. c. ii.	The Aberdeen Corporation Order Confirmation Act, 1934.	Section one hundred and twenty-four of the Order contained in the Schedule in so far as it relates to sections one hundred and fifty-seven and one hundred and fifty-eight of the Aberdeen Police and Waterworks Act, 1862.

### CHAPTER 73.

An Act to provide for the registration and inspection of nursing homes in Scotland and for purposes connected therewith. [29th July 1938.]

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

Registration  
of nursing  
homes.

1.—(1) If any person carries on a nursing home without being duly registered in respect thereof, he shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

(2) Application for registration shall be made in writing to the local authority in whose area the home is situate in the form prescribed by the Department, and shall be accompanied by a fee of five shillings.

(3) Subject as provided in this Act, the local authority shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration:

Provided that the authority may by order refuse to register the applicant if they are satisfied—

- (a) that he or any person employed or proposed to be employed by him at the home is not a fit person, whether by reason of age, conduct or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or
- (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used or to be used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home named in the application, or that the home or premises are used or to be used for purposes which are in any way improper or undesirable in the case of such a nursing home; or
- (c) in the case of a nursing home (other than a maternity home), that the home is not or will not be under the charge of a person who is either a registered medical practitioner or a qualified nurse and who is or will be resident in the home, or that there is not or will not be a proper proportion of qualified nurses among the persons having the superintendence of, or employed in, the nursing of the patients in the home; or
- (d) in the case of a maternity home, that the person having the superintendence of the nursing of the patients in the home is not a qualified nurse and a certified midwife, or that any person employed in attending any woman in the home in childbirth or in nursing any patient in the home is not a registered medical practitioner, a certified midwife, a pupil midwife or a qualified nurse.

(4) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the home, and, if default is made in complying with the foregoing requirement, the person carrying on the home shall be guilty of an offence against this Act.

Cancellation  
of registra-  
tion.

17 & 18  
Geo. 5. c. 17.

**2.**—(1) Subject as provided in this Act, a local authority may by order at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle them to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence against this Act or against Part II of the Midwives and Maternity Homes (Scotland) Act, 1927, or that any other person has been convicted of such an offence in respect of that home :

Provided that, in the case of a person registered in respect of a maternity home under any enactment repealed by this Act, the local authority shall not cancel the registration of that person in respect of that home on the ground that it does not comply with the provisions of paragraph (d) of subsection (3) of section one of this Act until the expiration of three months after the authority have given him notice in writing requiring that the provisions of the said paragraph shall be complied with.

(2) Upon the registration of any person in respect of any home being cancelled, the holder of the certificate of registration shall forthwith deliver up the certificate to the local authority.

Notice of  
refusal or  
of cancella-  
tion of  
registration.

**3.**—(1) Before making an order refusing an application for registration or an order cancelling any registration, the local authority shall give to the applicant or to the person registered, as the case may be, not less than fourteen days' notice of their intention to make such an order, and every such notice shall state the grounds on which the authority intend to make the order and shall contain an intimation that, if within fourteen days after the receipt of the notice the applicant or person registered informs the authority in writing that he desires so to do, the authority will, before making the order, give him an opportunity of showing cause, in person or by a representative, why the order should not be made.

(2) Where a local authority have made an order refusing an application for registration or cancelling any registration, they shall cause a copy of the order to be sent to the applicant or the person registered.

(3) Any person aggrieved by an order refusing an application for registration or cancelling any registration

may, within fourteen days after the date on which the copy of the order was sent to him, appeal against it to the sheriff, whose decision shall be final and shall be given effect to by the local authority.

(4) No such order shall come into force until the expiration of fourteen days from the date on which it was made, or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

4.—(1) The Department may make regulations Regulations. prescribing anything which under this Act is to be or may be prescribed and prescribing the records to be kept in respect of every nursing home and, in particular, without prejudice to the foregoing generality—

(a) with respect to every nursing home, the records to be kept of—

- (i) the patients admitted to the home, and
- (ii) the persons engaged or employed at the home;

(b) with respect to every maternity home, the records to be kept of—

- (i) the infant children in the home;
- (ii) the births, still-births, premature births and abortions or miscarriages occurring in the home; and
- (iii) every child born in the home who is removed from the home otherwise than to the custody or care of a parent, guardian or relative of the child; and

(c) with respect to every nursing home, the notices to be given when any death occurs therein.

(2) Regulations made under this section shall be laid before both Houses of Parliament as soon as may be after they are made :

Provided that, if an address is presented to His Majesty by either House within the next subsequent twenty-one days on which that House has sat after regulations are laid before it praying that the regulations may be annulled, the regulations shall thenceforth be void, without prejudice to the validity of anything

previously done thereunder, or to the making of new regulations.

(3) Any person who acts in contravention of or fails to comply with the provisions of any regulations made under this Act, shall be guilty of an offence against this Act.

Inspection  
of nursing  
homes.

**5.**—(1) The medical officer of health of the local authority or a qualified nurse or other officer duly authorised by the authority may, subject to such regulations as may be made by the authority, and an officer duly authorised by the Department may, at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used, for the purposes of a nursing home, and may inspect any records required to be kept in accordance with the provisions of this Act :

Provided that nothing in this Act shall be deemed to authorise any such officer to inspect any medical record relating to any patient in a nursing home.

(2) Any person who refuses to allow any such officer to enter or inspect any such premises as aforesaid, or obstructs any such officer in the execution of his powers under this section, shall be guilty of an offence against this Act.

Power to  
exempt  
certain  
institutions.

**6.**—(1) A local authority may grant exemption from the operation of this Act in respect of any hospital or similar institution not carried on for profit and may attach conditions to any exemption granted by them.

(2) Any exemption granted, or deemed to have been granted, under this section, in respect of any hospital or institution may be withdrawn at any time and, unless previously withdrawn, shall cease to have effect on the expiration of one year from the date on which it is granted, without prejudice to the power of the local authority to grant a further exemption :

Provided that, if the authority deem it convenient that all such exemptions should expire on the same date in any year, they may, for the purpose of securing that object, grant exemptions for any period not being less than six months and not exceeding eighteen months.

(3) Any person who is aggrieved by the refusal of a local authority to grant exemption under this section



in respect of any hospital or institution, or by any conditions attached to an exemption, or by the withdrawal by the authority of any exemption, may appeal against the refusal or conditions or withdrawal to the Department, and the Department, after considering the matter, shall give such directions therein as they think proper, and the authority shall comply with any directions so given.

7.—(1) The Department may, in respect of any nursing home which they are satisfied is being, or will be, carried on in accordance with the practice and principles of the body known as the Church of Christ Scientist, grant exemption from the operation of any requirement of paragraph (c) of subsection (3) of section one of this Act which is inconsistent with such practice or principles.

Power to exempt Christian Science Homes.

(2) It shall be a condition of any exemption granted in respect of a nursing home under this section that the nursing home shall adopt and use the name of Christian Science house.

(3) An exemption granted under this section in respect of a nursing home may at any time be withdrawn by the Department if it appears to them that that home is no longer being carried on in accordance with the said practice and principles.

8.—(1) If any person is guilty of an offence against this Act (other than an offence in respect of which some other penalty is specifically provided by this Act), he shall be liable on summary conviction to a fine not exceeding five pounds, and, in the case of a continuing offence, to a further fine not exceeding two pounds in respect of each day on which the offence continues after conviction.

Penalty for offences against Act and provision as to offences by companies.

(2) Where a person convicted of an offence against this Act is a company, the chairman and every director of the company and every officer of the company concerned in the management thereof shall be guilty of the like offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

9. Any expenses incurred under this Act by a local authority shall be defrayed in like manner as expenses incurred by the authority under the Public Health (Scotland) Act, 1897.

Expenses of local authority. 60 & 61 Vict. c. 38.

Interpreta-  
tion.

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

“ Department ” means the Department of Health for Scotland;

“ local authority ” means—

(a) in the case of a large burgh within the meaning of the Local Government (Scotland) Act, 1929, the town council;

(b) in the case of counties combined for the purposes mentioned in subsection (7) of section ten of the last-mentioned Act, the joint county council; and

(c) in the case of any other county, the county council;

“ county ” means a county inclusive of any small burgh within the meaning of the Local Government (Scotland) Act, 1929, situate in the county;

“ register ” and “ registration ” mean register and registration under this Act;

“ nursing home ” means any premises used or intended to be used for the reception of and the providing of nursing for persons suffering from any sickness, injury, or infirmity, and includes a maternity home but does not include—

(i) any hospital or other premises maintained or controlled by a Government department or local authority or by any other body of persons constituted by special Act of Parliament or incorporated by Royal Charter;

(ii) any institution for lunatics within the meaning of the Lunacy (Scotland) Act, 1857;

(iii) any certified institution, certified house or approved home within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913;

“ maternity home ” means any premises used or intended to be used for the reception of pregnant women or of women immediately after child-birth;

“ qualified nurse ” means a person registered in the general part of the register of nurses required to

19 & 20  
Geo. 5. c. 25.

20 & 21 Vict.  
c. 71.

3 & 4 Geo. 5.  
c. 38.

be kept under the Nurses Registration (Scotland) Act, 1919, or a person who had before the commencement of this Act completed a three years' course of training in a hospital which before such commencement, became a training school approved by the General Nursing Council for Scotland, or the General Nursing Council for England and Wales, or the General Nursing Council for Northern Ireland, for the purpose of admission to the general part of the said register;

“certified midwife” means a woman certified under the Midwives (Scotland) Act, 1915;

9 & 10  
Geo. 5. c. 95.

“pupil midwife” means a person who is undergoing training with a view to becoming a certified midwife, and for that purpose is attending women in childbirth as part of a course; of practical instruction in midwifery recognised by the Central Midwives Board for Scotland.

5 & 6 Geo. 5.  
c. 91.

**11.—(1)** This Act may be cited as the Nursing Homes Registration (Scotland) Act, 1938.

Short title,  
extent,  
repeal and  
commence-  
ment.

(2) Subject as hereinafter provided, the enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that—

- (i) any person who was, immediately before the commencement of this Act, registered under any enactment repealed by this Act in respect of any maternity home, shall be deemed for all the purposes of this Act to be as from the commencement of this Act a person duly registered thereunder in respect of that home; and
- (ii) any exemption of a hospital or institution granted under paragraph (a) of subsection (1) of section fifteen of the Midwives and Maternity Homes (Scotland) Act, 1927, which was in force immediately before the commencement of this Act, shall be deemed to have been granted under section six of this Act.

(3) This Act shall come into operation on the first day of January nineteen hundred and thirty-nine.

(4) This Act shall apply to Scotland only.

Section 11.

## SCHEDULE.

### ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
17 & 18 Geo. 5. c. 17.	<b>The Midwives and Maternity Homes (Scotland) Act, 1927.</b>	Part II; subsection (1) of section sixteen, in subsection (2) of section sixteen the words "Part II as well as of", and in subsection (1) of section seventeen the words "and Maternity Homes" in both places where they occur.

# TABLE II.

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TABLE

OF

THE TITLES OF THE MEASURES

PASSED BY THE NATIONAL ASSEMBLY OF THE CHURCH  
OF ENGLAND WHICH RECEIVED THE ROYAL  
ASSENT DURING THE SESSION.

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[1 & 2 GEO. 6.]

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ROYAL ASSENT, 13TH APRIL, 1938.

- No. 1.** A Measure to remove doubts as to the power of bishops to license chapels in certain districts for the solemnization therein of certain marriages. (*Marriage (Licensing of Chapels).*)
- No. 2.** A Measure to transfer the dignity and status of the Cathedral of the Diocese of Guildford from the Church of the Holy Trinity in Guildford to the Church of the Holy Spirit in Guildford and for purposes connected therewith. (*Guildford Cathedral.*)

ROYAL ASSENT, 23RD JUNE, 1938.

- No. 3.** A Measure to consolidate and amend the law relating to the sale, purchase and improvement of parsonage houses and of other property belonging to benefices. (*Parsonages.*)
- No. 4.** A Measure to confer upon the Ecclesiastical Commissioners power to establish and fix parochial tables of fees for the performance of church offices and matters incidental thereto : to amend the Glebe Lands Act, 1888, and to make applicable to future sales under that Act the provisions of the Ecclesiastical Leasing Acts as to improvement of annual value : to give additional powers to the Ecclesiastical Commissioners as to the application of money arising from the sale of

property of a benefice under the Ecclesiastical Leasing Acts or the Glebe Lands Act, 1888, and to enable them to rearrange charges on endowment of a benefice in favour of another benefice: to remove a doubt arising under the Union of Benefices Act, 1860: to enable the Ecclesiastical Commissioners to withdraw certain curate grants: to make provision for payment to the incumbents of benefices by regular quarterly instalments of such part of the income of their respective benefices as is received by them from the Ecclesiastical Commissioners: to give additional powers to the Ecclesiastical Commissioners in relation to funds available for the endowment of benefices and in relation to curate funds: and to amend section two of the Ecclesiastical Commissioners Act, 1850, as to the salaries payable to Church Estates Commissioners. (*Ecclesiastical Commissioners (Powers).*)

ROYAL ASSENT, 13TH JULY, 1938.

- No. 5.** A Measure to amend the Liverpool City Churches Act, 1897. (*Liverpool City Churches Act, 1897 (Amendment).*)
- No. 6.** A Measure to amend the law relating to the issue of faculties out of ecclesiastical courts; to make better provision for giving effect to faculties so issued; to authorise the sale of books in certain parochial libraries under a faculty; to authorise archdeacons to issue certificates in certain cases; and for other purposes connected therewith. (*Faculty Jurisdiction.*)

# M E A S U R E S

PASSED BY THE NATIONAL ASSEMBLY OF THE  
CHURCH OF ENGLAND WHICH RECEIVED  
THE ROYAL ASSENT DURING THE  
YEAR 1938.

1 & 2 GEO. 6.

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No. 1.

A MEASURE passed by the National Assembly  
of the Church of England.

To remove doubts as to the power of bishops to  
license chapels in certain districts for the  
solemnization therein of certain marriages.

[13th April 1938.]

WHEREAS by section twenty-six of the Marriage Act, 1836, it is enacted that with the consent under the hand and seal of the patron and incumbent respectively of the church of the parish or district (each of which in this Measure is included in the expression "parish") in which may be situated any public chapel with or without a chapelry thereunto annexed, or any chapel duly licensed for the celebration of divine service according to the rites and ceremonies of the Church of England or any chapel the minister whereof is duly licensed to officiate therein according to the rites and ceremonies of the Church of England (any such chapel being in this Measure referred to as a "public chapel") or without such consent after two calendar months' notice in writing given by the registrar of the diocese to such patron and incumbent respectively, the bishop of the diocese may, if he shall think it necessary for the due accommodation and convenience of the inhabitants, authorise by a licence under his hand and seal the

6 & 7 Will. 4.  
c. 85.

solemnization of marriages in any public chapel for persons residing within a district the limits whereof shall be specified in the bishop's licence, and under such provisions as to the amount, appropriation or apportionment of the dues and as to other particulars as to the said bishop may seem fit, and as may be specified in the said licence :

And whereas doubts have arisen as to whether under the said enactment bishops have been and will be enabled to authorise the solemnization of marriages in a public chapel for persons residing within a district which does not lie wholly within the parish in which such chapel is situate :

And whereas it is expedient that such doubts should be removed :

Licensing for marriages of chapel of district taken from more than one parish.

**1.** Section twenty-six of the Marriage Act, 1836, shall be deemed always to have had effect and shall hereafter have effect as if it had expressly provided that the bishop of the diocese might (subject to the provisions of that Act as explained and extended by this Measure) authorise by a licence under his hand and seal the solemnization of marriages in any public chapel for persons residing within a district the limits whereof should be specified in the bishop's licence notwithstanding that such district has been or may be taken out of more than one parish, and no marriage heretofore solemnized in any public chapel shall be or be deemed to be invalid by reason only that the district specified in the bishop's licence was taken out of more than one parish.

Meaning of "patron" and "incumbent" in sections 26 and 28 of the Marriage Act, 1836.

**2.** In any case where the bishop's licence is granted after the passing of this Measure and specifies a district taken out of more than one parish the expressions "patron" and "incumbent" wherever used in section twenty-six or section twenty-eight of the Marriage Act, 1836, shall respectively mean the patron or the incumbent (as the case may be) of the church of every parish out of which the district specified is taken.

Meaning of "parish church" in section 33 of the Marriage Act, 1836.

**3.** In case of the revocation after the passing of this Measure of a licence to solemnize marriages in any public chapel for persons residing in a district taken out of more than one parish, the expression "parish church" wherever used in section thirty-three of the Marriage Act, 1836, shall



mean the church of the parish in which such public chapel is situate.

4.—(1) This Measure shall extend to the whole of the Provinces of Canterbury and York except the Channel Islands and the Isle of Man. Extent and short title.

(2) This Measure may be cited as the Marriage (Licensing of Chapels) Measure, 1938.

## No. 2.

A MEASURE passed by the National Assembly  
of the Church of England.

To transfer the dignity and status of the Cathedral  
of the Diocese of Guildford from the Church of  
the Holy Trinity in Guildford to the Church of  
the Holy Spirit in Guildford and for purposes  
connected therewith. [13th April 1938.]

1.—(1) The Church of the Holy Trinity (in the Constitution and Statutes relating thereto described as the Cathedral Church of the Holy and Undivided Trinity) in the borough and diocese of Guildford shall cease to be the Cathedral Church of the said diocese, and the Church of the Holy Spirit in the said borough and diocese shall become and be the Cathedral Church of the said diocese. Transfer of Cathedral status and dignity.

(2) Sections three and four of the Archdeaconry of Surrey Measure, 1930, and any schemes relating to the Cathedral Church of Guildford made under the said section four shall have effect as if for references therein to the Cathedral Church of Guildford there were substituted references to the Cathedral Church of the Holy Spirit, Guildford. 20 Geo. 5.  
No. 2.

(3) Section seven of the Diocese of Winchester (Division) Measure, 1923, and the Order of His late Majesty King George the Fifth in Council made thereunder and dated the twenty-second day of April nineteen hundred and twenty-seven shall cease to have effect so far as that section and that Order relate to the Cathedral Church of Guildford. 14 & 15  
Geo. 5. No. 6.

Application  
of the  
Cathedral  
Measures to  
the new  
Cathedral.

**2.**—(1) The Cathedral Measures, 1931 and 1934, shall have effect as if—

- (i) the Church of the Holy Spirit, Guildford, was one of the cathedral churches mentioned in the Second Schedule to the Cathedrals Measure, 1931; and
- (ii) the Council constituted by the Scheme for the Cathedral Church of Guildford (hereinafter referred to as the original scheme) made under the said Measures and confirmed by an Order in Council dated the twenty-eighth day of May, nineteen hundred and thirty-six, were in relation to the Church of the Holy Spirit, Guildford, the consenting body under section three of the Cathedrals Measure, 1931.

(2) A scheme under the said Measures as extended by this section—

- (i) may provide for the transfer to the Chapter constituted thereunder of any property vested in the Chapter constituted under the original scheme;
- (ii) shall provide that those persons who, immediately prior to the date when such scheme comes into operation, are honorary canons in the Cathedral Church of the Holy Trinity, Guildford, shall be the first honorary canons in the Cathedral Church of the Holy Spirit, Guildford; and
- (iii) may provide that appointments of assistant clergy, organists, choir, vergers and other lay officers in the Cathedral Church of the Holy Spirit, Guildford, shall be made in like manner as they were formerly made in the Church of the Holy Trinity, Guildford.

(3) This section shall come into operation on the passing of this Measure, but any scheme made thereunder shall not come into operation until the execution of the document mentioned in section four of this Measure, and on the coming into operation of the scheme so made the original scheme shall cease to have effect.

