



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

(LAW COM No 308)

(SCOT LAW COM No 210)

## **STATUTE LAW REPEALS: EIGHTEENTH REPORT**

### **DRAFT STATUTE LAW (REPEALS) BILL**

*Presented to the Parliament of the United Kingdom by the Lord Chancellor  
and Secretary of State for Justice by Command of Her Majesty*

*Laid before the Scottish Parliament by the Scottish Ministers*

*January 2008*

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

The Law Commissioners are:

The Honourable Mr Justice Etherton, *Chairman*  
Mr Stuart Bridge  
Mr David Hertzell  
Professor Jeremy Horder  
Mr Kenneth Parker QC

The interim Chief Executive of the Law Commission is Mr William Arnold.<sup>1</sup>

The Law Commission is located at Conquest House, 37-38 John Street, Theobalds Road, London WC1N 2BQ.

The Scottish Law Commissioners are:

The Honourable Lord Drummond Young, *Chairman*  
Professor George L Gretton  
Professor Gerard Maher QC  
Professor Joseph M Thomson  
Mr Colin J Tyre QC

The Chief Executive of the Scottish Law Commission is Mr Michael Lugton.

The Scottish Law Commission is located at 140 Causewayside, Edinburgh, EH9 1PR.

The terms of this report were agreed on 3 December 2007

**The text of this report is available on the Internet at:**

<http://www.lawcom.gov.uk>  
<http://www.scotlawcom.gov.uk>

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<sup>1</sup> At the date the report was signed, Steve Humphreys was Chief Executive of the Law Commission. William Arnold was appointed interim Chief Executive with effect from 7 January 2008.

**LAW COMMISSION**  
**SCOTTISH LAW COMMISSION**

**STATUTE LAW REPEALS: EIGHTEENTH REPORT**  
**DRAFT STATUTE LAW (REPEALS) BILL**

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A NOTE ON THE STYLE OF PAGINATION

This report is paginated consecutively. However, the Bill section (Appendix 1) is paginated according to the accepted Bill standard, and the number is at the top of the page. For the rest of the report the number is at the bottom of the page.

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# THE LAW COMMISSION AND THE SCOTTISH LAW COMMISSION

## STATUTE LAW REPEALS: EIGHTEENTH REPORT<sup>1</sup>

### Draft Statute Law (Repeals) Bill

*To the Right Honourable Jack Straw MP, Lord Chancellor and Secretary of State for Justice,  
and the Scottish Ministers*

1. In pursuance of section 3(1)(d) of the Law Commissions Act 1965, we have prepared the draft Bill which is *Appendix 1* and recommend that effect be given to the proposals contained in it. An explanatory note on the contents of the draft Bill forms *Appendix 2*. *Appendix 3* lists the individuals and organisations we consulted about our proposals.
2. The report recommends the repeal of enactments which have been identified, after detailed research and consultation, as being spent, obsolete, unnecessary or otherwise not now of practical utility.<sup>2</sup> The proposals have been widely canvassed with the government departments and other bodies concerned, including the relevant authorities throughout Wales, Scotland and Northern Ireland.<sup>3</sup> Full details of the proposals are set out in the Notes on the Bill which, along with this report, are available on the Law Commissions' websites ([www.lawcom.gov.uk](http://www.lawcom.gov.uk) and [www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk)).
3. The report is submitted in pursuance of the Law Commissions' programme on statute law. The broad objective of this programme is to modernise and simplify the statute book.

(Signed)	TERENCE ETHELTON <i>Chairman, Law Commission</i>	JAMES DRUMMOND YOUNG <i>Chairman, Scottish Law Commission</i>
	STUART BRIDGE	GEORGE GRETTON
	DAVID HERTZELL	GERARD MAHER
	JEREMY HORDER	JOSEPH M THOMSON
	KENNETH PARKER	COLIN TYRE
	STEVE HUMPHREYS <i>Chief Executive</i>	MICHAEL LUGTON <i>Chief Executive</i>

4 December 2007

- <sup>1</sup> Earlier reports in this series have been called statute law *revision* reports. Our decision to describe this latest report as a statute law *repeals* report reflects the reality that our proposals are about repealing obsolete enactments rather than revising them.
- <sup>2</sup> The enactments proposed for repeal are specified in Schedule 1 to the draft Bill. The Schedule is divided into Parts, some of which are subdivided into Groups. The Parts are, in accordance with the drafting practice adopted in Statute Law (Repeals) Acts since 1975, presented according to their alphabetical order of title with a Part at the end dealing with miscellaneous repeals.
- <sup>3</sup> Where the proposals extend to Wales, those consulted include the Wales Office and the Counsel General to the Welsh Assembly Government. Where the proposals extend to Scotland, those consulted include the Scottish Executive and the departments responsible for reserved matters in relation to Scotland. Where the proposals extend to Northern Ireland, those consulted include the Northern Ireland Office and the First Legislative Counsel for Northern Ireland.



# **Appendix 1 - Draft Statute Law (Repeals) Bill**

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- 1 Repeals and associated provisions
- 2 Extent
- 3 Short Title

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- Schedule 1 – Repeals
    - Part 1 – Armed Forces
    - Part 2 – County Gaols
    - Part 3 – Criminal Law
    - Part 4 – East India Company
    - Part 5 – London
    - Part 6 – Police
    - Part 7 – Rating
    - Part 8 – Tax and Duties
    - Part 9 – Town and Country Planning
    - Part 10 – Turnpikes
    - Part 11 – Miscellaneous
  - Schedule 2 – Consequential and Connected Provisions





A  
**B I L L**

TO

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

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

**1 Repeals and associated provisions**

- (1) The enactments referred to in Schedule 1 are repealed to the extent specified in the second column of that Schedule.
- (2) Schedule 2 (consequential and connected provisions) has effect.

**2 Extent**

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- (1) This Act extends to the whole of the United Kingdom.
- (2) This Act also extends to the Isle of Man.
- (3) Subject to subsection (5), the repeals and amendments in Schedules 1 and 2 have the same extent as the enactments repealed or amended, except as mentioned in the relevant entry. 10
- (4) Her Majesty may by Order in Council provide-
  - (a) that the repeal by this Act of any enactment specified in the Order shall on a date so specified extend to any of the Channel Islands or any British overseas territory, and
  - (b) that any provision of Schedule 2 specified in the Order shall on a date so specified extend to any of the Channel Islands or any British overseas territory subject to any modification so specified. 15

- (5) Except as provided by an order under subsection (4), this Act does not repeal or amend any enactment so far as the enactment forms part of the law of a country outside the United Kingdom and the Isle of Man.

**3 Short Title**

This Act may be cited as the Statute Law (Repeals) Act 2008.

## SCHEDULES

### SCHEDULE 1

Section 1(1)

#### REPEALS

#### PART 1

#### ARMED FORCES

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#### GROUP 1 - ROYAL NAVAL SCHOOL

<i>Reference</i>	<i>Extent of repeal</i>	
3 & 4 Vict. c.lxxxvi (1840) (Royal Naval School Act)	The whole Act.	
8 & 9 Vict. c.xxii (1845) (Royal Naval School Act)	The whole Act.	10
Royal Naval School Amendment Act 1851 (14 & 15 Vict. c.xxix)	The whole Act.	
23 & 24 Vict. c.civ (1860) (Royal Naval School Act)	The whole Act.	15
Royal Naval School (New Cross) Disused Chapel Site Act 1890 (53 & 54 Vict. c.viii)	The whole Act.	

#### GROUP 2 - GREENWICH HOSPITAL

20

<i>Reference</i>	<i>Extent of repeal</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).	25
Greenwich Hospital Act 1947 (10 & 11 Geo.6 c.5)	The whole Act.	
Greenwich Hospital Act 1967 (c.74)	Section 1(2). Section 2.	

## GROUP 3 - MILITARY LANDS

<i>Reference</i>	<i>Extent of repeal</i>	
Military Lands Provisional Orders Confirmation Act 1893 (56 & 57 Vict. c.xxxvii)	The whole Act.	5
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.	10
Military Lands Provisional Orders Confirmation Act 1898 (61 & 62 Vict. c.lxxxix)	The whole Act.	15
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.	20
Military Lands Provisional Order Confirmation Act 1900 (63 & 64 Vict. c.i)	The whole Act.	25
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.	30
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.	35
Military Lands Provisional Order Confirmation (No.2) Act 1902 (2 Edw.7 c.lxxiii)	The whole Act.	
Naval Works Provisional Order Confirmation Act 1903 (3 Edw.7 c.lxvii)	The whole Act.	40
Military Lands Provisional Orders Confirmation Act 1903 (3 Edw.7 c.lxxxiv)	The whole Act.	45

<i>Reference</i>	<i>Extent of repeal</i>	
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.	5

GROUP 4 - GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal</i>	
Chelsea and Kilmainham Hospitals Act 1826 (7 Geo.4 c.16)	Section 3. Sections 10 and 11. Section 13. Section 23. 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.	10        20
Army (Artillery, etc.) Pensions Act 1833 (3 & 4 Will.4 c.29)	The whole Act.	
Drouly Fund Act 1838 (1 & 2 Vict. c.89)	The whole Act.	
Army Act 1881 (44 & 45 Vict. c.58)	The whole Act.	25
Barracks Act 1890 (53 & 54 Vict. c.25)	The whole Act.	
Seamen’s and Soldiers’ False Characters Act 1906 (6 Edw.7 c.5)	The whole Act.	30
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.	35
Naval and Military War Pensions &c. Act 1915 (5 & 6 Geo.5 c.83)	The whole Act (except as it extends to the Isle of Man).	
Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (6 & 7 Geo.5 c.60)	The whole Act.	40
War Pensions (Administrative Provisions) Act 1919 (9 & 10 Geo.5 c.53)	Section 1.	45
Admiralty Pensions Act 1921 (11 & 12 Geo.5 c.39)	Section 2(3).	

<i>Reference</i>	<i>Extent of repeal</i>	
Finance Act 1944 (7 & 8 Geo.6 c.23)	Section 46.	
Polish Resettlement Act 1947 (10 & 11 Geo.6 c.19)	Section 7.	5
Pensions (Increase) Act 1971 (c.56)	In Schedule 2, in Part 1, paragraph 36.	
Statute Law (Repeals) Act 1981 (c.19)	In Schedule 2, paragraph 4.	
Income Tax (Earnings and Pensions) Act 2003 (c.1)	Section 641(1)(e).	10
Criminal Justice Act 2003 (c.44)	In Schedule 25, paragraph 14. In Schedule 32, paragraph 152.	
PART 2		
COUNTY GAOLS		
		15
GROUP 1 - BUCKINGHAMSHIRE		
<i>Reference</i>	<i>Extent of repeal</i>	
10 Geo.2 c.10 (1736) (Aylesbury Gaol and Shire Hall: Rate in Bucks Act)	The whole Act.	20
GROUP 2 - CAMBRIDGESHIRE		
<i>Reference</i>	<i>Extent of repeal</i>	
1 Geo.4 c.lxxvii (1820) (Ely Sessions House and House of Correction Act)	The whole Act.	25
7 & 8 Geo.4 c.cxi (1827) (Cambridge Gaol Act)	The whole Act.	
2 & 3 Vict. c.ix (1839) (Cambridge Gaol Act)	The whole Act.	
GROUP 3 - CHESHIRE		
		30
<i>Reference</i>	<i>Extent of repeal</i>	
28 Geo.3 c.82 (1788) (Chester Improvement Act)	The whole Act.	
47 Geo.3 Sess.2 c.vi (1807) (Chester Castle Gaol and other Buildings Act)	The whole Act.	35

GROUP 4 - CUMBRIA

<i>Reference</i>	<i>Extent of repeal</i>
17 Geo.3 c.54 (1776) (Westmorland Gaol, etc Act)	The whole Act.

GROUP 5 - DEVON

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<i>Reference</i>	<i>Extent of repeal</i>
26 Geo.2 c.57 (1753) (Debtors' Prison, Devonshire Act)	The whole Act.
27 Geo.3 c.59 (1787) (Devon Gaol Act)	The whole Act.
50 Geo.3 c.lxxxv (1810) (Devon County Gaol Act)	The whole Act.
58 Geo.3 c.li (1818) (Exeter Gaol Act)	The whole Act.
Exeter Gaol Act 1863 (26 & 27 Vict. c.lxxiii)	The whole Act.

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GROUP 6 - ESSEX

<i>Reference</i>	<i>Extent of repeal</i>
13 Geo.3 c.35 (1772) (Essex Gaol Act)	The whole Act.
1 & 2 Geo.4 c.cii (1821) (Essex Gaols Act)	The whole Act.
7 & 8 Geo.4 c.x (1827) (Essex Prisons Act)	The whole Act.

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GROUP 7 - GLOUCESTERSHIRE

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<i>Reference</i>	<i>Extent of repeal</i>
21 Geo.3 c.74 (1781) (Gloucester Gaol Act)	Sections 1 to 40. Sections 64 to 75. Schedule.
25 Geo.3 c.10 (1785) (Gloucester Gaol Act)	The whole Act.
53 Geo.3 c.clxxx (1813) (Tewkesbury Gaol Act)	The whole Act.

30

GROUP 8 - GREATER LONDON

<i>Reference</i>	<i>Extent of repeal</i>
7 Geo.3 c.37 (1766) (Thames Embankment Act)	Sections 4 to 10.

35

<i>Reference</i>	<i>Extent of repeal</i>	
18 Geo.3 c.48 (1778) (Newgate Gaol and Sessions House Act)	The whole Act.	
25 Geo.3 c.97 (1785) (City of London Improvement Act)	The whole Act.	5
26 Geo.3 c.55 (1786) (Middlesex Gaol Act)	The whole Act.	
31 Geo.3 c.22 (1791) (Surrey Gaol Act)	The whole Act.	10
44 Geo.3 c.lxxxiv (1804) (London Debtors' Prisons Act)	The whole Act.	
52 Geo.3 c.ccix (1812) (Debtors' Prison for London and Middlesex Act)	The whole Act.	15
55 Geo.3 c.xcviii (1815) (Debtors' Prison for London and Middlesex Act)	The whole Act.	
GROUP 9 - HAMPSHIRE		20
<i>Reference</i>	<i>Extent of repeal</i>	
41 Geo.3 c.cxxxii (1801) (Winchester Gaol Act)	The whole Act.	
45 Geo.3 c.xliv (1805) (Portsmouth Gaol Act)	The whole Act.	25
GROUP 10 - HERTFORDSHIRE		
<i>Reference</i>	<i>Extent of repeal</i>	
12 & 13 Will.3 c.21 (1700) (Removal of Hertford Gaol Act)	The whole Act.	30
15 Geo.3 c.25 (1775) (Hertford Prison Act)	The whole Act.	
GROUP 11 - NORFOLK		
<i>Reference</i>	<i>Extent of repeal</i>	
3 Geo.4 c.iv (1822) (Norfolk County Gaol Act)	The whole Act.	35



GROUP 12 - NORTHAMPTONSHIRE

<i>Reference</i>	<i>Extent of repeal</i>	
2 & 3 Vict. c.lxvii (1839) (Peterborough and Nassaburgh Gaol Act)	The whole Act.	5

GROUP 13 - NORTHUMBERLAND

<i>Reference</i>	<i>Extent of repeal</i>	
1 & 2 Geo.4 c.ii (1821) (Northumberland Gaol and County Offices Act)	The whole Act.	10
3 Geo.4 c.lv (1822) (Newcastle- upon-Tyne Gaol Act)	The whole Act.	

GROUP 14 - PEMBROKESHIRE

<i>Reference</i>	<i>Extent of repeal</i>	
19 Geo.3 c.46 (1779) (Pembroke Gaol Act)	The whole Act.	15

GROUP 15 - SOMERSET

<i>Reference</i>	<i>Extent of repeal</i>	
56 Geo.3 c.lix (1816) (Bristol Gaol Act)	The whole Act.	20

GROUP 16 - STAFFORDSHIRE

<i>Reference</i>	<i>Extent of repeal</i>	
27 Geo.3 c.60 (1787) (Stafford Gaol Act)	The whole Act.	

GROUP 17 -WARWICKSHIRE

<i>Reference</i>	<i>Extent of repeal</i>	
8 Geo.3 c.40 (1768) (Coventry Gaol Act)	The whole Act.	30
17 Geo.3 c.58 (1777) (Warwick Gaol Act)	The whole Act.	

GROUP 18 - WEST SUSSEX

<i>Reference</i>	<i>Extent of repeal</i>	
27 Geo.3 c.58 (1787) (Sussex Gaol Act)	The whole Act.	

## GROUP 19 - WILTSHIRE

<i>Reference</i>	<i>Extent of repeal</i>	
39 & 40 Geo.3 c.liii (1800) (New Sarum Gaol Act)	The whole Act.	
PART 3		5
CRIMINAL LAW		
<i>Reference</i>	<i>Extent of repeal</i>	
Disorderly Houses Act 1751 (25 Geo.2 c.36)	The whole Act.	
Servants' Characters Act 1792 (32 Geo.3 c.56)	The whole Act.	10
Unlawful Drilling Act 1819 (60 Geo.3 & 1 Geo.4 c.1)	The whole Act (except as it extends to Northern Ireland).	
Punishment of Offences Act 1837 (7 Will.4 & 1 Vict. c.91)	The whole Act.	15
Foreign Enlistment Act 1870 (33 & 34 Vict. c.90)	Section 3.	
Conspiracy, and Protection of Property Act 1875 (38 & 39 Vict. c.86)	The whole Act.	20
Criminal Justice Act 1948 (11 & 12 Geo.6 c.58)	Section 69. Section 78. Schedule 8.	
Sexual Offences Act 1956 (4 & 5 Eliz.2 c.69)	In section 35(2), the words from “(whether” to “1885)”. In section 35(3), the words from “or was so convicted” to “commencement of this Act,” and from “or under subsection (1)” to the end. In section 52(1), the proviso.	25
London County Council (General Powers) Act 1959 (7 & 8 Eliz.2 c.lii)	In section 3(1), the definition “the Act of 1751”.	30
Criminal Justice Act 1972 (c.71)	Section 31. Section 59. In section 66(6), the proviso. In section 66(7)(a), the words “section 31” to “1950,”.	35
Magistrates' Courts Act 1980 (c.43)	In Schedule 1, paragraph 2.	
Criminal Justice Act 1982 (c.48)	Section 28. Sections 30 and 31. Section 68(1). Section 72(3). Schedule 12.	40

<i>Reference</i>	<i>Extent of repeal</i>	
Nuclear Material (Offences) Act 1983 (c.18)	Section 4(1)(a). Section 5A.	
Prosecution of Offences Act 1985 (c.23)	Sections 12 and 13. Section 15(7). Section 28. Section 31(4).	5
Criminal Justice Act 1988 (c.33)	Section 49. Section 64. Section 100. Section 103. Section 123(1) and (5). Section 125. Schedule 5. In Schedule 8, Part 2.	10
Criminal Justice Act 1991 (c.53)	Section 69. Section 72.	15
Statute Law (Repeals) Act 1993 (c.50)	In Schedule 2, in Part 1, paragraph 1.	
Statute Law (Repeals) Act 1995 (c.44)	In Schedule 2, paragraph 1(a) and the words “Great Britain and” in paragraph 1(c).	20
Criminal Procedure and Investigations Act 1996 (c.25)	Section 46. Section 65.	
Crime and Disorder Act 1998 (c.37)	Section 35. Section 36(3) and (6). Section 97(5). Sections 107 and 108. Section 116.	25
Anti-terrorism, Crime and Security Act 2001 (c.24)	Sections 37 and 38. Sections 122 and 123.	30
Licensing Act 2003 (c.17)	In Schedule 6, paragraph 2.	

PART 4

EAST INDIA COMPANY

<i>Reference</i>	<i>Extent of repeal</i>	
36 Geo.3 c.119 (1796) (East India Merchants and Purchase of Land in City, etc Act)	The whole Act.	35
36 Geo.3 c.127 (1796) (East India Merchants and Land for Warehouses, etc Act)	The whole Act.	40
46 Geo.3 c.cxxxiii (1806) (East India Company and the Nabobs of the Carnatic Act)	The whole Act.	
50 Geo.3 c.ccciii (1810) (East India Company and the Nabobs of the Carnatic Act)	The whole Act.	45

<i>Reference</i>	<i>Extent of repeal</i>	
52 Geo.3 c.clxxxviii (1812) (East India Company and the Nabobs of the Carnatic Act)	The whole Act.	
57 Geo.3 c.viii (1817) (East India Company and the Nabobs of the Carnatic Act)	The whole Act.	5
59 Geo.3 c.xxvi (1819) (East India Company and the Nabobs of the Carnatic Act)	The whole Act.	10
3 Geo.4 c.xviii (1822) (East India Company and the Nabobs of the Carnatic Act)	The whole Act.	
5 Geo.4 c.cxvii (1824) (East India Company and the Rajah of Tanjore Act)	The whole Act.	15
7 Geo.4 c.xli (1826) (East India Company and Creditors of the Nabobs of the Carnatic Act)	The whole Act.	20
11 Geo.4 & 1 Will.4 c.xxxiii (1830) (East India Company and Rajah of Tanjore Act)	The whole Act.	
2 & 3 Will.4 c.cxii (1832) (East India Company Act)	The whole Act.	25

## PART 5

## LONDON

## GROUP 1 - POOR RELIEF

<i>Reference</i>	<i>Extent of repeal</i>	
10 Geo.3 c.79 (1770) (Holborn Poor Relief Act)	The whole Act.	30
10 Geo.3 c.80 (1770) (Holborn Poor Relief Act)	The whole Act.	
14 Geo.3 c.75 (1774) (Southwark Workhouse Act)	The whole Act.	35
38 Geo.3 c.xxxiv (1798) (St Sepulchre's Workhouse Act)	The whole Act.	
39 Geo.3 c.iv (1799) (St Bride Fleet Street Poor Relief Act)	The whole Act.	
46 Geo.3 c.xvi (1806) (St Sepulchre City of London Poor Relief Act)	The whole Act.	40
59 Geo.3 c.xv (1819) (Wapping Workhouse Act)	The whole Act.	

<i>Reference</i>	<i>Extent of repeal</i>	
7 Geo.4 c.cxiv (1826) (St Bride Fleet Street Poor Relief Act)	The whole Act.	
GROUP 2 - WESTMINSTER COURT HOUSE		
<i>Reference</i>	<i>Extent of repeal</i>	5
18 Geo.3 c.72 (1778) (Westminster Improvement Act)	The whole Act.	
39 Geo.3 c.lxxxii (1799) (Westminster Court House Act)	The whole Act.	10
44 Geo.3 c.61 (1804) (Sessions Houses, Westminster, etc Act)	Section 3.	
47 Geo.3 sess.2 c.lxvii (1807) (Westminster Court House Act)	The whole Act.	15
GROUP 3 - LONDON COAL DUTIES		
<i>Reference</i>	<i>Extent of repeal</i>	
45 Geo.3 c.ii (1805) (London Coal Trade Act)	The whole Act.	20
5 Geo.4 c.cxlvii (1824) (City of London Coal Trade Act)	The whole Act.	
3 & 4 Vict. c.cxxxi (1840) (Port of London Coal and Wines Import Duties Act)	The whole Act.	25
6 & 7 Vict. c.ci (1843) (Port of London Coalwhippers Act)	The whole Act.	
Coal Duties (London and Westminster and adjacent Counties) Act 1851 (14 & 15 Vict. c.cxlvi)	The whole Act.	30
Coal Duties (London, etc) Drawback Act 1857 (20 & 21 Vict. c.lxxxix)	The whole Act.	35
GROUP 4 - COURT OF CHANCERY		
<i>Reference</i>	<i>Extent of repeal</i>	
49 Geo.3 c.lxix (1809) (Court of Chancery Act)	The whole Act.	
50 Geo.3 c.clxiv (1810) (Court of Chancery Act)	The whole Act.	40

<i>Reference</i>	<i>Extent of repeal</i>	
56 Geo.3 c.lxxxiv (1816) (Court of Chancery Act)	The whole Act.	
10 Geo.4 c.cxvi (1829) (Six Clerks and Chancery Inrolment Offices Act)	The whole Act.	5
5 & 6 Will.4 c.cvi (1835) (Court of Chancery (Improvement of Offices) Act)	The whole Act.	

## GROUP 5 - MARKETS

10

<i>Reference</i>	<i>Extent of repeal</i>	
54 Geo.3 c.cxv (1814) (Sheepskin Inspectors (King's Place Market, St Mary Newington) Act)	The whole Act.	15
Belgrave Market Act 1869 (32 & 33 Vict. c.clvii)	The whole Act.	
Leadenhall Market Act 1871 (34 & 35 Vict. c.liv)	The whole Act.	
Newport Market Act 1872 (35 & 36 Vict. c.lxxxii)	The whole Act.	20
Belgrave Market (Extension of Time) Act 1873 (36 & 37 Vict. c.clxix)	The whole Act.	
Leadenhall Market Act 1879 (42 & 43 Vict. c.cii)	Section 16.	25

## GROUP 6 - GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal</i>	
18 Geo.3 c.67 (1778) (Middlesex Sessions House Act)	The whole Act.	30
39 Geo.3 c.lviii (1799) (London, Westminster and Southwark Portorage Rates Act)	The whole Act.	
50 Geo.3 c.xxviii (1810) (Westminster Sunday Tolls Act)	The whole Act.	35
53 Geo.3 c.cxvi (1813) (King's Bench, Marshalsea and Fleet Prisons (Relief of Poor Prisoners) Act)	The whole Act.	40
59 Geo.3 c.cxxvii (1819) (London Bread Trade Act)	The whole Act.	

<i>Reference</i>	<i>Extent of repeal</i>	
60 Geo.3 & 1 Geo.4 c.i (1819) (Bread Industry (London) Act)	The whole Act.	
1 Geo.4 c.iv (1820) (Bread Trade Act)	The whole Act.	5
7 Geo.4 c.xlii (1826) (Westminster Bridewell Act)	The whole Act.	
Metage on Grain (Port of London) Act 1872 (35 & 36 Vict. c.c)	The whole Act.	10
City of London Free Ferry Act 1884 (47 & 48 Vict. c.clxxvi)	The whole Act.	
Westminster Improvement Commissioners Winding-up Act 1891 (54 & 55 Vict. c.cxlii)	The whole Act.	15
City of London (Central Criminal Court House) Act 1904 (4 Edw.7 c.xciii)	The whole Act.	
City of London (Central Criminal Court) Act 1951 (14 & 15 Geo.6 c.x)	The whole Act.	20
City of London (Central Criminal Court) Act 1953 (1 & 2 Eliz.2 c.vi)	The whole Act.	25
London Regional Transport (Amendment) Act 1985 (c.10)	The whole Act.	
London Regional Transport Act 1996 (c.21)	The whole Act.	
	PART 6	30
	POLICE	
<i>Reference</i>	<i>Extent of repeal</i>	
2 & 3 Vict. c.xciv (1839) (City of London Police Act )	Section 40.	
Oxford Police Act 1868 (31 & 32 Vict. c.lix)	The whole Act.	35
West Riding Police Superannuation Act 1886 (49 & 50 Vict. c.v)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1887 (50 & 51 Vict. c.xxxi)	The whole Act.	40
Lincolnshire Police Superannuation Act 1888 (51 & 52 Vict. c.ix)	The whole Act.	45

<i>Reference</i>	<i>Extent of repeal</i>	
Metropolitan Police Provisional Order Confirmation Act 1888 (51 & 52 Vict. c.lvi)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1889 (52 & 53 Vict. c.xlv)	The whole Act.	5
City of London Police Superannuation Act 1889 (52 & 53 Vict. c.cxxvii)	The whole Act.	10
Metropolitan Police Provisional Order Confirmation Act 1890 (53 & 54 Vict. c.lxxvii)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1891 (54 & 55 Vict. c.xxiv)	The whole Act.	15
Metropolitan Police Provisional Order Confirmation Act 1892 (55 & 56 Vict. c.ccviii)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1893 (56 & 57 Vict. c.cxlvi)	The whole Act.	20
Metropolitan Police Provisional Order Confirmation Act 1894 (57 & 58 Vict. c.xlii)	The whole Act.	25
Metropolitan Police Provisional Order Confirmation Act 1895 (58 & 59 Vict. c.lxv)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1896 (59 & 60 Vict. c.lxxxii)	The whole Act.	30
Metropolitan Police Provisional Order Confirmation Act 1897 (60 & 61 Vict. c.iii)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1898 (61 & 62 Vict. c.lxxvi)	The whole Act.	35
Metropolitan Police Provisional Order Confirmation Act 1899 (62 & 63 Vict. c.xxvii)	The whole Act.	40
Metropolitan Police Provisional Order Confirmation Act 1900 (63 & 64 Vict. c.xxi)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1901 (1 Edw.7 c.clvi)	The whole Act.	45



<i>Reference</i>	<i>Extent of repeal</i>	
Metropolitan Police Provisional Order Confirmation Act 1902 (2 Edw.7 c.lxv)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1903 (3 Edw.7 c.cxliv)	The whole Act.	5
Metropolitan Police Provisional Order Confirmation Act 1904 (4 Edw.7 c.lxi)	The whole Act.	10
Metropolitan Police Provisional Order Confirmation Act 1905 (5 Edw.7 c.lxiv)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1906 (6 Edw.7 c.xxiii)	The whole Act.	15
Metropolitan Police Provisional Order Confirmation Act 1907 (7 Edw.7 c.xlviii)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1908 (8 Edw.7 c.xxxi)	The whole Act.	20
Metropolitan Police Provisional Order Confirmation Act 1910 (10 Edw.7 & 1 Geo.5 c.lxvii)	The whole Act.	25
Metropolitan Police Provisional Order Confirmation Act 1911 (1 & 2 Geo.5 c.cxxxvii)	The whole Act.	
Metropolitan Police Provisional Order Confirmation Act 1912 (2 & 3 Geo.5 c.xxix)	The whole Act.	30
Metropolitan Police Provisional Order Confirmation Act 1920 (10 & 11 Geo.5 c.xliv)	The whole Act.	
Police and Firemen (War Service) Act 1939 (2 & 3 Geo.6 c.103)	The whole Act.	35
Police and Firemen (War Service) Act 1944 (7 & 8 Geo.6 c.22)	The whole Act.	40
Police and Criminal Evidence Act 1984 (c.60)	Section 108. Section 110. In section 120(2), the entries relating to section 108(4) and (5), and section 110. In section 120(4), the entries relating to section 83(2), section 108(1) and (6), and section 109. In section 120(5), the entry relating to section 83(2).	45

<i>Reference</i>	<i>Extent of repeal</i>	
Police and Magistrates' Courts Act 1994 (c.29)	Section 33. Section 41.	
Police (Insurance of Voluntary Assistants) Act 1997 (c.45)	The whole Act.	5

## PART 7

## RATING

<i>Reference</i>	<i>Extent of repeal</i>	
6 Ann c.46 (1707) (Plymouth Workhouse Act)	The whole Act.	10
32 Geo.2 c.59 (1758) (Plymouth Poor Relief Act)	The whole Act.	
26 Geo.3 c.19 (1786) (Plymouth Poor Relief Act)	The whole Act.	
31 Geo.3 c.87 (1791) (Sunderland Poor Relief Act)	The whole Act.	15
49 Geo.3 c.xxii (1809) (Sunderland Poor Rates Act)	The whole Act.	
50 Geo.3 c.i (1810) (Cumberland County Rate Act)	The whole Act.	20
53 Geo.3 c.lxxiii (1813) (Plymouth Workhouse Act)	The whole Act.	
54 Geo.3 c.ciii (1814) (Buckinghamshire County Rate Act)	The whole Act.	25
3 Geo.4 c.cvii (1822) Middlesex County Rates Act)	The whole Act.	
6 Geo.4 c.lxxvi (1825) (Croydon Rates Act)	The whole Act.	
9 Geo.4 c.i (1828) (Merton Rates Act)	The whole Act.	30
9 Geo.4 c.ii (1828) (St Mary Wimbledon Rates Act)	The whole Act.	
4 & 5 Will.4 c.v (1834) (Sculcoates Rates Act)	The whole Act.	35
4 & 5 Will.4 c.vi (1834) (Liverpool Rates Act)	The whole Act.	
5 & 6 Will.4 c.v (1835) (Barking Rates Act)	The whole Act.	
4 & 5 Vict. c.lxxii (1841) (Kidderminster Poor Rates Act)	The whole Act.	40

<i>Reference</i>	<i>Extent of repeal</i>	
8 & 9 Vict. c.lxxiv (1845) (Hemel Hempsted Rates Act)	The whole Act.	
8 & 9 Vict. c.cciv (1845) (Bristol Rates Act)	The whole Act.	5
9 & 10 Vict. c.iii (1846) (Aylesbury and Walton Rates Act)	The whole Act.	
Carshalton Rates Act 1846 (9 & 10 Vict. c.xlii)	The whole Act.	10
Ewell Rates Act 1847 (10 & 11 Vict. c.xlvi)	The whole Act.	
11 & 12 Vict. c.i (1848) (Kettering Rates Act)	The whole Act.	
West Bromwich Rates Act 1850 (13 & 14 Vict. c.iv)	The whole Act.	15
Stourbridge Union Rates Act 1850 (13 & 14 Vict. c.xlvi)	The whole Act.	
Bucks County Rate Amendment Act 1860 (23 & 24 Vict. c.lxxxvi)	The whole Act.	20
Leeds Overseers Act 1860 (23 & 24 Vict. c.cxxxii)	The whole Act.	
Plymouth Workhouse Charities Scheme Confirmation Act 1916 (6 & 7 Geo.5 c.lxiii)	The whole Act.	25
Rating and Valuation (Miscellaneous Provisions) Act 1955 (4 & 5 Eliz.2 c.9)	The whole Act.	
Rates Act 1984 (c.33)	The whole Act.	30

PART 8

TAX AND DUTIES

<i>References</i>	<i>Extent of repeal</i>	
Hull Dues Act 1852 (15 & 16 Vict. c.cxxxvi)	The whole Act.	35
Customs, Inland Revenue, and Savings Banks Act 1877 (40 & 41 Vict. c.13)	The whole Act (except as it extends to Scotland).	
Customs and Inland Revenue Act 1879 (42 & 43 Vict. c.21)	The whole Act.	40
Stamp Act 1891 (54 & 55 Vict. c.39)	Section 25. Section 49. Section 111. Section 120.	

