



The Law Commission and The Scottish Law Commission

(LAW COM. No. 150)
(SCOT. LAW COM. No. 99)

STATUTE LAW REVISION: TWELFTH REPORT

DRAFT STATUTE LAW (REPEALS) BILL

*Presented to Parliament by the Lord High Chancellor and the Lord Advocate
by Command of Her Majesty
November 1985*

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* As from 1 October 1985.

THE LAW COMMISSION
AND
THE SCOTTISH LAW COMMISSION

Statute Law Revision: Twelfth Report
Draft Statute Law (Repeals) Bill

*To the Right Honourable the Lord Hailsham of St. Marylebone, C.H., Lord
High Chancellor of Great Britain, and the Right Honourable the Lord
Cameron of Lochbroom, 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 proposals in the draft Bill have been widely canvassed with the government departments and other bodies concerned with them.

The report recommends the repeal of a considerable number of enactments which have been identified, after detailed research and consultation, as being spent, obsolete, unnecessary or otherwise not now of practical utility. A number of the proposals in the draft Bill are designed to facilitate the preparation of future consolidations on particular topics or to complete the work on consolidations already enacted.

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

(Signed) RALPH GIBSON, *Chairman, Law Commission*
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27 September 1985

APPENDIX 1

DRAFT STATUTE LAW (REPEALS) BILL

ARRANGEMENT OF CLAUSES

Clause

1. Repeals and associated amendments.
2. Extent.
3. Short title.

- SCHEDULE 1 — Repeals.
- Part 1 — Administration of Justice.
 - Part II — Agriculture.
 - Part III — Finance.
 - Part IV — Imports and Exports.
 - Part V — Industrial Relations.
 - Part VI — Intellectual Property.
 - Part VII — Local Government.
 - Part VIII — Medicine and Health Services.
 - Part IX — Overseas Jurisdiction.
 - Part X — Parliamentary and Constitutional Provisions.
 - Part XI — Shipping, Harbours and Fisheries.
 - Part XII — Subordinate Legislation Procedure.
 - Part XIII — Miscellaneous.
- SCHEDULE 2 — Consequential Provisions.

Statute Law (Repeals)

DRAFT
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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. 1985.

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

1.—(1) The 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 amendments.

(2) Schedule 2 to this Act shall have effect.

2.—(1) This Act extends to Northern Ireland. Extent.

(2) Any amendment or repeal by this Act of an enactment which extends to the Channel Islands or the Isle of Man shall also extend there.

(3) The repeal of—

(a) the Dentists Act 1878, and 1878 c. 33.

(b) the Medical Act 1886, 1886 c. 48.

shall extend to any colony to which that Act extends.

(4) Subject to subsection (3) above, this Act does not repeal any enactment so far as the enactment forms part of the law of a country outside the British Islands; but Her Majesty may by Order in Council provide that the repeal by this Act of any enactment specified in the Order shall on a date so specified extend to any colony.

3. This Act may be cited as the Statute Law (Repeals) Act 1985. Short title.

Statute Law (Repeals)

SCHEDULES

Section 1(1)

SCHEDULE 1

REPEALS

PART I

ADMINISTRATION OF JUSTICE

Chapter	Short Title	Extent of Repeal
<i>Group 1—General Repeals</i>		
11 Geo. 4. & 1. Will. 4. c. 70.	Law Terms Act 1830.	The whole Act.
6 & 7 Will. 4. c. 114.	Trials for Felony Act 1836.	The whole Act.
6 & 7 Vict. c. 85.	Evidence Act 1843.	The whole Act.
8 & 9 Vict. c. 16.	Companies Clauses Consoli- dation Act 1845.	Section 143.
8 & 9 Vict. c. 17.	Companies Clauses Consoli- dation (Scotland) Act 1845.	Section 145.
8 & 9 Vict. c. 19.	Lands Clauses Consoli- dation (Scotland) Act 1845.	Section 132.
8 & 9 Vict. c. 72.	Rothwell Gaol Act 1845.	The whole Act.
14 & 15 Vict. c. 100.	Criminal Procedure Act 1851.	The whole Act.
17 & 18 Vict. c. 112.	Literary and Scientific Insti- tutions Act 1854.	Section 22. In section 23, the words from “and a writ of revivor” onwards.
44 & 45 Vict. c. 24.	Summary Jurisdiction (Pro- cess) Act 1881.	Section 6 as it applies to the Isle of Man.
51 & 52 Vict. c. 64.	Law of Libel Amendment Act 1888.	Section 9 as it applies to Eng- land and Wales.
23 & 24 Geo. 5. c. 36.	Administration of Justice (Miscellaneous Provisions) Act 1933.	In Schedule 2, paragraph 4.
24 & 25 Geo. 5. c. 45.	Solicitors Act 1934.	The whole Act.
1965 c. 32.	Administration of Estates (Small Payments) Act 1965.	In section 6(1)(b), the words “section 38(2) of the Finance Act 1918”.
1970 c. 17.	Proceedings against Estates Act 1970.	The whole Act.
1971 c. 23.	Courts Act 1971.	In Schedule 8, paragraph 6.
1971 c. 62.	Tribunals and Inquiries Act 1971.	In Schedule 1, paragraph 2.
1983 c. 19.	Matrimonial Homes Act 1983.	In Schedule 2, the entry relat- ing to the Matrimonial Homes Act 1967.

Statute Law (Repeals)

SCH. 1
PART I

Chapter	Short Title	Extent of Repeal
1984 c. 28.	County Courts Act 1984.	In sections 14(1)(b), 92(1)(b) and 118(1)(i), the words "any" and "to which the judge has power to commit". Section 79(2). Section 141.
<i>Group 2—Judicial Committee</i>		
58 & 59 Vict. c. 44.	Judicial Committee Amendment Act 1895.	In section 1(1), the words from "of the Dominion" to "province of Canada".
8 Edw. 7. c. 51.	Appellate Jurisdiction Act 1908.	In section 3, the words "or chief justice or judge of the Supreme Court of Newfoundland". In the Schedule, the entries relating to British India and the Dominion of Canada.
1970 c. 37.	Republic of The Gambia Act 1970.	Section 2(5).
1976 c. 19.	Seychelles Act 1976.	Section 6.
1976 c. 54.	Trinidad and Tobago Republic Act 1976.	Section 2(3).
1978 c. 15.	Solomon Islands Act 1978.	Section 8.
1979 c. 27.	Kiribati Act 1979.	Section 6(3).
1980 c. 16.	New Hebrides Act 1980.	Section 3.
<i>Group 3—Metropolitan Police Acts</i>		
10 Geo. 4. c. 44.	Metropolitan Police Act 1829.	Sections 14, 15 and 16.
2 & 3 Vict. c. 47.	Metropolitan Police Act 1839.	Sections 32 and 74.
2 & 3 Vict. c. 71.	Metropolitan Police Courts Act 1839.	Sections 39, 40 and 51. Schedule (A).
24 & 25 Vict. c. 71.	Metropolitan Police (Receiver) Act 1861.	Sections 2, 3 and 4. In section 5, the words from "and may purchase" onwards. Section 8.
50 & 51 Vict. c. 45.	Metropolitan Police Act 1887.	Section 4.
<i>Group 4—Scottish Courts</i>		
1555 c. 6 (Sc.).	Citation Act 1555.	The whole Act.
1661 c. 47 (Sc.).	Messengers of Arms Act 1661.	The whole Act.
10 Geo. 1. c. 19.	Court of Session Act 1723.	The whole Act.

Statute Law (Repeals)

SCH. 1
PART I

Chapter	Short Title	Extent of Repeal
20 Geo. 2. c. 43.	Heritable Jurisdictions (Scotland) Act 1746.	In section 34, the words from "except all cases" to "twelve pounds sterling".
24 Geo. 2. c. 23.	Calendar (New Style) Act 1750.	In section 4, the words from the beginning to "Fens, and"; and from "the said Courts" to "April meeting, and".
54 Geo. 3. c. 67.	Justiciary Courts (Scotland) Act 1814.	The whole Act.
6 Geo. 4. c. 23.	Sheriff Courts (Scotland) Act 1825.	The whole Act.
1 & 2 Vict. c. 119.	Sheriff Courts (Scotland) Act 1838.	The whole Act.
30 & 31 Vict. c. 17.	Lyon King of Arms Act 1867.	In section 11, the words from "and after the death" onwards.
39 & 40 Vict. c. 70.	Sheriff Courts (Scotland) Act 1876.	Part VII.
55 & 56 Vict. c. 17.	Sheriff Courts (Scotland) Extracts Act 1892.	In section 2, the words from "to proceedings in" to "thirteen, or".
56 & 57 Vict. c. 44.	Sheriff Courts Consignations (Scotland) Act 1893.	In section 2, the words "or the small debt court or debts recovery court". Section 6. In section 7, the words from the beginning to "and similarly". In section 8, the words from "shall report" to "and he". In section 9, the words from "to direct" to "Remembrancer" and the words "to them".
10 & 11 Geo. 6. c. 14.	Exchange Control Act 1947.	In Part II of Schedule 5, paragraph 4.
1965 c. 45.	Backing of Warrants (Republic of Ireland) Act 1965.	In section 8(2), the words from "and accordingly" onwards.
1972 c. 38.	Matrimonial Proceedings (Polygamous Marriages) Act 1972.	Section 2(2)(c).
1980 c. 55.	Law Reform (Miscellaneous Provisions) (Scotland) Act 1980.	Section 2(2)(b).
1980 c. 62.	Criminal Justice (Scotland) Act 1980.	In Schedule 8, the entry relating to section 26(5) of the Criminal Justice Act 1961.
1983 c. 12.	Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983.	In Schedule 1, paragraph 13.

Group 5—Tender of Amends and Payment into Court

21 Jas. 1. c. 16.	Limitation Act 1623.	The whole Act.
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Statute Law (Repeals)

SCH. 1
PART I

Chapter	Short Title	Extent of Repeal
10 Chas. 1. Sess. 2. c. 6. (Ir.)	Limitation Act (Ireland) 1634.	The whole Act.
11 Geo. 2. c. 19.	Distress for Rent Act 1737.	Section 20.
11 Geo. 4 & 1 Will. 4. c. 68.	Carriers Act 1830.	Section 10.
8 & 9 Vict. c. 19.	Lands Clauses Consolidation (Scotland) Act 1845.	Section 129.
8 & 9 Vict. c. 20.	Railways Clauses Consolidation Act 1845.	Section 139.
8 & 9 Vict. c. 33.	Railways Clauses Consolidation (Scotland) Act 1845.	Section 131.
48 & 49 Vict. c. 49.	Submarine Telegraph Act 1885.	Section 6(4).
53 & 54 Vict. c. 37.	Foreign Jurisdiction Act 1890.	Section 13(2).

PART II

AGRICULTURE

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 30.	Board of Agriculture Act 1889.	Section 2(1)(c) and the preceding "and". Section 9. Section 11(2) and (3). Section 13. In Part II of Schedule I, the entries relating to the Public Schools Act 1868, the Universities of Oxford and Cambridge Act 1877 and statutes made thereunder, the Conveyancing and Law of Property Act 1881 and the Glebe Lands Act 1888.
3 Edw. 7. c. 31.	Board of Agriculture and Fisheries Act 1903.	In section 1(2), the words from the beginning to "enactments, and". In section 1(4), the words "nine (transfer of officers) and". The Schedule.
1 & 2 Geo. 5. c. 49.	Small Landholders (Scotland) Act 1911.	In Schedule 1, the entry relating to the Light Railways Act 1896.
1 Edw. 8. & 1 Geo. 6. c. 70.	Agriculture Act 1937.	The whole Act.
2 & 3 Geo. 6. c. 48.	Agricultural Development Act 1939.	The whole Act.
3 & 4 Geo. 6. c. 14.	Agriculture (Miscellaneous War Provisions) Act 1940.	Section 27.

Statute Law (Repeals)

SCH. 1
PART II

Chapter	Short Title	Extent of Repeal
4 & 5 Geo. 6. c. 50.	Agriculture (Miscellaneous Provisions) Act 1941.	Section 1. Sections 12 to 14.
6 & 7 Geo. 6. c. 16.	Agriculture (Miscellaneous Provisions) Act 1943.	The whole Act except sections 18 and 24 and Schedule 3.
7 & 8 Geo. 6. c. 28.	Agriculture (Miscellaneous Provisions) Act 1944.	Section 1(2) and (4). In section 1(3) and (5), the words "or transferred". In section 1(6), the definitions of "appointed day" and "war service".
9 & 10 Geo. 6. c. 73.	Hill Farming Act 1946.	The Schedule. Section 12(13). Sections 13 to 17. Section 32(3). Section 37(1)(c), (d) and (e). Section 39(d).
10 & 11 Geo. 6. c. 48.	Agriculture Act 1947.	Section 78(8), as it applies to Scotland. Section 97.
12, 13 & 14 Geo. 6. c. 37.	Agriculture (Miscellaneous Provisions) Act 1949.	Section 12.
14 Geo. 6. c. 17.	Agriculture (Miscellaneous Provisions) Act 1950.	The whole Act.
14 & 15 Geo. 6. c. 18.	Livestock Rearing Act 1951.	Section 8(b).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 15.	Agriculture (Fertilisers) Act 1952.	The whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2. c. 35.	Agriculture (Ploughing Grants) Act 1952.	The whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2. c. 62.	Agriculture (Calf Subsidies) Act 1952.	The whole Act.
2 & 3 Eliz. 2. c. 39.	Agriculture (Miscellaneous Provisions) Act 1954.	Section 2.
4 & 5 Eliz. 2. c. 20.	Agriculture (Improvement of Roads) Act 1955.	The whole Act.
7 & 8 Eliz. 2. c. 12.	Agriculture (Small Farmers) Act 1959.	The whole Act.
1963 c. 11.	Agriculture (Miscellaneous Provisions) Act 1963.	Sections 4, 5, 9, 10 and 12.
1967 c. 22.	Agriculture Act 1967.	Sections 10 to 12. Section 26(11)(b). Sections 43 and 44. Section 61(8). In section 69(1), in paragraph (a), the words "or any payment under section 12 thereof, or" and paragraphs (c), (d) and (e).

Statute Law (Repeals)

SCH. 1
PART II

Chapter	Short Title	Extent of Repeal
1968 c. 34. 1970 c. 40.	Agriculture (Miscellaneous Provisions) Act 1968. Agriculture Act 1970.	Sections 38 to 40. Section 29(6) and (7). In section 34(2), in paragraph (a), the words "section 16 of the Agriculture Act 1937 or" and paragraph (b). Sections 35 and 36. In Schedule 5, Part I.
1974 c. 39. 1976 c. 55.	Consumer Credit Act 1974. Agriculture (Miscellaneous Provisions) Act 1976.	In Schedule 4, paragraph 10. In Schedule 3, the entries relating to the Agriculture Act 1937 and section 40(3)(c) of the Agriculture (Miscellaneous Provisions) Act 1968.
1980 c. 66.	Highways Act 1980.	Section 39. In Schedule 24, paragraph 6.

PART III

FINANCE

Chapter	Short Title	Extent of Repeal
5 Geo. 1. c. 20.	Revenue of Scotland Act 1718.	The whole Act.
41 Geo. 3. c. 32. 33 & 34 Vict. c. 71.	Irish Charges Act 1801. National Debt Act 1870.	The whole Act. Sections 2 and 4. Part IV. Part V. Section 73. Schedule 2.
36 & 37 Vict. c. 57.	Consolidated Fund (Permanent Charges Redemption) Act 1873.	In section 8, the words from "and any general rule" onwards.
47 & 48 Vict. c. 23.	National Debt (Conversion of Stock) Act 1884.	In section 1(2), the words from "shall not be redeemable" to "such day". In section 1(5), the words from "and the Treasury" onwards. Sections 6 and 7. In section 9, the definition of "Three per cent. stock".
51 & 52 Vict. c. 2.	National Debt (Conversion) Act 1888.	In section 2(2), the words from "shall not be redeemable" to "that day". In section 2(5), the words from "and the Treasury" onwards.
51 & 52 Vict. c. 15.	National Debt (Supplemental) Act 1888.	Sections 19, 25, 27, 28 and 32. The whole Act.

Statute Law (Repeals)

SCH. 1
PART III

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 6.	National Debt Act 1889.	In section 4(1), the words "or by payment at a country branch".
53 & 54 Vict. c. 8.	Customs and Inland Revenue Act 1890.	The whole Act.
55 & 56 Vict. c. 39.	National Debt (Stockholders Relief) Act 1892.	Section 7.
2 Edw. 7. c. 7.	Finance Act 1902.	Section 11.
6 Edw. 7. c. 50.	National Galleries of Scotland Act 1906.	Section 8.
5 & 6 Geo. 5. c. 89.	Finance (No. 2) Act 1915.	In section 48, the definition of "Government stock".
6 & 7 Geo. 5. c. 24.	Finance Act 1916.	In section 66, the definition of "Government stock".
7 & 8 Geo. 5. c. 31.	Finance Act 1917.	Section 35.
8 & 9 Geo. 5. c. 15.	Finance Act 1918.	The whole Act.
8 & 9 Geo. 5. c. 24.	Flax Companies (Financial Assistance) Act 1918.	The whole Act.
9 & 10 Geo. 5. c. 37.	War Loan Act 1919.	The whole Act.
9 & 10 Geo. 5. c. 53.	War Pensions (Administrative Provisions) Act 1919.	In section 8(1), the words from the beginning to "such service; or" and from "provided that" to "Ministry Appeal Tribunal". Section 8(3). In paragraph 8 of the Schedule, the words from "the transfer" to "nineteen".
11 & 12 Geo. 5. c. 49.	War Pensions Act 1921.	In section 2(1) in paragraph (d), the words "or the special grants committee" and "or that committee, as the case may be"; paragraph (e), and in paragraph (g), the words "or the special grants committee". In section 3, the words "under the War Pensions Acts, 1915 to 1920, or". Section 4.
15 & 16 Geo. 5. c. 29.	Gold Standard Act 1925.	In section 6(1), the words from "or after" to "later". The whole Act.
18 & 19 Geo. 5. c. 17.	Finance Act 1928.	Section 26. Section 35(1).
21 & 22 Geo. 5. c. 46.	Gold Standard (Amendment) Act 1931.	The whole Act.
24 & 25 Geo. 5. c. 32.	Finance Act 1934.	Section 24.

Statute Law (Repeals)

SCH. 1
PART III

Chapter	Short Title	Extent of Repeal
1 Edw. 8 & 1 Geo. 6. c. 54.	Finance Act 1937.	Section 29.
2 & 3 Geo. 6. c. 41.	Finance Act 1939.	Section 38(6).
3 & 4 Geo. 6. c. 23.	National Loans (No. 2) Act 1940.	The whole Act.
5 & 6 Geo. 6. c. 10.	Securities (Validation) Act 1942.	The whole Act.
5 & 6 Geo. 6. c. 21.	Finance Act 1942.	In Part I of Schedule 11— (a) the entries relating to— Guaranteed 2¾% Stock, Guaranteed 3% Stock, 5% Conversion Loan 1944-64, 2½% Funding Loan 1956-61, 2¾% Funding Loan 1952-57, 3% Funding Loan 1959-69, 4% Funding Loan 1960-90, 2½% Conversion Loan 1944-49, 3% Conversion Loan 1948-53, 4% Victory Bonds, 2½% National Defence Bonds 1944-48, 3% National Defence Loan 1954-58, (b) the words “(other than National Defence Bonds and National Defence Loan of the descriptions afore- said)”.
10 & 11 Geo. 6. c. 35.	Finance Act 1947.	In Part II of Schedule 11, the entries relating to the National Debt Act 1870. Section 58.
1947 c. 15 (N.I.).	Finance Act (Northern Ire- land) 1947.	Section 10.
12, 13 & 14 Geo. 6. c. 2.	Debts Clearing Offices Act 1948.	The whole Act.
12, 13 & 14 Geo. 6. 47.	Finance Act 1949.	Section 40(10) as it applies to Scotland. Section 48(3).
14 Geo. 6. c. 21.	Miscellaneous Financial Provisions Act 1950.	The whole Act.

Statute Law (Repeals)

SCH. 1
PART III

Chapter	Short Title	Extent of Repeal
4 & 5 Eliz. 2. c. 6.	Miscellaneous Financial Provisions Act 1955.	Section 5(10)(b).
8 & 9 Eliz. 2. c. 1.	Mr. Speaker Morrison's Retirement Act 1959.	The whole Act.
8 & 9 Eliz. 2. c. 58.	Charities Act 1960.	In Schedule 6, the entry relating to the National Debt (Conversion) Act 1888.
1963 c. 25.	Finance Act 1963.	Section 71(6). Section 73(7)(a). Schedule 12. In Schedule 14, Part VIII.
1964 c. 7.	Shipbuilding Credit Act 1964.	The whole Act.
1964 c. 92.	Finance (No. 2) Act 1964.	The whole Act.
1965 c. 25.	Finance Act 1965.	Schedules 1 to 4.
1967 c. 47.	Decimal Currency Act 1967.	The whole Act.
1968 c. 11.	Revenue Act 1968.	The whole Act.
1968 c. 13.	National Loans Act 1968.	In Schedule 1, the entry relating to the Shipbuilding Credit Act 1964. In Schedule 5, the entries relating to the War Loan Act 1919 and the Finance Act 1934.
1968 c. 32.	Industrial Expansion Act 1968.	Section 9.
1971 c. 17.	Industry Act 1971.	The whole Act.
1971 c. 56.	Pensions (Increase) Act 1971.	In Schedule 2, in paragraph 3, the words "Mr Speaker Morrison's Retirement Act 1959 or".
1972 c. 41.	Finance Act 1972.	Sections 53, 54 and 122. Schedule 27. In Schedule 28, Parts I, II, VIII and IX.
1974 c. 30.	Finance Act 1974.	Section 53. Schedule 13. In Schedule 14, Part V.
1979 c. 2.	Customs and Excise Management Act 1979.	In section 171(2A), as inserted by the Finance Act 1984, the words from "and for the purposes" onwards. Section 177(2). In Part I of the Table in Schedule 4, the entries relating to the Finance (No. 2) Act 1964.
1979 c. 8.	Excise Duties (Surcharges or Rebates) Act 1979.	In Schedule 1, paragraph 1.
1984 c. 51.	Capital Transfer Tax Act 1984.	Section 225(7).
<i>Pension Funds</i>		
2 Edw. 7. c. clxxxiv.	Aberdeen Accountants Order Confirmation Act 1902.	The whole Act.

Statute Law (Repeals)

SCH. 1
PART III

Chapter	Short Title	Extent of Repeal
8 Edw. 7. c. ii.	Clyde Navigation (Superannuation) Order Confirmation Act 1908.	The whole Act.
13 & 14 Geo. 5. c. lxxv.	Church of Scotland Ministers' and Scottish University Professors' Widows' Fund Order Confirmation Act 1923.	The whole Act.
15 Geo. 5. c. ii.	Edinburgh Chartered Accountants Annuity &c. Fund Order Confirmation Act 1924.	The whole Act.
16 & 17 Geo. 5. c. lxxviii.	Church of Scotland Ministers' and Scottish University Professors' Widows' Fund (Amendment) Order Confirmation Act 1926.	The whole Act.
17 & 18 Geo. 5. c. cxiv.	Edinburgh Chartered Accountants Annuity &c. Fund Order Confirmation Act 1927.	The whole Act.
20 & 21 Geo. 5. c. cxxxiv.	Churches & Universities (Scotland) Widows' and Orphans' Fund Order Confirmation Act 1930.	The whole Act.
1 Edw. 8. c. ii.	Edinburgh Chartered Accountants Annuity &c. Fund (Consolidation and Amendment) Order Confirmation Act 1936.	The whole Act.
6 & 7 Geo. 6. c. i.	Edinburgh Merchant Company Endowments (Amendment) Order Confirmation Act 1942.	The whole Act.
12 & 13 Geo. 6. c. vi.	Clyde Navigation (Superannuation) Order Confirmation Act 1949.	The whole Act.
12 & 13 Geo. 6. c. xiii.	Royal Bank of Scotland Officers' Widows' Fund Order Confirmation Act 1949.	The whole Act.
3 & 4 Eliz. 2. c. iv.	Clyde Navigation (Superannuation) Order Confirmation Act 1955.	The whole Act.

PART IV

IMPORTS AND EXPORTS

Chapter	Short Title	Extent of Repeal
39 & 40 Vict. c. 36.	Customs Consolidation Act 1876.	Section 43.

Statute Law (Repeals)

SCH. 1
PART IV

Chapter	Short Title	Extent of Repeal
42 & 43 Vict. c. 21.	Customs and Inland Revenue Act 1879.	Section 8.
49 & 50 Vict. c. 41.	Customs Amendment Act 1886.	The whole Act.
63 & 64 Vict. c. 44.	Exportation of Arms Act 1900.	The whole Act.
4 & 5 Geo. 5. c. 64.	Customs (Exportation Prohibition) Act 1914.	The whole Act.
5 & 6 Geo. 5. c. 2.	Customs (Exportation Restriction) Act 1914.	The whole Act.
6 & 7 Geo. 5. c. 52.	Trading with the Enemy and Export of Prohibited Goods Act 1916.	The whole Act.
11 & 12 Geo. 5. c. 32.	Finance Act 1921.	Section 17.
22 & 23 Geo. 5. c. 53.	Ottawa Agreements Act 1932.	The whole Act.

PART V

INDUSTRIAL RELATIONS

Chapter	Short Title	Extent of Repeal
5 & 6 Geo. 6. c. 9.	Restoration of Pre-War Trade Practices Act 1942.	The whole Act.
14 & 15 Geo. 6. c. 9.	Restoration of Pre-War Trade Practices Act 1950.	The whole Act.
1974 c. 52.	Trade Union and Labour Relations Act 1974.	Section 1, except in subsection (2) the words "Schedule 1 to this Act shall have effect". Sections 20 to 24. In Schedule 4, paragraph 4.

PART VI

INTELLECTUAL PROPERTY

Chapter	Short Title	Extent of Repeal
15 Geo. 3. c. 52.	Porcelain Patent Act 1775.	The whole Act.
7 Edw. 7. c. 29.	Patents and Designs Act 1907.	Sections 82, 88, 91 and 91A.
1 & 2 Geo. 5. c. 46.	Copyright Act 1911.	Section 34. Section 37(2).

Statute Law (Repeals)

SCH. 1
PART VI

Chapter	Short Title	Extent of Repeal
4 & 5 Geo. 5. c. 18.	Patents and Designs Act 1914.	The whole Act.
18 & 19 Geo. 5. c. 3.	Patents and Designs (Convention) Act 1928.	The whole Act.
22 & 23 Geo. 5. c. 32.	Patents and Designs Act 1932.	The whole Act.
1 & 2 Geo. 6. c. 29.	Patents &c. (International Conventions) Act 1938.	The whole Act.
2 & 3 Geo. 6. c. 32.	Patents and Designs (Limits of Time) Act 1939.	The whole Act.
9 & 10 Geo. 6. c. 44.	Patents and Designs Act 1946.	The whole Act.
12, 13 & 14 Geo. 6. c. 62.	Patents and Designs Act 1949.	The whole Act.
12, 13 & 14 Geo. 6. c. 88.	Registered Designs Act 1949.	In section 13(2), the words from "any British protectorate" to "United Nations". In section 13(3), the words "in accordance with a mandate from the League of Nations or".
4 & 5 Eliz. 2. c. 74.	Copyright Act 1956.	In Schedule 7, paragraph 40.
1977 c. 37.	Patents Act 1977.	In section 90(2), the words "or any British protectorate or protected state".

PART VII

LOCAL GOVERNMENT

Chapter	Short Title	Extent of Repeal
<i>Group 1—General Repeals</i>		
34 & 35 Vict. c. 70.	Local Government Board Act 1871.	The whole Act.
8 Edw. 7. c. 62.	Local Government (Scotland) Act 1908.	The whole Act.
3 & 4 Geo. 5. c. clvi.	Dunfermline District Water Order Confirmation Act 1913.	The whole Act.
3 & 4 Geo. 5. c. clx.	Lanarkshire (Middle Ward District) Water Order Confirmation Act 1913.	The whole Act.
6 & 7 Geo. 5. c. i.	Aberdeen Corporation Water Order Confirmation Act 1916.	The whole Act.

Statute Law (Repeals)

SCH. 1
PART VII

Chapter	Short Title	Extent of Repeal
8 & 9 Geo. 5. c. 1.	Dunfermline District Water Order Confirmation Act 1918.	The whole Act.
12 Geo. 5. c. i.	Lanarkshire County Council Order Confirmation Act 1922.	The whole Act.
15 & 16 Geo. 5. c. lxi.	Lanarkshire County Council Order Confirmation Act 1925.	The whole Act.
20 Geo. 5. c. xviii.	Dundee Corporation Order Confirmation Act 1929.	The whole Act.
24 & 25 Geo. 5. c. xlii.	Dundee Corporation Order Confirmation Act 1934.	The whole Act.
9 & 10 Geo. 6. c. xxxviii.	Manchester Corporation Act 1946.	Section 35.
12 & 13 Geo. 6. c. xliii.	Bolton Corporation Act 1949.	Section 43.
12, 13 & 14 Geo. 6. c. 84.	War Damaged Sites Act 1949.	The whole Act.
6 & 7 Eliz. 2. c. 64.	Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958.	In Schedule 4, paragraph 13(3).
1969 c. 48.	Post Office Act 1969.	In Schedule 4, paragraph 49.
1972 c. 70.	Local Government Act 1972.	Section 101(9)(g).
1981 c. ix.	Greater Manchester Act 1981.	Sections 145 and 160.

Group 2—Exemptions from Corporate or Parochial Offices

45 & 46 Vict. c. 50.	Municipal Corporations Act 1882.	Section 257(4).
53 & 54 Vict. c. 21.	Inland Revenue Regulation Act 1890.	Section 8.
1 & 2 Eliz. 2. c. 37.	Registration Service Act 1953.	Section 17.

Group 3—Festival of Britain 1951

12, 13 & 14 Geo. 6. c. 26.	Public Works (Festival of Britain) Act 1949.	The whole Act.
12, 13 & 14 Geo. 6. c. 102.	Festival of Britain (Supplementary Provisions) Act 1949.	The whole Act.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 13.	Festival Pleasure Gardens Act 1952.	The whole Act.
1981 c. 67.	Acquisition of Land Act 1981.	In Schedule 4— (a) in the Table in paragraph 1, the entry relating to the Public Works (Festival of Britain) Act 1949; (b) paragraph 5.