Resignation  
of Provost.

**3.** The person who is the incumbent of the benefice of Holy Trinity with St. Mary and St. Luke, Guildford,

may resign the dignity of Provost of the Cathedral without prejudice to his status or rights as incumbent of the said benefice; but if he does not so resign the said dignity before the assignment of a separate ecclesiastical district to the Church of the Holy Spirit, he shall become and be the first incumbent of the said church, and the benefice of Holy Trinity with St. Mary and St. Luke, Guildford, shall thereupon become vacant in like manner as if he had resigned therefrom.

4.—(1) As soon as all the following conditions have been fulfilled, that is to say :— Commence  
ment.

- (i) the site of the Church of the Holy Spirit has been conveyed to the Ecclesiastical Commissioners;
- (ii) a portion of the Church of the Holy Spirit, sufficient in the opinion of the Ecclesiastical Commissioners to become a Parish Church, has been erected;
- (iii) the patronage of the said Church of the Holy Spirit has been vested by agreement in the Bishop of Guildford;
- (iv) the said portion of the Church of the Holy Spirit has been consecrated;
- (v) a separate Ecclesiastical District has been assigned by His Majesty in Council to the said Church of the Holy Spirit under the Church Building Acts;

the Bishop of Guildford shall certify the fact by a document under his hand and seal, and this Measure except section two thereof shall come into operation immediately upon the execution of the said document.

(2) The said document, when executed, shall be deposited in the Registry of the diocese of Guildford and shall remain in that Registry unless and until the Bishop, with the consent of the Chapter, shall make other provision for its safe custody.

5. This Measure may be cited as the Guildford Cathedral Measure, 1938. Short title.

## No. 3.

A MEASURE passed by the National Assembly  
of the Church of England.

To consolidate and amend the law relating to  
the sale, purchase and improvement of  
parsonage houses and of other property  
belonging to benefices. [23rd June 1938.]

Powers of  
selling  
parsonage  
houses, &c.

1.—(1) Where the residence house, outbuildings, gardens, orchard and appurtenances belonging to any benefice shall be inconveniently situate or too large, or where for other good and sufficient reasons it shall be thought advisable to sell and dispose of the same or of any part thereof, the incumbent of such benefice, or during a vacancy the bishop, shall, subject to the provisions of this Measure, have the following powers, that is to say:—

- (i) power to sell such residence house, outbuildings, gardens, orchard, and appurtenances, or any of them, or any part thereof, with any land contiguous thereto belonging to the benefice either together or in parcels; or
  - (ii) power to pull down such residence house and outbuildings, or any of them or any part thereof and sell the materials and the site thereof, or either such materials or site or any part thereof.
- (2) Upon a sale under the powers of this Measure—
- (i) any hereditament, easement, right or privilege of any kind may be excepted, reserved or granted over or in relation to any land retained for the benefice affected, or disposed of to a purchaser, or in relation to any part thereof; and
  - (ii) any restriction with respect to building on or other user of land or with respect to any other thing may be imposed and made binding, so far as the law permits, by covenant, condition, or otherwise upon the purchaser and any property disposed of to him.

(3) No power conferred by this section shall be exercisable—

- (i) so that an area of more than twelve acres (including the site of any residence house, or other buildings) shall be sold or disposed of hereunder in any one benefice;
- (ii) without the consent of Queen Anne's Bounty, the Diocesan Dilapidations Board, and (in cases where the power is exercised by the incumbent) the bishop respectively;
- (iii) without the consent of the Commissioners of Crown Lands in cases where the property proposed to be disposed of is held under any grant made by or on behalf of His Majesty in right of his Crown; or
- (iv) over or in respect of any property vested in trustees.

(4) The powers conferred by this section shall continue to be exercisable in respect of a house which has ceased to be the residence house of a benefice by reason of the constitution of a new residence house of that benefice under this Measure.

(5) All moneys arising from any sale under the provisions of this section shall be paid to Queen Anne's Bounty, and the receipt of the treasurer of Queen Anne's Bounty shall be a sufficient discharge to the purchaser.

2.—(1) In the case of any benefice where such action is thought desirable, and whether or not the existing residence house belonging thereto shall have been sold or disposed of, the incumbent of the benefice, or during a vacancy the bishop, shall, subject to the provisions of this Measure, have the following powers, that is to say:—

Powers of erecting or purchasing new parsonage houses, &c.

- (i) power to erect or purchase a house or purchase land for the site of a house or an orchard, garden and appurtenances or other land, such house, orchard, garden and appurtenances or any such land, being respectively suitable for the residence and occupation of the incumbent of the benefice, but so that the total area of any land purchased including the site of any house or other buildings shall not exceed six acres, and so that leasehold

property shall not be purchased except for the purpose of merging forthwith the term for which the same is held in the freehold reversion expectant on such term;

- (ii) power to improve any house erected or purchased under the preceding paragraph or any house forming part of the property of the benefice which it is proposed to constitute the residence house of the benefice;
- (iii) in cases where the foregoing powers or any of them are exercised by the bishop, power for the bishop to enter upon the land of the benefice for the purpose of exercising such powers;
- (iv) where there are no moneys specially applicable for any of the purposes aforesaid or such moneys are insufficient, power for the purpose of obtaining a loan from Queen Anne's Bounty for the provision of such moneys to exercise the powers of charging the revenues of the benefice exercisable by the incumbent under the Clergy Residences Repair Act, 1776, and the Acts extending or amending the same or any of them, but so that no limitation imposed by the said Acts or any of them in respect of the amount of any loan shall apply in the case of a loan for the purpose of erecting or purchasing a house or land for the site of a house.

17 Geo. 3.  
c. 53.

(2) No power conferred by subsection (1) of this section shall be exercisable without the consent of Queen Anne's Bounty, the Diocesan Dilapidations Board, and (in cases where the power is exercised by the incumbent) the bishop respectively.

(3) Queen Anne's Bounty shall have power exercisable in their discretion to lend moneys to the incumbent or bishop (as the case may be) for any of the purposes aforesaid.

(4) If the bishop shall during a vacancy in any benefice have exercised the powers of erecting or improving a house conferred by this section and the vacancy shall have been filled before the completion of the work of erection or improvement, the incumbent succeeding to the benefice shall to the extent of any moneys specially applicable or lent by Queen Anne's Bounty complete such

work in accordance with the plans and specifications authorised by the bishop with such modifications (if any) as may be agreed to by the bishop, Queen Anne's Bounty and the Diocesan Dilapidations Board, and in default of his so doing it shall be lawful for the Diocesan Dilapidations Board so to complete such work.

**3.—(1)** An incumbent or bishop proposing to exercise any of the powers conferred on him by either of the foregoing sections of this Measure shall give the prescribed notice to the patron of the benefice affected and to the parochial church council of the parish within which that benefice is situate, and Queen Anne's Bounty shall, before consenting to the exercise of such power, consider any objection raised within the prescribed time by such patron or council, and, if satisfied that such objection ought not to prevent the exercise of such power, shall inform the patron or council, as the case may require, of the reasons upon which such conclusion is founded.

Provisions as to exercise of foregoing powers.

(2) Where it shall appear desirable to a Diocesan Dilapidations Board that any of the powers conferred by either of the foregoing sections of this Measure should be exercised in any benefice, the Board shall make a report to the bishop, and if the bishop and the incumbent of the benefice, or during a vacancy the bishop acting alone, shall request the Board so to do, the Board may frame proposals for the exercise of such power in accordance with the provisions of this Measure, and such proposals shall be communicated by the Board to the bishop and (except during a vacancy) to the incumbent.

(3) Queen Anne's Bounty may make such recommendations as may be deemed fit as to the costs, charges and expenses which may be incurred in connection with the exercise of any power conferred by either of the foregoing sections of this Measure, and any recommendations so made shall, if the Diocesan Dilapidations Board concur in them, be binding on the person exercising such power.

**4.—(1)** Subject to the provisions of this section the patron of every benefice shall have a right of pre-emption over any property belonging to such benefice in respect of which it is proposed to exercise any power of sale conferred by this Measure.

Patron's right of pre-emption.

(2) Such right of pre-emption may only be exercised by a notice in writing given by the patron to the Diocesan Dilapidations Board within fourteen days after notice of the proposed exercise of any power of sale conferred by this Measure shall have been given to him.

(3) A notice by a patron duly exercising over any property the right of pre-emption given to him by this section shall have effect as if it were a contract in writing between the incumbent of the benefice concerned (or during a vacancy the bishop) and the patron for the sale of such property to the patron under the provisions of this Measure, subject to such reservations, restrictions and conditions (if any) as the Diocesan Dilapidations Board may require to be imposed, either—

- (i) at such a price as may be agreed upon between the patron and the Diocesan Dilapidations Board; or, failing such agreement,
- (ii) at such a price as shall be fixed by a valuer appointed at the request of the Diocesan Dilapidations Board by the president for the time being of the Surveyors' Institution.

(4) The following provisions shall have effect :—

- (i) A valuer acting under this section shall have regard to the reservations, restrictions and conditions (if any) to which the sale to the patron is to be made subject, and also to the price offered by any person other than the patron.
- (ii) A valuation made under this section shall not be deemed to be a submission to arbitration under the Arbitration Acts, 1889 to 1934, or otherwise.
- (iii) The costs of and incidental to a valuation under this section according to a scale to be approved by the Diocesan Dilapidations Board shall be borne by the patron concerned, and shall be recoverable from him as a debt by the valuer who has made the valuation.

Application  
of moneys  
derived  
from sales.

5.—(1) Subject to the provisions of this section, Queen Anne's Bounty shall in their discretion apply and dispose of any moneys arising from any sale under this



Measure of any part of the property of a benefice for one or more of the following purposes (that is to say) :—

- (i) in payment of the costs, charges and expenses of such sale;
- (ii) for or towards any one or more of the purposes of the powers contained in paragraphs (i) and (ii) of subsection (1) of section two of this Measure;
- (iii) in repayment of any money expended with the previous consent of Queen Anne's Bounty and the Diocesan Dilapidations Board for the purpose of rendering the property sold more readily saleable;
- (iv) if and in so far as the income derived from any moneys arising from any sale under this Measure pending the application and disposition of such moneys under the foregoing paragraphs of this subsection shall be insufficient for this purpose, in payment to the incumbent of the benefice affected of the whole or any part of the expenses reasonably incurred by him in respect of his removal from one residence house to another, the storage of his furniture, and the rent paid by him for any temporary residence pending his occupation of the new residence house of the benefice: provided that no payment shall be made under the provisions of this paragraph unless the consent of the bishop and the Diocesan Dilapidations Board shall have first been obtained; and
- (v) in any case where such moneys shall not have been wholly expended for one or more of the above-mentioned purposes, in erecting, re-building, improving or enlarging any house, cottage or farm buildings required for or belonging to the benefice.

(2) Provided that in any case where such moneys shall have arisen from the sale of property purchased originally or built or improved either wholly or in part by means of a loan under the Clergy Residences Repair Act, 1776, or the Acts amending or extending the same, or

repaired either wholly or in part by means of a loan made by Queen Anne's Bounty under the Ecclesiastical Dilapidations Measures, 1923 to 1929, or which is subject to any mortgage or charge in favour of Queen Anne's Bounty, arising under any other Act or Measure, or in any case where any loan has been made for the purpose of the power contained in paragraph (iv) of subsection (1) of section two of this Measure, and any principal money shall remain owing on account of such loan or under such mortgage or charge, Queen Anne's Bounty may apply such moneys in or towards the discharge of such principal money.

(3) If and so far as any moneys arising from any sale under this Measure shall not be applied or disposed of under any of the foregoing provisions of this section, Queen Anne's Bounty shall hold the same for the benefit of the particular benefice on account of which the same shall have been received in such and the same manner and with such and the same powers of investment and other powers and authorities in all respects according to the rules and regulations of Queen Anne's Bounty for the time being as if the same had been appropriated to such benefice out of the general funds and profits of Queen Anne's Bounty or otherwise for the benefit and augmentation thereof.

**6.** In any case where any income shall be derived from any moneys arising from any sale under this Measure pending the application and disposition of such moneys under the foregoing provisions of this Measure, such income shall be added to the capital by way of accumulation unless Queen Anne's Bounty shall think fit to pay the whole or any part thereof to the incumbent of the benefice concerned or otherwise apply the same as income of the benefice on account of which the same shall have been received.

**7.** Queen Anne's Bounty shall give the prescribed notice to the patron of the benefice affected and to the parochial church council of the parish within which that benefice is situate of any proposed application and disposition of moneys under paragraph (ii) of subsection one of section five of this Measure, and shall consider any representations made by such patron or council with regard to such application and disposition.

Interim  
income.

Notice of  
application  
of moneys.

**8.**—(1) Any consent or approval of a bishop under this Measure shall be signified by writing under his hand. Consent and approval.

(2) Any consent or approval of a Diocesan Dilapidations Board under this Measure may be given by an instrument in writing signed by the secretary of such Board.

**9.**—(1) Land (including buildings) sold or purchased under this Measure shall be conveyed by or to the incumbent of the benefice affected in his corporate capacity, and so that— Assurances.

(i) during a vacancy the bishop shall have power to convey or to take under a conveyance in the name and on behalf of the incumbent of the benefice in his corporate capacity, and no conveyance so made or taken shall on the vacancy being filled be capable of being disclaimed or renounced by any incumbent succeeding to the benefice; and

(ii) no licence in mortmain shall in any case be required.

(2) The sealing by Queen Anne's Bounty of any conveyance executed under this Measure shall be conclusive evidence that all the requirements of this Measure with respect to the transaction carried out by such conveyance have been complied with.

(3) Every conveyance of land (including buildings) purchased for a benefice under this Measure shall be registered in the prescribed manner in the registry of the diocese concerned.

(4) In any case where any land (including buildings) sold under this Measure is subject to any mortgage or charge in favour of Queen Anne's Bounty, the conveyance thereof under this Measure shall be effectual to pass the same discharged from such mortgage or charge, and such mortgage or charge shall attach to the purchase money arising on the sale.

**10.** The purposes for which a loan under the Clergy Residences Repair Act, 1776, or the Acts amending or extending the same may be made by Queen Anne's Bounty shall henceforth include— Extension of incumbent's borrowing powers.

(i) the division of the residence house of the benefice into two or more parts;

- (ii) the erection, improvement, enlargement and purchase of any house, cottage or other buildings or land belonging to or suitable for acquisition for the benefice;
- (iii) the construction and improvement of the drainage of any such house, cottage, building or land and the provision and improvement of the supply of water, gas and electricity thereto;
- (iv) the making up of roads and footpaths adjoining any property belonging to the benefice and the improvement of the drive, paths and garden of the residence house of the benefice; and
- (v) the payment of compensation for the extinguishment of any manorial incidents to which the glebe or other property of the benefice was formerly subject.

Bishop to certify residence house of benefice.

**11.**—(1) Any house erected, purchased or improved under the powers of this Measure as the residence of an incumbent of a benefice shall as from the date on which the bishop so certifies in writing be deemed and taken to be the residence house of the benefice for which the same is erected, purchased or improved for all purposes.

(2) If the residence house of a benefice is divided into two or more parts, one of the said parts shall as from the date on which the bishop so certifies in writing be deemed and taken to be the residence house of the benefice.

Provisions for parishes without parochial church councils.

**12.** Where it is proposed that the powers conferred by this Measure shall be exercised in relation to any benefice and at the time of such proposed exercise there is no parochial church council constituted in the parish within which that benefice is situate, the following provisions shall have effect :—

- (i) Any notice or information required to be given under this Measure to the parochial church council of the parish concerned shall be deemed to be duly given if given to the churchwardens of that parish; and
- (ii) the churchwardens of the parish concerned shall have the same powers of raising objections, making representations, and giving consents as are conferred on parochial church councils by

this Measure, and every objection, representation or consent so raised, made or given, shall be as effectual for all the purposes of this Measure as if there were a parochial church council duly constituted in that parish, and such objection, representation or consent had been duly raised, made or given by such parochial church council.

**13.** In any case where the bishop is himself the patron of a benefice in right of his see (either solely or alternately with others), it shall not be necessary to give the bishop in his capacity as patron any notice or information which is required to be given to the patron under this Measure. Notices where bishop is also patron.

**14.**—(1) Where the bishop of a diocese is disabled from exercising in person the functions of his office, the powers and duties assigned to him by this Measure shall be exercised and discharged by the archbishop of the province in which such diocese is situate. Exercise of powers of bishop.

(2) During the vacancy of a see the powers and duties assigned to a bishop by this Measure may be exercised and discharged by the guardian of the spiritualities of the diocese.

**15.**—(1) Queen Anne's Bounty shall make rules for prescribing anything which is to be prescribed hereunder, and generally for carrying this Measure into effect, and such rules shall (without prejudice to the generality of the foregoing provisions)— Rules.

- (i) define for the purposes of this Measure the expression "the patron";
- (ii) contain appropriate provisions as to the notice to be given in any case where a patron is subject to any incapacity or where there is any difficulty in determining who is the patron of any benefice, or where for any other reason notice cannot practicably be given to the patron personally; and
- (iii) provide for any notice required by this Measure, or consideration of objections, or other proceedings consequent on such notice being, by the direction of Queen Anne's Bounty, dispensed with in cases of urgency, with the consent of the patron and the parochial church council.

(2) No rule made by Queen Anne's Bounty in pursuance of this Measure shall come into force until it has been submitted for approval to and approved by the Church Assembly.

(3) Every rule purporting to be made by Queen Anne's Bounty and approved by the Church Assembly in pursuance of this section shall forthwith be laid before both Houses of Parliament, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat resolves that any such rule shall be annulled, such rule shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new rule.

(4) Prima facie evidence of any rule made by Queen Anne's Bounty and approved by the Church Assembly under this Measure may be given by producing a copy of such rule containing a statement that the same has been approved by the Church Assembly sealed with the common seal of Queen Anne's Bounty or certified to be a true copy under the hand of the Secretary for the time being of Queen Anne's Bounty.

Benefices  
in Crown  
patronage.

**16.** Where any notice to a patron of a benefice is to be given or any act or thing is to be done by such patron, notice may be given or such act or thing may be done where the patronage of the benefice is in the Crown or is part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall, to or by the person or persons to whom notices in connection with such benefice may be given under section forty of the Union of Benefices Measure, 1923.

14 & 15  
Geo. 5.  
No. 2.

Extension  
of section  
five of the  
Parsonages  
Act, 1838.  
1 & 2 Vict.  
c. 23.

**17.** The powers conferred upon colleges and halls within the Universities of Oxford and Cambridge and other corporate bodies by section five of the Parsonages Act, 1838, shall extend and be applicable so as to authorise loans in aid of any erection of a residence house or purchase under this Measure.

Extension  
of section  
fifteen  
of Clergy  
Residences  
Repair Act,  
1776.

**18.** Section fifteen of the Clergy Residences Repair Act, 1776, shall apply to assurances and other instruments made under and for the purposes of this Measure in the same manner as it applies to instruments made under and for the purposes of that Act, or the Acts amending or extending the same.

**19.** All rights conferred on patrons by this Measure shall, notwithstanding the provisions of any Act, be exercisable by persons professing the Roman Catholic faith, and such persons shall not for the purposes of this Measure be deemed to be subject by reason only of their religious profession to any incapacity.

Roman  
Catholic  
patrons.

**20.** In this Measure the expressions "bishop" and "Diocesan Dilapidations Board" when used with reference to a benefice mean respectively the bishop of the diocese and the Diocesan Dilapidations Board for the area in which the benefice is situate.

Interpre-  
tation.