<i>References</i>	<i>Extent of repeal</i>	
Stamp Act 1891 (54 & 55 Vict. c.39) – <i>cont.</i>	In section 122(1), the words “The expression “steward”” to the end.	
Finance Act 1902 (2 Edw.7 c.7)	The whole Act.	
Finance Act 1911 (1 & 2 Geo.5 c.48)	The whole Act.	5
Finance Act 1923 (13 & 14 Geo.5 c.14)	The whole Act.	
Finance Act 1932 (22 & 23 Geo.5 c.25)	The whole Act.	10
Finance (No.2) Act 1939 (2 & 3 Geo.6 c.109)	The whole Act.	
Finance Act 1944 (7 & 8 Geo.6 c.23)	Part 5. Section 49(5).	
Finance Act 1945 (8 & 9 Geo.6 c.24)	The whole Act.	15
Finance Act 1947 (10 & 11 Geo.6 c.35)	Sections 63 and 64. Section 74(8).	
Finance Act 1948 (11 & 12 Geo.6 c.49)	Part 5. Part 7. Schedule 10.	20
Finance Act 1949 (12, 13 & 14 Geo.6 c.47)	Section 49. In section 51(1), the words “excess profits tax or the special contribution,”. Section 51(2).	25
Finance Act 1952 (15 & 16 Geo.6 & 1 Eliz.2 c.33)	Part 5. Section 69. Section 76(2) and (5). Schedules 8 to 12.	
Finance Act 1953 (1 & 2 Eliz.2 c.34)	Section 32. Section 35(4).	30
Finance Act 1958 (6 & 7 Eliz.2 c.56)	Section 35. Section 40(2)(b), (c) and (d).	
Finance Act 1961 (9 & 10 Eliz.2 c.36)	Section 32.	35
Finance Act 1962 (10 & 11 Eliz.2 c.44)	Section 34(5).	
Finance Act 1963 (c.25)	Section 65(3).	
Finance Act 1964 (c.49)	The whole Act.	
Finance Act 1966 (c.18)	Section 27. Schedule 6.	40
Finance Act 1968 (c.44)	Part 4. Section 61(7). Schedules 15 and 16.	
Customs and Excise Management Act 1979 (c.2)	In Schedule 4, in paragraph 12, the entry in Part 1 of the Table relating to the Customs and Inland Revenue Act 1879.	45

<i>References</i>	<i>Extent of repeal</i>
Finance Act 1980 (c.48)	Section 3. Section 7. Section 61. Section 103.
Finance Act 1982 (c.39)	Section 1(3). Section 3. Section 137. Section 150. Schedule 1.
Finance Act 1983 (c.28)	Section 1(3) Section 3. Schedule 1.

PART 9

TOWN AND COUNTRY PLANNING

<i>Reference</i>	<i>Extent of repeal</i>
Civic Amenities Act 1967 (c.69)	Section 15. Section 30(1). Section 32(2).
Town and Country Amenities Act 1974 (c.32)	The whole Act.
Local Government, Planning and Land Act 1980 (c.65)	Section 25(2). Section 86. Sections 173 to 175. Section 178. Section 183(3). In Schedule 23, paragraphs 4, 6, 7, 13, 15 and 18.
Housing and Planning Act 1986 (c.63)	Section 2(2). Section 4(6). Section 11. Section 47. Section 52. Section 53(1). Section 54. In section 58(1), the words “Schedule 10,”. In section 58(2), the words “Part II of Schedule 11”. In Schedule 11, Part 2.
Urban Development Corporations (Financial Limits) Act 1987 (c.57)	The whole Act.
Planning (Hazardous Substances) Act 1990 (c.10)	Section 26. Section 41(2). In section 41(3), the words “Except so far as subsection (2) applies,”.
Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49)	The whole Act.

## PART 10

## TURNPIKES

## GROUP 1 - ESSEX

<i>Reference</i>	<i>Extent of repeal</i>	
7 & 8 Will.3 c.9 (1695) (London to Harwich Roads Act)	The whole Act.	5
1 Ann Stat.2 c.10 (1702) (Essex Roads Act)	The whole Act.	
6 Ann c.47 (1707) (London to Harwich Roads Act)	The whole Act.	10
12 Geo.1 c.23 (1725) (Essex Roads Act)	The whole Act.	
20 Geo.2 c.7 (1746) (Essex Roads Act)	The whole Act.	
5 Geo.3 c.60 (1765) (Essex, Suffolk and Hertford Roads Act)	The whole Act.	15
33 Geo.3 c.149 (1793) (Essex Roads Act)	The whole Act.	
34 Geo.3 c.137 (1794) (Chelmsford Roads Act)	The whole Act.	20
39 Geo.3 c.xxiii (1799) (Jeremy's Ferry Bridge and Roads (Essex and Middlesex) Act)	The whole Act.	
48 Geo.3 c.xcii (1808) (Tilbury Fort Road Act)	The whole Act.	25
55 Geo.3 c.xc (1815) (Road from Shenfield to Harwich Act)	The whole Act.	
1 & 2 Geo.4 c.xxxiii (1821) (Tilbury Fort Road Act)	The whole Act.	30
4 Geo.4 c.cvi (1823) (Middlesex and Essex Turnpike Roads Act)	The whole Act.	
10 Geo.4 c.xxi (1829) (Road from Harlow Bush Common to Stump Cross Act)	The whole Act.	35
6 & 7 Will.4 c.xlix (1836) (Road from Harlow Bush Common Act)	The whole Act.	

GROUP 2 - SUFFOLK

<i>Reference</i>	<i>Extent of repeal</i>	
33 Geo.3 c.128 (1793) (Ipswich and Yaxley Roads Act)	The whole Act.	
42 Geo.3 c.viii (1802) (Woodbridge and Eye Road Act)	The whole Act.	5
51 Geo.3 c.cviii (1811) (Suffolk Roads Act)	The whole Act.	
53 Geo.3 c.xxiv (1813) (Aldeburgh Roads Act)	The whole Act.	10
54 Geo.3 c.xvi (1814) (Woodbridge and Eye Road Act)	The whole Act.	
7 Geo.4 c.cxxxi (1826) (Sudbury and Bury St Edmunds Road Act)	The whole Act.	15
9 Geo.4 c.xlv (1828) (Road from Ipswich to Southtown and to Bungay Act)	The whole Act.	20
9 Geo.4 c.lxxv (1828) (Scole Bridge and Bury St Edmunds Road Act)	The whole Act.	
10 Geo.4 c.liii (1829) (Newmarket Heath Road Act)	The whole Act.	25
11 Geo.4 & 1 Will.4 c.xxxviii (1830) (Haverhill to Redcross Road (Suffolk, Cambridgeshire) Act)	The whole Act.	30
1 & 2 Will.4 c.xix (1831) (Barton and Brandon Bridge Road (Suffolk) Act)	The whole Act.	
2 & 3 Will.4 c.v (1832) (Road from Ipswich to Stratford St Mary Act)	The whole Act.	35
3 & 4 Will.4 c.x (1833) (Ipswich and Debenham, and Hemingston and Otley Bottom Roads Act)	The whole Act.	40
3 & 4 Will.4 c.xcviii (1833) (Roads from Bury St Edmunds to Newmarket and to Brandon Act)	The whole Act.	
4 & 5 Will.4 c.xxix (1834) (Yarmouth Bridge and Gorleston Road (Suffolk) Act)	The whole Act.	45

<i>Reference</i>	<i>Extent of repeal</i>	
Mildenhall and Lakenheath Roads Act 1851 (14 & 15 Vict. c.xviii)	The whole Act.	
GROUP 3 - NORFOLK		5
<i>Reference</i>	<i>Extent of repeal</i>	
10 Geo.3 c.54 (1770) (Norfolk Roads Act)	The whole Act.	
30 Geo.3 c.85 (1790) (Norwich to Bixley Roads Act)	The whole Act.	10
32 Geo.3 c.148 (1792) (Norfolk Roads Act)	The whole Act.	
56 Geo.3 c.lxviii (1816) (Norwich and Thetford Road Act)	The whole Act.	15
4 Geo.4 c.lv (1823) (Wisbech and King's Lynn Roads Act)	The whole Act.	
7 Geo.4 c.xxvii (1826) (Norwich and Scole Bridge Road Act)	The whole Act.	
9 Geo.4 c.li (1828) (Thetford and Newmarket Road Act)	The whole Act.	20
9 Geo.4 c.ci (1828) (Wells next the Sea and Fakenham Turnpike Road Act)	The whole Act.	
11 Geo.4 & 1 Will.4 c.xxxix (1830) (Great Yarmouth and Acle Turnpike Road Act)	The whole Act.	25
1 Will.4 c.xxxii (1831) (Norwich and North Walsham Road Act)	The whole Act.	30
1 Will.4 c.lxv (1831) (Road from Norwich to the Caister Causeway Act)	The whole Act.	
1 & 2 Will.4 c.xiv (1831) (Norwich and Cromer Road Act)	The whole Act.	35
1 & 2 Will.4 c.xx (1831) (King's Lynn Roads Act)	The whole Act.	
2 & 3 Will.4 c.xxi (1832) (Downham Market, Barton and Devil's Ditch Road Act)	The whole Act.	40
2 & 3 Will.4 c.liii (1832) (Little Yarmouth and Blythburgh, and Brampton and Halesworth Roads Act)	The whole Act.	45



<i>Reference</i>	<i>Extent of repeal</i>	
2 & 3 Will.4 c.lxiii (1832) (Norwich and Fakenham Road Act)	The whole Act.	
3 & 4 Will.4 c.xv (1833) (Norwich and Watton Road Act)	The whole Act.	5
3 & 4 Will.4 c.xxxix (1833) (Norwich and New Buckenham Road Act)	The whole Act.	10
5 & 6 Will.4 c.xl (1835) (Norwich and Swaffham Road Act)	The whole Act.	

PART 11

MISCELLANEOUS

<i>Reference</i>	<i>Extent of repeal</i>	<i>15</i>
Transport Act 1968 (c.73)	Section 142.	
Employment of Children Act 1973 (c.24)	The whole Act.	
Channel Tunnel (Initial Finance) Act 1973 (c.66)	The whole Act.	20
Transport Act 1985 (c.67)	Section 3(1).	
Children Act 1989 (c.41)	In Schedule 13, paragraph 32.	
Planning (Consequential Provisions) Act 1990 (c.11)	In Schedule 2, paragraph 22(5).	
Children (Scotland) Act 1995 (c.36)	In Schedule 4, paragraph 19.	25
Education Act 1996 (c.56)	Section 559(6).	

SCHEDULE 2

Section 1(2)

CONSEQUENTIAL AND CONNECTED PROVISIONS

<i>Customs Consolidation Act 1876 (c.36)</i>		30
1	In section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions), in the Table of prohibitions and restrictions inwards, insert as the first entry under the heading “Goods prohibited to be imported” – “All articles bearing or having affixed to them any stamp, name, writing, or other device implying or tending to imply any sanction or guarantee by the Customs or by any other Department of the Government.”.	35

*Greenwich Hospital Act 1883 (c.32)*

- 2 The repeal by this Act of section 2 of, and Schedule 1 to, the Greenwich Hospital Act 1947 (c.5) does not affect the amendment made by those provisions to section 2 of the Greenwich Hospital Act 1883 (power to grant pensions, allowances and gratuities). 5

*Finance Act 1901 (c.7)*

- 3 In section 10 of the Finance Act 1901 (addition or deduction of new or altered duties in the case of contract), after subsection (3) insert—
- “(3A) This section applies whether or not the goods have undergone a process of manufacture or preparation, or have become a part or ingredient of other goods.”. 10

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

- 4 The repeal by this Act of the Sailors and Soldiers (Gifts for Land Settlement) Act 1916 does not affect the operation of section 1 of that Act (power to accept and administer gifts for settlement of ex-sailors and soldiers on land) in relation to any gift accepted before the commencement of this Act. 15

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

- 5 After section 6 of the Naval and Military War Pensions &c. (Administrative Expenses) Act 1917 insert—
- “**6A Function of Secretary of State to provide for the care of disabled officers and men and disabled nurses** 20
- 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.”. 25

*Currency and Bank Notes Act 1928 (c.13)*

- 6 In section 3 of the Currency and Bank Notes Act 1928 (securities for note issue to be held in issue department), after subsection (3) add—
- “(4) In this section the expression “securities” includes securities and assets in currency of any country and in whatever form held.”. 30

*Historic Buildings and Ancient Monuments Act 1953 (c.49)*

- 7 The repeal by this Act of section 12 of the Town and Country Amenities Act 1974 (c.32) does not affect the amendment made by that section to section 4(1) of the Historic Buildings and Ancient Monuments Act 1953 (grants for preservation of historic buildings, their contents and adjoining land). 35

*Local Government Act 1972 (c.70)*

- 8 The repeal by this Act of section 1 of the Police (Insurance of Voluntary Assistants) Act 1997 (c.45) does not affect the amendments made by that

section to section 146A of the Local Government Act 1972 (Joint Authorities and Inner London Education Authority).

*Local Government, Planning and Land Act 1980 (c.65)*

- 9        The repeal by this Act of subsection (1) of section 1 of the Urban Development Corporations (Financial Limits) Act 1987 (c.57) does not affect the substitution by that subsection of paragraph 8 of Schedule 31 to the Local Government, Planning and Land Act 1980 (financial limits of urban development corporations).        5

*Town and Country Planning Act 1990 (c.8)*

- 10       The repeal by this Act of section 1 of the Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49) does not affect—        10
- (a) the amendment made by that section to section 35B of the Town and Country Planning Act 1990 (examinations in public in connection with structure plans), or
  - (b) the insertion by that section of section 303A of the 1990 Act (responsibility of local planning authorities for costs of holding certain inquiries etc).        15

## **APPENDIX 2 EXPLANATORY NOTE ON THE DRAFT BILL**

### **CLAUSES 1 – 3**

#### **Clause 1**

- 1 Clause 1 repeals the enactments contained in Schedule 1 and introduces the consequential and connected provisions in Schedule 2.

#### **Clause 2**

- 2 Subsection (1) has the effect of extending the Bill throughout the United Kingdom (ie England and Wales, Scotland and Northern Ireland).
- 3 Subsection (2) has the effect of extending the Bill to the Isle of Man. This has been agreed to by the authorities in the Isle of Man.
- 4 Subsection (3) provides that the repeals of, and amendments to, any enactment has the same territorial extent as the enactment being repealed or amended.
- 5 Subsection (4) provides power by Order in Council to extend the Bill's effect to the Channel Islands and any British overseas territory.
- 6 Subsection (5) makes it clear that, subject as already provided in clause 2, the Bill once enacted has no effect outside the United Kingdom and the Isle of Man.

#### **Clause 3**

- 7 Clause 3 provides the short title. The Bill will come into force upon Royal Assent.

### **SCHEDULES 1 AND 2 TO THE DRAFT BILL**

- 8 The following pages explain the repeals contained in *Schedule 1* and the consequential and connected provisions contained in *Schedule 2*.

# EXPLANATORY NOTE ON THE DRAFT BILL

(cont'd)

## SCHEDULE 1: REPEALS

### PART 1 ARMED FORCES

#### INTRODUCTION

- 1.1 The repeal proposals in this opening part of the repeals schedule all relate to the armed forces. Many of the Acts were passed to provide benefits to service personnel and their families. Other Acts facilitated the purchase of land by the armed forces for training and other military purposes. The individuals and organisations consulted about these proposals are set out in Appendix 3.

#### GROUP 1 – ROYAL NAVAL SCHOOL

- 1.2 The Royal Naval School was established in 1833 in Camberwell, Surrey for the education of the children of officers in the Royal Navy and Marines. It gave rise to five Acts of Parliament. The Royal Naval School Act of 1840 provided the School's constitution. The Royal Naval School Act of 1845 carried into effect an arrangement between the School and the Lloyd's Patriotic Fund<sup>1</sup> whereby the latter paid for the right to nominate 12 boys to be educated at the School. The Royal Naval School Amendment Act 1851 extended the categories of children eligible for admission and authorised the building of a chapel on nearby land. The Royal Naval School Act of 1860 carried into effect further arrangements for nominating places at the School. Finally, the Royal Naval School (New Cross) Disused Chapel Site Act 1890 authorised the de-consecration and demolition of the chapel, following the School's move to Eltham in 1889.
- 1.3 The Royal Naval School no longer exists. It closed its doors at the end of the summer term in 1910, and the existing pupils were sent to other schools. The school's closure means that its five Acts have become unnecessary and may now be repealed.

#### GROUP 2 – GREENWICH HOSPITAL

- 1.4 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. 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. Several provisions in the Greenwich Hospital Acts are now unnecessary.

<sup>1</sup> The Lloyd's Patriotic Fund was established as a charity in 1803.

- 1.5 The Greenwich Hospital Act 1883 contains provisions relating to the application of the income of the Greenwich Hospital. Section 3 includes a provision whereby funds may be used to educate and maintain the sons of men in the Royal Naval Artillery Force. This provision is now unnecessary following the disbanding of the Force on 1 April 1892.
- 1.6 Section 1(3) of the Greenwich Hospital Act 1942 is a technical provision having the effect of repealing text in the Greenwich Hospital Act 1865. The provision became spent when the 1942 Act came into force on 22 October 1942.
- 1.7 The original purposes of the Greenwich Hospital Act 1947 included the extension of existing powers to grant pensions, allowances and gratuities. Today the only substantive provision remaining in the 1947 Act is section 2 which, together with Schedule 1, amends the Admiralty's power under section 2 of the Greenwich Hospital Act 1883 to grant certain pensions, allowances and gratuities. Accordingly the 1947 Act now serves no purpose except to keep in force that amendment to the 1883 Act. The effect of that amendment may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>2</sup> This will permit the repeal of the whole of the 1947 Act.
- 1.8 Sections 1(2) and 2 of the Greenwich Hospital Act 1967 are repealing provisions which became spent when that Act came into force on 27 July 1967.

### **GROUP 3 – MILITARY LANDS**

- 1.9 Proposed for repeal under this heading are 16 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. 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. 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 Lands Clauses Consolidation Act 1845 could be invoked to acquire the land.
- 1.10 Before these powers under the Military Lands Act 1892 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. 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. Unless the confirming Act provided otherwise, the land had to be purchased within three years of the passing of the Act. Because none of the Acts proposed for repeal contained any provisions of a continuing nature, each Act became spent, at the latest, three years after its enactment.

<sup>2</sup> Sch 2, para 2.

- 1.11 The 16 Acts now proposed for repeal are broadly similar in format, and were passed between 1893 and 1912.<sup>3</sup> The Schedule to each Act contains the relevant provisional orders and details of the land to be purchased. Several of the Acts relate to land that was formerly part of the United Kingdom but is now within the Republic of Ireland.<sup>4</sup>

#### **GROUP 4 – GENERAL REPEALS**

##### **Chelsea and Kilmainham Hospitals Act 1826/Army (Artillery, etc) Pensions Act 1833**

- 1.12 The purpose of the Chelsea and Kilmainham Hospitals Act 1826 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.<sup>5</sup>
- 1.13 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>6</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.
- 1.14 The following paragraphs identify several provisions in the 1826 Act that have now become unnecessary. They also propose the repeal of the Army (Artillery, etc) Pensions Act 1833.

<sup>3</sup> The 16 Acts (and the geographical area) are the Military Lands Provisional Order(s) Confirmation Acts 1893 (56 & 57 Vict. c.xxxvii) (Cork; Dublin); 1895 (58 & 59 Vict. c.xxv) (Dublin; Londonderry); 1895 No 2 (59 Vict. Sess.2 c.xv) (Dublin); 1898 (61 & 62 Vict. c.lxxxix) (County Kildare; Londonderry); 1898 No 2 (61 & 62 Vict. c.ccxiv) (Woking; Salisbury Plain; Colchester); 1899 (62 & 63 Vict. c.cxxxiii) (Great Yarmouth); 1900 (63 & 64 Vict. c.i) (Lichfield, Staffordshire); 1901 (1 Edw.7 c.xxxii) (County Down; Cork); 1901 No 2 (1 Edw.7 c.clvii) (Shipton Bellinger, Hampshire; Lydford and Petertavy, Devon; Ash, Surrey); 1902 (2 Edw.7 c.i) (County Wicklow; County Galway); 1902 No 2 (2 Edw.7 c.lxxxiii) (land in Burgh Parish and Ayr); 1903 (3 Edw.7 c.lxxxiv) (Southampton; Windsor); 1911 (1 & 2 Geo.5 c.iv) (Lancaster); 1912 (2 & 3 Geo.5 c.c xvii) (West Riding of York); Naval Works Provisional Order Confirmation Acts 1901 (1 Edw.7 c.clx) (Isle of Portland) and 1903 (3 Edw.7 c.lxxvii) (Dartmouth).

<sup>4</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.

<sup>5</sup> 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 already been repealed: Statute Law (Repeals) Act 1976, s 1(1), Sch 1, Pt 4.

<sup>6</sup> Royal Warrant dated 7 December 1681 appointing the Paymaster General as Treasurer of the Royal Hospital.

- 1.15 Section 3 of the Chelsea and Kilmainham Hospitals Act 1826 provided that the Commissioners of the Royal Hospital should be responsible for the administration and payment of service and disablement pensions payable to disabled and discharged soldiers. Today, however, the Commissioners of the Royal Hospital have no functions concerning the award or payment of pensions to soldiers. The responsibility for paying pensions to retired soldiers, whether or not resident at the Royal Hospital, today rests with the Secretary of State and not with the Commissioners of the Royal Hospital.<sup>7</sup> Accordingly section 3 is now unnecessary. For the same reason, sections 13 (suspension or refusal of pensions by the Royal Hospital in cases of fraud), 23 (pensioners to notify the Royal Hospital of changes of address), 27 (administering oaths to pensioners) and 31 (Royal Hospital to compile lists of pensioners) are also unnecessary.
- 1.16 Section 10 entitled discharged soldiers to a pension fixed in accordance with orders in force at the time of their enlistment. This has, however, long been superseded by section 2 of the Pensions and Yeomanry Act 1884 which provides for the payment of soldiers' pensions to be made by Order in Council. Such Orders are made by Royal Warrant and notified in Army Orders. Accordingly section 10 is no longer necessary. Similarly section 11, which relates to the Parliamentary scrutiny of regulations about pensions and discharge from service, has been superseded by section 2(2) of the Pensions and Yeomanry Act 1884.
- 1.17 Section 34 authorised the Royal Hospital to mark all its clothing and stores with the words "Royal Hospital", and to remove those words in the event of the items being sold or given away. The Royal Hospital, in common with other hospitals, does not need specific statutory authority to identify its assets. Accordingly section 34 no longer serves any useful purpose.
- 1.18 Sections 46 to 48 set out a procedure in cases where the Royal Hospital buys land from a corporation or from a person who has limited ownership rights or who lacks full legal capacity. Under section 46, the money must be paid into court and applied in accordance with directions of the court. This arrangement continues to have value and no change is proposed. However, sections 47 and 48 apply a separate regime in cases where the purchase price does not exceed £200. In such cases the purchase moneys may be paid to two approved trustees. The fall in the value of money since 1826 has meant that maintaining a separate regime for low value purchases is not justified. Accordingly sections 47 and 48 no longer serve any useful purpose, and the procedure in section 46 can be relied upon regardless of the size of the purchase price. The repeal of sections 47 and 48, and a consequential repeal of text in section 46, will achieve that result.

<sup>7</sup> An Act of 1846 (9 & 10 Vict. c.10) transferred this responsibility, so far as it related to the pensions of non-resident pensioners, to the Secretary at War. This function has since been transferred to the Secretary of State for Defence: Defence (Transfer of Functions) Act 1964, s 1(2).



- 1.19 The purpose of the Army (Artillery, etc) Pensions Act 1833 included transferring responsibility for the pensions of artillerymen and others to the Royal Hospital. However, as already explained, the Royal Hospital no longer has responsibility for the issue or administration of pensions. Moreover, the remaining provisions of the 1833 Act about army pension regulations have been superseded by the Pensions and Yeomanry Act 1884. Accordingly the whole of the 1833 Act has long been obsolete and may now be repealed.

### **Drouly Fund Act 1838**

- 1.20 According to its long title, the Drouly Fund Act 1838 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 purpose of the 1838 Act was to provide for the administrative handling of these funds. However, changes since 1838 mean that these provisions are no longer necessary.
- 1.21 Section 1 provides for the administrative handling of the legacy for the payment of annuities to officers’ widows. However, the fund represented by this legacy no longer exists as a separate entity. It was transferred in 1995 to the Officers’ Association<sup>8</sup> who added it to their permanent endowment fund. The administrative arrangements in section 1 thereupon became unnecessary. Similarly the arrangements in section 2 for the gift to the pensioners of the Royal Hospital became unnecessary in 1997 when the fund representing that gift was merged with the Royal Hospital’s Army Prize Money and Legacy Fund. Since the remaining provisions in the 1838 Act are ancillary to sections 1 and 2, the whole of this Act is now unnecessary.

### **Army Act 1881**

- 1.22 This is a formal repeal of an Act that has already ceased to have effect. The Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 provided for the Army Act 1881<sup>9</sup> to continue in force until the end of 1956 “but no longer”.<sup>10</sup> Thereafter the 1881 Act was superseded by the Army Act 1955. Although the 1881 Act ceased to have effect after 1956, it has never been formally repealed with the result that it remains on the statute book. Such formal repeal is now proposed.

<sup>8</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.

<sup>9</sup> By virtue of the Army (Annual) Act 1890, s 4, the Army Act 1881 became known simply as “the Army Act”.

<sup>10</sup> The 1955 Act, s 1.

### **Barracks Act 1890**

- 1.23 The purpose of the Barracks Act 1890 was to make provision for the building and enlarging of barracks and camps in the United Kingdom and to amend the law relating to the acquisition of land for military purposes. Because of repeals over the years, the only substantive provision of the 1890 Act remaining is section 11. Section 11 provides that all contracts, conveyances and other documents made with a view to carrying into effect the purposes of the Act should be exempt from stamp duty.
- 1.24 Section 11 is now unnecessary. This is partly because the provisions of the 1890 Act concerning the acquisition of land have already been repealed. Another reason is that a provision to exempt acquisitions by the Secretary of State from stamp duty is now included in the Finance Act 2003. This exempts any Minister of the Crown from a charge to stamp duty in respect of a land transaction where the Minister is a purchaser.<sup>11</sup>
- 1.25 Since section 11 was the only remaining substantive provision in the 1890 Act, it follows that the Act as a whole is now unnecessary. Its repeal is proposed on that basis. A consequential repeal will be section 46 of the Finance Act 1944, which applied section 11 to the Royal Navy.

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

- 1.26 The Seamen's and Soldiers' False Characters Act 1906 comprises two substantive sections, both of which have been superseded by subsequent legislation.

<sup>11</sup> The 2003 Act, s 107. Stamp duty land tax has now replaced the stamp duty charge on land and buildings in the United Kingdom.

- 1.27 As originally enacted, section 1 criminalised any forging of the certificate of service or discharge of any seaman or soldier. It also made it an offence to impersonate the holder of such a certificate. There were, at the time, many service personnel who had been discharged from active service and who were seeking employment. It was felt important to maintain public confidence in a person's discharge papers as they were the only documents which could be shown to a prospective employer that explained the person's absence from civilian employment during the period of service. However, because the text in section 1 prohibiting the forging of these papers has since been repealed,<sup>12</sup> section 1 now merely criminalises the impersonation of someone who is or was in the armed forces.<sup>13</sup> Such an impersonation is punishable as fraud under section 2 of the Fraud Act 2006 (fraud by false representation) if the false representation is made dishonestly and with the intention of making a gain, or causing a loss, for any person. Accordingly section 1 of the 1906 Act has been superseded by the Fraud Act 2006, and the repeal of the section is proposed on the basis that it serves no useful purpose.<sup>14</sup> The Home Office has confirmed that there is no record of any prosecutions being brought under the section.
- 1.28 Section 2 made it an offence for anyone enlisting in the armed forces to make use of any statement as to his character or previous employment which to his knowledge was false in any material particular. It was also made an offence to make a false written statement as to the character or previous employment of any person, if that statement was allowed or intended to be used by that person for the purpose of enlisting in the armed forces.

<sup>12</sup> Forgery and Counterfeiting Act 1981, s 30, Sch 1, Pt 1.

<sup>13</sup> The penalty under this section, currently imprisonment for a term not exceeding 3 months, is to be a fine not exceeding level 2 on the standard scale: Criminal Justice Act 2003, s 304, Sch 32, Pt 2, para 152 (from a date to be appointed).

<sup>14</sup> The unauthorised wearing of military uniforms remains an offence pursuant to the Uniforms Act 1894, s 2.

- 1.29 Section 2 has been superseded by subsequent legislation making it an offence for persons applying to join the armed forces to give false information in their application. For example, a person enlisting to join the Army who knowingly gives a false answer to any question in an attestation paper is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 1 on the standard scale.<sup>15</sup> Similar offences are created in relation to those enlisting in the Air Force,<sup>16</sup> the Royal Navy<sup>17</sup> and the reserve forces.<sup>18</sup> Moreover a person giving a false reference in these circumstances may be guilty of fraud under the Fraud Act 2006.<sup>19</sup> As with section 1, the Home Office have confirmed that there is no record of any prosecutions being brought under section 2.
- 1.30 There being no other substantive provisions remaining, 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.<sup>20</sup>

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

- 1.31 The Injuries in War (Compensation) Act 1914 and the Injuries in War (Compensation) Act 1914 (Session 2) provided for compensation schemes relating to injuries and disability arising from the First World War. The first 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

<sup>15</sup> Army Act 1955, ss 19(1), 61. These provisions will be repealed, on a date to be appointed, by the Armed Forces Act 2006, s 378(2), Sch 17. However, s 328(2)(f) of the 2006 Act empowers the Defence Council to make regulations creating offences relating to knowingly giving false answers during the enlistment procedure.

<sup>16</sup> Air Force Act 1955, ss 19(1), 61. These provisions will be repealed, on a date to be appointed, by the Armed Forces Act 2006, s 378(2), Sch 17. However s 328(2)(f) of the 2006 Act empowers the Defence Council to make regulations creating offences relating to knowingly giving false answers during the enlistment procedure.

<sup>17</sup> Armed Forces Act 1966, s 8(1); Naval Discipline Act 1957, s 34A. These provisions will be repealed, on a date to be appointed, by the Armed Forces Act 2006, s 378(2), Sch 17. However s 328(2)(f) of the 2006 Act empowers the Defence Council to make regulations creating offences relating to knowingly giving false answers during the enlistment procedure.

<sup>18</sup> Reserve Forces Act 1996, s 9(4), Sch 1, para 5.

<sup>19</sup> A person is in breach of the 2006 Act, s 2 (fraud by false representation) if he dishonestly makes a false representation and intends, by making the representation, to make a gain for himself or another.

<sup>20</sup> Sch 25, para 14; Sch 32, para 152.

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 Act made similar provision in respect of disablement suffered by similar persons whilst employed on shore outside the United Kingdom. Both Acts supported schemes, administered by the Ministry of Defence, which were made during the First World War.<sup>21</sup>

- 1.32 The Ministry of Defence has confirmed that all the beneficiaries under these schemes have died, the last survivor passing away in October 2001. Accordingly the two 1914 Acts have become unnecessary and may be repealed on that basis. Their repeal will permit a number of consequential repeals.<sup>22</sup>

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

- 1.33 The purposes of the Naval and Military War Pensions &c. Act 1915 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>23</sup> The only substantive provision remaining in the 1915 Act is section 3(1)(j) which vests in the Secretary of State the function of making provision for the care of disabled officers<sup>24</sup> and men after they have left the service, including provision for their health, training and employment.
- 1.34 It is clearly unsatisfactory that this truncated provision should sit on its own in isolation from other statutory provisions that provide benefits to surviving disabled officers, men and nurses from the First World War. A more appropriate location 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.<sup>25</sup> This repositioning may be achieved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions)<sup>26</sup> and will permit the repeal of the whole of the 1915 Act together with a consequential repeal.<sup>27</sup>

<sup>21</sup> These were a scheme contained in an Order in Council made on 27 May 1915 which related to persons who were employed afloat under the Admiralty or the Army Council (SI 1915/555); and the Injuries in War (Shore Employments) Compensation Scheme 1914 which related to persons who were employed ashore under the Admiralty, etc out of the United Kingdom.

<sup>22</sup> War Pensions (Administrative Provisions) Act 1919, s 1; Admiralty Pensions Act 1921, s 2(3); Pensions (Increase) Act 1971, Sch 2, para 36; Income Tax (Earnings and Pensions) Act 2003, s 641(1)(e).

<sup>23</sup> Air Force (Application of Enactments) (No 2) Order 1918, s 1, Sch, SR&O 1918/548.

<sup>24</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.

<sup>25</sup> The 1917 Act has since been extended to the Air Force: Air Force (Application of Enactments) (No 2) Order 1918, s 1, Sch, SR & O 1918/548.

<sup>26</sup> Sch 2, para 5. 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.

<sup>27</sup> Statute Law (Repeals) Act 1981, Sch 2, para 4 (which amended the opening words of section 3(1) of the 1915 Act).

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

- 1.35 The purpose of the Sailors and Soldiers (Gifts for Land Settlement) Act 1916 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. Such gifts, 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. The recipient department or county council had to hold any land, the subject of any such gift, and administer the trusts affecting the gift.
- 1.36 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. 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 First World War. The land is still used as smallholdings. The trustees are Herefordshire County Council.
- 1.37 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.

- 1.38 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>28</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>29</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>30</sup> However, the fact that the provisions of the 1916 Act have been invoked on this one occasion at least means that a savings provision is desirable 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 entry in Schedule 2 to the draft Bill (consequential and connected provisions) contains this savings provision.<sup>31</sup>

### **Polish Resettlement Act 1947**

- 1.39 The Polish Resettlement Act 1947 was passed to resolve the various problems which arose from certain Polish forces and their dependants remaining in the United Kingdom 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 its recognition of them in 1945. The British Government had two basic aims concerning the Polish refugees. These were 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.
- 1.40 Section 7 empowered the Minister of Labour and National Service (now the Secretary of State for Education and Skills<sup>32</sup>) to draw up a scheme to arrange for the emigration of these Polish nationals and to pay the expenses involved in such emigration. However, the powers given by section 7 no longer serve any useful purpose. Indeed it seems doubtful whether they were ever used – no scheme under section 7 has ever been published as a statutory order or instrument. It seems clear that section 7 was intended only as a temporary measure. Its repeal after 60 years is long overdue.

<sup>28</sup> Nowadays local authorities have power to accept, hold and administer gifts of property in particular circumstances: Local Government Act 1972, s 139.

<sup>29</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>30</sup> National Archives Catalogue Reference MAF 139/57.

<sup>31</sup> Sch 2, para 4.

<sup>32</sup> By virtue of the Secretaries of State for Education and Skills and for Work and Pensions Order 2002, SI 2002/1397.

## **PART 2**

# **COUNTY GAOLS**

### **INTRODUCTION**

- 2.1 This part of the report proposes the repeal of more than 40 statutes relating to gaols. The statutes date back to 1700 and cover gaols across 19 counties in England and Wales. The bulk of the Acts had only local application. An Act of 1698 gave justices general powers to build and repair gaols. However, these powers were limited and the justices and cities sought additional powers through various Acts. These granted several powers to local bodies including the ability to acquire and develop new sites for gaols and the power to make regulation for better governance.
- 2.2 Most of the institutions have ceased to exist and all of the statutes have been superseded by modern legislation. The Prison Act 1877 transferred local bodies' powers to the Secretary of State.
- 2.3 The organisations consulted about these proposals are set out in Appendix 3.

### **GROUP 1 – BUCKINGHAMSHIRE**

#### **Aylesbury Gaol: 1736 Act**

- 2.4 By 1723 the county justices had decided to build a new gaol at Aylesbury. Although a site had been purchased and construction works commenced, escalating debt meant that the project had to be mothballed in or around 1726. It then took ten years to acquire statutory power to raise further sums by county rate.
- 2.5 The Aylesbury Gaol and Shire Hall: Rate in Buckinghamshire Act 1736<sup>1</sup> had two main purposes: to sanction retrospectively the honouring of debts incurred and to authorise the raising of moneys. The passing of the Act enabled the works to be completed by around 1740. The gaol functioned until just before 1849, when it was replaced by a county gaol on another site and its buildings were demolished.
- 2.6 The 1736 Act has thus become unnecessary and may now be repealed.

