

# ARMED FORCES REPEAL PROPOSALS

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# ARMED FORCES REPEAL PROPOSALS

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
Chelsea and Kilmainham Hospitals Act 1826 (7 Geo.4 c.16)	Section 3. Sections 10 and 11. Section 13. Sections 23 and 24. Section 27. Section 31. Section 34. In section 46, the words “, in case the same shall amount to or exceed the sum of two hundred pounds,”. Sections 47 and 48.
Army (Artillery, etc.) Pensions Act 1833 (3 & 4 Will.4 c.29)	The whole Act.

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## *Chelsea and Kilmainham Hospitals Act 1826*

### *Introduction*

1. According to its long title, the purpose of the Chelsea and Kilmainham Hospitals Act 1826 (“the 1826 Act”) was to consolidate and amend several Acts relating to the Royal Hospitals for Soldiers at Chelsea and Kilmainham. In particular the 1826 Act consolidated and amended the legislation relating to army pensions which were at that time administered by the Commissioners of the Royal Hospital, Chelsea (“the Royal Hospital”) and the Governors of Kilmainham Hospital, Dublin. It also consolidated earlier legislation enabling the Royal Hospital to acquire lands.

2. Kilmainham Hospital ceased to be the responsibility of the British authorities following the establishment of the Irish Free State in 1922. The hospital itself closed soon afterwards. The provisions of the 1826 Act relating

to Kilmainham Hospital have accordingly already been repealed<sup>1</sup>. Accordingly the 1826 Act now applies only to the Royal Hospital.

3. The Royal Hospital was founded by Charles II in 1682 as a place of refuge and shelter “for the reliefe of such land souldiers as are or shall be old, lame or infirme in ye service of the Crown”.<sup>2</sup> The design of the building was entrusted to Sir Christopher Wren. The first In-Pensioner took up residence in 1692. Responsibility for the management of the Royal Hospital is vested in a Board of Commissioners who are appointed by the Sovereign from members of the Government, serving or retired military officers, Civil Servants or other distinguished individuals from the public and private sectors. The Paymaster General is Chairman of the Board of Commissioners.

#### *Proposed repeals*

4. Several provisions in the 1826 Act have become unnecessary and are identified for repeal in the following paragraphs.

#### *Section 3*

5. Section 3, as amended, provides as follows-

**Pensions for disabled soldiers payable at Chelsea to be managed by the Commissioners of Chelsea Hospital**

“The payment of all pensions, allowances, and relief, granted or to be granted to disabled, invalid, and discharged soldiers payable at Chelsea shall be under the management, control, authority, and direction of the Lords and others, Commissioners of the Royal Hospital for soldiers at Chelsea in the county of Middlesex.”

6. Section 3 reflects the legal position in 1826 when the Commissioners of the Royal Hospital and the Governors of Kilmainham Hospital were responsible for the administration and payment of service and disablement pensions.

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<sup>1</sup> Statute Law (Repeals) Act 1976, s 1(1), Sch 1, Pt 4.

<sup>2</sup> Royal Warrant dated 7 December 1681 appointing the Paymaster General as Treasurer of the Royal Hospital.

7. Today, however, the Commissioners of the Royal Hospital have no functions concerning the award or payment of pensions to soldiers. Indeed, as long ago as 1846, an Act was passed to repeal the 1826 Act so far as it related to the payment and management of out-pensioners (i.e. non-resident pensioners).<sup>3</sup> Today the responsibility for paying pensions to retired soldiers, whether or not resident at the Royal Hospital, rests with the Secretary of State and not with the Commissioners of the Royal Hospital. Accordingly section 3 of the 1826 Act is unnecessary and may be repealed.

#### *Section 10*

8. Section 10, as amended, provides as follows-

**Soldiers discharged etc to be entitled to pensions under the regulations and orders in force at the time of their enlistment**

“Every soldier who shall from and after the passing of this Act become entitled to his discharge by reason of the expiration of any period of service fixed in any orders and regulations made by his Majesty in that behalf, or shall have been discharged by reason of being an invalid, or disabled, or having been wounded, shall thereupon be entitled (except in the cases hereinafter mentioned of admission into either of the said hospitals at Chelsea, or expulsion therefrom) to receive such pension, allowance or relief, as shall have been fixed in any orders or regulations made by his Majesty in relation to such cases respectively and in force at the time of his enlistment, and for the payment whereof money shall have been voted by Parliament; and every such soldier shall receive the same under the provisions of this Act, or any rules or regulations made in pursuance thereof by the said Commissioners of the said Hospital at Chelsea as aforesaid.”

9. Section 10 has long since been superseded by section 2 of the Pensions and Yeomanry Pay Act 1884 (“the 1884 Act”) which provides for the payment of soldiers’ pensions to be made by Order in Council. Such Orders are made by Royal Warrants and notified in Army Orders. Accordingly section 10 has ceased to serve any practical utility and may be repealed on that basis.

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<sup>3</sup> 9 & 10 Vict. c.10 (s 1) which transferred responsibility for paying out-pensioners to the Secretary at War. This function has now been transferred to the Secretary of State for Defence: see Defence (Transfer of Functions) Act 1964, s 1(2).

### *Section 11*

10. Section 11, as amended, provides as follows-

**Regulations as to discharge, pensions, etc and estimates for pensions etc to be annually laid before Parliament**

“Provided always that all orders and regulations from time to time made by his Majesty, in relation to the discharge of soldiers after the expiration of any periods of service, and also in relation to any pension, allowance or relief, or to any discharged, or invalid, disabled or wounded soldiers, shall annually be laid before Parliament; and that that estimates of the amount of all such pensions, allowances and relief, and of all contingent expenses and charges relating to the payment, control and management thereof, shall also be annually laid before Parliament.”

11. So far as section 11 relates to the Parliamentary scrutiny of orders made by his Majesty, it has been superseded by section 2(2) of the 1884 Act which provides for any such order relating to soldiers’ pensions to be laid before both Houses of Parliament. So far as section 11 provides for the Parliamentary scrutiny of estimates of the cost of military pensions, this is today met by the modern constitutional requirement for Departments to submit supply estimates to Parliament on an annual basis<sup>4</sup>. Accordingly section 11 is now unnecessary and may be repealed on that basis.

### *Section 13*

12. Section 13, as amended, provides as follows-

**Commissioners of Chelsea Hospital empowered, in case of frauds or misconduct, to take away or refuse pensions**

“It shall and may be lawful for the said commissioners of the said hospital at Chelsea, and they are hereby authorized and empowered, upon complaint and proof to their satisfaction being made to them of any fraud, with respect to the claiming, obtaining, or receiving of any pension or other money from the said hospital at Chelsea or of other gross misconduct attempted or practised by any person being a pensioner, entitled or claiming to be a pensioner of the said royal hospital, to suspend or take away the pension, or altogether reject, object to, or refuse the title or claim to pension of the person so offending, and to issue to the paymaster of out-pensions of the said hospital at Chelsea a notice in writing, under the hand of the secretary, of any pension being so suspended or taken away; and

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<sup>4</sup> Under the supply procedure whereby Parliament annually votes to grant money to the Crown, the Government lays before the House of Commons each March its main supply estimates containing a request for funds for the forthcoming financial year.

upon the said notice being issued to the said paymaster of pensions he shall suspend the payment of the pension therein mentioned, according to the tenor of the said notice; anything in any other Act or herein contained to the contrary thereof in anywise notwithstanding.”

13. As with section 3, section 13 reflects the position in 1826 when the Commissioners of the Royal Hospital had responsibility for the payment of service pensions. Since the Commissioners no longer have this responsibility, the powers given them by section 13 to take away or refuse pensions in cases of fraud or misconduct are now unnecessary.

### *Section 23*

14. Section 23, as amended, provides as follows-

#### **Pensioners to give notice of change of residence**

“Every pensioner resident in Great Britain or Ireland, who shall be entitled to receive payment of his pension by remittance or order, shall, as often as he shall change his place of abode, give notice thereof to the said commissioners of the said hospital at Chelsea; and in case, for want of any such notice, any loss shall happen by reason of any remittance or order being sent for any pension to the place from which such pensioner shall have removed without giving such notice and to which place his pension shall have been remitted pursuant to the notice, inserted in the preceding affidavit, such loss shall fall upon and be borne and sustained by such pensioner so making default in this behalf.”

15. This provision, whereby a pensioner must notify any change of address and bear any loss incurred if his pension is sent to the wrong address, reflects the position in 1826 when the Commissioners of the Royal Hospital were responsible for issuing service pensions. Since the Commissioners no longer have this responsibility, the provisions in section 23 have become unnecessary.

### *Section 24*

16. Section 24, as amended, provides as follows-

#### **In-pensioners to be considered as having given up all claim to out-pension upon their admission to Chelsea or Kilmainham-Commissioners may restore an in-pensioner resigning the hospital with leave to the whole or a part of his out-pension**

“Every non-commissioned officer or soldier, who shall have been already admitted or shall hereafter be admitted as an in-pensioner at

Chelsea, shall be considered and taken, at the time of his admission thereto, to have for ever given up all right, title, claim, and interest to any pension or annual allowance for his services in the army, or for wounds or disabilities, and to which he might otherwise be or have been entitled; and his claim, title, and interest to any pension or allowance as aforesaid shall, from and immediately upon his admission, be deemed and taken to have ceased, determined, and become utterly null and void to all intents and purposes, notwithstanding he may afterwards, from any cause whatever, cease to be an in-pensioner: provided always, that in the event of any in-pensioner being allowed by the commissioners of the said hospital at Chelsea to resign and quit as an in-pensioner, for reasonable cause shown to them, it shall and may be lawful for the said commissioners of the said hospital at Chelsea to restore the non-commissioned officer or soldier so ceasing to be an in-pensioner, either to the same out-pension to which such non-commissioned officer or soldier was entitled at the time of his entering, or to any less rate of pension, according to the discretion of the said commissioners.”