Statute Law (Repeals)

SCH. 1
PART VII

Chapter	Short Title	Extent of Repeal
<i>Group 4—Rating</i>		
17 & 18 Vict. c. 91.	Lands Valuation (Scotland) Act 1854.	In section 20, the words from “and the remuneration” onwards. Sections 28 and 29.
30 & 31 Vict. c. 80.	Valuation of Lands (Scotland) Amendment Act 1867.	In section 6, the words from the beginning to “therein, and”. Section 8.
19 & 20 Geo. 5. c. 25.	Local Government (Scotland) Act 1929.	Sections 20, 47, 48 and 77(1).
24 & 25 Geo. 5. c. 22.	Assessor of Public Undertakings (Scotland) Act 1934.	Sections 2 and 3.
1 & 2 Geo. 6. c. 52.	Coal Act 1938.	In section 45(16), the words “or Supplementary Valuation Roll”.
12, 13 & 14 Geo. 6. c. 75.	Agricultural Holdings (Scotland) Act 1949.	In section 7(2)(b), the words from “the relief” to “that Act nor”.
10 & 11 Eliz. 2. c. 9.	Local Government (Financial Provisions etc.) (Scotland) Act 1962.	Section 5.
1966 c. 9. 1972 c. 11.	Rating Act 1966. Superannuation Act 1972.	The whole Act. In Schedule 6, paragraphs 13 and 14.
1972 c. 60. 1973 c. 65.	Gas Act 1972. Local Government (Scotland) Act 1973.	Section 34(3). Section 117.
1975 c. 30.	Local Government (Scotland) Act 1975.	Section 2(4). Section 5(1)(c). In section 5(4), the words “or (c)(i)”, “or (c)(ii)” and “or (c)(iii)”.
1976 c. 45.	Rating (Charity Shops) Act 1976.	Section 1(3).
1984 c. 31.	Rating and Valuation (Amendment) (Scotland) Act 1984.	In section 13(1), the words from the beginning to “1867 and”. Section 13(2) and (4). Section 21(2). Schedule 3.

PART VIII

MEDICINE AND HEALTH SERVICES

Chapter	Short Title	Extent of Repeal
32 Hen. 8. c. 42. (1540).	Concerning Barbers and Chirurgeians.	The whole Act.

Statute Law (Repeals)

SCH. 1
PART VIII

Chapter	Short Title	Extent of Repeal
18 Geo. 2. c. 15.	An Act for making the Surgeons of London and the Barbers of London two separate and distinct corporations.	The whole Act except sections 12 and 15 to 18.
21 & 22 Vict. c. 90.	Medical Act 1858.	Sections 48 to 51.
23 & 24 Vict. c. 66.	Medical Act 1860.	In section 2, the words from "and any such new charter", where first occurring, onwards.
38 & 39 Vict. c. 43.	Medical Act (Royal College of Surgeons of England) 1875.	The whole Act.
41 & 42 Vict. c. 33.	Dentists Act 1878.	The whole Act.
49 & 50 Vict. c. 48.	Medical Act 1886.	The whole Act.
26 Geo. 5 and 1 Edw. 8. c. 40.	Midwives Act 1936.	The whole Act.
2 & 3 Geo. 6. c.13.	Cancer Act 1939.	Section 4(4)(a)(ii). In section 5(1), the definition of "The National Radium Trust". In section 7(b), the words "except in section 3 of this Act".
1968 c. 46.	Health Services and Public Health Act 1968.	In section 60(2), the words from "but the reception" onwards. In Schedule 3, the entries relating to the Disabled Persons (Employment) Act 1958 and the Mental Health Act 1959.
1977 c. 49.	National Health Service Act 1977.	In Schedule 15, paragraph 1.
1978 c. 29.	National Health Service (Scotland) Act 1978.	In Schedule 16, paragraph 19.
1980 c. 15.	National Health Service (Invalid Direction) Act 1980.	The whole Act.

PART IX

OVERSEAS JURISDICTION

Chapter	Short Title	Extent of Repeal
41 Geo. 3. c. 103.	Malta Act 1801.	The whole Act.
23 & 24 Vict. c. 5.	Indian Securities Act 1860.	The whole Act.

Statute Law (Repeals)

SCH. 1
PART IX

Chapter	Short Title	Extent of Repeal
36 & 37 Vict. c. 59.	Slave Trade (East African Courts) Act 1873.	The whole Act.
36 & 37 Vict. c. 88.	Slave Trade Act 1873.	In section 2, in the definition of "British slave court", the words from "and every East African Court" onwards.
38 & 39 Vict. c. 51.	Pacific Islanders Protection Act 1875.	The whole Act.
42 & 43 Vict. c. 38.	Slave Trade (East African Courts) Act 1879.	The whole Act.
50 & 51 Vict. c. 54.	British Settlements Act 1887.	Section 7.
53 & 54 Vict. c. 27.	Colonial Courts of Admiralty Act 1890.	In section 9(2)(a), the words "in India or" and "other" and from "or the Pacific" to "1875". In section 13(1), the words from "and in and from East African Courts" onwards. Section 13(3). Sections 16, 17 and 18. Schedules 1 and 2.
53 & 54 Vict. c. 37.	Foreign Jurisdiction Act 1890.	Section 18.
6 & 7 Geo. 5. c. 9.	Pacific Islands Regulations (Validation) Act 1916.	The whole Act.
10 & 11 Geo. 5. c. 27.	Nauru Island Agreement Act 1920.	The whole Act.
4 & 5 Eliz. 2. c. 23.	Leeward Islands Act 1956.	The whole Act.
4 & 5 Eliz. 2. c. 63.	British Caribbean Federation Act 1956.	The whole Act.
1967 c. 4.	West Indies Act 1967.	The whole Act except sections 6, 8, 17(1) and (4), 19 and 21.

PART X

PARLIAMENTARY AND CONSTITUTIONAL PROVISIONS

Chapter	Short Title	Extent of Repeal
34 & 35 Vict. c. 3.	Parliamentary Costs Act 1871.	In section 4, the words "provisional certificates".
42 & 43 Vict. c. 17.	House of Commons Costs Taxation Act 1879.	In section 1, the words "or provisional certificate". In section 2, the words "or by the Local Government Board", "or provisional certificate" and "or to the Local Government Board, as the case may be".
11 & 12 Geo. 6. c. 36.	House of Commons Members' Fund Act 1948.	Section 6.

Statute Law (Repeals)

SCH. 1
PART X

Chapter	Short Title	Extent of Repeal
11 & 12 Geo. 6. c. 65. 12, 13 & 14 Geo. 6. c. 66.	Representation of the People Act 1948. House of Commons (Redistribution of Seats) Act 1949.	The whole Act except sections 1(1) and 81. Section 5. In section 6, the words from "for any reference" (where first occurring) to "burgh, and" and from "whether" to "other Act". Sections 8 and 9(2). In section 1, the proviso.
12, 13 & 14 Geo. 6. c. 103. 1975 c. 33.	Parliament Act 1949. Referendum Act 1975.	The whole Act.

PART XI

SHIPPING, HARBOURS AND FISHERIES

Chapter	Short Title	Extent of Repeal
14 & 15 Vict. c. 26.	Herring Fishery Act 1851.	The whole Act.
16 & 17 Vict. c. 107.	Customs Consolidation Act 1853.	The whole Act.
16 & 17 Vict. c. 129.	Pilotage Law Amendment Act 1853.	The whole Act.
27 & 28 Vict. c. 58.	Hartlepool Pilotage Order Confirmation Act 1864.	The whole Act.
28 & 29 Vict. c. 100.	Harbours Transfer Act 1865.	The whole Act.
57 & 58 Vict. c. 60.	Merchant Shipping Act 1894.	Section 683(4).
9 Edw. 7. c. 8.	Trawling in Prohibited Areas Prevention Act 1909.	The whole Act.
1 & 2 Geo. 5. c. 42.	Merchant Shipping Act 1911.	The whole Act.
2 & 3 Geo. 5. c. 31.	Pilotage Act 1913.	The whole Act as it applies to the Isle of Man.
26 Geo. 5. & 1 Edw. 8. c. 36.	Pilotage Authorities (Limitation of Liability) Act 1936.	The whole Act as it applies to the Isle of Man.
3 & 4 Geo. 6. c. xlii.	Clyde Lighthouses Consolidation Order Confirmation Act 1940.	The whole Act.
3 & 4 Eliz. 2. c. 7.	Fisheries Act 1955.	Section 3 as it applies to England and Wales.
6 Eliz. 2. c. v.	Clyde Lighthouses Order Confirmation Act 1957.	The whole Act.
8 & 9 Eliz. 2. c. 42.	Merchant Shipping (Minicoy Lighthouse) Act 1960.	The whole Act.
1973 c. 27.	Bahamas Independence Act 1973.	Section 5.

Statute Law (Repeals)

SCH. 1
PART XI

Chapter	Short Title	Extent of Repeal
1974 c. 43. 1981 c. 29.	Merchant Shipping Act 1974. Fisheries Act 1981.	Section 24(4). In Schedule 4, paragraphs 9 and 29.
<i>Harbour Order Confirmation Acts</i>		
9 & 10 Geo. 5. c. ii.	Leith Harbour and Docks Order Confirmation Act 1919.	The whole Act.
9 & 10 Geo. 5. c. xcvi.	Clyde Navigation Order Confirmation Act 1919.	The whole Act.
9 & 10 Geo. 5. c. civ.	Granton Harbour Order Confirmation Act 1919.	The whole Act.
11 & 12 Geo. 5. c. v.	Forth Conservancy Order Confirmation Act 1921.	The whole Act.
15 & 16 Geo. 5. c. cxxv.	Leith Harbour and Docks Order Confirmation Act 1925.	The whole Act.
23 & 24 Geo. 5. c. li.	Leith Harbour and Docks Order Confirmation Act 1933.	The whole Act.
25 & 26 Geo. 5. c. liv.	Leith Harbour and Docks Consolidation Order Con- firmation Act 1935.	The whole Act.
4 & 5 Geo. 6. c. vii.	Greenock Port and Harbours Order Confirmation Act 1941.	The whole Act.
9 & 10 Geo. 6. c. lix.	Aberdeen Harbour Order Confirmation Act 1946.	The whole Act.
12 & 13 Geo. 6. c. liv.	Aberdeen Harbour Order Confirmation Act 1949.	The whole Act.
14 Geo. 6. c. xxv.	Leith Harbour and Docks Order Confirmation Act 1950.	The whole Act.
14 Geo. 6. c. xxviii.	Granton Harbour Order Confirmation Act 1950.	The whole Act.
14 Geo. 6. c. xxix.	Greenock Port and Harbours Order Confirmation Act 1950.	The whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2. c. xviii.	Leith Harbour and Docks Order Confirmation Act 1952.	The whole Act.
1 & 2 Eliz. 2. c. xix.	Clyde Navigation Order Confirmation Act 1953.	The whole Act.
5 Eliz. 2. c. i.	Clyde Navigation Order Confirmation Act 1956.	The whole Act.
7 & 8 Eliz. 2. c. xxxv.	Leith Harbour and Docks Order Confirmation Act 1959.	The whole Act.
8 Eliz. 2. c. ii.	Clyde Navigation Order Confirmation Act 1959.	The whole Act.
10 & 11 Eliz. 2. c. xxxiv.	Leith Harbour and Docks Order Confirmation Act 1962.	The whole Act.

Statute Law (Repeals)

PART XII

SUBORDINATE LEGISLATION PROCEDURE

SCH. 1

Chapter	Short Title	Extent of Repeal
7 & 8 Vict. c. 69.	Judicial Committee Act 1844.	In section 1, the words "Provided also, that every such general order in council as aforesaid shall be published in the London Gazette within one calendar month next after the making thereof;"
18 & 19 Vict. c. 68.	Burial Grounds (Scotland) Act 1855.	In section 5, the words from "and such Order in Council" to "this Act".
20 & 21 Vict. c. 81.	Burial Act 1857.	In sections 10 and 23, the words "and every such Order in Council shall be published in the London Gazette;"
27 & 28 Vict. c. 24.	Naval Agency and Distribution Act 1864.	In section 26, the words from "shall be published" to "Gazette, and" and from "within" (where first occurring) onwards.
27 & 28 Vict. c. 25.	Naval Prize Act 1864.	In section 54, the words from "shall be published" to "Gazette, and" and from "within" (where first occurring) onwards.
28 & 29 Vict. c. 89.	Greenwich Hospital Act 1865.	In section 60, the words from "shall be published" to "Gazette, and" and from "within" (where first occurring) onwards.
28 & 29 Vict. c. 111.	Navy and Marines (Property of Deceased) Act 1865.	In section 18, the words from "shall be published" to "Gazette, and" and from "within" (where first occurring) onwards.
28 & 29 Vict. c. 125.	Dockyard Ports Regulation Act 1865.	In section 7, the words from "and such rules" onwards. Sections 8, 9 and 10. In section 26, the words from "within" (where first occurring) onwards.
31 & 32 Vict. c. 101.	Titles to Land Consolidation (Scotland) Act 1868.	In the proviso to section 162, the words from "within" to "same may" and from "and until" onwards.
33 & 34 Vict. c. 78.	Tramways Act 1870.	In section 64, the words from "Any rules" (where first occurring) to "judicially noticed" and from "within three weeks" (where first occurring) onwards.

Statute Law (Repeals)

SCH. 1
PART XII

Chapter	Short Title	Extent of Repeal
36 & 37 Vict. c. 88.	Slave Trade Act 1873.	In section 29, the words from "within six weeks" (where first occurring) to "Gazette".
38 & 39 Vict. c. 17.	Explosives Act 1875.	In section 83, as it applies to Great Britain, the words from "Every Order" (where first occurring) to "whatever"; from "shall take effect" to "Gazette, and"; and from "within" (where first occurring) to "session of Parliament".
38 & 39 Vict. c. 18.	Seal Fishery Act 1875.	In section 1, the words from "within six weeks" (where first occurring) onwards.
38 & 39 Vict. c. 89.	Public Works Loans Act 1875.	In section 41, the words "as if it was enacted in this Act" and from "as soon as" to "powers of this Act".
39 & 40 Vict. c. 18.	Treasury Solicitor Act 1876.	In section 5, the words from "within" (where first occurring) onwards.
40 & 41 Vict. c. 2.	Treasury Bills Act 1877.	In section 9, the words from "within one month" (where first occurring) to "enacted in this Act".
40 & 41 Vict. c. 41.	Crown Office Act 1877.	In section 3, provisos (1) and (2); and the words from "within one month" (where first occurring) onwards. In section 5, the words from "within one month" (where first occurring) onwards.
42 & 43 Vict. c. 58.	Public Offices Fees Act 1879.	In section 2, the words from "Every such order" onwards. In section 3, the words from "and shall be binding" to "this Act".
47 & 48 Vict. c. 31.	Colonial Prisoners Removal Act 1884.	Section 4(4) from "duly observed" onwards, except the words "laid before Parliament". In section 13(1), the words from "and every Order" onwards. In section 13(2), the words from "as soon as" (where first occurring) onwards.
47 & 48 Vict. c. 55.	Pensions and Yeomanry Pay Act 1884.	In section 2(2), the words "as if enacted in this Act".
49 & 50 Vict. c. 53.	Sea Fishing Boats (Scotland) Act 1886.	In section 14, the words from "and every such Order" onwards.

Statute Law (Repeals)

SCH. 1
PART XII

Chapter	Short Title	Extent of Repeal
50 & 51 Vict. c. 53.	Escheat (Procedure) Act 1887.	In section 2(7), the words from "within" (where first occurring) onwards.
51 & 52 Vict. c. 25.	Railway and Canal Traffic Act 1888.	In section 40(4), the words from "Any regulations" to "this Act".
52 & 53 Vict. c. 53.	Paymaster General Act 1889.	In section 1(2), the words from "within" (where first occurring) onwards.
53 & 54 Vict. c. 27.	Colonial Courts of Admiralty Act 1890.	In section 7(1), in the proviso, the words "shall have full effect as if enacted in this Act, and". In section 14, the words from "and every such Order" onwards.
53 & 54 Vict. c. 37.	Foreign Jurisdiction Act 1890.	In section 11, the words from "forthwith" (where first occurring) onwards.
55 & 56 Vict. c. 6.	Colonial Probates Act 1892.	In section 4(1), the words from "as soon as" onwards.
55 & 56 Vict. c. 23.	Foreign Marriage Act 1892.	In section 21(2), the words from "published" to "Stationery Office and" and from "and deemed" onwards.
57 & 58 Vict. c. 2.	Behring Sea Award Act 1894.	In section 3(1), the words "this Act and" and from "and published" onwards.
57 & 58 Vict. c. 28.	Notice of Accidents Act 1894.	In section 2(5), the words "in the London Gazette and" and "other". In sections 7 and 8, the words from "Every order" onwards.
57 & 58 Vict. c. 60.	Merchant Shipping Act 1894.	In section 369(2), the words "published in the London Gazette" and "by an order published in like manner". Section 417(3). Section 479(2). In section 489, the words from "and those rules" onwards. In section 738(2), the words from "shall be published" to "Gazette and" and from "within" (where first occurring) onwards. Section 738(3). Section 740.
58 & 59 Vict. c. 21.	Seal Fisheries (North Pacific) Act 1895.	In section 6(1), the words "and published in the London Gazette".
59 & 60 Vict. c. 35.	Judicial Trustees Act 1896.	In section 4(2), the words from "have the same force" to "provided that".

Statute Law (Repeals)

SCH. 1
PART XII

Chapter	Short Title	Extent of Repeal
59 & 60 Vict. c. 48.	Light Railways Act 1896.	In section 10, the words from "shall have effect" to "Parliament, and".
2 Edw. 7. c. 41.	Metropolis Water Act 1902.	In section 18(2)(b), the words from "and shall have effect" to "this Act".
3 Edw. 7. c. 30.	Railways (Electrical Power) Act 1903.	Section 1(2).
8 Edw. 7. c. 36.	Small Holdings and Allotments Act 1908.	In section 39(3), the words "and have effect as if enacted in this Act".
1 & 2 Geo. 5. c. 28.	Official Secrets Act 1911.	In section 11, the words from "and the Order" to "in this Act".
3 & 4 Geo. 5. c. 17.	Fabrics (Misdescription) Act 1913.	In section 2, the words from "as soon as" onwards.
4 & 5 Geo. 5. c. 48.	Feudal Casualties (Scotland) Act 1914.	In section 23, the words from "and such act of sederunt" onwards.
5 & 6 Geo. 5. c. 48.	Fishery Harbours Act 1915.	In section 2(3)(i), the words "and have effect as an Act of Parliament". In section 2(3)(ii) the words "as if enacted in this Act".
9 & 10 Geo. 5. c. 51.	Checkweighing in Various Industries Act 1919.	In section 5(1), the words "and eighty-six". In Schedule 3, section 86 of the Factory and Workshop Act 1901.
10 & 11 Geo. 5. c. 55.	Emergency Powers Act 1920.	In section 2(4), the words "shall have effect as if enacted in this Act, but".
11 & 12 Geo. 5. c. 49.	War Pensions Act 1921.	In section 1(7), the words from "shall" to "Act, and". In section 9, the words "as if enacted in this Act".
13 & 14 Geo. 5. c. 8.	Industrial Assurance Act 1923.	In section 43, the words from "If the Session" to the end of the section.
15 & 16 Geo. 5. c. 21.	Land Registration Act 1925.	In section 126(5), the words from "All such regulations" to "this Act". In section 137(2), the words from "and any order" to "enacted in this Act".
16 & 17 Geo. 5. c. 59.	Coroners (Amendment) Act 1926.	Section 12(6).
1 & 2 Geo. 6. c. 22.	Trade Marks Act 1938.	Section 40(2). In section 40(4), the words from "if Parliament" onwards.
2 & 3 Geo. 6. c. 69.	Import, Export and Customs Powers (Defence) Act 1939.	In section 2(3), the words from "as soon" onwards.

Statute Law (Repeals)

SCH. 1
PART XII

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 17.	Police (Overseas Service) Act 1945.	In section 1(5), the words from "In reckoning" onwards. Section 1(6). Section 9(2).
9 & 10 Geo. 6. c. 36.	Statutory Instruments Act 1946.	
9 & 10 Geo. 6. c. 58.	Borrowing (Control and Guarantees) Act 1946.	Section 3(2) and (3).
9 & 10 Geo. 6. c. 59.	Coal Industry Nationalisation Act 1946.	In section 62(2), the words from "In reckoning" onwards. Section 62(3).
10 & 11 Geo. 6. c. 14.	Exchange Control Act 1947.	Section 36(3) and (4).
10 & 11 Geo. 6. c. 54.	Electricity Act 1947.	Section 64(4) and (5).

PART XIII

MISCELLANEOUS

Chapter	Short Title	Extent of Repeal
17 Geo. 3. c. 11.	Worsted Act 1776.	The whole Act.
33 & 34 Vict. c. 69.	Statute Law Revision Act 1870.	The whole Act.
54 & 55 Vict. c. 40.	Brine Pumping (Compensation for Subsidence) Act 1891.	In section 28, the words from "in accordance" to "1879".
59 & 60 Vict. c. 48.	Light Railways Act 1896.	Section 5.
11 & 12 Geo. 5. c. 55.	Railways Act 1921.	Section 70.
15 & 16 Geo. 5. c. 24.	Universities and College Estates Act 1925.	In section 33(2), the words "the Augmentation of Benefices Act 1831 or", "by section 16 of the said Act of 1831 or" and the proviso.
23 & 24 Geo. 5. c. 12.	Children and Young Persons Act 1933.	In section 107(1), the definition of "Metropolitan police court area".
26 Geo. 5. & 1 Edw. 8. c. 44.	Air Navigation Act 1936.	The whole Act.
1 Edw. 8 & 1 Geo. 6. c. 40.	Public Health (Drainage of Trade Premises) Act 1937.	In section 14(1) the definition of "joint sewerage authority".
1 Edw. 8 & 1 Geo. 6. c. 48.	Methylated Spirits (Sale by Retail) (Scotland) Act 1937.	In section 2(1), the words from "(subject" to "licence)". Section 3.

Statute Law (Repeals)

SCH. 1
PART XIII

Chapter	Short Title	Extent of Repeal
1 & 2 Geo. 6. c. 69.	Young Persons (Employment) Act 1938.	In section 7(1)(i), the words from "or of a licence" to "1952".
2 & 3 Geo. 6. c. 31.	Civil Defence Act 1939.	In section 7(3)(a), the words from "(except" to "section)". In section 83(3), the words from "or in the case of grants" to "Minister of Health".
9 & 10 Geo. 6. c. 17.	Police (Overseas Service) Act 1945.	Section 2(3). In section 3(1), in the definition of "Home police force", the words from "and in relation" to "constable".
8 & 9 Geo. 6. c. 42.	Water Act 1945.	Section 41(9). In section 59(1), the definitions of "clerk" and "county district".
8 & 9 Geo. 6. c. 43.	Requisitioned Land and War Works Act 1945.	Section 53(3).
9 & 10 Geo. 6. c. 59.	Coal Industry Nationalisation Act 1946.	Section 50. In section 64(2), the words from "and for any reference" onwards.
10 & 11 Geo. 6. c. 41.	Fire Services Act 1947.	In section 36(10), in the proviso, the words from "of any Defence Regulation" to "that Act".
11 & 12 Geo. 6. c. 52.	Veterinary Surgeons Act 1948.	The whole Act.
12, 13 & 14 Geo. 6. c. 5.	Civil Defence Act 1948.	Section 3(4). In section 6(1), the words from the beginning to "Air Raid Precautions Act 1937". Section 6(3).
3 & 4 Eliz. 2. c. 27.	Public Libraries (Scotland) Act 1955.	Section 1.
6 & 7 Eliz. 2. c. 67.	Water Act 1958.	The whole Act.
9 & 10 Eliz. 2. c. 34.	Factories Act 1961.	In Schedule 6, paragraph 3.
10 & 11 Eliz. 2. c. 58.	Pipe-lines Act 1962.	In section 67(5), the proviso.
1963 c. 37.	Children and Young Persons Act 1963.	In Schedule 3, paragraph 24.
1963 c. 38.	Water Resources Act 1963.	Section 93(3) as it applies to Scotland. Section 134(6)(a) and (b). In section 137(2)(a), the reference to section 93(3).
1965 c. 33.	Control of Office and Industrial Development Act 1965.	The whole Act.
1967 c. 86.	Countryside (Scotland) Act 1967.	In section 60(7), paragraphs (e) and (f).

Statute Law (Repeals)

SCH. 1
PART XIII

Chapter	Short Title	Extent of Repeal
1968 c. 65.	Gaming Act 1968.	Section 6(2)(b) and (c). Section 6(3)(b) and the preceding "or". In section 6(6)— (a) paragraph (b) and the preceding "or"; (b) the words "or to the Secretary of State, as the case may be". Section 7(3) and (4). In section 8(7), the words "or subsection (3)". In Schedule 9— (a) in paragraph 5(1)(a), the words "or (as the case may be) by the Secretary of State"; (b) in paragraphs 20(1)(a) and 20(2), the words "(not being the Secretary of State)".
1970 c. 32.	Riding Establishments Act 1970.	In section 4, the proviso.
1971 c. 40.	Fire Precautions Act 1971.	Section 27(2).
1971 c. 65.	Licensing (Abolition of State Management) Act 1971.	The whole Act.
1971 c. 77.	Immigration Act 1971.	Section 35(3), (4) and (5).
1972 c. 52.	Town and Country Planning (Scotland) Act 1972.	In section 275(1), the proviso to the definition of "authority possessing compulsory purchase powers".
1974 c. 37.	Health and Safety at Work Act 1974.	Section 60(3).
1976 c. 44.	Drought Act 1976.	Section 5(7). Schedule 3.
1982 c. 13.	Fire Service College Board (Abolition) Act 1982.	The whole Act.
1982 c. 25.	Iron and Steel Act 1982.	In Schedule 6, paragraph 3.
1982 c. 51.	Mental Health (Amendment) Act 1982.	In section 70(2), the words from the beginning to "Northern Ireland and".
1983 c. 2.	Representation of the People Act 1983.	In Schedule 8, paragraph 27.
1983 c. 20.	Mental Health Act 1983.	In Schedule 4, paragraph 61(a).
	<i>Church Assembly Measure</i>	
6 & 7 Geo. 6. No. 3.	Diocesan Education Committees Measure 1943.	The whole Measure.

Statute Law (Repeals)

SCHEDULE 2

Section 1(2).

CONSEQUENTIAL PROVISIONS

Sheriff Courts Consignations (Scotland) Act 1893

1. In section 7 of the Sheriff Courts Consignations (Scotland) Act 1893, for the words from “in each succeeding year” to “shall be made” there shall be substituted—“in each year the sheriff clerk shall lodge with the Secretary of State a detailed return of unclaimed consignations”.

Trade Marks Act 1938

2. After section 39 of the Trade Marks Act 1938 there shall be inserted the following sections (which replace sections 88, 91 and 91A of the Patents and Designs Act 1907)—

“International Arrangements

Registration of trade mark following application for protection in convention country.

39A.—(1) Any person who has applied for protection for any trade mark in a convention country or his legal representative or assignee shall be entitled on an application for registration made within six months of the application for protection in the convention country to registration of his trade mark under this Act in priority to other applicants.

(2) A trade mark registered on an application made under this section shall be registered as of the date of the application in the convention country but nothing in this section shall entitle the proprietor of the trade mark to recover damages for infringements happening prior to the actual date on which his trade mark is registered in this country.

(3) The registration of a trade mark shall not be invalidated by reason only of the use of the trade mark in the United Kingdom during the period specified in this section as that within which the application may be made.

(4) The application for the registration of a trade mark under this section must be made in the same manner as an ordinary application under this Act.

(5) Where a person has applied for protection for any trade mark by an application which—

(a) in accordance with the terms of a treaty subsisting between any two or more convention countries is equivalent to an application duly made in any one of those convention countries, or

(b) in accordance with the law of any convention country, is equivalent to an application duly made in that convention country,

he shall be deemed for the purposes of this section to have applied in that convention country.

Statute Law (Repeals)

Orders in council as to convention countries.

39B.—(1) Her Majesty may, with a view to the fulfilment of a treaty, convention, arrangement or engagement, by Order in Council declare that any country specified in the Order is a convention country for the purposes of section 39A above.

(2) Her Majesty may by Order in Council direct that any of the Channel Islands or any colony shall be deemed to be a convention country for those purposes; and an Order under this subsection may direct that section 39A above shall have effect, in relation to the territory in question, subject to such conditions or limitations as may be specified in the Order.

(3) For the purposes of subsection (1) of this section, every colony, protectorate, territory subject to the authority or under the suzerainty of another country, and every territory administered by another country under the trusteeship system of the United Nations shall be deemed to be a country in the case of which a declaration may be made under that subsection.

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

1938 c. 22. 3. After section 40 of the Trade Marks Act 1938 there shall be inserted the following section (which replaces section 82 of the Patents and Designs Act 1907)—

1907 c. 29.

"Hours of business and excluded days.

40A.—(1) Rules under section 40 of this Act may specify the hour at which the Patent Office shall be deemed to be closed on any day for purposes of the transaction by the public of business under this Act or of any class of such business, and may specify days as excluded days for any such purposes.

(2) Any business done under this Act on any day after the hour specified as aforesaid in relation to business of that class, or on a day which is an excluded day in relation to business of that class, shall be deemed to have been done on the next following day not being an excluded day; and where the time for doing anything under this Act expires on an excluded day, that time shall be extended to the next following day not being an excluded day."

Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939

1939 c. 107.

4. Section 6(1) of the Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939 shall continue to have effect with the amendment made by section 6(2) of the Patents and Designs Act 1946, that is, with the substitution of "that the act was not done within the time so limited by reason that a person was on active service or by reason of" for "that the doing of the act within the time so limited was prevented by a person's being on active service or by".

1946 c. 44.

Statute Law (Repeals)

Representation of the People Act 1948

5.—(1) In section 1 of the Representation of the People Act 1948 the following subsection shall be substituted for subsection (1)— 1948 c. 65.

“(1) There shall for the purpose of parliamentary elections be the county and borough constituencies (or in Scotland the county and burgh constituencies), each returning a single member, which are described in Orders in Council made under the House of Commons (Redistribution of Seats) Acts 1949 to 1979”.

(2) Neither sub-paragraph (1) above nor the repeal by this Act of Schedule 1 to the Representation of the People Act 1948 shall affect the constitution of the Northern Ireland Assembly in being at the commencement of this Act or any election to the Assembly before the next general election to the Assembly.

Trade Marks (Amendment) Act 1984

6. In Schedule 1 to the Trade Marks (Amendment) Act 1984, after paragraph 18 there shall be inserted the following paragraph— 1984 c. 91.

“Sections 39A and 39B

18A. Sections 39A and 39B (international arrangements) shall be omitted.”

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 makes provision for the extension of repeals or amendments to the Channel Islands, the Isle of Man or colonies for whose external relations the United Kingdom is responsible.

SCHEDULE 1

REPEALS

PART I

ADMINISTRATION OF JUSTICE

Group 1—General Repeals

The Law Terms Act 1830, as originally enacted, extended the jurisdiction of the courts at Westminster to Chester and Wales and abolished the palatine courts of Chester and the courts of Great Sessions in Wales. It also altered the dates of the legal terms. These provisions have been repealed and section 32, the unrepealed residue, relates only to the taking of oaths before judges of the courts which were abolished in 1830. Local consultation has confirmed that the section is obsolete and unnecessary.

The Trials for Felony Act 1836, which applied to England and Ireland, enabled persons indicted for felony to make their defence by counsel or attorney and allowed them to obtain copies of the pre-trial depositions before the trial began. These provisions have been repealed¹ and the whole Act, as it applied to Northern Ireland, was repealed as unnecessary in 1967.² Section 4, the residue of the Act as it applies to England and Wales, dealt with the narrow point of the inspection of pre-trial depositions at the actual trial and has been superseded by modern procedural safeguards.

