

**[Coat of Arms]**

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

**(LAW COM No 285)**

**(SCOT LAW COM No 193)**

**STATUTE LAW REVISION:  
SEVENTEENTH REPORT  
DRAFT STATUTE LAW  
(REPEALS) BILL**

**Report on a Reference under Section 3(1)(e) of the Law  
Commissions Act 1965**

*Presented to the Parliament of the United Kingdom by the Lord High Chancellor  
by Command of Her Majesty*

*Laid before the Scottish Parliament by the Scottish Ministers*

*December 2003*

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 Toulson, *Chairman*  
Professor Hugh Beale QC  
Mr Stuart Bridge  
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The terms of this report were agreed on 17 November 2003.

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

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**LAW COMMISSION  
SCOTTISH LAW COMMISSION**

**STATUTE LAW REVISION: SEVENTEENTH  
REPORT  
DRAFT STATUTE LAW (REPEALS) BILL**

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

## **STATUTE LAW REVISION: SEVENTEENTH REPORT Draft Statute Law (Repeals) Bill**

*To the Right Honourable the Lord Falconer of Thoroton, Lord High Chancellor of Great Britain, 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.
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>1</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>2</sup> Full details of the proposals are set out in the Notes on the Bill which are available from the Law Commissions.
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)* ROGER TOULSON  
*Chairman, Law Commission*  
HUGH BEALE  
STUART BRIDGE  
MARTIN PARTINGTON  
ALAN WILKIE  
MICHAEL SAYERS  
*Chief Executive*

RONALD D MACKAY  
*Chairman, Scottish Law Commission*  
GERARD MAHER  
KENNETH G C REID  
JOSEPH M THOMSON  
COLIN TYRE  
MISS JANE L MCLEOD  
*Secretary*

17 November 2003

<sup>1</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>2</sup> Where the proposals extend to Wales, those consulted include the Wales Office and the Counsel General to the National Assembly for Wales (referred to in the report as 'the relevant authorities in Wales'). Where the proposals extend to Scotland, those consulted include the Scottish Executive and the departments responsible for reserved matters in relation to Scotland (referred to in the report as 'the relevant authorities in Scotland'). Where the proposals extend to Northern Ireland, those consulted include the Northern Ireland Office and the First Legislative Counsel for Northern Ireland (referred to in the report as 'the relevant authorities in Northern Ireland').



# **Appendix 1 - 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 — Administration of Justice
  - Part 2 — Agriculture
  - Part 3 — Allotments and smallholdings
  - Part 4 — Aviation
  - Part 5 — Defunct bodies
  - Part 6 — Ecclesiastical
  - Part 7 — Education
  - Part 8 — Employment
  - Part 9 — Finance
  - Part 10 — Local government
  - Part 11 — Pensions
  - Part 12 — Property
  - Part 13 — Public health
  - Part 14 — Road traffic
  - Part 15 — Scottish Acts
  - Part 16 — Trade and industry
  - Part 17 — Miscellaneous
- Schedule 2 — Consequential and connected provisions



DRAFT  
OF 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, and the instruments referred to there are revoked, to the extent specified in the second column of that Schedule.
- (2) Schedule 2 (consequential and connected provisions) has effect. 5

**2 Extent**

- (1) This Act extends to Northern Ireland.
- (2) This Act also extends to the Isle of Man.
- (3) 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 10
  - (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
- (4) Except as provided by an order under subsection (3), 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.

- (5) Subsections (3) and (4) apply to revocation of the whole or part of an instrument as they apply to repeal of an enactment.

**3 Short title**

This Act may be cited as the Statute Law (Repeals) Act 2004.

## SCHEDULES

### SCHEDULE 1

Section 1(1)

#### REPEALS

#### PART 1

#### ADMINISTRATION OF JUSTICE

5

#### GROUP 1 - JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Judicial Committee Act 1833 (3 & 4 Will.4 c.41).	Section 14. Section 23. In section 24, the words from “said Courts” to “any other” and from “in India” to “Good Hope”.	10
Court of Chancery Act 1851 (14 & 15 Vict. c.83).	The whole Act.	
Judicial Committee Amendment Act 1895 (58 & 59 Vict. c.44).	In the Schedule, the entries for “New South Wales”, “Queensland”, “South Australia”, “Tasmania”, “Victoria” and “Western Australia”.	15
Appellate Jurisdiction Act 1908 (8 Edw.7 c.51).	Section 1. Section 3. Schedule.	20

#### GROUP 2 - CENTRAL CRIMINAL COURT (PRISONS) ACT 1881

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Central Criminal Court (Prisons) Act 1881 (44 & 45 Vict. c.64).	The whole Act.	25
Administration of Justice Act 1964 (c.42).	In Schedule 3, paragraph 10.	
Courts Act 1971 (c.23).	In Schedule 8, paragraph 14.	

#### GROUP 3 - COURTS ACT 1971

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
Courts Act 1971 (c.23).	Section 20(5) and (6). Section 41.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Courts Act 1971 (c.23).— <i>cont.</i>	<p>Section 42(1) and (4).            Section 43.            Section 53.            Section 55(4). <span style="float: right;">5</span>            Section 59(2) to (4).            In section 59(5), paragraphs (a) and (e).            In section 59(6), paragraph (a) and, in paragraph (e), the words “section 12 of the Indictable Offences Act 1848 and”. <span style="float: right;">10</span>            In Schedule 2, in Part 1, paragraph 1 and, in paragraph 3(2), the words from “, other” to “by virtue of this Act.”.            In Schedule 2, in Part 2, paragraph 8.            Schedule 5. <span style="float: right;">15</span>            In Schedule 7, paragraphs 4 and 5.            In Schedule 8, in Part 2, paragraphs 55, 59, 60(1) and 60(2).            In Schedule 9, in Part 1, the entries relating to the Inclosure Act 1845, the Trade Union Act 1871, the Brine Pumping (Compensation for Subsidence) Act 1891, the Dogs Amendment Act 1938, the Water Act 1945, the Shops Act 1950, the Agriculture (Safety, Health and Welfare Provisions) Act 1956, the Affiliation Proceedings Act 1957, the Trading Representations (Disabled Persons) Act 1958, the Adoption Act 1958 and the Factories Act 1961. <span style="float: right;">20</span>            In Schedule 10, paragraphs 1(3), 2 to 8, 10 and 17. <span style="float: right;">25</span>  <span style="float: right;">30</span></p>

GROUP 4 - GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Limitation of Actions and Costs Act 1842 (5 & 6 Vict. c.97).	Section 2. <span style="float: right;">35</span>
Law Reform (Miscellaneous Provisions) Act 1934 (24 & 25 Geo.5 c.41).	Section 3(1C). In section 3(1D), the words from “and any reference” to the end.
City of London (Courts) Act 1964 (c.iv).	In section 7, the words “the remuneration of, and”. <span style="float: right;">40</span>
Administration of Justice Act 1965 (c.2).	In Schedule 1, the entries relating to the Clergy Residence Act 1826, the Inclosure Act 1845, the Tithe Act 1846 and the Tithe Act 1860.
Administration of Justice Act 1969 (c.58).	Section 36(5) and (6). In Schedule 1, the entries relating to the Settled Land Act 1925 and the County Courts Act 1959. <span style="float: right;">45</span>
Administration of Justice Act 1970 (c.31).	Section 41(5). Section 54(4).

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Administration of Justice Act 1970 (c.31).— <i>cont.</i>	In section 54(6), the words “, and section 2(5)” and “, 43(6)”. In Schedule 2, paragraphs 26 and 28.	
Administration of Justice Act 1973 (c.15).	Section 6. Schedule 2.	5
Litigants in Person (Costs and Expenses) Act 1975 (c.47).	Section 2(2) and (3).	
Administration of Justice Act 1977 (c.38).	Section 1. Section 2(3). Section 5(3). Sections 11 and 12. Section 19(2). Section 32(5) to (7). In Schedule 2, in Part 1, paragraphs 3, 4 and 6.	10      15
Contempt of Court Act 1981 (c.49).	Section 3(4). Section 4(4). In Schedule 2, in Part 3, paragraph 1.	
Supreme Court Act 1981 (c.54).	Section 141. Section 152(2) and (5). In Schedule 5, the entries relating to the Nurses (Amendment) Act 1961, the Rivers (Prevention of Pollution) Act 1961, the Administration of Justice Act 1964, the Administration of Justice Act 1965, the Matrimonial Causes Act 1967, the Health and Safety at Work etc. Act 1974 and the Arbitration Act 1979.	20      25
Administration of Justice Act 1982 (c.53).	Section 3(2). Section 6(3). Section 34(1) and (2). Section 35. In section 46(2), paragraphs (a)(iv), (c) and (g). Sections 49 and 50. Section 59(3). Section 73(8). Section 77(5). In Schedule 3, paragraphs 4(b) and (c) and 7. In Schedule 8, paragraph 3.	30      35
County Courts (Penalties for Contempt) Act 1983 (c.45).	Section 2(2).	40
County Courts Act 1984 (c.28).	In section 24(2)(g), the words “and 25”. In Schedule 2, paragraphs 22, 24, 30, 35, 36, 38, 39, 44 to 46, 48, 50, 57, 63, 73, 74, 76 and 77.	
Administration of Justice Act 1985 (c.61).	Section 51(2).	45
Public Trustee and Administration of Funds Act 1986 (c.57).	Section 4. Section 6(2).	
Courts and Legal Services Act 1990 (c.41).	Section 2(4).	50

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Courts and Legal Services Act 1990 (c.41).— <i>cont.</i>	Section 12. Section 14. Section 16. Section 62. Section 78(3) and (4). Section 84. Section 93(4). Section 109(5) and (6). Section 114. In Schedule 17, paragraphs 1, 3, 9 and 18.	5          10
Supreme Court (Offices) Act 1997 (c.69).	The whole Act.	
Access to Justice Act 1999 (c.22).	Section 35(1). Section 70. Section 79.	15

PART 2

AGRICULTURE

GROUP 1 - AGRICULTURAL DEVELOPMENT, PRODUCTION AND MARKETING

<i>Reference</i>	<i>Extent of repeal or revocation</i>	<i>20</i>
Agriculture (Miscellaneous Provisions) Act 1943 (6 & 7 Geo.6 c.16).	In Schedule 3, the entries relating to sections 5, 7, 11, 12, 13, 15 and 16 of the Corn Returns Act 1882.	
Agriculture (Miscellaneous Provisions) Act 1944 (7 & 8 Geo.6 c.28).	The whole Act.	25
Hill Farming Act 1946 (9 & 10 Geo.6 c.73).	Section 10. In section 36(2), the words from “, or retained” to “United Kingdom,”. In section 37(1), paragraph (b).	30
Agriculture Act 1947 (10 & 11 Geo.6 c.48).	Sections 83 and 84. Section 86. Sections 88 and 89. Sections 92 to 95. Schedule 2. Schedule 11.	35
Hill Farming Act 1954 (2 & 3 Eliz.2 c.23).	The whole Act.	
Agriculture (Miscellaneous Provisions) Act 1954 (2 & 3 Eliz.2 c.39).	Section 6(7).	40
Agriculture (Silo Subsidies) Act 1956 (5 & 6 Eliz.2 c.5).	The whole Act.	
Agriculture Act 1957 (5 & 6 Eliz.2 c.57).	Section 32. Section 37(2). In section 37(3), the words “, except Part III,”.	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Agricultural Marketing Act 1958 (6 & 7 Eliz.2 c.47).	In section 3(2), the words from the beginning to “this section,”. Section 3(4) to (6). Parts 2 and 3. In section 47(2), the words “, or Part III thereof,”. Section 52(4). Section 54(3) and (5). Section 55(2).	5
Agriculture Act 1958 (6 & 7 Eliz.2 c.71).	Section 1. In section 8(1), the words from “and the enactments” to “Scotland”). In section 9(1), the definition of “the appointed day”. Section 10(2). In Schedule 1, paragraph 2. In Schedule 4, paragraphs 1, 2, 10, 13 and 14.	10
Weeds Act 1959 (7 & 8 Eliz.2 c.54).	Section 10(3) to (5).	
Horticulture Act 1960 (8 & 9 Eliz.2 c.22).	Part 2. Section 21. Schedule 1.	20
Agriculture (Miscellaneous Provisions) Act 1963 (c.11).	Section 23(3). Section 26. In section 27, paragraph (b). In section 29(2), the words “, except in section 5,” and from “and “the Ministers”” to the end. In section 29(3), the reference to sections 16(2) and 19 and the words from “and section 21” to the end.	25
Agriculture and Horticulture Act 1964 (c.28).	Section 21. In section 26(3), the words “(2) and”.	
Agriculture Act 1967 (c.22).	In section 3(3)(a), the words “1 or section”. Section 16. Section 22. Sections 33 and 34. In section 58(8), the words from “and if a person ceases” to the end. Section 61. Section 62(2). In section 62(3), the words “except the last foregoing section,”. Section 64(3). In section 64(4), the words “or the said section 9 of the Act of 1964”. Section 64(5) and (7). Section 65. In section 75(4), the words from “, or,” to “must be made”. Section 75(8).	35
Farm and Garden Chemicals Act 1967 (c.50).	Section 1(5).	
Agriculture Act 1970 (c.40).	Section 34.	50

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Agriculture Act 1970 (c.40).— <i>cont.</i>	Section 87(1). Section 102. In section 111(2), the words from “(other” to “thereof”.	5
Agriculture (Miscellaneous Provisions) Act 1972 (c.62).	Section 4. Section 8(5). Section 11. In section 12(3), paragraphs (a) and (c) and the word “and” before paragraph (c). Section 14. Section 17(1). Section 21. Section 27(2) and (3). In section 27(4), the words from “13” to “7,” and the words “1, 2 and”.	10
Statute Law (Repeals) Act 1973 (c.39).	In Schedule 2, paragraph 4.	
Local Government (Scotland) Act 1973 (c.65).	In Schedule 27, in Part 2, paragraph 205.	20
Horticulture (Special Payments) Act 1974 (c.5).	The whole Act.	
Local Land Charges Act 1975 (c.76).	In Schedule 1, the entry relating to the Hill Farming Act 1954.	
Agriculture (Miscellaneous Provisions) Act 1976 (c.55).	Section 1. In section 3(4), the words from “but those amendments” to the end. In section 26(1), the words “(and in the Sugar Act 1956)”.	25
	Section 27(2) to (4). In section 27(5), the words “2,” and “and Part II of this Act”, and from “and sections 13” to the end. In section 27(6)(a), the word “1,”.	30
Agricultural Statistics Act 1979 (c.13).	Section 2. In section 3(1), the words “or 2”. In section 3(2), paragraph (e). In section 4(1) and (2), the words “or 2”. Section 8(2).	35
Acquisition of Land Act 1981 (c.67).	In Schedule 4, in paragraph 1, the entry in the Table for section 92(1) of the Agriculture Act 1947, and paragraph 3.	40
Hops Marketing Act 1982 (c.5).	The whole Act.	
Agricultural Marketing Act 1983 (c.3).	In section 4(2), paragraph (b). In section 9(2), the words “Subject to paragraph 3 of Schedule 2 to this Act,”. Section 9(3). In Schedule 2, paragraph 3.	45
Agriculture (Amendment) Act 1984 (c.20).	Section 2(2). Section 3(2).	50

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Milk (Cessation of Production) Act 1985 (c.4).	Section 7(2).	
Food and Environment Protection Act 1985 (c.48).	Section 27.	5
Agricultural Holdings Act 1986 (c.5).	In Schedule 14, paragraph 19.	
Horticultural Produce Act 1986 (c.20).	Section 7(2) and (3).	
Agriculture Act 1986 (c.49).	Section 4(4). Section 5(1). Section 8(5) and (6). Sections 9 and 10. Section 12.	10
	In section 24(2), the words “10, 13 to 16”, “to 10” and from “and the remaining” to “is passed”. In section 24(6), the words “and 21”. In section 24(7), the words “9, 10,”.	15
Food Safety Act 1990 (c.16).	In Schedule 3, paragraph 15.	
Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991 (SI 1991 No.1997).	In the Schedule, paragraph 6.	20
Agriculture Act 1993 (c.37).	Section 21(2) and (3). Sections 25 to 35. Sections 37 to 45. Section 47. Section 59. Section 62(5). Section 64(2). Schedule 3.	25
		30
Trade Marks Act 1994 (c.26).	In Schedule 4, in paragraph 1(2), the entry for the Horticulture Act 1960.	35
Employment Rights Act 1996 (c.18).	In Schedule 1, paragraph 17.	