**21.**—(1) This Measure shall come into force on the appointed day.

Commence-  
ment.

(2) The appointed day shall be such day subsequent to the day on which this Measure receives the Royal Assent as the Archbishops of Canterbury and York by writing under their respective hands and archiepiscopal seals shall jointly determine.

(3) The determination of the appointed day under this section shall be notified by advertisement in the London Gazette.\*

**22.**—(1) This Measure shall extend to the whole of the Provinces of Canterbury and York, except the Channel Islands and the Isle of Man.

Extent and  
short title.

(2) This Measure may be cited as the Parsonages Measure, 1938.

**23.** The Parsonages Measure, 1930, is hereby repealed.

Repeal.  
20 Geo. 5.  
No. 1.

## No. 4.

A MEASURE passed by the National Assembly  
of the Church of England.

To confer upon the Ecclesiastical Commissioners power to establish and fix parochial tables of fees for the performance of church offices and matters incidental thereto : to amend the Glebe Lands Act, 1888, and to make applicable to

\* The day thus determined was July 15, 1938 : see London Gazette, July 15, 1938, p. 4596.

future sales under that Act the provisions of the Ecclesiastical Leasing Acts as to improvement of annual value: to give additional powers to the Ecclesiastical Commissioners as to the application of money arising from the sale of property of a benefice under the Ecclesiastical Leasing Acts or the Glebe Lands Act, 1888, and to enable them to rearrange charges on endowment of a benefice in favour of another benefice: to remove a doubt arising under the Union of Benefices Act, 1860: to enable the Ecclesiastical Commissioners to withdraw certain curate grants: to make provision for payment to the incumbents of benefices by regular quarterly instalments of such part of the income of their respective benefices as is received by them from the Ecclesiastical Commissioners: to give additional powers to the Ecclesiastical Commissioners in relation to funds available for the endowment of benefices and in relation to curate funds: and to amend section two of the Ecclesiastical Commissioners Act, 1850, as to the salaries payable to Church Estates Commissioners. [23rd June 1938.]

Tables of  
parochial  
fees to be  
established  
by the  
Ecclesiastical  
Commissioners.

1.—(1) It shall be lawful for the Ecclesiastical Commissioners and they are hereby empowered, subject to the provisions hereinafter contained, to establish and fix for any parish a table of fees to be payable for or in respect of the solemnization or performance of church offices, the erection of monuments in churchyards and such other services or matters as may by any law or custom be now included in such tables, and also at any time and from time to time to revoke any table of fees for the time being in force for any parish whether such table shall have been established or fixed under the powers conferred by this section or under any previous statutory power or by or under any custom or otherwise, and establish and fix a new table in substitution therefor.

(2) All powers now vested in any authority or person other than the Ecclesiastical Commissioners to establish,



fix, alter or add to any table of fees for any parish whether under or by virtue of any custom or usage or under or by virtue of the provisions of any statute, including the powers conferred by section thirty-three of the Parish of Manchester Division Act, 1850, and by section fifteen of the New Parishes Act, 1843, shall as from the commencement of this Measure determine and be no longer exercisable.

13 & 14 Vict.  
c. 41.  
6 & 7 Vict.  
c. 37.

(3) The Ecclesiastical Commissioners may include in any such table of fees directions as to the amount of any fee or the method of fixing the amount thereof, as to the person to whom any fee shall be payable and as to the purpose or purposes to which any fee shall be allocated, and provisions as to the payment of special or increased fees for special services.

(4) Every table of fees which shall be fixed in exercise of the powers conferred by this present section shall be established and put on record by an instrument in writing under the seal of the Commissioners giving particulars of such table. Every such instrument shall be registered in the registry of the diocese in which the parish concerned is situate, and shall take effect as from the date of the instrument or from such other time as may be appointed in that behalf by the instrument. And all fees so fixed and established may be demanded, received, sued for and recovered by the spiritual person or clerk or sexton or other person to whom the same shall be assigned or allocated in like manner, and by such or the same means as would be available or applicable if such fees were ancient legal fees.

(5) The Ecclesiastical Commissioners shall in relation to any parish exercise the powers conferred by this section if and when requested in writing so to do by the incumbent and the parochial church council (if any) of the parish.

(6) Save as hereinafter provided no table of fees for any parish shall be fixed under the powers hereinbefore contained unless and until the same shall have been approved by the bishop and by the incumbent and the parochial church council (if any) of the parish.

(7) In any case where it shall appear to the bishop that a new table of fees should be established and fixed for any parish and either no application shall have been

made by the incumbent and the parochial church council to the Ecclesiastical Commissioners to exercise the powers in that behalf hereinbefore contained or such application as aforesaid shall have been made but the incumbent or the parochial church council shall have refused or failed before the expiration of such reasonable period as the bishop may allow for that purpose to approve of any table of fees proposed by the Ecclesiastical Commissioners and approved by the bishop, then and in such case it shall be lawful for the Ecclesiastical Commissioners, at the request of the bishop, to establish and fix a new table of fees for the said parish without the approval or consent of the incumbent or the parochial church council, but otherwise in manner hereinbefore provided, subject to the following conditions, namely:—

- (i) Notice in writing of the intention of the Ecclesiastical Commissioners to proceed under this subsection shall be given to the incumbent and parochial church council (if any);
- (ii) A copy of the new table of fees for such parish as proposed by the Ecclesiastical Commissioners and approved by the bishop shall be served upon the incumbent and the parochial church council (if any), together with a notice to the effect that any representations in respect thereof submitted to the Ecclesiastical Commissioners by the incumbent or by the parochial church council (if any) within one month thereafter will be considered;
- (iii) Any representations so submitted shall be referred to the bishop for his advice and opinion thereon, and shall be duly considered before any instrument shall be executed for establishing such table of fees;
- (iv) The powers of this present subsection shall not be exercised so as adversely to affect the rights of any incumbent without his consent in writing.

(8) In any case where any new table of fees for any parish shall be fixed or established in exercise of the powers conferred by this section, a copy of such table of fees shall be sent by the Ecclesiastical Commissioners to the incumbent of the parish, together with a statement

of the date or event on which the same has or will become applicable.

(9) It shall be the duty of the incumbent for the time being of every parish to procure that a copy of the table of fees in force in the parish shall at all times be publicly exhibited and kept exhibited in some suitable position in the church or churches of the said parish so as to be openly displayed and readily accessible to parishioners and other persons entering such church or churches.

(10) For the purposes of this section—

“ Parish ” shall include any ecclesiastical parish, parochial chapelry or other place within the limits of which any incumbent or minister has the cure of souls and is entitled to retain for his own benefit the fees chargeable in respect of the performance of church offices ;

In relation to any parish as aforesaid “ the bishop ” shall mean the bishop of the diocese in which such parish is situated ;

In relation to any parish as aforesaid “ the incumbent ” shall mean the incumbent or other the holder of the benefice which comprises such parish.

2.—(1) Notwithstanding anything contained in subsection (4) of section four of the Glebe Lands Act, 1888, all securities at any time hereafter bought out of purchase money arising under that Act and held by the Ecclesiastical Commissioners and all securities at any time hereafter bought or acquired by the Ecclesiastical Commissioners in or for effecting any variation of the investment of any such purchase money as aforesaid shall be entered in the books kept by any company in relation to those securities in the name of the Ecclesiastical Commissioners alone and stand in those books to their general account without any designation of a separate account or other reference to the benefice from which such purchase money shall have arisen.

Amendment  
of the Glebe  
Lands Act,  
1888.  
51 & 52 Vict.  
c. 20.

(2) Any company in whose books there is standing in the name of the Ecclesiastical Commissioners on a separate account *ex parte* any benefice any security bought out of or representing the purchase money under the Glebe

Lands Act, 1888, of the glebe of such benefice shall if and when so required by notice in writing under the seal of the Commissioners and upon production to the company of a copy of this Measure transfer such security from such separate account to the general account of the Ecclesiastical Commissioners and such notice together with the production of such copy as aforesaid shall be a sufficient authority for the company to make any such alterations in their books and in any stock certificate or other certificate relating to such account as may be necessary or proper for giving effect to the provisions of this subsection.

(3) Every such security as aforesaid which under the provisions of this section shall be entered or transferred in the books of any company to the general account of the Ecclesiastical Commissioners shall be entered in the books of the Ecclesiastical Commissioners to the separate credit of the benefice from which the purchase money represented by such security shall have arisen and be held upon such trusts for the benefit of that benefice or other purposes as may be applicable thereto under the provisions of the Glebe Lands Act, 1888, or otherwise, but subject in the case of any sale under the said Act of the glebe of any benefice which may be effected after the commencement of this Measure to the provisions of section three hereof respecting any improvement in the annual value of the benefice which may accrue by means of such sale.

(4) In this section "company" includes the Bank of England and any body corporate, company or person keeping books in which any stock or other security is registered or inscribed.

**3.—(1)** The provisions of the Ecclesiastical Leasing Acts respecting improvements in the annual value of any benefice accruing by means of the sale of any property of the benefice under the said Acts which enable or authorise a portion of the improved income of the benefice to be paid to the Ecclesiastical Commissioners and applied by them in making additional provision for the cure of souls and also the additional powers in relation to any such improved income which are conferred by section four of the Ecclesiastical Commissioners (Powers) Measure, 1936, shall extend and apply to any improvement of

Appropriation of improved income arising on sales under the Glebe Lands Act, 1888.

income accruing by means of a sale of glebe of any benefice effected after the commencement of this Measure under the provisions of the Glebe Lands Act, 1888, in all respects as if the sale had been effected under the Ecclesiastical Leasing Acts.

(2) The provisions of section five of the Ecclesiastical Commissioners (Powers) Measure, 1936, shall extend and apply to any funds or securities at any time standing in the books of the Ecclesiastical Commissioners to the credit of any benefice and representing money arising from a sale of glebe under the Glebe Lands Act, 1888, or to the proceeds of the realisation of any such funds or securities whether the sale shall have been effected before or after the passing of this Measure.

Extension of section five of the Ecclesiastical Commissioners (Powers) Measure, 1936, to funds arising under the Glebe Lands Act, 1888.

(3) Any moneys, securities or other funds held by the Ecclesiastical Commissioners to the credit of any benefice and available for the purposes mentioned in section five of the Ecclesiastical Commissioners (Powers) Measure, 1936, either under the provisions of that section or under the provisions of the last preceding subsection hereof, may be laid out or expended in relation to such benefice by the Ecclesiastical Commissioners at the request of the incumbent and subject to the like conditions as are mentioned in section five of the Ecclesiastical Commissioners (Powers) Measure, 1936, for or towards any one or more of the following further purposes, namely, the provision of a new parsonage house, the provision of new glebe buildings, the purchase of a site for any such house or buildings, or the rebuilding or reconstruction of any existing parsonage house or glebe buildings.

Enlargement of the powers conferred by section five of the Ecclesiastical Commissioners (Powers) Measure, 1936.

4.—(1) In any case where the endowment of any benefice (hereinafter referred to as a "recipient benefice") consists of or comprises an annual sum constituting a permanent charge on the endowment or any part of the endowment of any other benefice (hereinafter referred to as a "charged benefice") the Ecclesiastical Commissioners shall have power to substitute for the annual sum so charged or any part thereof an annual sum of the like amount to be paid by them out of their common fund to the incumbent for the time being of the recipient benefice, and to appropriate for the benefit of their common fund out of any endowment of the charged benefice held by

Power to rearrange charges on benefices.

them or payable out of their funds such portion of the said endowment as will in their opinion produce an annual income equal to the amount of the annual sum so to be paid out of the common fund.

29 & 30 Vict.  
c. 111.

(2) Every such payment to be made out of the common fund shall be secured, and every such appropriation for the benefit of the common fund shall be effected by an instrument under the common seal of the Commissioners, and the provisions of section five of the Ecclesiastical Commissioners Act, 1866, in relation to instruments made under that section, shall extend and apply to any instrument sealed by the Ecclesiastical Commissioners for the purposes of this present section.

(3) From and after the taking effect of any instrument as aforesaid the endowment of the charged benefice shall be discharged from the payment of the annual sum charged thereon, or (as the case may be) from payment of the part thereof for which a payment out of the common fund has been substituted.

(4) The powers conferred by this section shall only be exercisable—

- (i) At the request of the incumbents of the recipient benefice and the charged benefice; or
- (ii) After three months' notice in writing shall have been given to the said incumbents of the intention of the Ecclesiastical Commissioners to exercise the said powers in relation to the said benefices.

Amendment  
of the  
Union of  
Benefices  
Act, 1860.  
23 & 24 Vict.  
c. 142.

5. The provisions contained in section twenty-two of the Union of Benefices Act, 1860, which empower the Ecclesiastical Commissioners with such consent as therein mentioned to apply the surplus of the moneys therein referred to for the benefit of any benefice or benefices in the metropolis shall be read and construed as empowering and as having at all times heretofore empowered the Ecclesiastical Commissioners to apply such surplus moneys with such consent as aforesaid for the benefit of any benefice or benefices in the metropolis or in the vicinity thereof as defined by the Union of Benefices Act, 1898, to the benefit of which the Ecclesiastical Commissioners may with such consent think fit to apply the same.

61 & 62 Vict.  
c. 23.

6.—(1) In any case where any annual or other periodical sum shall be payable out of the common fund of the Ecclesiastical Commissioners towards the payment of the stipend of an assistant minister or curate for any benefice pursuant to a grant made in exercise of the powers conferred by section sixty-seven of the Ecclesiastical Commissioners Act, 1840, and the Ecclesiastical Commissioners shall be of opinion that the grant ought to be determined or reduced in amount, it shall be lawful for them, with the consent in writing of the bishop of the diocese and subject to the conditions hereinafter mentioned, by an instrument under their seal published in the London Gazette to declare that the grant shall as from such date or event as shall be specified in the instrument in that behalf, be either wholly determined or reduced to such amount as shall be stated in the instrument, and upon such instrument being published as aforesaid the provisions thereof shall be of full force and effect and binding upon all persons concerned :

Power to withdraw or reduce curate grants.

3 & 4 Vict.  
c. 113.

Provided always that—

- (i) the determination or reduction of any grant under the provisions of this section shall not, save with the consent in writing of the incumbent of the benefice in favour of which the grant was made, take effect until after the first vacancy of the said benefice which shall happen subsequently to the date of the instrument of determination or reduction;
- (ii) where at the date of any such instrument as aforesaid an assistant minister or curate shall under or by virtue of an engagement or employment then current be in receipt of a stipend wholly or partly provided out of the grant to which the instrument relates the determination or reduction (as the case may be) of the grant shall not take effect before the expiration of six months from the date of the instrument or before the termination of such engagement or employment whichever shall first happen.

(2) The Ecclesiastical Commissioners shall before executing any instrument under the provisions of this section in relation to any grant as aforesaid give notice

in writing to the incumbent of the parish concerned and to the parochial church council of such parish that the determination of the grant in whole or in part is under consideration, and that any representations which may be made within two months by the incumbent or by the parochial church council with reference thereto will be duly considered.

(3) Nothing in this section contained shall prevent the Ecclesiastical Commissioners from discontinuing, suspending or reducing the amount of any grant as aforesaid in any case where it may be lawful or competent for them without reference to the provisions of this section to effect such discontinuance, suspension or reduction.

Power to  
prepare  
a scheme  
providing  
for quarterly  
payments to  
incumbents.

7.—(1) The Ecclesiastical Commissioners may at any time or times prepare and submit for confirmation to His Majesty in Council a scheme empowering them to pay in such manner as hereinafter mentioned to the incumbent of every benefice or other the person from time to time entitled to receive the income of the benefice (any reference to the incumbent hereinafter contained being intended to include any such other person as aforesaid) such part of the income of the benefice from whatever source derived as is payable to the incumbent by the Ecclesiastical Commissioners.

(2) The said scheme shall empower the Ecclesiastical Commissioners to pay the said income for each year by four quarterly instalments on such quarterly days in every year as may be deemed suitable, each of the quarterly instalments for each year to be of such amount as shall as nearly as reasonably practicable be equivalent to one-fourth part of the whole net amount of the said income for that year, as such net amount shall be estimated or computed for the purposes of such quarterly payments, after providing for any deductions or outgoings which may be chargeable against the said income and properly or conveniently payable thereout by the Ecclesiastical Commissioners, so nevertheless that periodical or other adjustments shall from time to time be made so as to secure that every incumbent shall receive or be allowed in respect of each year or other period during which he shall be entitled to receive the income of the benefice the full net sum and not more



than the full net sum which he ought to have received as and for the portion for such year or other period of the income of the benefice intended to be brought into account for the purposes of the scheme.

(3) Any scheme as aforesaid may make provision for the several matters hereinafter mentioned, and so that any reference hereinafter contained to the income of any benefice shall be read and construed as referring to the portion of the income thereof to which the scheme applies, that is to say—

- (i) as to the date on which the scheme shall come into operation and as to the day from which the financial year for the purposes of the scheme shall run, and the days on which the quarterly payments thereunder shall be made;
- (ii) for paying to every incumbent affected by the scheme the net amount of the income of his benefice unpaid or accruing at the date of the commencement of such first financial year as apportioned down to that date after providing for all deductions or outgoings as aforesaid apportioned to the like date and for taking all proper accounts and making all necessary apportionments for the above purpose;
- (iii) as to the manner in which the gross amount of the income of any benefice shall be estimated or computed, and as to the deductions or outgoings to be brought into account in estimating or determining the quarterly instalments to be payable during each financial year, and as to the times at which and the manner in which the amount of such quarterly instalments shall be fixed or determined;
- (iv) as to the times at which and the manner in which the periodical or other adjustments above referred to shall be made and as to the payment of any balance found on making any such adjustment to be due to or from any incumbent;
- (v) as to the manner in which the income of any benefice shall be apportioned on any change of incumbent whether by reason of death, resignation, preferment, exchange or otherwise or on

any sequestration or other event by reason whereof any apportionment of such income shall become necessary or proper;

- (vi) as to any accounts to be kept for the purposes of the scheme;
- (vii) for excluding either permanently or temporarily from the operation of the scheme any income of such a character as may in the opinion of the Ecclesiastical Commissioners render its inclusion undesirable or inconvenient;
- (viii) for giving reasonable notice to incumbents entitled to receive quarterly payments under the scheme of any substantial alteration whether by way of increase or decrease which may at any time or from time to time be made in the amount of such quarterly payments;
- (ix) as to any other matter or thing for which it may be deemed proper or desirable to provide for ensuring that the arrangements intended to be effected by the scheme may work efficiently and operate in such manner as to be just and fair to all persons concerned.

(4) The Ecclesiastical Commissioners may also at any time or times prepare and submit for confirmation to His Majesty in Council any supplementary or other scheme or schemes for remedying any defects or supplying any omissions which may be found in any existing scheme under this section then already confirmed by an Order in Council or for making any alterations or additions to any such existing scheme or for substituting a new scheme for any such existing scheme.

**8.**—(1) Where under the provisions of any statute or Measure the Ecclesiastical Commissioners are empowered to make in any scheme to be prepared by them for submission to His Majesty in Council recommendations for the augmentation of any specified benefice or proposed benefice out of or by diversion of any of the revenues or endowments of any other benefice such scheme may recommend in lieu of any such augmentation that a part of the said revenues or endowments be transferred to or become vested in the Ecclesiastical Commissioners without any further conveyance or assurance to be held by them as part of or for the benefit of their common fund.

Powers in relation to appropriations of endowments of benefices.

