



# The Law Commission and The Scottish Law Commission

(LAW COM. No. 179)  
(SCOT. LAW COM. No. 117)

**STATUTE LAW REVISION: THIRTEENTH REPORT**

**DRAFT STATUTE LAW (REPEALS) BILL**

*Presented to Parliament by the Lord High Chancellor and  
the Lord Advocate by Command of Her Majesty*

*May 1989*

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The Law Commission and the Scottish Law Commission were set up by the Law Commissions Act 1965 for the purpose of promoting the reform of the law.

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**THE LAW COMMISSION**  
**AND**  
**THE SCOTTISH LAW COMMISSION**

**Statute Law Revision: Thirteenth Report**

**Draft Statute Law (Repeals) Bill**

*To the Right Honourable the Lord Mackay of Clashfern, Lord High Chancellor  
of Great Britain, and the Right Honourable the Lord Fraser of Carmyllie, Q.C., Her  
Majesty's Advocate.*

In pursuance of section 3(1)(d) of the Law Commissions Act 1965, we have prepared the draft Bill which is Appendix 1 and recommend that effect be given to the proposals contained in it. An explanatory note on the contents of the draft Bill forms Appendix 2.

The report recommends the repeal of enactments which have been identified, after detailed research and consultation, as being spent, obsolete, unnecessary or otherwise not now of practical utility. The proposals have been widely canvassed with the government departments and other bodies concerned. Appendix 3 lists the local authorities, statutory undertakers and other persons consulted in connection with a project to rationalise the local legislation of South Yorkshire.

The report is submitted in pursuance of the Law Commissions' programmes on statute law. The broad objective of those programmes is to modernise and simplify the statute book.

*(Signed)* ROY BELDAM, *Chairman, Law Commission*  
TREVOR M. ALDRIDGE  
RICHARD BUXTON  
BRENDA HOGGETT

MICHAEL COLLON, *Secretary*

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W. A. NIMMO SMITH

KENNETH F. BARCLAY, *Secretary*

7 April 1989

APPENDIX 1

**Statute Law (Repeals) Bill**

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**ARRANGEMENT OF CLAUSES**

Clause

1. Repeals and associated provisions.
2. Extent.
3. Short title and commencement.

**SCHEDULES:**

- Schedule 1 — Repeals.
  - Part I — Administration of Justice.
  - Part II — Finance.
  - Part III — Ireland.
  - Part IV — Local Government.
  - Part V — Medicine.
  - Part VI — Overseas Jurisdiction.
  - Part VII — Planning and Land.
  - Part VIII — Religious Disabilities.
  - Part IX — South Yorkshire.
  - Part X — Transport.
  - Part XI — Miscellaneous.
- Schedule 2 — Consequential Provisions.

DRAFT  
OF A  
**B I L L**  
INTITLED

An Act to promote the reform of the statute law by the repeal, in accordance with recommendations of the Law Commission and the Scottish Law Commission, of certain enactments which (except in so far as their effect is preserved) are no longer of practical utility, and to make other provision in connection with the repeal of those enactments. A.D. 1989.

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

- 5     1.—(1) The enactments mentioned in Schedule 1 to this Act are hereby repealed to the extent specified in the third column of that Schedule.     Repeals and associated provisions.
- (2) Schedule 2 to this Act shall have effect.
- 2.—(1) This Act extends to Northern Ireland.     Extent.
- 10     (2) Any repeal by this Act of an enactment which extends to the Isle of Man shall also extend there.
- (3) Subject to subsection (2) above, this Act does not repeal any enactment so far as the enactment forms part of the law of a country outside the United Kingdom; but Her Majesty may by Order in  
15     Council provide that the repeal by this Act of any enactment specified in the Order shall on a date so specified extend to any of the Channel Islands or any colony.
- 3.—(1) This Act may be cited as the Statute Law (Repeals) Act 1989.     Short title and commencement.
- 20     (2) The repeal by this Act of—  
          (a) section 3 of the Federation of Malaya Independence Act 1957,     1957 c.60.  
          and

*Statute Law (Repeals)*

1963 c.35.

(b) section 5 of the Malaysia Act 1963,  
shall come into force on such day as the Lord Chancellor may by  
order made by statutory instrument appoint.

SCHEDULES

SCHEDULE 1

Section 1(1).

REPEALS

PART I

5

ADMINISTRATION OF JUSTICE

Chapter	Short title	Extent of repeal
<i>Group 1 - Bankruptcy Acts 1883, 1890 and 1913</i>		
10	12 & 13 Vict. c.xciv. City of London Municipal Elections Act 1849.	In section 9, the words "shall declare himself or shall be declared bankrupt or insolvent, or".
	46 & 47 Vict. c.52. Bankruptcy Act 1883.	The whole Act.
15	53 & 54 Vict. c.71. Bankruptcy Act 1890.	The whole Act.
	3 & 4 Geo. 5. c.34. Bankruptcy and Deeds of Arran- gement Act 1913.	The whole Act.
20	1985 c.66. Bankruptcy (Scotland) Act 1985.	In Schedule 7, paragraph 2.
<i>Group 2 - Police Acts</i>		
25	2 & 3 Vict. c.47. Metropolitan Police Act 1839.	Sections 13 and 29. Section 61 from "and the owner" onwards. Sections 62, 69, 73 and 77. Section 78 from "and all" onwards.
30	2 & 3 Vict. c.xciv. City of London Police Act 1839.	Sections 18, 20, 21, 23, 26 and 27. In section 28, the proviso. Section 29. In section 31, the words "take into custody" and "and every person so found". Section 34. In section 35 — (a) paragraph 9 from "during" to "service, and"; (b) paragraph 10 from "or
35		
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*Statute Law (Repeals)*

SCH. 1  
PART I

Chapter	Short title	Extent of repeal
2 & 3 Vict. c.xciv.— <i>cont.</i>	City of London Police Act 1839. <i>—cont.</i>	<p>wilfully break” onwards; (c) in paragraph 12, the words “indecent or obscene”, where first occurring, and from “or write” to “representation”;</p> <p>(d) paragraph 14 from “(except” to “duty”;</p> <p>(e) the words from “And it shall be lawful” onwards. Sections 38 and 39. Section 42 from “and the owner” onwards.</p> <p>Sections 43 to 48. Sections 50 to 54. Sections 97 to 103.</p>
10 & 11 Vict. c.89.	Town Police Clauses Act 1847.	<p>The following provisions as they apply to England and Wales— Sections 15 and 30. In section 36, the words “take into custody” and “and every person so found”.</p> <p>In sections 61 and 65, the words from “and in default” onwards.</p> <p>Section 75.</p>
49 & 50 Vict. c.22.	Metropolitan Police Act 1886.	<p>Section 1 from “This Act and” onwards. Schedule 1.</p>
60 & 61 Vict. c.30.	Police (Property) Act 1897.	<p>Section 1(1) from “or under section sixty-six” to “London”.</p> <p>Section 1(3).</p>
62 & 63 Vict. c.26.	Metropolitan Police Act 1899.	<p>Section 1(2) from “either” to “Parliament, or” and from “or apportioned” to the end of the subsection.</p>
4 & 5 Geo. 5. c.34.	Police Reservists (Allowances) Act 1914.	<p>The whole Act.</p>
5 & 6 Geo. 5. c.32. 1964 c.48.	Irish Police (Naval and Military Service) Act 1915. Police Act 1964.	<p>Section 1(1).</p> <p>In Schedule 9, the entries relating to the Metropolitan Police Act 1839, the City of London Police</p>



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SCH. 1  
PART I

Chapter	Short title	Extent of repeal
5	1964 c.48.— <i>cont.</i>  Police Act 1964.— <i>cont.</i>	Act 1839, the Town Police Clauses Act 1847, the National Insurance (Industrial Injuries) Act 1946, the Homicide Act 1957 and the Road Traffic and Road Improvement Act 1960.
10	1976 c.63.	Bail Act 1976. In Schedule 2, paragraph 2.
<i>Group 3 - Scottish Courts, &amp;c.</i>		
6	Geo. 4. c.86.	Courts of Justice (Scotland) Act 1825.
15	9 Geo. 4. c.29.	Circuit Courts (Scotland) Act 1828.
11	Geo. 4 & 1 Will. 4. c.37.	Criminal Law (Scotland) Act 1830.
20	11 & 12 Vict. c.79.	Justiciary (Scotland) Act 1848.
31	& 32 Vict. c.95.	Justiciary Court (Scotland) Act 1868.
25	50 & 51 Vict. c.35.	Criminal Procedure (Scotland) Act 1887.
30	55 & 56 Vict. c.21.	High Court of Justiciary (Scotland) Act 1892.
7	Edw. 7. c.51.	Sheriff Courts (Scotland) Act 1907.
35	17 & 18 Geo. 5. c.35.	Sheriff Courts and Legal Officers (Scotland) Act 1927.
40	3 & 4 Geo. 6. c.15.	Solicitors (Emergency Provisions) Act 1940.
12, 13 & 14	Geo. 6. c.63.	Legal Aid and Solicitors (Scotland) Act 1949.
45	2 & 3 Eliz. 2. c.48.	Summary Jurisdiction (Scotland) Act 1954.

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SCH. 1  
PART I

Chapter	Short title	Extent of repeal	
1972 c.11.	Superannuation Act 1972.	In Schedule 6, paragraph 11.	
1976 c.6.	Solicitors (Scotland) Act 1976.	The whole Act.	5
1976 c.14.	Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.	Section 10(2), (3) and (5).	
1980 c.55.	Law Reform (Miscellaneous Provisions) (Scotland) Act 1980.	Section 11(1) from "and accordingly" onwards; and section 11(2). Section 28(2). Schedule 3.	10
<i>Group 4 - Vagrancy Law</i>			15
5 Geo. 4. c.83.	Vagrancy Act 1824.	The following provisions as they apply to England and Wales— Section 3 from the beginning to "manner; and". Section 4 from "every person pretending" to "subjects;" Section 5 from the beginning to "by virtue of this Act;" and from "and every person apprehended" to "so apprehended". In section 10, the words "in the house of correction". In section 22, the words "Provided also, that" and from "nor to alter" (where first occurring) onwards.	20 25 30 35
6 Geo. 4. c.97.	Universities Act 1825.	Section 3.	
34 & 35 Vict. c.96.	Pedlars Act 1871.	Section 13 as it applies to England and Wales.	40
57 & 58-Vict. c.lx.	Cambridge University and Corporation Act 1894.	Section 6.	45

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SCH. 1  
PART I

Chapter	Short title	Extent of repeal
<i>Group 5 - Other Repeals</i>		
11 Geo. 2. c.19.	Distress for Rent Act 1737.	Section 14.
5 60 Geo. 3 & 1 Geo. 4. c.1.	Unlawful Drilling Act 1819.	Section 4.
1 & 2 Will. 4. c.32.	Game Act 1831.	In sections 3, 4, 12, 23, 24, 25, 27, 28, 30, 31 and 32, the words "together with the costs of the conviction".
10		Section 38.
8 & 9 Vict. c.124.	Leases Act 1845.	The whole Act, but without prejudice to any existing lease.
11 & 12 Vict. c.42.	Indictable Offences Act 1848.	Section 32 from the beginning to "Act, but".
14 & 15 Vict. c.19.	Prevention of Offences Act 1851.	The whole Act.
20		
24 & 25 Vict. c.100.	Offences against the Person Act 1861.	Sections 39, 40 and 76, as they apply to England and Wales.
25 25 & 26 Vict. c.14.	Crown Suits (Isle of Man) Act 1862.	The whole Act.
27 & 28 Vict. c.24.	Naval Agency and Distribution Act 1864.	In section 2, the definition of "the High Court of Admiralty".
30 31 & 32 Vict. c.37.	Documentary Evidence Act 1868.	In the Schedule, the entry relating to the Poor Law Board.
32 & 33 Vict. c.62.	Debtors Act 1869.	Sections 18 and 23.
35 38 & 39 Vict. c.86.	Conspiracy and Protection of Property Act 1875.	Sections 10, 11, 13, 19 and 20.
46 & 47 Vict. c.3.	Explosive Substances Act 1883.	Section 7(4).
40		
46 & 47 Vict. c.38.	Trial of Lunatics Act 1883.	Section 4.
50 & 51 Vict. c.53.	Escheat (Procedure) Act 1887.	The whole Act.
45 9 & 10 Geo. 5. c.71.	Sex Disqualification (Removal) Act 1919.	Section 1 from "Provided that" onwards. Section 2 as it applies to Scotland.

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SCH. 1  
PART I

Chapter	Short title	Extent of repeal
13 & 14 Geo. 5. c.9. (N.I.)	Criminal Evidence Act (Northern Ireland) 1923.	Section 5(1) from "except" onwards.
15 & 16 Geo. 5. c.28.	Administration of Justice Act 1925.	Section 22(3). 5 Section 22(4) from the beginning to "section, and" and the word "other" wherever occurring. 10
25 & 26 Geo. 5. c.25.	C o u n t e r f e i t Currency (Convention) Act 1935.	The whole Act. 10
12, 13 & 14 Geo. 6. c.101.	Justices of the Peace Act 1949.	Sections 41, 43 and 45. Section 46(3) from "except" onwards. 15 Schedule 7.
14 & 15 Geo. 6. c.65.	Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	The following provisions except as they extend to Northern Ireland:— 20 In section 27(1), the proviso from "or if" onwards. Section 38(6)(b) and the preceding "or". Section 46(4). 25 Section 53. In Part I of Schedule 2— (a) in paragraph 6, the words "other than the metropolitan police court area" and "such"; 30 (b) paragraphs 18 and 19. In Part II of Schedule 2— (a) in paragraph 3, the words "a standing joint committee or" and in column 2 the words "committee or"; 35 (b) paragraphs 4(a), 5(a) and 6(a). 40
6 & 7 Eliz. 2. c.51.	Public Records Act 1958.	In Schedule 2, the entries relating to the Import Duties Act 1932, the Defence (General) Regulations 1939 and the Legal Aid and Solicitors (Scotland) Act 1949. 45
7 & 8 Eliz. 2. c.57.	Street Offences Act 1959.	Section 1(5).

*Statute Law (Repeals)*

SCH. 1  
PART I

Chapter	Short title	Extent of repeal
7 & 8 Eliz. 2. c.65.	Fatal Accidents Act 1959.	The whole Act.
8 & 9 Eliz. 2. c.9.	Judicial Pensions Act 1959.	Section 3.
5 1968 c.69.	Justices of the Peace Act 1968.	In Schedule 3, paragraphs 1 and 6.
1970 c.31.	Administration of Justice Act 1970.	Section 30.
10 1971 c.32.	Attachment of Earnings Act 1971.	In Schedule 4, paragraph 2. In Schedule 2, paragraph 2.
1973 c.15.	Administration of Justice Act 1973.	Sections 19 and 20. Schedule 5.
15 1974 c.47.	Solicitors Act 1974.	Section 75(a).
1980 c.43.	Magistrates' Courts Act 1980.	In Schedule 1, paragraphs 15, 21 and 24.
1981 c.54.	Supreme Court Act 1981.	Section 11(10). Section 89(5), (6) and (7).
20		In Schedule 6, paragraphs 1, 2(2), 3 and 6.
1982 c.53.	Administration of Justice Act 1982.	Section 60.
1984 c.28.	County Courts Act 1984.	In Schedule 3, paragraphs 1 to 3, 4(2) and 10.
25		

**PART II**  
**FINANCE**

Chapter	Short title	Extent of repeal
<i>Group 1 - Land Tax</i>		
30 27 Geo. 3. c.34.	Duchy of Lancaster Act 1787.	In section 2, the words "after deducting the land tax chargeable thereon".
38 Geo. 3. c.5.	Land Tax Act 1797.	The whole Act.
35 42 Geo. 3. c.116.	Land Tax Redemption Act 1802.	The whole Act.
50 Geo. 3. c.58.	Land Tax Redemption Act 1810.	The whole Act.
40		



*Statute Law (Repeals)*

SCH. 1  
PART II

Chapter	Short title	Extent of repeal
5 & 6 Geo. 5. c.18.	Injuries in War (Compensation) Act 1914 (Session 2).	Section 1(3) from "or to any gratuity" to "1914".
5	5 & 6 Geo. 5. c.93.	The whole Act.
7 & 8 Geo. 5. c.54.	Naval and Military War Pensions, &c. (Committees) Act 1917.	The whole Act as it applies to the Isle of Man.
10	11 & 12 Geo. 5. c.39.	In section 2(3)(a), the words "and the Injuries in War (Compensation) Act 1915; or".
15	14 & 15 Geo. 5. c.21.	Sections 35 and 37.
14 & 15 Geo. 5. c.19 (N.I.)	Finance Act (Northern Ireland) 1924.	Section 8.
20	17 & 18 Geo. 5. c.15.	The whole Act.
17 & 18 Geo. 5. c.15.	Workmen's Compensation (Transfer of Funds) Act 1927.	The whole Act.
25	25 & 26 Geo. 5. c.23.	The whole Act.
2 & 3 Geo. 6. c.11.	Czecho-Slovakia (Restrictions on Banking Accounts &c.) Act 1939.	The whole Act.
30	6 & 7 Geo. 6. c.6.	The whole Act.
14 Geo. 6. c.12.	Foreign Compensation Act 1950.	The preamble and section 2. Section 4(4). Section 6(3) from "beginning" to "period".
35	11 & 12 Eliz. 2. c.4.	The preamble and sections 1 and 2.
1963 c.25.	Finance Act 1963.	Section 5. Section 62(5). In Schedule 14, Part I.
40	1964 c.60.	Section 6.
1964 c.60.	Emergency Laws (Re-enactments and Repeals) Act 1964.	Section 6.
45	1965 c.10.	The whole Act.
1965 c.10.	Superannuation (Amendment) Act 1965.	The whole Act.

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SCH. 1  
PART II

Chapter	Short title	Extent of repeal	
1965 c.62.	<b>R e d u n d a n c y Payments Act 1965.</b>	The whole Act.	
1966 c.18.	<b>Finance Act 1966.</b>	Section 53(5).	5
1967 c.53.	<b>Prices and Incomes Act 1967.</b>	The whole Act.	
1968 c.13.	<b>National Loans Act 1968.</b>	Section 3(7) to (10). Schedule 3.	
1968 c.32.	<b>Industrial Expansion Act 1968.</b>	The whole Act.	10
1969 c.19.	<b>Decimal Currency Act 1969.</b>	Section 3(3)(f).	
1969 c.20.	<b>Foreign Compen- sation Act 1969.</b>	The preamble and section 1. Section 2(2). Section 3(11) and (12). Section 4(1).	15
1971 c.24.	<b>Coinage Act 1971.</b>	In Schedule 2, the entry relating to section 42 of the Customs Consoli- dation Act 1876.	20
1972 c.74.	<b>Counter-Inflation ( T e m p o r a r y Provisions) Act 1972.</b>	The whole Act.	25
1973 c.7.	<b>Concorde Aircraft Act 1973.</b>	The whole Act.	
1974 c.24.	<b>Prices Act 1974.</b>	Sections 1, 6 and 8(2). In the Schedule— (a) paragraphs 1, 2 and 4; (b) paragraph 3 except as it has effect for the purposes of paragraph 9.	30
1975 c.18.	<b>Social Security (Consequential Provisions) Act 1975.</b>	In Schedule 3, paragraphs 23 and 34.	35
1975 c.32.	<b>Prices Act 1975.</b>	Section 1.	
1975 c.55.	<b>Statutory Corpo- rations (Financial Provisions) Act 1975.</b>	Sections 1 and 2. Schedule 1.	40
1975 c.57.	<b>R e m u n e r a t i o n , Charges and Grants Act 1975.</b>	The whole Act.	45
1977 c.33.	<b>Price Commission Act 1977.</b>	Section 17.	
1978 c.36.	<b>House of Commons (Administration) Act 1978.</b>	In Schedule 2, paragraph 4.	50



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SCH. 1  
PART II

Chapter	Short title	Extent of repeal
1978 c.44.	E m p l o y m e n t Protection (Con- solidation) Act 1978.	In Schedule 15, paragraphs 6, 7, 9, 11, 13, 16 and 19. In Schedule 16, paragraph 1.
5 1980 c.21.	Competition Act 1980.	Section 1. Schedule 1.
1981 c.35.	Finance Act 1981.	In section 135(1), the words "and capital transfer tax".
10 1982 c.16.	Civil Aviation Act 1982.	In Schedule 15, paragraph 7.
1983 c.29.	M i s c e l l a n e o u s F i n a n c i a l Provisions Act 1983.	Section 3.
15 1985 c.54.	Finance Act 1985.	In Schedule 25, paragraph 10.

**PART III**

**IRELAND**

20

Chapter	Short title	Extent of repeal
12 & 13 Geo. 5. c.4.	Irish Free State (Agreement) Act 1922.	The whole Act.
25 13 Geo. 5. Sess. 2. c.1.	Irish Free State Constitution Act 1922 (Session 2).	The whole Act.
30 13 Geo. 5. Sess. 2. c.2.	Irish Free State (Consequential Provisions) Act 1922 (Session 2).	Section 1(1) except the words "the First Schedule to this Act shall" and "have effect". Section 2. Section 5 except as it applies to estate duty and stamp duties. Section 6(1) (b) and (c). Schedule 2.
35		
40 15 & 16 Geo. 5. c.77.	Ireland (Confir- mation of Agree- ment) Act 1925.	The whole Act.

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SCH. 1  
PART III

Chapter	Short title	Extent of repeal	
20 & 21 Geo. 5. c.4.	Irish Free State (Confirmation of Agreement) Act 1929.	The whole Act.	5

**PART IV  
LOCAL GOVERNMENT**

Chapter	Short title	Extent of repeal	
8 & 9 Will. 3. c.37 (1696).	An Act for explaining and enforcing the Act [2 Will. & Mar. Sess. 2. c.8] and for widening the street at the south end of London Bridge.	The whole Act.	10
2 & 3 Vict. c.xciv.	City of London Police Act 1839.	The preamble and section 1. In section 2, the definitions of "house" and "rate". In section 3, the words "not less than eight hundred pounds". Sections 7 and 10. Sections 58 to 69, 71 to 86, 88 to 91, 93 to 96, 104 and 105. The following words, wherever occurring— "liberty", "and liberties", "and the liberties thereof", "or the liberties thereof".	20
10 & 11 Vict. c.89.	Town Police Clauses Act 1847.	Sections 77 and 78 as they apply to England and Wales.	35
27 & 28 Vict. c.55.	Metropolitan Police Act 1864.	The whole Act.	
29 & 30 Vict. c.79.	Local Government Supplemental Act 1866 (No. 2).	The whole Act.	40

Statute Law (Repeals)

SCH. 1  
PART IV

Chapter	Short title	Extent of repeal
5	38 & 39 Vict. c.55.  Public Health Act 1875.	Section 3. In section 4— (a) the definitions from that of "Borough" to that of "Guardians" and from that of "Sewer" onwards; (b) in the definition of "Street", the words "(not being a county bridge)". Sections 313 and 317. Schedule 4. In Part III of Schedule 5, the paragraphs relating to the Act 35 & 36 Vict. c.79.
10	39 & 40 Vict. c.56.  Commons Act 1876.	In section 37, the definitions of "municipal borough", "improvement Act district" and "local government district". Sections 2, 220 and 260.
15	45 & 46 Vict. c.50.  Municipal Corpo- rations Act 1882.	In Part I of Schedule 9, the entries relating to the Town Gardens Protection Act 1863, the Dogs Act 1871, the Public Health Act 1875 and the Commons Act 1876.
20	53 & 54 Vict. c.59.  Public Health Acts Amendment Act 1890.	Section 1.
25	56 & 57 Vict. c.73.  Local Government Act 1894.	Section 27(1)(a) and (2).
30	7 Edw. 7. c.53.  Public Health Acts Amendment Act 1907.	Section 1. In section 13, as it applies to England and Wales, the definitions of "the commencement of this Part" and "the com- mencement of this section".
35	9 & 10 Geo. 5. c.lxxiii.  City of London Police Act 1919.	The whole Act.
40	10 & 11 Geo. 5. c.xxvii.  City of London (Various Powers) Act 1920.	Section 14.
45	15 & 16 Geo. 5. c.71.  Public Health Act 1925.	Section 1(5). In Schedule 4, the words from "(except" to "sec- tion)".
50		

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SCH. 1  
PART IV

Chapter	Short title	Extent of repeal
19 & 20 Geo. 5. c.17.	Local Government Act 1929.	Sections 121 to 126. In section 134, the definitions of "Regis- tration officer", "Road officer" and "Transferred officer". Schedule 8. The whole Act.
23 & 24 Geo. 5. c.43.	Local Government and other Officers Superannuation (Temporary Provisions) Act 1933.	5 10
26 Geo. 5 & 1 Edw. 8. c.49.	Public Health Act 1936.	Section 287(6). In section 343(1), the definitions of "bridge authority", "county district", "emoluments", "highway authority" and "hospital". Section 345. Section 346(1)(d) and (2). Sections 105, 125 and 138.
11 & 12 Geo. 6. c.26.	Local Government Act 1948.	15 20 25
14 & 15 Geo. 6. c.65.	Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	Section 50(2), as it applies to Great Britain.
9 & 10 Eliz. 2. c.64.	Public Health Act 1961.	Section 52(1) from "and section three" onwards. Section 53(2) from "and sections three" onwards; and section 53(5). Section 54(6) from "and sections three" onwards.
1964 c.18.	Rating (Interim Relief) Act 1964.	The whole Act.
1966 c.42.	Local Government Act 1966.	Section 15. In section 40(1), the words "regulations or rules". In section 40(2), the words "other than section 2 or 3". In section 40(3), the words "regulations or rules under this Act or" and "32". In section 41(1), the definitions of "the ap-

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SCH. 1  
PART IV

Chapter	Short title	Extent of repeal
5 1966 c.42.— <i>cont.</i>	Local Government Act 1966.— <i>cont.</i>	appropriate Minister", "dwelling-house", "hereditament", "joint board", "land", "rate", "rate period", "rate support grant order", "rating authority" and "year".
10 1972 c.70.	Local Government Act 1972.	Section 41(2) and (3). Sections 17 and 36. Section 217(7). Section 250(2) from "or may instead" to "affirmation".
15 1973 c.65.	Local Government (Scotland) Act 1973.	In Schedule 25, paragraph 24.
20 1974 c.7.	Local Government Act 1974.	In Schedule 6, paragraph 5.
1979 c.55.	Justices of the Peace Act 1979.	In Schedule 2, paragraph 19.
1980 c.53.	Health Services Act 1980.	In Schedule 1, paragraph 15.
25 1980 c.65.	Local Government, Planning and Land Act 1980.	Sections 182, 187, 188, 189 and 190.
30 1985 c.72.	Weights and Measures Act 1985.	Section 69(6).

PART V  
MEDICINE

Chapter	Short title	Extent of repeal
35 55 Geo. 3. c.194.	Apothecaries Act 1815.	The whole Act.
14 & 15 Vict. c.99.	Evidence Act 1851.	Section 8.
37 & 38 Vict. c.34.	Apothecaries Act Amendment Act 1874.	The whole Act.
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*Statute Law (Repeals)*

SCH. 1  
PART V

Chapter	Short title	Extent of repeal	
7 Edw. 7. c.xxii.	Apothecaries Act 1907.	The whole Act.	
2 & 3 Eliz. 2. c.61.	Pharmacy Act 1954.	Section 4(2)(b).	5
1977 c.49.	National Health Service Act 1977.	In Schedule 14, paragraph 7(2).	

**PART VI  
OVERSEAS JURISDICTION**

Chapter	Short title	Extent of repeal	
13 & 14 Vict. c.70.	Canterbury Settlements Lands Act 1850.	The whole Act.	10
14 & 15 Vict. c.84.	Canterbury Association Act 1851.	The whole Act.	15
15 & 16 Vict. c.72.	New Zealand Constitution Act 1852.	The whole Act.	
28 & 29 Vict. c.63.	Colonial Laws Validity Act 1865.	Section 7.	
39 & 40 Vict. c.59.	Appellate Jurisdiction Act 1876.	Section 23.	20
56 & 57 Vict. c.72.	Colonial Acts Confirmation Act 1894.	The whole Act.	
58 & 59 Vict. c.34.	Colonial Boundaries Act 1895.	Section 1(2) and (3). The Schedule.	25
1 Edw. 7. c.29.	Colonial Acts Confirmation Act 1901.	The whole Act.	
7 Edw. 7. c.7.	Australian States Constitution Act 1907.	The whole Act.	30
24 & 25 Geo. 5. c.49.	Whaling Industry (Regulation) Act 1934.	In section 1, the words "or associated state" and "or associated states". Section 11 from "or British protectorate" onwards. Section 12(b) and the preceding "or". In section 13(1), the word "Newfoundland"; and section 13(2).	35 40

*Statute Law (Repeals)*

SCH. 1  
PART VI

Chapter	Short title	Extent of repeal
24 & 25 Geo. 5. c.49.— <i>cont.</i>	Whaling Industry (Regulation) Act 1934.— <i>cont.</i>	Section 15.
5 11 & 12 Geo. 6. c.3.	Burma Independence Act 1947.	The whole Act.
11 & 12 Geo. 6. c.4.	New Zealand Con- stitution (Amend- ment) Act 1947.	The whole Act.
10 5 & 6 Eliz. 2. c.60.	Federation of Malaya Indepen- dence Act 1957.	Section 3.
10 & 11 Eliz. 2. c.19.	West Indies Act 1962.	Sections 1 and 2. Section 4(5) and (6).
15 10 & 11 Eliz. 2. c.23.	South Africa Act 1962.	In Schedule 2, paragraph 6. In Schedule 3, paragraphs 7 and 10.
1963 c.35.	Malaysia Act 1963.	Section 5.
1966 c.14.	Guyana Indepen- dence Act 1966.	Section 6.
20 1971 c.19.	Carriage of Goods by Sea Act 1971.	Section 8(1) and (3). Section 5(1)(d).
1979 c.60.	Zimbabwe Act 1979.	In Schedule 2, paragraph 4 as it applies to Great Britain.
25		

**PART VII  
PLANNING AND LAND**

Chapter	Short title	Extent of repeal
30	<i>Group 1 - General Repeals</i>	
22 Vict. c.12.	Defence Act 1859.	Section 2 from "but this enactment" onwards.
31 & 32 Vict. c.89.	Inclosure, &c. Expenses Act 1868.	In section 1, the proviso. Section 3.
35 33 & 34 Vict. c.13.	Survey Act 1870.	The whole Act.
1 & 2 Geo. 5. c.49.	Small Landholders (Scotland) Act 1911.	In section 4(14), the words "any powers or duties under the Survey Act 1870, or".
40		

*Statute Law (Repeals)*

SCH. 1  
PART VII

Chapter	Short title	Extent of repeal
25 & 26 Geo. 5. c.47.	Restriction of Ribbon Development Act 1935.	The whole Act.
6 & 7 Geo. 6. c.5.	Minister of Town and Country Planning Act 1943.	The whole Act. 5
6 & 7 Geo. 6. c.43.	Town and Country Planning (Interim Development) (Scotland) Act 1943.	The whole Act. 10
8 & 9 Geo. 6 c.43.	Requisitioned Land and War Works Act 1945.	Sections 17(4), 18 and 22(2). In section 59(1), the definitions of "Defence Regulation", "dwelling-house" and "local planning authority"; and section 59(6). 15 Section 60(3) from "for any reference to a justices' licence" onwards; and section 60(12) from "and for" to "1947". 20 Section 61(9) and (11). 25
9 & 10 Geo. 6. c.35.	Building Restrictions (War-Time Contraventions) Act 1946.	The whole Act as it relates to building laws, that is— Section 1(1); and in section 1(2), the words "with a building law or", "building law or" and "as the case may be." 30 In sections 2, 3(1), 4(1) and 7(6), the words "building law or", "building laws or", and "law or", wherever occurring. 35 Section 3(2) to (6). 40 In section 5(1), the words "building law or" and "with a building law or". In section 7(1), the definitions of "building law" and "local Act"; and section 7(2) and (4). 45 Section 8(5)(a). Section 9(5)(c) and 9(6).



Statute Law (Repeals)

SCH. 1  
PART VII

Chapter	Short title	Extent of repeal
5	10 & 11 Geo. 6. c.51. Town and Country Planning Act 1947.	Section 119. In Schedule 8, the entries relating to the Roads Improvement Act 1925, the Trunk Roads Act 1936, the Requisitioned Land and War Works Act 1945 and the Trunk Roads Act 1946.
10	10 & 11 Geo. 6. c.53. Town and Country Planning (Scotland) Act 1947.	In Schedule 8, the entries relating to section 60(12) of the Requisitioned Land and War Works Act 1945 and the Trunk Roads Act 1936.
15	11 & 12 Geo. 6. c.17. Requisitioned Land and War Works Act 1948.	In the Schedule, paragraph 1.
20	12, 13 & 14 Geo. 6. c.42. Lands Tribunal Act 1949.	Section 1(3)(d) and (8)(b).
25	2 & 3 Eliz. 2. c.72. Town and Country Planning Act 1954.	Section 69(1) and (2). Section 72(2) and (3).
30	2 & 3 Eliz. 2. c.73. Town and Country Planning (Scotland) Act 1954.	Section 69(1), (2), (3), (4), (6), (7) and (8). Section 71(2).
35	7 & 8 Eliz. 2. c.24. Building (Scotland) Act 1959.	Section 6(8) from "section seventeen" to "1935". In Schedule 9, paragraph 4.
40	7 & 8 Eliz. 2. c.53. Town and Country Planning Act 1959.	Sections 14 to 16. In section 57(1), the definition of "highway". Section 57(10) and (11). Sections 14 to 16.
45	7 & 8 Eliz. 2. c.70. Town and Country Planning (Scotland) Act 1959.	Sections 14 to 16.
	9 & 10 Eliz. 2. c.33. Land Compensation Act 1961.	Section 13. Section 40(5). Section 41 from "or served" to "1945".
	10 & 11 Eliz. 2. c.36. Local Authorities (Historic Buildings) Act 1962.	In section 1(1)(b), as it applies to Scotland, the words "with the consent of the Secretary of State,".

*Statute Law (Repeals)*

SCH. 1  
PART VII

Chapter	Short title	Extent of repeal
10 & 11 Eliz. 2. c.38.	Town and Country Planning Act 1962.	Section 224. In Schedule 12, the entry relating to the Highways Act 1959. 5
1963 c.33.	London Government Act 1963.	Section 62(1)(d). In Schedule 17, paragraph 20(b).
1963 c.51.	Land Compensation (Scotland) Act 1963.	Section 21. Section 48 from "or served" to "1945". 10
1967 c.69.	Civic Amenities Act 1967.	In section 5(a), the words "and the Minister of Housing and Local Government" and "and the Secretary of State". 15
1968 c.72.	Town and Country Planning Act 1968.	Sections 27, 58, 103, 104, 105, 107 and 109(3). Schedule 10.
1969 c.30.	Town and Country P l a n n i n g (Scotland) Act 1969.	Sections 58 and 102. 20 In section 103(1), the definition of "the Act of 1959"; and section 103(2) and (4).
1972 c.11.	Superannuation Act 1972.	Section 104. 25 Section 19.
1973 c.65.	Local Government (Scotland) Act 1973.	In Schedule 15, paragraph 25. In Schedule 25, paragraph 15. 30
1981 c.69.	Wildlife and Coun- tryside Act 1981.	Section 72(1).
1984 c.12.	Telecommunications Act 1984.	In Schedule 4, paragraph 20. 35
1984 c.54.	Roads (Scotland) Act 1984.	In Schedule 9, paragraph 29.
1984 c.55.	Building Act 1984.	In Schedule 6, paragraph 1.
	<i>Group 2 - Architects' Registration</i>	
21 & 22 Geo. 5. c.33.	Architects (Regis- tration) Act 1931.	Section 3(3) from "within" to "thereafter" except the word "to"; and section 3(4) from "not later" to "thereafter" except the word "annually". 40 45 Section 6(1)(b). In Schedule 1— (a) paragraph 1 from "Provided that" onwards; (b) paragraph 4. 50

Statute Law (Repeals)

SCH. 1  
PART VII

Chapter	Short title	Extent of repeal
21 & 22 Geo. 5. c.33.— <i>cont.</i>	Architects (Registration) Act 1931. <i>—cont.</i>	In Schedule 2, the proviso to paragraph 1.
5 1 & 2 Geo. 6. c.54.	Architects Registration Act 1938.	In Schedule 3, the proviso. Section 1(1) from “and where” onwards; and section 1(2). Section 2. In section 3(c)(i), the words “or this Act”.
10 1969 c.42.	Architects Registration (Amendment) Act 1969.	Section 2.
<i>Group 3 - Duchy of Lancaster</i>		
15 19 Geo. 3. c.45.	Duchy of Lancaster Act 1779.	Sections 4 and 6. Section 7 from “and also” to “for ever”. Sections 8, 9 and 11. Section 12 so far as it relates to assurances for enfranchisement. Section 13 from “or by the enfranchisement” to “hereditaments”.
20		
25 27 Geo. 3. c.34.	Duchy of Lancaster Act 1787.	Section 3.
48 Geo. 3. c.73.	Duchy of Lancaster Act 1808.	Section 10 from “and of ground” to “county or district” where secondly occurring. In section 12, the words “enfranchisements of copyholds and” and “respectively”. In section 17, the words “enfranchisements of copyholds, and”. In section 18, the words “for the enfranchisement of any copyhold or”. Section 31.
30		
35		
40		

*Statute Law (Repeals)*

**PART VIII  
RELIGIOUS DISABILITIES**

SCH. 1  
PART VIII

Chapter	Short title	Extent of repeal	
31 Hen. 8. c.13.	Suppression of Religious Houses Act 1539.	Section 19.	5
34 & 35 Hen. 8. c.19.	Religious Houses Act 1542.	The whole Act.	
37 Hen. 8. c.20.	Religious Houses Act 1545.	The whole Act.	10
1 Eliz. 1. c.24.	Religious Houses Act 1558.	The whole Act.	
13 Anne c.13.	Presentation of Benefices Act 1713.	Sections 9 and 11.	15
2 & 3 Will. 4. c.115.	Roman Catholic Charities Act 1832.	The whole Act.	
9 & 10 Vict. c.59.	Religious Disabilities Act 1846.	The whole Act.	20
18 & 19 Vict. c.86.	Liberty of Religious Worship Act 1855.	The whole Act.	
30 & 31 Vict. c.62.	Test Abolition Act 1867.	The whole Act.	
16 & 17 Geo. 5. c.55.	Roman Catholic Relief Act 1926.	The whole Act.	25

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**PART IX  
SOUTH YORKSHIRE**

SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
<i>Group 1 - Barnsley</i>		
5 3	Geo. 4. c.xxv.	Barnsley Improvement Act 1822.
16	Vict. c.24.	Public Health Supplemental Act 1853 (No. 1).
10	16 & 17 Vict. c.cvii.	Barnsley Waterworks Act 1853.
15	23 & 24 Vict. c.44.	Local Government Supplemental Act 1860.
20	25 & 26 Vict. c.xxxii.	Barnsley Local Board Act 1862.
20	29 & 30 Vict. c.xcviii.	Barnsley Local Board Amendment Act 1866.
25	38 & 39 Vict. c.ccx.	Local Government Board's Provisional Orders Confirmation (Abingdon, Barnsley &c.) Act 1875.
30	42 & 43 Vict. c.cxxiv.	Wombwell Local Board Gas Act 1879.
35	43 & 44 Vict. c.lxxxiii.	Local Government Board's Provisional Orders Confirmation (Alnwick Union &c.) Act 1880.
40	47 & 48 Vict. c.ccxiv.	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1884.
45	53 & 54 Vict. c.clxxxix.	Electric Lighting Orders Confirmation (No. 4) Act 1890.
		The whole Act.
		Section 5. In the Schedule, the order relating to Barnsley.
		The whole Act except sections 1, 44, 45, 60, 61, 64 and 66.
		In the Schedule, the order relating to Barnsley.
		The whole Act except sections 1, 13 and 20.
		The whole Act.
		In the Schedule, the order relating to Barnsley.
		The whole Act except sections 1 and 14 and Schedule 1.
		In the Schedule, both the orders relating to Barnsley.
		In the Schedule, the order relating to Barnsley.
		In the Schedule, the Barnsley Electric Lighting Order except Articles 1, 2, 15 and 16.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
55 & 56 Vict. c.lxix.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 2) Act 1892.	Section 2. In the Schedule, the order relating to Barnsley. 5
56 & 57 Vict. c.cxv.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 4) Act 1893.	In the Schedule, the order relating to Barnsley. 10
58 & 59 Vict. c.xli.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 2) Act 1895.	In the Schedule, the Hemsworth Rural (Hemsworth) Order. 15
59 & 60 Vict. c.lii.	Barnsley Corporation (Water) Act 1896.	Sections 2 and 4 to 6. Section 7(2) and (3). Sections 8, 9 and 15 to 18. Section 19(1); and section 20 19(2) from "and the Corporation" onwards. Section 21. Section 23 from "and Thickwoods Brook" to 25 "catchwater (No. 1)". Sections 24 to 32, 35, 36, 39, 40, 42, 43, 46 to 59 and 61 to 67. 30
63 & 64 Vict. c.clv.	Barnsley Corporation (Water) Act 1900.	Schedules 1 and 2. 30 The whole Act except sections 1, 7, 13 and 15.
2 Edw. 7. c.lxxxii.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 5) Act 1902.	In the Schedule, the Barnsley Order 1902. 35
3 Edw. 7. c.lxv.	Local Government B o a r d ' s Provisional Orders Confirmation (Gas) Act 1903.	In the Schedule, the Cudworth Gas Order 1903. 40
7 Edw. 7. c.cli.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 1) Act 1907.	In the Schedule, the Barnsley Order 1907. 45

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
1 & 2 Geo. 5. c.cli.  5	Local Government Board's Provisional Orders Confirmation (Gas) Act 1911.	In the Schedule, the Cudworth Gas Order 1911 except Articles 1, 2 and 7(2).
2 & 3 Geo. 5. c.cxiv.  10	Electric Lighting Orders Confirmation (No. 1) Act 1912.	In the Schedule, the Hoyland Nether Electric Lighting Order 1912.
2 & 3 Geo. 5. c.cxxxviii.  15	Local Government Board's Provisional Orders Confirmation (No. 12) Act 1912.	The whole Act.
3 & 4 Geo. 5. c.cxxx.  20	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1913.	In the Schedule, the Wombwell Order 1913 except Article 1 and Schedule A.
4 & 5 Geo. 5. c.xli.  25	Barnsley Corporation Act 1914.	The whole Act.
5 & 6 Geo. 5. c.lxxxv.  30	Electric Lighting Orders Confirmation (No. 5) Act 1915.	The whole Act.
5 & 6 Geo. 5. c.xciii.  35	Local Government Board's Provisional Orders Confirmation (No. 8) Act 1915.	In the Schedule, the Wombwell Order 1915 except Article 14; and in that Article paragraph (1) from "or in case" to "Article", paragraph (3) from "the amount" onwards and paragraph (6).
11 & 12 Geo. 5. c.cii.  40	Ministry of Health Provisional Order Confirmation (Barnsley Extension) Act 1921.	The whole Act.
13 & 14 Geo. 5. c.lxxxix.  45	Barnsley Corporation Act 1923.	The whole Act except sections 1, 2, 4, 5, 11, 12(5) to (9), 13(5) to (9), 16, 18 to 22, 24 and 112.
16 & 17 Geo. 5. c.xix.	Ministry of Health Provisional Orders Confirmation (No. 1) Act 1926.	In the Schedule, the Barnsley Order 1926.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
17 & 18 Geo. 5. c.xxi.	Barnsley Corporation (Water) Act 1927.	The whole Act except— (a) sections 1, 3, 4, 16 to 21, 23, 24(5), 25, 26 and 36; 5 (b) section 10 as it extends and applies section 45 of the Barnsley Corporation (Water) Act 1896.
17 & 18 Geo. 5. c.xxxiv.	Ministry of Health Provisional Orders Confirmation (No. 5) Act 1927.	In the Schedule, the 10 Barnsley Order 1927.
S.R. & O. 1929 No. 961.	Wombwell Gas (Charges) Order 1929.	The whole Order. 15
20 & 21 Geo. 5. c.lxxiii.	Barnsley and District Light Railways (Abandonment) Act 1930.	The whole Act. 20
S.R. & O. 1931 No. 646.	Wombwell Gas Order 1931.	The whole Order except Articles 1 and 10.
23 & 24 Geo. 5. c.xlvi.	Dearne District Traction Act 1933.	The whole Act. 25
S.R. & O. 1935 No. 588.	Borough of Barnsley (Scale of Water Charges) Order 1935.	The whole Order. 30
1 Edw. 8 and 1 Geo. 6. c.xxxviii.	Barnsley Corporation Act 1937.	The whole Act except sections 1, 2, 4(1)(a) and (2), 5, 6, 10(1), 18 and 19 as they apply to the Council's market under- 35 taking.
12 & 13 Geo. 6. c.li.	Barnsley Corporation Act 1949.	The whole Act except sections 1, 3, 6 and 106.
S.I. 1952 No. 531.	Barnsley Water Order 1952.	Articles 3, 8 and 12. Schedule 2. 40
4 & 5 Eliz. 2. c.lxxxv.	Barnsley Corporation Act 1956.	The whole Act except sections 1, 2, 3(b), 4, 5, 7, 9, 13, 16 to 18, 29, 80 and 85.
S.I. 1960 No. 641.	Barnsley Corporation (Water Charges) Order 1960.	The whole Order. 45
S.I. 1960 No. 1195.	Barnsley Water Order 1960.	The whole Order.