GROUP 2 - GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Agricultural Wages Act 1948 (11 & 12 Geo.6 c.47).	Section 20(4) to (6).	40
Agriculture (Safety, Health and Welfare Provisions) Act 1956 (4 & 5 Eliz.2 c.49).	Section 7.	
Plant Varieties and Seeds Act 1964 (c.14).	Section 26(10).	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Plant Varieties and Seeds Act 1964 (c.14).— <i>cont.</i>	In section 31(1), the words from “, except” to “Part of this Act,”. Section 41(2).	
Agricultural Training Board Act 1982 (c.9).	The whole Act.	5
Agricultural Training Board Act 1985 (c.36).	The whole Act.	
Agricultural Training Board Act 1987 (c.29).	The whole Act.	10
Employment Act 1988 (c.19).	In section 29(1), the words from “and the same” to the end. In Schedule 3, paragraph 13.	
Education Reform Act 1988 (c.40).	In Schedule 12, paragraph 86.	15
Employment Act 1989 (c.38).	In Schedule 6, paragraph 28.	
Enterprise and New Towns (Scotland) Act 1990 (c.35).	In Schedule 4, paragraph 10.	
Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991 (SI 1991 No.1997).	In the Schedule, paragraph 43.	20
Trade Union and Labour Relations (Consolidation) Act 1992 (c.52).	In Schedule 2, paragraph 27.	25
Trade Union Reform and Employment Rights Act 1993 (c.19).	In Schedule 8, paragraph 33.	30
Education Act 1996 (c.56).	In Schedule 37, paragraph 53.	

PART 3

ALLOTMENTS AND SMALLHOLDINGS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Small Holding Colonies Act 1916 (6 & 7 Geo.5 c.38).	The whole Act.	35
Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (6 & 7 Geo.5 c.60).	In section 1(1), the proviso.	
Land Settlement (Facilities) Act 1919 (9 & 10 Geo.5 c.59).	Section 11. In Schedule 2, the entries relating to sections 9, 23, 24, 27(1), 34, 49(3) and 58.	40
Small Holdings and Allotments Act 1926 (16 & 17 Geo.5 c.52).	Sections 1 to 4.	

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Small Holdings and Allotments Act 1926 (16 & 17 Geo.5 c.52).— <i>cont.</i>	Section 13(3) and (4). Section 19. In Schedule 1, the entries relating to sections 11 and 18 of the Land Settlement (Facilities) Act 1919.	5
Agricultural Land (Utilisation) Act 1931 (21 & 22 Geo.5 c.41).	In Schedule 2, the entries relating to the Small Holdings and Allotments Act 1908 and section 2 of the Small Holdings and Allotments Act 1926.	10
Agriculture Act 1947 (10 & 11 Geo.6 c.48).	Sections 58 and 59. In Schedule 8, in Part 2, the entry relating to section 2 of the Small Holdings and Allotments Act 1926.	
Allotments Act 1950 (14 Geo.6 c.31).	In section 6, the words from “and in any document” to the end.	15
Agriculture (Miscellaneous Provisions) Act 1954 (2 & 3 Eliz.2 c.39).	Section 3.	
Agriculture Act 1970 (c.40).	In section 52, subsections (1) and (2)(b), in subsection (2)(c) the words “or section 58 of the Agriculture Act 1947”, subsections (3) and (4), and in subsection (5) the words “and in subsection” to the end. In Schedule 3, paragraph 8.	20 25
Local Government Act 1972 (c.70).	In Schedule 29, paragraph 11.	
Acquisition of Land Act 1981 (c.67).	In section 1(2), the words “section 4 of the Small Holdings and Allotments Act 1926,”.	
Agricultural Holdings Act 1986 (c.5).	In Schedule 14, paragraph 7.	30

PART 4

AVIATION

<i>Reference</i>	<i>Extent of repeal or revocation</i>	<i>35</i>
Carriage by Air Act 1961 (9 & 10 Eliz.2 c.27).	Section 14(3).	
Carriage by Air (Supplementary Provisions) Act 1962 (10 & 11 Eliz.2 c.43).	In section 2(1), the words from “but, in relation” to the end. In section 3(3), the words from “and in section” to “provisions”). Section 4. Section 5(3) and (4). Section 6(2). Section 7(2) and (3).	40 45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Air Corporations Act 1966 (c.11).	The whole Act.	
Air Corporations Act 1969 (c.43).	The whole Act.	5
Northern Ireland Assembly Disqualification Act 1975 (c.25).	In Part 3 of Schedule 1, the entry “Director of the successor company (within the meaning of the Airports Act 1986) being a director nominated or appointed by a Minister of the Crown or by a person acting on behalf of the Crown”.	10
Carriage by Air and Road Act 1979 (c.28).	In Schedule 2, paragraph 5.	
Civil Aviation Act 1980 (c.60).	Section 2. Section 3(2) and (7). Section 8(8) and (9). Section 9. Section 10(3). Sections 27 and 28. In Schedule 3, Part 2.	15
Civil Aviation (Amendment) Act 1982 (c.1).	The whole Act.	
Civil Aviation Act 1982 (c.16).	In Schedule 14, paragraph 12. In Schedule 15, paragraphs 6 and 16.	
Aviation Security Act 1982 (c.36).	Section 36(1) and (3). In Schedule 2, paragraph 8.	25
Airports Act 1986 (c.31).	Sections 1 to 3. Section 4(1) to (4). Section 5. Section 9. Section 11. Section 53(5). Section 57(3). In section 75(1), the words “1 or” and “in the case of a scheme under section 15”. In section 75(2), the words “1 or”. In section 75(3) and (5), the words “1(8) or”. In sections 75(6) and 76(3)(a), the words “1 or”. In section 79(2)(a), the words “2(2) or”. In section 79(5), the words “or 85(5)”. Section 85(2) to (6). In Schedule 5, paragraphs 7 to 9.	30
Outer Space Act 1986 (c.38).	Section 15(2) to (4).	
Aviation and Maritime Security Act 1990 (c.31).	Section 3(2). Section 54(2). In Schedule 3, paragraph 3.	40
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<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Employment Rights Act 1996 (c.18).	In Schedule 1, paragraph 37(3).	
Audit Commission Act 1998 (c.18).	In Schedule 3, paragraphs 16 and 17.	5

## GROUP 5 - ELECTRICITY

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Electricity Act 1989 (c.29).	Sections 84 to 89. Section 91(2). Section 92. In Schedule 17, paragraphs 29 to 31.	10

## GROUP 6 - FISHERIES

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Fisheries Act 1981 (c.29).	Section 13(1). In section 13(2), the words from “with respect” to the end. In Schedule 3, paragraphs 4 to 7.	15

## GROUP 7 - GAS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Gas Act 1986 (c.44).	Section 50(3) to (5). Section 57.	20

## GROUP 8 - MINES, MINERALS AND QUARRIES

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Coal Industry Act 1994 (c.21).	Section 24.	

## GROUP 9 - NATIONAL HEALTH SERVICE

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Public Accounts and Charges Act 1891 (54 & 55 Vict. c.24).	Section 1(1).	
Health Services Act 1980 (c.53).	Section 8(1) and (2). In section 8(3), the words from the beginning to “this section”. Section 9(1)(a) and (2) to (5)(b). Schedule 2.	30
Health and Medicines Act 1988 (c.49).	Section 1(1) to (13). Section 3.	35
Health Act 1999 (c.8).	Section 25.	

GROUP 10 - NATIONAL HERITAGE

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
National Heritage Act 1980 (c.17).	Section 15.	
National Heritage Act 1983 (c.47).	Section 39.	5

GROUP 11 - NORTHERN IRELAND

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Judicature (Northern Ireland) Act 1978 (c.23).	Section 69(5).	
Northern Ireland Act 1998 (c.47).	Section 72.	10

GROUP 12 - PENSIONS AND SUPERANNUATION

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Parliamentary Commissioner Act 1967 (c.13).	In Schedule 2, the reference to the Occupational Pensions Board.	15
Superannuation Act 1972 (c.11).	Section 27. In section 30(5)(f), the reference to section 27.	
Pensions Commutation Act 1984 (c.7).	Section 1(1) and (8).	20
Coal Industry Act 1987 (c.3).	Section 7(5).	
Pension Schemes Act 1993 (c.48).	In Schedule 8, paragraph 19.	
Pensions Act 1995 (c.26).	Section 150. In section 178(2), the words “150,”.	25

GROUP 13 - PORTS AND HARBOURS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Transport Act 1981 (c.56).	Section 15(1) to (4). In section 15(5), the words “this section and”. In section 16(1), the words “after making” to the end. Section 16(2)(a) and (b). In section 16(2)(c), the words “4(3) or (5), 7,”. Section 16(3). In Schedule 5, paragraphs 1 to 4, 6(2) and (3), 7 and 12.	30
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GROUP 19 - TELECOMMUNICATIONS, BROADCASTING AND FILMS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Telecommunications Act 1984 (c.12).	Section 89.	
Films Act 1985 (c.21).	Section 1(1) and (2). Section 3(1).	5
Broadcasting Act 1990 (c.42).	Section 128(2) to (5). In Schedule 10, paragraph 4.	

GROUP 20 - WEIGHTS AND MEASURES

<i>Reference</i>	<i>Extent of repeal or revocation</i>	10
Weights and Measures Act 1985 (c.72).	Section 55. Section 62(1) and (2)(c).	

PART 6

ECCLESIASTICAL

GROUP 1 - CLERGY, BENEFICES AND PASTORAL SCHEMES

15

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Clergy Ordination Act 1804 (44 Geo.3 c.43).	Preamble.	
Pluralities Act 1838 (1 & 2 Vict. c.106).	Sections 28 to 31.	20
Trading Partnerships Act 1841 (4 & 5 Vict. c.14).	The whole Act.	
Sequestration Act 1871 (34 & 35 Vict. c.45).	In section 2, the words “as if they were here re-enacted”.	
City of London (Guild Churches) Act 1952 (15 & 16 Geo.6 & 1 Eliz.2 c.xxxviii).	In the preamble, from “And whereas it is expedient that reorganisation schemes” to “made by such schemes”.	25
	In section 3(1), the interpretation of the expressions “reorganisation scheme” and “supplementary reorganisation scheme”.	30
	In section 4(1), the proviso.	
	In section 22(4), the first sentence.	
	Section 33.	
	Section 36(1).	
	In section 36(2), the words from the beginning to “section”.	35
City of London (Guild Churches) Act 1960 (8 & 9 Eliz.2 c.xxx).	In section 5(2), the words from “or within” to “then vacant”.	
	Section 5(8).	
	Section 6(4) to (6).	40
Ecclesiastical Jurisdiction Measure 1963 (No.1).	In section 6(1)(d), the words “or under section twenty-eight” to “duties therein”.	

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Ecclesiastical Jurisdiction Measure 1963 (No.1).— <i>cont.</i>	In Schedule 4, the entries relating to the Pluralities Act 1838 and the Benefices (Purchase of Rights of Patronage) Measure 1933.	5
Clergy (Ordination and Miscellaneous Provisions) Measure 1964 (No.6).	Section 1(2). Sections 11 and 12.	
Church of England (Miscellaneous Provisions) Measure 1976 (No.3).	Section 1(5). Section 2(3). Section 7. Section 8(3).	10
Pastoral Measure 1983 (No.1).	In Schedule 8, paragraphs 1, 2, 4 to 8 and 11 (except as they extend to the Isle of Man).	
Church of England (Miscellaneous Provisions) Measure 1983 (No.2).	Section 8(11) and (12). Section 12. Section 13(3).	15

## GROUP 2 - PROPERTY

## (1) ENDOWMENTS AND ADMINISTRATION OF PROPERTY

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Ecclesiastical Commissioners Act 1836 (6 & 7 Will.4 c.77).	Preamble. Sections 9 and 10. Sections 12 to 17.	20
Queen Anne's Bounty Act 1838 (1 & 2 Vict. c.20).	The whole Act.	25
Ecclesiastical Commissioners Act 1840 (3 & 4 Vict. c.113).	Section 83. Section 87. Sections 89 and 90.	
Ecclesiastical Commissioners Act 1841 (4 & 5 Vict. c.39).	Section 1. Section 30.	30
Ecclesiastical Commissioners Act 1850 (13 & 14 Vict. c.94).	Section 24. Section 28.	
Parsonages Act 1865 (28 & 29 Vict. c.69).	In section 4, the words from "contained in" to "any other form".	
Ecclesiastical Commissioners Act 1866 (29 & 30 Vict. c.111).	In section 1, the words from ", unless" to the end.	35
Ecclesiastical Commissioners (Powers) Measure 1936 (26 Geo.5 & 1 Edw.8 No.5).	In section 2(3), paragraph (c) (leaving in "and" at the end).	
Ecclesiastical Commissioners (Powers) Measure 1942 (5 & 6 Geo.6 No.1).	The whole Measure.	40
Episcopal Endowments and Stipends Measure 1943 (6 & 7 Geo.6 No.2).	In section 1(1), the proviso.	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Episcopal Endowments and Stipends Measure 1943 (6 & 7 Geo.6 No.2).— <i>cont.</i>	In section 8(1), in the definition of “the bishop”, the words “except in the proviso to subsection (1) of section 1”.	
Church Commissioners Measure 1947 (10 & 11 Geo.6 No.2).	Section 15(1) and (2). In section 17(1), the words from “Ecclesiastical Commissioners (Superannuation)” to “1933, and the”.	5
New Housing Areas (Church Buildings) Measure 1954 (2 & 3 Eliz.2 No.1).	Section 2.	10
Church Commissioners Measure 1964 (No.8).	Section 2(3). Section 3.	
Church Commissioners (Miscellaneous Provisions) Measure 1975 (No.1).	Section 1(2).	15