17. Section 24 provides that any soldier who is admitted to the Royal Hospital as an in-pensioner must surrender his claim to a service pension. In the event of his ceasing to be an in-pensioner, the pension may be restored. These provisions have been superseded by the terms of the Army Pensions Warrant 1977, made pursuant to the 1884 Act, article 8 of which provides-

- “ a. On admission to the Royal Hospital, Chelsea, as an in-pensioner, a man shall cease to draw pension or retired pay except;
  - (1) any addition to pension in respect of service as a barrack warden, and
  - (2) any pension for distinguished conduct.
  
- b. When an in-pensioner leaves the hospital, his pension or retired pay may be restored at the discretion of the Defence Council.”.

Accordingly section 24 has been superseded and may now be repealed as being unnecessary.

## Section 27

18. Section 27, as amended, provides as follows-

**Secretary and senior clerks of Chelsea Hospital may administer certain oaths to out-pensioners and others**

“It shall and may be lawful to and for the secretary of the said hospital at Chelsea, and the chief and first four senior clerks respectively on the establishment of the office of the secretary of the said hospital for the time being, and they are hereby authorized and required, as often as occasion shall be, to administer to all and every person entitled, or claiming to be entitled, to any out-pension or allowance of money from the said hospital at Chelsea, or to any allowance on account of service in his Majesty’s army, all and every oath and oaths required or directed to be taken by any law or laws which now is or are or shall be in force at the time such oath is required or directed as aforesaid, and also to administer any other oath or oaths to any person or persons, or to any other person or persons, touching any such matters as shall be necessary for the purpose of preventing frauds in the receiving of pensions, or proving the identity of such person or persons, or for the purpose of ascertaining or proving his or their service, or particulars of service, in his Majesty’s army, or of any other service for which any out-pension or allowance shall be claimed or granted, or of ascertaining or proving the fact of any disability or other circumstance in respect of which such pension shall be claimed or granted.”

19. Section 27, which provides for the Secretary and senior clerks of the Royal Hospital to administer oaths to out-pensioners and others is unnecessary and serves no useful purpose. The original need for it stems from the absurd number of oaths which the contemporary laws required pensioners and others to take. It was said in 1835 that in relation to the Army Pay Office alone there were 86,000 persons who were obliged to take oaths five times each year; and that if a man had lost an arm he must swear four times a year he had lost it<sup>5</sup>. Nowadays pensions are awarded by reference to central records. Their continued payment is dependent upon administrative controls, such as a requirement that the pensioner regularly submits a certificate of entitlement showing that he is still alive. These controls do not depend on section 27. If an oath or statutory declaration is needed nowadays, these are usually administered by a local solicitor exercising the powers of a commissioner for oaths.<sup>6</sup>

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<sup>5</sup> *Hansard* (HL), vol 26, cols 415-6 (Duke of Richmond, 27 February 1835).

<sup>6</sup> Every solicitor who holds a current practising certificate has the powers conferred on a commissioner for oaths by the Commissioners for Oaths Acts 1889 and 1891: Solicitors Act 1974, s 81(1).

### *Section 31*

20. Section 31, as amended, provides as follows-

**Statements of the number of out-pensioners to be made up**

“The said commissioners of the said hospital at Chelsea are hereby authorized and directed to make up, or cause to be made up, at the usual times at which the same have been heretofore made up, or at such other times as the said commissioners, by and with the concurrence of the Treasury shall from time to time order or direct, an exact statement or list of the number of out-pensioners borne on the out-pension list, or who have either personally appeared or have been certified by proper affidavits to be living during the whole or part of the quarter then immediately preceding.”

21. This provision, which required the Commissioners to make up exact statements of out-pensioners shown on the out-pensions list, was directed at eliminating the scandalous and corrupt practices of the time concerning the payment of pensions. Given that the Commissioners ceased to be responsible for the pensions of out-pensioners in 1846<sup>7</sup>, section 31 appears to have been unnecessary since then.

### *Section 34*

22. Section 34, as amended, provides as follows-

**Clothes, linen, and stores of the hospital to be marked—Marks to be defaced on sale—Persons having or illegally disposing of, and pawnbrokers taking in pawn clothes, etc, so marked**

“The said commissioners of the said hospital at Chelsea shall and may and they are hereby authorized to cause the clothes, linen, stores, and other articles belonging to the said hospital, capable of being marked, to be from time to time marked, stamped, or branded, with the words “Chelsea Hospital”; and from time to time, in case the said commissioners should sell or dispose of any of the said clothes, linen, stores or other articles, or should allow the in-pensioners, or any of them, to sell or dispose of any of the said clothes, linen, stores, or other articles, then the said commissioners shall and may and they are hereby authorized to obliterate or deface the said marks, stamps, and brands respectively, by marking, stamping, or branding upon the said clothes, linen, stores, or other articles so sold or disposed of by the said commissioners, or so allowed by them to be sold or disposed of by the said in-pensioners, or any of them, the said words “Chelsea Hospital” reversed over and upon the said words before marked, stamped, or branded on the said clothes, linen, stores, or other articles

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<sup>7</sup> 9 & 10 Vict. c.10 (s 1).

respectively; such mark, stamp, or brand, not obliterated or defaced as aforesaid, to be considered and taken as sufficient evidence, without further proof, that the clothes, linen, stores, goods, and articles so marked, stamped, or branded, and not obliterated or defaced as aforesaid, are the property of the said commissioners.”

23. This provision authorises the Commissioners to mark property of the Royal Hospital such as clothes and linen with the words “Chelsea Hospital”; and to remove such marking in the event of the property being sold or otherwise disposed of. Clearly such marking of hospital property is a matter which can be dealt with administratively by Hospital staff without the need for specific statutory authority, in much the same way as other organisations such as hospitals and hotels attach logos and other markings to their property to identify it. As originally enacted, section 34 contained elaborate provisions imposing penalties on anyone who misappropriated property marked as belonging to the Royal Hospital. However, these provisions have already been repealed.<sup>8</sup> The remaining text of section 34 today serves no useful modern purpose.

#### *Sections 47 and 48*

24. Sections 47 and 48, as amended, provide as follows-

##### **47 Application when less than £200 and exceeding £20**

Provided always that if any money so to be paid for any lands, tenements, and hereditaments to be purchased for the purposes aforesaid, and belonging to any body corporate, collegiate, or ecclesiastical, tenant for life or in tail, or for years, trustees, feme covert, infant, person of unsound mind, or any person or persons under disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the hereditaments so purchased, taken or used, or of his, her, or their guardian or guardians, committee or committees, in cases of infancy, idiotcy, or lunacy, to be signified in writing under their respective hands, to be paid into the Supreme Court, in order to be applied in manner hereinbefore directed; or otherwise the same shall be paid, at the like option, to two trustees, to be named by the person or persons making such option, and approved by the said lords commissioners of the said hospital, such nomination and approbation to be signified by writing under the hands of the nominating and appointing parties, in order that

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<sup>8</sup> Theft Act 1968, s 33(3), Sch 3, Pt 1.

such principal money, and the dividends to arise therefrom, or the interest thereof, may be applied in the manner herein-before directed, so far as the case shall be applicable, without obtaining or being required to obtain the direction or approbation of the said High Court of Chancery.

**48 Application when not exceeding £20**

Provided always that when such money so contracted and agreed to be paid as last before-mentioned shall not exceed the sum of twenty pounds, then and in all such cases the same shall belong absolutely and be paid to the person or persons who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments so purchased or agreed for, or hereafter to be purchased, for the purposes aforesaid, or in case of infancy, idiotcy, or lunacy, then to his, her, or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

25. Sections 47 and 48 are ancillary to sections 44 to 46 which empower the Commissioners to buy land for the purposes of the Royal Hospital (section 44) and empower corporations and others to sell land to the Commissioners for these purposes (section 45).

26. Section 46 provides that where-

- (a) the Commissioners buy land from corporations or from specified categories of person who either have limited ownership rights or lack full legal capacity; and
- (b) the purchase money amounts to or exceeds £200,

the money is to be paid into the Supreme Court and applied in accordance with the directions of the Supreme Court.

27. Sections 47 and 48 provide for the procedure to be followed where-

- (a) as in section 46, the Commissioners buy from a corporation or from a person who has limited ownership rights or who lacks full legal capacity; and
- (b) the purchase money is-
  - (i) less than £200 but exceeds £20 (*section 47*); or
  - (ii) £20 or less (*section 48*).

The procedure under section 47 provides for the purchase money to be paid either into court or else to two approved trustees. The procedure under section 48 provides for the purchase money to be paid to the person entitled to the income of the land purchased. Given the fall in the value of money since 1826, any land purchased by the Commissioners that involves the payment of money today will always involve a sum greater than £200. The procedure laid down by section 46 will suffice for all land purchases in future. It follows that sections 47 and 48 are now unnecessary and may be repealed on that basis. A consequential repeal will be the words in section 46 limiting the application of that section to purchases of £200 or more.

*Army (Artillery, etc) Pensions Act 1833*

28. The purposes of the Army (Artillery, etc) Pensions Act 1833 (“the 1833 Act”) included transferring responsibility for the pensions of artillerymen and others to the Commissioners of the Royal Hospital. The 1833 Act has long been obsolete.

*Section 1*

29. Section 1, as amended, provides as follows-

**Pensions to artillerymen, etc heretofore granted by board of ordnance shall be granted by commissioners of Chelsea hospital**

“The whole of the said pensions, allowances, and relief payable to soldiers and others discharged from the royal artillery, engineers, and other military corps which have been heretofore granted and paid by the said master general and board of ordnance, shall be granted and paid by and be under the power, management, control, direction and authority of the said commissioners of Chelsea hospital.”

30. Section 1 transferred the responsibility for granting and paying the pensions of retired artillerymen and others from the master general and board of ordnance to the Commissioners. The Commissioners no longer have this function, the granting and payment of pensions now being the function of the Secretary of State. Section 1 is therefore obsolete.