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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
S.I. 1961 No. 1877.	Barnsley Water Order 1961.	The whole Order.
5 S.I. 1961 No. 2057.	Barnsley Water (Cranberry Holes) Order 1961.	Articles 3 and 6. The Schedule.
10 S.I. 1962 No. 2873.	Barnsley Water (Penistone Boreholes) Order 1962.	Articles 3 and 6. The Schedule.
S.I. 1964 No. 1866.	Barnsley Corporation (Reduction of Compensation Water) Order 1964.	The whole Order.
15 S.I. 1965 No. 419.	Barnsley (Water Charges) Order 1965.	The whole Order.
20 S.I. 1965 No. 1728.	Barnsley Water Order 1965.	The whole Order.
S.I. 1968 No. 1660.	Barnsley Water Order 1968.	Articles 4 and 5. Schedule 2.
25 S.I. 1970 No. 1575.	Barnsley Corporation (Reduction of Compensation Water) Order 1970.	The whole Order.
<i>Group 2 - Doncaster</i>		
30 43 Geo. 3. c.cxlvii.	Doncaster Improvement Act 1803.	The whole Act.
14 & 15 Vict. c.98.	Public Health Supplemental Act 1851 No. 2.	In the Schedule, the order relating to Doncaster.
35 36 & 37 Vict. c.cxxix.	Doncaster Corporation Waterworks Act 1873.	Sections 2, 3, 37 and 39 to 42. The Schedule.
40 43 & 44 Vict. c.xxix.	Doncaster Corporation Waterworks Act 1880.	Sections 2 and 4.
45 45 & 46 Vict. c.cxxxiv.	Local Government Boards Provisional Orders Confirmation (Poor Law) Act 1882.	In the Schedule, the order relating to Doncaster Union.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
58 & 59 Vict. c.xci.	Local Government Board's Provisional Orders Confirmation (No. 12) Act 1895.	In the Schedule, the Counties of Nottingham and West Riding of Yorkshire (Auckley and Wallingwells) Order 1895. 5
61 & 62 Vict. c.xl.	Electric Lighting Orders Confirmation (No. 4) Act 1898.	In the Schedule, the Doncaster Corporation Electric Lighting Order 1898 except Articles 1, 2, 10 15 and 16.
62 & 63 Vict. c.xxxiv.	Electric Lighting Orders Confirmation (No. 1) Act 1899.	In the Schedule, the Mexborough Electric Lighting Order 1899 except Articles 1, 2, 15 and 16. 15
63 & 64 Vict. c.clxxx.	Local Government Board's Provisional Orders Confirmation (No. 11) Act 1900.	In the Schedule, the Doncaster and Mexborough Joint Hospital Order 1900. 20
1900 Cd. 59.	Doncaster Corporation Light Railways Order 1899.	The whole Order except Articles 1, 29, 30 and 31.
1 Edw. 7. c.cl.	Local Government Board's Provisional Orders Confirmation (No.9) Act 1901.	In the Schedule, the Doncaster Rural Order 1900. 25
1902 Cd. 1250.	Doncaster Corporation Light Railways (Deviation &c.) Order 1902.	The whole Order. 30
1903 Cd. 1572.	Doncaster Corporation Light Railways (Extensions) Order 1903.	The whole Order. 35
4 Edw. 7. c.ciii.	Doncaster Corporation Act 1904.	The whole Act except sections 1, 15, 33, 55(1) and 199 and Schedule 2. 40
8 Edw. 7. c.lviii.	Doncaster Corporation Act 1908.	The whole Act except sections 1, 9 to 11 and 42. 45
10 Edw. 7. c.xx.	Thorne and District Water Act 1910.	Sections 46 and 49(3).
1911 Cd. 5801.	Doncaster Corporation Light Railways (Extension) Order 1911.	The whole Order. 50

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
2 & 3 Geo. 5. c.cxv.  5	Electric Lighting Orders Confirmation (No. 2) Act 1912.	In the Schedule, the Doncaster Corporation Electric Lighting (Extension) Order 1912.
3 & 4 Geo. 5. c.cxxix.  10	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1913.	In the Schedule, the Doncaster Order 1913.
3 & 4 Geo. 5. c.cl.  15	Electric Lighting Orders Confirmation (No. 2) Act 1913.	Section 5. In the Schedule, the Doncaster Corporation Electric Lighting (Extension) Order 1913.
4 & 5 Geo. 5. c.clxxx.  20	Local Government Board's Provisional Orders Confirmation (No. 20) Act 1914.	The whole Act.
1914 Cd. 7406.  25	Doncaster Corporation Light Railways (Extensions) Order 1914.	The whole Order.
5 & 6 Geo. 5. c.xv.  30	Doncaster Corporation Act 1915.	The whole Act except sections 1, 39 and 142 and Schedule 2.
11 & 12 Geo. 5. c.lxx.  35	Ministry of Health Provisional Orders Confirmation (No. 7) Act 1921.	In the Schedule, Article 10(6) and (7) of the Doncaster Order 1921.
12 & 13 Geo. 5. c.lxxii.  40	Doncaster Corporation Act 1922.	The whole Act except sections 1, 34, 64 and 109.
S.R. & O. 1922 No. 449.  45	Doncaster Corporation Light Railways (Extension) Order 1922.	The whole Order.
14 & 15 Geo. 5. c.lxxx.  45	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1924.	In the Schedule, the Doncaster Order 1924.
15 & 16 Geo. 5. c.lxxxiv.  45	Ministry of Health Provisional Orders Confirmation (No. 8) Act 1925.	In the Schedule, the Adwick-le-Street Order 1925.
16 & 17 Geo. 5. c.xxvii.	Doncaster Corporation Act 1926.	The whole Act.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal	
16 & 17 Geo. 5. c.lviii.	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1926.	In the Schedule, Article 25 of the Thorne and District Water Order 1926.	5
19 & 20 Geo. 5. c.xxvi.	Doncaster Corpo- ration (Trolley Vehicles) Order Confirmation Act 1929.	The whole Act.	10
20 & 21 Geo. 5. c.cxlv.	Ministry of Health Provisional Orders Confirmation (Doncaster, Saint Ives (Cornwall) and Scarborough) Act 1930.	In the Schedule, the Doncaster Order 1930.	15
21 & 22 Geo. 5. c.lvii.	Doncaster Corpo- ration Act 1931.	The whole Act except sections 1, 5, 8, 10, 33, 41 and 146.	20
26 Geo. 5 & 1 Edw. 8. c.xlvii.	Doncaster Corpo- ration (Trolley Vehicles) Order Confirmation Act 1936.	The whole Act.	25
9 Geo. 6. c.iii.	Ministry of Health Provisional Order Confirmation (Doncaster) Act 1945.	In the Schedule, Article 2 of the Doncaster Order 1945.	30
14 Geo. 6. c.xl.	Doncaster Corpo- ration Act 1950.	The whole Act except sections 1, 62, 137 and 144.	35
S.I. 1953 No. 1348.	Doncaster Corpo- ration Trolley Vehicles (Increase of Charges) Order 1953.	The whole Order.	40
4 Eliz. 2. c.vi.	Doncaster Corpo- ration (Trolley Vehicles) Order Confirmation Act 1955.	The whole Act.	45
5 & 6 Eliz. 2. c.xxvi.	Doncaster Corpo- ration (Trolley Vehicles) Order Confirmation Act 1957.	The whole Act.	50
S.I. 1960 No. 624.	Don Valley Water Board Order 1960.	The whole Order except Article 13 as it applies to the water undertaking of	50

*Statute Law (Repeals)*

SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
S.I. 1960 No. 624.— <i>cont.</i>	Don Valley Water Board Order 1960. <i>—cont.</i>	the former Isle of Axholme Rural District Council.
5 10 & 11 Eliz. 2. c.xxiv.	Ministry of Housing and Local Government Provisional Order Confirmation (Doncaster) Act 1962.	The whole Act.
10		
S.I. 1962 No. 1924.	Doncaster and District Joint Water Board Order 1962.	Articles 3 and 27. In Schedule 1, Part I. Schedule 2.
15		
S.I. 1963 No. 599.	Doncaster and District Joint Water Board Order 1963.	The whole Order.
20		
S.I. 1963 No. 1736.	Doncaster and District Joint Water Board (No. 2) Order 1963.	The whole Order.
25		
1970 c.viii.	Doncaster Corporation Act 1970.	The whole Act.
<i>Group 3 - Rotherham</i>		
41 Geo. 3. c.lxvi.	Rotherham Market and Improvement Act 1801.	The whole Act.
30 9 & 10 Vict. c.ccxv.	Wath-upon-Dearne Improvement Act 1846.	The whole Act.
15 & 16 Vict. c.42.	First Public Health Supplemental Act 1852.	Sections 2, 3 and 9. In the Schedule, the order relating to Rotherham and Kimberworth.
35		
18 & 19 Vict. c.xxxii.	Rotherham Gaslight Act 1855.	The whole Act.
26 & 27 Vict. c.cxvii.	Rotherham and Kimberworth Local Board of Health Act 1863.	The whole Act except— (a) sections 1, 2 and 13 to 20; (b) section 88 from “The Board” to “such markets and fairs”; (c) sections 89, 110 and 112.
40		
45		
33 & 34 Vict. c.cxxxiv.	Rotherham and Kimberworth Local Board of Health Act 1870.	The whole Act.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
38 & 39 Vict. c.lxx.	Rotherham Corporation Act 1875.	The whole Act.
40 & 41 Vict. c.xxiv.	Rotherham Corporation Act 1877.	The whole Act. 5
42 & 43 Vict. c.li.	Rawmarsh Local Board Act 1879.	The whole Act except sections 1, 9 and 14 and the Schedule.
42 & 43 Vict. c.cxc.	Rotherham Borough Extension and Sewerage Act 1879.	Sections 2 to 4, 6 to 18, 21 to 27, 29 to 35, 37 to 41, 43 to 49, 53, 56, 57, 66 to 75, 77 to 80 and 82 to 145. 10
43 & 44 Vict. c.clxxviii.	Local Government Board's Provisional Orders Confirmation (Bethesda &c.) Act 1880.	Schedules 1 to 4. In the Schedule, the order relating to Rotherham. 15
44 & 45 Vict. c.lxi.	Local Government Board's Provisional Orders Confirmation (Berwick-upon-Tweed &c.) Act 1881.	In the Schedule, the order relating to Swinton. 20
44 & 45 Vict. c.cxliv.	Rotherham, Parkgate and Rawmarsh Tramways Act 1881.	The whole Act. 25
44 & 45 Vict. c.clxii.	Local Government Board's Provisional Orders Confirmation (Acton &c.) Act 1881.	Section 3. In the Schedule, the order relating to Wath-upon-Deerne. 35
45 & 46 Vict. c.ccxxxvii.	Rotherham Corporation Act 1882.	The whole Act.
48 & 49 Vict. c.cxxviii.	Local Government Board's Provisional Orders Confirmation (No. 6) Act 1885.	In the Schedule, the order relating to Swinton. 40
51 & 52 Vict. c.lxii.	Local Government Board's Provisional Orders Confirmation (No. 4) Act 1888.	Section 2. In the Schedule, Article 2 of the order relating to Rawmarsh. 45

Statute Law (Repeals)

SCH. I  
PART IX

Chapter	Short title	Extent of repeal
53 & 54 Vict. c.lxxxiv.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 5) Act 1890.	In the Schedule, the Rotherham Order 1890.
5		
55 & 56 Vict. c.cc.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 9) Act 1892.	In the Schedule, the order relating to Rawmarsh.
10		
59 & 60 Vict. c.xxxvi.	Rotherham Corpo- ration Act 1896.	The whole Act except sections 1, 4, 6, 13 and 14 and Schedule 1.
15		
61 & 62 Vict. c.xxxviii.	Electric Lighting Orders Confir- mation (No. 2) Act 1898.	In the Schedule, the Rawmarsh Electric Lighting Order 1898 except Articles 1, 2, 15 and 16, and the Rotherham Corporation Electric Lighting Order 1898 except Articles 1, 2, 15 and 16.
20		
62 & 63 Vict. c.xxxv.	Electric Lighting Orders Confir- mation (No. 2) Act 1899.	In the Schedule, the Wath- upon-Dearne Electric Lighting Order 1899 except Articles 1, 2, 15 and 16.
25		
62 & 63 Vict. c.cix.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 3) Act 1899.	In the Schedule, the Rotherham Rural Order 1899.
30		
62 & 63 Vict. c.cx.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 5) Act 1899.	In the Schedule, the Rotherham Order 1899.
35		
62 & 63 Vict. c.cxxxv.	Electric Lighting Orders Confir- mation (No. 10) Act 1899.	In the Schedule, the Swinton Electric Lighting Order 1899 except Articles 1, 2, 15 and 16.
40		
63 & 64 Vict. c.cxxxv.	Rawmarsh Urban District Council (Tramways) Act 1900.	The whole Act except sections 1, 3, 26, 27 and section 49(6), (8) to (11) and (14).
45		
63 & 64 Vict. c.cliii.	Rotherham Corpo- ration Act 1900.	The whole Act except sections 1, 2, 4, 61 and 62 and Schedule 4.

*Statute Law (Repeals)*

SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
63 & 64 Vict. c.clxxii.	Gas Orders Confirmation (No. 3) Act 1900.	The whole Act.
2 Edw. 7. c.lxx.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1902.	In the Schedule, the Rotherham Order 1902. 5
2 Edw. 7 c.ccx.	Local Government Board's Provisional Orders Confirmation (No. 12) Act 1902.	In the Schedule, the Borough of Rotherham Order (No. 2). 10
3 Edw. 7. c.cxxxii.	Gas Orders Confirmation (No. 1) Act 1903.	In the Schedule, the Conisbrough Gas Order 1903. 15
4 Edw. 7. c.ccxxxii.	Rotherham Corporation Act 1904.	The whole Act except sections 1, 154 and 197.
5 Edw. 7. c.lxx.	Local Government Board's Provisional Orders Confirmation (No. 3) Act 1905.	In the Schedule, the Swinton Order 1905. 20
8 Edw. 7. c.lx.	Swinton and Mexborough Gas Act 1908.	The whole Act. 25
8 Edw. 7. c.xciii.	Wath and Bolton Gas Board Act 1908.	The whole Act except sections 1, 3 and 34 and Schedule 3. 30
9 Edw. 7. c.lxvi.	Swinton and Mexborough Gas Board Act 1909.	The whole Act.
10 Edw. 7 & 1 Geo. 5. c.lxxxiv.	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1910.	In the Schedule, the Rotherham Order 1910 and the Rotherham Order (No. 2) 1910. 35
1 & 2 Geo. 5. c.cxvi.	Rotherham Corporation Act 1911.	The whole Act except sections 1, 4, 46, 52, 94 and 100. 40
2 & 3 Geo. 5. c.eli.	Gas Orders Confirmation (No. 1) Act 1912.	In the Schedule, the Conisbrough Gas Order 1912.
3 & 4 Geo. 5. c.xxiii.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1913.	In the Schedule, the Kiveton Park Rural Order 1913. 45



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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
4	& 5 Geo. 5. c.lxv.	Tramways Order Confirmation Act 1914.
5	4 & 5 Geo. 5. c.cxxxi.	Local Government Board's Provisional Orders Confirmation (No. 10) Act 1914.
10	5 & 6 Geo. 5. c.lii.	Rotherham Corporation Act 1915.
6	& 7 Geo. 5. c.cxxvi.	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1916.
15	8 & 9 Geo. 5. c.cxxvii.	Rotherham Corporation Act 1918.
9	& 10 Geo. 5. c.xlvii.	Rotherham Corporation Act 1919.
20	9 & 10 Geo. 5. c.cxvi.	Swinton and Mexborough Gas Board Act 1919.
10 & 11 Geo. 25	5. c.cxi.	Ministry of Health Provisional Orders Confirmation (No. 4) Act 1920.
11 & 12 Geo. 30	5. c.lxiii.	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1921.
11 & 12 Geo. 35	5. c.lxxxvi.	Rotherham Corporation Act 1921.
13 & 14 Geo. 35	5. c.cxxvii.	Rawmarsh Urban District Council Act 1923.
13 & 14 Geo. 40	5. c.cxxviii.	Ministry of Health Provisional Orders Confirmation (No. 5) Act 1923.
S.R. & O. 1923 No. 749.	Rotherham Gas (Charges) Order 1923.	The whole Order.
14 & 15 Geo. 45	5. c.lxix.	Rotherham Corporation Act 1924.
16 & 17 Geo. 50	5. c.liii.	Ministry of Health Provisional Orders Confirmation (No. 4) Act 1926.

*Statute Law (Repeals)*

SCH. 1  
PART IX

Chapter	Short title	Extent of repeal	
17 & 18 Geo. 5. c.liv.	Rotherham Corporation (Trolley Vehicles) Order Confirmation Act 1927.	The whole Act.	5
18 & 19 Geo. 5. c.cxi.	Rotherham Corporation Act 1928.	The whole Act except sections 1, 4, 34(1), 38, 56 and 130.	
20 & 21 Geo. 5. c.clxxvi.	Rotherham Corporation Act 1930.	The whole Act except sections 1, 4, 18, 20, 77 and 103.	10
S.R. & O. 1930 No. 115.	Rawmarsh Gas Order 1930.	The whole Order.	15
S.R. & O. 1930 No. 170.	Rawmarsh Gas (Charges) Order 1930.	The whole Order.	
21 & 22 Geo. 5. c.liii.	Rotherham Rural District Council Act 1931.	The whole Act.	20
21 & 22 Geo. 5. c.lxxii.	Public Works Facilities Scheme (Rotherham Corporation) Confirmation Act 1931.	The whole Act.	25
S.R. & O. 1932 No. 507.	Rotherham Gas Order 1932.	The whole Order.	30
S.R. & O. 1932 No. 958.	Rotherham Gas (No. 2) Order 1932.	The whole Order except Articles 1, 3, 10 and 14 and Schedule 4.	
23 & 24 Geo. 5. c.lxiv.	Ministry of Health Provisional Order Confirmation (Wath, Swinton and District Joint Hospital District) Act 1933.	The whole Act.	35
24 & 25 Geo. 5. c.lxxi.	Rotherham Corporation (Trolley Vehicles) Order Confirmation Act 1934.	The whole Act.	40
1 Edw. 8 & 1 Geo. 6. c.lxxx.	Rotherham Corporation Act 1937.	The whole Act except sections 1, 4, 22, 28, 71 and 94 and Schedule 3.	45

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
1 & 2 Geo. 6. c.lxxvii.	Ministry of Health Provisional Order Confirmation (Rawmarsh) Act 1938.	The whole Act.
5		
9 & 10 Geo. 6. c.liv.	Rotherham Corpo- ration Act 1946.	The whole Act except sections 1, 4, 25 to 28 and 50 and Schedule 1.
10 S.I. 1954 No. 1450.	Rotherham (Repeal of Local Enact- ments) Order 1954.	The whole Order.
8 & 9 Eliz. 2. 15 c.xxiv.	Mexborough and Swinton Traction Act 1960.	The whole Act except sections 1(1) and 5(1).
S.I. 1962 No. 485.	Rotherham Corpo- ration Water Order 1962.	The whole Order.
20 1965 c.xviii.	Ministry of Housing and Local Government Provisional Order Confirmation (Rotherham) Act 1965.	The whole Act.
25		
<i>Group 4 - Sheffield</i>		
28 & 29 Vict. 30 c.41.	Local Government Supplemental Act 1865 (No. 3).	In the Schedule, the order relating to Sheffield.
30 & 31 Vict. c.65.	Local Government Supplemental Act 1867 (No. 2).	In the Schedule, the order relating to Sheffield.
31 & 32 Vict. 35 c.lxxxvi.	Local Government Supplemental Act 1868 (No. 5).	In the Schedule, the order relating to Sheffield.
57 & 58 Vict. c.xcvii.	Swinton Local Board Act 1894.	Section 6.
59 & 60 Vict. 40 c.ci.	Local Government B o a r d ' s Provisional Orders Confirmation (No. 6) Act 1896.	In the Schedule, the Stocksbridge Order 1896.
59 & 60 Vict. 45 c.cxc.	Sheffield Corpo- ration Water Act 1896.	The whole Act.
62 & 63 Vict. c.cclxix.	Derwent Valley Water Act 1899.	Sections 165 to 168 and 170 to 177.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
1 Edw. 7. c.lxxx.	Derwent Valley Water Act 1901.	Section 30.
4 Edw. 7. c.cxcvi.	Derwent Valley Water Act 1904.	Section 42. <span style="float: right;">5</span>
7 Edw. 7. c.xciii.	Sheffield Corpo- ration Act 1907.	The whole Act.
9 Edw. 7. c.lxiii.	Derwent Valley Water Act 1909.	Section 20.
1 & 2 Geo. 5. c.xviii.	Swinton Urban District Council Act 1911.	Section 17. <span style="float: right;">10</span>
4 & 5 Geo. 5. c.xliii.	Mexborough Urban District Council Act 1914.	The whole Act. <span style="float: right;">15</span>
8 & 9 Geo. 5. c.lxi.	Sheffield Corpo- ration (Consoli- dation) Act 1918.	Section 3. Section 5 as it applies to enactments concerning lands, railways, water- works, electric lighting and town police. <span style="float: right;">20</span> Sections 6 to 36, 38 to 40, 118 to 135, 138 to 156, 158 to 161, 164 to 173, 175 to 182, 184, 188, 190 to 197 and 199 to 211. <span style="float: right;">25</span> Section 213 from "Provided that" to "Power Com- pany:". <span style="float: right;">30</span> Sections 214, 216 and 218 to 220. <span style="float: right;">35</span> Section 225(1) and (2) as they apply to slaughter- houses and abattoirs, and section 225(3). <span style="float: right;">40</span> Sections 226, 229 to 234, 238, 240 to 274, 277, 278, 279, 282, 284, 287 to 294, 297 to 300, 302 to 305, 307 to 311, 313, 318 to 320, 322 to 324, 326 to 336, 338, 339, 341 to 355, 357 to 361, 363, 365 to 372, 374 to 389, 391, 396 to 412, 414 to 416, 419 to 452, 454 to 476, 483, 484, 486 to 490, 492 to 500, 503, 505, 508 to 531, 533 and 534. <span style="float: right;">45</span> Schedules 1 to 13. <span style="float: right;">50</span>

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
9 & 10 Geo. 5. c.xlix.	Sheffield Corporation Act 1919.	The whole Act except sections 1, 2, 4 and 17 to 21.
5 10 & 11 Geo. 5. c.lxxiv.	Dearne Valley Water Act 1920.	Sections 25 and 29.
10 & 11 Geo. 5. c.xcii.	Sheffield Corporation Act 1920.	The whole Act.
10 11 & 12 Geo. 5. c.lxii.	Ministry of Health Provisional Orders Confirmation (No. 6) Act 1921.	In the Schedule, the Sheffield Order 1921.
15 11 & 12 Geo. 5. c.lxix.	Ministry of Health Provisional Orders Confirmation (Sheffield Extension) Act 1921.	The whole Act.
20 13 & 14 Geo. 5. c.lxiii.	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1923.	In the Schedule, the Sheffield (Water &c.) Order 1923.
13 & 14 Geo. 5. c.xcix.	Chesterfield Corporation Act 1923.	Section 130(6).
25 14 & 15 Geo. 5. c.xvi.	Ministry of Health Provisional Orders Confirmation (No. 4) Act 1924.	In the Schedule, the Sheffield Order 1924.
30 14 & 15 Geo. 5. c.lxxxii.	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1924.	In the Schedule, the Sheffield Order (No. 2) 1924.
15 & 16 Geo. 5. c.xxxvi.	Sheffield Corporation Act 1925.	The whole Act.
35 15 & 16 Geo. 5. c.lxxxii.	Ministry of Health Provisional Orders Confirmation (No. 5) Act 1925.	In the Schedule, the Sheffield (Compulsory Purchase of Lands) Order 1925.
40 15 & 16 Geo. 5. c.lxxxv.	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1925.	In the Schedule, the Sheffield Order 1925.
45 16 & 17 Geo. 5. c.lv.	Ministry of Health Provisional Orders Confirmation (No. 6) Act 1926.	In the Schedule, the Sheffield Order 1926.
50 17 & 18 Geo. 5. c.xxxvii.	Ministry of Health Provisional Orders Confirmation (No. 8) Act 1927.	In the Schedule, the Sheffield Order 1927.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal	
17 & 18 Geo. 5. c.xxxviii.	Ministry of Health Provisional Orders Confirmation (No. 9) Act 1927.	In the Schedule, the Sheffield (Acquisition of Lands) Order 1927.	5
17 & 18 Geo. 5. c.xliii.	Sheffield Corpo- ration Tramways Order Confir- mation Act 1927.	The whole Act.	
18 & 19 Geo. 5. c.liii.	Ministry of Health Provisional Orders Confirmation (No. 5) Act 1928.	In the Schedule, the Mex- borough Order 1928.	10
18 & 19 Geo. 5. c.lxxxvii.	Sheffield Corpo- ration Act 1928.	The whole Act except sections 1, 2, 4, 38, 76, 92, 98, 121, 122 and 269.	15
22 & 23 Geo. 5. c.xv.	Sheffield Corpo- ration Act 1932.	The whole Act.	
23 & 24 Geo. 5. c.xix.	Ministry of Health Provisional Order Confirmation (Sheffield) Act 1933.	The whole Act.	20
23 & 24 Geo. 5. c.lxx.	Sheffield Extension Act 1933.	The whole Act.	25
25 & 26 Geo. 5. c.xliv.	Sheffield Corpo- ration Tramways Order Confir- mation Act 1935.	The whole Act.	
1 Edw. 8 & 1 Geo. 6. c.xxxi.	Sheffield Corpo- ration Act 1937.	The whole Act except sections 1, 2, 4, 34 and 92.	30
1 & 2 Geo. 6. c.lxxiii.	Ministry of Health Provisional Order Confirmation (W a t h - upon-Dearne) Act 1938.	The whole Act.	35
S.R. & O. 1938 No. 1596.	County of York, West Riding and County Borough of Sheffield (Alteration of Boundaries) Order 1938.	The whole Order.	40
2 & 3 Geo. 6. c.ciii.	Sheffield Corpo- ration Act 1939.	Sections 3, 5 to 26, 32(1)(2)(4) and (5), 33(2) and (4), 42, 45, 47, 49, 66 to 71, 73 and 75 to 82. Schedules 1 and 2.	45 50

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SCH. I  
PART IX

Chapter	Short title	Extent of repeal
11 & 12 Geo. 6. c.xxxi.  5	Ministry of Health Provisional Order Confirmation (Sheffield) Act 1948.	The whole Act.
S.I. 1956 No. 1454.	Sheffield Water Order 1956.	The whole Order except Articles 1, 2 and 9.
S.I. 1956 No. 1455.  10	Sheffield Water (Charges etc.) Order 1956.	The whole Order.
S.I. 1957 No. 1153.	Dearne Valley Water Board Order 1957.	Article 6. Schedule 2.
S.I. 1958 No. 1383.  15	Sheffield Water Order 1958.	Articles 3, 4 and 6. Schedule 2.
S.I. 1961 No. 231.  20	Sheffield Water Order 1961.	Article 4. Article 14(2) to (5), and (14), as they apply to the British Railways Board. The Schedule.
S.I. 1962 No. 478.	Sheffield Water (Grouping) Order 1962.	Articles 13 and 15(2). Schedules 1, 4 and 6.
S.I. 1962 No. 1249.  25	Sheffield (Amend- ment of Local Enactment) Order 1962.	The whole Order.
S.I. 1963 No. 572.  30	Sheffield Water (Dearne Valley) Order 1963.	Articles 12, 13(1) and 14(2). Schedule 1.
S.I. 1963 No. 660.  35	North Derbyshire Water Board Order 1962.	Articles 4 to 13, 15, 17 to 20, 21(1), (3) and (4), 22, 23, 26(2) and (3) and 27 to 47.
S.I. 1964 No. 670.  40	Sheffield Water Order 1964.	In Schedule 1, Part II. Schedules 3, 5 and 6. Article 4. Article 10(2) to (5), and (14), as they apply to the British Railways Board. The Schedule.
S.I. 1966 No. 133.	Sheffield Water Order 1966.	The whole Order.
S.I. 1966 No. 1116.  45	Sheffield Water (No. 2) Order 1966.	The whole Order.
S.I. 1967 No. 104.	Sheffield Order 1967.	The whole Order.

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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal	
S.I. 1969 No. 489.	North Derbyshire Water Board (Charges) Order 1969.	The whole Order.	5
1971. c.iii.	Ministry of Housing and Local Government Provisional Orders Confirmation (Melton Mowbray and Sheffield) Act 1971.	In the Schedule, the Sheffield Order 1970.	10
S.I. 1971 No. 25.	Decimal Currency (Amendment of Local Enactments etc.) Order 1971.	Article 31.	15
S.I. 1974 No. 644.	Sheffield Water (Wentworth Estate) Order 1974.	Articles 5 and 7 to 15.	20
<i>Group 5 - West Riding Enactments</i>			
56 & 57 Vict. c.cxxxii.	Local Government Board's Provisional Orders Confirmation (No. 16) Act 1893.	In the Schedule, the order relating to Rivers of the West Riding of Yorkshire.	25
57 & 58 Vict. c.clxvi.	West Riding of Yorkshire Rivers Act 1894.	The whole Act.	30
1 Edw. 7. c.cxxvi.	Yorkshire Electric Power Act 1901.	Sections 2, 3, 5 to 29, 31 to 42, 45, 47 to 49, 52 to 60 and 62 to 75. Schedule 2.	35
10 Edw. 7 & 1 Geo. 5. c.xxi.	Yorkshire Electric Power Act 1910.	The whole Act.	40
4 & 5 Geo. 5. c.lxxxv.	Yorkshire Electric Power Act 1914.	The whole Act.	45
8 & 9 Geo. 5. c.viii.	Yorkshire Electric Power Act 1918.	The whole Act.	45
12 & 13 Geo. 5. c.xxiii.	Yorkshire Electric Power Act 1922.	The whole Act.	45
17 & 18 Geo. 5. c.xxv.	Yorkshire Electric Power Act 1927.	The whole Act.	45
26 Geo. 5 & 1 Edw. 8. c.cxxxi.	Yorkshire Electric Power Act 1936.	The whole Act.	45



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SCH. 1  
PART IX

Chapter	Short title	Extent of repeal
5 S.R. & O. 1936 No. 1127.	<b>D o n c a s t e r , R o t h e r h a m   a n d W a k e f i e l d E x t e n s i o n   O r d e r 1936.</b>	The whole Order.
1 & 2 Geo. 6. c.c.	<b>W e s t   Y o r k s h i r e   G a s D i s t r i b u t i o n   A c t 1938.</b>	The whole Act except sections 1, 4 and 71 to 75.
10 9 & 10 Geo. 6. c.lvi.	<b>W e s t   Y o r k s h i r e   G a s D i s t r i b u t i o n   A c t 1946.</b>	The whole Act except sections 1(1) and 6 and the Schedule.
15 11 & 12 Geo. 6. c.lii.	<b>W e s t   R i d i n g   C o u n t y C o u n c i l   ( G e n e r a l P o w e r s )   A c t   1948.</b>	The whole Act except sections 1 and 23.
14 & 15 Geo. 6. c.xliii.	<b>W e s t   R i d i n g   C o u n t y C o u n c i l   ( G e n e r a l P o w e r s )   A c t   1951.</b>	The whole Act except sections 1, 3 and 91(4).
20 1964 c.xxxix.	<b>W e s t   R i d i n g   C o u n t y C o u n c i l   ( G e n e r a l P o w e r s )   A c t   1964.</b>	The whole Act.
1970 c.xxv.	<b>W e s t   R i d i n g   C o u n t y C o u n c i l   A c t   1970.</b>	The whole Act.

**PART X  
TRANSPORT**

25

Chapter	Short title	Extent of repeal
51 Geo. 3. c.ccv.	<b>E y n e s f o r d   R o a d   A c t 1811.</b>	The whole Act.
30 1 & 2 Will. 4. c.22.	<b>L o n d o n   H a c k n e y C a r r i a g e   A c t 1831.</b>	Section 4. In section 56, the words "any officer of stamp duties, or".
35 5 & 6 Will. 4. c.50.	<b>H i g h w a y   A c t   1835.</b>	Section 5, except the definition of "highways", and in that definition the words "(not being county bridges)". Section 22.
40		Section 78 from the beginning to "accepted) or"; and from "in case such driver" onwards.

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SCH. 1  
PART X

Chapter	Short title	Extent of repeal
5 & 6 Will. 4. c.50.— <i>cont.</i>	Highway Act 1835. <i>—cont.</i>	Section 112.
6 & 7 Vict. c.86.	London Hackney Carriages Act 1843.	Section 2, except the definition of “prop- rietor”. 5
30 & 31 Vict. c.127.	Railway Companies Act 1867.	Section 2 from “Except” to “provided”. In section 3, the definitions 10 of “share” and “Gazette”.
30 & 31 Vict. c.134.	Metropolitan Streets Act 1867.	In section 3, the definition of “Magistrate” and the words “and the liberties thereof”, wherever 15 occurring. Section 27 from the beginning to “Metro- politan Police”.
31 & 32 Vict. c.119.	Regulation of Railways Act 1868.	Sections 27 and 28 as they 20 apply to Great Britain. Schedule 1.
32 & 33 Vict. c.115.	Metropolitan Public Carriage Act 1869.	In sections 2 and 9, the words “and the liberties thereof”. 25 Section 13 from “in the manner” onwards.
36 & 37 Vict. c.48.	Regulation of Railways Act 1873.	In section 3, the definition of “mails”. 30
36 & 37 Vict. c.76.	Railway Regulation Act (Returns of Signal Arrange- ments, Workings, &c.) 1873.	The whole Act. 35
38 & 39 Vict. c.cxc.	Channel Tunnel C o m p a n y (Limited) Act 1875.	The whole Act.
40 & 41 Vict. c.60.	Canal Boats Act 1877.	The whole Act. 40
51 & 52 Vict. c.25.—	Railway and Canal Traffic Act 1888.	Section 43(3). Section 49. Section 53.
59 & 60 Vict. c.48.	Light Railways Act 1896.	Section 26(1), (9) and (10). 45 In Schedule 2 — (a) in the entry relating to the Regulation of Railways Act 1868, the words “nineteen” and 50 “twenty-seven, twenty-

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SCH. 1  
PART X

Chapter	Short title	Extent of repeal
59 & 60 Vict. c.48.— <i>cont.</i>	Light Railways Act 1896.— <i>cont.</i>	eight”; (b) the entry relating to the Railway Regulation Act (Returns of Signal Arrangements, Workings, &c.) 1873.
5		
9 & 10 Geo. 5. c.38.	Merchant Shipping (Wireless Tele- graphy) Act 1919.	The whole Act as it applies to the Isle of Man.
10		
10 & 11 Geo. 5. c.72.	Roads Act 1920.	Section 4. Schedule 1.
22 & 23 Geo. 5. c.9.	Merchant Shipping (Safety and Load Line Conventions) Act 1932.	The following provisions as they apply to the Isle of Man— (a) Part I, except sections 12, 24, 27, 29 and 30; (b) Section 71.
15		
24 & 25 Geo. 5. c.50.	Road Traffic Act 1934.	The whole Act.
20		
1 Edw. 8 & 1 Geo. 6. c.5.	Trunk Roads Act 1936.	The whole Act.
9 & 10 Geo. 6. c.30.	Trunk Roads Act 1946.	The whole Act.
25		
11 & 12 Geo. 6. c.44.	Merchant Shipping Act 1948.	Sections 1 to 4, as they apply to the Isle of Man.
12, 13 & 14 Geo. 6. c.32.	Special Roads Act 1949.	The whole Act.
30		
12, 13 & 14 Geo. 6. c.91.	Air Corporations Act 1949.	The whole Act as it applies to the Isle of Man.
14 Geo. 6. c.24.	Highways (Provision of Cattle Grids) Act 1950.	The whole Act.
35		
4 & 5 Eliz. 2. c.67.	Road Traffic Act 1956.	The whole Act.
8 & 9 Eliz. 2. c.63.	Road Traffic and Roads Im- provement Act 1960.	The whole Act.
40		
1963 c.33.	London Government Act 1963.	In section 9(6), the words “the Road Traffic and Roads Improvement Act 1960”.
45		
1965 c.36	Gas Act 1965.	Section 15. Schedule 5. In Schedule 2, as it applies to Scotland, paragraphs 7(3)(c) and 12(1)(c).
50		

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SCH. 1  
PART X

Chapter	Short title	Extent of repeal	
1968 c.4.	Erskine Bridge Tolls Act 1968.	Section 12(1) from "Without prejudice" to "1949".	
1968 c.73.	Transport Act 1968.	Section 143. Schedule 15.	5
1972 c.11	Superannuation Act 1972.	In Schedule 4, the entry relating to the Channel Tunnel Planning Council.	
1972 c.70.	Local Government Act 1972.	In Schedule 21, paragraph 96.	10
1980 c.66.	Highways Act 1980.	In sections 219(4)(i) and 329(4), the words from "the National Freight Corporation" to "this Act".	15
1984 c.27.	Road Traffic Regulation Act 1984.	In Schedule 23, paragraphs 15 and 24.	
1984 c.54.	Roads (Scotland) Act 1984.	In Schedule 10, paragraph 12.	20
1984 c.54.	Roads (Scotland) Act 1984.	In Schedule 11, the entry relating to the Gas Act 1965.	
1985 c.67.	Transport Act 1985.	In Schedule 8, the entry relating to the Town Police Clauses Act 1847.	25

**PART XI  
MISCELLANEOUS**

Chapter	Short title	Extent of repeal	
1424 c.25 (Sc.).	Innkeepers Act 1424.	The whole Act.	30
1579 c.8 (Sc.).	Sunday Act 1579.	The whole Act.	
1661 c.281 (Sc.).	Sunday Act 1661.	The whole Act.	35
35 Geo. 3. c.103.	Painshill Estate Act 1795.	The whole Act.	
25 & 26 Vict. c.34.	Portsmouth Fair Act 1862.	The whole Act.	

*Statute Law (Repeals)*

SCH. 1  
PART XI

Chapter	Short title	Extent of repeal
44 & 45 Vict. c.59.	Statute Law Revision and Civil Procedure Act 1881.	The whole Act.
5 51 & 52 Vict. c.3.	Statute Law Revision Act 1888.	The whole Act.
51 & 52 Vict. c.57. -	Statute Law Revision (No. 2) Act 1888.	The whole Act.
10 52 & 53 Vict. c.30.	Board of Agriculture Act 1889.	In Part II of Schedule 1, the headings "Tithe Rentcharge Acts" and "Copyhold Acts" and the entries under those headings.
15 6 Edw. 7. c.14.	Alkali, &c. Works Regulation Act 1906.	In section 27(1), as it applies to England and Wales, the definition of "the Public Health Act".
20 10 Edw. 7 & 1 Geo. 5. c.23.	C o m p a n i e s ( C o n v e r t e d Societies) Act 1910.	Section 30. The whole Act.
25 15 & 16 Geo. 5 c.88.	Coastguard Act 1925.	Section 3(2).
16 & 17 Geo. 5. c.36.	Parks Regulation (Amendment) Act 1926.	In section 1, the proviso.
30 22 & 23 Geo. 5. c.51.	Sunday Entertain- ments Act 1932.	In section 4, the words "1625 to". In section 5, the definitions of "contravention" and "Sunday Observance Acts 1625 to 1780".
35 9 & 10 Geo. 6. c.26.	Emergency Laws (Transitional Provisions) Act 1946.	The whole Act.
40 10 & 11 Geo. 6. c.41.	Fire Services Act 1947.	Sections 27(6), 30(7), and 31(2) and (3). Section 39(3). Schedule 5.
45 11 & 12 Geo. 6. c.29.	National Assistance Act 1948.	Section 31 as it applies to Scotland.
10 & 11 Eliz. 2. c.24.	National Assistance Act 1948 (Amendment) Act 1962.	The whole Act.

*Statute Law (Repeals)*

SCH. 1  
PART XI

Chapter	Short title	Extent of repeal
1964 c.15.	Defence (Transfer of Functions) Act 1964.	Section 1(3)(c) and the preceding "or".
1968 c.46.	Health Services and Public Health Act 1968.	In Schedule 4, the entries 5 relating to— (a) sections 31 and 33 of the National Assistance Act 1948; (b) the National Assistance Act 1948 (Amendment) Act 1962.
1970 c.40.	Agriculture Act 1970.	Section 113(3). Schedule 5.
1972 c.70.	Local Government Act 1972.	Section 112(4) from "to public analysts" to "1984 or".
1973 c.65.	Local Government (Scotland) Act 1973.	Section 64(5)(b).  20
1975 c.4.	Biological Standards Act 1975.	Section 3.
1980 c.28.	Iran (Temporary Powers) Act 1980.	The whole Act.
1983 c.2.	Representation of the People Act 1983.	In Schedule 7, paragraphs 3 and 6. In Schedule 8, paragraph 16.
1984 c.30.	Food Act 1984.	In Schedule 10, paragraph 22.
1985 c.50.	Representation of the People Act 1985.	Section 18(1). In Schedule 4, paragraph 90.
1986 c.61.	Education (No. 2) Act 1986.	In Schedule 4, paragraph 7.
1987 c.19.	Billiards (Abolition of Restrictions) Act 1987.	The whole Act.  35

SCHEDULE 2  
CONSEQUENTIAL PROVISIONS

PART I

AMENDMENTS CONSEQUENTIAL ON THE REPEAL  
OF THE BANKRUPTCY ACTS 1883, 1890 AND 1913

*City of London Municipal Elections Act 1849 (c.xciv)*

1. After section 8A of the City of London Municipal Elections Act 1849 there shall be inserted the following section—

10 “Disqualification in case of bankruptcy. 8B.—(1) A person who is adjudged bankrupt shall be disqualified for being elected to or holding any of the following offices in the City of London, namely, Lord Mayor, alderman and common councilman.

(2) Where a person is disqualified under this section, the disqualification shall cease—

- 15 (a) on his discharge from bankruptcy; or  
(b) if the bankruptcy order is previously annulled, on the date of its annulment.

20 (3) Where a person is adjudged bankrupt while holding any office mentioned in this section, his office shall immediately become vacant.”

*District Courts (Scotland) Act 1975 (c.20)*

2. After section 13 of the District Courts (Scotland) Act 1975 there shall be inserted the following section—

25 “Disqualification in case of sequestration or bankruptcy. 13A.—(1) Subject to subsections (2) and (3) below, a person shall be disqualified for being appointed or acting as a justice of the peace if he is a person whose estate has been sequestrated in Scotland or who has been adjudged bankrupt elsewhere than in Scotland.

30 (2) Where a person is disqualified under this section by reason of his estate having been sequestrated, the disqualification shall cease if and when—

- 35 (a) the award of sequestration is recalled or reduced; or  
(b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985.

1985 c.66.

(3) Where a person is disqualified under this section by reason of having been adjudged bankrupt, the disqualification shall cease if and when—

- 40 (a) the adjudication of bankruptcy against him is annulled; or  
(b) he is discharged.”.