(2) GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Parsonages Measure 1938 (1 & 2 Geo.6 No.3).	Section 21.	20
New Parishes Measure 1943 (6 & 7 Geo.6 No.1).	Section 17(2).	
Diocesan Stipends Funds Measure 1953 (1 & 2 Eliz.2 No.2).	Section 10. Section 11(2).	25
Church (Miscellaneous Provisions) Measure 1960 (8 & 9 Eliz.2 No.1).	Section 15. In section 18, the words from “whether before” to the end. Section 22. In section 24(1), the words “then, after the passing of this Measure,”.	30
Redundant Churches and other Religious Buildings Act 1969 (c.22).	Section 3. Section 7(3).	
Repair of Benefice Buildings Measure 1972 (No.2).	Section 32. In Schedule 1, paragraphs 1(a), (c) and (e), 2(2), (3), (5), (6) and (8) and 3.	35
Endowments and Glebe Measure 1976 (No.4).	Section 6(2). Section 10(1) and (2). Section 13. Section 38(1). Section 49(2). In Schedule 6, paragraphs 2 and 3(1).	40
Church of England (Miscellaneous Provisions) Measure 1978 (No.3).	Section 3(2). Section 12.	45





<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Synodical Government Measure 1969 (No.2).— <i>cont.</i>	Section 7(3) (except as it extends to the Isle of Man). In section 9(2), the words from “the appointed day” to “Laity, and”. In section 9(4), the words “, and so much of Schedule 4 as relates to these provisions,”. In Schedule 4, paragraphs 1(2), 2(3), 2(4), 3(2), 3(3), 4(1), 4(2), 5 and 6.	5
Dioceses Measure 1978 (No.1).	Section 9(8). Section 15(1) and (2). Section 25(2).	10
Parochial Registers and Records Measure 1978 (No.2).	Section 23. Section 27(2).	
Access to Justice Act 1999 (c.22).	In Schedule 10, paragraph 1.	15

PART 7

EDUCATION

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Oxford University Act 1854 (17 & 18 Vict. c.81).	Section 5. In section 48, the words from “the Word “Scholarship”” to “appropriated to any College in Scotland; and”.	20
Cambridge University Act 1856 (19 & 20 Vict. c.88).	In section 5, the words from the beginning to “shall be called” and the words “, and which”. In section 17, the words from “and to revise” to “the Commissioners,”.	25
Public Schools Act 1868 (31 & 32 Vict. c.118).	Section 20(1) to (4), (11), (12), (14) and (15). Section 21.	
Universities of Oxford and Cambridge Act 1877 (40 & 41 Vict. c.48).	In section 2, the definitions other than those of “College” and “Office”. Section 24. Section 57.	30
Universities of Oxford and Cambridge Act 1923 (13 & 14 Geo.5 c.33).	Section 5.	35
Universities and College Estates Act 1925 (15 & 16 Geo.5 c.24).	Section 32(2)(a).	
Polish Resettlement Act 1947 (10 & 11 Geo.6 c.19).	Section 6. Section 11(4).	
Social Security Act 1980 (c.30).	In Schedule 4, in paragraph 1(2), the words “, 6(1)”.	40
Education Reform Act 1988 (c.40).	Section 121(1) to (3). Section 137. Section 138(1)(c) and the word “and” immediately preceding it. Section 201.	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Education Reform Act 1988 (c.40).— <i>cont.</i>	In section 230(1), the words “section 201(5) and (7);”. Section 236(1), (4) and (5). In Schedule 12, paragraphs 52, 65 and 90.	5
Education Act 1997 (c.44).	Sections 33 and 34. Section 37.	
School Standards and Framework Act 1998 (c.31).	Section 122(2). Section 131(2). Section 132(2) to (4) and (6). Section 133. Section 134(2).	10

PART 8

EMPLOYMENT

<i>Reference</i>	<i>Extent of repeal or revocation</i>	<i>15</i>
Apprentices Act 1814 (54 Geo.3 c.96).	The whole Act.	
Holidays with Pay Act 1938 (1 & 2 Geo.6 c.70).	The whole Act.	
Employment and Training Act 1973 (c.50).	Section 12(6). Section 15(2). In section 15(3), the words from “, except” to “1970.”. In Schedule 3, paragraphs 1, 2, 8 and 11(1).	20
Employment Protection Act 1975 (c.71).	Section 111(1). In section 124(5), the words “the Maternity Pay Fund.”. In Schedule 13, paragraphs 5 and 7. In Schedule 14, paragraph 6.	25
Job Release Act 1977 (c.8).	The whole Act.	
Employment Subsidies Act 1978 (c.6).	The whole Act.	
Employment and Training Act 1981 (c.57).	Section 9(1). In section 11(4), the words in parentheses. In Schedule 2, paragraphs 5, 10, 11, 13 and 16.	35
Industrial Training Act 1982 (c.10).	Section 20(2). In Schedule 2, paragraphs 1 to 5.	
Employment Act 1982 (c.46).	The whole Act.	40
Dock Work Act 1989 (c.13).	Sections 1 to 5. Section 7(2). In Schedule 2, paragraphs 1, 3, 4(4), 4(5), 8 and 9.	
Employment Act 1989 (c.38).	Section 3(2). Section 8(1)(c) and the word “or” preceding it. Section 9(1) to (6)(a).	45



<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Administration of Justice Act 1965 (c.2).	In Schedule 1, the entry relating to the Consolidated Fund (Permanent Charges Redemption) Act 1873.	
Post Office Act 1969 (c.48).	In Schedule 6, the entry in Part 3 relating to section 2 of the Consolidated Fund (Permanent Charges Redemption) Act 1883.	5
Judicature (Northern Ireland) Act 1978 (c.23).	In Schedule 5, the entry in Part 2 relating to the Consolidated Fund (Permanent Charges Redemption) Act 1873.	
Miscellaneous Financial Provisions Act 1983 (c.29).	Section 6.	10

GROUP 2 - PUBLIC REVENUE AND EXPENDITURE

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Exchequer and Audit Departments Act 1866 (29 & 30 Vict. c.39).	In section 2, the words from ““sub-accountants”” to the end.	15
Revenue Act 1884 (47 & 48 Vict. c.62).	In section 14, the words “; and any pay” to “section twenty-seven of the Exchequer and Audit Departments Act 1866”.	
Revenue Act 1898 (61 & 62 Vict. c.46).	In section 9, the words “Courts of Law Fees (Scotland) Act 1868, and the”.	20
Exchequer and Audit Departments Act 1921 (11 & 12 Geo.5 c.52).	Section 9(1) and (5).	
Exchequer and Audit Departments Act 1957 (5 & 6 Eliz.2 c.45).	Section 1(2). Section 2(1).	25
Public Expenditure and Receipts Act 1968 (c.14).	In Schedule 3, the entries relating to the Friendly Societies Act 1974, the Shops Act 1950, the Fees (Increase) Act 1923 and the Sea Fisheries Regulation Act 1966.	30
Friendly Societies Act 1974 (c.46).	In Schedule 9, paragraph 21.	

GROUP 3 - PUBLIC WORKS

35

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Public Works Loans Act 1875 (38 & 39 Vict. c.89).	In section 33, the words from “, in like manner” to “pay.” and the words from “The Loan Commissioners may issue” to the end of the section. In section 57, the proviso.	40
Public Works Loans Act 1882 (45 & 46 Vict. c.62).	The whole Act.	

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Public Works Loans Act 1887 (50 & 51 Vict. c.37).	The whole Act.

## GROUP 4 - FINANCE ACTS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Finance Act 1949 (12, 13 & 14 Geo.6 c.47).	Section 47.	5
Finance Act 1954 (2 & 3 Eliz.2 c.44).	In section 34(3), the words from “and shall be payable” to the end of that subsection. Section 34(4). Section 35(6).	10
Finance Act 1991 (c.31).	Section 120.	

## GROUP 5 - CAR TAX

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Isle of Man Act 1979 (c.58).	Section 1(1)(e). Section 7.	15
Car Tax Act 1983 (c.53).	The whole Act.	
Finance Act 1984 (c.43).	Section 16(1).	
Police and Criminal Evidence Act 1984 (c.60).	In Schedule 6, paragraph 40.	20
Car Tax (Vehicles for the Handicapped) Order 1984 (S.I. 1984 No.488).	The whole Order.	
Companies Consolidation (Consequential Provisions) Act 1985 (c.9).	In Schedule 2, the entry relating to the Car Tax Act 1983.	25
Finance Act 1985 (c.54).	Section 10(6)(h).	
Debtors (Scotland) Act 1987 (c.18).	In Schedule 4, paragraph 3.	
Finance Act 1988 (c.39).	Section 12(1)(d) and (5).	30
Finance Act 1989 (c.26).	Section 27.	
Finance Act 1991 (c.31).	Sections 19 and 20.	
Finance Act 1992 (c.20).	Section 8.	
Car Tax (Abolition) Act 1992 (c.58).	The whole Act.	35
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).	In Schedule 4, paragraph 47.	

GROUP 6 - GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Forged Transfers Act 1891 (54 & 55 Vict. c.43).	In section 1(1), the words from “whether such loss arises” to “passing of this Act, and”. In section 3, the words “, or loan”.	5
Forged Transfers Act 1892 (55 & 56 Vict. c.36).	In section 2, the words from “whether such loss arises” to “passing of this Act, and”.	
Government Annuities Act 1929 (19 & 20 Geo.5 c.29).	In section 36(2), the proviso. In section 66(2), in proviso (a), the words from “and any deferred” to the end. In Schedule 3, Part 1.	10
Finance Act 1937 (1 Edw.8 & 1 Geo.6 c.54).	In section 5(1), from the beginning to “accordingly”.	
National Loans Act 1968 (c.13).	Section 17(1). Section 18(1). In Schedule 1, the entries relating to the New Towns Act 1946, the Miscellaneous Financial Provisions Act 1950, the Finance Act 1956, section 20(6) of the Transport Act 1962, the Housing Act 1964 and the Air Corporations Act 1967. In Schedule 5, the entries relating to section 21(1) of the Coal Industry Nationalisation Act 1946 and the Cable and Wireless Act 1946.	15
Post Office Act 1969 (c.48).	Section 108(1)(d).	25
Statutory Corporations (Financial Provisions) Act 1974 (c.8).	In Schedule 2, paragraph 3.	
Statutory Corporations (Financial Provisions) Act 1975 (c.55).	In Schedule 4, paragraph 4.	30
Stock Transfer Act 1982 (c.41).	In Schedule 2, paragraph 1(1)(c).	
National Audit Act 1983 (c.44).	Sections 10 and 11. In section 15(2), the words “Subject to subsection (3) below,”. Section 15(3).	35
Government Resources and Accounts Act 2000 (c.20).	Section 1(2). Section 2(6). Section 3(4). Section 5(9). Section 6(5). Section 7(6). Section 8(3). Section 21(4). Section 26(3). In Schedule 1, paragraphs 9, 12 and 13.	40
		45



<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Local Government Act 1974 (c.7).— <i>cont.</i>	In section 10(1), the words following paragraph (f). Section 10(2), except the words “In this Part of this Act” and the definition of “year”. Section 10(3) to (5). Schedule 2.	5
Lotteries and Amusements Act 1976 (c.32).	In Schedule 4, paragraph 9.	
Local Government, Planning and Land Act 1980 (c.65).	Part 6. Section 69(3). Schedules 8 to 10. In Schedule 32, paragraph 31.	10
Local Government Finance Act 1982 (c.32).	Part 2. Schedule 2.	15
Local Government Act 1985 (c.51).	Section 69. Sections 80 and 81. Section 83. In Schedule 16, paragraph 9.	
Social Security Act 1986 (c.50).	Section 30. In Schedule 10, paragraph 52.	20
Rate Support Grants Act 1986 (c.54).	The whole Act.	
Rate Support Grants Act 1987 (c.5).	The whole Act.	25
Local Government Finance Act 1987 (c.6).	The whole Act.	
Local Government Act 1987 (c.44).	The whole Act.	
Local Government Finance Act 1988 (c.41).	Section 126.	30
Rate Support Grants Act 1988 (c.51).	The whole Act.	
Local Government and Housing Act 1989 (c.42).	Sections 147 and 148. In Schedule 11, paragraph 92.	35
Education Act 1996 (c.56).	In Schedule 37, paragraph 49.	
Audit Commission Act 1998 (c.18).	In Schedule 3, paragraph 6.	
Greater London Authority Act 1999 (c.29).	In Schedule 27, paragraphs 38 and 43. In Schedule 29, in Part 1, paragraph 47.	40

GROUP 3 - GENERAL REPEALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Local Government Act 1888 (51 & 52 Vict. c.41).	Section 69.

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Local Government Act 1888 (51 & 52 Vict. c.41).— <i>cont.</i>	In section 78(3), the words from “and a presentment” to the end. Section 87.	
Local Government Act 1894 (56 & 57 Vict. c.73).	Section 8(1)(c) and (4). In section 26(2), from “and may with” to the end. Section 26(7).	5
Local Government Act 1929 (19 Geo.5 c.17).	In section 131(3), the words from “(other than” to “this Act”).	10
Compensation of Displaced Officers (War Service) Act 1945 (8 & 9 Geo.6 c.10).	The whole Act.	
Local Government Act 1958 (6 & 7 Eliz.2. c.55).	Section 63.	15
Eisteddfod Act 1959 (7 & 8 Eliz.2 c.32).	The whole Act.	
Town and Country Planning Act 1959 (7 & 8 Eliz.2 c.53).	Section 23(4). In section 57(1), in the definition of “grant-aided function,” the words “(other than any grant under section 1 of the Local Government Act 1966)”.	20
Local Government Act 1966 (c.42).	Section 43. Schedule 5.	
Llangollen International Musical Eisteddfod Act 1967 (c.49).	The whole Act.	25
Local Authority Social Services Act 1970 (c.42).	Section 2(7). Section 6(8). Section 14(4). Section 15(4) and (5). In Schedule 1, the entry relating to section 7(4) of the Family Law Reform Act 1969.	30
Welsh National Opera Company Act 1971 (c.37).	The whole Act.	35
Local Government, Planning and Land Act 1980 (c.65).	Section 1(4) and (5). Section 2(7)(a). Schedules 4 and 5.	
Local Government (Miscellaneous Provisions) Act 1982 (c.30).	Section 11. Section 27(2). Section 39(3). Section 46. In section 49(2), the words “11(2),”.	40
Local Government (Interim Provisions) Act 1984 (c.53).	The whole Act.	45
Local Government Act 1985 (c.51).	Section 7(2). Section 11(1). Section 14. Section 30.	



<i>Reference</i>	<i>Extent of repeal or revocation</i>	
U.S.A. Veterans' Pensions (Administration) Act 1949 (12, 13 & 14 Geo.6 c.45).	The whole Act.	
Administration of Estates (Small Payments) Act 1965 (c.32).	In Schedule 1, in Part 1, the entry relating to the U.S.A Veterans' Pensions (Administration) Act 1949.	5
Honourable Lady Hylton-Foster's Annuity Act 1965 (c.70).	The whole Act.	10
Pensions (Increase) Act 1971 (c.56).	In Schedule 2, in Part 1, in paragraph 3, the words "under the Hon. Lady Hylton-Foster's Annuity Act 1965 or". In Schedule 2, in Part 1, paragraph 28.	
Parliamentary and other Pensions Act 1972 (c.48).	Section 32.	15
Social Security Pensions Act 1975 (c.60).	Section 61. Section 67. Section 68(4)(f) and (g). In Schedule 4, paragraphs 4, 21, 34 and 65.	20
Mental Health Act 1983 (c.20).	In Schedule 4, paragraph 9.	
Ministerial and other Pensions and Salaries Act 1991 (c.5).	Section 1(3). Section 7(2).	
Hong Kong (Overseas Public Servants) Act 1996 (c.2).	Sections 2 and 3. Section 5(5). Section 6(2).	25
Child Support, Pensions and Social Security Act 2000 (c.19).	Section 57(4).	