(2) Where under the provisions of any statute or of any Order of His Majesty in Council ratifying a scheme of the Ecclesiastical Commissioners any part of the endowment of any benefice has been or shall hereafter be appropriated as a fund applicable for or towards payment of the stipend of an assistant curate or of the expenses of assistance by clergy or lay workers the Ecclesiastical Commissioners may require the incumbent of the benefice or other the person or body by whom the fund is administered to render to them annually or in respect of any stated year or years duly audited accounts of the said fund and shall have power with the approval of the bishop of the diocese in which the benefice is situated from time to time to direct that any unexpended income appearing to them not to be required for the purposes for which the fund was appropriated shall be paid over to them to be held as capital and invested either for the augmentation of the said benefice or for the benefit of their common fund or that such unexpended income shall be paid to the incumbent of the benefice.

(3) Any account to be rendered under the provisions of the last preceding subsection shall be in such form as the Ecclesiastical Commissioners may require, and if at any time a full and sufficient account shall not be rendered within two months after the service of an application in writing therefor the Ecclesiastical Commissioners may prepare and submit to His Majesty in Council a scheme directing that the appropriated fund shall be transferred to them to be held by them for any purposes in relation to the benefice to which the said fund belongs or for the benefit of their common fund as the Ecclesiastical Commissioners, with the approval of the bishop of the diocese, may decide.

9. Notwithstanding anything contained in section two of the Ecclesiastical Commissioners Act, 1850, the salaries to be paid to the First Church Estates Commissioner and to the Church Estates Commissioner appointed by the Archbishop of Canterbury shall be such amounts as may be from time to time fixed by the Ecclesiastical Commissioners with the approval of the Treasury.

Salaries  
of Church  
Estates  
Commis-  
sioners.  
13 & 14 Vict.  
c. 94.

10. An Order in Council confirming whether with or without variation any scheme under this Measure

Orders in  
Council to

be gazetted and to have the force of law.

shall as soon as may be after the making thereof by His Majesty in Council be published in the London Gazette, and every such Order in Council and the provisions of the scheme as thereby confirmed shall so soon as the Order shall have been gazetted have full force and effect in law in all respects as to all things therein contained.

Interpretation.

**11.** In this Measure “benefice” shall include a benefice with cure of souls and no other and shall comprehend all rectories and vicarages with cure of souls, perpetual curacies and endowed public chapels, parochial chapelries and chapelries or districts belonging or reputed to belong or annexed or reputed to be annexed to any church or chapel and districts formed for ecclesiastical purposes by virtue of statutory authority.

Application of the Measure.

**12.** The provisions of section seven of this Measure shall extend and apply both to the Isle of Man and to the Channel Islands, but save as regards the said section this Measure shall not apply either to the Isle of Man or to the Channel Islands.

Short title.

**13.** This Measure may be cited as the Ecclesiastical Commissioners (Powers) Measure, 1938.

## No. 5.

A MEASURE passed by the National Assembly  
of the Church of England.

To amend the Liverpool City Churches Act, 1897.  
[13th July 1938.]

Extension of scope of Liverpool Churches Building and Endowment Fund.  
60 & 61 Vict.  
c. cxiii.  
4 Edw. 7.  
c. c.

**1.** Section nine of the Liverpool City Churches Act, 1897 (which, as amended by section thirty of the Liverpool and Wigan Churches Act, 1904, permits grants out of the Liverpool Churches Building and Endowment Fund established by section six of the first-named Act to be made only for the purchase of sites for, and the building and endowment of, new churches within the limits of the city of Liverpool), shall have effect as if in the said section for the words “in the city of Liverpool” there

were substituted the words "in or near the city of Liverpool."

2. This Measure may be cited as the **Liverpool City Churches Act, 1897 (Amendment) Measure, 1938.** Short title.

## No. 6.

A MEASURE passed by the National Assembly  
of the Church of England.

To amend the law relating to the issue of faculties out of ecclesiastical courts; to make better provision for giving effect to faculties so issued; to authorise the sale of books in certain parochial libraries under a faculty; to authorise archdeacons to issue certificates in certain cases; and for other purposes connected therewith.

[13th July 1938.]

1.—(1) For the purposes of any proceeding for obtaining a faculty in the ecclesiastical court of any province or diocese, the archdeacon of the archdeaconry in which the parish concerned is situate shall be deemed to have an interest as such, and any person whose name is entered on the electoral roll of the parish concerned as a non-resident elector shall be deemed to have an interest as though he were a parishioner of that parish.

Archdeacon and non-resident electors to be deemed to have an interest in faculty proceedings.

(2) If the archdeaconry be vacant or the archdeacon be incapacitated by absence abroad or illness from exercising or fulfilling the rights or duties conferred or imposed upon him by this Measure, such other person as the bishop shall appoint in that behalf in writing shall have power to act in the place of the archdeacon for the purposes of this Measure in any particular case.

2. In any such proceeding, whether the archdeacon is a party thereto or not, the court may—

Functions of archdeacons in faculty cases.

(a) decree the issue of a faculty, subject to a condition requiring the work authorised thereby or any part thereof to be carried out under the supervision of the archdeacon or of any other person nominated by the court in that behalf; or

- (b) direct that, in default of the incumbent and churchwardens carrying out the work so authorised or any part thereof, a faculty shall issue to the archdeacon authorising him to carry out the same.

Payment of costs by party responsible for breach of law.

**3.**—(1) If in any proceeding for a faculty, whether opposed or not, it appears to the court that any person being a party to the proceeding was responsible wholly or in part for the introduction into or removal from a church of any articles without the necessary faculty, or for the execution of any work in a church without the necessary faculty, the court may order the whole or any part of the costs and expenses of the proceeding or consequent thereon (so far as such costs and expenses have been occasioned by such introduction, removal or unlawful execution as the case may be) to be paid by such person.

(2) In any such proceeding the court may upon the application of any party to the proceeding and by way of special citation add as a further party to the proceeding any person alleged to be so responsible or partly responsible and not already a party and notwithstanding that such person resides out of the diocese.

Sale of books in parochial libraries under a faculty.  
7 Anne, c. 14.

**4.**—(1) Notwithstanding anything to the contrary contained in section ten of the Parochial Libraries Act, 1708, any book in a parochial library appropriated to the use of the minister of any parish or place within the operation of that Act may be sold under the authority of a faculty issuing out of the consistory court of the diocese in which the parish concerned is situate, and in the case of every sale so authorised the proceeds of sale shall be applied for such of the ecclesiastical purposes of the parish as in such faculty may be directed.

(2) Any question whether a library is within the said Act and is so appropriated shall be finally determined by the Charity Commissioners.

Advisory committees.

**5.** In every diocese there shall be an advisory committee for the care of churches appointed by the bishop (in this Measure referred to as "the advisory committee") whose duty it shall be to give advice to intending applicants for faculties, and to advise the chancellor (if required) or the archdeacon before the grant of a faculty or the issue of a certificate.

6.—(1) Every application received by the registrar of a diocese from the incumbent and churchwardens of a parish, supported by a resolution of the parochial church council, for authority to carry out—

Archdeacons to issue certificates in certain cases.

- (a) repairs to a church not involving any substantial alteration in the structure thereof; or
- (b) the redecoration of a church

shall be referred by the registrar to the archdeacon of the archdeaconry in which the church is situate, and it shall be the duty of the archdeacon, as he thinks proper, after considering the matter, either—

- (a) with the approval of the advisory committee, to issue a certificate authorising the execution of the work proposed; or
- (b) to direct that an application shall be made to the consistory court for a faculty with regard thereto.

(2) A certificate issued by an archdeacon in pursuance of this section shall be a sufficient authority for the execution of the proposed work without a faculty.

(3) A copy of any certificate issued by an archdeacon under this section shall be transmitted by him to the registrar of the diocese and filed in the diocesan registry.

(4) The procedure laid down by this section may be followed at the discretion of the chancellor with regard to any other application which in his opinion is unlikely to give rise to any controversy or dissatisfaction in the parish concerned and is not of sufficient importance to justify the expense of proceedings for a faculty.

7.—(1) A Rule Committee, constituted in manner laid down by the Schedule hereto, may make rules for—

Rules.

- (a) regulating the manner in which the plans and specifications of any work for which a faculty is required shall be submitted to the advisory committee and the manner in which the report thereon of the advisory committee shall be submitted to the ecclesiastical court concerned;
- (b) regulating the circumstances and manner in which the judge of any ecclesiastical court may of his own motion summon before such court

and examine a member or members of the advisory committee or any other person whose evidence the judge considers relevant and who is willing to give evidence;

- (c) regulating the time or respective times within which the fee or any part of the fee payable in respect of the faculty required shall be paid;
- (d) the making of returns to faculties certifying the manner in which the works authorised thereby have been or are being carried out;
- (e) regulating the fees payable to the registrar in respect of the duties imposed on him by section six of this Measure; and
- (f) otherwise for carrying this Measure into effect.

(2) Every rule purporting to be made in pursuance of this section shall forthwith be laid before both Houses of Parliament, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat resolves that any such rule shall be annulled such rule shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new rule.

Extent and  
short title.

**8.**—(1) This Measure shall extend to the whole of the provinces of Canterbury and York, except the Channel Islands and the Isle of Man.

(2) This Measure may be cited as the Faculty Jurisdiction Measure, 1938.

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## SCHEDULE.

1. The Rule Committee shall consist of—

- (a) The archbishops of Canterbury and York and three diocesan bishops nominated by them;
- (b) The vicars-general of the provinces of Canterbury and York;

The chancellor of the diocese of London;

The registrars of the provinces of Canterbury and York;



(c) Two persons, one clerical and one lay, nominated by the Central Council of Diocesan Advisory Committees for the Care of Churches.

2. Any three members of the Rule Committee, two of them being persons holding offices mentioned in sub-paragraph (b) of the foregoing paragraph, may exercise all the powers of the Rule Committee.



# TABLE III.

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Showing the EFFECT of the LEGISLATION of the THIRD  
SESSION of the THIRTY-SEVENTH PARLIAMENT of the  
UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND.

(OCTOBER 26, 1937—NOVEMBER 4, 1938.)

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## ACTS (IN CHRONOLOGICAL ORDER) REPEALED, AMENDED OR OTHERWISE AFFECTED BY ENACTMENTS OF 1 & 2 GEO. 6.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
18 Edw. 3 : St. 1 -	Concerning exigents	Repealed - - -	63, s. 20 (3) (5), sch. 4.
St. 2, c. 5	No exigent in trespass, unless against the peace.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
25 Edw. 3 : St. 5, c. 14	Process against persons indicted of felony.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
6 Hen. 6 : c. 1 -	Indictment found in the King's Bench by jurors suspected or unduly procured, &c.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
8 Hen. 6 : c. 10 -	Malicious indictments or appeals of persons in one county who are dwelling in another, &c.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
10 Hen. 6 : c. 6 -	St. 8 Hen. 6. c. 10 recited . . . the statute confirmed, &c.	Repealed - - -	63, s. 20 (3) (5), sch. 4.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
6 Hen. 8 : c. 4 -	An Act for proclamations to be made before the exigent be awarded into foreign shires.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
c. 6 -	Acte concernyng felons and murderers.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
27 Hen. 8 : c. 24 -	An Acte for recon- tynnyng of certayne liberties and franchises heretofore taken frome the Crowne.	In s. 1 " or any utlauries for any suche offences " repealed.	63, s. 20 (3) (5), sch. 4.
32 Hen. 8 : c. 40 -	Concerning Phisicians.	S. 2 repealed - - -	56, ss. 101, 103 (1), sch. 4, Part I.
1 Edw. 6 : c. 10 -	An Act for exigents and proclamations in Wales and in the county palatine of Chester . . .	Repealed - - -	63, s. 20 (3) (5), sch. 4.
5 & 6 Edw. 6: c. 11 -	An Acte for the punyishment of diverse Treasons.	S. 5, and in part ss. 4 and 6, repealed.	63, s. 20 (3) (5), sch. 4.
c. 26 -	An Acte for Writs upon proclamations and exigents . . . Lancaster.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
1 Mary, Sess. 2 : c. 9 -	An Act touching thincorporations of the Phisitions in London.	S. 3 repealed - - -	56, ss. 101, 103 (1), sch. 4, Part I.
31 Eliz. : c. 9 -	An Act for writs upon proclamations and exigents . . . Durham.	Repealed - - -	63, s. 20 (3) (5), sch. 4.
21 James I : c. 8 -	An Acte to prevent and punishe the Abuses in procurring Prozesse . . . & Writtes of cerciorare.	Repealed - - -	63, s. 20 (3) (5), sch. 4.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
29 Charles 2: c. 7	Sunday Observance Act, 1677.	Restricted (making of bread, flour, &c.).	41, ss. 8 (2), 15 (2).
4 Will. & Mar. : c. 18	An Act to prevent malicious Informations in the Court of Kings Bench.	Repealed - - - -	63, ss. 19 (2), 20 (3) (5), schs. 3, 4.
c. 22	An Act for regulating Proceedings in the Crown Office of the Court of Kings Bench . . .	Repealed - - - -	63, s. 20 (3) (5), sch. 4.
5 & 6 Will. & Mar. : c. 11	An Act to prevent delays of Proceedings at the Quarter Sessions of the Peace.	Repealed - - - -	63, s. 20 (3) (5), sch. 4.
7 & 8 Will. 3: c. 3	An Act for regulating of Tryals in Cases of Treason and Misprision of Treason.	S. 3 repealed - - - -	63, s. 20 (3) (5), sch. 4.
1 Anne : c. 12	An Act to explain and alter the Act made in the Two and twentieth Year of King Henry the Eighth . . . Rochester Bridge.	S. 5 repealed - - - -	63, s. 20 (3) (5), sch. 4.
6 Anne : c. 68	An Act for repealing . . . an Act for the well garbling of Spices.	Repealed - - - -	56, ss. 101, 103 (1), sch. 4.
7 Anne : c. 14	Parochial Libraries Act, 1708.	S. 10 excluded by C.A.M. 1 & 2 Geo. 6. No. 6, s. 4.	
5 Geo. 1 : c. 11	Adulteration of Coffee Act, 1718.	Repealed - - - -	56, ss. 101, 103 (1), sch. 4, Part I.
11 Geo. 1 : c. 30	Adulteration of Tea and Coffee Act, 1724.	S. 9 repealed - - - -	56, ss. 101, 103 (1), sch. 4, Part I.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
5 Geo. 2 : c. 19	Quarter Sessions Appeal Act, 1731.	Ss. 2, 3 repealed - -	63, ss. 19 (2), 20 (3) (5), schs. 3, 4.
7 Geo. 2 : c. 19	Adulteration of Hops Act, 1733.	Repealed - - - -	56, ss. 101, 103 (1), sch. 4, Part I.
33 Geo. 2 : c. 45	Godalming navigation.	Amended, ss. 2-13, 15, 18, 41, 46, 50-1 repealed ( <i>prosp.</i> ).	lxxxvi, s. 78.
7 Geo. 3 : c. 51	River Lee navigation.	S. 59 repealed - - -	xxxiii, s. 16.
14 Geo. 3 : c. 33	Inclosure and land drainage, Tetney, Lincs.	Superseded as to land drainage.	lxxi.
17 Geo. 3 : c. 53	Clergy Residences Repair Act, 1776.	Ss. 1, 12, 15 extended by C.A.M. No. 3, ss. 2 (1) (iv), 10, 13 : and <i>see</i> s. 5 (2).	—
26 Geo. 3 : c. 71	Knackers Act, 1786	Repealed except as to London.	56, ss. 101, 103 (1) (2), sch. 4, Part I.
35 Geo. 3 : c. 87	Newcastle - under - Lyneo Canal.	Canal in part stopped up -	xxvii, s. 25.
38 Geo. 3 : c. 52	Counties of Cities Act, 1798.	S. 1 in part repealed - -	63, s. 20 (3) (5), sch. 4.
48 Geo. 3 : c. 58	Bail Bonds Act, 1808.	Repealed - - - -	63, ss. 19 (2), 20 (3) (5), schs. 3, 4.
55 Geo. 3 : c. 194	Apothecaries Act, 1815.	Ss. 3, 4 and in part 8 repealed.	56, ss. 101, 103 (1), sch. 4, Part I.
60 Geo. 3 & 1 Geo. 4 : c. 4	Pleading in Misdemeanour Act, 1819.	Repealed - - - -	63, ss. 19 (2), 20 (3) (5), schs. 3, 4.
7 Geo. 4 : c. 16	Chelsea and Kilmainham Hospitals Act, 1826.	S. 38, offences triable at quarter sessions.	63, ss. 2, 20 (4) (5), sch. 1.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
7 & 8 Geo. 4: c. 75 -	Land Tax Commissioners Act, 1827.	Extended (additional names).	18.
2 & 3 Will. 4: c. 53 -	Army Prize Money Act, 1832.	S. 49, offences triable at quarter sessions.	63, ss. 2, 20 (4) (5), sch. 1.
3 & 4 Will. 4: c. 27 -	Real Property Limitation Act, 1833.	Restricted (coal) - -	52, s. 17 (2).
c. 90 -	Lighting and Watching Act, 1833.	S. 44 repealed, fire functions of parish authorities transferred, transitional arrangements as to property and employees.	72, ss. 6 (1), 7, 30 (3), sch. 3.
4 & 5 Will. 4: c. 24 -	Superannuation Act, 1834.	Applied (Land Court member (S.)).	31, s. 1 (2).
c. 36 -	Central Criminal Court Act, 1834.	Ss. 16, 18 repealed - -	63, s. 20 (3) (5), sch. 4.
5 & 6 Will. 4: c. 50 -	Highway Act, 1835	S. 95 proviso repealed -	63, s. 20 (3) (5), sch. 4.
6 & 7 Will. 4: c. 37 -	Bread Act, 1836 -	S. 14 repealed - - - Repealed (E. & S.) - -	41, s. 8 (1), 15 (2). 56, ss. 98, 101, 103 (1), sch. 4, Parts I, II.
c. 85 -	Marriage Act, 1836	S. 26 amended, "patron" and "incumbent" in ss. 26 and 28 and "parish church" in s. 33 explained, by C.A.M. No. 1.	
c. 86 -	Births and Deaths Registration Act, 1836.	S. 29 amended ( <i>temp.</i> ) -	12, ss. 3 (2), 7(4).
7 Will. 4 & 1 Vict. : c. 28 -	Real Property Limitation Act, 1837.	Restricted (coal) - -	52, s. 17 (2).
1 & 2 Vict. : c. 23 -	Parsonages Act, 1838.	S. 5 extended by C.A.M. No. 3, s. 17.	
c. 43 -	Dean Forest (Mines) Act, 1838.	Applied and saved; power to adapt by O. in C.	52, s. 43 (2) (6) (7).

