



**The Law Commission  
and  
The Scottish Law Commission**

(LAW COM. No. 211)  
(SCOT. LAW COM. No. 140)

**STATUTE LAW REVISION: FOURTEENTH REPORT**

**DRAFT STATUTE LAW (REPEALS) BILL**

*Presented to Parliament by the Lord High Chancellor and the Lord Advocate  
by Command of Her Majesty  
April 1993*

LONDON: HMSO





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

The Law Commissioners are-

The Honourable Mr. Justice Brooke, *Chairman*

Mr Trevor M. Aldridge, Q.C.

Mr Jack Beatson

Mr Richard Buxton, Q.C.

Professor Brenda Hoggett, Q.C.

The Secretary of the Law Commission is Mr Michael Collon. Its offices are at Conquest House, 37-38 John Street, Theobalds Road, London WC1N 2BQ.

The Scottish Law Commissioners are-

The Honourable Lord Davidson, *Chairman*

Dr E.M. Clive

Professor P.N. Love, C.B.E.

Sheriff I.D. Macphail, Q.C.

Mr W.A. Nimmo Smith, Q.C.

The Secretary of the Scottish Law Commission is Mr K.F. Barclay. Its offices are at 140 Causewayside, Edinburgh EH9 1PR.



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

**STATUTE LAW REVISION: FOURTEENTH REPORT**

**Draft Statute Law (Repeals) Bill**

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

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

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

The report recommends the repeal of enactments which have been identified, after detailed research and consultation, as being spent, obsolete, unnecessary or otherwise not now of practical utility. The proposals have been widely canvassed with the government departments and other bodies concerned.

In this report the Law Commission also makes a recommendation for the reinstatement of a statute of George III which was repealed by the Statute Law (Repeals) Act 1978. Information recently made available to the Law Commission shows that a power to make rules and orders under that statute has been relied upon, both before and after 1978, for the purpose of regulating the use of a common in the London Borough of Barnet. The recommendation is discussed in Appendix 3 and would be implemented by clause 2 of the draft Bill.

HENRY BROOKE, *Chairman, Law Commission*  
TREVOR M. ALDRIDGE  
JACK BEATSON  
RICHARD BUXTON  
BRENDA HOGGETT

MICHAEL COLLON, *Secretary*

C.K. DAVIDSON, *Chairman, Scottish Law Commission*  
E.M. CLIVE  
PHILIP N. LOVE  
IAIN MACPHAIL  
W.A. NIMMO SMITH

KENNETH F. BARCLAY, *Secretary*

6 April 1993

**APPENDIX 1**  
**Statute Law (Repeals) Bill**

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**ARRANGEMENT OF CLAUSES**

Clause

1. Repeals and associated provisions.
2. 17 Geo.3 c.17 deemed not to have been repealed by 1978 c.45.
3. Extent.
4. Short title and commencement.

**SCHEDULES:**

- Schedule 1—Repeals.
- Part I—Administration of Justice.
  - Part II—Agriculture, Fisheries and Food.
  - Part III—Allotment Law.
  - Part IV—Commons and Open Spaces.
  - Part V—Companies.
  - Part VI—Ecclesiastical Law.
  - Part VII—Explosives.
  - Part VIII—Family Law.
  - Part IX—Finance.
  - Part X—Local Government.
  - Part XI—Parliamentary and Constitutional Provisions.
  - Part XII—Pharmacy.
  - Part XIII—Property Law.
  - Part XIV—Statutory Interpretation Provisions.
  - Part XV—Transport.
  - Part XVI—Miscellaneous.
- Schedule 2—Consequential and Connected Provisions.
- Part I—Amendments Relating to Summary Jurisdiction.
  - Part II—Other Provisions.



DRAFT  
OF A  
**B I L L**

INTITULED

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; and to correct a mistake in the Statute Law (Repeals) Act 1978. A.D. 1993.

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

5 1.—(1) The enactments mentioned in Schedule 1 to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals and associated provisions.  
(2) Schedule 2 to this Act shall have effect.

10 2.—(1) The Act of the 17th year of King George the third entitled “An Act for dividing the Chase of Enfield in the County of Middlesex; and for other Purposes therein mentioned” shall be deemed not to have been repealed by Part XIV of Schedule 1 to the Statute Law (Repeals) Act 1978. 17 Geo.3 c.17 deemed not to have been repealed by 1978 c.45.

(2) Nothing in subsection (1) shall be construed—  
15 (a) as affirming the legal effect of any provision of the Act which was not of legal effect immediately before the repeal, or of anything done or purportedly done under the Act, or  
(b) as imposing any liability in respect of anything done between the date of the repeal and the commencement of this section.

20 3.—(1) This Act extends to England and Wales, Scotland and Northern Ireland. Extent.

(2) Any repeal by this Act of an enactment which extends to the Isle of Man also extends there; and 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 of the Channel Islands or any colony. 5

(3) Her Majesty may by Order in Council provide that the amendment made by paragraph 3 of Schedule 2 to this Act shall on a date specified in the Order extend to the Isle of Man, any of the Channel Islands or any colony subject to such modifications as may be so specified.

(4) Except as mentioned in subsection (2) or (3) above, this Act does not repeal or amend any enactment so far as the enactment forms part of the law of a country outside the United Kingdom. 10

Short title and commencement.

4.—(1) This Act may be cited as the Statute Law (Repeals) Act 1993.

(2) The repeal by this Act of—

1939 c.117

(a) paragraph 5 of Schedule 2 to the National Loans Act 1939, 15

1946 c.27

(b) paragraph 10 of Schedule 1 to the Bank of England Act 1946, and

1946 c.59

(c) section 33(8) of the Coal Industry Nationalisation Act 1946,

shall have effect, so far as relating to stock registered in the National Savings Stock Register, on the coming into force of the first regulations made by virtue of section 3(1) (bb) of the National Debt Act 1972. 20

1972 c.65

1978 c.11

(3) The repeal by this Act of the Shipbuilding (Redundancy Payments) Act 1978 and section 1 of the Shipbuilding Act 1985 shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.

1985 c.14

## SCHEDULES

## SCHEDULE 1

## REPEALS

## PART I

5

## ADMINISTRATION OF JUSTICE

Chapter or Number	Short title	Extent of repeal
<i>Group 1 - General Repeals</i>		
10	20 Geo. 2 c.43. Heritable Jurisdictions (Scotland) Act 1746.	Sections 1, 2, 24, 26 and 27.
	12 Geo. 3 c.24. Dockyards, etc. Protection Act 1772.	The whole Act as it applies to the Isle of Man.
15	32 Geo. 3 c.56. Servants' Characters Act 1792.	The whole Act as it applies to Scotland. Section 6 as it applies to England and Wales.
	41 Geo. 3 c.79. Public Notaries Act 1801.	Section 16.
20	1 & 2 Will. 4 c.32. Game Act 1831.	Section 42.
	3 & 4 Will. 4 c.41. Judicial Committee Act 1833.	Section 9 from "and every such witness" onwards.
	6 & 7 Vict. c.30. Pound-breach Act 1843.	The whole Act.
25	6 & 7 Vict. c.40. Hosiery Act 1843.	The whole Act.
	10 & 11 Vict. c.16. Commissioners Clauses Act 1847.	Section 11.
	14 & 15 Vict. c.92. Summary Jurisdiction (Ireland) Act 1851.	In section 16, paragraph 3.
30	18 & 19 Vict. c.90. Crown Suits Act 1855.	The whole Act.
	20 & 21 Vict. c.43. Summary Jurisdiction Act 1857.	The whole Act.
	20 & 21 Vict. c.44. Crown Suits (Scotland) Act 1857.	Section 5 from the beginning to "Act; and".
35	27 & 28 Vict. c.25. Naval Prize Act 1864.	Section 50.
	29 & 30 Vict. c.103. Constabulary (Ireland) Act 1866.	The whole Act.
40	31 & 32 Vict. c.37. Documentary Evidence Act 1868.	Section 4 except as it applies to Scotland.
	33 & 34 Vict. c.23. Forfeiture Act 1870.	Section 1.
45		In section 2, the words "Provided nonetheless that". Section 5.

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Chapter or Number	Short title	Extent of repeal
34 & 35 Vict. c.96.	Pedlars Act 1871.	In section 3, the definition of "court of summary jurisdiction". 5 Section 20 from "Provided as follows" onwards.
34 & 35 Vict. c.112.	Prevention of Crimes Act 1871.	Section 17 as it applies to Scotland. 10
37 & 38 Vict. c.88.	Births and Deaths Registration Act 1874.	Section 45.
38 & 39 Vict. c.25.	Public Stores Act 1875.	In section 2, the definition of "court of summary jurisdiction". 15 In section 4, the words "therein described". In section 13, as it applies to Great Britain, the words "or to the having in possession or keeping Her Majesty's stores". 20 Sections 14, 15, 16 and 18. 25 Schedule 1 except the entry in column 2 beginning "The name".
39 & 40 Vict. c.clii (1876).	An Act to alter the Justiciary District of the County of Peebles.	The whole Act. 30
44 & 45 Vict. c.24.	Summary Jurisdiction (Process) Act 1881.	Section 1 from "This Act shall" onwards.
45 & 46 Vict. c.9.	Documentary Evidence Act 1882.	Section 3 except as it applies to Scotland. 35
49 & 50 Vict. c.38.	Riot (Damages) Act 1886.	Section 4(2). In section 9, the definition of "borough". Section 10.
50 & 51 Vict. c.55.	Sheriffs Act 1887.	Section 14. 40 Section 33(4) from "and save" to "office". Sections 39 and 40.
55 & 56 Vict. c.64.	Witnesses (Public Inquiries) Protection Act 1892.	The following provisions as they apply to England and Wales— Section 4 from "to condemn" to "convicted and" and from "provided that" onwards. 45 Section 5 from "together" to "court". 50



Chapter or Number	Short title	Extent of repeal
2 Edw. 7 c.8.	Cremation Act 1902.	Section 8(1) from "Provided that" onwards.
5 7 Edw. 7 c.16.	Evidence (Colonial Statutes) Act 1907.	Section 1(2) except as it applies to Scotland.
9 Edw. 7 c.40.	Police Act 1909.	Section 6 from "and" (where first occurring) onwards.
10 4 & 5 Geo.5 c.58.	Criminal Justice Administration Act 1914.	Section 38.
10 & 11 Geo. 5 c.75.	Official Secrets Act 1920.	Section 11(1)(a). Section 11(3).
15 23 & 24 Geo. 5 c.36.	Administration of Justice (Miscellaneous Provisions) Act 1933.	In section 2(2)(ii), the words "or of being a habitual criminal or a habitual drunkard". Section 2(7) from the beginning to "aforesaid". Section 7(3).
20 8 & 9 Geo. 6 c.16.	Limitation (Enemies and War Prisoners) Act 1945.	In sections 2(1) and 4(a), the reference to section 4 of the Employers' Liability Act 1880. In section 4(a), the reference to section 1 of the Public Authorities Protection Act 1893.
25 10 & 11 Geo. 6 c.44.	Crown Proceedings Act 1947.	Section 24(4). Section 25(5). Section 26(1) from "This subsection" onwards.
30 14 & 15 Geo. 6 c.33.	Fraudulent Mediums Act 1951.	Section 36. Section 51(1). Section 2.
40 14 & 15 Geo. 6 c.39.	Common Informers Act 1951.	In the Schedule, the entry relating to the Public Notaries Act 1843.
45 15 & 16 Geo. 6 & 1 Eliz. 2 c.52.	Prison Act 1952.	Section 54(1). Section 55(3). In section 55(4) the words "the last preceding subsection or". Schedule 3.

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Chapter or Number	Short title	Extent of repeal
1954 c.11. (N.I.)	Common Informers Act (Northern Ireland) 1954.	In the Schedule, the entries relating to the Expiring Laws Act (Ireland) 1761, the Recognisances (Ireland) Act 1817, the Public Notaries (Ireland) Act 1821, and the Clerk of Assize (Ireland) Act 1821. 5
4 & 5 Eliz. 2 c.69.	Sexual Offences Act 1956.	Section 54(1) from "except" onwards. 10 Section 54(2) from "and" onwards. 15
8 & 9 Eliz. 2 c.65. 9 & 10 Eliz. 2 c.39.	Administration of Justice Act 1960. Criminal Justice Act 1961.	In Schedule 3, the entry relating to section 15 of the Children and Young Persons Act 1933. 20 Section 19(1). Schedule 3. Section 41(3) and (4). In section 42(1) the words "Fifth and Sixth". 25 In section 42(2) the words "and Sixth".
10 & 11 Eliz.2 c.30.	Northern Ireland Act 1962.	In Schedule 4, the entry relating to the Prisons (Scotland) Act 1952. 30
1964 c.iv.	City of London (Courts) Act 1964.	In Schedule 2, the entry relating to the Public Stores Act 1875. 35 Sections 2, 3, 22 and 23. The Schedule.

Chapter or Number	Short title	Extent of repeal
1967 c.80. 5 10 15 20 25	Criminal Justice Act 1967.	In section 104(1), the definitions of "explosive", "firearm", "imitation firearm" and "offensive weapon". In Part I of Schedule 3, the entries relating to 1 & 2 Wm.4 c.43, the Pound-breach Act 1843, the Slaughter of Animals (Scotland) Act 1928, the Local Government Act 1933, the Prisons (Scotland) Act 1952 and the Mental Health (Scotland) Act 1960. In Part II of Schedule 3, the entries relating to the Local Government Act 1933 and the Local Government (Scotland) Act 1947. In Schedule 5, paragraphs 1, 2, 15, 16 and 17.
1971 c.23.	Courts Act 1971.	In Schedule 8, paragraphs 35 and 41.
30 1971 c.48.	Criminal Damage Act 1971.	Section 11(2),(3) and (5). Section 12(4) and (5).
1972 c.71. 35	Criminal Justice Act 1972.	In Schedule 5— (a) paragraph (a) of the entry relating to the Criminal Justice Act 1967; (b) the entry relating to the Road Traffic Act 1972.
40 S.I. 1975 No.834.	Act of Adjournal (High Court Sittings and Juries) 1975.	Section 6. In the Schedule, the entries in column IV.
1977 c.45.	Criminal Law Act 1977.	Section 15(2) and (3). Section 17.
45 1980 c.43.	Magistrates' Courts Act 1980.	In Schedule 7, paragraph 1.
1980 c.55. 50	Law Reform (Miscellaneous Provisions) (Scotland) Act 1980.	Section 15. Section 16 from "Subject" to "below". Section 29(2) from "and different dates" onwards.

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Chapter or Number	Short title	Extent of repeal	
1985 c.44.	Sexual Offences Act 1985.	In section 1(1), the words "subject to section 5(6) below."	5
1985 c.65.	Insolvency Act 1985.	Section 5(6). In Schedule 8, paragraph 28 and paragraph 38(2) and (3).	
<i>Group 2 - Piracy</i>			10
11 Will. 3 c.7.	Piracy Act 1698.	The whole Act.	
8 Geo. 1 c.24.	Piracy Act 1721.	The whole Act.	
18 Geo. 2 c.30.	Piracy Act 1744.	The whole Act.	
7 Will. 4 & 1 Vict. c.88.	Piracy Act 1837.	The whole Act except section 2. Section 2 as it applies to Scotland.	15
<i>Group 3 - Mitigation of Penalties</i>			
8 & 9 Vict. c.16.	Companies Clauses Consolidation Act 1845.	Section 126.	20
8 & 9 Vict. c.17.	Companies Clauses Consolidation (Scotland) Act 1845.	Section 129.	
10 & 11 Vict. c.14.	Markets and Fairs Clauses Act 1847.	Section 43 from "provided that" onwards.	25
10 & 11 Vict. c.16.	Commissioners Clauses Act 1847.	Section 98.	
10 & 11 Vict. c.27.	Harbours, Docks and Piers Clauses Act 1847.	Section 84 from "provided always" onwards.	
27 & 28 Vict. c.110.	Limited Penalties Act 1864.	The whole Act.	30
28 & 29 Vict. c.125.	Dockyard Ports Regulation Act 1865.	Section 6 from "but" onwards.	
34 & 35 Vict. c.cxiv.	Wimbledon and Putney Commons Act 1871.	Section 87 from "so as" onwards.	35
38 & 39 Vict. c.86.	Conspiracy and Protection of Property Act 1875.	Section 8.	
<i>Group 4 - Summary Jurisdiction Process</i>			
53 & 54 Vict. c.59.	Public Health Acts Amendment Act 1890.	Section 8.	40
7 Edw. 7 c.53.	Public Health Acts Amendment Act 1907.	Section 8.	
26 Geo. 5 & 1 Edw. 8 c.49.	Public Health Act 1936.	Section 299.	
1980 c.66.	Highways Act 1980.	Section 313.	45
1984 c.22.	Public Health (Control of Disease) Act 1984.	Section 66.	
1984 c.55.	Building Act 1984.	Section 109.	

Chapter or Number	Short title	Extent of repeal
5 1993 c.00.	Clean Air Act 1993.	In section 62(1), the entry relating to section 299 of the Public Health Act 1936.

PART II  
AGRICULTURE, FISHERIES AND FOOD

Chapter	Short title	Extent of repeal
10 11 Geo. 3 c.31.	White Herring Fisheries Act 1771.	Section 13.
10 & 11 Vict. c.14.	Markets and Fairs Clauses Act 1847.	Sections 15 and 20.
15 31 & 32 Vict. c.45.	Sea Fisheries Act 1868.	Section 65.
38 & 39 Vict. c.18.	Seal Fishery Act 1875.	Section 3 except the paragraph beginning "For all purposes".
20 45 & 46 Vict. c.37.	Corn Returns Act 1882.	Section 17.
25 52 & 53 Vict. c.30.	Board of Agriculture Act 1889.	Part II of Schedule 1, except the entries for the Improvement of Land Act 1864, the Lands Improvement Company's Act 1853 and the Somersetshire Drainage Act 1877.
30 2 & 3 Geo. 5 c.10.	Seal Fisheries (North Pacific) Act 1912.	In section 5(1), the words "to any British protectorate" and the proviso. Section 5(2).
35 9 & 10 Geo. 5 c.59.	Land Settlement (Facilities) Act 1919.	Section 6. Section 27. Section 31.
15 & 16 Geo. 5 c.85.	Land Settlement (Facilities) Amendment Act 1925.	The whole Act.
40 16 & 17 Geo. 5 c.52.	Small Holdings and Allotments Act 1926.	In section 2(2), the words "out of Small Holdings and Allotments Account". Section 7(5).
45		Section 9 from "and any sum" to "Public Health Acts".

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Chapter	Short title	Extent of repeal	
2 & 3 Geo. 6 c.43.	Prevention of Damage by Rabbits Act 1939.	Section 6(2).	
3 & 4 Geo. 6 c.14.	Agriculture (Miscellaneous War Provisions) Act 1940.	The whole Act.	5
3 & 4 Geo. 6 c.50.	Agriculture (Miscellaneous War Provisions) (No.2) Act 1940.	The whole Act.	
4 & 5 Geo. 6 c.50.	Agriculture (Miscellaneous Provisions) Act 1941.	The whole Act.	10
9 & 10 Geo. 6 c.73.	Hill Farming Act 1946.	Section 40(4).	
10 & 11 Geo. 6 c.48.	Agriculture Act 1947.	Section 96.	15
14 & 15 Geo. 6 c.30.	Sea Fish Industry Act 1951.	Section 27.	
14 & 15 Geo. 6 c.39.	Common Informers Act 1951.	In the Schedule, the entry relating to the Seal Fishery Act 1875.	20
1954 c.11. (N.I.)	Common Informers Act (Northern Ireland) 1954.	In the Schedule, the entry relating to the Seal Fishery Act 1875.	
2 & 3 Eliz. 2 c.39.	Agriculture (Miscellaneous Provisions) Act 1954.	Section 1. Section 14(2)(d). In section 16, the words "except section two".	25
8 & 9 Eliz.2 c.22.	Horticulture Act 1960.	Part I.	
1964 c.28.	Agriculture and Horticulture Act 1964.	Parts I and II. Section 25. The Schedule.	30
1964 c.72.	Fishery Limits Act 1964.	In Schedule 1, the entry relating to the Whale Fisheries (Scotland) Act 1907.	35
1967 c.22.	Agriculture Act 1967.	Section 3(1)(b) and the preceding "or". Section 3(3)(b) and the preceding "or".	40
1968 c.34.	Agriculture (Miscellaneous Provisions) Act 1968.	Section 26(11)(c). Section 41(1).	
1970 c.40.	Agriculture Act 1970.	Section 31. Section 34(2)(a) and (c). Section 65(1) from "and different days" onwards.	45
1974 c.3.	Slaughterhouses Act 1974.	In Schedule 3, paragraph 6.	50
1976 c.86.	Fishery Limits Act 1976.	In Schedule 2, paragraphs 8 and 13.	

Chapter	Short title	Extent of repeal
1979 c.2.	Customs and Excise Management Act 1979.	In Schedule 4, in the Table in paragraph 12, the entries relating to the Agriculture and Horticulture Act 1964.
5 1979 c.3.	Customs and Excise Duties (General Reliefs) Act 1979.	In Schedule 2, paragraph 1.
10 1985 c.48.	Food and Environment Protection Act 1985.	In section 5(g), the words "or(d)".
1985 c.51.	Local Government Act 1985.	Section 64(1). In section 64(4), the words "to the Minister of Agriculture, Fisheries and Food or" and "as the case may be".
15 1986 c.5.	Agricultural Holdings Act 1986.	In Schedule 14, paragraphs 8 and 35.
20 1988 c.9.	Local Government Act 1988.	Section 36.
1991 c.55.	Agricultural Holdings (Scotland) Act 1991.	In Schedule 11, paragraph 22.

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PART III  
ALLOTMENT LAW

Chapter	Short title	Extent of repeal
2 & 3 Will. 4 c.42.	Allotments Act 1832.	The whole Act.
30 36 & 37 Vict. c.19.	Poor Allotments Management Act 1873.	The whole Act.
45 & 46 Vict. c.80.	Allotments Extension Act 1882.	The whole Act.
35 55 & 56 Vict. c.54.	Allotments (Scotland) Act 1892.	In section 16, the definition of "Public Health (Scotland) Acts."

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Chapter	Short title	Extent of repeal
8 Edw. 7 c.36.	Small Holdings and Allotments Act 1908.	In section 27(5) the words "or fine". Section 35(3). Section 38 from "and section one hundred" onwards. 5 Section 49(3) from "except" onwards. In section 49(4) the words "out of the Small Holdings Account". 10 Section 60. Section 61(3) from "in the enfranchisement" to "allotments, or". 15 Section 62. Section 21(5).
9 & 10 Geo. 5 c.59.	Land Settlement (Facilities) Act 1919.	
9 & 10 Geo. 5 c.97.	Land Settlement (Scotland) Act 1919.	Section 22(3). 20
12 & 13 Geo.5. c.51.	Allotments Act 1922.	Section 1(1)(d) from "being" to "let by a local authority". Section 1(2) and (3). 25 Section 3(6). Section 7 from "to any land" (where first occurring) to "enactment, or". 30 Section 8(2). Section 10(1) from "or the council" to "1908". Section 10(6)(b), and the preceding "or". 35 Sections 17 and 19. In section 22(1), the definitions of "Minister" and "sinking fund charges". 40 Section 22(2).



Chapter	Short title	Extent of repeal
12 & 13 Geo.5 c.52.	Allotments (Scotland) Act 1922.	In section 1(1), paragraph (c) from "or in the case" onwards. Section 8(2). In section 19(1), the definitions of "the Act of 1894", "the Act of 1919" and "sinking fund charges"; and the words from "References" onwards. Section 21(1) from "and the Act of 1892" onwards.
5		
10		
15		
15 & 16 Geo.5. c.61.	Allotments Act 1925.	In section 1, the definition of "Commissioners". Section 3. Section 5 from "after consultation" to "Fisheries". Section 7 from "unless" onwards. Section 8 from "after consultation" to "Health" and from "and where" onwards. Sections 10 and 11. Section 11. Sections 13 to 16. Sections 18, 19, 21 and 23. Section 24(a) and (c). Section 4(4). Section 55(4) from "and in" onwards.
20		
25		
21 & 22 Geo. 5 c.41.	Agricultural Land (Utilisation) Act 1931.	In Part I of Schedule 3, the entry relating to the Allotments Act 1922.
30		
14 Geo. 6 c.31. 1963 c.33.	Allotments Act 1950. London Government Act 1963.	In Part II of Schedule 27, paragraph 78.
35		
1967 c.80.	Criminal Justice Act 1967.	In Schedule 4, paragraph 1(c).
40		
1973 c.65. 1993 c.00.	Local Government (Scotland) Act 1973. Charities Act 1993.	

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PART IV  
COMMONS AND OPEN SPACES

Chapter	Short title	Extent of repeal	
8 & 9 Vict. c.118.	Inclosure Act 1845.	Sections 58 and 166. In section 167, the definitions of "county" and "parish".	5
11 & 12 Vict. c.99.	Inclosure Act 1848.	Section 10.	
15 & 16 Vict. c.79.	Inclosure Act 1852.	Section 28.	10
26 & 27 Vict. c.13.	Town Gardens Protection Act 1863.	Section 4 from "before a magistrate" to "situate".	
34 & 35 Vict. c.cxiv.	Wimbledon and Putney Commons Act 1871.	Section 6. Section 7. Sections 9 to 11. In section 12, the words "other than the first".	15
		Section 33. Sections 40 to 67. Sections 69, 70, 72 and 73.	20
		Section 80 from "except" to "aforesaid".	25
		In section 84— (a) the paragraph beginning "For the keeping"; (b) the next paragraph from "or with the use" to "Act"; (c) the proviso from "to the National" to "ranges, and".	30  35
		Section 94. Sections 104 to 107. Section 110.	
35 & 36 Vict. c.15.	Parks Regulation Act 1872.	Section 6 from "and in default" to "six months" (where first occurring).	40
39 & 40 Vict. c.20.	Statute Law Revision (Substituted Enactments) Act 1876.	Section 15. The whole Act.	45
50 & 51 Vict. c.32.	Open Spaces Act 1887.	The whole Act.	
6 Edw. 7 c.25.	Open Spaces Act 1906.	Section 21(1)(a). Section 23(b) and the preceding "and".	50

Chapter	Short title	Extent of repeal
1978 c.45.	Statute Law (Repeals) Act 1978.	In Part XIV of Schedule 1, the entry relating to 17 Geo.3. c.17.

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PART V  
COMPANIES

Chapter	Short title	Extent of repeal
<i>Group 1 - General Repeals</i>		
10	19 Hen. 7 c.7.	Ordinances of Corporations Act 1503.
	7 Will. 4 & 1 Vict c.73.	Chartered Companies Act 1837.
15	8 & 9 Vict. c.16.	Companies Clauses Consolidation Act 1845.
20		In section 18, the words "or in consequence of the marriage of a female shareholder". Section 19 from the beginning to "share; and"; and the words "in either of the cases aforesaid".
25	8 & 9 Vict. c.17.	Companies Clauses Consolidation (Scotland) Act 1845.
30		In section 19, the words "or in consequence of the marriage of a female shareholder". Section 20 from the beginning to "share; and"; and the words "in either of the cases aforesaid".
	26 & 27 Vict. c.118.	Companies Clauses Act 1863.
35	47 & 48 Vict. c.56.	Chartered Companies Act 1884.
		Section 2.
		The whole Act.

## SCH. 1

Chapter	Short title	Extent of repeal
14 & 15 Geo. 6 c.65.	Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 2(6) as it applies to England and Wales— (a) paragraph (b) and the preceding “or”; 5 (b) the words from “In this subsection” onwards. In section 8(5)— 10 (a) paragraph (b) and the preceding “or”; (b) the words from “In this subsection” onwards. 15
<i>Group 2 - Insurance Companies</i>		
39 & 40 Vict. c.36.	Customs Consolidation Act 1876.	Section 285 from “and the Life Assurance Companies Act 1870” onwards. 20
1973 c.58.	Insurance Companies Amendment Act 1973.	Section 54.
1974 c.49.	Insurance Companies Act 1974.	Schedule 1. The whole Act.
1975 c.75.	Policyholders Protection Act 1975.	Section 30. 25
1980 c.25.	Insurance Companies Act 1980.	Sections 1 and 3. Section 4(2), (3) and (4). Schedule 2. In Schedule 3, paragraphs 1, 2 and 10 to 14. 30 Schedules 4, 5 and 6.
1981 c.31.	Insurance Companies Act 1981.	In Schedule 4, paragraphs 18 and 24.
1982 c.50.	Insurance Companies Act 1982.	In Schedule 4— 35 (a) paragraphs 2, 3, 4, 5, 9, 12, 13, 16, 20 and 21; (b) paragraph 6 from “If” to “above” and “27 or”; 40 (c) paragraph 15 from “section 51(2)” to “1974 or”. In Schedule 5, paragraphs 1, 6, 23 and 26. 45

PART VI  
ECCLESIASTICAL LAW

SCH. 1

Chapter or Number	Short title	Extent of repeal
5	6 & 7 Will. 4. c.77.	Ecclesiastical Commissioners Act 1836.
10	1 & 2 Vict. c.106.	Pluralities Act 1838.
15	3 & 4 Vict. c.113.	Ecclesiastical Commissioners Act 1840.
20	5 & 6 Vict. c.27.	Ecclesiastical Leases Act 1842.
25	10 & 11 Vict. c.65.	Cemeteries Clauses Act 1847.
	22 & 23 Vict. c.46.	Episcopal and Capitular Estates Act 1859.
30	23 & 24 Vict. c.93.	Tithe Act 1860.
	29 & 30 Vict. c.111.	Ecclesiastical Commissioners Act 1866.
35	47 & 48 Vict. c.72.	Disused Burial Grounds Act 1884.
	54 & 55 Vict. c.8.	Tithe Act 1891.
	16 & 17 Geo. 5 No.5.	First Fruits and Tenths Measure 1926.
40	24 & 25 Geo. 5 c.40.	Administration of Justice (Appeals) Act 1934.
45	1963 No.2.	Cathedrals Measure 1963.

## SCH. 1

PART VII  
EXPLOSIVES

Chapter	Short title	Extent of repeal
38 & 39 Vict. c.17.	Explosives Act 1875.	<p>In section 14, the words—</p> <p>(a) from the paragraph beginning “The occupier” to “seventy-five” (where first occurring); 5</p> <p>(b) from the paragraph beginning “Where a licence” to “passing of this Act” (where last occurring). 10</p> <p>In section 20, the paragraphs beginning “The occupier” and “The local authority”. 15</p> <p>In section 24, as it applies to Great Britain, the words from “or if” to “award”. 20</p> <p>In section 72, as it applies to Great Britain, the words “other than justices in petty sessions”, “urban sanitary” and “and in the case of Improvement Commissioners, of the Local Government Board”. 25</p> <p>In section 75, as it applies to Northern Ireland, the words “any chief officer of police”. 30</p> <p>Sections 93 and 94. 35</p> <p>Section 108 from “the expression “county”” to “such district”. 40</p> <p>Section 109(2) to (6),(8) and (9). 45</p> <p>Section 114(b), (d) and (f). 50</p>
1966 c.42.	Local Government Act 1966.	<p>Sections 120 and 121. 50</p> <p>In Part II of Schedule 3, paragraphs 9, 17 and 18.</p>
1966 c.51.	Local Government (Scotland) Act 1966.	<p>In Part II of Schedule 4, paragraphs 6, 15 and 16.</p>

Chapter	Short title	Extent of repeal
5 1967 c.80.	Criminal Justice Act 1967.	In Part I of Schedule 3, the entries relating to the Petroleum (Consolidation) Act 1928.
10 1971 c.23.	Courts Act 1971.	In Schedule 8, paragraphs 12 and 21. In Part I of Schedule 9, the entry relating to the Explosives Act 1875.

PART VIII  
FAMILY LAW

Chapter	Short title	Extent of repeal
15 7 Edw. 7. c.40.	Notification of Births Act 1907.	The whole Act as it applies to Scotland, except sections 1 and 6.
20 5 & 6 Geo. 5. c.64.	Notification of Births (Extension) Act 1915.	Section 5 from "the Local" (where first occurring) to "Board, and".
25 23 & 24 Geo. 5. c.12.	Children and Young Persons Act 1933.	The whole Act.
30 12, 13 & 14 Geo. 6 c.98.	Adoption of Children Act 1949.	Section 108(5) from "except" to "1932)".
30 14 Geo. 6. c.37.	Maintenance Orders Act 1950.	Section 108(6). In Schedule 5, paragraphs 3 to 15.
35 15 & 16 Geo. 6 & 1 Eliz. 2. c.50.	Children and Young Persons (Amendment) Act 1952.	The whole Act.
35 1 & 2 Eliz. 2 c.20.	Births and Deaths Registration Act 1953.	Section 11(4).
40 1963 c.37.	Children and Young Persons Act 1963.	The whole Act.
45 1965 c.42.	Public Health (Notification of Births) Act 1965.	Section 42(2) and (3). In Schedule 1, paragraph 4.
45 1965 c.49.	Registration of Births, Deaths and Marriages (Scotland) Act 1965.	Section 64(2). In Schedule 3, paragraphs 42, 43 and 45.
		The whole Act.
		Section 57(2) and (3). In Schedule 1, paragraphs 2 to 10.

## SCH. 1

Chapter	Short title	Extent of repeal
1966 c.42.	Local Government Act 1966.	In Part II of Schedule 3, paragraph 22.
1966 c.51.	Local Government (Scotland) Act 1966.	In Part II of Schedule 4, paragraph 23.
1968 c.36.	Maintenance Orders Act 1968.	Section 1. Section 3(4). The Schedule.
1969 c.28 (N.I.).	Age of Majority Act (Northern Ireland) 1969.	Part II of Schedule 1, except the entry relating to the Government Stock Regulations 1965.
		In Schedule 2—
		(a) paragraph 2 from the beginning to “thereunder, and”;
		(b) paragraph 3.
1969 c.39.	Age of Majority (Scotland) Act 1969.	In Part I of Schedule 1, the entries relating to the Tutors Act 1474, the Oaths of Minors Act 1681, the Court of Session Act 1825, the Trade Union Act Amendment Act 1876, the Trustee Savings Banks Act 1954, the Adoption Act 1958, the Building Societies Act 1962 and the Births, Deaths and Marriages (Scotland) Act 1965.
		Part II of Schedule 1, except the entries relating to the Government Stock Regulations 1965 and the Registration of Births, Still-births, Deaths and Marriages (Prescription of Forms) (Scotland) Regulations 1965.
		In Schedule 2, paragraph 2.



SCH. 1

Chapter	Short title	Extent of repeal
1969 c.46.	Family Law Reform Act 1969.	In Part I of Schedule 1, the entries relating to the Tenures Abolition Act 1660, the Trade Union Act Amendment Act 1876, the Trustee Savings Banks Act 1954 and the Adoption Act 1958.
5		Part II of Schedule 1, except the entry relating to the Government Stock Regulations 1965.
10		In Schedule 2, in paragraph 2, the words "section 57 of the Local Government Act 1933".
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20		
1970 c.42.	Local Authority Social Services Act 1970.	In Schedule 1, the entry relating to the Nurseries and Child-Minders Regulation Act 1948.
25		In Schedule 2, paragraph 6.
1978 c.29.	National Health Service (Scotland) Act 1978.	In Schedule 16, paragraph 6.
30		
1984 c.23.	Registered Homes Act 1984.	In Schedule 1, paragraph 1.
1984 c.56.	Foster Children (Scotland) Act 1984.	In Schedule 1, paragraphs 7 and 8.

SCH. 1

PART IX

FINANCE

Chapter or Number	Short title	Extent of repeal	
	<i>Group 1 - General Repeals</i>		5
5 Geo. 3. c.49.	Bank Notes (Scotland) Act 1765.	The whole Act.	
46 Geo. 3 c.79 (1806).	An Act to confirm an agreement entered into between the Commissioners of His Majesty's Treasury, and the Most Noble Augustus Henry, Duke of Grafton, in pursuance of [the Prisage and Butlerage Act 1803].	The whole Act.	10
55 Geo. 3 c.56 (1815).	An Act for enabling the sale of all or any part of the stocks already transferred in redemption of part of the annuity of £6,870, payable out of the Consolidated Fund, in lieu of the duties of prisage and butlerage of wines, granted by King Charles the Second to Henry first Duke of Grafton, and the heirs male of his body, and the stocks which shall be transferred in redemption of the remainder of the same annuity, and investing the money arising from any such sale in the purchase of manors, lands and hereditaments, and for other purposes.	The whole Act.	15
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			35
2 & 3 Will. 4. c.16.	Excise Permit Act 1832.	The whole Act.	40
10 & 11 Vict. c.16.	Commissioners Clauses Act 1847.	In section 84, the words "Exchequer bills or other".	45
33 & 34 Vict. c.71.	National Debt Act 1870.	Section 74.	50

Chapter or Number	Short title	Extent of repeal
5 39 & 40 Vict. c.36.	Customs Consolidation Act 1876.	In section 42, the words "save as thereby excepted".
39 & 40 Vict. c.67.	Suez Canal (Shares) Act 1876.	The whole Act.
43 & 44 Vict. c.20.	Inland Revenue Act 1880.	The whole Act.
10 52 & 53 Vict. c.53.	Paymaster General Act 1889.	The whole Act.
54 & 55 Vict. c.38.	Stamp Duties Management Act 1891.	In section 9(7), proviso (c).
15 54 & 55 Vict. c.39.	Stamp Act 1891.	In section 122(1), in the definition of "stock", the words "and India promissory notes".
55 & 56 Vict. c.39.	National Debt (Stockholders Relief) Act 1892.	Section 5.
20 10 Edw. 7 & 1 Geo. 5 c.8.	Finance (1909-10) Act 1910.	Section 33(2).
16 & 17 Geo. 5 c.22.	Finance Act 1926.	The whole Act.
25 19 & 20 Geo. 5 c.29.	Government Annuities Act 1929.	Section 52(4) from "and shall" to "this Act".
1 & 2 Geo. 6 c.13.	Superannuation (Various Services) Act 1938.	In Part I of the Schedule— (a) the column specifying the appropriate authority for the purposes of section 1; (b) the entry relating to the Assessor of Public Undertakings (Scotland) Act 1934.
30		
35		
40 2 & 3 Geo. 6 c.117.	National Loans Act 1939.	In Schedule 2, paragraph 5.
9 & 10 Geo. 6 c.27.	Bank of England Act 1946.	In Schedule 1, paragraph 10.
9 & 10 Geo. 6 c.59.	Coal Industry Nationalisation Act 1946.	Section 33(8).
45 12,13 & 14 Geo. 6 c.77.	Armed Forces (Housing Loans) Act 1949.	Section 1(1) and (5).
14 & 15 Geo. 6. c.39.	Common Informers Act 1951.	In the Schedule, the entry relating to the Bank Notes (Scotland) Act 1765.
50 7 & 8 Eliz. 2. c.1.	Armed Forces (Housing Loans) Act 1958.	Section 2(2).

## SCH. 1

Chapter or Number	Short title	Extent of repeal
1965 c.9.	Armed Forces (Housing Loans) Act 1965.	Section 1(1) to (4). Section 1(5) (a) from “and, as so” onwards. 5 In the Schedule— (a) paragraph 1 of Part I; (b) Part II.
1965 c.32.	Administration of Estates (Small Payments) Act 1965.	In Part III of Schedule 1, 10 the entries relating to the Rules of the Supreme Court, the Regulations as to the suitors fund and fee 15 fund accounts, the Supreme Court Fund Rules 1927, the Trustee Savings Banks Regulations 1929, the 20 Savings Certificates Regulations 1933, the County Court Rules, the Post Office Savings Bank Regulations 25 1938, the Compensation to Seamen (War Damage to Effects) Scheme 1945, the Premium 30 Savings Bonds Regulations 1956, the Teachers (Superannuation) (Scotland) Regulations 35 1957, the Court of Protection Rules 1960, the Police Pensions Regulations 1962 and the Firemen’s Pension 40 Scheme Order 1964. In Schedule 2, the entries relating to the Trade Union Act Amendment Act 1876 and the 45 Trustee Savings Banks Regulations 1929.
1965 c.74.	Superannuation Act 1965.	In Schedule 10, paragraph 11.
1966 c.15.	Military Aircraft (Loans) Act 1966.	The whole Act. 50
1966 c.18.	Finance Act 1966.	Section 2(7) and (8).

Chapter or Number	Short title	Extent of repeal
5 10 15	1968 c.13. National Loans Act 1968.	Section 16(1) from "Subject" to "gift tokens, and". Section 16(2). In Schedule 1, the entries relating to— (a) section 2(2) of the Armed Forces (Housing Loans) Act 1958; (b) the Armed Forces (Housing Loans) Act 1965; (c) the Military Aircraft (Loans) Act 1966.
20	1971 c.9. Rolls-Royce (Purchase) Act 1971.	The whole Act.
	1974 c.39. Consumer Credit Act 1974.	In Schedule 4, paragraphs 19 and 27.
25	1975 c.43. British Leyland Act 1975. 1978 c.11. Shipbuilding (Redundancy Payments) Act 1978.	The whole Act. The whole Act.
	1982 c.4. Shipbuilding Act 1982. 1982 c.16. Civil Aviation Act 1982.	The whole Act. In Schedule 15, paragraph 9.
30	1985 c.9. Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Shipbuilding (Redundancy Payments) Act 1978.
35	1985 c.14. S.I. 1986 No.1035 (N.I. 9). Shipbuilding Act 1985. Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	The whole Act. In Part II of Schedule 1, the entry relating to the Shipbuilding (Redundancy Payments) Act 1978.
40	1987 c.18. Debtors (Scotland) Act 1987.	In Schedule 6, paragraph 2.
<i>Group 2 - Investment Grants</i>		
	1966 c.34. Industrial Development Act 1966.	The whole Act.
45	1968 c.59. Hovercraft Act 1968.	In the Schedule, paragraph 7.
	1968 c.73. Transport Act 1968.	In Schedule 16, paragraph 10.
50	1969 c.48. Post Office Act 1969.	In Schedule 4, paragraph 82.
	1970 c.2. Industrial Development (Ships) Act 1970.	The whole Act.

## SCH. 1

Chapter or Number	Short title	Extent of repeal
1971 c.11.	Atomic Energy Authority Act 1971.	Section 16.
1971 c.51.	Investment and Building Grants Act 1971.	The whole Act. 5
1972 c.5.	Local Employment Act 1972.	In Schedule 3, the entry relating to the Industrial Development Act 1966. 10
1972 c.9.	Mineral Exploration and Investment Grants Act 1972.	Section 2.
1982 c.16.	Civil Aviation Act 1982.	In Schedule 15, paragraph 5. 15
1985 c.9.	Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Investment and Building Grants Act 1971. 20
1987 c.3.	Coal Industry Act 1987.	In Schedule 1, paragraph 14.
<i>Group 3 - Film Financing</i>		
1975 c.25.	Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the National Film Finance Corporation. 25
1981 c.15.	National Film Finance Corporation Act 1981.	The whole Act.
1981 c.16.	Film Levy Finance Act 1981.	The whole Act. 30
1985 c.9.	Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entries relating to the National Film Finance Corporation Act 1981 and the Film Levy Finance Act 1981. 35
1985 c.21.	Films Act 1985.	Section 2. Section 3(3), (6) and (8). Section 4. 40 Section 5(1) from "at any time" to "section 3(2)". Section 8(3)(a).

Chapter or Number	Short title	Extent of repeal
<i>Group 4 - India Stock</i>		
5 25 & 26 Vict. c.7.	India Stock Transfer Act 1862.	The whole Act.
26 & 27 Vict. c.73.	India Stock Certificate Act 1863.	The whole Act.
48 & 49 Vict. c.25.	East India Unclaimed Stock Act 1885.	The whole Act.
10 6 & 7 Geo. 5 c.37.	Government of India (Amendment) Act 1916.	The whole Act.
1 Edw. 8 & 1 Geo. 6 c.14.	East India Loans Act 1937.	The whole Act.
15 10 & 11 Geo. 6 c.30.	Indian Independence Act 1947.	Section 14.

PART X  
LOCAL GOVERNMENT

Chapter	Short title	Extent of repeal
<i>Group 1 - General Repeals</i>		
20 26 Hen. 8 c.8 (1534).	An Act for the re-edifying of void grounds in the City of Norwich.	The whole Act.
26 Hen. 8 c.9 (1534).	An Act for the re-edifying of void grounds within the town of Lynn.	The whole Act.
25 27 Hen. 8 c.1 (1535).	An Act for re-edifying of divers towns in the Realm.	The whole Act.
29 Chas. 2 c.4 (1677).	An Act for erecting a judicature to determine differences touching houses burnt and demolished by the late dreadful fire in Southwark.	The whole Act.
30 35 1 & 2 Geo. 4 c.89.	London Wharves Act 1821.	The whole Act.

## SCH. 1

Chapter	Short title	Extent of repeal
1 & 2 Will. 4 c.32.	Game Act 1831.	The following provisions as they apply to England and Wales— Section 18 from “of every county” to “two”, from “within” to “district” and from “accordingly” to “annexed to this Act”. 5 10
17 & 18 Vict. c.112.	Literary and Scientific Institutions Act 1854.	Schedule (A). Section 34. Section 35 from “In” to “prosecutions”.
38 & 39 Vict. c.55.	Public Health Act 1875.	Sections 179, 180 and 181. 15 Section 228. Section 251 from “The court” onwards. Sections 261 and 269. 20 Section 295. In section 308, the words “in manner provided by this Act”. Section 340. 25 Section 341 from “and nothing” to the end of the section.
45 & 46 Vict. c.50.	Municipal Corporations Act 1882.	In section 7(1), the definitions of “burgess”, “Schedule”, “Part”, “writing” and “written”. 30 Section 7(4). Section 45(8). 35 Sections 139, 219 and 248.
51 & 52 Vict. c.41.	Local Government Act 1888.	In Schedule 1, the words “Dogs”, “Trade carts” and “Horse dealers”. 40
53 & 54 Vict. c.59.	Public Health Acts Amendment Act 1890.	The following provisions as they apply to England and Wales— Sections 6, 7 and 10. In section 11(3) the definitions except those of “urban authority” and “daily penalty”. 45
7 Edw.7 c.53.	Public Health Acts Amendment Act 1907.	Sections 6, 11 and 13 as they apply to England and Wales. 50



Chapter	Short title	Extent of repeal
4 & 5 Geo. 5 c.clxxxiii.	Local Government Board Provisional Order Confirmation (No.18) Act 1914.	The whole Act.
5 6 & 7 Geo. 5 c.12.	Local Government (Emergency Provisions) Act 1916.	In section 21, the paragraph beginning "Except".
10 9 & 10 Geo. 5 c.75.	Ferries (Acquisition by Local Authorities) Act 1919.	Section 1(5) as it applies to England and Wales. Section 5(4).
15 & 16 Geo.5 c.71.	Public Health Act 1925.	Section 6 from "and any order" onwards. Section 7(1). Schedule 4.
15 19 & 20 Geo. 5 c.17.	Local Government Act 1929.	Section 57(2) and (3). Section 75. In section 131(1) and (2), the words "or scheme", wherever occurring, and the proviso to subsection (2). In section 134, the definitions of "certified", "county", "County of London", "district", "drainage rate", "estimated population", "officer", "prescribed", "rating area", "reduced rateable value", "spending "authority" and "unreduced rateable value".
20		Section 138(4). Section 319.
25	Public Health Act 1936.	Section 138(4). Section 319.
30	Civil Defence Act 1948.	Section 2(3).
35	Local Government Act 1958.	Section 62. In section 66(1), the definition of "Act of 1948". Section 66(2). Section 67. Schedule 8.
40 26 Geo. 5 & 1 Edw. 8 c.49. 12, 13 & 14 Geo. 6 c.5. 6 & 7 Eliz. 2 c.55.	Local Government Act 1958.	Section 62. In section 66(1), the definition of "Act of 1948". Section 66(2). Section 67. Schedule 8.
45	London Government Act 1963.	Section 51(1), (2) and (4). Section 62(1)(e). In Schedule 17, paragraphs 15, 22 and 26.
50 1963 c.33.	London Government Act 1963.	Section 51(1), (2) and (4). Section 62(1)(e). In Schedule 17, paragraphs 15, 22 and 26.

## SCH. 1

Chapter	Short title	Extent of repeal	
1966 c.51.	Local Government (Scotland) Act 1966.	In Part II of Schedule 4, paragraphs 12, 14, 19, 20, 21, 27 and 28.	
1968 c.49.	Social Work (Scotland) Act 1968.	In Schedule 8, paragraph 15.	5
1970 c.xl.	Brighton Corporation Act 1970.	The whole Act except sections 1, 3, 4, 8, 25 to 27, 29, 30, 31, 32 and 34 and Schedule 2.	10
		Section 25 except the words "Schedule 2 to this Act shall have effect".	
1971 c.23.	Courts Act 1971.	In Schedule 9, the entries relating to the Public Health Act 1875 and the Public Health Acts Amendment Act 1890.	15
1972 c.70.	Local Government Act 1972.	Section 219(2).	20
		Section 219(3) from "and subsection (2)" onwards.	
		In Schedule 23, paragraph 2(9).	25
		In Schedule 29, paragraphs 33 and 38.	
1973 c.65.	Local Government (Scotland) Act 1973.	In Part II of Schedule 27, paragraph 90.	
1976 c.57.	Local Government (Miscellaneous Provisions) Act 1976.	Section 83(2) from "and different days" onwards.	30
1982 c.45.	Civic Government (Scotland) Act 1982.	Section 119(15).	
		In Schedule 3, paragraph 1.	35
1985 c.51.	Local Government Act 1985.	In Schedule 4, paragraph 48.	
		In Schedule 8, paragraph 1(2).	
		In Schedule 16, paragraph 10.	40
<i>Group 2 - Burgh Police (Scotland) Acts 1892 to 1911</i>			
9 & 10 Geo.6. c.49.	Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entries relating to the Burgh Police (Scotland) Act 1892.	45
2 & 3 Eliz.2. c.32.	Atomic Energy Authority Act 1954.	Section 5(6) from "sections one hundred and sixty-six" to "1903, or".	50
1966 c.51.	Local Government (Scotland) Act 1966.	In Part II of Schedule 4, paragraphs 7, 8 and 9.	

Chapter	Short title	Extent of repeal
1967 c.80.	Criminal Justice Act 1967.	In Part I of Schedule 3, the entries relating to the Burgh Police (Scotland) Act 1892.
5 1968 c.54.	Theatres Act 1968.	In Schedule 2, the entries relating to the Burgh Police (Scotland) Act 1892 and the Burgh Police (Scotland) Act 1903.
10 1973 c.65.	Local Government (Scotland) Act 1973.	Section 229. Schedule 28.
15 1974 c.40.	Control of Pollution Act 1974.	In Schedule 3, paragraph 31.
1975 c.20.	District Courts (Scotland) Act 1975.	In Schedule 1, paragraphs 7 to 24.
1976 c.66.	Licensing (Scotland) Act 1976.	In Schedule 7, paragraphs 1 and 2.
20 1978 c.4.	Local Government (Scotland) Act 1978.	Section 5.
1982 c.45.	Civic Government (Scotland) Act 1982.	Section 134(1) so far as it relates to the Burgh Police (Scotland) Acts 1892 to 1911. Section 134(2) to (4). Section 135.
25 1984 c.58.	Rent (Scotland) Act 1984.	Section 25(3)(c).

## PARLIAMENTARY AND CONSTITUTIONAL PROVISIONS

Chapter	Short title	Extent of repeal	
<i>Group 1 - Parliamentary Costs Acts</i>			
10 & 11 Vict. c.69.	House of Commons Costs Taxation Act 1847.	Section 2. Section 5 from "sworn" onwards. In section 8, the words "or a writ of inquiry executed". Section 9 from "and in any action" to "that amount".	5 10
12 & 13 Vict. c.78.	House of Lords Costs Taxation Act 1849.	Section 2. In sections 3 and 4, the words from "when discharging" to "in person". Section 5 from "sworn" onwards. In section 8, the words "or a writ of inquiry executed". Section 9 from "and in any action" to "that amount".	15 20 25
28 & 29 Vict. c.27.	Parliamentary Costs Act 1865.	Sections 5, 6 and 7.	
30 & 31 Vict. c.136.	Parliamentary Costs Act 1867.	Section 3.	30
26 Geo. 5 & 1 Edw. 8 c.52.	Private Legislation Procedure (Scotland) Act 1936.	In section 6(6) the words "five, six and seven".	
9 & 10 Geo. 6 c.18.	Statutory Orders (Special Procedure) Act 1945.	In section 7(2), the words "or the Minister of Health" (in both places).	35
<i>Group 2 - General Repeals</i>			
6 Hen. 8 c.16 (1514).	Act concerning burgesses of the Parliament.	The whole Act.	40
6 Anne c.11.	Union with Scotland Act 1706.	Article XXII of the Treaty of Union.	
22 Geo. 3 c.82.	Civil List and Secret Service Money Act 1782.	The whole Act.	45
39 & 40 Geo. 3 c.38 (Ir.).	Act of Union (Ireland) 1800.	Section 10.	
39 & 40 Geo. 3 c.67.	Union with Ireland Act 1800.	Section 3.	50

Chapter	Short title	Extent of repeal
21 & 22 Vict. c.78.	Parliamentary Witnesses Act 1858.	Section 3.
5 30 & 31 Vict. c.136.	Parliamentary Costs Act 1867.	Section 2.
31 & 32 Vict. c.125.	Parliamentary Elections Act 1868.	The whole Act.
34 & 35 Vict. c.83.	Parliamentary Witnesses Oaths Act 1871.	In section 1, the paragraph beginning "Any person".
10 6 & 7 Geo. 5 c.65.	Ministry of Pensions Act 1916.	The whole Act.
10 & 11 Geo. 5 c.67.	Government of Ireland Act 1920.	In section 74 the definitions except that of "existing".
15 22 & 23 Geo. 5 c.11.	Northern Ireland (Miscellaneous Provisions) Act 1932.	Section 7.
26 Geo. 5 & 1 Edw. 8 c.15.	Civil List Act 1936.	The whole Act.
20 26 Geo. 5 & 1 Edw. 8 c.52.	Private Legislation Procedure (Scotland) Act 1936.	Section 19.
8 & 9 Geo. 6 c.19.	Ministry of Fuel and Power Act 1945.	The whole Act except sections 1(1), 6(1) and 8.
9 & 10 Geo. 6 c.18.	Statutory Orders (Special Procedure) Act 1945.	Section 8(1). Schedule 2.
10 & 11 Geo. 6 c.37.	Northern Ireland Act 1947.	Section 13.
30 1968 c.48.	International Organisations Act 1968.	Section 12(7).
1972 c.76.	Northern Ireland (Financial Provisions) Act 1972.	The whole Act.
35 1975 c.66.	Recess Elections Act 1975.	In section 1(2), the definition of "the relevant bankruptcy enactment" and the preceding "and". Section 5(2), (4), (5) and (7). Schedule 2.
40		

SCH. 1

PART XII  
PHARMACY

Chapter	Short title	Extent of repeal	
2 & 3 Eliz. 2 c.61.	Pharmacy Act 1954.	In section 21, the words "section nineteen of this Act or".	5
		In section 24(1)— (a) the definition of "the Act of 1933"; (b) in the definition of "the Pharmacy Acts", the words "the Act of 1933" and "under Part III of the Act of 1933 or"; (c) the definition of "the register" from "established" to "1852 and".	10 15 20
4 & 5 Eliz.2 c.25. 1967 c.80.	Therapeutic Substances Act 1956. Criminal Justice Act 1967.	Section 25. Schedules 2 and 3. The whole Act.	
1968 c.67.	Medicines Act 1968.	In Part I of Schedule 3, the entry relating to section 19(3) of the Pharmacy Act 1954.	25
		In section 69(3), the definition of "the appointed day". Section 74(1) from "Subject" to "subsection". Section 74(2) and (4). Section 76(4). In section 78, the words "On and after the appointed day", wherever occurring.	30 35 40
1975 c.4.	Biological Standards Act 1975.	In Schedule 5, paragraph 13. Section 6(1).	

PART XIII  
PROPERTY LAW

SCH. 1

Chapter	Short title	Extent of repeal
<i>Group 1 - General Repeals</i>		
5	29 Geo. 3 c.28.	Forfeited Estates (Scotland) Act 1789.
	11 Geo. 4 & 1 Will. 4 c.64.	Beerhouse Act 1830.
10	2 & 3 Vict. c.20.	Crown Land (Windsor) Act 1839.
	4 & 5 Vict. c.30.	Ordnance Survey Act 1841.
15		The whole Act as it applies to the Isle of Man.
		Section 1 from "such application" to "such court", and from "Provided always" onwards.
20		Sections 4 and 6.
		Section 8 from "appointed" (where first occurring) to "ordnance" (where last occurring).
25		Sections 9, 10 and 11.
		Section 12 from "but" onwards.
30		Sections 13, 15 and 16.
		Section 17 from "Provided always" onwards.
35		The words "Berwick upon Tweed, and the Isle of Man", wherever occurring.
	5 & 6 Vict. c.94.	Defence Act 1842.
		Section 19 from "and shall also issue" onwards.
40		Sections 20 to 22.
		In section 25, the words "by the verdict of any jury".