## PART 12

30

## PROPERTY

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Settled Land Act 1925 (15 & 16 Geo.5 c.18).	Section 15. Section 118. Schedule 1. Schedule 4.	35
Law of Property Act 1925 (15 & 16 Geo.5 c.20).	In section 39, paragraph 6. Section 112. In section 153(4), the proviso. Section 206. In Schedule 1, Part 6. Schedules 5 and 6.	40
Law of Property Act 1969 (c.59).	Section 16. Section 17(2). In section 28(11), paragraphs (a) and (b) and the word "but" preceding them.	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Administration of Justice Act 1970 (c.31).	Section 36(5). In Schedule 2, paragraphs 26 and 28.	
Land Charges Act 1972 (c.61).	Section 18(4).	
Administration of Justice Act 1973 (c.15).	Section 8(5).	5
Local Land Charges Act 1975 (c.76).	Section 20(3). In Schedule 1, the entries relating to the Ancient Monuments Act 1931, the Public Utilities Street Works Act 1950, the Housing Act 1964, the Field Monuments Act 1972, section 24(3) and (4) of the Land Compensation Act 1973 and the Pastoral Measure 1968.	10
Rentcharges Act 1977 (c.30).	Section 17(4) and (5). Section 18(2).	15
Law of Property (Miscellaneous Provisions) Act 1994 (c.36).	In section 9(2), the words “Schedule 1 to the Settled Land Act 1925 and” and “and 5”.	

PART 13

PUBLIC HEALTH

<i>Reference</i>	<i>Extent of repeal or revocation</i>	<i>20</i>
Public Health Acts Amendment Act 1890 (53 & 54 Vict. c.59).	In section 9, the words from “except byelaws” to the end. In section 12, paragraph (1).	
Public Health Act 1936 (26 Geo.5 & 1 Edw.8 c.49).	Section 205 from “or, if” to the end. In section 263(1), the words from “within a borough” to “this Act,”. In section 264, the words from “within a borough” to “commencement of this Act,”. In section 309(3), the words from “without prejudice” to the end.	25
Physical Training and Recreation Act 1937 (1 Edw.8 & 1 Geo.6 c.46).	Section 7.	30
Prevention of Damage by Pests Act 1949 (12 & 13 Geo.6 c.55).	The following provisions as they extend to England and Wales:— In section 3(2), the words from “and the Minister” to the end. Section 8. Sections 18 and 19. Section 25. In section 27(1), paragraph (b). Section 30(2) and (3).	35
Local Government (Miscellaneous Provisions) Act 1953 (1 & 2 Eliz.2 c.26).	Section 18(3). Section 19(2).	40
		45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Public Health Act 1961 (9 & 10 Eliz.2 c.64).	Section 86(2).	
Fire Precautions Act 1971 (c.40).	Sections 33 and 34. Schedule 1.	5
Local Government Act 1972 (c.70).	In Schedule 14, paragraphs 3, 19 and 21, in paragraph 24(d) the words “, and 85”, in paragraph 25(2)(c) the words “or 85”, and paragraphs 33, 35, 36 and 44. Schedule 15.	10
Control of Pollution Act 1974 (c.40).	In section 109(3), the words “100 and”. In Schedule 2, paragraphs 4, 5 and 20. In Schedule 3, paragraphs 1 to 4.	
Local Government (Miscellaneous Provisions) Act 1976 (c.57).	Section 27(1) and (3). Section 83(2).	15
Disabled Persons Act 1981 (c.43).	Section 6. Section 9(2).	
Public Health (Control of Disease) Act 1984 (c.22).	In section 5(4), the words from “without prejudice” to the end. Section 79(2). In Schedule 1, paragraph 4.	20
Building Act 1984 (c.55).	In section 11(7), paragraph (b) and the word “or” preceding it. In section 12(10), paragraph (b) and the word “or” preceding it. In Schedule 5, paragraphs 1 and 4. In Schedule 6, paragraphs 9 and 12.	25
Fire Safety and Safety of Places of Sport Act 1987 (c.27).	Section 12(2). Section 15. Section 16(3)(b). Section 22(4), (6) and (8)(d).	30
Control of Pollution (Amendment) Act 1989 (c.14).	Section 11(2).	
Environmental Protection Act 1990 (c.43).	Section 77(3). In Schedule 13, paragraphs 2(1) and 6. In Schedule 15, paragraph 21.	35
Clean Air Act 1993 (c.11).	In section 30(5), the words from “, except” to “that Act.”. Section 68(2).	40
Environment Act 1995 (c.25).	Section 2(3). Section 3(2) to (7). Section 21(3). Section 22(2) to (8). Section 111(1). Section 118(2).	45



<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Road Traffic Act 1960 (8 & 9 Eliz.2 c.16).	In section 232(2), the words from “In this subsection” to the end. Sections 248 and 249. Section 266. Section 270. Schedule 20.	5
Road Traffic Act 1962 (10 & 11 Eliz.2 c.59).	The whole Act.	
Road Traffic Regulation Act 1967 (c.76).	The whole Act.	10
London Cab Act 1968 (c.7).	Section 3(1). Section 5(2).	
Public Expenditure and Receipts Act 1968 (c.14).	In Schedule 3, the entry relating to section 249(1)(d) of the Road Traffic Act 1960.	15
Transport Act 1968 (c.73).	Section 32. Section 139. Section 145. In section 157, the words from “, except” to “124,”. Section 161. Schedule 8.	20
Finance Act 1974 (c.30).	Section 55.	
Carriage of Passengers by Road Act 1974 (c.35).	The whole Act.	25
Road Traffic Act 1974 (c.50).	Section 23(1).	
Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c.3).	Section 2(4). Section 4(2) to (4).	
Carriage by Air and Road Act 1979 (c.28).	Section 3(4). Section 4(3). In section 4(4), the words “, 13 or 16” and from “and, in a case falling” to the end. In section 5(1), the words “and 19”. In section 6(1), paragraph (c) and the word “and” preceding it. Section 6(4)(b).	30 35
Transport Act 1980 (c.34).	Section 62(2). Schedule 4.	
Public Passenger Vehicles Act 1981 (c.14).	Section 69(3). Section 89(3).	40
Civil Jurisdiction and Judgments Act 1982 (c.27).	In section 31(3), the words “or section 5 of the Carriage of Passengers by Road Act 1974”. In section 32(4)(b), the words “, section 5 of the Carriage of Passengers by Road Act 1974”.	45
Transport Act 1983 (c.10).	Section 10.	
International Transport Conventions Act 1983 (c.14).	In Schedule 2, paragraph 3.	

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Road Traffic Regulation Act 1984 (c.27).	Section 145. Schedule 2. In Schedule 10, paragraphs 18 and 20. In Schedule 13, paragraphs 2, 5 and 39.	5
Roads (Scotland) Act 1984 (c.54). Transport Act 1985 (c.67).	In Schedule 9, paragraph 24.  Section 32. Section 114(3). Section 117(3). In section 135(1), the words from “and in subsection (2)” to the end. Section 139(5). In Schedule 1, paragraphs 6, 7, 9, 10, 12 and 14. In Schedule 3, paragraphs 1, 5, 9 to 11, 14, 24 to 28 and 32. In Schedule 6, paragraphs 1 to 5, in paragraph 6(1) the definitions “relevant authority” and “the transitional period”, paragraphs 8 to 12, 14, 16 to 18, 20, 22 and 24. In Schedule 7, paragraphs 4, 5, 11, 16 and 26.	10
Road Traffic Act 1988 (c.52).	Sections 67A and 67B. In section 172(1)(c), the words from “except” to “1989,”.	15
Road Traffic Offenders Act 1988 (c.53).	Section 27(4) as it extends to Scotland. Section 30 as it extends to Scotland. Section 52(4). Section 59. Section 99(5). In Schedule 1, paragraphs 2(c), 3(bb) and 4(aa) and, in the table, the entry for section 99 of the Road Traffic Act 1988. In Schedule 2, in Part 1, the heading “Offences under the Road Traffic (Driver Licensing and Information Systems) Act 1989” and the entries thereunder relating to that Act. In Schedule 5, the heading “Offences under the Road Traffic (Driver Licensing and Information Systems) Act 1989” and the entries thereunder relating to that Act.	20
Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22).	Section 1(2) to 1(6). In section 1(7), the words “and in subsection (2)” to the end. Schedule 1. In Schedule 3, paragraphs 1, 7, 10, 13, 17, 25, 27(a) to (c), 29 and 30(d).	25
Road Traffic Act 1991 (c.40).	Section 31. Section 49.	30
Transport and Works Act 1992 (c.42).	Section 50.	35
Goods Vehicles (Licensing of Operators) Act 1995 (c.23).	Section 56.	40

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Goods Vehicles (Licensing of Operators) Act 1995 (c.23).— <i>cont.</i>	In Schedule 6, paragraph 6. In Schedule 7, paragraphs 2, 4, 13 and 14.	
Road Traffic (Vehicle Testing) Act 1999 (c.12).	Section 6.	5
Greater London Authority Act 1999 (c.29).	In Schedule 20, paragraphs 4 and 13.	
Transport Act 2000 (c.38).	Section 269. Section 275(3).	10

## PART 15

## SCOTTISH ACTS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Shotts Iron Company's Act 1871 (34 & 35 Vict. c.xvii).	The whole Act.	15
Bank of Scotland Act 1873 (36 & 37 Vict. c.xcix).	Sections 4 to 9.	
Western Bank of Scotland (Liquidation) Act 1876 (39 & 40 Vict. c.lxxv).	The whole Act.	20
Shotts Iron Company's Act 1877 (40 & 41 Vict. c.xviii).	The whole Act.	
Scottish American Mortgage Company Limited Act 1903 (3 Edw.7 c.clvii).	The whole Act.	25
Scottish United Investors Limited Order Confirmation Act 1931 (21 & 22 Geo.5 c.xxvi).	The whole Act.	
Fort William Pulp and Paper Mills Act 1963 (c.15).	The whole Act.	30

## PART 16

## TRADE AND INDUSTRY

## GROUP 1 - PARTICULAR INDUSTRIES

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Atomic Energy Act 1946 (9 & 10 Geo.6 c.80).	Section 20(3).	35

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Atomic Energy Authority Act 1954 (2 & 3 Eliz.2 c.32).	In section 6(5), the words from “, and the Public” to the end. Section 9(5). In Schedule 2, paragraph 3.	5
Scrap Metal Dealers Act 1964 (c.69).	Section 8. Section 10(1). In section 10(2), the words from the beginning to “subsection,”. Section 11(2).	10
Hairdressers (Registration) Act 1964 (c.89).	In section 2, the words “before the appointed day establish and thereafter”. In section 3(1), the words from “after such date” to “this section”. Section 3(2). In section 7(1), the words “within six months of the appointed day and” and the word “thereafter”. In section 15, the definition of “the appointed day”. In Schedule 1, in paragraph 1(1), 1(2) and 1(5), the words “(subject to the provisions of paragraph 2 of this Schedule)”. In Schedule 1, paragraphs 2, 5 and 6(3).	15
Atomic Energy Authority Act 1971 (c.11).	Section 5(1) to (4). In section 5(5), the words “Subject to the next following subsection,”. Section 5(6). In section 5(7), the words “giving any direction or” in both places where they appear. Section 5(8). In section 6(3), the words from “; and any legal proceedings” to the end. Section 7. Section 8(5). In section 8(6), the words “or subsection (5)”. Section 9(2) to (4). Section 11(1) and (2). Section 17(3). In section 24(2), the words from “and different days” to the end.	25
Atomic Energy Authority (Weapons Group) Act 1973 (c.4).	Section 3(1) to (3). In section 3(4), the words “Subject to the next following subsection,” and the words from “but the issue” to the end. In section 3(5), the words “giving any direction or” in both places where they appear. In section 4(2), the words from “; and any legal proceedings” to the end.	30
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<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Industry Act 1981 (c.6).— <i>cont.</i>	In section 3(2), paragraph (a) and the word “and” immediately before paragraph (c). Section 7(2). In section 7(5), the words “Subject to subsection (4) above,”.	5
Energy Conservation Act 1981 (c.17).	The whole Act.	
Industrial Development Act 1982 (c.52).	Section 1(2). In section 1(4), the words “or, as the case may be, special development area”. Section 1(5) and (6). In section 1(7), the words from “, and an order” to the end. Section 1(8). Part 2. Section 11(3). In section 15(2), the words “Part II,”. Section 15(4). Section 16(4). In section 18(1), the words “, “special development area”” and “, as a special development area”.	10
	Schedule 1. In Schedule 2, Part 1 and paragraphs 6 and 9 of Part 2.	15
Co-operative Development Agency and Industrial Development Act 1984 (c.57).	Section 3. Section 5(1) and (3) to (6). In section 6, the words from “but” to the end. Section 7. In section 8(2), the words “Part I of this Act and”. In Schedule 1, Part 1 and paragraphs 1, 4, 5 and 6 of Part 2. In Schedule 2, the provisions at the end of Parts 1, 2 and 3.	20
	The whole Act.	25
Regional Development Grants (Termination) Act 1988 (c.11).	Section 1(2) and (5). Sections 2 to 7. In section 8(2), the words from “except to the extent” to the end. Section 8(3). Section 9. Section 13. In section 14(2), the words “6 above or”. In Schedule 1, paragraph 1.	30
British Technology Group Act 1991 (c.66).	Section 7(4). Section 15(6).	35
Export and Investment Guarantees Act 1991 (c.67).	Section 14. Sections 23 and 24. Section 62(2). Section 64.	40
Deregulation and Contracting Out Act 1994 (c.40).		45
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<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Deregulation and Contracting Out Act 1994 (c.40).— <i>cont.</i>	Section 82(2) to (7). In Schedule 4, paragraphs 5 to 8. In Schedule 10, paragraphs 1(2), 2(1) and 3 to 5. In Schedule 11, paragraphs 4(2), 7(5)(b), 8, 9, 11 and 12(a).	5
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40).	In Schedule 4, paragraph 46.	

PART 17

10

MISCELLANEOUS

GROUP 1 - ANIMALS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Customs and Inland Revenue Act 1893 (56 & 57 Vict. c.7).	The whole Act.	15
Dogs Act 1906 (6 Edw.7 c.32).	Section 9.	
Docking and Nicking of Horses Act 1949 (12, 13 & 14 Geo.6 c.70).	Section 2(5). Section 5(2).	
Game Laws (Amendment) Act 1960 (8 & 9 Eliz.2 c.36).	In section 3(3), the words from “and in the said” to the end. Section 5. Section 6(4).	20
Agriculture (Miscellaneous Provisions) Act 1968 (c.34).	In section 6(4), the words from “and the provisions” to the end. Section 54(2).	25
Farriers (Registration) (Amendment) Act 1977 (c.31).	Section 1(2). Section 2(2) and (3).	
Animal Health Act 1981 (c.22).	In section 77, the words from “Until the coming” to the end. Section 94(1). In Schedule 5, paragraph 4.	30
Zoo Licensing Act 1981 (c.37).	Section 1(4). Section 20. Section 22(1)(b). Section 23(2).	35
Animal Health and Welfare Act 1984 (c.40).	Section 4. Section 12. Section 17(2) and (3).	
Protection of Animals (Penalties) Act 1987 (c.35).	Section 1(2). Section 2(2) and (3).	40
Local Government Act 1988 (c.9).	Section 38.	