### **GROUP 2 – CAMBRIDGESHIRE**

#### **Ely House of Correction: 1820 Act**

- 2.7 Shortly before 1820 the Cambridge county justices decided that the existing house of correction in Ely was in an unsound state and it required replacing. In order to do so, the justices needed parliamentary authority. They promoted the Ely Sessions House and House of Correction Act 1820,<sup>2</sup> and completed the project in 1821.

<sup>1</sup> 10 Geo.2 c.10 (1736).

<sup>2</sup> 1 Geo.4 c.lxxvii (1820).



- 2.8 The gaol closed in 1878, and the building was demolished sometime after 1908. The Act is therefore unnecessary and may be repealed.

#### **Cambridge Town Gaol: 1827 and 1839 Acts**

- 2.9 The town's justices also promoted the Cambridge Gaol Act 1827<sup>3</sup> so that a new common gaol and house of correction could be built to replace the existing accommodation that was unsuitable. The 1827 Act allowed for the purchase of a site, construction of the gaol, raising of moneys and the employment of officers.
- 2.10 In 1839 the town's justices promoted the Cambridge Gaol Act 1839<sup>4</sup> in order to re-secure outstanding loans. The Act was designed to clarify the governance arrangements for the gaol and to convert the security for the debts from justices' mortgages to a borough bond.<sup>5</sup> The debt was paid off by 1847. The gaol operated until 1878 whereupon the complex was closed, the site sold and the land redeveloped for housing purposes in about 1881.
- 2.11 Both the Cambridge Acts are now unnecessary and are suitable for repeal.

#### **GROUP 3 – CHESHIRE**

##### **Chester Castle Gaol: 1788 and 1807 Acts**

- 2.12 In 1784 the county grand jury decided that the county gaol was both inadequate and in need of repair. The county justices decided that the gaol should be rebuilt within the castle precincts, and promoted the Chester Improvement Act 1788.<sup>6</sup> The Act empowered the justices (as works commissioners) to demolish and reconstruct the existing gaol at public expense.<sup>7</sup> It also empowered them to appropriate parts of the castle grounds (then owned by the King), to raise moneys, and to regulate the conduct of the new establishment.
- 2.13 The Chester Castle Gaol and other Buildings Act 1807<sup>8</sup> authorised the completion of the building works and land appropriation and the affording of greater flexibility to the commissioners in the handling of mortgages.
- 2.14 Once built, the castle gaol ceased to operate in 1884. The bulk of the gaol was demolished by 1902. In 1894, Cheshire County Council purchased the remaining buildings. By 1957, much of the site had been redeveloped for a new county hall. Both the 1788 and the 1807 Acts have therefore become unnecessary and may be repealed.

<sup>3</sup> 7 & 8 Geo.4 c.cxi (1827).

<sup>4</sup> 2 & 3 Vict. c.ix (1839).

<sup>5</sup> This involved partial repeal of, and amendment to, the 1827 Act (above).

<sup>6</sup> 28 Geo.3 c.82 (1788).

<sup>7</sup> The 1788 Act also allowed for the demolition and replacement of other civic facilities, such as the shire hall and the exchequer court.

<sup>8</sup> 47 Geo.3 Sess.2 c.vi (1807).

## **GROUP 4 – CUMBRIA**

### **Westmorland Gaol Act 1776**

- 2.15 Sometime prior to 1771 the county justices for Westmorland (today part of Cumbria) decided that the county gaol and shire hall in Appleby were no longer serviceable. They acquired an alternative site and began building replacement facilities. The cost was offset in part by the sale of the old gaol site and reuse of materials, but there remained a shortfall. The Westmorland Gaol Act 1776<sup>9</sup> ratified the site acquisition and permitted the justices to complete the balance of the project.
- 2.16 The gaol operated until 1878 when it became redundant, and it was demolished in two stages - in 1893 and the remainder in 1971. The 1776 Act was in essence time-limited legislation, and once building works had been completed and paid for, the Act became spent. The 1776 Act is now unnecessary and may be repealed.

## **GROUP 5 – DEVON**

- 2.17 The five Acts identified in this group relate to different gaols that operated in Exeter, Devon's administrative centre.

### **Debtors Prison Devonshire Act 1753**

- 2.18 Prior to 1753, the civil debtors' gaol for the county comprised a house leased in the parish of St. Thomas in Exeter superintended by the county sheriff. The county justices formed the view that the gaol should be rebuilt on its existing site, the freehold of which would need to be acquired from its then owners.<sup>10</sup> The Debtors Prison Devonshire Act 1753<sup>11</sup> was promoted to authorise and effect the land transfer and to raise the moneys for rebuilding.
- 2.19 The reconstructed gaol survived until 1818, when it was demolished and replaced by a facility on an adjoining site. The 1753 Act ceased to have any value by 1818 and it is therefore suitable for repeal.

### **Devon County Gaol: 1787 and 1810 Acts**

- 2.20 From 1518 onwards the county gaol for convicted criminals operated from within the precincts of Exeter castle, although responsibility for it lay with the lord of the manor of Bicton. By 1787, the county justices sought powers to take charge of the institution because they were concerned about overcrowding and the general inadequacy of the accommodation. The Devon Gaol Act 1787<sup>12</sup> was designed to facilitate the acquisition of both the existing gaol and tranches of adjoining land.

<sup>9</sup> 17 Geo.3 c.54 (1776).

<sup>10</sup> The main owners were the Custos and Vicars Choral of Exeter Cathedral.

<sup>11</sup> 26 Geo.2 c.57 (1753).

<sup>12</sup> 27 Geo.3 c.59 (1787).

- 2.21 Only a year after securing the 1787 Act, the justices decided that it would be better to build the new gaol complex on a separate site within the city, rather than build the gaol on the existing site. A site was acquired in St. David's parish and the replacement gaol and bridewell were opened in 1796. By 1810, however, the justices had misgivings about the extent of their powers of land acquisition and building, and about the appropriate designation of the gaol (as a county facility). The Devon County Gaol Act 1810<sup>13</sup> was obtained to resolve the issue retrospectively.
- 2.22 By 1878 the county gaol was the last remaining prison within Exeter and today it is administered by H.M. Prison Service. The purposes of the 1787 and 1810 Acts were superseded once the county gaol was operational (and legitimated) on its new site. Both the Acts are now unnecessary and may be repealed.

### **Exeter City Gaol: 1818 and 1863 Acts**

- 2.23 From some time in the 16<sup>th</sup> century, Exeter city council had owned a gaol at Southgate in the city for housing debtors and felons.<sup>14</sup> By 1818 the city council had decided that the gaol needed replacing because it was too small and was inconveniently situated. The Exeter Gaol Act 1818<sup>15</sup> enabled them to sell the existing gaol and acquire a replacement site in the Rougemont district, where they rebuilt the common gaol and house of correction.
- 2.24 By 1863 the rebuilt gaol had become inadequate, and it could not be brought up to standard without disproportionate expenditure. Between 1823 and 1842 enhanced standards of gaol management had been imposed on gaol custodians through national legislation. The Exeter Gaol Act 1863<sup>16</sup> authorised the city council to enter into a custody and maintenance contract with the county justices, to transfer the prisoners to the county gaol, and then to decommission (and demolish) the Rougement city gaol building.
- 2.25 The 1818 Act may have been repealed by the 1863 Act but the position is unclear.<sup>17</sup> Both the 1818 Act and the 1863 Act are today unnecessary and may be repealed.

## **GROUP 6 – ESSEX**

### **Essex County Gaol: 1772 and 1821 Acts**

- 2.26 The Essex Gaol Act 1772<sup>18</sup> was enacted so as to enable the county justices to increase spending for the development of a new gaol in Chelmsford, Essex.<sup>19</sup> It operated from 1778 to 1848.

<sup>13</sup> 50 Geo.3 c.lxxxv (1810).

<sup>14</sup> The gaol had been constructed under royal charter from Edward VI.

<sup>15</sup> 58 Geo.3 c.li (1818).

<sup>16</sup> 26 & 27 Vict. c.lxxiii (1863).

<sup>17</sup> The 1863 Act made provision for repeal on a conditional basis. Only by satisfying the condition precedent (that all the city gaol prisoners were to be transferred to the county gaol) would the 1818 Act be repealed. The probability is that they were all transferred to that destination (as opposed to elsewhere), but there is no evidence to support that inference. The form of entry used in the *Chronological Table of Local Legislation* (1996, HMSO), vol 1, for the 1818 Act suggests that it is still extant.

- 2.27 The Essex Gaol Act 1821<sup>20</sup> authorised construction of an additional gaol complex, enlargement of other prisons in the county, and the funding of these projects by rating precept. By 1827, a site had been secured on the outskirts of Chelmsford, and the additional gaol built. It opened in 1828 and was extended in 1848. Today, the prison operates under the auspices of H.M. Prison Service.

#### **Essex Gaol Act 1827**

- 2.28 The Essex Gaol Act 1827<sup>21</sup> empowered the justices to acquire land at Little Ilford near Becontree in order to build a new house of correction (which was completed by 1831 and replaced a similar facility at Barking), financed by a supplemental county rate. In 1860 it became a remand gaol, and in 1878 it was closed and then demolished. All the Essex Gaol Acts are today unnecessary and may be repealed.

### **GROUP 7 – GLOUCESTERSHIRE**

#### **Gloucester Gaols: 1781 and 1785 Acts**

- 2.29 Down the centuries Gloucester had at least two gaols: a city gaol, previously at the east gate, and then in Southgate street; and a county gaol located at the castle.
- 2.30 The Gloucester Gaol and Improvement Act 1781<sup>22</sup> concerned the city gaol. It had a threefold function: to authorise the city council to relocate the gaol, to authorise demolition of three city gateways, and to provide for various aspects of municipal governance and town improvement.<sup>23</sup>
- 2.31 The new city gaol was built in Southgate Street and functioned until 1858. The buildings were subsequently demolished and, in 1866, the site redeveloped for an unrelated use. The 1781 Act, insofar as it related to the city gaol and to traffic facilitation, has no purpose now. Thus, the 1781 Act, omitting sections 41 to 63 inclusive (which pertain to town improvement and governance), may be repealed.

<sup>18</sup> 13 Geo. 3 c.35 (1772).

<sup>19</sup> 10 Geo. 3 c.28 (1770) had enabled the justices to purchase the land and erect a jail, but it also imposed a financial ceiling.

<sup>20</sup> 1 & 2 Geo.4 c.cii (1821).

<sup>21</sup> 7 & 8 Geo.4 c.x (1827).

<sup>22</sup> 21 Geo.3 c.74 (1781).

<sup>23</sup> The 1781 Act ss 41 to 63. These latter provisions are not proposed for repeal.

- 2.32 The Gloucester Gaol Act 1785<sup>24</sup> concerned the county gaol. The justices needed to build a house of correction that could be used as a temporary penitentiary, a new county gaol, and other houses of correction throughout the county. It empowered the county justices to build the necessary facilities in Gloucester and to acquire suitable sites elsewhere. It also empowered them to divert watercourses, take other preparatory steps, and to manage and regulate the functioning of the various institutions once operational. As with the city gaol, the project was to be financed by mortgage (secured on the county rate) and by the sale of annuities.
- 2.33 By 1791 the Act had enabled the erection of the county gaol and probably the penitentiary at Gloucester castle. The adjoining house of correction was operational by 1816. Today, the gaol complex operates under the aegis of H.M. Prison Service as a local prison. The 1785 Act no longer has any purpose and may therefore be repealed.

### **Tewkesbury Gaol Act 1813**

- 2.34 In 1813, the Tewkesbury borough council was responsible for the town gaol.<sup>25</sup> Having concluded that the facility was inadequate and not fit for purpose, the council obtained the Tewkesbury Gaol Act 1813.<sup>26</sup> It authorised the acquisition of a site in the borough and the building of a common goal, penitentiary house and a house of correction.
- 2.35 The new gaol was built in 1817 and operated until closure (and then demolition) in or about 1854. The 1813 Act is today unnecessary and may be repealed.

### **GROUP 8 – GREATER LONDON**

- 2.36 In 18<sup>th</sup> century inner London, gaols were managed by different bodies. The city corporation was responsible for the gaol at Newgate, the compters at Poultry and Wood Street, Ludgate prison and the Whitecross Street debtors' prison. The Middlesex justices built their house of correction in 1794 in Clerkenwell on the outskirts of the city. To the south of the river, the Surrey county justices opened Newington gaol in 1799. The building and development of each of these institutions required separate authorising legislation.

<sup>24</sup> 25 Geo.3 c.10 (1785).

<sup>25</sup> It appears to have had that responsibility since around 1610 when granted a royal charter by James 1.

<sup>26</sup> 53 Geo.3 c.clxxx (1813).

### **Newgate Gaol: 1766 and 1778 Acts**

- 2.37 In 1766, Newgate gaol's condition was so unhealthy that both its inmates and the neighbouring public were frequently at risk of contracting gaol distemper.<sup>27</sup> The city corporation sought powers through part of the Thames Embankment Act 1766<sup>28</sup> to demolish the gaol and to rebuild it on or near the same site. Once constructed and operational, the new gaol was to act as the county gaol for both the city of London and the adjoining county of Middlesex.<sup>29</sup>
- 2.38 The Newgate Gaol and Sessions House Act 1778<sup>30</sup> authorised completion of the Newgate Gaol as the city corporation had reached its capped expenditure limit, as outlined by the 1766 Act.
- 2.39 The gaol was completed in or about 1782 and survived until 1902, when it was demolished and replaced by the central criminal court. Neither the portion of the 1766 Act relating to Newgate gaol (sections 4-10 inclusive), nor any of the 1778 Act, has any relevance or purpose today. They may therefore be repealed.

### **Giltspur Street and Poultry Compters: 1785 and 1804 Acts**

- 2.40 By 1785, the city's two compters, (for imprisoning debtors) at Poultry and at Wood Street, were deemed unfit for purpose. In order to effect demolition and rebuilding on a better site, the city obtained the City of London: Improvement Act 1785.<sup>31</sup> That Act authorised the acquisition of a site off Giltspur Street within the city and the building of replacement compters.
- 2.41 The Giltspur Street compter seems to have been built by 1791, replacing the compter at Wood Street, and operated until 1854. The powers in the 1785 Act were time-limited.
- 2.42 Despite the 1785 Act authorising the replacement of the Poultry compter, it seems to have still been operating in 1804. The London Debtors' Prison Act 1804<sup>32</sup> authorised the corporation to effect temporary closure of the compter, and the transfer of prisoners to other premises, so that repair works could be undertaken. The works - assuming they were effected - only rendered the Poultry compter functional for another decade.
- 2.43 The compters at Poultry, Wood Street and Giltspur Street have all since disappeared. Neither the 1785 Act nor the 1804 Acts has any purpose today and they may be repealed.

<sup>27</sup> Preamble to 7 Geo.3 c.37 (1766).

<sup>28</sup> 7 Geo.3 c.37 (1766), sections 4-10.

<sup>29</sup> The 1766 Act, s 7.

<sup>30</sup> 18 Geo.3 c.48 (1778).

<sup>31</sup> 25 Geo.3 c.97 (1785).

<sup>32</sup> 44 Geo.3 c.lxxxiv (1804).

### **Middlesex House of Correction: 1786 Act**

- 2.44 In the 1780s, the Middlesex county justices had concluded that their existing house of correction was in such a state of disrepair as to be incapable of accommodating all their prisoners satisfactorily. The justices had already identified a site for relocation, but were reluctant to impose a heavier burden to finance the project on the county ratepayers. The Middlesex Gaol Act 1786<sup>33</sup> authorised the raising of moneys by the sale of annuities secured on the county rates and by the disposal of the present site.
- 2.45 The new house of correction was built in 1794, probably at Cold Bath Fields in Clerkenwell. It was extended around 1865, and operated on the site until 1877. By 1889 the building had been demolished, and the site today is occupied by a postal sorting office. The 1786 Act is therefore spent and may be repealed.

### **London and Middlesex Debtors' Prison: 1812 and 1815 Acts**

- 2.46 By 1812 the city of London corporation had decided that their existing four gaols had to be supplemented by a house of correction. The Debtors' Prison for London and Middlesex Act 1812<sup>34</sup> enabled the corporation to acquire land off Whitecross Street, in the parish of St. Giles-without-Cripplegate to house debtors. The four existing gaols were to hold, in the main, criminal prisoners.
- 2.47 By 1815, it had become clear that some of the statutory restrictions in the 1812 Act were too rigid. The Debtors Prison for London and Middlesex Act 1815<sup>35</sup> relaxed the requirement for segregation by category so that the whole accommodation could be used flexibly.
- 2.48 The debtors' prison was built and functioning before the end of 1815 and operated until 1870 when it was closed and the premises later demolished to make way for a railway goods terminus.
- 2.49 Both the 1812 Act and the 1815 Act are therefore unnecessary and may be repealed.

### **Surrey Gaol Act 1791**

- 2.50 In 1790, the Surrey county justices operated a common gaol in St. George's Parish, Southwark. They resolved in 1791 to construct a replacement gaol and a new sessions house, both to be sited off the Turnpike Road in St. Mary's Parish, Newington. The Surrey Gaol Act 1791<sup>36</sup> authorised the justices to acquire the necessary land and to construct the gaol for the housing of debtors and criminal offenders. The Act also authorised the construction of the Newington sessions house (which today forms part of the Inner London Crown Court).

<sup>33</sup> 26 Geo.3 c.55 (1786).

<sup>34</sup> 52 Geo.3 c.ccix (1812).

<sup>35</sup> 55 Geo.3 c.xcviii (1815).

<sup>36</sup> 31 Geo.3 c.22 (1791).

- 2.51 The county gaol opened in 1799, and operated until 1878 when it was closed. The building was demolished in 1880. Part of the site today is a children's playground. The provisions in the Act relating to the Newington sessions house were much narrower, and extended principally to land acquisition, building construction and raising of moneys. Today, responsibility for operation and on-going maintenance lies with HM Courts Service (as part of the Ministry of Justice). Therefore, the 1791 Act is now unnecessary and may be repealed.

## **GROUP 9 – HAMPSHIRE**

### **Winchester Gaol Act 1801**

- 2.52 By 1801 the city's bridewell (or common gaol) had been demolished because of inadequacy and decay, and partly rebuilt by the city corporation. The Winchester Gaol Act 1801<sup>37</sup> addressed two outstanding problems: the need to remove various houses which obstructed the access way, and the need to raise further funds for site clearance and for completion of the building works.
- 2.53 The gaol functioned until closure in 1836, when it was converted into a police station. The building was demolished around 1876. The 1801 Act is now unnecessary and may be repealed.

### **Portsmouth Gaol Act 1805**

- 2.54 In 1805 the Portsmouth corporation decided that the borough gaol should be sold and replaced because it was unfit for purpose, but apprehended there would be a financial shortfall. The Portsmouth Gaol Act 1805<sup>38</sup> enabled the mayor and borough justices to purchase land, and to use the proceeds of sale and moneys raised by rate (and by secured borrowing) to undertake the rebuild. The new gaol was operational by 1808 but closed shortly before 1881. The Act is now unnecessary and may be repealed.

## **GROUP 10 – HERTFORDSHIRE**

### **Hertford Gaol: 1700 and 1775 Acts**

- 2.55 At the turn of the 18<sup>th</sup> century the Hertfordshire county gaol needed to be relocated to a less enclosed and more ventilated situation within Hertford. The Removal of Hertford Gaol Act 1700<sup>39</sup> authorised the county justices to raise moneys by rate for the rebuilding and removal project. The gaol was rebuilt by 1702, although possibly on the same site.

<sup>37</sup> 41 Geo.3 c.cxxxii (1801).

<sup>38</sup> 45 Geo.3 c.xliv (1805).

<sup>39</sup> 12 & 13 Will.3 c.21 (1700) [listed in the *Chronological Table of Private and Personal Acts 1539-1997*].



- 2.56 By the 1770s the gaol had become even more unhealthy, with outbreaks of gaol distemper giving rise to malignant fever in both inmates and townspeople alike. The county justices needed specific power to acquire replacement lands. The Hertford Gaol Act 1775<sup>40</sup> provided both that power and power to build a gaol for criminals, debtors and others, financed by a county rate levy. The new gaol operated until closure in or about 1878.
- 2.57 Neither the 1700 nor the 1775 Act has any purpose today; both may be repealed.

## **GROUP 11 – NORFOLK**

### **Norfolk County Gaol Act 1822**

- 2.58 In 1820 the grand jury of Norfolk reported to the county assizes that the county gaol failed to comply with statutory standards. The Norfolk County Gaol Act 1822<sup>41</sup> authorised the county justices to design and build an additional house of correction and gaol at Norwich Castle. It also enabled them to extend the existing gaol structure and to construct close-by a replacement shire house.
- 2.59 By 1828, the new penal facilities were completed and the gaol operated until 1887 when the buildings were acquired by the city corporation for museum purposes. The new shire hall was completed during the 1820s and housed the courts of justice until 1988. It was subsequently converted into a museum and study centre. The 1822 Act is now unnecessary and may be repealed.

## **GROUP 12 – NORTHAMPTONSHIRE**

### **Peterborough and Nassaburgh Gaol Act 1839**

- 2.60 The gaol and correctional buildings that served the Peterborough and the Nassaburgh communities were old and inconvenient and they needed to be replaced. The Peterborough and Nassaburgh Gaol Act 1839<sup>42</sup> authorised the county justices to purchase land and to construct a new combined common gaol and house of correction.
- 2.61 The gaol operated until 1961, when it was decommissioned and demolished. The 1839 Act has ceased to have any purpose and may be repealed.

## **GROUP 13 – NORTHUMBERLAND**

### **Northumberland Gaol and County Offices Act 1821**

- 2.62 In 1820 the common gaol for the county of Northumberland was reported by the grand jury to be ruinous and inadequate. The town also lacked a proper sessions house. The Northumberland Gaol and County Offices Act 1821<sup>43</sup> enabled the county justices to demolish the old buildings and to rebuild a new gaol on or near the same site. They also built a house of correction and court house.

<sup>40</sup> 15 Geo.3 c.25 (1775).

<sup>41</sup> 3 Geo.4 c.iv (1822).

<sup>42</sup> 2 & 3 Vict. c.lxvii (1839).

<sup>43</sup> 1 & 2 Geo.4 c.ii (1821).

- 2.63 The new county gaol was decommissioned in 1881. Part of the building was thereafter used as the county police headquarters until 1939. A section of the building has now been restored for use as residential property. The court room operated in the sessions house until 1980. Today, the 1821 Act, part of which has already expired with the effluxion of time,<sup>44</sup> is unnecessary and may be repealed.

#### **Newcastle-upon-Tyne Gaol Act 1822**

- 2.64 In 1820 the grand jury in Newcastle reported that the town gaol and house of correction were in a poor state of repair and insecure. The Newcastle-upon-Tyne Gaol Act 1822<sup>45</sup> was promoted by the mayor, recorder and aldermen so as to enable them to buy freehold land in the town and build a new common gaol and house of correction.
- 2.65 By 1828 the old Newgate gaol was demolished and replaced and then operated at Carloli Croft until 1925, when it too was demolished. Part of the site is now occupied by the Tyne Bridge approach. Section 52 of the 1822 Act, relating to the powers and responsibilities of the gaol commissioners once construction and debt repayment were completed, has expired. The remainder of the Act is no longer required and the whole Act may be repealed.

#### **GROUP 14 – PEMBROKESHIRE**

##### **Haverfordwest Gaols Act 1779**

- 2.66 The county gaol for Pembrokeshire was sited within the castle at Haverfordwest. The county justices obtained the Pembroke Gaol Act 1779<sup>46</sup>, which authorised them to acquire a new site, build a new county gaol and house of correction, and to raise the necessary moneys by county rate levy. By 1780, the gaol had been constructed within the castle.
- 2.67 The gaol operated within the castle until 1822 when a new county gaol and house of correction replaced it. The county gaol was finally decommissioned in 1878. The 1779 Act has no purpose today and it may be repealed.

<sup>44</sup> Probably sections 11 to 14 and section 35 (relating to rating assessment and collection) by virtue of the 1821 Act, s 16 (a time-limiting provision).

<sup>45</sup> 3 Geo.4 c.lv (1822).

<sup>46</sup> 19 Geo.3 c.46 (1779).

## **GROUP 15 – SOMERSET**

### **Bristol Gaol Act 1816**

- 2.68 From around 1790, Bristol city corporation had been concerned about the state of its gaol. Although legislation was secured in 1792<sup>47</sup>, the powers were allowed to lapse. By 1816 the problem had become acute. The Bristol Gaol Act 1816<sup>48</sup> authorised nominated gaol commissioners to acquire land, and to build on it a new common gaol for criminals and debtors. The commissioners' powers under the Act were to expire once the project including the loan repayments was complete.<sup>49</sup>
- 2.69 By 1820, the new gaol was built at Bedminster, and operated until closure in 1883. In 1883 a replacement gaol opened at Horfield which today operates under the aegis of H.M. Prison Service. The Bedminster site was sold in 1895 to the Great Western Railway company. The 1816 Act is now unnecessary and may be repealed.

## **GROUP 16 – STAFFORDSHIRE**

### **Stafford Gaol Act 1787**

- 2.70 In 1787, the county gaol and house of correction in Staffordshire was ill constructed, overcrowded and ill-adapted to the needs of prisoners. The Stafford Gaol Act 1787<sup>50</sup> required the county justices to acquire a suitable site in Stafford for a replacement gaol, a debtors' prison and a house of correction. It also required them to select the contractor by public tender, and to design and build secure accommodation that would segregate prisoners by category and provide proper sanitary facilities.
- 2.71 Stafford gaol was built by 1793, extended in 1832 and again in 1865. Today, the prison operates under the aegis of H.M. Prison Service. The purpose underpinning the 1787 Act is long since spent and the Act may be repealed.

## **GROUP 17 – WARWICKSHIRE**

### **Coventry Gaol Act 1768**

- 2.72 By 1768 the Coventry city justices had recognised the need to replace the city's common gaol. The Coventry Gaol Act 1768<sup>51</sup> authorised the city justices to acquire land from the city corporation, demolish the existing gaol and to build the replacement. The gaol survived until 1831, when it was replaced on an adjacent site. The 1768 Act has long become unnecessary and may be repealed.<sup>52</sup>

<sup>47</sup> 32 Geo.3 c.82 (1792).

<sup>48</sup> 56 Geo.3 c.lix (1816).

<sup>49</sup> The 1816 Act, s 52.

<sup>50</sup> 27 Geo.3 c.60 (1787).

<sup>51</sup> 8 Geo.3 c.40 (1768).

<sup>52</sup> The Act which authorised construction of the 1831 replacement gaol - 3 Geo.4 c.lxxii (1822) - has already been repealed by the West Midlands County Council Act 1980 (c.xi), s 121, Sch 5.

### **Warwick Gaol Act 1777**

- 2.73 In 1776 the county justices formed the view that the house of correction in Warwick needed enlarging (and had acquired a site) and a year later the grand jury reported that the county gaol was likewise in urgent need of extension. The Warwick Gaol Act 1777<sup>53</sup> allowed the justices to put aside the original project, and to use the acquired land for the building of a combined facility. By 1783 the gaol building had been enlarged, and by 1787 a new house of correction had been built close by, leaving the vacated buildings for gaol purposes. Both facilities were closed in 1860 and subsequently demolished.<sup>54</sup> Today the 1777 Act has no purpose and may be repealed.

### **GROUP 18 – WEST SUSSEX**

#### **Sussex Gaol Act 1787**

- 2.74 In 1775, the county justices for Sussex decided that the county gaol in Horsham should be relocated on the ground of inadequacy. The Sussex Gaol Act 1787<sup>55</sup> permitted the old gaol trustees to sell the original site free from encumbrance, and designated the new gaol the county common gaol. The old gaol was decommissioned and work on the new gaol started in 1775. The new gaol functioned until its closure and demolition in 1845.
- 2.75 The 1787 Act is now defunct and may be repealed.

### **GROUP 19 – WILTSHIRE**

#### **New Sarum Gaol Act 1800**

- 2.76 In 1785, the city corporation was empowered to take over the city gaol in New Sarum, Wiltshire (today Salisbury) from the lord bishop.<sup>56</sup> They were also charged with the responsibility of rebuilding a replacement gaol. However, rebuilding never occurred. The New Sarum Gaol Act 1800<sup>57</sup> repealed part of the 1785 Act (relating to building of the new gaol) and authorised the city justices to commit prisoners to the county gaol on a permanent basis. The old gaol has been demolished.
- 2.77 The county gaol was closed in 1870 and the whole structure had been demolished by 1959. The 1800 Act serves no purpose today and may be repealed.

<sup>53</sup> 17 Geo.3 c.58 (1777).

<sup>54</sup> Except for the some of the gaol frontages on Barrack Street which survived until 1972 or thereabouts.

<sup>55</sup> 27 Geo.3 c.58 (1787).

<sup>56</sup> 25 Geo. 3 c. 93 (1785).

<sup>57</sup> 39 & 40 Geo.3 c.liii (1800).

# PART 3

## CRIMINAL LAW

### INTRODUCTION

- 3.1 The history of the criminal law dates back to ancient times and reflects the response of Government down the ages to events and circumstances that required new sanctions to protect the interests of state and citizen alike. The proposed candidates for repeal in this part span the period 1751 to 2003. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### Disorderly Houses Act 1751

- 3.2 The Disorderly Houses Act 1751 represented an attempt by Government to regulate places of public entertainment. These were perceived to be a major cause of theft and robbery because they encouraged people to fritter away their earnings to the point that they had to resort to theft in order to survive. Accordingly the Act regulated places of public entertainment by requiring, for example, that premises in or within 20 miles of London kept for the purposes of public dancing, music or other similar forms of entertainment must be licensed by the magistrates. Any premises that operated without a licence were deemed to be a “disorderly house”.
- 3.3 The 1751 Act has long been obsolete and most of its provisions have already been repealed. The only remaining provision is section 8 which deemed anyone who was apparently in charge of a bawdy-house,<sup>1</sup> or other disorderly house,<sup>2</sup> to be the keeper of such house. The development of the criminal law since 1751 has made this deeming provision unnecessary.<sup>3</sup> Indeed, there is no reported case of section 8 ever being invoked for the purpose of deeming anyone to be a keeper of the relevant premises. The repeal of section 8 will permit the formal repeal of the 1751 Act as a whole. This in turn will permit three consequential repeals.<sup>4</sup>

<sup>1</sup> A bawdy-house was a brothel.

<sup>2</sup> The term “disorderly house” is not statutorily defined. It appears to cover activities such as indecency, unlawful pugilism and cock-fighting. Moreover, keeping a disorderly house is an indictable common law offence – this is not affected by the present repeal proposal.

<sup>3</sup> Criminal law nowadays creates offences wide enough to catch the persons running or managing the premises in which the offending activity takes place. For example, the Sexual Offences Act 1956 creates a range of offences about keeping, managing or assisting in the management of a brothel: the 1956 Act, ss 33-36. Analogous offences also exist in relation to activities such as unlawful gaming (Gaming Act 1968, Pt 1), unlicensed drinking and entertainment (Licensing Act 2003, s 136), indecent displays (Indecent Displays (Control) Act 1981, s 1(1)), and cock-fighting (Metropolitan Police Act 1839, s 47).

<sup>4</sup> These consequential repeals are: the definition of the 1751 Act in the London County Council (General Powers) Act 1959, s 3(1); Magistrates’ Courts Act 1980, Sch 1, para 2; Licensing Act 2003, Sch 6, para 2.

### **Servants' Characters Act 1792**

- 3.4 The Servants' Characters Act 1792 sought to address the perceived evils of false character references. At a time when many households engaged servants to perform domestic duties, the oral or written character reference that assured the prospective employing master or mistress of the reliability, competence and trustworthiness of the prospective domestic servant would be an integral part of the engagement process.<sup>5</sup>
- 3.5 The 1792 Act created a number of offences including falsely impersonating any master or mistress and giving a false character reference to a servant.<sup>6</sup> Changes in law and society since 1792 have made these offences obsolete. In the two centuries during which the 1792 Act has been in force, there has been only one reported case on it.<sup>7</sup> Indeed there is no record of any prosecutions being brought under it in modern times. The modern law governing the provision of employee character references is essentially civil rather than criminal, with damages being payable by way of compensation for inaccurate or misleading references.<sup>8</sup> Criminal sanctions do, however, exist to penalise anyone who provides or makes use of false references to obtain employment.<sup>9</sup> Moreover, where a reference is given fraudulently, an employer giving such a reference may be liable to the recipient for the tort of deceit.<sup>10</sup> Accordingly the 1792 Act may now be repealed on the basis that it has been superseded and no longer serves a useful purpose. This repeal will permit one consequential repeal.<sup>11</sup>

<sup>5</sup> The origins of the 1792 Act lay in a petition to Parliament by several householders in the Cities of London and Westminster who had taken servants into their households on the strength of false references. One of the petitioners, Dr Richard Brocklesby, complained that his house had been robbed, apparently as a result of knowledge acquired by one such servant whom he had employed on the strength of a false reference. The petition was referred to a Commons' Committee, and the report of that Committee led to the passing of the 1792 Act.

<sup>6</sup> The 1792 Act, s 1. Other offences are set out in sections 2 to 5. The penalty in each case on summary conviction is a fine not exceeding level 2 on the standard scale (currently £500). Section 8 absolves servants from any liability under the Act if they inform on their collaborators.

<sup>7</sup> *R v Costello and Bishop* [1910] 1 KB 28 (which concerned the liability of an employer for giving a false reference).

<sup>8</sup> In the leading case of *Hedley Byrne v. Heller & Partners Ltd* [1964] AC 465 (a case where the plaintiff was suing for losses sustained having relied on a misleading reference given by a bank) it was held that the law implies a duty of care when a party seeking information of another party trusts him to exercise due care and that other party knew or should have known that reliance was being placed on him.

<sup>9</sup> A person giving a false reference may be guilty of fraud under the Fraud Act 2006. A person is in breach of section 2 of the 2006 Act (fraud by false representation) if he dishonestly makes a false representation and intends, by making the representation, to make a gain for himself or another.

<sup>10</sup> *Foster v Charles* (1830) 6 Bing 396; 7 Bing 105; *Wilkin v Reed* (1854) 15 CB 192. In Scotland the relevant delict is fraud.

<sup>11</sup> This repeal is of text in the Statute Law (Repeals) Act 1993, Sch 2, Pt 1, para 1.

### **Unlawful Drilling Act 1819**

- 3.6 The Unlawful Drilling Act 1819 was put onto the statute book as a swift reaction to the Peterloo Massacre in Manchester that year when 11 people were killed and about 400 wounded.<sup>12</sup> The Government was convinced that the events in Manchester provided evidence that there was an organised and widespread conspiracy to subvert the law and the institutions of the country. The Cabinet decided that the law about public meetings should be strengthened and that legislation should be introduced to prevent any revolutionary outbreak. Six Bills were introduced into Parliament including the Bill (then known as the Training Prevention Bill) that resulted in the 1819 Act.<sup>13</sup>
- 3.7 The 1819 Act criminalised all unauthorised meetings and assemblies of persons for the purpose of training or drilling in the use of arms or for practising military exercises. Anyone present at any such meeting for the purpose of being so trained or drilled faced a maximum of two years' imprisonment. Those carrying out the training faced a maximum of seven years' imprisonment.
- 3.8 Despite the urgency with which the 1819 Act was brought onto the statute book after the Peterloo Massacre, little use was made of it. The cases usually cited in connection with it provide no assistance.<sup>14</sup> Of the two reported cases where the 1819 Act was invoked, one was an 1848 procedural challenge to indictments brought under the Act.<sup>15</sup> The other was an 1849 Irish case in which the defendant was indicted and convicted of illegal training and drilling in Dublin contrary to the 1819 Act.<sup>16</sup> The conviction was, however, quashed on appeal. There are no other reported cases in which any proceedings have been taken under the 1819 Act.