The background is that in earlier times justices of the peace, acting as investigators, would usually examine witnesses behind closed doors, sending their depositions to the Court of Assize or Quarter Sessions where the prisoner was to be tried. Although a prisoner accused of felony or high treason would be on trial for his life, it was thought quite normal for him to be kept in ignorance of the evidence against him until the very moment when he was brought into court to be tried.³ When Sir Frederick Pollock (Attorney-General

¹ Section 1 (defence by counsel or attorney) was repealed by the Criminal Law Act 1967 in consequence of the abolition of felony. The Summary Jurisdiction Act 1848 repealed and replaced so much of the 1836 Act as related to the right of parties charged with offences to have copies of the depositions or examinations against them.

² Criminal Law Act (Northern Ireland) 1967, s. 15(2) and Sch. 2.

³ Stephen, *History of the Criminal Law of England* (1st ed. 1883) Vol. i, p. 225.

1834–1835) first went on circuit, he was told by the Clerk of the Crown (who held the file of indictments) that it was also “an invariable rule to withhold an inspection of the indictment till the prisoner was arraigned” although he could, as a barrister not representing the prisoner, peruse the indictments if he wished.⁴ This system compared poorly with that in other jurisdictions⁵ and led William Ewart (1798–1869) to make several attempts before 1836 to persuade Parliament to change it.

The modern position is very different. Depositions have become fairly unusual since the introduction in 1967⁶ of the power to receive the evidence of a witness in the form of a certified written statement. These statements are subject to stringent safeguards and copies have to be supplied to the defence before they are admissible. In cases where depositions are still used, they are required to be taken in the presence of the accused person, and to be read over to him, unless he is so disorderly that this would not be practicable or he is kept away by ill health and his solicitor consents to the evidence being given in his absence.⁷ The Crown Court is responsible for distributing, free of charge, copies of the depositions and other papers to the parties before the trial. In addition, the Attorney-General’s Guidelines⁸ impose duties on prosecutors regarding the disclosure to the defence of other information which might be helpful to the defence. These safeguards operate before the trial begins and if for any reason they failed it is inconceivable that the trial would begin without the agreement of the defence.

The Evidence Act 1843, which applied to England and Ireland, was brought in by Lord Denman (1779–1854), then Chief Justice of the King’s Bench. It finally swept away the unjust old law of incompetency under which witnesses were excluded from giving evidence on the ground of conviction for crime or of interest in the litigation. As Holdsworth⁹ explains, the complex old rules were founded on a failure to distinguish between the competency of a witness and the weight to be accorded to his evidence. Jeremy Bentham (1748–1832) exposed the fundamental fallacy on which these rules were based. Section 1 of the 1843 Act, having achieved its purpose of abolishing the old rules, is spent and unnecessary. No modern lawyer would attempt to rely on those rules.

The only other substantive provision of the Evidence Act 1843 is section 2, which provided that it should not be necessary in any legal proceedings to specify that any particular persons who acted as jurors had made affirmation

⁴ *Second Report from Her Majesty’s Commissioners on Criminal Law* (1836) H.C. 343, App. 1, p. 79.

⁵ In Scotland, for instance, full informative indictments had to be delivered to the prisoner 15 days before trial.

⁶ Criminal Justice Act 1967, ss. 1, 2. See now Magistrates Courts Act 1980, ss. 6(2), 102.

⁷ Magistrates Courts Act 1980, s. 4; Magistrates Courts Rules 1981 (S.I. 1981 No. 552) r. 7(2).

⁸ The Guidelines, which are printed in *Archbold’s Pleading, Evidence and Practice in Criminal Cases*, supplement older authority on the duty of the prosecution to supply information to the defence.

⁹ *History of English Law*, Vol. ix, pp. 191–196.

instead of oath. This provision is of no significance now¹⁰ and it is inconceivable that modern proceedings would be held defective on this ground.

Section 143 of the Companies Clauses Consolidation Act 1845 and section 145 of the Companies Clauses Consolidation (Scotland) Act 1845¹¹ provided legal machinery whereby the debts of a statutory company, if they did not exceed £20, might be recovered in the last resort by distress (or in Scotland by pointing and sale) of the goods of the company's treasurer. Section 132 of the Lands Clauses Consolidation (Scotland) Act 1845 made similar provision in relation to the goods of the treasurer of a statutory undertaking. The statutory financial limit of £20 corresponds to the original jurisdiction of county courts in England and Wales in 1846. The provisions are for practical purposes obsolete. For this reason parallel provisions in similar legislation¹² have already been repealed.

The Rothwell Gaol Act 1845, so far as unrepealed,¹³ is obsolete in consequence of the final abolition of writs of *capias ad satisfaciendum* by section 141 of the Supreme Court Act 1981.

The Criminal Procedure Act 1851, with several other contemporary statutes, was aimed at reforming the rigid technical rules which then governed indictments in England and Ireland.¹⁴ Section 18, one of the only two remaining substantive provisions, provided that money (i.e. gold and silver coin) and bank notes might be described in an indictment as money. The section serves no useful purpose under the modern practice and rules.¹⁵

The original need for section 18 is exemplified by the case of *R. v. Craven*.¹⁶ It concerned an offence of stealing a bank note for one pound contrary to a statute of 1728¹⁷ which referred to bank notes without further description. On a reference to all the judges after conviction, the indictment was held bad for not following the description of property in the statute, although it referred to "a certain note commonly called a Bank note" and set out every particular necessary to identify the actual note and its owner. The theft of bank notes was then a capital crime and a contemporary commentator¹⁸ explained that

¹⁰ By virtue of the Oaths Act 1978, any person who objects to taking an oath has an unqualified right to affirm. Section 2 of the 1843 Act was repealed in its application to Northern Ireland by the Judicature (Northern Ireland) Act 1978.

¹¹ These Acts are now of only limited application, but still apply to statutory water and harbour companies.

¹² Lands Clauses Consolidation Act 1845, s. 140 (repealed in 1974); Railways Clauses Consolidation Act 1845, s. 141, and Railways Clauses Consolidation (Scotland) Act 1845, s. 133 (repealed in 1962).

¹³ The Act abolished a local debtors' prison which had become unnecessary and was repealed except for section 4 in 1953.

¹⁴ The Act gave power to amend indictments in respects which were not material to the merits of the case (section 1). It also listed formal defects (e.g. the omission of the words "as appears by the Record") which were no longer to vitiate indictments (section 24).

¹⁵ Indictment Rules 1971 (S.I. 1971 No. 1253). These rules are in general terms and dispensed with the now unnecessary detail in the Indictment Rules 1915. In Northern Ireland the relevant provisions are contained in Part IV of the Crown Court Rules (Northern Ireland) 1979 (S.R. 1979 No. 90).

¹⁶ (1801) 2 East P.C. 601, 602.

¹⁷ 2 Geo. 2 c. 25, s. 3.

¹⁸ Archbold (2nd ed. 1825) p. 25.

in this and similar cases “the court, *in favorem vitae*, are sometimes inclined to listen to and countenance very fine distinctions . . .”

The other remaining substantive provision of the Criminal Procedure Act 1851 is section 28. Its effect was to abolish the complex and absurd form of pleading *autrefois acquit* or *autrefois convict*, with its lengthy recitals, which had to be used before 1851.¹⁹ The section has achieved its objective and is long since spent and unnecessary. The modern practice is straightforward, the usual form of plea being—

“AB says that the Queen ought not further to prosecute the indictment against him, because he has been lawfully acquitted/convicted of the offence charged therein.”

In the Literary and Scientific Institutions Act 1854, section 22 (suits not to abate or discontinue) is unnecessary in Scotland and in England and Wales and Northern Ireland has been superseded by modern rules of court.²⁰ Section 23 (enforcement of judgments) so far as proposed for repeal dealt with the issue of a writ of *revivor* and is obsolete.

Section 6 of the Summary Jurisdiction (Process) Act 1881 provided for the making and enforcement of an affiliation order by a court in England or Scotland against a father within its jurisdiction, even though he or the mother resided, or the child was born, in the other jurisdiction. The Summary Jurisdiction Process (Isle of Man) Order 1928²¹ provided for the application of the section, in a modified form, between England and the Isle of Man. The section was repealed for Great Britain by the Maintenance Orders Act 1950, but the repeal did not extend to the Isle of Man. The section is, however, obsolete in the Isle of Man and there is no record of an affiliation order having been made in the Island under its provisions. Provision is now made for the reciprocal enforcement of affiliation orders between the Isle of Man and the United Kingdom by Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972²² and parallel legislation of Tynwald.²³ The proposed repeal is agreed to by the authorities in the Isle of Man.

Section 9 of the Law of Libel Amendment Act 1888 (husband or wife of a person charged with criminal libel a competent but not compellable witness), has been superseded in England and Wales by the Criminal Evidence Act 1898 and section 80 of the Police and Criminal Evidence Act 1984.

¹⁹ For an example of an early 19th century pleading of *autrefois acquit*, see Archbold (2nd ed. 1825) p. 54.

²⁰ See RSC. Ord. 15, r. 7, CCR. Ord. 5, r. 11 (England and Wales); RSC. (N.I.) Ord. 15, r. 7, CCR (N.I.) Ord. 3, r. 23 (Northern Ireland). In Scotland the matter is regulated by common law; see Maxwell, *The Practice of the Court of Session* (1980) pp. 231–233; Dobie, *Law and Practice of the Sheriff Courts in Scotland* (1952) p. 236.

²¹ S.R. and O. 1928 No. 377, made under the Criminal Justice Administration Act 1914, s. 40(2).

²² The Isle of Man has been designated as a reciprocating country by the Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 1983 (S.I. 1983 No. 1125).

²³ Maintenance Orders (Reciprocal Enforcement) Act 1978. The United Kingdom has been designated under this Act by the Maintenance Orders (Designation of Reciprocating Countries) Order 1983 (G.C. 280/83).

In the Administration of Justice (Miscellaneous Provisions) Act 1933, which applies to England and Wales, paragraph 4 of Schedule 2 amended the Indictment Rules 1915 scheduled to the Indictments Act 1915. It is obsolete in consequence of the revocation of those rules by the Indictment Rules 1971.²⁴

The final repeal of the Solicitors Act 1934 is consequential on the repeal of the Act in its application to Scotland by the Solicitors (Scotland) Act 1980. In its application to England and Wales, the substantive provisions (which prohibited bodies corporate from acting as solicitors) were consolidated in 1957²⁵ and the residue of the Act is now an empty shell consisting only of ancillary provisions dealing with the extent of the Act and its citation.

In the Administration of Estates (Small Payments) Act 1965, the repeal proposed to section 6 (power to increase amounts disposable on death without representation) is consequential on the repeal of section 38 of the Finance Act 1918 by the Statute Law Revision Act 1966.

In the Proceedings against Estates Act 1970, which applies to England and Wales, section 2 (provision for facilitating proceedings against the estates of deceased persons) was consolidated in 1981.²⁶ The remainder of the Act, namely section 1 (repeals) and section 3 (citation, commencement, etc.) is spent.

In the Courts Act 1971, the repeal of paragraph 6 of Schedule 8 is consequential on the proposed repeal of the residue of the Law Terms Act 1830.

In the Tribunals and Inquiries Act 1971, paragraph 2 of Schedule 1 (aviation tribunals) is obsolete and unnecessary in consequence of the establishment of the Civil Aviation Authority by the Civil Aviation Act 1971 and of changes in the system of issuing Air Operators' Certificates. The Civil Aviation Authority, which now has responsibility for the issue of these certificates, is under the supervision of the Council on Tribunals by virtue of section 7(3) of the Civil Aviation Act 1982.

In the Matrimonial Homes Act 1983, which applies to England and Wales, the repeal proposed to Schedule 2 is consequential on the repeal of the residue (section 2(6) and paragraph 4 of the Schedule) of the Matrimonial Homes Act 1967 by the County Courts Act 1984.

The County Courts Act 1984 re consolidated the law relating to county courts in England and Wales, the law having previously been consolidated in 1888, in 1934 and in 1959.²⁷ The proposed repeals to this Act are of obsolete and unnecessary provisions which came to light during the preparation of the consolidation Bill but which could not be dealt with by that Bill because the necessary research and consultation had not been completed.

²⁴ S.I. 1971 No. 1523, made under the powers conferred by the Criminal Justice Administration Act 1956, s. 19.

²⁵ Solicitors Act 1957, s. 22. See now Solicitors Act 1974, s. 24.

²⁶ Supreme Court Act 1981, s. 87(2).

²⁷ County Courts Act 1888, County Courts Act 1934 and County Courts Act 1959 respectively.

In section 14 (penalty for assaulting an officer), section 92 (penalty for rescuing goods seized) and section 118 (penalty for interrupting proceedings of a county court), the repeals proposed are of provisions relating to the prisons to which committals can be made. These provisions are descended from the original County Courts Act 1846, which had provided that where it was inconvenient to use the common gaol, particular prisons belonging to courts set up under local Acts could be used. The Prison Act 1877 vested the ownership of all local prisons in the Secretary of State and committals to prison by the judge of a county court are now dealt with in general terms by section 120 of the County Courts Act 1984.

Section 79(2) of the County Courts Act 1984 (exemption from stamp duty on certain agreements between the parties) was originally enacted as section 69 of the County Courts Act 1856, being later consolidated as section 107(2) of the County Courts Act 1959. This provision became obsolete and unnecessary when the relevant stamp duty was abolished in 1970.²⁸

Section 141 of the County Courts Act 1984 (no privilege allowed to any solicitor to exempt him from the jurisdiction of the court) goes back to legislation enacted in 1846 and 1849 to abolish the old privilege of an attorney as to venue. The effect of the privilege was that, subject to certain exceptions, an attorney could only sue or be sued in the court in which he was admitted.²⁹ The privilege became an anachronism when attorneys were allowed to practise in two or more courts and it was progressively abolished during the early 19th century by legislation relating to particular courts. When new county courts were established in 1846, Parliament tried to make it clear that no privilege of exemption from the jurisdiction of these courts was to be allowed.³⁰ But this provision was interpreted by the courts as only ousting the privilege in cases where an attorney was the defendant. In *Jones v. Brown*³¹ a line of earlier decisions upholding the privilege of a plaintiff attorney was followed, despite the arguments of counsel.³² In *Lewis v. Hance*³³ Lord Denman explained that a plaintiff attorney—

“requires no privilege to exempt him from the jurisdiction of the County Court; for he never was within it; and therefore the abolition of any privilege he may have cannot affect his position as regards the jurisdiction of the court”.

But he went on to say—

“If the words of the 67th section had been that ‘no privilege should be allowed to exempt him from the provisions of this Act’ or any similar words, they would no doubt have embraced plaintiffs attorneys . . .”

²⁸ Finance Act 1970, ss. 32 and 36(8).

²⁹ *Tidd's Practice of the Courts of King's Bench and Common Pleas* (9th ed. 1828) p. 80.

³⁰ County Courts Act 1846, s. 67. Two special provisions regarding the Universities of Oxford and Cambridge (s. 140) and the stannary courts (s. 141) later fell away.

³¹ (1848) 2 Ex. 129; 154 E.R. 154. The earlier decisions turned on the narrow point of whether the statute expressly mentioned attorneys.

³² “It will be a great evil if attorneys are not compelled to sue in the county courts; for they will then be enabled to buy up small bills of exchange and sue upon them in the superior courts, for the mere purpose of costs. The legislature could never have intended to preserve a privilege so open to abuse”.

³³ (1848) 11 Q.B. 921; 116 E.R. 718.

In 1849³⁴ Parliament legislated to deal with the points raised in both these cases. By 1849, therefore, the privilege had gone altogether in county courts.

Attorneys disappeared after 1873,³⁵ but the issues of venue were litigated again by solicitors in 1886 and 1888. In *Day v. Ward*³⁶ it was held that no privilege of venue existed in respect of a defendant solicitor. In *Blair v. Eisler*,³⁷ where two plaintiff solicitors attempted to invoke the privilege, it was held that section 5 of the County Courts Act 1867³⁸ (costs in respect of actions which could have been instituted in the county court) applied to solicitors as it did to any other person. The litigation of 1888 arose because of conflicting statements in contemporary textbooks.³⁹

The Law Society agrees that the provisions consolidated by section 141 of the County Courts Act 1984 have long been obsolete and unnecessary. The provisions are also confusing because the draftsman of the 1888 consolidation chose to use the wording of 1846 (exemption from jurisdiction) instead of the wording of 1849 (exemption from this Act).⁴⁰ In a modern context section 141 deals with a non-question and its repeal would not revive any pre-1849 privilege.⁴¹

Group 2—Judicial Committee

The repeals to the Judicial Committee Amendment Act 1895 and the Appellate Jurisdiction Act 1908 are of provisions relating to the membership of the Judicial Committee, and to assessors, which are obsolete in consequence of the abolition of appeals to the Privy Council from Canada and India. Appeals from Canada were abolished by Canadian legislation of 1949.⁴² Indian appeals, which at one time formed the bulk of the Judicial Committee's work, were abolished by parallel legislation in India and Pakistan enacted in 1949 and 1950 respectively.

The remaining repeals are of provisions for the continuation of appeals to the Judicial Committee, which were pending at the time the legislation was passed, from courts in The Gambia, the Seychelles, Trinidad and Tobago, the Solomon Islands, Kiribati and the New Hebrides. The Registrar to the Judicial Committee has confirmed that the provisions are spent and inoperative.

³⁴ County Courts Act 1849, s. 18.

³⁵ Supreme Court of Judicature Act 1873, s. 87.

³⁶ (1886) 17 Q.B.D. 703. The judgment echoed the words of Parke B in *Walford v. Fleetwood* (1845) 14 M & W 449; 153 E.R. 551: "An attorney cannot be allowed to plead his privilege in [several] courts or it would be impossible to sue him at all".

³⁷ (1888) 21 Q.B.D. 185.

³⁸ See now County Courts Act 1984, ss. 19, 20.

³⁹ *Pitt-Lewis's County Court Practice* (3rd ed.) p. 23 stated that the privilege of a plaintiff solicitor had been expressly taken away in 1849. *Cordery on Solicitors* (2nd ed.) pp. 205-6 treated the privilege as still existing. The question is not discussed in *Cordery on Solicitors* (7th ed. 1981).

⁴⁰ County Courts Act 1888, s. 175. The change made no difference because both aspects of the privilege had gone by them and s. 188(5) prevented any repeals from reviving a privilege which did not then exist.

⁴¹ Interpretation Act 1978, s. 16(1)(a).

⁴² Supreme Court Amendment Act 1949. In *Attorney-General for Ontario v. Attorney-General for Canada* [1947] A.C. 127 the validity of the Bill for the Canadian Act was upheld by the Judicial Committee.

Group 3—Metropolitan Police Acts

The Metropolitan Police Acts have never been consolidated and the administration of the Metropolitan Police Force is still dealt with in a series of scattered enactments reaching back to 1829. Sections 14 and 15 of the Metropolitan Police Act 1829 provided for an action of debt in the common law courts for the recovery of money remaining in the hands of a former Receiver of the Metropolitan Police who had resigned or been removed from office or which, following his death, had become vested in his executors or administrators. These archaic provisions, which were modelled on earlier precedents,⁴³ are a relic of the old forms of action which were abolished in the later 19th century. They also reflected the contemporary difficulties of distinguishing between the official and personal assets of officials under a system which treated many public offices as a form of property and which had not yet developed effective financial disciplines and proper standards of public administration. The provisions are obsolete and unnecessary now.

Section 16 of the Metropolitan Police Act 1829, as originally enacted, conferred on the Receiver the powers necessary to enable him to contract for the purchase or renting of land or buildings for the purpose of establishing police stations and taking control of the property of the local Watchmen of the Night Police. These powers have been superseded by a series of detailed later enactments.⁴⁴

Section 32 of the Metropolitan Police Act 1839 (offence of breaking casks, etc. with intent to spill contents) has been superseded by the Criminal Damage Act 1971, which created general offences of intentionally or recklessly destroying or damaging property without lawful excuse. Section 74 (prosecution under other Acts) is superseded by the general provisions of section 18 of the Interpretation Act 1978 (duplicated offences).

Sections 39 and 40 of the Metropolitan Police Courts Act 1839 formed part of a group of provisions⁴⁵ enacted before the establishment of the county court system in 1846. The sections provided a summary remedy to deal with oppressive distresses, or the unlawful detention of goods, in cases where the amount involved did not exceed £15. This limit is now quite unrealistic. The Chief Metropolitan Stipendiary Magistrate agrees that the sections are obsolete and that the matters in question could more properly be dealt with in the county court.

Section 51 of the Metropolitan Police Courts Act 1839 (defective distress warrants) is superseded by section 78 of the Magistrates Courts Act 1980. The repeal of Schedule (A) (table of fees) is consequential on the repeal of section 43 of the 1839 Act by the Administration of Justice Act 1964.

⁴³ Middlesex Justices Act 1792, ss. 6, 7; 1802 c. 76, ss. 7, 8.

⁴⁴ See e.g. Metropolitan Police Act 1886, ss. 2, 4 (construction and fitting up of buildings for the purposes of the Metropolitan Police Force, purchase, leasing, etc. of land or rights over land); Metropolitan Police Act 1887, s. 3 (leasing of land not immediately required); Metropolitan Police (Receiver) Act 1861, s. 5 (disposal of property).

⁴⁵ The other provisions included section 37 (disputes about wages for labour involving not more than £5) and section 38 (compensation for damage by tenants not exceeding £15) which have already been repealed.

The Metropolitan Police (Receiver) Act 1861 was passed following the retirement in 1860 of John Wray (1782–1869), the first Receiver. It implemented advice which had been given to Wray by his solicitors in 1846 that the office should be made a corporation sole since otherwise his covenant did not bind his successors.⁴⁶ Section 1 (office of receiver a corporation sole) is almost the only provision of this Act which is still of relevance. The provisions proposed for repeal are as follows:

- (a) Section 2 (transfer of official property from John Wray to his successor Maurice Drummond) which took effect on enactment.
- (b) Section 3 (Receiver not personally liable for debts incurred in his official capacity) which spelled out the now trite proposition that the assets and liabilities of a corporation sole are separate and distinct from those of the person holding the office for the time being. It has been unnecessary for a century or more.⁴⁷
- (c) Section 4 (which abolished the requirement in section 10 of the Metropolitan Police Act 1829 that the receiver's personal name should be inserted in his official account with the Bank of England) and section 8 (payment of moneys into Bank of England account) which became obsolete and unnecessary in 1931.⁴⁸
- (d) Section 5, in so far as it dealt with the acquisition of property, has been superseded by later legislation.⁴⁹

Section 4 of the Metropolitan Police Act 1887 (transfer of piece of land to police receiver) is spent.

Group 4—Scottish Courts

Since the early 1970s the structure and procedure of the Scottish courts have been frequent subjects of reforming legislation. The Sheriff Courts (Scotland) Act 1971 effected fundamental changes in the administration of the sheriff courts, introduced a new form of process (the summary cause) for certain civil proceedings of limited value, and provided generally for the regulation of procedure and practice in civil proceedings. The District Courts (Scotland) Act 1975 abolished the then existing justice of the peace courts, quarter sessions, burgh courts and other inferior courts, transferred their jurisdiction to newly established district courts and provided for the regulation of procedure and practice in the new courts. The Criminal Procedure (Scotland) Act 1975 effected a major revision and consolidation of enactments relating to procedure before the Scottish courts exercising a criminal jurisdiction. The process initiated by these Acts has been carried on in subsequent legislation and continues in the Law Reform (Miscellaneous Provisions) (Scotland) Bill and in current work on a proposed consolidation of enactments relating to the constitution, administration and procedure of the Court of Session.

⁴⁶ R. M. Morris, *The Metropolitan Police in the Nineteenth Century* (1973) p. 60.

⁴⁷ The proposition does not appear, for instance, in the Treasury Solicitor Act 1876 (Treasury Solicitor a corporation sole).

⁴⁸ Metropolitan Police (Staff Superannuation and Police Fund) Act 1931, s. 4 (provision as to bank accounts of Receiver). The 1829 Act, as originally enacted, stipulated that only the Bank of England was to be used, but until 1844 Wray in fact kept accounts at other banks.

⁴⁹ Metropolitan Police Act 1886, ss. 2, 4, 6.

Despite this intense legislative activity, there remains a corpus of unconsolidated legislation which has not been modernised. Much of it is obscure and most of it is probably now obsolete in practice. A review of this legislation is therefore being undertaken as part of the Scottish Law Commission's programme of statute law revision. The proposals in this group are a first step. Those consulted include the Scottish Home and Health Department, the Crown Office, the Scottish Courts Administration, the Principal Clerk of Session and Justiciary, the Law Society of Scotland, the Lyon Clerk and Keeper of Records and the Society of Messengers at Arms and Sheriff Officers.

The Citation Act 1555 provided for citation in criminal causes, the Messengers of Arms Act 1661 for execution of summons and letters of treason. Under the modern law the procedure in the prosecution and trial of cases of treason or misprision of treason is the same as in cases of murder.⁵⁰ Detailed modern provisions for citation and service of indictments are now contained in Part I of the Criminal Procedure (Scotland) Act 1975. These provisions supersede the Acts of 1555 and 1661.

The Court of Session Act 1723, so far as unrepealed, required candidates for appointment as Lords Ordinary in the Court of Session to be qualified in accordance with two Acts of the Scottish Parliament⁵¹ and also under the articles of union of the two kingdoms of England and Scotland. The reference to the articles of union is unnecessary, standing their terms,⁵² and the reference to the two Scottish Acts is obsolete, these Acts having been repealed 20 years ago.

Section 34 of the Heritable Jurisdictions (Scotland) Act 1746, so far as proposed for repeal, provided for appeals in civil cases to a circuit court of justiciary where the pecuniary value of the matter in dispute did not exceed £12. In 1814 that limit was raised to £25 by section 5 of the Justiciary Courts (Scotland) Act 1814. This procedure is obsolete. Civil proceedings in cases of limited value are now brought in the sheriff courts, using the form of process known as summary cause which was introduced by the Sheriff Courts (Scotland) Act 1971. Section 38 of that Act provides for appeals in summary causes.

In the Calendar (New Style) Act 1750, the repeals proposed to section 4 are of absurd provisions requiring meetings of the Court of Session and the Court of Exchequer in Scotland to be held on days calculated with reference to the pre-1750 Julian calendar. The Court of Exchequer was merged in the Court of Session in 1856⁵³ and the meetings of the Court of Session are not now determined in this way. The provisions are also expressed to apply to the Bedford Level Commissioners, who no longer exist. Their successors, the Anglian Water Authority, confirm that the provisions have no modern relevance.

⁵⁰ Criminal Justice (Scotland) Act 1980, s.39.

⁵¹ 1579 c.38 and 1592 c.50. Both Acts were repealed as obsolete by the Statute Law Revision (Scotland) Act 1964.

⁵² See Union with England Act 1707, Art. XIX; Union with Scotland Act 1706, Art. XIX.

⁵³ Exchequer Court (Scotland) Act 1856, s.1.

In the Justiciary Courts (Scotland) Act 1814, section 5 is the only remaining provision. Its repeal is consequential on the repeal proposed to section 34 of the Heritable Jurisdictions (Scotland) Act 1746.

The Sheriff Courts (Scotland) Act 1825, sections 1, 3 to 5, 7 and 8, and the Sheriff Courts (Scotland) Act 1838, of which only section 31 remains, provided for the regulation of fees and procedure in the sheriff courts. The main provisions of the 1825 Act were concerned with establishing an appropriate procedure for revising, by Acts of Sederunt and Acts of Adjournal, the regulations which governed fees in the sheriff courts in 1825. So far as the Acts have any continuing effect in relation to fees and procedure, they have been superseded by subsequent legislation. Court dues are now regulated by the Secretary of State for Scotland,⁵⁴ and fees to agents, officers, shorthand writers and others by the Court of Session.⁵⁵ The Court of Session and the High Court of Justiciary also have wide powers to regulate procedure.⁵⁶ The Acts of Sederunt and Acts of Adjournal made under the 1825 and 1838 Acts previously had effect in the courts of the royal burghs in Scotland. These courts, however, have been abolished and replaced by new district courts which, apart from court dues regulated as mentioned above, are governed by their own legislation.⁵⁷

The other sections remaining unrepealed in the Sheriff Courts (Scotland) Act 1825 are also obsolete. Section 2 (regulations for abridging extracts and for consignment of money in court) has been superseded by the detailed later provisions contained in the Sheriff Courts (Scotland) Extracts Act 1892 and the Sheriff Courts Consignations (Scotland) Act 1893. There are also wide powers to prescribe forms of documents in section 32 of the Sheriff Courts (Scotland) Act 1971. Forms used in criminal procedure are regulated as mentioned above. Section 6 (sheriff clerk to discharge his office in person) has been superseded by the Sheriff Courts and Legal Officers (Scotland) Act 1927, in particular sections 3 and 6.

In the Lyon King of Arms Act 1867, the repeal proposed to section 11 is of provisions relating to the fees payable to officers appointed before 1867.

Part VII of the Sheriff Courts (Scotland) Act 1876, which provided for the abolition of the commissary court and the office of commissary clerk, is spent.

In the Sheriff Courts (Scotland) Extracts Act 1892, the repeal proposed to section 2 (application of Act) is of references to the small debt court or debts recovery court and to summary ejections under sections 8 to 13 of the Sheriff Courts (Scotland) Act 1838. These references are obsolete in consequence of the repeal of the Small Debt (Scotland) Act 1837 and the Small Debt Amendment (Scotland) Act 1889 by the Sheriff Courts (Scotland) Act 1971 and the repeal of the relevant sections of the 1838 Act by the Sheriff Courts (Scotland) Act 1907.

⁵⁴ Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983, s.4 (substituting a new s.2 of the Courts of Law Fees (Scotland) Act 1895).

⁵⁵ Sheriff Courts (Scotland) Act 1907, s.40.

⁵⁶ Sheriff Courts (Scotland) Act 1971, s.32; Criminal Procedure (Scotland) Act 1975, ss.282, 457.

⁵⁷ District Courts (Scotland) Act 1975.

In the Sheriff Courts Consignations (Scotland) Act 1893, the repeal proposed to section 2 (definition) is of references to the small debt court or debts recovery court which are obsolete for the reasons mentioned above. The repeals proposed to section 6 (sheriffs to determine amount of prior consignations in hands of sheriff clerks) and section 7 (sheriff clerks to lodge returns of consignations with Queen's Remembrancer) are of spent provisions relating to unclaimed consignations deposited with sheriff clerks during periods prior to 31 December 1887. The repeals proposed to section 8 (cases of non-compliance with provisions of Act) and section 9 (payment by Queen's Remembrancer to Exchequer) are of provisions which have become obsolete as a result of the transfer of certain functions of the Queen's and Lord Treasurer's Remembrancer to the Secretary of State.⁵⁸

In Part II of Schedule 5 to the Exchange Control Act 1947 (general provisions as to offences) paragraph 4 increased the maximum period of imprisonment that could be imposed by a sheriff in Scotland in respect of the non-payment of a fine. This provision has been superseded by section 407 of the Criminal Procedure (Scotland) Act 1975, as substituted by section 50 of the Criminal Justice (Scotland) Act 1980.

In the Backing of Warrants (Republic of Ireland) Act 1965, section 8(2) (rules of court) amended section 76(1)(a) of the Summary Jurisdiction (Scotland) Act 1954. These provisions were consolidated in 1975 and the matter is now dealt with by section 457 of the Criminal Procedure (Scotland) Act 1975. Section 8(2) of the 1965 Act, so far as proposed for repeal, is consequentially obsolete.