*Statute Law (Repeals)*

SCH. 2

*Justices of the Peace Act 1979 (c.55)*

3. After section 63 of the Justices of the Peace Act 1979 there shall be inserted the following section—

“Disqualification in case of bankruptcy. 63A.—(1) A person who is adjudged bankrupt shall be disqualified for being appointed or acting as a justice of the peace. 5

(2) Where a person is disqualified under this section, the disqualification shall cease—

- (a) on his discharge from bankruptcy; or
- (b) if the bankruptcy order is previously annulled, 10 on the date of its annulment.”

*Supreme Court Act 1981 (c.54)*

4. After section 138 of the Supreme Court Act 1981 there shall be inserted the following sections—

“Sales under executions. 138A.—(1) Where any goods seized under a writ of execution issued from the High Court are to be sold for a sum exceeding £20 (including legal incidental expenses), the sale shall, unless the court otherwise orders, be made by public auction, and not by bill of sale or private contract, and shall be publicly advertised by the sheriff on, and during 3 days preceding, the day of sale. 15 20

(2) Where any goods are seized under a writ of execution issued from the High Court and the sheriff has notice of another execution or other executions, the court shall not consider an application for leave to sell privately until the prescribed notice has been given to the other execution creditor or creditors, who may appear before the court and be heard on the application. 25 30

Protection of officer selling goods under execution. 138B.—(1) Where any goods in the possession of an execution debtor at the time of seizure by a sheriff or other officer charged with the enforcement of a writ of execution issued from the High Court are sold by the sheriff or other officer without any claims having been made to them— 35

- (a) the purchaser of the goods so sold shall acquire a good title to those goods; and
- (b) no person shall be entitled to recover against the sheriff or other officer, or anyone lawfully acting under his authority, for any sale of the goods or for paying over the proceeds prior to the receipt of a claim to the goods, 40

unless it is proved that the person from whom recovery is sought had notice, or might by making reasonable enquiry have ascertained, that the goods were not the property of the execution debtor. 45



*Statute Law (Repeals)*

5 (2) Nothing in this section shall affect the right of any lawful claimant (that is to say, any person who proves that at the time of sale he had a title to any goods so seized and sold) to any remedy to which he may be entitled against any person other than the sheriff or other officer. SCH. 2

(3) The provisions of this section have effect subject to those of sections 183, 184 and 346 of the Insolvency Act 1986.” 1986 c.45.

10 **PART II**  
**OTHER PROVISIONS**

*Apothecaries Acts 1815, 1874 and 1907*

15 5. The repeal by this Act of the Apothecaries Act 1815, the Apothecaries Act Amendment Act 1874 and the Apothecaries Act 1907 shall not affect the powers of the Master, Warden and Society of the Art and Mystery of Apothecaries in the City of London to make provision in connection with the grant and holding of licenciates in medicine and surgery and of other qualifications. 1815 c.194.  
1874 c.34.  
1907 c.xxii.

*Capital Punishment Amendment Act 1868 (c.24)*

20 6. Section 13 of the Capital Punishment Amendment Act 1868 (which modifies that Act in its application to Scotland) shall continue to have effect with the amendment made by section 19 of the Justiciary Court (Scotland) Act 1868, that is, with the substitution of “section 5” for “the sixth section.” 1868 c.95.

25 *Metropolitan Public Carriage Act 1869 (c.115)*

7. Section 8 of the Metropolitan Public Carriage Act 1869 (which includes provision for the period of validity of cab drivers' licences in London) shall continue to have effect with the amendment made by section 39 of the Road Traffic Act 1934, that is, with the substitution of “three years” for “one year”. 1934 c.50.

*Irish Free State (Agreement) Act 1922 (c.4)*

35 8. The repeal by this Act of the Irish Free State (Agreement) Act 1922 shall not affect the validity or otherwise of any Act of the Parliament of Northern Ireland passed before the 18th July 1973 (when that Parliament ceased to exist).

*Irish Free State (Consequential Provisions) Act 1922 (Session 2) (c.2)*

40 9. In section 5 of the Irish Free State (Consequential Provisions) Act 1922 (Session 2), for subsection (4) (application to Northern Ireland of provisions as to relief from double taxation) there shall be substituted—

“(4) This section shall apply to Northern Ireland in like manner as it applies to Great Britain”.

*Statute Law (Repeals)*

SCH. 2

*Compensation (Defence) Act 1939 (c.75)*

10. Section 14 of the Compensation (Defence) Act 1939 shall be renumbered as subsection (1) of that section and after that subsection there shall be inserted the following subsection (which preserves the effect of section 16 of the Emergency Laws (Transitional Provisions) Act 1946) — 5

1946 c.26.

“(2) Where any goods have been requisitioned in such circumstances as to give a right to compensation assessed under section 6 of this Act, the ownership of the goods shall be deemed to have vested in the Crown as from the time of requisition free from any mortgage, pledge, lien or similar obligation”.

*Building Restrictions (War-Time Contraventions) Act 1946 (c.35)*

11. In section 7(1) of the Building Restrictions (War-Time Contraventions) Act 1946, for the definition of “war period”, there shall be substituted— 15

“war period” means the period extending from the 3rd September 1939 to the 26th March 1946.

*Foreign Compensation Act 1950 (c.12)*

12.—(1) In section 3 of the Foreign Compensation Act 1950 (distribution of compensation payable by foreign governments) paragraph (c) shall be omitted and the following subsection shall be inserted, the existing section being renumbered as subsection (1)— 20

“(2) An Order in Council under this section may make provision—

- (a) for defining the persons who are to be qualified, in respect of nationality or status, to make applications to the Commission for the purpose of establishing claims under this section and for imposing any other conditions to be fulfilled before such claims can be entertained; 25
- (b) for prescribing the matters which have to be established to the satisfaction of the Commission by persons making such applications; 30
- (c) for requiring documents of title relating to property in respect of which claims are established to be surrendered to the Commission and for securing the abandonment or extinction of rights in respect of which claims are established.” 35

(2) In section 4 of the Foreign Compensation Act 1950 (procedure of Commission), subsection (3) shall be amended—

- (a) by substituting for the words from “shall, in” to “Act” the word “may”; 40
- (b) by omitting the words from “and the rules” onwards.

*Statute Law (Repeals)*

*Development of Inventions Act 1967 (c.32)*

SCH. 2

13. Section 7(2) of the Development of Inventions Act 1967 (which provides for the limit on loans to the National Research Development Corporation) shall continue to have effect with the amendment made  
5 by section 11 of the Industrial Expansion Act 1968, that is, with the substitution of “ £50 million” for “ £25 million”. 1968 c.32.

*Highways Act 1980 (c.66)*

14. After section 284 of the Highways Act 1980 there shall be inserted the following section (which preserves the residual effect of  
10 the Trunk Roads Acts 1936 and 1946 )— 1936 c.5.
- “Trunk roads:  
miscellaneous  
functions of  
Secretary of  
State.
- 284A. The persons who may exercise the functions  
conferred by— 1946 c.30.
- (a) section 40 of the Public Health Acts Amend-  
ment Act 1890 (cabmen’s shelters); 1890 c.59.
- 15 (b) section 42 of that Act (statues and monu-  
ments);
- (c) section 14 of the Public Health Act 1925 1925 c.71.  
(public drinking fountains, seats, etc.),
- 20 shall, in relation to any trunk road, include the  
Secretary of State.”

## APPENDIX 2

### EXPLANATORY NOTE ON THE DRAFT BILL

*Clause 1* repeals the enactments mentioned in Schedule 1 and introduces the consequential amendments and transitional provisions in Schedule 2.

*Clause 2* provides for the extension of repeals to the Isle of Man, the Channel Islands and colonies.

*Clause 3(2)* enables the repeal of the enactments relating to Malaysian appeals to the Judicial Committee of the Privy Council (Schedule 1, Part VI) to be brought into force following the completion of the proceedings (pending since 1 January 1985) on the last appeal from Malaysia. The remainder of the draft Bill would come into force on its enactment.

## SCHEDULE 1

### REPEALS

#### PART I

#### ADMINISTRATION OF JUSTICE

##### *Group 1 – Bankruptcy Acts 1883, 1890 and 1913*

In 1985 fresh legislative provision was made with respect to insolvency and bankruptcy in Great Britain by the Insolvency Act 1985 and the Bankruptcy (Scotland) Act 1985. These Acts replaced the outdated codes contained in the Bankruptcy Act 1914 and the Bankruptcy (Scotland) Act 1913 and repealed legislation in Scotland reaching back to 1621. The Insolvency Act 1985 was based on the recommendations of the Cork Committee<sup>1</sup> and the proposals in a White Paper.<sup>2</sup> The Insolvency Act 1986, which came into force on 29 December 1986, consolidated the provisions relating to company and individual insolvency which were contained in the Companies Act 1985, itself a consolidation, and the Insolvency Act 1985.

Despite this recent legislative activity, various provisions of the earlier law remain in force, in particular sections 1, 2, 32, 34, 34A and 145 of the Bankruptcy Act 1883, sections 12 and 31 of the Bankruptcy Act 1890 and sections 15 and 42 of the Bankruptcy and Deeds of Arrangement Act 1913. The Acts in their present form obscure the effect of the law and are unnecessarily inconvenient to use. There are different legislative texts for England and Wales, Scotland and Northern Ireland and the Scottish text, which is not available in a modern reprint, presents problems of accessibility. To the extent that the Acts are not obsolete, they are a tangle of unrelated provisions which properly belong in other legislation. It is therefore proposed to repeal the Bankruptcy Acts of 1883, 1890 and 1913 and to re-enact, by consequential textual amendment of the appropriate statutes, their residual effects in the different jurisdictions. The repeals affecting the City of London Municipal Elections Act 1849 and the Bankruptcy (Scotland) Act 1985 are consequential.

The residual effects of the 1883-1913 legislation, and the proposals for preserving them, can be summarised as follows—

- (i) Section 32(1)(c) and (2) of the Bankruptcy Act 1883 disqualifies a person who is adjudged bankrupt from being appointed or acting as a justice of the peace in England and Wales. This provision would be replaced by a new section 63A of the Justices of the Peace Act 1979 (Schedule 2 to the draft Bill). The new section takes account of the fact that under section 282(3) of the Insolvency Act 1986 a bankruptcy order can be annulled after the bankrupt has been discharged from the bankruptcy.

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<sup>1</sup> *Report of the Review Committee on Insolvency Law and Practice* (1982) Cmnd. 8558.

<sup>2</sup> *A Revised Framework for Insolvency Law* (1984) Cmnd. 9175.

- (ii) Section 32(1)(c), (2) and (2A), as read with section 34A of the Bankruptcy Act 1883,<sup>3</sup> contain a similar disqualification in relation to justices of the peace in Scotland. This provision would be replaced by a new section 13A of the District Courts (Scotland) Act 1975 (Schedule 2 to the draft Bill). The new section follows the existing law in providing for the disqualification to have effect in relation both to sequestrations in Scotland and to bankruptcies in other jurisdictions. This is also the Scottish law in relation to the disqualification of members of local authorities.<sup>4</sup>
- (iii) Section 32(1)(d) and (2) and section 34 of the Bankruptcy Act 1883 originally had the effect of disqualifying all mayors, aldermen and councillors in the United Kingdom from holding office if adjudged bankrupt. These provisions are now only applicable to the City of London,<sup>5</sup> where the disqualification of aldermen and common councilmen on various grounds, including bankruptcy, is dealt with in section 9 of the City of London Municipal Elections Act 1849. That section was superseded so far as it related to bankruptcy by the 1883 provisions, which also operated to impose a similar disqualification on the Lord Mayor. The 1883 provisions, together with section 9 of the 1849 Act so far as superseded, would be replaced by a new section 8B of the 1849 Act (Schedule 2 to the draft Bill).
- (iv) Section 145 of the Bankruptcy Act 1883, section 12 of the Bankruptcy Act 1890 and section 15 of the Bankruptcy and Deeds of Arrangement Act 1913, which apply only to England and Wales, make provision regulating judicial sales under the process of the High Court. These provisions, as they applied to county courts, were conveniently consolidated in the county courts legislation more than 50 years ago.<sup>6</sup> They would be replaced, as respects the High Court, by new sections 138A and 138B of the Supreme Court Act 1981 (Schedule 2 to the draft Bill).

In Northern Ireland, the legislation has been superseded, so far as it still survives there, by the Local Government Act (Northern Ireland) 1972. The only local authorities in the Province are now district councils constituted under that Act. The statutory disqualification of justices of the peace on the grounds of bankruptcy was consolidated in 1964.<sup>7</sup>

The proposals in this group have been considered and agreed to, so far as they are concerned, by the Lord Chancellor's Department, the Department of Trade and Industry, the Department of the Environment, the Scottish Office, the Secretary of Commissions for Scotland, the Court of Aldermen of the City of London and the authorities in Northern Ireland.

### *Group 2 – Police Acts*

The Metropolitan Police Act 1839, the City of London Police Act 1839, and the Town Police Clauses Act 1847 contain similar but not identical early codes of summary offences and related provisions which apply respectively in the Metropolitan Police District, the City of London and the remainder of England and Wales.<sup>8</sup> As originally enacted, these Acts, using contemporary local Act precedents,<sup>9</sup> provided a core of

<sup>3</sup> Sections 32(2A) and 34A were inserted by the Bankruptcy (Scotland) Act 1985.

<sup>4</sup> Local Government (Scotland) Act 1973, s.31.

<sup>5</sup> The provisions were repealed elsewhere in England and Wales by the Local Government Act 1933 and the London Government Act 1939. In England and Wales the modern law, except as respects the City, is in Part V of the Local Government Act 1972. In Scotland the provisions were replaced by the Local Government (Scotland) Act 1947 and the modern law is in the Local Government (Scotland) Act 1973, ss.31, 32. In Northern Ireland, the modern law is in the Local Government Act (Northern Ireland) 1972.

<sup>6</sup> County Courts Act 1934, ss.129, 130, which were re-consolidated by the County Courts Act 1959, ss.132, 133. See now County Courts Act 1984, ss.97, 98.

<sup>7</sup> Magistrates' Courts Act (Northern Ireland) 1964, s.6.

<sup>8</sup> Public Health Act 1875, s.171; Local Government Act 1972, Schedule 14, Part II. The Town Police Clauses Act 1847 also applies to Northern Ireland. The Act in the form in which it applies to the Republic of Ireland was reviewed by the Law Reform Commission of Ireland in its report on *Offences under the Dublin Police Acts and Related Offences* (LRC 14—1985).

<sup>9</sup> *Report of the Select Committee on Metropolitan Police Offices* (1838) H.C. 1, 36. The list of offences in section 54 of the Metropolitan Police Act 1839 was derived from an enormous draft clause assembled by Mr H. G. Codd, magistrate of the Police Office in Worship Street, Kensington, using a variety of local Act precedents, and submitted as an attempt "to embody all those petty annoyances and nuisances which ... frequently lead to breaches of the peace".

detailed law, to be administered by 19th century police forces and police courts, for preventing obstructions and nuisances in the streets, for regulating public houses, theatres, gaming houses and other places of public resort, and for dealing with a variety of other matters such as animal fighting, mad dogs and straying cattle. The Acts also provided related powers of summary arrest for offences and procedures for the summary conviction of offenders. Much of this law has been progressively superseded by later, more sophisticated, statutory provisions of general application, but the need to make express consequential repeals in the earlier codes has not infrequently been overlooked. The City of London Police Act 1839, in particular, still contains many provisions which do not reflect the current law and which prevent that Act from being published in a modern revised edition of the statutes. The repeals discussed below, together with those in Part IV (Local Government), would advance the process of integrating these early codes in the general law and would facilitate the publication of an authoritative and usable text of the City of London Police Act 1839.<sup>10</sup> The proposals are supported by the Home Office and the authorities in the City.

Section 13 of the Metropolitan Police Act 1839, together with section 12, implemented a decision to transfer the execution of warrants in the Metropolitan Police District from the Bow Street Runners to the Metropolitan Police.<sup>11</sup> Section 12 had provided for the execution of warrants by a constable of the Metropolitan Police "and by none other" and section 13 made ancillary provision enabling a superintendent or other superior officer to redirect the warrant to another constable. Section 12 was repealed in 1963 and section 13 is unnecessary. Under the modern law<sup>12</sup> warrants can be executed by any constable acting within his police area.

Section 29 of the Metropolitan Police Act 1839 (framing of a false bill of parcels to prevent seizure, etc.) enacted an archaic and little-known offence<sup>13</sup> which would not now be used. The conduct at which it was aimed would now be charged more appropriately as an attempt to defeat the course of justice, as a contravention of section 17 of the Theft Act 1968 (false accounting) or as wilful obstruction of the police contrary to section 51 of the Police Act 1964. The proposed repeal of section 73 (penalty for offences for which no other penalty is provided) is consequential.

Section 61 of the Metropolitan Police Act 1839 and section 42 of the City of London Police Act 1839, so far as proposed for repeal (penalty for allowing rabid dog or animal to be at large), have been superseded by section 15 of the Animal Health Act 1981. The corresponding provision of the Town Police Clauses Act 1847 (in section 28, the paragraph beginning "Every owner") was repealed by the Rabies Act 1974, which was consolidated by the Animal Health Act 1981.

Section 62 of the Metropolitan Police Act 1839, so far as unrepealed, enabled a magistrate to order a person convicted of an offence under the Act to pay a sum not exceeding £10 by way of reasonable amends to a person who suffered hurt or damage. The financial limit is unrealistic now, but the section is in any event unnecessary. Section 35 of the Powers of Criminal Courts Act 1973, as amended by the Criminal Justice Act 1988, makes general provision for compensation orders against convicted persons.

Section 69 of the Metropolitan Police Act 1839 and section 50 of the City of London Police Act 1839 provided for persons arrested without warrant to be delivered forthwith into the custody of the constable in charge of the "nearest" station house, to be either kept in custody or bailed to appear. The sections, which have no counterpart in the Town Police Clauses Act 1847, are inconsistent with the detailed general code provided by the Police and Criminal Evidence Act 1984 which in particular requires an arrested person to be taken to a "designated" police station as soon as practicable. The

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<sup>10</sup> The effects of later legislation on this Act are not recorded in the *Chronological Table of the Statutes* (which does not cover pre-1974 local legislation) but have been identified in the course of research undertaken for the purpose of the *Chronological Table of Local Legislation*.

<sup>11</sup> For an account of the pre-1839 difficulties, see C. Reith, *Police History* (1956) 171.

<sup>12</sup> Magistrates' Courts Act 1980, s.125(2); Magistrates' Courts Rules 1981 (S.I. 1981 No. 552), rr. 96, 97.

<sup>13</sup> The offence is not mentioned in either *Archbold* or *Stone's Justices' Manual* and there is no corresponding offence in the Town Police Clauses Act 1847 or the City of London Police Act 1839. The penalty is a fine not exceeding level 1 on the standard scale or imprisonment not exceeding one month (s.73).

Home Office, the Metropolitan Police and the City of London Police agree that the sections have been superseded by the general law in the 1984 Act.

Section 77 of the Metropolitan Police Act 1839, so far as unrepealed (costs for the recovery of fine or amends where not paid) has been superseded by the general law or falls with the proposed repeal of section 62. Section 78 so far as proposed for repeal (power of one Commissioner to act) relates to Acts passed before the Metropolitan Police Act 1856 (which provided for the appointment of a single Commissioner of Police instead of two Commissioners). The interpretation of these Acts is now provided for by paragraph 10(2) of Schedule 1 to the Administration of Justice Act 1973.

In the City of London Police Act 1839<sup>14</sup>—

- (a) section 18 (power to arrest without warrant all loose, idle and disorderly persons, etc.) has ceased to have effect by virtue of section 26 of the Police and Criminal Evidence Act 1984 (general cesser of earlier statutory powers of arrest without warrant);
- (b) section 20 (regulation of stage carriages, etc. during hours of divine service) and the ancillary section 21 (proprietor of stage carriage not liable for consequential deviation of route) are obsolete and section 20 corresponds to section 51 of the Metropolitan Police Act 1839 and section 22 of the Town Police Clauses Act 1847 which were repealed by the Statute Law (Repeals) Act 1973;
- (c) section 23 (reciprocal enforcement without endorsement of warrants issued by justices of the City or justices in the Home Counties)<sup>15</sup> has been superseded by the general law relating to the execution of magistrates' warrants in England and Wales, now contained in section 125(2) of the Magistrates' Courts Act 1980;
- (d) sections 26 and 27, the proviso to section 28 and section 29 (licensing hours and offences by publicans) have been superseded by the Licensing Acts and correspond to provisions of the Metropolitan Police Act 1839 which have been expressly repealed;
- (e) section 34 (pawnbrokers) has been superseded by the Consumer Credit Act 1974, which expressly repealed the corresponding section 50 of the Metropolitan Police Act 1839;
- (f) section 35 (street nuisances), so far as proposed for repeal, contains enactments which correspond to repealed provisions of section 54 of the Metropolitan Police Act 1839;
- (g) section 38 (children, etc. riding behind carriages) is superseded by section 30 of the Road Traffic Act 1972 and section 39 (prohibition of dog carts) is superseded by section 9 of the Protection of Animals Act 1911;
- (h) sections 44 to 48 (powers of arrest or powers to stop and detain carriages and carts) correspond to provisions of the Metropolitan Police Act 1839 which were expressly repealed by the Police and Criminal Evidence Act 1984;
- (i) section 51 (power to take recognisances on petty charges), section 52 (power to bind over persons making charges) and section 53 (condition of recognisance) correspond to sections 70, 71 and 72 of the Metropolitan Police Act 1839, which were repealed by the Magistrates' Courts Act 1952;
- (j) the repeal of section 54 (punishment of offences for which no specific penalty is appointed) is consequential on other proposed repeals;
- (k) sections 97 to 103 (procedure on conviction, enforcement of penalties, etc.) have been superseded by the general law.

Section 15 of the Town Police Clauses Act 1847 provided for certain offenders against the Act to be arrested by owners of property or their servants. The section does not form part of the main codes of law in the 1847 Act which have been extended

<sup>14</sup> Sections 42 (rabid dogs) and 50 (arrests) are discussed above. Section 31 (animal fights) corresponds to section 41 of the Town Police Clauses Act 1847, which is discussed below.

<sup>15</sup> For the background, see D. A. Thomas, *The Execution of Warrants of Arrest* [1962] Crim. L.R. 520, 607. In the early 19th century, a warrant was valid only within the local jurisdiction of the magistrate who issued it.

generally to England and Wales outside the London area. Throughout its history it has remained a purely adoptive provision having effect only so far as it is incorporated by local statutory provisions. Any such local provisions would have ceased to have effect, at the latest, on 31 December 1987 in consequence of the general cesser of local statutory provisions effected pursuant to section 262(9) of the Local Government Act 1972. The Home Office agrees that the section is obsolete.

Section 30 of the Town Police Clauses Act 1847 (penalty for wilfully setting chimneys on fire), has been superseded by the Criminal Damage Act 1971.

In section 36 of the Town Police Clauses Act 1847 and section 31 of the City of London Police Act 1839 (animal fights) the repeals are consequential on the enactment of the Police and Criminal Evidence Act 1984. That Act expressly repealed the corresponding provisions of section 47 of the Metropolitan Police Act 1839. The penalties under all three sections were increased by section 2(1) of the Protection of Animals (Amendment) Act 1988.

Sections 61 and 65 of the Town Police Clauses Act 1847, so far as proposed for repeal (liability to imprisonment in default of payment) are superseded by the general law in section 76 of the Magistrates' Courts Act 1980. Section 75 (power of stipendiary magistrate)<sup>16</sup> became unnecessary with the passing of the Stipendiary Magistrates Act 1858 and is now superseded by section 16 of the Justices of the Peace Act 1979.

In the Metropolitan Police Act 1886, the repeals are of unnecessary and superseded drafting provisions for the citation of the Metropolitan Police Acts in force in 1886.

The Police (Property) Act 1897, as amended by section 58 of the Criminal Justice Act 1972, makes provision for the disposal of property which has come into the possession of the police in England and Wales<sup>17</sup> in connection with their investigations. The repeal in section 1(1) is consequential on the repeal of section 66 of the Metropolitan Police Act 1839 by the Police and Criminal Evidence Act 1984 and the proposed repeal of the corresponding section 48 of the City of London Police Act 1839. Section 1(3) (jurisdiction of metropolitan police magistrates) is unnecessary in consequence of the enactment of section 9 of the Administration of Justice Act 1964 (integration of the jurisdiction of stipendiary and lay magistrates), now consolidated by section 33 of the Justices of the Peace Act 1979.

Section 1(2) of the Metropolitan Police Act 1899 provided for the payment of the salaries of Assistant Commissioners of the Metropolitan Police either out of the Metropolitan Police Fund or from money provided by Parliament, but restricted the sum payable in any one year from money provided by Parliament to £1,200. In 1967 it was decided that no further payments would be made from central government funds in respect of this item because the administrative costs would not be justified for such a small amount. The salaries of Assistant Commissioners have since then been borne by the Metropolitan Police Fund and section 1(2) of the Metropolitan Police Act 1899, so far as proposed for repeal, has been a dead letter.

The Police Reservists (Allowances) Act 1914, which applies to Great Britain, was passed at the beginning of the First World War to enable police authorities to make up the pay of police members of the Army or Navy Reserves who were called out for war service. The Act, which was modelled on similar legislation in force during the Boer War,<sup>18</sup> was necessary because under the Police Act 1890 and the Police (Scotland) Act 1890 a reservist called out for permanent service ceased to be a member of the police force and it would have been unlawful for a police authority to pay any allowances to his dependants. The Act also safeguarded the return of the reservist to his police force in the rank which he held when called out. The Act is out of date<sup>19</sup> and is superseded by the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951<sup>20</sup> and the

<sup>16</sup> Section 75, as it applied to Northern Ireland, was repealed by the Statute Law Revision Act (Northern Ireland) 1954.

<sup>17</sup> The Act of 1897 also applies to Northern Ireland, but the proposed repeals are of provisions which do not form part of the law of Northern Ireland.

<sup>18</sup> Police Reservists (Allowances) Act 1900, which was of temporary duration.

<sup>19</sup> The maximum weekly allowance payable in respect of an unmarried man is limited to 40p per week.

<sup>20</sup> See s.46(2), which applies to members of a police force by virtue of Schedule 2, Part I, para. 4.



Reserve Forces (Safeguard of Employment) Act 1985.<sup>21</sup> This later legislation provides a comprehensive scheme for making up the civil remuneration of reservists called out for full-time service and for safeguarding their civil employment.

Section 1(1) of the Irish Police (Naval and Military Service) Act 1915, which applies to Northern Ireland, made provision corresponding to that made for Great Britain by section 1(1) of the Police Reservists (Allowances) Act 1914 (allowances for police reservists on active service). It has similarly been superseded by the legislative scheme provided by the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

In the Police Act 1964, the repeals to Schedule 9 (minor and consequential amendments) are consequential on the repeal, or the proposed repeal, of the provisions which were amended in 1964.

In the Bail Act 1976, paragraph 2 of Schedule 2 (consequential and other amendments) amended section 69 of the Metropolitan Police Act 1839. Its repeal is consequential on the proposed repeal of that section.

### *Group 3 – Scottish Courts, &c.*

The Statute Law (Repeals) Act 1986 (Schedule 1, Part I) repealed a number of enactments affecting the Scottish courts. As explained in the report which preceded the Act,<sup>22</sup> this was part of a general review following on reforms and consolidation of such legislation which began in the early 1970s. Since 1986 the Court of Session Act 1988 has become law. It consolidates a mass of legislation relating to the constitution, administration and procedure of the Court of Session and repeals many obsolete enactments dating from 1594. The present proposals are a further step in this continuing review. They deal largely with the Court of Justiciary, although there are also included some enactments dealing with the sheriff court and some with solicitors. Those consulted include the Scottish Home and Health Department, the Crown Office, the Scottish Courts Administration, the Principal Clerk of Session and Justiciary and the Law Society of Scotland.

The Courts of Justice (Scotland) Act 1825 provided for the erection of new court buildings. Section 5, the only section of the Act not repealed, authorised expenditure on the repair of the new and already existing buildings used to accommodate the Courts of Session and Justiciary. Under modern Parliamentary financial procedures money is appropriated for this purpose on the basis of the annual supply estimates and section 5 is no longer required.

In the Circuit Courts (Scotland) Act 1828, section 6 and Schedules A and C are obsolete. Section 6 and Schedule A provided a procedure and form of notice to be used when citing an accused person to appear before the High Court of Justiciary. These have been superseded.<sup>23</sup> Schedule C was introduced by section 19, now repealed,<sup>24</sup> which provided for a “summary form of proceeding” in the prosecution of certain offences. This was the first statutory form of summary procedure in Scotland, although similar relatively informal procedures operated earlier under common law.<sup>25</sup> The procedure under section 19 provided for the relevant offences to be tried “in the easiest and most expeditious manner, without the pleadings or evidence being reduced into writing.” However, a record was required of certain matters and had to be kept in the form of Schedule C. Four forms were provided—Libel, Deliverance on Libel, Procedure and Sentence. These are all obsolete. Summary procedure is now regulated under Part II of the Criminal Procedure (Scotland) Act 1975 which makes express provision for the forms to be used in courts of summary jurisdiction.<sup>26</sup>

<sup>21</sup> This Act is a consolidation of the Reinstatement in Civil Employment Act 1950.

<sup>22</sup> *Statute Law Revision: Twelfth Report* (1985) Law Com. No. 150, Scot. Law Com. No. 99, pp 42–43.

<sup>23</sup> Criminal Procedure (Scotland) Act 1975, s.75 as substituted by the Criminal Justice (Scotland) Act 1980, Sch. 4, para. 4; Act of Adjournal (Consolidation) 1988 (S.I. 1988 No. 110), rule 10, Sch. 1, Form 5.

<sup>24</sup> Summary Jurisdiction (Scotland) Act 1908.

<sup>25</sup> See Hume, *Commentaries on the Law of Scotland, Respecting Trial for Crimes* (1800), Vol. I Chap. VI.

<sup>26</sup> Criminal Procedure (Scotland) Act 1975, s.309(1), applying Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 and empowering the provision of forms of procedure by Act of Adjournal: see Act of Adjournal (Consolidation) 1988 (S.I. 1988 No. 110).

Section 16 of the Circuit Courts (Scotland) Act 1828 is obsolete. It declared the criminal jurisdiction of the High Court of Justiciary to be cumulative with that of the High Court of Admiralty. Historically, the declaration resolved a rivalry between the two courts which had existed since the 16th century. In 1681 the privative jurisdiction of the High Court of Admiralty in maritime causes was reaffirmed.<sup>27</sup> The 1828 Act established a cumulative criminal jurisdiction which very soon became exclusive to the High Court of Justiciary, when the High Court of Admiralty was abolished by section 21 of the Court of Session Act 1830. The same Act conferred an original civil jurisdiction in maritime causes on the Court of Session<sup>28</sup> and an original civil and criminal jurisdiction on the sheriffs within their respective sheriffdoms.<sup>29</sup> Consequently, any specialties of the former criminal jurisdiction exercised by the High Court of Admiralty have simply been lost in the ordinary common law criminal jurisdiction of the High Court of Justiciary and the sheriff.<sup>30</sup>

Section 9 of the Criminal Law (Scotland) Act 1830 abolished an old common law rule whereby a person convicted of any crime was not a competent witness in any civil or criminal proceedings. The disqualification was preserved exceptionally in the case of conviction for perjury or subornation of perjury; but that exception is now also abolished. Under the present law no one is excluded from giving evidence in court or elsewhere by reason of having been convicted or of having suffered punishment for crime.<sup>31</sup> Section 9 has accordingly been superseded and can be repealed.

Section 11 of the Criminal Law (Scotland) Act 1830 is an obsolete provision which regulates the making up of lists of jurors. The section provides that sheriffs principal shall only employ for the purpose persons authorised by the Court of Session, which is also empowered to fix their remuneration. No regulations under section 11 are extant, and in modern practice such matters are dealt with administratively. Lists of jurors are made up by sheriff clerks and their staff, all of whom are salaried civil servants.

Section 14 of the Criminal Law (Scotland) Act 1830 provides that the magistrates of the county of Argyle can hold courts and grant warrants in the town of Fort William. The provision is no longer required as a result of the reorganisation effected by the District Courts (Scotland) Act 1975. Prior to the restructuring of local government in 1973, Fort William was in the county of Inverness. A sheriff court was originally established there because of the considerable population at the western extremity of the Caledonian Canal, and because of the lack of local magistrates in the northern district of Argyleshire. This meant that Fort William was the only town where courts could conveniently be held. Hence it was necessary to empower the magistrates in the county of Argyle to act in Fort William in the county of Inverness. The District Courts (Scotland) Act 1975 now makes provision for the establishment of district courts within districts or islands areas and for justices and clerks of the peace.

The Justiciary (Scotland) Act 1848 was enacted to facilitate and simplify procedure in the Court of Justiciary. Section 10 (power for court to alter forms of interlocutors) is the only provision now extant. It is spent, or in any event is no longer of practical utility. The section empowered the Court of Justiciary "to alter the forms of interlocutors and sentences at present in use in that court, and to substitute others in their place." These powers were exercised in an Act of Adjournment, dated August 1st 1849,<sup>32</sup> which so far as unrepealed is now spent or obsolete. On the view that the words "at present in use" refer to 1848, the powers contained in section 10 are also now spent.<sup>33</sup> But apart from that, in modern practice, statutory provision to regulate forms of interlocutors and sentences in criminal proceedings would generally not be regarded as necessary. How pronouncements of the court are recorded is largely a matter of administrative convenience. If more formal provision were required, there are statu-

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<sup>27</sup> Court of Admiralty Act 1681, repealed by the Statute Law Revision (Scotland) Act 1964.

<sup>28</sup> Court of Session Act 1830, s.21.

<sup>29</sup> Court of Session Act 1830, s.22, repealed by the Sheriff Courts (Scotland) Act 1907.

<sup>30</sup> M. C. Meston, "Admiralty", in *Stair Memorial Encyclopaedia of the Laws of Scotland* (1987), Vol. 1, para. 405, p.199.

<sup>31</sup> Evidence (Scotland) Act 1852, s.1; Criminal Procedure (Scotland) Act 1975, ss.138(1), 341(1).

<sup>32</sup> "Anent the Procedure and Records in the High Court and Circuit Courts of Justiciary."

<sup>33</sup> Section 12 (continuity of powers and duties) of the Interpretation Act 1978 only applies to Acts passed after 1889: see Sch. 2, para. 3.

tory powers available to the court in more recent legislation which could be used for the purpose.<sup>34</sup>

Section 11 of the Justiciary Court (Scotland) Act 1868 made provision respecting the issue of letters of diligence for citing persons accused on indictment and witnesses to attend trial diets. The cumbersome and inconvenient system of letters diligence as a method of citation in criminal procedure has long ceased to be used in practice and no recent authorities or textbooks refer to it. It has been superseded by the warrant procedure provided for by the Criminal Procedure (Scotland) Act 1975. Section 69 of that Act contains the current provisions for the citation of accused persons and witnesses in solemn proceedings. Section 19 of the Justiciary Court (Scotland) Act 1868, the remaining section of that Act, corrected a wrong reference in section 13 of the Capital Punishment Amendment Act 1868 (which modified the provisions of that Act respecting inquests in their application to Scotland). The effect of the amendment would be preserved by Schedule 2 to the draft Bill.

The residue of section 46 of the Criminal Procedure (Scotland) Act 1887 (sittings of High Court of Justiciary) abolished the ceremonies of fencing and closing courts by proclamation of a macer and also dispensed with the necessity for the Lords Commissioners of Justiciary to remain longer in any town than was required for the disposal of the criminal and civil business there. The latter provision was enacted because earlier statutory provisions<sup>35</sup> had required the judges to spend a minimum period of six days, later reduced to three days, in each town where circuit courts were held. The earlier provisions have been repealed and section 46 is spent and unnecessary. Sittings of the High Court are now regulated by section 114 of the Criminal Procedure (Scotland) Act 1975, as substituted by section 57 of the Criminal Justice (Scotland) Act 1987.

The High Court of Justiciary (Scotland) Act 1892 was passed to remove doubts as to the power of the High Court of Justiciary to hold sittings in Edinburgh at more than one court at the same time. These doubts can no longer arise and the Act is unnecessary. It has been superseded by section 114(1) and (2) of the Criminal Procedure (Scotland) Act 1975, as substituted in 1987.

In the Sheriff Courts (Scotland) Act 1907, the proposed repeal of section 3(m) (definition of "Workmen's Compensation Act") is consequential on the repeal of section 3(i) (definition of "summary cause") by the Sheriff Courts (Scotland) Act 1971.

The Sheriff Courts and Legal Officers (Scotland) Act 1927 re-organised the sheriff court service in Scotland, assimilating the terms of appointment and conditions of service and tenure of the sheriff clerks, procurators fiscal and their staff to those applicable to the civil service. Section 7 (existing officers) made provision as respects sheriff court officers holding office on 1 March 1928<sup>36</sup> and is spent.

In the Solicitors (Emergency Provisions) Act 1940, now applicable only to Scotland, the remaining substantive provision is section 9 (reckoning of national service before 1 July 1949 for purposes of an indenture of apprenticeship). The power under this section has not been exercised since 1954 and the Law Society of Scotland agrees that the section is unnecessary. Section 9, as originally enacted, made provision for Scotland corresponding to that made for England and Wales by section 3 (reckoning of national service for purposes of articles) which was repealed in 1956 and replaced by a general power to make regulations with respect to service under articles.<sup>37</sup> In Scotland the statutory code which was applicable to apprenticeship in 1940<sup>38</sup> was similarly replaced in 1958<sup>39</sup> by a general power to make regulations with respect to the practical training of

<sup>34</sup> Criminal Procedure (Scotland) Act 1975, s.282, as extended by the Criminal Justice (Scotland) Act 1980, s.65.

<sup>35</sup> Heritable Jurisdictions (Scotland) Act 1746, s.31; Justiciary and Circuit Courts (Scotland) Act 1783, ss.1, 2.

<sup>36</sup> Commencement of Sheriff Courts and Legal Officers (Scotland) Act 1927 Order 1928 (S.R. & O. 1928 No. 113, Rev. XX p. 741).

<sup>37</sup> Solicitors (Amendment) Act 1956, s.2.

<sup>38</sup> Solicitors (Scotland) Act 1933, ss.9, 10, 12 and 13. Section 9 of the 1940 Act was an amendment of the 1933 statutory provisions.

<sup>39</sup> Solicitors (Scotland) Act 1958, s.1. See now Solicitors (Scotland) Act 1980, s.5.

solicitors, including service under indenture of apprenticeship. This power has, in effect, superseded section 9 of the 1940 Act.

The final repeal of the Legal Aid and Solicitors (Scotland) Act 1949 is consequential on the repeal of section 25 of that Act (taking of apprentices) by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985. The other substantive provisions of the Act have already been repealed<sup>40</sup> and the residue consists only of obsolete ancillary provisions.

Section 74 of the Summary Jurisdiction (Scotland) Act 1954 dealt with the lodging of appeals against a sentence of imprisonment under the Heritable Jurisdictions (Scotland) Act 1746. The appeal procedure under section 34 of the 1746 Act has long been obsolete and that section was repealed by the Criminal Justice (Scotland) Act 1987. The repeal of section 74 of the Summary Jurisdiction (Scotland) Act 1954 is consequential.

In the Superannuation Act 1972, paragraph 11 of Schedule 6 altered a statutory reference to the Superannuation Acts 1834 to 1919 in section 7 of the Sheriff Courts and Legal Officers (Scotland) Act 1927. Its repeal is consequential on the proposed repeal of that section.

The Solicitors (Scotland) Act 1976 was consolidated, except for section 9, by the Solicitors (Scotland) Act 1980. Section 9 amended section 25 (taking of apprentices) of the Legal Aid and Solicitors (Scotland) Act 1949 and is obsolete in consequence of the repeal of that section by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.

The Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 replaced earlier legislation, including the Fatal Accidents Inquiry (Scotland) Act 1895, the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1906 and section 25(2) of the Prisons (Scotland) Act 1952. The repeals are of spent transitory provisions and a related commencement provision (section 10(5)). Section 10(2) provided for the continuation of inquiries which were in progress on 1 March 1977.<sup>41</sup> Section 10(3) provided for an inquiry required by the Fatal Accidents Inquiry (Scotland) Act 1895 or section 25(2) of the Prisons (Scotland) Act 1952, in respect of a death before 1 March 1977, to be held under the 1976 Act. These inquiries were mandatory and had to take place as soon as reasonably possible after the death.

Section 11 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (no jury trials in civil actions in sheriff courts) came into force on 22 December 1980.<sup>42</sup> Subsection (2) saved actions which a sheriff had before that date appointed to be tried before a jury and is spent. Section 11(1), so far as proposed for repeal, section 28(2) and Schedule 3 are spent repealing enactments.

#### *Group 4 - Vagrancy Law*

The old vagrancy laws in England and Wales were designed to deal with very different social conditions from those of the present day and many of their provisions are archaic or obsolete. Between 1972 and 1976 a working party set up by the Home Secretary carried out a review of all aspects of the law, and also of related street offences, with the aid of Chief Officers of Police and the Probation Service. It published a working paper in 1974<sup>43</sup> containing provisional proposals for comment and discussion and a final report in 1976.<sup>44</sup> The report, which aimed at modernising the law on the subject, has not been implemented although there has been subsequent legislation on some matters discussed in it which were a particular source of difficulty or controversy.<sup>45</sup>

<sup>40</sup> Legal Aid (Scotland) Act 1967; Solicitors (Scotland) Act 1980.

<sup>41</sup> Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 Commencement Order 1977 (S.I. 1977 No. 190).

<sup>42</sup> Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (Commencement) Order 1980 (S.I. 1980 No. 1726).

<sup>43</sup> *Working Party on Vagrancy and Street Offences: Working Paper* (1974) H.M.S.O.

<sup>44</sup> *Report of the Working Party on Vagrancy and Street Offences* (1976) H.M.S.O.

<sup>45</sup> See in particular Criminal Attempts Act 1981, s.8 (abolition of offence of being a suspected person); Sexual Offences Act 1985, s.1 (kerb-crawling).

The report of the working party, which was preceded by widespread public consultation, included recommendations for the repeal without replacement of the old vagrancy law relating to pedlars, prostitutes, fortune tellers and escapes from legal confinement. The old law in these respects is obsolete or of no modern practical utility and is accordingly proposed for repeal, together with other obsolete provisions mentioned below. The proposals, which affect England and Wales only,<sup>46</sup> are supported by the Home Office.

A pedlar or petty chapman wandering abroad without being licensed or otherwise authorised by law was penalised by section 3 of the Vagrancy Act 1824. The 1824 Act was the immediate successor to a similar Act of 1822, but wandering abroad was a recurrent theme of legislation reaching back to medieval times.<sup>47</sup> The system of vagrant passes which still survived in 1824 has long since disappeared. The proper law of pedlary is now the Pedlars Acts 1871 and 1881, which provide a licensing system by chief police officers and separate offence provisions. The Vagrancy Act offence is not used nowadays and section 13 of the Pedlars Act 1871 (which saved it) is unnecessary.

As respects prostitutes, there remains an old offence in section 3 of the Vagrancy Act 1824 (prostitute behaving in a riotous or indecent manner in a street, public highway or place of public resort) and linked offences in section 3 of the Universities Act 1825 and section 6 of the Cambridge University and Corporation Act 1894 (common prostitute found wandering in a public walk, street or highway within the precincts of the universities to be deemed an idle and disorderly person within the true intent and meaning of the Vagrancy Act 1824). These old offences too would not be used nowadays, having been superseded by the Street Offences Act 1959 and the general law relating to public order. The working party reported in 1976 that the offences were obsolete and ripe for repeal.

As respects fortune telling, the working party reported widespread agreement that the offence in section 4 of the Vagrancy Act 1824 (persons pretending or professing to tell fortunes, or using any subtle craft, means or device, by palmistry or otherwise, to deceive or impose on any of Her Majesty's subjects deemed rogues and vagabonds) should be repealed without replacement. The latter part of the offence (using subtle craft, etc) has been superseded by modern offences under the Theft Act 1968,<sup>48</sup> and the Fraudulent Mediums Act 1951 makes modern provision for the punishment of fraudulent mediums. In *R v. Martin*,<sup>49</sup> the Crown Court held, on appeal from a magistrates' court, that the offence in section 4 of the Vagrancy Act 1824 had been repealed by the Fraudulent Mediums Act 1951.