<sup>12</sup> This incident arose from an open-air meeting called by the Manchester Patriotic Society on 16 August 1819. The Society, formed in 1819 to press for Parliamentary reform, invited Henry Hunt and Richard Carlisle to address the meeting at St Peter's Field, Manchester. Some 50,000 or more people marched to the meeting carrying banners with revolutionary inscriptions. Although the assembly was peaceful, the magistrates (who had brought in special constables and detachments of the Lancashire and Cheshire Yeomanry) lost their nerve and ordered the arrest of the organisers. The soldiers drew their sabres when pressed by the crowd, and the casualties arose in the general panic caused by the arrival of a troop of hussars to rescue the soldiers.

<sup>13</sup> The other five Bills had the following purposes-

- (1) to increase the powers of magistrates to issue warrants for the search of arms: 60 Geo.3 & 1 Geo.4 c.2 (repealed by Statute Law Revision Act 1873);
- (2) to prevent procedural delays in prosecutions for misdemeanours: 60 Geo.3 & 1 Geo.4 c.4 (repealed by Administration of Justice (Miscellaneous Provisions) Act 1938; Judicature (Northern Ireland) Act 1978);
- (3) to strengthen the law against seditious assemblies: 60 Geo.3 & 1 Geo.4 c.6 (repealed by Statute Law Revision Act 1873);
- (4) to permit the seizure of literature containing blasphemous or libellous material: 60 Geo.3 & 1 Geo.4 c.8;
- (5) to extend stamp duties to all papers and periodical pamphlets of a certain size: 60 Geo.3 & 1 Geo.4 c.9 (repealed by Newspapers, Printers and Reading Rooms Repeal Act 1869).

<sup>14</sup> The cases of *R v Hunt* (1820) 3 B & Ald. 566, and *Redford v Birley* (1822) 3 Stark 76 (171 ER 773) were not brought under the 1819 Act.

<sup>15</sup> *R v Hunt* (1848) 3 Cox CC 215. The outcome of the case is not known.

<sup>16</sup> *Gogarty v R* (1849) 3 Cox CC 306 (Ir).

- 3.9 In any event, changes in public order law over the past two centuries have made the 1819 Act obsolete. In particular, the criminal law has evolved to deal with a wide variety of crowd control and demonstrations management issues that go far beyond the narrow confines of the 1819 Act. For example the modern law, especially the Public Order Act 1986, gives the police a range of powers to take steps to prevent a public meeting, assembly or procession giving rise to disorder, damage, disruption or intimidation.<sup>17</sup> Other laws govern the carrying of firearms in public places<sup>18</sup> and the wearing of uniforms for political purposes.<sup>19</sup> It is clear that the 1819 Act has long ceased to serve any useful purpose and its repeal is therefore recommended on that basis.<sup>20</sup> The repeal will not extend to Northern Ireland because of the differences in public order law between Northern Ireland and the remainder of the United Kingdom.

#### **Punishment of Offences Act 1837**

- 3.10 The purpose of the Punishment of Offences Act 1837 was to substitute a sentence of transportation for a death sentence in respect of a number of statutory offences listed in the Act.<sup>21</sup> Since, however, all these listed offences have been repealed over the years, the 1837 Act has become obsolete and may now be formally repealed.

#### **Foreign Enlistment Act 1870**

- 3.11 The purpose of the Foreign Enlistment Act 1870, according to its long title, was “to regulate the conduct of Her Majesty’s Subjects during the existence of hostilities between foreign states with which Her Majesty is at peace”. Section 3 of the 1870 Act is the commencement provision. Under it the 1870 Act had to be proclaimed in every British possession by the governor of that possession “as soon as may be after he receives notice of the Act”. The Act would then come into operation in that possession on that day. This provision, which allowed for the operation of the 1870 Act in distant overseas territories to be delayed until the proclamation had been made there, has clearly long ceased to serve any useful purpose. Section 3 may therefore be repealed as obsolete.

<sup>17</sup> Part 2 of the Public Order Act 1986 established a new code for controlling processions and demonstrations. The police are empowered to impose conditions on public assemblies if it is reasonably believed that a public assembly may result in serious public disorder, serious damage to property or serious disruption to the life of the community.

<sup>18</sup> Firearms Act 1968, ss 19, 47(1). The police also have stop and search powers if it is reasonably believed that a person is carrying dangerous instruments or offensive weapons without good reason: Criminal Justice and Public Order Act 1994, s 60(1), (4).

<sup>19</sup> Public Order Act 1936, s1. Section 2 of the 1936 Act provides that anyone organising or training members of an association of persons for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object commits an offence.

<sup>20</sup> Consequential repeals will be the remainder of the 1819 Act as well as text in the Statute Law (Repeals) Act 1995, Sch 2, para.1.

<sup>21</sup> Transportation involved convicted criminals being sent to the colonies to serve their sentences. Penal servitude was substituted for transportation by the Penal Servitude Act 1857, s 2. Penal servitude (a term of imprisonment that usually included hard labour) was abolished by the Criminal Justice Act 1948, s1 (which substituted ordinary imprisonment).



### **Conspiracy and Protection of Property Act 1875**

- 3.12 Virtually the whole of the Conspiracy and Protection of Property Act 1875<sup>22</sup> has already been repealed.<sup>23</sup> The only unrepealed provision of substance is section 6 which imposes a criminal penalty on any master who, “being legally liable to provide for his servant or apprentice necessary food, clothing, medical aid or lodging, wilfully and without lawful excuse refuses or neglects to provide the same, whereby the health of the servant or apprentice is or is likely to be seriously or permanently injured”.<sup>24</sup>
- 3.13 Section 6 has been superseded by modern health and safety laws. The purpose of section 6 was to protect the health of servants and apprentices in a situation where a master was legally liable to provide them with food, clothing, medical aid or lodging. The limited protection afforded by section 6 has been superseded by modern duties on the part of employers to ensure the health and safety of their employees. These duties exist both at common law and by statute. At common law, employers are under a duty to take reasonable care for the health and safety of their employees in all the circumstances of the case so as not to expose them to unnecessary risks.<sup>25</sup> By statute, it is the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees.<sup>26</sup> This duty is general and is not, as with section 6, limited to issues arising out of the provision of food, clothing, medical aid or lodging. There are no reported cases involving section 6 and its repeal will permit the formal repeal of the 1875 Act as a whole.

<sup>22</sup> The short title of this Act is in fact the Conspiracy, and Protection of Property Act, 1875: the 1875 Act, s 1. For convenience the commas are not reproduced in the text of this report.

<sup>23</sup> Indeed the whole of the 1875 Act has already been repealed as it applied to Northern Ireland: Trade Union and Labour Relations (Northern Ireland) Order 1995, SI 1995/1980 (NI12), art 150(4), Sch 4.

<sup>24</sup> The penalty, upon summary conviction, is a fine not exceeding level 2 on the standard scale, or imprisonment for a term not exceeding six months, or both. Section 6 is cast in broadly similar terms to s 26 of the Offences against the Person Act 1861.

<sup>25</sup> *Wilson and Clyde Coal Co Ltd v English* [1938] AC 57 (*English v Wilson and Clyde Co Ltd* 1937 SC (HL) 46, 1937 SLT 523).

<sup>26</sup> Health and Safety at Work etc Act 1974, s 2(1). The 1974 Act protects all employees working under a contract of employment (whether express or implied and whether or not in writing): s 53(1). An offence under s 2 of the 1974 Act carries a maximum fine of £20,000: s 33(1A).

### **Criminal Justice Act 1948**

- 3.14 Section 69 of the Criminal Justice Act 1948 related to cases where a Royal Pardon had been given to a person sentenced to death. This provision is now obsolete because the death penalty can no longer be issued by a court within the United Kingdom.<sup>27</sup> Section 78 of, and Schedule 8 to, the 1948 Act are transitional provisions concerning persons who, immediately before the commencement of the 1948 Act on 18 April 1949, had been sentenced to certain types of punishment (such as penal servitude or imprisonment with hard labour) that were abolished by the 1948 Act. The Home Office have confirmed that no such persons remain imprisoned today. Accordingly section 78 and Schedule 8 are obsolete.

### **Sexual Offences Act 1956**

- 3.15 The Sexual Offences Act 1956 contains provisions that have become obsolete through the passage of time. Section 35 contains transitional provisions relating to offences committed before the commencement of the 1956 Act on 1 January 1957. Section 52 contains an obsolete reference to landlords' rights under the pre-1957 law which were replaced by rights under the 1956 Act.

### **Criminal Justice Acts 1972 and 1982**

- 3.16 Several provisions in the Criminal Justice Acts 1972 and 1982 are now obsolete. In the 1972 Act, section 31 became obsolete when the legislation that it amended (the Shops Act 1950) was repealed.<sup>28</sup> Section 59 terminated the right of local authorities to buy back prisons that were taken over under the Prison Act 1877 and subsequently closed. Section 66(6), which was the commencement provision of the 1972 Act, contains a now unnecessary savings proviso. In the 1982 Act, sections 28, 30 and 31 are amending provisions that became spent when the statutory text that they amended was subsequently repealed. Similarly section 68(1) and Schedule 12 had the effect of amending legislation (the Powers of Criminal Courts Act 1973) which was subsequently repealed.<sup>29</sup> Section 72(3) is a spent transitional provision.<sup>30</sup>

<sup>27</sup> The last remaining offences carrying the death penalty were offences under the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957. The death penalty for these offences was abolished by the Human Rights Act 1998, s 21(5).

<sup>28</sup> The Shops Act 1950 was finally repealed by the Deregulation and Contracting Out Act 1994, ss 23, 24(b), 81(1), Sch 17. A consequential repeal is text in section 66(7)(a).

<sup>29</sup> The 1973 Act was repealed by the Powers of Criminal Courts (Sentencing) Act 2000, s 165(4), Sch 12, Pt 1.

<sup>30</sup> Section 72(3) disapplied the abolition of the right of an accused person to make an unsworn statement in criminal proceedings in relation to trials beginning before 24 May 1983.

### **Nuclear Material (Offences) Act 1983**

- 3.17 Section 4(1)(a) of the Nuclear Material (Offences) Act 1983 amended section 2 of the Internationally Protected Persons Act 1978. These amendments were superseded by further amendments,<sup>31</sup> whereupon section 4(1)(a) became spent. Section 5A of the 1983 Act was inserted by the Criminal Justice Act 1988<sup>32</sup> but ceased to have effect when the provision inserting it was repealed by the Extradition Act 1989.<sup>33</sup>

### **Prosecution of Offences Act 1985**

- 3.18 The Prosecution of Offences Act 1985, which established the Crown Prosecution Service (“the CPS”) in England and Wales, contains a number of transitional provisions which are now unnecessary.
- 3.19 Section 12 required the Attorney General, not later than 3 months after the passing of the 1985 Act, to establish a staff commission to assess the general effect of the CPS on prosecuting staff and to provide advice to the Attorney General and the Director of Public Prosecutions (“the DPP”) on the arrangements necessary to safeguard the interests of such staff. Section 13 was another transitory provision designed to ensure that any premises and equipment used by prosecuting staff before they were transferred to the CPS were made available to the CPS for a limited period. Section 15(7) ensured that the person holding the office of DPP on 1 April 1986 was treated as having been appointed by the Attorney General. Section 31(4) is a further transitional arrangement which disapplied certain provisions of the 1985 Act in respect of proceedings instituted before 1 October 1986. All these transitional provisions have long ceased to serve any useful purpose and are now obsolete. Finally section 28, which repealed section 9 of the Perjury Act 1911, became spent when that repeal took effect on 1 April 1986.<sup>34</sup>

### **Criminal Justice Acts 1988 and 1991/Criminal Procedure and Investigations Act 1996**

- 3.20 The candidates for repeal under this heading have become unnecessary either because they are spent repealing provisions or because the amendments which they made have ceased to serve any useful purpose.

<sup>31</sup> United Nations Personnel Act 1997, s 7, Sch, para 2.

<sup>32</sup> The 1988 Act, s 170(1), Sch 15, para 95.

<sup>33</sup> The 1989 Act, s 37(1), Sch 2.

<sup>34</sup> Prosecution of Offences Act 1985 (Commencement No 1) Order 1985, SI 1985/1849.

- 3.21 Sections 49, 100(7) and 125 of the Criminal Justice Act 1988 were repealing provisions and became spent when their respective repeals took effect.<sup>35</sup> The amendment made by section 64 has been superseded by a subsequent amendment.<sup>36</sup> The amendments made by section 103(2) (as set out in Schedule 5) are now unnecessary because the provisions which they amended were subsequently repealed.<sup>37</sup> Section 123(1) introduced subsections (2) to (5). Since, however, subsections (2) to (4) have already been repealed,<sup>38</sup> and subsection (5) is now spent,<sup>39</sup> both subsections (1) and (5) are now unnecessary. Finally, the transitional provisions in Part 2 of Schedule 8 relating to persons who were young offenders in October 1988 have clearly ceased to serve any useful purpose given the passage of time since then.
- 3.22 In the Criminal Justice Act 1991, section 69 inserted text into section 12 of the Magistrates' Courts Act 1980 but became unnecessary when a new section 12 was later substituted by the Criminal Justice and Public Order Act 1994.<sup>40</sup> Section 72 was a repealing provision and became spent when the repeal took effect on 1 October 1992.<sup>41</sup>
- 3.23 Sections 46(1) and 65 of the Criminal Procedure and Investigations Act 1996 were repealing provisions and became spent when the 1996 Act came into force at Royal Assent on 4 July 1996.<sup>42</sup>

### **Crime and Disorder Act 1998**

- 3.24 Sections 35, 36(3) and (6), 97(5), 107(2) and 108 of the Crime and Disorder Act 1998 were repealing provisions and became spent when their respective repeals took effect.<sup>43</sup> Section 116 was a transitory provision which became spent when section 73 of the Act was brought into force on 1 April 2000.<sup>44</sup>

<sup>35</sup> The last of these repeals took effect on 3 December 1990 when section 100(7) came into force: Land Registration Act 1988 (Commencement) Order 1990, SI 1990/1359. The coming into force of section 100(7) meant that the whole of section 100 ceased to have effect.

<sup>36</sup> Section 64 amended the Game Act 1831, s 32. That amendment has since been superseded by an amendment made by the Criminal Justice and Public Order Act 1994, s 168(1), Sch 9, para 1(1), (3), (7).

<sup>37</sup> The amended provisions were in the Criminal Justice (Scotland) Act 1987 and were repealed by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, ss 4, 6, Sch 3, Pt 2, paras 15, 16, Sch 5.

<sup>38</sup> Subsections (2) and (3) were repealed by the Criminal Justice Act 1991, s 101(2), Sch 13. Subsection (4) was repealed by the Powers of Criminal Courts (Sentencing) Act 2000, ss 165(4), 168(1), Sch 12, Pt 1.

<sup>39</sup> Section 123(5) substituted a new Criminal Justice Act 1982, s 2(4). When s 2(4) was repealed by Criminal Justice Act 1991, s 101(2), Sch 13, section 123(5) became spent.

<sup>40</sup> The 1994 Act, s 45, Sch 5, para 1.

<sup>41</sup> By virtue of the Criminal Justice Act 1991 (Commencement No 3) Order 1992, SI 1992/333.

<sup>42</sup> The repeal of section 46(1) will permit the repeal of the whole of that section because there are no other surviving provisions.

<sup>43</sup> The last of these repeals took effect on 1 June 1999 when section 97(5) came into force: Crime and Disorder Act 1998 (Commencement No 4) Order 1999, SI 1999/1279.

<sup>44</sup> Crime and Disorder Act 1998 (Commencement No 6) Order 1999, SI 1999/3426.

### **Anti-terrorism, Crime and Security Act 2001**

- 3.25 Sections 37 and 38 were repealing provisions and became spent when their respective repeals took effect at Royal Assent on 14 December 2001. Section 122 required the Secretary of State to appoint a committee to conduct a review of the 2001 Act. The report of that Committee had to be laid before Parliament. The report was duly produced by the Privy Counsellor Review Committee, and was laid before Parliament on 18 December 2003.<sup>45</sup> Section 123 provided for provisions in the 2001 Act to cease to have effect in particular circumstances. In the event these circumstances did not arise.<sup>46</sup> The result is that both sections 122 and 123 are now spent.

<sup>45</sup> Privy Counsellor Review Committee Report on the Anti-terrorism, Crime and Security Act 2001 (HC 100).

<sup>46</sup> Section 123 provided for the report produced by the committee pursuant to section 122 to specify any provision of the 2001 Act as a provision which, pursuant to section 123(2), should cease to have effect 6 months after the report was laid before Parliament under section 122 (ie 18 June 2004). In the event the Committee specified the whole Act. However, section 123(3) provided that this section 123(2) cesser provision should not apply if, before the end of the 6 month period, a motion had been passed in each House of Parliament considering the report. Since such a motion was duly passed in each House (25 February 2004, Hansard (HC), col 384; 4 March 2004, Hansard (HL), col 833), section 123(3) did not result in any statutory provisions ceasing to have effect.

# PART 4

## EAST INDIA COMPANY

### INTRODUCTION

- 4.1 The East India Company was established in 1600,<sup>1</sup> reconfigured in 1708, and operated until dissolution in 1874. Although it started life as a trading entity with a monopolistic hold on the East Indies,<sup>2</sup> the company - although not a state enterprise - became a ruling force in the region, first under its own mandate, and then (from 1786) on behalf of the British Crown.<sup>3</sup> The company clashed with the French forces when European hostilities spilt over into the Indies, particularly during the Seven Years War (1756-63), and became embroiled in the domestic rivalries of the Mughal rulers. Sovereignty from Madras to Calcutta - and the control of the nawabs (local rulers) - was secured by the military endeavours of Sir Robert Clive.<sup>4</sup>
- 4.2 After 1786 the company's fortunes waned. By 1813 it had lost the bulk of its trading monopoly (and with it, its ability to make profit),<sup>5</sup> and its role reduced to that of administrator for the Crown. Following the Great Rebellion of 1857 it lost effective control of the military (particularly in Bengal and the north-east territories) and, in 1858, the British Crown assumed direct governance of India.<sup>6</sup> The company ceased trading and was dissolved in 1874.<sup>7</sup>
- 4.3 The twelve Acts in this part of the repeals schedule relate to four aspects of the East India Company's activities: its headquarters offices in the City of London, its dealings with the Muslim nawabs of the Carnatic (or Madras) region, its dealings with the Hindu rajah of Tandore (within Madras), and its dealings with the zemindar of Nozeed and Mustaphanagur (also within Madras). The organisations consulted about these proposals are listed in Appendix 3.

<sup>1</sup> By Royal Charter of that year.

<sup>2</sup> At that time encompassing territory governed today by the states of India, Pakistan, Bangladesh and Myanmar (Burma), but reaching also into parts of Malaysia, China and Japan.

<sup>3</sup> See the East India Company Act 1786 (26 Geo.3 c.16), repealed in 1793.

<sup>4</sup> Otherwise known as Clive of India, later 1<sup>st</sup> Baron Clive of Plassey (b.1725, d.1774). He served the East India Company, first as administrator and then as military campaigner, from 1743 to 1767.

<sup>5</sup> The East India Trade Act 1813 (54 Geo.3 c.34) withdrew the company's monopoly. The company retained the monopoly for trade in tea with Canton (China).

<sup>6</sup> See Government of India Act 1858 (21 & 22 Vict. c.106), repealed in full by 1937.

<sup>7</sup> See East India Stock Dividend Redemption Act 1873 (36 & 37 Vict. c.17), repealed in 1966.

### **City of London land: 1796 Acts**

- 4.4 East India House in Leadenhall Street - the company's headquarters for all its existence - was rebuilt twice, in 1726 and in 1799. In 1796 the company found that its then offices were inadequate and required extending. The East India Merchants and Purchase of Land in [the] City of London Act 1796<sup>8</sup> authorised the company to purchase adjoining land to facilitate extending the office building and widening part of an abutting street. The enlarged building survived until 1929 when it was demolished and the site redeveloped.
- 4.5 In 1796 the company also needed to reconfigure its warehouse complex to make it more secure. The East India Merchants and Land for Warehouses Act 1796<sup>9</sup> enabled the company to acquire land and to divert an inconvenient public highway. The new warehouses were mainly used to store imported tea. By the 1970s they had become redundant and were converted to office accommodation.
- 4.6 Neither of the 1796 Acts today fulfil any purpose, and both may be repealed.

### **Creditors of the Nabobs of the Carnatic: 1806 to 1826 Acts**

- 4.7 The rulers of the princely states in the Carnatic region<sup>10</sup> retained autonomy during the time of the East India Company but, because they amassed significant debts to the British and were dependent upon British military protection, they became an integral part of the British imperial enterprise.
- 4.8 The deposed nawab - or nabob - of Arcot (Mohamed Ali Khan Walajan)<sup>11</sup> sought the assistance of Sir Robert Clive to secure his reinstatement. By 1752 that had been achieved and the East India Company had acquired a new commercial market in the Carnatic. The nawab then became heavily indebted to the company for its support in the First Mysore War (1767-69) and in clashes with Tanjore (1771-73), which he could only repay by expropriating various state revenues within his control.
- 4.9 By 1805 the company had taken over collection of the revenues. The company entered into an agreement with various private creditors of three now-deceased members of the ruling family whereby it would set aside from the revenues a fund against which the creditors could make claims. Those claims would need to be validated and apportioned by six Carnatic commissioners (three in England, and three in Madras), and the scheme needed to be underpinned by legislation.

<sup>8</sup> 36 Geo.3 c.119 (1796).

<sup>9</sup> 36 Geo.3 c.127 (1796).

<sup>10</sup> Including North Arcot, South Arcot and Tanjore, all within the British presidency of Madras.

<sup>11</sup> The nawab had been deposed by the French, and replaced by their own candidate.

- 4.10 The East India Company and the creditors of the Nabobs of the Carnatic Act 1806,<sup>12</sup> the first statute in a series, authorised the appointment of commissioners to act as trustees and to determine claims on the fund (using powers of inquiry). The 1806 Act powers were time limited.<sup>13</sup>
- 4.11 The East India Company and the creditors of the Nabobs of the Carnatic Acts 1810 to 1826 then continued - by stages - the life of the powers vested in the commissioners through to 1830.<sup>14</sup> All seven Acts have now long since expired, and may be repealed.

#### **Creditors of the Rajah of Tanjore: 1824 and 1830 Acts**

- 4.12 Between 1793 and 1798 Tanjore (in Madras) had been a princely state presided over by the rajah (Ameer Sing), but controlled by the nawab of Arcot, and given protectorate status by the British.
- 4.13 By 1824 various debts incurred by the late rajah remained unpaid. The East India Company (which administered the state revenues) had, in February 1824, put in place an arrangement with the creditors whereby commissioners would be appointed to validate and prioritise claims against a special fund. The East India Company and the creditors of the Rajah of Tanjore Act 1824<sup>15</sup> underpinned the agreement by conferring statutory powers on the appointed commissioners (for example, to summon and receive sworn evidence). The commissioners were required to make sessional reports to parliament on claims and their outcomes. The Act's powers specifically lapsed in 1829.
- 4.14 The East India Company and the creditors of the Rajah of Tanjore Act 1830<sup>16</sup> continued the powers vested in the commissioners for a further (partly retrospective) period. The powers so continued lapsed by effluxion of time by 1834, and no further legislation was promoted to secure an extension. Both the 1824 and the 1830 Acts are now spent and may be repealed.

<sup>12</sup> 46 Geo.3 c.cxxxiii (1806).

<sup>13</sup> The commissioners' powers were to lapse at the end of the parliamentary session following 1 August 1810: the 1806 Act, s 12. The commissioners were to report periodically to Parliament on the claims.

<sup>14</sup> The Acts were: 50 Geo.3 c.ccciii (1810), 52 Geo.3 c.clxxxviii (1812), 57 Geo.3 c.viii (1817), 59 Geo.3 c.xxvi (1819), 3 Geo.4 c.xviii (1822) and 7 Geo.4 c.xli (1826).

<sup>15</sup> 5 Geo.4 c.cxvii (1824).

<sup>16</sup> 11 Geo.4 & 1 Will.4 c.cxxxiii (1830).



### **Loan to the Zemindar of Nozeed and Mustaphanagur: 1832 Act**

- 4.15 The zamindari, as owners of interests in local landholdings, were responsible to the state ruler for the collection of revenues. Prior to 1776 the zemindar of Nozeed and Mustaphanagur (within the Madras presidency)<sup>17</sup> had raised loans, secured by mortgage, from several individuals to enable him to pay his dues to the East India Company. In 1779 the company sequestered the zemindar's assets because of significant unpaid arrears and, in 1784, the company had offered to effect an arrangement with the creditors (which was part-performed but never ratified). By 1832 the zemindar's loan debt was still outstanding, although both the zemindar and his principal creditor had died. The company recognised that there was a legitimate expectation that the loans should be repaid to the principal creditor's representative.
- 4.16 The East India Company and discharge of loan to the Zemindar of Nozeed and Mustaphanagur Act 1832<sup>18</sup> authorised the company to settle the outstanding debt from the revenues of the zemindary. The payment had to be made by July 1833. No later statutory authorisation was sought. The 1832 Act no longer fulfils any purpose and may be repealed.

<sup>17</sup> The late Macca Narsinva Opparow.

<sup>18</sup> 2 & 3 Will.4 c.cxii (1832).

# PART 5

## LONDON

### INTRODUCTION

- 5.1 The forty or so Acts proposed for repeal in this part focus on selected areas of London's social, economic and legal history during the 18<sup>th</sup> and 19<sup>th</sup> centuries. The repeal candidates have been grouped under six headings: poor relief, the Westminster Court House, London coal duties, the Court of Chancery, markets and general repeals. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### GROUP 1 – POOR RELIEF

- 5.2 The Acts in this group are relics of the “old poor law” as it operated in London.<sup>1</sup> They were passed to provide for the needs of the local poor, particularly by providing the necessary powers to raise money from the inhabitants of the parish to build workhouses to contain the poor. Examples of early parish workhouses can be found in London from around 1650. By 1777, a Parliamentary survey of poor law expenditure in England and Wales estimated that the number of parish workhouses had risen to 1873 (approximately one parish in seven) with a total capacity of over 90,000 places.<sup>2</sup>

### Holborn Poor Relief Acts 1770

- 5.3 These two 1770 Acts<sup>3</sup> both related to the financing of two new workhouses in the Holborn area of London. The first of the two Acts was passed to enable the parishioners of St Andrew, Holborn in the City of London to purchase a workhouse. The second Act authorised the building of a workhouse in the Liberty of Saffron Hill, Hatton Garden and Ely Rents in the part of the parish of St Andrew, Holborn that lay in the old county of Middlesex. Both workhouses had closed by 1836 with the result that the Acts became unnecessary.<sup>4</sup>

<sup>1</sup> By “old poor law” is meant the parish-based poor law relief arrangements that existed before the implementation of the Poor Law Amendment Act 1834. The origins of the old poor law can be traced to enactments passed in 1597 (39 Eliz.1 c.3) and 1601 (43 Eliz.1 c.2). The Poor Law Amendment Act 1834 established a new poor law system. It divided the 15,000 or so parishes of England and Wales into new administrative units called “Poor Law Unions”, each run by a locally elected Board of Guardians. The funding of each Union and its workhouses continued to be provided by the local poor rate within each parish. The workhouse system continued until well into the 20<sup>th</sup> century, with the terminology changing so that workhouses became known as “poor law institutions”. It was only on 1 April 1930 when the Local Government Act 1929 came into force, that Boards of Guardians and Poor Law Unions were abolished, their functions being transferred to local government.

<sup>2</sup> Report from the Committee appointed to inspect and consider the returns made by the Overseers of the Poor, 15 May 1777.

<sup>3</sup> 10 Geo.3 cc.79 and 80. Both Acts empowered trustees to levy annual rates on property owners in the parish.

<sup>4</sup> The workhouse in the City of London closed around 1826 when its site was redeveloped as Farringdon Market. The closure date of the Middlesex workhouse is not certain but it was no later than 1836.

### **Southwark Workhouse: 1774 Act**

- 5.4 The purpose of this 1774 Act<sup>5</sup> was first to provide for, or enlarge, a workhouse in Southwark and secondly to build a new road in east Southwark. The Act became spent when the workhouse was finally completed in 1777 and the road was constructed in 1781. Today the site of the workhouse building is occupied by the London Fire Brigade Museum.

### **St Sepulchre Workhouse: Acts of 1798 and 1806**

- 5.5 The 1798 Act<sup>6</sup> was passed to rebuild the workhouse in the parish of St Sepulchre in the City of London. The preamble to the Act recorded that the existing workhouse was “old and ruinous, and too small for the accommodation and relief of the poor”. The 1806 Act<sup>7</sup> was passed to raise more money to complete the rebuilding. The two Acts were concerned solely with the arrangements for rebuilding the workhouse and accordingly became spent when the work was eventually completed in or before 1824.<sup>8</sup>

### **St Bride, Fleet Street: Acts of 1799 and 1826**

- 5.6 According to its long title, the purpose of the 1799 Act<sup>9</sup> was “for the better relief and employment of the poor of the parish of Saint Bridget, otherwise Saint Bride, Fleet Street in the City of London”. The 1799 Act provided for the raising of money from the rates to provide for the poor of the parish. The 1826 Act<sup>10</sup> was passed to amend the 1799 Act by providing greater powers to provide poor relief. Neither Act was concerned with the building of a workhouse although a workhouse existed in the parish of St Bride as early as the 1720s. Both Acts have long been obsolete. As from 1834,<sup>11</sup> responsibility for the poor started to be transferred from individual parishes to Boards of Guardians appointed by Poor Law Unions. These Boards and Unions were eventually abolished on 1 April 1930.<sup>12</sup>

<sup>5</sup> 14 Geo.3 c.75.

<sup>6</sup> 38 Geo.3 c.xxxiv.

<sup>7</sup> 46 Geo.3 c.xvi.

<sup>8</sup> The workhouse was situated in Chick Lane, which no longer exists, and finally closed its doors in 1867 at the latest. The area where the workhouse used to be is now occupied by Charterhouse Street and the London Central Markets.

<sup>9</sup> 39 Geo.3 c.iv.

<sup>10</sup> 7 Geo.4 c.cxiv.

<sup>11</sup> Poor Law Amendment Act 1834; Metropolitan Poor Act 1867.

<sup>12</sup> Pursuant to the Local Government Act 1929.

### **Wapping Workhouse: 1819 Act**

- 5.7 The 1819 Act<sup>13</sup> was the final in a series of enactments<sup>14</sup> passed to raise money to erect and provide a workhouse in Wapping. This final Act authorised the raising of £6000 to cover the completion of this project. The workhouse was situated just off Green Bank on Upper Wall Alley and was mentioned by Charles Dickens in *The Uncommercial Traveller*.<sup>15</sup> The 1819 Act became spent once the necessary moneys had been raised. The workhouse finally closed its doors in 1863.

### **GROUP 2 – WESTMINSTER COURT HOUSE**

- 5.8 Three Acts (together with part of a fourth Act) were passed with the single purpose of building a court house in what is now the City of Westminster. The necessity for so much legislation relates to issues such as the project running out of money and late changes to the chosen site for the court house. The Acts became unnecessary once the matters with which they were concerned (the financing of the project and the building of the court house) had been completed. This occurred in, or just after, 1807. The court house no longer exists, having been replaced by a new court building on the same site during the 1880s. The replacement building was itself demolished to make way for the present Middlesex Guildhall, which was constructed from 1906 to 1913. The Middlesex Guildhall has in recent years been used as a Crown Court but is due to be renovated to house the new UK Supreme Court.
- 5.9 The first Act was passed in 1778.<sup>16</sup> The preamble lamented the lack of any convenient court house “for holding the Courts and exercising the Jurisdiction of the Dean and Chapter of the Collegiate Church of Saint Peter,<sup>17</sup> within the City and Liberty of Westminster, and for holding the Quarter Sessions of the Peace, and transacting the other publick Business of the said City and Liberty”. The Act provided for the appointment of Commissioners to buy the necessary land and for the raising of money.
- 5.10 The next Act, passed in 1799,<sup>18</sup> recorded that the Commissioners had now purchased land on which to build the court house but needed more money to buy out interests affecting that land.

<sup>13</sup> 59 Geo.3 c.xv.

<sup>14</sup> 22 Geo.3 c.35 (1782); 23 Geo.3 c.32 (1783); 57 Geo.3 c.lxxiii (1817). All three Acts have already been repealed.

<sup>15</sup> *The Uncommercial Traveller* originated in a series of articles that Charles Dickens wrote between 1860 and 1869 for the journal “All The Year Round”.

<sup>16</sup> 18 Geo.3 c.72.

<sup>17</sup> The Collegiate Church of St Peter, Westminster is better known as Westminster Abbey. It is neither a cathedral nor a parish church but a “Royal Peculiar” under the jurisdiction of a Dean and Chapter, subject only to the Sovereign.

<sup>18</sup> 39 Geo.3 c.lxxii.

- 5.11 Unfortunately it then transpired that it would not be practicable to build the court house on the land purchased by the Commissioners. According to the preamble to an Act of 1804,<sup>19</sup> “the erecting of the said Courts on such Ground, and the Resort of Persons to such Courts, would incommode the Approach to the Two Houses of Parliament, and produce considerable Inconveniences”. Accordingly the 1804 Act authorised the Commissioners to sell the land acquired under the 1778 and 1799 Acts and buy land known as the Round Woolstaple, an area on the west side of the modern Parliament Square. Section 3 of the 1804 Act authorised the Commissioners to build the court house on this site.
- 5.12 The final Act is an Act of 1807<sup>20</sup> which amended the earlier three Acts to provide the Commissioners with additional powers to complete the building work and to provide further funds to fit out and run the court house.
- 5.13 As already stated, the court house no longer exists, having been replaced by another court building on the same site during the 1880s. Accordingly the Acts of 1778, 1799 and 1807 have become unnecessary and may be repealed along with section 3 of the 1804 Act.<sup>21</sup> The repeals will have no effect on the current building on that site, the Middlesex Guildhall, because the Acts do not relate to it in any way.

### **GROUP 3 – LONDON COAL DUTIES**

- 5.14 From mediaeval times, the City of London Corporation has been entitled to collect dues or taxes on coal and other goods entering the City. A charter of James I in 1605 confirmed the City’s ancient right to collect certain dues, known as metage, on coal entering the City. Coal coming up the Thames would be unloaded, weighed and measured. A further charter of 1612 established that the rate of metage should be 8d. per ton. After the Plague in 1665 and the Great Fire of London in 1666, the City’s finances were left in a precarious state. It was impossible for the necessary rebuilding and improvements to be financed out of existing resources. It was probably because the machinery to collect taxes on coal already existed that it was decided to finance the works out of further dues on coal. A series of Acts were passed to sanction an increase in coal duties to carry out the building works.<sup>22</sup> The City remained heavily in debt despite this additional revenue. An Act of 1694<sup>23</sup> increased the metage duty by 4d. and an additional duty of 6d. per chaldron<sup>24</sup> was imposed. These additional dues, together with other moneys, were designed to extinguish the City’s debt. These duties were continued on a number of occasions over the years and were linked with building improvements in the City. The whole of the City’s debt was paid off by 1834.