The Matrimonial Proceedings (Polygamous Marriages) Act 1972 extended the law relating to matrimonial relief to marriages entered into under a system which permits polygamy. The repeal proposed to section 2, which relates to decrees by courts in Scotland, would correct a mistake which has recently come to light. As originally enacted, section 2(2)(c) referred to a decree of dissolution of marriage under section 5 of the Divorce (Scotland) Act 1938 on the ground of the presumed death of one of the spouses. The 1938 provision was repealed by the Presumption of Death (Scotland) Act 1977 and section 2(2)(c) of the 1972 Act was amended in 1983 to refer to section 1 of the 1977 Act. However, that reference is inappropriate, since section 1 of the 1977 Act provides not for a decree of dissolution of marriage but for a decree of declaration of death which, among other things, has the effect of dissolving the marriage. The repeal proposed to the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 is consequential.

The repeals proposed to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 and the Criminal Justice (Scotland) Act 1980 would also correct drafting mistakes. In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, section 2(2)(b) (remission of fine imposed on a juror for non-attendance at a civil trial in the sheriff court) is meaningless in consequence of section 11 of that Act (no jury trial in civil actions in sheriff court). In the Criminal Justice (Scotland) Act 1980, the relevant entry in

⁵⁸ Transfer of Functions (Treasury and Secretary of State) Order 1974 (S.I. 1974 No. 1274).

Schedule 8 (partial repeal of proviso to section 26(5) of the Criminal Justice Act 1961) is inconsistent with paragraph 7(a)(iii) of Schedule 7 to that Act (proviso to section 26(5) of the 1961 Act to cease to have effect).

Group 5—Tender of Amends and Payment into Court

The repeals in this group are of obsolete and unnecessary statutory provisions relating mainly to the old pleading of tender of amends. These provisions have been superseded by the procedural remedy of payment into court. The provisions were never necessary in so far as they applied to Scotland.

The Limitation Act 1623, as originally enacted, was a wide-ranging statute to deal with the multiplicity of dilatory and vexatious suits in the courts at Westminster which followed the dissolution of the monasteries and the dispersal of their lands.⁵⁹ The main provisions of the Act, relating to time bars, were repealed and replaced in 1939.⁶⁰ Section 5, and the corresponding residue of the Limitation Act (Ireland) 1634, made a small inroad into the strict procedural rules by providing that tender of amends might be pleaded in an action for trespass *quare clausum fregit*. The plea was always interpreted strictly and it proved to be of little contemporary utility.⁶¹

Payment into court was a process and a plea unknown to English common law. It developed gradually in relation to particular actions, being allowed in relation to actions for trespass to land in 1833.⁶² It was not until 1875⁶³ that payment into court was permitted generally.⁶⁴

During the 18th and 19th centuries numerous statutory provisions enabled the defendant to an action based on the wrongful exercise of a statutory power to plead the general issue and tender amends. Most of these provisions were repealed by the Public Authorities Protection Act 1893. In 1954, following the recommendations of the Tucker Committee,⁶⁵ the Act of 1893 was repealed by the Law Reform (Limitation of Actions, &c.) Act 1954.

⁵⁹ Coke, 4 *Inst.* 76, 77. Among other causes mentioned were the number of concealers (those who sought to swallow up ecclesiastical possessions), the swarm of informers and the multitude of attorneys.

⁶⁰ Limitation Act 1939. See now Limitation Act 1980.

⁶¹ See e.g. *Basely v. Clarkson* (1681) 3 Lev. 37, 83 E.R. 565.

⁶² Civil Procedure Act 1833, s.21. The 1833 Act was repealed as obsolete by the Administration of Justice Act 1965, s.34 and Schedule 2.

⁶³ Supreme Court of Judicature Act 1875, Schedule I, Order XXX (Payment into court in satisfaction).

⁶⁴ Beynon Harris, *The Law of Tender* (1908) p. 196.

⁶⁵ *Report of the Committee on the Limitation of Actions* (1949) Cmd. 7740. The Committee recommended the removal of special provisions for the protection of public authorities, in particular those relating to periods of limitation.

PART II

AGRICULTURE

The Board of Agriculture Act 1889, the Board of Agriculture and Fisheries Act 1903 and the Small Landholders (Scotland) Act 1911, form part of a complicated statutory code which still governs the constitution and functions of the Ministry of Agriculture, Fisheries and Food, the Department of Agriculture and Fisheries for Scotland and the Welsh Office. The repeals proposed, which are discussed below, are of provisions which are agreed by the respective departments concerned to be obsolete and unnecessary.

Section 2(1)(c) of the Board of Agriculture Act 1889 (transfer of functions of the Commissioners of Works under the Survey Act 1870) became obsolete in 1965⁶⁶ when the statutory functions relating to the ordnance survey in Great Britain ceased to be vested in the Minister of Agriculture, Fisheries and Food. The functions have since devolved on the Secretary of State for the Environment.⁶⁷

The following provisions of the Board of Agriculture Act 1889 have long been obsolete and unnecessary, namely, section 9 (transfer of officers), section 11 (2) and (3) (legal proceedings and other business pending in 1889) and section 13 (saving for orders of the Privy Council, etc. in force in 1889).

Part II of Schedule 1 to the Board of Agriculture Act 1889 lists Acts containing powers and duties which in 1889 were transferred to the Board of Agriculture from the Land Commissioners for England or their predecessors (the Copyhold Commissioners or the Tithe and Enclosure Commissioners) and which therefore devolved on the Board's successors. The entries in the Schedule which are proposed for repeal relate to Acts under which the functions transferred in 1889 have ceased to be exercisable. The entries are obsolete—

- (a) in the case of the Public Schools Act 1868, in consequence of the repeal in 1973 of section 24 of that Act, as amended by the Public Schools (Eton College Property) Act 1873 (consent of Copyhold Commissioners to be given to a sale of college estates);
- (b) in the case of the Universities of Oxford and Cambridge Act 1877, and statutes made thereunder, in consequence of the enactment of the Universities and College Estates Act 1964 (which enabled the Universities of Oxford and Cambridge and Durham, and their colleges, to carry out land transactions without obtaining the consent of the Minister of Agriculture, Fisheries and Food);⁶⁸
- (c) in the case of the Conveyancing and Law of Property Act 1881,⁶⁹ in consequence of the repeal of section 45 of that Act (which conferred

⁶⁶ Transfer of Functions (Ordnance Survey) Order 1965 (S.I. 1965 No. 1120).

⁶⁷ Secretary of State for the Environment Order 1970 (S.I. 1970 No. 1681).

⁶⁸ The background to the 1964 legislation is explained in *Hansard* (H.C.), 13 March 1964, Vol. 691, cols. 939–42. The university authorities of Oxford and Cambridge agree to the proposed repeal.

⁶⁹ The Act was retitled the Conveyancing Act 1881 by the Conveyancing Act 1911.

functions on the Copyhold Commissioners) by the Law of Property Act 1925;

- (d) in the case of the Glebe Lands Act 1888, in consequence of the repeal of that Act by the Endowments and Glebe Measure 1976.

The Board of Agriculture and Fisheries Act 1903 vested the superintendence of fisheries in the Board. Section 1(2), so far as proposed for repeal, and the Schedule, dealt with the transfer of statutory functions relating to fisheries which had formerly been exercised by the Board of Trade. The only unrepealed entry in the Schedule relates to functions under section 5(1) of the Light Railways Act 1896 so far as it related to the fishing industry. There is no life left in that section (proposed for repeal in Part XIII of Schedule 1) or in the related provisions of the Board of Agriculture and Fisheries Act 1903. The repeal to section 1(4) of the 1903 Act is consequential on the proposed repeal of section 9 of the Board of Agriculture Act 1889.

The Small Landholders (Scotland) Act 1911 constituted the Board of Agriculture for Scotland, transferring to it certain functions of the Board of Agriculture and Fisheries in relation to Scotland. In the Schedule (Acts relating to transferred functions) the repeal of the entry relating to the Light Railways Act 1896 is consequential on the proposed repeal of section 5 of that Act.

In the Agriculture Act 1937, Part I set up a Land Fertility Scheme (later called the Agricultural Lime Scheme) under which Exchequer contributions were made towards the cost of acquiring and transporting lime for the purpose of adding it to agricultural land. The scheme was originally due to come to an end on 31 July 1940 but its operation was extended by a succession of later provisions.⁷⁰ The scheme was finally allowed to lapse on 31 July 1979⁷¹ because its continuance would have been inconsistent with the Community obligations of the United Kingdom. Part I is therefore obsolete. Except as mentioned below, the repeal of the remainder of the Act is consequential.

In Part IV of the Agriculture Act 1937, sections 19 and 28 made the legislative provision necessary to enable the local and central veterinary services then in existence to be amalgamated to form a single central veterinary service. Section 19(1) (discharge of statutory functions under the enactments relating to milk and dairies in Great Britain) is obsolete in consequence of the repeal of the enactments concerned and section 19(2) (transfer of officers) is spent. Section 19(3) and (4) provided for the making of arrangements under which the services of veterinary inspectors were to be made available to local authorities against payment of the charges for those services. These provisions are now unnecessary and any arrangements of this nature can equally well be implemented administratively. Section 28, which enabled local Acts to be amended consequentially, has never been needed or used and is not now of practical utility.

⁷⁰ See Agriculture (Miscellaneous Provisions) Act 1941, s.1; Agriculture Act 1947, s.97; Agriculture (Miscellaneous Provisions) Act 1954, s.2, and orders made thereunder.

⁷¹ Agricultural Lime Scheme (Extension of Period) Order 1974 (S.I. 1974 No. 1315).

Section 31 of the Agricultural Development Act 1939 enabled the Minister of Agriculture and Fisheries (as he then was) to make arrangements with the approval of the Treasury for the acquisition and storage of stocks of agricultural tractors and other agricultural machinery and the erection of buildings for that purpose. The powers were taken in the emergency situation which existed immediately before the outbreak of the Second World War and the reserve of agricultural machinery was created only for use in the event of an outbreak of war.⁷² In 1949 section 12 of the Agriculture (Miscellaneous Provisions) Act 1949 provided for the disposal of the reserve. These statutory provisions have long been obsolete and unnecessary.

The remaining substantive provisions of the Agricultural Development Act 1939 are sections 34 and 35, which conferred powers to inspect agricultural land in respect of which a return was required to be made under the Agricultural Returns Act 1925 (which applied to Great Britain). These provisions are no longer required in Scotland and in England and Wales were superseded by later legislation.⁷³

Section 27 of the Agriculture (Miscellaneous War Provisions) Act 1940 extended the Land Fertility Scheme to land wholly or mainly cultivated for the production of vegetables or fruit and its repeal is consequential on the proposed repeal of Part I of the Agriculture Act 1937.

In the Agriculture (Miscellaneous Provisions) Act 1941, section 13(1) (a partial repeal of section 17 of the Improvement of Land Act 1864) is spent. The other proposals are consequential on the following repeals or proposed repeals:

- (a) in the case of section 1 (amendment of Land Fertility Scheme), the proposed repeal of Part I of the Agriculture Act 1937;
- (b) in the case of section 12 (application to Scotland), the repeal of section 11 (prevention of bee diseases) by the Bees Act 1980;
- (c) in the case of section 13(2) (amendment of section 29 of the Agriculture (Miscellaneous War Provisions) Act 1940), the repeal of section 29 of the 1940 Act by the Land Drainage (Scotland) Act 1958;
- (d) in the case of section 14 (application to Northern Ireland), the proposed repeal of section 1 (amendment of Land Fertility Scheme).

In the Agriculture (Miscellaneous Provisions) Act 1943, the provisions excepted from repeal are section 18 and Schedule 3 (amendments of Corn Returns Act 1882) and section 24 (short title). The remainder of the Act, so far as unrepealed, deals with the following matters:

- (i) Section 1 increased the amount of the Exchequer contributions payable under the Land Fertility Scheme and its repeal is consequential on the proposed repeal of Part I of the Agriculture Act 1937.

⁷² *Hansard* (H.C.), 15 June 1939, Vol. 348, cols. 1579–80.

⁷³ Agriculture Act 1947, s.106. Section 1(5) of the Agricultural Statistics Act 1979 (application of section 106 of Agriculture Act 1947) was repealed by the Agriculture (Amendment) Act 1984.

- (ii) Sections 3, 4 and 10(3) extended war-time land drainage schemes made under section 14 of the Agriculture (Miscellaneous War Provisions) Act 1940. The power to make these schemes ended on 10 December 1958⁷⁴ and section 14 of the 1940 Act was repealed by the Statute Law (Repeals) Act 1973.
- (iii) Section 15(1), (3) and (5) relate to relief for agricultural tenants affected by directions given under Regulation 62 of the Defence (General) Regulations 1939⁷⁵ made under the Emergency Powers (Defence) Act 1939. The Regulation, as amended and extended, expired many years ago and the enactments authorising its continuance were repealed in 1959.⁷⁶ The provisions are spent.
- (iv) Sections 19, 20, 22 and 23 contain ancillary provisions and their repeal is consequential on the other proposed repeals.

Section 1 of the Agriculture (Miscellaneous Provisions) Act 1944 established the National Agricultural Advisory Service, whose functions under section 1(1) are now exercisable by the Agricultural Development and Advisory Service.⁷⁷ The repeals proposed to the section are of spent provisions relating to the transfer of staff to the Ministry of Agriculture and Fisheries (as it then was) for the purposes of the Service before 1 August 1946⁷⁸ and for the payment of compensation to displaced officers and servants of county councils who were not entitled to be so transferred. The repeal of the Schedule (compensation benefits) is consequential.

In the Hill Farming Act 1946, the repeals of section 12(13) (cost of work done by Ministry on common land to be brought into account under section 2(4)) and section 32(3) (revocation or variation of scheme relating to Wales or Monmouthshire) are consequential on the prospective repeal of sections 2 and 5 by the Agriculture Act 1970.⁷⁹

Sections 13 to 17 of the Hill Farming Act 1946 made provision for subsidising hill sheep and hill cattle in the United Kingdom and for ensuring that sheep and cattle imported from Eire and the Isle of Man were not subsidised. Section 37(1)(c), (d) and (e) provided for the necessary instruments to be subject to annulment by resolution of either House of Parliament. Section 39(d) modified section 14 in its application to Scotland. Section 8(b) of the Livestock Rearing Act 1951 subjected the exercise of the powers to Treasury approval.

These enactments have become obsolete in consequence of the accession of the United Kingdom to the European Economic Community on 1 January 1973. The United Kingdom has been obliged gradually to harmonise its

⁷⁴ Agriculture (Miscellaneous War Provisions) Act 1940, s.30; Emergency Laws (Transitional Provisions) Act 1946, s.3; Emergency Laws (Miscellaneous Provisions) Act 1947, s.7; Emergency Laws (Continuance) Order 1957 (S.I. 1957 No. 2057).

⁷⁵ S.R. & O. 1939 No. 927.

⁷⁶ Emergency Laws (Repeal) Act 1959.

⁷⁷ Agriculture Act 1970, s.103.

⁷⁸ National Advisory Service (Appointed Day) Order 1946 (S.R. & O. 1946 No. 1576).

⁷⁹ Agriculture Act 1970, s.113(3) and Part II of Schedule 5. The listed enactments are spent and a formal order bringing the repeals into operation is expected to be made shortly.

law and practice with the common agricultural policy. This meant that the national system of subsidies based on animal numbers had to give way to a common system of guaranteed prices and freedom of trade. Aid to offset permanent natural handicaps, in the form of income supplements, was introduced by the EEC Directives on mountain and hill farming of 28 April 1975.⁸⁰ These Directives were implemented by the Hill Livestock (Compensatory Allowances) Regulations 1975,⁸¹ made under section 2(2) of the European Communities Act 1972. The effect was to continue the system of subsidies in another form.

No hill sheep schemes or hill cattle schemes made under sections 13 to 17 of the Hill Farming Act 1946 remain in force. The existing schemes were terminated by 1 January 1976.⁸²

In the Agriculture Act 1947, the repeal of section 78(8) (application of Agricultural Returns Act 1925) is consequential on the proposed repeal of section 34(2) of the Agricultural Development Act 1939. The repeal of section 97 (substitution of Agricultural Lime Scheme for Land Fertility Scheme) is consequential on the proposed repeal of Part I of the Agriculture Act 1937.

Section 12 of the Agriculture (Miscellaneous Provisions) Act 1949 provided for the disposal of a war-time reserve of agricultural machinery. The section is long since spent and its repeal is consequential on the proposed repeal of section 31 of the Agricultural Development Act 1939.

The Agriculture (Miscellaneous Provisions) Act 1950, so far as unrepealed,⁸³ enabled a scheme to be made for the payment of grants in respect of petrol-driven machines used in connection with agriculture. The Act, and a scheme⁸⁴ made under it, implemented a budget undertaking to introduce a measure which would offset the effect of a contemporary increase in petrol duty on the cost of agricultural operations.⁸⁵ The scheme was never intended to be permanent and when it was revoked in 1951⁸⁶ the statutory provisions, for practical purposes, became spent. The Treasury and the departments responsible for agriculture in England, Wales, Scotland and Northern Ireland agree that the Act is a dead letter.

In the Livestock Rearing Act 1951, the repeal of section 8(b) is consequential on the proposed repeal of sections 13 to 17 of the Hill Farming Act 1946.

⁸⁰ Directives 75/268/EEC and 75/276/EEC, OJ L128, 19 May 1975, pp. 1, 231.

⁸¹ S.I. 1975 No. 2210. See now Hill Livestock (Compensatory Allowances) Regulations 1984 (S.I. 1984 No. 2024).

⁸² Hill Sheep (England and Wales) (Revocation) Scheme 1985 (S.I. 1975 No. 1951); Hill Cattle (Breeding Herds) (England and Wales) (Revocation) Scheme 1975 (S.I. 1975 No. 2131); Hill Cattle (Scotland) (Revocation) Scheme 1975 (S.I. 1975 No. 1957); Hill and Upland Sheep (Scotland) (Revocation) Scheme 1975 (S.I. 1975 No. 1958); Hill Sheep (Northern Ireland) (Revocation) Scheme 1975 (S.I. 1975 No. 1952); Hill Cattle (Breeding Herds) (Northern Ireland) (Revocation) Scheme 1975 (S.I. 1975 No. 2130).

⁸³ Sections 2 and 3 (subsidies for the use of fertilisers) were repealed by the Statute Law Revision Act 1964.

⁸⁴ Petrol-driven Agricultural Machines (Grants) Scheme 1950 (S.I. 1950 No. 1912).

⁸⁵ *Hansard* (H.C.), 30 June 1950, Vol. 476, col. 2656.

⁸⁶ Petrol-driven Agricultural Machines (Grants) Revocation Scheme 1951 (S.I. 1951 No. 652).

The Agriculture (Fertilisers) Act 1952, the Agriculture (Ploughing Grants) Act 1952, the Agriculture (Calf Subsidies) Act 1952, section 1 of the Agriculture (Small Farmers) Act 1959, sections 10 and 12 (winter keep grants) of the Agriculture (Miscellaneous Provisions) Act 1963, section 12 (beef cow subsidies) of the Agriculture Act 1967 and sections 38 to 40 (bacon and break crops) of the Agriculture (Miscellaneous Provisions) Act 1968 enabled schemes to be made, with the approval of the Treasury, for the payment of agricultural subsidies of particular types.

No schemes are now in operation under these enactments. The last schemes to be made under them were as follows:

- (a) in the case of the Agriculture (Fertilisers) Act 1952, the Fertilisers (United Kingdom) Scheme 1972 as amended,⁸⁷ which came to an end on 31 May 1974;
- (b) in the case of the Agriculture (Ploughing Grants) Act 1952, the Ploughing Grants Scheme 1970 as amended,⁸⁸ and the Ploughing Grants (Scotland) Scheme 1970, as amended⁸⁹ which related to a period ending on 31 May 1971;
- (c) in the case of the Agriculture (Calf Subsidies) Act 1952, the Calf Subsidies (United Kingdom) Scheme 1977,⁹⁰ which related to a period ending on 30 April 1977;
- (d) in the case of section 1 of the Agriculture (Small Farmers) Act 1959, the Small Farm (Business Management) Scheme 1969⁹¹ and the Small Farm (Business Management) (Scotland) Scheme 1969,⁹² which related to programmes submitted for approval by 31 August 1970;
- (e) in the case of sections 10 and 12 of the Agriculture (Miscellaneous Provisions) Act 1963, the Winter Keep (Scotland) Scheme 1969,⁹³ which related to a period ending on 31 December 1974;
- (f) in the case of section 12 of the Agriculture Act 1967, the Beef Cow Scheme 1976,⁹⁴ which was limited to applications made before 31 December 1977;
- (g) in the case of sections 38 and 39 of the Agriculture (Miscellaneous Provisions) Act 1968, the Bacon Curing Industry Stabilisation Scheme 1973,⁹⁵ which related to a period ending on 31 May 1973;
- (h) in the case of section 40 of the Agriculture (Miscellaneous Provisions) Act 1968, the Field Beans Scheme 1968,⁹⁶ which related to a period ending on 30 June 1971.

The enactments referred to above have become obsolete in consequence of

⁸⁷ S.I. 1972 No. 815, 1973 No. 976.

⁸⁸ S.I. 1970 No. 773, 1970 No. 1757.

⁸⁹ S.I. 1970 No. 828, 1970 No. 1804.

⁹⁰ S.I. 1977 No. 453.

⁹¹ S.I. 1969 No. 978.

⁹² S.I. 1969 No. 1153.

⁹³ S.I. 1969 No. 1845, 1972 No. 861.

⁹⁴ S.I. 1976 No. 2057.

⁹⁵ S.I. 1973 No. 330.

⁹⁶ S.I. 1968 No. 1218.

the accession of the United Kingdom to the European Economic Community. The departments responsible for the administration of the enactments agree that any further exercise of the powers under them would be incompatible with the Community obligations of the United Kingdom.

In the Agriculture (Miscellaneous Provisions) Act 1954, the repeal of section 2 is consequential on the proposed repeal of Part I of the Agriculture Act 1937.

The Agriculture (Improvement of Roads) Act 1955 as originally enacted applied to Great Britain but it has been repealed in its application to Scotland by the Roads (Scotland) Act 1984. In its application to England and Wales, the Act enabled the Minister of Agriculture, Fisheries and Food, with the approval of the Treasury, to make grants towards the cost of implementing approved proposals by local authorities for the improvement of roads in, or giving access to, livestock rearing areas. The power to approve proposals for the purposes of the Act expired on 20 December 1962, but two proposals which had been approved before that date remained outstanding. Work on these proposals, which relate to roads in Gwynedd, has now been completed and the grants for which they qualified have been paid to the Gwynedd County Council.

The Agriculture (Small Farmers) Act 1959, based on proposals set out in a White Paper,⁹⁷ provided for the setting up firstly of a Small Farm Scheme (section 1) and secondly of supplementary schemes (sections 2 and 3). The Small Farm Scheme is discussed above. The supplementary schemes were designed to provide temporary assistance, for a period not exceeding three years, to small farmers who were not able to participate in the main scheme. No supplementary schemes remain in operation and the power to make such schemes has long since expired. The repeal of the remainder of the Agriculture (Small Farmers) Act 1959 is consequential.

Sections 4 and 5 of the Agriculture (Miscellaneous Provisions) Act 1963 extended the scope of schemes under the Agriculture (Fertilisers) Act 1952 to cover mushroom growers and fertilisers applied to a crop instead of to the soil. Their repeal is consequential on the proposed repeal of the 1952 Act.

Section 9 of the Agriculture (Miscellaneous Provisions) Act 1963 enabled schemes to be made, with the approval of the Treasury, for the payment of grants towards the cost of carrying out proposals for promoting the efficient marketing of agricultural and horticultural produce. The powers conferred by this section, together with the scheme⁹⁸ made under it, finally lapsed on 31 March 1971.⁹⁹ Sections 10 and 12 (winter keep grants) are discussed above.

In the Agriculture Act 1967, the repeal of section 12 (beef cow subsidies) is discussed above. The other proposals are consequential on the following proposed repeals:

⁹⁷ "Assistance for Small Farmers" (1958) Cmnd. 553.

⁹⁸ Market Development Scheme 1964 (S.I. 1964 No. 456).

⁹⁹ Market Development Scheme (Extension of Period) Order 1965 (S.I. 1965 No. 638); Market Development Scheme (Extension of Period) Order 1968 (S.I. 1968 No. 514).

- (a) in the case of sections 10 and 11 (calf subsidy schemes), the proposed repeal of the Agriculture (Calf Subsidies) Act 1952;
- (b) in the case of section 26(11),¹⁰⁰ (exclusion of certain enactments) the proposed repeal of the Agriculture (Small Farmers) Act 1959;
- (c) in the case of section 43 (hill sheep and hill cattle), the proposed repeal of section 13 of the Hill Farming Act 1946;
- (d) in the case of section 44 (winter keep grants), the proposed repeal of section 10 of the Agriculture (Miscellaneous Provisions) Act 1963;
- (e) in the case of section 61(8) (grants for purposes connected with co-operative activities), the proposed repeal of section 9 of the Agriculture (Miscellaneous Provisions) Act 1963;
- (f) in the case of section 69 (false statements to obtain grants), the proposed repeal of section 12 of the 1967 Act, of section 13 of the Hill Farming Act 1946, of the Agriculture (Calf Subsidies) Act 1952 and of section 10 of the Agriculture (Miscellaneous Provisions) Act 1963.

In the Agriculture (Miscellaneous Provisions) Act 1968, the repeal of sections 38 to 40 (bacon and break crops) is discussed above.

In the Agriculture Act 1970, section 29(6) and (7), and Part I of Schedule 5, are spent and unnecessary. These provisions provided for the repeal of certain earlier enactments relating to capital grants subject to any order continuing temporarily an instrument made under them. The repeals became effective on 1 January 1971¹⁰¹ and none of the instruments concerned remain in force.¹⁰²

In section 34 of the Agriculture Act 1970 (standard costs, etc. for certain grants), the repeals are consequential on the proposed repeal of the Agriculture Act 1937 or on the termination of improvement grants under the Hill Farming and Livestock Rearing Acts 1946 to 1956.

Section 35 of the Agriculture Act 1970 provided for the termination of payments under section 1(1) of the Hill Farming Act 1946. The terminal date was 5 November 1975¹⁰³ and the section is spent. Section 36 required schemes made under the Agriculture (Ploughing Grants) Act 1952 to be approved by resolution of each House of Parliament. Its repeal is consequential on the proposed repeal of the 1952 Act. Part I of Schedule 5 (repeal of enactments relating to capital grants) is spent.

In the Consumer Credit Act 1974, paragraph 10 of Schedule 4 consequentially amended section 1 of the Agriculture (Miscellaneous Provisions) Act 1950 (grants in respect of petrol-driven machines used in connection with

¹⁰⁰ Section 26 of the Agriculture Act 1967, as amended, is set out in Schedule 2 to the Agriculture Act 1970.

¹⁰¹ Farm Capital Grant (Repeal of Enactments) Order 1970 (S.I. 1970 No. 1867).

¹⁰² See Farm Capital Grant (Repeal of Enactments) (Savings) Order 1970 (S.I. 1970 No. 1758).

¹⁰³ 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).

agriculture). The repeal of the paragraph is consequential on the proposed repeal of the 1950 Act.

In the Agriculture (Miscellaneous Provisions) Act 1976, the repeals to Schedule 3 (adaptation of enactments to metric units) are consequential on the proposed repeal of the Agriculture Act 1937 and of section 40 of the Agriculture (Miscellaneous Provisions) Act 1968.

In the Highways Act 1980, section 39 (adoption of certain highways in livestock rearing areas) is a reconsolidation¹⁰⁴ of section 1(6) of the Agriculture (Improvement of Roads) Act 1955. The Department of Transport agrees that the provision it made is no longer necessary. The repeal to Schedule 24 (consequential amendments) is consequential on the proposed repeal of the Agriculture (Improvement of Roads) Act 1955.

¹⁰⁴ The section was earlier consolidated as section 41 of the Highways Act 1959.

PART III

FINANCE

The Revenue of Scotland Act 1718 provided for the payment in perpetuity of two yearly funds or annuities, one of £10,000 and one of £2,000.¹⁰⁵ These annuities were originally payable out of the revenue of Scotland. In 1850¹⁰⁶ the Treasury was authorised to redeem the annuity of £10,000 and the archives of the Bank of Scotland record that it was redeemed in January 1851 by the payment of a sum of £248,550.0.9½d. In 1906¹⁰⁷ the annuity of £2,000 was transferred to the Consolidated Fund and made payable to the Trustees of the National Galleries of Scotland. It was finally redeemed by the Treasury in December 1983 under the powers conferred by section 6 of the Miscellaneous Financial Provisions Act 1983. The Revenue of Scotland Act 1718, and section 8 of the National Galleries of Scotland Act 1906, are therefore obsolete.

The Irish Charges Act 1801, as originally enacted, charged on the Consolidated Fund of Ireland various sums of money for defraying the cost of services in Ireland, but in 1816,¹⁰⁸ the consolidated funds of Great Britain and of Ireland were amalgamated to form the Consolidated Fund of the United Kingdom. The unrepealed residue of the 1801 Act relates only to a small annuity¹⁰⁹ for the rent of grounds near Carrickfergus Castle. This annuity ceased to be payable on 5 October 1983 when it was redeemed by the Treasury under the powers conferred by section 6 of the Miscellaneous Financial Provisions Act 1983. In consequence the Irish Charges Act 1801 is obsolete.

The National Debt Act 1870 consolidated, with amendments, a long series of earlier enactments¹¹⁰ relating to government stock. Section 2 (division of Act into Parts) and section 4 (schedules to be part of Act) are formal drafting provisions which have long ceased to serve any useful purpose. Part IV, which regulated the transfer of inscribed stock, has been without operative effect since the passing of the Government and other Stocks (Emergency Provisions) Act 1939. Under that Act, made permanent by section 6 of the Emergency Laws (Repeal) Act 1959, inscribed stock became transferable by instrument in writing. The transfer of registered government stock is provided for by modern legislation.¹¹¹

¹⁰⁵ For the historical background, see Munro, *The History of the Royal Bank of Scotland* (1928); Hamilton, *An Economic History of Scotland in the Eighteenth Century* (1963); Checkland, *Scottish Banking: A History 1695-1973* (1975).

¹⁰⁶ 13 & 14 Vict. c.63. This Act was repealed as spent in 1875.

¹⁰⁷ National Galleries of Scotland Act 1906, s.8.

¹⁰⁸ Consolidated Fund Act 1816, s.1.

¹⁰⁹ The value of the annuity is referred to in the Act as being £14.18.7½d. (i.e. £14.93) but its actual net value was £13.92. The difference is due to the deduction of various old taxes and duties under the Pensions Duties Acts, which subsequently ceased to be payable.

¹¹⁰ The consequential repeals were effected by the Statute Law Revision Act 1870.

¹¹¹ Government Stock Regulations 1965 (S.I. 1965 No. 1420) made under section 47 of the Finance Act 1942; National Savings Stock Register Regulations 1976 (S.I. 1976 No. 2012).