## *Section 2*

31. Section 2, as amended, provides as follows-

**Regulations as to army pensions shall apply to pensions under this Act**

“All the clauses, rules, regulations, powers, pains, forfeitures, matters, and things contained in any Act or Acts or Parliament now in force relating to pensions granted or to be granted to disabled, invalid, or discharged soldiers, shall be applicable and applied and put in force for the purposes of this Act, with respect to all subsisting pensions already granted by the board of ordnance on account of the services herein-before mentioned, and to all pensions, relief, and allowances hereafter to be granted and payable to soldiers and others on account of such services.”

32. Section 2 is equally obsolete. It applied the then existing rules and regulations about army pensions generally to the pensions of the retired artillerymen and others referred to in section 1. Section 2 has been superseded by the 1884 Act and by the orders made under section 2 of that Act.

## *Section 3*

33. Section 3 has already been repealed.<sup>9</sup>

## *Section 4*

34. Section 4, as amended, provides as follows-

**No fee to be taken from Chelsea out-pensioners for administering oath on receipt of pension, etc**

“No fee or payment whatever shall be demanded or taken from any out-pensioner of Chelsea hospital, or charged against him, for administering or attesting any oath necessary or required to be taken for the receipt of any pension or allowance of money payable at or from Chelsea hospital, or for the making or executing or attesting any assignment of out-pension, or orders of justices relating to any out-pension, or to any payment on account thereof.”

35. Section 4 prohibits the taking of oath fees from out-pensioners claiming pension money at the Royal Hospital. This provision is obsolete since the hospital has no remaining jurisdiction over the pensions of out-pensioners.

36. There being no other provisions in the 1833 Act, the whole of that Act may now be repealed as obsolete.

*Extent*

37. The 1826 and 1833 Acts as enacted extended throughout the United Kingdom. However, none of the provisions proposed for repeal have any special application outside England and Wales.

*Consultation*

38. HM Treasury, HM Paymaster General, the Ministry of Defence, the Department for Work and Pensions and the Royal Hospital have been consulted about these repeal proposals.

(32/195/49)LAW/005/005/6  
24 January 2006

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<sup>9</sup> Statute Law Revision Act 1874, s 1, Sch.

Drouly Fund Act 1838  
(1 & 2 Vict. c.89)

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The whole Act.

*Drouly Fund Act 1838*

1. According to its long title, the Drouly Fund Act 1838 (“the 1838 Act”) was “An Act respecting the transfer of certain Funds to the Secretary at War and the Paymaster General”. The 1838 Act results from the generosity of Colonel John Drouly, who died in September 1818, and who left funds in his will to provide for the welfare of officers’ widows and for pensioners of the Royal Hospital, Chelsea (“the Royal Hospital”). The provisions in the 1838 Act for handling these funds are no longer necessary. As a result the 1838 Act is itself no longer necessary.

2. *Section 1* relates to the legacy of £10,000 3% Reduced Bank Annuities left by Colonel Drouly for the payment of annuities to officers’ widows. Under the terms of the will, this legacy was bequeathed to the individuals currently holding the offices of Secretary at War and Paymaster of the Forces<sup>10</sup>. Because of the administrative work involved in transferring these securities from one name to another every time there was a change in either of these office-holders, and in the interests of keeping the investments separate from other investments in their names, section 1 provided that an account should be opened at the Bank of England in the names of the Secretary at War and the Paymaster General to hold these funds subject to the trusts of the will. Section 1 also provided for automatic vesting of the securities each time there was a change of office holder.

3. Section 1 is now unnecessary because the fund to which it relates no longer exists as a separate entity. Until 1995 the fund was administered by the Ministry of Defence (and its predecessors) but it was then transferred to

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<sup>10</sup> These individuals were Henry John Palmerston and Charles Long. The office of Secretary at War no longer exists. These functions are today vested in the Secretary of State for Defence. The Paymaster of the Forces is today styled ‘the Paymaster General’.

the Officers' Association<sup>11</sup> who added the fund to their permanent endowment fund.

4. *Section 2* relates to the gift of half his residuary estate left by Colonel Drouly to the Royal Hospital for the benefit of the pensioners there. With a view to vesting the balance of this gift in the Paymaster General subject to the directions of the Commissioners of the Royal Hospital, section 2 provided that an account should be opened at the Bank of England in the name of the Paymaster General as trustee in regard to the Drouly bequest to the Hospital. Section 2 also provided for automatic vesting of the account each time there was a change of Paymaster General.

5. Section 2 is now unnecessary because the fund representing the gift to the Royal Hospital no longer exists. It was maintained as a separate fund until 1997 when it was merged with the Royal Hospital's Army Prize Money and Legacy Fund.

6. *Section 3* is ancillary to section 2 and provides for the transfer to the Paymaster General of the fund, held by the Royal Hospital pursuant to the gift of the half of the residuary estate referred to above. Once the transfer had been made, the Paymaster General was to hold it subject to the direction of the Commissioners of the Royal Hospital. Section 3 ceased to serve any purpose once the fund was merged with the Royal Hospital Army Prize Money and Legacy Fund in 1997.

7. *Section 4* is ancillary to sections 1 and 2 and empowered the Secretary at War and the Paymaster General to grant powers of attorney to facilitate dealings with the funds referred to in those sections. Section 4 ceased to serve any purpose once the funds ceased to be vested in the Secretary at War (or the Secretary of State) and/or the Paymaster General.

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<sup>11</sup> The Officers' Association is a charity dedicated to assisting officers who have retired or are about to retire from Her Majesty's Armed Forces. The Association was founded in 1919 and was granted a Royal Charter in 1921.

8. *The Schedule* to the 1838 Act contains extracts from the will of Colonel Drouly as they related to the gift referred to in section 1. Clearly this provision is now as unnecessary as section 1 itself.

9. There being no other provisions, the whole of the 1838 Act is now unnecessary and may be repealed in its entirety.

#### Extent

10. The 1838 Act has no application outside England and Wales.

#### *Consultation*

11. The Ministry of Defence, HM Treasury, the Paymaster General, the Royal Hospital and the Officers' Association have been consulted about this repeal proposal.

(32/195/49) LAW/005/005/6  
24 January 2006

<i>Reference</i>	<i>Extent of repeal or revocation</i>
3 & 4 Vict. c.lxxxvi (1840) (Royal Naval School Act 1840)	The whole Act.
8 & 9 Vict. c.xxii (1845) (Royal Naval School Act 1845)	The whole Act.
Royal Naval School Amendment Act 1851 (14 & 15 Vict. c.xxix)	The whole Act.
23 & 24 Vict. c.civ (1860) (Royal Naval School Act 1860)	The whole Act.
Royal Naval School (New Cross) Disused Chapel Site Act 1890 (53 & 54 Vict. c.viii)	The whole Act.

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### *Royal Naval School Acts*

1. This note proposes the repeal of five local Acts relating to the Royal Naval School (“the School”), a school established in 1833 in Camberwell, Surrey for the education of the children of officers in the Royal Navy and Marines. The school closed its doors in 1910.

### *Acts to be repealed*

2. The following paragraphs summarise the purposes of each of the five Acts. A copy of any of these Acts can be obtained from the Law Commission.

### *Royal Naval School Act 1840*

3. This Act provided for the establishment and constitution of the School. “The Royal Naval School” was established as a corporate body.

*Royal Naval School Act 1845*

4. This Act carried into effect an arrangement between the School and the Patriotic Fund (“the Fund”)<sup>12</sup> whereby the Fund paid for the right to nominate 12 boys to be educated at the School.

*Royal Naval School Amendment Act 1851*

5. This Act widened the categories of children eligible for admission to the School, and authorised the establishment of a chapel on land adjoining the School.

*Royal Naval School Act 1860*

6. This Act carried into effect a further arrangement between the School and the Fund whereby the Fund paid for the right to nominate 7 boys to be educated at the School.

*Royal Naval School (New Cross) Disused Chapel Site 1890*

7. This Act authorised the de-consecration and demolition of the former School chapel. This followed the move of the School from New Cross to Eltham in south-east London.

*Subsequent history*

8. In 1843, the School moved from its original site in Camberwell to New Cross, near Deptford. It moved to Fairy Hall at Mottingham, Eltham, in 1889, where it remained until its closure at the end of the summer term in 1910.

*Extent*

9. These Acts are limited in their extent to the Royal Naval School and have no application outside England and Wales.

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<sup>12</sup> The Patriotic Fund later became known as the Royal Patriotic Fund Corporation: Patriotic Fund Reorganisation Act 1903, s 1(1). It was dissolved by the Royal Patriotic Fund Corporation (Transfer of Property, Rights and Liabilities) Order 2005 (SI 2005/3308) with effect from 1 January 2006 whereupon its assets, rights and liabilities were transferred to the RPF, a charity established for the benefit of the persons falling within s 6(1)(a) and (b) of the Armed Forces (Pensions and Compensation) Act 2004.

*Consultation*

10. The Ministry of Defence, the RPFC (and the Secretary to the Royal Patriotic Fund Corporation), the Department for Education and Skills and Lewisham Council (whose archives include records relating to the Royal Naval School) have been consulted about these repeal proposals.

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*Reference*

*Extent of repeal or revocation*

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Army Act 1881  
(44 & 45 Vict. c.58)

The whole Act.

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*Army Act 1881*

1. According to its long title, the purpose of the Army Act 1881<sup>13</sup> (“the 1881 Act”) was to consolidate the Army Discipline and Regulation Act 1879 and the subsequent Acts amending the same.

2. Section 1 of the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 provided that the 1881 Act (and the Air Force Act of 1917<sup>14</sup>) “shall continue in force until the end of the year nineteen hundred and fifty-six but no longer”. Thereafter the 1881 Act was superseded by the Army Act 1955 with effect from 1 January 1957.<sup>15</sup>

3. Accordingly the 1881 Act ceased to have effect at the end of 1956. However, it has never been formally repealed with the result that it remains on the statute book to the present day. It is now proposed that this situation be remedied by a formal repeal of the 1881 Act.