<sup>19</sup> 44 Geo.3 c.61.

<sup>20</sup> 47 Geo.3 sess.2 c.lxvii.

<sup>21</sup> The 1804 Act is not proposed for repeal in its entirety because it also contains provisions unrelated to the land needed for the building of the court house.

<sup>22</sup> These included 18 & 19 Cha.2 c.8 (1666) and 22 Cha.2 c.11 (1670).

<sup>23</sup> 5 & 6 Will & Mar. c.10.

<sup>24</sup> A chaldron was a coal measure of about 36 bushels.

- 5.15 The Corporation continued to receive coal duties for most of the nineteenth century. An Act of 1831,<sup>25</sup> which abolished the metage system, provided for a coal duty of 12d. per ton to be payable for 7 years. This Act was extended by a series of Acts to 1889.<sup>26</sup> The duties on coal were finally abolished by the London Coal Duties Abolition Act 1889.<sup>27</sup>
- 5.16 Although most of the Acts imposing duties on coal entering London have long since been repealed, a number of obsolete Acts regulating the sale and supply of coal in London remain on the statute book. These Acts are identified in the following paragraphs.

#### **London Coal Trade: 1805 Act**

- 5.17 The purpose of this 1805 Act was to indemnify those persons working in the coal market in the City of London who had incurred penalties during the month of January 1805 as a result of an Act of 1803,<sup>28</sup> which established a free market in Billingsgate in the City of London for the sale of coal. The market opened on 2 January 1805. The 1803 Act imposed new obligations to record full details of contracts for the sale of coal, and any sale agent who failed to comply with these obligations was liable for a fine of £100. A number of agents, through ignorance of the new rules, faced ruin if the law had been strictly enforced against them. Accordingly the 1805 Act provided these persons with an indemnity in respect of any penalties incurred by them during the first month of the new rules. The transitory nature of this 1805 Act means that it has been spent for 200 years.

#### **City of London Coal Trade: 1824 Act**

- 5.18 The purpose of this 1824 Act was to authorise the City of London to borrow £16000 at 4% interest so it could then repay an earlier loan bearing interest at 5%. The detailed provisions set out in the 1824 Act for borrowing the £16000 and repaying the existing loan are long since spent.

#### **Port of London Coal and Wine Import Duties: 1840 Act**

- 5.19 The purpose of this 1840 Act was to continue for four years from 5 July 1858 certain duties levied on coal and wine imported into the Port of London. The duty on coal (6d. per chaldron) would otherwise have expired, pursuant to an Act of 1829,<sup>29</sup> on 5 July 1858. The duty on wine (4 shillings per tun) was, as in the case of the duty on coal, originally imposed by an Act of 1694.<sup>30</sup> This 1840 Act became spent once four years from 5 July 1858 had elapsed.

<sup>25</sup> 1 & 2 Will.4 c.lxxvi.

<sup>26</sup> 1 & 2 Vict. c.ci (1838); 8 & 9 Vict. c.101 (1845); 24 & 25 Vict. c.42 (1861); 26 & 27 Vict. c.46 (1863); and 31 & 32 Vict. c.17 (1868).

<sup>27</sup> The 1889 Act (c.17), s1.

<sup>28</sup> 43 Geo.3 c.cxxxiv.

<sup>29</sup> 10 Geo.4 c.cxxxvi (London Bridge Approaches).

<sup>30</sup> 5 & 6 Will. & Mar. c.10 (Orphans, London).

### **Port of London Coalwhippers: 1843 Act**

- 5.20 The purpose of this 1843 Act was to regulate the workforce known as coalwhippers, whose principal function was to unload coal from vessels arriving at the Port of London. Commissioners were appointed by the City of London and others to register and regulate these coalwhippers. Only registered coalwhippers were to be allowed to undertake such employment. This Act was intended to have only temporary effect. It was expressed to continue in force until the end of the Parliamentary session following 1 January 1846.<sup>31</sup> Accordingly this Act has long ago expired under its own terms.

### **Coal Duties (London and Westminster and adjacent Counties) Act 1851/ Coal Duties (London etc) Drawback Act 1857**

- 5.21 The 1851 Act amended earlier legislation relating to sale and delivery of coal in the Cities of London and Westminster and surrounding areas.<sup>32</sup> In particular the 1851 Act contained provisions to ensure the quality of coal brought into the Port of London and the payment of duties on coal brought into London whether by sea, canal, road or railway. The area covered by the system of duties on coal was the radius of 20 miles from the General Post Office in St Martin's-le-Grand in the City of London. The 1851 Act provided for this 20 mile distance to be marked by boundary stones or other permanent markings.<sup>33</sup> Any coal passing over the 20 mile boundary as it came into London attracted the duties, although there was provision for remission of duty (known as 'drawback') in cases where the coal merely passed through London without being unladen. The enforcement of the various obligations imposed by the 1851 Act was in the hands of the Clerk and Registrar of the City of London Coal Market.
- 5.22 According to its long title, the purpose of the 1857 Act was "to allow a Drawback on the Duties payable on Coals, Culm, Coke and Cinders". The 1857 Act amended the 1851 Act so as to allow drawback of duty paid in certain cases notwithstanding that the coal had been unladen from the vessel that brought it into London.
- 5.23 The London Coal Market no longer exists. Its demise resulted from the nationalisation of the coal industry following the 1939-45 war.<sup>34</sup> Given the closure of the Coal Market and the abolition of the tax on coal brought into London,<sup>35</sup> the 1851 and 1857 Acts are clearly now unnecessary. Their formal repeal is recommended on that basis.

<sup>31</sup> The 1843 Act, s 47.

<sup>32</sup> These Acts were 1 & 2 Will.4 c.lxxvi (1831), 1 & 2 Vict. c.ci (1838) and 8 & 9 Vict. c.101 (1845). All three Acts have been repealed by City of London (Various Powers) Act 1967, s 31, Sch 3.

<sup>33</sup> Approximately 250 of these boundary posts remain situated around London. The posts were in a neat ring until the London Coal and Wine Duties Continuance Act 1861 reduced the size of the area within the boundaries.

<sup>34</sup> Coal Industry Nationalisation Act 1946.

<sup>35</sup> London Coal Duties Abolition Act 1889.

#### **GROUP 4 – COURT OF CHANCERY**

- 5.24 The Acts now proposed for repeal were set in a period during the early nineteenth century at a time when the Court of Chancery had a well-justified reputation for inefficiency, delay and inordinate expense.<sup>36</sup> The Court was headed by the Chancellor<sup>37</sup> and was primarily concerned with the administration of equity.<sup>38</sup> The backlog of undecided cases was caused partly by inefficient procedure and partly by the desire of successive Chancellors to consider each case personally.
- 5.25 A feature common in the Court of Chancery (and, indeed, in all principal English courts from medieval times until the nineteenth century) was that most court officers drew their income from court fees. In other words, court officials were paid no salary but relied on the court fees paid by litigants.<sup>39</sup> Indeed it was often the case that court officials acquired their position by buying it from the previous holder of that office. The office became the property of the current holder and he could sell it on to someone else in due course. Frequently the actual work of the office would be carried out not by the office-holder but by a deputy appointed by the office-holder.
- 5.26 A further curious feature of the Court was that most Chancery appeals were heard on premises made available in Lincoln's Inn, until the opening of the Royal Courts of Justice by Queen Victoria on 4 December 1882 provided dedicated accommodation for the hearing of Chancery business.
- 5.27 Reforms to the running of the Court of Chancery began to take effect by the 1830s, and the Court itself ceased to exist upon the establishment of the Supreme Court of Judicature in 1873.<sup>40</sup> The Court's jurisdiction was assigned to the Chancery Division of the High Court.

#### **Court of Chancery Act of 1809**

- 5.28 This 1809 Act, recognising that the fees to which Court of Chancery officials were entitled had not kept pace with the cost of living, provided for additional sums to be paid to them each quarter by way of compensation. These officials were also to be reimbursed for their expenses, including the cost of providing stationery, books, coals and candles. The Act also empowered the Lord Chancellor to retire certain disabled officials and pay them retirement annuities.

<sup>36</sup> As depicted in Charles Dickens' *Bleak House* (published 1853) in which the inheritance case of *Jarndyce v Jarndyce* runs on in the Court of Chancery from one generation to the next.

<sup>37</sup> The Chancellor was from medieval times Keeper of the Great Seal of England. Royal justice was initiated by original writs sealed by the Chancellor. The modern title of the Chancellor is Lord High Chancellor of Great Britain, or, more usually, Lord Chancellor.

<sup>38</sup> The Court also had a common law jurisdiction as well as jurisdiction in bankruptcy and lunacy cases.

<sup>39</sup> By contrast, judges were paid an official salary. Even here, however, it was not uncommon for the salary to be supplemented by court fees.

<sup>40</sup> Supreme Court of Judicature Act 1873, s 3.



- 5.29 By 1852,<sup>41</sup> the system of remunerating Court of Chancery officials from fees paid into court by litigants had been superseded by the payment of annual salaries. Today the remuneration and pension arrangements of court officials is governed by the terms and conditions of their employment contracts. Accordingly the provisions of the 1809 Act for supplementing the income of court staff and providing annuities for sick officials have long been unnecessary.

#### **Court of Chancery Act of 1810**

- 5.30 This 1810 Act was concerned with court staffing and accommodation issues. For example, premises used for court purposes, including those in Rolls Yard in Chancery Lane, were to be vested in the Master of the Rolls. Moreover, the Lord Chancellor was empowered to remove certain incompetent officials from office<sup>42</sup> and appoint new staff. He could also appoint persons to keep order in the court and “prevent insane and other disorderly persons from intruding themselves into the said Court”.<sup>43</sup>
- 5.31 The 1810 Act no longer has any effect. The premises in Rolls Yard no longer exist. The site is occupied today by Kings College London as a library and information services centre. Accordingly, no court today operates from the site of the old Rolls Yard, the work of the Chancery Division being carried out in the Royal Courts of Justice in the Strand. Moreover, matters in the 1810 Act relating to the appointment, and terms and conditions, of court officials working in what is now the Chancery Division of the High Court are no longer determined personally by the judiciary but are handled administratively by central government (currently HM Courts Service) pursuant to the Courts Act 2003.<sup>44</sup>

#### **Court of Chancery Act of 1816**

- 5.32 The purpose of the 1816 Act was to provide additional accommodation for the Court of Chancery. Under the terms of the Act, the Honourable Society of Lincoln’s Inn made available land running westwards from the north end of the Old Hall, extending nearly to the site of the present War Memorial. The Act contained a provision whereby the property would revert to Lincoln’s Inn if it should ceased to be used as a court. Accordingly, when the opening of the Royal Courts of Justice in 1882 meant that these premises were no longer required for judicial business, the court accommodation that had been constructed in Lincoln’s Inn was demolished. This took place in 1883, allowing the chapel at Lincoln’s Inn to be extended westwards.
- 5.33 The transfer of Chancery business to the Royal Courts of Justice means that the 1816 Act is now unnecessary.

<sup>41</sup> An Act for the relief of the suitors of the High Court of Chancery (15 & 16 Vict. c.87, s 1).

<sup>42</sup> One such official (an Examiner) was identified in the 1810 Act as a person who had “for a considerable time been a Lunatic Ward of the said Court of Chancery, and wholly incompetent to the Discharge of the Duties of the said Office”: 1810 Act, preamble.

<sup>43</sup> The 1810 Act, s 14.

<sup>44</sup> The 2003 Act, s 2.

### **Six Clerks and Chancery Inrolment Offices: 1829 Act**

- 5.34 The ancient office of the Six Clerks administered the process of pleadings entered in Chancery. The office enrolled commissions, pardons, patents, warrants etc that had passed the Great Seal. Another of its functions was to assist impoverished parties involved in Chancery actions. The Six Clerks also represented the interests of paupers and lunatics.<sup>45</sup>
- 5.35 The purpose of the 1829 Act was to provide for the repair of the offices of the Six Clerks and the Chancery Inrolment Office, and for the indexing and removal of Court of Chancery records to the record office in the Tower of London.<sup>46</sup> The purposes of the 1829 Act were met when the repairs to the offices were carried out and the Chancery records were duly indexed and removed to the Tower. The Act thereupon became unnecessary.<sup>47</sup>

### **Court of Chancery (Improvement of Offices): 1835 Act**

- 5.36 The purpose of this 1835 Act was to authorise the carrying out of improvement works to the accommodation of the Registrar and the Accountant-General of the Court of Chancery. The Act, which authorised a maximum expenditure of £3000, became unnecessary once the works were completed.

## **GROUP 5 – MARKETS**

- 5.37 The Acts identified for repeal in this group became obsolete because the markets that they related to have either ceased to exist or else were never established in the first place.

### **Sheepskin Inspectors (King's Place Market, St Mary Newington): 1814 Act**

- 5.38 The purpose of this 1814 Act was to extend the provisions of an 1808 Act<sup>48</sup> to a newly-opened skin market at King's Place, near Blackman Street in the parish of St Mary Newington, now in the London Borough of Southwark.<sup>49</sup> The 1808 Act provided that the raw skins of all sheep and lambs slaughtered within five miles of the Royal Exchange in the City of London should be brought for inspection or marking to specified markets. The subsequent repeal of the 1808 Act by an Act of 1824<sup>50</sup> and the closure of the King's Place Market<sup>51</sup> has made the 1814 Act unnecessary.

<sup>45</sup> As part of the series of reforms of the Chancery Court in 1842, the office of the Six Clerks was abolished: 5 & 6 Vict. c.103, s 1. Their functions in relation to representing the interest of "paupers, infants and lunatics" vested in the office of the Solicitor to the Suitors' Fund. These functions eventually became vested in the Official Solicitor to the Supreme Court of Judicature.

<sup>46</sup> The Tower of London ceased to house the record office in 1866 (when the record office moved to new premises in Chancery Lane).

<sup>47</sup> The former offices of the Six Clerks, 10 Stone Buildings, Lincoln's Inn, fell vacant when the new Law Courts in the Strand were opened in 1882. The premises are today used as the Headquarters of the Inns of Court and City Yeomanry of the Territorial Army.

<sup>48</sup> 48 Geo.3 c.lxxi (London Hides and Skin Trade).

<sup>49</sup> The market was then in the county of Surrey.

<sup>50</sup> 5 Geo.4 c.57 (Horse Hides).

### **Belgrave Market Act 1869/Belgrave Market (Extension of Time) Act 1873**

- 5.39 The purpose of the Belgrave Market Act 1869 was to establish a market for the sale of meat, poultry, game, fish, butter, cheese, milk and vegetables in the parish of St Luke, Chelsea. The Act contained compulsory purchase powers which would expire in August 1872 and, by section 24, the market had to be completed by August 1874. The Belgrave Market (Extension of Time) Act 1873 extended the compulsory purchase powers granted by the 1869 Act to 21 July 1875 and the final date for completing the market to 21 July 1876.
- 5.40 In the event, and despite the extension of time, there is no indication that the Belgrave Market was ever built. Given that the powers granted by Parliament for establishing the market expired more than 130 years ago, it is clear that both the 1869 and 1873 Acts are now unnecessary.

### **Leadenhall Market Acts 1871 and 1879**

- 5.41 Today Leadenhall Market is mainly a shopping arcade rather than a market. In the 14<sup>th</sup> century, however, Leadenhall Market was a major market for meat, game, poultry and fish. The original market building was a hall with a leaden roof, hence the name of the market. The Leadenhall Market Act 1871 provided for the enlargement of the market. The City of London which, then as now, owned the market, was given powers to purchase land and raise money to finance the enlargement.
- 5.42 The effects of the 1871 Act were, however, short-lived. The preamble to the Leadenhall Market Act 1879 records that “it would be of public advantage if the said Act [i.e. the 1871 Act] were repealed, and Leadenhall Market as now held were discontinued and abolished”. In short, the 1879 Act had the effect of sweeping away much of the old market. A new market was constructed on the site, but on a larger scale, which involved occupying more land and removing houses on the east and west sides so as to form new streets. The first stone of the new Leadenhall Market, designed by Sir Horace Jones, the City architect, was laid on 28 June 1881.
- 5.43 Although the 1871 Act was superseded by the 1879 Act, the 1871 Act remains unrepealed. Section 16 of the 1879 Act in fact provided that the 1871 Act should be repealed by means of a notice to be published in the London Gazette. In the event, however, no such notice was ever published. Given that the re-opening of the new Leadenhall Market occurred more than 125 years ago, it is clear that the repeal of the 1871 Act is long overdue. Section 16 of the 1879 Act may be repealed consequentially.

<sup>51</sup> The exact date of closure is uncertain but was probably no later than 1833 when the Leather Market in Weston Street, Bermondsey opened.

### **Newport Market Act 1872**

- 5.44 The passing of the Newport Market Act 1872 was an attempt to revive an earlier Newport Market built in the 1680s pursuant to a licence granted by James II. The area covered by the market was located within the area of central London that is today bounded by Shaftesbury Avenue, West Street, Little Newport Street and Newport Place. Although originally thriving,<sup>52</sup> the market became defunct during the 1860s.
- 5.45 The 1872 Act established a company to set up and maintain a general market on or near the site of the old market. New roads were to be built and streets widened for the purpose. However, the powers given by the Act to complete the main construction works expired on 18 July 1877 without any new market being built. Lack of finance seems the most likely reason for this failure. The site of the old market was cleared away when the whole area was re-developed in the mid-1880s.<sup>53</sup> The 1872 Act is now obsolete.

### **GROUP 6 – GENERAL REPEALS**

#### **Middlesex Sessions House: Act of 1778**

- 5.46 The Middlesex Sessions was the court with responsibility for the ancient county of Middlesex.<sup>54</sup> It was the equivalent of the courts of Quarter Sessions in other English counties.<sup>55</sup> In addition to the full range of judicial and criminal business, the court was involved in a wide range of activities that would now be the responsibility of central and local government. These included issues concerning taxation, highways and bridges, electoral registration, vagrancy and poor law, prices and wages, licensing of places of entertainment and alehouses, the care of the insane, registration of aliens and coroners records.
- 5.47 The purpose of this 1778 Act<sup>56</sup> was to authorise the sale of the existing Sessions House for the county of Middlesex and the building of a new one in a more convenient location. The site chosen was in Clerkenwell Green and the new Sessions House was used for court hearings until around 1920 when hearings were transferred to new premises in Southwark. Today the building, which continues in use, is in private ownership. The objectives of the 1778 Act, however, have been fully met, with the result that it is now unnecessary.

<sup>52</sup> In 1725 Daniel Defoe described Newport Market as one of the principal meat markets of London: Daniel Defoe, *A Tour Thro' London*.

<sup>53</sup> The construction of the Charing Cross Road and Shaftesbury Avenue in the mid-1880s resulted in the demolition of the old market buildings.

<sup>54</sup> The county of Middlesex no longer exists as an administrative area. It was abolished as an administrative county by the London Government Act 1963. The county of Middlesex as it existed in the eighteenth and nineteenth centuries, until the boundary changes made by the Local Government Act 1888 (which created the county of London), stretched along the north bank of the Thames from the River Colne in the west to the River Lea in the east, excluding the City of London but including such places as Westminster, Fulham, St Marylebone, Shoreditch and Stepney.

<sup>55</sup> "Quarter Sessions" refers to the fact that in most counties the courts convened four times a year. However in Middlesex the court could be in session throughout the year.

<sup>56</sup> 18 Geo.3 c.67.

### **London, Westminster and Southwark Portage Rates: 1799 Act**

- 5.48 The 1799 Act<sup>57</sup> needs viewing in its historical context. It pre-dated the railways as a means of conveying packages around the country. Moreover, such systems as existed in 1799 for the carriage of packages were operated by private carriers rather than by the early postal service. Packages were usually sent by road carriage with instructions for the carrier to deposit them at an inn. The innkeeper would be instructed either to hold the package for collection by the final recipient or to arrange its delivery to that person. The 1799 Act was intended to control the fees charged by innkeepers and others (such as warehousemen) with whom the packages were deposited, and by the porters who actually carried and delivered them. The preamble to the Act explains that the existing laws were insufficient to prevent the “great Exactions and Abuses ... daily practised in the Portage or Delivery of Boxes, Baskets, Packages, Parcels, Trusses, Game and other things ... brought by Stage Waggons, Carts, Public Stage Coaches or Carriages”.
- 5.49 The 1799 Act limited the fees that could be charged for the delivery of goods by innkeepers and others. The fees varied according to the distance. For example, the maximum fee for delivering a parcel was 6 pence for one mile and 10 pence for 2 miles. Limits were also set on the charges that could be levied for storing goods.
- 5.50 The regime established by the 1799 Act has long fallen into disuse. The need to regulate the service provided by innkeepers and porters in holding and delivering packages and other goods became unnecessary once that service was provided by institutions such as the railways and the Post Office.<sup>58</sup> The 1799 Act is now obsolete and may be repealed on that basis.

### **Westminster Sunday Tolls: 1810 Act**

- 5.51 The purpose of this 1810 Act<sup>59</sup> was to revive an Act of 1765<sup>60</sup> which authorised the charging of tolls on any coach, carriage, horse, mule or ass that used certain turnpike roads in the Westminster area on Sundays. The toll money was required to finance the paving, cleansing and lighting of squares, streets and lanes within the City of Westminster and surrounding parishes. The turnpikes at which the tolls would be charged included those at or near Westminster Bridge, St James' Park, Hyde Park, Hyde Park Corner, Tyburn, St Marylebone, Portland Street, Tottenham Court and Gray's Inn Lane. The Act was expressed to remain in force for a period of 21 years. The 1810 Act, in its preamble, recorded that although the term granted by the 1765 Act had expired, the Act needed to be revived and continued in order to clear debts that had accrued under it.

<sup>57</sup> 39 Geo.3 c.lviii.

<sup>58</sup> The parcel-delivery market, long the preserve of private carriers, became dominated by the railways from 1830 onwards. Following negotiations with the railways for the carriage of parcels by rail, culminating in the passing of the Post Office (Parcels) Act 1882, the Post Office launched its 'Inland Parcels Post' service in 1883. This facilitated the previously complex process of sending parcels by rail, a process that required the co-operation of all the railway companies along any given route.

<sup>59</sup> 50 Geo.3 c.xxviii.

<sup>60</sup> 5 Geo.3 c.13.

- 5.52 Section 7 provided for the 1810 Act to remain in force for a period of seven years, with a provision for earlier determination in the event of all outstanding debts being cleared before then. It follows that this Act has ceased to have any effect for nearly two centuries and may now be formally repealed. The 1765 Act which it continued was repealed in 1948.<sup>61</sup>

### **Kings Bench, Marshalsea and Fleet Prisons (Relief of Poor Prisoners): 1813 Act**

- 5.53 The sole purpose of this 1813 Act<sup>62</sup> was to repeal an Act of 1812<sup>63</sup> so far as that Act related to the relief of debtors in three debtors' prisons in the City of London and in Southwark: the King's Bench Prison, the Marshalsea Prison and the Fleet Prison.<sup>64</sup> The 1813 Act became spent once the repeal took effect at Royal Assent on 3 June 1813.

### **London Bread Trade: Acts of 1819 and 1820**

- 5.54 The repeal of three obsolete Acts (two in 1819 and one in 1820) relating to the London bread trade is now proposed. All have expired already through the passage of time.
- 5.55 The first 1819 Act<sup>65</sup> repealed earlier legislation regulating the bread trade in London and replaced it with new provisions to control quality and pricing. Section 19, however, provided for the expiry of the Act to have effect two months after the commencement of the next session of Parliament.
- 5.56 The second 1819 Act<sup>66</sup> was passed to keep the first 1819 Act in force until 24 June 1820.
- 5.57 The 1820 Act<sup>67</sup> was passed to keep the first 1819 Act in force until 24 June 1822.
- 5.58 There being no further continuation Acts, the expiry of all three Acts on 24 June 1822 means that they ceased to have effect on that date, although they remain on the statute book pending the formal repeal that is now proposed.

<sup>61</sup> Statute Law Revision Act 1948, s 1, Sch 1.

<sup>62</sup> 53 Geo.3 c.cxvi.

<sup>63</sup> 52 Geo.3 c.160 (relief of debtors in prison). This 1812 Act has since been wholly repealed: Statute Law Revision Act 1873, s 1, Sch.

<sup>64</sup> All three prisons have long ceased to exist. The Marshalsea is referred to by Charles Dickens in *Little Dorrit* (1857). His father, John Dickens, was imprisoned in the Marshalsea in 1824, thereby forcing his son to leave school at the age of 12 and go to work in a bootblack factory.

<sup>65</sup> 59 Geo.3 c.cxxvii.

<sup>66</sup> 60 Geo.3 and 1 Geo.4 c.i.

<sup>67</sup> 1 Geo.4 c.iv.

### **Westminster Bridewell: 1826 Act**

- 5.59 This 1826 Act<sup>68</sup> was passed to authorise the rebuilding of a prison known as the Westminster Bridewell<sup>69</sup> or House of Correction. The new prison was opened in 1834 and held about 900 inmates. The 1826 Act became unnecessary when the prison was demolished in 1884 to make way for the building of Westminster Cathedral on that site.

### **Metage on Grain (Port of London) Act 1872**

- 5.60 The main purpose of the Metage on Grain (Port of London) Act 1872 was to abolish the compulsory metage dues charged on grain<sup>70</sup> that entered the Port of London. The preamble to the 1872 Act recorded that the City of London had long been entitled, or claimed to be entitled, to measure many commodities entering the Port of London, including grain, and to charge dues, known as metage dues, on the commodities so measured.<sup>71</sup> By section 3 of the 1872 Act, metage dues on grain and other fees were abolished at the end of October 1872. Section 4 provided that, for 30 years from the end of October 1872, the City of London could charge a duty on all grain brought into the Port of London. This duty was known as “the City of London Grain Duty”. The remaining provisions of the 1872 Act are ancillary upon the replacement of the metage dues by the new City of London Grain Duty.
- 5.61 The 1872 Act as a whole ceased to serve any useful purpose once the 30 year duration of the City of London Grain Duty expired in 1902. The duty was never extended by subsequent legislation. Accordingly the 1872 Act may now be repealed as unnecessary.

### **City of London Free Ferry Act 1884**

- 5.62 According to its long title, the principal purpose of the City of London Free Ferry Act 1884 was “to enable the mayor and commonalty and citizens of the City of London to establish a Free Steam Ferry across the River Thames east of London Bridge”. In the 1880s, London Bridge was the only bridge spanning the Thames in the City of London. As London grew, more bridges were added. Since, however, these new bridges were all to the west of London Bridge, and Tower Bridge was not completed until 1894, crossing the Thames by ferry boat was the only option available to the inhabitants of the densely populated east end.

<sup>68</sup> 7 Geo.4 c.xlii.

<sup>69</sup> “Bridewell” is a generic term meaning ‘prison’ or ‘House of Correction’: It has its origins in an area of London between Fleet Street and the Thames where a House of Correction stood until 1863.

<sup>70</sup> “Grain” is defined as corn, pulse and certain seeds: the 1872 Act, s 2.

<sup>71</sup> “Metage” in this context derives from the process of measuring a volume or weight.

- 5.63 The 1884 Act was an enabling measure to authorise the City of London to purchase or lease an existing ferry undertaking operated by Thames Steam Ferry Company Ltd. The ferry service had started in October 1877 and ran from the wharf next to the Wapping dock stairs called Tunnel Wharf over to Rotherhithe Church Stairs on the south side. The ferry was plagued with practical problems and as a result was not a commercial success. It closed in 1886. The City of London never used its powers under the 1884 Act to take over responsibility for the ferry. No other ferry was established on the same route.<sup>72</sup> It is clear that the 1884 Act no longer serves any useful purpose and is now obsolete.

#### **Westminster Improvement Commissioners Winding-up Act 1891**

- 5.64 The Westminster Improvement Commissioners were incorporated by the Westminster Improvement Act 1845.<sup>73</sup> That Act, and subsequent Westminster Improvement Acts, charged the Commissioners with the carrying out of street constructions and other works and improvements in the City of Westminster area. In the course of their work the Commissioners incurred substantial liabilities, including judgment debts. By 1891 these exceeded £2 million. The Commissioners' assets, by contrast, amounted to £26,200. It was accordingly considered expedient that the affairs of the Commissioners should be wound up with their assets being sold for distribution to their creditors. The 1891 Act was passed to achieve these objectives.
- 5.65 The Commissioners petitioned the High Court for a winding-up order on 24 October 1891, the order being made on 7 November 1891. The 1891 Act thereupon became spent.

#### **City of London (Central Criminal Court House) Act 1904/ City of London (Central Criminal Court) Acts 1951 and 1953**

- 5.66 The Central Criminal Court (known as "the Old Bailey" after the street in which it is situated) stands on the site of the old Newgate Prison, in the western part of the City of London. Originally built in 1673, the court has been rebuilt several times upon the same site. The current premises were built in 1907. The Old Bailey is England's most famous Crown Court and it hears criminal cases remitted to it from all over England and Wales. It sustained extensive damage during the Second World War.
- 5.67 The City of London (Criminal Court House) Act 1904 was passed to authorise the borrowing by the City of London of sufficient money to rebuild the Old Bailey on its existing site. The Old Bailey was duly rebuilt and was re-opened in 1907, and the borrowing by the City of London was subsequently cleared. Consequently the 1904 Act is now unnecessary.

<sup>72</sup> See Denis Smith, *Civil Engineering Heritage London and the Thames Valley*, published by Thomas Telford (2000) for more information. It is likely that the opening of Tower Bridge in 1894 would have made any ferry service redundant.

<sup>73</sup> 8 & 9 Vict. c.clxxviii, s 3.



5.68 The City of London (Central Criminal Court) Acts 1951 and 1953 were passed as a consequence of the damage sustained by the Old Bailey during the Second World War. The north-east corner of the premises was demolished by enemy action. The cost of repairing the Old Bailey was met partly by the War Damage Commission and partly by the City of London. The 1951 Act authorised the City of London to contribute, out of the general rate of the City, a sum not exceeding £250,000 towards the cost of reconstruction. Increases in the costs of labour and materials meant, however, that the reconstruction costs exceeded the original estimates. Accordingly the 1953 Act was passed to increase the City of London's contribution to £325,000. The necessary works were completed by the mid 1950s meaning that both Acts are now unnecessary.

**London Regional Transport (Amendment) Act 1985/ London Regional Transport Act 1996**

5.69 Both the London Regional Transport (Amendment) Act 1985 and the London Regional Transport Act 1996 have become unnecessary because of the repeal of the London Regional Transport Act 1984. The sole purpose of both the 1985 and the 1996 Acts was to amend the 1984 Act. Accordingly once the 1984 Act was repealed by the Greater London Authority Act 1999 on 15 July 2003,<sup>74</sup> both the 1985 and the 1996 Acts became unnecessary.

<sup>74</sup> The 1999 Act, s 423, Sch 34; Greater London Authority Act 1999 (Commencement No 11) Order 2003, SI 2003/1920.

# PART 6

## POLICE

### INTRODUCTION

- 6.1 The Acts proposed for repeal in this part of the report reflect the gradual changeover from the locally-based policing of the early 19<sup>th</sup> century to the establishment of professional policing modelled on the Metropolitan Police.<sup>1</sup> At the same time, local police pension schemes were being replaced by the modern pensions arrangements, which are today contained in the Police Pensions Act 1976. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### City of London Police: 1839 Act

- 6.2 The purpose of the City of London Police Act of 1839<sup>2</sup> was to establish a professional force, modelled on the Metropolitan Police, to replace the existing system of policing in the City of London.
- 6.3 Section 40 of the 1839 Act provides that

it shall be lawful for any Householder within the City of London and the Liberties thereof, personally or by his Servant, or by any Police Constable, to require any Street Musician to depart from the Neighbourhood of the House of such Householder on account of the Illness of any Inmate of such House, or for other reasonable Cause; and every Person who shall sound or play upon any Musical Instrument in any Thoroughfare near any House, after being so required to depart, shall be liable to a penalty not more than Forty Shillings.

- 6.4 This provision was directed at abating the contemporary Victorian annoyance of street organs and brass bands. It mirrors a near identical provision in the Metropolitan Police Act 1839 in relation to street musicians within the Metropolitan Police District.<sup>3</sup> This latter provision was repealed in 1864 by the Metropolitan Police Act of that year, which re-enacted the provision with amendments.<sup>4</sup> This re-enactment was itself repealed in 1989 as being unnecessary.<sup>5</sup> Section 40, however, has never been revised or repealed, with the result that the provision still remains in force in the City of London.

<sup>1</sup> The Metropolitan Police Force was established by the Metropolitan Police Act 1829.

<sup>2</sup> 2 & 3 Vict. c.xciv.

<sup>3</sup> Metropolitan Police Act 1839 (2 & 3 Vict. c.47), s 57.

<sup>4</sup> Metropolitan Police Act 1864, ss 1, 2.

<sup>5</sup> Statute Law (Repeals) Act 1989, s 1(1), Sch 1, Pt 4.

- 6.5 Section 40 has long ceased to be of practical utility. The regulation of street music nowadays falls to local authorities under the terms of the Environmental Protection Act 1990. Part 3 of the 1990 Act, as amended by the Noise and Statutory Nuisance Act 1993, provides sufficient remedies for householders in the City of London suffering unacceptable noise levels from street musicians.<sup>6</sup>

#### **Oxford Police Act 1868**

- 6.6 Before 1868 there were two police forces operating in the city of Oxford. One was the University police force who, operating under the direction of the proctors, policed the city by night. The other was the municipal police force, formed in 1836, who policed from 4am until 9pm. This division of policing encouraged inefficient practices, whilst the cost of night policing imposed an increasing and unwelcome financial burden on the University. The Oxford Police Act 1868<sup>7</sup> was passed in order to improve efficiency and cut costs by uniting the two forces. Policing powers were vested in a newly constituted police committee which comprised both University and city corporation representation.
- 6.7 The 1868 Act had a short active life. Section 25 provided that it should cease to have effect after 1 January 1882 unless Parliament had in the meantime provided otherwise. In the event, Parliament did not provide otherwise.<sup>8</sup> Accordingly the 1868 Act expired on 1 January 1882, although it has remained on the statute book in the absence of an express repeal. Such a repeal is now proposed.

#### **West Riding Police Superannuation Act 1886**

- 6.8 The purpose of the West Riding Police Superannuation Act 1886<sup>9</sup> was to provide additional income for the superannuation fund established for the police of the West Riding pursuant to the County Police Acts 1839 and 1840. The 1886 Act authorised the justices of the peace for the West Riding area to direct that the fees received by police constables in that area for the service of summonses and the execution of warrants should be paid into their superannuation fund.

<sup>6</sup> Section 79(1)(ga) of the 1990 Act defines “noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street ...” as a statutory nuisance. ‘Equipment’ is defined as including a musical instrument. Under section 79(1), every local authority (including the Common Council of the City of London) has a duty, in any case where a complaint of a statutory nuisance is made to it by a person living within its area, to take such steps as are reasonably practicable to investigate the complaint. A local authority, if satisfied that a statutory nuisance exists, must serve an abatement notice requiring, for example, the abatement or restriction of the nuisance (s 80(1)). A person failing without reasonable excuse to comply with an abatement notice is liable on summary conviction to a fine not exceeding level 5 on the standard scale (s 80(4), (5)). It is also open to individuals to complain to a magistrates’ court that they are aggrieved by the existence of a statutory nuisance (s 82(1)).