## SCH. I

Chapter	Short title	Extent of repeal
8 & 9 Vict. c.63.	Geological Survey Act 1845.	In section 6, the definition of "county", the words "for any county so interpreted as aforesaid" and from "and every word importing the masculine gender" onwards. 5
14 & 15 Vict. c.42.	Crown Lands Act 1851.	Section 22 from "And the Commissioners" onwards. 10
23 & 24 Vict. c.49.	Colewort Barracks Act 1860.	The Schedule. The whole Act. 15
23 & 24 Vict. c.112.	Defence Act 1860.	Section 10 from "for any lands" to "aforesaid or". In section 11, the words "to be taken or" and "any such lands, or". Sections 12 and 13. Sections 14 to 16 as they apply to Great Britain. 20 Sections 24 to 33. In section 34, the words "From and after the service of such notices as aforesaid" and from "at any time" to "notice, and". Sections 42 to 44. In section 47, the definitions of "county" and "sheriff"; and in the definition of "justices", the words from "county" to "port or", wherever occurring. 25 30 35 40
25 & 26 Vict. c.16.	Netley Hospital Act 1862.	The whole Act.
25 & 26 Vict. c.36.	Artillery Ranges Act 1862.	Section 3 from "and such penalty" onwards. 45
25 & 26 Vict. c.57.	Crown Land (Windsor) Act 1862.	The whole Act.
29 & 30 Vict. c.109.	Windsor Barracks Act 1867.	The whole Act.
47 & 48 Vict. c.54.	Yorkshire Registries Act 1884.	Section 49. 50



Chapter	Short title	Extent of repeal
55 & 56 Vict. c.43. 5	Military Lands Act 1892.	In section 13, as it applies to England and Wales, the words "to a court of quarter sessions". Section 20. Section 27.
20 & 21 Geo. 5 c.20. 10	Land Drainage (Scotland) Act 1930.	In section 9, the definitions of "rating authority" and "prescribed". Section 11(2).
4 & 5 Geo. 6 c.40. 15	War Damage to Land (Scotland) Act 1941.	Section 4. In section 5, the proviso. In section 7(1), the words "or the Courts (Emergency Powers) (Scotland) Act 1939".
4 & 5 Geo. 6 c.41. 20	Landlord and Tenant (War Damage) (Amendment) Act 1941.	In section 1(10), the definition of "short tenancy" from "the Courts" to "1941".
5 & 6 Geo. 6 c.9 (N.I.). 25	Landlord and Tenant (War Damage) Act (Northern Ireland) 1941.	In section 38(1), the definition of "short tenancy" from "the Courts" to "circumstances".
8 & 9 Geo. 6. c.43. 30	Requisitioned Land and War Works Act 1945.	Section 55. In section 59(1), the definition of "drainage board". In section 61(10), the words "and to drainage boards".
35		In the Schedule, in the entry relating to the Defence Act 1842, the word "eight".

## SCH. 1

Chapter	Short title	Extent of repeal
9 & 10 Geo. 6 c.49.	Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entries relating to the Public Parks (Scotland) Act 1878, the Local Government (Scotland) Act 1894, the Local Government (Scotland) Act 1908, the Children and Young Persons (Scotland) Act 1937, section 2(2) of the Harbours, Piers and Ferries (Scotland) Act 1937, the Physical Training and Recreation Act 1937 and the Requisitioned Land and War Works Act 1945. 5 10 15 20
10 & 11 Geo. 6 c.46.	Wellington Museum Act 1947.	In the preamble, the third recital. In section 1(2), the words "by virtue of the Wellington Estate Acts". 25
6 & 7 Eliz. 2 c.30.	Land Powers (Defence) Act 1958.	Schedule 1. In Schedule 2, in paragraph 13(a), the word "eight". 30
7 & 8 Eliz. 2 c.24.	Building (Scotland) Act 1959.	Section 31. Schedule 9.
7 & 8 Eliz. 2 c.53.	Town and Country Planning Act 1959.	Sections 46 and 52. In section 57(1), the definitions of "acquiring authority", "the Act of 1919", "compulsory acquisition", "public authority possessing compulsory purchase powers", "the Minister", "planning permission" and "prescribed". 35 40 45 Section 57(2),(3) and (4). Section 58. Section 59(1) from "and the" onwards. Schedule 7. 50

Chapter	Short title	Extent of repeal
8 & 9 Eliz. 2 c.62.	Caravan Sites and Control of Development Act 1960.	Sections 13 to 20. Section 27 as it applies to England and Wales. In section 29(1), the definition of "existing site". Section 30(2). In section 32(1)— (a) paragraphs (f), (g) and (j); (b) in paragraph (l), the words "and section thirty-one".
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15 9 & 10 Eliz. 2 c.55.	Crown Estate Act 1961.	In Schedule 2, paragraph 1(1) (a) from "together with" to "Westminster".
1963 c.33.	London Government Act 1963.	In Schedule 17, paragraph 21(2) to (5).
20 1965 c.2.	Administration of Justice Act 1965.	Section 34(2).
1967 c.88.	Leasehold Reform Act 1967.	Sections 34 and 35. In section 41(4), the words "subject to section 34". In Schedule 3— (a) in paragraph 2(3), the words "or section 35 of this Act"; (b) paragraph 10(5) from "or" to "applying".
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35 1969 c.59.	Law of Property Act 1969.	Section 17(3) and (4). Section 19(1). Section 20. Section 191(3).
1972 c.70.	Local Government Act 1972.	
40 1973 c.65.	Local Government (Scotland) Act 1973.	Section 145(3).
1981 c.67.	Acquisition of Land Act 1981.	Section 20(4).
1984 c.29.	Housing and Building Control Act 1984.	Sections 63 to 65. Section 66(3). Schedules 11 and 12.
45		

## SCH. 1

Chapter	Short title	Extent of repeal	
1984 c.55.	Building Act 1984.	Section 16(13). In section 134(1)(c), the words "the Town and Country Planning Act 1947 and". In section 134(2)(b), "16(13) and". In Schedule 7, the entry relating to the Town and Country Planning Act 1947.	5 10
1992 c.44.	Museums and Galleries Act 1992.	In Schedule 8, paragraph 1(7).	
16 & 17 Vict. c.cliv.	<i>Group 2 - Land Improvement Acts</i> Lands Improvement Company's Act 1853.	Sections 8, 13, 23, 24 and 28. Section 45 from "and where" to "determine such application". Section 54 from the beginning to "Act; and". Section 60 from "may be recovered" to "Act, and" and the words "the same". Section 65. Section 71 from "as provided" to the end of the section. Sections 74 and 84. Schedules B and D.	15 20 25 30
23 & 24 Vict. c.cxciv.	Land Loan and Enfranchisement Company's Act 1860 (Mistake Rectifying) Act 1860.	The whole Act.	35

Chapter	Short title	Extent of repeal
27 & 28 Vict. c.114.	Improvement of Land Act 1864.	In section 8, the words "copyhold, customary", and from "and as to lands in Ireland" to "interest" (where last occurring). Section 14 from "and shall be recoverable" onwards. Section 25 from "having" onwards. Section 26 from "the former" to "twenty-five years". Section 33. Section 40 from "the amount" onwards. Section 41 from "and the amount" onwards. Section 50 from "at a rate" to "annum". Section 72 from "to an action" to "waste". Section 73 from "as provided" to the end of the section. Section 77 from "the amount" onwards.
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30	45 & 46 Vict. c.38.	Settled Land Act 1882.
	60 & 61 Vict. c.44.	District Councils (Water Supply Facilities) Act 1897.
35	62 & 63 Vict. c.46.	Improvement of Land Act 1899.
40		Section 1(1) from "after" to "this Act". In section 1(4) the words "either before or after the passing of this Act". Section 3. Section 5. Section 11.
1969 c.xxv.	Lands Improvement Company's Amendment Act 1969.	
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## SCH. 1

Chapter	Short title	Extent of repeal	
<i>Group 3 - Land Drainage Schemes</i>			
26 & 27 Vict. c.63.	Land Drainage Supplemental Act 1863.	Section 1 from "Provided always" (where first occurring) onwards. Parts I and III of the Schedule.	5
27 & 28 Vict. c.14.	Land Drainage Supplemental Act 1864.	Section 2.	
29 & 30 Vict. c.33.	Land Drainage Supplemental Act 1866.	Part I of the Schedule.	10
29 & 30 Vict. c.80.	Land Drainage Supplemental Act 1866, No.2.	The whole Act.	
31 & 32 Vict. c.clvi.	Land Drainage Supplemental Act 1868 No.2.	The whole Act.	15
34 & 35 Vict. c.ix.	Land Drainage Supplemental Act 1871.	The whole Act.	
36 & 37 Vict. c.xxiv.	Land Drainage Supplemental Act 1873.	The whole Act.	20
38 & 39 Vict. c.i.	Land Drainage Supplemental Act 1875.	The whole Act.	
43 & 44 Vict. c.lxxxii.	Land Drainage Supplemental Act 1880.	The whole Act.	25
45 & 46 Vict. c.lxvii.	Land Drainage Supplemental Act 1882.	The whole Act.	
46 & 47 Vict. c.ii.	Land Drainage Supplemental Act 1883.	The whole Act.	
46 & 47 Vict. c.lxxxv.	Land Drainage Supplemental (No.2) Act 1883.	The whole Act.	30
47 & 48 Vict. c.xli.	Land Drainage Supplemental Act 1884.	Section 1 from "Provided always" onwards. Part II of the Schedule.	35
55 & 56 Vict. c.ccvii.	Land Drainage Supplemental Act 1892.	The whole Act.	
61 & 62 Vict. c.lxxv.	Land Drainage Supplemental Act 1898.	The whole Act.	
1 & 2 Geo. 5 c.cxxxiv.	Land Drainage Provisional Order Confirmation Act 1911.	The whole Act.	40
1 & 2 Geo. 5 c.cxxxv.	Land Drainage Provisional Order Confirmation (No.2) Act 1911.	The whole Act.	45
1 & 2 Geo. 5 c.cxxxvi.	Land Drainage Provisional Order Confirmation (No.3) Act 1911.	The whole Act.	
2 & 3 Geo. 5 c.cxxxiii.	Land Drainage (Lincoln West) (South District) Provisional Order Confirmation Act 1912.	The whole Act.	50

Chapter	Short title	Extent of repeal
2 & 3 Geo. 5 c.cxxiv.	Land Drainage (Billingham) Provisional Order Confirmation Act 1912.	The whole Act.
5 2 & 3 Geo. 5 c.cxxv.	Land Drainage (Pitsea) Provisional Order Confirmation Act 1912.	The whole Act.
10 2 & 3 Geo. 5 c.clxviii.	Land Drainage (Braithwaite Moss) Provisional Order Confirmation Act 1912.	The whole Act.
15 3 & 4 Geo. 5 c.xxvi.	Land Drainage (Holme St. Cuthbert) Provisional Order Confirmation Act 1913.	The whole Act.
4 & 5 Geo. 5 c.lii.	Land Drainage (Rippingale) Provisional Order Confirmation Act 1914.	The whole Act.
20 4 & 5 Geo. 5 c.cxxiv.	Land Drainage (Tillingham Valley) Provisional Order Confirmation Act 1914.	The whole Act.
25 5 & 6 Geo. 5 c.lxxxviii.	Land Drainage (Ravensingham) Provisional Order Confirmation Act 1915.	The whole Act.
30 6 & 7 Geo. 5 c.xxxix.	Land Drainage (Lilleshall) Provisional Order Confirmation Act 1916.	The whole Act.
7 & 8 Geo. 5 c.xxviii.	Land Drainage (Ewerby) Provisional Order Confirmation Act 1917.	The whole Act.
35 7 & 8 Geo. 5 c.xxx.	Land Drainage (Wistow) Provisional Order Confirmation Act 1917.	The whole Act.
8 & 9 Geo. 5 c.xxvi.	Land Drainage (Pinchbeck) Provisional Orders Confirmation Act 1918.	The whole Act.

## STATUTORY INTERPRETATION PROVISIONS

Chapter or Number	Short title	Extent of repeal
	<i>Group 1 - Clauses Acts of 1845 and 1847</i>	5
8 & 9 Vict. c.16.	Companies Clauses Consolidation Act 1845.	In section 3, the definition of "county"; and the definition of "justice" from "county" to "or other". Section 5. Section 111 from "and if he fail" onwards. Section 142 from "and if" onwards. Section 150. Section 151 as it applies to England and Wales. Section 154. Section 155.
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8 & 9 Vict. c.17.	Companies Clauses Consolidation (Scotland) Act 1845.	In section 3, the definition of "county"; and in the definition of "justice", the words "county, city or". Section 5. Section 156. Section 161.
		25
8 & 9 Vict. c.18.	Lands Clauses Consolidation Act 1845.	In section 3, the definition of "county"; and the words "county, city, borough, liberty, cinque port, or", wherever occurring. Section 5. Section 138. Section 141 as it applies to England and Wales. Section 145 as it applies to Northern Ireland.
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		40
8 & 9 Vict. c.19.	Lands Clauses Consolidation (Scotland) Act 1845.	In section 3, the definition of "county"; and the words "county, city, liberty, or", wherever occurring. Section 5. Section 138.
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Chapter or Number	Short title	Extent of repeal
8 & 9 Vict. c.20. 5	Railway Clauses Consolidation Act 1845.	In section 3, the definition of "county"; and the words "county, city, borough, liberty, cinque port, or", wherever occurring. Section 5. Section 140 from "and if" onwards. Section 148. Section 149 as it applies to England and Wales. Section 152. Section 153.
10 15		
8 & 9 Vict. c.33. 20	Railways Clauses Consolidation (Scotland) Act 1845.	In section 3, the definition of "county"; and the words "county, city, or", wherever occurring. Section 5. Section 149.
10 & 11 Vict. c.14. 25	Markets and Fairs Clauses Act 1847.	In section 3, the definitions of "superior courts", "county" and "quarter sessions". Section 5. Section 48. Section 55 as it applies to England and Wales. Section 56.
30		
10 & 11 Vict. c.16. 35	Commissioners Clauses Act 1847.	In section 3, the definitions of "county" and "quarter sessions". Section 5. Section 105. Section 106.
10 & 11 Vict. c.27. 40	Harbours, Docks and Piers Clauses Act 1847.	In section 3, the definitions of "county" and "quarter sessions". Section 5. Section 24. Section 89. Section 94 as it applies to England and Wales. Section 95.
45		
10 & 11 Vict. c.34. 50	Towns Improvement Clauses Act 1847.	In section 3, the definitions of "superior courts" and "county". Section 5. Section 212.

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Chapter or Number	Short title	Extent of repeal	
10 & 11 Vict. c.65.	Cemeteries Clauses Act 1847.	In section 3, the definitions of "county" and "quarter sessions". Section 5. Section 64.	5
10 & 11 Vict. c.89.	Town Police Clauses Act 1847.	In section 3, the definitions of "superior courts" and "county"; and the definition of "justice" from "county" to "other". Section 5.	10
10 & 11 Eliz. 2 c.46.	Transport Act 1962.	In Part IV of Schedule 2, the entry relating to section 152 of the Railway Clauses Consolidation Act 1845 and section 144 of the Railways Clauses Consolidation (Scotland) Act 1845.	15 20
1973 c.65.	Local Government (Scotland) Act 1973.	In Schedule 19, paragraph 1.	25
<i>Group 2 - The Standard Scale and the Statutory Maximum</i>			
31 & 32 Vict. c.cxiii.	Gun Barrel Proof Act 1868.	In section 4, the definition of "statutory maximum".	
35 & 36 Vict. c.15.	Parks Regulation Act 1872.	Section 5 from "as defined" to "1982".	30
10 & 11 Geo.5 c.55.	Emergency Powers Act 1920.	Section 2(3) from "as defined" to "1982".	
1 Edw.8 & 1 Geo.6 c.33.	Diseases of Fish Act 1937.	Section 8(1) from "(as defined" to "1982)".	35
12, 13 & 14 Geo.6 c.54.	Wireless Telegraphy Act 1949.	Section 6(2) from "as defined" to "1982". Section 14(8) and (9).	
14 Geo.6 c.37.	Maintenance Orders Act 1950.	Section 18(2A) from "(as defined" onwards.	40
6 & 7 Eliz.2 c.39.	Maintenance Orders Act 1958.	Section 3(3A) from "as defined" onwards.	
7 & 8 Eliz.2 c.57.	Street Offences Act 1959.	Section 1(2) from "as defined" to "1982".	
1967 c.8.	Plant Health Act 1967.	Section 3(4) from "as defined" to "1982".	45
1967 c.24.	Slaughter of Poultry Act 1967.	In section 8(1), the definition of "the standard scale".	
1974 c.47.	Solicitors Act 1974.	In section 87(1), the definition of "the standard scale".	50

Chapter or Number	Short title	Extent of repeal
1978 c.25.	Nuclear Safeguards and Electricity (Finance) Act 1978.	Section 2(6).
5 1979 c.2.	Customs and Excise Management Act 1979.	Section 171(2A).
1979 c.34.	Credit Unions Act 1979.	In section 31(1), the definition of "statutory maximum".
10 1979 c.38.	Estate Agents Act 1979.	In section 33(1), the definition of "the statutory maximum".
1979 c.46.	Ancient Monuments and Archaeological Areas Act 1979.	In section 61(1), the definition of "the statutory maximum".
15 1980 c.9.	Reserve Forces Act 1980.	Section 144(2).
1980 c.11.	Protection of Trading Interests Act 1980.	Section 3(5).
20 1980 c.21.	Competition Act 1980.	Section 19(7).
1980 c.43.	Magistrates' Courts Act 1980.	Section 155(5). In Schedule 7, paragraphs 3, 168, 183, 185, 190, 203, 205 and 206.
25 1980 c.65.	Local Government, Planning and Land Act 1980.	In section 167(14), the definition of "the statutory maximum". Section 167(15). In Schedule 20, paragraph 16(3) from "In this subparagraph" onwards.
30 1981 c.14.	Public Passenger Vehicles Act 1981.	In section 65(3), the definition of "statutory maximum".
35 1981 c.17.	Energy Conservation Act 1981.	Section 65(4). In section 27(2), the definition of "the statutory maximum".
40 1981 c.22.	Animal Health Act 1981.	Section 28(d).
1981 c.38.	British Telecommunications Act 1981.	Section 76(4). In section 85(1), the definition of "statutory maximum".
45 1981 c.42.	Indecent Displays (Control) Act 1981.	Section 4(3).
1981 c.45.	Forgery and Counterfeiting Act 1981.	Section 6(5). Section 22(6).
1981 c.53.	Deep Sea Mining (Temporary Provisions) Act 1981.	Section 14(6).
50 1981 c.69.	Wildlife and Countryside Act 1981.	In section 71, the definition of "statutory maximum".

## SCH. 1

Chapter or Number	Short title	Extent of repeal	
1982 c.16.	Civil Aviation Act 1982.	In section 105(1), the definition of "the statutory maximum".	5
1982 c.23.	Oil and Gas (Enterprise) Act 1982.	In section 28(1), the definition of "statutory maximum".	
1982 c.36.	Aviation Security Act 1982.	In section 38(1), the definition of "the statutory maximum".	10
1982 c.49.	Transport Act 1982.	Section 23(2).	
1983 c.2.	Representation of the People Act 1983.	In section 202(1), the definitions of "standard scale" and "statutory maximum".	15
1983 c.7.	Conwy Tunnel (Supplementary Powers) Act 1983.	Section 15(2) from "within" onwards. In Schedule 3, paragraph 10 from "within" onwards.	20
1983 c.20.	Mental Health Act 1983.	In section 145(1), the definition of "standard scale".	
1983 c.24.	Licensing (Occasional Permissions) Act 1983.	Section 145(2). In the Schedule, paragraph 10(a) from "as defined" onwards.	25
1983 c.30.	Diseases of Fish Act 1983.	In sections 8(1) and 9(2), the words from "as defined" onwards.	30
1983 c.35.	Litter Act 1983.	In section 10, the definition of "standard scale".	
1983 c.47.	National Heritage Act 1983.	Section 36(7) from "as defined" onwards.	35
1983 c.53.	Car Tax Act 1983.	In Schedule 1, paragraph 8(6) and (7).	
1983 c.54.	Medical Act 1983.	Section 49(1) from "as defined" onwards.	40
1983 c.55.	Value Added Tax Act 1983.	Section 48(2) and (3).	
1984 c.xi.	Selby Bridge Act 1984.	In section 12(6), the definition of "statutory maximum".	
1984 c.12.	Telecommunications Act 1984.	Section 106(2) and (3). In Schedule 3, paragraph 2.	45
1984 c.14.	Anatomy Act 1984.	Section 11(6) from "as defined" to "1982)". In section 11(7) and (8), the words "(as so defined)".	50

Chapter or Number	Short title	Extent of repeal
5	1984 c.22. Public Health (Control of Diseases) Act 1984.	In section 74, the definition of "standard scale".
10	1984 c.23. Registered Homes Act 1984.	In section 55, the definitions of "the standard scale" and "the statutory maximum".
15	1984 c.24. Dentists Act 1984.	Section 53(4).
20	1984 c.28. County Courts Act 1984.	In section 147(1), the definitions of "standard scale" and "statutory maximum".
25	1984 c.35. Data Protection Act 1984.	Section 19(2)(b) from "(as defined" onwards. Section 19(3) from "(as defined" onwards.
30	1984 c.36. Mental Health (Scotland) Act 1984.	In section 125(1), the definitions of "standard scale" and "statutory maximum".
35	1984 c.37. Child Abduction Act 1984.	In sections 4(1)(a) and 8(a), the words from "as defined" to "1982".
40	1984 c.39. Video Recordings Act 1984.	Section 15(3) from "In this subsection" onwards.
45	1984 c.40. Animal Health and Welfare Act 1984.	Section 10(6) from "In this subsection" onwards.
50	1984 c.43. Finance Act 1984.	In Schedule 5, paragraph 3.
	1984 c.51. Inheritance Tax Act 1984.	Section 220(2) from "(within" onwards.
	1984 c.54. Roads (Scotland) Act 1984.	Section 131(2)(b) from "as defined" onwards. Section 131(2)(c).
	1984 c.55. Building Act 1984.	In section 126, the definitions of "standard scale" and "statutory maximum".
	1984 c.60. Police and Criminal Evidence Act 1984.	Section 98(2) from "as defined" onwards. In Schedule 3, paragraph 10(b) from "(as defined" to "1982)". In Schedule 4, paragraph 14(2) from "as defined" onwards.
	S.I. 1984 No.703 (N.I. 3). Fines and Penalties (Northern Ireland) Order 1984.	In Schedule 6, paragraphs 1, 3 to 6, 11 to 17, and 19 to 29.

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Chapter or Number	Short title	Extent of repeal	
1985 c.4.	Milk (Cessation of Production) Act 1985.	Section 3(1) from "within" (where secondly occurring) to "1982".	5
1985 c.6. 1985 c.7.	Companies Act 1985. Business Names Act 1985.	In Schedule 24, the Note. In section 8(1), the definition of "statutory maximum".	10
1985 c.8.	Company Securities (Insider Dealing) Act 1985.	In section 16(1), the definition of "statutory maximum".	
1985 c.12.	Mineral Workings Act 1985.	Section 7(10) from "as defined" onwards.	15
1985 c.13.	Cinemas Act 1985.	In section 21(1), the definition of "standard scale".	
1985 c.26.	Intoxicating Substances (Supply) Act 1985.	Section 1(3) from "(as defined" to "1982)".	20
1985 c.29.	Enduring Powers of Attorney Act 1985.	In section 13(1), the definition of "statutory maximum".	
1985 c.38.	Prohibition of Female Circumcision Act 1985.	Section 1(2)(b) from "(as defined" to "1982)".	25
1985 c.44.	Sexual Offences Act 1985.	In sections 1(2) and 2(2), the words from "(as defined" onwards.	
1985 c.48.	Food and Environment Protection Act 1985.	In section 24(1), the definitions of "the standard scale" and "the statutory maximum".	30
1985 c.49.	Surrogacy Arrangements Act 1985.	Section 4(1) from "In this subsection" onwards.	35
1985 c.54.	Finance Act 1985.	In sections 10(4) and 89(3), the words from "(as defined" onwards.	
1985 c.56.	Interception of Communications Act 1985.	In section 10(1), the definition of "statutory maximum".	40
1985 c.61.	Administration of Justice Act 1985.	Section 10(4). In section 39(1), the definition of "the standard scale".	45
1985 c.66.	Bankruptcy (Scotland) Act 1985.	In section 73(1), the definitions of "standard scale" and "statutory maximum".	
1985 c.67.	Transport Act 1985.	In section 137(1), the definition of "the standard scale".	50

Chapter or Number	Short title	Extent of repeal
5 1985 c.68.	Housing Act 1985.	In section 622, the definitions of "standard scale" and "statutory maximum".
10 1985 c.69.	Housing Associations Act 1985.	In section 39, the definition of "standard scale". Section 64(4).
10 1985 c.71.	Housing (Consequential Provisions) Act 1985.	In Schedule 4, paragraph 14(2) from "(within" onwards.
15 1985 c.72.	Weights and Measures Act 1985.	In section 94(1), the definitions of "standard scale" and "statutory maximum".
1986 c.45.	Insolvency Act 1986.	In Schedule 10, the Note.
<i>Group 3 - Miscellaneous</i>		
20 38 & 39 Vict. c.55.	Public Health Act 1875.	In section 4, in the definition of "rackrent", the words "and tithe commutation rentcharge (if any)".
25 26 Geo. 5 & 1 Edw. 8. c.49.	Public Health Act 1936.	In sections 45(4) and 205, the words "or workshop". In section 287, the word "workshop", wherever occurring. In section 343(1)— (a) in the definition of "rackrent", the words "and tithe rentcharge (if any)"; (b) the definitions of "workshop" and "school"; (c) in the definition of "workplace", the words "or workshop".
40 9 & 10 Eliz. 2. c.34.	Factories Act 1961.	In section 176(1), the definition of "magistrates' court".
45 1963 c.41.	Offices, Shops and Railway Premises Act 1963.	In section 90(1), the definitions of "magistrates' court", "petty sessions area" and "police authority".
50		

## SCH. 1

Chapter or Number	Short title	Extent of repeal	
1964 c.69.	Scrap Metal Dealers Act 1964.	In section 9(2), the definition of "magistrates' court".	5
1980 c.43.	Magistrates' Courts Act 1980.	In Schedule 7, paragraph 37.	
1980 c.66.	Highways Act 1980.	In section 329(1), in the definition of "rackrent", the words "and tithe rentcharge (if any)".	10

PART XV  
TRANSPORT

Chapter or Number	Short title	Extent of repeal	15
<i>Group 1 - General Repeals</i>			
1 Geo. 4. c.lxxxiv (1820).	An Act for making and maintaining certain roads and bridges in the counties of Lanark and Dumbarton.	The whole Act.	20
4 Geo. 4. c.10 (1823).	An Act to rectify a mistake in [the Act 1 Geo. 4 c.lxxxiv], in so far as relates to the application of certain Exchequer bills therein mentioned.	The whole Act.	25
7 & 8 Vict. c.91.	South Wales Turnpike Trusts Act 1844.	The whole Act.	30
8 & 9 Vict. c.61.	South Wales Turnpike Trusts Act 1845.	The whole Act.	
10 & 11 Vict. c.72.	South Wales Turnpike Trusts Act 1847.	The whole Act.	35
24 & 25 Vict. c.47.	Harbours and Passing Tolls, &c. Act 1861.	In section 2, the definition of "pilotage authority".	



Chapter or Number	Short title	Extent of repeal
5 24 & 25 Vict. c.70.	Locomotive Act 1861.	Section 1 except as it applies to the Swinford Bridge Act 1767 and the Dunham Bridge Act 1830. In section 1 as it so applies, the words from "Provided always" (where first occurring) to "or bearing" and from "Provided always" (where secondly occurring) onwards.
10 15 20 30 & 31 Vict. c.134.	Metropolitan Streets Act 1867.	Sections 2 and 10. Sections 2 and 4. In sections 6, 7 and 9, the word "general". In section 22, the words "The said Secretary of State or".
25 41 & 42 Vict. c.77.	Highways and Locomotives (Amendment) Act 1878.	The whole Act.
25 48 & 49 Vict. c.18.	Metropolitan Streets Act 1885.	The whole Act.
25 51 & 52 Vict. c.41.	Local Government Act 1888.	In Schedule 1, the word "Locomotives".
30 61 & 62 Vict. c.29.	Locomotives Act 1898.	The whole Act.
30 9 & 10 Geo. 5. c.50.	Ministry of Transport Act 1919.	Section 24 from "or in Ireland" onwards.
35 15 & 16 Geo. 5. c.71.	Public Health Act 1925.	Section 10 from "or any power" onwards.
35 18 & 19 Geo. 5. c.32.	Petroleum (Consolidation) Act 1928.	In section 23, the definitions of "amenities" and "petroleum filling station". Section 24(3), (4), (5) and (7). Section 26(3)(b). Sections 110, 113 and 117.
40 45 20 & 21 Geo. 5. c.43.	Road Traffic Act 1930.	In section 121(1), the definition of "forestry". Section 121(1A).

SCH. 1

Chapter or Number	Short title	Extent of repeal	
23 & 24 Geo. 5. c.14.	London Passenger Transport Act 1933.	Sections 73 to 79. In section 107(1), the definitions of "Advisory Committee", "chief officer of police", "Commissioner of Police", "revenues of the Board", "statutory security", "suburban passenger services" and "traffic commissioner". Section 107(1A). Schedule 14.	5 10 15
15 & 16 Geo. 6 & 1 Eliz. 2. c.39.	Motor Vehicles (International Circulation) Act 1952.	Section 4. Section 7 from "and shall" onwards.	
1 & 2 Eliz. 2. c.36.	Post Office Act 1953.	Section 87(1A).	20
2 & 3 Eliz. 2. c.64.	Transport Charges &c. (Miscellaneous Provisions) Act 1954.	In section 13(3), the words "the Transport Act 1947".	
4 & 5 Eliz. 2. c.6.	Miscellaneous Financial Provisions Act 1955.	Schedule 1 except so far as it amends the New Forest Act 1949.	25
8 & 9 Eliz. 2. c.16.	Road Traffic Act 1960.	In section 248, the words "or sections 9, 14, 15 or 20(2) of the London Government Act 1963". In section 257(1), the definitions of "fares", "magistrates' court", "petty sessions area", "tramcar" and "trolley vehicle". Section 264. Section 266(a) and (c). Sections 267 and 268. Schedules 17 and 19.	30 35 40
1963 c.33.	London Government Act 1963.	Section 9(6). In Schedule 17, paragraph 1.	
1965 c.37.	Carriage of Goods by Road Act 1965.	In section 9, paragraph (d).	45
1967 c.70.	Road Traffic (Amendment) Act 1967.	Section 10(2) and (3).	
1967 c.76.	Road Traffic Regulation Act 1967.	Schedule 6 except the entry relating to Schedule 20 to the Road Traffic Act 1960.	50

Chapter or Number	Short title	Extent of repeal
5 1969 c.27.	Vehicle and Driving Licences Act 1969.	Section 1. Section 2 except subsection (3). Section 3. Sections 27 and 33. In section 34(1) and (2), the words "orders or" and "order or", wherever occurring. Section 34(2)— (a) from the beginning to "1960", except the words "any regulations made under this Act"; (b) from "and nothing" onwards. Section 34(3) and (4). Sections 36 and 37. Section 38(2). Schedules 1 and 3.
25 1969 c.48.	Post Office Act 1969.	In Schedule 4, paragraph 91.
30 1971 c.23.	Courts Act 1971.	In Schedule 9, the entry relating to the Highways and Locomotives (Amendment) Act 1878.
1972 c.11.	Superannuation Act 1972.	In Schedule 6, paragraph 72.
35 1972 c.70.	Local Government Act 1972.	Section 186(1) and (4).
1973 c.65.	Local Government (Scotland) Act 1973.	In Schedule 24, paragraph 46.
1980 c.43.	Magistrates' Courts Act 1980.	In Schedule 7, paragraph 35.
40 1983 c.43.	Road Traffic (Driving Licences) Act 1983.	The whole Act.
1984 c.27.	Road Traffic Regulation Act 1984.	Section 138(7) and (8). In Schedule 10, paragraph 8.
45 1985 c.51.	Local Government Act 1985.	In Schedule 4, paragraph 45.
1987 c.21.	Pilotage Act 1987.	Section 27. In section 33(2), the words "except section 27".
50 1988 c.52.	Road Traffic Act 1988.	Section 82(3).

## SCH. 1

Chapter or Number	Short title	Extent of repeal	
<i>Group 2 - London Cab Law</i>			
1 & 2 Will. 4 c.22.	London Hackney Carriage Act 1831.	Sections 27 and 28.	5
6 & 7 Vict. c.86.	London Hackney Carriages Act 1843.	Section 10 from "Provided always" onwards. Sections 22 and 23. Section 28 from "and in every case" onwards. Section 35.	10
16 & 17 Vict. c.33.	London Hackney Carriage Act 1853.	Sections 12 and 13.	
32 & 33 Vict. c.115.	Metropolitan Public Carriage Act 1869.	Section 8 from "This clause" to "1843".	15
<i>Group 3 - Road Mileage Charges</i>			
4 & 5 Geo. 5 c.lxxxviii.	Newport Corporation Act 1914.	Section 36. Section 37(2) and (3).	
7 & 8 Geo. 5 c.xxxvii.	Bedwas and Machen Urban District Council Act 1917.	Section 16.	20
7 & 8 Geo. 5 c.xl.	Ebbw Vale Urban District Council Act 1917.	Section 42.	
7 & 8 Geo. 5 c.xlii.	Ashton-under-Lyne Corporation Act 1917.	Section 29(2).	25
7 & 8 Geo. 5 c.xlix.	Caerphilly Urban District Council Act 1917.	Section 16.	
8 & 9 Geo. 5 c.xx.	Morecombe Corporation Act 1918.	Section 7(3).	30
9 & 10 Geo. 5 c.lxvii.	Stretford Urban District Council Act 1919.	Section 28.	
10 & 11 Geo. 5 c.xxi.	Risca Urban District Council Act 1920.	Section 18(1), (2) and (8).	
10 & 11 Geo. 5 c.lxxvii.	Leigh Corporation Act 1920.	Section 6(1), (2) and (7).	35
10 & 11 Geo. 5 c.xcvii.	Manchester Corporation Act 1920.	Section 45(2), (3) and (8).	
10 & 11 Geo. 5 c.cxlii.	Cardiff Corporation Act 1920.	Section 66(1), (2) and (7). Section 69(2).	40
10 & 11 Geo. 5 c.clxxi.	Lanarkshire Tramways Order Confirmation Act 1920.	In the Schedule, Article 15(6) of the Lanarkshire Tramways Order 1920.	
10 & 11 Geo. 5 c.72.	Roads Act 1920.	Section 10.	45
1991 c.22.	New Roads and Street Works Act 1991.	In Schedule 8, paragraph 98.	

Chapter or Number	Short title	Extent of repeal
	<i>Group 4 - Selby Bridge</i>	
5 31 Geo. 3 c.60.	Selby Bridge Act 1791.	Sections 17, 19 and 20. Sections 21, 22, 23 and 26. Sections 32 to 38. Sections 41, 42, 48 and 51. Section 52 from "and it shall be lawful" onwards. Section 59. In section 60, the words "by the person or persons appointed to collect the said tolls or" and the word "other".
10		
15		
20 43 Geo. 3 c.xlviii. 1984 c.xi.	Selby Bridge Act 1803. Selby Bridge Act 1984.	Sections 61 and 71. The whole Act.  In section 2, the definition of "the Act of 1803". Sections 4 to 8. Section 14(1)(a) and (2). In section 14(1)(b), the words "and the Act of 1803". Section 15. In Schedule 1— (a) Part I; (b) in Part II, the entries relating to section 34 of the Act of 1791 and the Act of 1803.
25		
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35		
40 S.I. 1986 No.1401.	Selby Bridge Tolls (Revision) Order 1986.	Schedule 2. The whole Order.
	<i>Group 5 - Port of London Improvement</i>	
45 39 & 40 Geo. 3 c.xlvii (1800).	An Act for making wet docks, basins, cuts and other works, for the greater accommodation and security of shipping, commerce and revenue, within the port of London.	Section 110.

## SCH. 1

Chapter or Number	Short title	Extent of repeal	
46 Geo. 3 c.118 (1806).	An Act to extend the time for purchasing the legal quays and warehouses in the port of London, and for authorising the Lords Commissioners of His Majesty's Treasury to purchase Somers and Lyons Quays in the said port.	The whole Act.	5
47 Geo. 3 Sess.2 c.60 (1807).	An Act to give further time for purchasing the legal quays and warehouses in the port of London.	The whole Act.	10
50 Geo. 3 c.22 (1810).	An Act for authorising the Lords Commissioners of the Treasury to purchase certain quays within the port of London.	The whole Act.	15
52 Geo. 3 c.49 (1812).	An Act to continue the period for purchasing the legal quays in the port of London, and to enable the Lords of the Treasury to purchase buildings in Thames Street for the purpose of erecting a new custom house.	The whole Act.	20
54 Geo. 3 c.45 (1814).	An Act to continue the period for purchasing the legal quays in the port of London.	The whole Act.	25
2 & 3 Will. 4 c.66 (1832).	An Act to provide for the conveyance of premises, the property of the Crown, situate between the Tower of London and London Bridge.	The whole Act.	30
3 & 4 Will. 4 c.8 (1833).	An Act to amend an Act for the conveyance of certain premises situate between London Bridge and the Tower of London.	The whole Act.	35
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Chapter or Number	Short title	Extent of repeal
<i>Group 6 - Entry of Cargo Imported by Sea</i>		
5 9 & 10 Vict. c.cccxcix (1846).	An Act for the regulation of the legal quays within the port of London.	The whole Act.
10 & 11 Vict. c.cc (1847).	An Act for making perpetual [the Act 9 & 10 Vict. c.cccxcix].	The whole Act.
10 11 & 12 Vict. c.xviii (1848).	An Act for the regulation of certain public sufferance wharves in the port of London.	The whole Act.
15 20 & 21 Vict. c.ix.	Meriton's and Hagen's Sufferance Wharves Act 1857.	The whole Act.
21 & 22 Vict. c.xli.	Sufferance Wharves (Port of London) Act 1858.	The whole Act.
20 57 & 58 Vict. c.60.	Merchant Shipping Act 1894.	Sections 492 to 501.
14 Geo.6 c.27.	Arbitration Act 1950.	Section 29(1). Section 29(2) from "For" to "this section".
25 1979 c.2.	Customs and Excise Management Act 1979.	In Schedule 4, in the Table in paragraph 12, the entry relating to the Merchant Shipping Act 1894.

SCH. 1

PART XVI  
MISCELLANEOUS

Chapter or Number	Short title	Extent of repeal
<i>Group 1 - General Repeals</i>		
1 & 2 Geo. 4. c.76.	Cinque Ports Act 1821.	Section 1 from "who" to "Chancery". Section 3 from "before a magistrate" to "(videlicet)". Section 4 from "according" to "annexed". Section 15 from "and the judge" to "being" and the words "any magistrate or magistrates or". The Schedule.
9 Geo. 4. c.37. 33 & 34 Vict. c.67.	Cinque Ports Act 1828. Reserve Forces Act 1870.	The whole Act. The whole Act.
57 & 58 Vict. c.56.	Statute Law Revision Act 1894.	The whole Act.
10 & 11 Geo. 5. c.41.	Census Act 1920.	Section 3(1)(b) from "superintendent" to "poor rate, and" and the word "other". Section 7 from "and in the case" to "1908". In section 9— (a) paragraph (1) from the beginning to "Health and"; (b) paragraph (3).
16 & 17 Geo. 5. c.53.	Merchandise Marks Act 1926.	The whole Act as it applies to the Isle of Man.
17 & 18 Geo. 5. c.42.	Statute Law Revision Act 1927.	The whole Act.
21 & 22 Geo. 5. c.9.	Colonial Naval Defence Act 1931.	Section 4(2).
24 & 25 Geo. 5. c.20.	Water Supplies (Exceptional Shortage Orders) Act 1934.	The whole Act as it applies to Scotland.
26 Geo. 5 & 1 Edw. 8. c.22.	Hours of Employment (Conventions) Act 1936.	Section 5(1)(a).



Chapter or Number	Short title	Extent of repeal
5 2 & 3 Geo. 6. c.31.	Civil Defence Act 1939.	Section 36(1). Section 36(2) from "Subject" to "railway undertakings" and from "in addition" to "subsection". Section 39(1) from "whether" to "Act". Section 39(3) from "and, in" onwards. Section 77 from "or in reply" to "members of the civil population". In section 79(1), the words "Any factory inspector or mines inspector and"; and in paragraphs (a) and (c), the word "inspector". Section 79(2) from "or, as the case may be" onwards. In section 79(3), the words "any inspector or". In section 90(1), the definitions of "Factory Inspector" and "Mines inspector".
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35	11 & 12 Geo. 6. c.62. S.I. 1949 No.2149. S.I. 1949 No.2150.	Statute Law Revision Act 1948. Civil Defence (Sewerage) Regulations 1949. Civil Defence (Water Supplies) Regulations 1949.
40	14 Geo. 6. c.6.	Statute Law Revision Act 1950.
45	5 & 6 Eliz. 2. c.16.	Nurses Agencies Act 1957.
50	1964 c.60.	Emergency Laws (Re- enactments and Repeals) Act 1964.
	1964 c.86.	Malta Independence Act 1964.

## SCH. 1

Chapter or Number	Short title	Extent of repeal	
1971 c.77. 1974 c.37.	Immigration Act 1971. Health and Safety at Work etc. Act 1974.	Section 34(6). Section 78(3). Section 83. In Schedule 8, paragraph 3. Schedules 9 and 10.	5
1988 c.48.	Copyright, Designs and Patents Act 1988.	In Schedule 8, the entry relating to the Malta Independence Act 1964.	10
<i>Group 2 - Ireland</i>			
58 Geo. 3. c.35.	Royal Canal Act 1818.	The whole Act.	
11 Geo. 4 & 1 Will. 4. c.22.	Richmond Lunatic Asylum Act 1830.	The whole Act.	15
1 Will. 4. c.13.	Richmond Lunatic Asylum Act 1831.	The whole Act.	
7 Will. 4 & 1 Vict. c.25	Dublin Police Act 1837.	The whole Act.	20
1 & 2 Vict. c.51.	Grand Jury Cess (Dublin) Act 1838.	The whole Act.	
3 & 4 Vict. c.103.	Dublin Justices Act 1840.	The whole Act.	
12 & 13 Vict. c.85.	Dublin Corporation Act 1849.	The whole Act.	25
18 & 19 Vict. c.69.	Dublin and Other Roads Turnpikes Abolition Act 1855.	The whole Act.	
19 & 20 Vict. c.68.	Dublin Revising Barristers Act 1857.	The whole Act.	30
23 & 24 Vict. c.56.	Dublin Revising Barristers Act 1861.	The whole Act.	
27 & 28 Vict. c.28.	Common Law Procedure Amendment Act (Ireland) 1864.	The whole Act.	35
28 & 29 Vict. c.2.	Sale of Game (Dublin) Act 1865.	The whole Act.	
31 & 32 Vict. c.60.	Curragh of Kildare Act 1868.	The whole Act.	40
36 & 37 Vict. c.65.	County and City of Dublin Grand Juries Act 1873.	The whole Act.	
38 & 39 Vict. c.20.	Dublin Justices Act 1875.	The whole Act.	
41 & 42 Vict. c.75.	Arranmore Polling District Act 1878.	The whole Act.	45
47 & 48 Vict. c.35.	County of Dublin Jurors and Voters Revision Act 1884.	The whole Act.	
53 & 54 Vict. c.12.	River Suck Drainage (Provision of Funds) Act 1890.	The whole Act.	50

Chapter or Number	Short title	Extent of repeal
2 Edw. 7. c.3.	Agriculture and Technical Instruction (Ireland) Act 1902.	The whole Act.
5 9 Edw. 7. c.36.	Local Registration of Title (Ireland) Act 1909.	The whole Act.
10 Edw. 7 & 1 Geo. 5. c.33.	Hotels and Restaurants (Dublin) Act 1910.	The whole Act.

10

SCHEDULE 2

CONSEQUENTIAL AND CONNECTED PROVISIONS

PART I

AMENDMENTS RELATING TO SUMMARY JURISDICTION

*Servants' Characters Act 1792 (c.56)*

15 1. In sections 1, 2, 3, 4 and 5 of the Servants' Characters Act 1792 (summary offences of fraud relating to employment), for the words from "shall forfeit" onwards substitute "shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale".

*Ordnance Survey Act 1841 (c.30)*

20 2. In sections 7 and 8 of the Ordnance Survey Act 1841 (penalties for removing boundary marks or obstructing survey), for the words from "every person so offending" onwards substitute "he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale."

25 *Public Notaries Act 1843 (c.90)*

3. In section 10 of the Public Notaries Act 1843 (unauthorised practice as a notary)—

30 (a) for the words from "every such person" onwards substitute "he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale";

(a) renumber the existing section as subsection (1);

(c) insert the following subsection—

35 "(2) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980, proceedings for an offence under this section may be commenced within 12 months from the time when the offence was committed".

*Inclosure Acts 1849 and 1852*

4. In section 10 of the Inclosure Act 1849 and section 33 of the Inclosure Act 1852 (summary offences relating to the exercise of ownership on common land after the rights of ownership have been extinguished)— 1849 c.83. 1852 c.79.

40 (a) for the words from "on being convicted" to "pay for and" substitute "shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale";

SCH. 2 (b) omit the words from “such sum” to “penalty”.

*Town Gardens Protection Act 1863 (c.13)*

5. In sections 4 and 5 of the Town Gardens Protection Act 1863 (penalties under byelaws or for trespass), after the word “liable” insert “on summary conviction”.

5

*Wimbledon and Putney Commons Act 1871 (c.cxiv)*

6. In section 87 of the Wimbledon and Putney Commons Act 1871 (penalties under byelaws), after the word “penalties” insert “on summary conviction”.

*Births and Deaths Registration Act 1874 (c.88)*

7. In sections 18 and 19 of the Births and Deaths Registration Act 1874 (summary offences relating to burials), for the words from “to a penalty” onwards substitute “on summary conviction to a fine not exceeding level 1 on the standard scale”.

10

*Seal Fishery Act 1875 (c.18)*

8. In section 2 of the Seal Fishery Act 1875 (close time for Greenland seal fishery), for the words from “to a penalty” onwards substitute “on summary conviction to a fine not exceeding level 3 on the standard scale”.

15

*Supreme Court Act 1981 (c.54)*

9. In Part II of the Supreme Court Act 1981 (jurisdiction), after section 28 insert—

20

1980 c.43.

“Proceedings on case stated by magistrates’ court. 28A.—(1) The following provisions apply where a case is stated for the opinion of the High Court under section 111 of the Magistrates’ Courts Act 1980 (case stated on question of law or jurisdiction).

(2) The High Court may, if it thinks fit, cause the case to be sent back for amendment, whereupon it shall be amended accordingly.

25

(3) The High Court shall hear and determine the question arising on the case (or the case as amended) and shall—

(a) reverse, affirm or amend the determination in respect of which the case has been stated, or

30

(b) remit the matter to the justice or justices with the opinion of the court,

and may make such other order in relation to the matter (including as to costs) as it thinks fit.

35

1960 c.65.

(4) Except as provided by the Administration of Justice Act 1960 (right of appeal to House of Lords in criminal cases), a decision of the High Court under this section is final and conclusive on all parties.”.

## PART II

SCH. 2

## OTHER PROVISIONS

*Cinque Ports Act 1821 (c.76)*

10. In the Cinque Ports Act 1821 (salvage jurisdiction) after section 5 insert the following section (which preserves the effect of the Cinque Ports Act 1828)— 1828 c.37.
- “Powers of 5A. The deputy warden of the cinque ports may exercise deputy warden. any power conferred by this Act on the lord warden.”

*Chartered Companies Acts 1837 and 1884*

11. The repeal by this Act of—
- 10 (a) section 29 of the Chartered Companies Act 1837 , and 1837 c.73.  
(b) the Chartered Companies Act 1884 , 1884 c.56.
- does not affect the power of Her Majesty to grant a charter of incorporation of limited duration or to extend or renew such a charter or privileges of such a charter.

15 *Trafalgar Square Act 1844 (c.60)*

12. In section 2 of the Trafalgar Square Act 1844 (care and management of Trafalgar Square), for the words from “the Commissioners for the time being” to “required”, substitute “the Secretary of State; and the Secretary of State is hereby required,”.

20 *Parliamentary Costs Acts 1847 to 1849*

13. In section 8 of the House of Commons Costs Taxation Act 1847 and section 8 of the House of Lords Costs Taxation Act 1849 (application for taxation of a bill of costs), for the word “verdict” substitute “judgment”. 1847 c.69. 1849 c.78.

*Ecclesiastical Commissioners Act 1850 (c.94)*

- 25 14. In section 1 of the Ecclesiastical Commissioners Act 1850 (appointment of Church Estates Commissioners)—
- (a) renumber the existing section as subsection (1);
- (b) insert the following subsection (which preserves the effect of the Episcopal and Capitular Estates Act 1859)— 1859 c.46.
- 30 “(2) The publication in the London Gazette of a notice of the appointment of a Church Estates Commissioner shall be evidence of the fact of the appointment.”.

*Improvement of Land Act 1864 (c.114) and Lands Improvement Company’s Act 1853 (c.cliv)*

- 35 15. In—
- (a) section 73 of the Improvement of Land Act 1864 (power to enter on neighbouring lands for repair of works, making compensation); and 1864 c.114.
- (b) section 71 of the Lands Improvement Company’s Act 1853 (which makes similar provision); 1853 c.cliv.
- 40 for the words “two justices or the sheriff” substitute “the Lands Tribunal or the Lands Tribunal for Scotland”.

SCH. 2

*Metropolitan Streets Act 1867 (c.134)*

16. In section 3 of the Metropolitan Streets Act 1867 (interpretation), after the definition of “street”, insert—

““the limits of this Act” means—

- (a) the City of London; 5
- (b) the area enclosed in a circle of which the centre is Charing Cross, and the radii are six miles in length as measured in a straight line from Charing Cross.”.

*Disused Burial Grounds Act 1884 (c.72)*

1887 c.32. 17. For section 2 of the Disused Burial Grounds Act 1884 (interpretation) 10 substitute the following section (which preserves the effect of section 4 of the Open Spaces Act 1887)—

“Interpretation. 2. In this Act—

“building” includes any temporary or movable building;

“burial ground” includes any churchyard, cemetery or 15 other ground, whether consecrated or not, which has been at any time set apart for the purpose of interment;

“disused burial ground” means any burial ground which is no longer used for interments, whether or not the 20 ground has been partially or wholly closed for burials under the provisions of a statute or Order in Council.”.

*Notification of Births Act 1907 (c.40)*

1965 c.42. 18—(1) Section 1(2) of the Notification of Births Act 1907 (supply by local 25 authority of forms for the purpose of notifying births) shall continue to have effect as amended by the Public Health (Notification of Births) Act 1965, that is, with the substitution of the words “prepaid addressed envelopes together with the forms of notice” for the words “addressed and stamped postcards containing the form of notice”. 30

(2) This paragraph extends only to Scotland.

*Small Holdings and Allotments Act 1908 (c.36)*

1887 c.26. 1922 c.51. 19. In section 47(3) of the Small Holdings and Allotments Act 1908 (compensation for improvements), for “the Allotments and Cottage Gardens Compensation for Crops Act 1887” substitute “section 3 of the Allotments Act 35 1922”.

*Ferries (Acquisition by Local Authorities) Act 1919 (c.75)*

20.—(1) In section 1 of the Ferries (Acquisition by Local Authorities) Act 1919 (power to acquire ferries by agreement), after subsection (4) insert—

“(4A) For the purpose of exercising his functions under this Act, the 40 Secretary of State may hold local inquiries.”

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

*Official Secrets Act 1920 (c.75)*

SCH. 2

21. In section 11 of the Official Secrets Act 1920 (construction of Official Secrets Acts), after subsection (1) insert—

- 5 “(1A) For the purposes of this Act as it extends to Northern Ireland, the expression “chief officer of police” means a superintendent or chief superintendent of the Royal Ulster Constabulary.”

*Road Traffic Act 1930 (c.43)*

22. In section 121 of the Road Traffic Act 1930 (interpretation), after subsection (1) insert—

- 10 “(1B) References in this Act to public service vehicles shall be construed in like manner as if they were contained in the Public Passenger Vehicles Act 1981.” 1981 c.14.

*Children and Young Persons Act 1933 (c.12)*

- 15 23. Section 11 of the Children and Young Persons Act 1933 (exposing children to risk of burning) shall continue to have effect as amended by section 8 of the Children and Young Persons (Amendment) Act 1952, that is— 1952 c.50.

- (a) with the substitution of the word “twelve” for the word “seven”; and  
(b) with the insertion after the words “fire grate” of “or any heating appliance liable to cause injury to a person by contact therewith”.

- 20 *Public Health Act 1936 (c.49)*

24.—(1) In section 143(7) of the Public Health Act 1936 (regulations for the prevention and treatment of infectious disease, &c. to be laid before Parliament) after the word “Parliament” insert “and shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

- 25 (2) This paragraph extends only to Northern Ireland.

25. In section 343(1) of the Public Health Act 1936 (interpretation), in the definition of “factory”, for the words “Factory and Workshop Acts 1901 to 1929” substitute “Factories Act 1961”. 1961 c.34.

*Statutory Orders (Special Procedure) Act 1945 (c.18)*

- 30 26.—(1) In section 7(3) of the Statutory Orders (Special Procedure) Act 1945 (costs incurred by a local authority), for the words “Minister of Health” substitute “Secretary of State”.

- (2) In section 10(5) of that Act (Scottish provisions in place of section 7(3)), for the words “within the meaning of the Local Authorities Loans (Scotland) Act 1891” substitute “(being a regional, islands or district council)”. 1891 c.34.

*Crown Proceedings Act 1947 (c.44)*

27. In the application of Part I of Schedule 1 to this Act to Northern Ireland, the reference to the Crown Proceedings Act 1947 is to that Act as it applies to the Crown in right of Her Majesty’s Government in Northern Ireland, as well as to the Crown in right of Her Majesty’s Government in the United Kingdom.

*Post Office Act 1953 (c.36)*

28. In section 87 of the Post Office Act 1953 (interpretation), after subsection (1) insert—

- 45 “(1B) In the application of this Act to Great Britain, references to public service vehicles shall be construed in like manner as if they were contained in the Public Passenger Vehicles Act 1981.”

## SCH. 2

*Companies Act 1967 (c.81)*

1974 c.49.  
1982 c.50.

29. Section 89(1) of the Companies Act 1967 (criminal liability of directors, etc. of an industrial assurance company) shall continue to have effect as amended by the Insurance Companies Act 1974 and the Insurance Companies Act 1982, that is, with the substitution of "director, chief executive or manager (as defined in the Insurance Companies Act 1982)" for the words from "director" to "manager". 5

*Policyholders Protection Act 1975 (c.75)*

S.I. 1978/1042  
(N.I.12).  
S.I. 1986/1032  
(N.I.6).

30. In sections 27 and 29 of the Policyholders Protection Act 1975 (disclosure of documents and information) for the words "or Article 109 of the Companies (Northern Ireland) Order 1978" substitute "or Article 442 of the Companies (Northern Ireland) Order 1986". 10



## APPENDIX 2

### EXPLANATORY NOTE ON THE DRAFT BILL

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

*Clause 2* would implement a recommendation by the Law Commission, at the request of the trustees of Monken Hadley Common, to annul the repeal of an 18th century Act by the Statute Law (Repeals) Act 1978. The recommendation is separately discussed in Appendix 3 below.

*Clause 3* provides for the extension of repeals, and an associated amendment, to the Isle of Man, the Channel Islands and colonies. So far as the draft Bill extends directly to the Isle of Man, it has been agreed to by the authorities in the Isle of Man. The repeals in Schedule 1 which particularly affect the Isle of Man are those relating to the following Acts-

Dockyards, etc. Protection Act 1772 (Part I)  
Public Notaries Act 1801 (Part I)  
Ecclesiastical Leases Act 1842 (Part VI)  
Ordnance Survey Act 1841 (Part XIII)  
Military Lands Act 1892 (Part XIII)  
Merchandise Marks Act 1926 (Part XVI)

*Clause 4(2)* provides for the coming into force of certain repeals (Group 1 of Part IX of Schedule 1) which relate to government stock. It corresponds to the provision made by Part XII of Schedule 27 to the Finance Act 1989 (similar repeals relating to the redemption of government stock). It is needed because the relevant regulations which would replace the enactments proposed for repeal have not yet been made.

*Clause 4(3)* provides for the coming into force of the repeal of the Shipbuilding (Redundancy Payments) Act 1978 and section 1 of the Shipbuilding Act 1985 (Group 1 of Part IX of Schedule 1). It is needed because one application relating to the Shipbuilding Redundancy Payments Scheme for Great Britain has not yet been finally disposed of.

The remainder of the draft Bill would come into force on its enactment.

# SCHEDULE 1

## REPEALS

### PART I

#### ADMINISTRATION OF JUSTICE

##### *Group 1 - General Repeals*

The Heritable Jurisdictions (Scotland) Act 1746 was passed following the serious Jacobite Rebellion of 1745-1746. The repeals,<sup>1</sup> which are supported by the Scottish Office Home and Health Department, are of spent provisions or are consequential. Section 1 abolished the remaining heritable jurisdictions in Scotland on 25 March 1748 and has therefore had its effect. In essence, the heritable jurisdictions were grants of judicial authority which enabled the grantees, and their heirs, to hold local courts of varying descriptions. Their original purpose was to assist in the administration of justice at a time when the king's justice was not easily administered or enforced. In practice the system was a source of power for the Highland clan chiefs and the Scottish feudal landowners which it became essential to end after the Jacobite rebellion.

There were two exceptions to the general abolition of heritable jurisdictions in 1746: the jurisdiction of the High Constable of Scotland (section 1), which is no longer exercised,<sup>2</sup> and a limited jurisdiction of barony (section 24), which was substantially curtailed in 1746 and has long since fallen into desuetude.<sup>3</sup> These provisions have had their effect.

The other repeals are consequential. Section 2 provided that, notwithstanding the abolition effected by section 1, all lands belonging to heritable baileries, stewardries and constabularies, together with all rents and duties, should remain with their possessors and their heirs and successors. These preserved rights would not be affected by the repeal. Similarly, sections 26 and 27 saved the jurisdictions and privileges of the royal burghs and the burghs of regality and barony and can be repealed without prejudice. These jurisdictions have been absorbed in the historical development of the inferior criminal courts, which are now constituted and regulated under the District Courts (Scotland) Act 1975.

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<sup>1</sup> Much of the Act has already been repealed, most recently by the Debtors (Scotland) Act 1987 and the Criminal Justice (Scotland) Act 1987. The remaining extant provisions are s.14 (transmission of certain records to the General Register Office), s.25 (restrictions on grant of letters patent), and s.43 (destination of judicial fines).

<sup>2</sup> Erskine, *An Institute of the Law of Scotland* (1773), I.ii.37; *Principles of the Law of Scotland* (ed. Rankine, 1895), I.iv.16.

<sup>3</sup> In 1807 *Bell's Dictionary and Digest of the Law of Scotland* noted that the baron's jurisdiction "is put under so many regulations and restrictions that it is now seldom, if ever, exercised". More recently, the historian Dr. George Pryde concluded that, as a result of the 1746 Act, the baron court passed out of existence in the 18th or 19th century: *Central and Local Government in Scotland since 1707* (The Historical Association, 1960), 10.