*Extent*

4. The 1881 Act extended throughout the United Kingdom.

*Consultation*

5. The Ministry of Defence and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about this repeal proposal.

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<sup>13</sup> By virtue of the Army (Annual) Act 1890, s 4, the Army Act 1881 became known simply as ‘the Army Act’.

<sup>14</sup> The Air Force Act took effect pursuant to the Air Force (Constitution) Act 1917, s 12(1).

<sup>15</sup> Army Act 1955 (Commencement) Order 1955, SI 1955/1805.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Greenwich Hospital Act 1883 (46 & 47 Vict. c.32)	In section 3, the words “and Royal Naval Artillery Volunteer Force”.
Greenwich Hospital Act 1942 (5 & 6 Geo.6 c.35)	Section 1(3).
Greenwich Hospital Act 1947 (10 & 11 Geo.6 c.5)	The whole Act.
Greenwich Hospital Act 1967 (c.74)	Section 1(2). Section 2.

### *Greenwich Hospital Acts*

#### *Introduction*

1. Greenwich Hospital in south-east London was founded by King William III and Queen Mary in 1694 for the relief and support of seamen and their dependants and for the improvement of navigation. To this day Greenwich Hospital continues to provide education, pensions and sheltered housing for seafarers and their dependants.

2. Under various Greenwich Hospital Acts from 1865 to 1996, the Secretary of State for Defence holds the Hospital’s assets in trust for the Crown, for the Hospital’s exclusive benefit. The Hospital’s affairs are delegated to the Admiralty Board, but the management of its continuing charitable roles is vested in the Director of Greenwich Hospital and a small London-based staff.

3. Some of the statutory provisions relating to Greenwich Hospital are now unnecessary and are proposed for repeal in the following paragraphs.

#### *Greenwich Hospital Act 1883*

4. The Greenwich Hospital Act 1883 (“the 1883 Act”) contained provisions relating to the application of the income of Greenwich Hospital. Section 3,

which empowered funds to be used for the education and maintenance of sons of deceased or incapacitated seamen, included a provision whereby such funds could be used to educate and maintain the sons of men of the Royal Naval Artillery Volunteer Force.<sup>16</sup> This provision is now unnecessary because the Royal Naval Artillery Volunteer Force was disbanded on 1 April 1892. As a result the reference to this body in section 3 may now be repealed.

#### *Greenwich Hospital Act 1942*

5. Section 1 of the Greenwich Hospital Act 1942 (“the 1942 Act”) relates to powers to grant pensions to persons employed for the purposes of Greenwich Hospital. Subsection (3) was a technical provision which had the effect of repealing text in section 20 of the Greenwich Hospital Act 1865. This repeal took effect when the 1942 Act came into force (at Royal Assent on 22 October 1942) whereupon section 1(3) became spent. Its repeal is therefore proposed on that basis.

#### *Greenwich Hospital Act 1947*

6. The purposes of the Greenwich Hospital Act 1947 (“the 1947 Act”) included extending existing powers to grant pensions, allowances and gratuities. The only substantive provisions of the 1947 Act that still remain in force are section 2 and Schedule 1.<sup>17</sup>

7. *Section 2(1)* extended the Admiralty’s power under section 2 of the 1883 Act to grant pensions to widows, allowances to children, and gratuities to dependants of certain non-commissioned and petty officers and men dying in service of the Crown to include power to grant such payments in relation to any person who died while serving, or having served, as a non-commissioned officer, petty officer or man of the Royal Navy or Royal Marines or of any naval reserve force. Such payments had to be granted in accordance with regulations made under section 4 of the 1883 Act.

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<sup>16</sup> The Royal Naval Artillery Volunteer Force was established under the Naval Artillery Volunteer Act 1873. The residue of the 1873 Act was repealed by the Statute Law Revision Act 1953.

<sup>17</sup> Section 1 was repealed by Statute Law Revision Act 1953 (s 1, Sch 1); section 3(2) and Schedule 2 were repealed by Statute Law Revision Act 1950 (s 1, Sch 1).

8. *Section 2(2)* gave effect to section 2(1) by substituting a new section 2 of the 1883 Act, amended in accordance with section 2(1). The new section 2 was set out in Schedule 1 to the 1947 Act.

9. The 1947 Act now serves no purpose except to keep in force the amendment made to the 1883 Act by section 2 (and Schedule 1).<sup>18</sup> The effect of section 2 (and Schedule 1) may conveniently be preserved by the entry in the attached *Schedule of consequential and connected provisions*. This will supersede section 2 (and Schedule 1) and enable the whole of the 1947 Act to be repealed.

#### *Greenwich Hospital Act 1967*

10. The Greenwich Hospital Act 1967 was enacted to amend earlier enactments relating to the finances of Greenwich Hospital. Sections 1(2) and 2 are repealing provisions<sup>19</sup> and became spent when they came into force at Royal Assent on 27 July 1967.

#### *Extent*

11. None of the provisions proposed for repeal by this note has any application outside England and Wales.

#### *Consultation*

12. HM Treasury, the Ministry of Defence, Greenwich Hospital and the Seamen's Hospital Society have been consulted about these repeal proposals.

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<sup>18</sup> Section 2(1) has itself been recently amended to include a reference to "surviving civil partners": Civil Partnership Act 2004, s 257, Sch 26, para 16. A corresponding amendment has also been made to the 1883 Act, s 2(1): Civil Partnership Act 2004, s 257, Sch 26, para 4.

<sup>19</sup> Section 1(2) repealed Greenwich Hospital Act 1865, s 40; section 2 repealed Greenwich Hospital Act 1885, s 3.

**SCHEDULE**  
**OF**  
**CONSEQUENTIAL AND CONNECTED PROVISIONS**

*Greenwich Hospital Act 1883 (c.32)*

. Section 2 of the Greenwich Hospital Act 1883 (power to grant pensions, allowances and gratuities) has effect as if section 2 of, and Schedule 1 to, the Greenwich Hospital Act 1947 continued in force.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Barracks Act 1890 (53 & 54 Vict. c.25)	The whole Act.
Finance Act 1944 (7 & 8 Geo.6 c.23)	Section 46.

### *Barracks Act 1890*

1. According to its long title, the purpose of the Barracks Act 1890 (“the 1890 Act”) was to make provision for building and enlarging barracks and camps in the United Kingdom (and in certain colonies) and to amend the law relating to the acquisition of land for military purposes.

2. Nearly the whole of the 1890 Act has already been repealed. These repeals are as follows-

- ◆ *preamble*: repealed by Statute Law Revision Act 1908, s 1, Sch
- ◆ *sections 1, 8, 12*: repealed by Defence (Transfer of Functions) (No.1) Order 1964 (SI 1964/488), art 2(2), Sch 1, Pt 2
- ◆ *sections 2, 3*: repealed by Military Lands Act 1892, s 28, Sch
- ◆ *section 4*: repealed by Ranges Act 1891, s 11(2)
- ◆ *sections 5-7, 9, Sch*: repealed by Statute Law Revision Act 1950
- ◆ *section 10*: repealed by Statute Law (Repeals) Act 1973, s 1, Sch 1, Pt 13.

3. The only substantive provision remaining is *section 11* which, as amended, now provides-

“All contracts, conveyances, and other documents made with a view to carrying into effect the purposes of this Act shall be exempted from stamp duty”.

4. At first glance it might appear that section 11 is now unnecessary because the provisions in the 1890 Act for acquiring land (i.e. sections 1 and 2) have already been repealed along with every other substantive provision of that Act.

5. Indeed section 11 is noted in *Sergeant and Sims on Stamp Duties* with the comment “it is thought that this provision is now obsolete”.<sup>20</sup>

6. However, the expression “the purposes of this Act” as used in section 11 was defined in the (now repealed) preamble to the 1890 Act as-

- ◆ building and enlarging barracks and camps
- ◆ facilitating the training of troops in the United Kingdom and in certain colonies
- ◆ making better precautions for the health and efficiency of Her Majesty’s military forces.

7. It is therefore possible to view section 11 as continuing to operate in order to carry into effect these purposes even though the rest of the 1890 Act has long since been repealed. It should be noted that section 11, though originally applying only to the Army, has been extended over the years to the Royal Air Force<sup>21</sup> and the Royal Navy.<sup>22</sup>

8. Indeed Parliament, by enacting section 74 of the Finance Act 1960, appears to have proceeded on the assumption that section 11 continues to operate. Section 74(1) provides that subsections (2) to (4) of that section “shall have effect with a view to conferring exemptions from stamp duty (*corresponding to exemptions applicable in the case of Her Majesty’s forces*) in relation to any visiting force of a designated country” (emphasis added).

9. Section 74(2) sets out the exemption itself as follows-

“(2) There shall be exempted from all stamp duties any contract, conveyance or other document made with a view to building or enlarging barracks or camps for a force, or to facilitating the training in the United Kingdom of a force, or to promoting the health or efficiency of a force.”.

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<sup>20</sup> Part A17.3, para 1246, n1. Moreover, an editorial comment in *Halsbury’s Statutes* (4<sup>th</sup> ed 2005 reissue, p 145) suggests that s 11 is now spent.

<sup>21</sup> Air Force (Application of Enactments) (No 1) Order 1918 (SR & O 1918 No 538, art 1, Sch) as amended by the Defence (Transfer of Functions) (No.1) Order 1964, SI 1964/488, Sch 2, para 1(b).

<sup>22</sup> Finance Act 1944, s 46.

10. The wording of section 74(2) clearly brings together the relevant text in section 11 of, and in the preamble to, the 1890 Act.

11. More recently the introduction of stamp duty land tax by Part 4 of the Finance Act 2003<sup>23</sup> has resulted in section 74 of the Finance Act 1960 being reinforced by section 74A<sup>24</sup> which, according to subsection (1) of that section, “has effect with a view to conferring exemptions from stamp duty land tax corresponding to exemptions applicable in the case of Her Majesty’s forces in relation to any visiting force of a designated country”.