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
3 & 4 Vict.: c. 85	Chimney Sweepers and Chimneys Regulation Act, 1840.	Repealed as to England	58.
c. 113	Ecclesiastical Commissioners Act, 1840.	S. 67, reduction, &c. of curate grants under: <i>see</i> C.A.M. No. 4, s. 6.	
6 & 7 Vict.: c. 37	New Parishes Act, 1843.	S. 15 superseded as to fees by C.A.M. No. 4, s. 1 (2).	
7 & 8 Vict.: c. 87	Knackers Act, 1844	Repealed except as to London.	56, ss. 101, 103 (1) (2), sch. 4, Part I.
8 & 9 Vict.: c. 18	Lands Clauses Consolidation Act, 1845.	S. 80 applied	52, s. 39.
c. 19	Lands Clauses Consolidation (Scotland) Act, 1845.	S. 79 applied	52, ss. 39, 45 (6).
c. 20	Railways Clauses Consolidation Act, 1845.	Ss. 78-85, rights of railway (coal)— <i>see</i>	52, s. 34 (1) (a).
c. 33	Railways Clauses Consolidation (Scotland) Act, 1845.	Ss. 71-8, rights of railway (coal)— <i>see</i>	52, ss. 34 (1) (a), 45 (6).
c. 83	Poor Law (Scotland) Act, 1845.	Extended (personal allowances, over 65, in poor-houses).	23, ss. 1, 2.
10 & 11 Vict.: c. 17	Waterworks Clauses Act, 1847.	Rights of undertakers (coal)— <i>see</i> Ss. 38-40, 43 (as incorporated) amended, s. 42 saved.	52, s. 34 (1) (a). 72, s. 2.
c. 34	Towns Improvement Clauses Act, 1847.	S. 124 repealed (E.) <i>per se</i> or as incorporated.	72, s. 30 (2) (3), sch. 3.
c. 89	Town Police Clauses Act, 1847.	Ss. 32-3 repealed (E.) <i>per se</i> or as incorporated.	72, ss. 5, 30 (2) (3), sch. 3, Parts I, II.
11 & 12 Vict.: c. 44	Justices Protection Act, 1848.	S. 5 substituted	63, ss. 19 (1), 20 (5), sch. 2.
12 & 13 Vict.: c. 45	Quarter Sessions Act, 1849.	S. 7 in part repealed	63, s. 20 (3) (5), sch. 4.



Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
13&14Vict.: c. 41 -	Parish of Manchester Division Act, 1850.	S. 33 superseded by C.A.M. No. 4, s. 1 (2).	
c. 94 -	Ecclesiastical Commissioners Act, 1850.	S. 2 amended by C.A.M. No. 4, s. 9.	
16&17Vict.: c. 137 -	Charitable Trusts Act, 1853.	Ss. 37-40 saved - - -	63, s. 15 (4) (a).
17&18Vict.: c. 80 -	Registration of Births Deaths and Marriages (Scotland) Act, 1854.	Applied (still-births), s. 74 applied, s. 6 (regs.) extended to matters to be prescribed (prosp.).	55, ss. 1, 4, 5 (3).
c. 91 -	Lands Valuation (Scotland) Act, 1854.	S. 6 excluded (air-raid works). S. 6 excluded (coal) - - -	66. 52, s. 45 (16).
19&20Vict.: c. 16 -	Central Criminal Court Act, 1856.	Repealed - - - -	63, s. 20 (3) (5), sch. 4.
20&21Vict.: c. 43 -	Summary Jurisdiction Act, 1857.	S. 5 substituted as to England.	63, ss. 19 (1), 20 (4) (5), sch. 2.
23&24Vict.: c. 46 -	Caledonian and Crinan Canals Amendment Act, 1860.	S. 32 amended - - -	13, ss. 1, 2, sch.
c. 85 -	Registration of Births, Deaths and Marriages (Scotland) Act, 1860.	S. 18 amended ( <i>temp.</i> ) - - -	12, ss. 6 (d), 7 (4).
c. 142 -	Union of Benefices Act, 1860.	S. 22 amended by C.A.M. No. 4, s. 5.	
24&25Vict.: c. 86 -	Conjugal Rights (Scotland) Amendment Act, 1861.	S. 11 repealed - - -	50, s. 7.
c. 97 -	Malicious Damage Act, 1861.	S. 14, offences triable at quarter sessions.	63, ss. 2, 20 (4) (5), sch. 1.
c. 100 -	Offences against the Person Act, 1861.	S. 60 applied and in part saved. S. 60, offences triable at quarter sessions.	36, s. 1 (3) (4). 63, ss. 2, 20 (4) (5), sch. 1.
25&26Vict.: c. 65 -	Jurisdiction in Homicides Act, 1862.	S. 16 repealed - - -	63, s. 20 (3) (5), sch. 4.
27&28Vict.: c. 37 -	Chimney Sweepers Regulation Act, 1864.	Repealed as to England - - -	58.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
28&29Vict : c. 68	Ecclesiastical Commissioners (Superannuation) Act, 1865.	Amended - - -	13, s. 1, sch.
c. 90	Metropolitan Fire Brigade Act, 1865.	S. 30 in part repealed; provision for compulsory purchase of land.	72, ss. 27 (1) (b) (3) (4), 30 (3), sch. 3, Part II.
29 & 30Vict : c. 109	Naval Discipline Act.	S. 90 substituted - - -	64.
c. 111	Ecclesiastical Commissioners Act, 1866.	S. 5 extended by C.A.M. No. 4, s. 4 (2).	
30 & 31Vict. : c. 106	Poor Law Amendment Act, 1867.	S. 29 repealed - - -	72, s. 30 (3), sch. 3.
31 & 32Vict. c. 45	Sea Fisheries Act, 1868.	Ss. 37 substituted, 34 amended, 32-3 applied.	30, ss. 58-9, 61 (2).
c. 100	Court of Session Act, 1868.	S. 24 excluded - - -	24, s. 6 (4).
32&33Vict. c. 67	Valuation (Metropolis) Act, 1869.	Excluded (air-raided protection works), s. 47 extended.	65.
c. 73	Telegraph Act, 1869	Saved - - - -	72, s. 1 (8) (b).
33&34Vict. : c. 23	Forfeiture Act, 1870	Proviso to s. 1 repealed (E.).	63, ss. 12, 20 (3)-(5), sch. 4.
c. 77	Juries Act, 1870 -	S. 10 in part repealed -	63, ss. 12, 20 (3) (5), sch. 4.
c. 89	Queen Anne's Bounty (Superannuation) Act, 1870.	Amended - - -	13, s. 1, sch.
34&35Vict. : c. 56	Dogs Act, 1871 -	S. 2 amended (appeal) (E.S.)	21.
c. 107	Leeward Islands Act, 1871.	Dominica a separate colony; power to adapt Act by O. in C.	10, ss. 1 (1) (3) (b).
35&36Vict. : c. 77	Metalliferous Mines Regulation Act, 1872.	Extended and saved - - -	69, ss. 3 (3), 7 (3) (a), 14 (3) (4).
37&38Vict. : c. 40	Board of Trade Arbitrations, &c. Act, 1874.	Applied - - - -	52, s. 56.
c. 42	Building Societies Act, 1874.	S. 36 saved - - - -	63, s. 15 (4) (b).
c. 46	Customs (Isle of Man) Tariff Act, 1874.	S. 2 saved - - - -	68, s. 3.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
37&38Vict.: c. 57	Real Property Limitation Act, 1874.	Restricted (coal) - -	52, s. 17 (2).
38&39Vict.: c. 28	Metropolitan Police Staff (Superannuation) Act, 1875.	Amended - - - -	13, ss. 1, 2, sch.
c. 55	Public Health Act, 1875.	Ss. 116-9, 166-70, sch. 3 and forms L, M and O of sch. 4 repealed; repeals shown in para. 2 of Part I of sch. 3 of 26 Geo. 5 & 1 Edw. 8 c. 49 extended. Ss. 66 repealed, 163, 171 (2) repealed in part.	56, ss. 101, 103 (1) (2), sch. 4, Part I. 72, s. 30 (3), sch. 3.
c. 70	Chimney Sweepers Act, 1875.	Repealed as to England -	58.
c. 83	Local Loans Act, 1875.	Applicable by regs. - -	52, s. 28 (4).
c. 89	Public Works Loans Act, 1875.	S. 9 amended and extended	7, s. 3.
39&40Vict.: c. 36	Customs Consolidation Act, 1876.	Ss. 42 (table) extended, 207 excluded (quail). Part IV of Food and Drugs Act construed with. S. 243 in part repealed -	5, s. 1 (2) (3). 56, s. 43. 63, s. 20 (3)-(5), sch. 4.
40&41Vict.: c. 2	Treasury Bills Act, 1877.	S. 6 excluded - - - -	9, s. 3 (2); 47, s. 2 (2).
c. 42	Fisheries (Oyster, Crab and Lobster) Act, 1877.	Ss. 8 (1), 9 repealed ( <i>prosp.</i> )	30, s. 38 (new s. 4 (7)).
41&42Vict.: c. 49	Weights and Measures Act, 1878.	Part II of Sch. 6 in part repealed.	56, ss. 101, 103 (1) (2), sch. 4.
c. 76	Telegraph Act, 1878.	S. 4 saved - - - -	63, s. 15 (4) (c).
42&43Vict.: c. 49	Summary Jurisdiction Act, 1879.	S. 33 (1) amended - -	63, ss. 19 (1), 20 (5), sch. 2.
43&44Vict.: c. 20	Inland Revenue Act, 1880.	S. 20 amended - - -	46, ss. 12, 13 (3) (b) (4).
44&45Vict.: c. 58 (as amended)	Army Act - - -	Act continued; ss. 180 (2) (g) repealed, 77A, 83 (9), 136 (2) added.	20, ss. 2, 4-6.
46&47Vict.: c. 22	Sea Fisheries Act, 1883.	Ss. 7 (3) amended, 12, 14 applied, powers under s. 12 (1)-(8) applicable.	30, ss. 38 (new s. 4A), 54 (4) (5), 59.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
46&47Vict.: c. 37	Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883.	Rights vested in local authority— <i>see</i> .	52, s. 34 (1) (b).
47&48Vict.: c. 12	Public Health (Confirmation of Byelaws) Act, 1884.	S. 3 as to certain byelaws repealed.	56, ss. 101, 103 (1), sch. 4.
48&49Vict.: c. 51	Customs and Inland Revenue Act, 1885.	S. 7 repealed - - -	46, ss. 13 (5), 55 (7), sch. 5.
c. 69	Criminal Law Amendment Act, 1885.	S. 11, offences triable at quarter sessions.	63, ss. 2, 20 (4) (5), sch. 1.
49&50Vict.: c. 27	Guardianship of Infants Act, 1886.	S. 10 saved - - -	63, s. 15 (4) (d).
c. 57	Parliamentary Elections (Returning Officers) Act (1875) Amendment Act, 1886.	S. 1 saved - - -	63, s. 15 (4) (e).
50&51Vict.: c. 16	National Debt and Local Loans Act, 1887.	Extended, s. 15 applied -	7, ss. 1 (2), 2.
c. 27	Markets and Fairs (Weighing of Cattle) Act, 1887.	Ss. 4 to 9 in part repealed	56, ss. 101, 103 (1) (2), sch. 4.
c. 28	Merchandise Marks Act, 1887.	S. 5 (2A) added ( <i>prosp.</i> ) -	29, ss. 10, 12 (7).
c. 71	Coroners Act, 1887	Amended (places and areas for inquests in London).	xxxviii, s. 4.
51&52Vict.: c. 3	Statute Law Revision Act, 1888.	S. 1 (2), sch. Part III repealed.	63, ss. 12, 20 (3) (5), sch. 4.
c. 20	Glebe Lands Act, 1888.	S. 4 (4) excluded by C.A.M. No. 4, s. 2. <i>See also</i> s. 3.	
c. 25	Railway and Canal Traffic Act, 1888.	S. 13 saved - - -	52, s. 22 (1) (b).
c. 54	Sea Fisheries Regulation Act, 1888.	Ss. 3 repealed. 1 (2) substituted, 1 (1) (3), 6(2) (c)(3), 14 amended.	30, ss. 51 (1) (5) (6), 52-3, 54 (1) (3), 57, 59.
52&53Vict.: c. 11	Sale of Horses, &c. Regulation Act, 1889.	Repealed as to England except London.	56, ss. 101, 103 (1) (2), sch. 4.
c. 12	Assizes Relief Act, 1889.	S. 1 restricted - - -	63, s. 6 (1).
c. 49	Arbitration Act, 1889.	Applied (coal) - - -	52, s. 7 (9), sch. 3, para. 5 (6).

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
53&54Vict. : c. 5 - c. 34 - c. 59 -	Lunacy Act, 1890 - Infectious Disease (Prevention) Act, 1890. Public Health Acts Amendment Act, 1890.	Modified (Middlesex) - Repealed as to England, except London. Ss. 3 (2), 28-31, 50 repealed as to England.	xcix, part 6. 56, ss. 101, 103 (1) (3), sch. 4. 56, ss. 101, 103 (1) (3), sch. 4.
54&55Vict. : c. 37 - c. 38 - c. 39 - c. 48 - c. 70 -	Fisheries Act, 1891 Stamp Duties Management Act, 1891. Stamp Act, 1891 Purchase of Land (Ireland) Act, 1891. Markets and Fairs (Weighing of Cattle) Act, 1891.	Power to extend s. 5 by O. in C. S. 13, offences triable at quarter sessions. Sch. 1 in part repealed - S. 1, financial settlement with Eire. Ss. 1, 2 repealed in part (E. outside London).	30, s. 54 (5). 63, ss. 2, 20 (4) (5), sch. 1. 46, ss. 51, 55 (7), sch. 5. 25, ss. 2 (3) (e), 3 (1), sch. 2. 56, ss. 101, 103, sch. 4.
55&56Vict. : c. 55 -	Burgh Police (Scotland) Act, 1892.	Ss. 291-5, 298-9 repealed, 290 repealed in part.	72, s. 30 (3), sch. 3, Parts I, II.
56&57Vict. : c. 10 - c. 66 - c. 71 - c. 73 -	Police Act, 1893 - Rules Publication Act, 1893. Sale of Goods Act, 1893. Local Government Act, 1894.	S. 2 repealed - - - S. 1 (4) excluded - - - S. 3 extended - - - S. 1 (4) excluded - - - Hire-purchase provisions - Ss. 16 (1), 25 (1) (7), 27 (2), 63 repealed in part. S. 6 (1) (c) (ii) repealed in part.	72, s. 30 (3), sch. 3. 30, s. 27 (3). 41, s. 15 (2) (3). 71, s. 50 (5). 53. 56, ss. 101, 103 (1), sch. 4. 72, s. 30 (3), sch. 3.
57&58Vict. : c. 30 - c. 51 - c. 60 -	Finance Act, 1894 Chimney Sweepers Act, 1894. Merchant Shipping Act, 1894.	S. 5 (3), and Part I generally, amended. Repealed as to England - S. 163 (1) amended - - - S. 665 amended (superannuation). Ss. 388 substituted, 398A, 400 (2) (h), 411A added, 684 applied.	46, ss. 47-8. 58. 4. 13, ss. 1, 2, sch. 30, ss. 38 (new s. 3 (5)), 47-9, 63 (2).
58&59Vict. : c. 36 - c. 41 -	Fatal Accident Inquiry (Scotland) Act, 1895. Lands Valuation (Scotland) Amendment Act, 1895.	S. 5 (1) in part repealed - S. 4 excluded - - -	48, s. 9. 66.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
59&60Vict.:			
c. 28 -	Finance Act, 1896	S. 11 (3) amended - -	46, s. 13 (5).
c. 34 -	Railways (Ireland) Act, 1896.	S. 4 (2), financial settlement with Eire.	25, ss. 2 (3) (b), 3 (1).
c. 47 -	Land Law (Ireland) Act, 1896.	S. 27, financial settlement with Eire.	25, ss. 2 (3) (e), 3 (1), sch. 2.
60&61Vict.:			
c. 26 -	Metropolitan Police Courts Act, 1897.	S. 5, applied Acts amended	13, ss. 1, 2, sch.
c. 38 -	Public Health (Scotland) Act, 1897.	Expenses provisions extended.	32, s. 2.
		Ss. 183-7 applied - -	37, ss. 2 (2), 4 (c).
		Ss. 125, 147 amended - -	38, ss. 16, 21 (2).
		S. 15 applied (still-births) -	55, ss. 2, 5 (3).
		Expenses provisions extended.	73, ss. 9, 10, 11 (3).
61&62Vict.:			
c. 10 -	Finance Act, 1898 -	S. 12 (1A) added - -	46, s. 52.
c. 36 -	Criminal Evidence Act, 1898.	S. 4 (1) applied, sch. extended (S.).	48, s. 11 (1).
c. 38 -	Parish Fire-engines Act, 1898.	Repealed - - - -	72, s. 30 (3), sch. 3.
62&63Vict.:			
c. 11 -	Fine or Imprisonment (Scotland and Ireland) Act, 1899.	Amended - - - -	48, s. 1 (2).
3 Edw. 7:			
c. 37 -	Irish Land Act, 1903.	Ss. 28, 36 (2) (6), 47 (2), financial settlement with Eire.	25, ss. 2 (3) (e), 3 (1), sch. 2.
5 Edw. 7:			
c. 15 -	Trade Marks Act, 1905.	Repealed, so far as not already repealed.	22, ss. 70, 71 (2)-(4), sch. 4; and see s. 69, sch. 3.
7 Edw. 7:			
c. 29 -	Patents and Designs Act, 1907.	S. 76 extended - - - Ss. 27 (3) (c), 48 (4), 91 (4) (b) (5) (6) repealed, 48 (2) substituted, 11A, 27 (6A), 91 (2A) (2B) (2C) and (5) and 91A added, 8A (a) (b), 11 (1) (e), 12 (4) (b), 17 (1), 25 (2) (b) (l), 48 (1), 82, 91 (1) (2) (4) amended; power to reprint as amended ( <i>prosp.</i> ).*	22, s. 45. 29, ss. 1-9, 11, 12 (2)-(5) (7), sch.
c. 32 -	Public Health (Regulations as to Food) Act, 1907.	Repealed as to England and in part as to Scotland, s. 2 applied (Scotland).	56, ss. 101, 102 (1) (a) (ii) (h), 103 (1) (3), sch. 4, Parts I, II.

\* The references in 1 & 2 Geo. 6, c. 29 are (*see* s. 12 (3)) to the provisions of the 1907 Act as re-numbered under 22 & 23 Geo. 5, c. 32, s. 14 (2) in the consolidated reprint published as amended up to July 12th, 1932.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
7 Edw. 7 : c. 51 -	Sheriff Courts (Scotland) Act, 1907.	Sch. 1 rule 25 excluded -	24, s. 6 (4).
c. 53 -	Public Health Acts Amendment Act, 1907.	Ss. 53-4, and in part ss. 1 and 13, repealed as to England. Ss. 87-90 repealed, references in ss. 1, 3 (4) virt. repealed, as to England.	56, ss. 101, 103 (1) (3), sch. 4. 72, s. 30 (2) (3), sch. 3.
8 Edw. 7 : c. 6 -	Public Health Act, 1908.	Repealed - - -	56, ss. 101, 103 (1), sch. 4.
c. 15 -	Costs in Criminal Cases Act, 1908.	S. 6 (2) in part repealed, Act amended.	63, ss. 11 (4), 20 (3) (5), sch. 4.
c. 53 -	Law of Distress Amendment Act, 1908.	S. 4 excluded (hire purchase).	53, ss. 16, 20 (1) (d), 22 (2).
c. 59 -	Prevention of Crime Act, 1908.	S. 1 amended (Scotland) -	48, s. 8.
c. 62 -	Local Government (Scotland) Act, 1908.	S. 8 repealed - - -	72, s. 30 (3), sch. 3, Parts I, II.
c. 65 -	Summary Jurisdiction (Scotland) Act, 1908.	Ss. 33 (2), 54 amended, Act applied.	48, ss. 4-6, 14 (2); and <i>see</i> s. 1 (1).
9 Edw. 7 : c. 22 -	Trade Boards Act, 1909.	In part applied - - -	70, s. 3 (1) (a); and <i>see</i> ss. 1 (2), 2 (1).
c. 42 -	Irish Land Act, 1909.	Ss. 2, 7 (1), financial settlement with Fire.	25, ss. 2 (3) (e), 3 (1), sch. 2.
c. 48 -	Asylums Officers Superannuation Act, 1909.	Modified (Middlesex) - -	xcix, ss. 133-4.
10 Edw. 7 & 1 Geo. 5 : c. 7 -	Development and Road Improvement Funds Act, 1910.	S. 2 (1) (2) amended (superannuation).	13, ss. 1, 2, sch.
c. 8 -	Finance (1909-10) Act, 1910.	S. 44 (2) amended - - - S. 24 ("immediate lessor") extended.	46, s. 11 (2). 52, s. 12 (2), sch. 4, para. 8 (1).
1 & 2 Geo. 5 : c. 6 -	Perjury Act, 1911	Ss. 2-6, offences triable at quarter sessions.	63, ss. 2, 20 (5), sch. 1.
c. 10 -	Intestate Husband's Estate (Scotland) Act, 1911.	Applications to court -	24, s. 10.
c. 49 -	Small Landholders (Scotland) Act, 1911.	S. 3 (9), tenure and superannuation of members other than Chairman.	31.
c. 50 -	Coal Mines Act, 1911.	Saved - - - - Extended and saved	52, s. 2 (3). 69, ss. 3 (3), 7 (3) (a), 14 (3).