Those escaping from legal confinement to which they were committed in pursuance of the Vagrancy Act 1824 were deemed by section 5 to be incorrigible rogues. Escape from lawful custody is an indictable offence at common law and escapers are also liable to be dealt with in accordance with the rules made under section 47 of the Prisons Act 1952. The 1824 provision is of no significance now. The further provisions of section 5 penalising violent resistance to arrest for an offence for which there was a subsequent conviction have been superseded by modern statutory offences under section 51 of the Police Act 1964.

The remaining repeals are of an obsolete statutory reference in section 10 to the house of correction (a pre-1865 penal institution originally intended for the confinement of vagrants and paupers refusing to work) and obsolete savings in section 24 for the operation of the old poor law<sup>50</sup> and the pre-1824 enactments relating to lunatic vagrants.

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<sup>46</sup> For historical reasons, the text of the 1824 Act in Northern Ireland takes a different form. The Act never applied to Scotland.

<sup>47</sup> See e.g. 34 Edw. 3. c.1: "... and to inquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering and will not labour as they were wont in times past."

<sup>48</sup> See in particular Theft Act 1968, s.15 (obtaining property by deception).

<sup>49</sup> [1981] Crim. L.R.109. In the absence of a decision by a higher court, the law on this point cannot be regarded as finally settled, but the decision indicates the likely outcome of any future prosecution under the 1824 provision.

<sup>50</sup> Magisterial supervision of the poor law was ended by the Poor Law Amendment Act 1834 and the poor law itself was finally abolished by the National Assistance Act 1948, s.1.

### Group 5 – General Repeals

Section 14 of the Distress for Rent Act 1737, which applies to England and Wales, does not deal with distress but with a contemporary difficulty of recovering rent under a tenancy created otherwise than by a formal lease under seal. In an age when the law of contract was still undeveloped, a landlord would bring an action for debt in cases where the tenancy had been created under seal. But where the tenancy was created orally, or by means of a document not under seal, the landlord's only remedy was by *assumpsit*, a form of action on the case, for recovery of a reasonable sum for the use and occupation of the premises. This action was unsatisfactory in practice and the landlord was liable to be non-suited for technical reasons.<sup>51</sup> Section 14 of the Distress for Rent Act 1737 was aimed at overcoming the 18th century procedural difficulties. It is an unnecessary relic of the old forms of action and is also misleading. Under the modern law, whether or not a tenancy is created by deed, it is a question of evidence whether the parties intended that rent should be payable; and if the court finds that rent is payable it can award it on the basis of an implied agreement to pay a fair rent or a reasonable rent.<sup>52</sup> The repeal proposal is agreed to by the Lord Chancellor's Department and the Department of the Environment, and is supported by the Law Reform Committee of the Senate of the Inns of Court and the Bar and by The Law Society.

Section 4 of the Unlawful Drilling Act 1819, section 23 of the Debtors Act 1869 and section 7(4) of the Explosive Substances Act 1883 were superseded by section 33 of the Interpretation Act 1889, now section 18 of the Interpretation Act 1978 (duplicated offences), which applies to Acts whenever passed.

Section 38 of the Game Act 1831 (time for payment of penalties on summary conviction and terms of imprisonment in case of non-payment) as it applies to England and Wales has been superseded by section 76 of the Magistrates' Courts Act 1980. The other repeals are of repeated and now unnecessary statutory references to payment of the costs of conviction which, in the case of sections 4 and 24, also apply to Northern Ireland. These provisions have been superseded by the modern law regulating the award of costs in criminal cases.<sup>53</sup>

The Leases Act 1845, now applicable only to England and Wales, was introduced, together with the Short Forms in Conveyances Act 1845, following a wide-ranging law reform speech by Lord Brougham (1778-1868) to the House of Lords.<sup>54</sup> The measures were an early attempt to shorten the language of conveyances and leases, using the principle of the Railways Clauses Acts,<sup>55</sup> and provided optional forms for use by draftsmen who chose to incorporate the Acts expressly in their documents. However, neither Act was used to any appreciable extent and the legislation failed to achieve its purpose. The Short Forms in Conveyances Act 1845 was repealed in 1881 when it was superseded by a different system whereby particular powers and meanings are implied by law, unless expressly excluded by the draftsman.<sup>56</sup> Nearly 60 years ago the view was being taken<sup>57</sup> that the Leases Act 1845 might as well have been repealed at the same time. It was repealed for Northern Ireland in 1953,<sup>58</sup> together with the analogous Leases (Ireland) Act 1846.

<sup>51</sup> See J. B. Ames, "Assumpsit for Use and Occupation", *Lectures on Legal History* (1913); Holdsworth, *History of English Law* iii, 423 *et seq.*

<sup>52</sup> *Beer v. Bowden* [1981] 1 W.L.R. 522 (C.A.); *Thomas Bates & Son Ltd. v. Wyndham's (Lingerie) Ltd.* [1981] 1 W.L.R. 505 (C.A.). The case for the repeal of the 1737 provision emerged following a suggestion made in the first instance judgment of Mr Michael Wheeler, Q.C. (sitting as a deputy High Court judge) in *Thomas Bates & Son Ltd. v. Wyndham's (Lingerie) Ltd.* (1980) 39 P. & C.R. 517, 532-3.

<sup>53</sup> Prosecution of Offences Act 1985, s.18; Costs in Criminal Cases Act (Northern Ireland) 1968. In 1831 the references had the effect of applying provisions of an Act of 1778 (18 Geo. 2. c.19, ss.1,2) which were replaced for England and Wales by the Summary Jurisdiction Act 1848, s.18.

<sup>54</sup> Parl. Deb. (3rd series), 19 May 1845, Vol. 80, col. 515. Lord Brougham introduced nine Bills altogether, of which the Evidence Act 1845 and the Satisfied Terms Act 1845 also reached the statute book.

<sup>55</sup> *Ibid.* (referring to the analogous conveyancing measure): "At present in every conveyance there was such an endless prolixity of statement, in preamble, in recitals, in parcels, in covenants, in warranty, that in the case of a small estate the expense became a bar to the sale. . . He asked their Lordships to apply what they did in Railway Acts to the transfer of estates."

<sup>56</sup> Conveyancing Act 1881, which was largely consolidated by the Law of Property Act 1925. The Interpretation Act 1889 enacted a similar system of implied powers and meanings to shorten the language used in Acts of Parliament.

<sup>57</sup> *Halsbury's Statutes* (1st ed. 1930), Vol. 15, p.102.

<sup>58</sup> Repeal of Unnecessary Laws Act (Northern Ireland) 1953. The 1953 note on these repeals explained that the forms provided by the Acts were not met with in conveyancing practice in Northern Ireland. To attempt to make use of them, after a period of prolonged neglect, would tend to cause confusion and to waste time rather than otherwise and the object of the Acts would not be achieved.

In recent years the general principle of standardising the documentation used in leases has been considered and supported by the Royal Commission on Legal Services,<sup>59</sup> by the Conveyancing Committee<sup>60</sup> and by the Law Commission, and we have suggested that work should be undertaken to determine the areas in which the publication of standard clauses would be both feasible and useful.<sup>61</sup> One of the main problems is that standard clauses tend to become obsolescent unless provision is made for their periodic revision. This is nowhere more clearly demonstrated than by reference to the Leases Act 1845. Whatever the merits of its legislative approach may be, the time has long since passed when the forms prescribed by it, which are 144 years out of date, could realistically be adopted by conveyancers. Any attempt to make use of these old forms now would be counter-productive. We accordingly recommend the repeal of the 1845 Act as being of no practical utility.

In the Indictable Offences Act 1848, sections 12 to 15 provide a scheme for the cross-border enforcement of arrest warrants issued in the British Islands. Section 32 of that Act (extent) has been superseded, so far as it deemed Berwick-on-Tweed to be within England for the purposes of that Act, by the general law contained in the Interpretation Act 1978.<sup>62</sup>

The Prevention of Offences Act 1851 was repealed for Northern Ireland by the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968. In its application to England and Wales, section 11 (apprehension of persons committing indictable offences in the night) was repealed by the Police and Criminal Evidence Act 1984. The only remaining provision is section 16 (Act not to extend to Scotland).

In the Offences Against the Person Act 1861, as it applies to England and Wales, section 39 (assaults with intent to obstruct the sale of grain, or its free passage) and section 40 (violent interference with seamen, keelmen and castors) contain summary offences punishable with a maximum penalty of 3 months imprisonment. The offences are a consolidation of antiquated 18th century legislation.<sup>63</sup> The Criminal Law Revision Committee reported in 1980<sup>64</sup> that, taking into account their assault and battery recommendations, the special offences provided for in these sections need not be continued and they recommended their repeal without replacement. Section 39 of the Criminal Justice Act 1988 now provides that common assault and battery are to be summary offences punishable by a fine not exceeding level 5 on the standard scale, or imprisonment not exceeding 6 months, or both. These offences, together with offences under the Criminal Damage Act 1971 and the offence of affray under section 3 of the Public Order Act 1986, which all carry a maximum penalty of 6 months imprisonment, provide adequately for the punishment of any conduct penalised by the 1861 sections. The Home Office agrees that the sections serve no useful purpose under the modern law. The repeal of section 76 (application of Summary Jurisdiction Act 1848) is consequential, but that section is in any event unnecessary. The Magistrates' Courts Act 1980, which now deals with summary trial procedure in England and Wales, applies by virtue of its own terms.

The Crown Suits (Isle of Man) Act 1862 extended the Crown Suits Act 1855 to the Isle of Man, with the modification that references to the Attorney General should be construed as references to the Attorney General for the Isle of Man. The purpose of the Crown Suits Act 1855 was to overcome the inconvenience and injustice of the old rule that in the courts of common law the Crown neither paid nor received costs, while in the courts of equity, although the Crown sometimes received costs, it never paid costs. The 1855 Act partly abolished this rule, but its effect was too limited, being applicable only to revenue matters and only when the Attorney General or the Lord Advocate was

<sup>59</sup> *Royal Commission on Legal Services: Final Report* (1979) Cmnd. 7648, Vol. 1, pp. 285-6. The report acknowledged that "experience with the Leases Act 1845 showed that legislation of this sort goes quickly out of date".

<sup>60</sup> *Second Report of the Conveyancing Committee*, H.M.S.O. (1985). In submissions to the Committee, the Halifax Building Society and Mr Theodore Ruoff supported the principle but agreed that the forms prescribed by the Leases Act 1845 were not used in practice or suitable for modern use.

<sup>61</sup> *Landlord and Tenant: Reform of the Law* (1987) Law Com. No. 162, para. 3.18.

<sup>62</sup> Interpretation Act 1978, Schedule 2 (application of Act to existing enactments), para. 5(a).

<sup>63</sup> Corn Trade Act 1737, Shipping Offences Act 1793, s.2, which were first consolidated by the Offences against the Person Act 1828, s.26. The remaining provisions of the Shipping Offences Act 1793 were repealed by the Public Order Act 1986.

<sup>64</sup> *Fourteenth Report: Offences Against the Person* (1980) Cmnd. 7844, paras. 129, 180, 183.

a party,<sup>65</sup> and it was repealed for England and Wales in 1933 when the old rules about Crown costs were generally abolished.<sup>66</sup> In the Isle of Man the legislation of 1855, as extended in 1862, serves no purpose now, and perhaps never did. The modern Departments of the Isle of Man Government, formerly known as Boards of Tynwald, do not enjoy any immunity of the kind which in English law has been enjoyed by the Crown and its agencies. No special rules are therefore necessary and costs are awarded to or against Isle of Man and United Kingdom Departments in the same way as between other parties. The Attorney General of the Isle of Man, the Treasury Solicitor and the Legal Adviser to the Ministry of Defence agree that the 1862 Act is obsolete and unnecessary.

In the Naval Agency and Distribution Act 1864, the proposed repeal is consequential on the enactment of the Supreme Court Act 1981, which expressly repealed the corresponding definition ("the High Court of Admiralty") in section 2 of the Naval Prize Act 1864. The jurisdiction of the High Court of Admiralty of England is vested now in the High Court and Schedule 4 to the Supreme Court Act 1981 provides for the construction of statutory references to it.

In the Schedule to the Documentary Evidence Act 1868 (officers authorised to certify copies of proclamations, orders or regulations issued by government departments to facilitate their proof), the entry relating to the Poor Law Board, which applies only to England and Wales, has long been obsolete. The Commissioners for administering the laws for relief of the poor in England became known as the Poor Law Board in 1867, when the Board was made permanent. In 1871 it was replaced by the Local Government Board, which ceased to exist in 1919.<sup>67</sup> The poor law itself was finally terminated by the National Assistance Act 1948.

In the Debtors Act 1869, which applies to England and Wales, the original code of 21 offences contained in Part II (punishment of fraudulent debtors) has been replaced, with two exceptions, by later legislation.<sup>68</sup> Section 18, so far as unrepealed,<sup>69</sup> required the justices in committal proceedings for offences under Part II (then triable only on indictment<sup>70</sup>) to take into account any evidence tending to show that the act charged was not committed with a guilty intent. The reason for this was that many of the original Part II offences were expressed to give a defence only by way of exception ("unless the jury is satisfied that he had no intent to defraud") and the exception would not have operated to prevent the accused being committed for trial: the finding that there was no intent to defraud had to be made by the trial jury. Section 18 filled this contemporary gap. Under the modern law the gap has ceased to exist. The remaining Part II offences are clearly expressed to require a mental element of guilty intent and in committal proceedings the accused is required to be discharged if the court is not of the opinion that there is sufficient evidence to put him on trial before a jury.<sup>71</sup> Section 18 is therefore now merely a confusing remnant of 19th century criminal procedure. The Home Office agrees that the section serves no useful purpose now.

Section 23 of the Debtors Act 1869 is superseded by section 18 of the Interpretation Act 1978 (duplicated offences).

In the Conspiracy and Protection of Property Act 1875, which applies to the United Kingdom,<sup>72</sup> the repeals are of obsolete and unnecessary procedural provisions relating

<sup>65</sup> For the English law as it was before and after 1855, see *The Leda* (1863) Br. & L. 19, 167 E.R. 278. See also Robertson, *Civil Proceedings by and against the Crown* (1908) 613.

<sup>66</sup> Administration of Justice (Miscellaneous Provisions) Act 1933, s.7. The 1855 Act was repealed for Northern Ireland by the Northern Ireland (Crown Proceedings) Order 1949 (S.I. 1949 No. 1836).

<sup>67</sup> See Local Government Board Act 1871, s.2; Ministry of Health Act 1919, s.3.

<sup>68</sup> The remaining offences are in section 13(2) and (3). Part II offences which related directly to bankruptcy or arrangements with creditors were replaced by the Bankruptcy Act 1914, since replaced by the Insolvency Act 1986. A general offence of obtaining credit under false pretences was replaced by the Theft Act 1968.

<sup>69</sup> Originally section 18 also amended the Vexatious Indictments Act 1859, which was repealed by the Administration of Justice (Miscellaneous Provisions) Act 1933 in consequence of the abolition of grand juries.

<sup>70</sup> Offences under section 13(2) and (3) of the Debtors Act 1869 became triable either way (instead of only on indictment) by virtue of the Criminal Law Act 1977, Sch. 2, para. 6. See now Magistrates' Courts Act 1980, Sch. 1, para. 7.

<sup>71</sup> Magistrates' Courts Act 1980, s.6(1).

<sup>72</sup> Section 4 (breach of contract by persons employed in the supply of gas or water) was repealed for Great Britain by the Industrial Relations Act 1971 and is in force only in Northern Ireland.



to offences punishable on summary conviction. The procedure on indictment for an offence under the Act has been abolished<sup>73</sup> and the remaining offences under the Act are punishable by fine or imprisonment on summary conviction. Section 10 (proceedings before a court of summary jurisdiction), reflecting the complicated technicalities of the later 19th century law, distinguished between an offence punishable on conviction by a court of summary jurisdiction (sections 4, 5 and 7), an offence punishable on summary conviction (section 6) and a penalty recoverable on summary conviction (section 4). These distinctions have ceased to be necessary in the context of the 1875 Act and the general law relating to summary convictions now applies to the remaining offences as it does to other summary offences.<sup>74</sup>

The other proposed repeals in the Conspiracy and Protection of Property Act 1875 are—

- (a) section 11 (parties to a contract and their spouses to be considered as competent witnesses in criminal proceedings), a proposition which is now trite and has been superseded by later statutory provisions of general application;<sup>75</sup>
- (b) section 13 (definition of court of summary jurisdiction in England and Wales) which is unnecessary, the jurisdiction of magistrates' courts being provided for in general terms by the Justices of the Peace Act 1979 and the Magistrates' Courts Act 1980;
- (c) section 19 (recovery of penalties etc. in Scotland) which has been superseded by provisions of general application in the Criminal Procedure (Scotland) Act 1975;<sup>76</sup>
- (d) section 20 (appeals in Scotland),<sup>77</sup> which has been superseded by section 442 of the Criminal Procedure (Scotland) Act 1975.

Section 7(4) of the Explosive Substances Act 1883 is superseded by section 18 of the Interpretation Act 1978 (duplicated offences).

The Trial of Lunatics Act 1883, now applicable only to England and Wales,<sup>78</sup> was amended in 1964<sup>79</sup> to provide that in cases where an accused is found guilty but insane at the date of the act or omission charged, the jury shall return a verdict of not guilty by reason of insanity. Section 4 is a transitional provision for the construction of statutory references to earlier Acts of 1800, 1821 and 1840<sup>80</sup> which were replaced by the 1883 Act as originally enacted. The section has long been obsolete and unnecessary. The remaining provisions of the 1883 Act, as amended, have effect by virtue of their own terms.

The Escheat (Procedure) Act 1887 was a statute law revision measure prepared by the Statute Law Committee in conjunction with consolidations of the law relating to sheriffs and coroners.<sup>81</sup> It repealed the medieval statutes, then "practically inoperative", relating to escheators and the process of finding the title of the Crown in cases of escheat, replacing them with rules<sup>82</sup> regulating the procedure with respect to escheats to

<sup>73</sup> Criminal Law Act 1977, s.15; Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983 No. 1120, N.I. 13).

<sup>74</sup> In Scotland, it can be significant whether an offence is created in terms referring to summary conviction or in terms referring to a court of summary jurisdiction (*MacPherson v. Boyd* 1907 S.C.(J.) 42, 45-7; *Hall v. MacPherson* 1913 S.C.(J.) 100, 102). The latter may confer jurisdiction on the district court, the former exclude that jurisdiction. However, s.18(3) of the 1875 Act provides expressly that only the sheriff court is a court of summary jurisdiction under that Act.

<sup>75</sup> See now, as to England and Wales, Criminal Evidence Act 1898, Police and Criminal Evidence Act 1984, s.80; as to Scotland, Criminal Procedure (Scotland) Act 1975, ss.346, 348; as to Northern Ireland, Criminal Evidence Act (Northern Ireland) 1923.

<sup>76</sup> See in particular Criminal Procedure (Scotland) Act 1975, ss.396-401 (fines imposed on conviction under summary procedure), s.407 (period of imprisonment for non-payment of fine), s.309 (forms of procedure to be used).

<sup>77</sup> As originally enacted, section 20 made provision corresponding to that made for England and Ireland by section 12. That section was repealed for England and Wales by the Courts Act 1971 and for Northern Ireland by the Statute Law Revision Act (Northern Ireland) 1954.

<sup>78</sup> The Act never extended to Scotland and it was repealed for Northern Ireland by the Mental Health Act (Northern Ireland) 1961.

<sup>79</sup> Criminal Procedure (Insanity) Act 1964.

<sup>80</sup> 1800 c.94, s.1; 1821 c.33, s.16; 1840 c.54, s.3.

<sup>81</sup> Sheriffs Act 1887; Coroners Act 1887, now replaced by the Coroners Act 1988.

<sup>82</sup> Escheat Procedure Rules 1889 dated 25 July 1889 (S.R. & O. Rev. 1903, IV, p.1); Escheat Procedure (Duchy of Lancaster) Rules 1910 (S.R. & O. 1913, p.2351).

the Crown and inquests of office. The Act proved to be of little utility and so far as is known there has been no attempt to use it since the 1920s. The old rule<sup>83</sup> requiring an inquisition of escheat before the Crown can enter and deal with escheated land was finally abolished in 1961<sup>84</sup> and there are no occasions now for other inquests of office, which are obsolete.<sup>85</sup> The Treasury Solicitor, the Lord Chancellor's Department, the Crown Estate Office, the Duchy of Lancaster and the Duchy of Cornwall have been consulted and agree that the Act serves no useful purpose in modern times and is in practice obsolete. The Act was never applicable to Scotland, there being no Scottish procedures to which the Act could have been applied.

In the Sex Disqualification (Removal) Act 1919, introduced following the enactment of the Parliament (Qualification of Women) Act 1918, section 1 (removal of disqualification for public office, admission to professions, etc. on grounds of sex or marriage) still contains a proviso for the purpose of enabling regulations to be made prescribing the mode of admission of women to the civil service and giving power to reserve to men any branch of or posts in the civil service in any of Her Majesty's possessions overseas or in any foreign country. A statutory Order in Council made in 1920<sup>86</sup> authorised the Civil Service Commissioners to make such regulations. This Order has never been formally revoked, although the prerogative Civil Service Orders in Council 1920 to 1950, on which it was engrafted, were replaced in 1956.<sup>87</sup> The power, if it still exists, would not be exercised now<sup>88</sup> and has been overtaken by the Sex Discrimination Act 1975. The Home Office, the Office of the Minister for the Civil Service, the Civil Service Commission, the Department of Employment, the Foreign and Commonwealth Office, the Overseas Development Administration and the Northern Ireland Departments concerned have been consulted. They agree that the proviso has become for practical purposes a dead letter which ought to be removed from the statute book.

In the Sex Disqualification (Removal) Act 1919, a further proviso to section 1, now applicable only to Scotland,<sup>89</sup> enables a judge before whom a civil jury case is heard to order an all-male or all-female jury, or to exempt a woman from jury service, because of the nature of the evidence to be given or the issues to be tried. The procedure is regulated by rules of court.<sup>90</sup> Since 1980<sup>91</sup> civil jury trial in Scotland has been competent only in the Court of Session and the number of civil jury trials has dwindled to a mere handful each year. Such trials are restricted in practice to actions for damages for personal injuries and even in these cases it has become increasingly common for the issues to be tried without a jury. There is no recent record of the 1919 procedure being used and the Principal Clerk of Session and Justiciary confirms that it is regarded as being obsolete.

Section 2 of the Sex Disqualification (Removal) Act 1919 (admission and enrolment of solicitors) is also only still applicable to Scotland.<sup>92</sup> Its original object was to allow a woman with a university degree, or its equivalent, to qualify for enrolment after a reduced period under articles, a privilege which was then available only to men. Complex provision for qualifications equivalent to degrees was necessary because some universities at that time allowed women to attend courses but did not admit them to degrees.<sup>93</sup> Admission as a solicitor in Scotland is now regulated under the Solicitors (Scotland) Act 1980, which does not distinguish between men and women applicants, and the Law Society of Scotland confirms that section 2 of the 1919 Act is obsolete.

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<sup>83</sup> See Staundford, *Prerogative* (1607) 55b.

<sup>84</sup> Crown Estate Act 1961, s.8(3).

<sup>85</sup> See *Halsbury's Laws* (4th ed. 1976), Vol. 11 (Crown Proceedings and Crown Practice), para. 1579 (Obsolete Proceedings).

<sup>86</sup> S.R. & O. 1920 No. 1977. The Order was not included in *Statutory Rules & Orders and Statutory Instruments Revised* (3rd ed. 1948), but is still listed as being in force in the official *Index to Government Orders* (1987) H.M.S.O.

<sup>87</sup> Civil Service Order in Council 1956, a prerogative instrument.

<sup>88</sup> It was not relied on in 1986 when a woman diplomat claimed unlawful discrimination after her proposed posting to Zambia was withdrawn. See *The Independent*, 23 November 1986.

<sup>89</sup> The proviso was repealed for England and Wales by the Courts Act 1971 and for Northern Ireland by the Juries (Northern Ireland) Order 1974 (S.I. 1974 No. 2143, N.I. 6).

<sup>90</sup> Act of Sederunt (Rules of Court, consolidation and amendment) 1965 (S.I. 1965 No. 321, S.16), r.118.

<sup>91</sup> Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, s.11.

<sup>92</sup> The section was repealed for England and Wales by the Solicitors Act 1932 and for Northern Ireland by the Solicitors Act (Northern Ireland) 1938.

<sup>93</sup> *Hansard* (H.C.), 27 October 1919, Vol. 120, col. 394 (Major Hills).

The Criminal Evidence Act (Northern Ireland) 1923 made provision for Northern Ireland corresponding substantially to that made for Great Britain by the Criminal Evidence Act 1898. Section 5, so far as proposed for repeal (exclusion of Evidence Act 1877), is obsolete in consequence of the repeal of the Evidence Act 1877 in 1981.<sup>94</sup>

In the Administration of Justice Act 1925, which applies to England and Wales, section 22(3) repealed section 6(c) of the Deeds of Arrangement Act 1914 and is spent. The proposed repeal to section 22(4) is consequential on the repeal of section 26(2) of the Deeds of Arrangement Act 1914 by the Statute Law Revision Act 1927.

The Counterfeit Currency (Convention) Act 1935 was passed to give effect to an international convention signed on 20 April 1929.<sup>95</sup> The Act, so far as unrepealed,<sup>96</sup> consists of section 1 (definition of currency notes), section 3(4) and Part III of the Schedule (amendments of section 2 of the Revenue Act 1889), section 5 (application to Scotland) and section 6 (citation and application to Northern Ireland). The Forgery and Counterfeiting Act 1981 made fresh provision for counterfeiting and kindred offences and repealed the Bank Notes (Forgery) Act 1805 (which applied to Scotland), section 2 of the Revenue Act 1889 and section 2 of the 1935 Act (disposal of forged bank notes, etc). The repeal of the residue of the 1935 Act is consequential. The Bank of England, the Home Office, the Scottish Home and Health Department, the Crown Office, the Committee of Scottish Clearing Bankers and the Northern Ireland Office agree.

The Justices of the Peace Act 1949 was repealed in its application to Scotland by the District Courts (Scotland) Act 1975. In its application to England and Wales, the Act was largely consolidated by the Justices of the Peace Act 1979. The proposed repeal of section 41 (authentication of certain licences) is consequential on the enactment of the Billiards (Abolition of Restrictions) Act 1987. Section 43 (expenses and payments into Exchequer) is obsolete and section 45 (commencement) and Schedule 7 (repeals) are spent. In section 46(3) (extent), the repeal is consequential on the repeal of the Act in its application to Scotland. The only substantive remaining provision is section 20 (admission as solicitor of justices' clerk).

In the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, the proposed repeals are consequential—

- (a) in the case of sections 27 and 38, on the repeal of the War Damaged Sites Act 1949 by the Statute Law (Repeals) Act 1986;
- (b) in the case of section 46(4) and Part II of Schedule 2, on the coming into operation on 1 April 1953<sup>97</sup> of section 19 of the Justices of the Peace Act 1949 (which provided for the appointment of justices' clerks in England and Wales by magistrates' courts committees instead of by standing joint committees);
- (c) in the case of paragraph 6 of Part I of Schedule 2, on the establishment of an inner London probation area, and a probation committee for that area, by the Administration of Justice Act 1964;
- (d) in the case of paragraphs 18 and 19 of Part I of Schedule 2, on the repeal of the Staffordshire Potteries Stipendiary Justice Acts 1839 to 1895 and the South Staffordshire Stipendiary Justice Act 1899<sup>98</sup> by the Justices of the Peace Act 1968.

Section 53 (which retrospectively applied the provisions regarding the making up of civil remuneration to persons serving during the hostilities in Korea in 1951) is long since spent.

<sup>94</sup> Statute Law (Repeals) Act 1981, Sch. 1, Part I. The Evidence Act 1877 provided that the defendant and his spouse should be competent and compellable witnesses on the trial of an indictment for a nuisance to a highway or otherwise for the enforcement of a purely civil right. Its repeal was recommended by the Criminal Law Revision Committee in 1972 on the ground that indictments for these purposes were obsolete in practice. See *Eleventh Report: Evidence (General)*, Cmnd. 4991, pp. 92, 206, 255.

<sup>95</sup> International Convention for the Suppression of Counterfeiting Currency, T.S. 5(1960), Cmnd. 932. The United Kingdom ratification was deposited on 28 July 1959.

<sup>96</sup> Section 3 (1) to (3) (import of imitation foreign coins) and Parts I and II of the Schedule (amendments of the Coinage Offences Act 1861 and the Counterfeit Medal Act 1883) were replaced by the Coinage Offences Act 1936, a consolidation Act which was itself repealed in 1981. Section 4 (extradition) was repealed by the Suppression of Terrorism Act 1978.

<sup>97</sup> Justices of the Peace Act 1949 (Commencement No. 3) Order 1951 (S.I. 1951 No. 1941). Section 19 of the 1949 Act has since been consolidated by the Justices of the Peace Act 1979.

<sup>98</sup> 1839 c.15, 1871 c.xc, 1895 c.vii, 1899 c.xc.

In Schedule 2 to the Public Records Act 1958 (list of enactments which prohibit the disclosure of certain information obtained from the public) the proposed repeals are consequential on the repeal or the expiry of the enactments concerned.

Section 1 of the Street Offences Act 1959, which applies to England and Wales, penalises loitering or soliciting in public places for the purpose of prostitution. Subsection (5) repealed earlier legislation<sup>99</sup> but provided that convictions under that legislation should continue to be taken into account as previous convictions for the purposes of the 1959 Act. Such convictions are long since spent<sup>100</sup> and the subsection has no further operation.

In the Fatal Accidents Act 1959, which applied to England and Wales, the main substantive provisions were consolidated by the Fatal Accidents Act 1976. Section 1(4) (amendment of section 6 of the Law Reform (Married Women and Tortfeasors) Act 1935) was repealed by the Civil Liability (Contribution) Act 1978. The residual ancillary provisions of section 3 (short title, construction, application and extent) are obsolete.

The Judicial Pensions Act 1959 brought in a maximum retiring age for the holders of high judicial office (other than the Lord Chancellor) in the United Kingdom. Section 3 (option for existing judges to continue in office after attaining that age), so far as unrepealed,<sup>101</sup> applied to persons who on 17 December 1959 held the office of Lord of Appeal in Ordinary, Lord Justice General, Lord Justice Clerk, Senator of the College of Justice in Scotland, Lord Chief Justice of Northern Ireland, Lord Justice of Appeal in Northern Ireland and Judge of the High Court in Northern Ireland. The responsible departments agree that the section is spent in its operation in consequence of the retirement<sup>102</sup> or death of the judges to whom it applied.

In the Justices of the Peace Act 1968, which now applies only to England and Wales,<sup>103</sup> Schedule 3, so far as proposed for repeal, amended section 26 of the City of London (Union of Parishes) Act 1907, which was repealed by the Criminal Justice Act 1972, or is spent.

Section 30 of the Administration of Justice Act 1970, which applies to England and Wales, contained transitional provisions consequential on the enactment of section 11 (restriction on power of committal under Debtors Act 1869). These provisions, which saved certain orders of committal made before 2 August 1971, are spent. Paragraph 2 of Schedule 4 listed selective employment tax as a tax for the non-payment of which imprisonment could be imposed and is obsolete in consequence of the final abolition of selective employment tax on 1 January 1978.<sup>104</sup>

In the Attachment of Earnings Act 1971, a consolidation of the law for England and Wales, the proposed repeal is similarly consequential on the final abolition of selective employment tax.

In the Administration of Justice Act 1973, section 19 and Schedule 5 (repeals) and section 20 (commencement and transitional), so far as unrepealed, are spent.

In the Solicitors Act 1974, which consolidated the law for England and Wales, the repeal of section 75(a) is consequential on the proposed repeal of the Leases Act 1845.

In the Magistrates' Courts Act 1980, which applies to England and Wales, the repeals proposed to Schedule 1 (list of offences triable either way) are consequential on—

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<sup>99</sup> Metropolitan Police Act 1839, s.54(11), City of London Police Act 1839, s.35(11), and corresponding provisions of the Manchester Police Regulation Act 1844, s.102 and the Town Police Clauses Act 1847, s.28.

<sup>100</sup> Rehabilitation of Offenders Act 1974, s.1.

<sup>101</sup> The section ceased to apply to judges of the Supreme Court of England and Wales by virtue of the Supreme Court Act 1981, but section 11(10) of that Act saved the rights of judges holding office on 17 December 1959.

<sup>102</sup> The section became spent in 1985 with the retirement of Lord Cameron and Lord Wheatley as Senators of the College of Justice in Scotland.

<sup>103</sup> The Act was repealed for Scotland by the District Courts (Scotland) Act 1975. In England and Wales section 1(7) (binding over powers of a court of record) is the main remaining provision.

<sup>104</sup> Finance Act 1972, s.122; Regional Employment Premiums (Termination of Payment and Consequential Provisions) Order 1976 (S.I. 1976 No. 2192).

- (a) the repeal of the Forgery Act 1913 and the Coinage Offences Act 1936 by the Forgery and Counterfeiting Act 1981 (paragraphs 15 and 21);
- (b) the repeal of the Shipping Contracts and Commercial Documents Act 1964 by the Protection of Trading Interests Act 1980 (paragraph 24).

In the Supreme Court Act 1981, which applies to England and Wales, the repeals are of transitional provisions relating to—

- (a) the retirement of judges who did not make an election under section 3 of the Judicial Pensions Act 1959 (section 11(10));
- (b) the abolition of offices following a re-organisation of offices in the Supreme Court (section 89(5), (6) and (7));<sup>105</sup>
- (c) the tenure of office of persons who held the office of Vice-Chancellor or Assistant Master, Queen's Bench Division, or Assistant Registrar of Criminal Appeals immediately before the commencement of the Act but have since retired (Schedule 6, paragraphs 1, 2(2), 3);
- (d) the continuance of a scheme for the establishment of district probate registries which has been superseded by the District Probate Registries Order 1982 (S.I. 1982 No. 379) made under section 104 of the Supreme Court Act 1981 (Schedule 6, paragraph 6).

The Lord Chancellor's Department agrees that these provisions are spent. The repeal of section 60 of the Administration of Justice Act 1982 (which amended section 89(6) of the Supreme Court Act 1981) is consequential.

In the County Courts Act 1984, which applies to England and Wales, the repeals are of transitory provisions affecting the operation of sections 21(9), 51, 105(1), 106 and 112 of that Act or saving certain provisions of the County Courts Act 1959. The transitory provisions became spent—

- (a) in the case of paragraph 1 of Schedule 3, on 19 May 1985 (the day appointed for the coming into operation of paragraph 30 of Schedule 4 to the Consumer Credit Act 1974);
- (b) in the case of paragraph 2 of Schedule 3, on 1 July 1985, when section 6 of the Administration of Justice Act 1982 was brought into force;<sup>106</sup>
- (c) in the case of paragraphs 3 and 4(2) of Schedule 3, on 1 September 1984, when sections 34 and 35 of the Administration of Justice Act 1982 were brought into force;<sup>107</sup>
- (d) in the case of paragraph 10 of Schedule 3, on 2 January 1987, when section 75 of the Administration of Justice Act 1982 was brought into force in relation to sections 99(3), 168 to 174A and 176 of the County Courts Act 1959.<sup>108</sup>

<sup>105</sup> See also the Supreme Court (Officers) Order 1982 and the Supreme Court (Officers) (No. 2) Order 1982 (S.I. 1982 Nos. 1188, 1755).

<sup>106</sup> Administration of Justice Act 1982 (Commencement No. 4) Order 1985 (S.I. 1985 No. 858).

<sup>107</sup> Administration of Justice Act 1982 (Commencement No. 2) Order 1984 (S.I. 1984 No. 1142).

<sup>108</sup> Administration of Justice Act 1982 (Commencement No. 5) Order 1986 (S.I. 1986 No. 2259).

## PART II

### FINANCE

#### *Group 1 - Land Tax*

The repeals in this group are of enactments relating to land tax which have become obsolete and unnecessary in consequence of the final abolition of that tax in 1963.

Land tax in Great Britain was made permanent by the Land Tax Perpetuation Act 1798. As a further measure to raise revenue, the tax was made subject to redemption and by 1898 nearly half of it had been redeemed. The tax was assessed on an archaic basis<sup>1</sup> and it became increasingly uneconomic to assess and collect the small amounts involved.<sup>2</sup> In 1949, the Finance Act 1949 paved the way for its final extinction by exonerating certain properties altogether and by providing for compulsory redemption of the tax on others. The tax was also simplified then by stabilising the charge at the amount payable for the land tax year 1948-49. Finally in 1963, when the tax was yielding only £200,000 a year,<sup>3</sup> all properties which remained chargeable to land tax were exonerated from the tax after the end of the land tax year 1962-63 by section 68 of the Finance Act 1963.

The process of repealing the statute law relating to land tax started with the Finance Act 1896 and was continued by the Finance Acts 1949 and 1963. For a time after 1963 some law continued to be relevant for the purpose of the assessment and collection of the tax payable for earlier years and of compulsory redemptions which fell due before 1963. There were also in existence then about 30 small ecclesiastical rentcharges which were in the process of being redeemed by the Church Commissioners. The surviving body of statutory provisions is archaic and fragmentary and after the lapse of 25 years the need to retain it for its transitional effects has long since passed. For all practical purposes the legislation relating to land tax is obsolete. In the remote event that any pre-1963 liabilities remain, they would continue to be preserved after the repeal of the legislation by section 16(1)(c) of the Interpretation Act 1978 (effect of repeals).

The repeals in this group have been considered and agreed to, so far as they are concerned, by the Inland Revenue, the Church Commissioners (who consulted the Diocesan Boards of Finance), H.M. Land Registry, the Scottish Office and the Keeper of the Registers of Scotland, the Crown Estate Commissioners and the Duchies of Cornwall and Lancaster.

#### *Group 2 - Other Repeals*

The Bank of Ayr Act 1774 was enacted following the collapse of the Scottish banking partnership of Douglas, Heron and Company, which traded as the Ayr Bank.<sup>4</sup> The bank was formed in 1769 to exploit the demand for credit following the reduction of credit facilities by the two main public banks, the Bank of Scotland and the Royal Bank of Scotland. It expanded rapidly, opening branches or agencies in every region of Scotland to circulate its bank notes which soon represented 66 per cent of those in circulation. The bank had insufficient assets, it relied on directors without proper banking experience, and borrowed heavily on the London market to finance its operations. In 1772, when news arrived of bank failures in London, there was a rush to cash its notes. The bank was forced to close temporarily and on 12 August 1773 permanently. The partners did not have limited liability and the 1774 Act was part of an operation to

<sup>1</sup> In England and Wales each land tax parish was required to raise annually a fixed amount of tax, known as the "unredeemed quota" (the quota fixed in 1798 less the amount redeemed and exonerated since that date), and this was obtained by means of an assessment at such rate in the £ on the annual value of property in the parish as would produce the required amount. In Scotland the tax on individual properties in counties was an invariable charge based on an "old valued rent" which was fixed in 1643. The tax never applied to Northern Ireland.

<sup>2</sup> In 1949 it was estimated that out of 1,100,000 land tax assessments, 700,000 were under 50p and 100,000 of these were under 5p.

<sup>3</sup> *Hansard* (H.C.), 3 April 1963, Vol. 675, col. 458 (Chancellor of the Exchequer).

<sup>4</sup> For the historical background, see S. G. Checkland, *Scottish Banking: A History 1695-1973* (1975); A. W. Kerr, *History of Banking in Scotland* (1926); C. W. Munn, *The Scottish Provincial Banking Companies 1747-1864* (1981). Checkland describes the collapse of the Ayr Bank as "one of the most dramatic incidents in the history of Scottish, and indeed European banking".

enable them to meet their liabilities by issuing bonds to redeem annuities pledged against the revenue of their estates. The bonds were not negotiable or transferable after 24 June 1782, a period which was subsequently extended to 24 June 1786<sup>5</sup> and the Committee of Scottish Clearing Bankers agree that the Act is long since spent. The failure of the bank forced landed property to the value of £750,000 on the market and the final loss to the partners was estimated at more than £660,000. The litigation went on for 50 years.

The Bank Notes Act 1826, which applies to England and Wales, was passed, together with the Country Bankers Act 1826, following a banking crisis in November 1825 precipitated by a wave of speculative investment in the newly recognised states of South America.<sup>6</sup> The blame for the crisis was attributed partly to the uncontrolled issue of small banknotes by numerous country banks. Accordingly the Bank Notes Act 1826 repealed the legislation<sup>7</sup> which enabled them to issue £1 and £2 banknotes, prohibiting the circulation of notes under £5 altogether after 5 April 1829. Section 10 (banknotes for less than £20 to be payable where issued), the remaining substantive provision, was added during the passage of the Bill through Parliament because some country bankers were issuing banknotes payable only by their agents in London. This practice imposed hardship on the holder of a small banknote issued by a country bank who could only obtain payment for his note in gold by incurring the expense of travelling to London or appointing a London agent.<sup>8</sup>

The deeper causes of the 1825 crisis were perceived as being attributable to the weakness of the country banking system: the 800 or more country banks were all relatively small and lacked the reserves needed in a period of rapid economic expansion. The Country Bankers Act 1826, now repealed,<sup>9</sup> addressed this problem by modifying the legislation<sup>10</sup> which prevented the formation of private banks having more than six partners, leaving the Bank of England's monopoly of banking business intact only within a radius of 65 miles of the metropolis. In 1833<sup>11</sup> this monopoly too was abolished. The effective development of joint stock banking in England and Wales dates from that time.

The Bank Notes Act 1826 is a relic of the old country banking system. The Bank Charter Act 1844 prohibited the establishment of any new note-issuing bank and when the last of the private note-issuing banks disappeared in 1921, the Bank of England became the sole authority empowered to issue banknotes in England and Wales. Modern legislation regulates the denominations of the notes it issues<sup>12</sup> and controls the amount of the note issue.<sup>13</sup> The Treasury and the Bank of England agree that the 1826 Act is obsolete and unnecessary.

The Hereditary Revenues Act 1856 was known as the Annuities Redemption Bill during its passage through Parliament. It authorised the redemption out of the Consolidated Fund of four purchasable hereditary pensions.<sup>14</sup> Three of these annuities<sup>15</sup> were redeemed many years ago and the entries relating to them have been repealed. The remaining annuity of £375.80<sup>16</sup> was sold by trustees to the Bank of

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<sup>5</sup> 22 Geo. 3. c.11. This Act was repealed by the Statute Law Revision Act 1871.

<sup>6</sup> For the background to these Acts, see Parl. Deb. (2nd series), 6 February 1826, Vol. 14, cols. 103–113 (copies of communications between the Government and the Bank of England); Clapham, *The Bank of England* (1966) ii, 90–107; J. M. Holden, *The History of Negotiable Instruments in English Law* (1955) 191–6.

<sup>7</sup> 3 Geo. 4. c.70 (1822), a temporary Act continuing the privilege until 5 January 1833.

<sup>8</sup> Parl. Deb. (2nd series), 27 February 1826, Vol. 14, cols. 909–10. At that time Bank of England notes were in general circulation only in the metropolis and its neighbourhood and in Lancashire.

<sup>9</sup> Statute Law Revision Act 1958.

<sup>10</sup> Bank of England Act 1800, now repealed.

<sup>11</sup> Bank Notes Act 1833, Bank of England Act 1833, both now repealed.

<sup>12</sup> Currency and Bank Notes Act 1954.

<sup>13</sup> Currency and Bank Notes Act 1928, s.3; Currency Act 1983, s.2.

<sup>14</sup> Parl. Deb. (3rd series), 6 June 1856, Vol. 142, cols. 1151–2 (Chancellor of the Exchequer). The Crown Lands Act 1853 had provided for the redemption of small perpetual pensions (not exceeding £10 per annum) which were charged on the hereditary possessions and land revenues of the Crown.

<sup>15</sup> Annuities originally granted to the Earl of Bath (£1,200), the Duke of Grafton (£3,384) and the Duke of Schoenberg (£2,160).

<sup>16</sup> The annuity was the residue of a perpetual pension of £2,000 granted in 1694 to the Count of Auverquerque (1641–1708), a Dutch general who attended William of Orange to England in 1688 and became eminent at Court.

England in 1895 and was bought by the Prudential Assurance Company after the Second World War as a form of government stock. The annuity ceased to be payable on 10 October 1983 when it was redeemed by the Treasury under the powers conferred by section 6 of the Miscellaneous Financial Provisions Act 1983.