12. Section 74A(2) sets out the exemption itself as follows-

“(2) A land transaction entered into with a view to building or enlarging barracks or camps for a force, or to facilitating the training in the United Kingdom of a force, or to promoting the health or efficiency of a force, is exempt from charge for the purposes of stamp duty land tax”.

13. If the policy of exempting the armed forces from paying stamp duty when building or enlarging their barracks or camps continues to serve any modern purpose, section 11 would sit more appropriately in a tax statute rather than in obscure legislation which, on the face of it, relates to barracks. It is therefore proposed that the substance of section 11 is moved into the Finance Act 1960 immediately before sections 74 and 74A. This may be achieved by the entry in the attached *Schedule of consequential and connected provisions*. This will, in effect, consolidate the existing legislation about the stamp duty exemption for armed forces, and will permit the whole of the 1890 Act to be repealed. A consequential repeal will be section 46 of the Finance Act 1944 (which applied section 11 to the Royal Navy).

#### *Extent*

14. The 1890 Act extended throughout the United Kingdom.

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<sup>23</sup> Stamp duty land tax has replaced the stamp duty charge on land and buildings in the United Kingdom.

<sup>24</sup> Inserted by the Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003, SI 2003/2867, reg 2, Sch, Pt 1, para 6.

*Consultation*

15. The Ministry of Defence, HM Treasury, HM Revenue and Customs and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about this repeal proposal.

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**SCHEDULE**  
**OF**  
**CONSEQUENTIAL AND CONNECTED PROVISIONS**

*Finance Act 1960 (c.44)*

. Before section 74 of the Finance Act 1960 insert the following section-

**“73A Her Majesty’s forces (stamp duty exemptions)**

Any contract, conveyance or other document made with a view to building or enlarging barracks or camps for, or to facilitating the training in the United Kingdom or to promoting the health or efficiency of, any of Her Majesty’s forces is exempt from all stamp duties.”.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Military Lands Provisional Orders Confirmation Act 1893 (56 & 57 Vict. c.xxxvii)	The whole Act.
Military Lands Provisional Orders Confirmation Act 1895 (58 & 59 Vict. c.xxv)	The whole Act.
Military Lands Provisional Order Confirmation (No.2) Act 1895 Session 2 (59 Vict. Sess.2 c.xv)	The whole Act.
Military Lands Provisional Orders Confirmation Act 1898 (61 & 62 Vict. c.lxxxix)	The whole Act.
Military Lands Provisional Orders Confirmation (No.2) Act 1898 (61 & 62 Vict. c.ccxiv)	The whole Act.
Military Lands Provisional Order Confirmation Act 1899 (62 & 63 Vict. c.cxxxiii)	The whole Act.
Military Lands Provisional Order Confirmation Act 1900 (63 & 64 Vict. c.i)	The whole Act.
Military Lands Provisional Orders Confirmation Act 1901 (1 Edw.7 c.xxxii)	The whole Act.
Military Lands Provisional Orders Confirmation (No.2) Act 1901 (1 Edw.7 c.clvii)	The whole Act.
Naval Works Provisional Order Confirmation Act 1901 (1 Edw.7 c.clx)	The whole Act
Military Lands Provisional Orders Confirmation (No.1) Act 1902 (2 Edw.7 c.i)	The whole Act.
Military Lands Provisional Order Confirmation (No.2) Act 1902	The whole Act.

(2 Edw.7 c.lxxiii)	
Naval Works Provisional Order Confirmation Act 1903 (3 Edw.7 c.lxvii)	The whole Act.
Military Lands Provisional Orders Confirmation Act 1903 (3 Edw.7 c.lxxxiv)	The whole Act.
Military Lands Provisional Order (1910) Confirmation Act 1911 (1 & 2 Geo.5 c.iv)	The whole Act.
Military Lands Provisional Order Confirmation Act 1912 (2 & 3 Geo.5 c.cxvii)	The whole Act.

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*Military Lands Provisional Orders Confirmation Acts*

1. This note proposes the repeal of a number of Acts that were passed in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries to facilitate the purchase of land for the military purposes of Her Majesty's military forces or for the purposes of Her Majesty's Navy.

2. Each Act was necessary to confirm one or more provisional orders made by the Secretary of State pursuant to section 2 of the Military Lands Act 1892 ("the 1892 Act"). Section 1 of the 1892 Act provided powers for the Secretary of State, a volunteer corps or the council of a county or borough to purchase land in the United Kingdom for military purposes. Section 2 of the 1892 Act prescribed a procedure whereby the compulsory purchase powers under the Land Clauses Consolidation Act 1845 could be invoked to acquire the land.

3. Before these powers under the 1892 Act could take effect, steps had to be taken to publicise the proposed purchase. Notices had to be served on the owners and occupiers of the land affected and a public local inquiry had to be

held to hear the views of such owners and occupiers.<sup>25</sup> If, after the local inquiry had been held, the Secretary of State was satisfied that the land ought to be taken, he could make a provisional order to that effect and submit a Bill to Parliament for the confirmation of that order. Until confirmed by Parliament, the order had no effect.<sup>26</sup> Unless the confirming Act provided otherwise, the land had to be purchased within 3 years of the passing of the Act.<sup>27</sup> None of the confirming Acts proposed for repeal in this note provided otherwise.

4. Because none of the Acts contained any provisions of a continuing nature, each Act became spent once the relevant land purchase had been completed or, if sooner, once 3 years had elapsed from the passing of the Act. Each Act is accordingly now proposed for repeal on the basis that it is spent.

5. The Acts proposed for repeal are broadly similar in format. The Schedule to each contains the relevant provisional orders and details of the land to be purchased. See [pages 38–40](#) to review one of the Acts as an example. Each Act is described in the following paragraphs. The names of the provisional order or orders that each confirms appear in italics. Several of the Acts relate to land that was formerly part of the United Kingdom but is now within the Republic of Ireland.<sup>28</sup>

#### *Military Lands Provisional Orders Confirmation Act 1893*

6. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

- (a) for the improvement of Buttevant Barracks in the county of Cork  
*(Buttevant Barracks Enlargement Order 1893)*

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<sup>25</sup> The 1892 Act, s 2(5) to (7).

<sup>26</sup> The 1892 Act, s 2(9).

<sup>27</sup> Lands Clauses Consolidation Act 1845, s 123, by virtue of the Military Lands Act 1900, s 4.

<sup>28</sup> Statute Law (Repeals) Acts do not repeal or amend any enactment so far as the enactment forms part of the law of a country outside the United Kingdom and the Isle of Man. Accordingly the repeal of an Act that relates to land formerly within the United Kingdom but now within the Republic of Ireland will have no effect on the law of the Republic of Ireland. Such a repeal merely causes the relevant Act to cease to exist within the United Kingdom.

- (b) for the improvement of the Marlborough Barracks at Grangegorman in the county of Dublin (*Marlborough Barracks (Dublin) Order 1893*).

*Military Lands Provisional Orders Confirmation Act 1895*

7. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

- (a) for the enlargement of the Portobello Barracks in the county of Dublin (2 orders) (*Portobello Barracks Enlargement Orders Nos.1 and 2 1895*)
- (b) for the enlargement of the Ebrington Barracks in the City of Londonderry (*Londonderry (Ebrington) Barracks Enlargement Order 1895*).

*Military Lands Provisional Order Confirmation (No.2) Act 1895 Session 2*

8. The provisional order confirmed by this Act related to the purchase by the Secretary of State of land for the enlargement of Richmond Barracks in the county of Dublin (*Richmond Barracks Enlargement Order 1895*).

*Military Lands Provisional Orders Confirmation Act 1898*

9. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of-

- (a) firing and other rights of user, over part of the lands of the Curragh of Kildare in the townland of Curragh parish of Ballysax and county of Kildare (*Curragh (Rights of Firing and User) Order 1898*)
- (b) land and rights of way, for the purpose of the enlargement of the Ebrington Barracks in the City of Londonderry (*Londonderry (Ebrington) Barracks Enlargement Order 1898*).

*Military Lands Provisional Orders Confirmation (No.2) Act 1898*

10. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

- (a) for the purpose of the building and enlarging of barracks at or near Woking, Surrey (*Woking Barracks Order 1898*)
- (b) on or near Salisbury Plain, Wiltshire (*Salisbury Plain Order 1898*)
- (c) near Colchester, Essex (*Colchester Order 1898*).

*Military Lands Provisional Order Confirmation Act 1899*

11. The provisional order confirmed by this Act related to the purchase by the Council of the Borough of Great Yarmouth of land in the parish of Caister next Yarmouth and in the county of Norfolk (*Great Yarmouth Military Lands Order 1899*).

*Military Lands Provisional Order Confirmation Act 1900*

12. The provisional order confirmed by this Act related to the purchase by the Secretary of State of land in the parishes of Whittington, Tamhorn, Hopwas, Hayes and Wigginton near Lichfield in the county of Staffordshire (*Lichfield Military Lands Order 1900*).

*Military Lands Provisional Orders Confirmation Act 1901*

13. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

- (a) in the township of Ballykinler Upper in the county of Down (*Ballykinler Military Lands Order 1901*)
- (b) known as Cork Camp Field in the parish of St Anne Shandon in the County Borough of Cork (*Cork Camp Field Military Lands Order 1901*)

*Military Lands Provisional Orders Confirmation (No.2) Act 1901*

14. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

(a) in the parish of Shipton Bellinger, Hampshire (*Shipton Bellinger Military Lands Order 1901*)

(b) in the parishes of Lydford and Petertavy, Devon (*Willsworthy Military Lands Order 1901*)

(c) in the parish of Ash, Surrey (*Ash Military Lands Order 1901*).