<sup>7</sup> 31 & 32 Vict. c.lix.

<sup>8</sup> Instead the 1868 Act was superseded by the Oxford Police Act 1881 (44 & 45 Vict. c.xxxix) which continued the united police force until 1889 when the provisions of the Municipal Corporations Act 1882 relating to police in boroughs and county boroughs were extended to Oxford: Local Government Board’s Provisional Orders Confirmation Act 1889 (52 & 53 Vict. c.xv), City of Oxford Order, art 28(1). In 1968 the Oxford city police force was amalgamated with other police forces to form the Thames Valley Police Force: Thames Valley Police (Amalgamation) Order 1968, SI 1968/496.

<sup>9</sup> 49 & 50 Vict. c.v.

- 6.9 The system of local justices appointing and overseeing the pensions of police constables has long since vanished. Both the 1839 and the 1840 Acts were repealed by the Police Act 1964,<sup>10</sup> which also provided that any enactment or rule of law whereby constables were authorised or required to take a fee for any act done in the course of their duty as such should cease to have effect.<sup>11</sup> Today police pensions are dealt with on a national basis under the Police Pensions Act 1976 and the regulations made by the Secretary of State under section 1 of that Act. As a result, the 1886 Act is now obsolete.

#### **Metropolitan Police Provisional Confirmation Acts 1887 to 1920**

- 6.10 The Metropolitan Police Provisional Confirmation Acts were passed in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries to facilitate the purchase of land to provide offices, stations and buildings for the purposes of the metropolitan police force and the metropolitan police courts. Each Act was necessary to confirm a provisional order made by the Secretary of State under the Metropolitan Police Act 1886. The 1886 Act extended the powers of the receiver for the metropolitan police district (“the Receiver”) to buy land for the construction of offices, stations and buildings for the metropolitan police force. Section 4 of the 1886 Act prescribed a procedure whereby the compulsory purchase powers under the Lands Clauses Consolidation Act 1845 could be invoked by the Receiver to acquire land.
- 6.11 Before these powers under section 4 of the 1886 Act could take effect, the Receiver was required to take steps to publicise the proposed purchase, and to petition the Secretary of State for an order authorising the purchase. Such an order could not take effect, however, unless it was then confirmed by Act of Parliament.<sup>12</sup> If an Act were passed confirming the order, the order (including any modifications made by Parliament) would then take effect.<sup>13</sup> The Receiver then had a maximum of three years from the passing of the Act to purchase the land pursuant to the order.<sup>14</sup>
- 6.12 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, at the latest, once three years had elapsed from the passing of the Act. Each Act is accordingly proposed for repeal on the basis that it is now spent.<sup>15</sup>

<sup>10</sup> The 1964 Act, s 64(3), Sch 10, Pt 1.

<sup>11</sup> The 1964 Act, s 55.

<sup>12</sup> Metropolitan Police Act 1886, s 4(6).

<sup>13</sup> Metropolitan Police Act 1886, s 4(7).

<sup>14</sup> Metropolitan Police Act 1886, s 4(10).

<sup>15</sup> The Acts proposed for repeal are the Metropolitan Police Provisional Order Confirmation Acts 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1910, 1911, 1912 and 1920.

### **Lincolnshire Police Superannuation Act 1888**

- 6.13 The purpose of the Lincolnshire Police Superannuation Act 1888<sup>16</sup> was to provide additional income for the superannuation fund for the police of the three divisions of parts of Lindsey, Kesteven and Holland in Lincolnshire pursuant to the County Police Acts 1839 and 1840. Section 3 of the 1888 Act authorised the justices of the peace for these Lincolnshire Police divisions to direct that the fees received by police constables in that area for the service of summonses and the execution of warrants should be paid into their superannuation fund.
- 6.14 The system of local justices overseeing the appointment and pensions of police constables has long since vanished. Both the 1839 and the 1840 Acts were repealed by the Police Act 1964,<sup>17</sup> which also provided that any enactment or rule of law whereby constables were authorised or required to take a fee for any act done in the course of their duty as such should cease to have effect.<sup>18</sup> Today police pensions are dealt with on a national basis under the Police Pensions Act 1976 and the regulations made by the Secretary of State under section 1 of that Act. As a result, section 3 of the 1888 Act is now obsolete. Since there are no other surviving substantive provisions,<sup>19</sup> the whole of the 1888 Act may now be repealed.

### **City of London Police Superannuation Act 1889**

- 6.15 The City of London Police Superannuation Act 1889<sup>20</sup> was passed to provide pensions and gratuities for members of the City of London Police Force. The main provisions of the 1889 Act were repealed and consolidated by the Police Pensions Act 1921.<sup>21</sup> Thereafter the 1889 Act was confined to a number of transitional and incidental provisions, all of which are now long spent.<sup>22</sup> The present authority for payment of police pensions, including pensions to police officers in the City of London Force, is the Police Pensions Act 1976 and the regulations made by the Secretary of State under section 1 of that Act. The 1889 Act is now obsolete.

### **Police and Firemen (War Service) Acts 1939 and 1944**

- 6.16 The main purpose of the Police and Firemen (War Service) Act 1939 was to supplement the pay and ensure continuity of the pension rights of police officers and firefighters who left their jobs to serve in the armed forces during the second world war. The Police and Firemen (War Service) Act 1944 amended the provisions of the 1939 Act.

<sup>16</sup> 51 & 52 Vict. c.ix.

<sup>17</sup> The 1964 Act, s 64(3), Sch 10, Pt 1.

<sup>18</sup> The 1964 Act, s 55.

<sup>19</sup> Sections 4 and 5 have already been repealed: Police Pensions Act 1948, s 3, Sch 1. Sections 1, 2 and 6 are ancillary to section 3.

<sup>20</sup> 52 & 53 Vict. c.cxxvii.

<sup>21</sup> The 1921 Act, s 35(3), Sch 4.

<sup>22</sup> Sections 1, 9, 11, 12, 15 and Schedule.

- 6.17 In broad terms, the main effect of the 1939 and 1944 Acts was to treat the time spent by police officers and firefighters when serving in the armed forces as being reckonable for the purposes of their respective police pensions and firefighters' pensions schemes. In other words, the policy was that police officers and firefighters who left their respective areas of work to serve in the armed forces during the second world war should not have their police pensions or firefighters' pensions reduced because of their time spent away at war. The 1939 and 1944 Acts also provided pensions and other benefits to police officers and firefighters and their respective dependants in the event of death or incapacity arising as a result of service in the armed forces.
- 6.18 The 1939 and 1944 Acts are now unnecessary because they are no longer needed for the purpose of determining a person's eligibility for benefit under them or for calculating the quantum of any such benefit. Although many pensions payable to, or in respect of, police officers and firefighters who served in the second world war are likely to remain in payment for some time to come, no new claims invoking the 1939 and 1944 Acts are now possible. This is because the pension rights of any police officer or firefighter who served in the armed forces during the second world war will already have been established when they retired at 60 or earlier.<sup>23</sup> Because the provisions of the two Acts, now relating almost exclusively to firefighters' pensions,<sup>24</sup> are concerned with issues of eligibility for such pensions, the repeal of the two Acts will not affect any pension rights or other benefits already in payment by virtue of those Acts.

<sup>23</sup> Any such persons would have reached the age of 60 by 1990 at the latest.

<sup>24</sup> The 1939 and 1944 Acts have mostly been repealed already so far as they apply to police pensions. The Police Pensions Act 1948 (s 3(4), Sch 1, Pt 1) repealed most references to the two Acts when the Police Pensions Regulations 1948 came into force on 5 July 1948. These regulations covered all new awards in respect of retirement or death of police officers on or after that date.

### **Police and Criminal Evidence Act 1984**

- 6.19 Several provisions in the Police and Criminal Evidence Act 1984 are now spent. In section 108, subsection (1), which abolished the office of deputy chief constable, became spent when the abolition took effect on 1 March 1985.<sup>25</sup> Subsections (2) and (3) have already been repealed.<sup>26</sup> The amendments made by subsection (4) to (6) are all spent.<sup>27</sup> There being no other provisions in section 108, the whole of that section is ready for repeal. Section 110 repealed a provision in the Police (Scotland) Act 1967 and became spent when the repeal came into force on 1 March 1985.<sup>28</sup> Finally, several references in section 120 are spent in consequence of the proposed repeals of sections 108 and 110 and of other repeals to the 1984 Act that have already taken place.<sup>29</sup>

### **Police and Magistrates' Courts Act 1994**

- 6.20 Both sections 33 and 41 of the Police and Magistrates' Courts Act 1994 are unnecessary. Section 33 retrospectively validated grant deductions made under section 31 of the Police Act 1964 between April 1980 and July 1994. The passage of time since 1994 has rendered section 33 unnecessary. Equally unnecessary is section 41 which repealed provisions in the Metropolitan Police Act 1856 and became spent when it came into force on 8 August 1994.<sup>30</sup>

### **Police (Insurance of Voluntary Assistants) Act 1997**

- 6.21 The purpose of the Police (Insurance of Voluntary Assistants) Act 1997 was to provide for the insurance by police authorities and the Receiver for the Metropolitan Police District of persons providing voluntary assistance for police purposes. The only substantive provision of the 1997 Act that has not already been repealed<sup>31</sup> is section 1 which amends certain provisions in section 146A of the Local Government Act 1972. In other words, the 1997 Act now serves no useful purpose except to keep in force the amendments in section 1. The effect of section 1 may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>32</sup> This will then supersede section 1 and enable the whole of the 1997 Act to be repealed.

<sup>25</sup> Police and Criminal Evidence Act 1984 (Commencement No 1) Order 1984, SI 1984/2002. Subsequently the office of deputy chief constable was restored: Police Act 1996, s 11(A)(1).

<sup>26</sup> Police and Magistrates' Courts Act 1994, s 93, Sch 9, Pt 1.

<sup>27</sup> The amendments made by subsections (4) and (5) have been replaced by provisions inserted by Criminal Justice (Scotland) Act 2003, s 75(1), (2). The amendment made by subsection (6) has been replaced by Police and Magistrates' Courts Act 1994, s 53(2)(a).

<sup>28</sup> Police and Criminal Evidence Act 1984 (Commencement No 1) Order 1984, SI 1984/2002.

<sup>29</sup> Police Act 1996, s 103(3), Sch 9 (which repealed the 1984 Act, ss 83(2), 109).

<sup>30</sup> Police and Magistrates' Courts Act 1994 (Commencement No 1 and Transitional Provisions) Order 1994, SI 1994/2025.

<sup>31</sup> Earlier repeals were made by Greater London Authority Act 1999, ss 325, 423, Sch 27, para 109; Sch 34, Pt 7.

<sup>32</sup> Sch 2, para 8.

# PART 7

## RATING

### INTRODUCTION

- 7.1 Most of the repeal candidates in this part are 18<sup>th</sup> and 19<sup>th</sup> century enactments passed to levy and collect local taxes (known as rates) in England. The early rating system was closely linked with poor relief in each parish, and the chief purpose of these Acts was to raise money for the poor of a particular parish. The abolition of a parish-run poor law system by the Local Government Act 1929 and the abolition of the existing poor law system itself by the National Assistance Act 1948 has made nearly all of the 18<sup>th</sup> and 19<sup>th</sup> century rating legislation unnecessary. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### Background

- 7.2 The modern law of rating and the modern law of social welfare have their origins, at least so far as statute law is concerned, in two Elizabethan Acts passed in 1597 and 1601.<sup>1</sup> The 1601 Act (the Poor Relief Act 1601), which amended the 1597 Act, obliged each parish in England and Wales to relieve the aged and the helpless, to bring up unprotected children in habits of industry, and to provide work for those capable of it but lacking their usual trade. The 1601 Act established the parish as the administrative unit responsible for poor relief, with parish overseers collecting poor-rates from the inhabitants of a parish and then allocating relief, usually in the form of bread, clothing, fuel, the payment of rent, or cash. A consequence of the 1601 Act was the parish workhouse which appeared around 1650 and became widespread throughout parishes in England and Wales by the 1770s.
- 7.3 The parish remained the basis for the funding of poor relief until 1930 when the Local Government Act 1929 came into force. Changes before then were limited to altering the administrative arrangements for providing the relief. For example, the Poor Law (Amendment) Act 1834 created unions of parishes, each with its own board of guardians. The 1834 Act also placed the general management of the poor under the control of the Poor Law Commissioners. Their functions were transferred successively to the Poor Law Board in 1847 and the Local Government Board in 1871.
- 7.4 Modern rating law in England and Wales is provided by the Local Government Finance Acts 1988 and 1992. The 1988 Act replaced the old rating system with a new local taxation system. Part 3 of the 1988 Act provided for non-domestic rating whilst the 1992 Act established the council tax.

<sup>1</sup> 39 Eliz.1 c.3 (1597); 43 Eliz.1 c.2 (1601). The 1601 Act survived until 1 April 1967 when it was repealed by the General Rate Act 1967, s 117(1), Sch 14, Pt 1.



### **Plymouth Workhouse Acts: 1707 to 1916**

- 7.5 No fewer than five Acts have been passed to provide for the poor living in Plymouth. An Act of 1707<sup>2</sup> authorised the establishment of a workhouse for the benefit of the poor inhabitants of Plymouth in the Parish of St Andrews and in the Parish of Charles. A Corporation called “the Guardians of the Poor of the Town of Plymouth in the County of Devon” was set up to run the workhouse and to levy rates to meet the costs of running it. The 1707 Act also vested in the Corporation certain property given to it by way of charity for the benefit of the poor of the area. Unfortunately, the funding arrangements in the 1707 Act proved insufficient and three further Acts, in 1758,<sup>3</sup> 1786,<sup>4</sup> and 1813,<sup>5</sup> were passed to raise more money. Finally the Plymouth Workhouse Charities Scheme Confirmation Act 1916<sup>6</sup> was passed to confirm a scheme, approved by the Charity Commissioners, to manage the property vested in the Guardians by the 1707 Act. This scheme resulted in a charitable structure known as “the Plymouth Workhouse Charities”.
- 7.6 Subsequent schemes made by the Charity Commissioners in relation to these charities have made the five Acts unnecessary. The latest scheme, made in June 1999, established a single new charity, the Plymouth Charity Trust, which replaced and superseded the trusts of the earlier schemes including the trusts of the Plymouth Workhouse Charities. The effect of the 1999 scheme was to cause the Plymouth Workhouse Charities to cease to exist. The establishment of the Plymouth Charity Trust in substitution for the old charities means that the Acts of 1707, 1758, 1786, 1813 and 1916 are now obsolete.

### **Sunderland Poor Relief: Acts of 1791 and 1809**

- 7.7 Two Acts were passed to raise money for the poor of Sunderland. The money was raised by the levying of rates and duties on cargo ships using the port of Sunderland. The principal cargo at that time would have been coal, which was exported to London and the east coast.<sup>7</sup>

<sup>2</sup> 6 Ann c.46.

<sup>3</sup> 32 Geo.2 c.59.

<sup>4</sup> 26 Geo.3 c.19.

<sup>5</sup> 53 Geo.3 c.lxxiii.

<sup>6</sup> 6 & 7 Geo.5 c.lxiii.

<sup>7</sup> Sunderland is situated on the north-east coast of England and its history as a port can be traced to Roman times. The town was awarded City status in 1992. The port of Sunderland has been operated by the City Council since 1972.

- 7.8 According to its long title, the 1791 Act<sup>8</sup> was passed “for the better Maintenance and Support of the Poor of the Parish of Sunderland near the Sea, in the County Palatine of Durham”. The preamble to the 1791 Act recorded that the parish of Sunderland near the Sea was “of small extent, but very populous” with an ever-growing population so that the usual rates charged upon the parish inhabitants had become wholly inadequate to support the poor. The 1791 Act appointed Commissioners with power to levy rates and duties on ships registered at the port of Sunderland and carrying cargoes of coal, lime or limestone. All sums collected were to be paid to the churchwardens and overseers of the parish for the relief and maintenance of the parish poor.
- 7.9 The preamble to the 1809 Act<sup>9</sup> recorded that the rates and duties imposed by the 1791 Act had been insufficient to meet the needs of the local poor. Accordingly the rates and duties on ships using the port of Sunderland were increased.
- 7.10 Although neither the 1791 nor the 1809 Acts have ever been formally repealed, they have long since ceased to be used to support the poor of Sunderland. No rates or duties are now collected under either Act. Both Acts are therefore obsolete and may be repealed on that basis.

#### **Cumberland County Rate: 1810 Act**

- 7.11 This 1810 Act<sup>10</sup> is one of several Acts which date back to an age when local taxes were raised or ordered by justices of the peace for a county. Before the establishment of county councils by the Local Government Act 1888, many administrative functions were vested in the justices of the county in quarter sessions (“the county justices”).<sup>11</sup> The 1888 Act transferred most of these administrative functions to the county councils, including the making, assessing and levying of all county and other rates, and the making of orders for the payment of sums out of any rate or county stock or fund.<sup>12</sup>

<sup>8</sup> 31 Geo.3 c.87.

<sup>9</sup> 49 Geo.3 c.xxii.

<sup>10</sup> 50 Geo.3.c.i.

<sup>11</sup> All justices of the peace acted under a commission of the peace issued by the Crown for each county. Quarter sessions were the quarterly meetings of the whole body of the justices of the peace for a county for the transaction of business. The justices were presided over by a chairman who, if legally qualified, would be a High Court or county court judge or a recorder. Quarter sessions were abolished by the Courts Act 1971 which replaced them (and the assizes) with the modern Crown Court system. So far as the poor law was concerned, however, the parish rather than the county was the administrative unit responsible for providing poor relief. Parish overseers collected poor-rates from the inhabitants of a parish and then allocated relief to the poor of that parish. Overseers were abolished in 1927 and their functions were transferred to rating authorities: Rating and Valuation Act 1925, ss 1(2), 62(1)(2) and 68(1); Overseers Order 1927, SR&O 1927 No 55. Thereafter the poor-rate became part of the consolidated general rate for each area.

<sup>12</sup> The 1888 Act, s 3. Other functions transferred to county councils were powers to repair and rebuild assize courts and judges’ lodgings.

- 7.12 The preamble to the 1810 Act records that the existing county rate in Cumberland<sup>13</sup> operated unfairly, with the result that “payment thereof falls upon the occupiers of messuages, lands, tenements, and hereditaments within the said county, in very unequal proportions”. Accordingly the existing powers of the Cumberland county justices were increased. They were authorised to rate all property in the county at a maximum annual rate of eight pence in the pound. The local justices and the parish overseers were required to furnish the county justices with the information necessary to make rating assessments.
- 7.13 The 1810 Act has long been obsolete. As indicated above, the rate-levying functions of the county justices were abolished by the Local Government Act 1888 upon the establishment of the new system of county councils. Moreover, local taxes in England today are raised not by county councils but by district or London borough councils under powers provided by the Local Government Finance Acts 1988 and 1992. The powers provided by the 1810 Act are accordingly unnecessary and the Act may be repealed on that basis.

#### **Buckinghamshire County Rates: 1814 and 1860 Acts**

- 7.14 The 1814 Act<sup>14</sup> relating to the county rates for Buckinghamshire mirrors the provisions of the 1810 Act relating to the county rates for Cumberland. The preamble to the 1814 Act recorded that the assessments by which the existing county rates were collected had become very “disproportionate and unequal”. Accordingly the 1814 Act increased the existing powers of the county justices. They were required to make a county rate for each parish and town in the county according to the annual rent or value of the property in each area. Returns had to be made by parish churchwardens and overseers.
- 7.15 The purpose of the Bucks County Rate Amendment Act 1860<sup>15</sup> was to amend the 1814 Act in the light of doubts that had arisen as to certain powers contained in the 1814 Act.
- 7.16 Today both the 1814 and 1860 Acts are obsolete for the reasons given above in relation to the 1810 Act relating to the Cumberland county rates.

<sup>13</sup> Cumberland was abolished as a county pursuant to the Local Government Act 1972 when it became part of the new county of Cumbria.

<sup>14</sup> 54 Geo.3 c.ciii.

<sup>15</sup> 23 & 24 Vict. c.lxxxvi.

### **Middlesex County Rates: 1822 Act**

- 7.17 The twin purposes of this 1822 Act<sup>16</sup> were to regulate the office of treasurer for the county of Middlesex<sup>17</sup> and to amend the existing arrangements concerning the assessing, collecting and levying of the county rate. As to the first purpose, the 1822 Act required every treasurer to give security for the performance of his duties and to deliver regular accounts. As to the second purpose, the 1822 Act increased the powers of county justices in the making of county rates.
- 7.18 The provisions of the 1822 Act have long been obsolete. Those relating to the county rate are obsolete for the reasons given above in relation to the 1810 Act relating to the Cumberland county rates. The provisions relating to the county treasurer are ancillary to the county rates provisions and so are equally obsolete.

### **Croydon Rates: 1825 Act**

- 7.19 According to its long title, the 1825 Act<sup>18</sup> was passed “for better assessing and collecting the Poor and other Parochial Rates in the Parish of Croydon in the County of Surrey”.<sup>19</sup> The preamble to the 1825 Act recorded that the poor living in Croydon “are numerous, and supported at a great Expence”. It also recorded that the existing laws for collecting the parish rates were inconvenient, ineffectual and easily evaded. Accordingly, the purpose of the 1825 Act was to tighten up the existing machinery for collecting the rates. Its provisions included making landlords responsible for paying parish rates and deeming anyone receiving rent to be the owner of the relevant premises.
- 7.20 Although the system of parish-based poor relief supported by the 1825 Act has been obsolete for many years, the 1825 Act as a whole has not been repealed. The functions of making, levying and collecting of parish poor rates outside London were transferred from the parish overseers to rating authorities in 1927.<sup>20</sup> Thereafter the poor-rate became part of the consolidated general rate for each area. Today the arrangements for making, levying and collection of local taxation are provided by the Local Government Finance Acts 1988 and 1992. Part 3 of the 1988 Act relates to non-domestic rating whilst the 1992 Act provides for the council tax. Accordingly the remaining provisions of the 1825 Act have been superseded and may be repealed on that basis.

<sup>16</sup> 3 Geo.4 c.cvii.

<sup>17</sup> The county of Middlesex no longer exists as an administrative area. It was abolished as an administrative county in 1965 (pursuant to the London Government Act 1963) when the new county of Greater London was formed from the counties of London and Middlesex and parts of the counties of Essex, Hertfordshire, Kent and Surrey.

<sup>18</sup> 6 Geo.4 c.lxxvi.

<sup>19</sup> Now the London Borough of Croydon.

<sup>20</sup> Rating and Valuation Act 1925, ss 1(2), 68(1). The parish-run poor law system was abolished by the Local Government Act 1929.

### **Merton Rates: 1828 Act**

- 7.21 This 1828 Act<sup>21</sup> was passed, according to its long title, “for better assessing and collecting the Poor and other Rates in the Parish of Saint Mary Martin otherwise Merton, in the County of Surrey.”<sup>22</sup> The Act recorded that the existing laws for collecting the parish rates were inconvenient, ineffectual and easily evaded. As with the 1825 Act relating to Croydon rates, the 1828 Act tightened up the existing law by a range of devices to ensure that the parish rates were paid. The 1828 Act is obsolete for the reasons given in relation to the 1825 Act.

### **St Mary Wimbledon Rates: 1828 Act**

- 7.22 This 1828 Act<sup>23</sup> was passed to improve the existing laws for assessing and collecting the poor and other rates in the Parish of St Mary Wimbledon in the county of Surrey.<sup>24</sup> As with the 1825 Act relating to Croydon rates, the 1828 Act adjusted the existing law and practice to ensure that the parish rates were paid. The 1828 Act is obsolete for the reasons given in relation to the 1825 Act.

### **Sculcoates Rates: 1834 Act**

- 7.23 This 1834 Act<sup>25</sup> was passed, according to its long title, “for better assessing the Poor and other rates on small Tenements within the Parish of Sculcoates in the East Riding of the County of York.”<sup>26</sup> As with the 1825 Act relating to Croydon rates, the 1834 Act adjusted the existing law and practice to ensure that the parish rates were paid. The 1834 Act is obsolete for the reasons given in relation to the 1825 Act.

### **Liverpool Rates: 1834 Act**

- 7.24 The single purpose of this 1834 Act<sup>27</sup> was to repeal an enactment passed in 1831 “for better assessing and recovering the Poor and other Rates upon small Tenements within the Parish of Liverpool in the County Palatine of Lancaster”.<sup>28</sup> The preamble to the 1834 Act recorded that the various rates and assessments made under the 1831 Act had “occasioned much Discontent in the said Parish, and has tended indirectly to the Impoverishment and Oppression of the Occupiers of the Tenements within the said Parish not exceeding the annual Value of Twelve Pounds, and it is expedient that the said recited Act should be repealed”. The repeal of the 1831 Act took effect when the 1834 Act came into force on 26 March 1834. Since the 1834 Act can now serve no further purpose, it may now itself be repealed as being unnecessary.

<sup>21</sup> 9 Geo.4 c.i.

<sup>22</sup> Now the London Borough of Merton.

<sup>23</sup> 9 Geo.4 c.ii.

<sup>24</sup> Now the London Borough of Merton.

<sup>25</sup> 4 & 5 Will.4 c.v.

<sup>26</sup> Sculcoates today is an area within Kingston-upon-Hull.

<sup>27</sup> 4 & 5 Will.4 c.vi.

<sup>28</sup> 1 Will.4 c.xxi.

### **Barking Rates: 1835 Act**

- 7.25 This 1835 Act<sup>29</sup> was passed to strengthen the existing law to ensure that the rates in the parish of Barking were paid.<sup>30</sup> As with the 1825 Act relating to Croydon rates, the 1835 Act is obsolete for the reasons given in relation to that Act.

### **Kidderminster Poor Rates: 1841 Act**

- 7.26 This 1841 Act<sup>31</sup> was passed to strengthen the existing law to ensure the payment of the poor rates in the Borough of Kidderminster in the county of Worcester. As with the 1825 Act relating to Croydon rates, the 1841 Act is obsolete for the reasons given in relation to the 1825 Act.

### **Hemel Hempsted Rates: 1845 Act**

- 7.27 According to its long title, this 1845 Act<sup>32</sup> was passed “for better assessing and collecting the Poor Rates, Highway Rates,<sup>33</sup> and Church Rates<sup>34</sup> in the parish of Hemel Hempstead in the County of Hertford”.<sup>35</sup> As with the 1825 Act relating to Croydon rates, the 1845 Act strengthened the existing law to ensure that the parish rates were paid. As with the 1825 Act, the 1845 Act is obsolete for the reasons given in relation to that Act.

### **Bristol Rates: 1845 Act**

- 7.28 According to its long title, the single purpose of this 1845 Act<sup>36</sup> was “for removing Doubts relating to the Collection of certain Portions of the Borough Rates of the City and County of Bristol”. The preamble to the 1845 Act recorded that provisions in earlier legislation had cast doubt on the enforceability of borough rates ordered by Bristol City Council during 1843 and 1844. The Act accordingly provided that the relevant borough rates ordered during 1843 and 1844 were deemed to be valid as if made in accordance with existing legislation. The fact that the 1845 Act was concerned only with rates due in 1845 means that it has long been unnecessary. It may be repealed on that basis.

<sup>29</sup> 5 & 6 Will.4 c.v.

<sup>30</sup> Now the London Borough of Barking and Dagenham.

<sup>31</sup> 4 & 5 Vict. c.lxxii.

<sup>32</sup> 8 & 9 Vict. c.lxxiv.

<sup>33</sup> The parish remained the body responsible for highways until 1894, when section 25 of the Local Government Act 1894 transferred all the powers of the highway authority to the district council. The 1894 Act allowed the transfer of responsibility to be postponed for up to three years, but by the end of the 19th century, the parish was no longer involved in highway management. The cost of maintaining public highways is today governed by Part 4 of the Highways Act 1980.

<sup>34</sup> Compulsory church rates were abolished in 1868: Compulsory Church Rates Abolition Act 1868.

<sup>35</sup> Hemel Hempstead (spelt in the 1845 Act as Hemel Hempsted) today falls within the local government area controlled by Dacorum Borough Council.

<sup>36</sup> 8 & 9 Vict. c.cxiv.

### **Aylesbury and Walton Rates: 1846 Act**

- 7.29 According to its long title, the 1846 Act<sup>37</sup> was passed “for better assessing and collecting the Poor Rates, Lighting and Watching<sup>38</sup> and Church Rates,<sup>39</sup> in the parish of Aylesbury, and the Highways Rates<sup>40</sup> in the Township of Aylesbury and Hamlet of Walton respectively, in the County of Buckingham”. As with the 1825 Act relating to Croydon rates, the 1846 Act strengthened the existing law to ensure that these parish rates were paid. The 1846 Act is obsolete for the reasons given in relation to that Act.

### **Carshalton Rates Act 1846**

- 7.30 The Carshalton Rates Act 1846<sup>41</sup> was passed to strengthen the existing law to ensure that the rates in the parish of Carshalton in Surrey were paid. As with the 1825 Act relating to Croydon rates, the 1846 Act is obsolete for the reasons given in relation to that Act.

### **Ewell Rates Act 1847**

- 7.31 The Ewell Rates Act 1847<sup>42</sup> was passed to strengthen the existing law to ensure that the rates in the parish of Ewell in Surrey were paid. As with the 1825 Act relating to Croydon rates, the 1847 Act is obsolete for the reasons given in relation to that Act.

### **Kettering Rates: 1848 Act**

- 7.32 This 1848 Act<sup>43</sup> was passed to strengthen the existing law to ensure that the rates in the parish of Kettering in Northamptonshire were paid. As with the 1825 Act relating to Croydon rates, the 1848 Act is obsolete for the reasons given in relation to that Act.

<sup>37</sup> 9 & 10 Vict. c.iii.

<sup>38</sup> The Lighting and Watching Act 1833 (3 & 4 Will.4 c.90) enabled property owners in parishes in England and Wales to establish arrangements for lighting (ie gas or oil lamps in the streets) and watching (ie watchmen to prevent crime and breaches of the peace) in their parish. Inspectors would be appointed to give effect to these arrangements and they were empowered to order the parish overseers to levy rates to cover the costs incurred. The 1833 Act was adopted by many parishes and reflected the absence of proper policing arrangements (outside London) at that time. It was only in 1856 with the passing of the County and Borough Police Act (19 & 20 Vict. c.69) that all counties in England and Wales were required to establish proper police forces. The 1833 Act was finally repealed by the Parish Councils Act 1957, s 15(2), Sch 2 by which time the Act (at least the provisions in it concerning watching) had long been considered to be obsolete.

<sup>39</sup> As explained in footnote 34 above, compulsory church rates have been abolished.

<sup>40</sup> As explained in footnote 33 above, the cost of maintaining public highways is today governed by the Highways Act 1980, Pt 4.

<sup>41</sup> 9 & 10 Vict. c.xlii.

<sup>42</sup> 10 & 11 Vict. c.xlvi. This Act covered not only the poor rate but also highway rates and church rates. As explained in footnote 33 above, the cost of maintaining public highways is today governed by the Highways Act 1980, Pt 4. As explained in footnote 34 above, compulsory church rates have been abolished.

<sup>43</sup> 11 & 12 Vict. c.i. This Act covered not only the poor rate but also highway rates and rates for lighting and watching. As explained in footnote 33 above, the cost of maintaining public highways is today governed by the Highways Act 1980, Pt 4. As explained in footnote 38 above, rates for lighting and watching became obsolete after 1856.

### **West Bromwich Rates Act 1850 /Stourbridge Union Rates Act 1850**

- 7.33 The West Bromwich Rates Act 1850<sup>44</sup> was passed to strengthen the existing law to ensure that the rates in the parish of West Bromwich and in Oldbury were paid.<sup>45</sup> Similarly the Stourbridge Union Rates Act 1850<sup>46</sup> was passed to strengthen the existing rating law in the area of the Stourbridge Poor Law Union. As with the 1825 Act relating to Croydon rates, these 1850 Acts are obsolete for the reasons given in relation to that Act.<sup>47</sup>

### **Leeds Overseers Act 1860**

- 7.34 The purpose of the Leeds Overseers Act 1860<sup>48</sup> was to alter the existing arrangements for the appointment and dismissal of overseers<sup>49</sup> and other poor law officials in Leeds. The Act also made changes to the existing system for rating premises in Leeds. As with the 1825 Act relating to Croydon rates, the 1860 Act is obsolete for the reasons given in relation to that Act.

### **Rating and Valuation (Miscellaneous Provisions) Act 1955**

- 7.35 Virtually the whole of the Rating and Valuation (Miscellaneous Provisions) Act 1955 has already been repealed.<sup>50</sup> Since the only unrepealed provisions provide for the Act's short title and extent,<sup>51</sup> the Act as a whole is now unnecessary and may be repealed accordingly.

<sup>44</sup> 13 & 14 Vict. c.iv.

<sup>45</sup> West Bromwich and Oldbury today fall within the West Midlands area governed by the Sandwell Metropolitan Borough Council.

<sup>46</sup> 13 & 14 Vict. c.xlvi.

<sup>47</sup> The Acts also covered, in addition to the poor rate, highways rates and other county rates including police rates. As explained in footnote 33 above, the cost of maintaining public highways is today governed by the Highways Act 1980, Pt 4. Rates formerly levied at parish level in respect of policing and other county rates are now replaced by the arrangements for making, levying and collecting council tax under the Local Government Finance Act 1992 (police expenditure is today covered by means of precepts issued by police authorities under the 1992 Act, Pt 1).

<sup>48</sup> 23 & 24 Vict. c.cxxxii.

<sup>49</sup> Overseers dated from Elizabethan times when the parish was established as the administrative unit in England for providing relief for the poor. Overseers were officials appointed in each parish to collect poor rates from the inhabitants, and then allocate relief, usually in the form of food, fuel or cash. The office of overseer was abolished in 1927: Rating and Valuation Act 1925, ss 1(2), 62(1), (2), 68(1); Overseers Order 1927, SR&O 1927 No 55.

<sup>50</sup> Mostly by the General Rate Act 1967, s 117(1), Sch 14, Pt 1.

<sup>51</sup> The 1955 Act, s 11(1), (5).



### **Rates Act 1984**

- 7.36 The purpose of the Rates Act 1984 was to protect individuals and businesses from the effects of excessive spending on the part of some local authorities who recouped their costs by increased local taxation on those individuals and businesses. Since, however, the 1984 Act was based on the system of rating as it existed under the General Rate Act 1967, the repeal of the 1967 Act in 1990<sup>52</sup> made the 1984 Act obsolete.

<sup>52</sup> The 1967 Act was repealed by the Local Government Finance Act 1988, ss 117(1), 149, Sch 13, Pt 1.