The Dockyards, etc. Protection Act 1772 made it an offence to burn ships, etc. in any of the Royal dockyards "either within this realm, or in any of the islands, countries, forts or places thereto belonging". The Act was repealed for the United Kingdom by the Criminal Damage Act 1971. It is similarly obsolete as it applies to the Isle of Man, where an Act of Tynwald<sup>4</sup> now makes similar provision to that made by the Criminal Damage Act 1971 and is indeed modelled on that Act. The proposed repeal is agreed to by the authorities in the Isle of Man.

The Servants' Characters Act 1792, which applies to Great Britain, provides for a number of statutory offences in connection with fraudulent representations as to employment and the giving of false references, whether personally or in writing and whether by the person seeking employment or by the person giving the reference. In Scotland the Act has been ignored. It is not referred to in any of the institutional or contemporary texts on criminal law or the law of employment (historically described as the law of master and servant). Nor is there any record of a prosecution having been pursued under it. The forms of conduct proscribed by the Act could, and in practice would, be prosecuted now under the common law, either as fraud or as uttering forged documents. In modern Scots law fraud is a common law crime of very wide denotation. It has been described as the bringing about of some definite practical result by means of false pretences.<sup>5</sup> There is also a crime of "practical cheating" which is committed, for example, by the uttering of forged documents.<sup>6</sup> The doctrine of art and part guilt would also allow prosecution of those acting in concert, where appropriate.<sup>7</sup> The Crown Office and the Scottish Office Home and Health Department have been consulted and agree that the Act is unnecessary in Scotland and should be repealed.

In the Servants' Characters Act 1792, as it applies to England and Wales,<sup>8</sup> section 6 (punishment of offences) is superseded, so far as it provides for imprisonment in default of payment of a pecuniary penalty, by the general law.<sup>9</sup> The effect of the remainder of the section, as amended in general terms in 1977 and 1982,<sup>10</sup> is that offences under the Act are punishable on summary conviction by a fine not exceeding level 2 on the standard scale. A consequential amendment of sections 1 to 5 in Schedule 2 to the draft Bill would express this residual effect in plain terms. The proposal is agreed to by the Home Office.

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<sup>4</sup> Criminal Damage Act 1981 (c.19).

<sup>5</sup> Gordon, *Criminal Law* (1978) 588ff.

<sup>6</sup> Gordon, *op. cit.* 611ff.

<sup>7</sup> Gordon, *op. cit.* 129ff.

<sup>8</sup> So far as the Act referred to forged or counterfeited documents it was repealed by the Forgery and Counterfeiting Act 1981, Sch., Pt.I.

<sup>9</sup> Magistrates' Courts Act 1980, ss.75, 76.

<sup>10</sup> Criminal Law Act 1977, s.31; Criminal Justice Act 1982, s.46.

Section 16 of the Public Notaries Act 1801, as originally enacted<sup>11</sup> and as applied by section 10 of the Public Notaries Act 1843, provided a common informer action for a penalty of £50 in cases where a person practised as a notary in England<sup>12</sup> without being authorised to do so. By virtue of the Common Informers Act 1951, and later legislation, a contravention of section 10 of the Public Notaries Act 1843 (unauthorised practice as a notary) is now a summary offence for which the penalty is a fine not exceeding level 3 on the standard scale. Section 16 of the Public Notaries Act 1801 is obsolete and unnecessary. A textual amendment of section 10 of the Public Notaries Act 1843 in Schedule 2 to the draft Bill would express the present law in intelligible terms. The Lord Chancellor's Department, the Master of the Faculties, the notarial profession and the authorities in the Isle of Man have been consulted and have no objection to the proposals.

In the Game Act 1831, section 42 (prosecutor not required to negative possession of certificate, etc.) was repealed in its application to Northern Ireland in 1953.<sup>13</sup> The Home Office agrees that it has been superseded as it applies to England and Wales by the general law now contained in section 101 (onus of proving exceptions, etc.) of the Magistrates' Courts Act 1980. In Scotland, where the section is applicable by virtue of section 13 of the Game Licences Act 1860, the Scottish Office Home and Health Department and the Crown Office agree that it is superseded by section 312(v) of the Criminal Procedure (Scotland) Act 1975.

Section 9 of the Judicial Committee Act 1833, so far as proposed for repeal, and section 50 of the Naval Prize Act 1864 (punishment of persons guilty of perjury) are now applicable only to Scotland,<sup>14</sup> where they are superseded by the general law in the False Oaths (Scotland) Act 1933.

The Pound-breach Act 1843, now applicable only to England and Wales,<sup>15</sup> supplemented the complex old law of pound-breach and rescue by providing an additional summary procedure for the punishment of interferences with the right of distress damage feasant. The statute was little used, even in the 19th century.<sup>16</sup> The right to seize and detain

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<sup>11</sup> Originally the section was applicable to the Public Notaries Act 1801, s.11 (penalty for acting as a notary without being admitted) which was repealed in 1872, having been superseded by the wider provisions of the Public Notaries Act 1843, s.10.

<sup>12</sup> The Public Notaries Act 1843, s.10 is also expressed to apply to "any colony or place to Her Majesty belonging out of England". Clause 3 of the draft Bill enables the amendment of that section to be extended, with necessary modifications, to dependencies to which the 1843 Act applies.

<sup>13</sup> Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1953.

<sup>14</sup> The provisions were repealed for England and Wales by the Perjury Act 1911 and for Northern Ireland by the Perjury (Northern Ireland) Order 1979 (S.I. 1979 No. 1714, N.I. 19).

<sup>15</sup> The Act was repealed for Northern Ireland, as obsolete and unnecessary, by the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968.

<sup>16</sup> The solitary case usually cited is *R v. Gee* (1885) 49 J.P. 212, 243, which established that "beast or cattle" in the Act includes cows and heifers.

any animal by way of distress damage feasant was almost obsolete by 1953,<sup>17</sup> and it was expressly abolished by section 7 of the Animals Act 1971. That section replaced the old law relating to the detention and sale of trespassing livestock with a modern procedure. So far as the 1843 Act provided for the punishment of criminal damage, it has been superseded by the Criminal Damage Act 1971. The Pound-breach Act 1843 serves no practical purpose now and the Home Office and the Ministry of Agriculture, Fisheries and Food agree that it should be repealed.

The residue of the Hosiery Act 1843, applicable to England and Wales, is a relic of the old system of outworking in the hosiery and knitwear industries.<sup>18</sup> It protected manufacturers from distraint upon the tools and apparatus hired to outworkers in case of the worker falling into debt or failing to pay rent, as was likely to happen under the dire conditions of the 1840s when steam-driven factories had reduced outworking to the depths of decline. Section 18 prohibited distraint upon any of the manufacturer's goods lying on the worker's premises, section 19 empowered the manufacturer to recover any distrained property (or its value) from the person distraining, by order of the justices of the peace, and section 20 imposed a penalty on anyone summarily convicted of obliterating or effacing the manufacturer's mark from his machine. Outworking no longer exists in its 19th century form, and the provisions are unnecessary. The Knitwear Industries' Federation, which represents all concerned, has been consulted and is content to see the Act repealed.

Section 11 of the Commissioners Clauses Act 1847 provides that a commissioner under the Act<sup>19</sup> is not incapable of acting as a justice of the peace in levying a penalty due to the commissioners. It is contrary to the rule, now well-established, that even in small matters nobody should be, or appear to be, a judge in his own cause. In *R. v. Mulvihill* [1990] 1 All E.R. 436, 90 Cr. App. R. 372, the Court of Appeal for England and Wales confirmed that a magistrate may not act as a judge when he has a pecuniary interest in the outcome of the proceedings, albeit only a small one, because it may give rise to suspicion of bias. In Scotland and Northern Ireland the section is similarly out of step with the modern law and practice. The Lord Chancellor's Department, the Home Office, the Scottish Office Home and Health Department and the authorities in Northern Ireland agree that the section ought to be repealed.

Section 16 of the Summary Jurisdiction (Ireland) Act 1851, which applies to Northern Ireland, consolidated the jurisdiction of justices to hear and determine disputes concerning wages. Paragraphs 1 and 2 were repealed in 1953.<sup>20</sup> Paragraph 3, derived from a statute of

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<sup>17</sup> *Report of the Committee on the Law of Civil Liability for Damage done by Animals* (1953) Cmd. 8746, para. 9.

<sup>18</sup> For the background, see *Oxford History of England 1815-1870*, 4, 12. The Act recited a large body of earlier legislation, including the Frauds by Workmen Acts 1748 and 1777, which had proved ineffectual in preventing frauds, embezzlements and abuses.

<sup>19</sup> The 1847 Act is adoptive legislation which applies, for instance, to the Wimbledon and Putney Commons Conservators: see the Wimbledon and Putney Commons Act 1871 (c.civ), s.2.

<sup>20</sup> Summary Jurisdiction Act (Northern Ireland) 1953. The paragraphs were superseded by section 8 of that Act (jurisdiction in actions for liquidated sums for debts, contracts, etc in respect of limited amounts).

1823,<sup>21</sup> originally made provision for enforcing claims for wages not exceeding £10 in cases where an absentee employer was involved. The procedure is not applicable to proceedings in the county court or in industrial tribunals, where claims for wages would normally be pursued now. In courts of summary jurisdiction, where the jurisdiction is limited in general to claims not exceeding £100, the procedure is not needed because under the modern law process can be served in any part of Northern Ireland.<sup>22</sup> The repeal is agreed to by the authorities in Northern Ireland.

The Crown Suits Act 1855, which remains applicable only to Scotland,<sup>23</sup> provides that expenses can be awarded to or against the Crown, as represented by the Lord Advocate, in civil causes which relate to Crown property or revenue. The earlier rule was that no expenses could be awarded to or against the Crown in any civil cause, whether or not the action had been competently brought.<sup>24</sup> It was an exception to the general law on expenses which the courts found difficult to justify.<sup>25</sup> The Customs Consolidation Act 1853, s.263 allowed the general law on expenses to be applied to the Crown in actions for the recovery of any duty or penalty or the enforcement of any forfeiture under any Act relating to customs. The 1855 Act, which made further inroads into the rule, was superseded by section 24 of the Exchequer Court (Scotland) Act 1856. This provision is in much wider terms and places the Crown and its agents in the same position as individual subjects with regard to expenses in all civil causes. The repeal proposals relating to the Crown Suits Act 1855 and the Crown Suits (Scotland) Act 1857 are supported by the Scottish Office Home and Health Department, the Scottish Courts Administration and the Principal Clerk of Session and Justiciary.

In the Summary Jurisdiction Act 1857, which now applies only to England and Wales,<sup>26</sup> sections 6 and 7 provide for the powers of the High Court when dealing with appeals by way of case stated under section 111 of the Magistrates' Courts Act 1980. These provisions have been left behind by successive consolidations of the law relating to magistrates' courts and the Supreme Court.<sup>27</sup> It is plainly desirable that the provisions should

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<sup>21</sup> Masters and Servants Act 1823, s.4. This provision was repealed for Great Britain, without replacement, by the Conspiracy and Protection of Property Act 1875.

<sup>22</sup> Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981 No. 1675, N.I. 26) Arts. 62, 157.

<sup>23</sup> The Act was repealed for England and Wales by the Administration of Justice (Miscellaneous Provisions) Act 1933 and for Northern Ireland by the Northern Ireland (Crown Proceedings) Order 1949 (S.I. 1949 No. 1836). The Crown Suits (Isle of Man) Act 1862, which extended it to the Isle of Man, was repealed by the Statute Law (Repeals) Act 1989.

<sup>24</sup> See *Lords of Treasury v. Campbell's Trustees* (1836) 14 S.657. Cp. *Lord Advocate v. Lord Dunglas* (1842) 1 Bell's App. 93.

<sup>25</sup> See *Earl of Fife's Trustees v. Commissioners of Woods and Forests* (1849) 11 D. 889, 904 (Lord Justice Clerk Hope).

<sup>26</sup> The Act originally applied also to Northern Ireland, but was repealed and replaced by the Magistrates' Courts Act (Northern Ireland) 1964.

<sup>27</sup> Magistrates' Courts Act 1952, now replaced by the Magistrates' Courts Act 1980; Supreme Court of Judicature (Consolidation) Act 1925, now replaced by the Supreme Court Act 1981.

be restored to the legislative mainstream. A consequential amendment in Schedule 2 to the draft Bill would accordingly re-enact them as part of the Supreme Court Act 1981, where they properly belong. The re-enactment would not change the law, as recently affirmed by the House of Lords.<sup>28</sup> The remainder of the 1857 Act is ancillary and unnecessary. The proposals are supported by the Lord Chancellor's Department.

Section 5 of the Crown Suits (Scotland) Act 1857, so far as proposed for repeal, made provision relating to actions, or grounds of action, existing at the time of the passing of that Act and is spent.

In the Constabulary (Ireland) Act 1866, the only surviving substantive provision is section 6 (forfeiture of pension for misconduct). The section is obsolete in respect of the Royal Ulster Constabulary. It remains applicable to surviving pensioners of the Royal Irish Constabulary, which was disbanded on 31 August 1922,<sup>29</sup> but is superseded in this respect by section 4 of the Constabulary (Ireland) Act 1874, which is in identical terms except that it contains an additional ground for forfeiture. It is therefore unnecessary to retain the 1866 Act on the statute book. The Home Office, which is responsible for the administration of the pensions concerned, and the Northern Ireland Office agree to the proposed repeal.

Section 4 of the Documentary Evidence Act 1868, section 3 of the Documentary Evidence Act 1882 and section 1(2) of the Evidence (Colonial Statutes) Act 1907 created offences for the punishment of forgery, or knowingly tendering forged documents in evidence, to supplement the provisions of those Acts which dispensed with the formal proof of certain categories of documents in legal proceedings. The offences, which are expressed in archaic terms,<sup>30</sup> have been superseded in England and Wales and in Northern Ireland by the general law in the Forgery and Counterfeiting Act 1981. Part I of that Act created codified offences of forgery, copying a false instrument, using a false instrument and using a copy of a false instrument. On indictment<sup>31</sup> for these offences a sentence of imprisonment not exceeding ten years can be imposed. The repeals are supported by the Home Office and the Northern Ireland Office. In Scotland there is no general statutory code covering offences of forgery and counterfeiting and under the common law there is no crime of forgery or counterfeiting without uttering. The repeals accordingly do not extend to Scotland.

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<sup>28</sup> In *Griffith v. Jenkins* [1992] 2 A.C.76, the House of Lords overruled earlier decisions of the Divisional Court relating to the power under the 1857 Act to order a re-hearing in the magistrates' court. The earlier decisions stemmed from a *dictum* by Lord Goddard C.J. in *Rigby v. Woodward* [1957] 1 W.L.R. 250, 254, which asserted that the court had no such power.

<sup>29</sup> Constabulary (Ireland) Act 1922; S.R. & O. 1922 No. 1441.

<sup>30</sup> The 1868 Act refers to a felony punishable by penal servitude, which in modern terms translates into an offence punishable by a sentence of imprisonment not exceeding five years: Penal Servitude Act 1891, s.1, Criminal Justice Act 1948, s.1(1), Criminal Procedure (Scotland) Act 1975, s.221(1), Criminal Justice Act (Northern Ireland) 1953, s.1(1). The 1882 Act refers to a felony punishable by penal servitude not exceeding seven years or imprisonment not exceeding two years with or without hard labour. The 1907 Act provided for imprisonment, with or without hard labour, not exceeding 12 months.

<sup>31</sup> On summary conviction, the penalty is a fine not exceeding the statutory maximum or imprisonment not exceeding six months, or both.

In the Forfeiture Act 1870, applicable to England and Wales and Northern Ireland, only section 2 (conviction for treason to be a disqualification for offices, etc.) is still operative. Section 1 (which abolished the forfeiture of lands and goods, including the doctrine of corruption of blood<sup>32</sup> following a conviction for treason) and section 5 (definition of "forfeiture") have had their effect and are long since spent. The repeal to section 2 is consequential. In 1967<sup>33</sup> so much of the punishment for *any* offence as consisted in any general forfeiture of lands or of goods and chattels was abolished in England and Wales and Northern Ireland.<sup>34</sup> The repeals are agreed to by the Home Office and the Northern Ireland Office.

In the Pedlars Act 1871, the definition in section 3 ("court of summary jurisdiction") and the provisos to section 20 (summary proceedings) provided statutory machinery relating to the prosecution of offenders before a court of summary jurisdiction which has been superseded by the general law in England and Wales, Scotland and Northern Ireland. The provisos dealt with the constitution of a court of summary jurisdiction, the description of an offence in the words of the Act,<sup>35</sup> the proof of exemptions, etc.,<sup>36</sup> the application of penalties recovered in the metropolitan police district,<sup>37</sup> the application of penalties in Ireland,<sup>38</sup> imprisonment in default of payment of a pecuniary penalty in Scotland and the application of penalties in Scotland.<sup>39</sup>

In the Prevention of Crimes Act 1871, section 17 (legal proceedings before a court of summary jurisdiction), as it applies to Scotland<sup>40</sup> became obsolete when sections 7 and 13 (the last remaining provisions of the Act containing offences) were repealed by the Civic Government (Scotland) Act 1982.

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<sup>32</sup> This doctrine operated to prevent both the inheritance and transmission by descent of lands or hereditaments as one of the consequences of attainder for treason or felony.

<sup>33</sup> Criminal Law Act 1967, s.7(5), repealed without replacement by the Powers of Criminal Courts Act 1973; Criminal Law Act (Northern Ireland) 1967, s.7(7).

<sup>34</sup> In Scotland the Criminal Justice (Scotland) Act 1949, s.15 (repealed without replacement by the Criminal Procedure (Scotland) Act 1975) abolished any sentence or conviction for any crime which involved any attainder or corruption of blood or any escheat.

<sup>35</sup> See Magistrates' Courts Rules 1981 (S.I. 1981 No.552), r. 100; Criminal Procedure (Scotland) Act 1975, s.312(p); Magistrates' Courts Rules (Northern Ireland) 1984 (S.R. 1984 No.225), r. 6.

<sup>36</sup> See Magistrates' Courts Act 1980, s.101; Criminal Procedure (Scotland) Act 1975, s.312(v); Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981 No.1675, N.I. 26) Art. 124.

<sup>37</sup> See Justices of the Peace Act 1979, s.61. In 1871 the Metropolitan Police Courts Act 1839, s.47 had provided for the payment of penalties to the Receiver of the Metropolitan Police, but this provision was repealed by the Justices of the Peace Act 1949.

<sup>38</sup> See Administration of Justice Act (Northern Ireland) 1954, s.20.

<sup>39</sup> See Criminal Procedure (Scotland) Act 1975, ss.407, 412; District Courts (Scotland) Act 1975, s.23(2).

<sup>40</sup> The section was repealed for England and Wales by the Statute Law (Repeals) Act 1981 and for Northern Ireland by the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968.



In the Births and Deaths Registration Act 1874, which applies to England and Wales, section 45 (recovery of penalties) has been superseded, so far as it relates to the application of fines under the Act, by the general law in section 61 of the Justices of the Peace Act 1979. So far as the section relates to the penalties on summary conviction, its effect would be preserved by a consequential amendment of sections 18 and 19 (summary offences relating to burials) in Schedule 2 to the draft Bill. The proposals are supported by the Home Office.

The Public Stores Act 1875 was a 19th century consolidation, with amendments, of the Acts for the protection of public stores which had been passed between 1697 and 1869. Section 4 and Schedule 1 appropriated various marks to denote the property of the Crown in hempen cordage, wire rope, canvas, fearnought, hammocks, seamen's bags, buntin, candles and other stores. The list of stores and marks in Schedule 1 is absurdly out of date and is obsolete except so far as it enumerates the marks used for stores generally. These provisions<sup>41</sup> would remain. The proposals, and those mentioned below, are supported by the Home Office, the Scottish Office Home and Health Department, the Crown Office and the Northern Ireland Office.

The other proposed repeals in the Public Stores Act 1875 are as follows-

- (a) in section 2, the definition of "court of summary jurisdiction" remains applicable only to Scotland and is redundant in consequence of the repeal of sections 7 and 9 by the Criminal Law Act 1977 and the proposed repeal of section 14;
- (b) in section 13 (which exempts from the Act stores issued to members of the armed forces<sup>42</sup>) the repeal is consequential on the repeal for Great Britain of sections 7, 9 and 10 (offences of possessing, without a satisfactory explanation, public stores suspected of being stolen) by the Criminal Law Act 1977;
- (c) section 14 (summary proceedings for offences) contains statutory machinery relating to the trial of summary offences which has been superseded by the general law in England and Wales, Scotland and Northern Ireland;
- (d) section 15 (application of pecuniary penalties) is superseded by the general law in England and Wales, Scotland and Northern Ireland<sup>43</sup>;

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<sup>41</sup> "The name of Her Majesty, her predecessors, her heirs or successors, or of any public department, or any branch thereof, or the broad arrow, or a crown, or Her Majesty's arms, whether such broad arrow, crown or arms be alone or be in combination with any such name as aforesaid, or with any letters denoting any such name."

<sup>42</sup> For separate provisions applicable to the armed forces, see Army Act 1955, ss.44-46, 195; Air Force Act 1955, ss.44-46, 195; Naval Discipline Act 1957, ss.29-31, 98; Reserve Forces Act 1980, s.109.

<sup>43</sup> Justices of the Peace Act 1979, s.61; Criminal Procedure (Scotland) Act 1975, ss.203, 412; Administration of Justice Act (Northern Ireland) 1954, s.20, as amended by the Northern Ireland (Modification of Enactments - No.1) Order 1973 (S.I. 1973 No.2163), Sch.5, para.38.

- (e) section 16 is for practical purposes superseded by section 18 of the Interpretation Act 1978 (duplicated offences);
- (f) section 18 so far as unrepealed (a transitional provision for the application of the Act to stores marked before 1875) has long been spent and unnecessary.

The Act of 1876 relating to the justiciary district of the county of Peebles altered the then existing circuits of the High Court of Justiciary and conferred power on the court to make orders and regulations. Section 1 (which annexed the county of Peebles to the district of the High Court of Justiciary in Edinburgh) was repealed in 1925<sup>44</sup> subject to a saving which was itself repealed by the Criminal Procedure (Scotland) Act 1975. Section 2 (which empowered the making of Acts of Adjournal as to the proportions in which jurors should be returned for particular districts) has been superseded by the general law in section 86 of the Criminal Procedure (Scotland) Act 1975, as amended in 1987<sup>45</sup>. Under the general law the Lord Justice General, whom failing the Lord Justice Clerk, is empowered to give directions as to the areas from which and the proportions in which jurors are to be summoned for trials to be held in the High Court. The repeal is agreed to by the Principal Clerk of Session and Justiciary and the Scottish Office Home and Health Department.

The Summary Jurisdiction (Process) Act 1881 provides for the cross-border service of process in England and Wales and Scotland. Section 1, so far as proposed for repeal, deemed the Act to be included in the expressions "Summary Jurisdiction Acts" and "Summary Jurisdiction (English) Acts" and is unnecessary. These expressions were defined by the Interpretation Act 1889 but the definitions were repealed without replacement by the Interpretation Act 1978 as having ceased to serve any useful purpose. In England and Wales, in particular, the legislative terminology relating to courts of summary jurisdiction was changed when the Magistrates' Courts Act 1952 consolidated the old Summary Jurisdiction Acts.

The Riot (Damages) Act 1886, which applies to England and Wales, enacted a compensation scheme for damage done by riot. It replaced earlier legislation<sup>46</sup> under which the inhabitants of a hundred were liable to claims for riot compensation. Section 10, so far as unrepealed, construed references in pre-1886 Acts to the earlier legislation. No such references are known to survive, but the provision is in any event unnecessary since the 1886 Act is self-contained legislation which has effect by virtue of its own terms. The repeal is agreed to by the Home Office.

Section 4(2) of the Riot (Damages) Act 1886 (actions for compensation not exceeding £100 to be brought in the county court) is outdated and unnecessary. Under the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991 No.724), actions worth less than

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<sup>44</sup> Circuit Courts and Criminal Procedure (Scotland) Act 1925, s.4, Sch.

<sup>45</sup> Criminal Justice (Scotland) Act 1987, s.70(1), Sch.1, para. 5.

<sup>46</sup> 1827 c.31 (a consolidation of the laws relative to remedies against the hundred); 1832 c.72 (which extended the Act of 1827 to cover damage to threshing machines); Merchant Shipping Act 1854, s.477 (liability of the hundred in case of shipwreck being plundered by a tumultuous assemblage).

£25,000 must normally be tried in a county court. In section 9 the definition of "borough" became redundant when section 5(3) was repealed by the Local Government Act 1972.

The Sheriffs Act 1887, which applies to England and Wales, was one of three measures promoted by the Statute Law Committee in 1887 to consolidate or replace ancient legislation relating to sheriffs, coroners and escheators.<sup>47</sup> Section 14 (duties on arrest of civil debtors) re-enacted 18th century legislation<sup>48</sup> passed to put down scandalous abuses by sheriffs and their officers. That legislation outlawed contemporary practices which involved taking a debtor to a public house, or the private house of an officer, for the purpose of extorting drink, food or money from him. It also provided for the debtor to be kept in the officer's custody, out of prison, for a period of at least 24 hours, so that he could take steps to discharge the debt and be released. The latter requirement was associated with the emergence of sponging houses - secure dwelling-houses kept by bailiffs for the temporary confinement of arrested debtors. Thackeray<sup>49</sup> has left a vivid description of an early 19th century sponging house to which Colonel Rawdon Crawley, a Waterloo veteran, was taken, not for the first time, by the genial bailiff, Mr Moss-

" 'You'll find your old bed, Colonel, and everything comfortable', that gentleman said, 'as I may honestly say. You may be pretty sure its kep aired, and by the best of company, too. It was slep in the night afore last by the Honourable Capting Famish, of the Fiftieth Dragoons, whose mar took him out, after a fortnight, jest to punish him, she said. But Law bless you, I promise you he punished my champagne, and had a party 'ere every night - regular tip-top swells, down from the clubs and the West End - Capting Ragg, the Honourable Deuceace, who lives in the Temple, and some fellers as knows a good glass of wine, I warrant you. I've got a Doctor of Diwinity upstairs, five gents in the coffee-room, and Mrs. Moss has a tably-dy-hoty at half-past five, and a little cards or music afterwards, when we shall be most happy to see you.' "

Section 14 of the Sheriffs Act 1887 has always applied only to mesne process for debt, that is, the intermediate process (before final judgment) whereby a creditor "squeezed" his debtor by having him detained until either the debt was paid or he found security for his appearance in court.<sup>50</sup> Arrest on mesne process for debt was practically abolished by the Judgments Act 1838 and the Debtors Act 1869. The Court of Appeal confirmed as long ago as 1890<sup>51</sup> that section 14 is not applicable to a person ordered by an inferior court to be committed to prison for contumaciously refusing to pay a judgment debt which he has the means to pay. There is now no provision for mesne process against debtors other than for the arrest of those who are believed to be about to quit the country. In these rare cases a debtor

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<sup>47</sup> The other measures were the Coroners Act 1887 and the Escheat (Procedure) Act 1887, which were repealed in 1988 and 1989 respectively.

<sup>48</sup> 32 Geo. 2 c.28 (1758),ss.1-4, a re-enactment of earlier Acts of 1670, 1728 and 1730.

<sup>49</sup> William Thackeray (1811-1863), *Vanity Fair*, ch. LIII. Sponging houses in London were apparently extinct by 1846: see *Gordon v. Laurie* (1846) 9 Q.B. 60; 115 E.R. 1198.

<sup>50</sup> *Evans v. Atkins* (1792) 4 T.R. 555; 100 E.R. 1173.

<sup>51</sup> *Mitchell v. Simpson* (1890) 25 Q.B. 183.

who is unable to produce sufficient bail would be taken immediately to prison.<sup>52</sup> The Lord Chancellor's Department agrees that section 14 is obsolete and unnecessary.

Sections 39 and 40 of the Sheriffs Act 1887 (repeal and savings for the pre-1887 law relating to coroners and escheators) have had their effect and are spent. The repeal in section 33(4) (application to City of London) is consequential on the repeal of section 9 (duties at assizes) by the Courts Act 1971.

The Witnesses (Public Inquiries) Protection Act 1892 created an offence of obstructing or intimidating witnesses. In England and Wales the offence is now triable only summarily<sup>53</sup> and consequently the proviso to section 4 (which relates to cases tried before a jury) is obsolete. The other repeals are of provisions relating to the payment of prosecution costs which have been superseded by section 18 of the Prosecution of Offences Act 1985 (award of costs against accused) or are consequential. The repeals are agreed to by the Home Office.

In the Cremation Act 1902, which applies to Great Britain, the proviso to section 8(1) (appeal to quarter sessions from a summary conviction) is superseded by the general law in England and Wales and Scotland.<sup>54</sup> The repeal is supported by the Home Office and the Scottish Office Home and Health Department.

In the Police Act 1909, the repeal in section 6 (short title) is of redundant collective citations of the Police Acts in force in Great Britain in 1909.

In the Criminal Justice Administration Act 1914, section 38 (one justice to be competent to exercise certain powers relating to charges of drunkenness) applies only to England and Wales. It was enacted at a time when the penalty for contravening section 12 of the Licensing Act 1872 (being found drunk in a public place) was a fine of 50p or on a second conviction £1. The penalty is now a fine not exceeding level 1 on the standard scale,<sup>55</sup> but by virtue of section 121(5) of the Magistrates' Courts Act 1980 a magistrates' court composed of a single justice cannot order a person to pay more than £1. The Home Office agrees that section 38 of the Criminal Justice Administration Act 1914 has ceased to be of practical utility. Its repeal would not affect the powers of stipendiary magistrates.<sup>56</sup>

In the Official Secrets Act 1920, section 11(1)(a) excluded the application of the Official Secrets Acts to the Dominions of Canada, Australia and New Zealand as part of their domestic law. It is obsolete and unnecessary in consequence of subsequent constitutional legislation. Section 11(3) (definitions of "chief officer of police") is out of date and

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<sup>52</sup> For a recent case, see *Allied Arab Bank Ltd v. Hajjar* [1988] 1 Q.B.787.

<sup>53</sup> Criminal Law Act 1977, s.15(3)(d).

<sup>54</sup> Magistrates' Courts Act 1980, s.108; Criminal Procedure (Scotland) Act 1975, ss.442-455.

<sup>55</sup> Criminal Justice Act 1982, ss.38, 46. The maximum penalty was previously increased to £5 by the Penalties for Drunkenness Act 1962 and to £25 by the Criminal Law Act 1977.

<sup>56</sup> Justices of the Peace Act 1979, s.16.

unnecessary in Great Britain, where the point is dealt with by the Interpretation Act 1978.<sup>57</sup> Section 11(3)(d) goes on to refer to the Commissioners of Police of Dublin Metropolis or a district inspector of the Royal Irish Constabulary, which was disbanded on 31 August 1922. In Northern Ireland this definition now has to be construed as referring to a superintendent or chief superintendent of the Royal Ulster Constabulary.<sup>58</sup> The modern effect of the definition in Northern Ireland would be preserved by a consequential textual amendment in Schedule 2 to the draft Bill. The proposals are agreed to by the Home Office, the Scottish Office Home and Health Department and the Northern Ireland Office.

Section 2(2) of the Administration of Justice (Miscellaneous Provisions) Act 1933, which applies to England and Wales, provides that no bill of indictment shall be preferred unless the person charged has been committed for trial or the bill is preferred by the direction or with the consent of a judge of the High Court. Proviso (ii), so far as proposed for repeal (exclusion of charges of being a habitual criminal or a habitual drunkard), is obsolete in consequence of-

- (a) the repeal of Part II (detention of habitual criminals) of the Prevention of Crime Act 1908 by the Criminal Justice Act 1948;
- (b) the repeal of the Habitual Drunkards Act 1879 by the Statute Law (Repeals) Act 1976.

Section 2(7) of the 1933 Act (which repealed the Vexatious Indictments Act 1859) and section 7(3) (costs in Crown proceedings pending at the commencement of the Act) are spent so far as proposed for repeal.

In the Limitation (Enemies and War Prisoners) Act 1945, the repeals are consequential on-

- (a) the repeal of the Employers' Liability Act 1880 by the Law Reform (Personal Injuries) Act 1948; or
- (b) the repeal of the Public Authorities Protection Act 1893 by the Law Reform (Limitation of Actions, &c.) Act 1954.

In the Crown Proceedings Act 1947, the repeals are of spent transitional provisions relating to proceedings which were pending when the Act came into force on 1 January 1948.<sup>59</sup> The repeals are agreed to by the Treasury Solicitor.

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<sup>57</sup> Interpretation Act 1978, Sch.1, as read with Police Act 1964, s.62 and Sch.8, and Police (Scotland) Act 1967, s.50(d).

<sup>58</sup> Constabulary Act (Northern Ireland) 1922, s.1(4); Royal Ulster Constabulary (Ranks) Regulations 1979 (S.R. 1970 No.111), reg. 6.

<sup>59</sup> Crown Proceedings Act 1947 (Commencement) Order 1947 (S.R.& O. 1947 No.2527).

Section 2 of the Fraudulent Mediums Act 1951, which applies to Great Britain, repealed the Witchcraft Act 1735 and also section 4 of the Vagrancy Act 1824 so far as superseded by the offence created by the 1951 Act. The offence in section 4 of the Vagrancy Act 1824 which related to fortune telling was finally repealed in 1989.<sup>60</sup> The Home Office agrees that the repeal of section 2 of the Fraudulent Mediums Act 1951 is consequential.

In the Prison Act 1952, the proposed repeals are consequential on the repeal of Part I of the Courts-Martial (Appeals) Act 1951 by the Courts-Martial (Appeals) Act 1968 or on the repeal of Schedule 4 to the 1952 Act by the Statute Law (Repeals) Act 1974.

In the Common Informers Act (Northern Ireland) 1954, the proposed repeals are consequential on-

- (a) the repeal of the Expiring Laws Act (Ireland) 1761 by the Road Traffic, Transport and Roads (Northern Ireland) Order 1984 (S.I. 1984 No. 1986, N.I. 15); or
- (b) the repeal of the Recognisances (Ireland) Act 1817; the Public Notaries (Ireland) Act 1821 and the Clerk of Assize (Ireland) Act 1821 by the Judicature (Northern Ireland) Act 1978.

In the Sexual Offences Act 1956, a consolidation measure, the repeals are consequential-

- (a) in the case of section 54 (extent) on the repeal of section 49 (adaptation of enactments relating to Scotland) by the Sexual Offences (Scotland) Act 1976 and on the repeal of the entry in Schedule 3 relating to the Extradition Act 1873 by the Extradition Act 1989;
- (b) in the case of Schedule 3 (consequential amendments) on the repeal of section 15 of the Children and Young Persons Act 1933 (evidence of husband and wife of accused person) by the Police and Criminal Evidence Act 1984.

In the Administration of Justice Act 1960, section 19(1) and Schedule 3, so far as unrepealed, amended section 6 of the Summary Jurisdiction Act 1857 to allow for appeals to the House of Lords in criminal cases. The amendment would be incorporated in the proposed re-enactment of the 1857 provisions set out in Schedule 2 to the draft Bill.

In the Criminal Justice Act 1961-

- (a) section 41(3) is a spent transitional provision relating to persons sentenced to borstal training, or released from an approved school, before 2 October 1961, when sections 11 and 14 (both now repealed) came into force<sup>61</sup>;

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<sup>60</sup> Statute Law (Repeals) Act 1989, Sch.1, Part I, Group 4 (Vagrancy Law). The Vagrancy Act 1824 does not extend to Scotland.

<sup>61</sup> Criminal Justice Act 1961 (Commencement No.1) Order 1961 (S.I. 1961 No. 1672).

- (b) section 41(4) introduced Schedule 6 (a Keeling Schedule showing the effect of amendments relating to borstal training) and is obsolete in consequence of the repeal of that Schedule by the Criminal Justice Act 1982;
- (c) in section 42 (application to Scotland and Northern Ireland) the references to Schedules 5 and 6 are obsolete in consequence of the repeal of those Schedules;
- (d) in Schedule 4 (minor and consequential amendments) the repeal is consequential on the repeal of the Prisons (Scotland) Act 1952 by the Prisons (Scotland) Act 1989.

In the Northern Ireland Act 1962, the repeal is consequential on the proposed repeal of section 15 of the Public Stores Act 1875.

The City of London (Courts) Act 1964 was largely repealed by the Courts Act 1971. The repeals proposed are of ancillary provisions which are spent or unnecessary, namely, section 2 (division of Act into Parts), section 3 (interpretation) section 22 and the Schedule (repeals) and section 23 (costs of Act).

In the Criminal Justice Act 1967, the repeals in section 104 are of definitions which became redundant in consequence of the repeal of section 18 (restrictions on refusal of bail) by the Bail Act 1976. The repeals in Schedule 3 (increase of fines fixed by enactments) are consequential on the repeal of the enactments concerned by later legislation or on the proposed repeal of the Pound-breach Act 1843. The repeals in Schedule 5 are of spent transitory provisions relating to juries, legal aid and criminal appeals. Except for Schedule 3, the proposals affect only England and Wales.

In the Courts Act 1971, which applies to England and Wales, the repeals are consequential on repeals made by the County Courts Act 1984 and the Criminal Justice Act 1982 respectively.

In the Criminal Damage Act 1971, the repeals are of-

- (a) spent provisions for the cesser of the Dockyards, etc. Protection Act 1772 and sections 28 and 29 of the Malicious Damage Act 1861 (section 11(2) and (3));
- (b) obsolete provisions amending the Salmon and Freshwater Fisheries Act 1923, which was repealed and consolidated by the Salmon and Freshwater Fisheries Act 1975 (sections 11(5) and 12(5));
- (c) a provision extending section 11(4) to Scotland and Northern Ireland which is obsolete in consequence of the repeal of section 11(4) (amendment of Schedule to the Extradition Act 1873) by the Extradition Act 1989 (section 12(4)).

In the Criminal Justice Act 1972, the repeals are consequential respectively on the repeal of section 18 of the Criminal Justice Act 1967 (restrictions on refusal of bail) by the

Bail Act 1976 and on the repeal of the Road Traffic Act 1972 by the Road Traffic (Consequential Provisions) Act 1988.

In the Act of Adjournal (High Court Sittings and Juries) 1975, the repeals are consequential on the proposed repeal of the Act of 1876 relating to the justiciary district of the county of Peebles.

In the Criminal Law Act 1977, the proposed repeals are of spent repealing provisions which have had their effect.

In the Magistrates' Courts Act 1980, the repeal is consequential on the proposed repeal and replacement of the Summary Jurisdiction Act 1857.

In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, the repeal proposed to section 16 (which amended the Sheriff Courts (Scotland) Act 1971) would remove a redundant reference to subsection (2) of that section (which was removed from the Bill before its enactment). Section 15 (which repealed provisions of the Sheriff Courts (Scotland) Act 1907) has had its effect and is spent. The Act was brought into force on 22 December 1980<sup>62</sup> and section 29(2) so far as it provided for more than one commencement order was therefore never needed.

Section 5(6) of the Sexual Offences Act 1985 (temporary modification of offence of kerb crawling) ceased to be operative on 1 October 1986<sup>63</sup> when Part I of the Prosecution of Offences Act 1985 was brought into force generally. The repeal in section 1(1) is consequential.

In the Insolvency Act 1985, the repeals are consequential-

- (a) in the case of paragraph 28 of Schedule 8, on the repeal of section 3 of the Insolvency Act 1976 by the Insolvency Act 1986;
- (b) in the case of paragraph 38(2) and (3) of Schedule 8, on amendments of the County Courts Act 1984 made by the Insolvency Act 1986.

### *Group 2 - Piracy*

Piracy on the high seas is an offence against the law of nations (*piracy jure gentium*) which the courts have jurisdiction to try and punish wherever committed. Precisely what constituted the offence was unclear until the Geneva Convention on the High Seas 1958. Articles 15 to 17 of the Convention, which defined the crime, were incorporated into the domestic law of the United Kingdom by the Tokyo Convention Act 1967. Part II of the

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<sup>62</sup> Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (Commencement) Order 1980 (S.I. 1980 No.1726).

<sup>63</sup> Prosecution of Offences Act 1985 (Commencement No.2) Order 1986 (S.I. 1986 No.1029).



Aviation and Maritime Security Act 1990<sup>64</sup> created further specific offences, punishable with life imprisonment, relating to the hijacking of ships, destroying ships or endangering their safety, either on the high seas or in territorial waters. Jurisdiction to try offences against persons and property under the general criminal law extends to offences committed within territorial waters or on board British ships.<sup>65</sup> In Scotland acts of piracy are also punishable separately under Scottish common law.

As explained below, the Piracy Acts 1698, 1721 and 1744, so far as unrepealed, have long been in desuetude and are unnecessary. The Piracy Act 1744 was repealed for England and Wales in 1967.<sup>66</sup> In Scotland the Acts appear not to have been used in practice and doubts have been expressed as to whether they even apply there.<sup>67</sup> The Acts do not apply to Northern Ireland.

As originally enacted, the main purpose of the Piracy Act 1698 was to appoint special commissioners in the American plantations and in other colonies abroad to try cases of piracy summarily and to execute those convicted. This avoided the trouble and expense involved in sending those accused of piracy to England for trial as directed by a statute of Henry VIII.<sup>68</sup> Section 7, still unrepealed, was aimed at establishing that any privateer attacking English shipping under colour of a commission issued by the deposed James II was, if a natural-born English subject, to be treated as a pirate.<sup>69</sup> Section 8, reflecting contemporary events,<sup>70</sup> enacted offences of constructive piracy aimed at captains and crew who were tempted to turn pirate, or to yield up their ships voluntarily, at those who brought "seducing messages" from the enemy and at members of the crew who revolted against the authority of the captain. Section 11 laid down a procedure for raising a fund to reward officers and seamen who bravely defended their ships against pirates. Section 12 provided that informers who revealed conspiracies to run away with or destroy ships or cargoes were to be rewarded with £10 or £15, according to the tonnage of the vessel.

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<sup>64</sup> The Act was passed to combat sea-terrorism following the seizure of the cruise liner *Achille Lauro* off Port Said, and the murder of a passenger, in October 1985.

<sup>65</sup> Merchant Shipping Act 1894, s.686; *R. v. Kelly* [1982] A.C. 665; *Cameron v. H.M. Advocate* 1971 J.C. 50.

<sup>66</sup> Criminal Law Act 1967, Sch.3, Pt. I (Repeals of Obsolete or Unnecessary Enactments).

<sup>67</sup> See e.g. Bankton, *An Institute of the Laws in Scotland in Civil Rights* (1751-3) Vol.1, 2.2.3.5; Gordon, *Criminal Law* (1st ed. 1967) 508. The 1698 Act was passed before the union of England and Scotland.

<sup>68</sup> Offences at Sea Act 1536 (repealed). The 1698 provisions relating to summary trials abroad have also been repealed.

<sup>69</sup> Such acts would have been treason, but the Treason Act 1695 had imposed a time limit of three years on prosecutions for treason. The time limit did not apply to prosecutions for piracy.

<sup>70</sup> The most well-known case is that of Captain Kidd, who turned pirate with a well-armed vessel put under his command by the Government, with a roving commission to destroy pirates preying on the East India Company's vessels. In 1698 Captain Wright yielded to Kidd the valuable *Quedagh Merchant*, sharing some of the stolen goods with him.

Despite this legislation, the incidence of piracy increased. Section 1 of the Piracy Act 1721 enacted a further range of constructive piracy offences, aimed at punishing those who traded, combined or corresponded with pirates or fitted out ships for their use and at pirates who destroyed the cargo of a ship without carrying it off.<sup>71</sup> Section 2 provided for the forfeiture of a ship fitted out for trading, supplying or corresponding with a pirate and for the payment of half of the proceeds to the informer. Section 6 penalised, by loss of wages and six months imprisonment, officers and seamen of armed merchant ships who did not fight to defend the ship against a pirate or who discouraged others from resisting an attack.

The Piracy Act 1744, enacted during the War of the Austrian Succession, has been repealed for England and Wales. Its main purpose was to make it clear that subjects of George II who entered the service of his enemies and committed hostilities at sea against others of his subjects were liable to be punished as pirates by the Court of Admiralty, sitting anywhere, notwithstanding that they might otherwise be brought to England and dealt with as traitors.

Until 1837 the punishment for piracy, and also for offences deemed by the old statutes to be piracy, was death. The effect of section 3 of the Piracy Act 1837 was to substitute a sentence of imprisonment for life, or any shorter period, for offences under the Acts of 1698, 1721 and 1744. Its repeal would be consequential on the proposed repeal of those Acts. Section 4 of the Piracy Act 1837 (punishment of accessories) has been repealed for England and Wales and Northern Ireland<sup>72</sup> and is unnecessary in Scotland, if indeed it is applicable there. Section 2 of the Piracy Act 1837, which provides for the death penalty for piracy when murder is attempted, is not proposed for repeal except in Scotland, where the death penalty for piracy was abolished by statute<sup>73</sup> more than a century ago.

The last clear and generally-known report of a conviction under the old Piracy Acts was in 1870.<sup>74</sup> The crew of the *Vicksburg*, a sailing vessel on a voyage from Newport, Wales, to Bombay, felt that she was undermanned and were punished by the master for refusing to work. When the ship became storm-battered and while still within sight of the mainland they confined the master to his quarters and sailed the ship back to Cardiff, where they were arrested and subsequently sentenced to imprisonment. In *R. v. Boniface*<sup>75</sup> the second mate of the Grimsby trawler *Loveden*, which was taken possession of by the crew, appealed unsuccessfully against a sentence of 30 months imprisonment for piracy, but it is not clear whether the charge was laid under the 1698 Act. In *Cameron v. H.M. Advocate*,<sup>76</sup> a

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<sup>71</sup> In 1720 it was reported to the Council of Trade that a pirate ship of 26 guns and a sloop of 10 had taken a merchant ship off Newfoundland and destroyed cargo valued at £8,000.

<sup>72</sup> Criminal Law Act 1967, Sch.3, Pt.III; Criminal Law Act (Northern Ireland) 1967, Sch.2, Pt.II.

<sup>73</sup> Criminal Procedure (Scotland) Act 1887, s.56.

<sup>74</sup> *R. v. Jones* (1870) 11 Cox C.C. 393.

<sup>75</sup> *The Times*, 13 January 1967; [1967] Crim. L.R. 186. The original records of this case, including the charge, have been destroyed.

<sup>76</sup> 1971 J.C. 50.

Scottish case of trawlermen revolting against the skipper and taking possession of a ship by force off the Aberdeenshire coast, the crew were convicted of piracy under Scottish common law. On the facts of all three cases, charges could now be brought under Part II of the Aviation and Maritime Security Act 1990.

In the Royal Navy mutiny, failure to suppress mutiny and disobedience to lawful commands are grave offences under the Naval Discipline Act 1957.<sup>77</sup> In the merchant navy recent legislation<sup>78</sup> has enacted specific offences of misconduct which endangers a ship, its equipment or persons on board or of combining with other seamen on the ship to disobey lawful commands or to impede the progress of the voyage or the navigation of the ship. The offences are punishable on indictment by imprisonment for a term not exceeding two years and a fine.

Piracy has always been a serious offence, but the old Acts were directed at the problems and provided the solutions of another age, when privateering was in vogue and seafaring and social conditions generally were quite different from the present. Under conditions as they now exist, there is a wide range of serious offences available under specific legislation or the general law to punish piracy and acts of a piratical nature. Attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting, or being art or part in, the commission of an offence is similarly punishable. There is also modern provision for the forfeiture of property used for the purpose of committing or facilitating the commission of an offence.<sup>79</sup> The old legislation on piracy, so far as it is proposed for repeal, is worn out and would not be used now.

The Home Office, the Crown Prosecution Service, the Scottish Office Home and Health Department and the Crown Office agree that the legislation has ceased to serve any useful purpose and support the repeal proposals.

### *Group 3 - Mitigation of Penalties*

Section 126 of the Companies Clauses Consolidation Act 1845 (byelaws to be so framed that penalties may be mitigated) became unnecessary in England and Wales following the enactment of section 4 of the Summary Jurisdiction Act 1879 (mitigation of punishment by court). It is now superseded by the general law in England and Wales and Northern Ireland.<sup>80</sup> Section 129 of the Companies Clauses Consolidation (Scotland) Act 1845 is

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<sup>77</sup> Naval Discipline Act 1957, ss.8-14. Cases of mutiny are punishable by death or any less punishment.

<sup>78</sup> Merchant Shipping Act 1970, s.27, as substituted by Merchant Shipping Act 1988, s.32; Merchant Shipping Act 1970, s.30, as amended by the Merchant Shipping Acts 1974 and 1979.

<sup>79</sup> Powers of Criminal Courts Act 1973, s.43, as amended by the Criminal Justice Act 1988; Criminal Procedure (Scotland) Act 1975, ss.223, 436; Part VI of the Criminal Justice Act 1988.

<sup>80</sup> Magistrates' Courts Act 1980, ss.34(1), 150(1); Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981 No. 1675, N.I. 26), Art. 55.

similarly superseded by the general law in Scotland,<sup>81</sup> where the section became unnecessary following the enactment of section 6 of the Summary Jurisdiction (Scotland) Act 1881.

Section 43 of the Markets and Fairs Clauses Act 1847, section 98 of the Commissioners Clauses Act 1847 and section 84 of the Harbours, Docks and Piers Clauses Act 1847 are to the same effect so far as proposed for repeal and are similarly unnecessary.

The general trend illustrated by these enactments of 1845 and 1847, and earlier precedents<sup>82</sup> was temporarily checked in 1864. The Limited Penalties Act 1864, now applicable only to Northern Ireland,<sup>83</sup> was enacted to prevent justices from exercising powers conferred by pre-1864 local Acts to mitigate statutory penalties on summary conviction of an offence under other Acts. The Solicitor General explained the objects of the Bill as follows<sup>84</sup>-

"One of the Militia Acts contained a clause that every deserter should be punished by a fine of 40s., or by imprisonment. A deserter was brought before the magistrates of Newcastle-on-Tyne, and they took upon themselves to reduce the penalty from 40s. to half-a-crown. They did so in consequence of a clause introduced into a Gas Act for Newcastle-on-Tyne. It was thought very improper that a Gas Act or any local Act should confer power on the justices to abrogate altogether the general public legislation of the country. It was proposed by the Bill to prevent the application of any similar clause in any other Gas Act. *It was not prospective, it was only retrospective; therefore they should be more cautious in allowing such a proviso to be introduced.*" (emphasis added).

The "Gas Act" referred to was the Newcastle-upon-Tyne Improvement Act 1846.<sup>85</sup> Section 106 (power to mitigate penalties) anticipated, as respects convictions by the justices of Newcastle-upon-Tyne, the power introduced into the general law of England and Wales by section 4 of the Summary Jurisdiction Act 1879 (mitigation of punishment by court). Similar provision for Northern Ireland was made by section 34 of the Criminal Justice Act (Northern Ireland) 1945 and is now contained in Article 55 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981 No. 1675, N.I. 26). Research has confirmed that no local statutory provisions to which the Limited Penalties Act 1864 could apply are extant in Northern Ireland. The Act is accordingly obsolete and its repeal is agreed to by the Northern Ireland Office.

Section 6 of the Dockyard Ports Regulation Act 1865, which enabled Orders in Council under the Act to impose reasonable penalties, went on to provide that any provision imposing

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<sup>81</sup> Criminal Procedure (Scotland) Act 1975, ss.193(4), 394(d).

<sup>82</sup> See e.g. Selby Bridge Act 1791, s.63 (repealed by the Selby Bridge Act 1984).

<sup>83</sup> It was repealed for England and Wales by the Summary Jurisdiction Act 1879 and for Scotland by the Statute Law Revision Act 1893.

<sup>84</sup> Parl. Deb. (3rd ser.), 26 May 1864, Vol. 175, col.695. This was the only debate on the Bill.

<sup>85</sup> 9 & 10 Vict. c.cxxi ("An Act for lighting with gas the borough of Newcastle-upon-Tyne, and for varying and extending the powers of several Acts for regulating and improving the said borough").

a penalty should be so framed that part only of the penalty might be ordered to be paid. Section 87 of the Wimbledon and Putney Commons Act 1871 made similar provision with respect to byelaws under that Act.

In the Conspiracy and Protection of Property Act 1875, section 8 as it applies to Great Britain<sup>86</sup> enabled a court to impose a pecuniary penalty less than that laid down by any earlier Act relating to employers or workmen. The clause for the section was added to the Bill during its passage through Parliament<sup>87</sup> but was originally intended for inclusion in the Bill which became the Employers and Workmen Act 1875.<sup>88</sup> It anticipated the general power to mitigate statutory pecuniary penalties which was conferred on courts of summary jurisdiction in Great Britain in 1879 and 1881. The section is also generally obsolete because no pre-1875 Acts relating to employers or workmen survive to which it could be applicable.

#### *Group 4 - Summary Jurisdiction Process*

Section 8 of the Public Health Acts Amendment Act 1890, modelled on precedents in 19th century local Acts, introduced a provision into the Public Health Acts allowing an information, warrant or other summary jurisdiction process to contain, in the body thereof or a schedule, several sums. The provision was consolidated in section 299 of the Public Health Act 1936 and from there found its way into later enactments or consolidations of the law relating to clean air, highways, the control of diseases and building control.

The Home Office agrees that these provisions are outmoded and unnecessary now in England and Wales. The Magistrates' Courts (Forms) Rules 1981 (S.I. 1981 No. 553) prescribes forms for the purposes of all summary jurisdiction process and provide that the prescribed forms, or forms to the like effect, may be used with such variations as the circumstances may require. In respect of the two most frequently used warrants (forms 42 and 51) the Home Office has recommended the use of schedules on the reverse of the warrant where there are multiple sentences of imprisonment.<sup>89</sup>

The 1890 and 1907 provisions are also applicable to Northern Ireland, where they are similarly unnecessary. None of the enactments apply to Scotland.

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<sup>86</sup> The section as it applied to Northern Ireland was repealed by the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992 No.807, N.I. 5).

<sup>87</sup> Parl. Deb. (3rd ser.), 29 July 1875, Vol. 226, col.166 (Lord Chancellor).

<sup>88</sup> Parl. Deb. (3rd ser.), 12 July 1875, Vol. 225, col.1340 (Home Secretary). The Employers and Workmen Act 1875 was repealed for Great Britain by the Statute Law (Repeals) Act 1973 and for Northern Ireland by the Industrial Relations (No.2) (Northern Ireland) Order 1976 (S.I. 1976 No.2147, N.I. 28).

<sup>89</sup> Home Office Circular No. 265/1968; *Stone's Justices' Manual* (1992) 9-387, 9-395 and precedents 12 and 13, *ibid.* 9-21, 9-22.

## PART II

### AGRICULTURE, FISHERIES AND FOOD

The repeals in this Part are agreed to, so far as they are concerned, by the Ministry of Agriculture, Fisheries and Food, the Welsh Office, the Scottish Office Agriculture and Fisheries Department and the authorities in Northern Ireland.

In the White Herring Fisheries Act 1771, which is applicable to Great Britain, section 13 (which provided machinery for a common informer action) is obsolete in consequence of the abolition of such actions by the Common Informers Act 1951.

In the Markets and Fairs Clauses Act 1847, an adoptive Act which is in force only to the extent that it is incorporated by later legislation,<sup>1</sup> sections 15 and 20 were repealed for Northern Ireland by the Food and Drugs Act (Northern Ireland) 1958. In Great Britain-

- (a) section 15 (penalty for selling or exposing for sale unwholesome meat or provisions) has been superseded by the general law now contained in sections 8, 9 and 35 of the Food Safety Act 1990, which provides for a fine not exceeding £20,000 or imprisonment not exceeding six months, or both;
- (b) section 20 (inspection of slaughterhouses) has also been superseded by the general law in the Food Safety Act 1990.

Section 65 of the Sea Fisheries Act 1868 is superseded by section 18 of the Interpretation Act 1978 (duplicated offences) which applies to Acts whenever passed.

The Seal Fishery Act 1875 provides for the establishment of a close time for the Greenland seal fishery. Section 3, so far as proposed for repeal, provided for a common informer action in England, Scotland or Ireland for an offence under section 2 and is obsolete. The effect of the Common Informers Act 1951, the Common Informers Act (Northern Ireland) 1954, and later legislation, is that an offence under section 2 would now be punishable on summary conviction by a fine not exceeding level 3 on the standard scale. This effect would be expressed in direct terms by a consequential textual amendment in Schedule 2 to the draft Bill. The repeals proposed to the Common Informers Act 1951 and the Common Informers Act (Northern Ireland) 1954 are consequential.

In the Corn Returns Act 1882, which applies to Great Britain, section 17 (recovery of fines in England and Wales) is superseded by the general law now contained in the Magistrates' Courts Act 1980 and the Justices of the Peace Act 1979.

In the Board of Agriculture Act 1889, which still governs the constitution and functions of the Ministry of Agriculture, Fisheries and Food, Part II of Schedule 1 lists the statutory

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<sup>1</sup> See e.g. Animal Health Act 1981, s.54 (provision of wharves and other places for landing, reception, etc. of imported animals). This incorporation can be traced back through successive consolidations to the Contagious Diseases (Animals) Act 1869, s.24.

functions which were transferred to the Board in 1889 and therefore devolved on the Board's successors. The proposed repeals are consequential-

- (a) in the case of Acts relating to the inclosure of commons, allotments and metropolitan commons, on the transfer of the functions concerned to the Minister of Land and Natural Resources in 1965<sup>2</sup> from whom they were later transferred to the Secretary of State<sup>3</sup>;
- (b) in the case of the Public Health Act 1875, on the repeal by later legislation of the provisions of that Act which conferred functions on the Land Commissioners for England;
- (c) in the case of the Settled Land Act 1882, on the proposed repeal (Group 2 of Part XIII of Schedule 1) of section 30 of that Act so far as it conferred functions on the Land Commissioners for England.

The remaining entries proposed for repeal relate to Acts amending the Improvement of Land Act 1864 or the Lands Improvement Company's Act 1853. These entries are unnecessary because the amending Acts provide for their construction as one with the principal Acts (which would continue to be listed).