Section 6 of the Isle of Man Loans Act 1880 enabled the Government of the Isle of Man to provide for the inscription and transfer of stock under the Colonial Stock Act 1877 in like manner as if the Isle of Man were a colony within the meaning of that Act.<sup>17</sup> Section 3 of the Colonial Stock Act 1892 applied the provisions of that Act relating to the transfer of stock by deed to the Isle of Man. The Colonial Stock Acts are obsolete and unnecessary in their application to the Isle of Man and no Isle of Man Government stocks are registered in the United Kingdom under their provisions. Section 7 of the Isle of Man Loans Act 1880 (investment by trustees in securities of Government of Isle of Man), the remaining provision of that Act, has been superseded for practical purposes by the Trustee Investments Act 1961 of the United Kingdom and the Trustee Act 1961 of Tynwald. The surviving papers on the Bill for the Isle of Man Loans Act 1880 show that the section was probably unnecessary even in 1880. The repeals are agreed to by the authorities in the Isle of Man.

The Public Works Loans Act 1881 was repealed in its application to Northern Ireland by the Public Works &c. Loans Act (Northern Ireland) 1953. The final repeal of the Act in its application to Great Britain is consequential on the repeal of section 7 (which amended the Public Works Loans Act 1875) by the National Loans Act 1968.

Section 10 of the Finance Act 1901 provides for an addition to, or deduction from, the contract price of goods in consequence of an increase or decrease in the relevant customs or excise duties, the addition or deduction being determined in default of agreement by the Commissioners of Customs and Excise. The repeal to section 10(3) is of an inappropriate and unnecessary reference to the Commissioners of Inland Revenue, who ceased to be responsible for the administration of excise duties in 1909.<sup>18</sup> Section 10(4) (retrospective operation of section 10 from 19 April 1901) is spent and of no significance now.

The Development and Road Improvement Funds Act 1909 was repealed for Northern Ireland by the Statute Law Revision Act (Northern Ireland) 1954. The final repeal of the Act as it applies to Great Britain is consequential on the repeal of Part I (Development) by the Miscellaneous Financial Provisions Act 1983 and of Part II (Road Improvement) by the Highways Act 1959 and the Roads (Scotland) Act 1984. The residual provisions of section 18 (obligation to consider the state and prospects of employment) and section 20 (short title) have no further operation and are obsolete.

In the Injuries in War (Compensation) Acts 1914, which deal with compensation schemes relating to First World War injuries, the repeals are of now obsolete and unnecessary statutory references to the Workmen's Compensation Act 1906, the Employers' Liability Act 1880 and the Superannuation Acts 1834 to 1914.

The War Loan (Supplemental Provisions) Act 1915, so far as unrepealed,<sup>19</sup> consists of provisions enacted during the First World War to encourage trade unions, friendly societies and societies approved for the purposes of the National Insurance Act 1911 to invest in war loan and other government stock. At that time the Bank of England would not accept an investment in the name of the trustees of a society, but only by the trustees in their own name, and the stock had to be re-registered whenever there was a change of trustees.<sup>20</sup> Accordingly section 8 of the 1915 Act provided a procedure whereby securities could be transferred to the Public Trustee in England and Wales if the Public Trustee agreed and rules were made authorising the transfer. Section 9 made analogous provision for Scotland under which securities could be vested in the Accountant of Court.

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<sup>17</sup> No equivalent provision was ever made for the Channel Islands.

<sup>18</sup> Excise Transfer Order 1909 (S.R. & O. 1909 No. 197, Rev. V p. 465).

<sup>19</sup> As originally enacted, the main purpose of the legislation was to establish a Post Office Stock Register in order to dispense with formalities for the small investor. These provisions have been replaced by the National Debt Act 1972, consolidating the National Debt Act 1958. The name of the register was changed in 1969 to the National Savings Stock Register.

<sup>20</sup> *Hansard* (H.C.), 20 December 1915, Vol. 77, col. 170.



The technical difficulties which led to the passing of the 1915 legislation do not arise in a modern context and the regulations relating to government stock expressly provide<sup>21</sup> for investments by trustees or other office holders by their official description instead of by name and for transfers of stock to be executed by the person for the time being occupying an office or position. The Public Trust Office still administers the investments of certain friendly societies in England and Wales and the relevant provisions were therefore consolidated by section 55 of the Friendly Societies Act 1974, which applies to England and Wales.<sup>22</sup> The remaining provisions of the War Loan (Supplemental Provisions) Act 1915 have been a dead letter for very many years and there is no record of them ever having been used. The repeal is agreed to by the Public Trust Office in England and Wales, the Accountant of Court and the Assistant Registrar of Friendly Societies in Scotland and the Registrar of Friendly Societies in Northern Ireland.

The Naval and Military War Pensions, &c. (Committees) Act 1917 has been repealed for the United Kingdom,<sup>23</sup> but the repeal did not extend to the Isle of Man. The Act as extended to the Isle of Man in 1918<sup>24</sup> is obsolete. It provided for the inclusion on a committee established under the Naval and Military War Pensions, &c. Act 1915 of two disabled men discharged from the armed forces during the First World War and of a woman receiving a pension as the widow or dependant of a man who had died from causes arising out of his service in the First World War. It has not been possible to give effect to these provisions for some years. The present scheme constituting the Isle of Man War Pensions Committee<sup>25</sup> provides for representation on the committee of various ex-service organisations and for the inclusion of not less than two women, one of whom represents women in receipt of pensions as widows or dependants of ex-servicemen.

Section 2 of the Admiralty Pensions Act 1921, so far as proposed for repeal, enabled a forfeited pension awarded under the Injuries in War (Compensation) Act 1915 to be paid to or for the benefit of a dependant of a pensioner. It is obsolete in consequence of the death of the last pensioner under the 1915 Act (pensions payable to persons disabled in connection with the laying and repair of submarine cables during the First World War). Section 50 of the Post Office Act 1969 transferred responsibility for the pension to the Post Office and that section was repealed as obsolete by the British Telecommunications Act 1981. The 1915 Act itself was repealed by the Post Office Act 1969,

Section 35 of the Finance Act 1924 (amendment of the stamp duty on a lease or tack of a dwelling house) became obsolete when section 56 of the Finance Act 1963, and Part II of Schedule 11 to that Act, substituted a revised table of stamp duties on leases.

Section 37 of the Finance Act 1924 and section 8 of the Finance Act (Northern Ireland) 1924 exempted from stamp duty certain securities issued pursuant to the Treaty of Peace with Turkey signed on 24 July 1923.<sup>26</sup> The sections are obsolete but were not repealed before because of the existence of "provisional receipts" issued by the Ottoman Debt Council against which payment was in theory possible until 10 November 1979.

The Workmen's Compensation (Transfer of Funds) Act 1927, which applies to Great Britain, is a relic of the system of workmen's compensation which was superseded on 5 July 1948 by the national insurance scheme brought in by the National Insurance (Industrial Injuries) Act 1946 and corresponding legislation in Northern Ireland.<sup>27</sup> The

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<sup>21</sup> Government Stock Regulations 1965 (S.I. 1965 No. 1420), reg. 12.

<sup>22</sup> The provisions relating to friendly societies were repealed for Scotland by the Friendly Societies Act 1971, Sch. 2, para. 45, and are obsolete in Northern Ireland. Approved societies for the purposes of the National Insurance Act 1911 disappeared in consequence of the National Insurance Act 1946 and the National Insurance Act (Northern Ireland) 1946.

<sup>23</sup> Statute Law Revision Act 1927. In the United Kingdom the Naval and Military War Pensions, &c. Acts 1915 and 1917 were largely superseded by the War Pensions Act 1921, which does not extend to the Isle of Man.

<sup>24</sup> S.R. & O. 1918 No. 549, made under the Isle of Man (War Legislation) Act 1914.

<sup>25</sup> GC 88/58. The scheme was made in 1940 and amended in 1944, 1952, 1953 and 1958.

<sup>26</sup> The Treaty of Peace (Turkey) Act 1924, which enabled effect to be given to the treaty, was repealed in 1966.

<sup>27</sup> National Insurance (Industrial Injuries) Act (Northern Ireland) 1946.

1927 legislation implemented a proposal by a Workmen's Compensation Special Sub-Committee of the Imperial Conference 1926<sup>28</sup> for the setting up of arrangements within the Empire for the transfer and administration of money awarded in respect of workmen's compensation. The 1927 Act, and corresponding legislation in Northern Ireland,<sup>29</sup> provided a framework for rules of court<sup>30</sup> facilitating the transfer to beneficiaries of funds between countries in the Empire which entered into reciprocal agreements. Reciprocal agreements were later entered into with Southern Rhodesia, Victoria, New South Wales, Queensland, India, Tasmania, New Zealand, South Africa and Eire,<sup>31</sup> under which various government agencies were given the function of distributing money to beneficiaries.

The case for a statutory scheme on this matter was always marginal, since even in 1926 there was a well-established practice in non-fatal cases, which it was not proposed to change, whereby in the event of a workman going abroad periodic compensation payments continued to be remitted direct to the workman himself.<sup>32</sup> Workmen's compensation can only still be awarded in respect of an industrial injury which arose before 5 July 1948 and any compensation in this category would now be paid direct to the beneficiary or, in appropriate cases, his trustee or other representative. Consultation with the authorities in the countries with which reciprocal agreements were made<sup>33</sup> has confirmed that the agreements are either no longer in force or that the machinery has become a dead letter which is never used and for which there is no need. In practice, therefore, the Workmen's Compensation (Transfer of Funds) Act is obsolete. Its repeal is agreed to by the Department of Social Security, the Foreign and Commonwealth Office, the Lord Chancellor's Department and the Scottish Courts Administration.

The Superannuation Act 1935,<sup>34</sup> so far as it related to civil service pensions, was consolidated by the Superannuation Act 1965, which was mostly repealed in 1972,<sup>35</sup> when civil service pensions were put on a non-statutory basis. The 1935 Act, so far as it related to judicial pensions, was repealed by the Judicial Pensions Act 1981. The residue provides only that pre-1935 statutory references (except in section 55(2) of the Government of Ireland Act 1920) to the Superannuation Acts 1834 to 1919 are to be construed as including a reference to the 1935 Act. The residual provisions are obsolete and meaningless now, since all the Acts comprising the Superannuation Acts 1834 to 1919<sup>36</sup> have been repealed.

The Bill for the Superannuation Act 1935 was amended in Parliament to introduce the exception relating to section 55(2) of the Government of Ireland Act 1920 and to add a new clause 18(2) enabling the 1935 legislation to be applied to existing Irish officers with specified exceptions and adaptations. The amendments were explained as follows—<sup>37</sup>

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<sup>28</sup> *Imperial Conference 1926, Summary of Proceedings* (1926) Cmd. 2768, Section XVIII, pp. 45-47. *Report of Workmen's Compensation Special Sub-Committee* published as Appendix IX to Cmd. 2769 (1927). The main recommendations of the sub-committee concerned a separate matter relating to statutory provisions in the Dominions depriving a workman of compensation on the ground of non-residence in the country in which the award was made.

<sup>29</sup> Workmen's Compensation Act (Northern Ireland) 1927, s.38, consolidating the Workmen's Compensation (Miscellaneous Amendments) Act (Northern Ireland) 1927, s.8.

<sup>30</sup> As to England and Wales, see the Workmen's Compensation (Transfer of Funds) Rules 1934 (S.R. & O. 1934 No. 708, Rev. XXIV p. 303), as amended in 1936, 1938, 1939, 1940 and 1941. As to Scotland, see the Act of Sederunt to regulate proceedings under the Workmen's Compensation (Transfer of Funds) Act 1927 (S.R. & O. 1935 No. 1251, Rev. XXIV p. 473), as amended in 1936, 1937, 1938 and 1939. As to Northern Ireland, see the Workmen's Compensation (Transfer of Funds) Rules (Northern Ireland) 1935 (S.R. & O. (N.I.) 1935 No. 67), as amended in 1940 and 1941.

<sup>31</sup> As to Eire, see the Exchange of Notes on Transfer and Administration of Workmen's Compensation Awards dated 25 February/19 May 1941. This was the last agreement entered into under the 1927 Act.

<sup>32</sup> *Report of Workmen's Compensation Special Sub-Committee*, op. cit., para. 22.

<sup>33</sup> Zimbabwe, Victoria, New South Wales, Queensland, India, Tasmania, New Zealand and the Republic of Ireland. In the case of South Africa, any agreement would have lapsed on 31 May 1962, not having been saved by the South Africa Act 1962.

<sup>34</sup> The Act resulted from the report of the Royal Commission on the Civil Service in 1931 and the subsequent recommendations of a joint committee of the Civil Service Whitley Council.

<sup>35</sup> Superannuation Act 1972.

<sup>36</sup> The Acts within this collective title were the Superannuation Acts 1834, 1859, 1860, 1866, 1876, 1881, 1884, 1887, 1892, 1909 and 1914, together with the Superannuation (Prison Officers) Act 1919.

<sup>37</sup> *Hansard* (H.L.), 24 June 1935, Vol. 97, col. 753 (Earl of Lucan).

“The two amendments on the Paper have become necessary because the Government of Northern Ireland have now discovered that this clause will affect certain of their civil servants, who were transferred, I think it was, in 1920, and they are not prepared to accept the terms of this Bill for those civil servants in Northern Ireland. The effect of the amendment is to exempt Northern Ireland from this Bill, and a further amendment to clause 18, I may explain, is to enable Northern Ireland, whenever they wish to come under the terms of this Bill to be able to do so by means of an Order in Council, made in pursuance of a resolution passed by both Houses of the Parliament of Northern Ireland”.

In 1936<sup>38</sup> the Act was applied to existing Irish officers, but section 55 of the Government of Ireland Act 1920, together with section 18(2) of the 1935 Act, were repealed in 1971.<sup>39</sup> The reference in the 1935 Act to section 55(2) of the Government of Ireland Act 1920 became otiose then.

The Czecho-Slovakia (Restrictions on Banking Accounts, &c.) Act 1939 was passed following the annexation of Czechoslovakia to the Third Reich on 15 March 1939. Section 1(1), which temporarily blocked Czech banking accounts, securities and gold, ceased to have effect on 31 October 1945.<sup>40</sup> The remainder of the Act validated any action taken by financial institutions to freeze Czech assets (in accordance with the request of the Chancellor of the Exchequer) before the Bill became law on 27 March 1939 and provided statutory authority for indemnifying claims for loss or damage sustained in consequence of compliance with the Chancellor's request or the provisions of the Act. The Treasury and the Bank of England agree that the Act is spent and unnecessary.

Section 3 of the Workmen's Compensation Act 1943, the only remaining provision,<sup>41</sup> provided statutory authority enabling the Treasury to contribute towards the cost of the medical expenses fund established by the Silicosis and Asbestosis (Medical Arrangements) Scheme 1931.<sup>42</sup> Under the system then in operation, the fund received prescribed fees paid by employers and paid out the remuneration and other expenses of the members of a medical board and also the cost of any radiological or post-mortem examinations. Following the replacement of the workmen's compensation scheme by a system of national insurance in 1948, the medical expenses fund was wound up by regulations made in 1949.<sup>43</sup> Its assets were transferred to the Industrial Injuries Fund which also became responsible for any further liabilities. Section 3 of the Workmen's Compensation Act 1943 is accordingly obsolete. So far as can be ascertained, the power it conferred was never exercised.

The Foreign Compensation Acts 1950, 1962 and 1969 constitute the Foreign Compensation Commission and provide for its functions and procedure. The current references of the Commission are provided by Order in Council under section 3 of the 1950 Act. The following provisions relate to earlier references to the Commission and are spent in consequence of the completion of the work in connection with those references—

- (a) section 2, and the preamble, of the 1950 Act (distribution of compensation under Yugoslav and Czechoslovak agreements);
- (b) sections 1 and 2, and the preamble, of the 1962 Act (additional compensation in settlement of claims arising from events in Egypt between 1956 and 1959);

<sup>38</sup> Superannuation Act (Application to Northern Ireland Officers) Order 1936 (S.R. & O. 1936 No. 86, Rev. XVI p. 1055).

<sup>39</sup> Pensions (Increase) Act 1971, Sch. 8, Part II.

<sup>40</sup> Czecho-Slovakia (Restrictions on Banking Accounts, &c.) (Termination) Order 1945 (S.R. & O. 1945 No. 1354, Rev. V p. 610).

<sup>41</sup> Sections 2, 3 and 4 were excepted from the general repeal of the Workmen's Compensation Acts in 1948. Section 2 (benefit scheme for workmen formerly employed in coal mining) was repealed by the Family Allowances and National Insurance Act 1961. Section 4 (power to regulate drilling of siliceous rock) was repealed by the Mines and Quarries Act 1954.

<sup>42</sup> S.R. & O. 1931 No. 341, Rev. XXIV p. 642, made under the Workmen's Compensation (Silicosis and Asbestosis) Act 1930, s.2.

<sup>43</sup> Pneumoconiosis (Medical Arrangements) (Modification) Regulations 1949 (S.I. 1949 No. 239), made under the National Insurance (Industrial Injuries) Act 1946.

- (c) sections 1, 2(2) and 4(1), and the preamble, of the 1969 Act (implementation of Anglo-Soviet Agreement of 5 January 1968.)<sup>44</sup>

The textual amendments of sections 3 and 4(3) of the 1950 Act (Schedule 2 to the draft Bill) are consequential on the proposed repeal of section 2 of that Act.

Section 4(4) of the Foreign Compensation Act 1950 (final determination of applications by the Commission) has been superseded by section 3 of the 1969 Act (determinations of the Commission and appeals against such determinations).<sup>45</sup> The repeal of section 3(12) of the 1969 Act is consequential. Section 3(11) of the 1969 Act (determinations of the Commission of which notice was sent by them before 16 May 1969) and section 6(3), so far as proposed for repeal, of the 1950 Act (first financial year of the Commission) are spent. The proposed repeals, and consequential amendments, are agreed to by the Foreign and Commonwealth Office and the Department of Trade and Industry.

In the Finance Act 1963 the repeals are of spent provisions which abolished television licence excise duty or repealed earlier enactments relating to that or other duties of customs or excise or the stamp duty on India stock. Television licence excise duty, which yielded £13 million a year in revenue, accounted for £1 out of the total of £4 then paid for a television licence. It was abolished to make additional finance available to the B.B.C. following the introduction of a second television channel. At the same time the basic television licence fee was increased by £1, so that the cost to the viewer remained the same.<sup>46</sup>

Section 6 of the Emergency Laws (Re-enactments and Repeals) Act 1964, re-enacting a Defence Regulation,<sup>47</sup> empowered orders to be made controlling the maximum prices to be charged for liquid milk. The section was originally due to continue in force until the end of 1969, but its operation was continued by successive Orders in Council<sup>48</sup> until 31 December 1984, when the power was finally allowed to lapse.

The Superannuation (Amendment) Act 1965 was for the most part consolidated by the Superannuation Act 1965 and the Judicial Pensions Act 1981. The main residual provision is section 4(2), which enacted a reserve power to amend pre-1965 enactments in consequence of the establishment of Her Majesty's Diplomatic Service on 1 January 1965.<sup>49</sup> This power has never been needed or exercised and now serves no useful purpose. It has also been overtaken by the Superannuation Act 1972, by virtue of which pensions for the civil service and related types of employment are regulated by non-statutory schemes instead of by legislation.<sup>50</sup> Section 4(1) which introduced Schedule 1 (modifications of enactments) is obsolete in consequence of the repeal of the enactments concerned. The remaining residual provisions are ancillary and their repeal is consequential. The Treasury Solicitor, the Superannuation Division of the Treasury and the Foreign and Commonwealth Office agree.

The Redundancy Payments Act 1965 was for the most part consolidated by Part VI of the Employment Protection (Consolidation) Act 1978 and its related Schedules. Section 45 (amendment of Industrial Training Act 1954) was repealed by the Employment and Training Act 1981. Section 27(6) (payment of contributions to Secretary of State), section 28(1) to (3) (collection of contributions), section 29 (application of

<sup>44</sup> Cmnd. 3517. The distribution of the compensation fund established in consequence of the 1968 Agreement was provided for by the Foreign Compensation (Union of Soviet Socialist Republics) Order 1969 (S.I. 1969 No. 735).

<sup>45</sup> Section 3 of the Foreign Compensation Act 1969 was enacted following the decision of the House of Lords in *Anisminic Ltd v. Foreign Compensation Commission* [1969] 2 A.C. 147.

<sup>46</sup> *Hansard* (H.C.), 3 April 1963, Vol. 675, col. 460 (Chancellor of the Exchequer).

<sup>47</sup> Defence (General) Regulations 1939, Reg. 55AB, as continued temporarily by the Emergency Laws (Repeal) Act 1959, Schedule 2, Part A.

<sup>48</sup> Milk (Extension of Period of Control of Maximum Prices) Order 1969 (S.I. 1969 No. 1058); Milk (Extension of Period of Control of Maximum Prices) Order 1974 (S.I. 1974 No. 2139); Milk (Extension of Period of Control of Maximum Prices) Order 1979 (S.I. 1979 No. 1602).

<sup>49</sup> The service was established by virtue of the Diplomatic Service Order 1964, a prerogative order published in the London Gazette on 24 November 1964, which amalgamated Her Majesty's Foreign Service, the Commonwealth Service and the Trade Commission Service into a single service.

<sup>50</sup> The current scheme, which applies to Her Majesty's Diplomatic Service, is the Principal Civil Service Pension Scheme 1974, as amended.

contributions) and section 55(6)(b) (expenses) were not repealed in 1978 because these provisions had been applied by regulations made in 1975<sup>51</sup> for the purpose of facilitating the winding up of the system of insurance under the National Insurance Act 1965; but the provisions have ceased to be necessary in that context. Other provisions of the Redundancy Payments Act 1965 were applied with modifications by regulations made in 1976<sup>52</sup> which were amended in 1981<sup>53</sup> to apply the corresponding provisions of the Employment Protection (Consolidation) Act 1978. The Department of Social Security and the Department of Employment agree that the Redundancy Payments Act 1965, so far as unrepealed, is obsolete and unnecessary.

Section 53(5) of the Finance Act 1966 extended that Act, so far as it affected the operation of the Sugar Act 1956, to the Isle of Man. The repeal is consequential on the repeal of section 52 of the Finance Act 1966 (which amended section 8 of the Sugar Act 1956) by the European Communities Act 1972. The residue of the Sugar Act 1956 was repealed by the Food Act 1984.

Sections 4(2) and 5 of the Prices and Incomes Act 1967, the unrepealed residue of that Act, enacted complex technical provisions supplementing Part II of the Prices and Incomes Act 1966 (notices and standstills), which expired on 31 December 1970<sup>54</sup> and Part IV of that Act (temporary restrictions on prices and incomes) which expired on 12 August 1967. The Prices and Incomes Act 1966 was finally repealed by the Counter-Inflation Act 1973 and the Department of Trade and Industry agrees that the supplementary provisions of the 1967 Act are long since spent.

In section 3 (local loans) of the National Loans Act 1968, the repeals are of spent provisions relating to the winding up of the Local Loans Fund on 1 April 1968, effecting repeals in section 5(3) of the Public Works Loans Act 1875, or extinguishing the local loans listed in Schedule 3 (loans to harbour authorities, etc. under the Harbours and Passing Tolls, &c. Act 1861, the South Staffordshire Mines Drainage Acts 1873 to 1914 or the Public Works Advances Act 1842).

Section 8 of the Industrial Expansion Act 1968, as amended by the Concorde Aircraft Act 1973, made provision for loans and guarantees in connection with the production of the Concorde aircraft in the United Kingdom. Research and development work as such on Concorde ceased when the engine development phase came to an end on 31 December 1980; and contributions by the Government to the cost of supporting Concorde in service ceased on 31 March 1984, when responsibility for this expenditure was assumed by British Airways and the existing contract was formally terminated.<sup>55</sup> The Treasury, the Department of Trade and Industry and the Department of Transport agree that the statutory provisions are spent. The repeal of section 12(b) (modification of section 1(1) of the Civil Aviation Act 1949) is consequential.

Section 12(a) of the Industrial Expansion Act 1968 (which similarly modified section 1(1) of the Civil Aviation Act 1949) in effect provided statutory authority to enable the Government to purchase the assets of the Beagle Aircraft Company. The company, a wholly-owned subsidiary of Pressed Steel Fisher Ltd, was an amalgamation of two old aircraft companies—Auster and Miles. Between 1961 and 1966 the company accumulated losses and in 1966 Pressed Steel Fisher Ltd. indicated their intention of withdrawing from the light aircraft industry. The Government agreed to purchase the assets of the company in the light of the report of the Plowden Committee.<sup>56</sup> However, the company continued to operate at a loss and in 1969 it became apparent that the original plan for the company to break even by 1972 was over-ambitious and that further injections of capital were needed to expand the product range. The Government, which had already injected £6 million into the company, decided that the

<sup>51</sup> Social Security Finance (Transitional) Regulations 1975 (S.I. 1975 No. 567), reg. 6, made under the Social Security (Consequential Provisions) Act 1975.

<sup>52</sup> Employment Protection (Offshore Employment) Order 1976 (S.I. 1976 No. 766), made under the Employment Protection Act 1975.

<sup>53</sup> Employment Protection (Offshore Employment) (Amendment) Order 1981 (S.I. 1981 No. 208).

<sup>54</sup> Prices and Incomes Act 1966 (Continuation of Part II) Order 1969 (S.I. 1969 No. 1830).

<sup>55</sup> *Hansard* (H.C.), *Written Answers*, 9 November 1982, 17 December 1982, 8 March 1983, 30 January 1984, 13 February 1984.

<sup>56</sup> *Report of the Committee of Inquiry into the Aircraft Industry* (1965) Cmnd. 2853. It recommended that light aircraft manufacture merited government assistance for a strictly limited period of time, with progress being reviewed periodically.

investment of further public funds could not be justified and the company was put into liquidation.<sup>57</sup> It was finally dissolved on 5 May 1982. Section 12(a) of the Industrial Expansion Act 1968 is accordingly spent.

Section 14 of the Industrial Expansion Act 1968 consolidated earlier enactments relating to the exercise of the functions of the Board of Trade but it was overtaken by the Secretary for Trade and Industry Order 1970 (S.I. 1970 No. 1537). The Department of Trade and Industry agrees that the section is unnecessary and can be repealed.

The repeal of the remaining provisions of the Industrial Expansion Act 1968 (apart from section 11) is consequential. Section 11 amended the Development of Inventions Act 1967 and its effect would be preserved by Schedule 2 to the draft Bill.

In the Decimal Currency Act 1969, section 3(3)(f) provided for the conversion of references to the old money in a document for the payment of money issued before 15 February 1971 under the authority of the Secretary of State for Social Services or the Ministry of Health and Social Services for Northern Ireland. Payment documents within the meaning of this provision were valid for only a limited period and any pre-1971 instrument would now need to be replaced by a fresh document before payment could be made. The responsible departments agree that the provision is obsolete and unnecessary.

The Foreign Compensation Act 1969 is discussed above (Foreign Compensation Acts 1950, 1962 and 1969).

The Coinage Act 1971 consolidated the Coinage Acts 1870 to 1946, together with the relevant provisions of the Decimal Currency Acts 1967 and 1969. In Schedule 2 (construction of earlier enactments referring to silver coin), the entry relating to section 42 of the Customs Consolidation Act 1876 is obsolete in consequence of a repeal to that section effected by the Forgery and Counterfeiting Act 1981.

In the Counter-Inflation (Temporary Provisions) Act 1972, the operation of section 2 (prices, pay, dividends and rent) was terminated on 2 April 1973 by virtue of section 3(2) of the Counter-Inflation Act 1973. The repeal of the remaining provisions of the Act is consequential.

The Concorde Aircraft Act 1973 amended section 8 of the Industrial Expansion Act 1968 (finance for Concorde project). Its repeal is consequential on the proposed repeal of that section.

Section 1 of the Prices Act 1974, as amended by section 1 of the Prices Act 1975, provided for the payment of food subsidies on milk, butter, bread, cheese, tea and flour. The subsidies were always intended to be temporary<sup>58</sup> and those for milk and butter were expressly limited to payments in respect of the year ending 31 March 1975 and each of the following two years.<sup>59</sup> The subsidy for tea was ended on 26 September 1976, for flour on 30 April 1976 and for bread and cheese on 17 July 1977.<sup>60</sup> The Treasury, the Department of Trade and Industry and the responsible agricultural departments<sup>61</sup> agree that for practical purposes the legislation is dead wood and that any reintroduction of these subsidies would require fresh primary legislation. The repeal of section 8(2) of the Prices Act 1974, and of the provisions of the Schedule to that Act relating to the enforcement of food subsidies, is consequential.

Section 6 of the Prices Act 1974 provided for the abolition of the Pay Board established by the Counter-Inflation Act 1973. The Pay Board was abolished on 26 July 1974<sup>62</sup> and the Department of Trade and Industry agrees that the section is spent.

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<sup>57</sup> *Hansard* (H.C.), 2 December 1969, Vol. 792, col. 1305 (Mr Wedgwood Benn).

<sup>58</sup> See e.g. *Hansard* (H.C.), 18 March 1976, Vol. 907, cols. 1767-71 (Under-Secretary of State for Prices and Consumer Protection).

<sup>59</sup> Prices Act 1974, s.1(3), (4), Prices Act 1975, s.1(1), Prices Act 1974 (Continuation of Section 1) Order 1976 (S.I. 1976 No. 358). Butter continued to be subsidised under an EEC measure.

<sup>60</sup> *Hansard* (H.C.), 31 January 1979, Vol. 961, col. 446 (*Written Answers*).

<sup>61</sup> Ministry of Agriculture, Fisheries and Food, Welsh Office, Department of Agriculture and Fisheries for Scotland, Intervention Board for Agricultural Produce.

<sup>62</sup> Counter-Inflation (Abolition of Pay Board) Order 1974 (S.I. 1974 No. 1218).

In Schedule 3 to the Social Security (Consequential Provisions) Act 1975, paragraph 23 consolidated the 1975 residue of the National Insurance (Industrial Injuries) Act 1946 (saving for rules of court made or to be made under the Workmen's Compensation (Transfer of Funds) Act 1927). Paragraph 34 consolidated the corresponding saving in Northern Ireland. The repeals are consequential on the proposed repeal of the 1927 Act.

The Statutory Corporations (Financial Provisions) Act 1975, so far as proposed for repeal, enabled orders to be made for compensating the Central Electricity Generating Board, the Area Electricity Boards in England and Wales, the North of Scotland Hydro-Electric Board, the South of Scotland Electricity Board, the Post Office and the British Gas Corporation for financial losses incurred by them in the financial years 1974-75 and 1975-76 in consequence of compliance with the national policy relating to prices. The responsible departments agree that these provisions, and the orders made under them,<sup>63</sup> are spent.

Section 1 of the Remuneration, Charges and Grants Act 1975 temporarily removed any contractual obligation of an employer to pay remuneration which would be in excess of the limits imposed by Government policy, as set out in a White Paper.<sup>64</sup> The section expired on 31 July 1978 by virtue of section 2, as amended by section 17 of the Price Commission Act 1977. Section 4 (power to reduce grants to local authorities if action by them results in the payment of remuneration in excess of limits provided by section 1) and section 6 (payment of rent limitation subsidy in Scotland for the year 1976-77) are spent. The remainder of the Act consists of ancillary provisions and their repeal is consequential.

Section 17 of the Price Commission Act 1977 amended the Remuneration, Charges and Grants Act 1975 and its repeal is consequential on the proposed repeal of that Act.

The House of Commons (Administration) Act 1978 was enacted during the same session of Parliament as the Employment Protection (Consolidation) Act 1978. Paragraph 4 of Schedule 2 (supplementary and consequential provisions) amended section 5(4)(b) of the Contracts of Employment Act 1972<sup>65</sup> and is obsolete in consequence of the repeal of that Act by the Employment Protection (Consolidation) Act 1978.

In the Employment Protection (Consolidation) Act 1978, the proposed repeals to Schedule 15 are of transitional provisions relating to the pre-1978 law which are agreed by the Department of Employment to be spent and unnecessary now.<sup>66</sup> In Schedule 16, paragraph 1 amended the House of Commons Offices Act 1846 and its repeal is consequential on the repeal of that Act by the House of Commons (Administration) Act 1978.

Section 1 of the Competition Act 1980, as supplemented by Schedule 1 to that Act, provided for the abolition of the Price Commission established by the Counter-Inflation Act 1973. The Price Commission ceased to exist on 4 May 1980<sup>67</sup> and the Department of Trade and Industry agrees that the provisions are spent or unnecessary.

The repeals to the Finance Act 1981 and the Finance Act 1985 would correct a technical drafting mistake. Section 135(1) of the Finance Act 1981, as originally enacted, excluded the enactments relating to capital gains tax, capital transfer tax and development land tax from applying in respect of property held on the trusts of the trust instrument scheduled to the Chevening Estate Act 1959. The section was consolidated, as respects capital transfer tax, by section 156 of the Capital Transfer Tax Act 1984 and

<sup>63</sup> Compensation for Limitation of Prices (Electricity Boards) Order 1975 (S.I. 1975 No. 1903); Compensation for Limitation of Prices (Scottish Electricity Boards) Order 1975 (S.I. 1975 No. 1909); Compensation for Limitation of Prices (Post Office) Order 1975 (S.I. 1975 No. 1911); Compensation for Limitation of Prices (British Gas Corporation) Order 1976 (S.I. 1976 No. 1108); Compensation for Limitation of Prices (Post Office) Order 1977 (S.I. 1977 No.23); Compensation for Limitation of Prices (Electricity Boards) Order 1977 (S.I. 1977 No. 197).

<sup>64</sup> "The Attack on Inflation", (1975) Cmnd. 6151.

<sup>65</sup> Section 5 of the Contracts of Employment Act 1972, as amended in 1978, was consolidated by section 4 of the Employment Protection (Consolidation) Act 1978.

<sup>66</sup> See also *Halsbury's Statutes* (4th ed. 1986), Vol. 16, p.596.

<sup>67</sup> Competition Act 1980 (Commencement No. 1) Order 1980 (S.I. 1980 No. 497).

that Act consequentially repealed the 1981 reference to capital transfer tax. In 1985, when development land tax was abolished, section 135 of the Finance Act 1981 was again amended, but due to an oversight the reference to capital transfer tax was restored. The reference is surplusage and the Inland Revenue supports its repeal.

In the Civil Aviation Act 1982, a consolidation of the Civil Aviation Act 1949, paragraph 7 of Schedule 15 amended section 12 of the Industrial Expansion Act 1968 (which modified section 1(1) of the Civil Aviation Act 1949) to substitute a reference to the corresponding provisions of the Civil Aviation Act 1982. The repeal is consequential on the proposed repeal of section 12 of the Industrial Expansion Act 1968.

Section 3 of the Miscellaneous Financial Provisions Act 1983 wrote off debts of £13.4 million, owed by Zimbabwe to the Consolidated Fund, which stemmed from pre-1965 obligations contracted by the Governments of Southern Rhodesia.<sup>68</sup> The section has had its effect and is spent.

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<sup>68</sup> *Hansard* (H.C.), 14 February 1983, Vol. 37, col. 65 (Mr John Wakeham).



## PART III

### IRELAND

Following the First World War complex legislation was enacted for the establishment of the Irish Free State and the government of Northern Ireland. The Government of Ireland Act 1914 never came into operation and it was replaced by the Government of Ireland Act 1920 which set up separate Parliaments for Northern and Southern Ireland. Before that Act came fully into force, Articles of Agreement, signed on 6 December 1921, recognised a provisional government for Southern Ireland as a preliminary to the creation of an Irish Free State. The Articles were implemented by the Irish Free State (Agreement) Act 1922. On 5 December 1922, two further Acts were passed: the Irish Free State Constitution Act 1922 (Session 2), which ratified the detailed constitution of the Irish Free State, and the Irish Free State (Consequential Provisions) Act 1922 (Session 2), which restricted the Government of Ireland Act 1920 to Northern Ireland and made other consequential provisions. In 1925 and 1929 further legislation was enacted.

With the passage of time the need for this complex web of legislation has disappeared. Most of the Acts are spent in their operation, or obsolete, and only the Government of Ireland Act 1920, so far as unrepealed, and certain provisions of the Irish Free State (Consequential Provisions) Act 1922 (Session 2) continue to be operative as part of the modern law. The proposals in this Part, discussed below, would remove the now redundant statutory provisions from the statute book.

The Eire (Confirmation of Agreements) Act 1938, which confirmed three agreements entered into with the Government of Eire in 1938, was repealed as spent in 1981.<sup>1</sup>

#### *Irish Free State (Consequential Provisions) Act 1922 (Session 2)*

Section 1 of the Irish Free State (Consequential Provisions) Act 1922 (Session 2) repealed the Government of Ireland Act 1920 in its application to Southern Ireland and introduced modifications of the law of Northern Ireland which took effect on 8 December 1922. The section is only still relevant in so far as it introduces Schedule 1 (provisions relating to the Privy Council and Great Seal of Northern Ireland) and is preserved to that extent.

Section 2 and Schedule 2, so far as unrepealed,<sup>2</sup> made provision for the retirement of the existing judiciary of Southern Ireland and charged on the Consolidated Fund pensions awarded to them on the abolition of their offices. The provisions applied to the nine judges of the Supreme Court of Judicature in Southern Ireland and the 16 judges of the county courts in Southern Ireland (of whom three held the appointment of recorder for Dublin, Cork and Galway respectively). The offices of these judges were abolished in 1924 by an Act of the Oireachtas.<sup>3</sup> The provisions became inoperative in 1949, when the last of the pre-1924 Irish judges died.

Section 5 made provision as to relief from double taxation. The power was exercised by instruments made in 1923<sup>4</sup> as respects income tax, estate duty and stamp duties and in 1926<sup>5</sup> as respects succession and legacy duty. Relief from double taxation in respect of income tax has been provided for under other legislation since 1926 and the Inland Revenue have confirmed that section 5, and the instruments made under it, are spent except in their application to stamp duties and to pre-1975 estate duty.<sup>6</sup> A consequen-

<sup>1</sup> Statute Law (Repeals) Act 1981, Sch. 1, Part V. Two of the agreements, providing for the transfer of Admiralty property and the settlement of outstanding financial claims, were given effect to soon after the 1938 Act was passed. The third, a trade agreement, was superseded by a trade agreement which entered into force on 1 July 1966.

<sup>2</sup> Provisions for the payment of pensions to the Lord Chancellor of Ireland and the Irish Land Commissioners, whose offices were abolished in 1922, were repealed by the Statute Law Revision Act 1950.

<sup>3</sup> Courts of Justice Act 1924. The Act reconstituted the whole system of courts in the Irish Free State.

<sup>4</sup> Relief in respect of Double Taxation [Irish Free State] Declaration 1923 (S.R. & O. 1923 No. 406).

<sup>5</sup> Relief in respect of Double Taxation (Succession and Legacy Duty) (Irish Free State) Declaration 1926 (S.R. & O. 1926 No. 975).

<sup>6</sup> Part II of the Schedule to the 1923 instrument (estate duty) was revoked as to deaths occurring after 13 March 1975 by the Finance Act 1975. The 1926 instrument is spent in consequence of the final abolition of legacy duty and succession duty by the Finance Act 1975, s.50.

tial amendment of section 5(4) (Schedule 2 to the draft Bill) provides for the continued application of the section to Northern Ireland.

Section 6(1)(b) provided legislative machinery for severing the system of national health insurance in Great Britain from that in the Irish Free State. The severance was effected by Orders in Council<sup>7</sup> providing for transitional arrangements and making legislative adaptations of the existing law. Sir Arthur Quekett (1881–1945) explained in 1933<sup>8</sup> that the transitional arrangements were finally completed by 1 March 1927 and that the legislative adaptations became spent on the passing of the National Health Insurance Act 1924, which consolidated the legislation relating to national health insurance in Great Britain and Northern Ireland. Section 6(1)(c) provided legislative machinery for implementing reciprocal arrangements with the Irish Free State with respect to unemployment insurance. The Orders in Council which were made for this purpose<sup>9</sup> were formally revoked when the Unemployment Insurance Acts 1920 to 1934 were consolidated by the Unemployment Insurance Act 1935 and the Unemployment Insurance Act (Northern Ireland) 1936. In 1948 the legislative codes relating to national health insurance and unemployment insurance were repealed<sup>10</sup> and replaced by a unified national insurance system which has itself been replaced by later social security legislation. Reciprocity with countries outside the United Kingdom, including the Republic of Ireland, is now provided for by section 143 of the Social Security Act 1975. Current agreements on social security with the Republic of Ireland have effect by virtue of that Act.

#### *Other Acts*

The Irish Free State (Agreement) Act 1922 made provision for the establishment of the Irish Free State with the status of a Dominion within the British Empire, and for the transfer to a provisional government of powers enabling it to function. The Act took the form of giving the force of law to Articles of Agreement signed on 6 December 1921, which thereby became in effect an interim constitution, pending the making of more permanent arrangements by the later legislation mentioned below. The Articles also made provision for restricting the powers of the Parliaments of the Irish Free State and of Northern Ireland, for the appointment of a boundary commission and for obligations in connection with the national debt and the compensation of public officers in consequence of the change of government. The Irish Free State ceased to exist in 1937 and the arrangements made by the Articles in relation to it have long been spent or obsolete. The Republic of Ireland is a sovereign state, and a member of the European Economic Community, and the Ireland Act 1949 formally declared that it had ceased to form part of the dominions of the Crown. As respects Northern Ireland, the residual effect of the Act would be preserved by a technical saving (Schedule 2 to the draft Bill) for the validity or otherwise of Acts of the Parliament of Northern Ireland passed before that Parliament ceased to exist in 1973.

The Irish Free State Constitution Act 1922 (Session 2) was parallel legislation<sup>11</sup> formally enacting the 1922 constitution of the Irish Free State. The constitution then adopted was superseded by the present constitution of the Republic of Ireland, which came into force on 29 December 1937.

The Ireland (Confirmation of Agreement) Act 1925 confirmed an agreement dated 3 December 1925 and is spent or obsolete. The main effect of the 1925 agreement was to abolish the Council of Ireland established in 1920<sup>12</sup> and to revoke the provision which

<sup>7</sup> Government of Ireland (Adaptation of Health Insurance Acts) Order 1922 (S.R. & O. 1922 No. 444); National Health Insurance (International Arrangements) Order 1923 (S.R. & O. 1923 No. 106).

<sup>8</sup> Quekett, *The Constitution of Northern Ireland*, Part II (1933), 513, 524. Sir Arthur Quekett was Parliamentary Counsel to the Government of Northern Ireland 1921–1945.

<sup>9</sup> Government of Ireland (Adaptation of Unemployment Insurance Acts) Order 1922 (S.R. & O. 1922 No. 185); Irish Free State (Unemployment Insurance Arrangements) Order 1924 (S.R. & O. 1924 No. 387).

<sup>10</sup> National Insurance Act 1946, s.65; National Insurance Act (Northern Ireland) 1946, s.62. The repeals came into operation on 5 July 1948.

<sup>11</sup> The Irish legislation was the Constitution of the Irish Free State (Saorstát Éireann) Act 1922. This Act, and legislation amending it, was repealed in 1937.

<sup>12</sup> Government of Ireland Act 1920, ss.2, 3, 7 and 10 and Sch. 1; Irish Free State (Consequential Provisions) Act 1922 (Session 2), Sch. 1, para. 3. Provision made in 1925 respecting a transfer of functions to the Parliament of Northern Ireland became obsolete when that Parliament was abolished in 1973.

had been made under the 1921 Articles<sup>13</sup> for the appointment of a boundary commission. It also formally released the Irish Free State from its 1921 obligations in respect of the public debt and war pensions and provided for the settlement of outstanding pre-1919 claims for damage to property.<sup>14</sup>

The Irish Free State (Confirmation of Agreement) Act 1929 confirmed an agreement dated 27 June 1929 modifying Article 10 of the 1921 agreement (compensation to public officers in consequence of the change of government). The legislation was passed following the decision of the Privy Council, on appeal from the Supreme Court of the Irish Free State,<sup>15</sup> in *Wigg v. Attorney General of the Irish Free State* [1927] A.C. 674. In that case it was held that, as no authority had been set up by the Irish Free State to determine the amount of the compensation payable to officers who had transferred to its service, the transferred officers could assert their rights through the courts. The 1929 agreement, which provided new machinery for the determination of pending claims by transferred officers, was implemented in the same year by legislation in the Irish Free State<sup>16</sup> and the Act of 1929 is spent. Similar legislation<sup>17</sup> governing the compensation of public officers who transferred to the service of the Government of Northern Ireland was repealed as spent in 1971.