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
2 & 3 Geo. 5: c. 3 -	Shops Act, 1912 -	Alternative provision (young persons).	69, ss. 8, 9 (1), 14 (2)-(4).
3 & 4 Geo. 5: c. 27 - c. 28 -	Forgery Act, 1913 Mental Deficiency Act, 1913.	S. 2 (2) (a), certain offences triable at quarter sessions. S. 11 (2) amended (continuance of orders).	63, ss. 2, 20 (4) (5), sch. 1. 43.
4 & 5 Geo. 5: c. 5 -	Superannuation (Ecclesiastical Commissioners and Queen Anne's Bounty) Act, 1914.	Amended - - -	13, s. 1, sch.
c. 46 -	Milk and Dairies (Scotland) Act, 1914.	S. 12 (2) extended - -	56, s. 102 (1) (e).
c. 58 -	Criminal Justice Administration Act, 1914.	S. 42 (2) amended - -	48, s. 3; and <i>see</i> s. 8.
c. 59 -	Bankruptcy Act, 1914.	S. 38 excluded (hire-purchase).	53, ss. 16 (1), 20 (1) (d), 22 (2).
c. 91 -	Welsh Church Act, 1914.	S. 19 (1) (b) amended -	39.
5 & 6 Geo. 5: c. 30 -	Naval Discipline Act, 1915.	S. 14 superseded (new s. 90)	64.
c. 66 -	Milk and Dairies (Consolidation) Act, 1915.	Repealed - - -	56, ss. 101, 103 (1), sch. 4.
c. 73 -	Naval Discipline (No. 2) Act, 1915.	S. 3 superseded (new s. 90)	64.
6 & 7 Geo. 5: c. 50 -	Larceny Act, 1916	S. 38 (2) repealed - -	63, ss. 6 (2), 20 (3) (5), sch. 4.
7 & 8 Geo. 5:	Air Force Act (as amended).	Act continued; ss. 136 (2), 179D added.	20, ss. 2, 4, 7.
8 & 9 Geo. 5: c. 32 -	Trade Boards Act, 1918.	In part applied - -	70, s. 3 (1) (a); and <i>see</i> ss. 1 (2), 2 (1).
c. 40 -	Income Tax Act, 1918.	Rule 7 of Rules applicable to Sch. C as to interest, &c. with payment of which persons other than the Banks of E. and I. and Nat. Debt Commrs. are intrusted, and para. (3) of Rule 7 of misc. rules applicable to Sch. D repealed, s. 32 (3) (f), Sch. C and consequentially Sch. D amended, s. 148 (1) (c) added, Act applied, provision for various reliefs, &c., s. 25 excluded.	46, ss. 14 (2), 16-29, 38 (6), sch. 5; and <i>see</i> Parts III and IV.



Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
9&10Geo.5: c. 9	- Intestate Husband's Estate (Scotland) Act, 1919.	Extended, ss. 2, 3, sch. applied.	24, s. 10.
c. 37	- War Loan Act, 1919	S. 1 (1) extended - - S. 1 (1) extended - -	46, s. 53 (2) (3). 60, s. 2 (1).
c. 47	- West Indian Court of Appeal Act, 1919.	Extended, s. 1 (2) (3) amended.	10, s. 1 (5).
c. 58	- Forestry Act, 1919	S. 10 (2) amended (super-annuation).	13, ss. 1, 2, sch.
c. 59	- Land Settlement (Facilities) Act, 1919.	Power of Treasury under s. 10 (3) applied.	52, s. 7 (8).
c. 69	- Industrial Courts Act, 1919.	Extended and saved - -	44, ss. 4 (4) (6), 5.
c. 79	- Trade Marks Act, 1919.	Repealed so far as not already repealed.	22, ss. 70, 71 (2)-(4), sch. 4; and <i>see</i> s. 69, sch. 3.
c. 100	- Electricity (Supply) Act, 1919.	S. 1 (7) amended (super-annuation).	13, ss. 1, 2, sch.
10&11Geo.5: c. 17	- Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.	Act continued and excluded on further decontrol with transitional provisions; ss. 2 (1) (b), 14 (2) amended, 12 (3) applied, 3 (2) extended, 15 (3) excluded (E.S.).	26, ss. 1, 2, 5, 7 (2) (4) (7), 8 (3), 9 (2), schs. 1, 2.
c. 18	- Finance Act, 1920	Ss. 21 (1) (2) amended, 22 extended.	46, ss. 20-1.
c. 46	- Dangerous Drugs Act, 1920.	Saved - - - -	56, s. 68 (2).
c. 49	- Blind Persons Act, 1920.	S. 2 (1) (1A) substituted for s. 2 (1), s. 2 (7) extended and amended, "blind person" defined, &c. (E.S.).	11, ss. 2 (1), 3 (3), 4, 5, 6 (3): and <i>see</i> ss. 2 (2), 3 (1) (2).
c. 50	- Mining Industry Act, 1920.	S. 18— <i>see</i> - - -	52, s. 34 (2).
c. 67	- Government of Ireland Act, 1920.	S. 4 (2) (3) explained (air-raids precautions).	6, ss. 14, 15 (2).
11&12Geo.5: c. 7	- Tribunals of Inquiry (Evidence) Act, 1921.	Applicable (as modified) by order.	30, s. 28.
c. 31	- Police Pensions Act, 1921.	Effect of fire brigade pension.	72, s. 16 (2).
c. 32	- Finance Act, 1921	S. 16 extended - - -	46, s. 3 (5).
c. 47	- Safeguarding of Industries Act, 1921.	Exemption from Part I (radium compounds) continued.	46, s. 9.
c. 51	- Education Act, 1921.	Functions under ss. 82-5 applied. Ss. 45 substituted, 140 saved.	8, s. 1 (a). 40, ss. 3, 4, 8, 9 (3), sch.
c. 55	- Railways Act, 1921	S. 21 (1) amended (super-annuation).	13, ss. 1, 2, sch.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
12&13Geo.5: c. 4	Irish Free State (Agreement) Act, 1922.	Sch. Articles 6 and 7 and Annex repealed; "Eire" substituted for "Irish Free State."	25, ss. 1, 2 (1) (2), sch. 1.
c. 17	Finance Act, 1922.	S. 30 and in part s. 20 (1) repealed; s. 20 (1) (b) excluded.	46, ss. 37 (2), 38 (7) (c), 41 (2), 55 (7), sch. 3, Part II para. 4, and sch. 5.
c. 18	Infanticide Act, 1922.	Repealed - - - -	36, s. 2 (3).
c. 28	Bread Acts Amendment Act, 1922.	Repealed (England and Scotland).	56, ss. 101, 103 (1), sch. 4, Parts I, II.
c. 39	Oil in Navigable Waters Act, 1922.	Proceedings by local fisheries committees.	30, s. 56 (1) (c).
c. 54	Milk and Dairies (Amendment) Act, 1922.	Repealed as to England	56, ss. 101, 103 (1), sch. 4.
c. 59	Local Government and other Officers' Superannuation Act, 1922.	Effect of fire brigade pension.	72, s. 17 (3) (4) (6).
13 Geo. 5 (sess. 2):			
c. 1	Irish Free State Constitution Act, 1922 (session 2).	Sch. 2, Articles 6 and 7 and Annex repealed, "Eire" substituted for "Irish Free State."	25, ss. 1, 2 (1) (2), sch.
c. 2	Irish Free State (Consequential Provisions) Act, 1922 (session 2).	"Eire" substituted for "Irish Free State."	25, s. 1.
13 & 14 Geo. 5:			
c. 13	Rent Restriction (Notices of Increase) Act, 1923.	Acts continued and excluded on further decontrol with transitional arrangements; s. 3 (4) repealed.	26, ss. 1, 2, 7 (7), 8 (3), schs. 1, 2.
c. 20	Mines (Working Facilities and Support) Act, 1923.	Ss. 3 (2) (f) added, 10 (2) amended, 1, 2 restricted, Act extended, 13 excluded.	52, ss. 7 (9), 22, 51, sch. 2, para. 6 (5); see also s. 34 (1) (a).
c. 21	Forestry (Transfer of Woods) Act, 1923.	S. 6 (2) amended (superannuation).	13, ss. 1, 2, sch.
c. 22	Cotton Industry Act, 1923.	Ss. 1-3, as amended, continued.	15.
c. 24	Housing, &c. Act, 1923.	Payments under s. 1 continued.	16, s. 9.
c. 32	Rent and Mortgage Interest Restrictions Act, 1923.	Acts continued and excluded on further decontrol, with transitional provisions, s. 2 (1) repealed, s. 2 virtually repealed with saving, s. 7 (1) proviso added, s. 8 (2), 18 (1) amended.	26, ss. 1-4, 7 (6) (7), 8 (3), schs. 1, 2.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
14 & 15 Geo. 5: c. 21	Finance Act, 1924	S. 12 amended - - - S. 13 (Isle of Man arrangements).	46, s. 11 (1); and <i>see</i> s. 3 (6). 68, s. 3.
c. 24	Isle of Man (Customs) Act, 1924.	S. 4 continued - - -	68, s. 1 (1).
c. 27	Conveyancing (Scotland) Act, 1924.	Ss. 14 (2) repealed, 21 (4) (a) substituted, 8 (5) and sch. O added, ss. 8 (4), 17 (1), 44 (4) (b) (c), sch. D, note 1 amended, sch. L forms 2 and 3 applied.	24, ss. 2-5, 7, 9 (2), sch.; and <i>see</i> s. 1.
c. 37	Agricultural Wages (Regulation) Act, 1924.	In part applied - - -	70, s. 3 (1) (b); and <i>see</i> ss. 1 (2), 2 (1).
15 & 16 Geo. 5: c. 15	Housing (Scotland) Act, 1925.	S. 22 applied as modified Ss. 83 (3) substituted, 20, 83, 84 proviso (a) amended, 21-2 applied, 68 (1), 75 and contributions under Part III extended, 22 (3) excluded. Part III arrangements on default, s. 20 charging orders.	35, s. 11 (4). 38, ss. 1 (1), 9 (2), 11 (1), 13, 16, 18 (5), 19, 20 (4), 21 (2).
c. 20	Law of Property Act, 1925.	Ss. 196 extended, 146 (1)-(3) restricted, 146, 154 applied in part. Ss. 64, 79 extended, 62-3 saved.	34, ss. 1-5, 7. 52, ss. 14 (3), 19 (3); and <i>see</i> sch. 2, Part 1.
c. 21	Land Registration Act, 1925.	Applied (overriding interests) and excluded.	52, s. 41.
c. 32	Rent and Mortgage Interest (Restrictions Continuation) Act, 1925.	Acts continued and excluded on further decontrol, with transitional provisions.	26, ss. 1, 2, sch. 1.
c. 36	Finance Act, 1925	S. 3, sch. 1, para. 3 of Part III of sch. 2 repealed, s. 11, sch. 3, Part III repealed in part.	46, s. 6, sch. 2.
c. 39	Agricultural Returns Act, 1925.	Excluded - - -	71, s. 42 (3).
c. 47	Fire Brigade Pensions Act, 1925.	Extended to temporary firemen, "fire brigade duties" defined.	72, ss. 16, 17 (1) (2) (4); and <i>see</i> s. 7.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
15&16Geo.5: c. 49 -	Supreme Court of Judicature (Consolidation) Act, 1925.	Ss. 11 (1) proviso (aa) added, 4 (1) (iii) amended, 15 extended.  S. 99 explained (evidence) S. 162 extended	2.  28, s. 5. 45, ss. 2 (2), 6 (2). 63, ss. 5, 10, 14, 19 (1), 20 (3) (5), schs. 2, 4.
c. 56 -	Isle of Man (Customs) Act, 1925.	Ss. 3, 4 (1) (i), 6 (1) amended, 11 (1) proviso (aa) added, 3 (1) (a) (b) applied, 15, 121 extended S. 6, sch. Part II para. 3, repealed, ss. 5, 7 continued	67. 68, ss. 1, 6 (1) (5), 12 (2), sch. 2.
c. 71 -	Public Health Act, 1925.	Ss. 71-2 repealed S. 15 repealed	56, ss. 101, 103 (1), sch. 4. 72, s. 30 (3), sch. 3.
c. 84 -	Workmen's Compensation Act, 1925.	Ss. 3 (1), 5 (2) amended	27.
c. 86 -	Criminal Justice Act, 1925.	Ss. 14 (1) (a), 20 (4) substituted, 14 (2) extended; s. 36, offences triable at quarter sessions.	63, ss. 2 (1) (6), 6 (3), 19 (1), 20 (5), schs. 1, 2.
c. 90 -	Rating and Valuation Act, 1925.	Ss. 19, 25 restricted S. 32, rating appeals committee chairman or member. Excluded (air-raid protection works). S. 13 saved	19, s. 1. 63, s. 4 (2). 65. 72, s. 13 (3).
16&17Geo.5: c. 21 -	Markets and Fairs (Weighing of Cattle) Act, 1926.	Ss. 2, 3, sch. repealed in part (England outside London).	56, ss. 101, 103 (1), sch. 4; and see s. 51 (2).
c. 22 -	Finance Act, 1926	Ss. 3 repealed, 7 (1) extended; order under s. 10 (5) (radium compounds) continued.	46, ss. 6 (1) (8), 8, 9, sch. 2.
c. 27 -	Isle of Man (Customs) Act, 1926.	S. 6 repealed, s. 8 and order under s. 13 (radium compounds) continued.	68, ss. 1, 6 (1) (5), 8, 12 (2), sch. 2.
c. 28 -	Mining Industry Act, 1926.	Ss. 5 (2) repealed 13 (1) restricted, 13 extended; provision for expenses.	52, ss. 22 (1) (6), 46 (2), 49 (2).
c. 48 -	Births and Deaths Registration Act, 1926.	S. 8 (1) repealed ( <i>temp.</i> )	12, ss. 3 (2), 7(4).

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
16&17Geo.5: c. 56	Housing (Rural Workers) Act, 1926.	Ss. 8 (e) substituted, 2 (2) (4) (a), 3 (1) (b), 3 (1) (ii), 3 (5) (b), 4, 5 (3) proviso, sch. para. 3 amended, ss. 3 (1) (b), 8 (d) excluded.	35. ss. 1 (1), 2, 3-8, 10 (1)-(3), 11 (1).
c. 59	Coroners (Amendment) Act, 1926.	Amended (places and areas for inquests in London).	xxxviii. s. 4.
17&18Geo.5: c. 1	Public Works Loans Act, 1927.	S. 4 repealed, final settlement made.	25. ss. 2 (3) (c), 3 (2).
c. 10	Finance Act, 1927	Ss. 3, 4 repealed, 40 (2) amended.	46. ss. 6 (1) (8), 18, sch. 2.
c. 17	Midwives [and Maternity Homes] (Scotland) Act, 1927.	Part II (ss. 9-15), s. 16 (1) repealed, ss. 16 (2), 17 (1) repealed in part (Jan. 1, 1939) with saving.	73. s. 11 (2) (3), sch.; and see s. 2 (1).
c. 20	Isle of Man (Customs) Act, 1927.	Ss. 11-2 repealed, s. 1 continued.	68. ss. 1, 6 (1) (5), 12 (2), sch. 2.
c. 29	Cinematograph Films Act, 1927.	Ss. 1-5, 6 (1) proviso, 10-1, 29, 30, 33 (4) repealed, 23 (2), sch. 1, Part II amended, ss. 24 (2) (a) (b) extended, 18 excluded; registration under Part II ended.	17. ss. 16, 44 (1) 45 (1)-(5), sch. 3: and see ss. 2 (1), 45 (6)-(8).
c. 36	Landlord and Tenant Act, 1927.	Applied . . . . .	26. s. 2 (3), sch. 1.
18&19Geo.5: c. 11	Cotton Industry Act, 1928.	1923 Act, as amended, further continued.	15.
c. 17	Finance Act, 1928	S. 7 amended . . . . .	17. ss. 25 (5), 44 (1).
		Ss. 7-8 repealed, 2 (1) (3) amended, 2 (8) extended; raising of money for purposes of s. 23 (4) (a) (b).	46. ss. 1, 4, 6 (1) (8), 53 (2), sch. 2.
c. 19	Agricultural Produce (Grading and Marking) Act, 1928.	Regs. under ss. 1 and 2 saved.	30. s. 4 (1).
		Regs. under ss. 1 and 2 saved.	42. s. 7.
c. 31	Food and Drugs (Adulteration) Act, 1928.	Act repealed as to England; ss. 6 (1) (3)-(6) 12, 20, 23, 27 (3) proviso, 28 (5) (6) repealed as to Scotland; ss. 12, 20, 27 (3) proviso, 28 (5) (6), 36 repealed as to N.I. and Isle of Man; Part I and s. 27 (3) extended (Scotland).	56. ss. 101, 102 (1) (a) (g), 103, sch. 4, Parts I-III.
c. 38	Isle of Man (Customs) Act, 1928.	Repealed . . . . .	68. ss. 6 (1) (5), 12 (2), sch. 2.
19&20Geo.5: c. 7	Imperial Telegraphs Act, 1929.	Arrangements with Cable and Wireless Ltd.	57.
c. 17	Local Government Act, 1929.	S. 57 (2) (3) repealed in part	56. ss. 101, 103 (1), sch. 4