In the Seal Fisheries (North Pacific) Act 1912, section 5 so far as proposed for repeal empowered the making of Orders in Council extending certain provisions of the Act to British protectorates and to Canada, Australia and New Zealand. The powers have ceased to be exercisable in consequence of subsequent constitutional developments. British protectorates no longer exist and the power to legislate for Canada, Australia and New Zealand has been terminated.

Section 6 of the Land Settlement (Facilities) Act 1919, which applies to England and Wales, provided that in any case of acquisition of land by the Board of Agriculture and Fisheries under that Act, the provisions relating to the compensation of labourers contained in an earlier enactment (the Small Holding Colonies Act 1916, s.1(5)) should apply. The powers of land acquisition to which the section refers were conferred by sections 3 to 5 of the 1919 Act (powers of Board of Agriculture and Fisheries to acquire land for settlement, etc.). These powers were temporary. They were continued until 31 December 1922 by the Expiring Laws Continuance Act 1921, but sections 3 to 5 were expressly repealed by the Expiring Laws Act 1922, which came into force on 4 August 1922. Section 6 of the 1919 Act is consequentially obsolete.

Section 27 of the Land Settlement (Facilities) Act 1919, as substituted by the Land Settlement (Facilities) Amendment Act 1925, set out the legislative framework of a scheme for England and Wales known as the 1926 settlement. The losses incurred by local authorities in establishing smallholding estates after the First World War for the settlement of

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<sup>2</sup> Minister of Land and Natural Resources Order 1965 (S.I. 1965 No. 143), Art. 2 and Sch.

<sup>3</sup> Ministry of Land and Natural Resources (Dissolution) Order 1967 (S.I. 1967 No. 156); Secretary of State for the Environment Order 1970 (S.I. 1970 No. 1681).

demobilised ex-servicemen were determined then. Provision was also made for those losses to be borne by the Government by the making of periodical payments which were due to continue in some cases until 2003.<sup>4</sup> Powers to commute the payments concerned were conferred by section 64(1) of the Local Government Act 1985 (as respects payments due to the Greater London Council and the metropolitan county councils) and by section 36 of the Local Government Act 1988 (as respects all payments). The Ministry of Agriculture, Fisheries and Food and the Welsh Office have confirmed that the process of making commuted payments to local authorities in pursuance of these powers was completed in the financial year 1989-90. Consequently section 27 of the Land Settlement (Facilities) Act 1919 and the Land Settlement (Facilities) Amendment Act 1925 are obsolete.

Section 31 of the Land Settlement (Facilities) Act 1919 (expenses of the Board of Agriculture under the Act) is obsolete in consequence of the repeal of the land acquisition powers of the Minister under Part I and the winding up of the Small Holdings Account (renamed the Small Holdings and Allotments Account in 1931) by section 59 of the Agriculture Act 1947.

In the Small Holdings and Allotments Act 1926, which applies to England and Wales -

- (a) in section 2 (power of Minister to contribute towards losses) the reference to the Small Holdings and Allotments Account (which was inserted in 1931) is obsolete in consequence of the winding up of that account in 1947;
- (b) section 7(5) (recovery of possession of a smallholding in the county court) is agreed by the Lord Chancellor's Department to be redundant in consequence of the abolition of the limits of jurisdiction of the county court under section 21 of the County Courts Act 1984 by the High Court and County Courts Jurisdiction Order 1991 (S.I. 1991 No. 724);
- (c) section 9 so far as proposed for repeal (defrayment of losses) is superseded by the general law in section 147(1) of the Local Government Act 1972 (expenses of principal councils).

In the Prevention of Damage by Rabbits Act 1939, which applies to England and Wales, Part I (Prevention of Damage by Rabbits) was repealed by the Agriculture Act 1947. The proposed repeal of section 6(2) (definition of "occupier") is consequential.

In the Agriculture (Miscellaneous War Provisions) Act 1940, which applies to England and Wales, the only substantive remaining provision is section 15(1). That provision, as amended in 1940 and 1941,<sup>5</sup> enabled the Minister of Agriculture and Fisheries to make capital grants for the supply of water to agricultural land. The grants were introduced in the context of the need to increase food production during a critical period of the Second World War. In order to free agricultural land suitable for arable crops, farmers were to be encouraged to use

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<sup>4</sup> *Hansard* (H.L.), 2 February 1988, Vol. 492, col. 1038 (Earl of Caithness).

<sup>5</sup> Agriculture (Miscellaneous War Provisions) (No.2) Act 1940, s.1; Agriculture (Miscellaneous Provisions) Act 1941, s.3.



the top fields of upland farms for the grazing of their cattle, especially dairy herds; but this could not be done unless adequate supplies of water were made available.<sup>6</sup> The powers were originally temporary, but were continued by successive enactments<sup>7</sup> until 1954, when the limitation on the duration of the powers was repealed.<sup>8</sup> With the development of intensive livestock farming in the 1960s, the provisions were extended in 1968<sup>9</sup> to include water supplies to buildings.

The Agriculture Act 1970 rationalised the administration of capital grant schemes and provided a coherent legislative framework for the making of capital grants for agriculture, including water supply schemes.<sup>10</sup> The old war-time legislation was repealed then save for the purposes of grants to statutory water undertakers.<sup>11</sup> This reflected an administrative practice which had grown up of paying grants directly to water authorities instead of to farmers. The Ministry of Agriculture, Fisheries and Food agrees that this complicated body of legislation is no longer needed for this purpose either, having for practical purposes been superseded by the comprehensive powers conferred by the Agriculture Act 1970.

The following provisions would be repealed consequentially, namely, section 1 of the Agriculture (Miscellaneous War Provisions) (No.2) Act 1940, section 3 of the Agriculture (Miscellaneous Provisions) Act 1941, section 96 of the Agriculture Act 1947, section 1 of the Agriculture (Miscellaneous Provisions) Act 1954, section 41(1) of the Agriculture (Miscellaneous Provisions) Act 1968 and section 34(2)(a) of the Agriculture Act 1970.

The Agriculture (Miscellaneous War Provisions)(No.2) Act 1940 brought in emergency legislation for the maintenance of agricultural roads over fen-lands. At the beginning of the Second World War the soggy condition of old grassy drove roads in the fen-lands hampered the harvesting of heavy crops of sugar beet and potatoes. Regulation 50 of the Defence (General) Regulations 1939 (S.R. & O. 1939 No.927) enabled the Government to lay light concrete on some of these roads. Section 2(8) of the 1940 Act, as amended in 1941<sup>12</sup> empowered the Minister of Agriculture and Fisheries to make orders requiring the local internal drainage board to maintain work which had been wholly or partly done within their district, defraying the expense of doing so by raising an owner's drainage rate. These provisions were extended by section 8 of the Agriculture (Miscellaneous Provisions) Act 1941

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<sup>6</sup> *Hansard* (H.C.), 9 October 1941, Vol. 374, col.1152 (Minister of Agriculture).

<sup>7</sup> Agriculture Act 1947, s.96; Agriculture (Field Drainage and Water Supplies) Continuation of Grants Order 1952 (S.I. 1952 No.1282).

<sup>8</sup> Agriculture (Miscellaneous Provisions) Act 1954, s.1.

<sup>9</sup> Agriculture (Miscellaneous Provisions) Act 1968, s.41(1).

<sup>10</sup> "The new scheme will replace the existing farm and hill land improvement schemes, the field drainage and water supply schemes and the ploughing, orchard grubbing, scrub clearance and investment grants". *Hansard* (H.C.), 6 November 1969, Vol. 790, col.1199 (Minister of Agriculture, Fisheries and Food).

<sup>11</sup> Agriculture Act 1970, Sch.5, Part I.

<sup>12</sup> Agriculture (Miscellaneous Provisions) Act 1941, s.7.

to cover roads which were not within an internal drainage district. In these cases the Minister could recover the cost of maintenance directly from the owners of the land or the county council concerned could voluntarily undertake the maintenance and recover the costs from the owners.

Consultation with the County Councils of Cambridgeshire, Lincolnshire, Norfolk and Suffolk has confirmed that none of these authorities, or their predecessors, has undertaken to maintain any road under these powers and that they have no objection to the repeal of the old legislation. The Ministry of Agriculture, Fisheries and Food does not possess copies of any orders made by the Minister and the files concerned have either been destroyed or sent to the Public Record Office. However, research has identified eight local orders, made between 1943 and 1954, which required internal drainage boards to maintain emergency work on fen roads. Consultation with the boards concerned and with the Association of Drainage Authorities has shown that these orders are for practical purposes obsolete and that the legislation of 1940 and 1941 can be repealed.

In the Hill Farming Act 1946, section 40(4) modified a reference to the Acquisition of Land (Assessment of Compensation) Act 1919 in the application of section 5(3) to Northern Ireland. The proposed repeal is consequential on the repeal of section 5 by the Agriculture Act 1970. That repeal came into force on 1 May 1986.<sup>13</sup>

In the Sea Fish Industry Act 1951, the Fishery Limits Act 1964 and the Fishery Limits Act 1976, the repeals are consequential on-

- (a) the repeal of the Whale Fisheries (Scotland) Act 1907 by the Fisheries Act 1981; or
- (b) the repeal of the Weights and Measures Act 1963 by the Weights and Measures Act 1985.

In the Agriculture (Miscellaneous Provisions) Act 1954-

- (a) the repeal of section 1 (grants for water supply) is consequential on the proposed repeal of section 15(1) of the Agriculture (Miscellaneous War Provisions) Act 1940;
- (b) the repeal of section 14(2)(d) (modification of Corn Returns Act 1882 in its application to Scotland) is consequential on the proposed repeal of section 17 of the 1882 Act and on the repeal of section 16 of that Act (modifications relating to London) by the Agriculture Act 1970;
- (c) the repeal in section 16 (application of Act to Northern Ireland) is consequential on the repeal of section 2 (continuation of Agricultural Lime Scheme) by the Statute Law (Repeals) Act 1986.

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<sup>13</sup> Hill Farming (Appointed Day for Repeal) Order 1986 (S.I. 1986 No. 707).

Part I of the Horticulture Act 1960 and Part II of the Agriculture and Horticulture Act 1964 provided for a system of grants for horticultural improvements. Applications for grants had to be submitted before 15 April 1974.<sup>14</sup> Part II of the 1964 Act also conferred powers to make grants in respect of expenditure on guarantees of bank loans which had been given before 1 April 1969<sup>15</sup> and further powers, exercisable until 15 April 1976,<sup>16</sup> to make grants for certain expenditure in connection with the provision, reconstruction or extension of wholesale markets. This legislation is spent. The repeal of sections 31 and 34(2)(c) of the Agriculture Act 1970 is consequential.

In the Agriculture and Horticulture Act 1964, Part I (price stability of imported products) enabled Ministers responsible for agriculture in the United Kingdom, acting jointly, to make orders fixing minimum prices for imported agricultural and horticultural produce and to enforce them by imposing levies. The Schedule (supplementary provisions in connection with the administration of price stabilisation levies) enabled the Commissioners of Customs and Excise to make regulations supplementing the system. Between 1964 and the early 1970s numerous orders were made by Ministers in exercise of these powers. The orders were all revoked in 1973<sup>17</sup> in consequence of the accession of the United Kingdom to the European Economic Community. With the termination of the United Kingdom system of import levies, the supplementary regulations made by the Commissioners of Customs and Excise were also revoked then.<sup>18</sup> The legislation is obsolete and any further exercise of the powers under it would be incompatible with the Community obligations of the United Kingdom. The repeal of section 25 (expenses and receipts) is consequential on the repeals proposed to this Act or the Horticulture Act 1960.

In section 3 of the Agriculture Act 1967 (duties of the Meat and Livestock Commission) the repeals are consequential on the repeal in 1986<sup>19</sup> of the Agriculture (Calf Subsidies) Act 1952 and sections 10 to 12 (calf subsidies) of the Agriculture Act 1967. The repeal of section 26(11)(c) of the Agriculture Act 1967 is consequential on the proposed repeal of Part II of the Agriculture and Horticulture Act 1964.

In the Agriculture Act 1970, the repeal of section 34(2)(a) (standard costs for grants under section 15 of the Agriculture (Miscellaneous War Provisions) Act 1940) is consequential on the proposed repeal of that section. Section 65(1), so far as proposed for repeal, enabled

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<sup>14</sup> Agriculture and Horticulture Act 1964, s.7(2).

<sup>15</sup> Agriculture and Horticulture Act 1964, s.9.

<sup>16</sup> Agriculture and Horticulture Act 1964, s.10(4), (6); Grants for Wholesale Markets (Extension of Period) Order 1972 (S.I. 1972 No.999).

<sup>17</sup> Price Stability of Imported Products (Levy Revocation) (Cereals) Order 1973 (S.I. 1973 No.140); Price Stability of Imported Products (Levy Revocation) (Eggs) Order 1973 (S.I. 1973 No.141); Price Stability of Imported Products (Levy Revocation) (Milk and Milk Products) Order 1973 (S.I. 1973 No.142); Price Stability of Imported Products (Revocation) Order 1973 (S.I. 1973 No.292).

<sup>18</sup> Price Stabilisation Levies (Supplementary Provisions) (Revocation) Regulations 1973 (S.I. 1973 No.294).

<sup>19</sup> Statute Law (Repeals) Act 1986, Sch.1 Pt.II.

Part III (Smallholdings in England and Wales) to be brought into force on different days. This power was never needed and Part III was brought into force on 1 August 1970.<sup>20</sup> In Schedule 3 (transitional provisions for Part III) paragraph 6 saved applications for loans under section 54 of the Agriculture Act 1947 which were received by the Minister before the commencement of Part III and is long since spent.

In the Slaughterhouses Act 1974, a consolidation of the law for England and Wales, paragraph 2 of Schedule 3 amended section 54 of the London Government Act 1963. That section was repealed by the Food Act 1984 and the 1974 amendment is consequentially obsolete.

In the Customs and Excise Management Act 1979 and the Customs and Excise Duties (General Reliefs) Act 1979, the repeals are consequential on-

- (a) the repeal of section 1(12) of the Agriculture and Horticulture Act 1964 (modification of Isle of Man Act 1958 in relation to levies) by the Isle of Man Act 1979; or
- (b) the proposed repeal of the Schedule to the Agriculture and Horticulture Act 1964.

In the Food and Environment Protection Act 1985, the proposed repeal is consequential on the repeal of section 5(d) by section 146(2)(b) of the Environmental Protection Act 1990.<sup>21</sup>

Section 64(1) of the Local Government Act 1985 and section 36 of the Local Government Act 1988 provided for the commutation of payments due to local authorities under section 27, as amended, of the Land Settlement (Facilities) Act 1919 (losses incurred in establishing smallholding estates after the First World War). These powers have been exercised and the provisions are spent. The repeals proposed to section 64(4) of the Local Government Act 1985 are consequential.

In the Agricultural Holdings Act 1986, which consolidated the law for England and Wales, the repeals are consequential on the proposed repeal of section 27 of the Land Settlement (Facilities) Act 1919 or the proposed repeal of Part I of the Horticulture Act 1960.

In the Agricultural Holdings (Scotland) Act 1991, which consolidated the law for Scotland, the repeal is consequential on the proposed repeal of Part I of the Horticulture Act 1960.

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<sup>20</sup> Agriculture Act 1970 (Commencement No.2) Order 1970 (S.I. 1970 No. 1048).

<sup>21</sup> The need for the repeal was noticed at a late stage of the Bill for the 1990 Act, but was not added then because of pressure on government business.

## PART III

### ALLOTMENT LAW

The law relating to allotments in England and Wales has not been consolidated since 1908. It was extensively amended after the First World War and parliamentary complaints about the complexity that resulted were made as long ago as 1922.<sup>1</sup> The existing legislation is also difficult to administer because allotment law is tangled with the law regulating smallholdings and cottage holdings, which is the responsibility of different departments. Many of the existing statutory provisions are spent or obsolete and the proposals in this Part are intended to facilitate a modern consolidation. The opportunity has also been taken to include a number of repeals affecting allotment law in Scotland. The proposals have been agreed to, so far as they relate to England and Wales, by the Department of the Environment and the Welsh Office and, so far as they relate to Scotland, by the Scottish Office Agriculture and Fisheries Department and the Convention of Scottish Local Authorities. None of the legislation concerned extends to Northern Ireland.

The purpose of the Allotments Act 1832, the Poor Allotments Management Act 1873 and section 6 of the Allotments Extension Act 1882 (all that remains of that Act) was to relieve rural poverty in England and Wales by increasing the productivity of old and worn-out communal allotments left over from the inclosures. When the manorial wastes were inclosed, mainly during the reign of George III (1760-1820), some of the private Acts of inclosure reserved small areas of the wastes as communal allotments from which the landless poor could gather fuel and other things which had formerly been available to them. Inevitably these small reserves were soon exhausted and the lands lay useless. The Allotments Act 1832 (also known as Weyland's Act) therefore provided a statutory scheme enabling the lands concerned to be apportioned and let to individual working men, to produce rents with which to buy fuel for the poor. Amendments and improvements were introduced by the legislation of 1873 and 1882, the main purpose being to simplify the administration of the statutory scheme.

It seems that this well-meaning legislation was never widely implemented and that its administration was rarely satisfactory in practice.<sup>2</sup> The scheme reflects the thinking of another age and is out of touch with the modern realities. Consultation with the Department of the Environment, the Commons Commissioners, the Charity Commission and the National Association of Local Councils has confirmed that the legislation is not in current use and serves no useful purpose now. In 1967 the Charity Commission recommended to the Thorpe Committee, which reported in 1969,<sup>3</sup> that the Allotments Act 1832 should be repealed as obsolete. Since 1939<sup>4</sup> the Charity Commission has had power to make a modern scheme for

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<sup>1</sup> *Hansard* (H.L.), 4 May 1922, Vol.50, cols. 266-69. The responsible Minister undertook that in the event of the Allotments Bill 1922 being passed a consolidation Bill would be brought in during the next session.

<sup>2</sup> T. Hall Hall, *The Law of Allotments* (1886) 19-22.

<sup>3</sup> *Report of the Departmental Committee into Allotments* (1969) Cmnd. 4166.

<sup>4</sup> The Charities (Fuel Allotments) Act 1939 enlarged the Charity Commissioners' power to make a scheme for fuel allotments, notwithstanding the Commons Act 1876, s.19. See now Charities Act 1960, s.18(1) as read

the administration of a fuel allotment, should the need arise. The Commons Commissioners referred the matter to Mr Alfred Baden Fuller (Commons Commissioner 1972-1989) who has had more experience of cases involving allotments than any of the present Commissioners. In a memorandum Mr Fuller explained that a number of lands within the general description of allotments for the benefit of the poor have become finally registered under section 4 of the Commons Registration Act 1965. However, the 1832-1882 legislation was never mentioned at any of his hearings and until he was consulted he had never heard of it.

In the Allotments (Scotland) Act 1892, the repeal of the definition of "Public Health (Scotland) Acts" is consequential on the repeal of section 10 (expenses and receipts) by the Land Settlement (Scotland) Act 1919. The expression is not used in the current text of the 1892 Act.

In the Small Holdings and Allotments Act 1908, a consolidation of the law for England and Wales-

- (a) in section 27(5) (letting of allotments to any person at the best annual rent) and section 61(3) (expenses incurred in the purchase of land), the references to a fine or to enfranchisement are obsolete relics of the old law of copyhold tenure, which was abolished by section 128 of the Law of Property Act 1922;
- (b) section 35(3) (appeal to small holdings and allotments committee under this Act on failure to obtain the use of a schoolroom for holding a public meeting) is obsolete in consequence of the repeal of section 50 (which had required every county council to establish a small holdings and allotments committee) by the Agriculture Act 1947;<sup>5</sup>
- (c) section 38, so far as proposed for repeal (application of section 178 of the Public Health Act 1875) has been superseded by section 130 of the Local Government Act 1972 (powers of Duchy of Lancaster to sell to a local authority any land which the local authority see fit to purchase), which has effect by virtue of its own terms;
- (d) the repeals in section 49 (co-operative societies, etc.) are consequential on the abolition in 1947<sup>6</sup> of the Small Holdings and Allotments Account and the repeal in 1980<sup>7</sup> of the reference in section 49(2) to the Local Government Board;

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with s.15(3) and Sch.4, para. 1(d).

<sup>5</sup> The Agriculture Act 1947, s.61, constituted instead a *smallholdings* committee for every smallholdings authority. These committees were abolished by the Agriculture Act 1970, which repealed the Agriculture Act 1947, s.61.

<sup>6</sup> Agriculture Act 1947, s.59.

<sup>7</sup> Local Government, Planning and Land Act 1980, s.1(5), Sch. 5, para. 1(d).

- (e) sections 60 and 62, so far as unrepealed, contain transitional provisions - derived mainly from the Small Holdings and Allotments Act 1907, ss.45 and 20(1) - which are long since spent and unnecessary.

Section 47(3) of the Small Holdings and Allotments Act 1908 provides that as an alternative to claiming compensation for improvements under the Agricultural Holdings Acts a tenant may claim under the Allotments and Cottage Gardens Compensation for Crops Act 1887. That Act was repealed and replaced by section 3 of the Allotments Act 1922<sup>8</sup> and a textual amendment in Schedule 2 to the draft Bill would substitute a reference to section 3 of the Allotments Act 1922. The background is that the 1887 Act was originally destined to be replaced by the Agricultural Holdings Bill, a consolidation measure which was proceeding through Parliament in the same Session;<sup>9</sup> but following a question by Lord Muir Mackenzie (1845-1930), then Chairman of the Consolidation Bill Committee, the provisions of that Bill relating to allotment gardens (including the repeal of the 1887 Act) were transferred to the Allotments Bill at a late stage.<sup>10</sup>

Section 21(5) of the Land Settlement (Facilities) Act 1919 and section 22(3) of the Land Settlement (Scotland) Act 1919 provided exemptions from stamp duty on a lease for an allotment or garden where the rent does not exceed 50p. per annum and no premium, or consideration other than rent, has been paid. The exemptions became obsolete and unnecessary when the Finance Act 1963 altered the general law relating to stamp duty on leases.<sup>11</sup> Under the general law stamp duty is not payable on a lease for a term not exceeding seven years or an indefinite term at a rent not exceeding £5 if no premium, or consideration other than rent, is paid.<sup>12</sup> The Inland Revenue agrees.

The Allotments Act 1922, which applies to England and Wales, implemented the recommendations of a departmental committee<sup>13</sup> which investigated the provision of allotments by local authorities following the First World War. The war-time powers under which land in urban areas had been requisitioned for allotment gardens to increase the food supply of the nation were due to expire on 25 March 1923. Section 10(6)(b) mitigated the effect of the expiry by providing temporary powers for the continuation of First World War allotments in cases where the land was not immediately required by the owner for building

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<sup>8</sup> Halsbury's Laws (4th ed. 1973), Vol. 2, para. 61; J.F. Garner, *The Law of Allotments* (4th ed. 1984), p.77.

<sup>9</sup> *Hansard* (H.L.), 4 May 1922, Vol. 50, col. 272 (Earl of Ancaster). The Agricultural Holdings Bill became the Agricultural Holdings Act 1923.

<sup>10</sup> *Hansard* (H.L.), 23 May 1922, Vol. 50, cols. 570-1; *ibid.*, 29 May 1922, col. 847.

<sup>11</sup> J.F. Garner, *The Law of Allotments* (4th ed. 1984), p.62. *Sergeant and Sims on Stamp Duties* cited the 1919 exemption until the 8th ed. (1982), but the citation was omitted from the 9th ed. (1988).

<sup>12</sup> Stamp Act 1891, Sch. 1, "Lease or tack", para. 3 as amended.

<sup>13</sup> *Report of the Departmental Committee on Allotments in Great Britain* (1922) H.M.S.O.

or other non-agricultural purposes.<sup>14</sup> This power is long since spent and the repeal proposed to section 7 (application to Crown land) is consequential.

In the Allotments Act 1922-

- (a) the repeals in sections 1 and 3 are of spent transitional provisions;
- (b) the repeal of section 8(2) (modification of section 41 of the Small Holdings and Allotments Act 1908) is consequential on the repeal of the relevant provisions of the 1908 section by section 41 of the Acquisition of Land (Authorisation Procedure) Act 1946;
- (c) the repeal of section 10(1) from "or the council" to "1908" (powers of entry by county councils) is consequential on the repeal of section 24 of the 1908 Act (duty of county councils to act in default of district and parish councils) by the Local Government Act 1972;
- (d) section 17 (rating of allotments) became obsolete when agricultural land, including allotments, was derated;<sup>15</sup>
- (e) section 19 (penalty for damage to an allotment garden) is superseded by the Criminal Damage Act 1971;
- (f) the repeals in section 22 are of redundant definitions.

In the Allotments (Scotland) Act 1922, section 8(2) (a partial repeal of section 2(1) of the Allotments (Scotland) Act 1892) has had its effect and is spent. The other repeals are of spent transitional or ancillary provisions.

In section 1 of the Allotments Act 1925, which applies to England and Wales, the definition of the Public Works Loans Commissioners became redundant following the repeal of section 2 (loans to allotment societies) by the National Loans Act 1968. Section 3 (provisions for allotments in town planning schemes) became inoperative following the enactment of the Town and Country Planning Act 1947, which brought in a new statutory framework for planning. In 1950 the Allotments Advisory Committee reported on this and recommended the re-enactment of the 1925 section.<sup>16</sup> In Parliament<sup>17</sup> the Minister of Agriculture and Fisheries confirmed that the section was inoperative but declined to accept the recommendation, explaining-

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<sup>14</sup> *Hansard* (H.L.), 4 May 1922, Vol. 50, col. 250 (Earl of Ancaster).

<sup>15</sup> See General Rate Act 1967, s.2(2),(3)(a).

<sup>16</sup> *Report of the Allotments Advisory Committee to the Minister of Agriculture and Fisheries respecting amendment of existing allotments legislation* (1950) H.M.S.O., paras. 2, 8.

<sup>17</sup> *Hansard* (H.C.), 16 July 1950, Vol. 476, col. 1312 (Mr Thomas Williams).



"While I am in sympathy with the motives underlying these proposals, I am afraid that my right hon. Friend the Minister of Town and Country Planning would be embarrassed by legislation which sought to exclude one interest from the procedure laid down in the Town and Country Planning Act. Moreover, changes in the law are not the only means of achieving any goal we have in mind, and perhaps better results may come from less formal means, for example by promoting a better understanding and a higher appreciation of the allotment position among various local authorities."

In section 5 of the Allotments Act 1925 (acquisition of land for future allotments) and section 8 of that Act (sale, etc. of land used as allotments), the references to consultation with the Minister of Agriculture and Fisheries or the Minister of Health respectively are obsolete, since the functions of both Ministers have devolved on the Secretary of State. The other repeal in section 8 (exclusion of requirement to obtain the sanction of the county council) is consequential on the repeal of the relevant provisions of section 32 of the 1908 Act by the Local Government Act 1972. Section 7 so far as proposed for repeal (giving of notice within 3 months of the passing of the Act in relation to existing tenancies) is spent.

Sections 10 and 11 of the Allotments Act 1925 (rating of allotments) became obsolete when agricultural land, including allotments, was derated.

The Agricultural Land (Utilisation) Act 1931, which applies to Great Britain, conferred special powers during the economic depression enabling the Minister of Agriculture and Fisheries (or in Scotland the Department of Agriculture for Scotland) to provide allotments for unemployed persons, to defray losses incurred by local authorities in providing allotment gardens and to make grants for assisting in the provision of seeds, fertilisers and equipment for unemployed persons. The provisions of the 1931 Act relating to allotments were essentially temporary in character and have been a dead letter for practical purposes for many years.<sup>18</sup> Section 13 (power to provide allotments) expired on 31 July 1939, section 14 (power to defray losses) was implemented in 1932<sup>19</sup> but only as respects provisional proposals and estimates submitted before 31 July 1931 and section 16 (grants for seeds, fertilisers and equipment) was never implemented. The other repeals proposed are consequential.

Section 4 of the Allotments Act 1950, which applies to England and Wales, deals with the right of the landlord of an allotment garden to compensation for deterioration. Subsection (4), which excluded tenancies which terminated before the passing of the Act on 26 October 1950, or tenancies which were then being terminated, is spent.

In the London Government Act 1963, section 55(4) so far as proposed for repeal modified section 20 of the Allotments Act 1922 (default powers of Secretary of State) and is obsolete in consequence of the repeal of that section by the Local Government, Planning and Land Act 1980.

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<sup>18</sup> See J.F. Garner, *The Law of Allotments* (4th ed. 1984) p.14; *Report of the Departmental Committee into Allotments* (1969) Cmnd. 4166, para. 46.

<sup>19</sup> Allotment Gardens (Contributions towards Losses) Regulations 1932 (S.R. & O. 1932 No. 57, Rev. XXI p.140).

In the Criminal Justice Act 1967, the repeal in Schedule 3 (increase of fines fixed by enactments) is consequential on the proposed repeal of section 19 of the Allotments Act 1922.

In the Local Government (Scotland) Act 1973, the repeal in Schedule 27 is consequential on the proposed repeal of section 24(a) of the Agricultural Land (Utilisation) Act 1931.

In the Charities Act 1993, which consolidates the Charities Act 1960, the repeal is consequential on the proposed repeal of the Poor Allotments Management Act 1873. The repeal is agreed to by the Charity Commission.

## PART IV

### COMMONS AND OPEN SPACES

#### *Wimbledon and Putney Commons Act 1871*

The Wimbledon and Putney Commons Act 1871 vested the management of the commons in a body of eight conservators (five elected by local residents and three appointed by government departments) who are charged with the duty of keeping the commons forever open and unbuilt on, of protecting the natural environment and of preserving the commons for public and local use for the purposes of exercise and recreation. For the purpose of meeting the expenses of maintaining the commons, there is power to impose a levy under regulations<sup>1</sup> which have repealed the original rating provisions. The 1871 Act is important legislation for the benefit of the public which ought to be readily accessible. The proposals discussed below would remove obsolete and spent provisions which impede its publication in a revised edition of the statutes. The proposals have been considered and agreed to by the Wimbledon and Putney Commons Conservators and the Department of the Environment.

Sections 40 to 67 provided for the use of part of Wimbledon Common by the National Rifle Association and military volunteer corps as a rifle range and encampment and prescribed the terms and conditions of such use, including the right to terminate it. Wimbledon Common has long been unsuitable for these purposes. The National Rifle Association held its last meeting there in 1889 after which it moved to Bisley. Some rifle ranges continued to be used by volunteer corps and in 1894<sup>2</sup> a man called Ingram, who was digging a grave in the adjacent cemetery, was killed by a stray bullet. The usage was later ended and the Ministry of Defence and the National Rifle Association agree that the statutory provisions relating to it are obsolete and can be repealed. The repeals in section 84 (power to make byelaws), and of sections 106 and 107, are consequential.

The Act transferred to the conservators all the estate and interest in the commons of the fifth Earl Spencer (1835-1910), lord of the manors of Battersea and Wandsworth, and of Wimbledon. Sections 72, 73 and 80 (so far as proposed for repeal) provided for the payment of an annuity of £1,200 to Earl Spencer and his successors in consideration of the transfer, and for its redemption. The annuity was redeemed in 1958 by the payment of a capital sum and these provisions are spent. Sections 69 and 70, which restricted the exercise of powers by the manorial courts of Battersea and Wandsworth, and of Wimbledon, are obsolete. These courts have long been defunct and in 1977<sup>3</sup> manorial courts were for practical purposes abolished. Solicitors acting for the Spencer family have confirmed that the eighth Earl Spencer (1924-1992) had no objection to the repeals proposed to the Act.

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<sup>1</sup> Wimbledon and Putney Commons (Special Levies) Regulations 1990 (S.I. 1990 No.201), made under the Local Government Finance Act 1988.

<sup>2</sup> *Volunteer Service Gazette*, 11 May 1895, reporting *Putney Burial Board v. Balfour and Others* (application for an injunction).

<sup>3</sup> Administration of Justice Act 1977, s.23 and Sch.4.

The remaining repeals are of -

- (a) obsolete provisions relating to the appointment or election of the first conservators (sections 9 to 11 and 13) and an unnecessary drafting provision deeming the Schedules to be part of the Act (section 7);
- (b) provisions which required the Act to be stamped or provided for the expenses of promoting the Act (sections 33 and 110);
- (c) procedural provisions relating to summary convictions and appeals against convictions which have been superseded by the general law except as mentioned below (section 94);
- (d) obsolete transitional provisions saving contemporary legal proceedings relating to a proposal to site a sewage farm on Wimbledon Common (sections 104 and 105).

A consequential amendment of section 87 (penalties in byelaws) in Schedule 2 to the draft Bill would preserve the residual effect of section 94.

#### *Other Enactments*

In the Inclosure Acts 1845, 1848 and 1852, which apply to England and Wales-

- (a) section 58 of the 1845 Act (actions not to abate by death) is redundant in consequence of section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 (effect of death on certain causes of action);
- (b) section 166 of the 1845 Act (exclusion of certiorari) is superseded by section 12 of the Tribunals and Inquiries Act 1992 (supervisory functions of superior courts not to be excluded by Acts passed before 1 August 1958), a consolidation of provisions originally enacted by the Tribunals and Inquiries Act 1958;<sup>4</sup>
- (c) in section 167 of the 1845 Act and section 28 of the 1852 Act, the definitions of "county" and "parish" are obsolete, since these terms are now to be construed in accordance with section 179 of the Local Government Act 1972;
- (d) section 10 of the 1848 Act (summary offence of wilfully or maliciously damaging fences, ditches or other works) is superseded by the Criminal Damage Act 1971.

In the Town Gardens Protection Act 1863, which applies to England and Wales, section 6 (application of Summary Jurisdiction Act 1848 to penalties or forfeitures) is superseded, so far as it applies the 1848 Act, by the general law in the Justices of the Peace

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<sup>4</sup> For earlier repeals of similar provisions, see Statute Law (Repeals) Act 1976, Sch.1., Pt. XIX.

Act 1979 and the Magistrates' Courts Act 1980. The only purpose of the section now is to provide that offences under the Act are triable summarily. This residual effect would be preserved by a consequential amendment of sections 4 and 5 (offences) in Schedule 2 to the draft Bill. Section 4 so far as proposed for repeal (jurisdiction of magistrates) has been overtaken by the general law. The repeals are agreed to by the Home Office.

In the Parks Regulation Act 1872, which applies to Great Britain, section 6 so far as proposed for repeal (imprisonment in default of payment of a fine) has been superseded by the general law in England and Wales and Scotland.<sup>5</sup> Section 15 (summary proceedings) as it applies to England and Wales, consists only of an unnecessary definition of the term "court of summary jurisdiction". The section as it applies to Scotland is superseded by the general law.<sup>6</sup> The repeals are agreed to by the Home Office, the Scottish Office Home and Health Department and the Crown Office.

In the Statute Law Revision (Substituted Enactments) Act 1876, the only remaining substantive provision is section 1. It provided that offences under section 10 of the Inclosure Act 1848, section 10 of the Inclosure Act 1849 and section 33 of the Inclosure Act 1852 should be deemed to be offences punishable on summary conviction under the Summary Jurisdiction Acts. So far as the 1876 Act relates to the Inclosure Act 1848, its repeal is consequential on the proposed repeal of section 10 of that Act. The residual effect of the 1876 Act would be preserved by textual amendments of the Inclosure Acts 1849 and 1852 in Schedule 2 to the draft Bill.

The Open Spaces Acts 1877 to 1890 were consolidated by the Open Spaces Act 1906 except so far as section 4 of the Open Spaces Act 1887 explained expressions used in the Disused Burial Grounds Act 1884. That section legislated by reference to the Metropolitan Open Spaces Act 1881, which was repealed in 1906, and its drafting results in a needless legislative complexity. Its modern effect would be preserved by a textual amendment of the definitions in the Disused Burial Grounds Act 1884 in Schedule 2 to the draft Bill. Consequentially the residue of the Open Spaces Act 1887 would be repealed.

In the Open Spaces Act 1906, a consolidation applicable to England and Wales and Northern Ireland, section 21(1)(a) (modification of references to the Public Health Act 1875 in the application of the Act to Ireland) is obsolete in consequence of the repeal of section 15(2) (procedure for making byelaws), as it applied to Northern Ireland, by the Local Government Act (Northern Ireland) 1972. Section 23(b), which applied only to England and Wales, saved the effect of orders of a county council investing a parish council with powers under the Open Spaces Acts 1877 to 1890. It became unnecessary when section 8(1) of the Parish Councils Act 1957 made every parish council a local authority for the purposes of the Open Spaces Act 1906, whether or not invested with those powers by the county council concerned.

In the Statute Law (Repeals) Act 1978, the repeal is consequential on clause 2 of the draft Bill.

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<sup>5</sup> Magistrates Courts' Act 1980, ss.75, 76; Criminal Procedure (Scotland) Act 1975, s.407.

<sup>6</sup> *Hall v. MacPherson* 1913 S.C.(J.) 100; Criminal Procedure (Scotland) Act 1975, ss.283, 407, 412; District Courts (Scotland) Act 1975, s.23(2).

## PART V

### COMPANIES

#### *Group 1 - General Repeals*

The Ordinances of Corporations Act 1503, which applied only to England, is obsolete and unnecessary. It imposed a statutory penalty of £40 on a craft guild or fraternity making or executing byelaws (then called ordinances) in restraint of trade unless they had been previously approved by the judges.<sup>1</sup> The same penalty was imposed for making byelaws which restricted access to the King's courts. The background<sup>2</sup> is that in the 15th century craft guilds exercised monopolistic powers to exclude from trade all tradesmen who were not freemen of the appropriate guilds, to fix the prices of wares at levels suitable to their own membership and to prevent their members from suing in the royal courts without permission. In 1614 in the *Ipswich Tailors' Case*<sup>3</sup> it was settled that the approval of an ordinance by the judges did not render it valid under common law; it only averted the statutory penalty. There is no doubt now that byelaws must not be repugnant to the general law. The power of the old guilds declined during the industrial revolution, as economic forces drained their vitality, but customary restraints on trading were still being claimed by some guilds as late as 1827<sup>4</sup>. The restraints were finally abolished by the Municipal Corporations Act 1835.<sup>5</sup>

The Chartered Companies Act 1837, which replaced a simpler Act of 1834,<sup>6</sup> was a precursor of the modern Acts for the registration of companies. Its purpose was to facilitate the formation and regulation of trading companies with limited liability. Following the South Sea Bubble in 1720 it became unlawful for more than a century<sup>7</sup> to form an *incorporated* trading company except by special Act of Parliament or royal charter, although *unincorporated* companies could be formed and operated without restriction. In the 1830s the pressure of applications for royal charters and private Acts became burdensome both to the Crown's

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<sup>1</sup> The Chancellor, Treasurer and Chief Justices of either bench, or three of them; or both the justices of assizes in their circuit or progress in the shire.

<sup>2</sup> See Sir William Ashley, *English Economic History and Theory* (4th ed. 1909) bk.II, cap.II, para.40; bk.II, cap.I, para.26; E. Lipson, *Economic History of England* (6th ed.) iii, 350-1.

<sup>3</sup> 11 Co. Rep. 53a; 77 E.R. 1218. The statute "doth not corroborate any of the ordinances made by any corporation, which are allowed and approved as the statute speaks, but leaves them to be affirmed as good, or disaffirmed as unlawful, by the law." See also *Stationers' Co. v. Salisbury* (1693) Comb. 221, 90 E.R. 440; *Kruse v. Johnson* [1898] 2 Q.B. 91, 108.

<sup>4</sup> Lipson, *op. cit.* In 1827 the Merchants' Company in York prosecuted a druggist for selling articles of foreign produce, but the judge decided that the plaintiffs had failed to prove a custom "from time immemorial".

<sup>5</sup> Municipal Corporations Act 1835, s.14, consolidated by the Municipal Corporations Act 1882, s.247.

<sup>6</sup> Trading Companies Act 1834. It empowered the Crown to confer by letters patent all or any of the privileges of incorporation without actually granting a charter, thus obviating the need for a special Act. The restrictive rules which the Board of Trade laid down for the granting of petitions made it of little practical value.

<sup>7</sup> The Bubble Act (6 Geo. 1 c.18) was repealed in 1825 by 6 Geo. 4 c.91.

advisers and to Parliament and the need for an easier and more effective system was apparent. The Chartered Companies Act 1837 emerged as a curious transitional hybrid of past and future thinking. It retained the discretionary principle of the royal charter - thus enabling the Crown's advisers to accept or reject applications according to their beliefs as to the worthiness of an enterprise for the privilege of limited liability - but also erected a rudimentary system of registration and regulation.

The legislation of 1837 proved to be an unsatisfactory and short-lived experiment. The Joint Stock Companies Act 1844, the foundation of the modern code, provided for incorporation by mere registration and in 1855<sup>8</sup> the general principle of limited liability for registered companies was conceded by Parliament. In 1862 the first consolidation of the Companies Acts was enacted.<sup>9</sup> In consequence the 1837 Act lost its point and went out of use. The exact date of the last registration under it cannot now be identified. The old registers for England and Wales, which were at one time kept at the Central Office of the Royal Courts of Justice, have disappeared without trace and the probability is that they were destroyed some 25 years ago. No trace of the existence of a register in Scotland or Northern Ireland has been found. It has also proved impossible to identify any extant body of persons registered under the Act in the archives of Companies House. The Act is virtually ignored by modern textbooks and the system of registration and regulation for which it provided has clearly not been operable for a very long time. The Privy Council Office and the Department of Trade and Industry agree that except as mentioned below the Act is obsolete.

Section 29 of the Chartered Companies Act 1837 dealt with a separate matter, the grant by the Crown of charters of incorporation for a limited period. It was enacted to settle a doubt whether the prerogative included this power<sup>10</sup> and was amended by the Chartered Companies Act 1884 to confirm that charters granted for a limited period could be extended or renewed. The powers of the Crown would be saved by Schedule 2 to the draft Bill.

In the Companies Clauses Consolidation Act 1845, which applies to statutory companies in England and Wales and Northern Ireland, the repeals to sections 18 and 19 are of obsolete provisions relating to the transmission of an interest in a share in consequence of the marriage of a female shareholder. Transmission by virtue of the marriage of a female shareholder was ended by the Married Women's Property Act 1882. The repeals to sections 19 and 20 of the Companies Clauses Consolidation (Scotland) Act 1845 are of corresponding provisions applicable to Scotland which are obsolete by virtue of the Married Women's Property (Scotland) Act 1881.

In the Companies Clauses Act 1863, section 2 (division of Act into Parts) is an outmoded and unnecessary drafting provision. The modern practice in revised editions of the statutes is to include a more detailed and informative Arrangement of Sections as an aid to the user.

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<sup>8</sup> 18 & 19 Vict. c.133.

<sup>9</sup> The Acts were reconsolidated in 1908, in 1929, in 1948 and in 1985 (in Northern Ireland in 1986).

<sup>10</sup> *Grant on Corporations* (1850) 16.

In the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, the repeals are consequential on the abolition of the status of an "exempt private company" by section 2 of the Companies Act 1967. The Department of Trade and Industry agrees.

### *Group 2 - Insurance Companies*

In the Customs Consolidation Act 1876, section 285 so far as proposed for repeal provided that the Life Assurance Companies Act 1870 should not be deemed to apply to the Customs Annuity and Benevolent Fund. The Fund was established in 1816 and incorporated in 1896.<sup>11</sup> Its original purpose was to enable officers and clerks belonging to the Department of Customs in England to make provision by means of life assurance for their widows, children and other relatives or nominees, but subsequent legislation extended its benefits to all established officers of customs and excise.

The Life Assurance Companies Act 1870 was repealed and replaced by the Assurance Companies Act 1909. The 1876 provision is misleading and has long been a dead letter. In 1938<sup>12</sup> it was explained-

"The Directors of the Fund decided not to take advantage of the exemption from the provisions of Life Assurance Company's Act of 1870, as they thought that a deposit of the statutory £20,000 at the High Court, and compliance with the requirement for deposit of annual accounts, removed any possibility of criticism."

In the 1980s the Fund wrote to the Department of Trade and Industry to confirm that it accepted that it was an insurance company to which the Insurance Companies Act 1982 applies. The proposed repeal is supported by the Department and the Fund.

The Assurance Companies Acts 1909 to 1946 were consolidated by the Insurance Companies Act 1958. The law has been reconsolidated twice since then, in 1974 and 1982,<sup>13</sup> but provisions in no less than five of the pre-1982 Acts remain on the statute book. The proposed repeals are of enactments which the responsible departments agree are spent, obsolete or unnecessary except so far as their effect is preserved by Schedule 2 to the draft Bill.

In the Insurance Companies Amendment Act 1973, section 54 and Schedule 1 (consequential amendments of other legislation) amended sections 111 and 116 of the Companies Act 1967 and their repeal is consequential on the repeal of those sections by the Companies Consolidation (Consequential Provisions) Act 1985.

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<sup>11</sup> 56 Geo.3 c.lxxiii (partly repealed by the Customs and Inland Revenue Act 1871); Customs Annuity and Benevolent Fund Act 1896 (c.xiv). The other legislation relating to the constitution and government of the Fund is the Customs Annuity and Benevolent Fund Act 1964 (c.iii), the Customs Annuity and Benevolent Fund Act 1978 (c.iii) and the Customs and Excise Management Act 1979, s.7(2).

<sup>12</sup> Letter dated 29 September 1938 from H.H. Holland, Secretary of the Customs Fund, to the Board of Customs and Excise.

<sup>13</sup> Insurance Companies Act 1974, Insurance Companies Act 1982.



The Insurance Companies Act 1974, a consolidation measure, was largely re-consolidated by the Insurance Companies Act 1982 and only section 88(1) and Schedule 1 (amendments of other legislation) and section 90 (short title) remain. An amendment of section 89(1) of the Companies Act 1967 (criminal liability of directors, etc. of an industrial assurance company) continues to be operative and its effect would be continued by Schedule 2 to the draft Bill. The amendments relating to sections 97 and 99 of the Companies Act 1967 are spent repealing enactments. The repeal of the other residual provisions of the Insurance Companies Act 1974 is consequential on-

- (a) the repeal of the Companies Act 1948 and sections 111(1), 113(1) and 116 of the Companies Act 1967 by the Companies Consolidation (Consequential Provisions) Act 1985; or
- (b) the replacement of an amendment of section 20(2) of the Insurance Companies Act 1958 by a wider amendment of that section effected in 1981.<sup>14</sup>

Section 30 of the Policyholders Protection Act 1975, which required a report reviewing the operation of the Act to be laid before Parliament in 1981, is spent.

One of the main objectives of the Insurance Companies Act 1980 was to extend the Insurance Companies Act 1974 to Northern Ireland. In the Insurance Companies Act 1980-

- (a) sections 1 and 3 and Schedule 2, so far as unrepealed, (extension of Acts and subordinate legislation relating to insurance companies to Northern Ireland) are obsolete in consequence of the proposed repeal of the Insurance Companies Act 1974 and the revocation of the instruments concerned in 1981 and 1983;<sup>15</sup>
- (b) section 4(2) and Schedule 4 (saving and transitional provisions relating to the extension of the Insurance Companies Act 1974 to Northern Ireland) are spent and unnecessary;
- (c) section 4(3) and (4) and Schedules 5 and 6 effected repeals and are spent;
- (d) paragraphs 1, 2, 12, 13 and 14 of Schedule 3 amended enactments repealed by the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986 No. 1035, N.I. 9);
- (e) paragraphs 10 and 11 of Schedule 3 amended the Policyholders Protection Act 1975 (by inserting references to the now revoked Companies (Northern Ireland) Order 1978) and the present effect of the amendments would be continued by Schedule 2 to the draft Bill.

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<sup>14</sup> Insurance Companies Act 1981, Sch. 4, para. 17.

<sup>15</sup> Insurance Companies Regulations 1981 (S.I. 1981 No. 1654); Insurance (Lloyd's) Regulations 1983 (S.I. 1983 No. 224).

In the Insurance Companies Act 1981, the repeals to Schedule 4 (amendments of other enactments) are consequential-

- (a) in the case of paragraph 18, on the repeal of section 111(1) of the Companies Act 1967 by the Companies Consolidation (Consequential Provisions) Act 1985;
- (b) in the case of paragraph 24, on the repeal of Schedule 5 to the Finance Act 1975 by the Capital Transfer Tax Act 1984 (now known as the Inheritance Tax Act 1984).

In the Insurance Companies Act 1982, the repeals to Schedule 4 are of transitory provisions relating to matters pending in 1982 which the Department of Trade and Industry agrees are now spent or obsolete. In Schedule 5 to that Act (amendments of other enactments) the proposals are consequential-

- (a) in the case of paragraphs 1, 6(b), (c) and (d), 23 and 26, on the repeal of the enactments concerned by the Companies Consolidation (Consequential Provisions) Act 1985;
- (b) in the case of paragraph 6(a), which amended section 89(1) of the Companies Act 1967, on the provision made by Schedule 2 to the draft Bill in respect of that section.

## PART VI

### ECCLESIASTICAL LAW

The proposals in this Part have been considered and agreed to, so far as they are concerned, by the Church Commissioners and the Legal Adviser to the General Synod of the Church of England.

Section 15 of the Ecclesiastical Commissioners Act 1836 and section 87 of the Ecclesiastical Commissioners Act 1840 (laying of Orders in Council before Parliament) have been superseded, so far as proposed for repeal, by section 4 of the Statutory Instruments Act 1946.

In the Pluralities Act 1838, the proviso to section 80 saved the Church Building Act 1818, which was finally repealed by the Statute Law (Repeals) Act 1974. The repeals to section 127 are of obsolete references to the disabilities of coverture which formerly attached to married women. These disabilities were abolished in the later 19th century.

In the Ecclesiastical Commissioners Act 1840, section 76 saved the Augmentation of Benefices Acts 1677 and 1831, which were repealed in 1971.<sup>1</sup> Section 85 implemented an improvement in contemporary drafting practices by providing that in Orders in Council under the Act it was sufficient to refer to the Act without reciting its provisions. This proposition is trite and unnecessary now. In section 93 the definition of "minor canon" is redundant in consequence of the repeal of sections 44 to 47 by the Cathedrals Measure 1931 and the Cathedrals Measure 1963.

The Ecclesiastical Leases Act 1842,<sup>2</sup> which conferred powers on certain ecclesiastical corporations to grant leases of land, was repealed for England by the Endowments and Glebe Measure 1976, but the repeal did not extend to the Isle of Man. There is no record of the powers ever having been exercised in the Isle of Man, where alternative powers have been available under various Acts of Tynwald. The Act of 1842 has now been superseded in its application to the Island by new general powers for the disposal of interests in church land conferred by the Church Act 1992 of Tynwald, which came into force on 1 January 1993. The repeal is agreed to by the Church authorities in the Isle of Man.

Section 31 of the Cemeteries Clauses Act 1847 (recovery by action of debt or upon the case of the stipend payable to a cemetery chaplain under section 30) is an obsolete relic of the old forms of action which were abolished in the later 19th century. Under the modern general law a payment due and not paid is recoverable by action in any court of competent jurisdiction. Section 55, so far as proposed for repeal, made similar provision for the recovery of other prescribed fees.

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<sup>1</sup> Statute Law (Repeals) Act 1971, Sch. Pt.II.

<sup>2</sup> The Act should not be confused with the Ecclesiastical Leasing Act 1842 (5 & 6 Vict. c.108), which was repealed for the Isle of Man in 1866.

The Episcopal and Capitular Estates Acts 1851 to 1859 were repealed in 1964<sup>3</sup> except for section 2 of the Episcopal and Capitular Estates Act 1859 (evidence of appointment of Church Estates Commissioners). The Church Estates Commissioners are appointed under section 1 of the Ecclesiastical Commissioners Act 1850. A consequential amendment of that section in Schedule 2 to the draft Bill would preserve the residual effect of the 1859 Act.

Section 19 of the Tithe Act 1860 and the Tithe Act 1891 are obsolete. Church tithes and tithe rentcharge were ended by the Tithe Act 1936, and the owners of the lands thus freed of tithe rentcharge were charged with redemption annuities payable for sixty years.<sup>4</sup> However, there was one exception, more apparent than real, a rentcharge (formerly in gross) upon a gated or stinted pasture which had been apportioned among those sharing in the pasture by the Tithe Commissioners under section 19 of the Tithe Act 1860.<sup>5</sup> These gated or stinted pastures (otherwise called cattlegate, beastgate, pasturegate, cowgrass or beastgrass) were grazing lands on moors, downs or wastes which produced no crops and were open for the grazing of a stinted or limited number of cattle to each person having a share in the pasture. Cattlegates were rare and difficult to identify even in 1860 and, since there is no possibility that the successors of the Tithe Commissioners, the Inland Revenue Commissioners, would ever apportion a gross rentcharge in respect of one, section 19 of the 1860 Act can be repealed. The repeal of the Tithe Act 1891, which provides for arrears of tithe rentcharge to be recovered in the county court, would be consequential.<sup>6</sup> The repeal proposed to the Administration of Justice (Appeals) Act 1934 (appeals from the county court) is similarly consequential. Neither the Church Commissioners nor the Inland Revenue have any objection to the proposed repeals.

Section 22 of the Ecclesiastical Commissioners Act 1866 amended section 8 of the District Church Tithes Act 1865 and its repeal is consequential on the final repeal of the 1865 Act by the Statute Law (Repeals) Act 1974.

Section 4 of the Disused Burial Grounds Act 1884 saved faculties obtained before the Act was passed, more than a century ago, for the erection of a building on a disused burial ground. This transitional provision is long since spent.

The First Fruits and Tenths Measure 1926 provided for the final extinguishment or redemption of first fruits (a tax representing the first year's profits of a living) and tenths (one tenth of the annual profit of a living). Both taxes were originally demanded by the Pope but in the reign of Henry VIII became payable to the Crown. They were calculated on a valuation made at the Reformation and applied only to the old livings and sees that were in existence

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<sup>3</sup> Statute Law Revision Act 1964.

<sup>4</sup> Redemption annuities were finally extinguished by the Finance Act 1977, s.56.

<sup>5</sup> See G.P. Leach, *The Tithe Acts* (5th ed. 1891), 111, 147. Leach was an Assistant Commissioner to the Board of Agriculture, which then administered the Tithe Acts.

<sup>6</sup> Some of the provisions of the 1891 Act were made applicable to the recovery of redemption annuities by the Tithe Act 1936, s.16(3), but that provision was repealed when redemption annuities were extinguished in 1977.

in the 16th century. In 1704 the revenue from first fruits and tenths was granted to the governors of Queen Anne's Bounty and in 1852 was commuted for annual payments.<sup>7</sup> The Church Commissioners, as successors to Queen Anne's Bounty,<sup>8</sup> agree that the 1926 Measure is spent in its operation and unnecessary. So far as the law relating to first fruits and tenths extended to the Isle of Man, it was repealed by the Statute Law Revision (Isle of Man) Act 1991.

In section 19(3) of the Cathedrals Measure 1963 (application to schemes of provisions of the Ecclesiastical Commissioners Act 1840 which relate to Orders in Council), the repeal is consequential on the proposed repeal of section 85 of the Ecclesiastical Commissioners Act 1840.

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<sup>7</sup> Order in Council dated 27 November 1852 made under Queen Anne's Bounty Act 1838, s.19.

<sup>8</sup> Church Commissioners Measure 1947, s.2.

## PART VII

### EXPLOSIVES

#### *Explosives Act 1875*

The Explosives Act 1875 replaced earlier legislation, including the Gunpowder Act 1860, which had proved defective and unsatisfactory. The Act applies to the United Kingdom, but as a result of subsequent amendments there are different legislative texts for Great Britain and Northern Ireland. The proposed repeals, which are agreed to by the responsible departments, including the Health and Safety Executive, would simplify the law by removing inoperative and unnecessary provisions from both texts.

In section 14 (continuing certificate for existing factories and magazines) and section 20 (continuing certificate for stores) the repeals are of spent transitory provisions relating to applications for certificates in respect of factories, magazines or stores which existed before the Act came into force on 14 June 1875.

In section 24 (quantities of gunpowder allowed in buildings), the reference to arbitration is obsolete in Great Britain in consequence of the repeal of the arbitration powers in the Act by regulations made under the Health and Safety at Work etc. Act 1974.<sup>1</sup>

In section 72 (functions of local authorities) as it applies to Great Britain-

- (a) the repeal of the reference to justices in petty sessions is consequential on the repeal of section 67(5) (justices in petty sessions to act in places where there is no local authority) by the Local Government Act 1972 and of paragraph 3 of section 110 (corresponding provision for Scotland) by the Local Government (Scotland) Act 1973;
- (b) the reference to an urban sanitary district (which relates only to England and Wales) is now to be construed as a reference to a district and the words "urban sanitary" are consequently obsolete;
- (c) the repeal of the reference to Improvement Commissioners (which also relates only to England and Wales) is consequential on the repeal of section 68 (which had enabled Improvement Commissioners to become local authorities) by the Local Government Act 1972.

In section 75 (powers of inspection), as it applies to Northern Ireland, the reference to a chief officer of police is redundant and misleading. By virtue of section 5 of the Explosives Act (Northern Ireland) 1970, any member of the Royal Ulster Constabulary has the powers of a Government inspector under section 75.

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<sup>1</sup> Explosives Acts 1875 and 1923 etc. (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 1885).

Section 93 (appeals from court of summary jurisdiction) and section 94 (constitution of court of summary jurisdiction), so far as unrepealed<sup>2</sup> are unnecessary or have been superseded by the general law. A general right of appeal was not available in 1875 but is now provided for by the Magistrates' Courts Act 1980, s.108 and the Criminal Procedure (Scotland) Act 1975, ss.442-455, as amended. The constitution of magistrates' courts in England and Wales is now laid down by the Justices of the Peace Act 1979. In Scotland section 94 is inapplicable, since by virtue of other provisions<sup>3</sup> the expression "the court of summary jurisdiction" means the sheriff principal of the sheriffdom or any one of the sheriffs.

In section 108, the repeals are of now redundant definitions of "county", "urban sanitary district", "urban sanitary authority" and "Improvement Commissioners".

Section 109 so far as proposed for repeal contains redundant Scottish definitions of "a master of one of the superior courts", "umpire", "attending before a court of record", "stipendiary magistrate", "defendant", "chairman of quarter sessions" and "misdemeanor". Section 114(b), (d) and (f) (recovery of penalties in Scotland) are unnecessary and superseded by the general law in the Criminal Procedure (Scotland) Act 1975.