# PART 8

## TAX AND DUTIES

### INTRODUCTION

- 8.1 The repeal proposals in this part all relate to taxes or duties, including stamp and customs duties. In most cases, the Acts are obsolete because the tax or duty that they imposed was abolished without the legislation itself being wholly repealed. Several of the taxes were imposed around the time of the Second World War to raise money for the war effort. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### Hull Dues Act 1852

- 8.2 The purpose of the Hull Dues Act 1852 was to authorise the reduction or abolition of tolls, charges and other dues payable to Kingston-upon-Hull Corporation<sup>1</sup> (“the Corporation”), the Hull Dock Company<sup>2</sup> and the Hull Trinity House.<sup>3</sup> The need to reduce or abolish tolls, charges and other dues arose from competitive pressure from other ports in the area. As the preamble to the 1852 Act explained:

...other Ports on the Eastern Coast of England now compete with the Port of Hull, and it has become desirable that the Rates, Dues, and other Charges on Shipping resorting to and on Goods imported into and exported from the Port of Hull should be reduced, in order that the Trade and Commerce of the said Port may be successfully maintained...

<sup>1</sup> Now the Hull City Council.

<sup>2</sup> The Hull Dock Company subsequently amalgamated with the North Eastern Railway Company pursuant to the North Eastern Railway (Hull Docks) Act 1893 and was dissolved by that Act on 1 July 1893.

<sup>3</sup> The Trinity House of Kingston-upon-Hull (known as “the Hull Trinity House”), which is distinct from the “Trinity House” referred to in maritime legislation, was instituted in 1369 and was incorporated by Royal Charter in 1457 as the “Guild of brotherhood of masters and pilots-seamen of the Trinity House of Kingston-upon-Hull.” Among other important powers, the Hull Trinity House was entitled to levy duties on river users. The duties collected were used for the relief of poor mariners.

- 8.3 Although the 1852 Act has never been repealed, it has no continuing relevance today. It provided a legal basis for agreements reached between the Corporation, the Hull Dock Company and the Hull Trinity House. In the interests of maintaining Hull's trading competitiveness in the mid-nineteenth century, each party agreed to reduce the part or parts of the dues and charges to which it was entitled if the other parties did likewise. In other words, the 1852 Act was intended to provide a temporary legal solution to the changing economic conditions of the 1850s. It is not relied upon today by any of the parties to the original agreements.<sup>4</sup>

#### **Customs, Inland Revenue, and Savings Banks Act 1877**

- 8.4 The Customs, Inland Revenue, and Savings Banks Act 1877 originally applied throughout the United Kingdom. Repeals over the years have reduced it to a single substantive provision applying only to Scotland.<sup>5</sup> Accordingly the 1877 Act is now unnecessary except in Scotland and may be formally repealed so far as the rest of the United Kingdom is concerned.

#### **Customs and Inland Revenue Act 1879**

- 8.5 As originally enacted, the purposes of the Customs and Inland Revenue Act 1879 included amending the existing laws relating to customs duties and taxation. Repeals to the Act since 1879 mean that the only remaining substantive provision is section 5. Section 5, as amended by the Customs and Excise Management Act 1979,<sup>6</sup> prohibits the import of "all articles bearing or having affixed to them any stamp, name, writing, or other device implying or tending to imply any sanction or guarantee by the Customs or by any other department of the Government".
- 8.6 The 1879 Act now serves no purpose except to keep in force the import prohibition contained in section 5. A more appropriate place for this prohibition would be the Customs Consolidation Act 1876, section 42 of which already contains a table of goods the import of which is prohibited. This re-siting of section 5 may be achieved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>7</sup> This will supersede section 5 and permit the repeal of the whole of the 1879 Act.<sup>8</sup>

#### **Stamp Act 1891**

- 8.7 The Stamp Act 1891 consolidated the existing statutory law relating to stamp duties. Several provisions of this Act have since become obsolete.

<sup>4</sup> For example, since 1861, Hull Trinity House has not been able to raise money from dues referred to in the 1852 Act: Harbours and Passing Tolls etc Act 1861, ss 6, 7, Sch 1. Today the port of Hull is managed by Humber Estuary Services, a division of Associated British Ports which has owned and managed the port of Hull since 1962 when it existed as the British Transport Docks Board. The Board was reconstituted in 1982 as Associated British Ports Holdings plc pursuant to Part 2 of the Transport Act 1981. Its authority to levy charges on river users does not depend on the 1852 Act.

<sup>5</sup> This remaining provision is section 12 (transmission and custody of inventories in Scotland).

<sup>6</sup> The 1979 Act, s 177(1), Sch 4, para 12, Table, Pt 1 (entry relating to the 1879 Act).

<sup>7</sup> Sch 2, para 1.

<sup>8</sup> The provision in the Customs and Excise Management Act 1979 that amended section 5 will be a repeal consequential upon the repeal of section 5: the 1979 Act, Sch 4, para 12, Table, Pt 1 (entry relating to the Customs and Inland Revenue Act 1879).

- 8.8 Section 25 was concerned with the meaning of instruments of apprenticeship for the purpose of stamp duty under the 1891 Act. However, section 25 became obsolete when the Finance Act 1949 exempted instruments of apprenticeship from stamp duty.<sup>9</sup> Sections 49 and 111 are similarly obsolete. Section 49 defined 'charter-party' for the purposes of the 1891 Act. Subsequently charter-parties were exempted from stamp duty.<sup>10</sup> Section 111 defined 'warrant for goods' for the purposes of the 1891 Act, and such warrants were subsequently exempted from stamp duty.<sup>11</sup> Section 120 is an obsolete provision relating to duty charged pursuant to pre-1871 enactments.<sup>12</sup> Finally, section 122 contains a definition of 'steward of a manor' that became obsolete in 1949 when the provisions to which it related were repealed.<sup>13</sup>

### **Finance Act 1902**

- 8.9 The Finance Act 1902 has been extensively repealed over the years to the point where the only unrepealed substantive provision is section 7 which amends the Finance Act 1901. Given that the 1902 Act now serves no useful purpose except to keep in force this amendment, the effect of the amendment may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>14</sup> This will supersede section 7 and permit the repeal of the 1902 Act as a whole.

### **Finance Act 1911**

- 8.10 The Finance Act 1911 amended the existing law in relation to a range of taxes including stamp duty, income tax and death duties. Repeals to the 1911 Act over the years have reached the point where the only unrepealed provision<sup>15</sup> is section 22(3) (the short title). Accordingly the formal repeal of the 1911 Act as a whole is now proposed.

<sup>9</sup> The 1949 Act, s 35(1), Sch 8, Pt 1, para 4.

<sup>10</sup> Finance Act 1949, s 35(1), Sch 8, Pt 1, para 9.

<sup>11</sup> Finance Act 1949, s 35(1), Sch 8, Pt 1, para 27.

<sup>12</sup> Section 120 provided that any instrument which, by any Act passed before 1871 and not relating to stamp duties, was charged with duty of 35 shillings should be chargeable only with duty of ten shillings.

<sup>13</sup> Finance Act 1949, s 52(9), (10), Sch 11, Pt 5; Finance Act (Northern Ireland) 1949, s 16, Sch 4, Pt 2.

<sup>14</sup> Sch 2, para 3.

<sup>15</sup> Other than a now spent saving provision in relation to section 18.

### **Finance Act 1923**

- 8.11 Apart from savings provisions, all the substantive provisions in the Finance Act 1923 have already been repealed. The savings provisions are in respect of Part 2 and section 37. The whole of Part 2 was repealed by the Income Tax Act 1952<sup>16</sup> subject to the proviso that the repeal did not apply to income tax for the year 1951-52 or any earlier tax year. The passage of time since then has now made this saving proviso unnecessary. Section 37 was repealed by the Finance Act 1949<sup>17</sup> subject to a saving in respect of legacy duty and succession duty. The abolition of liability for legacy duty and succession duty with effect from 14 March 1975<sup>18</sup> has made this saving proviso unnecessary as well. The result is that the outright repeal of the 1923 Act without the savings provisions can now be recommended.

### **Finance Act 1932**

- 8.12 There are only two unrepealed provisions in the Finance Act 1932.
- 8.13 Section 29 authorised the payment of annual compensation allowances to certain collectors of taxes in England and Wales and Northern Ireland whose appointments were determined as a result of organisational improvements in the collection of taxes. To qualify for this allowance, a tax collector had to be in post on 16 June 1932. The passage of time since then means that no new grants can be authorised under section 29. Accordingly the provision is now unnecessary.<sup>19</sup>
- 8.14 The only other unrepealed provision in the 1932 Act is section 25(7) which clarified a provision in section 3 of the Currency and Bank Notes Act 1928.<sup>20</sup> Given that section 25(7) serves no purpose except to keep in force the clarification of that provision, the effect of section 25(7) may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>21</sup> This will supersede section 25(7) and permit the repeal of the 1932 Act as a whole.

### **Finance (No.2) Act 1939/ Finance Act 1944**

- 8.15 The purposes of the Finance (No.2) Act 1939 included imposing a new tax called excess profits tax and increasing the existing rates of estate duty. Much of the Act has been repealed already, and the remaining provisions are now obsolete.

<sup>16</sup> The 1952 Act, s 527(1), Sch 25, Pt 1.

<sup>17</sup> The 1949 Act, s 52(10), Sch 11, Pt 4.

<sup>18</sup> Finance Act 1975, s 50(1).

<sup>19</sup> The repeal of section 29 will not prejudice any payments still being made by virtue of that section.

<sup>20</sup> Section 25(7) declared that, in section 3 of the Currency and Bank Notes Act 1928, the expression "securities" includes securities and assets in currency of any country and in whatever form held.

<sup>21</sup> Sch 2, para 6.

- 8.16 Part 2 of the 1939 Act related to income tax for the year 1939-40 and has been repealed subject to the proviso that this repeal did not apply to income tax for any year of assessment earlier than 1952.<sup>22</sup> Clearly this savings provision is now spent. Part 3 of the Act related to excess profits tax which ceased to be chargeable after 1946 and has long been obsolete.<sup>23</sup> The one surviving provision in Part 4 of the Act increased the rates of estate duty chargeable in respect of deaths after 27 September 1939.<sup>24</sup> This too has long been obsolete. The remaining provisions of the 1939 Act are ancillary to Parts 2 to 4 and will fall with them.
- 8.17 Part 5 of the Finance Act 1944 amended the existing legislation relating to excess profits tax. As indicated above in relation to the Finance Act (No.2) Act 1939, excess profits tax ceased to be chargeable after 1946. Accordingly Part 5 of the 1944 Act is obsolete.<sup>25</sup>

#### **Finance Acts 1945 and 1947**

- 8.18 Both the Finance Acts 1945 and 1947 contain obsolete unrepealed provisions about excess profits tax. As indicated above in relation to the Finance (No.2) Act 1939, excess profits tax ceased to be chargeable after 1946.
- 8.19 In the case of the Finance Act 1945, the provisions about excess profits tax (in section 5) are the only provisions in that Act that have not already been repealed.<sup>26</sup> There being no other unrepealed substantive provisions, the 1945 Act may now be repealed as a whole.
- 8.20 In the case of the Finance Act 1947, the only provisions now proposed for repeal are those relating to excess profits tax, sections 63, 64 and 74(8).

#### **Finance Act 1948**

- 8.21 The obsolete provisions in the Finance Act 1948 concern a one-off tax called "the special contribution" and provisions about stamp duty.
- 8.22 The special contribution was measured by reference to income tax for the year ending 5 April 1948. It was payable by individuals whose total income exceeded £2000 and whose aggregate investment income exceeded £250. The tax was payable on or before 1 January 1949<sup>27</sup> and no assessment to the tax could be made after 18 July 1961.<sup>28</sup> The relevant obsolete provisions, which are unrepealed, are Part 5 of, and Schedule 10 to, the 1948 Act.

<sup>22</sup> Income Tax Act 1952, s 527(1), Sch 25, Pt 1.

<sup>23</sup> Excess profits tax was imposed on all profits in excess of the "standard" profits of a trade or business. The tax was abolished by Finance Act 1946, s 36.

<sup>24</sup> The provision is section 23 which was repealed by Finance Act 1975, s 52(2)(a), Sch 13, Pt 1 in relation to deaths occurring after 13 March 1975.

<sup>25</sup> A consequential repeal in the 1944 Act will be section 49(5) (which related to Part 5).

<sup>26</sup> Some repeals were subject to savings provisions that are now all obsolete.

<sup>27</sup> The 1948 Act, s 47(6).

<sup>28</sup> Finance Act 1961, s 32(1), (2).

- 8.23 Part 7 of the 1948 Act related to stamp duty. The only remaining provision in Part 7 is section 74 which provided exemption from stamp duty in connection with certain nationalisation schemes. Section 74 has in fact been prospectively repealed by the Finance Act 1990<sup>29</sup> and, although no order has ever been made to activate the repeal, HM Revenue and Customs have confirmed that the provision no longer serves any useful purpose.

#### **Finance Act 1949**

- 8.24 The Finance Act 1949 contains further references to the obsolete taxes known as the special contribution and the excess profits tax. The special contribution was referred to in connection with the Finance Act 1948. The repeal of section 49, and part of section 51(1), of the 1949 Act will be consequential upon the repeal of Part 5 of, and Schedule 10 to, the 1948 Act. The excess profits tax was referred to in connection with the Finance (No.2) Act 1939. The repeal of part of section 51(1) and the whole of section 51(2) of the 1949 Act is consequential upon excess profits tax ceasing to be chargeable after 1946.

#### **Finance Act 1952**

- 8.25 The purposes of the Finance Act 1952 included imposing a new tax known as the excess profits levy. This levy was a tax on business imposed by Part 5 of, and Schedules 8 to 12 to, the 1952 Act with effect from 1 January 1952. It was terminated with effect from 31 December 1953,<sup>30</sup> and no assessment to the levy could be made after 18 July 1961.<sup>31</sup> The ending of the levy means that the provisions of the 1952 Act relating to it are obsolete.<sup>32</sup> Equally obsolete are the interpretation provisions in section 76(2) and (5) referring to provisions earlier in the 1952 Act which have either been repealed or are being recommended for repeal now.

#### **Finance Act 1953**

- 8.26 Two provisions in the Finance Act 1953 are now unnecessary because of their references to excess profits tax (section 32) and the excess profits levy (section 35(4)). The excess profits tax and the excess profits levy, both long abolished, were referred to above in connection with, respectively, the Finance (No.2) Act 1939 and the Finance Act 1952.

<sup>29</sup> The 1990 Act, s 132, Sch 19, Pt 6.

<sup>30</sup> Finance Act 1953, s 27(1).

<sup>31</sup> Finance Act 1961, s 32(1)-(3).

<sup>32</sup> These provisions are Part 5, section 69 and Schedules 8 to 12.

### **Finance Act 1958**

- 8.27 In the Finance Act 1958, section 35 has already been repealed<sup>33</sup> except for subsection (6) which provided for section 35 to come into force on 1 August 1958. The repeal of the rest of the section means that subsection (6) is now unnecessary, so that the section as a whole may now be formally repealed. Section 40(2) provided for the construction of various parts of the 1958 Act. Section 40(2)(b), (c) and (d) provided for the construction of Parts 2, 3 and 4 respectively. Since all these Parts have now been repealed,<sup>34</sup> section 40(2)(b), (c) and (d) are now unnecessary.

### **Finance Act 1961**

- 8.28 Section 32 of the Finance Act 1961 provided that no assessment to excess profits tax, excess profits levy or the special contribution could be made after the passing of the 1961 Act (19 May 1961). The passage of time since these now obsolete taxes (as referred to in the paragraphs above) could last have been invoked means that section 32 is now unnecessary.

### **Finance Act 1962**

- 8.29 Section 34(5) of the Finance Act 1962 extended the 1962 Act, so far as it amended the Sugar Act 1956, to the Isle of Man. The provisions amending the Sugar Act 1956 were section 3(6) and Part 2 of Schedule 5. Since, however, both these provisions have been repealed by the European Communities Act 1972,<sup>35</sup> section 34(5) is now unnecessary.

### **Finance Act 1963**

- 8.30 Section 65(3) of the Finance Act 1963 exempted from stamp duty certain legal aid forms under the Legal Aid and Advice Acts 1949 and 1960 and under the Legal Aid (Scotland) Acts 1949 and 1960. Not only have all four Acts referred to been repealed<sup>36</sup> but the two duties to which legal aid documents were previously chargeable (agreement duty and bond and covenant duty) have long been abolished.<sup>37</sup> Accordingly section 65(3) is now obsolete.

<sup>33</sup> Subsections (1) to (3) were repealed by Finance Act 1971, s 69, Sch 14, Pt 6; subsection (4) was repealed by Water Act 1989, s 190, Sch 27, Pt 1 and Finance Act 1974, s 57, Sch 14, Pt 6; subsection (5) was repealed by Water Act 1989, s 190, Sch 27, Pt 1.

<sup>34</sup> Part 2 was repealed by several enactments, the last of which (repealing s 6) was the Alcoholic Liquor Duties Act 1979, s 92(2), Sch 4, Pt 1; Part 3 was repealed by Income and Corporation Taxes Act 1970, ss 538(1), 539(1), Sch 16; Part 4 was repealed by Finance Act 1965, s 97(5), Sch 22, Pt 5.

<sup>35</sup> The 1972 Act, s 4, Sch 3, Pt 2.

<sup>36</sup> The Legal Aid and Advice Acts 1949 and 1960 were in fact the Legal Aid and Advice Act 1949 and the Legal Aid Act 1960 and were repealed by Legal Aid Act 1974, s 42, Sch 5, Pt 1. The Legal Aid (Scotland) Acts 1949 and 1960 were in fact the Legal Aid and Solicitors (Scotland) Act 1949 (repealed by Statute Law (Repeals) Act 1989, s 1(1), Sch 1, Pt 1) and the Legal Aid Act 1960 (repealed by Legal Aid Act 1974, s 42, Sch 5 Pt 1).

<sup>37</sup> Agreement duty was abolished by Finance Act 1970, Sch 7, para 1; bond and covenant duty was abolished by Finance Act 1971, s 64(1).



### **Finance Act 1964**

- 8.31 The Finance Act 1964 has been extensively repealed over the years to the point where there remain only two substantive provisions, sections 23 and 26(6).
- 8.32 Section 23 provided that no stamp duty was chargeable on contracts of employment. Such an exemption from stamp duty was necessary at that time because Schedule 1 to the Stamp Act 1891 contained a heading "Agreement or Memorandum of an Agreement" which would have triggered a stamp duty charge on contracts of employment or on the written particulars of employment which employers were required to give their employees under the Contracts of Employment Act 1963. Since, however, this heading in the Stamp Act 1891 has now been repealed,<sup>38</sup> section 23 has become unnecessary.
- 8.33 Section 26(6) extended the 1964 Act, so far as it amended the Sugar Act 1956, to the Isle of Man. The provision amending the Sugar Act 1956 was section 22. Since, however, section 22 has been repealed by the European Communities Act 1972,<sup>39</sup> section 26(6) is now unnecessary.
- 8.34 There being no other provisions of substance, the 1964 Act as a whole may now be repealed.<sup>40</sup>

### **Finance Act 1966**

- 8.35 Schedule 6 to the Finance Act 1966 has been repealed<sup>41</sup> except for paragraph 14. Paragraph 14 amended the Companies Act 1948, section 319(1)(a)(ii) and the Companies Act (Northern Ireland) 1960, section 287(1)(a)(ii). Since, however, both these amended Acts have now been repealed,<sup>42</sup> paragraph 14 has become unnecessary. The repeal of paragraph 14 will permit the formal repeal of Schedule 6. The repeal of Schedule 6 will permit the consequential repeal of section 27 of the 1966 Act. Section 27 introduced Schedule 5 as well as Schedule 6. Given that Schedule 5 has already been repealed,<sup>43</sup> section 27 is now unnecessary.

<sup>38</sup> Finance Act 1970, s 36(8), Sch 8, Pt 4.

<sup>39</sup> The 1972 Act, s 4, Sch 3, Pt 2.

<sup>40</sup> This will permit the outright repeal of section 4 of, and Schedule 5 to, the 1964 Act. Both provisions have already been repealed but this was subject to a now obsolete saving: Finance Act 1977, s 59(5), Sch 9, Pt 2.

<sup>41</sup> Income and Corporation Taxes Act 1970, s 538(1), Sch 16; Finance Act 1994, s 258, Sch 26, Pt 5 (22).

<sup>42</sup> Companies Consolidation (Consequential Provisions) Act 1985, s 29, Sch 1; Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (1986/1035 NI 9), art 24, Sch 2.

<sup>43</sup> Income and Corporation Taxes Act 1970, ss 538(1), 539(1), Sch 16; Finance Act 1994, s 258, Sch 26, Pt 5.

### **Finance Act 1968**

- 8.36 Part 4 of the Finance Act 1968 provided for the special charge, a one-off tax, for which liability was measured by a person's investment income for the year ended 5 April 1968. The charge was levied on all individuals whose aggregate investment income for that year exceeded their surtax personal allowances plus £3000. Schedules 15 and 16 contained detailed provisions for calculating a person's income arising from, respectively, trusts and close companies. The passage of time since 1968 means that these provisions are now unnecessary.
- 8.37 Section 61(7) extended the 1968 Act, so far as it related to the Sugar Act 1956, to the Isle of Man. The provision in the 1968 Act relating to the Sugar Act 1956 was section 58. Since, however, section 58 has already been repealed by the European Communities Act 1972,<sup>44</sup> section 61(7) is unnecessary.

### **Finance Act 1980**

- 8.38 Section 3 of the Finance Act 1980 made a number of amendments to the Hydrocarbon Oil Duties Act 1979 which have since been superseded by later amendments, thereby rendering section 3 unnecessary.<sup>45</sup> Section 7 related to gaming machine licence duty. The substantive provisions in section 7 have already been repealed.<sup>46</sup> The only remaining provision is the commencement provision in subsection (3) which is now unnecessary. Section 61 is now either already repealed or unnecessary. Subsections (1) and (2) have been repealed.<sup>47</sup> Subsection (3) amended the text in section 86(4) of the Taxes Management Act 1970 ("the 1970 Act"). Since, however, the whole of section 86 has been substituted by the Finance Act 1995,<sup>48</sup> subsection (3) is now unnecessary. Subsection (4) amended the text in section 88(5) of the 1970 Act and in Schedule 16 to the Finance Act 1972. Subsection (4) has been repealed so far as it related to the amendment to the 1970 Act,<sup>49</sup> and is spent so far as it relates to the amendment to the Finance Act 1972 (by virtue of the whole of Schedule 16 to

<sup>44</sup> The 1972 Act, s 4, Sch 3, Pt 2.

<sup>45</sup> The amendment by s 3(1) to the 1979 Act, s 6(1) has been superseded by Finance Act 1981, s 4(1); the amendment by s 3(2) has been superseded by Finance Act 2003, s 5(1)(b); the amendment by s 3(3) has been superseded by Finance Act 2003, s 5(2); the amendments by s 3(4) to the text in sections 7 and 8 have been repealed by Finance Act 1993, ss 11, 213, Sch 23, Pt 1(4); Finance Act 1995, s 6(2), (5); the amendment by s 3(4) to the Excise Duties (Gas as Road Fuel) Order 1972 lapsed along with the rest of that Order when its enabling authority (Finance Act 1971, s 3) was repealed by Hydrocarbon Oil Duties Act 1979, s 28(2), Sch 7; Excise Duties (Surcharges or Rebates) Act 1979, s 4(3), Sch 2; the amendment made by s 3(4) to the text in Finance Act 1965, s 92(2) was repealed by Transport Act 2000, ss 154(6), 274, Sch 31, Pt 2 (England and Wales); Transport (Scotland) Act 2001, s 38(6) (Scotland); the amendment by s 3(4) to the text in Finance Act (Northern Ireland) 1966, s 14(2) was repealed by Finance Act 1981, s 4.

<sup>46</sup> Subsection (1) repealed by Betting and Gaming Duties Act 1981, s 34(2), Sch 7; subsection (2) repealed by Finance Act 1985, s 98(6), Sch 27, Pt 3.

<sup>47</sup> Subsection (1) repealed by Income and Corporation Taxes Act 1988, s 844(4), Sch 31; subsection (2) repealed by Taxation of Chargeable Gains Act 1992, s 290(3), Sch 12.

<sup>48</sup> The 1995 Act, ss 103(7), 110.

<sup>49</sup> Finance Act 1996, s 205, Sch 41, Pt 5(8).

that Act having been repealed).<sup>50</sup> Subsection (5) provides for the operation of section 61 as a whole and becomes unnecessary once the rest of that section has been repealed. Accordingly the whole of section 61 may now be repealed. Finally section 103, which repealed sections 2 and 3 of the Finance (Stamp Duty) Act (Northern Ireland) 1926, became spent once that repeal had taken effect at Royal Assent on 1 August 1980.

### **Finance Act 1982**

- 8.39 Section 1(3) of the Finance Act 1982 provided for new rates of excise duty on wine by substituting Schedule 1 to the 1982 Act for the existing Schedule 1 to the Alcoholic Liquor Duties Act 1979. This substitution has since been superseded by further amendments to Schedule 1 to that 1979 Act.<sup>51</sup> Accordingly section 1(3) of, and Schedule 1 to, the 1982 Act are now unnecessary. Section 3(1) amended the rates of excise duty on hydrocarbon oil by amending text in section 6(1) of the Hydrocarbon Oil Duties Act 1979. These amendments have since been superseded by further amendments to section 6(1).<sup>52</sup> Accordingly section 3(1) is now unnecessary, as is section 3(3) which provided for the commencement of section 3(1). The only other provision in section 3, subsection (2), has already been repealed<sup>53</sup> meaning that the whole of section 3 may now be repealed.
- 8.40 Section 137 has already been repealed<sup>54</sup> with the exception of subsection (1) which repealed text in paragraph 8 of Schedule 3 to the Oil Taxation Act 1975. As a repealing provision, subsection (1) became spent when it came into force at Royal Assent on 30 July 1982. Accordingly the whole of section 137 may now be repealed. Section 150 inserted paragraph 10A into Part 2 of Schedule 1 to the Trustee Investments Act 1961 but became unnecessary when the entry for paragraph 10A was superseded by a new paragraph 10A inserted by the Trustee Investments (Additional Powers) (No 2) Order 1994.<sup>55</sup>

<sup>50</sup> Income and Corporation Taxes Act 1988, s 844(4), Sch 31.

<sup>51</sup> See, for example, Finance Act 1983, s 1(3), Sch 1. Schedule 1 to the Alcoholic Liquor Duties Act 1979 has been amended by subsequent Finance Acts.

<sup>52</sup> The relevant provisions are now contained in Hydrocarbon Oil Duties Act 1979, s 6(1A), inserted by Finance Act 1997, ss 7(3), (10); Finance Act 2000, s 5(3), (6); Finance Act 2003, s 4(1), (4).

<sup>53</sup> Vehicle Excise and Registration Act 1994, s 65, Sch 5, Pt 1.

<sup>54</sup> Subsections (2), (3), (6) and (7) repealed by Capital Allowances Act 2001, ss 578, 580, Sch 2, para 6, Sch 4; subsections (4), (5) repealed by Income and Corporation Taxes Act 1988, s 844(4), Sch 31.

<sup>55</sup> SI 1994/1908. The current paragraph 10A was substituted by Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, SI 2001/3649, art 269(1), (2).

### **Finance Act 1983**

- 8.41 Section 1(3) of the Finance Act 1983 provided for new rates of excise duty on wine by substituting Schedule 1 to the 1983 Act for the existing Schedule 1 to the Alcoholic Liquor Duties Act 1979. This substitution has since been superseded by further amendments to Schedule 1 to that 1979 Act.<sup>56</sup> Accordingly section 1(3) of, and Schedule 1 to, the 1983 Act are now unnecessary. Section 3(1) amended the rates of excise duty on hydrocarbon oil by amending text in section 6(1) of the Hydrocarbon Oil Duties Act 1979. These amendments have since been superseded by further amendments to section 6(1).<sup>57</sup> Accordingly section 3(1) is now unnecessary as is section 3(2) which provided for the commencement of section 3. There being no other subsections, the whole of section 3 may now be repealed.

<sup>56</sup> See, for example, Finance Act 1984, s 3, Sch 1. Schedule 1 to the Alcoholic Liquor Duties Act 1979 has been amended by subsequent Finance Acts.

<sup>57</sup> The relevant provisions are now contained in Hydrocarbon Oil Duties Act 1979, s 6(1A), inserted by Finance Act 1997, s 7(3), (10); Finance Act 2000, s 5(3), (6); Finance Act 2003, s 4(1), (4).

# **PART 9**

## **TOWN AND COUNTRY PLANNING**

### **INTRODUCTION**

- 9.1 The current statute law on town and country planning is modern in origin.<sup>1</sup> Indeed, the repeal proposals in this part of the report relating to the control of the use and development of land in Britain span barely four decades. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### **Civic Amenities Act 1967**

- 9.2 The purposes of the Civic Amenities Act 1967 included the protection and improvement of buildings of architectural or historic interest and the preservation and planting of trees. Several provisions of the 1967 Act are now unnecessary.
- 9.3 Section 15(2) amended section 17(1) of the Forestry Act 1967 by substituting an increased maximum fine for unlawfully felling trees. This amendment has since been superseded by new statutory provisions,<sup>2</sup> with the result that section 15(2) is now unnecessary and may be repealed.<sup>3</sup> Sections 30(1) and 32(2) are spent interpretation and commencement provisions respectively.

### **Town and Country Amenities Act 1974**

- 9.4 The purposes of the Town and Country Amenities Act 1974 included the preservation and enhancement of buildings of architectural or historic interest. Most of the 1974 Act has been repealed over the years. The only substantive provision remaining is section 12 which amended section 4(1) of the Historic Buildings and Ancient Monuments Act 1953. Given that section 12 serves no purpose except to keep in force the amendment to section 4(1), the effect of section 12 may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>4</sup> This will supersede section 12 and permit the repeal of the 1974 Act as a whole.

<sup>1</sup> The modern framework of town and country planning in England and Wales originated with the Town and Country Planning Act 1947 which repealed the earlier statute law on the subject. The 1947 Act was repealed in its entirety only in 1990: Planning (Consequential Provisions) Act 1990, s 3, Sch 1, Pt 1. In Scotland, the modern framework of town and country planning originated with the Town and Country Planning (Scotland) Act 1947, which repealed the earlier Scottish legislation on the subject. Most of the provisions of the 1947 Act have been repealed.

<sup>2</sup> Criminal Justice Act 1982, ss 38, 46.

<sup>3</sup> The only other provision in section 15 has already been repealed: Town and Country Planning Act 1971, s 29(2), Sch 25; Town and Country Planning (Scotland) Act 1972, s 277(2), Sch 23.

<sup>4</sup> Sch 2, para 7.

### **Local Government, Planning and Land Act 1980**

- 9.5 A number of provisions in the Local Government, Planning and Land Act 1980 are now unnecessary. Sections 25(2), 173 and 183(3) and certain paragraphs in Schedule 23 were repealing provisions and became spent as soon as the repeals came into force.<sup>5</sup> Sections 86 and 178 are spent commencement provisions. Finally sections 174 and 175 became spent when the provisions that they substituted were repealed.<sup>6</sup>

### **Housing and Planning Act 1986**

- 9.6 The Housing and Planning Act 1986 also contains several provisions that have become unnecessary since their enactment.
- 9.7 Sections 2(2) and 4(6) are transitory provisions relating to tenants' right to buy. Both provisions related to claims to exercise the right to buy before 7 January 1987 and have become unnecessary because of the passage of time since then. Section 11 amended section 27C of the Housing Act 1985 and became unnecessary when section 27C was subsequently repealed.<sup>7</sup> Section 47 was a repealing provision that became spent when it came into force on 7 January 1987.<sup>8</sup> Section 52 is an obsolete provision relating to grant payments in Scotland. Section 53(1) provides for the minor and consequential amendments in Part 2 of Schedule 11. Since all such amendments have either already been repealed or else are spent, both section 53(1) and Part 2 of Schedule 11 are unnecessary. The provisions substituted by section 54(1) have since been repealed,<sup>9</sup> rendering section 54(1) spent. Finally section 58, which deals with the extent of the 1986 Act, contains references to provisions which, being already repealed, are now unnecessary.

<sup>5</sup> Most of the repeals came into force at Royal Assent (13 November 1980). However some of the repeals in section 173 came into force on 13 November 1981 (by virtue of s 178(2)).

<sup>6</sup> Sections 174 and 175 substituted sections 11 and 12 of the Caravan Sites Act 1968. Sections 11 and 12 were repealed by Criminal Justice and Public Order Act 1994, ss 80(1), (3), (4), 168(3), Sch 11.

<sup>7</sup> Leasehold Reform, Housing and Urban Development Act 1993, ss 132(2), 187(2), Sch 22.

<sup>8</sup> Housing and Planning Act 1986 (Commencement No 1) Order 1986, SI 1986/2262.

<sup>9</sup> Section 54(1) substituted Local Government, Planning and Land Act 1980, Sch 32, paras 21, 22, both of which paragraphs have since been repealed: Planning (Consequential Provisions) (Scotland) Act 1997, s 3, Sch1, Pt 1; Planning (Consequential Provisions) Act 1990, s 3, Sch 1, Pt 1.

### **Urban Development Corporations (Financial Limits) Act 1987**

- 9.8 The main purpose of the Urban Development Corporations (Financial Limits) Act 1987 was to remove the limit on the amount of grants that could be made to urban development corporations. The only substantive provision remaining in the 1987 Act<sup>10</sup> is section 1(1) which substitutes a new paragraph 8 of Schedule 31 to the Local Government, Planning and Land Act 1980. Since section 1(1) serves no purpose except to keep this substitution in force, the effect of section 1(1) may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>11</sup> This will supersede section 1(1) and permit the repeal of the 1987 Act as a whole.

### **Planning (Hazardous Substances) Act 1990**

- 9.9 The Planning (Hazardous Substances) Act 1990 consolidated existing enactments relating to special controls in respect of hazardous substances. Section 26 provided for exemptions from provisions in the 1990 Act during a transitional period. The section, however, ceased to have effect at the end of this period,<sup>12</sup> namely 1 December 1992.<sup>13</sup> Section 41(2) is a spent commencement provision.<sup>14</sup>

### **Town and Country Planning (Costs of Inquiries etc) Act 1995**

- 9.10 The main purpose of the Town and Country Planning (Costs of Inquiries etc.) Act 1995 was to remove uncertainty as to liability for the payment of the costs of certain planning inquiries and other hearings. It authorised Ministers to cause these costs to be borne by planning authorities as well as authorising the making of Ministerial regulations to provide for fees and expenses payable to other persons.

<sup>10</sup> The only other provisions in this short Act are sections 1(2) (a spent repealing provision) and 2 (short title, commencement and extent).

<sup>11</sup> Sch 2, para 9.

<sup>12</sup> The 1990 Act, s 26(2A).

<sup>13</sup> The 1990 Act, ss 11(8), 26(3).

<sup>14</sup> The repeal of section 41(2) will permit a consequential repeal to section 41(3).

9.11 Much of the 1995 Act is now unnecessary because of its spent transitional provisions. These provisions covered transitional arrangements either before the Act came into force on 8 November 1995, or in the months thereafter before the necessary regulations had been made to give the Act effect.<sup>15</sup> Other provisions have already been repealed,<sup>16</sup> or are merely ancillary.<sup>17</sup> The only substantive provisions remaining in the 1995 Act are subsections (1) and (5) of section 1 which amended section 35B and inserted section 303A of the Town and Country Planning Act 1990. Since section 1 now serves no purpose except to keep in force the amendments to the 1990 Act, the effect of section 1 may conveniently be preserved by the entry in Schedule 2 to the draft Bill (consequential and connected provisions).<sup>18</sup> This will supersede section 1 and permit the repeal of the 1995 Act as a whole.