## GROUP 2 - BANKS AND BUILDING SOCIETIES

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Bank Charter Act 1844 (7 & 8 Vict. c.32).	Section 27.	
Bank Act 1892 (55 & 56 Vict. c.48).	Section 5.	5
Bank of England Act 1946 (9 & 10 Geo.6 c.27).	In Schedule 1, paragraph 4.	
Currency and Bank Notes Act 1954 (2 & 3 Eliz.2 c.12).	Section 4(3).	10
Banking Act 1979 (c.37).	Section 51(2). Section 52(3).	
Currency Act 1983 (c.9).	Section 2(8) and (9). Section 3(5).	15
Building Societies Act 1986 (c.53).	Section 119(5). In section 122(1), from the beginning to “21 and”. Section 124. In section 126(3), the words “124,” and “and Schedule 21”. Section 126(4). In Schedule 18, paragraphs 3 and 19(2). Schedule 21.	20

## GROUP 3 - BETTING, GAMING AND LOTTERIES

25

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Art Unions Act 1846 (9 & 10 Vict. c.48).	The whole Act.	
Betting and Lotteries Act 1934 (24 & 25 Geo.5 c.58).	The whole Act.	30
Finance Act 1967 (c.54).	Section 45(2). Section 45(3)(f).	
Gaming Act 1968 (c.65).	Section 44(2). In section 51(5), the words “(except any order under section 54 of this Act)”. Section 54(3) to (5). In Schedule 3, in paragraph 13(3), the words “to (5)”.	35
Lotteries and Amusements Act 1976 (c.32).	Section 25(6). In Schedule 4, paragraph 7.	40
Gaming (Amendment) Act 1982 (c.22).	In Schedule 1, paragraphs 2, 6(1) and (2) and 14.	
Gaming (Amendment) Act 1987 (c.11).	Section 1(4). Section 2(2).	
Bingo Act 1992 (c.10).	Section 1(9).	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Finance Act 1993 (c.34).	Section 24(4)(e).

GROUP 4 - CHARITIES

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Charitable Trusts (Validation) Act 1954 (2 & 3 Eliz.2 c.58).	Section 4(1) to (3).	5
Recreational Charities Act 1958 (6 & 7 Eliz.2 c.17).	In section 3(3), the words from the beginning to “this section,”. Section 3(4) and (5).	
Charities Act 1960 (8 & 9 Eliz.2 c.58).	In section 28(9), the words “The Charities Procedure Act, 1812, and”. Section 48(5).	10
Charities Act 1993 (c.10).	In Schedule 6, the entries relating to the Charitable Trustees Incorporation Act 1872, the Local Government Act 1933, the Administration of Justice Act 1956 and the Cathedrals Measure 1931. Section 99. Schedule 8.	15

GROUP 5 - COMPANIES

20

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Companies Clauses Consolidation Act 1845 (8 & 9 Vict. c.16).	In section 33, the words “or master extraordinary”.	
Companies Act 1985 (c.6).	In sections 44(7)(b) and 103(7)(b), the words from “and any body” to the end. Section 718(4).	25
Companies Consolidation (Consequential Provisions) Act 1985 (c.9).	Section 21. Sections 27 and 28.	30

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Companies Consolidation (Consequential Provisions) Act 1985 (c.9).— <i>cont.</i>	<p>In Schedule 2, the entries relating to—</p> <p>Agricultural Marketing Act 1958; Horticulture Act 1960; Professions Supplementary to Medicine Act 1960; 5 section 24(2) of the Transport Act 1962; section 55(1) of the Betting, Gaming and Lotteries Act 1963; Hairdressers (Registration) Act 1964; 10 section 55 of the Industrial and Provident Societies Act 1965; Cereals Marketing Act 1965; Agriculture Act 1967; Hearing Aid Council Act 1968; 15 Friendly and Industrial and Provident Societies Act 1968; section 14(2) of the Transport Act 1968; Agriculture Act 1970; Investment and Building Grants Act 1971; 20 Prevention of Oil Pollution Act 1971; Finance Act 1971; Finance Act 1972; Gas Act 1972; 25 Industry Act 1972; Hallmarking Act 1973; Merchant Shipping Act 1974; sections 36(1) and 87(2) of the Friendly Societies Act 1974; 30 Farriers Registration Act 1975; Part 4 of Schedule 12 to the Finance (No.2) Act 1975; Petroleum and Submarine Pipe-lines Act 1975; 35 Airports Authority Act 1975; Theatres Trust Act 1976; section 3(3) of the Insolvency Act 1976; section 17(8) of the Aircraft and Shipbuilding Industries Act 1977; 40 sections 88(3) and 114(2) of the Patents Act 1977; Commonwealth Development Corporation Act 1978;</p>



<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Debtors Act 1878 (41 & 42 Vict. c.54).	In section 1, the words “application for a writ of attachment, or other” and the word “writ,” where it later appears.	
Insolvency Act 1976 (c.60).	The whole Act.	5
County Courts Act 1984 (c.28).	In Schedule 2, paragraphs 59 and 60.	
Insolvency Act 1985 (c.65).	Section 219. Section 236(2). In Schedule 6, paragraph 8. In Schedule 8, paragraphs 10, 14, 17, 20, 32, 35, 37(2) and 38(4).	10

## GROUP 7 - MEDICINE

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Veterinary Surgeons Act 1966 (c.36).	Section 28(6) and (7). Section 29(3) and (4). In Schedule 1, paragraphs 12 and 13.	15
Medicines Act 1968 (c.67).	Section 25(1) to (3). Section 26. Section 37. In section 99(6), the proviso. Section 120. In section 135(2), the proviso. In Schedule 5, paragraph 1.	20
Misuse of Drugs Act 1971 (c.38).	In section 37(1), in the definition of “person lawfully conducting a retail pharmacy business”, the words “, subject to subsection (5) below,”. Section 37(5). Section 40(3).	25
Biological Standards Act 1975 (c.4).	Section 6. In section 8, in the definition of “accounting year”, the words “or the period” to the end. Section 9(2).	30
Controlled Drugs (Penalties) Act 1985 (c.39).	Section 2.	35

## GROUP 8 - MENTAL HEALTH

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Mental Health Act 1959 (7 & 8 Eliz.2 c.72).	In Schedule 7, the entries relating to the Children and Young Persons Act 1933, the Local Government Act 1958 and the Adoption Act 1958.	40
Mental Health (Amendment) Act 1982 (c.51).	In section 34(5), the words from the beginning to “1973,”. In Schedule 3, paragraphs 33, 44, 47, 50 and 51.	

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Mental Health Act 1983 (c.20).	In section 48(2)(c), the words from “(including” to “attachment)”.	
	Section 149(3).	5
	In Schedule 3, the references to sections 133, 134 and 137 of the Inclosure Act 1845, the Tithe Act 1846 and the Merchant Shipping Act 1894.	
	In Schedule 4, paragraphs 19, 30, 33, 36, 52, 53 and 54.	10
	In Schedule 5, paragraphs 4, 5, 7, 8, 9(1) and (3), 10 to 14, 18, 19, 22 and 26.	
Public Trustee and Administration of Funds Act 1986 (c.57).	Section 4. Section 6(2).	15
Mental Health (Amendment) Act 1994 (c.6).	The whole Act.	

GROUP 9 - NATIONAL TRUST

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
National Trust Act 1907 (7 Edw.7 c.cxxxvi).	Section 10. Sections 38 and 39. The whole Act as it extends to the Isle of Man.	20
National Trust Charity Scheme Confirmation Act 1919 (9 & 10 Geo.5 c.lxxxiv).	The whole Act as it extends to the Isle of Man.	25
National Trust Act 1937 (1 Edw.8 & 1 Geo.6 c.lvii).	Section 6(1). Section 12(2). Section 13. Section 16. The whole Act as it extends to the Isle of Man.	30
National Trust Act 1939 (2 & 3 Geo.6 c.lxxxvi).	Section 16(1) and (3). Section 17. The whole Act as it extends to the Isle of Man.	
National Trust Act 1953 (1 & 2 Eliz.2 c.vii).	Section 3(3). Section 5.	35
National Trust Act 1971 (c.vi).	Section 7(1) and (2). Section 8(4). Section 12(7). Section 28. Section 32. Section 34.	40

GROUP 10 - REGISTRATION CONCERNING THE INDIVIDUAL

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Non-Parochial Registers Act 1840 (3 & 4 Vict. c.92).	Section 1. Section 4.	45

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Marriage and Registration Act 1856 (19 & 20 Vict. c.119).	The whole Act.	
Births and Deaths Registration Act 1858 (21 & 22 Vict. c.25).	The whole Act.	5
Registration Service Act 1953 (1 & 2 Eliz.2 c.37).	Section 18. Section 22(1). In Schedule 1, paragraphs 1, 4, 5, 7, 8, 10 to 13, 14(b) to (d) and 15(b) to (d).	
Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (5 & 6 Eliz.2 c.58).	Section 7(2) and (4).	10
Population (Statistics) Act 1960 (8 & 9 Eliz.2 c.32).	Section 1(1). Section 5(3).	15
Public Expenditure and Receipts Act 1968 (c.14).	In Schedule 3, the entry relating to section 18(3) and (4) of the Registration Service Act 1953 and the entry relating to section 24 of the Marriage and Registration Act 1856.	
Local Government Act 1972 (c.70).	In Schedule 29, in paragraph 41(2), the words "18(2), (4) and (5)".	20
Still-Birth (Definition) Act 1992 (c.29).	Section 2(2).	

## GROUP 11 - GENERAL REPEALS

## (1) AGENCY 25

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Powers of Attorney Act 1971 (c.27).	Section 8. Section 11(4).

## (2) AUCTIONS

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Auctions (Bidding Agreements) Act 1927 (17 & 18 Geo.5 c.12).	Section 2.	
Auctions (Bidding Agreements) Act 1969 (c.56).	Section 3(3) and (4). Section 5(2).	30

## (3) PARKS AND COMMONS 35

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Battersea Park Act 1853 (16 & 17 Vict. c.47).	The whole Act.

<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Wimbledon and Putney Commons Act 1871 (34 & 35 Vict. c.cxiv).	Section 79.	
(4) CARRIERS		5
<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Carriers Act 1830 (11 Geo.4 & 1 Will.4 c.68).	In section 3, the words “, which receipt shall not be liable to any stamp duty”. Section 11.	
Carriers Act Amendment Act 1865 (28 & 29 Vict. c.94).	The whole Act.	10
(5) ISLE OF MAN		
<i>Reference</i>	<i>Extent of repeal or revocation</i>	
Naval Pay and Prize Act 1854 (17 & 18 Vict. c.19).	The whole Act as it extends to the Isle of Man.	15
Convict Prisons Abroad Act 1859 (22 Vict. 25).	The whole Act as it extends to the Isle of Man.	
Extradition Act 1895 (58 & 59 Vict. c.33).	The whole Act as it extends to the Isle of Man.	
Munitions of War Act 1915 (5 & 6 Geo.5 c.54).	The whole Act as it extends to the Isle of Man.	20
Coroners (Emergency Provisions) Act 1917 (7 & 8 Geo.5 c.19).	The whole Act as it extends to the Isle of Man.	
Increase of Rent etc. (Amendment) Act 1918 (8 & 9 Geo.5 c.7).	The whole Act as it extends to the Isle of Man.	25
Increase of Rent and Mortgage Interest (Restrictions) Act 1919 (9 & 10 Geo.5 c.7).	The whole Act as it extends to the Isle of Man.	30
Forestry (Transfer of Woods) Act 1923 (13 & 14 Geo.5 c.21).	The whole Act as it extends to the Isle of Man.	
Criminal Justice Act 1925 (15 & 16 Geo.5 c.86).	The whole Act as it extends to the Isle of Man.	
Savings Banks Act 1929 (19 & 20 Geo.5 c.27).	The whole Act as it extends to the Isle of Man.	35
Children and Young Persons (Scotland) Act 1937 (1 Edw.8 & 1 Geo.6 c.37).	The whole Act as it extends to the Isle of Man.	
Post Office Act 1969 (c.48).	The whole Act as it extends to the Isle of Man except sections 3, 94, 108, 109, 114, 132, 133, 138, 140 and 142, and Schedules 6 and 10.	40

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Expiring Laws Act 1969 (c.61).	The whole Act as it extends to the Isle of Man.
British Telecommunications Act 1981 (c.38).	The whole Act as it extends to the Isle of Man.

## SCHEDULE 2

Section 1(2)

5

## CONSEQUENTIAL AND CONNECTED PROVISIONS

*Carriers Act 1830 (c. 68)*

- 1 In section 1 of the Carriers Act 1830, after “or lace” insert “(other than machine-made lace)”.

*Judicial Committee Act 1833 (c. 41)*

10

- 2 After section 5 of the Judicial Committee Act 1833 insert the following section—

**“5A Quorum of Judicial Committee.**

No matter shall be heard, nor shall any order, report or recommendation be made by the Judicial Committee in pursuance of any Act unless in the presence of at least three members of the said Committee, exclusive of the Lord President of Her Majesty’s Privy Council for the time being.”.

15

*Non-Parochial Registers Act 1840 (c. 92)*

- 3 In the Non-Parochial Registers Act 1840, after section 17 insert the following section—

20

**“17A Application to registers or records deposited under the Births and Deaths Registration Act 1858.**

Sections 5 to 17 shall apply to the registers or records deposited in the General Register Office under the Births and Deaths Registration Act 1858 as they apply to the registers or records deposited under this Act.”.

25

*Game Licences Act 1860 (c.90)*

- 4 After section 16 of the Game Licences Act 1860 insert the following section—

**“16A Provision as to foreign game.**

30

The provisions of this Act relating to excise licences to deal in game and the dealing in and selling of game without an excise licence shall extend and apply to the dealing in and selling of hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards, imported from foreign parts into Great Britain.”.

35

*Finance Act 1937 (c.54)*

- 5 In section 5(1) of the Finance Act 1937, for “of that Act” substitute “of the Game Licences Act 1860”.

*Public Records Act 1958 (c.51)*

- 6 In Schedule 1 to the Public Records Act 1958, after paragraph 4(1) insert— 5
- “(1A) Records of, or held in any department of, the Supreme Court within sub-paragraph (1)(a) of this paragraph include the records of the Chancery Court of the county palatine of Lancaster and the Chancery Court of the county palatine of Durham (which were abolished by the Courts Act 1971). 10
- (1B) Records of county courts within sub-paragraph (1)(b) of this paragraph include the records of the following courts (which were abolished by the Courts Act 1971)—
- (a) the Tolzey and Pie Poudre Courts of the City and County of Bristol; 15
  - (b) the Liverpool Court of Passage;
  - (c) the Norwich Guildhall Court; and
  - (d) the Court of Record for the Hundred of Salford.”.