Section 120 contains redundant Northern Ireland definitions of "police district", "chief officer of police" and "county court judge". Section 121 (application of penalties in Ireland) is superseded by the general law in section 20 of the Administration of Justice Act (Northern Ireland) 1954.

#### *Other Enactments*

In Part II of Schedule 3 to the Local Government Act 1966, which applies to England and Wales, and in Part II of Schedule 4 to the Local Government (Scotland) Act 1966, the paragraphs proposed for repeal conferred powers to make orders to vary the fees payable under-

- (a) sections 15, 18 and 21 of the Explosives Act 1875;
- (b) Schedule 1 to the Petroleum (Consolidation) Act 1928;
- (c) section 1(4) of the Petroleum (Transfer of Licences) Act 1936.

In 1987,<sup>4</sup> regulations made under the Health and Safety at Work etc. Act 1974 modified this legislation to refer to fees from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974. The

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<sup>2</sup> The sections have been repealed for Northern Ireland. In Great Britain they were repealed except for the purposes of sections 30, 32 and 73, by the Explosives Acts 1875 and 1923 etc. (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 1885). Sections 30 and 32 are not relevant statutory provisions for the purposes of the Health and Safety at Work etc. Act 1974 and accordingly there is no power to modify them under that Act.

<sup>3</sup> Explosives Act 1875, s.109(10); Sheriff Courts (Scotland) Act 1971, s.4 and Sch.1, para.1.

<sup>4</sup> Health and Safety (Explosives and Petroleum Fees) (Modification) Regulations 1987 (S.I. 1987 No.52).

regulations also specified the fees payable. The paragraphs proposed for repeal are consequentially obsolete and unnecessary.

In Part I of Schedule 3 to the Criminal Justice Act 1967 (increase of fines fixed by enactments), the repeals are consequential on the Petroleum (Regulation) Acts 1928 and 1936 (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 1942).

In the Courts Act 1971, which applies to England and Wales, the repeals are consequential on regulations<sup>5</sup> made under the Health and Safety at Work etc. Act 1974 or on the proposed repeal of section 93 of the Explosives Act 1875.

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<sup>5</sup> Explosives Acts 1875 and 1923 etc. (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 1885); Petroleum (Regulation) Acts 1928 and 1936 (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 1942).



## PART VIII

### FAMILY LAW

The Notification of Births Act 1907, now applicable only to Scotland and Northern Ireland,<sup>1</sup> requires formal notification of a birth to be given to the health authorities within 36 hours. In Scotland section 2, so far as unrepealed (a definition of "local authority"), is disapplied by section 4(3) and the remainder of section 4 (jurisdiction and procedure in respect of summary offences) is unnecessary, having regard to the modern general law. In section 5 (modification of references to Local Government Board in the application of the Act to Ireland) the repeal is consequential on the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972 No. 1265, N.I. 14). The functions originally exercised by the Local Government Board for Ireland are now exercisable by the Health and Social Services Board, which was established in 1972.

As originally enacted, the Notification of Births Act 1907 applied only in the areas of local authorities which adopted it, but it was extended to all local authorities by the Notification of Births (Extension) Act 1915. This Act is only still applicable to Scotland,<sup>2</sup> where it is either spent or unnecessary. Section 1(1) (extension of principal Act to all local authorities) was given effect to by the repeal of the original limitations in the principal Act. Section 1(3) (duty to bring the Act to the attention of medical practitioners and midwives in areas in which the principal Act was not in force before 1915) was transitional. Section 3(1) (exercise of functions jointly by local authorities)<sup>3</sup> is superseded by the general law in Part V of the Local Government (Scotland) Act 1973. The remaining provisions are ancillary or inapplicable to Scotland.

In the Children and Young Persons Act 1933, a consolidation for England and Wales of the Children and Young Persons Acts 1908 to 1932, the repeals are of spent transitory provisions.

The Adoption of Children Act 1949, which applies to Great Britain, was for the most part consolidated by the Adoption Act 1950.<sup>4</sup> The residue amended section 13 of the Nurseries and Child-Minders Regulation Act 1948 and is obsolete in consequence of the repeal and replacement of that Act by the Children Act 1989. Part X of the Children Act 1989

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<sup>1</sup> The Act was repealed for England and Wales by the Public Health Act 1936 and the London Government Order 1970 (S.I. 1970 No. 211). For the equivalent provisions in England and Wales, see now National Health Service Act 1977, s.124.

<sup>2</sup> The Act was repealed for England and Wales by the National Health Service Act 1946 and for Northern Ireland by the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972 No. 1265, N.I. 14).

<sup>3</sup> The only remaining function of a local authority under the principal Act is the duty imposed by s.1(2) of supplying without charge prepaid addressed envelopes, together with forms of notice, to any medical practitioner or midwife residing or practising in the area who applies for the same.

<sup>4</sup> This Act, which applied to Great Britain, was re-consolidated by the Adoption Act 1958. The law was re-consolidated for England and Wales by the Adoption Act 1976 and for Scotland by the Adoption (Scotland) Act 1978.

(Child Minding and Day Care for Young Children), which supersedes the 1948 Act for both England and Wales and Scotland, came into force on 14 October 1991.<sup>5</sup>

In section 11 of the Maintenance Orders Act 1950 (jurisdiction of Northern Ireland courts to make affiliation orders) subsection (4) made transitional provision relating to applications for certain orders under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924. Applications for these orders had to be made before 1 January 1952 and the provision is long since spent.

The Children and Young Persons (Amendment) Act 1952, which applies to England and Wales, has for the most part been repealed by the Children and Young Persons Acts 1963 and 1969. The Act is only still alive in so far as it amends section 11 (exposure of children to the risk of burning) of the Children and Young Persons Act 1933. The effect of that amendment would be preserved by Schedule 2 to the draft Bill. The remaining provisions of the 1952 Act are ancillary and unnecessary.

In the Births and Deaths Registration Act 1953 and the Registration of Births, Deaths and Marriages (Scotland) Act 1965, which consolidated the law for England and Wales and Scotland respectively, the repeals (which are supported by the Registrar General and the General Register Office (Scotland)) are of-

- (a) spent transitory savings relating to the continued use of old forms or the continuation of short periods of time running at the commencement of each Act under the legislation repealed then (1953 s.42(2),(3); 1965 s.57(2),(3));
- (b) consequential amendments of other enactments which have been repealed by later legislation (1953 Sch.1; 1965 Sch.1).

In the Children and Young Persons Act 1963, the repeals are consequential on-

- (a) the repeal of Schedule 4 (transitional provisions) by the Statute Law (Repeals) Act 1977 (s.64(2));
- (b) the repeal of the Children Act 1948 by the Child Care Act 1980 and the Social Work (Scotland) Act 1968 (Sch. 3, paras. 42, 43);
- (c) the repeal of section 72(1) of the Criminal Justice (Scotland) Act 1949 by the Social Work (Scotland) Act 1968 (Sch. 3, para. 45).

The Public Health (Notification of Births) Act 1965 was repealed in its application to England and Wales and Northern Ireland in 1977.<sup>6</sup> In Scotland its only residual effect is to

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<sup>5</sup> Children Act 1989 (Commencement and Transitional Provisions) Order 1991 (S.I. 1991 No. 828).

<sup>6</sup> National Health Service Act 1977, ss.129, 130, Sch.16. In England and Wales the 1965 residual provisions were consolidated by the National Health Service Act 1977, s.124(5). In Northern Ireland equivalent provision was made by the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972 No.1265, N.I. 14).

make a technical change in the form of notice of births which is supplied by local authorities to medical practitioners and midwives under the Notification of Births Act 1907. This effect would be preserved by a provision in Schedule 2 to the draft Bill continuing the 1965 amendment.

In Part II of Schedule 3 to the Local Government Act 1966 (power to vary fees for licences, registration, etc.) paragraph 22 is obsolete in consequence of the repeal of section 30 of the Adoption Act 1958 (registration of adoption societies) by the Children Act 1975. In Part II of Schedule 4 to the Local Government (Scotland) Act 1966, the corresponding paragraph 23 is similarly obsolete.

In the Maintenance Orders Act 1968, which applies to England and Wales, section 1 and the Schedule (amendment of section 4(2)(a) of the Affiliation Proceedings Act 1957) are obsolete in consequence of the repeal and replacement of the Affiliation Proceedings Act 1957 by the Family Law Reform Act 1987. Section 3(4) (repeal of section 15 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960) is spent. The repeals are supported by the Lord Chancellor's Department.

Part I of the Family Law Reform Act 1969 amended the law relating to the age of majority. The repeals in Part I of Schedule 1 (enactments amended by substituting 18 for 21 years) are consequential on-

- (a) the repeal of sections 8 and 9 of the Tenures Abolition Act 1660 by the Statute Law (Repeals) Act 1969 and the Guardianship Act 1973 respectively;
- (b) the repeal of the Trade Union Act Amendment Act 1876 by the Industrial Relations Act 1971;
- (c) the repeal of the Trustee Savings Banks Act 1954 by the Trustee Savings Banks Act 1969;
- (d) the repeal of the definition of "infant" in section 57(1) of the Adoption Act 1958 by the Children Act 1975.

In Part II of Schedule 1 (pre-1969 rules, regulations, etc. amended) the repeals are consequential on the revocation or lapse of the instruments concerned. In Schedule 2 (pre-1969 statutory provisions unaffected by the reduction of the age of majority) the reference to section 57 of the Local Government Act 1933 (qualifications for election as a member of a local authority) is obsolete in consequence of the replacement of that section by section 79 of the Local Government Act 1972 (which specifies 21 years as the relevant age).

In the Age of Majority (Scotland) Act 1969, the repeals in Part I of Schedule 1 (enactments amended by substituting 18 for 21 or 25 years) correspond to repeals proposed to Part I of Schedule 1 to the Family Law Reform Act 1969 or are consequential on-

- (a) the repeal of the Tutors Act 1474, the Oaths of Minors Act 1681 and the relevant provisions of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 by the Age of Legal Capacity (Scotland) Act 1991;

- (b) the repeal of the Court of Session Act 1825 by the Court of Session Act 1988;
- (c) the repeal of the Building Societies Act 1962 by the Building Societies Act 1986.

In Part II of Schedule 1 (pre-1969 regulations and rules amended) the repeals are consequential on the revocation or lapse of the instruments concerned. In Schedule 2 (pre-1969 statutory provisions unaffected by the reduction of the age of majority) the reference to section 50 of the Local Government (Scotland) Act 1947 is obsolete in consequence of the replacement of that section by section 29 of the Local Government (Scotland) Act 1973.

In the Age of Majority Act (Northern Ireland) 1969, the repeals correspond to repeals already made, or now proposed, in the Family Law Reform Act 1969 and the Age of Majority (Scotland) Act 1969.

In the Local Authority Social Services Act 1970, which applies to England and Wales-

- (a) the repeal in Schedule 1 is consequential on the repeal and replacement of the Nurseries and Child-Minders Regulation Act 1948 by the Children Act 1989;
- (b) the repeal in Schedule 2 is consequential on the repeal of the Children Act 1948 by the Child Care Act 1980.

In the National Health Service (Scotland) Act 1978, a consolidation of the law for Scotland, the repeal is consequential on the repeal of the Nurseries and Child-Minders Regulation Act 1948 by the Children Act 1989.

In the Registered Homes Act 1984, a consolidation of the law for England and Wales, paragraph 1 of Schedule 1 amended section 41 of the National Assistance Act 1948 (registration of charities for disabled persons). Its repeal is consequential on the repeal of that section by the Charities Act 1992.

In the Foster Children (Scotland) Act 1984, a consolidation of the law for Scotland, the repeals in Schedule 1 (transitional provisions) are consequential on the coming into force-

- (a) on 1 January 1988<sup>7</sup> of section 1 of the Adoption Act 1976;
- (b) on 1 February 1985 and 1 September 1984 respectively<sup>8</sup> of sections 1 and 32 of the Adoption (Scotland) Act 1978;
- (c) on 30 September 1984<sup>9</sup> of the Mental Health (Scotland) Act 1984.

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<sup>7</sup> The Children Act 1975 and the Adoption Act 1976 (Commencement No.2) Order 1987 (S.I. 1987 No.1242).

<sup>8</sup> Adoption (Scotland) Act 1978 Commencement Order 1984 (S.I. 1984 No.1050).

<sup>9</sup> Mental Health (Scotland) Act 1984, s.130.

## PART IX

### FINANCE

#### *Group 1 - General Repeals*

The Bank Notes (Scotland) Act 1765 was originally enacted to meet particular historical conditions which have long since passed. Only sections 1, 3 and 4 to 6 are extant, and consultation with the Committee of Scottish Clearing Bankers, the Society of Messengers-at-Arms and Sheriff Officers and the responsible government departments has established that the Act no longer serves any useful purpose. Sections 1 and 3 abolished a practice which developed in Scotland in the 18th century of issuing bank notes subject to an option clause.<sup>1</sup> These notes were payable, at the option of the issuer, either on presentation or after a period of usually six months with interest at 5 per cent. The practice began in 1730 when the Bank of Scotland, then locked in fierce competition with its rival the Royal Bank of Scotland, began to issue £5 notes subject to an option clause. In 1732 they issued £1 notes of this type. The example thus set was followed not only by other banks but by employers of labour and then by business firms and small partnerships organised for the purpose. The note-issuing mania was fuelled by an acute shortage of silver coinage and some of the notes issued were for trifling sums from one shilling Scots upwards. Notes with an option clause were entirely inconsistent with the nature of proper bank notes, being a forced loan in regard to which the lender had no say. Following a public clamour, the abuse was ended by the 1765 Act, the Bill for which was brought in by the Lord Advocate at the instance of the Bank of Scotland and the Royal Bank of Scotland. The relevant provisions of the Act are however no longer required. The issue of bank notes in Scotland has been closely regulated since the passing of the Bank Notes (Scotland) Act 1845 and is restricted to banks which were then issuing them.<sup>2</sup>

Sections 4 to 6 of the 1765 Act provided a mechanism for protest and summary execution to pass on bank notes "in the same manner as is competent by the law of Scotland upon protests of bills of exchange and inland bills duly registered." Extensive research into 19th and 20th century legal and historical texts on banking in Scotland has failed to uncover any substantial treatment of these provisions, or any record of the procedure having been used. During the 18th and early 19th centuries, when there were numerous small Scottish banks which issued their own notes, the procedure was at least potentially useful. Under modern banking conditions, when the issue of bank notes by the Scottish banks is strictly controlled, it is no longer of practical utility. The possibility that such notes might be dishonoured is remote, indeed hardly conceivable except perhaps in the most extreme economic circumstances, in which procedure under the 1765 Act would be largely irrelevant. Those consulted agree that sections 4 to 6 can be repealed.

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<sup>1</sup> For the background, see A.M. Kerr, *History of Banking in Scotland* (3rd ed., 1918), 46-48, 74-78.

<sup>2</sup> Bank Charter Act 1844, s.10; Bank Notes (Scotland) Act 1845, s.1; Stamp Act 1854, s.11. There are now only three Scottish banks which issue their own notes, namely the Bank of Scotland, the Royal Bank of Scotland and the Clydesdale Bank.

The Act of 1806 was passed in implementation of the policy of Parliament, settled by the Prisage and Butlerage Act 1803,<sup>3</sup> to revest in the Crown ancient duties of prisage and butlerage on wines imported into England. The duties concerned were originally granted by Charles II to Lord George Fitzroy and devolved on the third Duke of Grafton (1735-1811). By an agreement confirmed by Parliament in 1806, the Duke surrendered all his rights of prisage and butlerage in return for the grant of a perpetual annuity of £6,870 charged on the Consolidated Fund.

The agreement confirmed in 1806 was supplemented by an Act promoted by the fourth Duke of Grafton (1760-1844) in 1815. The combined effect of the legislation was to provide powers under which-

- (a) the perpetual annuity could be wholly or partly redeemed in exchange for the purchase of 3% government stock yielding a similar income; and
- (b) any stock so purchased could be sold and the proceeds invested in freehold property in England;

subject to a reversion to the Crown in default of male Grafton heirs. In pursuance of these provisions, the annuity was partly redeemed in 1808 and had been entirely extinguished by 1887.<sup>4</sup> The government stock was sold. In 1979 the Crown's reversionary interest in the land purchased with the proceeds of the sale of stock was sold by the Treasury to the present Duke of Grafton. The Treasury and the Duke of Grafton agree that the Acts of 1806 and 1815 are consequently spent.

The Excise Permit Act 1832 was repealed by the Customs and Excise Act 1952 except for section 12 (civil actions in respect of goods illegally removed from one place to another in the United Kingdom without a removal permit issued by an excise officer). Removal permits were a feature of the revenue control of spirits, and also unmanufactured tobacco, from the early 18th century, and were essential at a time when the duties on spirits in Scotland and Ireland were lower than in England, as they were until 1858. Permits within the meaning of the 1832 Act are obsolete and the system of revenue control now in use does not rely on them. Removal permits for spirits and unmanufactured tobacco were abolished by section 6 of the Finance Act 1967, when it was found that they no longer served their original purposes and had become burdensome to traders. The last of the commodities to which they applied was methylated spirits, but the requirement of a removal permit for methylated spirits disappeared when the Methylated Spirits Regulations 1952 (S.I. 1952 No. 2230) were revoked

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<sup>3</sup> In 1797 the House of Commons Select Committee on Finance had strongly recommended that the duties on wines should be revested in the Crown if the consent of the grantees could be obtained. The Prisage and Butlerage Act 1803 (1803 c.156, repealed as spent in 1872) authorised the Treasury to negotiate with the Duke of Grafton, and other persons having similar rights, for the purchase and surrender of the rights.

<sup>4</sup> *Return of Perpetual Pensions* (1881) H.C. 80, p.3; *Report from the Select Committee on Perpetual Pensions* (1887) H.C. 248, pp.24, 45, 75-77.

and replaced in 1983.<sup>5</sup> The Treasury and H.M. Customs and Excise agree that section 12 of the Excise Permit Act 1832 is obsolete and can be repealed.

Section 84 of the Commissioners Clauses Act 1847, so far as proposed for repeal, provided for the investment of a sinking fund in the purchase of Exchequer bills. These instruments are obsolete, having been superseded in practice by Treasury bills, which are regulated by the Treasury Bills Act 1877. The Exchequer Bills and Bonds Act 1866, which formerly regulated Exchequer bills, was repealed by the Statute Law Revision Act 1966.

Section 74 of the National Debt Act 1870 provided-

"The Bank of England or of Ireland, or any member of the corporation thereof respectively, shall not incur any disability for or by reason of those Banks respectively doing anything in pursuance of this Act."

The section merely consolidated an enactment of 1853<sup>6</sup> which had also provided for the continuance of the Bank of England as a corporation for the purposes of that Act.<sup>7</sup> Contemporary sources do not explain the purpose of this curious provision or the "disabilities" under the earlier law which it purported to override. In 1854<sup>8</sup> the Statute Law Board submitted a detailed report and draft Bill to replace the voluminous national debt legislation then extant, including the enactments on which the 1870 section was based. No mention was made then of the need for a provision in these terms. In a modern context the section is plainly obsolete and unnecessary. Its repeal is agreed to by the Treasury, the Bank of England and the Bank of Ireland.

In section 42 of the Customs Consolidation Act 1876 (prohibited imports) the repeal of the words "save as thereby excepted" is consequential on the repeal of the entries in section 42 to which those words related.<sup>9</sup>

The Suez Canal (Shares) Act 1876 was passed to implement the purchase by the British Government of shares held by the Khedive of Egypt in the Compagnie Universelle du Canal Maritime de Suez (Universal Company of the Maritime Canal of Suez). It empowered the Treasury to hold shares in the Company, required receipts to be paid into the Consolidated Fund and provided for the laying of accounts before both Houses of Parliament. The shares represented some seven-sixteenths of the Company and proved, despite contemporary

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<sup>5</sup> Methylated Spirits Regulations 1983 (S.I. 1983 No. 252).

<sup>6</sup> 16 & 17 Vict. c.23 s.42. Provisions to this effect were routinely included in early national debt legislation, now repealed. See e.g. 1 Geo. 1 Stat. 2 c.12 (1714), Bank of England Act 1741, s.8.

<sup>7</sup> By virtue of the Bank of England Act 1946, s.3(1), any enactment limiting the duration of the Bank as a body corporate ceased to have effect in 1946.

<sup>8</sup> *Third Report of the Statute Law Board* (1854) H.C. 302 -1. The report explained that every Act relating to the national debt had been perused and that "the entire series will be found to comprehend nine hundred and ninety Acts of Parliament".

<sup>9</sup> The last of the relevant entries was repealed by the Forgery and Counterfeiting Act 1981, Sch. Pt.II.

misgivings, to be a profitable investment: in the following fifty years the Government received interest and dividends amounting to eight times the £4 million paid for them.<sup>10</sup> The Suez Canal was nationalised in 1956 and on 29 April 1958<sup>11</sup> the Company and the Government of the United Arab Republic (as successor to the Government of Egypt) signed an agreement under which the Company retained its assets and liabilities outside Egypt. The United Arab Republic retained those in Egypt and agreed to pay the Company E£28.3 million in compensation. The Company shortly afterwards changed its name to the Compagnie Financiere de Suez (Suez Finance Company) and modified its objects and capital structure. In 1979<sup>12</sup> the British Government, as part of its programme for the disposal of £1 billion of public sector assets, sold its holding in the Company to the Banque de l'Indochine et de Suez, the proceeds from the disposal amounting to some £22 million. The Treasury agrees that the Suez Canal (Shares) Act 1876 is consequentially obsolete.

The final repeal of the Inland Revenue Act 1880 is consequential on the repeal of section 47 (construction of term "exciseable liquors" in billiard licence) by the Billiards (Abolition of Restrictions) Act 1987. Only section 1 (short title) remains.

The Paymaster General Act 1889 empowered the Treasury to make regulations for transferring to the Bank of England or the Bank of Ireland duties performed at the passing of the Act in the Paymaster General's Office. The Paymaster General's Office, which was established in 1835,<sup>13</sup> suffered a series of attacks in the 19th century and in 1884 a committee appointed by the Chancellor of the Exchequer recommended that the office should be abolished. The purpose of the 1889 legislation was to give effect to this recommendation, but the legislation was never implemented. The idea was shelved when it was realised that the remuneration payable to the Bank of England for undertaking the work involved would probably exceed the cost of keeping the work at the Paymaster General's Office. In 1896<sup>14</sup> the Treasury issued a minute which formally recorded their decision against making the transfer, the reason being that the change was unlikely to produce savings "sufficient to outweigh the inconvenience which it would undoubtedly entail". The Paymaster General Act 1889 has been a dead letter since then. Its repeal is agreed to by the Treasury.

In the Stamp Duties Management Act 1891, proviso (c) to section 9(7) (procedure for obtaining allowance for spoiled stamps used for playing cards) became obsolete in consequence of the abolition of the duties on playing cards by section 8 of the Finance Act 1960.

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<sup>10</sup> *Oxford History of England 1870-1914*, 37-8.

<sup>11</sup> *Hansard* (H.C.), 5 May 1958, Vol. 587, cols.82-84 (*Written Answers*).

<sup>12</sup> *Hansard* (H.C.), 7 November 1979, Vol. 973, cols. 179-180 (*Written Answers*); 3 December 1979, Vol. 975, col. 76 (*Written Answers*).

<sup>13</sup> Paymaster General Act 1835. For the background to the 1889 legislation, see Colin Ulph, *150 Not out: The Story of the Paymaster General's Office 1836-1986*.

<sup>14</sup> Treasury Minute dated 14 January 1896 concerning the re-organisation of the Paymaster General's Office.



In the Stamp Act 1891, the repeal of the reference to India promissory notes is consequential on the final repeal in 1986<sup>15</sup> of the Indian Securities Act 1860. Section 2 of the 1860 Act (stamp duty exemption) was earlier repealed as obsolete by section 62(5) of the Finance Act 1963.

In the National Debt (Stockholders Relief) Act 1892, section 5 (power to hold stock on different accounts) was repealed in its application to government stock in 1942<sup>16</sup> and is not relevant to stock on the National Savings Stock Register. The section continues to apply only to India stock,<sup>17</sup> which for practical purposes is obsolete.<sup>18</sup> The Treasury agrees that the section serves no further purpose and can be repealed.

Section 33(2) of the Finance (1909-10) Act 1910 (appeals against determinations under Part I of the Act) is long since spent. Mineral rights duty, the last of the duties to which Part I related, was abolished by section 34(2) of the Finance Act 1967 as respects any financial year beginning on or after 1 April 1967. Section 33(2) was saved then merely for the purpose of allowing outstanding appeals against earlier assessments to be disposed of.

The final repeal of the Finance Act 1926 is consequential on the repeal of Part V (excess profits duties enactments) by the Statute Law Revision Act 1964. Only section 47(3) and (4) (short title and extent) remain.

In the Government Annuities Act 1929, section 52(4) so far as proposed for repeal (regulations to have effect as if enacted in this Act) has been obsolete and unnecessary since the decision of the House of Lords in *Minister of Health v. The King (on the prosecution of Jaffe)* [1931] A.C. 494. Similar provisions in other Acts were repealed in 1986.<sup>19</sup>

The Superannuation (Various Services) Act 1938 was enacted to confer on certain public sector employees who were not civil servants the superannuation benefits available to civil servants.<sup>20</sup> Section 1 (extension of superannuation benefits) was repealed by the Superannuation Act 1972 and the column of the Schedule relating to that section is consequentially obsolete. Section 2 (distribution of small sums on death without probate or other proof of title), as read with the remainder of the Schedule, remains in force but is superseded so far as it applies to the Assessor of Public Undertakings (Scotland). This official and his staff are now civil servants subject to the Principal Civil Service Pension Scheme made under the Superannuation Act 1972 and section 4 of that Act (payments due to deceased persons) is accordingly applicable to them. The Scottish Office Superannuation Division and

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<sup>15</sup> Statute Law (Repeals) Act 1986, Sch.1, Pt. IX.

<sup>16</sup> Finance Act 1942, Sch.11, Pt. III.

<sup>17</sup> East India Loans Act 1937, s.2(4).

<sup>18</sup> The enactments relating to India stock are separately proposed for repeal in Group 4 of this Part.

<sup>19</sup> Statute Law (Repeals) Act 1986, Sch.1, Pt. XII.

<sup>20</sup> *Hansard* (H.L.), 9 March 1938, Vol. 108, cols. 28-29 (Lord Templemore).

the Treasury agree that the 1938 Act is obsolete so far as it relates to the Assessor of Public Undertakings (Scotland) Act 1934.

In the National Loans Act 1939, paragraph 5 of Schedule 2 extended the definition of "Government stock" in section 51 of the Finance Act 1921 and is obsolete in consequence of the repeal of that section by the Finance Act 1989 (which made fresh provision for the redemption and transfer of government securities). Paragraph 10 of Schedule 1 to the Bank of England Act 1946 and section 33(8) of the Coal Industry Nationalisation Act 1946 (which modified paragraph 5 of Schedule 2 to the 1939 Act and also the now repealed paragraph 3 of that Schedule) are similarly obsolete. The repeals are agreed to by the Treasury.

The Armed Forces (Housing Loans) Acts 1949, 1958 and 1965 made provision for financing the cost of approved housing accommodation for married servicemen in Great Britain during the period 1950-1968. Their broad purpose was to free the building of houses for these purposes from the financial pressures of providing for capital expenditure out of current revenue.<sup>21</sup> The Acts continue to have effect only so far as they provide for the repayment to the National Loans Fund of sums borrowed for the purpose of providing housing. There are 16 outstanding loans, the final payments on which fall due on various dates between 2012 and 2028.<sup>22</sup> The proposed repeals, which are agreed to by the Treasury, are of provisions which are now spent or have otherwise ceased to be relevant.

In the Common Informers Act 1951, the repeal is consequential on the proposed repeal of the Bank Notes (Scotland) Act 1765.

The Administration of Estates (Small Payments) Act 1965 increased the limits in Acts and instruments which allow property to be disposed of on death without probate or other proof of title, or in pursuance of a nomination made by the deceased. In Part III of Schedule 1 (limits contained in instruments on amounts disposable on death without representation) the repeals are of entries which relate to instruments which have been revoked and replaced by later legislation or are spent. Strictly speaking, there was no need for primary legislation to amend these instruments in 1965, since higher limits could have been prescribed by fresh instruments; but this would have required a large number of separate instruments and it was thought more convenient then to deal with the matter en bloc. In most cases higher limits have since been prescribed by later instruments. The Treasury and the other responsible departments agree to the proposed repeals.

In Schedule 2 to the Administration of Estates (Small Payments) Act 1965 (limits contained in Acts or instruments on amounts disposable on death by nomination) the repeals are consequential on-

- (a) the repeal of section 10 of the Trade Union Act Amendment Act 1876, as it applied to Great Britain, and its replacement by section 17 of the Trade Union

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<sup>21</sup> *Hansard* (H.C.), 14 November 1958, Vol. 595, col. 744 (Secretary of State for War).

<sup>22</sup> The principal remaining to be repaid in July 1991 was £67.626 million. Annual instalments, covering both principal and interest, are paid from Ministry of Defence Votes.

and Labour Relations (Consolidation) Act 1992 and the regulations<sup>23</sup> which have effect as if made under that section;

- (b) the revocation of regulations 11, 21 and 22 of the Trustee Savings Banks Regulations 1929 (S.R. & O. 1929 No. 1048, Rev. XX p.584) and their replacement by regulations 11 and 14 of the Trustee Savings Banks Regulations 1972 (S.I. 1972 No.583).

In the Superannuation Act 1965, paragraph 11 of Schedule 10, which saved the Superannuation (Public Offices) Rules 1911 to 1948, is obsolete in consequence of the replacement of those rules in 1967.<sup>24</sup>

The Military Aircraft (Loans) Act 1966 implemented arrangements for financing the purchase of aircraft for the Royal Air Force and the Navy, in particular the C130 Hercules Transport, the Phantom and the F111A, from the Government of the U.S.A.<sup>25</sup>. The arrangements involved the borrowing of sums not exceeding £430 million. The Treasury have advised that all loans under the Act were repaid by 1976-77. At the same time an outstanding liability of £8.564 million, which had arisen as a result of the devaluation of sterling, was extinguished. There are therefore no outstanding debits owed to the National Loans Fund and the 1966 Act is obsolete.

In the Finance Act 1966, the repeals are of transitory provisions relating to export rebates in connection with contracts for the delivery of a vessel made before 23 June 1966. The Treasury, H.M. Customs and Excise and the Department of Transport agree that the provisions are spent.

Section 16(1) and (2) of the National Loans Act 1968, so far as proposed for repeal, extended the definition of "government stock" in section 51 of the Finance Act 1921 to include certain securities issued under the 1968 Act, but subject to a power to exclude such securities by order made by statutory instrument. The Treasury agrees that the proposed repeals are consequential on the repeal of section 51 of the Finance Act 1921 by the Finance Act 1989. In Schedule 1 to the National Loans Act 1968, the repeals are consequential on the proposals relating to the Armed Forces (Housing Loans) Acts 1949 to 1965 or the Military Aircraft (Loans) Act 1966.

The Rolls-Royce (Purchase) Act 1971 implemented the decision of the Government, announced on 4 February 1971,<sup>26</sup> that to ensure the continuity of the company's activities

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<sup>23</sup> Trade Union (Nominations) Regulations 1977 (S.I. 1977 No. 789); Trade Union (Nominations) (Amendment) Regulations 1984 (S.I. 1984 No. 1290). These regulations were made under the Trade Union and Labour Relations Act 1974. The Trade Union Act Amendment Act 1876 as it applied to Great Britain was repealed by the Industrial Relations Act 1971.

<sup>24</sup> Superannuation (Public Offices) Rules 1967 (S.I. 1967 No. 364).

<sup>25</sup> *Hansard* (H.C.), 11 May 1966, Vol. 728, col. 487 (Mr John Diamond).

<sup>26</sup> *Hansard* (H.L.), 4 February 1971, Vol. 314, col. 1375.

which were essential to national defence, it would acquire the assets of the aero-engine, and marine and industrial gas turbine divisions of the company. The assets so acquired were transferred to Rolls-Royce (1971) Ltd, a state-owned company. This company was privatised following its re-registration as a public limited company on 1 May 1986<sup>27</sup>. The Treasury and the Department of Trade and Industry agree that the 1971 Act is obsolete.

In Schedule 4 to the Consumer Credit Act 1974, the proposed repeals are consequential-

- (a) in the case of paragraph 19, on the repeal of section 192 of the County Courts Act 1959 by the County Courts Act 1984;
- (b) in the case of paragraph 27, on the repeal of the Housing (Scotland) Act 1966 by the Housing (Scotland) Act 1987.

The British Leyland Act 1975 authorised the Secretary of State to acquire, at a cost not exceeding £265 million, the issued share capital of British Leyland Motor Corporation Limited (BLMCL). For the purposes of the acquisition a company called British Leyland Limited was formed. Under a scheme of arrangement in 1975 shareholders in BLMCL were offered one new share in British Leyland Limited for every 10 BLMCL shares held and a cash offer was then made to those shareholders by the Secretary of State for their British Leyland Limited shares. By April 1985 99.7% of the issued shares in a renamed company<sup>28</sup> were held by the Secretary of State. In August 1988 the Government sold its shareholding in what was then The Rover Group plc to British Aerospace who bought out the minority shareholders in The Rover Group plc. Accordingly the company formed for the purpose of acquiring shares in BLMCL has itself, after a number of changes in name, been sold back into the private sector. The Department of Trade and Industry and the Treasury agree that the British Leyland Act 1975 is obsolete.

The Shipbuilding (Redundancy Payments) Act 1978 gave statutory backing to the Shipbuilding Redundancy Payments Scheme, which was introduced for Great Britain in 1978,<sup>29</sup> and a similar scheme for Northern Ireland which was introduced in 1981.<sup>30</sup> Both schemes have expired. Their purpose was to alleviate the hardship caused to redundant employees of British Shipbuilders and Harland and Wolff of Belfast by the contraction of the international shipping market. The schemes, which were always intended to be temporary, were due to expire on 30 June 1985 but were extended for a further 18 months by the

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<sup>27</sup> *Hansard* (H.C.), 21 April 1986, Vol. 96, col. 12 (*Written Answers*).

<sup>28</sup> British Leyland Limited changed its name in 1978 to BL Limited and in 1981 to BL Public Limited Company. In 1986 there was a final change of name to The Rover Group plc.

<sup>29</sup> Shipbuilding (Redundancy Payments Scheme) (Great Britain) Order 1978 (S.I. 1978 No. 1191). This scheme was replaced by the Shipbuilding (Redundancy Payments Scheme) (Great Britain) Order 1981 (S.I. 1981 No. 916) as amended by S.I. 1982 No. 1090.

<sup>30</sup> Shipbuilding (Redundancy Payments Scheme) (Northern Ireland) Order 1981 (S.I. 1981 No. 924), as amended by S.I. 1982 No. 118.

Shipbuilding Act 1985. It was explained in Parliament<sup>31</sup> that this would be the last extension and that the managements of British Shipbuilders and Harland and Wolff would be asked to establish appropriate successor schemes by the early autumn of 1986. British Shipbuilders and Harland and Wolff have confirmed that successor schemes were duly established and that the legislation can be repealed when one outstanding claim has been finally disposed of. Clause 4(3) of the draft Bill accordingly provides for the repeal of this Act, and section 1 of the Shipbuilding Act 1985, to come into force on a day to be appointed.

Section 2 of the Shipbuilding Act 1982, the only remaining substantive provision, extended the period in respect of which schemes made under the Shipbuilding (Redundancy Payments) Act 1978 were to have effect. Its repeal is consequential on the proposed repeal of the 1978 Act.

In the Civil Aviation Act 1982, the repeal of paragraph 9 of Schedule 15 is consequential on the proposed repeal of the Rolls-Royce (Purchase) Act 1971.

In the Companies Consolidation (Consequential Provisions) Act 1985 and the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986, the repeals are consequential on the proposed repeal of the Shipbuilding (Redundancy Payments) Act 1978.

Section 1 of the Shipbuilding Act 1985 extended the period in respect of which schemes made under the Shipbuilding (Redundancy Payments) Act 1978 were to have effect. Its repeal is consequential on the proposed repeal of the 1978 Act. Section 2, the only other substantive provision, wrote off the outstanding irrecoverable loans made between 1968 and 1972 by the Shipbuilding Industry Board to Upper Clyde Shipbuilders Ltd. The section has had its effect and is spent.

In the Debtors (Scotland) Act 1987, the repeal is consequential on the proposed repeal of the Bank Notes (Scotland) Act 1765.

#### *Group 2 - Investment Grants*

The Industrial Development Act 1966 established a system of investment grants to industry. The system proved ineffective and was replaced in 1971<sup>32</sup> by a new system of tax allowances which applied to capital expenditure on the provision of machinery or plant incurred on or after 27 October 1970. The Investment and Building Grants Act 1971 therefore precluded the making of investment grants after 26 October 1970 except for grants in respect of contracts genuinely entered into on or before that date. The Secretary of State was also empowered to make orders determining the periods within which the final applications for investment grants were to be made. The orders<sup>33</sup> which were made under this power are

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<sup>31</sup> *Hansard* (H.C.), 9 January 1985, Vol. 70, col. 793 (Mr. Norman Lamont).

<sup>32</sup> Finance Act 1971, Part III.

<sup>33</sup> Investment Grants Termination (No.1) Order 1971 (S.I. 1971 No. 1275); Investment Grants Termination (No.2) Order 1972 (S.I. 1972 No.34); Investment Grants Termination (No.3) Order 1973 (S.I. 1973 No.384);

spent and the Department of Trade and Industry has confirmed that the Industrial Development Act 1966 has ceased to have any operation and can be repealed.

The other repeals in this group are consequential.

### *Group 3 - Film Financing*

The Films Act 1985 made provision for finally ending the levy on film exhibitors (the Eady Levy), and for the abolition of the British Film Fund Agency (which distributed the proceeds of the levy), the National Film Finance Corporation (which was partly funded from those proceeds) and also the Cinematograph Films Council. In consequence of orders made under that Act, the enactments in this group have become spent or obsolete.<sup>34</sup> The repeals are agreed to by the Department of National Heritage.

The National Film Finance Corporation Act 1981, a consolidation of the Cinematograph Film Production (Special Loans) Acts 1949 to 1980, continued and regulated the National Film Finance Corporation. The Act became obsolete when the Corporation was dissolved on 30 December 1985.<sup>35</sup> The Corporation's assets and liabilities were transferred to British Screen Finance Ltd (formerly British Screen Finance Consortium Ltd) on 23 December 1985<sup>36</sup> and the Corporation ceased to exercise its functions on that day. The repeal in the Northern Ireland Assembly Disqualification Act 1975 is consequential.

The Film Levy Finance Act 1981, a consolidation of the Cinematograph Films Acts 1957 to 1980, continued the British Film Fund Agency and the Eady Levy. The Eady Levy finally ceased to be payable on 25 May 1985.<sup>37</sup> The British Film Fund Agency was dissolved on 30 April 1988,<sup>38</sup> following a final distribution of payments to film producers in January 1988.

The repeals in Schedule 2 to the Companies (Consequential Provisions) Act 1985 are consequential on the proposed repeal of the National Film Finance Corporation Act 1981 and the Film Levy Finance Act 1981.

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Investment Grants Termination (No.4) Order 1974 (S.I. 1974 No.646); Investment Grants Termination (No.5) Order 1975 (S.I. 1975 No.32); Investment Grants Termination (No.6) Order 1976 (S.I. 1976 No.41); Investment Grants Termination (No.7) Order 1977 (S.I. 1977 No.12); Investment Grants Termination (No.8) Order 1978 (S.I. 1978 No.73).

<sup>34</sup> The Films Act 1985, ss.2(5) and 3(8), conferred powers to repeal the 1981 Acts by order, but these powers have not been exercised.

<sup>35</sup> National Film Finance Corporation (Dissolution) Order 1985 (S.I. 1985 No. 1943).

<sup>36</sup> National Film Finance Corporation (Transfer of Assets and Liabilities) Order 1985 (S.I. 1985 No. 1942).

<sup>37</sup> Films (Ending of Final Levy and Final Distribution Periods) Order 1985 (S.I. 1985 No. 811).

<sup>38</sup> British Film Fund Agency (Dissolution) Order 1988 (S.I. 1988 No.37). In accordance with this order, the surplus which remained after the dissolution of the Agency was paid to the National Film and Television School by the Secretary of State in March 1989.

In the Films Act 1985-

- (a) section 2 (provisions relating to termination of levy on film exhibitors) is spent;
- (b) section 3 (dissolution of National Film Finance Corporation) is spent so far as proposed for repeal;<sup>39</sup>
- (c) section 4 (final payments by British Film Fund Agency) is spent;

and the repeals proposed to section 5 (financial assistance by Secretary of State in connection with the production of films) and section 8(3) (application to Northern Ireland) are consequential.

#### *Group 4 - India Stock*

India stock was stock issued by the Secretary of State for the purposes of the government of India under the East India Loans Act 1937 or the enactments repealed by that Act.<sup>40</sup> The primary purpose of the 1937 Act was to authorise the Secretary of State to borrow in sterling on behalf of the Government of India during the interim period leading up to the establishment of a proposed Federation of India under the Crown; but the opportunity was also taken, in consultation with the Treasury, the Bank of England and the Bank of Ireland, to improve and simplify the accumulated body of law relating to the issue, management and other incidents of any loans so raised.<sup>41</sup>

The Federation of India envisaged in 1937 was never established and the arrangements for it were overtaken by Indian independence in 1947. The power of the Secretary of State to borrow in sterling on behalf of the Government of India came to an end on 15 August 1947.<sup>42</sup> The last stock issued was 4½% 1950-1955 which was all repaid when it fell due. Small amounts of earlier stock were finally redeemed at par in 1985. Only unclaimed stock remains. Under arrangements finalised in the mid 1950s the liability for it was transferred to the Government of India.

India stock is for practical purposes obsolete and the Treasury, the Bank of England and the Bank of Ireland agree that the cumbersome legislation relating to it can be repealed. The repeal would not affect the right to redeem unclaimed stock<sup>43</sup> although in practice it is unlikely that such stock will ever be claimed.

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<sup>39</sup> The remaining provisions of section 3 are mainly still needed because they provide statutory authority for a Sale and Licenceback Agreement between British Screen Finance Ltd and the Secretary of State, which continues in force. The agreement relates to the use of certain assets, including a portfolio of films and copyrights.

<sup>40</sup> East India Loans Act 1937, s.2.

<sup>41</sup> Memorandum by the Secretary of State for India and draft Bill, 27 October 1936; *Hansard* (H.L.), 16 February 1937, Vol.104, cols.148-150 (Secretary of State for India).

<sup>42</sup> Indian Independence Act 1947, s.14(2).

<sup>43</sup> Interpretation Act 1978, s.16(1)(c).

## PART X

### LOCAL GOVERNMENT

#### *Group 1 - General Repeals*

The Acts of 1534 and 1535<sup>1</sup> were passed to encourage the rebuilding of various towns in England which had suffered from fires, flooding or general decay. Under the legislation the owners of vacant sites were required to rebuild on them within a prescribed period of two years. If they failed to do so, the title to the land, and the rebuilding obligation, passed successively to their feudal lords and the local authority for periods varying between one and three years. Finally if the local authority failed to implement the legislation the lands reverted to the original owners. The Acts are obsolete.

The Act of 1677 set up a special fire court<sup>2</sup> to settle legal disputes resulting from a fire which in May 1676 had destroyed a large number of houses in Southwark. No general rule could be laid down to determine the proportions in which losses should be shared and the court was given a wide jurisdiction to make orders altering the interest in land of owners, occupiers or others in properties damaged by fire. The court's powers were limited to last for three years and the Act is accordingly spent.

The London Wharves Act 1821 is spent. It repealed provisions in an Act of 1670<sup>3</sup> which had prohibited any buildings or erections (except for cranes, stairs and docks) on a strip of land 40 feet wide along the north side of the River Thames from London Bridge to the Temple. The restriction had not been observed, numerous warehouses and other buildings having been erected on the reserved tract of land. The 1821 Act recited that the continuance of these warehouses had been found greatly beneficial to the trade, commerce and well-being of the City.

In the Game Act 1831, as it applies to England and Wales,<sup>4</sup> section 18, so far as proposed for repeal, and Schedule (A) dealt with the procedure for the grant of licences to deal in game by justices of the peace and prescribed the form of licence to be issued by the justices. These provisions are obsolete in consequence of the transfer of the licensing powers

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<sup>1</sup> The Act of 1535 was repealed so far as it related to Northampton by the Northampton Act 1988 (c.xxix).

<sup>2</sup> The same procedure was resorted to in other great fires of this period. See e.g. 1666 c.7 (London), 1675 c.1 (Northampton), and 1694 c.1 (Warwick) and generally P.E. Jones, *The Fire Court*.

<sup>3</sup> 22 Chas.2 c.11.

<sup>4</sup> The Scottish text is different in consequence of amendments made by the District Courts (Scotland) Act 1975, Sch.1, paras. 3, 4. The effect of the amendments is that the functions concerned are exercised by islands and district councils in Scotland. In Northern Ireland s.18 and Sch.(A) were repealed by the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1953.



to local authorities.<sup>5</sup> In practice a different form of licence has to be used,<sup>6</sup> since the 1831 form is useless and misleading.

In the Literary and Scientific Institutions Act 1854, which applies to England and Wales and Northern Ireland, section 34 defines the term "parish" as meaning any place separately maintaining its own poor. The section has been repealed for Northern Ireland and is also obsolete in England and Wales, where statutory references to a parish are to be construed in accordance with the Local Government Act 1972.<sup>7</sup> In section 35 the repeal is of redundant words providing that the short title of the Act may be used in all deeds, documents, proceedings, suits and prosecutions.

Section 228 of the Public Health Act 1875 saved the existing liability of the Universities of Oxford and Cambridge to contribute towards the expenses of paving, lighting and cleansing the streets of Oxford and Cambridge under local Acts conferring functions on the Oxford and Cambridge Commissioners respectively. The Oxford City Council, the Cambridge City Council, the University of Oxford and the University of Cambridge have been consulted and agree that this provision became obsolete more than a century ago, when the local legislation concerned was repealed.

The background is that between 1788 and 1889 the Cambridge Improvement Commissioners were responsible for the lighting, paving and drainage of Cambridge. The University of Cambridge was originally required to contribute two-fifths of the cost of carrying out the work but in 1856 the contribution was altered to one-quarter<sup>8</sup>. These provisions were repealed by the Borough of Cambridge Order 1889,<sup>9</sup> which also applied the general law applicable to the rating of property to the property of the University and of a college or hall therein.

The University of Oxford was similarly required to contribute two-fifths of the cost of work carried out by the Oxford Improvement Commissioners, the contribution being altered in 1848 to one-third<sup>10</sup>. In or about 1864 the Commissioners were replaced by the Oxford Local Board, on which the University was fully represented, and in 1865 the University became assessable to the general district rates levied by that Board.<sup>11</sup> The earlier provisions

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<sup>5</sup> Local Government Act 1894, s.27; London Government (Public General Acts) Order 1965 (S.I. 1965 No. 602) Art.3. See generally Halsbury's Laws (4th ed. Reissue 1989), Vol.2, para. 316.

<sup>6</sup> For a practical, modern form, see *Encyclopedia of Forms and Precedents* (5th ed. 1986) Vol.2, pp.466-7, Form 34.

<sup>7</sup> Local Government Act 1972, s.179(1), (4).

<sup>8</sup> Cambridge Improvement Act 1788, ss.23, 111; Cambridge Award Act 1856 (c.xvii), s.50.

<sup>9</sup> The order was confirmed by the Local Government Board's Provisional Orders Confirmation (No.15) Act 1889 (c.cxvi).

<sup>10</sup> Oxford Improvement Act 1781, ss.10, 15; Oxford Improvement Act 1848 (c.xxxvii), s.2. The University was responsible for ascertaining the quota of each college.

<sup>11</sup> Local Government Supplemental Act 1865 (No.5), s.8.

relating to contributions by the University were repealed by the City of Oxford Order 1889,<sup>12</sup> which also abolished the Oxford Local Board.

The other repeals in the Public Health Act 1875, which applies to England and Wales,<sup>13</sup> are of redundant ancillary provisions. In 1936, when a major consolidation of the Public Health Acts was undertaken, numerous ancillary provisions in the 1875 Act were repealed and replaced "except so far as they may be material" for the purposes of the unrepealed provisions of the Public Health Acts 1875 to 1925<sup>14</sup> (now an assortment of miscellaneous local authority powers). The following provisions of the 1875 Act are no longer needed for these purposes and are accordingly proposed for repeal-

- (a) sections 179 and 180 contain complicated and out of date arbitration machinery which is now unnecessary since by virtue of section 31 of the Arbitration Act 1950 the machinery in Part I of that Act applies to statutory arbitrations under the Public Health Acts 1875 to 1925;
- (b) section 181 (procedure on claims under £20) and section 261 (demands below £50 may be recovered in county court) are out of date and unnecessary;
- (c) section 251 so far as proposed for repeal (constitution of a court of summary jurisdiction) is superseded by the general law in the Justices of the Peace Act 1979 and the Magistrates' Courts Act 1980;
- (d) section 269 (appeals) remains in force only as respects rating appeals and is obsolete since there is no longer any power to levy rates under the Public Health Acts 1875 to 1925;
- (e) section 295 (orders of Local Government Board to be binding and conclusive) was not reproduced in the Public Health Act 1936<sup>15</sup> and is equally unnecessary as respects the Public Health Acts 1875 to 1925;
- (f) in section 308 (compensation in case of damage by local authority) the repeal is consequential on the proposed repeal of sections 179 and 180;

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<sup>12</sup> The order was confirmed by the Local Government Board's Provisional Orders Confirmation Act 1889 (c.xv).

<sup>13</sup> The Act was repealed in its application to Northern Ireland by the Local Government Act (Northern Ireland) 1972.

<sup>14</sup> Public Health Act 1936, s.346, Sch.3, Pt.I.

<sup>15</sup> See *Second Interim Report of the Local Government and Public Health Consolidation Committee* (1936) Cmd.5059, para.133: "... it is well established that the words do not preclude a court from considering the question whether an order is *intra vires*. That being so, it appears that the words effect little or nothing, and might with advantage be repealed."

- (g) section 340 (saving for proceedings under local Acts) and section 341 so far as proposed for repeal are superseded by section 18 of the Interpretation Act 1978 (duplicated offences) or are otherwise unnecessary.<sup>16</sup>

The Municipal Corporations Act 1882, now applicable only to the London boroughs,<sup>17</sup> consolidated the Municipal Corporations Act 1835. Parts III and IV, which dealt with local government elections in England and Wales, have been repealed by later legislation except for section 45(8) (person enrolled on burgess roll deemed to be enrolled as a burgess). In 1882 the right to vote in borough elections and to be elected as a councillor depended on enrolment on the burgess roll, but the Representation of the People Act 1918 introduced a different system of registration as a local government elector.<sup>18</sup> From that time the burgess roll became obsolete for electoral purposes. The roll is also obsolete for any other purpose. The statutory machinery in force in 1882<sup>19</sup> for preparing and revising burgess lists and translating them into the rolls was repealed and not replaced in 1918. Privileges or rights of burgesses which existed on 1 April 1974 are now vested in the inhabitants of the city or borough concerned.<sup>20</sup>

Section 248 of the Municipal Corporations Act 1882 continued the pre-1835 system under which subordinate towns and liberties of Hastings, Dover, Sandwich, Hythe and Rye were required to contribute to the boroughs a share of the expenses of administering criminal justice in those towns and liberties. The pre-1835 system is obsolete and the expenses of administering criminal justice in these areas are now defrayed in the same way as elsewhere. East Sussex County Council and the Registrar of the Cinque Ports agree that the section should be repealed.

Section 139 (application of fines for offences under the Act) and section 219 (prosecution of offences) of the Municipal Corporations Act 1882 are ancillary provisions which can now apply only to section 233(7) (summary offence relating to the inspection of documents). In that context, the provisions are superseded respectively by section 61 of the Justices of the Peace Act 1979 and section 127 of the Magistrates' Courts Act 1980.

The other repeals proposed to the Municipal Corporations Act 1882 are of redundant interpretation or ancillary provisions.

In the Local Government Act 1888, which applies to England and Wales, Schedule 1 so far as proposed for repeal authorised the making of orders transferring to county councils the power to levy any duties then payable for licensing dogs, trade carts and horse dealers.

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<sup>16</sup> The provisions concerned were not reproduced in the Public Health Act 1936, s.328 (powers of Act to be cumulative).

<sup>17</sup> London Government Act 1963, s.1(6); Local Government Act 1972, ss.1(10), 20(6), 245.

<sup>18</sup> See now the Representation of the People Act 1983.

<sup>19</sup> Municipal Corporations Act 1882, ss.44, 45(1) to (7); Parliamentary and Municipal Registration Act 1878.

<sup>20</sup> Local Government Act 1972, s.246(1).

The duty charged on licences for dogs was abolished by section 38 of the Local Government Act 1988. The entries relating to trade carts and horse dealers are also obsolete.<sup>21</sup> The powers have never been exercised and there are no duties now in respect of which they could be exercised.

The Public Health Acts 1890 to 1925, as they apply to England and Wales,<sup>22</sup> supplemented the Public Health Act 1875 and are construed as one with that Act and with one another.<sup>23</sup> So far as unrepealed by the Public Health Act 1936 and other consolidations, the Acts consist essentially of a few miscellaneous local government powers which do not fit conveniently into other codes of local government law. The proposed repeals are of-

- (a) redundant definitions and other ancillary provisions (relating mainly to criminal procedure) which are duplicated elsewhere in the Public Health Acts 1875 to 1925 or are superseded by section 18 of the Interpretation Act 1978;
- (b) a provision (1925 s.6) as to the effect of subordinate legislation which has been obsolete and unnecessary since 1931.<sup>24</sup>

In the Local Government Board's Provisional Order Confirmation (No.18) Act 1914, section 1 and the Schedule confirmed the Borough of Plymouth Order 1914, which was repealed by the Plymouth City Council Act 1987 (c.iv). Section 2 provided for the establishment of an insurance committee under the National Insurance Act 1911<sup>25</sup> for the new county borough of Plymouth. The committee was duly established on 1 January 1915,<sup>26</sup> but ceased to exist on the establishment of a comprehensive national insurance scheme under the National Insurance Act 1946 and the introduction of a national health service by the National Health Service Act 1946. On 5 July 1948 the property and liabilities of insurance committees were transferred to the executive councils of local health authorities.<sup>27</sup> The repeal is supported by the Departments of Health and Social Security and Plymouth City Council.

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<sup>21</sup> An excise duty on horse dealers was imposed by the Revenue Act 1869, s.18, but the duty was abolished by the Customs and Inland Revenue Act 1874, s.11.

<sup>22</sup> The Acts of 1890 and 1907 apply also to Northern Ireland, where they supplement the Public Health (Ireland) Act 1878.

<sup>23</sup> 1890 s.2(1), 1907 s.2(1), 1925 s.1(3).

<sup>24</sup> *Minister of Health v. The King (on the prosecution of Jaffe)* [1931] A.C. 494. Similar provisions in other Acts were repealed by the Statute Law (Repeals) Act 1986, Sch.1, Pt. XII.

<sup>25</sup> The National Insurance Act 1911, as it related to insurance committees, was consolidated by the National Health Insurance Act 1924 and re-consolidated by the National Health Insurance Act 1936. That Act was repealed by the National Insurance Act 1946.

<sup>26</sup> County Borough of Plymouth (Insurance Committee) Order 1914 (S.R. & O 1914 No.1680), as amended by the County Borough of Plymouth (Insurance Committee) Amendment Order 1914 (S.R.& O. 1914 No.1880).

<sup>27</sup> National Health Service (Transfer of Property and Liabilities of Insurance Committees etc.) Regulations 1948 (S.I. 1948 No.1237), reg. 3.

In the Local Government (Emergency Provisions) Act 1916, the proposed repeal (a redundant definition of "allowances") is consequential on the repeal of section 1 (payments to officers of local authorities in naval or military service) by the Statute Law Revision Act 1927.

Section 1(5) of the Ferries (Acquisition by Local Authorities) Act 1919, as it applies to England and Wales, provides-

"(5) The Minister of Transport shall have the like powers with respect to the holding of local inquiries for the purposes of this Act as are conferred by section 87 of the Local Government Act 1888 upon the Minister of Health for the purposes of that Act".

The relevant powers are now contained in section 250(1) to (5) of the Local Government Act 1972<sup>28</sup> and section 1(5) is obsolete except so far as it enables inquiries to be held under the 1919 Act. This residual effect would be preserved by a consequential amendment in Schedule 2 to the draft Bill.

Section 5(4) of the Ferries (Acquisition by Local Authorities) Act 1919, which applies to Northern Ireland, modified earlier references in that Act to the Public Health Acts 1875 to 1908. Its repeal is consequential on the repeal of section 1(7) and (8) by the Local Government Act (Northern Ireland) 1972.

In the Local Government Act 1929, which applies to England and Wales, section 57(2) (power of district council to agree with county council for discharge of specified functions relating to public health) has been superseded by the general law in section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities). Section 57(3) (default powers of Minister) ceased to apply to the duty of a district council to provide a sewerage system or an adequate supply of water (the words from "in providing" to "water or") when these duties were consolidated by the Public Health Act 1936<sup>29</sup> and became subject to the default procedure in that Act. Default powers covering other major public health functions are also provided by later legislation.<sup>30</sup> Section 57(3) remains theoretically applicable, therefore, only to the Public Health Acts 1875 to 1925, so far as unrepealed. This legislation contains no statutory duties on which the default powers could operate. The provision is accordingly obsolete.

Section 75 of the Local Government Act 1929 (adaptation of enactments) effected a global amendment of pre-1929 enactments which imposed limits on the expenditure of a local authority by reference to a specified rate poundage. These limits were to have effect as if the specified rate poundage were increased by 33⅓ per cent or such higher percentage as the Minister might by order allow. The enactments of general application on which section 75

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<sup>28</sup> See s.250(6) of that Act.

<sup>29</sup> Public Health Act 1936, ss.14, 111. These provisions were repealed and replaced by the Water Act 1973.

<sup>30</sup> See Public Health Act 1936, s.22; Public Health (Control of Disease) Act 1984, s.71; Building Act 1984, s.116.

originally operated<sup>31</sup> have all now been repealed. In consequence of these repeals and the general cesser of local statutory provisions effected by section 262(9) of the Local Government Act 1972, section 75 is obsolete.