<sup>15</sup> The 1995 Act, ss 1(2) to (5), 2.

<sup>16</sup> The 1995 Act, ss 3, 4. These related to Scottish inquiries and were repealed by Planning (Consequential Provisions) (Scotland) Act 1997, s 3, Sch 1, Pt 1.

<sup>17</sup> The 1995 Act, s 5 (short title, interpretation, etc).

<sup>18</sup> Sch 2, para 10.



# PART 10

## TURNPIKES

### INTRODUCTION

- 10.1 This part of the report proposes the repeal of a number of obsolete turnpike Acts relating to the construction, repair and maintenance of roads in parts of Essex, Suffolk and Norfolk. These Acts have long ceased to have any effect, the periods for which they were individually enacted having expired a century or more ago. Despite this, none of them have been formally repealed, and they remain on the statute book to this day. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### Background

- 10.2 Until the late 19<sup>th</sup> century, Britain had no national framework for maintaining its highways. For much of the 17<sup>th</sup> and 18<sup>th</sup> centuries, roads were repairable by the population at large, with every able-bodied man being subject to six days a year of unpaid statute labour repairing the roads. The inefficiency of this statute labour system left most roads poorly repaired and maintained.
- 10.3 Turnpikes were an alternative method of road administration. A turnpike was a toll-gate set up across a road, with travellers along that road being able to pass through the gate only upon payment of a toll. The revenue collected from tolls would be used to repair and maintain the road. The first turnpike Act was passed in 1663 to set up a turnpike road in Wadesmill, Hertfordshire.<sup>1</sup> Later turnpike Acts usually established trusts to operate the turnpikes and repair the roads.
- 10.4 The first turnpike trust was established by a 1706 statute which appointed and nominated 32 trustees to oversee the maintenance and management of the road between Fonthill in Bedfordshire to Stony Stratford in Buckinghamshire.<sup>2</sup> More than 1100 local Acts establishing turnpike trusts were passed during the 18<sup>th</sup> century. These Acts were generally expressed to continue for, or expire after, a fixed period, usually 21 years. The relevant periods were frequently extended, either by an Act specific to a particular turnpike trust or, after the mid-1830s, on an annual basis by the Annual Turnpike Acts Continuance Acts.
- 10.5 By the mid-19<sup>th</sup> century, the turnpike system as a means of maintaining a national road network was in decline. A principal weakness of the turnpike system lay in its financial structure and administration. The trusts were burdened by heavy capital debts incurred at their inception and there was often little effective control over the collection of toll moneys. Nor was there any central control over the manner in which trustees used their powers. Moreover, the advent of the railways reduced many trusts to a state of chronic insolvency. The rapid spread of the railway network meant that, by 1850, turnpike roads were no longer the principal provider of goods and passenger transport services in England and Wales.

<sup>1</sup> 15 Cha.2 c.1 (Road repair (Herts, Cambs and Hunts)).

<sup>2</sup> 6 Ann c.4 (Bedfordshire and Bucks roads).

- 10.6 From 1864 onwards, Parliament took steps to terminate turnpike trusts. This was achieved by means of the Annual Turnpike Acts Continuance Acts, each of which identified specific turnpike Acts for repeal or discontinuance, whilst continuing every other subsisting turnpike Act for a period of approximately 12 months. The Annual Turnpike Acts Continuance Act 1885 was the final Act whereby Parliament provided for the continuation, expiry or repeal of turnpike Acts. Applying only to turnpikes in England and Wales, it provided that any turnpike Act that had not already expired, repealed or been discontinued should continue no longer than 1 November 1886 unless Parliament provided otherwise.<sup>3</sup> In the event, the final turnpike trust, relating to the Anglesey portion of the Shrewsbury to Holyhead Road, expired on 1 November 1895.
- 10.7 Although the framework of legislation that governed the generic management of turnpike trusts has already been repealed,<sup>4</sup> most of the Acts that provided for individual turnpike trusts have never been formally repealed. The repeals identified below are an attempt to remedy that situation in relation to the counties of Essex, Suffolk and Norfolk.<sup>5</sup> The repeals are for convenience grouped between these three counties, although many of the Acts span more than one county. Moreover, boundary changes over the years mean that many of the locations originally falling within these counties now fall within other counties or within the London boroughs. The Acts listed are all proposed for repeal on the basis that, although they have expired,<sup>6</sup> they have not been formally repealed.
- 10.8 The antiquity of these turnpike Acts is such that few have ever been given a “short title” by which they can be cited. The various Chronological Tables of Statutes<sup>7</sup> describe them by reference to their regnal year and chapter number, and also by a short description of the geographical area to which they related. For convenience, the Acts listed below are described by reference to the year in which they were enacted and the geographical description supplied by the Chronological Tables. The regnal year and chapter number of each Act is given in footnote form.

<sup>3</sup> The 1885 Act, s 6.

<sup>4</sup> Statute Law (Repeals) Act 1981, s 1, Sch 1, Pt 10.

<sup>5</sup> Work on repealing turnpike legislation in other English counties will be undertaken in due course.

<sup>6</sup> The term ‘expired’ is used in this part of the report to include the many instances where a turnpike Act was discontinued by an Annual Turnpike Acts Continuance Act.

<sup>7</sup> *Chronological Table of the Statutes 1235 to 2005* (for public general Acts); *Chronological Table of Local Legislation 1797 to 1994* (for local Acts). Both tables are published by HMSO. An updated version of the Table of Local Legislation is also available on the Office of Public Sector Information website: [www.opsi.gov.uk](http://www.opsi.gov.uk).

### **Group 1 – Essex**

10.9 Essex turnpike history began with an Act of 1695<sup>8</sup> which allowed the county justices to establish turnpikes on parts of the London to Harwich road. The entire road was managed under the turnpike system after an Act of 1725,<sup>9</sup> which also covered the road between Colchester and Langham. The next century and a half saw a huge increase in the number of turnpike roads across the county. The advent of the Eastern Counties Railway, which had joined London to Colchester by 1843, caused a significant drop in the revenue collected from tolls and many turnpike trusts became insolvent. By 1888 all Essex roads were maintained entirely out of the county rate.

10.10 The Essex turnpike Acts proposed for repeal are as follows:

- ◆ 1695 Act<sup>10</sup> (Roads, London to Harwich): expired 1725
- ◆ 1702 Act<sup>11</sup> (Essex roads): expired 1723
- ◆ 1707 Act<sup>12</sup> (Roads, London to Harwich): expired 1725
- ◆ 1725 Act<sup>13</sup> (Essex roads): expired 1786
- ◆ 1746 Act<sup>14</sup> (Essex roads): expired 1786
- ◆ 1765 Act<sup>15</sup> (Essex, Suffolk and Hertford roads): expired 1786
- ◆ 1793 Act<sup>16</sup> (Essex roads): expired 1814
- ◆ 1794 Act<sup>17</sup> (Chelmsford Roads): expired 1815
- ◆ 1799 Act<sup>18</sup> (Jeremy's Ferry Bridge and Roads (Essex and Middlesex)): expired 1820
- ◆ 1808 Act<sup>19</sup> (Tilbury Fort Road): expired 1886
- ◆ 1815 Act<sup>20</sup> (Road from Shenfield to Harwich): expired 1866

<sup>8</sup> 7 & 8 Will.3 c.9 (Roads, London to Harwich).

<sup>9</sup> 12 Geo.1 c.23 (Essex roads).

<sup>10</sup> 7 & 8 Will.3 c.9.

<sup>11</sup> 1 Ann Stat.2 c.10.

<sup>12</sup> 6 Ann c.47.

<sup>13</sup> 12 Geo.1 c.23.

<sup>14</sup> 20 Geo.2 c.7.

<sup>15</sup> 5 Geo.3 c.60.

<sup>16</sup> 33 Geo.3 c.149.

<sup>17</sup> 34 Geo.3 c.137.

<sup>18</sup> 39 Geo.3 c.xxiii.

<sup>19</sup> 48 Geo.3 c.xcii.

- ◆ 1821 Act<sup>21</sup> (Tilbury Fort Road): expired 1852
- ◆ 1823 Act<sup>22</sup> (Middlesex and Essex Turnpike Roads): expired 1866
- ◆ 1829 Act<sup>23</sup> (Road from Harlow Bush Common to Stump Cross): expired 1870
- ◆ 1836 Act<sup>24</sup> (Road from Harlow Bush Common): expired 1870.

## **Group 2 – Suffolk**

10.11 Suffolk turnpike history began in 1741 when the road between Ipswich and Scole was brought under the management of a turnpike trust.<sup>25</sup> By 1844, it was noted that there were 14 turnpike trusts in Suffolk, and that “the turnpike roads in every part of the county are excellent”.<sup>26</sup> The Eastern Counties Railway line, originally intended to connect London with Yarmouth, via Cambridge, Ipswich and Norwich, stopped at Colchester in 1843. The compulsory powers under the Act establishing the railway had expired so a new Act was needed for the railway to be completed. The Eastern Union Railway, joining Colchester to Ipswich, opened in 1846, heralding the beginning of the end of the turnpike era in Suffolk. All Suffolk roads were disturnpiked and had fallen under the county’s management by 1888.

10.12 The Suffolk turnpike Acts proposed for repeal are as follows:

- ◆ 1793 Act<sup>27</sup> (Ipswich and Yaxley Roads): expired 1870
- ◆ 1802 Act<sup>28</sup> (Woodbridge and Eye Road): expired 1835
- ◆ 1811 Act<sup>29</sup> (Suffolk Roads): expired 1870
- ◆ 1813 Act<sup>30</sup> (Aldeburgh Roads): expired 1862
- ◆ 1814 Act<sup>31</sup> (Woodbridge and Eye Road): expired 1836

<sup>20</sup> 55 Geo.3 c.xc.

<sup>21</sup> 1 & 2 Geo.4 c.xxxiii.

<sup>22</sup> 4 Geo.4 c.cvi.

<sup>23</sup> 10 Geo.4 c.xxi.

<sup>24</sup> 6 & 7 Will.4 c.xlix.

<sup>25</sup> See East of England Sense of Place at [http://www.senseofplacesuffolk.co.uk/guided\\_tours/on\\_the\\_move/road.html](http://www.senseofplacesuffolk.co.uk/guided_tours/on_the_move/road.html).

<sup>26</sup> William White’s *History, Gazetteer and Directory of Suffolk 1844* (1970) p 36.

<sup>27</sup> 33 Geo.3 c.128.

<sup>28</sup> 42 Geo.3 c.cviii.

<sup>29</sup> 51 Geo.3 c.cviii.

<sup>30</sup> 53 Geo.3 c.xxiv.

<sup>31</sup> 54 Geo.3 c.xvi.

- ◆ 1826 Act<sup>32</sup> (Sudbury and Bury St Edmunds Road): expired 1868
- ◆ 1828 Act<sup>33</sup> (Road from Ipswich to Southtown and to Bungay): expired 1872
- ◆ 1828 Act<sup>34</sup> (Scole Bridge and Bury St Edmunds Road): expired 1866
- ◆ 1829 Act<sup>35</sup> (Newmarket Heath Road): expired 1870
- ◆ 1830 Act<sup>36</sup> (Haverhill to Redcross Road (Suffolk, Cambs)): expired 1876
- ◆ 1831 Act<sup>37</sup> (Barton and Brandon Bridge Road (Suffolk)): expired 1866
- ◆ 1832 Act<sup>38</sup> (Road from Ipswich to Stratford St Mary): expired 1880
- ◆ 1833 Act<sup>39</sup> (Ipswich and Debenham, and Hemington and Otley Bottom Roads): expired 1882
- ◆ 1833 Act<sup>40</sup> (Roads from Bury St Edmunds to Newmarket and to Brandon): expired 1870
- ◆ 1834 Act<sup>41</sup> (Yarmouth Bridge and Gorleston Road (Suffolk)): expired 1871
- ◆ Mildenhall and Lakenheath Roads Act 1851:<sup>42</sup> expired 1882.

<sup>32</sup> 7 Geo.4 c.cxxxi.

<sup>33</sup> 9 Geo.4 c.xlv.

<sup>34</sup> 9 Geo.4 c.lxxv.

<sup>35</sup> 10 Geo.4 c.liii.

<sup>36</sup> 11 Geo.4 & 1 Will.4 c.xxxviii.

<sup>37</sup> 1 & 2 Will.4 c.xix.

<sup>38</sup> 2 & 3 Will.4 c.v.

<sup>39</sup> 3 & 4 Will.4 c.x.

<sup>40</sup> 3 & 4 Will.4 c.xcviii.

<sup>41</sup> 4 & 5 Will.4 c.xxix.

<sup>42</sup> 14 & 15 Vict. c.xviii.

### Group 3 – Norfolk

- 10.13 Norfolk turnpike history began with an Act of 1695<sup>43</sup> which provided for the county justices to erect turnpikes on the road between Norwich and Thetford.<sup>44</sup> Nathaniel Kent described Norfolk roads as being better “in their natural state than in almost any other county; so good, that no turnpike was thought of in Norfolk till they became common in other parts”.<sup>45</sup> The next important group of turnpikes in Norfolk began with the Norwich to Cromer road in an Act of 1794.<sup>46</sup> The road provided access for the Norwich city dwellers to the coast at Cromer, and was managed by the turnpike trust until 1877. The Bittern Line railway which joins Norwich to Cromer began construction in 1874, and had reached Cromer by 1877. The railway, which still exists today, was in direct competition with the turnpike road, and was a significant contributor to the trust’s financial difficulties. The Norwich to Cromer road was disturnpiked in 1877, and all Norfolk roads were under the county’s management by 1888.
- 10.14 The Norfolk turnpike Acts proposed for repeal are as follows:
- ◆ 1770 Act<sup>47</sup> (Norfolk roads): expired 1864
  - ◆ 1790 Act<sup>48</sup> (Norwich to Bixley roads): expired 1864
  - ◆ 1792 Act<sup>49</sup> (Norfolk roads): expired 1813
  - ◆ 1816 Act<sup>50</sup> (Norwich and Thetford Road): expired 1870
  - ◆ 1823 Act<sup>51</sup> (Wisbech and King’s Lynn Roads): expired 1870
  - ◆ 1826 Act<sup>52</sup> (Norwich and Scole Bridge Road): expired 1874
  - ◆ 1828 Act<sup>53</sup> (Thetford and Newmarket Road): expired 1866
  - ◆ 1828 Act<sup>54</sup> (Wells next the Sea and Fakenham Turnpike Road): expired 1881

<sup>43</sup> 7 & 8 Will.3 c.26 (repealed by 56 Geo.3 c.lxviii).

<sup>44</sup> William White’s History, *Gazetteer and Directory of Norfolk 1845: General History and Description of the County of Norfolk, Railways, Turnpikes and Roads*.

<sup>45</sup> Nathaniel Kent, reporting to the Board of Agriculture in 1794, as cited in V Belton, *The Norwich to Cromer Turnpike (1998)* p 1.

<sup>46</sup> 34 Geo.3 c.114 (repealed by 1 & 2 Will.4 c.xiv).

<sup>47</sup> 10 Geo.3 c.54.

<sup>48</sup> 30 Geo.3 c.85.

<sup>49</sup> 32 Geo.3 c.148.

<sup>50</sup> 56 Geo.3 c.lxviii.

<sup>51</sup> 4 Geo.4 c.lv.

<sup>52</sup> 7 Geo.4 c.xxvii.

<sup>53</sup> 9 Geo.4 c.li.

<sup>54</sup> 9 Geo.4 c.ci.

- ◆ 1830 Act<sup>55</sup> (Great Yarmouth and Acle Turnpike Road): expired 1862
- ◆ 1831 Act<sup>56</sup> (Norwich and North Walsham Road): expired 1876
- ◆ 1831 Act<sup>57</sup> (Road from Norwich to the Caister Causeway): expired 1874
- ◆ 1831 Act<sup>58</sup> (Norwich and Cromer Road): expired 1876
- ◆ 1831 Act<sup>59</sup> (King's Lynn Roads): expired 1877
- ◆ 1832 Act<sup>60</sup> (Downham Market, Barton and Devil's Ditch Road): expired 1864
- ◆ 1832 Act<sup>61</sup> (Little Yarmouth and Blythburgh, and Brampton and Halesworth Roads): expired 1867
- ◆ 1832 Act<sup>62</sup> (Norwich and Fakenham Road): expired 1880
- ◆ 1833 Act<sup>63</sup> (Norwich and Watton Road): expired 1870
- ◆ 1833 Act<sup>64</sup> (Norwich and New Buckenham Road): expired 1870
- ◆ 1835 Act<sup>65</sup> (Norwich and Swaffham Road): expired 1872.

<sup>55</sup> 11 Geo.4 & 1 Will.4 c.xxxix.

<sup>56</sup> 1 Will.4 c.xxxii.

<sup>57</sup> 1 Will.4 c.lxv.

<sup>58</sup> 1 & 2 Will.4 c.xiv.

<sup>59</sup> 1 & 2 Will.4 c.xx.

<sup>60</sup> 2 & 3 Will.4 c.xxi.

<sup>61</sup> 2 & 3 Will.4 c.liii.

<sup>62</sup> 2 & 3 Will.4 c.lxiii.

<sup>63</sup> 3 & 4 Will.4 c.xv.

<sup>64</sup> 3 & 4 Will.4 c.xxxix.

<sup>65</sup> 5 & 6 Will.4 c.xl.

# **PART 11**

## **MISCELLANEOUS**

### **INTRODUCTION**

- 11.1 The repeal proposals in this part of the report are classified as ‘miscellaneous’ because individually they do not conveniently fit under any of the earlier headings. The individuals and organisations consulted about these proposals are set out in Appendix 3.

### **CHANNEL TUNNEL**

- 11.2 Although the Anglo-French Channel Tunnel was completed and opened in May 1994 (pursuant to an intergovernmental treaty in 1986, and the Channel Tunnel Act 1987), the project had had more than one false start. A previous attempt (1966 to 1975) had run into difficulties as a consequence of two UK general elections in 1974.
- 11.3 In 1966 one of the first steps following an Anglo-French feasibility study<sup>1</sup> had been to safeguard possible routes from future development by using existing planning powers and by promoting a provision in the then Transport Bill. Section 142 of the Transport Act 1968 - as the provision became - empowered the minister of transport to acquire land which was “likely to be required” (and thus blighted) for a rail terminal, and to reimburse local authorities for compensation paid out for refusal or revocation of planning permission.
- 11.4 The Channel Tunnel (Initial Finance) Act 1973 was designed to facilitate preliminary surveys and trials leading to construction of a rail tunnel. The Act made financial provision for various steps by the Treasury and the Secretary of State: the guarantee of repayments up to specified ceilings on borrowing agreements for preliminary work, where the Secretary of State or the French government were parties, and the reimbursement of the Secretary of State for certain study or project-abandonment costs. The authorisation was limited to preliminary works which had to be carried out by July 1975.
- 11.5 The 1966 to 1975 project was abandoned, and the statutory provisions supporting it were overtaken by events. There is now no need for either section 142 of the 1968 Act or any of the 1973 Act, both of which provisions can be repealed. A consequential repeal is schedule 2 para 22(5) to the Planning (Consequential Provisions) Act 1990 (which amended the 1968 Act, s 142(2)).

<sup>1</sup> See statement to the House of Commons by Mr Ernest Marples, Minister for Transport, relating to the joint study: *Hansard* (HC), 6 February 1964, vol 688, cols 1351-1354.



## EMPLOYMENT OF CHILDREN

- 11.6 The Employment of Children Act 1973 was enacted for two reasons. First, it was designed to enable the Secretary of State to make regulations governing employment conditions for school-age children (for example, working hours and meal breaks), superseding the byelaw-making power vested in local education authorities<sup>2</sup> and achieving a consistent national regime. Secondly, the Act gave authorities supervisory powers over children in employment so as to protect their health, safety and educational development. The 1973 Act was later amended in minor ways both for England and Wales, and for Scotland. It was to be brought into force by order,<sup>3</sup> but its purpose was eventually overtaken by events.
- 11.7 Section 559 of the Education Act 1996 provided primary legislative powers to local education authorities in England and Wales to restrict or prohibit employment of schoolchildren.<sup>4</sup> The purpose (similar to that of the 1973 Act) was to protect the welfare of children, and the provisions were supported by criminal sanctions. Given that the 1996 Act provisions replicated the policy scope of the 1973 Act, section 559 of the 1996 Act provided that it would cease to have effect if section 2 of the 1973 Act were to be brought into force.<sup>5</sup>
- 11.8 Two years later, the Children (Protection at Work) Regulations 1998<sup>6</sup> amended the Children and Young Persons Acts for Great Britain,<sup>7</sup> leaving in place the education authority byelaw-making power, but standardising its application (for example, by prescribing age limits for different types of work). The changes of 1996 and 1998 rendered the 1973 Act superfluous, and it has remained unimplemented.
- 11.9 The 1973 Act may now be repealed and, as a consequence, section 559(6) of the 1996 Act may also be repealed.<sup>8</sup>

<sup>2</sup> Under the Children and Young Persons Act 1933, s 18 (as amended) and, in Scotland, the Children and Young Persons (Scotland) Act 1937, s 28 (as amended).

<sup>3</sup> The 1973 Act, s 3(4). No order was ever made.

<sup>4</sup> The 1996 Act did not apply to Scotland, but similar powers were made available to authorities in Scotland by amending the Children and Young Persons (Scotland) Act 1937, s 28 (through the Children (Protection at Work) Regulations 1998 (SI 1998 No 276), which applied to Great Britain, and the Children (Protection at Work) (Scotland) Regulations 2000 (SSI 2000 No 149)).

<sup>5</sup> The 1996 Act, s 559(6).

<sup>6</sup> SI 1998 No 276 (see above). The 1998 Regulations were made under the European Communities Act 1972 in order to implement European Directive 94/33/EC of 1994 relating to the protection of young people at work.

<sup>7</sup> The 1933 and the 1937 Acts: see footnote 2 above.

<sup>8</sup> Two further minor consequential repeals are: Children Act 1989, Sch 13 para 32, and Children (Scotland) Act 1995, Sch 4 para 19 (both of which provisions had amended the 1973 Act).

## **TRAFFIC COMMISSIONERS**

- 11.10 Section 3(1) of the Transport Act 1985 provided that the body of traffic commissioners for each traffic area constituted for the purposes of the Public Passenger Vehicles Act 1981 should cease to exist. Moreover, the appointment of any person as traffic commissioner or deputy traffic commissioner immediately before section 3(1) came into force would thereupon come to an end.<sup>9</sup> Section 3(1) came into force on 6 January 1986<sup>10</sup> at which point, having taken effect, it ceased to be necessary. It may be repealed on that basis.

<sup>9</sup> The Public Passenger Vehicles Act 1981, s 4 (as substituted by the Transport Act 1985, s 3(2)) provides for there to be a single traffic commissioner for each traffic area. Previously there had been three traffic commissioners for each traffic area.

<sup>10</sup> Transport Act 1985 (Commencement No 1) Order 1985, SI 1985/1887.

# EXPLANATORY NOTE ON THE DRAFT BILL

(cont'd)

## SCHEDULE 2: CONSEQUENTIAL AND CONNECTED PROVISIONS

### *Customs Consolidation Act 1876*

1. This amendment is consequential upon the proposal to repeal the Customs and Inland Revenue Act 1879. The only provision of substance remaining in the 1879 Act is section 5. Section 5, which lists goods the import of which is prohibited, sits in isolation from the Table of prohibitions and restrictions contained in section 42 of the Customs Consolidation Act 1876. The effect of this proposed amendment is to add the goods listed in section 5 to the Table in section 42 of the 1876 Act. This will permit the repeal of the 1879 Act. See *paragraph 8.6*.

### *Greenwich Hospital Act 1883*

2. This amendment is consequential upon the proposal to repeal the Greenwich Hospital Act 1947. The only provisions of substance remaining in the 1947 Act are section 2 and Schedule 1 which amended the Greenwich Hospital Act 1883. The effect of this proposed amendment is to preserve the effect of the 1947 Act amendment of the 1883 Act notwithstanding the repeal of the 1947 Act. See *paragraph 1.7*.

### *Finance Act 1901*

3. This amendment is consequential upon the proposal to repeal the Finance Act 1902. The only provision of substance remaining in the 1902 Act is section 7 which amended the Finance Act 1901. The effect of this proposed amendment is to preserve the effect of the 1902 Act amendment of the 1901 Act notwithstanding the repeal of the 1902 Act. See *paragraph 8.9*.

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

4. This amendment is consequential upon the proposal to repeal the Sailors and Soldiers (Gifts for Land Settlement) Act 1916. The amendment ensures that the relevant public authorities will be able to continue to administer any land or other property that they still hold as a result of gifts that they accepted before the repeal of the 1916 Act takes effect. See *paragraph 1.38*.

### *Naval and Military War Pensions etc (Administrative Expenses) Act 1917*

5. This amendment is consequential upon the proposal to repeal the Naval and Military War Pensions etc Act 1915. The only provision of substance remaining in the 1915 Act is section 3(1)(j). Section 3(1)(j) sits in isolation from the Naval and Military War Pensions etc (Administrative Expenses) Act 1917 which contains provisions analogous to section 3(1)(j). The effect of this amendment is to insert section 3(1)(j) into the 1917 Act. This will permit the safe repeal of the whole of the 1915 Act. See *paragraph 1.34*.

*Currency and Bank Notes Act 1928*

6. This amendment is consequential upon the proposal to repeal the Finance Act 1932. The only provision of substance remaining in the 1932 Act (other than section 29 which is already proposed for repeal) is section 25(7) which clarified section 3 of the Currency and Bank Notes Act 1928. The effect of this amendment is to preserve the effect of the clarification in section 25(7) notwithstanding the repeal of the 1932 Act. See *paragraph 8.14*.

*Historic Buildings and Ancient Monuments Act 1953*

7. This amendment is consequential upon the proposal to repeal the Town and Country Amenities Act 1974. The only provision of substance remaining in the 1974 Act is section 12 which amended the Historic Buildings and Ancient Monuments Act 1953. The effect of this proposed amendment is to preserve the effect of the amendment to the 1953 Act notwithstanding the repeal of the 1974 Act. See *paragraph 9.4*.

*Local Government Act 1972*

8. This amendment is consequential upon the proposal to repeal the Police (Insurance of Voluntary Assistants) Act 1997. The only provision of substance remaining in the 1997 Act is section 1 which amended the Local Government Act 1972. The effect of this proposed amendment is to preserve the effect of the amendment of the 1972 Act notwithstanding the repeal of the 1997 Act. See *paragraph 6.21*.

*Local Government, Planning and Land Act 1980*

9. This amendment is consequential upon the proposal to repeal the Urban Development Corporations (Financial Limits) Act 1987. The only provision of substance remaining in the 1987 Act is section 1(1) which amended the Local Government, Planning and Land Act 1980. The effect of this proposed amendment is to preserve the effect of the amendment to the 1980 Act notwithstanding the repeal of the 1987 Act. See *paragraph 9.10*.

*Town and Country Planning Act 1990*

10. This amendment is consequential upon the proposal to repeal the Town and Country Planning (Costs of Inquiries etc) Act 1995. The only provision of substance remaining in the 1995 Act is section 1 which amended the Town and Country Planning Act 1990. The effect of this proposed amendment is to preserve the effect of the amendment to the 1990 Act notwithstanding the repeal of the 1995 Act. See *paragraph 9.13*.

## **APPENDIX 3 PERSONS AND ORGANISATIONS CONSULTED ABOUT THE REPEAL PROPOSALS IN THIS REPORT**

### **THE FOLLOWING PERSONS AND ORGANISATIONS WERE CONSULTED ABOUT MOST OR ALL THE REPEAL PROPOSALS IN THIS REPORT**

Attorney General's Chambers, Isle of Man

First Legislative Counsel, Northern Ireland

General Council of the Bar

Ministry of Justice (formerly Department for Constitutional Affairs)

Northern Ireland Office

Office of the Solicitor to the Advocate General for Scotland

Scotland Office

Scottish Executive

The Law Society

Wales Office

Welsh Assembly Government

### **OTHER PERSONS AND ORGANISATIONS WHO WERE CONSULTED ON THE REPEAL PROPOSALS FOR INDIVIDUAL PARTS OF THE REPORT**

#### **PART 1 ARMED FORCES**

Agricultural Law Association

Central Association of Agricultural Valuers

Charity Commission

Council of Reserve Forces and Cadets Association

Crown Office and Procurator Fiscal Service

Department for Education and Skills

Department for Environment, Food and Rural Affairs

Department for Work and Pensions

Great Yarmouth Borough Council

Greenwich Hospital

Herefordshire County Council

HM Revenue and Customs

HM Treasury

Home Office

Lewisham Borough Council

Lloyd's Patriotic Fund  
Local Government Association  
Ministry of Defence  
Office of the Attorney General, Republic of Ireland  
Office of the Deputy Prime Minister (now Department for Communities and Local Government)  
Officers' Association  
Paymaster General  
Polish Ex-Combatants Association  
Royal British Legion  
Royal Hospital Chelsea  
Royal Patriotic Fund Corporation  
Seamen's Hospital Society  
Tenant Farmers Association  
Welsh Local Government Association

**PART 2 COUNTY GAOLS**

Bristol City Council  
Buckinghamshire County Council  
Cambridge City Council  
Cambridgeshire County Council  
Cheshire County Council  
City of London Corporation  
Coventry City Council  
Cumbria County Council  
Devon County Council  
Essex County Council  
Exeter City Council  
Gloucester City Council  
Gloucestershire County Council  
Hampshire County Council  
HM Courts Service  
HM Prison Service  
Hertfordshire County Council  
Home Office  
Islington London Borough Council  
Newcastle City Council

Norfolk County Council  
Northamptonshire County Council  
Northumberland County Council  
Northumbria Police Authority  
Norwich City Council  
Pembrokeshire County Council  
Peterborough City Council  
Portsmouth City Council  
Salisbury District Council  
Southwark London Borough Council  
Staffordshire County Council  
Tewkesbury Borough Council  
Warwickshire County Council  
West Sussex County Council  
Wiltshire County Council  
Winchester City Council

**PART 3 CRIMINAL LAW**

Confederation of British Industry  
Crown Prosecution Service  
Department of Trade and Industry (now Department for Business, Enterprise and Regulatory Reform)  
Department for Environment, Food and Rural Affairs  
Department for Work and Pensions  
Department of Health  
Foreign and Commonwealth Office  
HM Treasury  
Home Office  
Legal Secretariat to the Law Officers  
Liberty  
Local Government Association  
Magistrates' Association  
Metropolitan Police  
Ministry of Defence  
Office of the Deputy Prime Minister  
Privy Council Office  
Sea Fish Industry Authority

Trades Union Congress

UNISON

Welsh Local Government Association

**PART 4 EAST INDIA COMPANY**

City of London Corporation

Department for International Development

Department of Trade and Industry (now Department for Business, Enterprise and Regulatory Reform)

Foreign and Commonwealth Office

HM Treasury

Lloyd's of London

The High Commission of India

**PART 5 LONDON**

Baltic Exchange

British Institute of Innkeeping

Cadogan Estate

Central London Masonic Centre Ltd

City of London Corporation

City Remembrancer

Company of Watermen and Lightermen

Department of Trade and Industry (now Department for Business, Enterprise and Regulatory Reform)

Department for Communities and Local Government

Grain and Feed Trade Association Ltd

Greater London Authority

Grosvenor Estate

Home Office

HM Courts Service

HM Prison Service

HM Revenue and Customs

HM Treasury

Honourable Society of Lincoln's Inn

Leathersellers' Company

Local Government Association

London Borough of Camden



London Borough of Islington  
London Borough of Southwark  
London Borough of Tower Hamlets  
London Fire Brigade Museum  
London River Services  
Maughan Library (for Kings College London)  
National Archives  
National Market Traders' Federation  
Royal Borough of Kensington and Chelsea  
St Bride's Fleet Street  
Transport for London  
United Grand Lodge of England  
Westminster Abbey (Dean and Chapter)  
Westminster Cathedral  
Westminster City Council  
Worshipful Company of Bakers  
Worshipful Company of Cordwainers  
Worshipful Company of Curriers  
Worshipful Company of Fuellers

**PART 6 POLICE**

Association of Police Authorities  
Association of Chief Police Officers in Scotland  
Association of Chief Police Officers of England, Wales and Northern Ireland  
City of London Police  
Corporation of London  
Fire Brigades Union  
Greater London Authority  
HM Treasury  
Home Office  
Lincolnshire Police Authority  
Local Government Association  
London Fire and Emergency Planning Authority  
Metropolitan Police Authority  
Metropolitan Police  
Office of the Deputy Prime Minister

Oxford City Council  
Police Federation for England and Wales  
Police Federation for Scotland  
Police Negotiating Board for the United Kingdom  
Scottish Police Federation  
Scottish Public Pensions Agency  
Thames Valley Police Authority  
University of Oxford  
Welsh Local Government Association  
West Yorkshire Police Authority

**PART 7 RATING**

Aylesbury Vale District Council  
Bristol City Council  
Buckinghamshire County Council  
Cumbria County Council  
Dacorum Borough Council  
Charity Commission  
Department for Communities and Local Government  
Dudley Metropolitan Borough Council  
Epsom and Ewell Borough Council  
Greater London Authority  
Hertfordshire County Council  
HM Revenue and Customs  
HM Treasury  
Hull City Council  
Kettering Borough Council  
Leeds City Council  
Liverpool City Council  
Local Government Association  
London Borough of Barking and Dagenham  
London Borough of Croydon  
London Borough of Merton  
London Borough of Sutton  
Plymouth Charity Trust  
Plymouth City Council

Port of Sunderland  
Sandwell Metropolitan Borough Council  
St Mary's Church, Aylesbury  
St Mary's Church, Hemel Hempstead  
Sunderland City Council  
Sunderland Local Studies Centre  
Surrey County Council  
Welsh Local Government Association  
Worcestershire County Council  
Wyre Forest District Council

**PART 8 TAX AND DUTIES**

Associated British Ports Holdings plc  
Bank of England  
British Taxpayers Federation  
Charity Commission  
Department of Trade and Industry (now Department for Business, Enterprise and Regulatory Reform)  
Department for Transport  
HM Revenue and Customs  
HM Treasury  
Hull City Council  
Hull Trinity House School  
Institute for Fiscal Studies

**PART 9 TOWN AND COUNTRY PLANNING**

Commissioner for the Reduction of the National Debt  
Council of the Isles of Scilly  
Department for Culture, Media and Sport  
English Partnerships (formerly Commission for the New Towns)  
HM Treasury  
Local Government Association  
Office of the Deputy Prime Minister (now Department for Communities and Local Government)  
Welsh Local Government Association

**PART 10 TURNPIKES**

Cambridgeshire County Council

Department for Communities and Local Government  
Department for Transport  
Essex County Council  
Hertfordshire County Council  
Local Government Association  
London Borough of Barking and Dagenham  
London Borough of Hackney  
London Borough of Havering  
London Borough of Newham  
London Borough of Redbridge  
London Borough of Tower Hamlets  
London Borough of Waltham Forest  
Norfolk County Council  
Suffolk County Council  
Thurrock Council

**PART 11 MISCELLANEOUS**

Department for Education and Skills (now Department for Children, Schools and Families)  
Department of Health  
Department for Transport  
Department for Work and Pensions  
Euro Tunnel plc  
HM Treasury  
Local Government Association  
Office of the Deputy Prime Minister (now Department for Communities and Local Government)