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
19&20Geo.5: c. 23	Companies Act, 1929.	Part X applicable by marketing scheme. Part X applied (bacon) as modified.	30, s. 12 (3), sch. 4, Part II. 71, s. 4 (1) (2), sch. 4.
c. 25	Local Government (Scotland) Act, 1929.	Ss. 21, 23 applied, 11, 13 restricted.	6, ss. 1 (7), 4, 13 (2) (4) (5) (10).
c. 32	Artificial Cream Act, 1929.	S. 23 applied - - - Repealed as to England -	72, s. 28 (17). 56, ss. 101, 103 (1) (3), sch. 4, Part I.
20&21Geo.5: c. 1	Isle of Man (Customs) Act, 1929.	Ss. 2, 3 continued - -	68, s. 1.
c. 17	Poor Law Act, 1930.	Part II extended (personal allowances).	23, s. 1.
c. 23	Mental Treatment Act, 1930.	Modified (Middlesex) -	xcix, part 6.
c. 28	Finance Act, 1930	Ss. 34 (7), 35 (3) repealed, 34-8 amended, 7 extended, 42 excluded.	46, ss. 4 (2), 49, 50, 55 (7), sch. 5.
c. 30	Air Transport (Subsidy Agreements), 1930.	Increase of subsidy - -	33, s. 1.
c. 34	Coal Mines Act, 1930	Ss. 11, 13 (4) (7) repealed, 5 (7) (9) (10) repealed in part, 5 (3) (11), 13 (2) substituted, 5 (1A) (3A)-(3C) (8A)-(8F), 13 (1A) added, 5 (2) (5) (7)-(9), 8 amended, 13 restricted, Part I continued ( <i>temp.</i> ) Coal Mines Reorganisation Commn. terminated and its functions under Part II transferred.	52, ss. 46 (1) (3), 47 (1) (5), 49 (2), 50, schs. 6, 7.
c. 40	Housing (Scotland) Act, 1930.	Ss. 15, 28, 31, 37, 44-5, 49 (1) amended, 15 (3) applied, Part II excluded and extended and replacement provision made.	38, ss. 4, 11 (1) (2), 14, 16-7, 21 (2).
c. 42	Isle of Man (Customs) Act, 1930.	Ss. 2 continued and restricted, 4 amended and extended.	68, ss. 1, 2, 3 (4), 4.
c. 43	Road Traffic Act, 1930.	S. 117 extended - - S. 117 extended - - S. 30, &c. extended; power by regs. to exempt from s. 18.	44, s. 13 (1). 70, s. 1 (6). 72, s. 15.
c. 44	Land Drainage Act, 1930.	S. 80 (River Lee)— <i>see</i> -	xxxiii, s. 28 (1).
c. 50	Public Works Facilities Act, 1930.	Extent of annual continuance.	1, s. 1 (1), sch.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
21&22Geo.5: c. 28	Finance Act, 1931	Proviso (b) to s. 43 (1) repealed.	46, ss. 54, 55 (7), sch. 5.
c. 33	Architects (Registration) Act, 1931.	Ss. 10 repealed, 3 (3), 17 amended (Aug. 1, 1940), "practising" explained, Act excluded.	54, ss. 1 (3)-(5), 2 (1), 4.
c. 34	Isle of Man (Customs) Act, 1931.	S. 1, duty further increased	68, s. 2.
c. 42	Agricultural Marketing Act, 1931.	Ss. 1 (6) (7), 9 applied, Act excluded, s. 9 (5) excluded.	71, ss. 6 (5), 13 (5), 33, 43 (2) (3).
22&23Geo.5: c. 8	Import Duties Act, 1932.	Ss. 3 extended, 14 restricted, 5 excluded. S. 3 extended (Isle of Man)	46, ss. 6 (2)-(4) (7) (8), 7. 68, s. 6 (2), sch. 1.
c. 16	Isle of Man (Customs) Act, 1932.	Ss. 20 amended, 3 restricted, 19 continued, 1 (3), 20 (2) extended.	68, ss. 1, 2, 3 (4), 6 (3), 10, sch. 1.
c. 25	Finance Act, 1932	S. 18 (1) amended	46, s. 22.
c. 28	Public Health (Cleansing of Shell-Fish) Act, 1932.	Repealed as to England	56, ss. 101, 103 (1), sch. 4.
c. 30	Irish Free State (Special Duties) Act, 1932.	Repealed	25, s. 2 (3) (f).
c. 41	Isle of Man (Customs) (No. 2) Act, 1932.	Ss. 8, 9 continued, 2 (1) extended.	68, ss. 1, 6 (2), sch. 1.
c. 49	Town and Country Planning (Scotland) Act, 1932.	Sch. 1, Part III, sch. 3, Parts I and II in part applied.	6, s. 13 (9).
c. 53	Ottawa Agreements Act, 1932.	S. 2 (3) repealed, sch. extended, ss. 10, 12 (1) applied (Eire agreement). S. 2 excluded	25, ss. 2 (4), 3 (4). 46, s. 6 (4); and see s. 6 (5).
23&24Geo.5: c. 12	Children and Young Persons Act, 1933.	Ss. 64, 66 (1), 84 (6), sch. 3 amended, sch. 2, para. 2 (3) substituted, fresh provision for orders under ss. 33, 54, 62-7, 69 and 84.	40, ss. 1, 2, 4-8, 9 (3), sch.
c. 14	London Passenger Transport Act, 1933.	Ss. 26 amended, 29 (1) applied, 23-4 saved.	xcii, ss. 9 (2), 39, 54, 66.
c. 19	Finance Act, 1933	Ss. 13 (1) (2) (4) (5), 21, sch. 4 and Part I of sch. 6 repealed, s. 20 (2) repealed in part, sch. 5, para. 4 amended. S. 38 (effect of Imperial Telegraphs Act).	46, s. 6 (1) (6) (8), sch. 2. 57, s. 2.
c. 30	Cotton Industry Act, 1933.	1923 Act, as amended, further continued.	15.
c. 31	Agricultural Marketing Act, 1933.	Regulation of imports, &c. continued; information to be furnished.	71, ss. 30, 36 (5).

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
23&24Geo.5: c. 32	Rent and Mortgage Interest Restrictions (Amdt.) Act, 1933.	Acts continued and excluded on further decontrol with transitional provisions; ss. 2 (1) and (as to E.) sch. 1, para. (f) repealed, s. 2 (2)-(6), sch. 1, para. (h) amended, s. 14 (1) extended and amended, 14, 16 applied, 3 restricted, 2 (2) proviso saved.	26, ss. 1, 2, 4 (3)-(6), 7 (3) (7), 8 (1)-(3), schs. 1, 2.
c. 36	Administration of Justice (Misc. Provisions) Act, 1933.	S. 7, how far applied (trade marks). Ss. 5 repealed, 1 (4) amended	22, s. 48 (2). 63, ss. 10 (2), 11 (1) (b) (2), 20 (3) (5), sch. 4.
c. 39	Slaughter of Animals Act, 1933.	Excluded	56, s. 58 (2).
c. 40	Isle of Man (Customs) Act, 1933.	Ss. 5, 10 (3), sch. 2 repealed, sch. 4 para. 4 amended, ss. 1, 3, 4, 8 continued, s. 14 (1) extended, 10 restricted.	68, ss. 1, 6, 7 (1), 12 (2), sch. 2. Parts II and III.
c. 41	Administration of Justice (Scotland) Act, 1933.	S. 20 (3) added	48, s. 12.
c. 45	Sea-Fishing Industry Act, 1933.	Ss. 1 (3) (prosp.) and 5 repealed, 3, 4, 4A, 4B substituted (for ss. 3, 4), 2 (1), 9 (1) amended.	30, ss. 38-41, 63 (2).
c. 47	Superannuation (Eccles. Commrs. and Q.A.B.) Act, 1933.	Amended	13, s. 1, sch.
c. 51	Local Government Act, 1933.	Ss. 161-2, 174-5, 179 (a) (c) applied, 97 extended, 91, 274 restricted. Ss. 159 (2) repealed in part, 150 (2)-(4) (6) and sch. 4 applied, s. 160, &c. extended to London. Sch. 2, Part III, para. 3 (hours of poll) amended. Ss. 150 (2) (3) (6), 290 (2) (3), sch. 4 applied, ss. 161-2, 174-5, 179 (a) (c) applied to London, Part IX applied to fire service boards as adapted, 87, 8 saved.	6, ss. 2 (3), 4, 5. 56, ss. 95, 96 (2) (a), 101, 103 (1), sch. 4. 59. 72, ss. 6 (5), 7, 8 (3), 13 (2), 27 (3), 28 (12).
c. 53	Road and Rail Traffic Act, 1933.	S. 29 (6) extended Ss. 8 (2), 32 (2) prosp. repealed, 13 extended, Part I (A, B and C licences) affected (road haulage wages).	37, s. 1 (6). 44, ss. 7 (4) (8), 15 (2), 17 (3) (4), &c.



Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
24 & 25 Geo. 5: c. 4	British Hydrocarbon Oils Production Act, 1934.	Repealed - - -	46, ss. 2 (4), 55 (7), sch. 5.
c. 9	Mining Industry (Welfare Fund) Act, 1934.	S. 3 (1) extended - - -	52, s. 51.
c. 18	Illegal Trawling (Scotland) Act, 1934.	S. 3 extended - - -	30, s. 61 (1).
c. 22	Assessor of Public Undertakings (Scotland) Act, 1934.	S. 2 amended (superannuation).	13, ss. 1, 2, sch.
c. 29	Unemployment Act, 1934.	Rules in s. 38 (3) (a)-(e) applied.	11, s. 2 (1).
c. 42	Shops Act, 1934	Ss. 1A added. 1 (1) (3), 15 (5) amended; alternative provision (young persons) (prosp.).	69, ss. 8, 9 (1), 11-3, 14 (2) (3).
c. 49	Whaling Industry (Regulation) Act, 1934.	Ss. 6 (4) substituted. 3 (3) (e), 6 (1A), sch. Part IV added, ss. 3 (1) (a), 5 (3), 6 (3) amended.	30, ss. 43-5, 63.
c. 50	Road Traffic Act, 1934.	S. 37 applied - - -	48, s. 7.
c. 51	Milk Act, 1934	S. 10 repealed as to England	56, ss. 101, 103 (1), (3), sch. 4. 61.
c. 52	Poor Law (Scotland) Act, 1934.	Ss. 8 (2) (3) repealed, 1 (1), 2 (1), 3 (1), 5 (1) (2), 6 (2), 7 (2) (4), 11 (1) amended. Extended (personal allowances, over 65, in poor-house).	23, ss. 1, 2.
c. 53	County Courts Act, 1934.	S. 99 explained (evidence) S. 111 applied (sea fish) - S. 52 (3), sch. 2 extended Sch. 3 in part repealed, ss. 42, 44, 54 (1), 87 proviso and 114 substituted, ss. 99 (3) (e) added, 40-1, 113 (1) amended, 186 explained.	28, s. 5. 30, s. 12 (3), sch. 4. Part III. 34, s. 6. 63, ss. 16-8, 19 (1), 20 (3) (5), schs. 2, 4.
25 & 26 Geo. 5: c. 8	Unemployment Insurance Act, 1935.	Ss. 96 (6) and in part 96 (7) repealed, 30 (3) added and applied, sch. 1, Part II para. 2 substituted, ss. 60 (6), 96 (1) applied, 59 (2), 104 (1), sch. 1, Part I, and functions under s. 76 extended, 80 saved; provision for increased payments under ss. 21, 94-6.	8, ss. 1, 3, 4 (2) (4), 5, 7, 8, sch.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
25&26Geo.5: c. 9	Herring Industry Act, 1935.	Ss. 1 (3) (6) (7), sch. 1, paras. 1, 5, 9 repealed, ss. 3 ( <i>bb</i> ) ( <i>gg</i> ) ( <i>hh</i> ), 9 (3) ( <i>bb</i> ) added, 1 (2) ( <i>prosp.</i> ) (5), 3 ( <i>f</i> ) ( <i>h</i> ), 9 (3)-(5) (10) amended, ss. 9 (4), 15, sch. 1 applied, 9 extended.	42, ss. 1 (1), 5-7, 9, 10 (2)-(4), schs. 2, 3.
c. 24	Finance Act, 1935	Ss. 22-3 amended S. 14 saved	46, ss. 18-9. 56, s. 4.
c. 34	Isle of Man (Customs) Act, 1935.	S. 4, as amending s. 6 ( <i>prosp.</i> repealed) of 15 & 16 Geo. 5. c. 56, temp. continued.	68, s. 6 (1) (5).
c. 40	Housing Act, 1935	S. 37 (2) amended	35, s. 1 (2).
c. 41	Housing (Scotland) Act, 1935.	Overcrowding and alternative accommodation. S. 34 (2) amended	26, ss. 7 (3), 8 (3) (c). 35, ss. 1 (2), 10 (4).
		Ss. 33 (1) (8), 46, 47 (3) (5), sch. 3 amended.	38, ss. 3, 21 (1) (2).
26 Geo. 5 & 1 Edw. 8:			
c. 9	Milk (Extension of Temporary Provisions) Act, 1936.	1934 Act further extended, &c.	61.
c. 16	Coinage Offences Act, 1936.	Certain offences triable at quarter sessions.	63, ss. 2, 20 (4) (5), sch. 1.
c. 31	Old Age Pensions Act, 1936.	S. 2 (1) ( <i>a</i> ) ( <i>b</i> ) amended	11, s. 1.
c. 32	National Health Insurance Act, 1936.	Act adapted to juvenile contributors, ss. 140 (2), 141 (3), 154 (2) amended, 12 (1), 21-2, 144 (3), &c. applied. Ss. 2 (2) repealed, sch. 1, Part II, para. ( <i>r</i> ) added.	3, ss. 1, 2 (1), 3(2), 4 (2), 7 (2), sch. 4 (2), 7 (2), sch. 14, s. 1 (1) (2).
c. 33	Widows', Orphans' and Old Age Contributory Pensions Act, 1936.	S. 31 (1) (2) extended, (3) (4) amended.	14, s. 1 (3).
c. 34	Finance Act, 1936	S. 18 (1) proviso repealed, (1A), (1B), (4A) added, (3) ( <i>d</i> ) amended; tea duties in s.1 increased.	40, ss. 5, 28, 55 (7), sch. 5.
c. 44	Air Navigation Act, 1936.	S. 1 (1) ( <i>a</i> ) amended: power to remunerate members of licensing authority under s. 5.	33, ss. 1, 2 (1) ( <i>a</i> ).
c. 45	Isle of Man (Customs) Act, 1936.	Ss. 1, 10, sch. 1 repealed, ss. 3, 4 continued.	68, ss. 1, 5, 7 (1), 12 (2), sch. 2, Parts I and II.
c. 49	Public Health Act, 1936.	Ss. 3, 6, 8, 9, 311 and para. (2) of Part I of sch. 3 extended, 271-3, 277, 283-6, 289, 303-4, 306, 311-3, 317-25, 328, 345 incorporated, s. 319 applied to Scotland. S. 287 extended	56, ss. 76 (1), 96, 101 (2), 102 (1) ( <i>h</i> ). 72, ss. 1 (4), 28 (7).

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
26 Geo. 5 & 1 Edw. 8 : c. 50 -	Public Health (London) Act, 1936.	Ss. 180 (1)-(7) (9)-(11), 181-3, 185-91, 206-7, 274 (1) proviso, 276 (1) proviso (b) and (2), and in part s. 301 (2) repealed; ss. 6 (1) (3) extended, 277, 297 applied; power to cancel slaughter-house or knacker's licence.	56, ss. 9 (5), 19 (2), 76 (2), 91 (2), 96 (2) (b), 101, 103, sch. 4.
c. 51 -	Housing Act, 1936	Ss. 94 (1) (a) (for (a)-(c)) and 109 (1) substituted, 109 (3), 113-4 amended, 109 (2) postponed, 86, 89 (2), 129 (1), 130 (2), 169 (3), 172 (2) extended, 136 applied, 105-8, 114, 115 (2) (3) restricted, 188 (3) saved. Overcrowding and alternative accommodation.	xxxviii, ss. 3, 5, 11 (3) (a).  16, ss. 1 (7), 2 (3), 5, 6 (4) (5), 7 (3) (4), 8, 10 (1) (3), 11 (1).  26, s. 7 (3).
1 Edw. 8 & 1 Geo. 6 : c. 37 -	Children and Young Persons (Scotland) Act, 1937.	S. 26 repealed; evidence of offences in sch. 1.	48, s. 11.
c. 49 -	Trade Marks (Amendment) Act, 1937.	Repealed (July 27, 1938— <i>see</i> S. R. & O. 1938, No. 657).	22, ss. 70, 71 (2)-(4), sch. 4; and <i>see</i> s. 69, sch. 3.
c. 50 -	Livestock Industry Act, 1937.	Part II powers extended (Eire).	25, s. 3 (3).
c. 53 -	Agricultural Wages (Regulation) (Scotland) Act, 1937.	In part applied	70, s. 3 (1) (b); and <i>see</i> ss. 1 (2), 2 (1).
c. 54 -	Finance Act, 1937	Ss. 3 (4), 22 (3) (a) (b), 30 repealed, sch. 4 para. 12 (2) substituted, ss. 2 (as to sugar), 15 (2), 22 (1), sch. 4, para. 3 (1) amended, s. 20, sch. 4, paras. 4, 7 excluded, sch. 4, paras. 2 (2), 7 restricted. Ss. 3 (3) (d) (4), corresponding I. of Man provision.	46, ss. 6 (1) (8), 8, 17 (4), 42-6, 51, 55 (7), schs. 2, 4, 5.  68, ss. 10-1.
c. 56 -	Coal (Registration of Ownership) Act, 1937.	Ss. 2 and (prosp.) 1 (2) repealed, Act amended, functions of Board of Trade in part transferred, s. 1 (7) and sch. 2, para. 5 (3) extended, provision for expenses, &c.	52, ss. 7 (3), 13 (1), 27 (1), 35, 36 (1) (4), 37, 39, 43 (3), 44 (1), 45 (5), sch. 3, &c.

Session and Chapter.	Short Title.	How affected.	Chapter of 1 & 2 Geo. 6.
1 Edw. 8 & 1 Geo. 6 : c. 64	Isle of Man (Customs) Act, 1937.	Ss. 2, 4 repealed, 3 continued; s. 3 (3) (4) restricted and power to suspend.	68, ss. 1, 6 (1) (5), 7 (1), 11, 12 (2), sch. 2.
c. 66	Milk (Amendment) Act, 1937.	S. 5 (5) amended; fresh extension and amdt. of 1934 Act.	61, ss. 1-3, 4 (2), sch.
c. 67	Factories Act, 1937	Ss. 123-5, 156 (9) (inspectors) applied. S. 157 (1), sch. 3, Part I repealed.	41, ss. 9, 13 (1), 14 (a), 15 (2). 56, ss. 101, 103 (1), sch. 4.
c. 68	Local Government Superannuation Act, 1937.	Ss. 123, 125, 136-7, 140 (1) (2) (5) (7), 141, 142 (2) applied; Act saved. Sch. 1, Part II, para. 2 amended.	69, ss. 3 (1) (2), 4, 7 (3) (a), 10 (3), 14 (3). 72, ss. 17 (5) (8), 28 (3).
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c. 12	Population (Statistics) Act, 1938.	S. 6 (b) extended; s. 1, registration of still-births now required in Scotland.	55, ss. 1, 5 (2)-(4).
c. 17	Cinematograph Films Act, 1938.	S. 25 (5) repealed	46, s. 6, sch. 2.
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AND

### CHURCH ASSEMBLY MEASURES.

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1937—38

THE  
LOCAL AND PRIVATE  
ACTS

Passed in  
The First and Second Years of the Reign of His Majesty

*King George the Sixth*

In the Third Session of the Thirty-seventh  
Parliament of the United Kingdom of  
Great Britain and Northern Ireland

WITH AN INDEX



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# TABLE I.