In sections 131 and 134 of the Local Government Act 1929, the repeals are of obsolete ancillary provisions relating to schemes under the Act or of definitions which are now redundant. Section 138(4) (application of Part III, etc to Isle of Wight) is also obsolete. The only order made under this power was the Local Government Act (Application to the Isle of Wight) Order 1930 (S.R. & O. 1930 No.757, Rev. XII p.540). That order was for the most part revoked by the Highways Act 1959 and so far as unrevoked has no operation in consequence of the repeal of the provisions to which it related.

Section 319 of the Public Health Act 1936 (regulations required by the Act to be laid before Parliament to be subject to annulment) is obsolete as it applies to England and Wales in consequence of the repeal by later legislation of the sections of the Act which required regulations to be laid before Parliament.<sup>32</sup> The residual effect of section 319 as it applies to Northern Ireland would be preserved by a textual amendment of section 143 (prevention and treatment of infectious diseases) in Schedule 2 to the draft Bill.

In the Civil Defence Act 1948, section 2(3) provided for the exercise of functions under the Act in cases where the police authority was the watch committee of an English borough. The Local Government Act 1972 repealed section 2(3) of the Police Act 1964 (watch committees for a police area consisting of a county borough). The repeal of section 2(3) of the Civil Defence Act 1948 is consequential.

In the Local Government Act 1958, the repeals are of obsolete amendments (section 62 and Schedule 8) or of spent ancillary provisions (sections 66 and 67).

In the London Government Act 1963 the repeals are consequential-

- (a) in the case of section 51(1) and (2) (local authorities for the purposes of the Offices, Shops and Railway Premises Act 1963) on the repeal of section 52 of that Act (enforcing authorities) by regulations made under the Health and Safety at Work etc. Act 1974;
- (b) in the case of section 51(4), on repeals effected by the Offices, Shops and Railway Premises Act 1963;

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<sup>31</sup> Museums and Gymnasiums Act 1891, s.10(5), Public Libraries Act 1892, s.2; Local Government Act 1894, ss.11, 19(9); Small Dwellings Acquisition Act 1899, s.9(4); Public Health Acts Amendment Act 1907, s.76(3); Public Libraries Act 1919, s.4; Education Act 1921, s.70(2); Allotments Act 1922, s.16(1); Allotments Act 1925, s.4; Public Health Act 1925, ss.56(3), 64(2).

<sup>32</sup> See ss.143 and 251 (consolidated by the Public Health (Control of Disease) Act 1984), ss.180 and 204 (repealed by the National Health Service Act 1946) and Schedule 1, para.1 (repealed by the Local Government Act 1972). The regulation-making powers in the Public Health Act 1936 were discussed in the *Second Interim Report of the Local Government and Health Consolidation Committee* (1936) Cmd. 5059, para.15.

- (c) in the case of section 62(1)(e) (local authorities for the purposes of the Riding Establishments Act 1939) on the repeal of that Act by the Riding Establishments Act 1964;
- (d) in the case of Schedule 17 (miscellaneous amendments) on repeals effected by the Reserve Forces Act 1980, the Factories Act 1961 etc. (Repeals) Regulations 1976 (S.I. 1976 No.2004) and the Transport Act 1968 respectively.

In Part II of Schedule 4 to the Local Government (Scotland) Act 1966 (power to vary fees under various statutory provisions), the repeals are consequential on-

- (a) amendments made by the Local Government (Scotland) Act 1973<sup>33</sup> to the relevant provisions of the Performing Animals (Regulation) Act 1925, the Slaughter of Animals (Scotland) Act 1928,<sup>34</sup> the Pet Animals Act 1951, the Animal Boarding Establishments Act 1963 and the Riding Establishments Act 1964 (paragraphs 12, 14, 21, 27 and 28);
- (b) the repeal of the War Charities Act 1940 and section 41 of the National Assistance Act 1948 by the Charities Act 1992 (paragraph 19);
- (c) the repeal of section 37 of the National Assistance Act 1948 and section 19 of the Mental Health (Scotland) Act 1960 (registration of residential homes) by the Social Work (Scotland) Act 1968 (paragraph 20).<sup>35</sup>

Corresponding provisions for England and Wales in Part II of Schedule 3 to the Local Government Act 1966 were repealed by the Local Government Act 1974 or the Charities Act 1992.

In the Social Work (Scotland) Act 1968 and the Local Government (Scotland) Act 1973, the repeals are consequential on the repeal of section 41 of the National Assistance Act 1948 by the Charities Act 1992.

Section 16 of the Brighton Corporation Act 1970 authorised the Black Rock Interchange road system which provides access to the Brighton Marina.<sup>36</sup> The first phase of the interchange was opened in 1976 but the second phase has been abandoned and has been superseded by a signal-controlled right turn. Brighton Borough Council nevertheless continues to be obliged to disclose the Act, and the power to complete the second phase of the road

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<sup>33</sup> Local Government (Scotland) Act 1973, Sch.25, paras. 8, 10, 26, 32 and 33.

<sup>34</sup> See now Slaughter of Animals (Scotland) Act 1980, s.15(5), which consolidated the Slaughter of Animals (Scotland) Act 1928, s.2(5), taking account of the 1973 amendment.

<sup>35</sup> See now Social Work (Scotland) Act 1968, s.62, as amended by the Registered Establishments (Scotland) Act 1987.

<sup>36</sup> The construction of the Brighton Marina, and of the access roads to it, was originally authorised by the Brighton Marina Act 1968 (c.ii). The Brighton Corporation Act 1970 authorised a changed system of access roads and consequentially made certain repeals and amendments to the Brighton Marina Act 1968.

system, in its replies to local searches. This causes needless trouble and expense to the purchasers of property in the area of the interchange and to the borough council. The obligation can be ended only by the repeal of the legislation concerned,<sup>37</sup> and Brighton Borough Council has accordingly requested its repeal.

The other repeals in the Brighton Corporation Act 1970 are consequential or are of spent provisions, including protective provisions relating to the scheme which were inserted for the benefit of the Post Office and British Telecom (as successor to the Post Office). The repeals are supported by East Sussex County Council, British Telecom and the Post Office.

In the Courts Act 1971, the repeal is consequential on the proposed repeal of section 269 of the Public Health Act 1875 and section 7 of the Public Health Acts Amendment Act 1890.

In the Local Government Act 1972, which applies to England and Wales-

- (a) the repeals in section 219 (sheriffs) are of spent transitory provisions relating to the nomination of sheriffs in 1973;
- (b) the repeal in Schedule 23 (amendments of enactments conferring social services functions) is consequential on the repeal of section 41 of the National Assistance Act 1948 by the Charities Act 1992;
- (c) the repeals in Schedule 29 (adaptation, modification and amendment of enactments) are of spent provisions which effected partial repeals of the Pharmacy and Poisons Act 1933 and the House of Commons (Redistribution of Seats) Act 1949.

In the Local Government (Miscellaneous Provisions) Act 1976, section 83(2), so far as proposed for repeal, enabled Parts I and III to be brought into force on different days. This power was never needed and Parts I and III were brought into force on 14 February 1977.<sup>38</sup>

In section 119 (regulation of charitable collections) of the Civic Government (Scotland) Act 1982, the repeal of subsection (15) (which amended section 7(1) of the War Charities Act 1940) is consequential on the repeal of the 1940 Act by the Charities Act 1992. In Schedule 3, the repeal is consequential on the repeal of the Roads and Bridges (Scotland) Act 1878 by the Roads (Scotland) Act 1984.

In the Local Government Act 1985, which applies to England and Wales-

- (a) the repeal of paragraph 48 of Schedule 4 (which amended the Agriculture (Improvement of Roads) Act 1955) is consequential on the repeal of that Act by the Statute Law (Repeals) Act 1986;

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<sup>37</sup> The legislation was expressly continued in force by the East Sussex Act 1981 (c.xxv), s.109, Sch.7. It was therefore excluded from the general cesser of local government legislation effected by s.262 of the Local Government Act 1972.

<sup>38</sup> Local Government (Miscellaneous Provisions) Act 1976 (Commencement) Order 1977 (S.I. 1977 No.68).



- (b) the repeal of paragraph 1(2) of Schedule 8 (which amended section 52(5) of the Offices, Shops and Railway Premises Act 1963) is consequential on the repeal of the 1963 provisions on 1 April 1990 by the Health and Safety (Enforcing Authority) Regulations 1989 (S.I. 1989 No.1903);
- (c) the repeal of paragraph 10 of Schedule 16 (which amended section 22(3) of the Representation of the People Act 1983) is consequential on the repeal of that section on 16 February 1987<sup>39</sup> by the Representation of the People Act 1985.

*Group 2 - Burgh Police (Scotland) Acts 1892 to 1911*

Section 225 of the Local Government (Scotland) Act 1973, and Schedule 28 to that Act, modified the Burgh Police (Scotland) Acts 1892 to 1911 and continued them in force until the end of 1979. Section 5 of the Local Government (Scotland) Act 1978 extended this period for a further three years. Section 134(1) of the Civic Government (Scotland) Act 1982 extended the period until the end of 1984. Section 134(2) to (4) and section 135 of that Act provided for the making of orders extending the period for a further two years and for accelerating the repeal of particular provisions, but these powers were never exercised. Consequently the Burgh Police (Scotland) Acts 1892 to 1911 finally ceased to have effect on 31 December 1984. The repeals in this group are consequential on that cesser. The proposals are agreed to by the Scottish Office.

Section 135 of the Civic Government (Scotland) Act 1982 provided also for the accelerated repeal of local statutory provisions to which the general cesser in section 225(6) of the Local Government (Scotland) Act 1973 applies. This power too was never exercised. Following a succession of postponement orders,<sup>40</sup> the cesser of these local statutory provisions has been operative in all local authority areas since 31 December 1991.

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<sup>39</sup> Representation of the People Act 1985 (Commencement No.3) Order 1986 (S.I. 1986 No.1080).

<sup>40</sup> Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1984 (S.I. 1984 No.1926); Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1985 (S.I. 1985 No. 1629); Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1986 (S.I. 1986 No.2034); Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1987 (S.I. 1987 No.2090); Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1988 (S.I. 1988 No. 2106); Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1989 (S.I. 1989 No.2223); Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1990 (S.I. 1990 No.2370).

## PART XI

### PARLIAMENTARY AND CONSTITUTIONAL PROVISIONS

#### *Group 1 - Parliamentary Costs Acts*

The Parliamentary Costs Acts 1847 to 1879<sup>1</sup> provide for a system of taxing the costs incurred in the promotion of private Bills and enable committees on opposed private Bills to award costs against promoters in certain circumstances. The system of taxation itself is relatively simple and remains largely unchanged but the legislation is unnecessarily complicated and defective, mainly because it continues to refer to the civil justice system as it existed in England and Wales before the historic reforms carried out by the Judicature Acts 1873 and 1875. The Acts need to be consolidated in a concise and modern form<sup>2</sup> but consolidation has been held up by the perceived need to formulate proposals for the repeal of obsolete or unnecessary provisions. The repeals discussed below are designed to pave the way for consolidation. The proposals have been considered and agreed to by the Clerk of the Parliaments, the Clerk of the House of Commons, the Private Bill Division of the Department of the Environment, the Counsel for Private Legislation Procedure (Scotland) and the Society of Parliamentary Agents.

The main repeals proposed concern the specific machinery which the legislation provided for recovering the taxed costs of a private Bill in the courts. This machinery was linked to the procedure of the courts as it existed before 1875 and was originally intended to avoid the complexities of 19th century civil justice procedure. It serves no useful purpose under the modern law and has itself become a source of unnecessary complexity. The details are discussed below.

Section 9 of the House of Commons Costs Taxation Act 1847 and the corresponding section 9 of the House of Lords Costs Taxation Act 1849 provide that when a certificate of costs allowed is obtained from the Speaker or the Clerk of the Parliaments it is to have the effect, in any subsequent action in the courts for recovery of the costs, of a warrant of attorney to confess judgment. The warrant of attorney to confess judgment was an instrument which laid the foundation for a collusive procedure for obtaining judgment.<sup>3</sup> The procedure would have been familiar to lawyers in the early 19th century but it has long been obsolete and has disappeared from the Rules of the Supreme Court. Legislation to prevent secret and fraudulent warrants of attorney by requiring them to be registered<sup>4</sup> was repealed in 1956<sup>5</sup> as

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<sup>1</sup> House of Commons Costs Taxation Act 1847, House of Lords Costs Taxation Act 1849, Parliamentary Costs Act 1865, Parliamentary Costs Act 1867, Parliamentary Costs Act 1871, House of Commons Costs Taxation Act 1879.

<sup>2</sup> See *Hansard* (H.L.), 5 February 1986, Vol.470, cols. 1131-2 (Lord Renton on behalf of Lord Molsom).

<sup>3</sup> See *Lane v. Horlock* (1856) 5 H.L.C. 581, 603; 10 E.R. 1028, 1037. *Tidd's Practice* (9th ed. 1828) described it as a security.

<sup>4</sup> Warrants of Attorney Acts 1822 and 1843, Debtors Act 1869, ss.24 to 28.

<sup>5</sup> Administration of Justice Act 1956, s.16. The repeals implemented a recommendation by the Committee on Supreme Court Practice and Procedure in 1953 (Cmd. 8878, para. 470).

servicing no useful purpose. The original purpose of applying the warrant of attorney procedure to the recovery of the costs of a private Bill would have been to simplify matters, but it now has the opposite effect. There is no reason why such costs should not be recovered under the normal procedures of the courts. Accordingly the references to the old procedure are proposed for repeal.

Sections 5 to 7 of the Parliamentary Costs Act 1865 provided a different but equally outmoded procedure for recovering the taxed costs awarded by a private bill committee. These provisions, as they applied to England and Wales, extended the action of debt - one of the forms of action to which a plaintiff was confined before 1875 - and applied the old procedure for signing judgment for want of plea by *nil dicit*. The machinery was put to the test in *Mallet v. Hanley* (1886) 18 Q.B.D. 303 and its sequel *Mallet v. Hanley (2)* (1887) 18 Q.B.D. 787. The promoter of a tramway Bill had been awarded his taxed costs against petitioners on account of their vexatious opposition to the Bill. The plaintiff issued his writ but the defendants delivered a defence, whereupon the proper officer of the court refused to sign judgment. An application for a direction that he should sign judgment was refused in turn by a master, by a judge in chambers and by the Divisional Court, apparently on the ground that the form of application was defective. The plaintiff succeeded before the Court of Appeal though without some costs ("considering the blunders which have been made"). The substance of the case, however, raised difficult questions and the judges agreed that when judgment had been signed (as provided by the statute) it would be open to the defendants to move to have it set aside, when they could put in a plea equivalent to their original defence. In *Mallett v. Hanley (2)* an application to set aside the judgment succeeded, the majority of the Court of Appeal (Lord Esher M.R. dissenting) holding that the private bill committee did not have jurisdiction to make the order in question.

These cases show that the old machinery which is still in place was defective, and liable to be counter-productive, more than a century ago. There is no need to replace this machinery, the need for it having fallen away with the reforms effected by the Judicature Acts. Section 3 of the 1865 Act provides all that is necessary, having regard to the general law. The detailed procedure will be governed by rules of court. These rules are subject to alteration and to link the procedure to that in force at a particular time would be a recipe for future obsolescence.

Section 5 of the 1847 Act and section 5 of the 1849 Act so far as proposed for repeal provide for the taxing officer to receive affidavits "sworn before him or before any master or master extraordinary of the High Court of Chancery".<sup>6</sup> They also provide for the punishment of perjury in Scotland. An affidavit would now be sworn, in the normal way, before any commissioner for oaths, and it is unnecessary and not in accordance with modern practice to specify this in the statute. It is clear from the earlier provisions of the sections that the taxing officer himself has power to administer oaths. With regard to perjury in Scotland the sections are superseded by the general law in the False Oaths (Scotland) Act 1933.

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<sup>6</sup> Proceedings before Masters in Ordinary of the High Court of Chancery were abolished by the Court of Chancery Act 1852. Masters Extraordinary in Chancery were abolished by the Commissioners for Oaths Act 1853.

Section 8 of the 1847 Act and section 8 of the 1849 Act provided that any application for taxation should not be entertained if made "after a verdict shall have been obtained or a writ of inquiry executed" in any action for recovery of costs. The modern effect of this phrase is "after a judgment has been obtained"<sup>7</sup> and an amendment in Schedule 2 to the draft Bill would bring the reference up to date. The reference to writs of inquiry is obsolete. Order 37, rule 1 (assessment of damages by Chancery or Queen's Bench Master) of the Rules of the Supreme Court, which replaced the procedure by writs of inquiry in 1957, is applicable only after judgment has been given.

Section 2 of the 1847 Act and section 2 of the 1849 Act (which provide that a parliamentary agent cannot sue for costs until one month after he has delivered a bill to his client) were copied from the early English legislation for attorneys and solicitors. So far as solicitors in England and Wales are concerned, the old law has been consolidated by section 69 of the Solicitors Act 1974,<sup>8</sup> which in practice applies to many parliamentary agents in their capacity as solicitors. But no corresponding provision relating to Scottish solicitors exists and there is a fundamental reason why the sections are unnecessary now in the legislation relating to parliamentary costs. In earlier times costs were given as of right and lawyers exploited this principle to initiate unnecessary litigation. In the contemporary case of *Jones v. Brown*<sup>9</sup> there is a revealing passage in the argument of counsel which illustrates the point-

"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*". (emphasis added)

Under the modern law and practice of the courts in civil proceedings the award of costs is a matter of discretion, not right. The practical result is that if a plaintiff starts an action without first submitting a statement of his claim and allowing a reasonable period for it to be paid he will end up paying the costs of the action if the defendant accepts and pays the claim. In modern times, therefore, there is no incentive for the sort of conduct at which section 2 of the 1847 and 1849 Acts was aimed. The sections do not prevent a parliamentary agent from taking a deposit to cover the costs in cases where there is any doubt about the ability or the willingness of the client to meet those costs.

Sections 3 and 4 of the House of Lords Costs Taxation Act 1849 (functions of the Clerk of the Parliaments relating to the appointment of a taxing officer and the preparation of a list of charges) refer specifically to the Clerk of the Parliaments "when discharging the duties of his office in person". These words are unnecessary now. The Clerk of the

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<sup>7</sup> See Solicitors Act 1957, s.69(2), proviso (i), as altered by Solicitors (Amendment) Act 1974, Sch.2, para.27. The change is now consolidated in the Solicitors Act 1974, s.70(3)(b).

<sup>8</sup> It was previously consolidated by the Solicitors Act 1932, s.65 and the Solicitors Act 1957, s.68. Lawyers apart, there seems to be no other profession which is required by statute to submit a formal bill a month before starting legal proceedings.

<sup>9</sup> (1848) 2 Ex. 329, 154 E.R. 154. This case held that the general words in section 67 of the County Courts Act 1846 did not oust the old privilege of plaintiff attorneys in relation to venue (a privilege which was finally ended by the County Courts Act 1849). See *Statute Law Revision: Twelfth Report* (1985), Law Com. No.150, Scot. Law Com. No.99, Cmnd. 9648, p.39.

Parliaments Act 1824 ended the special privileges of the holder of that office and the transitional provisions in that Act relating to the immediate succession to the office have long since worked themselves out and have been repealed.

Section 3 of the Parliamentary Costs Act 1867 (which enabled courts of referees on private Bills to award costs in certain cases) was passed in the context of a 19th century experiment to extend the jurisdiction of courts of referees. The experiment proved unsuccessful and it was not continued after 1868. The background<sup>10</sup> is that in 1864 the House of Commons agreed to establish a tribunal, called the Court of Referees, to determine the right to a hearing of all petitioners against a private Bill whose *locus standi* was disputed. Under standing orders of 1865, the referees were also given jurisdiction, if the promoters and opponents agreed, to examine the whole subject matter of a Bill. The purpose of this procedure was to shorten the proceedings on Bills for the construction of railways and other works, but the jurisdiction was controversial and in a number of hotly contested cases it was found that the decision of the referees had not prevented protracted arguments in committee. The chairman of the Ways and Means Committee, Mr J.G. Dodson (1825-1897), explained-

"I should say that the Referee system is open, in my mind, to the fundamental objection that it divides that which it is almost impossible to divide by a distinct line, namely, questions which are to be properly decided by a committee and those which are to be decided by the Referees. It is very difficult, it is like trying to take a pound of flesh without shedding a drop of blood".

To overcome this difficulty, Mr Dodson recommended in 1868 that, whenever a conflict seemed likely, the committee should be eliminated and a court of referees, of whom two should be members of the House, should be substituted. The debate was adjourned for a week. On its resumption Lord Hotham (1794-1870), chairman of the Standing Orders Committee, announced its unanimous conclusion that, instead of having a court of referees, it would be better that private Bills should be referred to committees and that each committee should include a referee. After discussion, the standing orders relating to all inquiries by the referees, except those of *locus standi*, were repealed. From that time onwards, the referees sat only as a court on *locus standi* questions and section 3 of the Parliamentary Costs Act 1867 became obsolete.

In the Private Legislation (Scotland) Act 1936, the repeal is consequential on the proposed repeal of sections 5 to 7 of the Parliamentary Costs Act 1865.

Section 7 of the Statutory Orders (Special Procedure) Act 1945 applies the Parliamentary Costs Acts 1847 to 1879 with modifications to the costs incurred in respect of an order to which the 1945 Act applies. In section 7(2), the repeal of both references to the Minister of Health is consequential on the repeal in 1986<sup>11</sup> of the references to the Local Government Board which formerly occurred in section 2 of the House of Commons Costs

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<sup>10</sup> See Clifford, *A History of Private Bill Legislation* (1887 reprinted 1968) Vol.II, pp.806-813; O. Cyprian Williams, *The Historical Development of Private Bill Procedure and Standing Orders in the House of Commons* (1948) Vol.I, pp.141-161. Clifford explained as long ago as 1887 that section 3 of the Parliamentary Costs Act 1867 was obsolete.

<sup>11</sup> Statute Law (Repeals) Act 1986, Sch.1, Pt.X.

Taxation Act 1879. The functions of the Local Government Board became functions of the Minister of Health when that Board was abolished in 1919 and are now functions of the Secretary of State. The reference to the Minister of Health in section 7(3) (costs incurred by a local authority) is still needed but should now be a reference to the Secretary of State.<sup>12</sup> An amendment in Schedule 2 to the draft Bill would bring it up to date.

The Scottish version of section 7(3) is contained in section 10(5), which still defines a local authority by reference to the Local Authorities Loans (Scotland) Act 1891, a statute repealed by the Local Government (Scotland) Act 1947. A local authority for the purposes of the 1945 Act now means a regional, islands or district council.<sup>13</sup> An amendment in Schedule 2 to the draft Bill would make this clear.

### *Group 2 - General Repeals*

The Act of 1514 has long been obsolete. It forbade any member of the House of Commons from departing before the end of a session without the Speaker's licence, on pain of forfeiting the wages which were then payable by his constituency. Holdsworth<sup>14</sup> explains that in the 16th century service in Parliament was still regarded rather as a burdensome duty than as a coveted privilege and that if members could manage to cut short their attendance and so save their constituents a few weeks' pay, their action was appreciated. It was to prevent this practice that the Act was passed. It had little success and this method of penalising members who did not attend regularly came to an end when constituency wages ceased to be payable in the 17th century. Calls of the House, another system for penalising absence by a fine following the calling over of the roll of members at a fixed time, became obsolete in the 19th century.<sup>15</sup> In modern times the ensuring of attendance in the Commons has become a function of the party machinery. It is not now considered necessary for a member to be given leave of absence in the ordinary course of his business although such leave is still formally given to official delegations from the House.<sup>16</sup> The Clerk of the House of Commons agrees that the Tudor statute has no relevance to present circumstances.

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<sup>12</sup> See Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No.2) Order 1951 (S.I. 1951 No.753), Art.2(1), Sch.; Secretary of State for Wales and Minister of Land and Natural Resources Order 1965 (S.I. 1965 No.319), Arts.2(1), 10(1)(a), Sch.1; Secretary of State for the Environment Order 1970 (S.I. 1970 No.1681), Arts.2(1), 6(3).

<sup>13</sup> See Local Government (Scotland) Act 1947, s.377(8); Local Government (Scotland) Act 1973, Sch.27, para.1.

<sup>14</sup> Holdsworth, *History of English Law*, iv. 93-4. See also *Hollinshead v. Hazleton* [1916] A.C. 428, 437-8 (H.L.).

<sup>15</sup> Redlich, *The Procedure of the House of Commons* (1908) ii. 112-114 ("Historical Note as to Attendance at the House"). The last call took place on 19 April 1836. Motions in 1855 and 1882 to have a call ordered were negatived.

<sup>16</sup> *Erskine May's Parliamentary Practice* (21st ed. 1989) 168-9.

In the Union with Scotland Act 1706, Article XXII of the Treaty of Union, so far as unrepealed<sup>17</sup> (number of representatives of Scotland in the House of Commons to be 45) corresponds to a provision of the Treaty set out in the Union with England Act 1707<sup>18</sup> which was repealed as obsolete in 1964. The Article was superseded by the later enactments, starting with the Representation of the People (Scotland) Act 1832, which have altered Scottish representation in the House of Commons.<sup>19</sup> The Parliamentary Constituencies (Scotland) Order 1983 (S.I. 1983 No.422) now provides for 72 Scottish constituencies.

In the Civil List and Secret Service Money Act 1782 (also known as Burke's Civil Establishment Act),<sup>20</sup> sections 24 to 29 (secret service money) were repealed in 1977<sup>21</sup>. The remainder of the Act has nothing to do with the Civil List, but consists of provisions which effected the transfer of functions performed before 1782 by bodies suppressed then. These provisions are spent and unnecessary, having long since had their effect. The relevant provisions are-

- (a) section 13, which transferred the functions of the Great Wardrobe and Jewel Offices to the Lord Chamberlain;
- (b) section 15, which transferred the functions of the Board of Trade and Plantations to a committee of the Privy Council (which was later established as the Board of Trade).

As Anson has explained,<sup>22</sup> the ineffectiveness of the pre-1782 Board of Trade and Plantations was mainly due to the fact that it had no executive powers-

"The sarcasms of Burke on its costliness and inefficiency were doubtless justified; but the Board had difficulties from a want of executive power, which in part accounted for its incapacity. It could collect information and make suggestions to the Secretary of State for the Southern Department, but it could do no more, and in the hands of persons not naturally very zealous to give a return of work for their salaries, it became an expensive machine for making inquiries which were seldom made, and for having in readiness advice which was seldom asked for."

Section 10 of the Act of Union (Ireland) 1800 and section 3 of the Union with Ireland Act 1800 made parallel provision for the continued use after the union of the great seal of

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<sup>17</sup> So far as the Article related to peers of Scotland, it was repealed by the Peerage Act 1963 and replaced by section 4 of that Act.

<sup>18</sup> Article XXII of the Treaty of Union, repealed by the Statute Law Revision (Scotland) Act 1964.

<sup>19</sup> See *Erskine May's Parliamentary Practice* (21st ed. 1989), 14-15.

<sup>20</sup> For the background, see Keir, *Economical Reform 1779-1787* (1934) 50 L.Q.R. 370-1; *Oxford History of England*, XII, 247-9. The Act was largely a failure and many of the offices which it abolished re-appeared before long.

<sup>21</sup> Statute Law (Repeals) Act 1977, Sch.1 Pt.II.

<sup>22</sup> Anson, *Law and Custom of the Constitution* (1935) Vol.II, Pt.I, 206-7.

Ireland and for the continuation of the privy council of Ireland. These provisions became obsolete in 1922. The Irish Free State (Consequential Provisions) Act 1922 (Session 2) provided for a great seal of Northern Ireland, to be used for all matters for which the great seal of Ireland was theretofore used. The same Act established a privy council of Northern Ireland to execute the functions previously executed by the privy council of Ireland.

Section 3 of the Parliamentary Witnesses Act 1858, section 2 of the Parliamentary Costs Act 1867, and section 1, so far as proposed for repeal, of the Parliamentary Witnesses Oaths Act 1871 (punishment for perjury) remain applicable only to Scotland,<sup>23</sup> where they are superseded by the general law in the False Oaths (Scotland) Act 1933.

The Parliamentary Elections Act 1868 was mainly consolidated in 1949.<sup>24</sup> It was wholly repealed for Northern Ireland in 1978 and for Scotland in 1988.<sup>25</sup> In England and Wales, its final repeal is consequential on the replacement of section 11 (mode of trial of election petitions), the last substantive provision, by section 142 of the Supreme Court Act 1981 (selection of judges for trial of election petitions). Only section 1 (short title) and section 58 (application to Scotland) remain.

The Ministry of Pensions Act 1916 established a Ministry of Pensions, which was dissolved in 1953<sup>26</sup> when its functions under pre-1953 enactments were transferred to other departments. Section 6 (style, seal and proceedings of Minister of Pensions) is the only remaining substantive provision of the 1916 Act. The Department of Health, the Department of Social Security, the Welsh Office and the Scottish Office, as successors to the old Ministry of Pensions, agree that section 6 has either been superseded by later statutory provisions<sup>27</sup> or is unnecessary.

Section 74 of the Government of Ireland Act 1920, so far as proposed for repeal, defined the expressions "Treasury of Northern Ireland", "county court judge", "salary", "pension", "office", "officer", "constable" and "Royal Irish Constabulary". These definitions are redundant in consequence of the repeal of the provisions to which they referred.<sup>28</sup>

Section 7 of the Northern Ireland (Miscellaneous Provisions) Act 1932 repealed two enactments of the United Kingdom Parliament<sup>29</sup> which had enabled additional salaries to be

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<sup>23</sup> The provisions were repealed for England and Wales by the Perjury Act 1911 and for Northern Ireland by the Perjury Act (Northern Ireland) 1946 or the Perjury (Northern Ireland) Order 1979 (S.I. 1979 No. 1714, N.I. 19).

<sup>24</sup> Representation of the People Act 1949; Election Commissioners Act 1949. See now Representation of the People Act 1983.

<sup>25</sup> Judicature (Northern Ireland) Act 1978, Sch.7; Court of Session Act 1988, Sch.2.

<sup>26</sup> Transfer of Functions (Ministry of Pensions) Order 1953 (S.I. 1953 No.1198).

<sup>27</sup> See e.g. Transfer of Functions (Health and Social Security) Order 1988 (S.I. 1988 No.1843), Arts. 4,5.

<sup>28</sup> See also *Statutes Revised, Northern Ireland* (2nd ed. 1982), Vol.D, p.912.

<sup>29</sup> Local Registration of Title (Ireland) Act 1891, s.7; Representation of the People Act 1918, s.44(8).



paid to Clerks of the Crown and of the Peace for counties in Northern Ireland in respect of their duties as local registrars of title and as registration officers. The purpose of the repeals was to facilitate a proposal that these officers should in future be paid an inclusive salary in respect of the whole of the duties of their offices, including matters in regard to which the Parliament of Northern Ireland was precluded from legislating. The 1932 repeals have had their effect and the authorities in Northern Ireland agree that the proviso to section 7 (repeals not to affect an existing officer within the meaning of section 58 of the Government of Ireland Act 1920) is obsolete.

The Civil List Act 1936 was passed at the commencement of the reign of King Edward VIII. So far as unrepealed, it enabled the Treasury to undertake the payment of retired allowances granted by King George V or King Edward VIII to or in respect of persons who had been members of the Royal Household. The Treasury has confirmed that no payments are now being made under the Act which is accordingly obsolete.

The Private Legislation Procedure (Scotland) Act 1936 consolidated the Private Legislation Procedure (Scotland) Acts 1899 to 1933. Section 19, which saved pre-1936 appointments, pending proceedings and general orders, is obsolete. The general orders in force in 1936 were repealed and replaced on 1 January 1947 by the Private Legislation Procedure (Scotland) General Orders 1946 (S.R. & O. 1946 No.2157, Rev. XVIII p.719). The repeal is supported by the Parliamentary Chairmen for the purposes of the Act and by the Counsel for Private Legislation Procedure (Scotland).

The Ministry of Fuel and Power Act 1945 was passed to continue the Ministry of Fuel and Power which had been created in 1942,<sup>30</sup> notwithstanding the repeal of the Ministers of the Crown (Emergency Appointments) Act 1939. The Department of Trade and Industry, as successor to the Department of Energy,<sup>31</sup> agrees that the provisions proposed for repeal, which dealt with the statutory functions of the Minister of Fuel and Power in 1945, are spent and unnecessary.

In the Statutory Orders (Special Procedure) Act 1945, section 8(1) and Schedule 2 (application of Act in England and Wales to specified pre-1946 enactments) are obsolete in consequence of the repeal of the entries in that Schedule relating to the Water Act 1945 by the Water Act 1989.

Section 13 of the Northern Ireland Act 1947 extended section 2 of the Northern Ireland (Miscellaneous Provisions) Act 1945 (transfer of functions of departments of Northern Ireland Government). The Northern Ireland Office agrees that its repeal is consequential on the repeal of the 1945 section by the Northern Ireland Constitution Act 1973.

The International Organisations Act 1968 made new provision (in substitution for the International Organisations (Immunities and Privileges) Act 1950 and the European Coal and Steel Community Act 1955) as to the privileges, immunities and facilities to be accorded to certain international organisations and their personnel. Section 12(7) suspended the repeal of

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<sup>30</sup> Ministers of the Crown (Minister of Fuel and Power) Order 1942 (S.R. & O. 1942 No.1132, Rev. XV p.99), made under the Ministers of the Crown (Emergency Appointments) Act 1939.

<sup>31</sup> Transfer of Functions (Energy) Order 1992 (S.I. 1992 No. 1314).

the European Coal and Steel Community Act 1955 until the first Order in Council was made under section 3 of the 1968 Act. The relevant order was the Commission of the European Communities (Immunities and Privileges) Order 1968 (S.I. 1968 No.1860) which came into operation on 24 November 1968. Section 12(7) is accordingly obsolete.

In the Northern Ireland (Financial Provisions) Act 1972, sections 1 and 2 have been repealed.<sup>32</sup> Section 3, the only remaining substantive provision, provided for the laying of certain Northern Ireland accounts and reports before the House of Commons of the Parliament of the United Kingdom. These accounts and reports were formerly required to be laid before the House of Commons of the Parliament of Northern Ireland and the purpose of the section was to cover a temporary gap which would otherwise have arisen following the prorogation of Stormont.<sup>33</sup> The operation of the section was limited to financial years ending before 1 January 1974, when section 1 of the Northern Ireland (Temporary Provisions) Act 1972 expired.<sup>34</sup> The Northern Ireland Office agrees that the section is obsolete.

The Recess Elections Act 1975 consolidated enactments reaching back to 1784 relating to the issue of warrants for by-elections when the House of Commons is in recess. The definition of "the relevant bankruptcy enactment" became redundant in 1985 when the different enactments in force relating to the vacation of the seat of a member of the House of Commons who becomes bankrupt were replaced by section 214 of the Insolvency Act 1985 (Parliamentary disqualification, etc.).<sup>35</sup> The substance of the definition has been repealed<sup>36</sup> and the residue ("the relevant bankruptcy enactment" means) is obsolete. Section 5(2) of the Recess Elections Act 1975 amended the Bankruptcy (Scotland) Act 1913 and its repeal is consequential on the repeal of that Act by the Bankruptcy (Scotland) Act 1985. The remaining repeals are of spent transitory or repealing provisions.

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<sup>32</sup> Northern Ireland (Loans) Act 1975; Northern Ireland Constitution Act 1973.

<sup>33</sup> *Hansard* (H.C.), 17 November 1972, Vol. 846, cols. 784-5 (Minister of State for Northern Ireland).

<sup>34</sup> Northern Ireland Constitution Act 1973, s.2(4); Northern Ireland Constitution (Devolution) Order 1973 (S.I. 1973 No.2162).

<sup>35</sup> See now Insolvency Act 1986, s.427.

<sup>36</sup> Insolvency Act 1985, s.235 and Sch.10, Part IV; Insolvency (Northern Ireland) Order 1989 (S.I. 1989 No.2405, N.I. 19), Sch.10. The 1985 repeal is not noted in Halsbury's Statutes.

## PART XII

### PHARMACY

The Pharmacy Act 1954, which applies to Great Britain, consolidated earlier law reaching back to 1852. The repeals, which are agreed to by the Pharmaceutical Society of Great Britain, the Department of Health and the Scottish Office Home and Health Department, are of the following provisions-

- (a) in section 21 (extension of time for prosecutions), an obsolete reference to section 19 (restrictions on use of certain titles, etc) which was repealed by the Medicines Act 1968 and replaced by section 78 of that Act;
- (b) in section 24 (interpretation), unnecessary references to the now repealed Pharmacy and Poisons Act 1933 or to the original establishment of the Register of Pharmaceutical Chemists in pursuance of the Pharmacy Act 1852;
- (c) section 25(1)(a) and Schedule 2 (spent transitional provisions relating to pre-1954 registrations and removals from the register, appointments, byelaws, offences, etc.);
- (d) section 25(1)(b) and Schedule 3 (obsolete amendments of the Pharmacy and Poisons Act 1933 and the Pharmacy and Medicines Act 1941).<sup>1</sup>

The Therapeutic Substances Act 1956, a consolidation of earlier legislation, placed controls on certain potentially hazardous therapeutic substances and was one of the forerunners of the Medicines Act 1968. Its repeal was provided for in the Medicines Act 1968 and there have since been two partial repeals, which took effect in 1976 and 1978.<sup>2</sup>

The remaining provisions of the Therapeutic Substances Act 1956 impose restrictions on the importation of substances whose purity and potency cannot be tested adequately by chemical means. They also provide for regulations to be made and for other general matters. The relevant substances include vaccines, sera, toxins, anti-toxins and antigens, arsphenamine, and certain analogous substances, and certain pancreatic and pituitary preparations. These controls have now been superseded by the Control of Substances Hazardous to Health Regulations 1988 (S.I. 1988 No.1657), as amended,<sup>3</sup> which apply to Great Britain, and the equivalent regulations for Northern Ireland.<sup>4</sup> The repeal of the 1956 Act is agreed to by the Department of Health and the Scottish Office Home and Health Department.

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<sup>1</sup> The Pharmacy and Poisons Act 1933, so far as in force in 1972, was repealed by the Poisons Act 1972. The Pharmacy and Medicines Act 1941 was repealed by the Medicines Act 1968.

<sup>2</sup> Medicines Act 1968 (Commencement No.5) Order 1976 (S.I. 1976 No.74); Medicines Act 1968 (Commencement No.7) Order 1977 (S.I. 1977 No.2128).

<sup>3</sup> Control of Substances Hazardous to Health (Amendment) Regulations 1991 (S.I. 1991 No.2431).

<sup>4</sup> Control of Substances Hazardous to Health Regulations (Northern Ireland) 1990 (S.R. 1990 No.374); Control of Substances Hazardous to Health (Amendment) Regulations (Northern Ireland) 1992 (S.R. 1992 No.61).

In the Criminal Justice Act 1967, the repeal to Schedule 3 (increase of fines fixed by enactments) is consequential on the repeal of section 19 of the Pharmacy Act 1954 by the Medicines Act 1968.

In the Medicines Act 1968, which applies to the United Kingdom, paragraph 13 of Schedule 5 amended the Purchase Tax Act 1963 and is obsolete in consequence of the repeal of that Act by the Finance Act 1972. The other repeals are of transitory provisions relating to the registration of pharmacies which became spent on 1 January 1974,<sup>5</sup> the appointed day for the purposes of Part IV (Pharmacies).

In the Biological Standards Act 1975, the repeal of section 6(1) (transfer of functions under the Therapeutic Substances Act 1956) is consequential on the proposed repeal of that Act.

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<sup>5</sup> Medicines (Pharmacies) (Appointed Day) Order 1973 (S.I. 1973 No. 1849).

## PART XIII

### PROPERTY LAW

#### *Group 1 - General Repeals*

The Forfeited Estates (Scotland) Act 1789 authorised the Court of Exchequer to pay £3,000 to the Highland Society of Scotland out of the funds then held in the care of the Exchequer Court in respect of forfeited estates in Scotland. The Scottish Office agrees that the Act is spent.

In the Beerhouse Act 1830, which applies to England and Wales, the only remaining provision is section 31 (covenants in leases or contracts between landlord and tenant prohibiting the business of a victualler or publican or the use of the premises as a public house to be construed as extending to beerhouses licensed under the 1830 Act). Since 1927<sup>1</sup> it has been settled law that the section has no application to covenants entered into after the passing of the Act on 23 July 1830. But as explained below the section is now obsolete even in relation to the limited category of pre-1830 covenants.

The Beerhouse Act 1830 was a radical measure which introduced the principle of free trade in beer (including ale and porter) and also in cider (including perry). The licensing system controlled by the justices<sup>2</sup> had produced monopolistic practices under which high prices were charged for beer of inferior quality, often adulterated, and the poorer classes were turning increasingly to the consumption of gin. A separate regime was therefore introduced under which any householder assessed to the poor rate could, on payment of a modest fee (two guineas or one guinea in the case of cider) obtain an excise licence authorising the sale of beer or cider by retail in his dwelling house or on other premises belonging to him. The justices' licensing system continued to apply to publicans, who sold both beer and spirits, and the measure therefore provoked vigorous opposition in Parliament.<sup>3</sup>

In Parliament<sup>4</sup> an opponent of the Bill explained how section 31 had come to be included-

"I rather think that some gentlemen interested in the value of property in London fear that the operation of the Bill will do anything rather than increase that, for I find that there is a clause in the Bill which was not originally to be found there. When I first discovered it, I was curious to know by whom it had been introduced - upon inquiry

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<sup>1</sup> *Lorden v. Brooke-Hitching* [1927] 2 K.B. 237, 252. This case concerned a covenant in a lease dated 31 May 1920.

<sup>2</sup> The legislative framework was then provided by the Alehouses Act 1828 (Mr Estcourt's Act).

<sup>3</sup> See e.g. Parl. Deb. (2nd ser.), 6 May 1830, Vol.24, col. 447 (Col. Wilson); 12 July 1830, Vol.25, col.1158 (Duke of Richmond). It was claimed that the Bill "would convert the whole country into a mere grogshop" and that 50,000 publicans, with their families, would be ruined.

<sup>4</sup> Parl. Deb. (2nd ser.), 8 July 1830, Vol.25, col.1103 (Duke of Richmond). This was the only explanation given.

I found that it was placed in the Bill by the Chief Commissioner of Woods and Forests. The effect of that clause is to prevent any person who holds a house under a Crown-lease with a covenant not to have it turned into a public-house, from turning the same into a beer-shop. The noble Lord of whom I speak is one of the best officers of the Government and one of the most efficient public servants we have; and he clearly saw that if any of his houses in Regent Street were allowed to be turned into beer-shops, it would deteriorate the value of the whole Crown property in that quarter of the town."

The effect of the free trade Bill was dramatic. Within six months 24,342 of the new excise licences had been taken out<sup>5</sup> and the increase in drunkenness brought scathing contemporary comments.<sup>6</sup> The experiment in free trade lasted less than 40 years and came to an end when the Wine and Beerhouse Act 1869 provided that a beerhouse excise licence should not be granted except on the production of a justices' licence. Section 31 of the Beerhouse Act 1830 lost most of its point then. It became finally obsolete in 1967 when the retail excise licence for the sale of intoxicating liquor - the last vestige of the 1830 regime - was abolished by section 5 of the Finance Act 1967. It appears that in no reported case has a restrictive covenant been enforced in reliance on the 1830 provisions.<sup>7</sup> The Crown Estate Commissioners and the Home Office have no objection to the repeal.

The Crown Land (Windsor) Acts 1839 and 1862 provided respectively for the payment of a sum not exceeding £70,000 to meet the cost of building stables and stable offices at Windsor Castle and for the sale of a small piece of Crown land situated in Peascod Street, Windsor. Both Acts have had their effect and the Crown Estate Commissioners agree that they are spent.

The Ordnance Survey Act 1841, originally of temporary duration, was passed to enable the remaining portion of the ordnance survey of Great Britain and the Isle of Man to be completed on a scale of six inches to the mile.<sup>8</sup> The original surveys for which the Act was passed have long since been completed, but the Act was made permanent in 1922<sup>9</sup> and continues, as modified by later legislation,<sup>10</sup> to provide legislative authority enabling surveyors, in co-operation with local authorities, to enter property and fix survey marks. It also provides statutory offences of removing or displacing a survey mark without authority

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<sup>5</sup> P.T. Winskill, *The Temperance Movement* (1892), Vol.1, 18.

<sup>6</sup> "The new Beer Bill has begun its operations. Everybody is drunk. Those who are not singing are sprawling. The sovereign people are in a beastly state." Sydney Smith to John Murray (24 October 1830) cited in S.& B. Webb, *The History of Liquor Licensing in England* (1903 reprinted 1963) 124.

<sup>7</sup> See *Paterson's Licensing Acts* (99th ed. 1991) 106.

<sup>8</sup> Parl. Deb. (3rd ser.), 11 February 1841, Vol. 56, col. 529 (Master General of the Ordnance). The Act itself does not specify the scale of the maps to be prepared.

<sup>9</sup> Expiring Laws Act 1922.

<sup>10</sup> The functions of clerks of the peace and quarter sessions have devolved on local authorities (Courts Act 1971, Sch.8, Part I, para.1; Local Government Act 1972, s.191; Local Government (Scotland) Act 1973, s.145). The functions of the Master General and Board of Ordnance have devolved on the Secretary of State.

and of obstructing a survey. The other activities of the ordnance survey are carried on now, as they always have been, under the prerogative powers of the Crown.

The 1841 legislation was clumsily drawn and a comparison with the analogous Geological Survey Act 1845 suggests that even by contemporary standards much of it was unnecessary. The original Bill had been based on an Irish Survey Act of 1825 which had proved a success,<sup>11</sup> but it was altered in Parliament at the instance of Lord Granville Somerset (1792-1848), who strongly objected to functions being conferred on either a Lord Lieutenant or a County Surveyor: the latter he described as being "a man of little or no education ... who would not understand the business that was to be delegated to him".<sup>12</sup> Hasty amendments to eliminate these functionaries and place duties on the justices at quarter sessions resulted in a text which was scarcely intelligible.

In the Isle of Man it is the responsibility of the Government of the Island to make surveys and maps of the Island, and recent legislation by Tynwald<sup>13</sup> has conferred the powers needed to facilitate surveys there. This legislation in effect replaces the Ordnance Survey Act 1841, which is consequently proposed for repeal as it applies to the Isle of Man.

The repeals proposed to the Ordnance Survey Act 1841, as it applies to Great Britain, are of provisions which the responsible government departments agree are now obsolete or unnecessary, being-

- (a) procedural provisions, and related offences, which have become redundant in consequence of the completion of the original survey of counties or of later changes in the administrative machinery relating to surveys;
- (b) provisions relating to the recovery and application of fines which have been superseded by the general law in England and Wales and Scotland;<sup>14</sup>
- (c) superfluous applications of the Act to Berwick upon Tweed which has been an integral part of England since the passing of the Wales and Berwick Act 1746.<sup>15</sup>

A consequential amendment in Schedule 2 to the draft Bill would substitute a reference in modern terms to the penalty for removing boundary marks or obstructing a survey (sections 7 and 8).

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<sup>11</sup> 6 Geo. 4 c.99, which authorised a survey of Ireland to enable the Tithe Act and the Grand Jury Cess Acts to be carried into effect. The maps were prepared on a scale of six inches to the mile, which led to pressure for similar maps in Great Britain to facilitate the Tithe Commutation Act, the Poor Law Amendment Act 1834 and legislative proposals for railways.

<sup>12</sup> *A History of the Ordnance Survey* (1980) ed. by W.A. Seymour, 110; Parl. Deb. (3rd ser.) 1 April 1841, Vol. 57, cols. 772-3.

<sup>13</sup> Isle of Man Survey Act 1991 (c.16).

<sup>14</sup> Justices of the Peace Act 1979, s.61; Criminal Procedure (Scotland) Act 1975, ss.411-412.

<sup>15</sup> See now Interpretation Act 1978, Sch.2, para. 5(a).

The Defence Act 1842 consolidated and amended the laws then in force relating to the acquisition of land in the United Kingdom for defence purposes. The proposed repeals are of outdated provisions relating to the procedure for settling disputed compensation. This procedure, which involved the summoning of a jury to determine compensation, has long been obsolete. The Acquisition of Land (Assessment of Compensation) Act 1919 established a panel of official arbitrators for assessing compensation in respect of land compulsorily acquired for public purposes. The jurisdiction is now exercisable by Lands Tribunals established for England and Wales, for Scotland and for Northern Ireland and the procedure is determined by the Land Compensation Act 1961, the Land Compensation (Scotland) Act 1963 and the Land Compensation (Northern Ireland) Order 1982 (S.I. 1982 No.712, N.I.9). The repeal proposals are agreed to by the Treasury Solicitor and the Ministry of Defence.

The Geological Survey Act 1845, which now applies to Great Britain,<sup>16</sup> empowers the entry of surveyors on land for the purpose of undertaking a geological survey and imposes penalties for obstructing the survey. The repeals are of redundant provisions interpreting references to a county or to the masculine gender.

The Crown Lands Act 1851, so far as proposed for repeal,<sup>17</sup> transferred the powers or duties of the Commissioners of Woods, etc. under the Trafalgar Square Act 1844 (which provides for the management and policing of the square) to the Commissioners of Works as if those Commissioners had been originally named instead of the Commissioners of Woods. The relevant functions of the Commissioners of Works have devolved on the Secretary of State.<sup>18</sup> A consequential textual amendment of the Trafalgar Square Act 1844 in Schedule 2 to the draft Bill would preserve the functions of the Secretary of State under that Act.

The Colewort Barracks Act 1860 and the Netley Hospital Act 1862 extinguished rights of way for foot passengers through the Colewort Barracks, Portsmouth and a military hospital in the then county of Southampton. The Windsor Barracks Act 1867 similarly extinguished rights of way through land held for barrack purposes in Windsor, Berkshire. The Acts, which required the ways to be stopped up and public notice given of the stopping up, have long since had their effect and the Ministry of Defence agrees that they are spent. The repeals would not revive any rights of way which the Acts extinguished.<sup>19</sup>

The Defence Act 1860 was passed to facilitate the acquisition of specific areas of land in England and Wales in accordance with the recommendations of a royal commission appointed to consider the sufficiency of the existing fortifications against an invading naval

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<sup>16</sup> The Act was repealed for Northern Ireland by the Minerals (Miscellaneous Provisions) Act (Northern Ireland) 1959 and for the Isle of Man by the Science and Technology Act 1965.

<sup>17</sup> As originally enacted, the Schedule to the Crown Lands Act 1851 transferred the powers and duties under 35 different Acts, but only the entry relating to the Trafalgar Square Act 1844 is extant.

<sup>18</sup> Ministry of Works (Transfer of Powers) (No.1) Order 1945 (S.R. & O. 1945 No.991); Ministry of Works (Change of Style and Title) Order 1962 (S.I. 1962 No.1549); Secretary of State for the Environment Order 1970 (S.I. 1970 No.1681); Transfer of Functions (National Heritage) Order 1992 (S.I. 1992 No.1311).

<sup>19</sup> Interpretation Act 1978, s.16.



force.<sup>20</sup> There was particular concern that measures should be taken to prevent the destruction of naval dockyards needed to refit ships and the commission made recommendations regarding the defences needed at or in the vicinity of Portsmouth, Plymouth, Pembroke, Portland, the Thames, Medway and Chatham, Woolwich and Dover. The specific acquisitions authorised by the 1860 Act were completed more than a century ago<sup>21</sup> and the Act is spent except so far as-

- (a) its powers were also made applicable to the general law in the Defence Act 1842 and those powers have not been superseded by later changes in the law; or
- (b) it contains machinery for the enforcement of restrictions on the use of land for the erection of buildings or other obstructions or provides other powers relating to land, or interests in land, acquired in 1860.

The proposed repeals are of spent or obsolete provisions and are agreed to by the Treasury Solicitor and the Ministry of Defence.

The Artillery Ranges Act 1862, as extended by the Artillery Ranges Act 1882 (c.lxviii), appropriated certain portions of land between high and low water mark in Essex as artillery ranges. Section 3 provides a summary offence of passing over the ranges in a vessel. The section so far as proposed for repeal provided for the recovery and enforcement of the penalty (now a fine not exceeding level 1 on the standard scale) under the Summary Jurisdiction Act 1848. The Home Office agrees that these provisions have been superseded by the general law in the Magistrates' Courts Act 1980 and the Justices of the Peace Act 1979, which apply by virtue of their own terms.

The Yorkshire Registries Act 1884 consolidated and amended earlier law, transferring the administration of three separate registries to the county authorities for the North Riding, the West Riding and the East Riding respectively, and the registrars appointed by them. Part II of the Law of Property Act 1969 effected the closure of the Yorkshire deeds registries in two stages. The registration of new deeds ceased-

- (a) at the North Riding Deeds Registry, on 1 September 1970 and at the West Riding Deeds Registry, on 1 October 1970<sup>22</sup>;
- (b) at the East Riding Deeds Registry, on 1 April 1974.<sup>23</sup>

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<sup>20</sup> *Report of the Commissioners appointed to consider the Defences of the United Kingdom* (1860) H.M.S.O. Provision for financing the recommended work was made by the Fortifications (Provisions for Expenses) Act 1860.

<sup>21</sup> The lands concerned were ascertained on or before 31 August 1861 by declaration of the Secretary of State for War under section 1 of the 1860 Act.

<sup>22</sup> Registration of Title (Teesside, Leeds and Sheffield) Order 1970 (S.I. 1970 No.485), a local instrument made under the Land Registration Act 1925, s.120.

<sup>23</sup> East Riding Deeds Registry (Closure) Order 1974 (S.I. 1974 No.221).

Two years after these dates the registries closed for all purposes.<sup>24</sup> By 1 April 1976, therefore, all the registries had finally closed.

Section 49 of the Yorkshire Registries Act 1884, the only remaining provision, enacted machinery whereby actions for neglect, etc. against a registrar were to be brought against him as nominal defendant, but the damages, costs and expenses of any legal proceedings were to be paid by the county authority concerned. With the abolition of the office of registrar, liability passed directly to the local authority concerned, who can be sued in the ordinary way.<sup>25</sup> The machinery provided by section 49 has ceased to be needed. Any action to which it related would now be statute-barred except in the case of a person under disability (an infant or person of unsound mind) who has an accrued right of action. In these exceptional and remote cases<sup>26</sup> the right of action, and the means of exercising it, would be saved by section 16(1)(c) of the Interpretation 1978. The repeal is supported by H.M. Land Registry.

In section 13 of the Military Lands Act 1892 (power to stop up and divert footpaths), as it applies to England and Wales,<sup>27</sup> the proposed repeal is of a redundant reference to a court of quarter sessions in the context of appeals from a magistrates' court. The section was amended in 1980 to substitute a specific reference to section 317 of the Highways Act 1980 and an appeal under that section lies only to the Crown Court.

Section 20 of the Military Lands Act 1892 applied the provisions as to the assessment of compensation contained in the Lands Clauses Acts to the acquisition of land for military purposes. This provision is obsolete and misleading. In England and Wales it has been superseded by section 1 of the Land Compensation Act 1961, which provides for the determination by the Lands Tribunal of any question of disputed compensation.<sup>28</sup> Equivalent provision for Scotland is made by section 8 of the Land Compensation (Scotland) Act 1963 and for Northern Ireland by Article 3 of the Land Compensation (Northern Ireland) Order 1982 (S.I. 1982 No. 712, N.I. 9). The repeal is agreed to by the Treasury Solicitor and the Ministry of Defence.

Section 27 of the Military Lands Act 1892, as originally enacted, extended certain powers of the Commissioners of Woods to the Isle of Man. These powers were repealed by the Crown Estate Act 1961 and the residue of section 27 ("this Act shall not extend to the Isle of Man") is unnecessary. The general rule and practice is that an Act only extends to the Island if the extension is express or there is a necessary implication to that effect. The authorities in the Isle of Man agree.

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<sup>24</sup> Law of Property Act 1969, s.16(2).

<sup>25</sup> Law of Property Act 1969, s.19(1); Local Government Act 1972, s.222.

<sup>26</sup> For practical purposes accrued claims by minors can be disregarded, since in later years the deeds registration function of the Yorkshire registries was restricted to instruments affecting legal estates in land and a minor cannot hold a legal estate in land (Law of Property Act 1925, s.19).

<sup>27</sup> There are different legislative texts for Scotland and Northern Ireland. For the Scottish text, see the Roads (Scotland) Act 1984, Sch.9, para. 15(2). For the Northern Ireland text, see the Military Lands Act 1892, s.26(5), as amended by the Roads (Northern Ireland) Order 1980 (S.I. 1980 No. 1085, N.I.11), Sch.8, para. 3.

<sup>28</sup> See also Halsbury's Laws (4th ed. 1983), Vol.41, para. 114.

In the Land Drainage (Scotland) Act 1930, the repeal of the definitions of "rating authority" and "prescribed" is consequential on the repeal of section 3 (schemes for drainage works) by the Statute Law Revision Act 1950. Section 11(2) (saving in respect of schemes settled before 15 April 1937) is spent. The repeals are agreed to by the Scottish Office Agriculture and Fisheries Department.

Section 4 of the War Damage to Land (Scotland) Act 1941 made provision requiring relief from occupier's rates granted to the landlord of a small dwelling house in pursuance of the Rating (War Damage) (Scotland) Act 1941 to be passed on to the tenant. That Act, which enabled rating authorities in Scotland to grant relief from rates in respect of lands and heritages suffering war damage, was repealed as spent in 1975.<sup>29</sup> Section 4 is consequentially obsolete. The proviso to section 5 is a spent transitional provision.

In section 7(1) of the War Damage to Land (Scotland) Act 1941, section 1(10) of the Landlord and Tenant (War Damage) (Amendment) Act 1941 and section 38(1) of the Landlord and Tenant (War Damage) Act (Northern Ireland) 1941, the repeals are of obsolete references to the temporary powers conferred by the Courts (Emergency Powers) Acts 1939 to 1941, the Courts (Emergency Powers) (Scotland) Act 1939, the Liabilities (War-Time Adjustment) Act 1941 and the Liabilities (War-Time Adjustment) Act (Northern Ireland) 1941. This legislation has long since expired and been repealed.