*Naval Works Provisional Order Confirmation Act 1901*

15. The provisional order confirmed by this Act was made by the Admiralty pursuant to the powers given to them by section 2 of the 1892 Act as applied by section 2 of the Naval Works Act 1895. The order related to the purchase by the Admiralty of land known as East Weir at or near the Isle of Portland, Dorset (*Portland Naval Works Order 1901*).

*Military Lands Provisional Orders Confirmation (No.1) Act 1902*

16. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

(a) in the Barony of Talbotstown Lower in the county of Wicklow (*Kilbride Military Lands Order 1902*)

(b) in the Barony of Dunkellin in the county of Galway (*Oranmore Military Lands Order 1902*).

*Military Lands Provisional Order Confirmation (No.2) Act 1902*

17. The provisional order confirmed by this Act related to the purchase by the Ayrshire Imperial Yeomanry, the First Ayrshire and Galloway Royal Garrison Artillery Volunteers and the Second Volunteer Battalion Royal Scots

Fusiliers of land in Burgh Parish and County of Ayr (*Kingcase Military Lands Order 1902*).

*Naval Works Provisional Order Confirmation Act 1903*

18. The provisional order confirmed by this Act was made by the Admiralty pursuant to the powers given to them by section 2 of the 1892 Act as applied by section 2 of the Naval Works Act 1895. The order related to the purchase by the Admiralty of land in or near the Borough of Dartmouth (*Britannia Royal Naval College Order 1903*).

*Military Lands Provisional Orders Confirmation Act 1903*

19. The provisional orders confirmed by this Act related to the purchase by the Secretary of State of land-

(a) at Bordon in the parish of Headley, Southampton (*Bordon Military Lands Order 1903*)

(b) in the Royal Borough of Windsor (*Windsor Military Lands Order 1903*).

*Military Lands Provisional Order (1910) Confirmation Act 1911*

20. The provisional order confirmed by this Act related to the purchase by the Territorial Force Association of the County of Lancaster<sup>29</sup> of land in the townships of Ramsbottom, Tottington and Haslingden in the county of Lancaster (*Holcombe Rifle Ranges Order 1910*).

*Military Lands Provisional Order Confirmation Act 1912*

21. The provisional order confirmed by this Act related to the purchase of the Territorial Force Association of the West Riding of the County of York of

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<sup>29</sup> Regulations made under the Territorial and Reserve Forces Act 1907, s 4 applied section 1 of the 1892 Act so as to authorise the purchase of land for military purposes by a county association established by a scheme made under the 1907 Act, s 1. The Territorial Force Association of the County of Lancaster was one such county association. Territorial Force Associations became known as Territorial Army Associations (Auxiliary Forces Act 1953). Today they are known as Reserve Associations (Reserve Forces Act 1996).

land in or adjoining the parishes of Marsden and Meltham in the West Riding of the County of York (*Deer Hill Rifle Ranges Order 1912*).

*Extent*

22. Each of the Acts proposed for repeal in this note extended to the geographical locality identified in the relevant Act. Where this locality now falls within the Republic of Ireland the repeal will merely cause the relevant Act to cease to exist within the United Kingdom.

*Consultation*

23. The Ministry of Defence, Great Yarmouth Borough Council, the Reserve Forces and Cadets Association for the North West of England and the relevant authorities in Wales, Scotland and Northern Ireland and in the Republic of Ireland (the Attorney General's Office) have been consulted about these repeal proposals.

(32/195/49) LAW/005/005/06  
24 January 2006



CHAPTER xv.

An Act to confirm a Provisional Order of the Secretary A.D. 1895.  
of State under the Military Lands Act 1892.

[5th September 1895.]

WHEREAS the Secretary of State has made the Provisional Order set out in the schedule to this Act under the provisions of the Military Lands Act 1892 and it is requisite that that Order should be confirmed by Parliament: 55 & 56 Vict. c. 43.

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

1. The Order set out in the schedule to this Act is by this Act confirmed and all the provisions thereof shall have full validity and force from the date of the passing of this Act. Confirmation of Order in schedule.

2. This Act may be cited as the Military Lands Provisional Order Confirmation (No. 2) Act 1895 Session 2. Short title

A.D. 1895.

SCHEDULE.

RICHMOND BARRACKS DUBLIN.

A Provisional Order made in pursuance of Section Two of the Military Lands Act 1892 authorising the purchase of land for the enlargement of Richmond Barracks in the county of Dublin.

55 & 56 Vict.  
c. 43.

WHEREAS by section two of the Military Lands Act 1892 the Secretary of State is empowered to make Provisional Orders authorising the taking of land for the military purposes defined in that Act :

And whereas under section twenty-three of the Military Lands Act 1892 the term "military purposes" is defined to include the building and enlarging of barracks :

And whereas it is expedient for the purpose of enlarging Richmond Barracks in the county of Dublin that the Secretary of State should be empowered to purchase under the Military Lands Act 1892 the lands described in this Order :

And whereas a plan showing the lands to be purchased has been signed by the Secretary of State and has been deposited with the clerk of the peace for the county of Dublin :

And whereas the Secretary of State has with reference to the purchase of the said lands caused such notices to be served and such local inquiry to be held as are required by the provisions of the Military Lands Act 1892 and after that inquiry is satisfied that the lands should be taken :

Now therefore I the Secretary of State in pursuance of the powers given to me by section two of the Military Lands Act 1892 and any other enactment in that behalf hereby order that from and after the date of the Act of Parliament confirming this Order the following provisions shall take effect :—

Power to  
purchase land  
under the  
Military Lands  
Act 1892.

1. The Secretary of State may for the enlargement of Richmond Barracks in the county of Dublin purchase under section two of the Military Lands Act 1892 and the Acts incorporated therewith the lands being part of the lands of Goldenbridge North situate in the barony of Uppercross in the parish of St. Jude's and in the county of Dublin which are more particularly delineated on the plan signed by the Secretary of State and deposited as aforesaid and are thereon coloured pink and contain ten acres and twenty-five perches or thereabouts.

[59 VICT.] *Military Lands Provisional Order* [Ch. xv.]  
*Confirmation (No. 2) Act, 1895, Session 2.*

2. This Order may be cited as the Richmond Barracks Enlargement Order A.D. 1895.  
1895. Short title.

Given under the hand and seal of the Secretary of State this twelfth  
day of June one thousand eight hundred and ninety-five.

(L.S.)

H. CAMPBELL-BANNERMAN.

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
Seamen's and Soldiers' False Characters Act 1906 (6 Edw.7 c.5)	The whole Act.
Criminal Justice Act 2003 (c.44)	In Schedule 25, paragraph 14. In Schedule 32, paragraph 152.

### *Seamen's and Soldiers' False Characters Act 1906*

1. According to its long title, the purpose of the Seamen's and Soldiers' False Characters Act 1906 ("the 1906 Act") was to "amend the law relating to the falsification of Seamen's and Soldiers' Certificates of Service or Discharge, and to false statements made, used, or given in connection with Entry or Enlistment into His Majesty's Naval, Military, or Marine Forces".<sup>30</sup>

2. The 1906 Act comprises just two substantive sections, both of which have been superseded by subsequent legislation.

3. *Section 1* (forgery of service or discharge certificate and personation) as amended provides as follows-

“(1) If any person personates the holder of a certificate of service or discharge, he shall on conviction under the Summary Jurisdiction Acts be liable to imprisonment for a term not exceeding three months.”<sup>31</sup>

(2) For the purposes of this section the expression “seaman” means a man who has served in His Majesty's naval forces, and the expression “soldier” means a man who has served in His Majesty's military or marine forces.”.

4. As originally enacted, section 1 also criminalised any *forging* of the certificate of service or discharge of any seaman or soldier. There were, at the time, many soldiers discharged from active service and seeking employment.

<sup>30</sup> The 1906 Act was made applicable to the Air Force by the Air Force (Application of Enactments) (No 2) Order 1918, SR & O 1918/548, art 1, Sch.

<sup>31</sup> A fine not exceeding level 2 on the standard scale is substituted for imprisonment for a term not exceeding 3 months: Criminal Justice Act 2003, s 304, Sch 32, Pt 2, para 152 (from a date to be appointed).

It was felt important to maintain public confidence in a serviceman's discharge papers as they were the only documents to show to a prospective employer to explain his absence from civilian employment during the period of his service. However, the text prohibiting the forging of these papers has since been repealed<sup>32</sup>, leaving the interpretation provision in subsection (2) with nothing to bite on. Moreover the repeal has resulted in subsection (1) creating a criminal offence of impersonating someone who is or was in the armed forces. It is not clear why, in the absence of any deception, dishonesty or harmful effect, such an act should be criminalised.<sup>33</sup> There is no record of any prosecution being brought under this provision. **Home Office to confirm please.**

5. *Section 2* (penalty on using or giving false statements for enlistment) is also unnecessary. As amended it provides as follows-

“If any man when entering or enlisting or offering himself for entry or enlistment in His Majesty's naval, military, or marine forces makes use of any statement as to his character or previous employment which to his knowledge is false in any material particular, he shall be liable, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding level 2 on the standard scale; and if any person makes a written statement as to the character or previous employment of any man which he knows to be false in any material particular, and which he allows or intends to be used for the purpose of the entry or enlistment of that man into His Majesty's naval, military, or marine forces, he shall be liable, on conviction under the Summary Jurisdiction Acts, to the like fine.”.

6. *Section 2* has been superseded by subsequent legislation. A number of Services related provisions make it an offence for a person applying to join the armed forces to give false information in their application. Thus a person enlisting to join the Army who knowingly makes a false answer to any question contained in the attestation paper is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding

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<sup>32</sup> Forgery and Counterfeiting Act 1981, s 30, Sch 1, Pt 1.