*Road Traffic Act 1960 (c. 60)*

- 7 Section 232(3) of the Road Traffic Act 1960 (failure to give information as to identity or leading to identification of driver) continues to have effect as amended by paragraph 48 in Part 3 of Schedule 1 to the Road Traffic Act 1962 and by Part 3 of the Criminal Justice Act 1982, that is with the words “to a fine not exceeding level 3 on the standard scale.” being added after the words “summary conviction”. 20 25
- 8 Section 242(1) of the Road Traffic Act 1960 (evidence by certificate as to identity of driver) continues to have effect as amended by Part 1 of Schedule 4 to the Road Traffic Act 1962, that is—
- (a) after the word “driven”, in both places where it occurs, insert the words “or used”; 30
  - (b) for the words “belonged on a particular occasion to”, in both places where they occur, substitute the words “on a particular occasion was used by or belonged to”.

*Attachment of Earnings Act 1971 (c.32)*

- 9 Civil Procedure Rules may continue to be made for the purposes of section 4 of the Attachment of Earnings Act 1971 (extension of power to make administration order) notwithstanding the repeal by this Act of section 12(1) of the Insolvency Act 1976, and the repeal of section 12(1) shall not affect the operation of any rules that are in force immediately before the coming into force of the repeal. 35 40
- 10 Section 4(1)(a) of the Attachment of Earnings Act 1971 (power to make administration order on application for attachment of earnings order) continues to have effect with the substitution of “an administration order

should be made” for “an order should be made for the administration of his estate”.

*Prices Act 1974 (c.24)*

- 11 In section 4 of the Prices Act 1974 (price marking), for subsection (3) substitute— 5
- “(3) Before making an order under this section the Secretary of State shall consult, in such manner as appears to him to be appropriate having regard to the subject-matter and urgency of the order, with such organisations representative of interests substantially affected by the order as appear to him, having regard to those matters, to be appropriate.”. 10

*Industry Act 1981 (c.6)*

- 12 In section 3 of the Industry Act 1981 (public dividend capital of the Welsh Development Agency), for subsection (1) substitute—
- “(1) The public dividend capital of the Welsh Development Agency is hereby reduced by £2.9 million.”. 15

*Hops Marketing Act 1982 (c.5)*

- 13 The repeal by this Act of the Hops Marketing Act 1982 shall not affect the operation of section 1(3) of that Act as it relates to paragraph 6 of Schedule 1 to the Agricultural Marketing Act 1958. 20

*Industrial Development Act 1982 (c.52)*

- 14 In section 15(1) of the Industrial Development Act 1982 (annual reports by the Secretary of State), for “under Parts I to III” in paragraph (a) substitute “under Parts 1 and 3”.

*Church of England (Miscellaneous Provisions) Measure 1983 (No.2)* 25

- 15 The repeal by this Act of section 12 of the Church of England (Miscellaneous Provisions) Measure 1983 shall not affect any power to dispose of the house and muniment room referred to in that section in accordance with paragraph 9 of Schedule 3 to the Pastoral Measure 1983 as if they had been transferred to the Board of Finance of the diocese of Lichfield by a pastoral scheme within the meaning of that Measure. 30

*Road Traffic Regulation Act 1984 (c.27)*

- 16 In Part 2 of Schedule 8 to the Road Traffic Regulation Act 1984, for paragraph 3 (definition of statutory statement of facts) substitute—
- “3 For the purposes of the specified sections, a statutory statement of facts is a statement which is in the prescribed form and which either— 35
- (a) states that the person furnishing it was the driver of the vehicle at the relevant time and is signed by him; or

- (b) states that that person was not the driver of the vehicle at the relevant time, states the name and address at the time the statement is furnished of the person who was the driver of the vehicle at the relevant time and is signed both by the person furnishing it and by the person stated to be the driver of the vehicle at the relevant time.”. 5

*County Courts Act 1984 (c.28)*

- 17 Civil Procedure Rules may continue to be made for the purposes of Part 6 of the County Courts Act 1984 (administration orders) notwithstanding the repeal by this Act of section 12(1) of the Insolvency Act 1976, and the repeal of section 12(1) shall not affect the operation of any rules that are in force immediately before the coming into force of the repeal. 10

*Building Societies Act 1986 (c.53)*

- 18 In section 69(17) of the Building Societies Act 1986 (disclosure and record of income of related businesses), for paragraph (a) in the definition of “conveyancing services” substitute— 15
  - “
    - (a) land in England and Wales means the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land; and for the purposes of this paragraph— 20
      - (i) “disposition”—
        - (a) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the Law of Property Act 1925 (short leases); but 25
        - (b) subject to that, includes in the case of leases both their grant and their assignment; and
      - (ii) “acquisition” has a corresponding meaning,
    - (aa) land in Northern Ireland has the same meaning as in paragraph (a) above with the modification that “disposition” does not include any disposition in the case of such a lease as is excepted, by section 4 of the Landlord and Tenant Law Amendment Act (Ireland) 1860, from the requirements of that section, and”. 30 35

## 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 (i.e. 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 power by Order in Council to extend the Bill's effect to the Channel Islands and any British overseas territory.
5. Subsection (4) 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.
6. Subsection (5) ensures that the provisions in subsections (3) and (4) have effect in relation to statutory instruments as well as enactments.

##### Clause 3

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

#### SCHEDULES 1 AND 2

8. The remainder of this report provides an explanation of the repeals contained in *Schedule 1* and the consequential and connected provisions contained in *Schedule 2*.

# SCHEDULE 1

## Repeals

### PART 1

## ADMINISTRATION OF JUSTICE

#### *Introduction*

- 1.1 The topic of administration of justice includes the court system and its administration, the practice and procedure before the courts, the judicial offices within the court system and the provision of legal services by barristers, solicitors and others. The candidates for repeal proposed in this part reflect the various elements that constitute the system for the administration of justice.

#### *Group 1 - Judicial Committee of the Privy Council*

- 1.2 The jurisdiction of the Judicial Committee of the Privy Council (“the Judicial Committee”) arose out of the prerogative right of the Sovereign as the fountain head of all justice to entertain certain appeals from the courts in Her dominions. The Sovereign exercised this jurisdiction through the Privy Council which acted in an advisory capacity. In due course the House of Lords in its judicial capacity became the final appellate tribunal for most appeals from the United Kingdom, but appeals from the overseas territories and from certain other courts still continued to be heard by the Sovereign in Council. These appeals came to be regulated by the Judicial Committee Act 1833 whereby all appeals were to be heard by a special committee of the Privy Council (i.e. the Judicial Committee) which would advise the Crown on the action to be taken.
- 1.3 Several provisions relating to the jurisdiction of the Judicial Committee are now obsolete and are recommended for repeal.

#### *Judicial Committee Act 1833*

- 1.4 Section 14 of the Judicial Committee Act 1833 extended to the Judicial Committee certain powers that were vested in ‘His Majesty’s courts of law at Westminster’ (now the High Court) by virtue of the East India Company Act 1772<sup>1</sup> and the Evidence on Commission Act 1831<sup>2</sup>. The relevant powers in the 1772 Act arose where any proceedings were brought in London in respect of a matter arising in India. The High Court in London was empowered to issue a writ to the Chief Justice and other judges in India requiring them to examine witnesses and obtain evidence in India before despatching the evidence back to the High Court in London where that evidence would be admissible. The need for this

<sup>1</sup> 13 Geo.3 c.63. This Act was repealed by the Government of India Act 1915, s.130, Sch.4 and the Government of India (Amendment) Act 1916, s.7(2), Sch.2.

<sup>2</sup> 1 Will.4 c.22. This Act was repealed by the Statute Law Revision Act 1963, s.1, Sch.

power arose partly from the difficulty of obtaining satisfactory evidence for the purpose of the determining in London of disputes arising in India, and partly from the delays that were often experienced in obtaining the evidence. The relevant powers in the 1831 Act included extending the power of the High Court in London to obtain evidence not only in India but also in any other colony.

- 1.5 Section 14 no longer serves any useful purpose because the powers that it conferred upon the Judicial Committee are already adequately provided for by other provisions in the 1833 Act. In particular section 7 empowers the Judicial Committee to direct that depositions of any witness should be taken by the registrar or by such other person as the Committee may appoint and direct. Further powers are contained in sections 8 and 9 to facilitate the taking of evidence in this country and overseas. Accordingly section 14 may be repealed as unnecessary.
- 1.6 The other provisions in the 1833 Act which are recommended for repeal are section 23 and words in section 24. Section 23 is ancillary to section 22 which concerned a procedure to reduce delays in the bringing of appeals from the Courts of Sudder Dewanny Adawlut<sup>3</sup>. Since section 22 has already been repealed<sup>4</sup>, section 23 is now spent. Section 24 is a rule-making power which contains references to the Courts of Sudder Dewanny Adawlut and the Cape of Good Hope. These references are now unnecessary and may be repealed on that basis.

#### *Court of Chancery Act 1851*

- 1.7 The whole of the Court of Chancery Act 1851 has already been repealed<sup>5</sup> with the exception of section 16 (quorum of Judicial Committee). Section 16 sits in isolation from the main statutory provisions concerning the Judicial Committee. A more logical place for it would be in the Judicial Committee Act 1833 which already includes a provision as to quorum (section 5). It is therefore proposed that section 16 is inserted into the 1833 Act immediately after section 5. The necessary draft amendment appears in *Schedule 2* to the draft Bill. The 1851 Act may then be repealed in its entirety.

#### *Judicial Committee Amendment Act 1895*

- 1.8 The Judicial Committee Amendment Act 1895 provides for the automatic membership of the Judicial Committee in the case of any serving or former Chief Justice or Judge of the Supreme Court of any of the Australasian colonies specified in the Schedule to the Act. By virtue of section 11 of the Australia Act 1986 no further appeals can now reach the Judicial Committee from Australia. Since judges of a territory no longer sit on the Judicial Committee once appeals from that territory have ceased, the references in the Schedule to the 1895 Act to New South Wales, Queensland, South Australia, Tasmania, Victoria and Western

<sup>3</sup> These courts existed for the Presidencies of Lower Bengal, Madras, Bombay and the North-West Provinces. They were repealed pursuant to the Indian High Courts Act 1861, s.8.

<sup>4</sup> Statute Law Revision Act 1861, s.1, Sch.

<sup>5</sup> Statute Law Revision Act 1892.

Australia are now unnecessary and may be repealed. Moreover section 3(1) of the Appellate Jurisdiction Act 1908 (which provides that section 1 of the 1895 Act is to have effect as if it included any serving or former Chief Justice or Justice of the High Court of Australia) is also unnecessary for the same reason<sup>6</sup>.

#### *Appellate Jurisdiction Act 1908*

- 1.9 Section 1 of the Appellate Jurisdiction Act 1908 provided a procedure whereby a judge from a court in a British possession overseas could attend upon the Judicial Committee as an assessor on the hearing of an appeal from that court. The Schedule to the 1908 Act listed the British possessions to which this procedure applied. In the event this procedure has never been invoked so that no overseas judges have been authorised to attend as assessors. Moreover it is clear that the procedure is obsolete because the only British possession within the scope of section 1 is New Zealand<sup>7</sup>, and judges of New Zealand have full membership of the Judicial Committee by virtue of section 1 of the Judicial Committee Amendment Act 1895. Accordingly section 1 and the Schedule are no longer of practical utility and may be repealed on that basis. Section 3(1) of the 1908 Act is also recommended for repeal for the reason given in the previous paragraph.

#### *Group 2 - Central Criminal Court (Prisons) Act 1881*

- 1.10 The only substantive provision in the Central Criminal Court (Prisons) Act 1881 that is still in force is section 2(5). This provision is a relict from the time when courts had power to pass a death sentence. It specifies the prison where the execution could take place, specifies the sheriff responsible for the execution and provides for an inquest to be held by the coroner responsible for holding inquests into prison deaths.
- 1.11 Section 2(5) is now unnecessary because the death penalty can no longer be issued by a court within the United Kingdom<sup>8</sup>. The other provisions in the 1881 Act are ancillary to section 2(5) and will fall with it. The repeal of the 1881 Act will permit the consequential repeal of provisions in the Administration of Justice Act 1964 and the Courts Act 1971<sup>9</sup>.

<sup>6</sup> The remainder of section 3 of the Appellate Jurisdiction Act 1908 has already been repealed by the Appellate Jurisdiction Act 1913, s.3(4), Sch.

<sup>7</sup> Until 1986 appeals from Australia could be heard by the Judicial Committee. However by virtue of section 11 of the Australia Act 1986 no right of appeal from Australia is now possible.

<sup>8</sup> The death penalty ceased to be the punishment for murder as a result of the Murder (Abolition of Death Penalty) Act 1965, s.1. Thereafter the death penalty existed only for high treason and piracy with violence until 1998 when it was abolished in favour of life imprisonment: Crime and Disorder Act 1998, s.36. Finally, the death penalty for offences under the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 was abolished by the Human Rights Act 1998, s.21(5).

<sup>9</sup> The 1964 Act, Sch.3, para.10; the 1971 Act, Sch.8, para.14.

### *Group 3 - Courts Act 1971*

- 1.12 In 1966 a Royal Commission on Assizes and Quarter Sessions was appointed under the chairmanship of Lord Beeching. It reported in 1969<sup>10</sup> and made many recommendations for the improvement of the court system in England and Wales. Many of these recommendations were implemented by the Courts Act 1971 and included establishing a Crown Court as part of the Supreme Court and abolishing a number of ancient courts including assize courts and quarter sessions. Many of the provisions in the 1971 Act were intended to have transitional effect only and are now spent. Other provisions have become unnecessary.
- 1.13 Of particular interest amongst the candidates for repeal in the 1971 Act are those that provided for the merger or abolition of ancient local courts. These include the merger with the High Court of the Court of Chancery of the county palatine of Lancaster and the Court of Chancery of the county palatine of Durham and Sadberge<sup>11</sup> and the abolition of the Tolzey and Pie Poudre Courts in Bristol, the Liverpool Court of Passage, the Norwich Guildhall Court and the Court of Record for the Hundred of Salford<sup>12</sup>. Other now unnecessary provisions in the 1971 Act provided for transitional matters including those in Schedule 5 consequential upon the merger or abolition of ancient local courts. Provisions currently in Schedule 5 that treat the records of abolished courts as being within the scope of the Public Records Act 1958 will need to be saved since they have continuing effect. An appropriate amendment to the 1958 Act appears in *Schedule 2* to the draft Bill.

### *Group 4 - General Repeals*

#### *Limitation of Actions and Costs Act 1842*

- 1.14 Section 2 of the Limitation of Actions and Costs Act 1842 repealed all provisions in existing public general Acts whereby “either Double or Treble Costs, or any other than the usual Costs between Party and Party, shall or may be recovered”. Section 2 went on to substitute for any such provisions a provision allowing for indemnity of costs. In other words the effect of section 2 was to substitute for any unusual costs arrangements in a pre-1842 Act a provision for costs being awarded on an indemnity basis.
- 1.15 Section 2 no longer has any effect. It was repealed by the Public Authorities Protection Act 1893 as regards proceedings to which that Act applied<sup>13</sup>. However it can now be repealed in its entirety because there are no longer any pre-1842 public general Acts still in force that contain a special costs regime.