Section 55 of the Requisitioned Land and War Works Act 1945 simplified the procedure for the acquisition of land by a drainage board in England and Wales where the land was in their possession, or was being used, by virtue of an exercise of emergency powers. The original effect of section 55 was to put drainage boards in substantially the same position as local authorities in this respect.<sup>30</sup> The Ministry of Agriculture, Fisheries and Food agrees that the section is obsolete in consequence of the expiry of the emergency powers on which it depended. The Land Powers (Defence) Act 1958 revoked the relevant Defence Regulations and ended the war period for the purposes of the 1945 Act on 31 December 1958 so far as it had not already ended by then. The repeals proposed to sections 59 and 61 of the 1945 Act are consequential. The general powers of internal drainage boards to acquire land for the performance of their functions are now provided for by section 62 of the Land Drainage Act 1991.

In the Schedule to the Requisitioned Land and War Works Act 1945 and in Schedule 2 to the Land Powers (Defence) Act 1958 (application of certain provisions of the Defence Act 1842), the proposed repeals are consequential on the repeal of section 8 of the Defence Act 1842 (copyhold tenure) by the Statute Law (Repeals) Act 1969.

In the Acquisition of Land (Authorisation Procedure) Act 1946, Schedule 4 effected minor and consequential amendments of earlier legislation. The proposed repeals are consequential on-

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<sup>29</sup> Statute Law (Repeals) Act 1975, Sch. Part XIV.

<sup>30</sup> The corresponding powers relating to local authorities were conferred by Part V of the 1945 Act, which was repealed by the Statute Law (Repeals) Act 1971.

- (a) the repeal of the Public Parks (Scotland) Act 1878 by the Local Government and Planning (Scotland) Act 1982;
- (b) the repeal of section 25 of the Local Government (Scotland) Act 1894 and section 5 of the Local Government (Scotland) Act 1908 by the Local Government (Scotland) Act 1973;
- (c) the repeal of section 101(6) of the Children and Young Persons (Scotland) Act 1937 by the Social Work (Scotland) Act 1968;
- (d) the repeal of section 2(2) of the Harbours, Piers and Ferries (Scotland) Act 1937 by the Local Government (Scotland) Act 1973;
- (e) the repeal of sections 5 and 10(6) of the Physical Training and Recreation Act 1937 by the Local Government and Planning (Scotland) Act 1982;
- (f) the proposed repeal of section 55 of the Requisitioned Land and War Works Act 1945.

In the Wellington Museum Act 1947, the repeals are consequential on the repeal of section 9 (provisions as to trustees under the Wellington Estate Acts) and the previous Wellington Estate Acts by the Wellington Estate Act 1972 (*c.1*). The repeals are agreed to by the Department of National Heritage and the Duke of Wellington.

In the Building (Scotland) Act 1959, section 31 introduces Schedule 9 (consequential amendments). In that Schedule so far as unrepealed-

- (a) paragraph 1 modified section 87 of the Turnpike Roads (Scotland) Act 1831, as incorporated by the Roads and Bridges (Scotland) Act 1878, s.123 and Schedule (C), and its repeal is consequential on the repeal of the 1878 Act by the Roads (Scotland) Act 1984;
- (b) paragraph 6 amended the Thermal Insulation (Industrial Buildings) Act 1957 and its repeal is consequential on the repeal of the 1957 Act for Scotland by the Thermal Insulation (Industrial Buildings) Act 1957 Repeal (Scotland) Order 1979 (S.I. 1979 No. 594).

In the Town and Country Planning Act 1959, which applies to England and Wales, Part I (Compensation for Compulsory Acquisition of Land) was consolidated by the Land Compensation Act 1961 or, in the case of sections 14 to 16, was repealed as spent in 1989.<sup>31</sup> In consequence mainly of these repeals, section 57 contains definitions and other interpretation provisions which now have no operative effect. Section 58 and Schedule 7 (amendment of other enactments) are obsolete in consequence of the repeal of the entries in Schedule 7 by other legislation.<sup>32</sup> Section 59, so far as proposed for repeal, contains a now redundant

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<sup>31</sup> Statute Law (Repeals) Act 1989, Sch.1 Pt. VII.

<sup>32</sup> Statute Law Revision Act 1960, Town and Country Planning Act 1962, Agriculture Act 1970, Housing

collective citation of the 1959 Act (except Part II) with the Town and Country Planning Acts 1947 to 1954.

Sections 46 and 52 of the Town and Country Planning Act 1959 extended the compulsory purchase powers under section 6 of the Town Development Act 1952. Their repeal is consequential on the repeal of the Town Development Act 1952 by the Local Government and Housing Act 1989.

Part I of the Caravan Sites and Control of Development Act 1960<sup>33</sup> introduced a new statutory regime for the control of caravan sites in Great Britain to replace earlier provisions which had not proved effective either for regulating the establishment of caravan sites or for securing that sites, when authorised, are properly equipped and operated. Part I was extended to London on 1 April 1965 by the London Government Act 1963. The proposed repeals are of provisions relating to the transition to the new statutory regime. These dealt in particular with-

- (a) caravan sites which existed in 1960 or came into use in that year (sections 13 to 20 and 29(1));
- (b) modifications of pre-1960 statutory provisions in England and Wales<sup>34</sup> relating to the control of movable dwellings (sections 27 and 30(2));
- (c) consequential Scottish modifications of the Act (section 32(1)).

Research and consultation has shown that the provisions are long since spent and unnecessary. The proposals are supported by the government departments concerned following consultation with the Association of District Councils, the Association of Metropolitan Authorities, the Association of County Councils, the Welsh Committee of the Association of District Councils, the London Borough authorities, the Convention of Scottish Local Authorities, the District Surveyors Association, the District Planning Officers Society, the British Holiday and Home Parks Association and the National Caravan Council.

In the London Government Act 1963, paragraph 21(2) to (5) of Schedule 17 contain spent transitory provisions relating to the extension of Part I of the Caravan Sites and Control of Development Act 1960 to London. London was originally excluded from the 1960 regime because sections 22 and 23 of the London County Council (General Powers) Act 1959 (c.liii) had introduced a licensing system for the control of movable dwellings, including caravans, similar to that provided under Part I of the 1960 Act. Licences granted under the 1959 powers were valid for a maximum period of three years and the transitory provisions relating to them are accordingly spent.

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(Consequential Provisions) Act 1985.

<sup>33</sup> Part II (Control of Development in England and Wales) was consolidated by the Town and Country Planning Act 1962.

<sup>34</sup> Section 27 was repealed for Scotland by the Local Government (Scotland) Act 1973.

In the Administration of Justice Act 1965, section 34(2) (Schedule 2 references to Lands Clauses Consolidation Act 1845 to include that Act as incorporated) became spent when section 34(1) and Schedule 2 (cesser of obsolete enactments) were repealed by the Statute Law (Repeals) Act 1974.

Sections 34 and 35 of the Leasehold Reform Act 1967 contain spent transitional provisions which extended the benefits of the Act, for a limited time, to any tenant who had, before 8 December 1964, been entitled to a long lease at a low rent, but whose lease had later come to an end and been replaced by one which did not qualify or by a statutory tenancy. The repeals in section 41 and Schedule 3 are consequential.

In the Law of Property Act 1969-

- (a) section 17(3) and (4), which enabled the Chief Land Registrar to direct that no searches be permitted during the period, not exceeding seven days, required to transfer to the Land Registry the register of land charges maintained at a Yorkshire deeds registry, is spent in consequence of the transfers having taken place;
- (b) section 19(1) modified section 49 of the Yorkshire Registries Act 1884 and its repeal is consequential on the proposed repeal of that section;
- (c) section 20, which provided for compensation to county councils in respect of expenses incurred before 1 April 1976, is spent.

The repeals are agreed to by H.M. Land Registry.

Section 191(3) of the Local Government Act 1972 and section 145(3) of the Local Government (Scotland) Act 1973 modified section 1 of the Ordnance Survey Act 1841 (advertisement of applications to the justices in quarter sessions). The repeals are consequential on the repeals proposed to section 1 of the Ordnance Survey Act 1841.

The Acquisition of Land Act 1981 consolidated the Acquisition of Land (Authorisation Procedure) Act 1946 and related enactments. Section 20(4) was a technical drafting provision relating to the prospective repeal of section 20(1)(b) of that Act (ancient monuments) by the Ancient Monuments and Archeological Areas Act 1979. The repeal of section 20(1)(b) has taken effect<sup>35</sup> and the transitory section 20(4) is spent.

The Housing and Building Control Act 1984, which applies to England and Wales, was consolidated so far as it related to building control in 1984 and so far as it related to housing in 1985.<sup>36</sup> The substantive residue consists of section 60 (amendments of the Public Health Acts 1936 and 1961) to which section 62 (interpretation) and section 66(1) and (4) (short title

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<sup>35</sup> Acquisition of Land Act 1981, Sch.4, para. 29; Ancient Monuments and Archeological Areas Act 1979 (Commencement No.3) Order 1981 (S.I. 1981 No.1466); Ancient Monuments and Archeological Areas Act 1979 (Commencement No.4) Order 1982 (S.I. 1982 No.362).

<sup>36</sup> Building Act 1984; Housing Act 1985. The consequential repeals were effected by the Building Act 1984 and the Housing (Consequential Provisions) Act 1985.

and extent) are ancillary. The remainder of the Act is spent or obsolete and is proposed for repeal.

In the Building Act 1984, a consolidation of the law for England and Wales-

- (a) section 16(13) (a temporary modification of section 16(10)), and the reference to it in section 134(2)(b), became obsolete on 11 November 1985<sup>37</sup>;
- (b) section 134(1)(c) and Schedule 7, so far as they make provision for bringing into force a repeal in the Town and Country Planning Act 1947, have been overtaken by the repeal of the whole of that Act by the Planning (Consequential Provisions) Act 1990.

In the Museums and Galleries Act 1992, paragraph 1(7) of Schedule 8 amended section 149B(6)(a) of the Capital Gains Tax Act 1979 (exemption from tax on chargeable gains for the Trustees of the British Museum (Natural History) etc.) to reflect the change of name of that museum to the Natural History Museum. The Capital Gains Tax Act 1979 has been repealed and replaced by the Taxation of Chargeable Gains Tax Act 1992. The Inland Revenue agrees that the amendment is unnecessary since the 1979 Act is not relevant to any period to which the amendment relates. Accordingly the amendment is not being brought into force<sup>38</sup>.

#### *Group 2 - Land Improvement Acts*

The Improvement of Land Act 1864, which applies to Great Britain, provided a procedure enabling the Inclosure Commissioners for England and Wales, on application by a landowner, to sanction improvements to land and the creation of a charge on the land in respect of such improvements. The earlier Lands Improvement Company's Act 1853 made similar provision.<sup>39</sup> The functions of the Inclosure Commissioners have devolved on the Minister of Agriculture, Fisheries and Food or in Wales or Scotland the Secretary of State. The Lands Improvement Company is now a wholly owned subsidiary of the Lands Improvement Group Ltd. The repeal proposals, which would remove obsolete and unnecessary provisions from this legislation, have been considered and agreed to, so far as they are concerned, by the Ministry of Agriculture, Fisheries and Food, the Welsh Office, the Scottish Office Agriculture and Fisheries Department and the Lands Improvement Group Ltd.

Section 33 of the Improvement of Land Act 1864 provided a procedure, in the context of the Land Drainage Acts 1847 and 1861 and the Land Drainage (Scotland) Act 1847, to enable improvement work to be carried out on adjoining land in cases where that work was necessary but the adjoining owner objected or was subject to a legal disability. The legislation

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<sup>37</sup> Building Act 1984 (Appointed Day and Repeal) Order 1985 (S.I. 1985 No. 1603).

<sup>38</sup> See Museums and Galleries Act 1992 (Commencement) Order 1992 (S.I. 1992 No.1874).

<sup>39</sup> The General Land Drainage and Improvement Company's Act 1849 (c.xci) and the Land Loan and Enfranchisement Company's Act 1860 (c.clxix), which related to similar companies, were repealed by the Statute Law Revision Act 1964.

of 1847 and 1861 was repealed and replaced in 1930<sup>40</sup> and the powers which are needed are now conferred by the Land Drainage Act 1991<sup>41</sup> or in Scotland by the Land Drainage (Scotland) Act 1930.

In section 73 (power to enter on neighbouring land for repair of works), the repeal of the proviso is consequential on the proposed repeal of section 33. Section 73 is also proposed for repeal so far as it applied the procedure in the Lands Clauses Consolidation Act 1845 or the Lands Clauses Consolidation (Scotland) Act 1845 for the determination of disputed compensation by two justices or in Scotland by the sheriff. This is no longer the law. By virtue of section 1(3)(b) of the Lands Tribunal Act 1949 questions as to disputed compensation under the 1864 section now fall to be determined by the Lands Tribunal or the Lands Tribunal for Scotland. A consequential amendment in Schedule 2 to the draft Bill would alter the text of section 73 accordingly.

As respects the other proposals affecting the Improvement of Land Act 1864-

- (a) the repeals to section 8 (interpretation of "landowner") are consequential on the abolition of copyhold and customary tenure in England and Wales<sup>42</sup> or on the repeal of the whole Act as it applied to Northern Ireland<sup>43</sup>;
- (b) the repeals to sections 14, 40, 41 and 77 are of provisions relating to the recovery of Crown debts which are unnecessary in consequence of the Crown Proceedings Act 1947;
- (c) the repeals to sections 25, 26 and 50 are of provisions as to the rate of interest or the period for repayment of a rentcharge created under the Act which have been superseded by later legislation<sup>44</sup>;
- (d) section 72 so far as proposed for repeal (recovery of claim for damage by an action on the case in the nature of an action of waste) is an obsolete relic of the pre-1875 law in England and Wales relating to forms of action.

Section 30 of the Settled Land Act 1882 extended the list of improvements authorised by section 9 of the Improvement of Land Act 1864. The proposed repeal is of an obsolete

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<sup>40</sup> Land Drainage Act 1930; Land Drainage (Scotland) Act 1930. Land drainage law in England and Wales was re-consolidated in 1976 and 1991.

<sup>41</sup> Land Drainage Act 1991, ss.22, 28 to 31.

<sup>42</sup> Law of Property Act 1922, s.128.

<sup>43</sup> Repeal of Unnecessary Laws Act (Northern Ireland) 1953.

<sup>44</sup> Agricultural Credits Act 1923, ss.3,5 (rate of interest); Improvement of Land Act 1899, s.1 (period for repayment).



provision restricting the extension to applications made to the Land Commissioners<sup>45</sup> after 10 August 1882.

The District Councils (Water Supply Facilities) Act 1897, which applies only to England and Wales, provides for the creation of rentcharges in respect of the expenses incurred in supplying water to a landowner within the meaning of the Improvement of Land Act 1864. Section 3 (charge not be made for a term exceeding 25 years) has been superseded by section 1(1) of the Improvement of Land Act 1899. The period for the repayment of a rentcharge is now such period, not exceeding 40 years, as the Minister of Agriculture, Fisheries and Food (or in relation to Wales the Secretary of State) determines, having regard to the character and probable duration of the improvement.

In the Improvement of Land Act 1899, the repeals to section 1 (which extended the period for repayment of a rentcharge created thereafter) are of references to the commencement of the Act which are redundant. No pre-1899 rentcharges can now exist, their maximum term having been 25 years. Section 3 (recovery of rentcharges in England and Wales) is obsolete so far as it refers to rentcharges created before the commencement of the Act and is otherwise superseded by the general law in section 121 of the Law of Property Act 1925. Section 5 (closing of register of land improvement orders in England and Wales) is spent.

#### *Lands Improvement Company*

The Lands Improvement Company's Acts 1853 to 1969,<sup>46</sup> which apply to Great Britain, constitute and regulate the activities of the Lands Improvement Company. It was originally incorporated for the purpose of undertaking and assisting the improvement, conversion and reclamation of land, but in 1969 the objectives of the company were extended to enable it to advance money to owners of agricultural land for other purposes. At that stage the whole of the issued share capital of the company had been acquired by or on behalf of the Clerical, Medical and General Life Assurance Society.<sup>47</sup> The company is now a wholly-owned subsidiary of the Lands Improvement Group Ltd.

In the Lands Improvement Company's Act 1853, section 65 (works on adjoining lands for execution of improvements) and section 71 (power to enter on neighbouring land for repair of works) correspond to sections 33 and 73 respectively of the Improvement of Land Act 1864 and are accordingly proposed for repeal or amendment to the same extent as the 1864 provisions. Section 54, so far as proposed for repeal (registration of rentcharges executed on land in Middlesex or Yorkshire) is obsolete in consequence of the closure of the register of land improvement orders effected by section 5 of the Improvement of Land Act 1899.

As respects the other proposals affecting the Lands Improvement Company's Act 1853-

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<sup>45</sup> The Land Commissioners were the successors to the Inclosure Commissioners. Their functions were transferred to the Board of Agriculture by the Board of Agriculture Act 1889.

<sup>46</sup> 1853 c.cliv, 1855 c.lxxxiv, 1859 c.lxxxii, 1863 c.cxl, 1920 c.xi, 1969 c.xxv.

<sup>47</sup> Lands Improvement Company's Amendment Act 1969, preamble.

- (a) sections 8, 13, 23, 24 and 84 contain provisions relating to the first meeting of the company, the internal management of the company and the expenses of promoting the 1853 Act which are now spent or unnecessary;
- (b) section 28 (application of the now repealed<sup>48</sup> Public Money Drainage Act 1846, etc.) is obsolete;
- (c) section 45 so far as proposed for repeal (service of notices outside the jurisdiction) corresponds to section 22 of the Improvement of Land Act 1864 which was repealed in 1965<sup>49</sup>;
- (d) section 60 so far as proposed for repeal (recovery of rentcharges in England and Wales) is superseded by the general law in section 121 of the Law of Property Act 1925;
- (e) section 74 (punishment for perjury) is superseded by the general law in the Perjury Act 1911 and the False Oaths (Scotland) Act 1933;
- (f) Schedules B and D set out forms which were replaced by the Lands Improvement Company's Amendment Act 1855 (c.lxxxiv).

Section 11 of the Lands Improvement Company's Amendment Act 1969 saved the Borrowing (Control and Guarantees) Act 1946. Its repeal is consequential on the repeal of that Act by the Government Trading Act 1990.

#### *Land Loan and Enfranchisement Company*

The Land Loan and Enfranchisement Company was incorporated in 1860 for the purpose of enabling landowners to obtain and charge upon their lands advances for the improvement of the lands. The company was later wound up and the principal Act of 1860 relating to it (23 & 24 Vict. c.clix) was repealed by the Statute Law Revision Act 1964. The repeal of the later Act of 1860 (23 & 24 Vict. c.cxciv) is consequential. It merely corrected a reference in the principal Act which had been falsified when two clauses of the Bill for the principal Act were struck out on third reading in the House of Lords.

#### *Group 3 - Land Drainage Schemes*

Before 1861 land drainage schemes in England and Wales were implemented by special Acts relating to particular schemes.<sup>50</sup> The Land Drainage Act 1861 made general provision for the constitution thereafter of elective drainage districts and for vesting the

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<sup>48</sup> Statute Law Revision Act 1958.

<sup>49</sup> Administration of Justice Act 1965, Sch.2 (obsolete, &c. enactments).

<sup>50</sup> The Acts concerned, which reach back to 1663, are listed in the *Index to the Statutes* (H.M.S.O. 1991), Vol. II, App. 24, as supplemented by the *Index to Local and Personal Acts* (H.M.S.O. 1949), Class VIII. A number of these Acts remain in force.

superintendence of matters relating to drainage within those districts in drainage boards. The machinery required a provisional order to be made and confirmed by Act of Parliament.

In 1930, the general law relating to land drainage in England and Wales was consolidated and amended by the Land Drainage Act 1930. The law was reconsolidated by the Land Drainage Act 1976 and the Land Drainage Act 1991. Under the modern law the constitution of internal drainage districts and boards are matters dealt with by orders made by statutory instrument, but section 1 of the Land Drainage Act 1991 continued the internal drainage districts, and boards, which existed before that Act came into force.

The repeals in this group are of enactments, passed between 1863 and 1918, confirming provisional orders which constituted drainage boards for particular districts in England. The Ministry of Agriculture, Fisheries and Food has confirmed that the boards and the districts concerned no longer exist, having been abolished by later legislation. The enactments proposed for repeal are accordingly obsolete.

These enactments related to the following districts within the then existing counties indicated below-

Mordern Carrs Drainage District, County of Durham, and Maxey Drainage District, County of Northampton (1863 c.63);

River Wissey Drainage District, County of Norfolk (1864 c.14);

Frodsham and Ince Drainage District, County of Chester (1866 c.33);

Northmoor and Stanton Harcourt Drainage District, County of Oxford (1866 c.80);

Heddiscoe Drainage District, County of Norfolk (1868 c.clvi);

Digby Drainage District and Bourn South Fen Drainage District, County of Lincoln (1871 c.lx);

Deeping Fen Drainage District, County of Lincoln (1873 c.xxiv);

Lay Drainage District, County of Gloucester (1875 c.i);

Frodsham and Helsby Drainage District, County of Chester (1880 c.lxxxii);

Fenstanton Drainage District, County of Huntingdon (1882 c.lxvii);

Burgh St. Peter Drainage District, County of Norfolk (1883 c.ii);

Didcot Drainage District, County of Berks. (1883 c.lxxxv);

Donington Drainage District, County of Lincoln (1884 c.xli);

Morton Fen Drainage District, County of Lincoln (1892 c.ccvii);

Hacconby Fen Drainage District, County of Lincoln (1898 c.lxxv);

Ministerworth Drainage District, County of Gloucester (1911 c.cxxxiv);  
West Butterwick Drainage District, County of Lincoln (1911 c.cxxxv);  
Billingborough Drainage District, County of Lincoln (1911 c.cxxxvi);  
Lincoln West (South West) Drainage District, County of Lincoln (1912 c.cxxiii);  
Billingham Drainage District, County of Durham (1912 c.cxxiv);  
Pitsea Drainage District, County of Essex (1912 c.cxxv);  
Braithwaite Moss Drainage District, County of Cumberland (1912 c.clxviii);  
Holme St. Cuthbert Drainage District, County of Cumberland (1913 c.xxvi);  
Rippingale Drainage District, County of Lincoln (1914 c.lii);  
Tillingham Valley Drainage District, County of Sussex (1914 c.cxxiv);  
Ravensingham Drainage District, County of Norfolk (1915 c.lxxxviii);  
Lilleshall Drainage District, County of Salop (1916 c.xxxix);  
Ewerby Drainage District, County of Lincoln (1917 c.xxviii);  
Wistow Drainage District, West Riding of County of York (1917 c.xxx);  
Pinchbeck Drainage District, County of Lincoln (1918 c.xxvi).

## PART XIV

### STATUTORY INTERPRETATION PROVISIONS

#### *Group 1 - Clauses Acts of 1845 and 1847*

The repeals in this group are of definitions and other ancillary provisions, relating mainly to legal procedure, in the Clauses Acts of 1845 and 1847. The Home Office, and the responsible departments in Scotland and Northern Ireland, agree that the provisions concerned are obsolete or unnecessary or have been superseded by the general law.

The adoptive Clauses Acts, based on contemporary local Act precedents, were originally brought in to shorten the railway and other local Bills which were then passing through Parliament in large numbers, to introduce greater certainty and uniformity and to make the law more accessible.<sup>1</sup> In contemporary terms the Acts were a success, but the "faulty principle" upon which they had been framed was perceived as early as 1854 by an astute member of the Statute Law Board -<sup>2</sup>

"The right way to make it unnecessary to have long Railway Acts would be to enact that all railway companies incorporated by Parliament should have such and such powers. The Railways Consolidation Act however does not exactly do this, but leaves it still necessary to confer all the necessary powers on each company separately, only providing a compendious method of doing so by reference to a model form."

Section 5 of each of the adoptive Acts contains a drafting provision explaining the form in which provisions of the Act may be incorporated with other legislation. Legislation by reference was then a novelty and the sections were designed to encourage 19th century draftsmen to use a shortened form of incorporation instead of setting out the incorporated provisions in full - which would have defeated the whole purpose of the Clauses Acts. The sections serve no purpose now and merely add to the length of the statute book.

The general definitions of "county", "quarter sessions" and "superior courts", which reflect the law as it was in the mid-19th century, are redundant. The old law relating to counties is obsolete in consequence of the re-organisation of local government in the 1970s; and earlier references to counties now have to be construed in accordance with the modern law.<sup>3</sup> References to quarter sessions are similarly construed in accordance with the statutory

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<sup>1</sup> Parl. Deb. (3rd ser.), 5 August 1844, Vol.76, cols. 1782-3 (Mr Gladstone).

<sup>2</sup> *Report on the Proceedings of the Board for the Revision of the Statute Law* (1854) H.L. 301, p.10 (Mr. Brickdale).

<sup>3</sup> Local Government Act 1972, ss.179(2), 216; Local Government (Scotland) Act 1973, s.1, Sch.27, Pt.I. The definitions have been repealed in Northern Ireland.

provisions which abolished these courts.<sup>4</sup> The definition of "superior courts" is out of date and the relevant Acts confer no functions on superior courts.

The Acts still contain archaic statutory machinery, originally applicable to England and Wales and Northern Ireland-

- (a) for the enforcement by distress of sums adjudged to be paid by magistrates' courts (1845 c.16, ss.111, 142; 1845 c.20, s.140);
- (b) for the manner in which the distress is to be levied (1845 c.16, s.150; 1845 c.18, s.138; 1845 c.20, s.148);
- (c) providing that the distress is not to be unlawful for want of form (1845 c.16, s.151; 1845 c.18, s.141; 1845 c.20, s.149).

The old machinery has been superseded in England and Wales by the general law in sections 75 and 76 of the Magistrates' Courts Act 1980, rule 54(9) of the Magistrates' Courts Rules 1981 (S.I. 1981 No.552) and section 78 of the Magistrates' Courts Act 1980 respectively. In Northern Ireland the relevant provisions mentioned in paragraphs (a) and (b) above have either already been repealed or are similarly superseded.<sup>5</sup>

The other repeals proposed are as follows-

- (a) provisions relating to the powers of courts to order compensation for damage, in addition to a penalty, which are superseded by the modern procedure<sup>6</sup> for making compensation orders against convicted persons (1845 c.16, s.154; 1845 c.17, s.156; 1845 c.20, s.152);
- (b) provisions for enforcing the attendance of witnesses in England and Wales which are superseded by section 97 of the Magistrates' Courts Act 1980 (1845 c.16, s.155; 1845 c.20, s.153);
- (c) provisions enabling a stipendiary magistrate in England and Wales<sup>7</sup> to exercise the powers conferred on two or more justices which are superseded by section

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<sup>4</sup> Courts Act 1971, Sch.8, Pt.I. In Scotland, courts of quarter sessions were abolished without replacement by the District Courts (Scotland) Act 1975, ss.1, 3. The definitions have been repealed in Northern Ireland.

<sup>5</sup> Statute Law Revision (Northern Ireland) Act 1980; Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981 No.1675, N.I. 26), Art. 98.

<sup>6</sup> Powers of Criminal Courts Act 1973, s.35, as amended by the Criminal Justice Act 1988 (England and Wales); Criminal Justice (Scotland) Act 1980, Pt. IV (Scotland); Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980 No.704, N.I. 6), Art.3, as amended by the Criminal Justice (Northern Ireland) Order 1986 (S.I. 1986 No.1883, N.I. 15) (Northern Ireland).

<sup>7</sup> These provisions were repealed for Northern Ireland by the Statute Law Revision (Northern Ireland) Act 1976. In Scotland the Commissioners Clauses Act 1847, s.105 is redundant, but otherwise the provisions are excepted from repeal.

16 of the Justices of the Peace Act 1979 (1847 c.14, s.55; 1847 c.16, s.105; 1847 c.27, s.94; 1847 c.34, s.212; 1847 c.65, s.64);

- (d) provisions applying the Metropolitan Police Courts Act 1839 for the recovery and enforcement of penalties in the Metropolitan Police District<sup>8</sup> which are superseded by the general law in the Magistrates' Courts Act 1980 and the Justices of the Peace Act 1979 (1847 c.14, s.56; 1847 c.16, s.106; 1847 c.27, s.95);
- (e) Scottish provisions purporting to oust the supervisory powers of the Court of Session which ceased to be effective by virtue of section 11(2) and (3) of the Tribunals and Inquiries Act 1958<sup>9</sup> (1845 c.17, s.161; 1845 c.19, s.138; 1845 c.33, s.149);
- (f) a provision purporting to oust the jurisdiction of the superior courts in Northern Ireland<sup>10</sup> which is obsolete by virtue of section 22 of the Judicature (Northern Ireland) Act 1978 (1845 c.18, s.145);
- (g) unnecessary provisions confirming the binding effect of byelaws which reflected 19th century doubts as to the legal effect of subordinate legislation and would never be enacted in modern legislation (1847 c.14, s.48; 1847 c.27, s.89);
- (h) a provision concerning the approval of legal quays by the Commissioners of Customs which H.M. Customs and Excise agree has long been redundant, having regard to the general law now contained in Part III of the Customs and Excise Management Act 1979 (1847 c.27, s.24).

The repeals to the Transport Act 1962 and the Local Government (Scotland) Act 1973 are consequential-

- (a) in the case of the Transport Act 1962, on the proposed repeal of section 152 of the Railway Clauses Consolidation Act 1845 and on the repeal of the corresponding section 144 of the Railways Clauses Consolidation (Scotland) Act 1845 by the Criminal Justice (Scotland) Act 1980;
- (b) in the case of the Local Government (Scotland) Act 1973, on the proposed repeal of the definition of "county" in section 3 of the Harbours, Docks and Piers Clauses Act 1847.

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<sup>8</sup> Originally the sections also provided for the payment of penalties to the Receiver of the Metropolitan Police, but these provisions were repealed by the Justices of the Peace Act 1949.

<sup>9</sup> See now Tribunals and Inquiries Act 1992, s.12(2) and (3).

<sup>10</sup> The Lands Clauses Consolidation Act 1845, s.145, as it applied to England and Wales, was repealed by the Compulsory Purchase Act 1965, s.39(4), Sch.8 Pt.III.

## *Group 2 - The Standard Scale and the Statutory Maximum*

The repeals in this group are of transitional and superseded statutory definitions of "the standard scale" (the standard scale of five levels of fines on summary conviction) and "the statutory maximum" (the maximum fine on summary conviction). Both terms are in constant legislative use. Accordingly the Interpretation Act 1978, as amended in 1988,<sup>11</sup> now provides general definitions of the terms which supersede the earlier definitions. The repeals in this group are consequential.

Although the concepts of the standard scale and the statutory maximum are now of general application throughout the United Kingdom, they are governed by separate statutory machinery applicable to the legal systems of England and Wales, Scotland and Northern Ireland. They were also introduced at different times. In Great Britain the statutory maximum was brought in by the Criminal Law Act 1977<sup>12</sup> which described it as "the prescribed sum"; its name was changed as respects future legislation by the Criminal Justice Act 1982 which also introduced the standard scale of fines. In Northern Ireland both the standard scale and the statutory maximum were introduced by the Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984 No.703, N.I. 3); but until that Order came into operation, transitional provisions were often needed to apply the Great Britain machinery relating to fines to Northern Ireland for the purposes of legislation applicable to the whole of the United Kingdom.<sup>13</sup>

In 1982 as respects Great Britain<sup>14</sup> and in 1984 as respects Northern Ireland<sup>15</sup> provision was made for the construction of references to the standard scale and the statutory maximum in any legislation, whether passed before or after that date. Most earlier enactments containing provisions for fines on summary conviction now refer to these concepts by virtue of either specific or general amendments made since 1982.

The introduction of the standard scale and the statutory maximum posed initial problems for users and from 1982 onwards a transitional legislative practice was adopted of including signpost definitions of the terms in fresh legislation which referred to them. Until 1984 these definitions were also expanded when necessary to apply the statutory machinery in Great Britain to Northern Ireland. The terms are familiar now and the legislative practice of including specific definitions was discontinued in 1986 on the ground that it was no longer

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<sup>11</sup> Criminal Justice Act 1988, Sch.15, para.58. The consequential repeals were omitted from that Act on the understanding that they would be effected by a Statute Law (Repeals) Bill.

<sup>12</sup> As respects England and Wales, see Criminal Law Act 1977, ss.28, 61 (now consolidated by the Magistrates' Courts Act 1980, ss.32, 143). As respects Scotland, see s.63 and Sch. 11 (amendments of Criminal Procedure (Scotland) Act 1975).

<sup>13</sup> See e.g. Finance Act 1984, Sch. 5, para.3, which extended section 75 of the Criminal Justice Act 1982 to Northern Ireland for customs and excise purposes.

<sup>14</sup> Criminal Justice Act 1982, ss.74, 75 (repealed by the Criminal Justice Act 1988 in consequence of the amendment of the Interpretation Act 1978).

<sup>15</sup> Fines and Penalties (Northern Ireland) Order 1984.



necessary. The transitional definitions enacted before then are similarly now unnecessary. In many cases they are also wrong since they continue to refer to amounts fixed in 1977 that have since been substantially increased. These transitional definitions are accordingly proposed for repeal, except so far as they occur in legislation which is in the course of being consolidated.<sup>16</sup>

The repeal of section 155(5) of the Magistrates' Courts Act 1980 (extent of section 32(7)) is consequential on the repeal of section 32(7) by the Criminal Justice Act 1988.

The repeals in Schedule 7 to the Magistrates' Courts Act 1980, Schedule 3 to the Telecommunications Act 1984 and Schedule 5 to the Finance Act 1984 are consequential-

- (a) in the case of the Magistrates' Courts Act 1980, on the repeals proposed to the Gun Barrel Proof Act 1868, the Nuclear Safeguards and Electricity (Finance) Act 1978, the Credit Unions Act 1979, the Estate Agents Act 1979, the Ancient Monuments and Archaeological Areas Act 1979, the Reserve Forces Act 1980, the Protection of Trading Interests Act 1980 and the Competition Act 1980;
- (b) in the case of the Telecommunications Act 1984, on the proposed repeal of section 14(8) and (9) of the Wireless Telegraphy Act 1949;
- (c) in the case of the Finance Act 1984, on the proposed repeal of section 171(2A) of the Customs and Excise Management Act 1979.

In the Fines and Penalties (Northern Ireland) Order 1984, the repeals are either consequential or are of obsolete amendments of Acts<sup>17</sup> which are no longer in force.

### *Group 3 - Miscellaneous*

In the Public Health Act 1875, the Public Health Act 1935 and the Highways Act 1980, the repeal in the definition of "rackrent" (which qualifies the definition of "owner" in these Acts) is consequential on the extinguishment of title redemption annuities (which replaced title rentcharges) by section 56 of the Finance Act 1977. The words concerned have been omitted from later consolidations based on the Public Health Acts.<sup>18</sup> When the water legislation was consolidated in 1991 the definition of "rackrent" itself was omitted as unnecessary in the context of that legislation.<sup>19</sup>

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<sup>16</sup> Principally the Merchant Shipping Acts and legislation affecting the armed forces.

<sup>17</sup> Food and Drugs Act 1955, Consumer Safety Act 1978, Banking Act 1979, Trustee Savings Banks Act 1981.

<sup>18</sup> See e.g. Public Health (Control of Disease) Act 1984, s.74; Building Act 1984, s.126.

<sup>19</sup> Water Industry Act 1991, s.219(1). See *Report on the Consolidation of the Legislation relating to Water* (1991) Law Com. No.198, Cm. 1483, Recommendation 18 (definition of "owner").

The Public Health Act 1936, as it applies to England and Wales,<sup>20</sup> still refers in several places to a factory or workshop within the meaning of the Factory and Workshop Acts 1901 to 1929. These Acts were consolidated by the Factories Act 1937 and re-consolidated by the Factories Act 1961. The confusing references in the Public Health Act 1936 have never been brought up to date but have to be construed by later legislation in general terms<sup>21</sup> as references to a factory within the meaning of the Factories Act 1961. To clarify the text, the redundant references to workshops are proposed for repeal and a consequential amendment in Schedule 2 to the draft Bill would textually amend the definition of "factory" in the Public Health Act 1936 to reflect the modern law.

The definition of "school" in the Public Health Act 1936 is redundant in consequence of the repeal of the substantive provisions of that Act to which it was relevant.<sup>22</sup>

In the Factories Act 1961, the Offices, Shops and Railway Premises Act 1963 and the Scrap Metal Dealers Act 1964, the definitions of "magistrates' court" and "police authority" have been superseded by definitions of general application in Schedule 1 to the Interpretation Act 1978. The repeal proposed to the Magistrates' Courts Act 1980 is consequential.

The referential definition of "petty sessions area" in the Offices, Shops and Railway Premises Act 1963 is both out of date (since it refers to repealed legislation) and unnecessary.

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<sup>20</sup> The Public Health Act 1936 has never applied to Scotland and the relevant provisions do not apply to Northern Ireland.

<sup>21</sup> Factories Act 1961, s.184.

<sup>22</sup> See now Public Health (Control of Disease) Act 1984, s.74.

## PART XV

### TRANSPORT

#### *Group 1 - General Repeals*

The Act of 1820, which applies to Scotland, provided for the construction of roads affording direct access between Carlisle, Stirling and Ayr and also the erection of a bridge over the River Mouse. The Act of 1823 rectified a mistake in the earlier Act regarding the initial arrangements for financing the work. The Scottish Office Environment Department and the Convention of Scottish Local Authorities agree that both Acts are spent and unnecessary. The roads and bridge concerned are now maintained under the Roads (Scotland) Act 1984.

The South Wales Turnpike Trusts Acts 1844 to 1847 were a response to the Rebecca Riots of 1842-43, during which many turnpike gates and toll houses were violently destroyed by armed mobs claiming to be "Rebecca and her children".<sup>1</sup> The Acts reformed the most oppressive features of the turnpike road system as it existed in the former counties of Glamorgan, Brecknock, Radnor, Carmarthen, Pembroke and Cardigan.<sup>2</sup> That system came to an end altogether in South Wales on 1 April 1889.<sup>3</sup> The unrepealed residue of the Acts (1844 ss.106, 107, 109, 110 to 112 and 114; 1845 ss.1, 2 and 12; 1845 s.13) dealt with the redemption of debts secured on the tolls of particular bridges, the conversion of certain turnpike roads into county roads and the completion of an agreement to build a stretch of road in the county of Carmarthen known as the Kidwelly Embankment New Road. The relevant debts were paid off in 1849 or in one case in 1879<sup>4</sup> and the agreement for the Kidwelly Embankment New Road was completed by a payment of £200 made in 1850.<sup>5</sup> The maintenance of the bridges and roads concerned is now the responsibility of the Secretary of State or the county council for the area.<sup>6</sup> The Welsh Office and the County Councils of Dyfed, Gwent, Mid Glamorgan, South Glamorgan, West Glamorgan and Powys have been consulted and agree that the remaining provisions of the Acts are spent or obsolete.

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<sup>1</sup> An allusion to Genesis xxiv:60. Rebecca, wife of Isaac, was promised that her seed should "possess the gate of those that hate them".

<sup>2</sup> For the background, see S. & B. Webb, *The Story of the King's Highway* (1913, reprinted 1963). In 1841, to alleviate the insolvency of turnpike trusts caused by the advent of the railways, the liability of the parish to maintain turnpike roads was revived. Inhabitants were thereafter obliged to pay both highway rates and turnpike tolls. In South Wales the system was particularly oppressive because of the excessive number of turnpike trusts and the close proximity of gates where tolls had to be paid.

<sup>3</sup> Local Government Act 1888, ss.13(1), (2), 109(1).

<sup>4</sup> See *Statements of Income and Expenditure on Turnpike Roads in South Wales* for 1846, 1847, 1848 and 1849 (H.C. (1847) 107 p.2, (1847-48) 218 p.2, (1849) 71 p.2, (1850) 100 pp.6, 9); Newport Roads Act 1864 (c.liii), repealed on 1 November 1879 by the Annual Turnpike Acts Continuance Act 1878.

<sup>5</sup> *Statement of the Receipts and Expenditure on Account of Turnpike Roads in South Wales in 1850* (1851) H.C. 85 p.6.

<sup>6</sup> Highways Act 1980, ss.1, 328(2).

In the Harbours and Passing Tolls, &c. Act 1861, the repeal of the definition of "pilotage authority", as it applies to Great Britain,<sup>7</sup> is consequential on the repeal of section 14 (indemnity to public authorities) by the Harbours Act 1964.

Section 1 of the Locomotive Act 1861 prescribed the maximum tolls which could be charged under any *existing* turnpike road or public bridge Act for the passage of locomotives or vehicles drawn by them (in modern terms motor vehicles or trailers). In Parliament<sup>8</sup> it was explained that the measure was necessary to enable locomotives on roads (which were then propelled by steam) to operate in competition with horse-drawn vehicles and to prevent the imposition of tolls which would be practically prohibitive. Turnpike roads had ceased to exist by the end of the 19th century, but there are still five toll bridges controlled by legislation enacted before 1861, namely-

Swinford Bridge	7 Geo.3 c.63 (1767)
Aldwark Bridge	12 Geo.3 c.87 (1772)
Whitney-on-Wye Bridge	20 Geo.3 c.27 (1780); 37 Geo.3 c.56 (1797)
Whitchurch Bridge	32 Geo.3 c.9 (1792); Whitchurch Bridge Act 1988 (c.vi)
Dunham Bridge	11 Geo.4 & 1 Will.4 c.lxvi (1830).

Modern orders have been made under section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 revising the charges which may be taken in respect of the passage of motor vehicles and trailers over the Aldwark Bridge, the Whitney-on-Wye Bridge and the Whitchurch Bridge.<sup>9</sup> These orders supersede section 1 of the Locomotive Act 1861, which now remains in force only as respects the Swinford Bridge (A4141 in Oxfordshire) and the Dunham Bridge (A57 in Lincolnshire). The further repeals to section 1 would remove obsolete provisos which referred to the Turnpike Roads Act 1822 and have no modern relevance to these bridges. The effect of the provisos was to vary the charges payable in cases where a vehicle was equipped with wheels which were not cylindrical (*sic*) or had wheels resting on a shoe to prevent them coming into contact with the ground.

Section 2 of the Locomotive Act 1861 (repeal in general terms of former enactments) has had its effect and is spent. Section 10 of that Act (application to locomotives of exemptions in pre-1861 turnpike Acts) is obsolete in consequence of the repeal or expiry of the legislation to which it related. The proposals relating to the 1861 Act have been

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<sup>7</sup> The definition was repealed for Northern Ireland by the Harbours Act (Northern Ireland) 1970.

<sup>8</sup> Parl. Deb. (3rd ser.), 4 July 1861, Vol.164, col.286 (Earl of Caithness).

<sup>9</sup> Aldwark Bridge (Revision of Charges) Order 1980 (S.I. 1980 No.1549); Whitney-on-Wye Bridge (Revision of Charges and Traffic Classification) Order 1990 (S.I. 1990 No.1692); Whitchurch Bridge Tolls (Revision) Order 1989 (S.I. 1989 No.700). These are local orders which are not published in annual volumes of statutory instruments but can be obtained from the Statutory Publications Office.

canvassed with the proprietors of the bridges concerned and are supported by the Department of Transport.

The Metropolitan Streets Act 1867 is applicable to the City of London and the area within six miles of Charing Cross, but sections 2 and 4, as amended by the Metropolitan Streets Act 1885, still describe the general limits of the Act<sup>10</sup> by reference to parishes and places within the jurisdiction of the Metropolitan Board of Works, a body which was abolished in 1888.<sup>11</sup> The residual effect of these provisions would be preserved by a consequential amendment of the 1867 Act in Schedule 2 to the draft Bill. The repeals in sections 6, 7 and 9 are consequential. In section 22 the reference to the Secretary of State is obsolete in consequence of the repeal of the substantive provisions of the 1867 Act to which it related.

The Highways and Locomotives (Amendment) Act 1878 amended the general law of England and Wales which was then contained in the Highway Act 1835, the Locomotives Acts 1861 and 1865 and the Turnpike Roads Act 1822. The Act has mostly been replaced and the remaining provisions are section 26 (powers to make byelaws) and the ancillary section 35 (confirmation of byelaws), sections 36 and 37 (penalties and appeals) and section 38 (interpretation). The trusts which administered the 18th century system of turnpike roads were then in the course of being wound up<sup>12</sup> and the objective of section 26 was to replace, by general legislation, particular powers vested in turnpike trustees.<sup>13</sup> The section so far as unrepealed addressed three contemporary problems<sup>14</sup> relating to the use of horse-drawn vehicles on roads - the width of the wheels (narrow wheels gave better traction but cut into the road surface), the construction of the wheels (projections on the wheels gave better traction but again damaged the road), and the locking of the wheels when descending a hill (a practice which required a skid pan to prevent road damage). Sophisticated modern legislation now regulates the construction and use of motor vehicles and trailers.<sup>15</sup> As far as horse-drawn traffic is concerned, the 1878 powers are superseded by section 82 of the Road Traffic Regulation Act 1988 (regulation of brakes on horse-drawn vehicles) and sections 1 to 6 of the Road Traffic Regulation Act 1984 (which enable the making of traffic regulation orders, or similar orders, for preventing damage to roads). The Department of Transport, the Association

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<sup>10</sup> The provisions relating to areas within the special limits of the Act have been repealed.

<sup>11</sup> Local Government Act 1888, s.40(8). The Metropolitan Board of Works was the predecessor of the London County Council, which was succeeded by the Greater London Council until its abolition in 1986.

<sup>12</sup> The Acts constituting turnpike trusts were temporary, but were routinely renewed until, as a result of the activities of a committee of the House of Commons, a process of deliberately allowing them to lapse got under way. This process was not completed until the end of the 19th century, but was well advanced in 1878. The obsolete Turnpike Roads Act 1822 was repealed by the Statute Law (Repeals) Act 1981.

<sup>13</sup> Parl. Deb. (3rd ser.), 9 July 1878, Vol.241, col.1079 (Mr. Sclater-Booth). An amendment to enable byelaws to be made "for prohibiting or regulating all, or any, of such things as may be prohibited or regulated, respectively, under the provisions of the General Turnpike Act" was accepted but was not ultimately enacted.

<sup>14</sup> For the background, see S. & B. Webb, *The Story of the King's Highway* (1913 reprinted 1963) 75, 172, 175; W.J. Jackman, *The Development of Transportation in Modern England* (3rd ed. 1966), 247.

<sup>15</sup> See Part II of the Road Traffic Act 1988.

of County Councils, the Association of Metropolitan Authorities and the City of London have been consulted. There is general agreement that the 1878 Act is unnecessary now and that any old byelaws made under it<sup>16</sup> can safely be allowed to lapse.

In the Local Government Act 1888, which applies to England and Wales, Schedule 1, so far as proposed for repeal, authorised the making of orders transferring to county councils the power to levy the duties then payable for licensing locomotives. This provision became redundant when section 9 of the Locomotives Act 1898<sup>17</sup> provided directly for the licensing of locomotives by county councils. Under the modern law the licensing of mechanically propelled vehicles is governed by the Vehicles (Excise) Act 1971.

In the Locomotives Act 1898, which is applicable to England and Wales, sections 8 and 17(2) prohibited a locomotive (not being a light locomotive within the meaning of the Locomotives on Highways Act 1896) from being taken across a bridge so as to meet or pass any other locomotive on the bridge. These provisions were prospectively repealed by Parliament more than 60 years ago<sup>18</sup> but the repeal was never brought into force. Section 25 of the Road Traffic Act 1930 (power to prohibit the use of bridges by motor vehicles), the original basis for the repeal, was similarly not brought into force and section 17 of the Road Traffic Regulation Act 1967, which consolidated it, was repealed as unnecessary in 1980.<sup>19</sup>

The present effect of the 1898 provisions is obscure. In particular, it is uncertain what classes of vehicle would be within the prohibition. The Road Traffic Act 1930 brought in a new classification of motor vehicles, which is the foundation of the modern law, but the classification did not apply to earlier legislation. The provisions therefore fall to be construed in accordance with the previous law. The 1896 definition of a light locomotive was substantially altered by a series of Heavy Motor Car Orders made between 1904 and 1921.<sup>20</sup> The orders were revoked without qualification in 1931<sup>21</sup> and there is an unresolved question whether the extinct orders continue to be relevant for the purpose of construing the 1898

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<sup>16</sup> In 1957 a proposal to consolidate s.26(1) to (3) of the 1878 Act in what became the Road Traffic Act 1960 was considered but rejected. Inquiries made then revealed that old byelaws made by the councils of the North Welsh and border counties, of the North and East Ridings of Yorkshire, and of Devonshire, were still extant, but that none were used. Old City of London byelaws have also been traced.

<sup>17</sup> Section 9 of the Locomotives Act 1898 was repealed and replaced by the Roads Act 1920 and the relevant provisions, as later amended, were consolidated by the Vehicles (Excise) Act 1949.

<sup>18</sup> Road Traffic Act 1930, ss.122, 123, Sch.5. See now Road Traffic Act 1960, s.266 (a consolidation of the prospective repeal).

<sup>19</sup> Local Government, Planning and Land Act 1980, Sch.7, para.14(1)(d). The repeal was made in pursuance of a policy of relaxing Ministerial controls.

<sup>20</sup> Heavy Motor Car Order 1904 (S.R. & O 1904 No.1809, p.522) as finally amended by the Heavy Motor Car (Amendment) Order 1921 (S.R. & O 1921 No.906, p.1146).

<sup>21</sup> Motor Vehicles (Construction and Use) Regulations 1931 (S.R. & O. 1931 No.4, p.1158).

provisions.<sup>22</sup> These legal problems are plainly not capable of being addressed by the driver of a vehicle approaching a bridge.

In practice section 8 of the Locomotives Act 1898 is not needed or used now and the Department of Transport agrees that it should be repealed. In cases where weight restrictions on the traffic passing over a bridge are necessary they are imposed by traffic regulation orders made under the general powers conferred by Part I of the Road Traffic Regulation Act 1984. The effect of these orders is indicated by proper traffic signs at the approaches to a bridge.<sup>23</sup> In those cases where only a single line of vehicles can be carried, the restriction is usually enforced by physically restricting the width of the carriageway or by one-way working controlled by traffic lights.

The remaining provisions of the Locomotives Act 1898 are ancillary. Sections 14 and 15 (which operated on provisions of the Act which have been repealed) are separately obsolete.

In the Ministry of Transport Act 1919, the repeal in section 24 (consent of Local Government Board for Ireland) is consequential on the repeal of the 1919 Act, as it applied to Northern Ireland, by the Roads (Northern Ireland) Order 1980 (S.I. 1980 No. 1085, N.I. 11).

In the Public Health Act 1925, which applies to England and Wales, section 10 so far as proposed for repeal saved any power conferred on the Minister of Transport by the London Traffic Act 1924. That Act was finally repealed by the Road Traffic Act 1960 and the saving is unnecessary.

In the Petroleum (Consolidation) Act 1928, which applies to Great Britain, the repeal of the definitions in section 23 is consequential on the repeal of section 11 (byelaws as to petroleum filling stations) by the Town and Country Planning Act 1947 and the Town and Country Planning (Scotland) Act 1947. In section 24, the repeals are of now redundant Scottish modifications of the Act. Section 26(3)(b), consolidating earlier provisions,<sup>24</sup> saved the pre-1928 regulations controlling the keeping and use of petroleum for the purpose of light locomotives. These regulations,<sup>25</sup> which had been made under section 5 of the Locomotives on Highways Act 1896 (also known as the Motor Cars Act 1896), were revoked and replaced in 1929<sup>26</sup> and section 26(3)(b) is obsolete.

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<sup>22</sup> See Halsbury's Laws (4th ed. 1983), Vol.40, para.880. The Interpretation Act 1978, s.20(2), applies only to Acts passed after 1978.

<sup>23</sup> Road Traffic Regulation Act 1984, s.68.

<sup>24</sup> Petroleum (Amendment) Act 1928, s.10(4). This Act repealed and replaced section 5 of the Locomotives on Highways Act 1896.

<sup>25</sup> S.R. & O 1907 No.614 (1907 p.424); S.R. & O. 1923 No. 1359 (1923 p.439).

<sup>26</sup> Petroleum Spirit (Motor Vehicles, &c.) Regulations 1929 (S.R. & O. 1929 No.952, Rev. XVIII p.42).

In the Road Traffic Act 1930, which applies to Great Britain, only Part V (running of public service vehicles by local authorities) continues to be operative. The proposed repeals are of the following ancillary provisions-

- (a) section 110 (Act not to extend to the London Traffic Area) which is unnecessary<sup>27</sup> since in England only a district council (or a joint board or committee including representatives of such a council) can exercise functions under Part V and London boroughs are not local authorities for the purposes of the Act;
- (b) section 113 (prosecutions and penalties for offences) and section 117 (application of fines) which are obsolete, since Part V contains no offences;
- (c) a definition of "forestry" which is redundant in consequence of the repeal of Part III (Highways) by later legislation;<sup>28</sup>
- (d) section 121(1A), as inserted by the Road Traffic Act 1960 (an out of date definition of public service vehicles by reference to that Act), which would be replaced by a fresh amendment in Schedule 2 to the draft Bill.

In the London Passenger Transport Act 1933, sections 73 to 79 and Schedule 14 provided machinery for the transfer and compensation of persons who in 1931 were existing officers or servants of the undertakings which were transferred to the London Transport Board by the 1933 Act. The transfers took effect nearly 60 years ago and any compensation rights have long since been settled. These provisions are accordingly spent. The proposed repeals, which are agreed to by London Transport, would not affect any pension rights acquired under the legislation.<sup>29</sup> The repeals in section 107(1) are of redundant definitions. Section 107(1A) (interpretation of references to public service vehicles, stage carriages, express carriages or contract carriages) was inserted by the Road Traffic Act 1960. Its repeal is consequential on the repeal of sections 16 to 18 of the 1933 Act by the Transport (London) Act 1969 and the Transport Act 1962.

The Motor Vehicles (International Circulation) Act 1952, a re-enactment with modifications of the Motor Car (International Circulation) Act 1909, enables the making of Orders in Council and regulations for facilitating international traffic. Section 4, so far as unrepealed, saved Orders in Council under the 1909 Act and the regulations then in force. The Department of Transport and the authorities in Northern Ireland agree that no instruments within the meaning of section 4 are still in force and the section is obsolete. The current instruments in Great Britain are the Motor Vehicles (International Circulation) Order 1975

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<sup>27</sup> The section is also obsolete, since the London Traffic Area was abolished by the London Government Act 1963, s.9(6).

<sup>28</sup> Highways Act 1959, Sch.25, and London Government Act 1963, Sch.6, para.70; Roads (Scotland) Act 1984, Sch.11. The Roads (Scotland) Act 1984 also repealed section 117 and the definition of "forestry" as they applied to Scotland.

<sup>29</sup> Interpretation Act 1978, s.16(1)(c).



(S.I. 1975 No.1208) as amended and the Motor Vehicles (International Circulation) Regulations 1985 (S.I. 1985 No. 610). Section 7, so far as proposed for repeal, is a spent and unnecessary commencement provision.

In the Post Office Act 1953, section 87(1A), which was inserted by the Road Traffic Act 1960, still defines a public service vehicle by reference to the Road Traffic Act 1960. The reference is out of date and should now be to the Public Passenger Vehicles Act 1981. A consequential amendment in Schedule 2 to the draft Bill would effect the necessary alteration.

In the Transport Charges &c. (Miscellaneous Provisions) Act 1954, which applies to Great Britain, the repeal of the reference to the Transport Act 1947 in section 13(3) (interpretation of the expression "statutory provision") is consequential on the repeal of the remaining substantive provisions of the Transport Act 1947 by the Statute Law (Repeals) Act 1974.

In the Miscellaneous Financial Provisions Act 1955, Schedule 1 so far as proposed for repeal amended section 57 of the Road Traffic Act 1930 (advances from Road Fund) in consequence of the abolition of the Road Fund in 1955. The repeal is consequential on the repeal of section 57 for both England and Wales and Scotland.<sup>30</sup> The remainder of Schedule 1 to the Miscellaneous Financial Provisions Act 1955 has been repealed except for an entry amending the New Forest Act 1949, which continues in force.

The Road Traffic Act 1960, which applies to Great Britain, was the first consolidation of road traffic law to be undertaken after the Second World War. It has been largely replaced by later consolidations<sup>31</sup> but various provisions continue to have effect for the purposes of Part V of the Transport Act 1968 (regulation of carriage of goods by road). The repeals proposed are of other provisions which are spent or obsolete-

- (a) section 248 so far as proposed for repeal (power to hold inquiries for the purposes of sections 9, 14, 15 or 20(2) of the London Government Act 1963) is obsolete in consequence of the repeal, or in the case of section 9 the proposed repeal, of those provisions;
- (b) in section 257 (general interpretation provisions) the repeals are of redundant definitions of expressions which are no longer used in the Act;
- (c) section 264 and Schedule 17 (amendments of other Acts) are obsolete except so far as their residual effect is preserved by the amendments of the Road Traffic Act 1930 and the Post Office Act 1953 in Schedule 2 to the draft Bill;

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<sup>30</sup> Highways Act 1959, Sch.25, London Government Act 1963, Sch.6, para. 70, Road Traffic Act 1960, Sch.18; Roads (Scotland) Act 1984, Sch.11.

<sup>31</sup> Road Traffic Regulation Act 1967 (since almost all replaced by the Road Traffic Regulation Act 1984); Road Traffic Act 1972 (since replaced by the Road Traffic 1988); Public Passenger Vehicles Act 1981. The 1960 Act has also been partly repealed by the Transport Acts 1962, 1968 and 1980.

- (d) section 266(a) and (c), which provided for the repeal of section 6 of the Locomotive Act 1861 (use of locomotives over suspension and other bridges), section 7 of the Locomotives Act 1898 (appeals against restrictions on using bridges) and section 8 of the Locomotives Act 1898 (locomotives not to meet on bridges), are redundant in consequence of the express repeal of section 6 of the Locomotive Act 1861 and section 7 of the Locomotives Act 1898 in 1980<sup>32</sup> and the proposed repeal of section 8 of the Locomotives Act 1898;
- (e) section 267 and Schedule 19 (saving and transitional provisions) and section 268 (saving for Interpretation Act 1889) are spent and unnecessary.

Section 9(6) of the London Government Act 1963 is spent so far as it abolished the London Traffic Area and the London and Home Counties Traffic Advisory Committee. It also provided for the construction of references in the Road Traffic Act 1960 to the London Traffic Area or an area comprising the metropolitan police district and the City of London. This provision is obsolete in consequence of the repeal of the references concerned.