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<sup>13</sup> The boundary commission which was established pursuant to Article 12 reported that no change should be made in the boundary of Northern Ireland. Its report was not officially published, but became publicly available on 1 January 1968.

<sup>14</sup> Statutory provision to increase the compensation payable was made by the Damage to Property (Compensation) (Amendment) Act 1926, an Act of the Oireachtas.

<sup>15</sup> Appeals to the Privy Council from the Irish Free State were effectively abrogated by the Irish Free State Constitution (Amendment) Act 1933. See *Moore v. Attorney General for the Irish Free State* [1935] A.C. 484.

<sup>16</sup> Civil Service (Transferred Officers) Compensation Act 1929.

<sup>17</sup> Government of Ireland Act 1920, s.55(3) and Sch. 8. These provisions were repealed by the Pensions (Increase) Act 1971.

PART IV  
LOCAL GOVERNMENT

The Act of 1696 is a relic of the system of parochial government in England which existed before the 19th century. It operated on an Act of 1690<sup>1</sup> which was then the principal legislation providing for the paving and cleansing of the streets of London, its main effect being to increase the penalties under that Act. It also appointed commissioners to negotiate the demolition of houses which then obstructed the approach to London Bridge. The principal Act of 1690 was repealed as obsolete in 1948<sup>2</sup> but the consequential repeal of the Act of 1696 was overlooked then.

In the City of London Police Act 1839, the proposed repeals are of statutory provisions relating to the administration of the City of London Police Force, or the old police rate, which are obsolete, spent or unnecessary. The repeals, which supplement those in Part I of Schedule 1 to the draft Bill (summary offences and procedure), have been considered and agreed to by the authorities in the City and, so far as they are concerned, by the Home Office and the Department of the Environment.

The City of London Police Act 1839 established a professional force, modelled on the Metropolitan Police, to replace the existing system of policing in the City. Sections 3 to 5, 9, 14 and 25 still provide for the constitution and government of the City Police Force, but the following provisions are proposed for repeal—

- (a) section 1 and the preamble (repeal of earlier legislation of 1736 for the policing of the City);
- (b) section 3 (appointment of Commissioner) so far as it provides that the salary of the Commissioner shall not be less than £800 a year;
- (c) section 7 (Commissioner not to serve on juries or be engaged in business) which has been superseded by the Juries Act 1974 or is now unnecessary<sup>3</sup>;
- (d) section 10 (office or employment not to disqualify from receiving half pay), which is obsolete.<sup>4</sup>

Sections 58 to 85 of the City of London Police Act 1839, which provided for the levying, assessment and collection of a police rate, have long been obsolete and unnecessary. In 1907<sup>5</sup> the police rate and other separate city rates were replaced by a consolidated general rate. From 1919 onwards a non-statutory contribution to the costs of the City Police Force was made by the Government from the Police Vote. The grant was placed on a statutory basis in 1950<sup>6</sup> and is now paid under section 31 of the Police Act 1964.<sup>7</sup> Apart from the police grant, the expenses of the City Police Force are met from money levied and collected as part of the general rate, the machinery for which is provided by the General Rate Act 1967 and the rating provisions of the City of London (Union of Parishes) Act 1907.<sup>8</sup>

The statutory references in the City of London Police Act 1839 to the liberties of the City are obsolete in consequence of the Local Government Act 1888, which finally merged these areas in the adjoining administrative county of Middlesex. The remaining

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<sup>1</sup> 2 Will. & Mar. Sess. 2. c.8. It replaced similar legislation of 1661 which had been allowed to expire.

<sup>2</sup> Statute Law Revision Act 1948. The 1690 Act, as it applied to the City of London, was largely replaced in 1766 by the Act 6 Geo. 3. c.26.

<sup>3</sup> In 1839 it was not unusual for the holders of public offices to carry on other businesses or professions and John Wray (1782–1869), the first Receiver of the Metropolitan Police, did so when first appointed. The Police Regulations 1987 (S.I. 1987 No. 851) now define the business interests which are incompatible with membership of a police force.

<sup>4</sup> Section 19 of the Metropolitan Police Act 1839, which had made corresponding provision, was repealed in 1887.

<sup>5</sup> City of London (Union of Parishes) Act 1907 (c.cxl), s.15.

<sup>6</sup> Miscellaneous Financial Provisions Act 1950, s.3. This provision was enacted following a recommendation by the Public Accounts Committee that payment of grants in respect of approved police expenditure in England and Wales should have specific statutory authority.

<sup>7</sup> Police (Grant) Order 1966 (S.I. 1966 No. 223), as amended.

<sup>8</sup> This legislation will be replaced by the Local Government Finance Act 1988 when the community charges created by that Act are brought into operation.

repeals to the 1839 Act are consequential or are of spent ancillary or transitional provisions.

In the Town Police Clauses Act 1847, as it applies to England and Wales, section 77 and 78 (access to special Act) were originally enacted because the Act was adoptive legislation which applied only in towns which had incorporated its provisions under special local legislation. The Town Police Clauses Act 1847 has for practical purposes ceased to be an adoptive Act and its application to England and Wales is now governed by general legislation. Its principal provisions comprise—

- (a) a code of summary offences relating to street nuisances, etc. (sections 21 to 36 so far as unrepealed), which was extended generally on 1 April 1974<sup>9</sup> to England and Wales outside the London area;<sup>10</sup>
- (b) a taxi licensing code (sections 37 to 68) which was extended generally on 13 August 1987<sup>11</sup> to the areas of district councils in England and Wales outside the London taxi area.<sup>12</sup>

The remaining provisions of the 1847 Act are section 15 (power of arrest) and section 75 (powers of a single justice), which are proposed for repeal (Part I of Schedule 1 to the draft Bill) and the formal provisions of sections 1 to 5 (short title, interpretation, etc.). Sections 77 and 78, which imposed requirements regarding the accessibility of special Acts incorporating the 1847 codes, therefore no longer serve any useful purpose. The Department of the Environment agrees.

The Metropolitan Police Act 1864, which was known in Parliament as the Street Music (Metropolis) Bill, was aimed at abating the contemporary Victorian annoyance of street organs and brass bands. It originated as a private member's Bill which received a mixed reception when it was debated in the early hours of the morning.<sup>13</sup> The Act originally applied to the Metropolitan Police District but between 1936 and 1944 it was repealed by local Acts in its application to the then administrative counties of London, Middlesex, Hertford and Surrey.<sup>14</sup> In consequence of these repeals and subsequent re-organisations of local government areas, the extent to which the Act remains in force is uncertain and it has ceased to be of practical utility. The Act is also unnecessary. In a modern context, the regulation of street music is a matter to be regulated by byelaws under section 235 of the Local Government Act 1972 and the existence of the obscure 1864 Act is merely an impediment to the making of valid byelaws under that section. The proposed repeal is supported by the Department of the Environment and the local authority associations concerned, namely, the Association of District Councils, the Association of London Authorities, the London Boroughs Association and the Association of Metropolitan Authorities.

The Local Government Supplemental Act 1866 (No. 2) confirmed a provisional order relating to Ventnor in the Isle of Wight and repealed the South Wales Highway Act 1860<sup>15</sup> so far as it related to the district of Briton Ferry in Glamorganshire. In consequence of the revocation of the provisional order by the Isle of Wight Act 1980, the residue of the 1866 Act is obsolete.

In the Public Health Acts 1875 to 1925, as they apply to England and Wales, many of the substantive provisions have been progressively consolidated or replaced by the Public Health Act 1936 and other legislation.<sup>16</sup> The proposed repeals are of—

<sup>9</sup> Local Government Act 1972, Sch. 14, Part II; Public Health Act 1875, s.171.

<sup>10</sup> In the London area there are corresponding statutory codes provided by the Metropolitan Police Act 1839 and the City of London Police Act 1839.

<sup>11</sup> Transport Act 1985, s.15; Transport Act 1985 (Commencement No. 7) Order 1987 (S.I. 1987 No. 1228).

<sup>12</sup> In the London taxi area there is a separate statutory code, the main statute being the Metropolitan Public Carriage Act 1869.

<sup>13</sup> Parl. Deb. (3rd series), 10 June 1864, Vol. 175, cols. 1529–33. The Bill was supported by Sir Robert Peel (1822–1895) as a measure “for putting down the abominable nuisance of street organs”, but opposed by the Chancellor of the Exchequer as being unreasonable in principle and by others as “a paltry kind of legislation, unworthy of the British Parliament”.

<sup>14</sup> Hertfordshire County Council Act 1935 (c.cxiii), s.135 (1 January 1936); London County Council (General Powers) Act 1936 (c.lx), s.52; Surrey County Council Act 1936 (c.cxxx), s.120 (1 January 1937); Middlesex County Council Act 1944 (c.xxi), s.438. So far as the Act provided for summary arrest, it has ceased to have effect by virtue of the Police and Criminal Evidence Act 1984, s.26.

<sup>15</sup> The remainder of this Act was repealed by the Highways Act 1959.

<sup>16</sup> See e.g. Local Government Act 1933, Food and Drugs Act 1938, Highways Act 1959, Local Government Act 1972, Local Government (Miscellaneous Provisions) Act 1976, Local Government (Miscellaneous Provisions) Act 1982.

- (a) definitions, forms and other ancillary or transitional provisions which are not material for the purposes of the remaining substantive provisions or are spent;
- (b) a statutory reference to county bridges which became obsolete in consequence of the repeal of section 23 (county bridges) of the Highways Act 1959 by the Local Government Act 1972;
- (c) spent enactments which transferred pre-1872 statutory functions to the Local Government Board until its abolition in 1919.

The repeals to section 37 of the Commons Act 1876, which applies to England and Wales, are consequential on the repeal of section 8 of that Act (suburban commons procedure) by the Local Government, Planning and Land Act 1980.

The Municipal Corporations Act 1882, which applies to England and Wales, consolidated the Municipal Corporations Act 1835. Section 2 (division of Act into Parts) is unnecessary and section 260 (extent of repeals) is spent. Section 220 (exclusion of *certainari*) is superseded by section 14 of the Tribunals and Inquiries Act 1971 (supervisory powers of superior courts). In Part I of Schedule 9 (substitution of references to Municipal Corporations Act 1835) the repeals are consequential—

- (a) in the case of the Town Gardens Protection Act 1863, on the repeal of section 3 of that Act (defrayment of expenses) by the Local Government Act 1933 and the London Government Act 1939;
- (b) in the case of the Dogs Act 1871, on the repeal of the Schedule to that Act (definition of local authority) by the Rabies Act 1974;
- (c) in the case of the Public Health Act 1875, on the proposed repeal of the definition of “Borough” in section 4 of that Act;
- (d) in the case of the Commons Act 1876, on the repeal of section 8 of that Act (suburban commons procedure) by the Local Government, Planning and Land Act 1980 and the proposed repeal of the definition of “municipal borough” in section 37 of that Act.

In the Local Government Act 1894, which applies to England and Wales, the repeals are of obsolete provisions transferring to district councils the functions of justices in relation to the licensing of gangmasters and knackers' yards. The repeal of section 27(1)(a) (gangmasters) is consequential on the repeal of the Agricultural Gangs Act 1867 by the Local Government Act 1966. In the case of knackers' yards, the relevant enactment in 1894 was the Knackers Act 1786, which was replaced by sections 57 to 61 of the Food and Drugs Act 1938, later consolidated by Part IV of the Food and Drugs Act 1955. The modern law is contained in the Slaughterhouses Act 1974.

The repeals of the City of London Police Act 1919 and of section 14 of the City of London (Various Powers) Act 1920 are consequential on the proposed repeal of sections 58 to 85 (police rate) of the City of London Police Act 1839. Police pay was substantially increased after the First World War and the effect of the 1919-1920 legislation was to repeal section 57 of the 1839 Act (which had required one-quarter of policing costs to be paid from the City revenues) and to abolish any statutory limitation on the amount of the rate to be levied for police purposes. From 1919 onwards a police grant was paid towards the cost of policing the City and the City Police Force was inspected by H.M. Inspectors of Constabulary.<sup>17</sup>

In the Local Government Act 1929, which applies to England and Wales, the proposed repeals are of provisions respecting the transfer of existing officers in consequence of changes in administration effected by the Act<sup>18</sup> and as to their compensation for pecuniary loss and superannuation. Any officer who was affected by these provisions would long since have retired or died and the provisions are spent in their operation.

<sup>17</sup> *Halsbury's Laws* (2nd ed. 1937), Vol. 25, pp. 305-6.

<sup>18</sup> Thus by Part I (repealed) the functions of poor law authorities were transferred to the councils of counties and county boroughs and the guardians of the poor as such ceased to exist. Similarly a transfer was effected of the functions of boards of guardians under the Births and Deaths Registration Acts (Part II) and of functions relating to highways (Part III).

The Local Government and other Officers Superannuation (Temporary Provisions) Act 1933, which applies to Great Britain, legalised retrospectively the actions of local authorities who had entered into undertakings with their employees that salary reductions negotiated at the time of the national economic crisis in 1931 would not affect their pension entitlements. Following the passing of the now repealed National Economy Act 1931 (which provided for economies in public expenditure but did not apply to local authorities) a number of authorities negotiated reductions in the salaries of their employees on the understanding that the reductions would be disregarded in the calculation of pensions. Subsequently it was realised that by virtue of a judgment of the House of Lords reported in 1926<sup>19</sup> local authorities and their employees were not legally entitled to contract out of the statutory provisions governing the pensions of local government officers. Legislation was therefore introduced to enable any understandings which had been reached in good faith before the mistake came to light to be honoured.<sup>20</sup> Separate local legislation passed in 1932<sup>21</sup> made similar provision to legalise arrangements made by the London County Council and the metropolitan borough councils. The 1933 Act affected only officers whose pension was calculated by reference to the remuneration they received prior to 1 September 1936 and any officer concerned would long since have retired. The Act is accordingly spent.

In the Public Health Act 1936, a consolidation of the law for England and Wales-

- (a) section 287(6) saved enactments which have since been repealed;
- (b) in section 343(1), the definitions of "bridge authority", "county district", "emoluments", "highway authority" and "hospital" are obsolete and unnecessary in consequence of later legislation;
- (c) sections 345 and 346(1)(d) (transitional provisions as to pre-1937 offences, notices and expenses) are long since spent.

Section 346(2) was a technical provision which was needed because two major consolidations, the Public Health Act 1936 and the Public Health (London) Act 1936, were proceeding through Parliament at the same time. It provided a special procedure to enable certain enactments consolidated by the Public Health (London) Act 1936 to be repealed on the ground that they corresponded to enactments repealed for the remainder of England and Wales by the Public Health Act 1936. Section 346(2) achieved its purpose and became spent on the making of an order,<sup>22</sup> which repealed specified provisions of the Public Health (London) Act 1936. That Act was wholly repealed in 1963, when the Public Health Acts were applied to Greater London as they applied elsewhere in England and Wales.<sup>23</sup>

In the Local Government Act 1948, which applies to Great Britain, section 105 (grants for the year 1948-49 and nine following years) was repealed for England and Wales by the Local Government Act 1958 and is spent in its application to Scotland. The purpose of section 125 was to abolish, in relation to local authority stocks, the archaic system of transfer by inscription. Under this system, which was the normal method of registering and transferring stock before the Second World War, title to a stock was recorded by inscribing it under signature in a book kept by the registrar of the stock. Changes in title entailed attendance at the office of the registrar, either personally or by a duly authorised agent. On the outbreak of war in 1939 transfer by inscription was abolished temporarily by section 1 of the Government and other Stocks (Emergency Provisions) Act 1939, which became permanent in 1959.<sup>24</sup> In 1942<sup>25</sup> the abolition was made permanent as respects government stock and in 1948 provision was made for its permanent abolition in relation to local authority stock. The regulations which were made under section 125 of the Local Government Act 1948 have been revoked and

<sup>19</sup> *Guardians of the Poor of Salford Union v. Dewhurst* [1926] A.C. 619.

<sup>20</sup> *Hansard* (H.L.) 20 July 1933, Vol. 88, cols. 967-8 (Viscount Gage); (H.C.) 28 June 1933, Vol. 279, col. 1626 (Mr Shakespeare).

<sup>21</sup> London Local Authorities (Superannuation) Temporary Provisions Act 1932 (c.xvi). This Act was repealed as spent by the Local Law (Greater London Council and Inner London Boroughs) Order 1965 (S.I. 1965 No. 540), Sch. 3.

<sup>22</sup> Public Health (London) (Repealed Enactments) Order 1937 (S.R. & O. 1937 No. 213, Rev. XII p. 642).

<sup>23</sup> London Government Act 1963, Part VI (Application of Public Health Acts and Relevant Acts).

<sup>24</sup> Emergency Laws (Repeal) Act 1959, s.6.

<sup>25</sup> Finance Act 1942, s.47.

replaced by regulations<sup>26</sup> made under the Local Government Act 1972 and the Local Government (Scotland) Act 1975 respectively. These regulations provide for the transfer of stock.

Section 138 of the Local Government Act 1948 was a transitional provision to facilitate the nationalisation of the electricity and gas industries. The section was added to the Bill in the House of Lords<sup>27</sup> because Electricity Boards were not able to complete their administrative arrangements before 1 April 1948, the vesting date under the Electricity Act 1947, and it was thought that the same problem would arise in relation to the nationalisation of the gas industry. Accordingly, local authorities were authorised to act as agents for their nationalised undertakings for a period not exceeding 12 months or, with Ministerial approval, for a longer period. The requirement of obtaining Ministerial approval was abolished in 1973-74<sup>28</sup> as part of a general policy initiative to remove unnecessary Ministerial controls of local authority functions. However, consultation with the electricity and gas industries has confirmed that section 138 is dead wood.

In the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, section 50(2), so far as unrepealed,<sup>29</sup> dealt with the calculation of the salary of a medical officer of health or sanitary inspector in England and Wales in cases where part of it was payable by a county council. Its repeal is consequential on the enactment of section 10(4) of the Local Government Act 1966 (no payment shall be made by the councils of counties and county boroughs under Schedule 1 to the Public Health Act 1936 on account of salaries of medical officers of health or public health inspectors accruing on or after 1 April 1967). Paragraph 3 of Schedule 1 to the Public Health Act 1936 was expressly repealed then.

In the Public Health Act 1961, which applies to England and Wales, the repeals are of exclusions from, or a modification of, provisions of the Public Health Acts Amendment Act 1890 or the Public Health Acts Amendment Act 1907 which were repealed by the Local Government Act 1972.

The Rating (Interim Relief) Act 1964, which applies to England and Wales, was repealed as respects any period after 1 April 1968 by the General Rate Act 1967. The Act is spent as respects periods before that date.

Section 15 of the Local Government Act 1966, which applies to England and Wales, reduced the amount of the grant payable to a rating authority under the Rating (Interim Relief) Act 1964 in respect of the year 1967-68 and is spent. The repeals to sections 40 and 41 are of redundant definitions and other ancillary provisions.

Sections 17 and 36 of the Local Government Act 1972, which apply to England and Wales respectively, deal with the procedure at a meeting of a parish ward or community ward (or other part of a parish or community) in cases where any other enactment authorises or requires the holding of such a meeting. These provisions, which replaced section 78 of the Local Government Act 1933, originated in the Local Government Act 1894,<sup>30</sup> at a time when there were at least four situations in which such a meeting might be held.<sup>31</sup> The statutory provisions authorising or requiring meetings for a part of a parish have been gradually whittled away as local government law has been changed. The last surviving provision which had any effect was section 89 of the Local Government Act 1933 (committees for parts of rural parishes) which was repealed by the Local Government Act 1972 without replacement. The provisions have been obsolete and misleading since then. Their repeal is supported by the Department of the Environment, the Welsh Office, the National Association of Local Councils and the

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<sup>26</sup> Local Authority (Stocks and Bonds) Regulations 1974 (S.I. 1974 No. 519); Local Authority Stocks and Bonds (Scotland) Regulations 1975 (S.I. 1975 No. 825).

<sup>27</sup> *Hansard* (H.L.), 11 and 18 March 1948, Vol. 154, cols. 789, 985-6 (Lord Addington).

<sup>28</sup> Local Government Act 1974, s.35 and Sch. 6, para. 5; Local Government (Scotland) Act 1973, s.209 and Sch. 25, para. 24.

<sup>29</sup> The references in section 50(2) to the Local Government Act 1933, s.109 and the London Government Act 1939, s.80, were repealed by the Local Government Act 1958 in consequence of section 57 of that Act. The reference to the Local Government (Scotland) Act 1947, s.87 was repealed by the National Health Service (Scotland) Act 1972.

<sup>30</sup> Local Government Act 1894, s.49 which was consolidated by the Local Government Act 1933, s.78.

<sup>31</sup> Local Government Act 1894, ss.7(4), 18, 37 and 56.



Welsh Association of Community and Town Councils. The repeals do not affect the statutory provisions governing the holding of parish or community meetings.<sup>32</sup>

Section 217(7) of the Local Government Act 1972 (as substituted by paragraph 19 of Schedule 2 to the Justices of the Peace Act 1979) introduced Part II of Schedule 27 (amendments of enactments relating to justices). It is obsolete in consequence of the repeal of the last remaining paragraph<sup>33</sup> of Schedule 27 to the 1972 Act by the Local Government Act 1985. The repeal to the Justices of the Peace Act 1979 is consequential.

Section 250 of the Local Government Act 1972, replacing section 290 of the Local Government Act 1933, provides for the holding of local inquiries in England and Wales. Subsection (2), so far as proposed for repeal, enabled a person giving evidence at a local inquiry to make his solemn affirmation, instead of taking an oath, and has been superseded by the general law relating to oaths and affirmations. The background is that until 1977 a person who objected to being sworn could make a solemn affirmation, but only if he had no religious belief or the taking of an oath would have been contrary to his religious beliefs.<sup>34</sup> The general law was changed by section 8 of the Administration of Justice Act 1977,<sup>35</sup> which enabled a solemn affirmation to be made instead of an oath, for all purposes required by law, without any inquiry as to the grounds for objecting to an oath. Furthermore, since 1978<sup>36</sup> it has been a general rule of construction that any statutory reference to an oath is to be construed, unless the contrary intention appears, as including a reference to an affirmation. Statutes enacted since 1978 consequently do not contain separate provision for the making of an affirmation in lieu of an oath. Many earlier provisions of this nature were repealed by the Administration of Justice Act 1977 and the Statute Law (Repeals) Act 1981.

The repeals in Schedule 25 to the Local Government (Scotland) Act 1973 and in Schedule 6 to the Local Government Act 1974 (relaxation of controls) are consequential on the proposed repeal of section 138 of the Local Government Act 1948.

In the Health Services Act 1980, the repeal is of an amendment of the Public Bodies (Admission to Meetings) Act 1980 which has been superseded by section 1(7) of the Community Health Councils (Access to Information) Act 1988.

In the Local Government, Planning and Land Act 1980, section 187 amended section 127 of the Highways Act 1959 (penalty for depositing things or pitching booths, etc. on a highway), which was consolidated in the same session of Parliament by the Highways Act 1980.<sup>37</sup> The other repeals are of spent provisions which abolished Ministerial control on the site and plans of a crematorium,<sup>38</sup> abolished the Clean Air Councils established by section 23 of the Clean Air Act 1956 or repealed specific provisions of the Land Drainage Act 1976, the London Government Act 1963 and the Local Government Act 1972.

In the Weights and Measures Act 1985, section 69(6) (which temporarily modified references to English local weights and measures authorities) became spent on 1 April 1986, when the metropolitan county councils were abolished.<sup>39</sup>

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<sup>32</sup> See Local Government Act 1972, ss.9, 13, 27, 32, Sch. 12, Parts III and V.

<sup>33</sup> Para. 18 (which amended the Police Act 1964, s.2). Para. 16 (which amended the Magistrates' Courts Act 1952, ss.3, 126), was repealed by the Magistrates' Courts Act 1980. The remainder of Schedule 27 was repealed by the Justices of the Peace Act 1979.

<sup>34</sup> Oaths Act 1888, s.1. Consequently witnesses who objected to taking an oath were liable to be examined regarding their religious beliefs.

<sup>35</sup> See now Oaths Act 1978, s.5(1) and (4).

<sup>36</sup> Interpretation Act 1978, s.5 and Sch. 1 (definition of "oath"). The definition applies to Acts passed before as well as after 1 January 1979.

<sup>37</sup> Highways Act 1980, s.148, which reflects the change made by the Local Government, Planning and Land Act 1980, s.187 (the omission of the words "or a gipsy").

<sup>38</sup> The abolition was reflected in textual repeals of the Cremation Act 1952, s.1(1).

<sup>39</sup> Local Government Act 1985, s.1.

PART V  
MEDICINE

Following the enactment of the Medical Act 1983 and the Dentists Act 1984, which reconsolidated the Medical Act 1956 and the Dentists Act 1957, the Law Commissions were asked by the Department of Health and Social Security to review the pre-1956 enactments relating to medical practitioners and dentists, with a view to bringing the legislation as a whole up to date. In 1984 the Anatomy Acts 1832 and 1871 were replaced by modern legislation.<sup>1</sup> In 1986, following consultation with the medical bodies and other authorities concerned, proposals were implemented<sup>2</sup> for the repeal of sections 48 to 51 of the Medical Act 1858, the Medical Act (Royal College of Surgeons of England) 1875, the Dentists Act 1878, the Medical Act 1886 and the Midwives Act 1936.

The proposals in this Part concern the Apothecaries Acts 1815 to 1907 and allied statutory provisions. The distinctive functions of an apothecary have long been obsolete. The profession has become merged with that of medical practitioner and nowadays an apothecary is a registered medical practitioner to whom the general law applies as it does to other medical practitioners. The Apothecaries Acts reflect the state of the medical profession in the 19th century and a detailed examination of the Acts, in conjunction with the Society of Apothecaries of London, has shown that the legislation has been superseded or is obsolete or unnecessary. The proposals are supported by the Society and, so far as they are concerned, by the Pharmaceutical Society of Great Britain.

The background is that, following the passing of the Apothecaries Act 1815, the Society of Apothecaries of London became virtually the controlling authority in medical education (as distinct from surgical education) in England and Wales. A standard examination in medicine was established and, subject to the privileges of other medical bodies, new aspirants for medical practice were required to serve a five-year apprenticeship and pass an examination conducted by the Society. Until 1858 the Society was the chief formative influence on medical education in England and Wales.<sup>3</sup> The Society lost its controlling role when the General Medical Council was established<sup>4</sup> and medical education was organised on a broader basis. The process of modernising its legislation began in 1874, when the system of apprenticeship was abolished, and was continued in 1907, when the qualification of licentiate in medicine and surgery (LMSSA) finally replaced the old certificate of qualification as an apothecary.<sup>5</sup> In 1910 and 1912 draft legislation was prepared, but was not proceeded with, to register dispensing apothecaries<sup>6</sup> and to regulate the grant of other qualifications.

The modern functions of the Society of Apothecaries of London in relation to medical education are provided for by the Medical Act 1983. That Act constitutes the Society as an examining authority for medical practitioners and expressly provides that the LMSSA is to be a primary qualification entitling the holder to registration as a medical practitioner in the United Kingdom. The Medical Act 1983 also protects the use of the title of apothecary.<sup>7</sup> The byelaws and regulations of the Society, which are made by virtue of its charter of incorporation<sup>8</sup> either already provide for the other

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<sup>1</sup> Anatomy Act 1984.

<sup>2</sup> Statute Law (Repeals) Act 1986, Sch. 1, Part VIII.

<sup>3</sup> See Sir Zachery Cope, "Influence of the Society of Apothecaries upon Medical Education", *British Medical Journal*, 7 January 1956; W.S.C. Copeman, *The Worshipful Society of Apothecaries of London: A History* (1967).

<sup>4</sup> Medical Act 1858. Until 1950 the General Medical Council was styled the General Council of Medical Education and Registration of the United Kingdom.

<sup>5</sup> After 1858 the qualification granted to apothecaries was described as the licentiate of the Society of Apothecaries, London (Medical Act 1858, Sch. A). From 1887 onwards every applicant had to pass qualifying examinations in medicine, surgery and midwifery.

<sup>6</sup> The register of dispensing apothecaries was intended to replace the qualification of assistant to an apothecary. The instructions given to counsel in 1912 described the position of apothecaries' assistants as having been "very anomalous for many years".

<sup>7</sup> Medical Act 1983, s.49.

<sup>8</sup> The charter so far as unrepealed is still the basic instrument of government of the Society. It would not be affected by the proposed repeals.

functions of the Society or can be amended to do so. The existing byelaws of the Society were last comprehensively revised in 1948 and the Society has been concerned for some time that they require updating. Accordingly fresh byelaws have been prepared to come into operation when the repeals take effect.

Section 8 of the Evidence Act 1851 (proof of apothecaries' certificates) has long been obsolete and unnecessary. Its practical significance disappeared with the institution of the Medical Register in 1858.

Section 4(2)(b) of the Pharmacy Act 1954, consolidating a similar provision in the Pharmacy and Poisons Act 1908, empowered the Pharmaceutical Society of Great Britain to make byelaws for registering certified assistants to apothecaries as pharmaceutical chemists without further qualification. Apothecaries' assistants were originally certified under the Apothecaries Act 1815, but the qualification has been replaced by a dispensing technicians' certificate which is not regulated by statute. The provision enacted in 1908 has been a dead letter since 1921: a byelaw within its terms was made then but was rescinded after six months. The repeal is agreed to by the Pharmaceutical Society of Great Britain.

In the National Health Service Act 1977, paragraph 7(2) of Schedule 14 (transitional provisions and savings) consolidated section 39(3) of the National Health Service Act 1946 (saving for functions of apothecaries' assistants under Apothecaries Act 1815). The repeal is consequential on the proposed repeal of the Apothecaries Act 1815. The function of an apothecary in compounding and dispensing medicines has long been obsolete and consequently the function of assisting an apothecary in this respect is also obsolete.

PART VI  
OVERSEAS JURISDICTION

The Canterbury Settlements Lands Act 1850 and the Canterbury Association Act 1851 have long been obsolete. The Acts regulated the powers of the Canterbury Association, which was established in 1849, to dispose of certain lands in New Zealand during a limited period of ten years, but in 1855<sup>1</sup> the functions and property of the Association were vested in the Provincial Council of Canterbury, to be exercised and dealt with in accordance with local law. The Acts were repealed for New Zealand on 1 January 1989<sup>2</sup> as being obsolete and are equally obsolete as United Kingdom law.

The New Zealand Constitution Act 1852 and the New Zealand Constitution (Amendment) Act 1947, which have been superseded by constitutional provisions enacted by New Zealand, ceased to have effect as part of the law of New Zealand on 1 January 1987.<sup>3</sup> The Acts are consequentially obsolete so far as they form part of the law of the United Kingdom.

Section 7 of the Colonial Laws Validity Act 1865, the Colonial Acts Confirmation Act 1894, the Colonial Acts Confirmation Act 1901 and section 2 of the Australian States Constitution Act 1907 confirmed the validity of certain laws enacted before 1907 by Australian colonial legislatures. These enactments have long since had their effect and are spent. The remainder of the Australian States Constitution Act 1907, which provided for the reservation of Bills, is obsolete in consequence of the passing of the Australia Act 1986.

Section 23 of the Appellate Jurisdiction Act 1876 was passed because of contemporary doubts as to the effect of the Supreme Court of Judicature Acts 1873 and 1875 on the power of the Admiralty to appoint officers of a vice-admiralty court in accordance with the Vice-Admiralty Courts Act 1863. Vice-Admiralty courts, with jurisdiction over maritime causes, had been established from the 17th century onwards in British possessions overseas and were subsequently regulated by statute. In 1890 a new statutory regime was introduced by the Colonial Courts of Admiralty Act 1890,<sup>4</sup> which consequentially abolished all existing vice-admiralty courts in British possessions and repealed the pre-1890 statutes regulating such courts, including the Vice-Admiralty Courts Act 1863. Section 23 of the Appellate Jurisdiction Act 1876 should similarly have been repealed then. The appointment of officers of vice-admiralty courts is now provided for by section 9 of the Colonial Courts of Admiralty Act 1890.

Section 1(1) of the Colonial Boundaries Act 1895 continues to provide legislative authority for the alteration of the boundaries of a colony by Order in Council or letters patent.<sup>5</sup> Section 1(2) and (3), and the Schedule, which originally required the consent of listed colonies which were self-governing in 1895,<sup>6</sup> are obsolete.

In the Whaling Industry (Regulation) Act 1934, which provides for the licensing of whaling ships, the repeals to sections 1, 11, 12 and 13(2) are of now obsolete and unnecessary provisions relating to formerly dependent territories.<sup>7</sup> The Act does not apply to British ships registered in independent Commonwealth countries by virtue of section 17(1) (definition of "British ship to which this Act applies") as extended by later legislation granting independence to individual territories.<sup>8</sup> The repeal of section 15 (extra-territorial legislation by Australia and New Zealand as respects their ships) and

<sup>1</sup> New Zealand Constitution Act 1852, s.76; Canterbury Association's Ordinance 1855 (Session IV No. 6).

<sup>2</sup> Imperial Laws Application Act 1988 (1988 No. 112). The Act resulted from a detailed review of extant Imperial legislation. See *Imperial Laws Application Bill: Explanatory Note*, pp. i-cxii.

<sup>3</sup> Constitution Act 1986 (1986 No. 114), ss.1(2), 26.

<sup>4</sup> The 1890 Act came generally into force on 1 July 1891 except in New South Wales, Victoria, St. Helena and British Honduras, where it came into force on 1 July 1911.

<sup>5</sup> See e.g. British Antarctic Territory Order in Council 1962 (S.I. 1962 No. 400); British Indian Ocean Territory Order 1976 (S.I. 1976 No. 893).

<sup>6</sup> Canada, Newfoundland, the Australian colonies, New Zealand, Cape of Good Hope, Natal. Only the entries for Canada and New Zealand remain.

<sup>7</sup> Associated states, British protectorates, mandated territories, British protected states and foreign countries under British jurisdiction.

<sup>8</sup> See e.g. New Hebrides Act 1980, Sch. 1, para. 6.

of the reference to Newfoundland<sup>9</sup> in section 13(1) are consequential on subsequent constitutional developments in Australia, New Zealand and Canada.

The Burma Independence Act 1947, so far as unrepealed,<sup>10</sup> terminated British jurisdiction in Burma and any right to bring proceedings in respect of the exercise of British jurisdiction in Burma. The Act has had its effect and is spent.

Section 3 of the Federation of Malaya Independence Act 1957, as extended by section 5 of the Malaysia Act 1963, provided for the jurisdiction of the Judicial Committee of the Privy Council on appeals from Malaysia. The sections were implemented by the Malaysia (Appeals to Privy Council) Order 1978 (S.I. 1978 No. 182). Appeals to the Judicial Committee from Malaysia were abolished by Malaysian legislation which came into operation on 1 January 1985.<sup>11</sup> The Registrar to the Judicial Committee has advised us that one appeal which was pending on 1 January 1985 remains to be dealt with. Accordingly clause 3(2) of the draft Bill enables the repeals to be brought into force by order when the proceedings on that appeal have been completed.

In the West Indies Act 1962, sections 1 and 2, which provided for the dissolution of the Federation of the West Indies and the interim performance of federal functions, are spent following the dissolution of the Federation on 1 June 1962. Section 4(5) and (6) are spent in consequence of the revocation in 1967<sup>12</sup> of the Windward Islands and Leeward Islands (Courts) Order in Council 1959 (S.I. 1959 No. 2197), as amended, or the dissolution of the former Court of Appeal.

In the South Africa Act 1962—

- (a) paragraph 6 of Schedule 2 (Commonwealth preference) became obsolete when the Import Duties Act 1958 finally ceased to have effect in consequence of the accession of the United Kingdom to the European Economic Community;
- (b) paragraph 7 of Schedule 3 (indication of origin of goods), which made transitory provision for the use of the word "Empire" in relation to goods made in South Africa or South West Africa as respects periods which ended on 31 October 1963, is long since spent;
- (c) paragraph 10 of Schedule 3 (recognition of approved external service by teachers), as it applies to Northern Ireland,<sup>13</sup> is superseded by Schedule 4 to the Teachers' Superannuation Regulations (Northern Ireland) 1977 (S.R. (N.I.) 1977 No. 260).

In the Guyana Independence Act 1966, section 6 provided statutory authority for the 1966 Constitution of Guyana,<sup>14</sup> which was superseded on 6 October 1980 by a new constitution enacted by the Parliament of Guyana.<sup>15</sup> Section 8(1) and (3) (interpretation and repeal of earlier legislation) are spent.

In the Carriage of Goods by Sea Act 1971, section 5(1)(d) enabled an associated state to be certified as a territory of the United Kingdom for the purposes of the convention to which the Act gives effect. This power was never exercised<sup>16</sup> and is obsolete. No associated states remain and the West Indies Act 1967, so far as it provided for the status of association, has been repealed.

In the Zimbabwe Act 1979, paragraph 4 of Schedule 2 (continuation of statutory provisions respecting company registers) was repealed as it applied to Northern

<sup>9</sup> Newfoundland, which was a self-governing colony in 1934, became a province of Canada in 1949.

<sup>10</sup> Section 4(3) (divorce jurisdiction under the Indian and Colonial Divorce Jurisdiction Acts 1926 and 1940) was repealed by the Family Law Act 1986, s.68(2) and Sch. 2.

<sup>11</sup> Constitution (Amendment) Act 1983 (Act A566), ss.17, 18; Courts of Judicature (Amendment) Act 1984 (Act A600).

<sup>12</sup> West Indies Associated States Supreme Court Order 1967 (S.I. 1967 No. 223); Montserrat Order 1967 (S.I. 1967 No. 230); Virgin Islands (Courts) Order 1967 (S.I. 1967 No. 231).

<sup>13</sup> The paragraph did not apply to Scotland and was repealed, as it applied to England and Wales, by the Teachers' Superannuation Act 1965.

<sup>14</sup> Guyana Independence Order 1966 (S.I. 1966 No. 575).

<sup>15</sup> Constitution of the Co-operative Republic of Guyana Act 1980. That Act repealed the Guyana Independence Act 1966 and the Guyana Independence Order 1966 so far as they formed part of the law of Guyana.

<sup>16</sup> See the Carriage of Goods by Sea (Parties to Convention) Order 1985 (S.I. 1985 No. 443).

Ireland<sup>17</sup> in consequence of the consolidation of the Companies Act (Northern Ireland) 1960 by the Companies (Northern Ireland) Order 1986 (S.I. 1986 No. 1032, N.I. 6). The paragraph was similarly superseded for Great Britain when the Companies Act 1948 was consolidated by the Companies Act 1985.<sup>18</sup>

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<sup>17</sup> Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986 No. 1035, N.I. 9).

<sup>18</sup> See now Companies Act 1985, s.362 and Sch. 14 (overseas branch registers).

PART VII  
PLANNING AND LAND

*Group 1 – General Repeals*

Planning law was consolidated for England and Wales in 1962, and again in 1971,<sup>1</sup> and for Scotland in 1972,<sup>2</sup> but much of the earlier legislation, reaching back to the Restriction of Ribbon Development Act 1935, survives in a residual form. Work is now in progress on further consolidations and the utility of the surviving earlier legislation has been reviewed, in conjunction with the Department of the Environment and the Scottish Development Department, with a view to its repeal or consolidation. This group includes proposals for the repeal of planning enactments passed before 1972 which are spent, obsolete or unnecessary.

In the Defence Act 1859 and the Inclosure, &c. Expenses Act 1868, the proposed repeals are of obsolete statutory provisions relating to copyhold tenure. Copyhold tenure was abolished by section 128 of the Law of Property Act 1922. The Copyhold Act 1894, which consolidated the Copyhold Acts 1841 to 1887, was repealed in 1969.<sup>3</sup>

Section 3 of the Survey Act 1870, the only remaining substantive provision, transferred to the Commissioners of Works the statutory functions of the Master General and Board of Ordnance under the Ordnance Survey Act 1841 and the Boundary Survey (Ireland) Act 1854. It became obsolete in 1889, when the statutory functions relating to the Ordnance Survey were transferred to the Board of Agriculture.<sup>4</sup> These functions have since devolved on the Secretary of State<sup>5</sup> or, in Northern Ireland, the Department of Finance.<sup>6</sup> The proposed repeal to the Small Landholders (Scotland) Act 1911 is consequential. The modern activities of the Ordnance Survey are mainly carried out under powers conferred by the prerogative of the Crown.

Section 17 of the Restriction of Ribbon Development Act 1935, which applies to Great Britain, made provision to prevent the interference with traffic by new buildings to which the section applies, giving local authorities the power to require the provision of means of entrance and egress and of accommodation for the loading and unloading of vehicles or picking up and setting down of passengers, or the fuelling of vehicles, as a condition of the approval of building plans. In practice, this provision is not used now and the matters to which it relates are regulated by planning permissions under later planning legislation.<sup>7</sup> In addition, there are wide powers under building legislation<sup>8</sup> to regulate the access to buildings and the prevention of danger and obstructions to persons, including passers-by. Section 17 therefore no longer serves any useful purpose. The remainder of the 1935 Act, so far as unrepealed, consists of ancillary provisions. The repeal is agreed to by the Department of the Environment, the Scottish Development Department and the Convention of Scottish Local Authorities.

The Minister of Town and Country Planning Act 1943, as originally enacted, provided for the appointment of a Minister of Town and Country Planning charged with the duty of securing consistency and continuity in the framing of a national policy with respect to the use and development of land in England and Wales. Most of the Act was repealed in 1970 when the Department of the Environment was established.<sup>9</sup> Section 8, the only substantive remaining provision, was not repealed then because it provided statutory authority for the Location of Offices Bureau. The Bureau was set up

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<sup>1</sup> Town and Country Planning Act 1962; Town and Country Planning Act 1971.

<sup>2</sup> Town and Country Planning (Scotland) Act 1972.

<sup>3</sup> Statute Law (Repeals) Act 1969, Sch., Part III.

<sup>4</sup> Board of Agriculture Act 1889, s.2(1)(c) (repealed).

<sup>5</sup> Transfer of Functions (Ordnance Survey) Order 1965 (S.I. 1965 No. 1120); Ministry of Land and Natural Resources (Dissolution) Order 1967 (S.I. 1967 No. 156); Secretary of State for the Environment Order 1970 (S.I. 1970 No. 1681).

<sup>6</sup> Administrative Provisions Act (Northern Ireland) 1933, s.1; Northern Ireland Constitution Act 1973, s.7(5) and Sch. 5, para. 8(1).

<sup>7</sup> See Town and Country Planning Act 1971, ss.23(1), 22 and 290(1) (definition of "engineering operations"); Town and Country Planning (Scotland) Act 1972, ss.20(1), 19(1) and 275(1) (definition of "engineering operations").

<sup>8</sup> Building Act 1984, s.1 and Sch. 1; Building (Scotland) Act 1959, s.3 and Sch. 4.

<sup>9</sup> Secretary of State for the Environment Order 1970 (S.I. 1970 No. 1681).

in 1963 to encourage the decentralisation of office employment from congested areas in central London to suitable centres elsewhere and in 1977 was charged with the duty to promote the better distribution of office employment in England and Wales.<sup>10</sup> The Act has become redundant in consequence of the abolition of the Location of Offices Bureau on 1 May 1980.<sup>11</sup>

Section 13 of the Town and Country Planning (Interim Development) (Scotland) Act 1943, the residue of that Act, made provision for the transfer to the Secretary of State of any statutory functions exercisable by a Minister of the Crown and relating to the use and development of land in Scotland. It has been superseded by the general powers conferred by the Ministers of the Crown Act 1975.

In the Requisitioned Land and War Works Acts 1945 and 1948, the repeals are consequential on—

- (a) the expiry on 31 December 1960<sup>12</sup> of the original powers conferred by Part III of the 1945 Act to make orders for the permanent stopping up or diversion of highways stopped up or diverted under emergency powers (1945, ss.17(4), 18, 22(2), 59(1) (definition of “Defence Regulation”); 1948, Schedule, paragraph 1);
- (b) the repeal of Part II of the 1945 Act (temporary powers of acquisition of land) by the Statute Law (Repeals) Act 1971 (1945, s.59(1) (definitions of “dwelling-house” and “local planning authority”); 1945, ss.60, 61);
- (c) the repeal of the War Damage Act 1943 by the Statute Law (Repeals) Act 1981 (1945, s.59(6)).