<sup>10</sup> Cmnd 4153.

<sup>11</sup> The 1971 Act, s.41(1).

<sup>12</sup> The 1971 Act, s.43(1).

<sup>13</sup> The 1893 Act, s.2, Sch.

*Law Reform (Miscellaneous Provisions) Act 1934*

- 1.16 The purpose of section 3(1C) of the Law Reform (Miscellaneous Provisions) Act 1934<sup>14</sup> was to enable a county court to award interest on damages where the damages exceeded £200. However section 3(1C) (and ancillary words in section 3(1D)) became unnecessary once section 15(2) of the Administration of Justice Act 1982 gave county courts new powers to award interest on debts and damages.

*City of London (Courts) Act 1964*

- 1.17 Section 7 of the City of London (Courts) Act 1964 provided for the common council of the City of London to defray the remuneration (and pensions and other benefits) of the additional judges<sup>15</sup> of the Central Criminal Court. No additional judges were appointed after 1 January 1972 and all judges to which section 7 applied have since retired. Accordingly the words in section 7 providing for their remuneration are now unnecessary and may be repealed.

*Administration of Justice Acts 1965, 1969, 1970 and 1973*

- 1.18 Schedule 1 to the Administration of Justice Act 1965 contains amendments to existing enactments to ensure conformity with Part 1 of the 1965 Act. The amendments made to the Clergy Residence Act 1826, the Inclosure Act 1845 and the Tithe Acts of 1846 and 1860 are now unnecessary because the provisions being amended have since been repealed<sup>16</sup>.
- 1.19 Section 36(5) and (6) of the Administration of Justice Act 1969 are commencement provisions that became spent once the 1969 Act came fully into force. In addition, the amendments to the Settled Land Act 1925 and the County Courts Act 1959 contained in Schedule 1 to the 1969 Act are now unnecessary because the provisions being amended have since either been replaced or repealed<sup>17</sup>.
- 1.20 Sections 41(5) and 54(4) of the Administration of Justice Act 1970 are, respectively, spent transitional and commencement provisions. The provisions proposed for repeal in section 54(6) of, and Schedule 2 to, the 1970 Act are unnecessary because they relate to provisions that have since been repealed<sup>18</sup>.

<sup>14</sup> Section 3(1C) was inserted by the Administration of Justice Act 1969, s.22.

<sup>15</sup> The additional judges were appointed pursuant to Part 2 of the 1964 Act.

<sup>16</sup> The Clergy Residence Act 1826 was repealed by the Statute Law (Repeals) Act 1971, s.1, Sch., Pt.2; the relevant provisions of the Inclosure Act 1845 were repealed by the Statute Law (Repeals) Act 1998, s.1, Sch., Pt.6; and the relevant provisions of the Tithe Acts 1846 and 1860 were repealed by the Statute Law (Repeals) Act 1998, s.1, Sch.1, Pt.2.

<sup>17</sup> The relevant provision of the Settled Land Act 1925 (section 113(3)) was substituted by the County Courts Act 1984, s.148(1), Sch.2, para.20; the relevant provision of the County Courts Act 1959 (section 47(1)) was repealed by the County Courts Act 1984, s.148(3), Sch.4.

<sup>18</sup> In particular, the Schedule 2 amendments to the Matrimonial Causes Act 1967 became unnecessary when the whole of the 1967 Act was repealed by the Matrimonial and Family Proceedings Act 1984, s.46(3), Sch.3.

- 1.21 Section 6 of the Administration of Justice Act 1973 amended provisions in the Landlord and Tenant Act 1954 and the County Courts Act 1959 set out in Schedule 2 to the 1973 Act. The relevant amendment to the 1954 Act (section 63(2)) became unnecessary when new text was substituted for the amendment<sup>19</sup>. The relevant amendments to the 1959 Act were repealed by the County Courts Act 1984<sup>20</sup>.

*Litigants in Person (Costs and Expenses) Act 1975/Administration of Justice Act 1977*

- 1.22 The Litigants in Person (Costs and Expenses) Act 1975 related to the costs or expenses recoverable by litigants in person in civil proceedings. Section 2(2) and (3) provided for commencement of the 1975 Act and became unnecessary once the Act had been brought fully into force. The Administration of Justice Act 1977 contains a number of provisions that are now unnecessary. Sections 1 and 2(3) are unnecessary because the provisions they amended have since been repealed<sup>21</sup>. Section 5(3) is a spent repealing provision. Sections 11, 12 and 19(2) amended provisions that have since been repealed or substituted<sup>22</sup>. Section 32(5) to (7) are commencement provisions which became unnecessary once the whole of the 1977 Act came into force. Finally paragraphs 3, 4 and 6 of Part 1 of Schedule 2 to the 1977 Act (which amended earlier enactments) became unnecessary when the provisions amended were subsequently repealed.

*Contempt of Court Act 1981/County Courts (Penalties for Contempt) Act 1983*

- 1.23 Sections 3(4) and 4(4) of the Contempt of Court Act 1981 are repealing provisions which became spent as soon as they came into force. In addition paragraph 1 in Part 3 of Schedule 2 to the 1981 Act became unnecessary when the enactment that it amended was subsequently repealed<sup>23</sup>. In the County Courts (Penalties for Contempt) Act 1983, section 2(2) is a saving provision which provided that the 1983 Act was not to affect the powers of a county court in relation to a contempt of court committed before commencement of the 1983 Act (13 May 1983). This provision is now unnecessary since any proceedings for a contempt committed before that date will by now have been long since disposed of.

<sup>19</sup> High Court and County Courts Jurisdiction Order 1991, SI 1991/724, art.2(8), Sch.

<sup>20</sup> Section 148(3), Sch.4.

<sup>21</sup> Section 1(1) provided for the amendments specified in Part 1 of Schedule 1 to the 1977 Act: Part 1 of Schedule 1 was repealed by the Legal Aid Act 1988, s.45(2), Sch.6. Section 2(3) provided for the amendments specified in Part 3 of Schedule 2 to the 1977 Act: Part 3 of Schedule 2 was repealed by the Social Security Act 1980, ss.8 and 21, Sch.5, Pt.1.

<sup>22</sup> Section 11 amended provisions in the Administration of Justice Act 1965 that were repealed by the Administration of Justice Act 1982, s.75(1), Sch.9, Pt.1; section 12 amended 16(3) of the Courts Act 1971, which amendment has since been superseded by the Courts and Legal Services Act 1990, s.71(2), Sch.10, para.31(1); section 19(2) amended section 168 of the County Courts Act 1959 which has since been repealed by the Administration of Justice Act 1982, s.75, Sch.9, Pt.1.

<sup>23</sup> Paragraph 1 of Part 3 of Schedule 2 amended sections 19 and 23 of the Coroners Act 1887. However the 1887 Act has since been repealed by the Coroners Act 1988, s.36(2), Sch.4.

### *Supreme Court Act 1981*

- 1.24 Section 141 of the Supreme Court Act 1981 abolished the writs of *elegit* (the usual method before 1957 of executing against land a money judgment or order<sup>24</sup>) and of *capias ad satisfaciendum* (the standard procedure for arresting debtors before 1870<sup>25</sup>). The abolition of the two writs took effect when section 141 came into force (1 January 1982) and the section thereupon became spent. Section 152(2) of the 1981 Act is a spent transitional provision and section 152(5) is a spent revocation provision. Finally Schedule 5 to the 1981 Act made consequential amendments to existing enactments. Several amendments made by Schedule 5 are now unnecessary because the enactments amended have since been repealed.

### *Administration of Justice Acts 1982 and 1985*

- 1.25 The Administration of Justice Acts of 1982 and 1985 contain several provisions that are now unnecessary. In the 1982 Act, sections 3(2) and 49 are repealing provisions which became spent once they took effect. Section 6(3) empowered county courts to award provisional damages for personal injuries. However, now that this power has been included in section 51 of the County Courts Act 1984, section 6(3) has been superseded. Sections 34(1) and (2), 35, 46(2), 50 and 59(3) and Schedules 3 and 8 made a number of amendments to existing enactments which are now unnecessary because the enactments amended have since been repealed. Section 73(8) is a spent transitory provision. Finally section 77(5) provides that the 1982 Act repeal of the Wills Act Amendment Act 1852 is not to extend to Northern Ireland. This provision, however, became unnecessary when the 1852 Act as it applied to Northern Ireland was repealed<sup>26</sup>. In the Administration of Justice Act 1985, section 51(2) is a repealing provision which became spent when the repeal took effect (1 October 1986).

### *County Courts Act 1984/ Public Trustee and Administration of Funds Act 1986*

- 1.26 Section 24(2) of the County Courts Act 1984 contains a now unnecessary reference to section 25 of that Act<sup>27</sup> and several of the amendments made by Schedule 2 are unnecessary because the provisions which they amended have since been repealed or superseded. Two minor provisions in the Public Trustee and Administration of Funds Act 1986 are now spent. These are section 4 (a repealing provision) and section 6(2) (the commencement provision). Both provisions became spent when the 1986 Act came into force (2 January 1987).

<sup>24</sup> By virtue of section 34(1) of the Administration of Justice Act 1956 and SI 1956/1979 no writ of *elegit* could be issued after 1 January 1957. The 1956 Act introduced a new procedure enabling the court to impose a charge on land.

<sup>25</sup> The Debtors Act 1869 made new provision concerning imprisonment for debt.

<sup>26</sup> Wills and Administration Proceedings (Northern Ireland) Order 1994, SI 1994/1899 (NI 13), arts.36, 38, Schs.1 (para.16), 3.

<sup>27</sup> The relevant part of section 25 was repealed by the High Court and County Courts Jurisdiction Order 1991, SI 1991/724, art.2(8), Sch. Pt.1.

*Courts and Legal Services Act 1990*

- 1.27 Section 2 of the Courts and Legal Services Act 1990 relates to the transfer of proceedings between courts. Subsection (4) substituted a new section 75(3)(b) of the County Courts Act 1984. However, since section 75 of the 1984 Act has now been repealed<sup>28</sup>, section 2(4) of the 1990 Act is now unnecessary. Similarly section 16 of the 1990 Act, which also amended section 75, has become unnecessary for the same reason. Section 12 provided for a penalty for failure to warn that a hearing will not be attended by a party. This provision however is unnecessary (and, indeed, has never been brought into force) since the objective of section 12 can already be achieved by costs orders and by orders to strike out. Section 14 relates to assessors and has never been brought into force. It would have amended section 63 of the County Courts Act 1984. However section 63 has already been amended by the Civil Procedure (Modification of Enactments) Order 1998<sup>29</sup> in such a way as to supersede the amendments envisaged by section 14.
- 1.28 Section 62 of the 1990 Act relates to the immunity of advocates from actions in negligence and for breach of contract. Section 62(1) provides that a person who is not a barrister but who lawfully provides any legal services in relation to any proceedings shall have the same immunity from liability for *negligence* in respect of his acts or omissions as he would if he were a barrister providing those services. The purpose of this provision was to extend the existing immunity of barristers (and solicitors) from liability for negligence arising out of the presentation of a case in court and the preliminary work connected therewith<sup>30</sup>. Accordingly section 62(1) extended this immunity enjoyed by barristers to any person providing analogous legal services in relation to court proceedings. Moreover section 62(2) supplements section 62(1) by providing that no act or omission on the part of any barrister or other person which is accorded immunity from liability for negligence shall give rise to an action for *breach of contract*.
- 1.29 However, the issue of advocates' legal immunity was addressed by the House of Lords in the case of *Arthur J S Hall & Co v Simons*<sup>31</sup>. In this case a firm of solicitors resisted a claim for negligence in respect of their conduct of court proceedings. The solicitors sought to rely on the immunity of advocates from actions in negligence. The House of Lords ruled that advocates no longer enjoyed immunity from action in respect of their conduct of civil and criminal proceedings. Such immunity, the House decided, was no longer required on public policy grounds. The world had changed in the 30 years since the time when the immunity had been judicially declared<sup>32</sup>. Giving the leading judgment, Lord Steyn ruled that the immunity no longer existed. In today's consumerist society, he said, people who suffer a wrong as a result of negligent professional

<sup>28</sup> Civil Procedure Act 1997, s.10, Sch.2, para.2(6).

<sup>29</sup> SI 1998/2940.

<sup>30</sup> This immunity was enunciated in cases such as *Rondel v Worsley* [1969] 1 AC 191 and *Saif Ali v Sydney Mitchell & Co* [1980] AC 198. The justification for such immunity included the need to avoid the proliferation of litigation by disappointed litigants.

<sup>31</sup> [2000] 3 All ER 673.

<sup>32</sup> In the case of *Rondel v Worsley* [1969] 1 AC 191.

services expect to have the right to claim redress. He added that it tended to erode confidence in the legal system if advocates, alone among professionals, are immune from liability for negligence. In the light of this decision that the immunity of advocates no longer exists, the need for section 62(1) and (2) disappears because they both pre-suppose the existence of such an immunity.

- 1.30 Section 78(3) repealed the entry in Part I of Schedule 1 to the Judicial Pensions Act 1981 relating to the Registrar of Criminal Appeals. Section 78(4) abolished the offices of Assistant Registrar of Criminal Appeals and Deputy Assistant Registrar of Criminal Appeals. Both section 78(3) and (4) became spent as soon as they came into force.
- 1.31 Sections 84, 93(4), 109(5) and 109(6) are repealing provisions and became spent when they came into force (during 1991). Section 114 inserted section 7A into the Prosecution of Offences Act 1985 but became unnecessary when a new section 7A was later substituted<sup>33</sup>. Schedule 17 contains a number of repealing amendments which became spent when they came into force<sup>34</sup>.

*Supreme Court (Offices) Act 1997*

- 1.32 The purpose of the Supreme Court (Offices) Act 1997 was to amend the existing qualification for appointment as, and tenure of office of, Permanent Secretary to the Lord Chancellor and Clerk of the Crown in Chancery. The Supreme Court Act 1981 made specific provision for the qualification for appointment to, and retirement from, these offices<sup>35</sup>. The 1997 Act repealed this provision with the result that appointments as Permanent Secretary to the Lord Chancellor and Clerk of the Crown in Chancery may now be made without any statutory restriction either as to qualification or as to tenure of office. The repeal took effect on 17 December 1997 when the 1997 Act came into force. The only other substantive provision in the 1997 Act was a saving provision to preserve the tenure of the then serving Permanent Secretary to the Lord Chancellor and Clerk of the Crown in Chancery<sup>36</sup>. That provision became spent when that office-holder retired on 10 April 1998. The whole of the 1997 Act thereupon became unnecessary and may accordingly now be repealed.

*Access to Justice Act 1999*

- 1.33 Section 35 of the Access to Justice Act 1999 provides for the replacement of the Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC) by a panel to be known as the Legal Services Consultative Panel. Section 35(1) abolished ACLEC with effect from 1 January 2000 whereupon section 35(1) became spent. Other provisions in the 1999 Act which are similarly

<sup>33</sup> Crime and Disorder Act 1998, s.53.

<sup>34</sup> Schedule 17, paras.1, 3, 9 and 18.