In Schedule 17 to the London Government Act 1963, paragraph 1 amended the Highways and Locomotives (Amendment) Act 1878. Its repeal is consequential on the proposed repeal of that Act.

The Carriage of Goods by Road Act 1965 gave effect to the Convention on the Contract for the International Carriage of Goods by Road signed at Geneva on 19 May 1956. In section 9 (application to British possessions) paragraph (d) provided for the extension of the Act by Order in Council to a protectorate or protected state. This power has never been exercised<sup>33</sup> and is obsolete since dependent territories of this type no longer exist.

In the Road Traffic (Amendment) Act 1967, the only remaining substantive provision is section 8 (extent of powers under Motor Vehicles (International Circulation) Act 1952). Section 10(2) is a collective citation (the Road Traffic Acts 1960 to 1967) which has ceased to serve any purpose in consequence of the repeal of sections 1 to 7 and 9 of the 1967 Act by the Road Traffic Act 1972. Section 10(3) is a spent and unnecessary commencement provision.

In the Road Traffic Regulation Act 1967, a consolidation measure, Schedule 6 so far as proposed for repeal (amendments of the Local Government (Scotland) Act 1947, the London Government Act 1963 and the Road Traffic Act 1960) is obsolete in consequence of later legislation<sup>34</sup> or on the repeal proposed to section 248 of the Road Traffic Act 1960.

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<sup>32</sup> Local Government, Planning and Land Act 1980, Sch.7, para.14.

<sup>33</sup> The dependent territories to which the Act extends are Gibraltar, the Isle of Man and Guernsey. See Carriage of Goods by Road (Gibraltar) Order 1967 (S.I. 1967 No.820, 1981 No.604); Carriage of Goods by Road (Isle of Man) Order 1981 (S.I. 1981 No. 1543); Carriage of Goods by Road (Guernsey) Order 1986 (S.I. 1986 No.1882).

<sup>34</sup> Local Government (Scotland) Act 1975, Sch.7; Local Government Act 1985, Sch.17; Statute Law (Repeals) Act 1989, Sch.1, Pt.X; Road Traffic Regulation Act 1984, Sch.13, para.1.

The Vehicle and Driving Licences Act 1969, which applies to Great Britain, made provision for the transfer to the Minister of Transport of functions relating to vehicle and driving licences and the centralisation of those functions. Most of the Act was consolidated by the Vehicle (Excise) Act 1971 and the Road Traffic Act 1972 (which was re-consolidated in 1988). The residue of the Act, so far as proposed for repeal, contains transitional provisions which were enacted to deal with matters relating to the transfer of the licensing records and functions. These provisions are either spent or dealt with contingencies that never occurred. Sections 2(3) and 34, so far as they support the Vehicle and Driving Licences (Compensation to Officers) Regulations 1977 (S.I. 1977 No.1316), and Schedule 2 (amendment of provisions of the Road Traffic Act 1960 still in force) would remain.

In the Post Office Act 1969, the repeal is consequential on the proposed repeal of section 2(5) of the Vehicle and Driving Licences Act 1969.

In the Courts Act 1971, the repeal is consequential on the proposed repeal of the Highways and Locomotives (Amendment) Act 1878.

In the Superannuation Act 1972, the repeal is consequential on the proposed repeal of section 2(4) of the Vehicle and Driving Licences Act 1969.

In the Local Government Act 1972, which applies to England and Wales, section 186(1) so far as unrepealed introduced Part II of Schedule 19 (amendments of Road Traffic Regulation Act 1967). It is obsolete in consequence of repeals made in 1984.<sup>35</sup> Section 186(4) amended section 2(5) of the Vehicle and Driving Licences Act 1969. Its repeal is consequential on the proposed repeal of that provision.

In the Local Government (Scotland) Act 1973, the repeal is consequential on the proposed repeal of section 33(1) of the Vehicle and Driving Licences Act 1969.

In the Magistrates' Courts Act 1980, the repeal is consequential on the proposed repeal of the definitions of "magistrates' court" and "petty sessions area" in section 257 of the Road Traffic Act 1960.

The final repeal of the Road Traffic (Driving Licences) Act 1983, which applies to Great Britain, is consequential on the repeal of section 2(3) by the Driving Licences (Community Driving Licence) (Amendment) Regulations 1991 (S.I. 1991 No.486). The other substantive provisions of the Act have been repealed<sup>36</sup> and only section 4 (short title, commencement and extent) remains.

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<sup>35</sup> Road Traffic Regulation Act 1984, Sch.14, which repealed both the relevant provisions of the Road Traffic Regulation Act 1967 and Part II of Schedule 19 to the Local Government Act 1972. The whole of Schedule 19 to the 1972 Act was subsequently repealed by the Road Traffic (Consequential Provisions) Act 1988, Sch.1.

<sup>36</sup> Road Traffic (Consequential Provisions) Act 1988, Sch.1, Pt.1; Road Traffic (Driver Licensing and Information Systems) Act 1989, Sch.6.

In the Road Traffic Regulation Act 1984, which applies to Great Britain, section 138(7) and (8), and paragraph 8 of Schedule 10, consolidated temporary provisions for determining whether or not a vehicle is a heavy commercial vehicle for the purposes of a traffic regulation order or experimental traffic order made before 13 August 1981. These provisions had effect only during a transitional period which began on 28 October 1982 and ended on 31 December 1989. The provisions are accordingly obsolete.

In the Local Government Act 1985, the repeal is consequential on the proposed repeal of the Highways and Locomotives (Amendment) Act 1878.

In the Pilotage Act 1987, section 27 (functions and constitution of Pilotage Commission pending abolition) became obsolete on 30 April 1991 when the Pilotage Commission was abolished.<sup>37</sup> The repeal in section 33(2) (commencement) is consequential.

Section 82 of the Road Traffic Act 1988 (regulation of brakes on horse-drawn vehicles), which applies to Great Britain, is a consolidation of powers, originally introduced in 1930,<sup>38</sup> which have never been exercised. In England and Wales section 82(3) enables byelaws made under section 26(3) of the Highways and Locomotives (Amendment) Act 1878 to be repealed or suspended. Its repeal is consequential on the proposed repeal of that Act. In Scotland section 82(3) similarly provides for the repeal or suspension of byelaws made under section 104 of the Roads and Bridges (Scotland) Act 1878. Any byelaw made under that power which is still in force now has effect as if it were a traffic regulation order made under section 1 of the Road Traffic Act 1984.<sup>39</sup> A traffic regulation order can be repealed or amended in the usual way<sup>40</sup> and section 82(3), as it applies to Scotland, is therefore unnecessary.

### *Group 2 - London Cab Law*

The principal statute governing cabs in London is the Metropolitan Public Carriage Act 1869. It confers wide powers on the Secretary of State to regulate London cabs by order made by statutory instrument. The surviving earlier law, contained in the London Hackney Carriage Acts 1831 to 1853, is antiquated and cumbersome. It reflects the fact that its legal procedure was mainly enacted before the passing of the Summary Jurisdiction Act 1848 or the establishment of an effective system of county courts in 1846. In 1949, following comments

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<sup>37</sup> Pilotage Act 1987, s.26; Pilotage Act 1987 (Abolition of Pilotage Commission: Appointed Day) Order 1991 (S.I. 1991 No. 1028).

<sup>38</sup> Road Traffic Act 1930, s.59, as amended by the Road Traffic Act 1956, Sch.8, para.19. The powers were consolidated by the Road Traffic Act 1960, s.71 and again by the Road Traffic Act 1972, s.67.

<sup>39</sup> Road Traffic Act 1984, Sch.10, para.7. For earlier provisions continuing any relevant byelaws in force, see Road Traffic Act 1956, s.55(4); Road Traffic Act 1960, Sch.19, para.13; Road Traffic Regulation Act 1967, Sch.8, para.6.

<sup>40</sup> Interpretation Act 1978, s.14.

by Lord Goddard C.J.,<sup>41</sup> the Home Secretary appointed a Working Party on Hackney Carriage Law with special reference to the need for modernising that law. The Working Party examined the existing law in detail and reported in 1953<sup>42</sup> that a number of provisions were obsolete or unnecessary and should be repealed. The Maxwell Stamp Committee, which reported in 1970, observed that "the Hackney Carriage Acts still contain many provisions of a procedural character which would never have been included if they had been enacted later".<sup>43</sup> The proposals in this group are based on those reports and are supported by the Department of Transport, which has consulted the Public Carriage Office of the Metropolitan Police and the London Taxi Board (which represents the taxi trade in London).

Sections 27 and 28 of the London Hackney Carriage Act 1831 provided an early procedure for recovering fines incurred by reason of an offence committed by the driver of a cab. Under this procedure the fines could be recovered by distress and sale of the goods of the proprietor, who could then recover them from the driver. This procedure is outmoded and would not be resorted to nowadays. Sections 75 and 76 of the Magistrates' Courts Act 1980 now provide the necessary machinery for enforcing payment of a sum adjudged to be paid by a conviction or order of a magistrates' court.

In the London Hackney Carriages Act 1843, section 10, so far as proposed for repeal, authorised a proprietor to employ an unlicensed driver for 24 hours in case of unavoidable necessity. In the circumstances of the London cab trade now it would be virtually impossible to show that the employment of an unlicensed driver is due to "unavoidable necessity". The provision was originally enacted in the context of horse-drawn cabs and the Working Party reported in 1953 that it was no longer required. The repeal proposed to section 8 of the Metropolitan Public Carriage Act 1869 is consequential.

Sections 22 and 23 of the London Hackney Carriages Act 1843 provided for the hearing and determination by a justice of disputes between proprietors and drivers, provided that any agreement concerning earnings is in writing signed by the driver in the presence of a competent witness. The proper forum for settling claims of this sort is now the county court. The Working Party reported in 1953 that the sections were obsolete.

Section 28, so far as proposed for repeal, of the London Hackney Carriages Act 1843 enabled the court to award compensation, not exceeding £10, for hurt or damage suffered by a complainant in cases where a driver has been convicted of furious driving or other misbehaviour causing hurt or damage. The financial limit is unrealistic now, and for any serious claim the complainant would have a civil remedy in the courts under the general law.

Section 35 of the London Hackney Carriages Act 1843 provided a procedure for compelling a proprietor to produce a driver who had committed an offence and enabling a

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<sup>41</sup> *Hunt v. Morgan* [1949] 1 K.B. 233, 240. In 1939 the Hindley Committee on Cabs and Private Hire Vehicles (Cmnd. 5938) had also recommended a review of the extent to which the law was obsolete.

<sup>42</sup> *Working Party on Hackney Carriage Law, Second Interim Report: The Law relating to Hackney Carriages in London* (1953).

<sup>43</sup> *Report of the Departmental Committee on the London Taxicab Trade* (1970) Cmnd. 4483, para. 1.48.

justice, if the driver is not produced, to proceed with the case and convict and fine the proprietor, who then had recourse against the driver to recover the fine. The Working Party reported in 1953 that the section was obsolete, but suggested that the owner of a cab should be required to give such information as he is able as to the identity of the driver. Under section 172 of the Road Traffic Act 1988 the person keeping a vehicle can be required to give information as to the identity of the driver.

Sections 12 and 13 of the London Hackney Carriage Act 1853 dealt with the enforcement of order at hackney carriage stands, the appointment and wages of persons employed for this purpose, and water rates. The Working Party reported in 1953 that both sections were obsolete.

### *Group 3 - Road Mileage Charges*

The Finance Act 1920 for the first time imposed on motor omnibuses and other heavy vehicles a substantial sum in taxation which would be wholly devoted to the improvement of highways. The local statutory provisions in this group are the unrepealed residue of a series of local Act provisions which imposed road mileage charges - an earlier form of road taxation on motor omnibuses. Following the Finance Act 1920 and the establishment of the Road Fund, section 10 of the Roads Act 1920 was enacted to phase out road mileage charges. Both that section and the provisions on which it operated are obsolete. The background<sup>44</sup> is explained below.

At the beginning of the 20th century the use of motor omnibuses was minimal, but in 1910 the London General Omnibus Company licensed its first B-type bus (which could carry up to 34 passengers). This signalled the introduction of larger vehicles and horse-drawn omnibuses were withdrawn from London in 1912. By the outbreak of war in 1914 motor omnibuses had become so well established that receipts from them totalled about a third of those from tramways. The rise in heavy traffic resulted in increased damage to roads and higher maintenance costs. The purpose of road mileage charges was to pay for this damage. The charges, which were based on the number of miles travelled by each vehicle, were imposed mainly on local authority omnibus undertakings and were payable to local highway authorities or other bodies (such as railway companies) responsible for maintaining roads and bridges.

Road mileage charges were imposed either by local Acts or under section 20 of the Local Government (Emergency Provisions) Act 1916. The first local Act seems to have been the West Bridgford Urban District Council Act 1913 (c.lviii),<sup>45</sup> which empowered that council to run motor omnibuses both within its district and on certain routes outside its district. Section 6 also required the council to pay to Nottingham County Council "an annual sum equal to three-eighths of a penny per car mile run by the motor omnibuses over any main

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<sup>44</sup> See Ministry of Transport Circular dated 25 January 1921, reprinted in *Pratt and MacKenzie's Law of Highways* (17th ed. 1923) 1285-87; S. Nowall-Smith, *Edwardian England 1901-1914* (1964) 123; J. Stevenson, *British Society 1914-1945* (1984) 26-7.

<sup>45</sup> Repealed by the West Bridgford Urban District Council Act 1927 (c.xxiv).

road towards the cost of the maintenance by the county council of such road". Between 1913 and 1920 a further 43 local Acts imposed road mileage charges in Great Britain.

By 1916 highway authorities were experiencing difficulties in obtaining materials and labour for road repairs. To prevent the expansion of motor omnibus traffic over new routes from making the situation worse, section 20 of the Local Government (Emergency Provisions) Act 1916 prohibited the use of omnibuses on new routes without the previous consent of the highway authority responsible for the maintenance of the road concerned, and provided that such consent might be given upon conditions, with a right of appeal to the Local Government Board against unreasonable refusal or the imposition of unreasonable conditions. Under this provision it became the practice of highway authorities, as a condition of granting consent, to insist upon the payment of mileage charges as a contribution towards the expenses of road maintenance.<sup>46</sup>

At the end of the First World War many roads were in a bad state of repair and it was recognised that the system of taxing road vehicles needed reform to raise more revenue for road maintenance and improvement. The Finance Act 1920 implemented the recommendations of a departmental committee<sup>47</sup> that the revenue needed should be raised by a single tax on road vehicles in accordance with a set scale of duties. Section 10 of the Roads Act 1920 was passed to implement a further recommendation of the departmental committee that road mileage charges should cease. It empowered the Minister of Transport to suspend, modify or determine mileage charges or other annual payments for the use of roads which had been imposed by Act of Parliament or otherwise. A Ministry of Transport Circular<sup>48</sup> sent to all local highway authorities in January 1921 explained why the charges were not abolished outright-

"Had it not been for the fact that under local Acts of Parliament there may be certain special arrangements in the nature of parliamentary bargains, which have been come to by the authorities concerned, and which it might be inequitable to revoke without consideration of the particular circumstances of the case, the Roads Bill would have contained a provision that all such payments should automatically cease as from the 1st instant [1 January 1921]. It was for this reason that section 10 was inserted in its present form".

The power to make road mileage charges under section 20 of the Local Government (Emergency Provisions) Act 1916 lapsed when that section expired on 31 August 1921.<sup>49</sup> Applications for the termination of mileage charges imposed by local Acts were dealt with mainly in 1921. During the next two years a further nine applications were dealt with and in

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<sup>46</sup> *Ministry of Transport Departmental Committee on Taxation and Regulation of Road Vehicles: Second Interim Report* (H.M.S.O. 1922) p.12.

<sup>47</sup> *Departmental Committee on Taxation and Regulation of Road Vehicles in Great Britain and Ireland: Interim Report* (1920) Cmd. 660.

<sup>48</sup> See fn.44 above.

<sup>49</sup> Termination of the Present War (Definition) Act 1918; S.R. & O. 1921 No.1276.

1923 the Ministry of Transport reported that "It is probable that very few cases now remain in which mileage charges are being paid for the use of roads by omnibuses".<sup>50</sup>

Road mileage charges have not been paid for many years. Research and consultation has confirmed that the unrepealed local statutory provisions which imposed road mileage charges are obsolete. Those consulted, who are listed below, agree that these provisions should be repealed, together with section 10 of the Roads Act 1920. The repeals would not affect the power of highway or roads authorities under the general law<sup>51</sup> to recover from vehicle operators the cost of repairing highways or roads damaged by excessively heavy or other extraordinary traffic.

Paragraph 98 of Schedule 8 to the New Roads and Street Works Act 1991 amended section 10 of the Roads Act 1920 to make it clear that the section had no application to tolls payable by virtue of the 1991 Act for the use of new roads. Its repeal is consequential.

The consultees on this project are-

Department of Transport  
Welsh Office  
Scottish Office  
Convention of Scottish Local Authorities  
Department of the Environment for Northern Ireland

British Railways Board  
British Waterways Board

Nottinghamshire County Council  
Ashfield District Council  
Broxtowe Borough Council  
Manchester City Council  
Salford City Council  
Wigan Metropolitan Borough Council

Gwent County Council  
Mid Glamorgan County Council  
South Glamorgan County Council  
West Glamorgan County Council  
Cardiff Borough Council  
Vale of Glamorgan Borough Council  
Islwyn Borough Council  
Newport [Gwent] Borough Council  
Torfaen Borough Council

Strathclyde Regional Council

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<sup>50</sup> *Ministry of Transport - Report on the Administration of the Road Fund for the years 1920-21 and 1921-22.* Road mileage charges were not mentioned again in subsequent reports.

<sup>51</sup> Highways Act 1980, s.59; Roads (Scotland) Act 1984, s.96.



#### *Group 4 - Selby Bridge*

The Selby Bridge carries the A19 trunk road over the River Ouse at Selby in Yorkshire. The original bridge was constructed under statutory powers granted in 1791 and 1803 which authorised the Selby Bridge Company to levy tolls for passage over it. The bridge was replaced in 1972 and the Selby Bridge Act 1984 conferred further powers in respect of the bridge and the tolls payable. The tolls for motor vehicles were last increased in 1986.<sup>52</sup> The taking of tolls caused substantial traffic delays and in 1991 the North Yorkshire County Council acquired both the bridge and the shares of the Selby Bridge Company, which became a wholly-owned subsidiary of Padstore Ltd, acting as nominees of the County Council. The taking of tolls over a period of two centuries came to an end on 19 September 1991.

The proposed repeals are of statutory provisions which are agreed by the North Yorkshire County Council to be obsolete, spent or unnecessary. The provisions concerned relate mainly to the administration of the Selby Bridge Company, the taking of tolls, the making of byelaws and the payment of an annual rentcharge of £25 to the successors of Lord Petre<sup>53</sup> which has been extinguished following the payment of a capital sum of £500.

#### *Group 5 - Port of London Improvement*

The enactments in this group were part of a scheme to improve facilities in the Port of London, then suffering serious congestion caused by the 18th century expansion of trade.<sup>54</sup> They empowered the Treasury compulsorily to purchase the legal quays on the north side of the Thames between London Bridge and the Tower of London, together with associated buildings, and to convey the premises to new owners. The transactions were eventually completed and the Treasury, the Department of Transport, H.M. Customs and Excise and the Port of London agree that the legislation is spent.

Legal quays were ancient wharves which had been authorised by the Crown for loading and unloading dutiable merchandise.<sup>55</sup> Adjacent to the quays to be purchased was the old custom house. In 1796 these important facilities still occupied only the same length of river frontage (1464 feet) as they did in the time of Queen Elizabeth I; and since they had become very inadequate, and the great wet docks were yet to be built, it was customary for shipping to be directed to other places up or down the river which were licensed for the same purpose, known as public sufferance wharves. The arrangement was far from satisfactory and section

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<sup>52</sup> Selby Bridge Tolls (Revision) Order 1986 (S.I. 1986 No.1401), a local order made by the Secretary of State for Transport under section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954.

<sup>53</sup> The rentcharge was granted to Lord Petre, then lord of the manor of Selby, in consideration of the vesting in the Selby Bridge Company of his rights of ferry.

<sup>54</sup> The background is described in reports of select committees of the House of Commons made in 1796, 1799 and 1800.

<sup>55</sup> See 1 Eliz. 1 c.11, s.1, extended by 14 Chas. 2 c.11, s.15. Both Acts were repealed by the Customs Laws Repeal Act 1825.

110 of the Act of 1800 (which mainly provided for the construction of wet docks at Wapping) authorised the Treasury to purchase the entire legal quays complex within two years. This accorded with a plan backed by the City of London for increasing the breadth of the quays and for building substantial warehouses and access roads.

The execution of the Treasury's powers was greatly protracted, partly because of competing vested interests, partly because enthusiasm was diluted by prospects for the erection of a new London Bridge (extending the Port of London up as far as Blackfriars Bridge) and partly because of the difficulty of unravelling the numerous titles and interests which were involved with the quays. The time allowed for the purchases was successively extended by later Acts passed in 1803,<sup>56</sup> 1806, 1807 and 1810. In 1812, when it was further extended, the Treasury was also empowered to buy the site of a new custom house in Lower Thames Street. In 1814 the time allowed was again extended. By 1832 the purchases by the Treasury had been virtually completed but further legislation was needed to convey the quays and warehouses to their new owners with good titles notwithstanding the destruction of some of the documents by a fire in the old custom house. In 1833 the last Act in the series completed the matter by clearing the new titles of all defects due to unsurrendered interests and unextinguished charges which had been discovered after the passing of the Act of 1832.

#### *Group 6 - Entry of Cargo imported by Sea*

The Legal Quays Acts of 1846 and 1847 applied to the legal quays in the Port of London a procedure aimed at preventing congestion by making it unnecessary for vessels to stand at the quays serving as floating warehouses. Under this procedure the master of a vessel arriving home with a foreign cargo, and finding no one prepared to receive it, could enter it with the customs and unload it into a warehouse without prejudicing the shipowner's lien for the freight. The procedure was extended to other authorised wharves in the Port of London by the Sufferance Wharves Acts of 1848, 1857 and 1858. In 1862 similar provisions in general terms were enacted by sections 66 to 77 of the Merchant Shipping Amendment Act 1862. These were later consolidated as sections 492 to 501 of the Merchant Shipping Act 1894.

The 1862 provisions consolidated in 1894 have long been in desuetude. They belong to the age of long sea voyages under sail and communication by semaphores. It seems that by the first decade of the 20th century the procedure was in decline, partly because it threw up difficult questions of statutory interpretation<sup>57</sup> and partly because by then it had become

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<sup>56</sup> 43 Geo. 3. c.cxxiv, repealed by the Thames Conservancy Act 1894.

<sup>57</sup> See e.g. *Smailes & Son v. Hans Dessen & Co.* (1905) 10 Aspinall's Maritime Law Cases 225, 319. The Master of the Rolls, with whom the other two judges agreed, described the Merchant Shipping Act 1894, ss.493 and 494 as "very difficult statutory provisions" which were not to be lightly invoked by a party who was unsure of their applicability. The case was decided on other grounds.

the general practice of shipowners to protect themselves by the terms of their contracts.<sup>58</sup> The case law indicates that the provisions were little used, if at all, after about 1921.

The need to invoke the old procedure does not now arise. The Customs and Excise Management Act 1979<sup>59</sup> contains adequate machinery enabling a captain to enter his cargo as importer and avoid the use of his ship as a floating warehouse. The legal rights of shipowners fall to be determined by the terms of the contract relating to a consignment. The Department of Transport, the Port of London Authority, H.M. Customs and Excise and the General Council of British Shipping (representing shipowners' interests) have been consulted and agree that the enactments proposed for repeal are obsolete and unnecessary.

The repeals in the Arbitration Act 1950 and the Customs and Excise Management Act 1979 (both consolidation measures) are consequential.

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<sup>58</sup> See the authoritative *Abbott's Law of Merchant Ships and Seamen* (14th ed. 1901) 56: "From the scarcity of reported cases dealing with this difficulty, it is probable that shipowners generally protect themselves by the terms of their contracts ...".

<sup>59</sup> Customs and Excise Management Act 1979, s.37 (entry of goods on importation) as read with s.1(1) (definition of "importer").

## PART XVI

### MISCELLANEOUS

#### *Group 1 - General Repeals*

The Cinque Ports Act 1821 and the Cinque Ports Act 1828 still confer a statutory salvage jurisdiction on the Court of Admiralty of the Cinque Ports acting as a court of appeal from the Salvage Commissioners of the Cinque Ports. This jurisdiction is concurrent with that of the High Court, although it has not been used in practice for many years.<sup>1</sup> There is no need to maintain two separate Acts on the statute book for the purpose of the jurisdiction and the effect of the Cinque Ports Act 1828 (which enables the powers of the lord warden to be exercised by the deputy warden) would be preserved by a consequential textual amendment of the 1821 Act in Schedule 2 to the draft Bill. The other repeals are of provisions which the Registrar of the Cinque Ports agrees are obsolete and unnecessary.

In the Reserve Forces Act 1870 (originally called the Army Enlistment Act 1870), the substantive provisions were repealed by the combined operation of the Regulation of the Forces Act 1881, the Reserve Forces Act 1882, the Militia Act 1882 and the Territorial Army and Militia Act 1921. Only section 22 (definition of Secretary of State) remains and its repeal is consequential on the earlier repeals. The current law on reserve forces is mainly consolidated by the Reserve Forces Act 1980.

In the Statute Law Revision Act 1894, section 4 (omission of enacting words from revised statutes)<sup>2</sup> is superseded by section 3(1)(a) of the Statute Law Revision Act 1948. The remainder of the Act has either been repealed or is spent.

In the Census Act 1920, which applies to Great Britain, section 3(1)(b) enables the making of regulations-

"(b) requiring *superintendent registrars, registrars, overseers and assistant overseers of the poor, relieving officers for poor law unions, collectors of the poor rate, and such other persons* as may be employed for the purpose of the census, to perform such duties in connection with the taking of the census as may be prescribed".

The references to named officers (superintendent registrars, registrars and poor law officers) are obsolete and unnecessary as are the corresponding Scottish provisions in paragraph (3) of section 9. Under the modern Census Regulations<sup>3</sup> provision is made only for the appointment

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<sup>1</sup> The latest available evidence of the activities of the Salvage Commissioners is some case papers for 1923, now held by the Centre for Kentish Studies, Kent County Council.

<sup>2</sup> In 1850 Lord Brougham's Act (13 Vict. c.21, s.2) abolished the practice of inserting formal enacting words to introduce each substantive enactment. Statute Law Revision Acts passed between 1888 and 1894 expressly repealed most pre-1850 provisions of this nature.

<sup>3</sup> Census Regulations 1990 (S.I. 1990 No. 307), Census (Scotland) Regulations 1990 (S.I. 1990 No. 326).

of census area managers, census officers, assistant census officers, enumerators and such other persons as may be necessary for taking the census. The general duty of making arrangements for the carrying out of a census is imposed by the Act on the Registrar General or in Scotland on the Registrar General for Scotland, who support the repeal proposals.

Section 7 of the Census Act 1920 (expenses of local authorities) so far as proposed for repeal provided that the expenses incurred by district councils in England and Wales in pursuance of section 6 (local census on application of local authority) should be defrayed as expenses incurred in the administration of the Public Health Acts 1875 to 1908. This provision is obsolete and superseded by sections 147 and 148 of the Local Government Act 1972.

In section 9 of the Census Act 1920 (application to Scotland) paragraph (1) so far as proposed for repeal modified references to the Minister of Health and is surplusage since the functions concerned have been transferred to the Secretary of State.<sup>4</sup>

The Merchandise Marks Act 1926 was repealed for the United Kingdom by the Trade Descriptions Act 1968. In the Isle of Man provision corresponding to the Trade Descriptions Act 1968 was made by an Act of Tynwald in 1970<sup>5</sup> which for practical purposes has superseded section 2 of the 1926 Act (indication of origin in the case of certain imported goods) as it applied to the Isle of Man. The proposed repeal is agreed to by the authorities in the Isle of Man.

The Statute Law Revision Act 1927 has had its effect and is spent.

The Colonial Naval Defence Act 1931 consolidated the Colonial Naval Defence Acts 1865 and 1909. Section 4(2), a transitional saving for the arrangements made by colonies before 1931, is spent and unnecessary.

The Water Supplies (Exceptional Shortage Orders) Act 1934, which applied to Great Britain, was repealed for England and Wales in 1991<sup>6</sup> and is obsolete in Scotland. The power to make orders under the Act expired on 31 December 1935, but orders made by the Secretary of State for Scotland before that date were saved so far as they related to the taking of water for an indefinite period or the purchase of land. Research has shown that no pre-1936 orders within the scope of the saving were ever made for Scotland. The modern law relating to the making of drought orders in Scotland is contained in Part III of the Natural Heritage (Scotland) Act 1991.

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Census Regulations are made afresh every ten years.

<sup>4</sup> Secretary of State for Social Services Order 1968 (S.I. 1968 No. 1699), Arts. 2, 5(4)(a).

<sup>5</sup> Consumer Protection (Trade Descriptions) Act 1970.

<sup>6</sup> Water Consolidation (Consequential Provisions) Act 1991. That Act includes a saving (Sch.2, para. 5(4)) for s.11 of the Sevenoaks Water Order 1934 (protective provisions for the benefit of British Rail) which was made under the 1934 Act.

Section 5(1)(a) of the Hours of Employment (Conventions) Act 1936 modified references to the Factories and Workshops Acts 1901 to 1929 in the application of the Act to Northern Ireland. Sections 1 and 3(5) of the Act, which contained such references, have been repealed for Northern Ireland.<sup>7</sup> Section 5(1)(a) is consequentially obsolete.

The Civil Defence Act 1939 has been largely superseded by the Civil Defence Act 1948 and most of the 1939 Act was accordingly repealed in 1976.<sup>8</sup> The residue consists mainly of powers to require the taking of civil defence measures by public utility undertakings in Great Britain. The repeals proposed are of-

- (a) spent provisions relating to reports made, or financial assistance given, soon after the commencement of the Act on 13 July 1939 (sections 36(1) and 39(1));
- (b) ancillary provisions relating to the powers of entry of factory inspectors and mines inspectors<sup>9</sup> which the Health and Safety Executive agrees are redundant in consequence of the repeal of the substantive provisions of the Act<sup>10</sup> for which the powers of entry were taken (sections 79 and 90);
- (c) referential provisions which are obsolete in consequence of the repeal in 1976 of section 40 (railway undertakings), section 41 (dock and harbour undertakings) and section 56 (evacuation of civil population) (sections 36(2), 39(3), 77).

In the Statute Law Revision Act 1948, which preceded the third edition of *Statutes Revised* (1950), section 3(1)(c) to (f) and section 4 provided in general terms for the repeal or omission of various recurrent words relating to obsolete civil procedure (which occurred mainly in now obsolete statutory provisions for the recovery of penalties by common informers), to Scottish stewartries<sup>11</sup> (which occurred mainly in now obsolete definitions of "sheriff" or "county") and to self-governing Dominions of the old Commonwealth. The utility of these provisions proved to be marginal and in practice they were little used. The provisions are spent or unnecessary now, as is section 1 (repeal of scheduled enactments).

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<sup>7</sup> Sex Discrimination Act 1986; Factories Legislation (Repeals and Modifications) Regulations (Northern Ireland) 1979 (S.R. 1979 No. 246).

<sup>8</sup> Statute Law (Repeals) Act 1976, Sch.1, Pt.V.

<sup>9</sup> References to factory inspectors and mines inspectors are now to be construed as references to inspectors appointed under the Health and Safety, etc. Act 1974. See Factories Act 1961 etc. (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 1941), reg.6; Mines and Quarries Acts 1954 to 1971 (Repeals and Modifications) Regulations 1974 (S.I. 1974 No. 2013) reg. 6 respectively.

<sup>10</sup> See e.g. s.10 (air-raid shelters for persons working or living in factory premises), Part III (private shelters and training in certain factories, mines and buildings), s.89 (definitions of "factory", "factory premises", "mines", etc).

<sup>11</sup> This provision was intended to give effect to the Interpretation Act 1889, s.7 (meaning of "sheriff clerk", &c. in Scottish Acts) which had re-enacted an Act of 1837 (7 Will.4 & 1 Vict. c.39). The 1889 provision was repealed as obsolete by the Interpretation Act 1978.

The Civil Defence (Sewerage) Regulations 1949 and the Civil Defence (Water Supplies) Regulations 1949,<sup>12</sup> which apply to England and Wales, imposed a duty on sewerage authorities and statutory water undertakers to supply the Secretary of State with information and to take measures, as directed by the Secretary of State, to secure the due functioning of their undertaking in the event of hostile action. The regulations were superseded by section 170 of the Water Act 1989, now consolidated by section 208 of the Water Industry Act 1991 (directions in the interests of national security). The Department of the Environment agrees that the regulations are now unnecessary and should be revoked.

In the Statute Law Revision Act 1950-

- (a) section 3(1) so far as proposed for repeal (omission from revised editions of the statutes of enactments relating to the Union of South Africa, India, Pakistan, Ceylon and Burma) is unnecessary in consequence of the later repeal of the enactments which the authorisation was intended to cover<sup>13</sup>;
- (b) section 5(3) (saving for 13 Edw. 1 c.34 as it applied to Northern Ireland) is obsolete in consequence of the repeal of that statute by the Property (Northern Ireland) Order 1978 (S.I. 1978 No. 459, N.I. 4).

In the Nurses Agencies Act 1957, a consolidation of the law for England and Wales, the repeals are of spent transitional provisions relating to offences committed, or other things done, under legislation repealed in 1957.

In the Emergency Laws (Re-enactments and Repeals) Act 1964, which made permanent a number of Defence Regulations, the only substantive provisions still in force are section 1 (hire-purchase control) and section 2 (power of Treasury to prohibit action as to gold, etc.). No pre-1964 orders or directions still have effect under these sections and consequently section 22(2) to (5) (savings for orders or directions under repealed enactments and instruments) is obsolete. The other repeals are consequential-

- (a) in the case of section 14 (legal proceedings), on the repeal of section 3 (temporary powers for purposes of defence) by the Statute Law (Repeals) Act 1977;
- (b) in the case of section 20 (extent of orders) on the repeal of section 4 (welfare foods) by the Social Security Act 1988.

In the Malta Independence Act 1964, the proposed repeal (provisions relating to copyright) is consequential on the enactment of the Copyright, Designs and Patents Act 1988.

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<sup>12</sup> The regulations were made under the Civil Defence Act 1948, ss.2, 6.

<sup>13</sup> The main purpose was to authorise the omission from *Statutes Revised* (3rd ed. 1950) of the Government of India Act 1935. That Act was repealed so far as it formed part of the law of India or Pakistan by legislation enacted by India and Pakistan in 1950 and 1956 respectively. Except for ss.1 and 311(4) and (5) (amendments of pre-1935 British statutes), the Act was repealed for the United Kingdom by the Statute Law (Repeals) Act 1976, Sch.1, Pt.VII.

It would correct a mistake in the repeal schedule to that Act, which purported to repeal paragraph 11 of Schedule 1 (*sic*) to the Malta Independence Act 1964. The repeal of the incorrect entry in Schedule 8 to the Copyright, Designs and Patents Act 1988 is consequential.

Section 34(6) of the Immigration Act 1971 provided that so long as section 2 of the Southern Rhodesia Act 1965 remained in force, the 1971 Act should have effect subject to any provision made by Order in Council under that section. The repeal of this enactment is consequential on the repeal of the Southern Rhodesia Act 1965 by the Zimbabwe Act 1979.

In the Health and Safety at Work etc. Act 1974, the Health and Safety Executive agrees that-

- (a) section 78(3) (repeals of section 2(a) to (c) of the Fire Precautions Act 1971) is spent and has also been overtaken by a wider repeal<sup>14</sup> effected by Schedule 4 to the Fire and Safety of Places of Sport Act 1987;
- (b) section 83(1) and Schedule 9 (amendments of other enactments) are obsolete in consequence of the repeal of the amendments concerned;
- (c) section 83(2) and Schedule 10 (repeals) are spent so far as the repeals have been brought into force<sup>15</sup> and are obsolete so far as they relate to repeals in the Town and Country Planning Act 1947, the Atomic Energy Authority Act 1954 and the Maplin Development Act 1973<sup>16</sup>;
- (d) paragraph 3 of Schedule 8 (pending applications for a fire certificate under the Factories Act 1961 or the Offices, Shops and Railway Premises Act 1963) is long since spent.

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<sup>14</sup> In section 2 of the Fire Precautions Act 1971, the words from "of any of the following" to "any premises" were last occurring. This later repeal was brought into force on 1 January 1988 by the Fire Safety and Safety of Places of Sport Act 1987 (Commencement No.1) Order 1987 (S.I. 1987 No.1762).

<sup>15</sup> The entries relating to the Fire Precautions Act 1971, ss.2 and 17(1)(i) merely duplicated repeals effected by the Health and Safety at Work etc. Act 1974, s.78(3) and (6) respectively, which were brought into force on 1 April 1975 by the Health and Safety at Work etc. Act 1974 (Commencement No.1) Order 1974 (S.I. 1974 No.1439).

<sup>16</sup> The entry relating to the Atomic Energy Authority Act 1954 (which applies only to England and Wales and prospectively repeals s.5(5) of that Act) has been consolidated and superseded by the Building Act 1984, s.4(2) and Sch.7. The entries relating to the Town and Country Planning Act 1947 and the Maplin Development Act 1973 have been overtaken by the later repeal of those Acts.



## *Group 2 - Ireland*

The Acts of the United Kingdom Parliament in this group, which continued to form part of the law of the Irish Free State following partition in 1922, have been repealed as they apply to the Republic of Ireland and are obsolete as law of the United Kingdom. The parallel repeals proposed will finally remove this dead wood from the statute book.

The repealing Acts of the Oireachtas are as follows-

Intoxicating Liquor Act 1927 (1910 c.33);

Juries Act 1927 (1864 c.28);

Game Preservation Act 1930 (1865 c.2);

Vocational Education Act 1930 and Agriculture Act 1931 (1902 c.3);

Electoral (Registration Appeals) Act 1932 (1857 c.68; 1861 c.56; 1884 c.35);

Registration of Title Act 1942 (1909 c.36);

Local Government (Repeal of Enactments) Act 1950 (1838 c.51; 1873 c.65);

Mental Treatment Act 1961 (1830 c.22; 1831 c.13);

Curragh of Kildare Act 1961 (1868 c.60);

Electoral Act 1963 (1849 c.85; 1878 c.75);

Statute Law Revision Act 1983 (1837 c.25; 1840 c.103; 1855 c.69; 1875 c.20; 1890 c.12);

Canals Act 1986 (1818 c.35).

## SCHEDULE 2

### CONSEQUENTIAL AND CONNECTED PROVISIONS

#### PART I

#### AMENDMENTS RELATING TO SUMMARY JURISDICTION

##### *Servants' Characters Act 1792*

Consequentially on the proposed repeal (Group 1 of Part I of Schedule 1) of section 6 of the Servants' Characters Act 1792 (punishment of statutory offences relating to fraudulent representations as to employment), the amendments preserve the residual effect of that section and specify the present penalty for contravening sections 1 to 5.

##### *Ordnance Survey Act 1841*

Consequentially on the proposed repeal (Group 1 of Part XIII of Schedule 1) of section 13 of the Ordnance Survey Act 1841 (recovery and application of penalties for summary offences), the amendments preserve the residual effect of that section and specify the present penalty for contravening sections 7 and 8 (removing boundary marks or obstructing a survey).

##### *Public Notaries Act 1843*

As originally enacted, section 10 of the Public Notaries Act 1843 (penalty for unauthorised practice as a notary) provided for a penalty of £50 recoverable within 12 months by action of debt, plaint or information in any of Her Majesty's superior courts of record at Westminster. The effect of the Common Informers Act 1951, and later legislation, is that a contravention of the section is now a summary offence for which the penalty is a fine not exceeding level 3 on the standard scale. Consequentially on the proposed repeal (Group 1 of Part I of Schedule 1) of section 16 of the Public Notaries Act 1801 and of the relevant entry in the Schedule to the Common Informers Act 1951, section 10 of the Public Notaries Act 1843 would be textually amended to reflect the present law. The 1843 Act does not apply to Scotland or Northern Ireland.

Clause 3 of the draft Bill enables the amendment to be extended, with such modifications as may be necessary, to dependencies to which section 10 of the Public Notaries Act 1843 applies.

##### *Inclosure Acts 1849 and 1852*

The amendments are consequential on the proposed repeal (Part IV of Schedule 1) of the Statute Law Revision (Substituted Enactments) Act 1876. That Act provides that offences under section 10 of the Inclosure Act 1849 and section 33 of the Inclosure Act 1852 shall be deemed to be offences punishable on summary conviction under the Summary Jurisdiction Acts. The amendments would preserve the residual effect of the 1876 provisions and would also specify the present penalty.

### *Town Gardens Protection Act 1863*

Consequentially on the proposed repeal (Part IV of Schedule 1) of section 6 of the Town Gardens Protection Act 1863 (application of Summary Jurisdiction Act 1848 to penalties or forfeitures) the amendments preserve the residual effect of that section.

### *Wimbledon and Putney Commons Act 1871*

Consequentially on the proposed repeal (Part IV of Schedule 1) of section 94 of the Wimbledon and Putney Commons Act 1871 (proceedings for summary convictions and appeals), the amendment preserves the residual effect of the section in relation to the contravention of byelaws made by the Wimbledon and Putney Commons Conservators.

### *Births and Deaths Registration Act 1874*

Consequentially on the proposed repeal (Group 1 of Schedule 1) of section 45 of the Births and Deaths Registration Act 1874 (recovery of penalties), the amendments preserve the residual effect of that section and specify the present penalty for contravening sections 18 and 19 (offences relating to burials).

### *Seal Fishery Act 1875*

The amendment is consequential on the proposed repeal (Part II of Schedule 1) of section 3 of the Seal Fishery Act 1875 (prosecution of offences) so far as it provided for a common informer action to recover penalties for an offence under section 2 (close time for Greenland seal fishery). Common informer actions were abolished in the early 1950s<sup>1</sup> and offences under section 2 are now punishable on summary conviction by a fine not exceeding level 3 on the standard scale. The amendment would alter the statutory text accordingly.

### *Supreme Court Act 1981*

The amendment is consequential on the proposed repeal (Group 1 of Part I of Schedule 1) of the Summary Jurisdiction Act 1857, which now applies only to England and Wales. Sections 6 and 7 of that Act (proceedings in the High Court on case stated by a magistrates' court) properly belong in the Supreme Court Act 1981 and the amendment would re-enact their provisions, without changing the law, within the legislative framework of the Supreme Court Act 1981.

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<sup>1</sup> Common Informers Act 1951; Common Informers Act (Northern Ireland) 1954.

## PART II

### OTHER PROVISIONS

#### *Cinque Ports Act 1821*

Consequentially on the proposed repeal (Group 1 of Part XVI of Schedule 1) of the Cinque Ports Act 1828, the amendment preserves the effect of section 1 of that Act (powers of deputy warden of cinque ports), locating the provisions in the statute to which it refers.

#### *Chartered Companies Acts 1837 and 1884*

Consequentially on the proposed repeal (Group 1 of Part V of Schedule 1) of section 29 of the Chartered Companies Act 1837, as supplemented by the Chartered Companies Act 1884, the saving preserves the Crown's power to grant or renew charters of incorporation of limited duration.

#### *Trafalgar Square Act 1844*

Consequentially on the proposed repeals (Group 1 of Part XIII of Schedule 1) in the Crown Lands Act 1851, the amendment preserves the functions of the Secretary of State under the Trafalgar Square Act 1844.

#### *Parliamentary Costs Acts 1847 and 1849*

The amendments are connected with the proposed repeals (Group 1 of Part XI of Schedule 1) in section 8 of the House of Commons Costs Taxation Act 1847 and the corresponding section 8 of the House of Lords Costs Taxation Act 1849 (taxing officer to tax a bill of costs on application). The present texts provide that an application for taxation shall not be entertained if made "after a verdict shall have been obtained or a writ of inquiry executed" in any action in the courts for the recovery of costs. The references to a writ of inquiry are obsolete and proposed for repeal. The further references to a verdict are also out of date and the sections should now refer to the obtaining of a judgment.<sup>2</sup> The amendments complete the revision by effecting this change.

#### *Ecclesiastical Commissioners Act 1850*

The amendment is consequential on the proposed repeal (Part VI of Schedule 1) of the Episcopal and Capitular Estates Act 1859. It preserves the effect of section 2 of that Act (evidence of the appointment of a Church Estates Commissioner),<sup>3</sup> locating the provisions in the statute which provides for the appointment of Church Estates Commissioners.

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<sup>2</sup> See Solicitors Act 1974, s.70(3)(b), an analogous provision. The change was effected by the Solicitors (Amendment) Act 1974, Sch.2, para.27.

<sup>3</sup> The other enactments comprising the Episcopal and Capitular Estates Acts 1851 to 1859 were repealed by the Statute Law Revision Act 1964.

*Improvement of Land Act 1864 and Lands  
Improvement Company's Act 1853*

The amendments are connected with the proposed repeals (Group 2 of Part XIII of Schedule 1) in section 73 of the Improvement of Land Act 1864 and the corresponding section 71 of the Lands Improvement Company's Act 1853 (power to enter on neighbouring land for repair of works). The original procedure under the Lands Clauses Acts for the determination of disputed compensation by two justices, or in Scotland by the sheriff, is obsolete and questions as to disputed compensation now fall to be determined by the Lands Tribunal or the Lands Tribunal for Scotland.<sup>4</sup> The amendments would complete the revision of the old provisions by substituting references to the Lands Tribunal or the Lands Tribunal for Scotland for the obsolete and misleading references to two justices or the sheriff.

*Metropolitan Streets Act 1867*

The amendment is consequential on the proposed repeal (Group 1 of Part XV of Schedule 1) of sections 2 and 4 of the Metropolitan Streets Act 1867 and of the Metropolitan Streets Act 1885. These provisions still specify the limits of the 1867 Act by reference to parishes and places within the jurisdiction of the Metropolitan Board of Works, a body which ceased to exist more than a century ago. The present effect of the provisions would be preserved by a new definition.

*Disused Burial Grounds Act 1884*

The amendment is consequential on the proposed repeal (Part IV of Schedule 1) of the Open Spaces Act 1887. The Open Spaces Acts 1877 to 1890 were consolidated in 1906,<sup>5</sup> but section 4 of the Open Spaces Act 1887 was not repealed then because it explained expressions used in the Disused Burial Grounds Act 1884 (which prohibits the erection of buildings on disused burial grounds).<sup>6</sup> The 1887 Act legislated by reference to the Metropolitan Open Spaces Act 1881, which was repealed in 1906. The amendment eliminates this unnecessary statutory tangle and preserves the effect of the 1887 provisions by replacing the definitions in section 2 of the Disused Burial Grounds Act 1884.

*Notification of Births Act 1907*

Consequentially on the proposed repeal (Part VIII of Schedule 1) of the Public Health (Notification of Births) Act 1965, which now applies only to Scotland, the amendment preserves the effect of section 1(2) of that Act (which made a technical change in the form supplied by local authorities to medical practitioners and midwives for the purpose of notifying births).

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<sup>4</sup> Lands Tribunal Act 1949, s.1(3)(b).

<sup>5</sup> Open Spaces Act 1906. The legislation has not been consolidated since then.

<sup>6</sup> The Disused Burial Grounds Act 1884 and the Open Spaces Act 1887, so far as unrepealed, apply only to England and Wales.

### *Small Holdings and Allotments Act 1908*

The amendment is connected with the proposed repeals (Part III of Schedule 1) in the Small Holdings and Allotments Act 1908. Section 47(3) of that Act still refers to claims for compensation for improvement under the Allotments and Cottage Gardens Compensation for Crops Act 1887. The 1887 Act was replaced by section 3 of the Allotments Act 1922.<sup>7</sup> The amendment would bring the 1908 reference up to date.

### *Ferries (Acquisition by Local Authorities) Act 1919*

The amendment is consequential on the proposed repeal (Part X of Schedule 1) of section 1(5) of the Ferries (Acquisition by Local Authorities) Act 1919, as it applies to England and Wales (local inquiries for the purposes of the 1919 Act). As originally enacted, that provision legislated by reference to the powers conferred upon the Minister of Health by section 87 of the Local Government Act 1888. Section 250(6) of the Local Government Act 1972 now applies the powers conferred by section 250(1) to (5) of the 1972 Act. Consequently section 1(5) of the Ferries (Acquisition by Local Authorities) Act 1919 is obsolete and unnecessary except so far as it enables inquiries to be held under that Act. This residual effect would be preserved by the amendment.

### *Official Secrets Act 1920*

The amendment is consequential on the proposed repeal (Group 1 of Part I of Schedule 1) of section 11(3) of the Official Secrets Act 1920 (definition of "chief officer of police"). The 1920 definition is out of date and is superseded in its application to Great Britain. The amendment would preserve the modern effect of the definition in its application to Northern Ireland.<sup>8</sup>

### *Road Traffic Act 1930*

The amendment is consequential on the proposed repeal (Group 1 of Part XV of Schedule 1) of Schedule 17 to the Road Traffic Act 1960 (which inserted section 121(1A) of the Road Traffic Act 1930). Section 121(1A) still defines public service vehicles by reference to the Road Traffic Act 1960, although the relevant provisions of that Act have been replaced by the Public Passenger Vehicles Act 1981. The amendment would substitute the correct reference.

### *Children and Young Persons Act 1933*

Consequentially on the proposed repeal (Part VIII of Schedule 1) of the Children and Young Persons (Amendment) Act 1952, which applies to England and Wales, the amendment

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<sup>7</sup> The 1887 Act was originally destined to be replaced by the Bill which became the Agricultural Holdings Act 1923, but the replacement provisions were transferred to the Allotments Bill at a late stage in the parliamentary proceedings on the latter Bill.

<sup>8</sup> See Constabulary Act (Northern Ireland) 1922, s.1(4); Royal Ulster Constabulary (Ranks) Regulations 1979 (S.R. 1970 No.111), reg.6.

preserves the effect of section 11 of the Children and Young Persons Act 1933 as amended in 1952 (exposing children under the age of twelve years to the risk of burning).

#### *Public Health Act 1936*

The amendment of section 143(7) is consequential on the proposed repeal (Group 1 of Part X of Schedule 1) of section 319 of the Public Health Act 1936 (regulations laid before Parliament to be subject to annulment by either House of Parliament). Section 319 is inoperative in England and Wales in consequence of the repeal of the provisions to which it related. The amendment would preserve the effect of the section as it applies to Northern Ireland.

The amendment of section 343(1) is consequential on the proposed repeal (Group 3 of Part XIV of Schedule 1) of the outdated references to workshops in the Public Health Act 1936. The Public Health Act 1936 still refers to factories or workshops within the meaning of the Factory and Workshop Acts 1901 to 1929. The references should now be to factories within the meaning of the Factories Act 1961.<sup>9</sup> The relevant definition in the Public Health Act 1936 would be amended accordingly.

#### *Statutory Orders (Special Procedure) Act 1945*

The amendments are connected with the proposals (Group 1 of Part XI of Schedule 1) to revise the Parliamentary Costs Acts. Section 7 of the Statutory Orders (Special Procedure) Act 1945 applies the provisions of the House of Commons Costs Taxation Act 1847 and the House of Lords Costs Taxation Act 1849 which relate to costs incurred on a private Bill to costs incurred on an order under the 1945 Act. The references to the Minister of Health in section 7(2) of the 1945 Act are obsolete and proposed for repeal. A further reference to the Minister of Health in section 7(3) (costs incurred by a local authority) is now to be construed as a reference to the Secretary of State. The first amendment would alter the statutory text accordingly.

Section 10(5), the Scottish version of section 7(3), is also defective. It continues to define a local authority by reference to the Local Authorities Loans (Scotland) Act 1891, a statute repealed in 1947. The second amendment would clarify the text by substituting a reference to a regional, islands or district council in Scotland.

#### *Crown Proceedings Act 1947*

By virtue of the Crown Proceedings (Northern Ireland) Order 1981 (S.I. 1981 No.233) two versions of the Crown Proceedings Act 1947 have effect in Northern Ireland. This paragraph extends the proposed repeals in that Act (Group 1 of Part I of Schedule 1) to both versions.

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<sup>9</sup> Factories Act 1961, s.184.

### *Post Office Act 1953*

The amendment is consequential on the proposed repeal (Group 1 of Part XV of Schedule 1) of Schedule 17 to the Road Traffic Act 1960 (which inserted section 87(1A) of the Post Office Act 1953). Section 87(1A) still defines a public service vehicle by reference to the Road Traffic Act 1960, although the relevant provisions of that Act have been replaced by the Public Passenger Vehicles Act 1981. The amendment would substitute the correct reference.

### *Companies Act 1967*

Consequentially on the proposed repeal (Group 2 of Part V of Schedule 1) of the Insurance Companies Act 1974, a 1974 amendment of section 89(1) of the Companies Act 1967 (criminal liability of directors, etc, of an industrial assurance company) would be continued in force.

### *Policyholders Protection Act 1975*

The amendments are consequential on the proposed repeal (Group 2 of Part V of Schedule 1) of paragraphs 10 and 11 of Schedule 3 to the Insurance Companies Act 1980 (amendments of Policyholders Protection Act 1975). These paragraphs amended the 1975 Act to refer to Article 109 of the Companies (Northern Ireland) Order 1978, which has now been revoked and replaced by Article 442 of the Companies (Northern Ireland) Order 1986. The amendments would substitute the correct references.



## APPENDIX 3

### MONKEN HADLEY COMMON

The Act 17 Geo. 3 c.17 (the Enfield Chase Act) allotted portions of a chase in Middlesex to the parishes of Monken Hadley, Edmonton and Enfield, incorporating the churchwardens for the time being of each parish for the purpose of holding the land in trust for the freeholders and copyholders entitled to a right of common over the chase. Section 60 of the Act authorised the making of rules and orders for the use, management and regulation of the land. As respects Edmonton and Enfield the Act was overtaken by inclosure awards in the early 19th century;<sup>1</sup> but Monken Hadley Common, now situated in the London Borough of Barnet, survived and has been registered under the Commons Registration Act 1965. The repeal of the Enfield Chase Act in 1978 did not affect the existence of the common, or any title of the churchwardens (the trustees) in respect of the land,<sup>2</sup> but rules and orders under the Act lapsed then,<sup>3</sup> together with any power to make further rules and orders.

The power to make rules and orders under the Enfield Chase Act was enacted more than two centuries ago and the procedure is out of date. As originally enacted, the power was conferred on

"any ten or more persons residing within the [parish of Monken Hadley] and assessed to the Poor's Rates thereof ... at the rate of ten pounds per annum rent each or upwards, together with the Churchwardens or with the Overseers of the Poor of the said parish respectively for the time being".

After being approved by a majority of those present at a duly convened meeting in vestry within the parish, the rules and orders were required, in order to be valid and effectual, to be confirmed and signed

"by the major part of all the owners and proprietors of messuages and lands within such parish, intituled to a right of common on the allotment made from the chase to such parish, who were assessed to the land tax for the preceding year, at the rate of ten pounds per annum each, or more, or their trustees, committees, guardians, attornies or agents; which major part shall be determined by the assessment to the land tax for such preceding year".

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<sup>1</sup> 39 & 40 Geo.3 c.79 (1800); 41 Geo.3 c.cxliv (1801). See David Pam, *The Story of Enfield Chase* (1984) 156; Frank A. Milne, *Hadley Common* (1884) 6.

<sup>2</sup> Interpretation Act 1889 s.38(2), now consolidated by Interpretation Act 1978, s.16.

<sup>3</sup> *Watson v. Winch* [1916] 1 K.B. 688. Rules and orders were made in 1904-5 and amended in minor respects in 1927. In 1981 fresh rules and orders, abrogating all previous instruments, purported to be made. The trustees did not become aware of the 1978 repeal until 1991.

Following the abolition of the land tax in 1963<sup>4</sup> it has been impossible to comply with the latter requirement. However, the trustees contend that the requirement should be treated as directory, and not mandatory, and that in construing it a court would give effect to the doctrine of *cy-près* and say that the direction should be carried out as nearly as possible.<sup>5</sup> The poor rate was replaced by the general rate by virtue of the Rating and Valuation Act 1925. Under recent legislation<sup>6</sup> the Secretary of State has wide powers to make regulations altering statutory references to rating.

Recently the right of the trustees to continue to regulate the common was challenged by the London Borough of Barnet, who contended that section 269 of the Local Government Act 1933 had the effect of transferring functions in respect of the common, and also its ownership, to the local authority. The trustees did not accept the claims. The London Borough of Barnet have now informed the trustees that they do not propose to pursue the claims.

In 1978, when the repeal of the Enfield Chase Act was recommended,<sup>7</sup> the trustees were not consulted because the Law Commission was not aware of their existence or of their reliance on section 60 of the Act. Consequently the difficult issues that are involved were not canvassed then. For this reason we are recommending, at the request of the trustees, that the position that obtained before the 1978 repeal should be restored by deeming the Enfield Chase Act not to have been repealed. Having regard to the uncertainties regarding the effect of the Enfield Chase Act in 1978, it is necessary to make it clear that this provision carries no implication as to the validity of rules and orders previously made nor as to whether rules and orders can in future be made under that Act. We also wish to make it clear that the provision would not impose any liability in respect of anything done since 1978. We understand that no criminal proceedings have been taken since then in reliance on section 60 of the Enfield Chase Act.

Effect would be given to our recommendation by clause 2 of the draft Bill. The proposal has been canvassed with the trustees and Barnet Borough Council. Barnet Borough Council have informed us that they have no comment.

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<sup>4</sup> Finance Act 1963, s.68. Land tax became uneconomic to assess and collect and the Finance Act 1949 paved the way for its final extinction in 1963.

<sup>5</sup> See F.A.R. Bennion, *Statutory Interpretation* (2nd ed. 1992) 789; *R. v. Dyott* (1882) 9 Q.B.D. 47, 49-50.

<sup>6</sup> Local Government and Housing Act 1989, s.149.

<sup>7</sup> *Statute Law Revision: Ninth Report* (1978) Law Com. No. 87, Scot. Law Com. No.48, Cmnd.7189.





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