Part V of the National Debt Act 1870¹¹² dealt with the issue of stock certificates to bearer, with coupons for the payment of dividends. This mode of creating bearer securities has hardly been used since 1910, being replaced by the issue of contractual securities under the Treasury's power to borrow in such way as it sees fit. Between 1939 and 1963 the issue of bearer securities was prohibited¹¹³ and existing securities had to be converted into registered stock as coupons became exhausted. Since 1963 the issue of bearer securities (now known as bearer bonds) has been provided for by section 71 of the Finance Act 1963 and the rights of stock holders are governed by the terms of issue of the securities, as set out in the relevant prospectus. Stock certificates to bearer are for practical purposes obsolete and the Treasury, the Bank of England and the Bank of Ireland agree that Part V of the National Debt Act 1870 serves no useful purpose, being spent or unnecessary. If an old stock certificate is found and presented, it would be converted into registered stock, as happens now.

The repeal of section 73 of the National Debt Act 1870, and of the residue of Schedule 2, is consequential on the proposed repeal of Part IV of that Act (transfer of inscribed stock).

In the Consolidated Fund (Permanent Charges Redemption) Act 1873, the repeal proposed to section 8 (application of Act to Ireland) is consequential on an amendment of section 3 of that Act by the Judicature (Northern Ireland) Act 1978. Section 3, as originally enacted, referred to a rule under the Court of Chancery Funds Act 1872 and section 8 altered this reference for the purpose of applying section 3 to Ireland. No reference to the 1872 Act now remains in section 3 and the provision proposed for repeal is therefore devoid of meaning.

The National Debt (Conversion of Stock) Act 1884 provided for the creation of "new" 2¾% stock and of additional 2½% stock. Section 1(2), so far as proposed for repeal, prohibited the redemption of this stock before 5 January 1905. The repeal proposed to section 1(5) is consequential on the proposed repeal of Part V of the National Debt Act 1870.

The Act of 1884 also provided for the exchange of existing 3% stock into the new 2¾% or 2½% stock. The existing stock was exchanged 100 years ago and the general transitional provisions in connection with the exchange (section 7) have long outlived their purpose.¹¹⁴ Section 6 (power to invest in 3% stock to include power to invest in new 2¾% or 2½% stock) has been overtaken by the Trustee Investments Act 1961,¹¹⁵ which confers general powers on trustees to invest in, and vary their investments in, securities

¹¹² Part V was repealed prospectively by the Finance Act 1963, s.71(6), but the repeal has not been brought into operation.

¹¹³ Defence (Finance) Regulations 1939; Exchange Control Act, s.10.

¹¹⁴ These provisions only apply in the remote event of stock exchanged in 1884 continuing to subsist in the same ownership. On their repeal any existing rights would continue to be preserved by the Interpretation Act 1978, s.16(1)(c).

¹¹⁵ The 1961 legislation applies to Northern Ireland by virtue of the Trustee Act (Northern Ireland) 1958, s.1(1), as amended by the Trustee (Amendment) Act (Northern Ireland) 1962, s.1(1).

issued by H.M. Government in the United Kingdom. The repeal proposed to section 9 (definition of 3% stock) is consequential.

The National Debt (Conversion) Act 1888 created the stock known as 2½% Consols. The stock has no fixed repayment date and the words proposed for repeal in section 2(2) (which prohibited the redemption of the stock before 5 April 1923) are obsolete. The repeal proposed to section 2(5) is consequential on the proposed repeal of Part V of the National Debt Act 1870.

The Act of 1888 also contained schemes for converting previously issued stock into 2½% Consols with the object of reducing the rate of interest on the national debt. The schemes, which provided for the redemption of stock held by persons dissenting from the conversions, were implemented many years ago and the residual provisions relating to them are unnecessary now. These provisions are sections 19 and 27 (powers of investment and re-investment in government stock), section 25 (general transitional provisions) and section 28 (which provided for the courts or the Charity Commissioners to determine questions arising from the conversion schemes). Section 28(1) was aimed at enabling the High Court in England or Ireland, or the Court of Session in Scotland, to determine, without any element of discretion, a question as to the powers or duties of a trustee, etc. and there are general powers now available for this purpose.¹¹⁶ So far as can be traced, the powers of the Charity Commission under section 28(2), as modified by the Charities Act 1960, have never been used and the Charity Commission are satisfied that, if a case did arise, it could be dealt with under their ordinary jurisdiction. The repeal of section 32 (definition of "person") is consequential.

In the National Debt (Supplemental) Act 1888, the only remaining substantive provision is section 8. It provided that section 27 (powers of trustees) of the National Debt (Conversion) Act 1888 should, in its application to Scotland, be construed as authorising trustees to invest in any of the securities in which trustees might, without the approval of the Court of Session, invest under the Trusts (Scotland) Amendment Act 1884. That Act was replaced by sections 10 and 11 of the Trusts (Scotland) Act 1921 which were in turn replaced by the Trustee Investments Act 1961. The National Debt (Supplemental) Act 1888 is consequently obsolete and unnecessary.

Section 4(1) of the National Debt Act 1889 (regulations for the payment of dividends on stock) provides for the payment of dividends by sending warrants through the post or by payment through a banker. The further reference to "payment at a country branch", which is proposed for repeal, reflects 19th century banking practices and has no modern meaning.

The final repeal of the Customs and Inland Revenue Act 1890 is consequential on the repeal of section 31(2) (exemption of methylated spirits from duty)

¹¹⁶ See in particular, as respects England and Wales, RSC. Ord. 85 r.2, Trustee Act 1925, s.57, Variation of Trusts Act 1958; as respects Scotland, Administration of Justice (Scotland) Act 1933, s.17 and RC 232-3, Trusts (Scotland) Act 1961, s.1, Trusts (Scotland) Act 1921, ss.4, 5, RC 189, 190, 260; as respects Northern Ireland, RSC (N.I.) Ord. 85 r.2, Trustee Act (Northern Ireland) 1958, ss.56, 57.

by the Alcoholic Liquor Duties Act 1979. All that remains of the 1890 Act is the title and short title.

Section 7 of the National Debt (Stockholders Relief) Act 1892¹¹⁷ amplified section 38 of the National Debt Act 1870 and its repeal is consequential on the proposed repeal of Part V of that Act (stock certificates). These provisions related to the issue of duplicate certificates to replace stock certificates to bearer which had been lost or destroyed, but subject to stringent conditions, including a delay of not more than one year from the date of loss or destruction. The provisions do not apply to modern bearer bonds and are not of practical utility in relation to stock certificates to bearer, which ceased to be issued before the Second World War.

Section 11 of the Finance Act 1902 enabled the holder of a scrip certificate to convert it into a stock certificate to bearer under Part V of the National Debt Act 1870 without further fee. The section is obsolete and its repeal is consequential on the proposed repeal of section 26 of the National Debt Act 1870.

The repeal of section 8 of the National Galleries of Scotland Act 1906 (annuity of £2,000) is consequential on the proposed repeal of the Revenue of Scotland Act 1718.

In section 48 of the Finance (No. 2) Act 1915 and in section 66 of the Finance Act 1916, the definitions of "Government stock" have been superseded by the definition of government stock in section 15(1) of the National Debt Act 1972. By virtue of section 15(2) of that Act, the 1972 definition has effect for the purposes of the enactments of 1915 and 1916.

Section 35 of the Finance Act 1917, as amended by section 39 of the Finance Act 1918 (the only remaining substantive provision of that Act) empowered trustees to borrow for the purpose of investing in securities issued in connection with any government loan raised for the purpose of the First World War. These powers are obsolete and unnecessary and have in any event been overtaken by the Trustee Investments Act 1961, which fundamentally restated the powers of investment of trustees. Corresponding legislation¹¹⁸ regarding securities issued for the purpose of the Second World War was repealed in 1968.¹¹⁹ Trustees who in the past have relied on the enactments proposed for repeal would be protected by the savings in section 16(1)(b) of the Interpretation Act 1978.

The Flax Companies (Financial Assistance) Act 1918 became obsolete in 1924 when the Flax Society Ltd. was wound up. During the First World War flax was in great demand for war purposes, being used in particular for manufacturing the wings of aeroplanes. In 1917, when Russian and Belgian flax ceased to be available, the Ministry of Munitions assumed almost complete control of flax supplies. In 1918 the Army Council introduced a

¹¹⁷ The section was repealed by the Finance Act 1963, but the repeal has not been brought into operation.

¹¹⁸ National Loans Act 1939, s.4.

¹¹⁹ National Loans Act 1968, s.24(2), Schedule 6.

scheme¹²⁰ to encourage flax production which involved financing the flax-producing operations in Ireland of the Flax Society Ltd.¹²¹ The Act of 1918 was passed to implement this scheme. It enabled companies and other organisations which would not otherwise have had the legal power to do so to provide financial assistance to flax-producing bodies during a limited period which ended on 31 August 1922 and to renew their loans, guarantees, etc. thereafter. Research has shown that only the Flax Society Ltd. received financial assistance under the Act.¹²²

The residue of the War Loan Act 1919 is obsolete in consequence of the redemption of the last of the 4% Victory Bonds on 1 September 1976 and of 4% Funding Loan 1960–90 on 1 November 1972.

The repeals proposed to the War Pensions (Administrative Provisions) Act 1919 and the War Pensions Act 1921 are of provisions relating to the award of pensions arising from the First World War which the Department of Health and Social Security agrees are spent or obsolete. The main repeals are of provisions which are spent because they relate to pensions for which claims became time-barred on 31 August 1928.¹²³ The other repeals proposed are of obsolete references to Ministry Appeal Tribunals (the predecessors of the Pensions Appeal Tribunals established in 1919), to the now defunct Special Grants Committee originally set up in 1917, and to committees constituted under the War Pensions Acts 1915 to 1920.

The Gold Standard Act 1925 restored the gold standard and required the Bank of England to sell gold bullion at the pre-war rate of £3.17.10½d. per ounce. This step was thought necessary in order to preserve sterling as the world's major trading currency and to restore the City of London to the status it had held before 1913 as the capital of the world's financial system. In 1931 the international payments position deteriorated rapidly and on 19 September 1931 the Bank of England reported that foreign credits, extended to support the pound, were exhausted. Two days later the Gold Standard (Amendment) Act 1931 was rushed through Parliament to suspend the gold standard. That Act brought the age of the gold standard to a close.¹²⁴ The Treasury and the Bank of England agree that both Acts are obsolete and unnecessary.

In the Finance Act 1928, the repeal of section 26 (interest on 4% Victory Bonds or 4% Funding Loan 1960–1990) is consequential on the proposed repeal of the War Loan Act 1919. Section 35(1) is a formal provision for the construction of the now repealed Part I (customs and excise duties) of the Finance Act 1928.

¹²⁰ A related scheme involved the issue of government-owned flax seed to farmers in Western Canada with a view to the production of a crop of fibre flax seed for sowing in Ireland in the spring of 1919.

¹²¹ Memorandum of the History and Operations of the Flax Supplies Committee (C.T.A. 1272), Public Record Office, Kew, B.T. 62/2/13.

¹²² Financial assistance under the Act required the consent of the Board of Trade. The contemporary papers record only consents given in November 1918 and January 1919 for a number of companies to give guarantees to and subscribe for shares in the Flax Society Ltd.

¹²³ War Pensions Act 1921, s.5.

¹²⁴ See A. J. P. Taylor, *English History 1914–1945* (1965) p.297.

Section 24 of the Finance Act 1934 (sinking fund for 3% Funding Loan 1959-69) is obsolete in consequence of the redemption of this stock on 14 April 1969.

Section 29 of the Finance Act 1937 abolished the right of a holder of a stock certificate to bearer issued under Part V of the National Debt Act 1870 to convert it into a nominal certificate. The section has had its effect and is spent.

Section 38(6) of the Finance Act 1939 defines the expression "United Kingdom" as excluding the Isle of Man. The unrepealed residue of the Act contains no references to the United Kingdom.

Section 2 of the National Loans (No. 2) Act 1940, the only remaining substantive provision, released the Treasury from any contractual obligation incurred before 30 May 1940 to issue bearer securities under the National Loans Act 1939. The section is spent, having had its effect.

The Securities (Validation) Act 1942 provided machinery for validating certain actions affecting securities which were done in breach of the Defence Regulations¹²⁵ in force before the passing of the Exchange Control Act 1947. The only order¹²⁶ made under the Act is long since spent and the Treasury, the Bank of England and the Inland Revenue agree that the Act is obsolete and unnecessary.

In the Finance Act 1942, Part I of Schedule 11 lists the stock and bonds to which section 47 of that Act (transfer and registration of Government stock) originally applied. The entries proposed for repeal relate to stock which has since then been repaid. The repeals proposed to Part II of Schedule 11 (amendments of earlier enactments relating to government stock) are consequential on the proposed repeal of sections 31, 33 and 41 of the National Debt Act 1870.

Section 58 of the Finance Act 1947 and section 10 of the Finance Act (Northern Ireland) 1947, so far as unrepealed, provide that as from 1 August 1947 any reference to duties of excise or customs in the heading "Bond given pursuant to the directions" in Schedule 1 to the Stamp Act 1891 shall include a reference to purchase tax. These provisions are obsolete in consequence of the abolition of purchase tax.

The Debts Clearing Offices Act 1948 enabled the system of Debts Clearing Offices which had been in operation since 1934 to be dismantled. The system was introduced as a temporary measure by the Debts Clearing Offices and Import Restrictions Act 1934 following a dispute with the German Government concerning the service of loans.¹²⁷ The legislation enabled offices to be set up for the collection of debts and the application of the proceeds of collection due to residents of the United Kingdom in cases where foreign

¹²⁵ Defence (Finance) Regulations 1939 (S.R. & O. 1939 No. 950) as amended; Defence (Finance) Regulations (Isle of Man) 1939 (S.R. & O. 1939 No. 1048) as amended.

¹²⁶ Securities (Validation) Order 1942 (S.R. & O. 1942 No. 527).

¹²⁷ *Hansard* (H.C.) 25 June 1934, Vol. 291, cols. 807-813 (Mr. Chamberlain).

countries imposed restrictions on the making of payments. By 1948 the system had outlived its usefulness and the legislation of 1934 was allowed to expire. At that stage debts amounting to only £22,000 remained outstanding.¹²⁸ The 1948 Act extinguished the statutory obligation to pay any debt to a clearing office and the outstanding debts reverted to being owed to the persons to whom they would have been owed if the system had never been established. The Act is long since spent in its operation and its repeal would not affect any residual rights or liabilities accrued or incurred under it.¹²⁹

Section 40(10) of the Finance Act 1949 (application of section 2(3) of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 for the purposes of land tax redemption) was repealed for England and Wales by the Rent Act 1957. The provision is obsolete in its application to Scotland. Section 2(3) of the 1920 Act was replaced by paragraph 1(4) of Schedule 8 to the Rent (Scotland) Act 1971 and that provision was repealed without replacement by the Tenants' Rights, Etc. (Scotland) Act 1980.

Section 48(3) of the Finance Act 1949 and section 5(10)(b) of the Miscellaneous Financial Provisions Act 1955 (definitions of government stock) have been superseded by the definition of government stock in section 15(1) of the National Debt Act 1972.

In the Miscellaneous Financial Provisions Act 1950, the substantive provisions have all been repealed and the residue of the Act consists only of section 5(1) (short title).

Mr. Speaker Morrison's Retirement Act 1959 charged on the Consolidated Fund annuities awarded to the Rt. Hon. W. S. Morrison (later Viscount Dunrossil) and his surviving widow. The Act has ceased to have effect in consequence of the death of Viscount Dunrossil in 1961 and of Viscountess Dunrossil in 1983.

The repeal proposed to the Charities Act 1960 is consequential on the proposed repeal of section 28(2) of the National Debt (Conversion) Act 1888.

In the Finance Act 1963, section 71(6) and Part VIII of Schedule 14 provided for the prospective repeal of Part V of the National Debt Act 1870. These provisions are unnecessary in consequence of the proposed express repeal of that Part by the Bill. Section 73(7)(a) and Schedule 12 (consequential amendments), so far as unrepealed, amended the War Damage (Public Utility Undertakings, &c.) Act 1949. These provisions are obsolete in consequence of the repeal of the 1949 Act by the Statute Law (Repeals) Act 1981.

The Shipbuilding Credit Act 1964 authorised the making of loans not exceeding altogether £75 million for the construction or alteration of ships. Applications for loans had to be made not later than 31 May 1964 and all loans in fact made under the Act have since been repaid. The Act is accordingly obsolete.

¹²⁸ *Hansard* (H.C.) 5 November 1948, Vol. 457, cols. 1192-3.

¹²⁹ Interpretation Act 1978, s.16(1) (c).

The Finance (No. 2) Act 1964, so far as unrepealed, consists only of provisions (sections 7 to 9 and Schedule 3) relating to a scheme for the payment of certain export rebates. Following the devaluation of the pound in 1967, the scheme was terminated in accordance with section 2 of the Revenue Act 1968. Section 3 of the Revenue Act 1968 made provision enabling the scheme to be re-introduced in the future but this power has never been exercised and its exercise now would be inconsistent with the United Kingdom's international obligations.

In the Finance Act 1965, Schedules 1 to 4 (duties on spirits, beer, wine and British wine) amended the corresponding Schedules 1 to 4 to the Finance Act 1964. Their repeal is consequential on the repeal of Schedules 1 to 4 to the Finance Act 1964 by the Finance (No. 2) Act 1975.

The Decimal Currency Act 1967 provided for the introduction of decimal currency in 1971 and regulated the constitution and functions of the Decimal Currency Board. The Decimal Currency Board was dissolved on 30 September 1971¹³⁰ and in consequence of the Currency Act 1982 (which made fresh provision for the denominations of money in the currency of the United Kingdom) the whole Act is obsolete.

In the Revenue Act 1968, section 1 (which related to certain payments under the Selective Employment Payments Act 1966) is obsolete in consequence of the abolition of selective employment tax by section 122 of the Finance Act 1972. Section 2 and the Schedule, which phased out the scheme for export rebates under the Finance (No. 2) Act 1964, is spent. Section 3 provided machinery for the re-introduction of that scheme but, as explained above, this machinery would not now be used.

In the National Loans Act 1968, the repeal proposed to Schedule 1 is consequential on the proposed repeal of the Shipbuilding Credit Act 1964. The repeals proposed to Schedule 5 are consequential on the proposed repeal of the War Loan Act 1919 and of section 24 of the Finance Act 1934.

Section 9 of the Industrial Expansion Act 1968 authorised the making of loans in connection with the construction and introduction into service of the liner Queen Elizabeth 2. The loan made under this power was repaid in 1981 and the section is accordingly obsolete.

The Industry Act 1971, so far as unrepealed,¹³¹ terminated the power to make industrial investment schemes under the Industrial Expansion Act 1968 otherwise than for the purpose of revoking or varying any such scheme made before 8 April 1971. It also repealed the provisions of the Industrial Expansion Act 1968 under which these schemes had been made, namely, sections 1 to 7 and Schedules 1 and 2. There were three pre-1971 schemes,

¹³⁰ Decimal Currency Board (Dissolution) Order 1971 (S. I. 1971 No. 1175).

¹³¹ Section 1, which repealed the Industrial Reorganisation Corporation Act 1966 and dissolved the Industrial Reorganisation Corporation, was repealed by the Statute Law (Repeals) Act 1978.

all made in 1968.¹³² Consultation with the departments concerned has established that although the 1968 schemes have not been formally revoked, they are spent in their operation. The Industry Act 1971 therefore serves no useful purpose.

The repeal proposed to the Pensions (Increase) Act 1971 is consequential on the proposed repeal of Mr. Speaker Morrison's Retirement Act 1959.

The repeals in the Finance Act 1972 and the Finance Act 1974 are of provisions which effected the abolition of purchase tax and selective employment tax. These provisions are spent or obsolete in consequence of—

- (a) the coming into operation on 1 March 1982¹³³ of the postponed purchase tax repeals set out in Part II of Schedule 28 to the Finance Act 1972;
- (b) the coming into operation on 1 January 1978¹³⁴ of the postponed selective employment tax repeals set out in Part IX of Schedule 28 to the Finance Act 1972.

Section 171(2A) of the Customs and Excise Management Act 1979 was inserted into that Act by paragraph 3 of Schedule 5 to the Finance Act 1984. The effect of the provisions, so far as proposed for repeal, was to apply the standard scale of penalties to Northern Ireland for customs and excise purposes. This involved the extension of section 75 of the Criminal Justice Act 1982 to Northern Ireland for these limited purposes. During the passage of the Finance Bill through Parliament, general provision for a standard scale of penalties in Northern Ireland was made by other legislation¹³⁵ which extended section 75 of the Criminal Justice Act 1982 to Northern Ireland for all purposes. The proposed repeal would remove the superseded and unnecessary provisions from the statute book.

Section 177(2) of the Customs and Excise Management Act 1979 introduced Schedule 5 to that Act (transitory consequential amendments of enactments relating to purchase tax) and is obsolete in consequence of the bringing into operation on 1 March 1982 of the postponed repeals of purchase tax enactments provided for in Part II of Schedule 28 to the Finance Act 1972. Schedule 5 to the 1979 Act was repealed then.

The repeals proposed to Schedule 4 to the Customs and Excise Management Act 1979 and to Schedule 1 to the Excise Duties (Surcharges or Rebates) Act 1979 are consequential on the proposed repeal of the Finance (No. 2) Act 1964.

Section 225(7) of the Capital Transfer Tax Act 1984 is a transitional

¹³² Computers Merger Scheme 1968 (S.I. 1968 No. 990); Aluminium Industry (Anglesey Project) Scheme 1968 (S.I. 1968 No. 1874); Aluminium Industry (Invergordon Project) Scheme 1968 (S. I. 1968 No.1875).

¹³³ Purchase Tax (Repeals) (Appointed Day) Order 1982 (S.I. 1982 No. 87).

¹³⁴ Regional Employment Premiums (Termination of Payment and Consequential Provisions) Order 1976 (S.I. 1976 No. 2192).

¹³⁵ Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984 No. 703, N.I. 3) art. 19(1) and Schedule 6.

provision relating to the fee payable on a request for a statement of a case for the opinion of the High Court. It provided for the payment of a reduced fee until the coming into force of paragraph 6 of Schedule 22 to the Finance Act 1984. That Schedule came into operation on 1 January 1985¹³⁶ and section 225(7) is accordingly obsolete.

Pension Funds

The listed Acts confirmed provisional orders relating to Scottish pension funds. The Institute of Chartered Accountants of Scotland, the Secretary of the Churches and Universities (Scotland) Widows' and Orphans' Fund, the Company of Merchants of the City of Edinburgh, the Clyde Port Authority and the Royal Bank of Scotland agree that the provisional orders have ceased to have effect by virtue of later legislation. The relevant later legislation is the Aberdeen Chartered Accountants' Widows' Fund Order Confirmation Act 1951, the Churches & Universities (Scotland) Widows' & Orphans' Fund Order Confirmation Act 1930, the Edinburgh Chartered Accountants Annuity Etc. Fund (Consolidation and Amendment) Order Confirmation Act 1936, the Churches and Universities (Scotland) Widows' and Orphans' Fund Order Confirmation Act 1954, the Edinburgh Chartered Accountants Annuity Etc. Fund Order Confirmation Act 1951, the Edinburgh Merchant Company Endowments (Amendment) Order Confirmation Act 1952, the Clyde Port Authority Order Confirmation Act 1965 and the Royal Bank of Scotland Ltd. Widows' and Orphans' Fund Order Confirmation Act 1972.

¹³⁶ Finance Act 1984 (Commencement No. 2) Order 1984 (S.I. 1984 No. 1836).

PART IV

IMPORTS AND EXPORTS

Apart from the Ottawa Agreements Act 1932, which is separately discussed below, the repeals in this Part are of inoperative and unnecessary enactments which have in practice been superseded by the Import, Export and Customs Powers (Defence) Act 1939 and the orders in force under that Act.

Section 43 of the Customs Consolidation Act 1876, re-enacting section 45 of the Customs Consolidation Act 1853, provided for the making of Proclamations or Orders in Council prohibiting the importation of arms, ammunition, gunpowder or any other goods. The provision was in effect an exception from the 19th century policy of free trade. During the First World War the provision was interpreted as giving to the Crown a general power to prohibit the importation of goods of every kind and between 1916 and 1919 a series of proclamations was issued on that basis. Proclamation No. 32 of 1919¹³⁷ was challenged in the courts and in *Attorney-General v. Brown*¹³⁸ Sankey J. held that the *eiusdem generis* rule applied and that the Proclamation was illegal and invalid. Section 4 of the Indemnity Act 1920 subsequently validated the powers which had been exercised by proclamation before 16 April 1920. Later Orders in Council made under the power in 1921 and 1937¹³⁹ relating to the import of firearms and ammunition have been suspended since 1939.¹⁴⁰

Section 8 of the Customs and Inland Revenue Act 1879, replacing section 138 of the Customs Consolidation Act 1876 (which had re-enacted section 150 of the Customs Consolidation Act 1853), provided for the making of Proclamations or Orders in Council prohibiting the export, or carriage coast-wise, of—

“arms, ammunition and gunpowder, military and naval stores, and any articles which Her Majesty shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food for man.”

As explained below, the powers were extended in 1914 and 1921. Orders in Council made under these powers in 1931 and 1937¹⁴¹ have been suspended since 1940.¹⁴²

Section 2 of the Customs Amendment Act 1886, the only remaining substantive provision,¹⁴³ authorised the making of proclamations prohibiting

¹³⁷ The goods prohibited by this Proclamation included chemicals of all descriptions, electrical goods and apparatus and scientific, mathematical and optical instruments.

¹³⁸ [1920] 1 K.B. 773. An appeal by the Crown was allowed by consent in consequence of the Indemnity Act 1920. See *Attorney-General v. Brown* [1921] 3 K.B. 29.

¹³⁹ S.R. & O. 1921 No. 374, 1937 No. 526.

¹⁴⁰ Import of Goods (Prohibition) (No. 1) Order 1939 (S.R. & O. 1939 No. 1054). See now Import of Goods (Control) (Amendment) Order 1954 (S.I. 1954 No. 627).

¹⁴¹ Arms Export Prohibition Orders 1931–1937 (S.R. & O. 1931 No. 413, 1937 No. 525).

¹⁴² Export of Goods (Control) (No. 39) Order 1940 (S.R. & O. 1940 No. 1932), art. 9. See now Export of Goods (Control) Order 1981 (S.I. 1981 No. 1641), art. 9.

¹⁴³ Section 1 (alteration of duties on wine) was repealed in 1950.

the importation into the United Kingdom of coins coined in a foreign country. No proclamations are in operation under the power.

The Exportation of Arms Act 1900 conferred a power to prohibit, by proclamation, the exportation of arms, ammunition and military or naval stores to any country or place named in the proclamation. The Act was passed to stop the export of war-like stores, guns and ammunition to China. The Attorney-General explained:¹⁴⁴

“Although in the Customs Laws Consolidation Act there is power to prohibit exportation of arms, munitions of war, and so forth, there is no power of discriminating between countries. If exercised at all the power must be exercised to prohibit exportation to all parts of the world, and what is now wanted is power to prohibit exportation to certain countries, if that should be really necessary.”

As explained below, these powers were extended in 1914. No proclamations under the Act are in force.

The Customs (Exportation Prohibition) Act 1914 extended section 8 of the Customs and Inland Revenue Act 1879 (power to prohibit export of certain articles) to cover the prohibition of the export of articles of any description during the existence of a state of war. The Customs (Exportation Restriction) Act 1914 similarly extended the powers conferred by the Exportation of Arms Act 1900.

Section 1 of the Trading with the Enemy and Export of Prohibited Goods Act 1916, the only remaining substantive provision, provided criminal penalties for false statements made in applications for export licences under the system for regulating exports which was then in operation. Its repeal is consequential on the other proposed repeals in this Part.

Section 17 of the Finance Act 1921 extended section 8 of the Customs and Inland Revenue Act 1879 to cover the prohibition of the export of weapons and munitions of war of every description, firearms and ammunition.

For practical purposes the enactments discussed above have been a dead letter for very many years. The Import, Export and Customs Powers (Defence) Act 1939 provided general machinery for controlling the importation into or exportation from the United Kingdom, or any specified part thereof, or the carriage coastwise, of all goods or goods of any specified description. The machinery has been in continuous use for more than 40 years to control the import and export of a wide variety of goods, including arms and foreign coins.¹⁴⁵ As originally enacted, the 1939 Act contemplated (section 9(3)) that the powers it conferred would be brought to an end by an Order in Council declaring the end of the emergency that was the occasion of the passing of the Act. No Order in Council for the purposes of the 1939

¹⁴⁴ *Hansard* (4th series), 31 July 1900, Vol. 87, col. 232 (Sir Robert Finlay). This point is now dealt with by the Import, Export and Customs Powers (Defence) Act 1939, s.1(1).

¹⁴⁵ As to the import of gold coins, see *Allgemeine Gold und Silberscheideanstalt v. Customs and Excise Commissioners* [1980] Q.B. 390 (C.A.).

Act was made at the end of the Second World War and it would be unrealistic now to envisage the termination of the operation of that Act except in the context of fresh primary legislation relating to the control of imports and exports generally. No useful purpose is therefore served by the enactments proposed for repeal.

Ottawa Agreements Act 1932

The era of free trade, which had subsisted since the middle of the 19th century, came to an end with the passing of the Import Duties Act 1932 and the imposition of protective tariffs. In the same year the Ottawa Agreements Act 1932 implemented agreements for imperial preference made at the Imperial Economic Conference held at Ottawa in August 1932.

The Import Duties Act 1958, which replaced the Import Duties Act 1932, also repealed most of the Ottawa Agreements Act 1932. The only substantive provision which remains is section 7, which provides for regulating the importation of certain frozen and chilled meat. Orders¹⁴⁶ imposing a licensing system for the import of meat were made under this section, but the operation of the orders was suspended in 1954¹⁴⁷ and the powers have been in abeyance since then.

With the accession of the United Kingdom to the European Economic Community, the old system of Commonwealth preference came to an end and the Import Duties Act 1958 finally ceased to have effect on 1 January 1978.¹⁴⁸ The exercise of powers under section 7 of the Ottawa Agreements Act 1932 would now be inconsistent with the Community obligations of the United Kingdom and the Act of 1932, so far as unrepealed, is obsolete and unnecessary. Any regulation of the importation into the United Kingdom of frozen or chilled meat in accordance with special provisions of the Treaty of Rome would now be done under the Import, Export and Customs Powers (Defence) Act 1939.

¹⁴⁶ Ottawa Agreements (Importation of Meat) Order 1932 (S.R. & O. 1932 No. 992); Ottawa Agreements (Importation of Meat) Amendment Order 1939 (S.R. & O. 1939 No. 5).

¹⁴⁷ Import of Goods (Control) (Amendment) Order 1954 (S.I. 1954 No. 627) made under the Import, Export and Customs Powers (Defence) Act 1939.

¹⁴⁸ European Communities Act 1972, s.4 and Schedule 3; Customs Duties (Repeals) (Appointed Day) Order 1977 (S.I. 1977 No. 2028).

PART V

INDUSTRIAL RELATIONS

The Restoration of Pre-War Trade Practices Act 1942 was passed to implement a war-time pledge to restore, for a limited period following the end of hostilities, the trade practices which it had been found necessary to depart from during the Second World War.¹⁴⁹ The legislation followed a precedent set in 1919¹⁵⁰ in relation to the First World War.