The Building Restrictions (War-Time Contraventions) Act 1946 was originally needed because during the war period local authorities in Great Britain and Northern Ireland lost by effluxion of time the power to enforce the law in respect of contraventions of the building laws and of planning controls which occurred during that period. The Act accordingly restored those rights and prescribed a five-year period for resolving the problems. The prescribed period expired on 26 March 1951 except as respects Crown land (section 7(6)). In a planning context the Act continues to be relevant and its complicated machinery is still used when land in which there is a Crown interest is disposed of, mainly in order to validate contraventions of planning controls by the Crown during the war period. As far as building laws are concerned, the machinery has long ceased to be used and the Act has for practical purposes become obsolete: in cases where existing buildings need to be brought up to regulation standards, there is more appropriate machinery available under the building legislation now in force. The departments responsible for the administration of the Act in England and Wales, Scotland and Northern Ireland agree that the legislation, so far as proposed for repeal, is obsolete. The amendment proposed to section 7(1) (Schedule 2 to the draft Bill) is consequential on the proposed repeal of section 1(1) (which includes a definition of the war period for the purposes of the Act). The remainder of the Act forms a part of the planning laws and the proposed repeals are intended to pave the way for its consolidation, in a simplified form, with those laws as the opportunity to do so occurs.

In the Town and Country Planning Act 1947, which applies to England and Wales, the residue of section 119 (interpretation) is obsolete. The other repeals are consequential on repeals made by the Highways Act 1959 and the London Government Act 1963 or on the proposed repeal of the definition of “local planning authority” in section 59(1) of the Requisitioned Land and War Works Act 1945.

In the Town and Country Planning (Scotland) Act 1947, the repeals are consequential on the proposed repeal of the definition of “local planning authority” in section 59(1) of the Requisitioned Land and War Works Act 1945, or on the repeal of the Trunk Roads Act 1936, as it applied to Scotland, by the Roads (Scotland) Act 1984.

In the Lands Tribunal Act 1949, which mainly applies to Great Britain, the effect of

<sup>10</sup> Location of Offices Bureau Order 1963 (S.I. 1963 No. 792); Location of Offices Bureau (Amendment) Order 1977 (S.I. 1977 No. 1296).

<sup>11</sup> Location of Offices Bureau (Revocation) Order 1980 (S.I. 1980 No. 560).

<sup>12</sup> Requisitioned Land and War Works Act 1945, s.20; Land Powers (Defence) Act 1958, s.9.



section 1(3)(d) was to substitute the Lands Tribunal, in place of an arbitrator, as the appellate authority in case of a dispute arising in relation to a determination of the development value of an interest in land by the Central Land Board. The Central Land Board was dissolved on 1 April 1959.<sup>13</sup> The responsible departments agree that appeals from its determinations would long since be out of time and that section 1(3)(d) is spent. Section 1(8)(b) (which modified section 1(3)(d) in its application to Scotland) was never operative, since the Lands Tribunal for Scotland was not established until 1 March 1971.<sup>14</sup>

In the Town and Country Planning Act 1954, which applies to England and Wales, and the Town and Country Planning (Scotland) Act 1954, the remaining substantive provisions are respectively section 53 and section 55, which relate to compensation under the Compensation (Defence) Act 1939. The repeals are of ancillary provisions which are not relevant to those sections.

In the Building (Scotland) Act 1959, the repeals are consequential on the proposed repeal of section 17 of the Restriction of Ribbon Development Act 1935.

In the Town and Country Planning Act 1959, which now applies only to England and Wales<sup>15</sup> sections 14 to 16 were transitory provisions relating to notices to treat served before 6 August 1947 by public authorities possessing compulsory purchase powers. The 1959 legislation extended the validity of such notices for further limited periods, but the rights as so extended have, if not exercised, now effectively lapsed. It is the duty of an acquiring authority to proceed to acquire land within a reasonable time<sup>16</sup> and a delay of 15 years has been held by the courts to be evidence of an intention to abandon a notice to treat.<sup>17</sup> Section 57 (interpretation), so far as proposed for repeal, is obsolete in consequence of the enactment of the Highways Act 1980.

In the Town and Country Planning (Scotland) Act 1959, sections 14 to 16 correspond to sections 14 to 16 of the Town and Country Planning Act 1959 and are similarly spent in their operation.

In the Land Compensation Act 1961, and the Land Compensation (Scotland) Act 1963, which consolidated the law for England and Wales and for Scotland respectively, the repeals are consequential—

- (a) in the case of section 13 of the 1961 Act and section 21 of the 1963 Act (war-damaged land),<sup>18</sup> on the repeal of the War Damage Act 1943 by the Statute Law (Repeals) Act 1981;
- (b) in the case of section 40(5) of the 1961 Act (saving for regulations), on the revocation of the Town and Country Planning (Prescribed Forms of Notices) Regulations 1959 (S.I. 1959 No. 1287) by the Town and Country Planning General Regulations 1964 (S.I. 1964 No. 1382);
- (c) in the case of section 41 of the 1961 Act and section 48 of the 1963 Act (exclusion of certain earlier transactions), on the repeal of Part II of the Requisitioned Land and War Works Act 1945 by the Statute Law (Repeals) Act 1971.

The Local Authorities (Historic Buildings) Act 1962 enables local authorities to make contributions towards the expenses of preserving historic buildings and their gardens. The Act originally applied only to England and Wales, but it was extended to Scotland by section 5 of the Civic Amenities Act 1967. The requirement to obtain Ministerial consent to grants made under section 1(1)(b) (unlisted buildings) was removed for Scotland in 1969<sup>19</sup> and the textual repeal proposed is consequential. In England and

<sup>13</sup> Central Land Board (Dissolution and Transfer of Functions) Order 1959 (S.I. 1959 No. 530).

<sup>14</sup> Lands Tribunal Act 1949 (Appointed Day) (Scotland) Order 1971 (S.I. 1971 No. 215).

<sup>15</sup> The Act originally applied to Great Britain, but it was re-enacted as it applied to Scotland by the Town and Country Planning (Scotland) Act 1959.

<sup>16</sup> *Simpson's Motor Sales (London) Ltd. v. Hendon Corporation* [1963] Ch. 57.

<sup>17</sup> *Grice v. Dudley Corporation* [1958] Ch. 329.

<sup>18</sup> These sections were consolidations of provisions in the Town and Country Planning Act 1947, s.56, and the Town and Country Planning (Scotland) Act 1947, s.53.

<sup>19</sup> Town and Country Planning (Scotland) Act 1969, s.58.

Wales the corresponding consequential repeal was effected by Schedule 11 to the Town and Country Planning Act 1968.

In the Town and Country Planning Act 1962, a consolidation of the law for England and Wales, section 224 (saving for the operation of section 38 of the Interpretation Act 1889) is spent and unnecessary. The repeal to Schedule 12 is consequential on the repeal of the Highways Act 1959 by the Highways Act 1980.

The repeals proposed to the London Government Act 1963 are consequential on the proposed repeal of section 17 of the Restriction of Ribbon Development Act 1935 or of section 57(11) of the Town and Country Planning Act 1959 (application of highway provisions to London).

In section 5 of the Civic Amenities Act 1967 (application of the Local Authorities (Historic Buildings) Act 1962 to Scotland), the repeals are consequential on the repeal proposed to section 1(1)(b) of the 1962 Act.

The residue of the Town and Country Planning Act 1968, which applies to England and Wales, is spent or unnecessary except so far as it amends the Town Development Act 1952, the Public Health Act 1961, the General Rate Act 1967 and the Leasehold Reform Act 1967. The proposed repeals are of-

- (a) section 27 (repeal of provisions for compulsory acquisition of land);
- (b) section 58 (abolition of need for Ministerial consent to grants made under section 1(1)(b) of the Local Authorities (Historic Buildings) Act 1962);
- (c) section 103 (defrayment of expenses) and section 104 (interpretation);
- (d) section 105 (commencement of Act and maintenance of registers showing the effect of commencement orders);
- (e) section 107 and paragraph 13 of Schedule 10 (transitional provisions which fall with the repeal of section 27);
- (f) section 109(3) (extent).

The residue of the Town and Country Planning (Scotland) Act 1969 is spent or unnecessary except so far as it amends the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 and the Housing and Town Development (Scotland) Act 1957. The proposed repeals<sup>20</sup> are of-

- (a) section 58 (abolition of need for Ministerial consent to grants made under section 1(1)(b) of the Local Authorities (Historic Buildings) Act 1962);
- (b) section 102 (defrayment of expenses) and unnecessary ancillary provisions in section 103 (interpretation);
- (c) section 104 (commencement of Act and maintenance of registers showing the effect of commencement orders).

Section 19 of the Superannuation Act 1972 enabled provision to be made by Order in Council for a pension scheme for members of the Location of Offices Bureau established under section 8 of the Minister of Town and Country Planning Act 1943. This statutory power was never exercised. The Bureau was abolished in 1980 and the repeal is consequential on the proposed repeal of the 1943 Act.

The repeals proposed to the Local Government (Scotland) Act 1973, the Telecommunications Act 1984, the Roads (Scotland) Act 1984 and the Building Act 1984 are consequential on the proposed repeal of section 17 of the Restriction of Ribbon Development Act 1935.

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<sup>20</sup> Section 28 (repeal of provisions for compulsory acquisition of land), which corresponded to section 27 of the Town and Country Planning Act 1968, was repealed by the Statute Law (Repeals) Act 1975, Sch., Part XII.

Section 72(1) of the Wildlife and Countryside Act 1981 amended section 4 (power to fence roads subject to restrictions) of the Restriction of Ribbon Development Act 1935, as it applied to Scotland.<sup>21</sup> Its repeal is consequential on the repeal of section 4 of the 1935 Act by the Roads (Scotland) Act 1984.

#### *Group 2 – Architects’ Registration*

The Architects Registration Acts 1931 to 1969 provide for the maintenance of a register of architects with the object of maintaining professional standards and protecting the public from unqualified persons. The proposed repeals are of provisions which are agreed by the Architects’ Registration Council of the United Kingdom to be spent in their operation or obsolete, namely—

- (a) provisions which enabled existing practising architects to submit applications for registration within prescribed periods, the last of which expired on 1 August 1940 (1931 s.6; 1938 ss.2 and 3(c)(i));
- (b) a transitional provision which permitted the continued use of the title “architect” by a person who on 29 July 1938 had the control and management of the architectural work of a local authority<sup>22</sup> (1938 s.1);
- (c) transitory provisions relating to the initial establishment of the register or of the first appointments to the Architects’ Registration Council, the Board of Architectural Education and the Admission Committee (1931 s.3, Schedules 1, 2, 3);
- (d) section 2 of the 1969 Act, which repealed section 14 of the 1931 Act and the Architects (Registration) Act 1934.

#### *Group 3 – Duchy of Lancaster*

The proposed repeals, which are agreed to by the Duchy of Lancaster, are mainly of obsolete provisions for the enfranchisement of copyhold lands. These provisions predated the Copyhold Acts 1841 to 1887, which were consolidated by the Copyhold Act 1894. Copyhold tenure was abolished by section 128 of the Law of Property Act 1922 and the Copyhold Act 1894 has since been repealed. The other repeals are of—

- (a) provisions enacted in 1779 and 1787 relating to preferential options for the purchase of rights which expired in the 18th century (1779 s.4, 1787 s.3);
- (b) archaic provisions respecting the sale of land which were superseded by the powers conferred by the Duchy of Lancaster Lands Act 1855 (1808, s.10);
- (c) section 31 of the Duchy of Lancaster Act 1808 (alteration of Act in same session of Parliament) which became spent at the end of the session of Parliament in which it was passed.<sup>23</sup>

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<sup>21</sup> Section 4 of the Restriction of Ribbon Development Act 1935, as it applied to England and Wales, was repealed by the Highways Act 1959.

<sup>22</sup> This provision was inserted in the Bill in Standing Committee C, where it was explained: “The amendment is intended to safeguard existing interests and not to affect future appointments”.

<sup>23</sup> The rule which prevented an Act of Parliament from being altered in the session of Parliament in which it was passed was abolished in 1850 by Lord Brougham’s Act (13 Vict. c.21), s.1. See now Interpretation Act 1978, s.2.

PART VIII  
RELIGIOUS DISABILITIES

The proposals in this Part relating to the Roman Catholic Charities Act 1832, the Religious Disabilities Act 1846, the Liberty of Religious Worship Act 1855, the Test Abolition Act 1867 and the Roman Catholic Relief Act 1926, have been the subject of consultation with—

- (a) the General Synod of the Church of England's Statute Law Revision Committee;
- (b) the Roman Catholic Bishops' Conference of England and Wales;
- (c) the Board of Deputies of British Jews;
- (d) the Church of Scotland and representatives in Scotland of the Roman Catholic Church;
- (e) the main churches, and the local Jewish community, in Northern Ireland.

The Charity Commission, the Lord Chancellor's Department and the Scottish Home and Health Department have also been consulted. None of those consulted have any objection to the proposed repeals.

The Religious Houses Acts 1539 to 1558, so far as unrepealed, contain isolated remnants of the legislation relating to the dissolution of the monasteries. This legislation, which applies to England and Wales, has long been spent and its retention is pointless. In 1968 the Willinck Committee, appointed jointly by the Archbishops of Canterbury and York, reviewed the early ecclesiastical legislation and recommended the repeal of the Suppression of Religious Houses Acts 1535 and 1539, together with later Acts of 1540, 1545 and 1592. The repeals were implemented by the Statute Law (Repeals) Act 1969, except for section 19 of the 1539 Act (exclusion of certain purchases of religious property by Duke of Norfolk). That section is equally spent. The Duke of Norfolk has been consulted and agrees to the proposed repeal.

The Religious Houses Acts 1542 and 1545 resolved contemporary doubts concerning the effect of the Suppression of Religious Houses Act 1535 and an Act of 1543 (35 Hen. 8. c.14) which was repealed in 1948. Both Acts are spent and their repeal is consequential on the repeal of the earlier Acts. The final repeal of the Religious Houses Act 1558 ("An Act to annex to the Crown certain religious houses and monasteries and to reform certain abuses in chantries") is consequential on the repeal of the substantive provisions of that Act by the Roman Catholic Relief Act 1926.

The Presentation of Benefices Act 1713 formed part of a group of Acts, reaching back to 1605,<sup>1</sup> under which Roman Catholics were disabled from presenting to benefices in the Church of England and their rights of presentation were vested in the Universities of Oxford and Cambridge. Except as mentioned below, this body of legislation is repealed by the Patronage (Benefices) Measure 1986, which came into operation on 1 January 1989<sup>2</sup> and fundamentally reforms the archaic law of patronage. Two sections of the Presentation of Benefices Act 1713 remain. Section 9 provided for the style by which the Universities of Oxford and Cambridge might sue writs of *quare impedit* pursuant to the Presentation of Benefices Acts 1605, 1688 and 1713 and the ancillary section 11 excluded Scotland from the operation of the Act. Consultation with the university authorities has confirmed that section 9 is obsolete and unnecessary. Its legislative purpose was to remove contemporary doubts as to the technical validity of legal proceedings brought under the legislation of 1605 and 1688 in which the universities had been incorrectly cited. The point disappears with the repeal of the legislation to which it relates. The proper corporate names of the ancient universities

<sup>1</sup> The Presentation of Benefices Act 1605, s.13, disabled popish recusants convict (those convicted of refusing to go to church and worship after the manner of the Church of England). It was extended by the Presentation of Benefices Act 1688 to trustees of disabled persons and by the Presentation of Benefices Act 1713, s.1, to persons making profession of the papist religion and their children, mortgagees and trustees.

<sup>2</sup> The date appointed by the Archbishops of Canterbury and York under section 42(3).

are laid down now, as they were in 1713, by the Oxford and Cambridge Act 1571. In modern legal proceedings the universities are cited accordingly.<sup>3</sup>

Section 1 of the Roman Catholic Charities Act 1832, the only surviving section of that Act, and section 2 of the Religious Disabilities Act 1846 provided respectively that persons professing the Roman Catholic religion, or the Jewish religion, should be subject as respects property acquired for religious worship and education or charitable purposes to the same laws as were applicable to protestant dissenters in England. The Liberty of Religious Worship Act 1855, so far as unrepealed, linked these enactments to the law in force after August 1855. These provisions have long ceased to serve any useful purpose.

The background is that the Act of Uniformity 1558<sup>4</sup> made all forms of religion other than the Church of England illegal and consequently gifts for the clergy or the buildings of Roman Catholic or protestant dissenters, or for the propagation of Roman Catholicism or the Jewish religion, were held void for "superstition" on the principle that no disposition of property for purposes which are illegal can give effect to the intended purposes. In Scotland the Church of Scotland was similarly established as the only true church<sup>5</sup> and during the 17th and 18th centuries penal enactments (which have long since ceased to be effective) prohibited the acquisition of heritable property by Roman Catholics, as well as dispositions, donations and legacies in favour of Roman Catholic religious foundations and societies. The old common law of superstitious uses persisted until 1919 when it was decisively overruled by the House of Lords in *Bourne v. Keane*,<sup>6</sup> which held in particular that masses for the dead were not illegal under common law. The old statutes which imposed disabilities on protestant dissenters, Roman Catholics and Jews in respect of religious or charitable property are no longer in force and there is nothing left for the enactments of 1832, 1846 and 1855 to operate on.

Section 4 of the Religious Disabilities Act 1846, now applicable only to Northern Ireland,<sup>7</sup> extended earlier laws relating to the disturbance of religious worship. No pre-1846 statutes on this matter survive in Northern Ireland and the section is in any event unnecessary, having regard to the later provisions of section 2 of the Ecclesiastical Courts Jurisdiction Act 1860<sup>8</sup> (summary offence of making a disturbance in churches, chapels, churchyards, etc.) and the power of magistrates in Northern Ireland to bind over persons to be of good behaviour.

The Test Abolition Act 1867 is long since spent. Roman Catholics were formerly excluded from certain civil offices, franchises and rights by the obligation to make a statutory declaration against transubstantiation, which was inconsistent with the practice of the Roman Catholic religion. The Act finally abolished the obligation imposed by earlier statutory provisions, now all repealed.

The Roman Catholic Relief Act 1926, which applies to Great Britain, originated as a private member's Bill to repeal anachronistic enactments which discriminated unnecessarily against Roman Catholics.<sup>9</sup> During its parliamentary passage two saving provisions were added to meet points raised by critics, but the debates on the Bill make it plain that the provisions were surplusage inserted for presentational purposes. Section 2 (saving as to powers of local authorities) was aimed at preserving the right of local authorities to control street processions under local legislation then in force. It had no practical operation then, since the repeals could not have prejudiced that legislation,

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<sup>3</sup> See e.g. *Chancellor, Masters and Scholars of the University of Oxford v. Pergamon Press Ltd. and Another* (1977) Sol. Jo., Vol. 121, p.758.

<sup>4</sup> The Act has been wholly repealed by a series of enactments passed between 1846 and 1974.

<sup>5</sup> Confession of Faith Ratification Act 1560, Papal Jurisdiction Act 1560, Church Jurisdiction Act 1567, Church Act 1579, Church Jurisdiction Act 1579.

<sup>6</sup> [1919] A.C. 815. Although Lord Birkenhead contemplated that there might be other kinds of superstitious uses, he did not suggest any nor have any come to light since then.

<sup>7</sup> The section was repealed for Great Britain by the Statute Law (Repeals) Act 1977, Sch. 1, Part V.

<sup>8</sup> For a recent case under this section, see *The Times*, 22 April 1986. Richard Thomas, a stamp dealer, interrupted a service at St. George the Martyr Parish Church, Bloomsbury and condemned the congregation for opposing Sunday trading. He pleaded guilty to an offence under the 1860 Act and was fined £30.

<sup>9</sup> For instance, under section 26 of the Roman Catholic Relief Act 1829 a cardinal who attended a public function in his robes was liable to a penalty of £50. Under section 11 of the Roman Catholic Relief Act 1792 a Roman Catholic priest was liable to a similar penalty if he officiated in a building which possessed a steeple and a bell.

and has none now.<sup>10</sup> Section 3 (saving for law relating to services or the appointment of clergy of the Church of England and the title to property forfeited to the Crown in 1558) was similarly unnecessary, but the promoters of the Bill explained-<sup>11</sup>

“The Bill, as originally drafted, was not intended to do, and, in fact, did not do, any of the things which are guarded against in this clause, but as certain fears were expressed by some hon. members, we drafted this clause to meet those fears and to make it perfectly clear to anybody who might read the Bill, even in the most casual way, that nothing in it affected the existing law of the Church of England or interfered with any of the rights to property or other rights which are set down ... we gladly put in this saving clause to remove any fears or doubts which any hon. member may have that the Bill goes further than it purports to do or interferes with anybody else”.

The repeals enacted by the Act became effective in 1926 and the Act is spent and unnecessary.

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<sup>10</sup> The pre-1926 local statutory provisions on this matter have ceased to have effect by virtue of the Local Government Act 1972, s.262(9) and the Local Government (Scotland) Act 1973, s.225(6). For the modern law, see Part II of the Public Order Act 1986 and the Civic Government (Scotland) Act 1982, ss.62 to 66.

<sup>11</sup> *Hansard* (H.C.), 3 December 1926, Vol. 200, cols. 1562-3 (Mr Blundell).

## PART IX

### SOUTH YORKSHIRE

The proposals in this Part would implement a project, recommended by the Local Legislation Working Party and approved by the Statute Law Committee,<sup>1</sup> to rationalise the accumulated body of local authority legislation in South Yorkshire. The proposals are based on a detailed review of the legislation carried out for the Law Commission by Mr. J.S. Phipps (Chief Executive of Leicester City Council 1973–1982). The proposed repeals have been considered and agreed to, so far as they are concerned, by the local authorities, statutory undertakers and other consultees listed in Appendix 3.

South Yorkshire was one of the six metropolitan county councils set up by the Local Government Act 1972 and abolished on 1 April 1986 by the Local Government Act 1985. Its surviving legislative powers under local legislation, including those which it inherited from its predecessors, have now devolved on the metropolitan district councils of Barnsley, Doncaster, Rotherham and Sheffield.<sup>2</sup>

The South Yorkshire Act 1980 re-enacted particular powers conferred by local legislation in force before 1 April 1974 which would otherwise have lapsed by virtue of section 262(9) of the Local Government Act 1972 (general cesser of pre-1974 local authority legislation to which it applies). But South Yorkshire was one of only two metropolitan counties—the other being Greater Manchester—which never promoted a comprehensive rationalising Bill to give effect to the scheme underlying section 262(9).<sup>3</sup> The purpose of that scheme<sup>4</sup> was to create—

“a corpus of local legislation which is relevant to present needs, greatly reduced in bulk, accessible to those who need to use it and capable of being indexed so that it can be modified, as necessary, in later years when further general or local Acts are passed”.<sup>5</sup>

The proposals in this Part would implement that scheme so far as South Yorkshire is concerned.

The bulk, uncertain operation and inaccessibility of local legislation are problems of long standing. Local legislation (public local Acts as distinct from public general Acts) was historically one of the principal means by which Parliament, from the time of the industrial revolution onwards, developed the institutions of modern urban society. The structure of legislation has progressively altered, as Parliament has moved to a system of legislation in general terms, but a very substantial volume of local statute law continues to regulate the activities of numerous public and other authorities. It is not normally included in revised editions of the statute law, it is inadequately indexed and, until 1974, no official record was kept of repeals and amendments affecting it. Successive re-organisations of public authorities have exacerbated the problems, since new authorities normally inherit the legislation promoted for the benefit of their predecessors but subject to complicated modifications in general terms.

Against this background section 262(9) of the Local Government Act 1972 proposed a fresh start by triggering the operation of a scheme to reform local authority legislation in England and Wales outside Greater London. The detailed effects of the cesser for which it provided are complex and require to be implemented by later legislation. Accordingly, during the lengthy interim period which was allowed before the cesser

<sup>1</sup> See Law Com. No. 140 (1985), para. 2.83. The Local Legislation Working Party was set up by the Statute Law Committee to report on the options for advancing the process of rationalising and reforming the local statute law in Great Britain.

<sup>2</sup> Local Government Act 1985, s.17(1)(b).

<sup>3</sup> Such Bills were promoted by the other four authorities, namely, Merseyside, Tyne and Wear, West Midlands and West Yorkshire.

<sup>4</sup> The scheme for England and Wales is set out in Department of the Environment Circular 14/74 and a circular letter dated 10 May 1974. See also Foulkes, “The Enactment of the County of South Glamorgan Act 1976”, *Public Law* 1977 p.272. South Glamorgan was the first county to implement the scheme.

<sup>5</sup> Circular Letter by the Department of the Environment dated 10 May 1974, para. 5.

took effect, the new metropolitan counties and other authorities created by the Local Government Act 1972 were required to review the accumulated mass of local Acts and orders which they had inherited and thereafter to promote fresh legislation to re-enact those powers which were still needed and to translate the effect of the general cesser into specific repeals of identified local statutory provisions. At the same time local authorities were encouraged to review the substantial body of local statutory provisions exempted in general terms from the cesser with a view to repealing them so far as they were no longer needed. Originally it was envisaged that the cesser would take effect in metropolitan counties at the end of 1979 and elsewhere at the end of 1984, but the time limits were extended several times in relation to different categories of legislation and finally expired on 31 December 1987.<sup>6</sup> However, the cesser mechanism, as such, is not and was never intended to be a final solution. The Local Legislation Working Party pointed out that, in areas in which the cesser has not been implemented by later legislation, its effect may be to substitute one form of uncertainty for another. In practice the detailed effects of the cesser are incapable of being indexed, although a sophisticated system for recording the extent to which local legislation is in force has been developed since 1974.<sup>7</sup> In the absence of information regarding the detailed effects of the cesser, the express repeals effected by first-stage reforming Bills can be positively misleading to users.<sup>8</sup>

The review of South Yorkshire legislation has been carried out broadly in accordance with the principles adopted for other major local authority rationalisation Bills such as the West Yorkshire Act 1980.<sup>9</sup> Its objectives are accordingly, first, to identify by express repeals the local statutory provisions which survived on 1 April 1974 but have ceased to have effect by virtue of section 262(9) of the Local Government Act 1972, and secondly, to repeal local statutory provisions exempted from that cesser<sup>10</sup> so far as they are no longer needed. The main categories of exempted provisions are those which relate to statutory undertakings, or which are protective provisions for the benefit of particular bodies or persons. The review covers local Acts, provisional orders made on the application of a local authority or which were subject to special parliamentary procedure and other major orders<sup>11</sup> forming an integral part of the legislation of local authorities. The repeal proposals affecting exempted provisions are outlined below.

#### *Statutory Undertaking Provisions*

The Local Government Act 1972 exempted from cesser all local statutory provisions relating to a statutory undertaking, namely, any railway, light railway, tramway, road transport, water transport, canal, inland navigation, ferry, dock, harbour, pier or lighthouse undertaking, any telephone undertaking, any market undertaking or any undertaking for the supply of electricity, gas, hydraulic power, water<sup>12</sup> or district heating. However, local authorities have been directly involved in many of these activities and their inherited legislation reflects the functions for which they were formerly responsible, either directly or as the successor to private companies. A detailed examination of this legislation shows that much of it is now redundant both as respects the local authorities to whom it originally related and as respects the successor undertakers.

<sup>6</sup> Metropolitan Counties (Local Statutory Provisions) Order 1979 (S.I. 1979 No. 969); Greater Manchester (Local Statutory Provisions) Order 1980 (S.I. 1980 No. 1845); Non-Metropolitan and Welsh Counties (Local Statutory Provisions) Order 1983 (S.I. 1983 No. 619); Non-Metropolitan and Welsh Counties (Local Statutory Provisions) Order 1986 (S.I. 1986 No. 2106).

<sup>7</sup> In 1985 the Law Commission and the Scottish Law Commission published the *Chronological Table of Local Legislation*, 2 vols. 781 pp. and work is in progress to extend its scope to cover all public local Acts passed since 1797. The effect of local legislation passed since 1974 is recorded in the *Chronological Table of the Statutes* (H.M.S.O.), Section 4.

<sup>8</sup> For instance, the Greater Manchester Act 1981 (which came into operation on 29 June 1981) repealed 14 sections of the Manchester Police Regulation Act 1844, but all 282 sections of that Act lapsed on 30 June 1981.

<sup>9</sup> The West Yorkshire Act 1980 incorporated the results of a review of some 800 local Acts and orders. For a discussion of the practical problems of promoting legislation of this type, see K.F.W. Gumbley, *Notes on Section 262 Bills* (1978) (West Yorkshire Metropolitan County Council).

<sup>10</sup> Local Government Act 1972, s.262(12)(i) to (v).

<sup>11</sup> The Acts under which these orders were made include the Light Railways Acts 1896 and 1912, the Gas Undertakings Acts 1920 to 1934, the Water Undertakings (Modifications of Charges) Act 1921, the Water Acts 1945, 1948 and 1958, the Public Health Acts 1875 and 1936 and the Local Government Acts 1929 and 1933.

<sup>12</sup> The statutory reference to "water" was repealed by the Water Act 1973, but the relevant local statutory provisions were continued in operation in a modified form by the Water Act 1973, s.34(2) and Sch. 6, Part II.



Local authorities lost their functions relating to electricity, gas and water following the nationalisation of the electricity and gas industries in 1948-49 and the establishment of statutory water authorities in 1973. Accordingly the local statutory provisions relating to the following matters are proposed for repeal-

- (a) specific powers for operating former local authority undertakings which were superseded by the general powers contained in the Electricity Act 1947, the Gas Act 1948 or, in the case of water undertakings, are unnecessary for the achievement of the purposes for which the statutory water authorities were created in 1973;
- (b) provisions to regulate the management of the former local authority undertakings, and to regulate relations between local authorities as electricity, gas or water undertakers, which became unnecessary following the nationalisation of the electricity and the gas industries or the creation of water authorities under the Water Act 1973;
- (c) supply code provisions (i.e. provisions dealing with the relationship between the undertakers and their customers and with the distribution network of electricity, gas or water mains) which have been superseded by other codes regulating the supply of electricity,<sup>13</sup> gas,<sup>14</sup> or water,<sup>15</sup> or are no longer required;
- (d) obsolete provisions defining the areas of supply of the former local authority undertakers;
- (e) provisions authorising the use of specific land for generating electricity or manufacturing gas, the construction and maintenance of works (including mains outside streets) or the abstraction of water from watercourses which are obsolete in consequence of the abandonment of works or have lapsed.

In South Yorkshire there were at one time six tramway operators: Barnsley and District Electric Traction Co. Ltd, Dearne District Light Railways (a joint board of local authorities), Doncaster Corporation, Mexborough and Swinton Traction Co., Rotherham Corporation and Sheffield Corporation. Trolley vehicles were operated by Doncaster Corporation, Mexborough and Swinton Traction Co. and Rotherham Corporation. These tramway and trolley vehicle systems were abandoned well before 1 April 1974. The legislation authorising the systems, or providing for their abandonment, is spent and proposed for repeal except as respects particular protective provisions which have a continuing operation.

The road passenger transport undertakings of Doncaster, Rotherham and Sheffield Councils were transferred to the South Yorkshire Passenger Transport Executive on 1 April 1974.<sup>16</sup> The Executive and its successor under the Transport Act 1985, South Yorkshire Transport Limited, are content to rely on the powers to operate bus services conferred by the Transport Act 1968, which have in practice superseded the local statutory provisions.<sup>17</sup> Sections 20 to 25 of the Sheffield Corporation Act 1920 (which empowered the Chesterfield Borough Council to operate buses on a specified route outside its boundaries) are proposed for repeal because the council's powers to operate buses outside its district are contained in later general legislation.<sup>18</sup>

Barnsley, Doncaster, Rotherham and Sheffield Councils all operate market undertakings under local statutory provisions, the powers under the general law being limited in scope. The repeals affecting markets are of provisions relating to charges which have

<sup>13</sup> Schedule to the Electric Lighting (Clauses) Act 1899, as adapted and applied by the Electricity Act 1947, s.57 and Part III of Sch. 4.

<sup>14</sup> Schedule 4 to the Gas Act 1986.

<sup>15</sup> Schedule 3 to the Water Act 1945, as applied throughout the Yorkshire Water Authority's area by the Yorkshire Water Authority (Water Supply Code) Order 1982 (S.I. 1982 No. 102).

<sup>16</sup> South Yorkshire Passenger Transport Area (Establishment of Executive) Order 1973 (S.I. 1973 No. 1728).

<sup>17</sup> Provisions in local enactments relating to charges on public transport ceased to have effect by virtue of the Transport Charges, &c. (Miscellaneous Provisions) Act 1954, s.14(2).

<sup>18</sup> Road Traffic Act 1930, s.101(1), as amended by the Transport Act 1968, s.31(1)(a); Transport Act 1985, s.66.

been overtaken by the general law<sup>19</sup> or of spent provisions relating to the acquisition of markets from former owners or to abandoned works.

The Doncaster Corporation Act 1950 conferred powers to operate a district heating undertaking. These powers are now unnecessary, having been superseded by the general powers conferred by sections 11 and 12 of the Local Government (Miscellaneous Provisions) Act 1976.

In Barnsley, Rotherham and Sheffield, local statutory provisions were enacted relating to sewerage and sewage disposal. These provisions, so far as proposed for repeal, are either duplicated by the general law contained in the Public Health Acts 1936 and 1961, or other later legislation,<sup>20</sup> or relate to obsolete agreements or spent compulsory purchase powers.

#### *Protective Provisions*

Protective provisions (which safeguard the rights, property and works of particular organisations and individuals against the exercise of powers conferred by local Acts or orders) are exempted from cesser under section 262(9) of the Local Government Act 1972, but a considerable number have either been superseded by protective provisions in later general legislation or have become obsolete or unnecessary. Those proposed for repeal fall within the following main categories-

- (a) provisions for the protection of electricity, gas or water undertakers' works in streets and on bridges which have been replaced by the street works code enacted by the Public Utilities Street Works Act 1950;<sup>21</sup>
- (b) provisions giving protection against the exercise of gas undertakers' powers so far as protection is given to railway and canal undertakers by paragraph 4 of Schedule 4 to the Gas Act 1986;
- (c) provisions giving protection against the exercise of water undertakers' powers so far as protection is given to electricity and gas undertakers by paragraph 19 of Schedule 3 to the Water Act 1945 (as modified by the Local Authorities etc. (Miscellaneous Provisions) Order 1977 (S.I. 1977 No. 293), Article 7), and to railway and canal undertakers by paragraphs 25 and 93 of Schedule 3 to the 1945 Act;
- (d) provisions giving protection to electricity and gas undertakers against competition which became redundant in consequence of nationalisation in 1948-49;
- (e) provisions giving protection against the exercise of powers which have been repealed or which are proposed for repeal;
- (f) provisions which have become obsolete through abandonment of the undertakings or works against which the protection was given;
- (g) provisions protecting one local authority against the exercise of powers by another local authority which became spent when the two authorities were amalgamated;
- (h) restrictions on the exercise of compulsory purchase powers which are spent.

#### *West Riding Enactments*

Following the abolition of the West Riding County Council on 1 April 1974, its legislative powers under the West Riding County Council Acts 1948 to 1970 were devolved on seven successor authorities: the metropolitan county councils of South Yorkshire and West Yorkshire, the metropolitan district council of Oldham and the county councils of Cumbria, Humberside, Lancashire and North Yorkshire.<sup>22</sup> The legislation as it applies to West Yorkshire, Cumbria, Humberside and Lancashire has

<sup>19</sup> Local Government (Miscellaneous Provisions) Act 1976, s.36. See also Local Government Act 1972, s.199(4) (cesser of local Act provisions for the determination by the Secretary of State of stallages, tolls and other charges for the purposes of markets).

<sup>20</sup> Public Health (Drainage of Trade Premises) Act 1937, Control of Pollution Act 1974, Highways Act 1980, Building Act 1984.

<sup>21</sup> Provisions in earlier public general and local enactments relating to such works ceased to have effect by virtue of the Public Utilities Street Works Act 1950, ss.15(3), 17(2) and 24(2).

<sup>22</sup> See Local Government Act 1972, ss.1(1), (2) and (10), 262(1) to (4), Sch. 1.

been largely repealed by the West Yorkshire Act 1980, the Cumbria Act 1982, the Humberside Act 1982 and the County of Lancashire Act 1984 respectively. Consultation has shown that the legislation, so far as proposed for repeal, is obsolete or unnecessary elsewhere. The repeals proposed are accordingly not restricted geographically.

The Yorkshire Electric Power Acts 1901 to 1936 established and regulated an electricity undertaking for part of the West Riding which was vested in the Yorkshire Electricity Board on 1 April 1948.<sup>23</sup> The West Yorkshire Gas Distribution Acts 1938 and 1946 provided for a gas undertaking in the West, North and East Ridings which was vested in the North Eastern Gas Board on 1 May 1949.<sup>24</sup> This legislation, as it applied to West Yorkshire, was largely repealed by the West Yorkshire Act 1980 and consultation has shown that, so far as proposed for repeal, it is obsolete and unnecessary elsewhere.

The legislation of 1893 and 1894 (West Riding rivers) was either superseded by the Rivers (Prevention of Pollution) Act 1951 or has lapsed. The Doncaster, Rotherham and Wakefield Extension Order 1936 (alteration of boundaries and abolition of Greasbrough Urban District Council) is spent.

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<sup>23</sup> Electricity (Allocation of Undertakings to Area Boards) Order 1948 (S.I. 1948 No. 484, Rev. VI p.854).

<sup>24</sup> Gas (Allocation of Undertakings to Area Boards and Gas Council) Order 1949 (S.I. 1949 No. 742).

PART X  
TRANSPORT

The Eynesford Road Act 1811 repealed an earlier Act of 1810 (10 Geo. 3. c.viii) providing for the levying of tolls to pay for the repair and maintenance of a road in Kent. The Act is spent.

The London Hackney Carriage Acts 1831 and 1843 still form part of the statutory code regulating cabs in London, which was last consolidated in 1831.<sup>1</sup> In section 4 of the 1831 Act and section 2 of the 1843 Act, the repeals are of obsolete and superseded definitions of a hackney carriage and of other unnecessary interpretation provisions. Licences ceased to be granted under the 1831 Act in 1853 and cab licences in London are now granted under section 6 of the Metropolitan Public Carriage Act 1869. That Act contains its own definition of a hackney carriage and the earlier statutes have to be construed in accordance with it. In section 56 of the 1831 Act (penalties for misbehaviour) the repeal is of an obsolete offence of assaulting or obstructing an officer of stamp duties in the execution of his duties.<sup>2</sup>

In the Highway Act 1835, a 19th century consolidation of the law for England and Wales, the substantive residue consists of sections 72 and 78, which still provide for a number of summary road traffic offences, including the fundamental rule that traffic must proceed on the left side of the road and overtake on the right. In section 5 (interpretation) only the definition of "highways" is still relevant and necessary. Section 22 had the effect of extending that definition to county bridges for the purposes of sections 72 and 78 and its repeal is consequential on the proposed repeal of so much of the definition of "highways" as excludes county bridges. The repeals to section 78 are of an outdated offence relating to the driving of a waggon or cart which is in any case duplicated by other legislation<sup>3</sup> or of provisions which are obsolete in consequence of the abolition in 1967<sup>4</sup> of different penalties under the section for owner-drivers and other drivers. Section 112, a saving for pre-1835 local Acts, is spent and of no significance now.

In the Metropolitan Streets Act 1867 and the Metropolitan Public Carriage Act 1869, which apply to London, the repeals are of—

- (a) statutory machinery for the recovery, or application, of fines imposed on summary conviction which has been superseded by the general law contained in the Magistrates' Courts Act 1980 and the Justices of the Peace Act 1979 (1867 s.27, 1869 s.13);
- (b) a definition of the term "magistrate" which ceased to be relevant in 1963, when sections 16 and 18 of the Metropolitan Streets Act 1867 were repealed by the London Government Act 1963 (1867, s.3);
- (c) obsolete statutory references to the liberties of the City of London (1867 s.3, 1869 ss.2, 9).

The Railway Companies Act 1867, so far as unrepealed, restricts the taking of rolling stock or plant of a railway company in execution of a judgment of a court in England and Wales or Northern Ireland. The repeals are of provisions which were only relevant for the purposes of sections 6 to 36 of that Act (arrangements with creditors, loan capital, etc). Those sections were repealed by the Transport Act 1962 and the Road Traffic, Transport and Roads (Northern Ireland) Order 1984 (S.I. 1984 No. 1986, N.I. 15).

Sections 27 and 28 of the Regulation of Railways Act 1868 as they apply to Great Britain enabled the Board of Trade (now the Secretary of State) to license the

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<sup>1</sup> The Act of 1831 replaced the statutes relating to the licensing of hackney coaches and chairs in the Metropolis, which reached back to the reign of Anne.

<sup>2</sup> In 1831 licences were granted by the Commissioners of Stamps.

<sup>3</sup> Town Police Clauses Act 1847, s.28; Metropolitan Police Act 1839, s.54; City of London Police Act 1839, s.38.

<sup>4</sup> Criminal Justice Act 1967, s.92 and Schedule 3, Part I.

construction and working of light railways. The Department of Transport confirms that this procedure is no longer used, having been superseded in practice by the more elaborate and detailed procedure for authorising the construction and working of light railways provided by orders made under the Light Railways Act 1896. Sections 27 and 28 are accordingly unnecessary in their application to Great Britain.<sup>5</sup> The repeal of Schedule 1 (forms of account) is consequential on the repeal of section 3 by the Railway Companies (Accounts and Returns) Act 1911.

In the Regulation of Railways Act 1873 (which so far as unrepealed for Great Britain relates to the maintenance of canals), the repeal of the definition of "mails" is consequential on the repeal of sections 18 to 20 (conveyance of mails) by the Post Office Act 1953.

In the Railway Regulation Act (Returns of Signal Arrangements, Workings, &c.) 1873, the sole remaining provision is section 5 (returns by coroners), which now extends only to Scotland.<sup>6</sup> Section 5 provides—

"Every coroner ... within seven days after holding an inquest on the body of any person who is proved to have been killed on a railway, or to have died in consequence of injuries received on a railway, and in Scotland every procurator fiscal, within the like time and in like cases, shall make to [the Minister of Transport]<sup>7</sup> ... a return of the death and the cause thereof."

Since inquests are unknown in Scotland this provision is strictly inapplicable, although in practice it is treated as imposing an obligation to make returns of railway deaths. In cases where such a death is the subject of a fatal accident inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, section 6(4) of that Act provides for copies of the determination of the sheriff conducting the inquiry to be sent to the Lord Advocate and (on request) any government department. Section 5 of the 1873 Act is therefore relevant, if indeed it is applicable, only where no inquiry is held under the 1976 Act. In modern practice procurators fiscal notify deaths in various circumstances to a variety of public authorities as required by administrative direction of the Crown Office. Such notification does not always depend on the existence of a statutory requirement. The Department of Transport, the Crown Office and the Scottish Home and Health Department all agree that section 5 is unnecessary and that notification to the Department of Transport of railway deaths can safely be allowed to rest on administrative direction. Section 6(4) of the 1976 Act will continue to apply where a fatal accident inquiry into a railway death is held.

The Channel Tunnel Company (Limited) Act 1875 authorised that company, which was incorporated in 1872, to acquire land in St. Margaret's Bay at Cliffe, Kent, for the purpose of carrying out preliminary experimental operations. The compulsory purchase powers expired after a year and were never extended and the Act is spent.

In the Canal Boats Act 1877, which applies to England and Wales, the only remaining substantive provision is section 12 (power of canal company, etc., to establish schools). The Canal Boats Acts 1877 and 1884, as originally enacted, were an attempt to remedy the problems that arose from the Victorian practice of using whole families to work the boats carrying freight on the canals.<sup>8</sup> The legislation was aimed, first, at regulating the public health hazard posed by the dwelling of whole families in the close confines of a narrow canal boat, and secondly at securing to the children the advantages of elementary education provided by law for the rest of the poorer classes of children.<sup>9</sup> The

<sup>5</sup> The Light Railways Act 1896 does not extend to Northern Ireland.

<sup>6</sup> The Act, which originally applied to the United Kingdom, was repealed for Northern Ireland by the Statute Law Revision (Northern Ireland) Act 1976. The residue of the Act as it applied to England and Wales was repealed in 1988 when section 5 was consolidated by section 11(8) of the Coroners Act 1988.

<sup>7</sup> Words substituted by virtue of the Transfer of Functions (Railway Deaths) Order 1956 (S.I. 1956 No. 1699), the Minister of Aviation Order 1959 (S.I. 1959 No. 1768), Arts. 3(2), 4(1), the Secretary of State for the Environment Order 1970 (S.I. 1970 No. 1681), Arts. 2(1), 6(3) and the Minister of Transport Order 1979 (S.I. 1979 No. 571), Arts. 2(1), 3(5).