<sup>33</sup> The unauthorised wearing of military uniform remains an offence pursuant to the Uniforms Act 1894, s2.

level 1 on the standard scale.<sup>34</sup> Similar offences are created in relation to enlisting in the Air Force<sup>35</sup>, the Royal Navy<sup>36</sup> and the reserve forces.<sup>37</sup> Moreover, by virtue of the Theft Act 1968<sup>38</sup>, anyone who by any deception dishonestly obtains for himself or for another any pecuniary advantage shall on conviction on indictment be liable to imprisonment for a term not exceeding 5 years. A person obtains a pecuniary advantage if, inter alia, he is given the opportunity to earn remuneration (or greater remuneration) in an office or employment.<sup>39</sup>

7. As in the case of section 1, there is no record of any prosecution being brought under this provision. **Home Office to confirm please.**

8. Since sections 1 and 2 are the only unrepealed provisions of the 1906 Act<sup>40</sup>, the whole of the 1906 Act is now recommended for repeal on the basis that it no longer serves any useful purpose. The repeal of the 1906 Act will permit two consequential repeals in the Criminal Justice Act 2003-

- ◆ Schedule 25, paragraph 14 (which listed the summary offence under section 1 of the 1906 Act as one no longer punishable with imprisonment)
- ◆ Schedule 32, paragraph 152 (which amended section 1 of the 1906 Act to substitute a fine for a term of imprisonment).

### *Extent*

9. The 1906 Act extends throughout the United Kingdom.

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<sup>34</sup> Army Act 1955, s 19(1). However, upon a day to be appointed, an offence under section 19(1) will no longer be punishable by imprisonment: Criminal Justice Act 2003, s 280(1), Sch 25, para 14. Army Act 1955, s 61 also penalises the making of false statements on enlistment.

<sup>35</sup> Air Force Act 1955, ss 19(1), 61.

<sup>36</sup> Armed Forces Act 1966, s 8(1); Naval Discipline Act 1957, s 34A.

<sup>37</sup> Reserve Forces Act 1996, s 9(4), Sch 1, para 5.

<sup>38</sup> The 1968 Act, s 16(1).

<sup>39</sup> The 1968 Act, s 16(2)(c).

<sup>40</sup> Section 3 was repealed by the Reserve Forces Act 1980, s 157, Sch 10, Pt 2. Section 4 provides for the short title.

*Consultation*

10. The Ministry of Defence, the Home Office and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about these repeal proposals.

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
Injuries in War (Compensation) Act 1914 (4 & 5 Geo.5 c.30)	The whole Act.
Injuries in War (Compensation) Act 1914 (Session 2) (5 & 6 Geo.5 c.18)	The whole Act.
War Pensions (Administrative Provisions) Act 1919 (9 & 10 Geo.5 c.53)	Section 1.
Admiralty Pensions Act 1921 (11 & 12 Geo.5 c.39)	Section 2(3).
Pensions (Increase) Act 1971 (c.56)	In Schedule 2, in Part 1, paragraph 36.
Income Tax (Earnings and Pensions) Act 2003 (c.1)	Section 641(1)(e).

*Injuries in War (Compensation) Act 1914*  
*Injuries in War (Compensation) Act 1914 (Session 2)*

1. This note proposes the repeal of two 1914 statutes (“the 1914 Acts”) which provide for compensation schemes relating to injuries and disability arising from the First World War. The statutes are the Injuries in War (Compensation) Act 1914 (“the First 1914 Act”) and the Injuries in War (Compensation) Act 1914 (Session 2) (“the Second 1914 Act”).

2. The First 1914 Act enabled schemes to be made by Order in Council for the payment of disability pensions and other benefits in respect of persons (not being officers or men of HM Forces) who suffered injuries in the course of war-like operations whilst employed afloat by or under the Secretary of State for Defence. The Second 1914 Act made similar provision in respect of disablement suffered by similar persons whilst employed on shore out of the United Kingdom.<sup>41</sup>

<sup>41</sup> The Second 1914 Act, s 1. Section 2 of the Second 1914 Act extended the scope of the First 1914 Act.

3. The 1914 Acts supported two schemes, administered by the Ministry of Defence, which were made during the First World War, namely-

- (a) a scheme contained in an Order in Council made on 27 May 1915<sup>42</sup> which related to persons who were employed afloat under the Admiralty or the Army Council
- (b) the Injuries in War (Shore Employments) Compensation Scheme 1914<sup>43</sup> which related to persons who were employed ashore under the Admiralty, etc out of the United Kingdom.

4. The rates of compensation payable under both schemes have been increased from time to time over the years by a series of Orders in Council. However there has been no increase in the weekly allowances paid under the first scheme since 1958<sup>44</sup> and the last increase in the second scheme was made in 2001.<sup>45</sup> The reason for this is that all the beneficiaries under both schemes have now died, the last survivor passing away in October 2001. **The Ministry of Defence to confirm please that there are no surviving beneficiaries under either scheme.**

5. There being no surviving beneficiaries under either scheme, the 1914 Acts have now become unnecessary and may be repealed.

6. The repeal of the 1914 Acts will permit the consequential repeal of-

- ◆ War Pensions (Administrative Provisions) Act 1919, s1 (which related to the administration of schemes made under the 1914 Acts)

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<sup>42</sup> SI 1915/555.

<sup>43</sup> Not published in the SR & O series.

<sup>44</sup> SI 1958/1266.

<sup>45</sup> SI 2001/1015. Until 2001, orders to increase the weekly payments were made nearly every year. The beneficiaries were former members of the women's auxiliary forces who suffered disability from their overseas service during the First World War.

- ◆ Admiralty Pensions Act 1921, s2(3) (which applied provisions about forfeited pensions to any pension, grant or allowance paid pursuant to the 1914 Acts<sup>46</sup>)
  
- ◆ Pensions (Increase) Act 1971, Sch 2, para 36 (which related to a widow's pension payable in accordance with a scheme under the Second 1914 Act for established civil servants employed abroad within the sphere of military operations)
  
- ◆ Income Tax (Earnings and Pensions) Act 2003, s 641(1)(e) (which exempts from income tax any pension payable pursuant to the 1914 Acts).

*Extent*

7. The 1914 Acts extend throughout the United Kingdom.

*Consultation*

8. The Ministry of Defence, HM Treasury, HM Revenue and Customs and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about these repeal proposals.

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<sup>46</sup> Admiralty Pensions Act 1921, s 2(3) also contains an obsolete reference to the Government War Obligations Acts 1914 to 1918. Since these Acts were repealed by the Statute Law Revision Act 1958, s4(2), this reference may also be repealed as obsolete.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Naval and Military War Pensions &c. Act 1915 (5 & 6 Geo.5 c.83)	The whole Act.
Statute Law (Repeals) Act 1981 (c.19)	In Schedule 2, paragraph 4.

### *Naval and Military War Pensions &c. Act 1915*

1. The purposes of the Naval and Military War Pensions &c. Act 1915 (“the 1915 Act”) included making better provision for the care of naval and military officers and men disabled in consequence of the First World War. The 1915 Act has since been extended to the Air Force.<sup>47</sup>

2. The only substantive provision remaining in the 1915 Act is section 3(1)(j).<sup>48</sup> Section 3, as originally enacted, vested in a statutory committee of the Royal Patriotic Fund Corporation various functions regarding pensions and other benefits for death or disablement due to service in the First World War. The statutory committee was dissolved in 1917 when its functions were either abolished or transferred to other authorities.<sup>49</sup> These functions (now vested in the Secretary of State) were set out in section 3(1) and were largely abolished in 1981.<sup>50</sup> The only function remaining is the one specified in section 3(1)(j) which has effect as follows-

“(1) It shall be a function of the Secretary of State-  
(j) to make provision for the care of disabled officers<sup>51</sup> and men after they have left the service, including provision for their health, training and employment;”.

3. If section 3(1)(j) continues to be relied on by the Secretary of State in caring for the needs of surviving disabled officers and men (and disabled

<sup>47</sup> Air Force (Application of Enactments) (No 2) Order 1918, SR & O 1918/548.

<sup>48</sup> Until 2005 section 6 (which related to the Royal Patriotic Fund Corporation) also remained in force. Section 6, however, has been repealed by the Armed Forces (Pensions and Compensation) Act 2004, s7(4), Sch 3. The repeal took effect on 11 November 2005 by virtue of SI 2005/3107, art 3.

<sup>49</sup> Naval and Military War Pensions etc (Transfer of Powers) Act 1917, s 5(2), Sch.

<sup>50</sup> Statute Law (Repeals) Act 1981, s 1(1), Sch 1, Pt 9.

<sup>51</sup> By virtue of the War Pensions (Administrative Provisions) Act 1919, s 9, the reference to officers in section 3(1)(j) includes a reference to nurses.

nurses) from the First World War, it is clearly unsatisfactory that it should sit as a truncated provision in isolation from other statutory provisions that provide benefits to surviving disabled officers and men (and nurses) from that war. A more appropriate place for it would be in the Naval and Military War Pensions &c (Administrative Expenses) Act 1917 which contains other provisions whereby the Secretary of State has functions for the benefit of surviving disabled officers and men from the First World War. This re-positioning may be achieved by the entry in the attached *Schedule of consequential and connected provisions*, and will permit the whole of the 1915 Act to be repealed. The entry does not replicate the reference in section 3(1)(j) to training and employment, given the present age of survivors from the First World War.

4. Consequential upon the repeal of section 3(1)(j) will be the repeal of the provision in the Statute Law (Repeals) Act 1981 that amended the opening words of section 3(1).<sup>52</sup>

#### *Extent*

5. The 1915 Act extends throughout the United Kingdom.

#### *Consultation*

6. The Ministry of Defence, the Department for Work and Pensions, the Royal British Legion and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about this repeal proposal.

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<sup>52</sup> The 1981 Act, Sch 2, para 4.

**SCHEDULE**

**OF**

**CONSEQUENTIAL AND CONNECTED PROVISIONS**

*Naval and Military War Pensions &c.  
(Administrative Expenses) Act 1917 (c.14)*

. After section 6 of the Naval and Military War Pensions &c. (Administrative Expenses) Act 1917 insert the following-

**“6A Function of Secretary of State to provide for the care of disabled officers and men and disabled nurses**

It shall be a function of the Secretary of State to make provision for the care of disabled officers and men and disabled nurses after they have left naval, military or air force service, including provision for their health.”.