The 1942 Act, as originally enacted, imposed an obligation on employers to restore at the end of the war period any trade practices which had been departed from during the war and to maintain the restored practices for a period of 18 months thereafter. But no order determining the end of the war period for the purposes of the Act was ever made. Instead, the coming into operation of the Act was postponed by a series of temporary enactments.¹⁵¹ These postponements had the additional effect of bringing within the scope of the Act departures from pre-war practices which had occurred since the end of hostilities.

In 1950 further legislation was brought in. The Restoration of Pre-War Trade Practices Act 1950 provided that the obligations under the 1942 Act should become operative on a date appointed by Order in Council. It also confined the obligation to cases where the pre-war practice had been departed from during the period from 3 September 1939 to 15 August 1945. But no Order in Council was made and in consequence the legislation never became operative.

Having regard to the industrial and social changes which have taken place since the war, it would not now be a practical proposition to activate the legislation of 1942 and 1950. The legislation is therefore obsolete for practical purposes and its retention on the statute book serves no useful purpose. We have consulted the Confederation of British Industry, the Trades Union Congress and other organisations and are not aware of any objection to the proposed repeals.

Section 1 of the Trade Union and Labour Relations Act 1974 is spent in so far as it repealed the Industrial Relations Act 1971 and abolished the National Industrial Relations Court. These provisions came fully into operation on 16 September 1974.¹⁵² The section only continues to be operative in so far as it introduces Schedule 1 to the Act (re-enactment with amendments of certain provisions of the Industrial Relations Act 1971).

¹⁴⁹ For example, the employment of women on work that had previously been done by men.

¹⁵⁰ Restoration of Pre-War Practices Act 1919. The Act was repealed by the Statute Law Revision Act 1927.

¹⁵¹ See Restoration of Pre-War Trade Practices Act 1942, s.11(1); Emergency Laws (Transitional Provisions) Act 1946, s.8; Emergency Laws (Miscellaneous Provisions) Act 1947, ss.5(1) and 7; Emergency Laws (Continuance) Order 1948 (S.I. 1948 No. 2794); Emergency Laws (Continuance) Order 1949 (S.I. 1949 No. 2395).

¹⁵² Trade Union and Labour Relations Act 1974 (Commencement) Order 1974 (S.I. 1974 No. 1385).

Sections 20 to 24 of the Trade Union and Labour Relations Act 1974 contained complex transitional provisions which are now spent or unnecessary. In particular—

- (a) section 20 empowered trade unions to alter certain of their rules within a period which expired four years after the commencement of the Act;
- (b) section 21 dealt with the effect of the abolition of the National Industrial Relations Court on pending proceedings and decisions of that court;
- (c) section 22 dealt with the effect of the repeal of the Industrial Relations Act 1971 on pending proceedings and decisions of industrial tribunals;
- (d) section 23 contained provisions supplementing sections 21 and 22;
- (e) section 24 dealt with the compensation for loss of office of a person who by reason of the Act ceased to be a member of the Commission on Industrial Relations or of the National Industrial Relations Court.

In Schedule 4 to the Trade Union and Labour Relations Act 1974, paragraph 4 contains spent transitional provisions as respects proceedings pending in the National Industrial Relations Court immediately before the passing of the 1974 Act.

PART VI

INTELLECTUAL PROPERTY

The Porcelain Patent Act 1775 is long since spent. It extended the term of a patent relating to porcelain until 1796.

Section 34 of the Copyright Act 1911 provided for the continued payment from the Consolidated Fund of the annual compensation payable in 1911 to a library for the loss of the right to receive gratuitous copies of books. In effect it saved the residual operation of the Copyright Act 1836. Under that Act the libraries of Sion College, London, of the Universities of St. Andrews, Glasgow, Aberdeen and Edinburgh and of the Society of King's Inns, Dublin lost their privileges as libraries of deposit,¹⁵³ being compensated by the payment of annual sums from the Consolidated Fund.

The annual compensation to Sion College¹⁵⁴ has now ceased to be payable, having been redeemed by the Treasury under the powers conferred by section 6 of the Miscellaneous Financial Provisions Act 1983. Compensation to the four Scottish universities ceased to be payable after 1890 in consequence of the Universities (Scotland) Act 1889.¹⁵⁵ Compensation to the King's Inns Library, Dublin, ceased to be a charge on the Consolidated Fund in 1922–23, when it became a charge on the Central Fund of Saorstát Éireann.¹⁵⁶ Section 34 of the Copyright Act 1911 is accordingly obsolete. The repeal of the section would not affect the rights of the present libraries of deposit,¹⁵⁷ which are dealt with by section 15 of the Copyright Act 1911 and later legislation.

Section 37(2) of the Copyright Act 1911 (coming into operation of the Act in the United Kingdom, in self-governing dominions, in the Channel Islands and in other British possessions) is spent and unnecessary. Most of the Act was repealed and replaced by the Copyright Act 1956. Apart from section 34, the only remaining substantive provision is section 15 (delivery of books to libraries).

The Patents and Designs Act 1907 consolidated the enactments then in force relating to patents and designs, together with certain enactments relating to trade marks. In 1949 the law relating to patents and registered designs was

¹⁵³ Sion College and the four Scottish universities had become libraries of deposit in 1709. The Society of King's Inns, Dublin was added to the list by the Copyright Act 1801.

¹⁵⁴ The annual payment was approximately £364. See *Consolidated Fund and National Loans Fund Accounts 1983–84: Supplementary Statements*, H.C. 91, 19 December 1984, p.18.

¹⁵⁵ The Act made provision for the general financing of the older Scottish universities from moneys provided by Parliament and section 28 extinguished any previous right to the grant of public moneys.

¹⁵⁶ The annual compensation is now paid out of the Central Fund of the Republic of Ireland by virtue of the King's Inns Library Act 1945, an enactment of the Oireachtas. It re-enacted with modifications the existing statute law relating to the annual amount of £433.6.8d. payable to the King's Inns Library.

¹⁵⁷ These are the British Library; the Bodleian Library, Oxford; the University Library, Cambridge; the National Library of Scotland; Trinity College, Dublin; and (subject to certain limitations) the National Library of Wales.

reconsolidated in two separate Acts.¹⁵⁸ The law relating to trade marks had been consolidated in 1938,¹⁵⁹ but this consolidation did not deal with the trade mark provisions in the legislation of 1907.¹⁶⁰ The result is that several sections of the Patents and Designs Act 1907, including the important provisions relating to international arrangements, now relate only to trade marks. These provisions have been amended in detailed respects by a number of enactments passed between 1914 and 1949 which similarly now relate only to trade marks. This series of enactments is misleadingly titled, it still contains obsolete provisions relating to patents and designs and the arrangement of the law which it achieves is manifestly and unnecessarily inconvenient. Accordingly, the draft Bill would repeal sections 82, 88, 91 and 91A of the Patents and Designs Act 1907 and consequentially re-enact their provisions, so far as still in force, as part of the Trade Marks Act 1938. The re-enactments are in Schedule 2 to the draft Bill. The draft Bill would also finally dispose of the residue of the Patents and Designs Act 1914, the Patents and Designs (Conventions) Act 1928, the Patents and Designs Act 1932, the Patents &c. (International Conventions) Act 1938 and the Patents and Designs Act 1949. Except for the Patents and Designs Act 1932, which is obsolete, these repeals are consequential.

The Patents and Designs (Limits of Time) Act 1939, except for section 4, was consolidated in 1949. Section 4, which contained transitional provisions relating to the time limits introduced in 1939, is long since spent.

The Patents and Designs Act 1946 is spent in so far as it related to the procedure for dealing with German or Japanese inventions and designs produced during the period from 3 September 1938 (*sic*) to 31 December 1945. Section 6(2), the only other remaining substantive provision, permanently amended section 6(1) of the Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939. The effect of the amendment would be preserved by Schedule 2 to the draft Bill.

The repeals proposed to section 13 of the Registered Designs Act 1949 (Orders in Council as to convention countries) and to section 90 of the Patents Act 1977 (parallel provision for patents) are of obsolete and unnecessary provisions relating to formerly dependent territories.¹⁶¹ These provisions would be omitted from the re-enactment (Schedule 2 to the draft Bill) of the parallel trade mark legislation.

In the Copyright Act 1956, paragraph 40 of Schedule 7 (temporary continu-

¹⁵⁸ Patents Act 1949 (now largely repealed and replaced by the Patents Act 1977); Registered Designs Act 1949.

¹⁵⁹ Trade Marks Act 1938. It reconsolidated the Trade Marks Act 1905, as amended in 1919 and 1937.

¹⁶⁰ Separate legislation, the Patents &c. (International Conventions) Act 1938, was proceeding through Parliament at the same time. This legislation, which dealt with patents, designs and trade marks, amended section 91 of the Patents and Designs Act 1907 and inserted a new section 91A.

¹⁶¹ British protectorates, British protected states, territories administered by His Majesty's Government in the United Kingdom under the trusteeship system of the United Nations and territories administered by another country in accordance with a mandate from the League of Nations.

ation of Orders in Council made under the Copyright Act 1911) became obsolete two years after the Copyright Act 1956 came into operation on 1 June 1957.¹⁶²

¹⁶² Copyright Act 1956 (Commencement) Order 1957 (S.I. 1957 No. 863).

PART VII

LOCAL GOVERNMENT

Group 1—General Repeals

The Local Government Board Act 1871 established a Local Government Board for England and Wales for the purpose of concentrating in one authority the supervision of the laws relating to public health, poor relief and local government. The Board was abolished in 1919 when all its functions were transferred to the Minister of Health.¹⁶³ The unrepealed residue of the 1871 legislation relates only to functions under the Towns Improvement Clauses Act 1847, or any Act amending that Act, which were exercisable by a Secretary of State before they were transferred to the Local Government Board in 1871. As far as is known, no such functions remain but if they do they have been transferred to other authorities. The Department of the Environment and the Welsh Office agree that on any view the Act is unnecessary and serves no useful purpose now.

The proposed repeal of the Local Government (Scotland) Act 1908 is consequential on the repeal of section 7(2) of that Act by the Rating and Valuation (Amendment) (Scotland) Act 1984. The unrepealed residue of the 1908 legislation consists only of inoperative ancillary provisions.

The Dunfermline District Water Order Confirmation Acts 1913 and 1918, the Lanarkshire (Middle Ward District) Water Order Confirmation Act 1913 and the Aberdeen Corporation Water Order Confirmation Act 1916 confirmed provisional orders which have ceased to have effect by virtue of later legislation, namely, the Fife County Council Order Confirmation Act 1940, the Lanarkshire County Council Order Confirmation Act 1939 and the Aberdeen Corporation (Water, Gas, Electricity and Transport) Order Confirmation Act 1937. The repeals are agreed to by Fife Regional Council, Strathclyde Regional Council and Grampian Regional Council.

The Lanarkshire County Council Order Confirmation Acts 1922 and 1925 and the Dundee Corporation Order Confirmation Acts 1929 and 1934 similarly confirmed provisional orders which have ceased to have effect by virtue of later legislation, namely, the Lanarkshire County Council Order Confirmation Act 1939 and the Dundee Corporation (Water, Transport, Finance Etc.) Order Confirmation Act 1954. The repeals are agreed to by Strathclyde Regional Council, City of Dundee District Council and Tayside Regional Council.

Section 35 of the Manchester Corporation Act 1946 and section 43 of the Bolton Corporation Act 1949 (smoke control in Manchester and Bolton), and the orders made thereunder, were temporarily continued by the Greater Manchester Act 1981. The Greater Manchester Council agrees that the legislation has expired.

The War Damaged Sites Act 1949 enabled local authorities in Great Britain

¹⁶³ Ministry of Health Act 1919, s.3(1)(a).

to exercise powers in respect of land which had sustained war damage in cases where the damage had not been made good and the land was in a condition detrimental to the amenities of the neighbourhood. A local authority could take possession of the land, either compulsorily or by agreement, for a period not exceeding five years during which works could be carried out to improve the land and the land could be used for local authority purposes or leased to others. The period of possession could be extended for a further five years up to a maximum of ten years in respect of the same land. Research and consultation have established that the provisions of the Act are all now spent, obsolete or unnecessary. The proposed repeal is agreed to by the Association of Metropolitan Authorities, the Association of County Councils, the Association of District Councils, the City Remembrancer of the City of London and the Convention of Scottish Local Authorities. It is also supported by the government departments concerned, namely, the Department of the Environment, the Welsh Office, the Scottish Development Department and the Scottish Home and Health Department.

The repeal proposed to the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 is of a provision construing references to the Education (Scotland) Fund in the Superannuation (Miscellaneous Provisions) Act 1948. The provision is obsolete in consequence of a later amendment¹⁶⁴ of the 1948 Act.

In the Post Office Act 1969, paragraph 49 of Schedule 4 precluded a local authority from taking possession of land belonging to the Post Office under the powers conferred by the War Damaged Sites Act 1949. Its repeal is consequential on the proposed repeal of the 1949 Act.

Section 101(9)(g) of the Local Government Act 1972 is a transitional provision relating to local authority joint superannuation committees. Its purpose was to avoid the premature demise of joint committees established under section 2 of the Local Government Superannuation Act 1937.¹⁶⁵ Section 101(9)(g) of the 1972 Act became obsolete and unnecessary on 1 April 1974 when regulations¹⁶⁶ came into operation which finally abolished the joint committees and transferred the joint funds to various county councils.

The repeal of sections 145 and 160 of the Greater Manchester Act 1981 is consequential on the repeals proposed to the Manchester Corporation Act 1946 and the Bolton Corporation Act 1949.

Group 2—Exemptions from Corporate or Parochial Offices

Section 257(4) of the Municipal Corporations Act 1882 (resident members of the Universities of Oxford and Cambridge not to be compelled to accept municipal office) became obsolete and unnecessary when section 34 of that

¹⁶⁴ Superannuation Act 1972, Sch.6, para. 26(b).

¹⁶⁵ Section 2 of the Local Government Superannuation Act 1937 was repealed by the Superannuation Act 1972 (Schedule 8) but subject to a saving (Schedule 7, para. 5) continuing its operation as a regulation deemed to have been made under section 7 of the Superannuation Act 1972 (superannuation of persons employed in local government service, etc).

¹⁶⁶ Local Government Superannuation (Miscellaneous Provisions) (No. 2) Regulations 1973 (S.I. 1973 No. 1996).

Act was finally repealed in 1933.¹⁶⁷ Section 34, consolidating earlier legislation,¹⁶⁸ had provided that every qualified person elected to corporate office should, unless otherwise exempt, accept the office or be liable to pay a fine fixed by the local authority not exceeding £100 in the case of the mayor or £50 in other cases. The repeal is agreed to by the university authorities of Oxford and Cambridge.

Section 8 of the Inland Revenue Regulation Act 1890 and section 17 of the Registration Service Act 1953 consolidated earlier enactments¹⁶⁹ exempting revenue officers and registrars of births, deaths and marriages from the obligation to serve in corporate or parochial offices. The Inland Revenue and the Registrar General agree that the exemptions have long been obsolete and unnecessary.

These statutory provisions, and others which have now been repealed,¹⁷⁰ are relics of the system of parochial government which existed during the 18th century and earlier and which is described in detail by the Webbs.¹⁷¹ In the absence of a permanent body of paid officials, service in the main parochial offices, notably those of Churchwarden, Constable, Surveyor of Highways and Overseer of the Poor, was compulsory and unpaid. It was also burdensome and many offices had to be filled by indiscriminate rotation from one householder to another. Offices were often performed by deputy or service in them avoided by the payment of fines which in some areas became an important source of revenue. There were also legal grounds, resting partly on common law and partly on statutory provisions, for claiming exemption.¹⁷² In the 18th century the Attorney General protected, by *nolle prosequi*, excise officers or letter-carriers who had been indicted for refusing to serve as constables, churchwardens or on the wardmote inquest in the City of London.

Group 3—Festival of Britain 1951

The Festival of Britain, opened on the centenary of the Great Exhibition of 1851, occupied an area on the south bank of the Thames and a site in Battersea Park known as the Festival Pleasure Gardens. To enable access to be had by river to the Festival Pleasure Gardens a pier was built. The Festival Pleasure Gardens were closed down and the land restored to Battersea Park

¹⁶⁷ Local Government Act 1933, s.304 and Schedule 10 (obsolete enactments ceasing to have effect).

¹⁶⁸ Municipal Corporations Act 1835, s.51. The exemption for members of the universities was provided for by s.137.

¹⁶⁹ Excise Management Act 1827, s.11, as amended by the Stamp Act 1853, s.17; Births and Deaths Registration Act 1837, s.17.

¹⁷⁰ See e.g. Toleration Act 1688, s.8, Nonconformist Relief Act 1791, s.1, Roman Catholic Relief Act 1791, s.8 (priests and dissenting ministers); Royal Naval Reserves (Volunteers) Act 1859, s.7, Army Reserve Act 1950, s.25, Air Force Reserve Act 1950, s.24 (reservists); Customs and Excise Act 1952, s.2(1) (customs officers); Post Office Act 1953, s.86 (postal officials); Medical Act 1956, s.30, Dentists Act 1957, s.32(1) (medical practitioners and dentists).

¹⁷¹ Sidney and Beatrice Webb, *The Parish and the County* (1906 reprinted 1963) pp. 15 *et seq.*

¹⁷² Those exempted included peers of the realm, Parliament men, clergymen, attorneys, barristers, apothecaries, surgeons and members of the militia. The Tyburn Ticket, granted under an Act of 1698 (10 Will.3. c.12) gave exemption from parish offices to a person, or his first assignee, who prosecuted a felon to conviction.

in 1953¹⁷³ but the pier became the responsibility of the Greater London Council¹⁷⁴ and the legislation connected with the Festival continued to be needed because it conferred powers in relation to the pier. The powers have ceased to be needed in consequence of a resolution dated 4 July 1984 which appropriated and designated the Festival Gardens Pier as a Council landing place for the purposes of the Greater London Council (General Powers) Act 1973. On the abolition of the Greater London Council the pier will fall to be dealt with in the same manner as other Council landing places.

Two other Acts connected with the Festival of Britain, namely, the Festival of Britain (Sunday Opening) Act 1951 and the Festival of Britain (Additional Loans) Act 1951, were repealed in 1964 and 1981 respectively.

The repeals proposed to the Acquisition of Land Act 1981 are consequential on the proposed repeal of the Public Works (Festival of Britain) Act 1949.

Group 4—Rating

The proposed repeals relate mainly to valuation and rating in Scotland and are agreed to, so far as they are concerned, by the Scottish Office (Central Services), the Scottish Assessors' Association, the Convention of Scottish Local Authorities, the Assessor of Public Undertakings (Scotland) and the Principal Clerk of Session and Justiciary.

In the Lands Valuation (Scotland) Act 1854, section 20 (assessor of railways and canals), has been superseded, so far as proposed for repeal, by section 1 of the Assessor of Public Undertakings (Scotland) Act 1934 (which vested the power of appointing the Assessor of Public Undertakings (Scotland) in the Secretary of State) and by section 5(7) of the Local Government (Scotland) Act 1975 (which empowers the Secretary of State to make regulations as to the terms and conditions of employment of the Assessor and his clerks and other officers). The proposed repeal of section 29 (contributions to salary of assessor by railway and canal companies) is consequential. Section 28 (transmission of valuation rolls to general register house) has been superseded by provisions in the Local Government (Scotland) Act 1975 which amended section 35 of the 1854 Act.

The repeal proposed to section 6 of the Valuation of Lands (Scotland) Amendment Act 1867 is of provisions which required the assessor of railways and canals, now the Assessor of Public Undertakings (Scotland), to make the valuation roll prepared by him accessible to all persons having interest therein. The Assessor is no longer required to make up a valuation roll and under section 5(2) of the Local Government (Scotland) Act 1975 valuations made by him are entered in the valuation rolls maintained by local assessors for the several valuation areas. Copies of the valuation rolls made by local assessors are open to inspection by virtue of section 1(5) of the 1975 Act.

Section 8 of the Valuation of Lands (Scotland) Amendment Act 1867

¹⁷³ Festival Pleasure Gardens (Discontinuance) Order 1953 (a local instrument which was not numbered or printed).

¹⁷⁴ London Government Order 1970 (S.I. 1970 No. 211), art. 13.

amended section 2 of the Lands Valuation (Scotland) Act 1857 and is obsolete in consequence of the repeal of section 2 of the 1857 Act by the Valuation and Rating (Scotland) Act 1956.

Section 20 of the Local Government (Scotland) Act 1929 is obsolete in consequence of the repeal of the House Letting and Rating (Scotland) Act 1911 by the Local Government (Scotland) Act 1973. Sections 47 and 48 (adjustments as to rating relief between landlords and tenants) is obsolete and unnecessary in consequence of section 16(1) of the Valuation and Rating (Scotland) Act 1956, which provides that rates shall be payable by occupiers only. The repeal of these sections is agreed to by the National Farmers' Union of Scotland and the Scottish Landowners' Federation. Section 77(1) contains definitions which have ceased to be relevant.

Section 2(1)¹⁷⁵ of the Assessor of Public Undertakings (Scotland) Act 1934, as amended by paragraph 13 of Schedule 6 to the Superannuation Act 1972, provides for the grant of pensions, allowances and gratuities to the Assessor and his clerks and officers. This matter can now be regulated by the Secretary of State under section 5(7) of the Local Government (Scotland) Act 1975, but in fact the Assessor and his clerks and officers are now members of the civil service and so subject to civil service conditions of employment, including pension arrangements.

Section 3 of the Assessor of Public Undertakings (Scotland) Act 1934 (mode of levying and collecting superannuation allowances and gratuities) is unnecessary. In 1982 there was a final levy on those affected to settle the outstanding contributions up to the date when the Assessor and his clerks and officers became subject to civil service conditions of employment.

In the Coal Act 1938, the repeal proposed to section 45 is consequential on the repeal of section 17 of the Lands Valuation (Scotland) Act 1854 and section 11 of the Valuation and Rating (Scotland) Act 1956 by the Local Government (Scotland) Act 1975.

The repeal proposed to section 7(2)(b) of the Agricultural Holdings (Scotland) Act 1949 is consequential on the proposed repeal of sections 47 and 48 of the Local Government (Scotland) Act 1929.

Section 5(1) and (2) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 repealed the Scientific Societies Act 1843 and section 141 of the Education (Scotland) Act 1946 but continued the exemptions from rates under that legislation for a further period of five years on a progressively diminishing scale. Section 5(1) has already been repealed and section 5(2) is spent. Section 5(3) (power to repeal or amend local Acts conferring an exemption from rates) is obsolete in consequence of the enactment of section 225(8) of the Local Government (Scotland) Act 1973 (repeal of all local statutory provisions relating to valuation or rates).

In the Rating Act 1966, the only remaining substantive provision is

¹⁷⁵ Section 2(2) was repealed by the Finance Act 1972.

section 9 as it applies to Scotland (grants towards rebates). Its repeal is consequential on the repeal of section 5 (right to rebate in respect of rates on dwelling) by the Local Government (Scotland) Act 1973.

In the Superannuation Act 1972, the repeal of paragraphs 13 and 14 of Schedule 6 is consequential on the repeals proposed to the Assessor of Public Undertakings (Scotland) Act 1934.

Section 34(3) of the Gas Act 1972 is a spent transitional provision relating to the levying of rates in Scotland on the British Gas Corporation in respect of the year following 1 January 1973.

Section 117 of the Local Government (Scotland) Act 1973 postponed until the year 1978-79 the revaluation of lands and heritages which was due to be carried out in the year 1976-77 by virtue of sections 9(1) and 10(1) of the Valuation and Rating (Scotland) Act 1956. The section is spent.

Section 2(4) of the Local Government (Scotland) Act 1975 is a spent transitional provision which enabled the assessor for any valuation area to enter certain lands and heritages in the valuation roll for the year 1975-76. Section 5(1)(c), which required the Assessor of Public Undertakings (Scotland) to value certain lands and heritages which were in existence on 16 May 1975 or came into existence between that date and the year 1978-79, is similarly spent. The repeals to section 5(4) are consequential.

Section 1(3) of the Rating (Charity Shops) Act 1976 is a spent transitional provision which enabled charity shops in Scotland to qualify for rating relief under the Act in respect of the financial year 1976-77 although the Act did not become law until 6 August 1976.

In the Rating and Valuation (Amendment) (Scotland) Act 1984, the repeals to section 13(1) and (2) are consequential on the proposed repeal of section 8 of the Valuation of Lands (Scotland) Amendment Act 1867. Sections 13(4) and 21(2) and Schedule 3 are spent repealing enactments.

PART VIII

MEDICINE AND HEALTH SERVICES

The Medical Act 1956 and the Dentists Act 1957 carried out the first consolidations of the law relating to medical practitioners and dentists. Those Acts, as amended by later legislation, were reconsolidated by the Medical Act 1983 and the Dentists Act 1984. But the original consolidations were incomplete and did not deal with numerous enactments passed before 1956. The Department of Health and Social Security therefore asked the Law Commissions to undertake a review of the earlier enactments. The objective of the review is to identify the enactments which either require restatement in modern terms or can be proposed for repeal so that the medical legislation as a whole can be brought up to date. During 1984 modern legislation¹⁷⁶ was enacted to replace the archaic Anatomy Acts 1832 and 1871. The repeals in this Part include a number of enactments which have been identified, in consultation with the medical bodies concerned, as being obsolete or unnecessary.

The Act of 1540 became obsolete, and was impliedly repealed, when the union of barbers and surgeons which it had provided for was dissolved in the 18th century by 18 Geo. 2. c. 15. That Act too is obsolete so far as it relates to surgeons. The Company of Surgeons to which it refers was dissolved on account of irregularities which occurred in 1796. Following its dissolution the Royal College of Surgeons of England was constituted by charter in 1800, a Bill to achieve that purpose having failed to pass the House of Lords.¹⁷⁷ The sections excepted from repeal relate to the Company of Barbers of London.

The Medical Act 1858 established the General Council of Medical Education and Registration in the United Kingdom, now known as the General Medical Council.¹⁷⁸ Most of the Act, as amended by the Medical Act 1860, was consolidated in 1956. Section 48 (holding of examinations in dentistry by the Royal College of Surgeons of England) is superseded by section 5 of the Dentists Act 1984.

Sections 49 and 50 of the Medical Act 1858 made provision for the grant of fresh charters—

- (a) reconstituting the Royal College of Physicians of Edinburgh as the Royal College of Physicians of Scotland;
- (b) amalgamating the Royal College of Surgeons of Edinburgh and the Faculty of Physicians and Surgeons of Glasgow under the name of the Royal College of Surgeons of Scotland.

The provisions were enacted in expectation of a reorganisation of the

¹⁷⁶ Anatomy Act 1984.

¹⁷⁷ Zachary Cope, *The Royal College of Surgeons of England* (1959) p. 19. The main opponent of the Bill was Lord Thurlow (1731–1806). Residents of Lincoln Inn Fields also objected to the possibility of dissections being carried out in the neighbourhood.

¹⁷⁸ The name was changed by the Medical Act 1950, s. 13.

medical bodies in Scotland which never took place. Any modern reorganisation of this nature would now be effected by provisional order made under the Private Legislation Procedure (Scotland) Act 1936. In 1962¹⁷⁹ the Faculty of Physicians and Surgeons of Glasgow was reconstituted in this way.

Section 51 of the Medical Act 1858 provided for the grant of a new charter to the King's and Queen's College of Physicians in Ireland, renaming it the Royal College of Physicians of Ireland. The power was exercised in 1890 and the section is long since spent.

The repeal proposed to section 2 of the Medical Act 1860 is consequential on the proposed repeal of sections 49, 50 and 51 of the Medical Act 1858.

The Medical Act (Royal College of Surgeons of England) 1875 was passed to allow the College to hold examinations for registrable medical qualifications in combination with the Royal College of Physicians of London. It was one of several contemporary enactments¹⁸⁰ aimed at bringing different medical bodies into line with the structure of medical education laid down by the Medical Acts 1858 and 1860. The Act was superseded in 1978¹⁸¹ when the Medical Act 1956 was amended to provide expressly for the holding of joint qualifying examinations by the Royal College of Physicians of London and the Royal College of Surgeons of England. Provision in these terms is now made by section 4 of the Medical Act 1983.

The Dentists Act 1878 and the Medical Act 1886 were for the most part consolidated in 1957 and 1956 respectively. The unrepealed residue of the Acts relates to the practice of medicine or dentistry in British dependent territories by persons registered under United Kingdom law. These provisions are expressed to be subject to local law. Research and consultation have shown that they have been superseded by later local legislation and are unnecessary in the Channel Islands, the Isle of Man, Hong Kong, Bermuda, Gibraltar and all other dependencies.¹⁸² In most cases application has to be made for registration on a separate local register and registration is dependent on eligibility under local law. The prescribed qualifications normally include degrees, diplomas, etc. which have been granted in the United Kingdom or which would entitle the holder to registration in the United Kingdom.

The repeals of the Dentists Act 1878 and the Medical Act 1886 are extended by clause 2 of the draft Bill to the Channel Islands, the Isle of Man and colonies (as defined in the Interpretation Act 1978). The authorities in the dependencies have been consulted and agree to the extension of the repeals.

The Midwives Act 1936, which applied only to England and Wales,

¹⁷⁹ Royal College of Physicians and Surgeons of Glasgow Order Confirmation Act 1962.

¹⁸⁰ Medical Act (University of London) 1873, which was repealed by the Statute Law (Repeals) Act 1976; Apothecaries Act Amendment Act 1874, s.3, which was consolidated to become s.12(2) of the Medical Act 1956.

¹⁸¹ Medical Act 1978, Schedule 6, para. 34 (amending Medical Act 1956, s.11). Section 12(2) of the Medical Act 1956 was repealed in 1978 as being unnecessary.

¹⁸² Anguilla, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands and Dependencies, Montserrat, Pitcairn, St. Helena and Dependencies, Akrotiri and Dhekelia (Cyprus), Turks and Caicos Islands.

amended the Midwives Acts 1902 to 1926. Most of the Act was repealed by the National Health Service Act 1946 or consolidated by the Midwives Act 1951.¹⁸³ The unrepealed residue of the Act refers to a transitory scheme introduced in 1936 respecting the employment of salaried midwives.

In 1936, before the establishment of the National Health Service, local supervisory authorities (county or county borough councils) were required to secure an adequate domiciliary service of midwives by using voluntary organisations in their area. If these means proved insufficient, local authorities were allowed to employ salaried midwives to make up the deficiency. The scheme enabled them to recruit experienced midwives who were then in middle age by offering to recognise up to 10 years of their previous experience for pension purposes. The scheme was limited to salaried midwives employed before, at the latest, 31 July 1939.

The 1936 scheme took effect when the midwives concerned were first employed under it and their previous experience was recognised for pension purposes. The pensions of those who were within the scheme and who still survive would long since have been awarded. The Department of Health and Social Security, the Central Council for Nursing, Midwifery and Health Visiting, the National Boards for England and Wales and the Royal College of Midwives have been consulted and agree that the residual provisions of the 1936 Act are spent in their operation and that the repeal could not affect the pension rights of any person who was within the scheme.¹⁸⁴

The Cancer Act 1939, as originally enacted, made further provision for the treatment of cancer (sections 1 and 2), enabled the Minister of Health to make loans to the National Radium Trust (section 3) and prohibited certain advertisements (section 4). The repeals proposed are consequential on the repeal of sections 1 and 2 by the National Health Service Act 1946 and the repeal of section 3 by the National Health Service (Amendment) Act 1949.