<sup>8</sup> During the canal age it was usual for boats to be worked by men and boys only and the boatmen kept their families in cottages ashore. Competition from the railways and other carriers, longer journeys and a housing shortage encouraged the use of family boats.

<sup>9</sup> Parl. Deb. (3rd series), 7 August 1877, Vol. 236, cols. 528–9 (Duke of Richmond).

public health aspects of the legislation were consolidated in 1936<sup>10</sup> and, so far as unrepealed, were reconsolidated by the Public Health (Control of Disease) Act 1984. Section 6 of the Canal Boats Act 1877 and sections 5 and 6 of the Canal Boats Act 1884 (which related to the education of children on canal boats) were consolidated in 1921<sup>11</sup> and have since been replaced by provisions of the Education Act 1944. Section 8 of that Act provides for securing the provision of boarding accommodation for pupils for whom education as boarders is considered by their parents and the local education authority to be desirable and section 50 (provision of board and lodging otherwise than at boarding schools) enables a local education authority to make special arrangements for the boarding of individual pupils and also to set up hostels for the children of special classes, such as the children of canal boatmen.<sup>12</sup> Section 12 of the Canal Boats Act 1877, which provided a procedure whereby canal companies could operate schools, has long ceased to serve any useful purpose and no school to which it could apply has existed since 1963. Its repeal is agreed to by the Department of Education and Science and the British Waterways Board.

In the Railway and Canal Traffic Act 1888, section 43 enables canal companies to make contracts and arrangements with other canal companies for passage along their canals, the use of landing places, etc. Section 43(3), which validated like contracts and arrangements existing on 10 August 1888, when the Act was passed, has had its effect and is spent.<sup>13</sup> Section 49 (prosecution and recovery of summary penalties) has been superseded by the general law relating to the prosecution of summary offences and the recovery of fines. Section 53 originally dealt with the exercise of functions by the Board of Trade which are now exercisable in Great Britain by a Secretary of State and in Northern Ireland by other authorities. The section is unnecessary and other legislation provides for the exercise of these functions.<sup>14</sup>

In the Light Railways Act 1896, which applies to Great Britain, the repeals to section 26 (application to Scotland) are consequential on the repeal of section 5 as it applied to Scotland by the Statute Law (Repeals) Act 1986. The repeals to Schedule 2 (exclusion of specified statutory provisions) are consequential on the proposed repeal of sections 27 and 28 of the Regulation of Railways Act 1868 or the earlier repeal<sup>15</sup> of section 19 of the Regulation of Railways Act 1868 and section 6 of the Railway Regulation Act (Returns of Signal Arrangements, Workings, &c.) 1873.

The Merchant Shipping (Wireless Telegraphy) Act 1919, as extended to the Isle of Man in 1934,<sup>16</sup> has been superseded by regulations made under section 21 of the Merchant Shipping Act 1979<sup>17</sup> which have been incorporated in Manx law by virtue of legislation of Tynwald.<sup>18</sup> The 1919 Act was repealed for the United Kingdom by the Merchant Shipping (Safety Convention) Act 1949, which was not extended to the Isle of Man.

In the Roads Act 1920, section 4 and Schedule 1 (amendments of Development and Road Improvement Funds Act 1909) have been repealed for Scotland and Northern Ireland<sup>19</sup> and are similarly obsolete in England and Wales.

In the Merchant Shipping (Safety and Load Line Conventions) Act 1932, as extended

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<sup>10</sup> Public Health Act 1936, Part X (Canal Boats). The registration of canal boats was abolished by the Local Government Act 1966, s.35(1). Annual reports by registration authorities for canals were abolished by the Public Health Act 1961, s.79.

<sup>11</sup> Education Act 1921, s.50 (application to children in canal boats).

<sup>12</sup> See Taylor and Saunders, *The Law of Education* (8th ed. 1976) p.143.

<sup>13</sup> Section 43 was repealed for Northern Ireland by the Statute Law Revision Act (Northern Ireland) 1954.

<sup>14</sup> Secretary of State for the Environment Order 1970 (S.I. 1970 No. 1681), Art. 3(4), (5); Secretary of State for Transport Order 1976 (S.I. 1976 No. 1775), Art. 4(3), (4); Ministries of Northern Ireland Act (Northern Ireland) 1921, s.3.

<sup>15</sup> Clean Air Act 1956; Statute Law Revision Act 1966.

<sup>16</sup> Merchant Shipping Safety Convention (Isle of Man) Order 1934 (S.R. & O. 1934 No. 1414, Rev. XIV p.593).

<sup>17</sup> Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980 No. 529), as amended.

<sup>18</sup> Merchant Shipping Act 1985, s.5; Merchant Shipping (Safety Provisions) (Application) Order 1985 (G.C. 38/85).

<sup>19</sup> Roads (Scotland) Act 1984; Roads (Northern Ireland) Order 1980 (S.I. 1980 No. 1085, N.I. 11).

to the Isle of Man,<sup>20</sup> Part I has been superseded, so far as proposed for repeal, by the provisions of later United Kingdom legislation<sup>21</sup> which have been incorporated in Manx law by virtue of legislation of Tynwald,<sup>22</sup> or in the case of section 23 (load lines) by section 19 of the Merchant Shipping (Load Lines) Act 1981 of Tynwald. The repeal of section 71 (application of certain provisions relating to forgery) is consequential.

The Road Traffic Act 1934, which originally applied to Great Britain, was repealed for Scotland by the Roads (Scotland) Act 1984. In its application to England and Wales, section 39, as originally enacted, amended the earlier enactments relating to the licences of drivers and conductors of hackney carriages and stage carriages in the Metropolis, that is, section 8 of the Metropolitan Public Carriage Act 1869 and section 51 of the London Passenger Transport Act 1933. The latter enactment has been repealed and the residual effect of section 39 is to fix the period of validity of a cab driver's licence in London at three years. This effect would be continued by a consequential amendment of the Metropolitan Public Carriage Act 1869 (Schedule 2 to the draft Bill). The remaining residual provisions of the 1934 legislation are section 40 and Schedule 3 (consequential and minor amendments), which are obsolete in consequence of the repeal of section 107 of the Road Traffic Act 1930 by the Local Government Act 1972, and section 42 (short title and extent).

The Trunk Roads Acts 1936 and 1946, which provided for a national system of trunk roads in Great Britain, have been replaced, as they applied to Scotland, by the Roads (Scotland) Act 1984. In their application to England and Wales, the Acts were for the most part consolidated by the Highways Act 1959, since replaced by the Highways Act 1980. The residual substantive provisions of the Acts relate to the exercise of minor miscellaneous functions of the Secretary of State in relation to trunk roads (provision of cabmen's shelters, erection of statues and monuments, erection and maintenance of seats and drinking fountains). The Acts also contain a reserve power to modify pre-1936 Acts conferring equivalent functions on local authorities to make them accord with the general law relating to trunk roads. This power is obsolete and unnecessary in consequence of the general cesser of Acts of this type effected by section 262(9) of the Local Government Act 1972. The functions of the Secretary of State, which are awkwardly drafted and inconveniently located, would be consolidated within the framework of the Highways Act 1980 (Schedule 2 to the draft Bill). The repeal of the remaining provisions of the Trunk Roads Acts 1936 and 1946 is consequential.

Sections 1 to 4 of the Merchant Shipping Act 1948 (regulations for crew accommodation on board ship), as extended to the Isle of Man in 1960,<sup>23</sup> have been superseded by legislation of Tynwald<sup>24</sup> providing for the modified application to the Isle of Man of regulations made under section 20 of the Merchant Shipping Act 1970.<sup>25</sup>

The Air Corporations Act 1949 (which provided for the establishment and functions of BOAC and BEA), as extended to the Isle of Man in 1952,<sup>26</sup> is obsolete in consequence of the Air Corporations (Dissolution) Order 1973 (S.I. 1973 No. 2175).

The Special Roads Act 1949, the Highways (Provision of Cattle Grids) Act 1950, the Road Traffic Act 1956 and the Road Traffic and Roads Improvement Act 1960 were finally repealed for Scotland by the Roads (Scotland) Act 1984. In their application to England and Wales, the substantive provisions of the Acts were consolidated by the Highways Act 1959, which was reconsolidated in 1980, or have been replaced by more recent Acts relating to the regulation of road traffic. The residue of the Special Roads Act 1949 (sections 16(1), 18(1) and (3), 19(2) and (3), 21(1) and (2) and 23) includes

<sup>20</sup> Merchant Shipping Safety Convention (Isle of Man) Order 1934 (S.R. & O. 1934 No. 1414, Rev. XIV p.593), which extended sections 3, 10 to 15, 20, 22 to 24, 26 to 28, 30 and 71 to 73; Merchant Shipping (Helm Orders) Order 1935 (S.R. & O. 1935 No. 837, Rev. XIV p.656), which extended section 29.

<sup>21</sup> Merchant Shipping (Safety Convention) Act 1949, ss.7, 9, 11, 12, 13, 17, 19, 22; Merchant Shipping (Radio Installations Survey) Regulations 1981 (S.I. 1981 No. 583); Merchant Shipping (Dangerous Goods) Regulations 1981 (S.I. 1981 No. 1747).

<sup>22</sup> Merchant Shipping Act 1985, s.5; Merchant Shipping Acts (Application) Order 1985 (G.C. 156/85); Merchant Shipping (Safety Provisions) (Application) Order 1985 (G.C. 38/85).

<sup>23</sup> Merchant Shipping Act 1948 (Isle of Man) Order 1960 (S.I. 1960 No. 1378).

<sup>24</sup> Merchant Shipping (Masters and Seamen) Act 1979, s.63; Merchant Shipping (Masters and Seamen) (Application) Order 1980 (G.C. 168/80).

<sup>25</sup> Merchant Shipping (Crew Accommodation) Regulations 1978 (S.I. 1978 No. 795) as amended.

<sup>26</sup> Air Corporations Act (Isle of Man) Order 1952 (S.I. 1952 No. 1033).

provision supporting the making of regulations, but the power ceased to be effective in 1962 when the existing regulations under that Act were revoked and replaced, as they applied to England and Wales, by regulations under the Highways Act 1959.<sup>27</sup> The residue of the other Acts similarly consists only of now inoperative ancillary provisions. None of the Acts applied to Northern Ireland.

In the London Government Act 1963, the repeals are consequential on the proposed repeal of the Road Traffic and Roads Improvement Act 1960 or are of obsolete provisions for the interpretation of section 14 of the 1963 Act (other road functions in Greater London) which has been finally repealed by the combined effect of later legislation.<sup>28</sup>

In the Gas Act 1965, as it applies to Scotland, the proposed repeals to Schedule 2 are of provisions relating to the service of notices on highway authorities which are not local authorities. We are advised by the Lord Advocate's Department that these provisions, which are obsolete, should have been repealed by the Roads (Scotland) Act 1984, but due to an error in that Act the repeals were expressed as relating to Schedule 1 to the Gas Act 1965. That Schedule was repealed by the Gas Act 1972.

In the Erskine Bridge Tolls Act 1968 (levying of tolls for the use of the Erskine Bridge), the proposed repeal is consequential on the repeal of the Trunk Roads Act 1946 and the Special Roads Act 1949, as they applied to Scotland, by the Roads (Scotland) Act 1984.

Section 143 of the Transport Act 1968, and Schedule 15 to that Act, were passed in connection with a scheme to build a channel tunnel which originated in 1961 and was abandoned in 1975. They provided for the establishment of a Channel Tunnel Planning Council which was to act as the forerunner of the proposed public operating authority during the final phase of studies for the tunnel and was to work in parallel with a study company to be set up by those groups which had been chosen to finance the scheme.<sup>29</sup> In the event the Council was never established and the Department of Transport agrees that the legislation is redundant. The functions envisaged for the Council in 1968 have been carried out in relation to the scheme authorised by the Channel Tunnel Act 1987 by other means. The repeal proposed to Schedule 4 to the Superannuation Act 1972 (list of bodies empowered to make determinations relating to their pension schemes without the approval of a Minister) is consequential.

In the Local Government Act 1972, which applies to England and Wales, paragraph 96 of Schedule 21 (amendments of enactments relating to highways) amended section 3 of the Trunk Roads Act 1936. Its repeal is consequential on the proposed repeal of that Act.

In the Highways Act 1980, which applies to England and Wales, the repeals are of transitional provisions which are spent in consequence of the coming into operation of Part II of the Transport Act 1980 on 1 October 1980<sup>30</sup> or of the coming into operation of the Magistrates' Courts Act 1980 on 6 July 1981.<sup>31</sup>

In the Road Traffic Regulation Act 1984, which applies to Great Britain, paragraph 12 of Schedule 10 (subways within the meaning of the Telegraph Act 1878) was a transitional provision to cover the possibility that the Telecommunications Act 1984 would come into operation after the Road Traffic Regulation Act 1984. The provision never became effective and was never needed. The Telecommunications Act 1984 was brought into operation on 5 August 1984,<sup>32</sup> and the Road Traffic Regulation Act 1984 came into operation on 26 September 1984.

<sup>27</sup> Special Roads and Trunk Roads (Procedure) Regulations 1962 (S.I. 1962 No. 1319); Special Roads (Notice of Opening) Regulations 1962 (S.I. 1962 No. 1320). These regulations replaced the Special Roads (Procedure) Regulations 1950 (S.I. 1950 No. 1850) and the Special Roads (Procedure) (Amendment) Regulations 1958 (S.I. 1958 No. 1848). In Scotland the relevant regulations were not replaced until 1976 (S.I. 1976 No. 856).

<sup>28</sup> Road Traffic Regulation Act 1967, Transport (London) Act 1969, Road Traffic Act 1972, Transport Act 1980, Highways Act 1980.

<sup>29</sup> *Hansard* (H.C.), 20 May 1968, Vol. 765, col. 200 (Joint Parliamentary Secretary to the Ministry of Transport).

<sup>30</sup> National Freight Corporation (Transfer of Undertaking) Order 1980 (S.I. 1980 No. 1380).

<sup>31</sup> Magistrates' Courts Act 1980 (Commencement) Order 1981 (S.I. 1981 No. 457).

<sup>32</sup> Telecommunications Act 1984 (Appointed Day) (No. 2) Order 1984 (S.I. 1984 No. 876).



In the Roads (Scotland) Act 1984, the proposed repeal is of an entry relating to Schedule 1 to the Gas Act 1965 which never had effect, since that Schedule was repealed by the Gas Act 1972.

The Transport Act 1985 came fully into force on 13 August 1987<sup>33</sup> except for a minor repeal affecting section 37 (taxi licensing) of the Town Police Clauses Act 1847 as it applies to England and Wales. The proposed repeal of the relevant entry in Schedule 8 (repeals), which is at the request of the Department of Transport, is consequential on a drafting change to the form of section 16 of the Transport Act 1985 which was made during the passage of the Bill through Parliament.

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<sup>33</sup> Transport Act 1985 (Commencement No. 7) Order 1987 (S.I. 1987 No. 1228).

PART XI  
MISCELLANEOUS

*Pre-1707 Scottish Acts*

The Innkeepers Act 1424, which applies to Scotland, formed part of a series of statutes which were aimed at protecting individuals from the exactions of groups of travellers.<sup>1</sup> The early law on innkeepers in Scotland probably derived partly from these statutes and partly from general principles of the common law, but in the late 19th century the law was developed in judicial statements without reference to the old statutes. The other statutes were repealed in 1906 and the Act of 1424 could similarly have been repealed then. The principles which now regulate an innkeeper's duty to the public are well established and rest on the common law, which has in effect supplanted the old statutes.<sup>2</sup> The Scottish Home and Health Department, the Scottish Consumer Council and the British Federation of Hotel, Guest House and Self-Catering Associations have been consulted and agree that the Act serves no useful purpose.

The Sunday Acts 1579 and 1661 are obsolete Acts of the Scottish Parliaments which originally imposed prohibitions on Sunday trading in Scotland but subsequently have fallen into desuetude in the technical sense of that term.<sup>3</sup> Desuetude is a well-established constitutional doctrine applicable to pre-1707 Scottish statutes. Its effect is that a statute which becomes obsolescent loses its legal force by operation of law though it is not formally repealed by Act of Parliament. It is desirable that the Acts should be expressly repealed to remove them finally from the statute book.

The requisite conditions for the operation of the doctrine of desuetude in relation to pre-1707 Scottish statutes have been stated by the courts as follows—

- (i) that “the offence prohibited is not only practised without being checked, but is no longer considered or dealt with in this country as an offence against the law”;<sup>4</sup>
- (ii) that there is “contrary usage of such a character as practically to infer such completely established habit of the community as to set up a counter-law or establish a quasi-repeal”.<sup>5</sup>

These conditions are clearly met in contemporary Scottish society. The Acts have not been the subject of a successful prosecution for more than 150 years. No prosecution has been attempted for 100 years. In judicial opinions between 1870 and 1930 doubts were increasingly expressed about the status of the Acts. These doubts have been reinforced by the developments of the last 50 years. Shops and markets within the scope of the Acts operate without restriction on Sundays throughout Scotland. This conduct has not been considered or dealt with, over a very considerable period of time, as an offence against the law.

Quite apart from the question of desuetude in the technical sense, the Acts are unworkable in practice. Their language is obscure, the procedures for enforcing them are unclear and the penalties which can be imposed are uncertain.

In 1982 and 1985 the Acts were proposed for repeal in Shops Bills which were thought to be convenient legislative vehicles to remove what was regarded as statutory dead wood. Although both Bills failed because of opposition to relaxing current restrictions on Sunday trading in England and Wales, there was no challenge specifically to the Scottish repeals. Indeed, in the course of the Parliamentary debates, members

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<sup>1</sup> 1425 c.11, 1427 c.3, 1535 c.23, all repealed by the Statute Law Revision (Scotland) Act 1906. The broad effect of the legislation was to require the establishment of hostelries in burgh towns and thoroughfares and to prohibit travellers from lodging elsewhere unless accompanied by a very large retinue.

<sup>2</sup> *Rothfield v. North British Railway Co.* 1920 S.C. 805, accepting the law as stated in *Ewing v. Campbells* (1877) 5 R. 230, and *Strathearn Hydropathic Company v. Inland Revenue* (1881) 8 R. 798 (Lord President Inglis).

<sup>3</sup> Public statements to the effect that the Acts were never enforced, or were of doubtful validity, or were in desuetude were made as long ago as 1934 in the debate on the unsuccessful Shops (Sunday Trading Restriction) (Scotland) Bill. See *Hansard* (H.C.), 9 March 1934, Vol. 286, cols. 2203–4, 2244.

<sup>4</sup> *Bute v. More* (1870) 9 M. (J.) 180, 182.

<sup>5</sup> *Brown v. Magistrates of Edinburgh* 1931 S.L.T. 456, 458.

frequently referred to Scotland as a country where there are no laws against Sunday trading.<sup>6</sup>

Extensive consultations have been carried out involving the Church of Scotland and other major religious groups,<sup>7</sup> as well as organisations representing employers, employees and consumers.<sup>8</sup> The Scottish Home and Health Department has also been consulted, and the Crown Office which, under the Lord Advocate, has responsibility for criminal prosecutions in Scotland. All agree that the Acts should now be expressly repealed, with the exception of the Free Presbyterian Church of Scotland who would like to see the Acts revived and strengthened. However, the view of the Scottish Law Commission is that the old Sunday Acts are legally inoperative as well as inoperable in practice. Repealing the Acts would not change the present law and their continued retention on the statute book is misleading.

#### *Other Enactments*

The Painshill Estate Act 1795 authorised the sale of Crown land forming part of an estate<sup>9</sup> in Cobham, Surrey, to the trustees of the will of Benjamin Bond Hopkins (d.1794) to enable them to dispose of the whole property in accordance with the terms of the will. The legislation was necessary to override the Crown Lands Act 1702 and later Acts of 1761 and 1794, now repealed. Hopkins<sup>10</sup> acquired Painshill in 1773 from the Hon. Charles Hamilton (1704-1786), who had created a famed 18th century landscaped park on land partly held on lease from the Crown.<sup>11</sup> The estate remained virtually intact until 1948, when it was split into lots and sold off, and serious deterioration set in. Elmbridge Borough Council subsequently acquired 160 acres of the original property, encompassing the Pleasure Grounds of Painshill, and the Painshill Park Trust has been formed to restore the park to its 18th century condition. The legislation of 1795 is of no legal significance now and the Crown Estate Commissioners and Elmbridge Borough Council agree that it is long since spent.

The Portsdown Fair Act 1862, which related to land in the then county of Southampton, was passed in consequence of the acquisition for defence purposes, under the Defence Act 1860, of the land on which the fair was authorised to be held. The Act formally extinguished the fair and is spent.

The Statute Law Revision and Civil Procedure Act 1881, which applied to England and Wales, was one of a series of three measures promoted by the Statute Law Committee to repeal enactments relating to civil procedure which had been superseded by the Supreme Court of Judicature Acts 1873 and 1875, or the rules made under those Acts, or were otherwise obsolete or unnecessary then. The other measures were the Civil Procedure Acts Repeal Act 1879 and the Statute Law Revision and Civil Procedure Act 1883. These two Acts have already been repealed<sup>12</sup> and the Act of 1881 is similarly spent and unnecessary. In 1887<sup>13</sup> Lord Thring (1818-1907), then Chairman of the Statute Law Committee, recommended that the 1879-1883 repeals should be followed up by a consolidation of the many remaining pre-1873 enactments relating to civil procedure, but this project did not come to fruition.

<sup>6</sup> See e.g. on the Shops Bill 1982, *Hansard* (H.C.), 4 February 1983, Vol. 36, cols. 536, 543, 571, 587, 589, 593, 599; on the Shops Bill 1985, *Hansard* (H.C.), 14 April 1986, Vol. 95, cols. 590, 591, 603, 613, 622, 633, 637, 663, 664, 675.

<sup>7</sup> Archdiocese of St. Andrews and Edinburgh, Board of Deputies of British Jews, Free Church of Scotland, Free Presbyterian Church of Scotland, Methodist Church Synod in Scotland, Scottish Episcopal Church, United Free Church of Scotland.

<sup>8</sup> Confederation of British Industry, Scottish Trades Union Congress, Scottish Consumer Council.

<sup>9</sup> For the general history of Painshill, see J.W. Lindus Forge and Mavis Collier, *Painshill*, Walton & Weybridge Local History Society, 1986.

<sup>10</sup> Hopkins, born Benjamin Bond, succeeded as a young man in claiming the vast fortune of his maternal grandfather (known as "Vulture" Hopkins from his disreputable dealings in the South Sea Bubble) whose will was so complicated that none of his heirs lived to benefit from it.

<sup>11</sup> The original lease in 1738 was of 125 acres for 31 years. In 1761 it was renewed in respect of 98 acres for 21.75 years from 24 July 1769.

<sup>12</sup> See the Statute Law Revision Act 1958 and the Supreme Court of Judicature (Consolidation) Act 1925.

<sup>13</sup> Memorandum for the Lord Chancellor on Consolidation of Statutes, dated 24 November 1887, para. (1) (H.L. Record Office, SLC/23).

The Statute Law Revision Act 1888 and the Statute Law Revision (No. 2) Act 1888 have had their effect and are spent.

In the Board of Agriculture Act 1889, which still governs the constitution and functions of the Ministry of Agriculture, Fisheries and Food, Part II of Schedule 1 lists the statutory functions which were transferred to the Board in 1889 and therefore devolved on the Board's successors. The Ministry of Agriculture, Fisheries and Food agrees that the entries relating to the Tithe Rentcharge Acts and the Copyhold Acts are obsolete and unnecessary.

In the Alkali, &c. Works Regulation Act 1906, section 30 is a spent saving for certificates, etc. issued, or inspectors appointed, before 1906 under the Alkali, &c. Works Regulation Acts 1881 and 1892. The repeal of the definition of "the Public Health Act" is consequential on the repeal of the provisions in which that term was used.

The Companies (Converted Societies) Act 1910 was enacted following litigation in 1910 which established that a friendly society converting itself into a company could not use the machinery provided by the Friendly Societies Act<sup>14</sup> to enlarge its objects beyond those which it had enjoyed as a friendly society.<sup>15</sup> Societies which had earlier acted on a mistaken view of the law were thereby put at risk and the Act of 1910 retrospectively validated transactions before 3 August 1910 in which a society had been converted into a company. In Parliament<sup>16</sup> it was explained-

"There are unscrupulous persons who are taking advantage of this decision to practically levy blackmail on those who have acted in ignorance of the law, and the object of this Bill is to protect societies thus affected. In future the law will remain as it is; this will only legalise what has been done, and done unwittingly, in the past."

The Act has long since achieved its objective and is spent. The Registry of Friendly Societies in England and Wales and in Scotland, the Department of Trade and Industry, the Scottish Home and Health Department and the Royal London Mutual Insurance Society Ltd (the defendant in the case which effectively led to the passing of the Act) have been consulted and support the proposed repeal. The repeal would not affect the law governing the conversion of friendly societies into companies, which was settled by judicial decisions more than 75 years ago.

In the Coastguard Act 1925, section 3(2) (extension of Act to Isle of Man)<sup>17</sup> is obsolete in consequence of the closing down of the last remaining installations of H.M. Coastguard on the Island. A coastguard service for the Island is maintained and staffed by the Isle of Man Government.

In the Parks Regulation (Amendment) Act 1926, which applies to Great Britain, the proviso to section 1 (exclusion of Schedule 1 to the Parks Regulation Act 1872) was a transitional provision which became obsolete when the repeal of that Schedule came into effect on 15 December 1927, a year after the commencement of the 1926 Act.

In the Sunday Entertainments Act 1932, which applies to England and Wales, the proposed repeals are consequential on the repeal of the Sunday Observance Acts 1625 and 1677 in 1969 or on the repeal of section 1 by the Cinemas Act 1985.

In the Emergency Laws (Transitional Provisions) Act 1946, only section 16 (ownership of Crown of requisitioned goods) continues to be operative. Its effect would be preserved by a textual amendment (Schedule 2 to the draft Bill) of the Compensation

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<sup>14</sup> Friendly Societies Act 1896, s.71(1). See now Friendly Societies Act 1974, s.84(1).

<sup>15</sup> *Blythe v. Birtley* [1910] 1 Ch. 228 (C.A.), followed in Scotland by *Wilkinson v. City of Glasgow Friendly Society* 1911 S.C. 476 (decided at first instance on 15 June 1910); *McGlade v. Royal London Mutual Assurance Society Ltd* [1910] 2 Ch. 169 (C.A.). The judgments point out that a society, when converted, can exercise the same powers of altering or enlarging its objects as are conferred by the Companies Acts on all limited companies.

<sup>16</sup> *Hansard* (H.C.), 15 July 1910, Vol. 19, cols. 808-9 (Parliamentary Secretary to the Board of Trade).

<sup>17</sup> The Coast-guard Service Act 1856, which was replaced in 1925, extended both to the Isle of Man and the Channel Islands.

(Defence) Act 1939,<sup>18</sup> to which it applies. The remainder of the Act, so far as unrepealed, made permanent a Defence Regulation,<sup>19</sup> applicable to Scotland, providing for the composition of special juries in cases where the presiding judge at a trial was satisfied that, owing to lack of special jurors or of common jurors, it was impossible to empanel the respective numbers of such special and common jurors required by any Act. This provision is obsolete in consequence of the abolition of special juries and special jurors by section 28(1) of the Juries Act 1949. Any enactment requiring the preparation of a roll of special jurors or of a special jury book or the inclusion in a jury of special jurors ceased to have effect then.

In the Fire Services Act 1947, which applies to Great Britain—

- (a) section 27(6), which enacted transitional provisions in case the National Insurance (Industrial Injuries) Act 1946 came into operation before the Fire Services Act 1947, was never needed because the 1946 Act was brought into operation on 5 July 1948<sup>20</sup> after the appointed day for the purposes of the Fire Services Act 1947 (1 April 1948 in England and Wales and 16 May 1948 in Scotland);<sup>21</sup>
- (b) section 30(7), which suspended the operation of section 30 (powers of firemen and police in extinguishing fires) until the appointed day, is spent;
- (c) section 31(2) (summary offences relating to false alarms of fire before the appointed day) and section 31(3) (repeal of earlier legislation relating to false alarms of fire) are spent;
- (d) section 39(3) and Schedule 5 enacted further transitional provisions, which are long since spent or obsolete, relating to the arrangements for bringing the National Fire Service to an end and transferring its personnel and property to the appropriate local brigades.

Section 31 of the National Assistance Act 1948, as originally enacted, enabled local authorities in Great Britain to make contributions to the funds of any voluntary organisation whose activities included the provision of recreation or meals for old people. In 1962<sup>22</sup> a more elaborate provision was substituted, which enabled local authorities to make arrangements for providing meals and recreation for old people, to employ voluntary organisations as their agents for that purpose, and to recover charges in appropriate cases. In England and Wales the substituted section was consolidated in 1980.<sup>23</sup> In Scotland the substituted section was prospectively replaced by section 45 of the Health Services and Public Health Act 1968 (promotion by local authorities of the welfare of old people), but before that section came into operation it was superseded by sections 4 and 12 of the Social Work (Scotland) Act 1968, which came into operation on 17 November 1969.<sup>24</sup> Section 45 of the Health Services and Public Health Act 1968 was repealed on the same date, but due to an oversight the prospective repeal of section 31 of the National Assistance Act 1948, as substituted in 1962, was never brought into operation. The proposed repeal, which has the support of the responsible departments, would rectify that omission.

The repeal of the National Assistance Act 1948 (Amendment) Act 1962 is consequential on the proposed repeal of section 31 of the National Assistance Act 1948, as it applies to Scotland. In its application to England and Wales, the 1962 Act consists only of inoperative ancillary provisions. The repeal to Schedule 4 to the Health Services and Public Health Act 1968 is similarly consequential.

<sup>18</sup> The 1939 compensation code still applies in relation to emergency powers exercisable under the Civil Aviation Act 1982, s.62(1)(b), or by virtue of the prerogative.

<sup>19</sup> Defence (Administration of Justice) (Scotland) Regulations 1940, Reg. 3(3).

<sup>20</sup> National Insurance (Industrial Injuries) Act 1946 (Appointed Day) Order 1948 (S.I. 1948 No. 53, Rev. XVI p.422).

<sup>21</sup> Fire Services (Appointed Day) Order 1948 (S.I. 1948 No. 325, Rev. VII p.704); Fire Services (Appointed Day) (Scotland) Order 1948 (S.I. 1948 No. 912, Rev. VII p.816).

<sup>22</sup> National Assistance Act 1948 (Amendment) Act 1962, which applied to Great Britain.

<sup>23</sup> Residential Homes Act 1980, s.8. This provision was subsequently replaced, as respects meals and recreation for old people, by Part II of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983.

<sup>24</sup> Social Work (Scotland) Act 1968 (Commencement No. 2) Order 1969 (S.I. 1969 No. 1274). This Order also brought into operation the prospective repeal of section 45 of the Health Services and Public Health Act 1968.

Section 1(3)(c) of the Defence (Transfer of Functions) Act 1964 transferred to the Defence Council the functions of the Admiralty under the Naval Enlistment Acts 1835 to 1884<sup>25</sup> and the Royal Naval Reserve (Volunteer) Act 1859. These Acts, so far as unrepealed, were consolidated by the Reserve Forces Act 1980, which reflects the transfer of functions effected in 1964.<sup>26</sup> The Ministry of Defence agrees that section 1(3)(c) is consequentially obsolete.

In the Agriculture Act 1970, section 113(3) and Schedule 5 (repeals) are spent in consequence of the bringing into operation on 1 May 1986<sup>27</sup> of the prospective repeals in Part II of Schedule 5 (which were consequential on the termination of grants under section 1 of the Hill Farming Act 1946). Section 35, which provided for the termination of these grants, was repealed on 2 May 1986.<sup>28</sup> The terminal date for the payment of grants was 5 November 1975.<sup>29</sup>

The repeals proposed to section 112(4) of the Local Government Act 1972, as amended by the Food Act 1984, and to section 64(5) of the Local Government (Scotland) Act 1973, as amended by the Representation of the People Act 1983, would put right technical drafting mistakes. The Food Act 1984, which consolidated the statutory provisions regulating the appointment of public analysts, included (Schedule 10, paragraph 22) a consequential textual amendment of section 112(4) of the Local Government Act 1972 (exclusions from repeals made in 1972 of pre-1972 enactments or instruments) which was never needed and is inoperative. The Representation of the People Act 1983 included (Schedule 8, paragraph 16) a similarly unnecessary and inoperative textual amendment of section 64(5) of the Local Government (Scotland) Act 1973 (exclusions from repeals made in 1973 of pre-1973 enactments relating to registration officers).<sup>30</sup>

Section 3 of the Biological Standards Act 1975 provided for the transfer to the Secretary of State for Social Services of property, etc. of the Medical Research Council in connection with its activities relating to the testing of biological substances. The transfer took effect on 30 June 1977<sup>31</sup> and the responsible department agrees that the section is spent.

The repeal of the Iran (Temporary Powers) Act 1980 is consequential on the expiry of section 1 (power with respect to certain contracts relating to or connected with Iran) on 12 February 1981.<sup>32</sup> The ancillary power in section 2(4) to make orders in connection with the expiry of section 1 has not been exercised and the Department of Trade and Industry and the Foreign and Commonwealth Office agree that it is now unnecessary.

In the Representation of the People Act 1983, a consolidating statute -

- (a) paragraph 3 of Schedule 7 saved a 1977 amendment<sup>33</sup> of section 42(1) of the Electoral Law Act (Northern Ireland) 1962 (limitation of expenses at an election) and has been superseded by Article 9 of the Local Elections (Northern Ireland) Order 1985<sup>34</sup> (which replaced the amendment);
- (b) the repeal of paragraph 16 of Schedule 8 is consequential on the proposed repeal of section 64(5)(b) of the Local Government (Scotland) Act 1973.

The effect of paragraph 6 of Schedule 7 to the Representation of the People Act 1983 was to allow certain limits on candidates' election expenses to be calculated transition-

<sup>25</sup> Naval Enlistment Act 1835, Naval Enlistment Act 1853 and Naval Enlistment Act 1884. The Acts of 1835 and 1853 were finally repealed by the Statute Law (Repeals) Act 1969, Sch., Part VII.

<sup>26</sup> See Reserve Forces Act 1980, ss.37(1) to (3), 50(1) and (2), 51 and 54(1).

<sup>27</sup> Hill Farming (Appointed Day for Repeal) Order 1986 (S.I. 1986 No. 707).

<sup>28</sup> Statute Law (Repeals) Act 1986, Sch. 1, Part II.

<sup>29</sup> Livestock Rearing Land Improvement Schemes (Terminal Date) Order 1971 (S.I. 1971 No. 832); Livestock Rearing Land Improvement Schemes (Terminal Date) (Scotland) Order 1971 (S.I. 1971 No. 853).

<sup>30</sup> Cf. Weights and Measures Act 1985, Schedule 11 (repeal of Local Government Act 1972, s.112(4)(d) and Local Government (Scotland) Act 1973, s.64(5)(d)).

<sup>31</sup> Biological Standards (Transfer of Property, etc.) Order 1977 (S.I. 1977 No. 950).

<sup>32</sup> Iran (Temporary Powers) (Expiration) Order 1981 (S.I. 1981 No. 161).

<sup>33</sup> Representation of the People Act 1977, s.1(3).

<sup>34</sup> S.I. 1985 No. 454.

ally by reference to two orders made in 1981 and 1982<sup>35</sup> instead of by reference to the commencement of the 1983 Act. The 1981 Order (limit on election expenses at Greater London Council elections) has ceased to have effect in consequence of the abolition of the Greater London Council on 1 April 1986.<sup>36</sup> The 1982 Order, except for Article 6, was superseded by an order made in 1986<sup>37</sup> and Article 6 (election by liverymen in common hall in City of London) is no longer relevant, the basis on which this limit was fixed having been changed in 1985.<sup>38</sup> Paragraph 6 of Schedule 7 to the Representation of the People Act 1983 is accordingly spent. Its repeal is supported by the Home Office.

In the Representation of the People Act 1985, section 18(1) (date for the holding of local elections in 1986) is spent. The repeal of paragraph 90 of Schedule 4 is consequential on the proposed repeal of paragraph 6 of Schedule 7 to the Representation of the People Act 1983 (transitional provisions as to election expenses).

In the Education (No. 2) Act 1986, the proposed repeal is consequential on the repeal of paragraph 3(4) of Schedule 10 to the Local Government, Planning and Land Act 1980 by the Local Government Act 1987.

The Billiards (Abolition of Restrictions) Act 1987, which applies to England and Wales, repealed legislation, reaching back to the Gaming Act 1845, restricting the public playing of billiards, bagatelle, etc. and empowering constables to enter places kept for playing these games. The Act became spent on enactment, when its purposes were achieved.

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<sup>35</sup> Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 1981 (S.I. 1981 No. 191); Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 1982 (S.I. 1982 No. 363).

<sup>36</sup> Section 76(2)(b)(i) of the 1983 Act (consolidating section 64(2)(b)(i) of the Representation of the People Act 1949) was repealed by the Local Government Act 1985, Sch. 17.

<sup>37</sup> Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 1986 (S.I. 1986 No. 383).

<sup>38</sup> Representation of the People Act 1985, Sch. 4, para. 67(a).

## SCHEDULE 2

### CONSEQUENTIAL PROVISIONS

#### PART I

#### AMENDMENTS CONSEQUENTIAL ON THE REPEAL OF THE BANKRUPTCY ACTS 1883, 1890 AND 1913

The amendments are consequential on the proposed repeal (Part I of Schedule 1) of the Bankruptcy Act 1883, the Bankruptcy Act 1890 and the Bankruptcy and Deeds of Arrangement Act 1913. The amendments would consolidate-

- (a) in the City of London Municipal Elections Act 1849 (which contains the other disqualifications of aldermen and common councilmen in the City of London)<sup>1</sup> the effect of sections 32(1)(d) and (2) and 34 of the Bankruptcy Act 1883, as they apply to the City;
- (b) in the District Courts (Scotland) Act 1975 the effect of section 32(1)(c), (2) and (2A), as read with section 34A, of the Bankruptcy Act 1883 (disqualification of justice of the peace in Scotland);
- (c) in the Justices of the Peace Act 1979 the effect of section 32(1)(c) and (2) of the Bankruptcy Act 1883 (disqualification of justice of the peace in England and Wales);
- (d) in the Supreme Court Act 1981 the effect of section 145 of the Bankruptcy Act 1883, section 12 of the Bankruptcy Act 1890 and section 15 of the Bankruptcy and Deeds of Arrangement Act 1913 (judicial sales under the process of the High Court in England and Wales).<sup>2</sup>

#### PART II

#### OTHER PROVISIONS

##### *Apothecaries Acts 1815, 1874 and 1907*

The saving is consequential on the proposed repeal (Part V of Schedule 1) of the Apothecaries Act 1815, the Apothecaries Act Amendment Act 1874 and the Apothecaries Act 1907.

##### *Capital Punishment Amendment Act 1868*

Consequentially on the proposed repeal (Part I of Schedule 1) of the Justiciary Court (Scotland) Act 1868, the amendment preserves the effect of section 19 of that Act (which corrected a drafting mistake in the Capital Punishment Amendment Act 1868 as it applies to Scotland).

##### *Metropolitan Public Carriage Act 1869*

Consequentially on the proposed repeal (Part X of Schedule 1) of the Road Traffic Act 1934, the amendment preserves the effect of section 39 of that Act (which altered the period of validity of a cab driver's licence in London from one year to three years).

##### *Irish Free State (Agreement) Act 1922*

The reservation is consequential on the proposed repeal (Part III of Schedule 1) of Article 16 of the Schedule to the Irish Free State (Agreement) Act 1922 (which restricted the powers of the Parliament of Northern Ireland). The reservation would

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<sup>1</sup> Section 8A of the City of London Municipal Elections Act 1849 (disqualification to hold the office of Lord Mayor, alderman or common councilman by reason of being coroner or deputy coroner for the City of London) was inserted by the Coroners Act 1988, Sch. 3, para. 1.

<sup>2</sup> The same provisions, as they apply to county courts in England and Wales, are consolidated by the County Courts Act 1984, ss.97 and 98.



preserve any question as to the validity or otherwise of Acts of the Parliament of Northern Ireland passed before that Parliament was abolished in 1973. Section 5 of the Government of Ireland Act 1920 (which also restricted the powers of the Parliament of Northern Ireland) was repealed in 1973 subject to a similar reservation.<sup>3</sup>

*Irish Free State (Consequential Provisions) Act 1922 (Session 2)*

The amendment is consequential on the proposed repeal (Part III of Schedule 1) affecting section 5 of the Act of 1922 (provisions as to relief from double taxation), which is spent except in its application to stamp duties and pre-1975 estate duty. These taxes were never reserved taxes within the meaning of the Government of Ireland Act 1920 and consequently the complexities of section 5(4) as originally enacted have ceased to be necessary. Except so far as it is preserved, section 5(4) is spent. The Inland Revenue and the authorities in Northern Ireland agree.

*Compensation (Defence) Act 1939*

Consequentially on the proposed repeal (Part XI of Schedule 1) of the Emergency Laws (Transitional Provisions) Act 1946, the amendment preserves the effect of section 16 of that Act. That section now applies only in relation to the Compensation (Defence) Act 1939<sup>4</sup> and the amendment would consolidate it textually in the 1939 compensation code.

*Building Restrictions (War-Time Contraventions) Act 1946*

The amendment is consequential on the proposed repeal (Part VII of Schedule 1) of section 1(1) of the 1946 Act (which includes a definition of the war period for the purposes of that Act).

*Foreign Compensation Act 1950*

The amendments are consequential on the proposed repeal (Part II of Schedule 1) of section 2 of the Foreign Compensation Act 1950 (distribution of compensation under specified agreements). That section itself is spent but later provisions of the 1950 Act legislate by reference to it. The proposed amendments are technical drafting provisions which would-

- (a) preserve the effect of section 3(c) of the 1950 Act (which referentially applies section 2(2) of that Act to claims referred to the Foreign Compensation Commission under section 3); and
- (b) make the necessary textual modifications to section 4(3) of the 1950 Act (oral hearings and representations) in consequence of the repeal of section 2.

*Development of Inventions Act 1967*

Consequentially on the proposed repeal (Part II of Schedule 1) of the Industrial Expansion Act 1968, the amendment preserves the effect of section 11 of that Act (which increased the limit on loans to the National Research Development Corporation).

*Highways Act 1980*

The amendment is consequential on the proposed repeal (Part X of Schedule 1) of the Trunk Roads Acts 1936 and 1946, as they apply to England and Wales. The amendment would consolidate the residual provisions of those Acts (which relate to the exercise of minor miscellaneous functions of the Secretary of State in relation to trunk roads) in the Highways Act 1980.

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<sup>3</sup> Northern Ireland Constitution Act 1973, s.42(2).

<sup>4</sup> As originally enacted, section 16 of the Emergency Laws (Transitional Provisions) Act 1946 applied also in relation to the Defence (General) Regulations 1939, Reg. 50 B (S.R. & O. 1939 No. 927, 1942 No. 801), which expired on 10 December 1950.

## APPENDIX 3

### CONSULTEES ON SOUTH YORKSHIRE LEGISLATION

Barnsley Metropolitan Borough  
Doncaster Metropolitan Borough  
Rotherham Metropolitan Borough  
City of Sheffield  
North Yorkshire County Council  
Chesterfield Borough Council  
North East Derbyshire District Council  
Oldham Metropolitan Borough  
Wakefield Metropolitan District Council

North East Electricity Board  
North West Electricity Board  
Yorkshire Electricity Board  
Central Electricity Generating Board  
Electricity Council

British Gas plc East Midlands  
British Gas plc Northern  
British Gas plc North Eastern  
British Gas plc North Western

Anglian Water Authority  
Northumbrian Water Authority  
North West Water Authority  
Severn-Trent Water Authority  
Yorkshire Water Authority  
York Waterworks Company

British Railways Board  
British Waterways Board  
National Bus Company  
South Yorkshire Passenger Transport Executive  
Yorkshire Traction Co. Ltd.

British Telecom  
Post Office

British Steel Corporation  
Firststeel Group Ltd.  
Johnson & Firth Brown plc  
United Engineering Steels Ltd.

Ashtons, Solicitors, Sheffield  
Clifford Chance, Solicitors, London  
Commonwealth War Graves Commission  
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