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Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (6 & 7 Geo.5 c.60)

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The whole Act.

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*Sailors and Soldiers (Gifts for Land Settlement) Act 1916*

1. The purpose of the Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (“the 1916 Act”) was to authorise the Government’s agriculture Departments and local government to accept gifts for the purpose of providing former servicemen with employment in agriculture.

2. *Section 1(1)* of the 1916 Act is the main provision and sets out the basis on which the Board of Agriculture and Fisheries (now the Secretary of State for Environment, Food and Rural Affairs) and county councils could accept such gifts. The gifts could be by will or otherwise and, if accepted, had to be applied wholly or mainly for the settlement or employment in agriculture of men who had served in any of His Majesty’s naval or military forces.<sup>53</sup> The recipient Department or county council had to hold any land, the subject of any such gift and to administer the trusts affecting the gift. Power was given to borrow on the security of the trust property. All expenses were to be defrayed out of the trust property or its income.

3. *Subsections (3) and (4)* of section 1 applied subsection (1) to Scotland and Northern Ireland with necessary modification as to the references to the central and local government authorities in those countries.

4. The origins of the 1916 Act lay in a gift made by Robert Buchanan of Bosbury, Herefordshire. In order to commemorate the death of his only son who was killed in action in 1916, Mr Buchanan wished to donate some land to the Board of Agriculture to be held on trust to provide smallholdings for servicemen returning from the First World War. As the law stood, however, there were doubts about whether the Government could accept such a gift. As

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<sup>53</sup> The 1916 Act has since been extended to the Air Force: Air Force (Application of Enactments) (No 2) Order 1918, SR & O 1918/548.

the Parliamentary Secretary to the Board of Agriculture explained during the Commons Second Reading debate on 28 November 1916-

“This Bill is .... necessary because it is a principle of general acceptance that public Departments and authorities are not allowed to do anything which they are not particularly and expressly enabled to do by statutory authority, and there was some doubt as to whether the Board of Agriculture were enabled to accept gifts of this kind and act as trustees for carrying out trusts in connection with such gifts, and therefore it has been thought right to settle the matter by allowing the State or public authorities to accept gifts of land of that nature .... . I have always felt that a grant of land for settlement by soldiers who have come back from the War, and the building of cottages and the provision of gardens around the cottages, would be the finest possible war memorial which the villages up and down the countryside could possibly make.”<sup>54</sup>

5. The passing of the 1916 Act facilitated the gift of land that Mr Buchanan wished to make. The land became known as the Bosbury Trust Estate. The trust was registered as a charity on 22 July 1964 under the name of the Buchanan Trust. The objects of the trust are to provide ‘land for smallholdings for ex-servicemen particularly those who served in the 1914-19 [sic] war’. The land is still used as smallholdings. The trustees are Herefordshire Council.

6. The 1916 Act is best viewed in the context of the social and economic conditions prevailing in the United Kingdom at the time of the First World War. Its immediate purpose was to overcome a legal obstacle in relation to gifts to public authorities. But the main underlying purpose seems to have been to provide work for ex-servicemen who had served in the war, thereby relieving pressure on the labour market. There was also a need to maximise the yield from agricultural land during and just after the war. The 1916 Act had much in common with another Act of that year, the Small Holding Colonies Act 1916 whereby ex-servicemen (mostly without farming experience) were put to work on agricultural smallholdings that the State had acquired for the purpose.<sup>55</sup>

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<sup>54</sup> Hansard (HC), vol 88, col 278 (Mr Acland).

<sup>55</sup> The practical value of the Small Holding Colonies Act 1916 was limited and most of that Act was repealed by the Agriculture Act 1970, s 113(3), Sch 5, Pt 3.

7. The need for the 1916 Act no longer exists. No public authority today would wish to accept gifts that had to be applied in settling ex-servicemen on the land.<sup>56</sup> Moreover, changes in agriculture during the second half of the twentieth century have greatly reduced the numbers that can be employed on the land.<sup>57</sup> In short, the 1916 Act has no practical modern use and its repeal is recommended on that basis. Records at the National Archives indicate that the land gifted by Mr Buchanan is the only estate that has triggered the use of the 1916 Act.<sup>58</sup>

8. However, the fact that the provisions of the 1916 Act have been invoked on this one occasion at least means that a savings provision may be necessary to ensure that the relevant public authorities are able to continue to administer any land or other property that they still hold as a result of gifts that they have accepted pursuant to the 1916 Act. The attached *Schedule of consequential and connected provisions* contains this savings provision. **The views of consultees are invited on whether such a saving is actually necessary.**

#### *Extent*

9. The 1916 Act extends throughout the United Kingdom.

#### *Consultation*

10. The Department for Environment, Food and Rural Affairs, HM Treasury, the Ministry of Defence, the Office of the Deputy Prime Minister (in relation to local government), the Charity Commission, Herefordshire County Council (as trustee for the Buchanan Trust), the Local Government Association, the Welsh Local Government Association and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about this repeal proposal.

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<sup>56</sup> Nowadays local authorities have power to accept, hold and administer gifts of property in particular circumstances: Local Government Act 1972, s 139.

<sup>57</sup> Some of these changes relate to adjustments in farming methods, including improvements resulting in increased food production. Other changes came about because of the influence of the Common Agricultural Policy after the United Kingdom joined the EEC in 1973 and because of more general social and economic developments since the 1950s.

<sup>58</sup> National Archives Catalogue Reference MAF 139/57.

**SCHEDULE**

**OF**

**CONSEQUENTIAL AND CONNECTED PROVISIONS**

*Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (c.60)*

. The repeal by this Act of the Sailors and Soldiers (Gifts for Land Settlement) Act 1916 shall not affect the operation of section 1 of that Act in relation to any gift accepted before the commencement of this Act.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Polish Resettlement Act 1947 (10 & 11 Geo.6 c.19)	Section 7.

*Polish Resettlement Act 1947*  
*Background*

1. The Polish Resettlement Act 1947 (“the 1947 Act”) was passed to resolve the various problems which arose from certain Polish forces and their dependants remaining in the UK after the Second World War. These men had fought under British Command during the war but were not strictly Allied Forces after the Government of Poland withdrew their recognition of them in 1945.

2. The British Government had two basic aims concerning the Polish refugees. To enable those who wished to return to Poland to do so as soon as possible. And for those who wished to remain, to assist in assimilating them into the life of this country. Responsibility for these men and for their families had initially been in the hands of the Interim Treasury Committee for Polish Questions. This had been established when the “Caretaker Government” withdrew its recognition of the London Polish Government on 5<sup>th</sup> July 1945. The 1947 Act transferred this responsibility to various Government Departments and authorised them to provide in their various ways for the 127,000 Poles then living in the UK.

3. *Section 3* of the 1947 Act enabled the Secretary of State to provide accommodation, in camps, hostels or other establishment, for persons in Great Britain from any of the categories specified in section 2(2), (and their dependants)-

- ◆ Poles whose registration under the Aliens Order 1920<sup>59</sup> took place on or after 1 September 1939 who had been permitted to enter, or

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<sup>59</sup> SR & O 1920/448.

remain in, the UK in view of the circumstances attributable to the Second World War

- ◆ former members of the forces specified in section 1(1)<sup>60</sup> (including the naval detachment mentioned therein) and members of any of those forces relegated from service therewith
- ◆ wives of men in the above categories and any woman who, having been the wife of a man of either category, had ceased so to be and had not re-married
- ◆ certain persons who had been permitted to enter the UK on or after 1 September 1939 who were followers of a body of Polish forces entering the UK (and dependent thereon or on members thereof).

4. *Section 7* of the 1947 Act empowered the Minister of Labour and National Service (now the Secretary of State for Education and Skills<sup>61</sup>)-

“in accordance with a scheme made by him with the approval of the Treasury, to make arrangements, in connection with the emigration of persons of any description for whom the Secretary of State has power to provide accommodation under section 3 of this Act, for facilitating the removal of such persons and their belongings to their destinations and making payments in or towards defraying the expenses of providing facilities therefor”.<sup>62</sup>

5. The powers given by section 7 no longer serve any useful purpose. Indeed it seems doubtful whether they were ever used – no scheme under

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<sup>60</sup> S 1(1) specified-

- ◆ the Polish naval detachment mentioned in the agreement made between the UK and the Government of Poland on 18 November 1939
- ◆ the Polish armed forces organised and employed under British command in pursuance of the agreement made on 5 August 1940
- ◆ the Polish resettlement forces defined in section 10(1) as meaning the Polish Re-Settlement Corps, the Polish Resettlement Corps (Royal Air Force), the Polish Re-Settlement Section of the Auxiliary Territorial Service and the Polish Re-Settlement section of the Woman's Auxiliary Force.

<sup>61</sup> By virtue of the Secretaries of State for Education and Skills and for Work and Pensions Order 2002, SI 2002/1397.

<sup>62</sup> The 1947 Act, s 7(1), which also provided that such arrangements should not extend to members of any of the Polish resettlement forces relegated from service or to former members of any of those forces emigrating immediately on their discharge (or to dependants of any such members or former members).

section 7 has ever been published as a statutory order or instrument. In any event it is clear from the wording of section 7<sup>63</sup> that it was intended only as a temporary provision. Its repeal after 60 years is long overdue and is now recommended.

#### *Extent*

6. Section 7 of the 1947 Act extends throughout the United Kingdom.

#### *Consultation*

7. HM Treasury, the Department for Work and Pensions, the Department for Education and Skills, the Home Office, the Ministry of Defence, the Polish Ex-Combatants Association and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about this repeal proposal.

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<sup>63</sup> ie “ ... for facilitating the removal of such persons ... to their destinations”.