In the Health Services and Public Health Act 1968, the repeal proposed to section 60(2) (amendment of section 1 of the Nurseries and Child-Minders Regulation Act 1948) is of a spent transitional provision relating to criminal liability for things done before 1 November 1968. In Schedule 3 (consequential amendments) the entries proposed for repeal are obsolete in consequence of repeals made by the National Health Service Act 1977.

The National Health Service Act 1977 consolidated the National Health Service Act 1946 and later enactments. Paragraph 1 of Schedule 15 (consequential amendment of Midwives Act 1936) preserved the effect of an amendment made in 1950.¹⁸⁵ Its repeal is consequential on the proposed repeal of the residue of the Midwives Act 1936.

In the National Health Service (Scotland) Act 1978, paragraph 19 of

¹⁸³ The Midwives Act 1951 has since been replaced by the Nurses, Midwives and Health Visitors Act 1979, which established a Central Council for Nursing, Midwifery and Health Visiting, and National Boards for the four parts of the United Kingdom.

¹⁸⁴ Interpretation Act 1978, s.16(1)(c).

¹⁸⁵ Midwives (Amendment) Act 1950, s.13 and Schedule 2.

Schedule 16 amended the definition of “the National Health Service Acts” in section 15 of the Emergency Laws (Re-enactments and Repeals) Act 1964. That definition was also repealed by the 1978 Act and the amendment was never necessary.

The National Health Service (Invalid Direction) Act 1980 is spent in its operation. It validated an instrument made on 1 August 1979 by the Secretary of State for Social Services directing that the statutory functions of the Lambeth, Southwark and Lewisham Health Authority (Teaching) should be performed by the South East Thames Regional Health Authority. The direction had been declared by the High Court¹⁸⁶ to be invalid.

¹⁸⁶ *R. v. Secretary of State for Social Services, Ex parte Lewisham, Lambeth and Southwark London Borough Councils*, *The Times*, 26 February 1980.

PART IX

OVERSEAS JURISDICTION

The Malta Act 1801 was passed following the British occupation of the island in 1800 during the war with France. It was a temporary measure to regulate trade to and from Malta¹⁸⁷ pending the return of the island to the Knights of St. John of Jerusalem, who had been driven out by the French in 1798. However, following the Treaty of Paris 1814, Malta became a British colony. In 1964 it became an independent state and in 1974 a republic.¹⁸⁸

Research has shown that, after being continued in force on several occasions,¹⁸⁹ the whole of the Malta Act 1801 was allowed to expire in 1816 following a considered recommendation by the Committee of Council on Trade and Plantations that it should not be continued any further.¹⁹⁰ Contemporary indexes¹⁹¹ also listed the Act as having expired then. However, section 3 of the Act, which had declared Malta and its dependencies to be a part of Europe, lingers on in modern editions of the statute law.

The contemporary significance of section 3 was that the Navigation Acts, which reached back to 1660, regulated overseas trade by reference to specific continental areas¹⁹² and there was uncertainty as to whether Malta should be treated as being a part of Europe or a part of Africa. For this reason a provision in virtually identical terms was enacted in at least seven later Acts relating to trade and customs,¹⁹³ being finally consolidated as section 164 of the Customs Consolidation Act 1876. By 1952, when the customs laws were next consolidated, it was clear that a statutory provision in these terms was obsolete and unnecessary. Section 164 of the Customs Consolidation Act 1876 was accordingly repealed without being re-enacted.¹⁹⁴

The curious survival of the Malta Act 1801, nearly 170 years after it had expired and been superseded, is primarily due to a misunderstanding later in the 19th century. A. J. Wood, the draftsman of the Statute Law Revision Act 1872 (which expressly repealed sections 1 and 2) had earlier helped to prepare a chronological list on which that Act was based. The entry in that list for the Malta Act 1801 explains:¹⁹⁵

¹⁸⁷ Valetta attracted a large share of the Levantine trade because of its status as a free port. Goods were smuggled from Malta into Europe in considerable quantities to break Napoleon's continental system.

¹⁸⁸ Malta Independence Act 1964; Malta Republic Act 1975.

¹⁸⁹ 1802 c.12 (until 1 January 1804); 1803 c.4 (until six months after the ratification of a definitive peace treaty); 1814 c.182 (until 25 March 1816).

¹⁹⁰ Public Record Office, Board of Trade In-letters, B.T. 1/102, f. 18.

¹⁹¹ R. P. Tyrwhitt and T. W. Tyndale, *A Digest of the Public General Statutes, from Magna Carta . . . to . . . A.D. 1821 inclusive* (1822), Vol. 1, p. cxiii; R. Lowndes, *A Chronological Index to the Statutes at Large from Magna Carta to July 23, 1830* (1831) p. 124.

¹⁹² Examples of Acts regulating trade to and from Europe are 1762 c.24, 1763 c.19, 1775 c.37, 1782 c.78 and 1797 c.84.

¹⁹³ 1817 c.36, s.10; 1822 c.43, s.10; 1825 c.107, s.116; 1833 c.52, s.120; 1845 c.86, s.128; 1853 c.107, s.194; 1876 c.36, s.164.

¹⁹⁴ Customs and Excise Act 1952, s.320, Sch. 12.

¹⁹⁵ *Register of Public General Acts from 41 Geo. 3 (U.K.) to 21 & 22 Vict. inclusive* (1859 Sess. 2) H.L. 23. I, pp. 14-15.

“The continuing Act, 54 Geo. 3 c.182, speaks of the whole Act as temporary, but this seems to be an error; s.3 seems permanent; it enacts that Malta and its dependencies shall for all purposes be deemed part of Europe.”

The Indian Securities Act 1860, so far as unrepealed,¹⁹⁶ is a relic of British jurisdiction in India, its text being frozen in the form which it finally took in 1937,¹⁹⁷ following the passing of the Government of India Act 1935. The residual provisions of section 1 (certain Indian promissory notes to be personal estate and *bona notabilia* in England) were enacted at a time of financial change in India, when large amounts of stock issued by the Governor General of India in Council were being offered for sale in this country. The promissory notes were sent to England for registration and the interest made payable in London under an administrative arrangement in India,¹⁹⁸ but the question arose as to whether the Government of India could properly recognise a transfer of the notes by executors acting under an English probate. The opinion of the Solicitor to the Indian Treasury, confirmed by the standing counsel, was to the effect that under the law as it then stood the notes must be considered as Indian and not English assets and that the signature of an administrator in India was required before a transfer of the notes could be effected.¹⁹⁹ This procedure would have entailed considerable inconvenience and delay for stockholders in this country, many of whom were small investors. Sir Charles Wood (1800–1885), then Secretary of State for India, explained that the sole object of the section was to relieve the executors or trustees of the holders of the stock from the necessity of taking out probate in India.²⁰⁰ Its practical effect was to oust any Indian probate jurisdiction in relation to the stock. The power to issue stock within the meaning of the legislation ended with Indian independence on 15 August 1947 and the Act of 1860 is obsolete and unnecessary.

The Slave Trade (East African Courts) Acts 1873 and 1879, implementing 19th century agreements with local rulers, extended and regulated the slave trade jurisdiction of British courts in Aden, Zanzibar, Muscat and Madagascar. The Acts have long been obsolete. The territories in which the courts operated are all independent states which are themselves responsible for the suppression of the slave trade under the Charter of the United Nations. The repeals proposed to the Slave Trade Act 1873 and to section 13 of the Colonial Courts of Admiralty Act 1890 are consequential.

The Pacific Islanders Protection Act 1875 and the earlier Pacific Islanders Protection Act 1872²⁰¹ were passed to deal with offences involving the murder

¹⁹⁶ Only part of s.1 survives. Section 2 (abolition of certain stamp duties) was finally repealed by the Finance Act 1963. Section 3 (East India bonds) was repealed by the East India Loans Act 1937.

¹⁹⁷ Government of India (Adaptation of Acts of Parliament) Order 1937 (S.R. & O. 1937 No. 230).

¹⁹⁸ *Calcutta Gazette Extraordinary*, 12 November 1858, Notification No. 61.

¹⁹⁹ India Office Records, L/L/65, cases and opinions before counsel, misc. legal corres. 1859 (letter of H. J. Lawford, 31 January 1859; opinion of Loftus Wigram, 17 February 1859).

²⁰⁰ *Hansard* (3rd series), 27 January 1860, Vol. 156, cols. 238–240.

²⁰¹ Also known as the Kidnapping Act 1872. The 1872 Act and most of the 1875 Act were repealed by the Statute Law Revision Act 1964.

and kidnapping of natives in Pacific islands not then under the jurisdiction of any civilised power. Under section 6 of the 1875 Act jurisdiction could be exercised over British subjects in these islands.²⁰² The powers were exercised by the Pacific Order in Council 1893,²⁰³ and subsequent orders. These orders at one time applied to Fiji, the Gilbert and Ellice Islands, the British Solomon Islands, Tonga and the New Hebrides; but they have been progressively revoked in consequence of later constitutional developments. The Act now has no application and is obsolete.

Section 7 of the British Settlements Act 1887 (saving for Orders in Council and other things done under repealed Acts of 1843 and 1860) and section 18 of the Foreign Jurisdiction Act 1890 (saving for pre-1890 Orders in Council, etc.) are obsolete.

In the Colonial Courts of Admiralty Act 1890, the repeals to section 9 (power to establish Vice-Admiralty courts in British possessions) are of obsolete provisions preventing the establishment of such a court in India or relating to the jurisdiction formerly exercisable under the Pacific Islanders Protection Acts 1872 and 1875. Section 16 and Schedule 1 (commencement of the Act) are spent: the Act came into operation on 1 July 1891 except as respects New South Wales, Victoria, St. Helena and British Honduras, where it came into operation on 1 July 1911.²⁰⁴ Sections 17 and 18 and Schedule 2 (abolition of existing Vice-Admiralty Courts, transitional provisions and repeals) have long been spent or obsolete.

The Pacific Islands Regulations (Validation) Act 1916 validated a technical defect in King's Regulations made under Article 108 of the Pacific Order in Council 1893. It was passed because the Law Officers of the Crown had advised in 1912 that Article 108 was not a valid delegation to the High Commissioner for the Western Pacific of the legislative powers under the British Settlements Act 1887.²⁰⁵ The Pacific Order in Council 1893, and regulations made under it, are no longer in force and the Act is obsolete.

The Nauru Island Agreement Act 1920 ratified an agreement of 1919 for the administration of the island and the working of the phosphate deposits by an inter-governmental British Phosphate Commission. Australia, the United Kingdom and New Zealand were the joint administering authorities, but in practice administrative authority was exercised by Australia under Australian legislation. Nauru became an independent republic on 31 January 1968 by virtue of Australian legislation.²⁰⁶ The United Nations Trusteeship Agreement²⁰⁷ was terminated on the same day.

The Leeward Islands Act 1956 paved the way for the establishment of the Federation of the West Indies, dissolving an earlier federation of the Leeward

²⁰² The Foreign Jurisdiction Act 1890, ss.1, 2. conferred powers which had substantially the same effect.

²⁰³ Rev. 1948 Vol. VIII, p. 597.

²⁰⁴ S.R. & O. 1911 No. 440.

²⁰⁵ *Hansard* (H.L.), 13 April 1916, Vol. 21, cols. 721-722.

²⁰⁶ Nauru Independence Act 1967.

²⁰⁷ (1947) Cmd. 7290.

Islands²⁰⁸ and reconstituting its four presidencies (Antigua, St. Kitts-Nevis-Anguilla, Montserrat and the British Virgin Islands) as separate colonies. The Federation of the West Indies was dissolved in 1962 and the unrepealed provisions of the Leeward Islands Act 1956 are now spent or obsolete. The remaining British dependent territories to which it related (Montserrat, British Virgin Islands, Anguilla) are governed by constitutional instruments made under later legislation.²⁰⁹

The British Caribbean Federation Act 1956, which provided for the establishment of the Federation of the West Indies, is spent. The Federation was dissolved on 1 June 1962 under the powers conferred by the West Indies Act 1962.

The West Indies Act 1967 made provision to confer on certain West Indian territories the status of association with the United Kingdom and to enable that status to be terminated at any time. The status of association has been progressively terminated²¹⁰ in consequence of later constitutional developments and no associated states remain. The main provisions of the Act are therefore obsolete. The provisions which continue to have effect are excepted from repeal. Section 6 (common courts) is still the basis for the Eastern Caribbean Supreme Court which has jurisdiction over some of the remaining Caribbean dependencies²¹¹ and section 8 provides for retirement benefits for persons in the public service. Sections 17(1) and (4), 19 and 21 are supplementary.

²⁰⁸ Leeward Islands Act 1871.

²⁰⁹ West Indies Act 1962; Anguilla Act 1980.

²¹⁰ Grenada Termination of Association Order 1973 (S.I. 1973 No. 2157); Dominica Termination of Association Order 1978 (S.I. 1978 No. 1031); Saint Lucia Termination of Association Order 1978 (S.I. 1978 No. 1900); Saint Vincent Termination of Association Order 1979 (S.I. 1979 No. 918); Antigua Termination of Association Order 1981 (S.I. 1981 No. 1104); Saint Christopher and Nevis Termination of Association Order 1983 (S.I. 1983 No. 880).

²¹¹ See Anguilla, Montserrat and Virgin Islands (Supreme Court) Order 1983 (S.I. 1983 No. 1108).

PART X

PARLIAMENTARY AND CONSTITUTIONAL PROVISIONS

In the Parliamentary Costs Acts 1871 and the House of Commons Costs Taxation Act 1879, the proposed repeal of the references to provisional certificates is consequential on the repeal in 1960²¹² of the Railway Companies' Powers Act 1864 and the Railways Construction Facilities Act 1864. These Acts, following a suggestion first made in 1858 by Mr James Booth (1796–1880), who had been Speaker's Counsel and was then Secretary to the Board of Trade, introduced a procedure whereby certificates, resembling provisional orders, could be granted by the Board of Trade enabling railway companies to make agreements and do other things which would otherwise have required the promotion of a private Bill. A certificate was required to be laid in draft before both Houses of Parliament and, if neither House had otherwise resolved within six weeks, the certificate was issued and had statutory effect.²¹³ The procedure is now obsolete and the standing orders of both Houses of Parliament have been revised recently to delete all references to provisional certificates.²¹⁴

In section 2 of the House of Commons Costs Taxation Act 1879 (taxation of costs incurred in respect of a Bill or provisional order on request by a Secretary of State) the references to the Local Government Board are obsolete and unnecessary. The Board ceased to exist when a Ministry of Health was established in 1919.

Section 6 of the House of Commons Members' Fund Act 1948 (first report by Government Actuary) became spent in 1951.

Representation of the People Act 1948

The Representation of the People Act 1948 amended the law relating to parliamentary and local government elections and paved the way for the consolidating Representation of the People Act 1949, now replaced by the Representation of the People Act 1983. Since 1949, section 1(1) of the 1948 Act has provided for the election of members of the House of Commons in respect of single member constituencies. Schedule 1 to that Act set out the areas of those constituencies, subject to Orders in Council made under section 3 of the House of Commons (Redistribution of Seats) Act 1949.²¹⁵ In 1982 and 1983 Orders in Council²¹⁶ made under that section superseded all the parliamentary constituencies described in Schedule 1, which is accordingly obsolete.

A consequential amendment of section 1(1) (Schedule 2 to the draft Bill)

²¹² Statute Law Revision Act 1960.

²¹³ O. Cyprian Williams, *The Historical Development of Private Bill Procedure and Standing Orders in the House of Commons* (1948) pp. 143–144.

²¹⁴ See e.g. *Votes and Proceedings of the House of Commons*, 11 December 1984, item 1.

²¹⁵ The 1949 Act consolidated the House of Commons (Redistribution of Seats) Act 1944.

²¹⁶ Parliamentary Constituencies (England) Order 1983 (S.I. 1983 No. 417); Parliamentary Constituencies (Wales) Order 1983 (S.I. 1983 No. 418); Parliamentary Constituencies (Scotland) Order 1983 (S.I. 1983 No. 422); Parliamentary Constituencies (Northern Ireland) Order 1982 (S.I. 1982 No. 1838).

would alter the text of that provision to bring it up to date. A consequential transitional provision (also in Schedule 2 to the draft Bill) would preserve the existing law relating to any by-election to the Northern Ireland Assembly held before the next general election to that Assembly.

The remaining substantive provisions of the Representation of the People Act 1948 are obsolete or unnecessary for the reasons explained below. Section 81 (short title) is excepted from repeal.

Section 55(3) and (4) of the 1948 Act, which deal with incapacity with respect to the Northern Ireland Assembly arising from corrupt and illegal practices, are duplicated by section 122(1) and (2) of the Electoral Law Act (Northern Ireland) 1962, as amended by the Northern Ireland (Modification of Enactments—No. 1) Order 1973 (S.I. 1973 No. 2163) made under the Northern Ireland Constitution Act 1973. The proposed repeal of section 75 of the 1948 Act (definition of “the corrupt practices Act” in relation to section 55) is consequential.

Section 74(1) of the 1948 Act, and the residue of Schedule 10, amended the Sheriffs Act 1887 to exclude writs for a parliamentary election. The provision operated on section 18 of the Sheriffs Act 1887 (holding of a sheriff's county court for the purpose of an election or the due execution of a writ) and became obsolete and unnecessary when the Administration of Justice Act 1977 formally abolished the long-defunct sheriffs' county courts and consequentially repealed section 18 of the Sheriffs Act 1887. The modern functions of a sheriff as a returning officer for parliamentary elections in England and Wales are exercisable as a returning officer and not as a sheriff.²¹⁷

Section 74(2) of the 1948 Act empowered the Secretary of State to make orders for harmonising earlier Acts of Parliament with the 1948 Act. The Home Office and the Scottish Home and Health Department agree that the power would not be exercised now. Between 1948 and 1953 a number of orders were made, but research and consultation has established that these orders are all obsolete or unnecessary now. The orders,²¹⁸ which will lapse²¹⁹ on the repeal of section 74(2), are as follows:

- (i) The Epsom and Walton Downs Conservators Order 1948 (S.I. 1948 No. 2381), which amended section 6 of the Epsom and Walton Downs Regulation Act 1936, is obsolete in consequence of the repeal of that Act by the Epsom and Walton Downs Regulation Act 1984.
- (ii) The Nottingham Freemen's Committee Order 1948 (S.I. 1948 No. 2382) amended section 18 of the Nottingham Corporation Act 1882 (appointment of Nottingham Freemen's Committee for the allotment of annuities). Nottingham City Council have no objection to the lapse of the Order because the class of freemen

²¹⁷ Representation of the People Act 1983, s.27(1).

²¹⁸ These orders were classified as local statutory instruments and in accordance with the Statutory Instruments Regulations 1947 were exempted from printing and sale. Their titles are listed only in the annual edition of statutory instruments for the year in which they were made.

²¹⁹ *Watson v. Winch* [1916] 1 K.B.688.

to whom annuities can be allotted is closed, there are only two surviving annuitants (both in their 90s) and the Freeman's Committee does not meet.

- (iii) The Cambridge Watch Committee Order 1949 (S.I. 1949 No. 95), which substituted a new section 52 in the Cambridge Award Act 1856, is obsolete in consequence of the repeal of that section by the Police Act 1964.
- (iv) The North Cumberland Water Board Order 1949 (S.I. 1949 No. 96), and the North Cumberland Water Board (No. 2) Order 1949 (S.I. 1949 No. 702), which amended sections 8 and 19 of the North Cumberland Water Board Act 1947, are obsolete in consequence of the repeal of that Act and the dissolution of the North Cumberland Water Board by the North Cumberland Water Board Order 1958 (S.I. 1958 No. 442). The North West Water Authority agree.
- (v) The West Kent Main Sewerage Board Order 1949 (S.I. 1949 No. 97) amended section 17 of the West Kent Main Sewerage (Amendment) Act 1877. The West Kent Main Sewerage Board (No. 2) Order 1949 (S.I. 1949 No. 703) amended an order dated 20 March 1878 made under section 94 of the West Kent Main Sewerage Act 1875. The functions of the West Kent Main Sewerage Board have devolved on the Southern Water Authority, who agree that the Orders are obsolete.
- (vi) The Tunbridge Wells Conservators Order 1949 (S.I. 1949 No. 319), which amended section 153 of the Tunbridge Wells Improvement Act 1890, is obsolete in consequence of the repeal of that Act by the County of Kent Act 1981.
- (vii) The Hartlepool Port Health Authority Order 1949 (S.I. 1949 No. 400), which amended the Hartlepool Port Sanitary Order 1927, set out in the Schedule to the Ministry of Health Provisional Orders Confirmation (No. 10) Act 1927, is obsolete in consequence of the revocation of the 1927 Order by the Hartlepool Order 1967 (S.I. 1967 No. 174). Hartlepool Borough Council, the present Hartlepool Port Health Authority, agree.
- (viii) The Crosby Litherland and Waterloo Joint Cemetery Board Order 1949 (S.I. 1949 No. 822) amended section 7 of the Crosby Litherland and Waterloo Joint Cemetery Order 1933, set out in the Schedule to the Ministry of Health Provisional Order Confirmation (Crosby Litherland and Waterloo Joint Cemetery District) Act 1934. The Joint Cemetery Board ceased to exist on 1 April 1974 by virtue of section 214 of the Local Government Act 1972. Its functions have devolved on the Sefton Metropolitan Borough Council, who agree that the Order is now unnecessary and irrelevant.
- (ix) The Eastern Valleys (Monmouthshire) Joint Sewerage Board Order 1949 (S.I. 1949 No. 934), amended the Eastern Valleys (Monmouthshire) Joint Sewerage Order 1939, set out in the Schedule to the Ministry of Health Provisional Order Confirmation (Eastern Valleys (Monmouthshire) Joint Sewerage District)

Act 1939. The Western Valleys (Monmouthshire) Sewerage Board Order 1949 (S.I. 1949 No. 1413) amended the Western Valleys (Monmouthshire) Sewerage Board Act 1903. The functions of these boards have devolved on the Welsh Water Authority, who agree that the Orders are obsolete.

- (x) The Thurso River Harbour (Amendment of Local Acts) Order 1953 (S.I. 1953 No. 134) amended the Thurso River Harbour Act 1889 as respects the election and meetings of the Trustees of Thurso River Harbour and associated matters. The harbour undertaking was transferred to the Burgh of Thurso by conveyance in 1971 and is now vested in the Highland Regional Council by virtue of the Local Government (Scotland) Act 1973 and a notice of title recorded in the General Register of Sasines for the County of Caithness on 16 May 1980. The Highland Regional Council agree that the Order is obsolete.

Other Enactments

Section 5 of the House of Commons (Redistribution of Seats) Act 1949 dealt with the amendment of pre-1948 Acts consequentially on the disappearance of parliamentary counties and boroughs. These transitional provisions are now meaningless. Section 8 (repeal and savings) and section 9(2) (commencement of 1949 Act) are similarly spent or unnecessary. The repeal proposed to section 6 (application to Scotland) is consequential.

The Parliament Act 1949 reduced the House of Lords' power of delay under section 2 of the Parliament Act 1911 from two years to one year and made assent given in two successive sessions by the House of Commons sufficient. The proviso to section 1 provided for the application of the Act to any Bill rejected for the second time by the House of Lords before the Royal Assent was given to the Act on 16 December 1949. The proviso was never invoked and is now incapable of being invoked.

The Referendum Act 1975 provided for the holding of a referendum on the United Kingdom's membership of the European Economic Community, and for the making of grants to specified organisations towards the expenses incurred by them for the purposes of the referendum. The referendum was held on 5 June 1975 and the Act is spent.

PART XI

SHIPPING, HARBOURS AND FISHERIES

The Herring Fishery Act 1851, as originally enacted, applied to Great Britain. The Act was repealed for Scotland by the Inshore Fishing (Scotland) Act 1984. As respects England and Wales only sections 8 and 9 remain, which refer to forfeitures and penalties under a series of earlier Acts²²⁰ for the encouragement of the British White Herring Fishery which have all been repealed.

The final repeal of the Customs Consolidation Act 1853 is consequential on the replacement of its remaining provisions, namely, sections 324, 325, 326, 330 and 331 (reciprocity in commerce between British and foreign countries) by sections 14²²¹ and 15 of the Merchant Shipping Act 1974 and Schedule 4 to that Act. These provisions of the 1974 legislation came into operation on 1 August 1979²²² but due to an oversight section 24(4) of the 1974 Act (repeal of sections 324, 325, 326, 330 and 331 of the Customs Consolidation Act 1853) was not brought into operation at the same time.

The Pilotage Law Amendment Act 1853 transferred to the Corporation of Trinity House of Deptford Strond the assets and liabilities of the Cinque Port pilots and extended the pilotage functions of Trinity House. Most of the Act was repealed by the Merchant Shipping Repeal Act 1854 and only section 12 (pensions to employees of Trinity House) remains. This matter is now covered by section 18(2) of the Pilotage Act 1983 and Trinity House agree to the final repeal of the Act.

The Hartlepool Pilotage Order Confirmation Act 1864 confirmed the Hartlepool Pilotage Order 1864, which was revoked by the Hartlepool Pilotage Order 1922 scheduled to the Pilotage Orders Confirmation (No. 2) Act 1922. The Act of 1864 is accordingly obsolete.

The Harbours Transfer Act 1865 provided for the transfer of powers and duties relating to certain harbours from the Admiralty to the Board of Trade. The Ministers of the Crown Act 1975 now makes general provision for the transfer of functions and the Department of Transport, the successor to the Board of Trade in the context of this Act, agrees that the Act is unnecessary.

Section 683(4) of the Merchant Shipping Act 1894 saved any proceeding to which the Public Authorities Protection Act 1893 applied. The 1893 Act was repealed by the Law Reform (Limitation of Actions, &c.) Act 1954 and the saving is obsolete.

The Trawling in Prohibited Areas Prevention Act 1909 provided for the enforcement throughout the United Kingdom of prohibitions imposed in

²²⁰ 1808 c.110, 1811 c.101, 1812 c.153, 1814 c.101, 1815 c.94, 1820 c.103, 1821 c.79, 1824 c.64, 1826 c.34, 1830 c.54, 1843 c.79, 1847 c.91.

²²¹ Section 14 of the Merchant Shipping Act 1974 was amended by section 40 of the Merchant Shipping Act 1979.

²²² Merchant Shipping Act 1974 (Commencement No. 4) Order 1979 (S.I. 1979 No. 808).

pursuance of the Herring Fishery (Scotland) Act 1889 and the Steam Trawling (Ireland) Act 1889. These Acts prohibited or enabled bye-laws to be made prohibiting beam and otter trawling²²³ within defined waters off the coasts of Scotland and Ireland. The Herring Fishery (Scotland) Act 1889 was repealed by the Inshore Fishing (Scotland) Act 1984, which also repealed the 1909 Act in its application to Scotland. The Steam Trawling (Ireland) Act 1889 was repealed by the Fisheries Amendment (Northern Ireland) Order 1981 (S.I. 1981 No. 227), which also repealed sections 5(2) and 6 of the 1909 Act (provisions relating to Ireland). In consequence of these repeals, the legislation of 1909 is obsolete throughout the United Kingdom, including England and Wales. The conservation of fishery resources is now dealt with by EEC regulations, which impose a specific ban on beam trawling within 12 miles of the coast of the United Kingdom by any vessel exceeding 70 grt. of 300 bhp.²²⁴

The Merchant Shipping Act 1911 gave jurisdiction under section 76 and Part VIII of the Merchant Shipping Act 1894 to certain British courts in foreign countries. It was passed in consequence of the decision of the Privy Council in *The S.S. Maori King*²²⁵ which held that His Majesty's Supreme Court for China and Corea at Shanghai did not have jurisdiction to make a decree declaring the steamship *Maori King* to be forfeited for improperly carrying British colours. The British court at Shanghai, consisting of a chief justice and an assistant judge appointed by the King under the Royal Sign Manual, formed part of the 19th century system of consular courts in foreign countries described by Sir Henry Jenkyns.²²⁶ The system was founded on treaties with the British Crown made by the Sultan of Turkey with respect to the whole of the Ottoman dominions, including Egypt, Tunis, Tripoli and Cyprus, and was later extended to Morocco, Muscat, Persia, China, Korea, Japan, Siam, Madagascar and Zanzibar. The Act is a dead letter, there being no courts to which it could now apply.

The Pilotage Act 1913 and the Pilotage Authorities (Limitation of Liability) Act 1936 were repealed for the United Kingdom by the Pilotage Act 1983 but neither the repeal nor the consolidating Pilotage Act 1983 extends to the Isle of Man.²²⁷ Pilotage in the island is governed in practice by an Act of Tynwald, the Harbours (Isle of Man) Act 1961. No reliance is placed on the Acts of 1913 and 1936 and no pilotage districts or pilotage authorities have been established under their provisions for the Isle of Man. The Acts accordingly fulfil no useful purpose in their application to the island. The Home Office and the insular authorities agree to the proposed repeals.

The Clyde Lighthouses Consolidation Order Confirmation Act 1940 and the Clyde Lighthouses Order Confirmation Act 1957 confirmed provisional

²²³ Beam trawling involves the use of a net which has a beam. An otter trawl has, instead of a beam, two "otter" boards so fixed that the motion through the water keeps them apart, thus stretching a line across the net.

²²⁴ Council Regulation (EEC) No. 171/83.

²²⁵ [1909] A.C. 562.

²²⁶ *British Rule and Jurisdiction beyond the Seas* (1902) pp. 148-164.

²²⁷ Pilotage Act 1983, s.70(3).

orders which were revoked by the order scheduled to the Clyde Port Authority Order Confirmation Act 1965.

Section 3 of the Fisheries Act 1955 terminated the power to make further advances under Part I of the Development and Road Improvement Funds Act 1909²²⁸ for the construction or improvement of harbours but saved agreements made before 1955 for the making of an advance under that Act. The saving is spent as respects England and Wales, the last outstanding payment under a pre-1955 agreement having been made to the Ministry of Agriculture, Fisheries and Food in 1977. The saving is not expected to become spent in its application to Scotland until 1995.

The Merchant Shipping (Minicoy Lighthouse) Act 1960 enabled the lighthouse on Minicoy Island, which was built by the Board of Trade in 1885, to be transferred formally to the Government of India. The agreement effecting the transfer was signed on 19 September 1963 and the Act is spent. The island itself became part of the Dominion of India in 1947 but the Minicoy Light remained vested in the United Kingdom because the title to it had not been transferred to the then Government of India in 1935. On 2 April 1956 the management of the lighthouse was, by agreement, taken over by the Government of India on the understanding that the legal transfer of the property, and the related financial issues, would be dealt with in due course.²²⁹ The Department of Transport confirms that payments out of the General Lighthouse Fund required by section 1(3) of the Act have long since been made.

Section 5 of the Bahamas Independence Act 1973 enabled nine lighthouses in the Bahamas then operated by the Department of Trade and Industry to be transferred on 10 July 1973 to the Bahamas Government. It also provided for the payment from the General Lighthouse Fund of certain terminal expenses incurred after that date in respect of the lighthouses. The Department of Transport confirms that these payments have long since been made and the section is spent.