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## A TABLE

OF

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ARRANGED ACCORDING TO CHAPTER

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OCTOBER 26, 1937—NOVEMBER 4, 1938

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- P. iii.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Clydebank Burgh. (*Clydebank Burgh Order Confirmation.*)

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- P. iv.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the Empire Exhibition (Scotland). (*Empire Exhibition (Scotland) Order Confirmation.*)
- P. v.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Rothesay Harbour. (*Rothesay Harbour Order Confirmation.*)
- P. vi.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Glasgow Boundaries. (*Glasgow Boundaries Order Confirmation.*)

## ROYAL ASSENT, 30th March, 1938.

- P. vii.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Paisley Corporation. (*Paisley Corporation (General Powers) Order Confirmation.*)
- P. viii.** An Act to confirm a Provisional Order of the Minister of Health relating to the county borough of Halifax. (*Ministry of Health Provisional Order Confirmation (Halifax).*)
- P. ix.** An Act to confirm a Provisional Order of the Minister of Health relating to the borough of Nuneaton. (*Ministry of Health Provisional Order Confirmation (Nuneaton Extension).*)
- x.** An Act to amend the Bombay Baroda and Central India Railway Act 1906 and to enable the Bombay Baroda and Central India Railway Company to provide road and air transport services and for other purposes. (*Bombay Baroda and Central India Railway.*)
- xi.** An Act to modify certain provisions of the Adelphi Estate Act 1933. (*Adelphi Estate.*)

## ROYAL ASSENT, 13th April, 1938.

- xii.** An Act to confer powers on the president vice presidents treasurers and governors of the Middlesex Hospital and for other purposes. (*Middlesex Hospital.*)

## ROYAL ASSENT, 17th May, 1938.

- P. xiii.** An Act to confirm a Provisional Order made under section one of the Electricity (Supply) Act 1922 relating to the North West Midlands Joint Electricity Authority. (*North West Midlands Joint Electricity Authority Order Confirmation.*)



- P. **xiv.** An Act to confirm a Provisional Order of the Minister of Health relating to the borough of Scarborough. (*Ministry of Health Provisional Order Confirmation (Scarborough).*)
- P. **xv.** An Act to confirm a Provisional Order of the Minister of Health relating to the borough of Bridgwater. (*Ministry of Health Provisional Order Confirmation (Bridgwater Extension).*)
- xvi.** An Act to provide for the transfer to the Bournemouth Gas and Water Company of the undertakings of the Brockenhurst Gas Company and the Wareham and District Gas Company Limited to extend the limits for the supply of gas by the Bournemouth Gas and Water Company to authorise them to raise additional capital and for other purposes. (*Bournemouth Gas and Water.*)
- xvii.** An Act to provide for the transfer to the urban district council of Saltburn and Marske-by-the-Sea of the Saltburn pier and works in connection therewith to confer other powers upon the Council and for other purposes. (*Saltburn and Marske-by-the-Sea Urban District Council.*)

## ROYAL ASSENT, 26th May, 1938.

- P. **xviii.** An Act to confirm a Scheme of the Charity Commissioners for the application or management of the Charity called the Poor's Allotment in the ancient parish of Hanwell in the county of Middlesex. (*Poor's Allotment in Hanwell Charity Scheme Confirmation.*)
- P. **xix.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Forfar Corporation Water. (*Forfar Corporation Water Order Confirmation.*)
- P. **xx.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Irvine and District Water Board. (*Irvine and District Water Board Order Confirmation.*)
- P. **xxi.** An Act to confirm a Provisional Order made by the Minister of Transport under the Bournemouth Corporation Act 1930 relating to Bournemouth trolley vehicles. (*Bournemouth Corporation (Trolley Vehicles) Order Confirmation.*)
- xxii.** An Act to provide for the carrying into effect of an agreement between the mayor aldermen and burgesses of the borough of Blackpool and the London Midland and Scottish Railway Company to provide for the removal of the Blackpool central railway station to another site in the said borough to empower the said mayor aldermen and burgesses to execute street improvements and other works and to acquire lands and for other purposes. (*Blackpool Improvement.*)

## ROYAL ASSENT, 2nd June, 1938.

- P. xxiii.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to East Lothian Water. (*East Lothian Water Order Confirmation.*)
- xxiv.** An Act to unite the Royal Infirmary Sheffield and the Sheffield Royal Hospital in one corporation to be called the Royal Sheffield Infirmary and Hospital and for other purposes. (*Royal Sheffield Infirmary and Hospital.*)
- xxv.** An Act to make further and better provision for the improvement health local government and finances of the urban district of Aldridge and for other purposes. (*Aldridge Urban District Council.*)
- xxvi.** An Act to authorise the Brixham Gas and Electricity Company to raise additional capital and for other purposes. (*Brixham Gas and Electricity.*)
- xxvii.** An Act to empower the London Midland and Scottish Railway Company to construct works and to acquire lands to amend the superannuation scheme of the Company and for other purposes. (*London Midland & Scottish Railway.*)
- xxviii.** An Act to authorise the corporation of Bangor to suspend or modify the working of the ferry between Bangor Pier and Llandegfan to sell the pier undertaking to make better provision for the health local government and finance of the borough and for other purposes. (*Bangor Corporation.*)
- xxix.** An Act to authorise the West Surrey Water Company to take additional water from the river Thames and for other purposes. (*West Surrey Water.*)

## ROYAL ASSENT, 23rd June, 1938.

- xxx.** An Act to empower the mayor aldermen and burgesses of the borough of Crewe to construct street works and waterworks and to empower the said mayor aldermen and burgesses to acquire lands for those and for other purposes to confer further powers on the Corporation with reference to the supply of water and electricity to make further provision for the improvement health local government and finance of the borough and for other purposes. (*Crewe Corporation.*)
- xxxi.** An Act to provide for the transfer of the undertaking of the Radcliffe and Little Lever Joint Gas Board to the Farnworth and Kearsley Gas Company and for the dissolution of the Board to change the name of the said Company to consolidate the capital of the said Company to extend the limits for the supply of gas by and to confer powers upon the said Company and for other purposes. (*Radcliffe Farnworth and District Gas.*)

- xxxii.** An Act to confer further powers on the Romford Gas Company and for other purposes. (*Romford Gas.*)
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- xxxiv.** An Act to confirm the purchase by the Irwell Valley Water Board of certain land to empower the Board to construct waterworks and collect impound take and use waters to confer further powers upon the Board and for other purposes. (*Irwell Valley Water Board.*)
- xxxv.** An Act to regulate the expenditure on capital account and lending of money by the London County Council during the financial period from the first day of April one thousand nine hundred and thirty-eight to the thirtieth day of September one thousand nine hundred and thirty-nine and for other purposes. (*London County Council (Money).*)
- xxxvi.** An Act to make further provision with respect to the undertakings of the mayor aldermen and burgesses of the borough of Ossett and with respect to the finance of the said borough and for other purposes. (*Ossett Corporation.*)
- xxxvii.** An Act to authorise the Rickmansworth and Uxbridge Valley Water Company to construct new works to make provision as to the abandonment of their Springwell pumping station and for other purposes. (*Rickmansworth and Uxbridge Valley Water.*)
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- xxxix.** An Act to empower the lord mayor aldermen and citizens of the city of Manchester to cover over part of the river Irwell and to acquire lands for their transport undertaking and for other purposes. (*Manchester Corporation.*)
- xl.** An Act to empower the mayor aldermen and citizens of the city of Wakefield to construct new streets street improvements and waterworks and to acquire land for those and other purposes to make further provision with regard to their water electricity and markets undertakings and to make further provision with regard to the health local government and improvement of the city and for other purposes. (*Wakefield Corporation.*)
- xli.** An Act to extend the boundaries of the city of Plymouth and for other purposes. (*Plymouth Extension.*)
- xlii.** An Act to make further provision for the improvement health local government and finance of the borough of Gateshead and for other purposes. (*Gateshead Corporation.*)

## ROYAL ASSENT, 13th July, 1938.

- xliii.** An Act to enable the Postmaster-General for the purposes of the Post Office to acquire lands in London Leeds and Oxford to stop up a highway in Leeds and to erect buildings on and make a subway under a disused burial ground in Leeds and for purposes connected with the matters aforesaid. (*Post Office (Sites).*)
- P. xliv.** An Act to confirm a Provisional Order under the Burgh Police (Scotland) Act 1892 relating to Dumbarton Burgh (Water). (*Dumbarton Burgh (Water) Order Confirmation.*)
- P. xlv.** An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Clacton-on-Sea. (*Pier and Harbour Order (Clacton-on-Sea) Confirmation.*)
- P. xlvi.** An Act to confirm a Provisional Order made by one of His Majesty's Principal Secretaries of State under the Marriages Validity (Provisional Orders) Acts 1905 and 1924. (*Provisional Order (Marriages) Confirmation.*)
- P. xlvii.** An Act to confirm a Provisional Order of the Minister of Health relating to the borough of Keighley. (*Ministry of Health Provisional Order Confirmation (Keighley).*)
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- P. xlix.** An Act to confirm a Provisional Order of the Minister of Health relating to the borough of Torquay. (*Ministry of Health Provisional Order Confirmation (Torquay).*)
- P. l.** An Act to confirm a Provisional Order of the Minister of Health relating to the Calne Waterworks Company Limited. (*Ministry of Health Provisional Order Confirmation (Calne Water).*)
- li.** An Act to change the name of the Sheffield Gas Company and for other purposes. (*Sheffield and District Gas.*)
- lii.** An Act to confer further powers upon the mayor aldermen and burgesses of the borough of Blackburn with respect to their water and electricity undertakings to make better provision for the health and local government of the borough and for other purposes. (*Blackburn Corporation.*)
- liii.** An Act to empower the London and North Eastern Railway Company to construct a railway and to widen certain of their railways to construct other works in connection with their undertaking and to acquire lands to confer further powers on the Company and for other purposes. (*London and North Eastern Railway.*)

- liv.** An Act to confer further powers on the mayor aldermen and burgesses of the borough of Redcar in regard to their electricity gas and water undertakings and to make further and better provision for the improvement health local government and finance of the borough and for other purposes. (*Redcar Corporation.*)
- lv.** An Act to empower the Southern Railway Company to construct works and to acquire lands to extend the time for the compulsory purchase of certain lands to make provision with reference to the rates rents tolls and charges which may be levied at the Southampton Docks of the Company to confer further powers upon the Company and for other purposes. (*Southern Railway.*)
- lvi.** An Act to confer further powers on the mayor aldermen and burgesses of the borough of Swinton and Pendlebury in regard to their electricity undertaking lands and other matters to make further and better provision for the improvement health and local government of the borough and for other purposes. (*Swinton and Pendlebury Corporation.*)
- lvii.** An Act to confer further powers upon the Harwich Harbour Conservancy Board. (*Harwich Harbour.*)
- lviii.** An Act to consolidate the Shropshire Worcestershire and Staffordshire Electric Power Acts and Orders 1903 to 1933. (*Shropshire Worcestershire and Staffordshire Electric Power Consolidation.*)
- lix.** An Act for the regulation of certain roads on the West Thurrook Estate in the county of Essex and for other purposes. (*West Thurrook Estate.*)
- lx.** An Act to empower the Surrey County Council to purchase lands compulsorily to confirm an agreement between the said County Council and the Carshalton Urban District Council to empower the said urban district council to use lands for cemetery purposes to empower the said County Council to borrow money and for other purposes. (*Surrey County Council.*)
- lxi.** An Act to confer further powers on the Cowes Urban District Council in regard to their water and gas undertakings to make further and better provision for the health local government finance and improvement of the urban district and for other purposes. (*Cowes Urban District Council.*)
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- lxiii.** An Act to empower the urban district council of Clacton to construct a sea wall and other sea defence works to provide for the levying of rates in respect of sea defence works to make further and better provision for the improvement health and local government of the district of the Council to confer further powers on the Council in regard to their water gas and electricity undertakings lands and other matters and for other purposes. (*Clacton Urban District Council.*)

## ROYAL ASSENT, 29th July, 1938.

- P. lxiv.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the Lochaber Power Company. (*Lochaber Water Power Order Confirmation.*)
- P. lxy.** An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the Island of Arran Piers. (*Island of Arran Piers Order Confirmation.*)
- P. lxvi.** An Act to confirm a Provisional Order made by the Minister of Transport under the West Hartlepool Corporation Act 1923 relating to West Hartlepool Corporation Trolley Vehicles. (*West Hartlepool Corporation (Trolley Vehicles) Order Confirmation.*)
- P. lxvii.** An Act to confirm a Provisional Order made by the Minister of Transport under the Ipswich Corporation Act 1925 relating to Ipswich Corporation Trolley Vehicles. (*Ipswich Corporation (Trolley Vehicles) Order Confirmation.*)
- P. lxviii.** An Act to confirm a Provisional Order made by the Minister of Transport under the Newcastle-upon-Tyne Corporation (General Powers) Act 1935 relating to Newcastle-upon-Tyne Corporation Trolley Vehicles. (*Newcastle-upon-Tyne Corporation (Trolley Vehicles) Order Confirmation.*)
- P. lxxix.** An Act to confirm a Provisional Order made under section one of the Electricity (Supply) Act 1922 relating to the West Midlands Joint Electricity Authority. (*West Midlands Joint Electricity Authority Order Confirmation.*)
- P. lxxx.** An Act to confirm a Provisional Order made by the Minister of Transport under the General Pier and Harbour Act 1861 relating to Plymouth. (*Pier and Harbour Order (Plymouth) Confirmation.*)
- P. lxxxi.** An Act to confirm a Provisional Order made by the Minister of Agriculture and Fisheries under Part III of the Land Drainage Act 1930 relating to Louth Drainage District. (*Land Drainage Provisional Order (Louth Drainage District) Confirmation.*)
- P. lxxxii.** An Act to confirm a Provisional Order of the Minister of Health relating to the urban district of Cirencester. (*Ministry of Health Provisional Order Confirmation (Cirencester).*)
- P. lxxxiii.** An Act to confirm a Provisional Order of the Minister of Health relating to the urban district of Wath upon Dearne. (*Ministry of Health Provisional Order Confirmation (Wath upon Dearne).*)

- P. lxxiv.** An Act to confirm a Provisional Order of the Minister of Health relating to the urban district of Church Stretton. (*Ministry of Health Provisional Order Confirmation (Church Stretton).*)
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- P. lxxvii.** An Act to confirm a Provisional Order of the Minister of Health relating to the urban district of Rawmarsh. (*Ministry of Health Provisional Order Confirmation (Rawmarsh).*)
- P. lxxviii.** An Act to confirm a Provisional Order of the Minister of Health relating to the district of the Bucks Water Board. (*Ministry of Health Provisional Order Confirmation (Bucks Water Board).*)
- lxxix.** An Act to authorise the lord mayor aldermen and burgesses of the city of Bristol to execute works and to acquire lands to alter the limits of the port and harbour of Bristol and to constitute the Corporation a local lighthouse authority to confer further powers upon the Corporation and to make further and better provision for the health local government improvement and finance of the city to authorise the use of certain lands in the city as burial grounds and for other purposes. (*Bristol Corporation.*)
- lxxx.** An Act to enlarge the powers of the mayor aldermen and citizens of the city of Chichester in regard to Chichester Harbour to confer further powers upon the said mayor aldermen and citizens with reference to their electricity and water undertakings to make further and better provision for the health local government finance and improvement of the city and for other purposes. (*Chichester Corporation.*)
- lxxxi.** An Act to empower the London County Council to make a new street street widenings and other works in connection with the southern approach to Wandsworth Bridge and to construct a tunnel under the river Thames and street and other works in connection with Blackwall Tunnel to empower the council of the metropolitan borough and city of Westminster to make street improvements and for other purposes. (*London County Council (Tunnel and Improvements).*)
- lxxxii.** An Act to authorise the Newcastle and Gateshead Water Company to construct additional works to confer upon the Company further capital and borrowing powers and for other purposes. (*Newcastle and Gateshead Waterworks.*)

- lxxxiii.** An Act to authorise the Gateshead and District Tramways Company to run trolley vehicles and to abandon their tramways and for other purposes. (*Gateshead and District Tramways and Trolley Vehicles.*)
- lxxxiv.** An Act to authorise the River Wear Commissioners to execute works to alter the constitution of those Commissioners and for other purposes. (*Wear Navigation and Sunderland Dock.*)
- lxxxv.** An Act to provide for the removal of the restrictions attaching to certain land which is consecrated as a burial ground in the urban district of Harrow to authorise the sale of such land and its use for building or otherwise and for other purposes. (*Stannore Unused Burial Ground.*)
- lxxxvi.** An Act to authorise the mayor aldermen and burgesses of the borough of Guildford to execute street works and to acquire lands for those and other purposes to empower the Corporation to purchase by agreement the Godalming navigation and to confer further powers upon them in regard to their water electricity and markets undertakings and the health local government and improvement of the borough and for other purposes. (*Guildford Corporation.*)
- lxxxvii.** An Act to provide for the conversion and amalgamation of the existing capital of the Canterbury Gas and Water Company to authorise the Company to raise additional money to confer further powers upon the Company and for other purposes. (*Canterbury Gas and Water.*)
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- lxxxix.** An Act to confirm an agreement between the Brighton Corporation and the Brighton Hove and District Omnibus Company Limited for the provision and working in co-ordination of passenger road transport by the said Corporation and the said Company and the sharing of the revenues thereof and other matters to confer powers upon the said Corporation and Company in connection with the running of trolley vehicles to enact provisions with respect to the abandonment by the said Corporation of their tramways and with respect to the railway known as "Volk's Electric Railway" to empower the said Corporation to borrow money and for other purposes. (*Brighton Corporation (Transport).*)
- xc.** An Act to make further provision for the disposal of sewage in the county of Middlesex and parts of adjoining counties to confer further powers upon the Middlesex County Council and local authorities in the said counties and for other purposes. (*Middlesex County Council (Sewerage).*)



- xc.** An Act to authorise the Lee Conservancy Catchment Board to execute works and exercise powers with respect to the drainage of their catchment area and for the prevention of floods therein and for other purposes. (*Lee Conservancy Catchment Board.*)
- xcii.** An Act to empower the London Passenger Transport Board to provide certain services of trolley vehicles to construct new works and to acquire lands to extend the time for the compulsory purchase of certain lands and the completion of certain works to confer further powers on the Board and for other purposes. (*London Passenger Transport.*)
- xciii.** An Act to make provision for the preservation from industrial or building development of areas of land in and around the administrative county of London to confer powers for that purpose upon the London County Council and certain other authorities and persons and for other purposes. (*Green Belt (London and Home Counties).*)
- xciv.** An Act to constitute and incorporate a joint board consisting of representatives of the county councils of the administrative counties of the counties palatine of Lancaster and Chester and the administrative county of Derby and of the councils of the county boroughs of Blackburn Blackpool Bolton Burnley Bury Manchester Oldham Preston Rochdale St. Helens Salford Southport Stockport Warrington and Wigan to confer powers on the Board with respect to the prevention of the pollution and obstruction of certain rivers streams and watercourses to confer further powers on the county council of the administrative county of the county palatine of Lancaster and on the local authorities in that county in relation to health local government and finance to enact provisions with respect to roads shellfish education and places of public entertainment to amend the Shops (Hours of Closing) Act 1928 and for other purposes. (*Lancashire County Council (Rivers Board and General Powers).*)
- xcv.** An Act to authorise the lord mayor aldermen and citizens of the city of Nottingham and county of the same city to construct street works and waterworks and to purchase lands compulsorily for those and other purposes to extend the Corporation's limits for the supply of water and to confer further powers upon the Corporation with regard to streets buildings sewers and drains and the health and good government of the city and for other purposes. (*Nottingham Corporation.*)
- xcvi.** An Act to empower the mayor aldermen and burgesses of the borough of Stockton-on-Tees to acquire and develop lands and to construct railways and to confer upon the Corporation further powers with regard to their electricity undertaking and the health good government and improvement of the borough and for other purposes. (*Stockton-on-Tees Corporation.*)

- xcvii.** An Act to authorise the mayor aldermen and citizens of the city of Salford to cover over part of the river Irwell and acquire lands for that purpose and for the purposes of their transport undertaking to confer further powers upon the Corporation and to make further and better provision for the health local government improvement and finance of the city and for other purposes. (*Salford Corporation.*)
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PRIVATE ACT.

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1 & 2 GEO. 6.

ROYAL ASSENT, 29th July, 1938.

- 1.** An Act to vary the limitations and trusts of the will dated the 28th day of February 1923 and the first codicil thereto dated the 15th day of January 1924 both proved in the Manchester District Probate Registry on the 11th day of January 1927 of Reginald Arthur Tatton late of Cuerden Hall in the County of Lancaster. (*Tatton Estate.*)

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OF

1 & 2 GEORGE 6—A.D. 1937-38.

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