The repeal of section 24(4) of the Merchant Shipping Act 1974 is consequential on the proposed repeal of the Customs Consolidation Act 1853.

The repeals proposed to the Fisheries Act 1981 are consequential on the proposed repeal of the Trawling in Prohibited Areas Prevention Act 1909.

Harbour Order Confirmation Acts

The listed Acts, which confirmed provisional orders relating to Scottish harbours, are obsolete. Research has established that the orders concerned ceased to have effect by virtue of later legislation, namely, the Leith Harbour and Docks Consolidation Order Confirmation Act 1935, the Clyde Navigation Act 1929, the Forth Ports Authority Order Confirmation Act 1969, the

²²⁸ The repeal of Part I of the Development and Road Improvement Funds Act 1909 by the Miscellaneous Financial Provisions Act 1983 does not affect the transitional provisions in s. 3 of the Fisheries Act 1955.

²²⁹ *Hansard* (H.C.) 17 May 1960, Vol. 623, cols. 1137-39.

Clyde Port Authority Order Confirmation Act 1965, the Aberdeen Harbour Order Confirmation Act 1949, the Aberdeen Harbour Order Confirmation Act 1953 and the Forth Harbour Re-organisation Scheme Confirmation (Special Procedure) Act 1967. The repeals are agreed to by the Forth Ports Authority, the Clyde Port Authority and the Aberdeen Harbour Board.

PART XII

SUBORDINATE LEGISLATION PROCEDURE

The purpose of these repeals is to remove needless complexities from the pre-1948 law relating to the publication, laying, validity or proof of subordinate legislation. The Statutory Instruments Act 1946, which came into operation on 1 January 1948, simplified the law as respects Acts passed after that date and there have been other changes and developments in the law and practice concerning subordinate legislation which are not reflected in statutory provisions passed before 1948. The proposals fall into several distinct groups which are separately discussed below although the statutory provisions concerned commonly occur in combination.

Group 1—Publication of Subordinate Legislation

The Rules Publication Act 1893 brought in general provisions for the numbering, printing, publication and sale by the Queen's Printer of statutory rules and these requirements were expanded by the Statutory Instruments Act 1946 and the regulations made under that Act. Detailed provision is now made for these matters, including the extent to which particular statutory instruments are exempt from being printed and sold. A Statutory Instrument Issue List is required to be published from time to time and there is a statutory duty to prepare and publish annual editions of statutory instruments, together with tables of effects and an index.

In consequence of the statutory instruments system now in operation, many of the earlier statutory provisions relating to the publication of Orders in Council and other instruments made under individual statutes have ceased to serve a useful purpose. In particular, a number of provisions, mostly enacted before 1893, still require Orders in Council and other instruments to be published, after being made, in the *London Gazette* or one of the other official gazettes. These provisions, as modified since 1893,²³⁰ have become merely an unnecessary complication, formality and expense, and are accordingly proposed for repeal.²³¹

The repeals in this group also include—

- (a) section 740 of the Merchant Shipping Act 1894 (publication of documents), research having established that it is not needed for any extant provisions of the Merchant Shipping Acts 1894 to 1983;
- (b) unnecessary provisions requiring Orders in Council made under the Colonial Probates Act 1892 or the Foreign Marriage Act 1892 to be published under the authority of H.M. Stationery Office;
- (c) obsolete provisions²³² excluding instruments from section 1 of the Rules Publication Act 1893, which was repealed on 1 January 1948;

²³⁰ The Statutory Instruments Act 1946, s.12(2), re-enacting the Rules Publication Act 1893, s.3(3), enables the provisions to be complied with by publishing in the relevant Gazette a notice stating that the instrument has been made and specifying the place where copies of it may be purchased.

²³¹ 1844 c.69, 1857 c.81, 1864 c.24, 1864 c.25, 1865 c.89, 1865 c.111, 1865 c.125, 1875 c.17, 1875 c.18, 1879 c.58, 1894 c.2, 1894 c.28, 1894 c.60, ss.369, 738, 1895 c.21, 1919 c.51.

²³² 1923 c.8, 1926 c.59, 1939 c.69, 1945 c.17, 1946 c.58, 1946 c.59, 1947 c.14, 1947 c.54.

- (d) other unnecessary provisions²³³ relating to the printing, publication or sale of subordinate legislation.

Group 2—Laying Periods

Many statutes passed before 1948 provided for an instrument containing subordinate legislation to be laid before Parliament within a specified period, but did not subject the instrument to any further parliamentary control. The time limits laid down vary from one statute to another but are now obsolete because of the general rule which took effect in 1948²³⁴ that an instrument must normally be laid before it comes into operation. The repeals in this group would remove obsolete provisions of this type.²³⁵

The repeals in this group would also remove a number of unnecessary provisions²³⁶ for reckoning the prescribed laying period in relation to instruments which are subject to annulment by resolution of either or both Houses of Parliament. These provisions have been superseded by sections 5(2) and 7 of the Statutory Instruments Act 1946.

Group 3—Validity of Subordinate Legislation

During the 19th century it was the legislative practice, when a statute conferred power to make subordinate legislation, to add a provision saying that the order or other instrument made under the power was to have effect “as if enacted in this Act”. The practice originated because until 1850 the prevailing view was that every section of an Act had to be preceded by the formula “Be it enacted”; and even after Lord Brougham’s Act²³⁷ had disposed of that requirement, the idea persisted that there must be some uncertainty, in the absence of a direct enactment, as to the legal position of such things as schedules and subordinate legislation.²³⁸ These provisions therefore continued unnecessarily to appear in Acts of Parliament until in 1894 they received a new lease of life from the decision in *Lockwood’s case*.²³⁹ An *obiter dictum* of Lord Herschell in that case was to the effect that the expression “as if enacted in this Act” would operate to displace the doctrine of *ultra vires*. This view, however, ceased to be tenable in consequence of the later decision of the House of Lords in *Yaffe’s case*.²⁴⁰ The Donoughmore Committee, which reported in 1932, accepted that this decision effectively ended the discussion of the question:²⁴¹

“ . . . the House laid it down, that while the provision makes the order speak as if it were contained in the Act, the Act in which it is contained

²³³ 1865 c.125, ss.8, 9.

²³⁴ Statutory Instruments Act 1946, s.4. There is an exceptional procedure under the section for dealing with cases where it is essential that an instrument should come into operation before being laid.

²³⁵ 1864 c.24, 1864 c.25, 1865 c.89, 1865 c.111, 1865 c.125, 1868 c.101, 1870 c.78, 1873 c.88, 1875 c.17, 1875 c.18, 1875 c.89, 1876 c.18, 1877 c.2, 1877 c.41, 1884 c.31, 1887 c.53, 1889 c.53, 1890 c.37, 1892 c.6, 1892 c.23, 1894 c.60, s.738, 1913 c.17.

²³⁶ 1923 c.8, 1938 c.22, 1945 c.17, 1946 c.58, 1946 c.59, 1947 c.14, 1947 c.54.

²³⁷ 13 & 14 Vict. c.21, s.2.

²³⁸ Sir William Graham-Harrison, “Notes on the Delegation by Parliament of Legislative Powers” (1931) p. 67.

²³⁹ *Institute of Patent Agents v. Lockwood* [1894] A.C. 347.

²⁴⁰ *Minister of Health v. The King (on the prosecution of Yaffe)* [1931] A.C. 494.

²⁴¹ *Committee on Ministers’ Powers: Report* (1932) Cmd. 4060, p. 40.

is the Act which empowers the making of the order, and that therefore, if the order as made conflicts with the Act, it will have to give way to the Act. In other words, if in the opinion of the Court the order is inconsistent with the provisions of the Act which authorises it, the order will be bad.

It is, therefore, clear that the validity of any order made under a provision so worded remains legally open to question, and that it is only when what is done falls within the limits of the powers conferred, and conforms to the conditions imposed, that the order acquires the force of law.”

The formula that subordinate legislation is to have effect as if enacted by Parliament is therefore obsolete and unnecessary and it has long ceased to be used in drafting practice. Its retention in pre-1931 legislation²⁴² is confusing and misleading and numerous statutory provisions of this nature are accordingly proposed for repeal.²⁴³

The repeal proposals in this group would also remove several cognate but technically distinguishable statutory provisions, which are obsolete and unnecessary, namely—

- (i) Provisions to the effect that subordinate legislation is to be binding on all persons (Dockyard Ports Regulation Act 1865, Public Offices Fees Act 1879, Colonial Prisoners Removal Act 1884).
- (ii) Provisions that regulations purporting to have been made under an Act are deemed to have been duly made or deemed to be within the powers of the Act (Public Works Loans Act 1875, Treasury Bills Act 1877, Foreign Marriage Act 1892).
- (iii) Provisions to the effect that ministerial confirmation of an order, etc. is to be conclusive evidence that the order has been duly made, etc. or that an order is not to be questioned in legal proceedings. Under the modern law,²⁴⁴ ouster clauses of this nature are not effective to prevent the courts from intervening in case of excess of jurisdiction (Dockyard Ports Regulation Act 1865, Explosives Act 1875).

Group 4—Proof of Subordinate Legislation

Several 19th century statutes included a provision requiring subordinate legislation under the statute to be judicially noticed without being specially pleaded. Provision to this effect is still made by the Dockyard Ports Regulation Act 1865, the Tramways Act 1870, the Crown Office Act 1877, the Escheat (Procedure) Act 1887 and the Checkweighing in Various Industries Act 1919 (applying the Factory and Workshop Act 1901).

²⁴² The provisions were reproduced in some later consolidations, e.g. Trade Marks Act 1938, s.40(2), but it is not the practice to reproduce them in modern consolidations.

²⁴³ 1855 c.68, 1865 c.125, 1870 c.78, 1875 c.17, 1875 c.89, 1877 c.2, 1877 c.41, 1884 c.31, 1884 c.55, 1886 c.53, 1887 c.53, 1888 c.25, 1890 c.27, 1890 c.37, 1892 c.23, 1894 c.2, 1894 c.60 (ss.417, 479, 489, 738), 1896 c.35, 1896 c.48, 1902 c.41, 1903 c.30, 1908 c.36, 1911 c.28, 1914 c.48, 1915 c.48, 1920 c.55, 1921 c.49, 1925 c.21, 1938 c.22.

²⁴⁴ *Anisimic Ltd. v. Foreign Compensation Commission* [1969] 2 A.C. 147; Wade, *Administrative Law* (5th ed. 1982) p. 604. The Donoughmore Committee regarded conclusive evidence clauses as objectionable and doubted whether they were ever justified in relation to subordinate legislation.

Provision to this effect is not made nowadays. Modern legislation relies on provisions of general application for the proof of subordinate legislation²⁴⁵ and on the practice of the courts of not insisting on the formal proof of well-known instruments.²⁴⁶ There may be a case for extending section 3 of the Interpretation Act 1978 (judicial notice to be taken of Acts of Parliament)²⁴⁷ to general statutory instruments as a matter of law reform. But in the absence of general provision to this effect, we are satisfied that the existing exceptional provisions serve no useful purpose and merely add an unnecessary element of complexity to the law. We therefore recommend their repeal.

Group 5—Other Matters

In section 162 of the Titles to Land Consolidation (Scotland) Act 1868, the proviso includes a saving for acts of sederunt, rules of court and tables of fees in force in 1868. The saving has long been obsolete and unnecessary.

In section 3 of the Crown Office Act 1877, provisos (1) and (2) respectively encouraged the citation of Acts or Bills by their short titles and the use of schedules for the purpose of listing Acts, Bills, names, etc. These practices were relatively novel in 1877. The propositions are now so trite and universally observed that the provisos have lost their point.

Section 2 of the Public Offices Fees Act 1879 provides that an order made under that Act shall come into operation on the date of its publication or any later date mentioned in the order. This provision too has become unnecessary in the light of modern practice.

Section 9 of the Statutory Instruments Act 1946 conferred reserve powers to modify the application of certain provisions of that Act to pre-1948 enactments giving powers to make subordinate legislation. Experience has shown that section 9(2), which is proposed for repeal, is not of practical utility. The powers under it have never been needed or used.

²⁴⁵ See e.g. Documentary Evidence Act 1868 (Orders in Council and subordinate legislation made by Ministers); Local Government Act 1972, s.238 (byelaws).

²⁴⁶ See *Palastanga v. Solman* (1962) 106 Sol. Jo. 176 (D.C.) cited in Halsbury's Laws of England (4th ed. 1983) Vol. 44, para. 992.

²⁴⁷ Section 3 of the Interpretation Act 1978 consolidated s.9 of the Interpretation Act 1889.

PART XIII

MISCELLANEOUS

The Worsted Act 1776 constituted a Worsted Committee, representing manufacturers of combing wool, worsted yarn and goods made from worsted in Yorkshire, Lancashire and Cheshire, with the objective of combating contemporary frauds and abuses by out-workers in the woollen industry in these counties. It formed part of a pattern of local legislation of a similar nature²⁴⁸ enacted during the industrial revolution. The Act contained detailed provisions as to the proper manner of reeling worsted yarn, for the searching of premises and for the punishment of out-workers producing short-reeled yarn or bribing the inspectors appointed by the Committee. The Act also provided for the enforcement of the 18th century Frauds by Workmen Acts, which enabled convictions for embezzlement to be obtained following the discovery of wool, etc. which could not be satisfactorily accounted for. Until 1853, when the duties on soap were abolished,²⁴⁹ the activities of the Committee were financed by a drawback on those duties. After 1870 the expenses of enforcing the Act were met from a subscription fund started then but which no longer exists.

The Act of 1776 became progressively obsolete as the out-worker system died out and yarn came to be sold by weight instead of length. The last effective purpose of the Act disappeared in 1968 when the Frauds by Workmen Acts 1748 and 1777, together with the provisions relating to them in the Worsted Act 1776, were repealed by the Theft Act 1968. The Act has been a dead letter since then and consultation has shown that for all practical purposes the Worsted Committee has ceased to exist.

The Statute Law Revision Act 1870 effected the repeals consequential on the enactment of the National Debt Act 1870 and the Forgery Act 1870, including numerous enactments relating to the national debt which were obsolete in 1870. The Act is spent and the general savings²⁵⁰ which accompanied it are unnecessary.

The repeal proposed to section 28 of the Brine Pumping (Compensation for Subsidence) Act 1891 is of an obsolete and unnecessary reference to section 33(2) of the Summary Jurisdiction Act 1879, which was repealed by the Magistrates' Courts Act 1952.

Section 5 of the Light Railways Act 1896 survives only to the extent that it is applied by section 70(1) of the Railways Act 1921 and is in force only in

²⁴⁸ See e.g. 24 Geo.3. c.3 (1784) (county of Suffolk); 25 Geo.3. c.40 (1785) (counties of Bedford, Huntingdon, Northampton, Leicester, Rutland, Lincoln and Isle of Ely); 31 Geo.3. c.56 (1790) (county of Norfolk and city and county of Norwich). These Acts were obsolete a century ago and were repealed by the Master and Servant Act 1889.

²⁴⁹ 16 & 17 Vict. c.39.

²⁵⁰ Savings of this nature routinely accompanied all Statute Law Revision Acts passed until 1953. They were an early version of the concise general savings provided by the Interpretation Act 1889, s.38. See now Interpretation Act 1978, s.16.

Scotland.²⁵¹ As originally enacted, the 1896 legislation conferred a general power to make advances in respect of light railways, but this power was terminated in 1921 subject to a complicated saving. The effect of the saving was that, in cases where an advance for the purposes of a light railway was made under section 17 of the Ministry of Transport Act 1919, an order authorising a light railway could provide that land used for the purposes of the railway should not be assessed to any local rate at a higher value than that at which the land occupied by the railway would have been assessed if it had remained in the condition it was in immediately before it was acquired for the purposes of a railway. The Scottish Development Department agree that these provisions are no longer of any practical utility. No advances within the meaning of the legislation have been made for at least 40 years and such advances would not now be made. The final repeal of section 70 of the Railways Act 1921 is consequential.

The repeals proposed to section 33 of the Universities and College Estates Act 1925 are consequential on the repeal of the Augmentation of Benefices Act 1831 by the Statute Law (Repeals) Act 1971.

In the Children and Young Persons Act 1933, the definition of the term "Metropolitan Police Court area" has been superseded by later legislation. The Administration of Justice Act 1964²⁵² provides that a reference in any earlier enactment to the Metropolitan Police Court area is to be construed as a reference to the inner London area.

The Air Navigation Act 1936 was consolidated, except for certain transitional provisions, by the Civil Aviation Act 1949. The residual provisions are section 24(2) (construction of references to the President of the Air Council, etc.) which has been superseded by the Defence (Transfer of Functions) Act 1964, section 26(2), (3) and (4) (property vested in a Secretary of State for Air), which is agreed by the Treasury Solicitor to be unnecessary, and section 35(1) (short title).

In the Public Health (Drainage of Trade Premises) Act 1937, the definition of a joint sewerage authority is obsolete, there being no subsisting references to such an authority in the Act.

In the Methylated Spirits (Sale by Retail) (Scotland) Act 1937, the repeals proposed are consequential on the repeal of section 76 of the Alcoholic Liquor Duties Act 1979 (prohibition of sale of methylated spirits by retail without an excise licence) by the Finance Act 1981.

In the Young Persons (Employment) Act 1938, section 7(1)(i) (employment of young persons at premises in which intoxicating liquor is sold) was added by the Young Persons (Employment) Act 1964. The proposed repeal is of an obsolete reference to licences under section 151 of the Customs and Excise Act 1952, which was repealed by the Finance Act 1967. In section 7(3)(a) of

²⁵¹ Section 70(1) of the Railways Act 1921 was repealed for England and Wales by the Local Government Act 1966. Section 70(2) was repealed by the Statute Law (Repeals) Act 1978.

²⁵² Schedule 3, para. 4.

the Young Persons (Employment) Act 1938, the proposed repeal is of an obsolete reference to section 8 of that Act (option to apply this Act or the Shops Acts) which was repealed by the Shops Act 1950.

In the Civil Defence Act 1939, the repeal to section 83(3) (grants under Part VII) is consequential on the repeal of sections 50 to 55 by the Civil Defence (Hospital Service) Regulations 1949 (S.I. 1949 No. 2148) and the Civil Defence (Hospital Service) (Scotland) Regulations 1949 (S.I. 1949 No. 2141).

The repeals proposed to the Police (Overseas Service) Act 1945 are of spent transitional provisions which enabled a former constable who had served in H.M. forces before 31 December 1946 to undertake a period of overseas service²⁵³ before resuming service as a constable.

In the Water Act 1945, section 41(9) is an obsolete saving for Defence Regulations then in force under the Emergency Powers (Defence) Acts 1939 and 1940. In section 59(1), the definition of "clerk" has been superseded by the provisions of paragraph 4 of Schedule 29 to the Local Government Act 1972 (construction of references to a specified officer of a local authority) and the definition of "county district" is obsolete.

In section 53 of the Requisitioned Land and War Works Act 1945, subsections (1) and (2) made permanent provision for the acquisition of land under the 19th century Defence Acts with a view to giving it in exchange for other land being purchased or in lieu of such land. Subsection (3), which is proposed for repeal, was a temporary provision relating to acquisitions of land for these purposes under Part II of the 1945 Act. The powers conferred by Part II ceased to be exercisable after 31 December 1960²⁵⁴ and Part II was repealed by the Statute Law (Repeals) Act 1971. The Treasury Solicitor agrees that section 53(3) is obsolete and that its repeal is consequential on the repeal of Part II.

In the Coal Industry Nationalisation Act 1946, the proposed repeal of section 50 is consequential on the repeal of the Workmen's Compensation (Coal Mines) Act 1934 by the National Insurance (Industrial Injuries) Act 1946. The repeal proposed to section 64(2) is consequential on the repeal of the Courts (Emergency Powers) Act 1943 by the Statute Law Revision Act 1950.

In section 36(10) of the Fire Services Act 1947 (borrowing powers of fire authorities in Scotland), the repeal is of an obsolete reference to the provisions of Defence Regulations having effect by virtue of the Supplies and Services (Transitional Powers) Act 1945. The relevant Defence Regulations have long since ceased to have effect.

²⁵³ The original purpose of the Act was to facilitate the employment of British police officers in the Control Commissions in Germany and Austria. *Hansard* (H.C.) 9 November 1945, Vol. 415, col. 1620.

²⁵⁴ Requisitioned Land and War Works Act 1945, ss.14, 59(1); Land Powers (Defence) Act 1958, s.1(2).

The Veterinary Surgeons Act 1948 was repealed, except for certain provisions, by the Veterinary Surgeons Act 1966, which made fresh provision for the management of the veterinary profession. The residual provisions of section 23 and Schedule 2 are now meaningless. These provisions dealt with the exemption of veterinary surgeons from restrictions on the buying and selling of poisons, etc. under earlier legislation which has since been repealed and replaced.

The repeals to the Civil Defence Act 1948 are consequential on the repeal of the Air-Raid Precautions Act 1937 and the Civil Defence (Suspension of Powers) Act 1945 by the Statute Law (Repeals) Act 1976.

Section 1 of the Public Libraries (Scotland) Act 1955 removed limitations imposed by earlier enactments²⁵⁵ on the expenditure and borrowing by county and town councils for public libraries. It also repealed the previous enactments. The section is spent.

The Water Act 1958, which conferred powers to meet deficiencies in the supply of water due to exceptional shortages of rain, was repealed for Scotland by the Water (Scotland) Act 1980. In its application to England and Wales it was superseded by the Drought Act 1976, but subject to transitional and saving provisions which have now worked themselves out. Section 3 of the Water Act 1958 (revocation and saving of Defence Regulations) still extends to Northern Ireland but is spent or obsolete there.

Paragraph 3 of Schedule 6 to the Factories Act 1961 contains transitional provisions which became obsolete on 27 June 1964.²⁵⁶

In the Pipe-lines Act 1962, the proviso to section 67(5) (construction of references to the Lands Tribunal for Scotland) became obsolete on 1 March 1971 when sections 1 to 4 of the Lands Tribunal Act 1949 came into force in Scotland.²⁵⁷

In the Children and Young Persons Act 1963, paragraph 24 of Schedule 3 amended the definition of "Metropolitan Police Court area" in section 107(1) of the Children and Young Persons Act 1933. Its repeal is consequential on the repeal proposed to the 1933 Act.

In the Water Resources Act 1963, section 93(3) (defrayment of expenses) was repealed for England and Wales by the Water Act 1973. It is equally obsolete as respects Scotland to which it applies by virtue of section 137(2)(a). The repeals to section 134 (procedure on statutory instruments) are consequential on the abolition of river authorities by section 33 of the Water Act 1973.

The Control of Office and Industrial Development Act 1965 was repealed for Scotland by the Town and Country Planning (Scotland) Act 1972. In its

²⁵⁵ Local Government (Scotland) Act 1947, s.191; Public Libraries Consolidation (Scotland) Act 1887, s.14.

²⁵⁶ Factories Act 1961 (Appointed Day) Order 1964 (S.I. 1964 No. 782).

²⁵⁷ Lands Tribunal Act 1949 (Appointed Day) (Scotland) Order 1971 (S.I. 1971 No. 215).

application to England and Wales, the main provisions of the Act were consolidated by the Town and Country Planning Act 1971 and the residue consists only of unnecessary ancillary provisions (section 26) and a now obsolete provision (section 21) amending the Local Employment Act 1960. That Act was repealed in 1978.

In the Countryside (Scotland) Act 1967 the repeals proposed to section 60 (extension of powers of Secretary of State as respects certain land held by him) are of obsolete references to land held by the Secretary of State under or for the purposes of the Agriculture (Miscellaneous Provisions) Acts 1941 and 1943.

The repeals to the Gaming Act 1968 are of provisions relating to gaming on premises licensed for the retail sale of liquor which have become obsolete in consequence of the passing of the Licensing (Abolition of State Management) Act 1971.

In the Riding Establishments Act 1970, the proviso to section 4 is an obsolete saving limiting the amount of a fine imposed for an offence under section 4(1) of the Riding Establishments Act 1964 committed before the 1970 Act came into operation on 1 January 1971. The offence is triable summarily only and the time for instituting summary proceedings for a pre-1971 offence has long since expired.

Section 27(2) of the Fire Precautions Act 1971 (construction of reference to the Crown Court) became obsolete when the Courts Act 1971 was brought into operation on 1 January 1972.²⁵⁸

The Licensing (Abolition of State Management) Act 1971 was repealed for Scotland by the Licensing (Scotland) Act 1976. In its application to England and Wales, the Act abolished the restrictions imposed by section 103 of the Licensing Act 1964 on the sale and supply, otherwise than by the Secretary of State, of intoxicating liquor in the Carlyle district and provided for the disposal of property held by the Secretary of State for the purposes of Part V of the Licensing Act 1964. The property concerned has long been disposed of and in 1979²⁵⁹ the relevant provisions of the Licensing Act 1964 were repealed. The Act is spent in its operation.

Sections 35(3), (4) and (5) of the Immigration Act 1971 contain interim provisions which the Home Office and the Scottish Home and Health Department agree are now obsolete or spent.

In the Town and Country Planning (Scotland) Act 1972, the repeal of section 120(2) is consequential on the repeal of section 168 of the Housing (Scotland) Act 1966 by the Land Compensation Act 1973. The other repeal is consequential on the dissolution by section 24 of the National Health Service (Scotland) Act 1972 of executive councils and joint committees

²⁵⁸ Courts Act 1971 (Commencement) Order 1971 (S.I. 1971 No. 1151).

²⁵⁹ Licensing (Repeal of State Management Provisions) Order 1979 (S.I. 1979 No. 977).

constituted under section 32 of the National Health Service (Scotland) Act 1947.

The proposed repeal of section 60(3) of the Health and Safety at Work etc. Act 1974 is consequential on the repeal of section 7 of the Employment and Training Act 1973 by the Employment Protection Act 1975.

The repeals proposed to the Drought Act 1976 are consequential on the proposed repeal of the Water Act 1958.

The Fire Service College Board (Abolition) Act 1982 repealed section 23(2) of the Fire Services Act 1947 and abolished the Fire Service College Board. The Act is spent.

In the Iron and Steel Act 1982, the repeal proposed to Schedule 6 (consequential and transitional provisions) is consequential on the repeal of the Building Control Act 1966 by the Housing and Building Control Act 1984.

The repeals proposed to the Mental Health (Amendment) Act 1982, the Representation of the People Act 1983 and the Mental Health Act 1983 are consequential on the repeal of section 62 of the Mental Health (Amendment) Act 1982 (electoral registration of patients) by the Representation of the People Act 1983. The proposed repeals would correct drafting mistakes which occurred when the Bills for two consolidation Acts (the Representation of the People Act 1983 and the Mental Health Act 1983) were proceeding through Parliament at the same time.

Church Assembly Measure

The final repeal of the Diocesan Education Committees Measure 1943 is consequential on the repeal of the substantive provisions of that Measure by the Diocesan Education Committees Measure 1955 and the Statute Law (Repeals) Act 1977.

SCHEDULE 2

CONSEQUENTIAL PROVISIONS

Sheriff Courts Consignations (Scotland) Act 1893

The amendment is consequential on the proposed repeal (Part I of Schedule 1) of the spent first limb of section 7 of the Sheriff Courts Consignations (Scotland) Act 1893 (lodging of unclaimed consignations before 1 April 1895).

Trade Marks Act 1938

The amendments are consequential on the proposed repeal (Part VI of Schedule 1) of sections 82, 88, 91 and 91A of the Patents and Designs Act 1907, as amended in 1914, 1928, 1938 and 1949. These provisions, so far as still in force, now relate only to trade marks and the proposed amendments would restate their effect in modern form as part of the Trade Marks Act 1938. The amendments are extended to the Isle of Man by clause 2 of the draft Bill, since the existing law extends to the island.

The amendments omit obsolete references to patents and designs and out of date references to former dependent territories.

Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939

Consequentially on the proposed repeal (Part VI of Schedule 1) of the Patents and Designs Act 1946, the provision would continue the permanent minor amendment of section 6(1) of the 1939 Act made by section 6(2) of the Patents and Designs Act 1946. The provision is extended to the Isle of Man by clause 2 of the draft Bill.

Representation of the People Act 1948

The amendment in paragraph 5(1) is consequential on the proposed repeal (Part X of Schedule 1) of Schedule 1 to the Representation of the People Act 1948 (parliamentary constituencies). This Schedule has been superseded by Orders in Council made in 1982 and 1983 under the House of Commons (Redistribution of Seats) Acts 1949 to 1979, which now describe all parliamentary constituencies in the United Kingdom. The amendment reflects this fact.

The reference in the amendment to county and burgh constituencies in Scotland incorporates the modification of section 1(1) of the 1948 Act contained in section 78(2) of that Act (application to Scotland).

As originally enacted, section 1(1) of the 1948 Act ended with the words “and no other constituencies”. The purpose of this provision was to abolish all constituencies existing before 1948, including the university constituencies. The words are spent, having achieved their purpose, and are accordingly omitted.

Paragraph 5(2) contains a consequential transitional provision with respect

to by-elections to the Northern Ireland Assembly. Although section 1(1) of the 1948 Act, and Schedule 1, are expressed to refer only to parliamentary elections, the provisions continue to have effect, as explained below, for the purposes of any by-election to the Northern Ireland Assembly held before the next general election to that Assembly.

Members of the Northern Ireland Assembly are returned for the parliamentary constituencies in Northern Ireland in existence at the time of the election²⁶⁰ the number of members for each constituency being prescribed by separate statutory provisions.²⁶¹ The present Assembly is due to be dissolved on 20 October 1986.²⁶² A general election to the Assembly following that dissolution would be on the basis of the new constituencies. But the Parliamentary Constituencies (Northern Ireland) Order 1982 (S.I. 1982 No. 1838), which established new constituencies both for parliamentary elections and for elections to the Assembly, expressly provided in Article 1(2) that the coming into operation of the Order should not affect—

- “(c) any election to the Northern Ireland Assembly before the next general election to that Assembly; or
- (d) the constitution of the Northern Ireland Assembly at the coming into operation of this Order”.

Paragraph 5(2) would accordingly ensure that the existing law with respect to by-elections to the Northern Ireland Assembly remains unchanged.

Trade Marks (Amendment) Act 1984

The Trade Marks (Amendment) Act 1984 provides for the registration of service marks and applies the majority of the provisions of the Trade Marks Act 1938 to them. It does not apply the provisions of sections 91 and 91A of the Patents and Designs Act 1907 (international arrangements). The amendment is consequential on the re-enactment of these provisions as sections 39A and 39B of the Trade Marks Act 1938 and would preserve the existing law with respect to the registration of service marks. The question of whether Convention priority should be allowed in relation to the registration of service marks is a substantive matter of policy.

The Trade Marks (Amendment) Act 1984 extends to the Isle of Man and the amendment would similarly extend to the island.

²⁶⁰ Northern Ireland Assembly Act 1973, s.1(2), as extended by the Northern Ireland Constitution Act 1973, s.28(1).

²⁶¹ Northern Ireland Assembly Act 1973, Schedule, as amended by the Northern Ireland Act 1982, Schedule 2, para. 11.

²⁶² Northern Ireland Assembly (Day of Election) Order 1982 (S.I. 1982 No. 1078).

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