<sup>35</sup> Schedule 2 to the Supreme Court Act 1981 (as substituted by the Courts and Legal Services Act 1990, s.71(2), Sch.10, para.49).

<sup>36</sup> The 1997 Act, s.1(2).

spent are sections 70 (which abolished the office of registrar of civil appeals) and 79 (a repealing provision). Both provisions took effect during 1999.

*Consultation on Part 1*

- 1.34 Those consulted about these repeal proposals include (as appropriate) the Department for Constitutional Affairs, HM Treasury, the Foreign and Commonwealth Office, the Home Office, the Registrar to the Judicial Committee of the Privy Council, the Public Record Office, HM Prisons Service, the Corporation of London, the General Council of the Bar, the Law Society and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

## **PART 2**

# **AGRICULTURE**

### *Introduction*

- 2.1 Many enactments relating to agriculture since 1940 are now wholly or partly obsolete because the policies that they promoted ceased to be relevant in the light of subsequent events. Some of these events related to changes 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 during the second half of the twentieth century.

### *Group 1 - Agricultural Development, Production and Marketing*

#### *Agriculture (Miscellaneous Provisions) Acts 1943, 1944 and 1954*

- 2.2 Schedule 3 to the Agriculture (Miscellaneous Provisions) Act 1943 contains entries that repeal provisions in the Corn Returns Act 1882. These entries became spent when they came into force. Moreover an entry in the Schedule amending section 5 of the 1882 Act has been superseded by subsequent provisions that substituted new versions of section 5<sup>1</sup>. In the Agriculture (Miscellaneous Provisions) Act 1944, the only unrepealed provisions remaining are a spent reference to Northern Ireland and the short title. A formal repeal of the 1944 Act is now appropriate. Finally section 6(7) of the Agriculture (Miscellaneous Provisions) Act 1954 is a spent commencement provision.

#### *Hill Farming Acts 1946 and 1954*

- 2.3 One of the main purposes of the Hill Farming Act 1946 was to promote the rehabilitation of hill farming land. Section 10 empowered the making of regulations in connection with improvement grants made in respect of works done for the erection, improvement or reconditioning of cottages. No further improvement grants were allowed after 5 November 1975<sup>2</sup> and the duration of the grant conditions imposed by the section 10 regulations was reduced to 7 years<sup>3</sup>. Accordingly section 10 is now unnecessary as is the whole of the Hill Farming Act 1954 which amended section 10. Further consequential repeals may be made to section 37 of the 1946 Act, section 102 of the Agriculture Act 1970 and text in Schedule 1 to the Local Land Charges Act 1975. Finally words in section 36(2) of

<sup>1</sup> Agriculture Act 1970, s.108(3)(b); Deregulation (Corn Returns Act 1882) Order 1996, SI 1996/848, art.2.

<sup>2</sup> Agriculture Act 1970, ss 35, 113(3), Sch.5, Pt.2.

<sup>3</sup> Hill Farming (Cottages) (England and Wales) Regulations 1954, SI 1954/670 as amended by SIs 1973/974 and 1975/1547.

the 1946 Act are unnecessary because they refer to a provision of the Act that has already been repealed<sup>4</sup>.

#### *Agriculture Act 1947*

- 2.4 The Agriculture Act 1947 was a product of the post-Second World War period reflecting the then policy emphasis on improving production and on producing food as cheaply and efficiently as possible. Several provisions in the 1947 Act are no longer necessary.
- 2.5 Section 86 empowered the Minister to take steps to prevent the splitting up of farms into uneconomic units by compulsorily purchasing any land that was split up without Ministerial consent. This was in order to prevent the creation of smallholdings. At the time it was felt that prospective purchasers of smallholdings usually had no previous experience of agriculture and were merely interested in acquiring plots of land in the countryside. Moreover the smallholdings into which farms tended to be divided were often uneconomic. Accordingly section 86 was thought to be necessary at a time when the emphasis was on boosting agricultural efficiency and productivity after the 1939-45 war. In the event, however, the drastic powers given to the Minister by section 86 were never activated, although section 86 (and the ancillary provisions in Schedule 11 to the 1947 Act) remain technically in force. These provisions may now be repealed as obsolete along with paragraph 3(2) of Schedule 4 to the Acquisition of Land Act 1981 (which amended section 86).
- 2.6 Section 89 empowered the Minister to make agreements with the Land Settlement Association and the Welsh Land Settlement Society to take over from them their existing land settlement estates in return for the reduction or cancelling of the outstanding debts owed by these two bodies to the Government. Since all land held by the two bodies has now been transferred to the Minister pursuant to section 89, the rationale for that section no longer exists and it may therefore be repealed as spent.
- 2.7 Section 95 empowered the Minister, where it appeared to him 'necessary to do so in the interest of the national supply of food or other agricultural products', to make an order enabling him to serve directions on any farmer as to how the farmland should be used for agricultural purposes. The orders would last for a year at a time. The purpose of section 95 was to maximise production in the post-war food crisis in Britain. In the event, however, no orders were ever made under section 95. Given that, in the half-century since the 1947 Act, agricultural output has increased to the point where EU agricultural production is controlled to avoid surpluses, the repeal of section 95 (and the ancillary Schedule 2) is recommended on the basis that these provisions are now unnecessary. A consequential repeal is paragraph 19 of Schedule 14 to the Agricultural Holdings Act 1986.
- 2.8 The 1947 Act also contains a number of obsolete provisions enabling the Minister to acquire or hire agricultural land. These are contained in sections 83, 84, 88 and

<sup>4</sup> Section 16 (which was repealed by the Statute Law (Repeals) Act 1986, s.1, Sch.1, Pt.2).

92 to 94. The Department for Environment, Food and Rural Affairs has confirmed that these powers are no longer required. Accordingly their repeal is recommended<sup>5</sup> as being unnecessary.

#### *Agriculture (Silo Subsidies) Act 1956*

- 2.9 The purpose of the Agriculture (Silo Subsidies) Act 1956 was to provide subsidies for the construction or improvement of silos. All the subsidy schemes made under the 1956 Act have now expired<sup>6</sup>, the last to expire doing so on 31 December 1966, and no more will be made. Accordingly the 1956 Act is now unnecessary.

#### *Agriculture Act 1957*

- 2.10 Section 32 of the Agriculture Act 1957 authorised payments to the Northern Ireland Exchequer to cover payments made to or for the benefit of producers of agricultural produce in Northern Ireland. This aid continued until 31 March 1977 whereupon it ceased<sup>7</sup>. Section 32 may now be repealed as unnecessary along with other spent provisions in the 1957 Act<sup>8</sup>.

#### *Agricultural Marketing Act 1958*

- 2.11 The Agricultural Marketing Act 1958 was concerned primarily with agricultural marketing schemes. The 1958 Act provided a framework within which the marketing of agricultural or horticultural products by the producers was regulated by schemes administered by marketing boards. Products originally regulated included milk, potatoes, wool and hops. The only scheme remaining in force today is that relating to wool.
- 2.12 The revocation of most of these schemes means that much of the 1958 Act is now unnecessary. This includes provisions in section 3, the whole of Part 2 (which related to milk marketing schemes and boards<sup>9</sup>) and the whole of Part 3 (which related to regulating the importation of agricultural products and sales of home-produced agricultural products<sup>10</sup>). Other provisions in the 1958 Act may be repealed consequentially. Finally section 54(5) is a spent saving provision preserving the position of office-holders in post in 1958.

#### *Agriculture Act 1958*

- 2.13 The Agriculture Act 1958 is an amending enactment passed to amend existing agricultural legislation, in particular the Agriculture Act 1947. Many of these

<sup>5</sup> The repeal of section 92 will permit the consequential repeal of provisions in the Acquisition of Land Act 1981, Sch.4.

<sup>6</sup> Each subsidy scheme lasted for a maximum of 3 years.

<sup>7</sup> The aid was originally intended for the period 1 April 1957 to 31 March 1962. Section 32(2) provided that this period could be extended by order. The final extension order was SI 1974/604.

<sup>8</sup> These other provisions are section 37(2) and text in section 37(3).

<sup>9</sup> All of the remaining milk marketing schemes were revoked by the Agriculture Act 1993, s.1.

<sup>10</sup> The regulating powers in Part 3 of the 1958 Act have never been exercised.

amendments are now unnecessary either because they were repealing provisions that became spent when they came into force or else because the enactment which they were amending has itself since been repealed. In addition several transitional provisions in Schedule 4 are now unnecessary because the issues to which they relate no longer exist<sup>11</sup>.

#### *Weeds Act 1959*

- 2.14 The Weeds Act 1959 was passed to consolidate the enactments relating to injurious weeds. Section 10(3) to (5) are savings provisions in relation to offences committed before 16 July 1959 or to notices served before 1 August 1958. These savings provisions no longer serve any useful purpose and may now be repealed.

#### *Horticulture Act 1960*

- 2.15 Part 2 of the Horticulture Act 1960 was concerned with horticultural marketing and, in particular, with the possible establishment of an organisation to promote arrangements for stimulating the consumption of horticultural produce. In the event no such organisation was ever established and there are now no plans to do so. Accordingly Part 2 of the 1960 Act may now be repealed as being unnecessary. A number of other provisions can then be repealed consequentially<sup>12</sup>.

#### *Agriculture (Miscellaneous Provisions) Acts 1963, 1972 and 1976*

- 2.16 The repeals proposed to the Agriculture (Miscellaneous Provisions) Acts 1963, 1972 and 1976 are mainly of a technical nature. Thus in the 1963 Act, section 23(3) is a spent commencement provision whilst sections 26, 27 and 29 contain definitions and references that no longer serve any useful purpose. In the 1972 Act, section 4 relates to an obligation on milk marketing boards to supply specified information. However the revocation of all milk marketing schemes in 1994<sup>13</sup> has made this arrangement unnecessary<sup>14</sup>. Other repeal proposals in the 1972 Act concern spent commencing, amending or repealing provisions. In the 1976 Act section 1 provides for the dissolution of the Sugar Board and for a number of ancillary matters concerning the assets of the Board including a restriction on the Minister's powers to dispose of shares in the British Sugar Corporation. Following the dissolution of the Board on 15 February 1977<sup>15</sup> and the disposal of the Ministerial shares in 1981, section 1 became unnecessary. Section 3(4) of the 1976 Act was a saving provision to preserve the appointment

<sup>11</sup> For example, paragraph 10 of Schedule 4 was intended to preserve the position of any chairman appointed to an Agricultural Land Tribunal before 1 August 1958. Such a provision is clearly spent, not least because such appointments were limited to periods of 3 years.

<sup>12</sup> Statute Law (Repeals) Act 1973, Sch.2, para.4; Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991 (SI 1991/1997), Sch., para.6; Trade Marks Act 1994, Sch.4, entry in para.1(2).

<sup>13</sup> By virtue of the Agriculture Act 1993, s.1.

<sup>14</sup> The repeal of section 4 will permit the consequential repeal of Local Government (Scotland) Act 1973, Sch.27, Pt.2, para.205; and Food Safety Act 1990, Sch.3, para.15.

<sup>15</sup> Sugar Board (Dissolution) Order 1977, SI 1977/224.

of the then chairman and members of the Consumers Committee of the Meat and Livestock Commission following the abolition of other committees of the Commission on 1 February 1977. This saving provision may now be repealed since the chairman and members of the Consumers Committee in office on that date have now all retired from office. Finally the 1976 Act contains a number of unnecessary provisions which are either consequential on the above repeal proposals or else are spent commencement or extent provisions.

*Agriculture and Horticulture Act 1964/Horticultural Produce Act 1986*

- 2.17 Section 21 of the Agriculture and Horticulture Act 1964 gave Ministers power to regulate the type of container used to transport fresh horticultural produce. The purpose of the power was to promote efficiency in the transport and handling of produce. However the power has never been exercised and is now considered unnecessary. In addition, section 26(3) of the 1964 Act contains a spent extent provision. Similarly section 7 of the Horticultural Produce Act 1986 contains spent repealing and commencement provisions.

*Agriculture Acts 1967 and 1970/ Agricultural Marketing Act 1983*

- 2.18 The purposes of the Agriculture Act 1967 included the establishment of the Meat and Livestock Commission (“the Commission”). Section 16 empowered Ministers by order to raise money to be applied for the purpose of scientific research connected with the livestock industry and the livestock products industry. The research was to be carried out by the Agricultural Research Council and the Commission could be required to contribute towards the cost. However the Agricultural Research Council has now been dissolved with the result that section 16 is now unnecessary<sup>16</sup>. Also unnecessary is section 22 which provided for the dissolution of the Pig Industry Development Authority and the transfer of its assets and liabilities to the Commission. The transfer took effect automatically upon section 22 coming into force on 1 October 1968<sup>17</sup>. The dissolution took effect on 17 April 1969 whereupon section 22 became unnecessary<sup>18</sup>. Sections 33 and 34 relate to grants which no longer exist<sup>19</sup>. These sections, together with an unnecessary reference in section 3 (to section 1), may now be repealed.
- 2.19 A further purpose of the 1967 Act was the establishment of the Central Council for Agricultural and Horticultural Co-operation. The Council was subsequently dissolved on 23 March 1983 with its functions being transferred on that date to a body known as Food from Britain<sup>20</sup>. References to the Council in Acts passed before 23 March 1983 have effect as references to Food from Britain<sup>21</sup>. An

<sup>16</sup> By the time of its dissolution in 1994, the Agricultural Research Council had been renamed ‘The Agricultural and Food Research Council’.

<sup>17</sup> Agriculture Act 1967 (Commencement No.2) Order 1968, SI 1968/1539.

<sup>18</sup> Pig Industry Development Authority (Dissolution) Order 1969, SI 1969/568.

<sup>19</sup> The grants were repealed by the Agriculture Act 1970, s.113(3), Sch.5, Pt.1; and by the Statute Law (Repeals) Act 1993, s.1(1), Sch.1, Pt.2.

<sup>20</sup> Agricultural Marketing Act 1983, ss.2(1), 3(1).

<sup>21</sup> Ibid, Sch.2, para.4.

exception to this, however, is section 58(8) which provides for Ministers to meet the pension costs of Council members and, in special cases, to pay compensation if a person ceases to be a Council member. This provision to pay compensation is now unnecessary in view of the lapse of time since 23 March 1983 when the last Council member ceased to hold office.

- 2.20 Other provisions in the 1967 Act which are now unnecessary relate to the making of grants. Section 61 authorised the making of grants for purposes connected with co-operative activities. However section 61(6) limited the period of time during which such grants could be made. That period expired on 14 May 1991<sup>22</sup> with the result that section 61 (and consequential provisions in section 62) is unnecessary. Section 64 provided for a scheme of grants to persons who had to fulfil guarantees given by them as security for loans to third parties. Much of the detail in section 64, especially as it relates to an earlier scheme, is now unnecessary as is section 65 which provided a now expired system of grants to encourage the keeping of farm business records. Finally section 75 contains spent provisions of a minor nature.
- 2.21 The purposes of the Agriculture Act 1970 included providing for capital and other grants. The grants covered by section 34 have now ceased to be payable<sup>23</sup>, whilst the commencement provision in section 87(1) is now spent. Finally the reference in section 111(2) to section 104(2) became unnecessary following the repeal of section 104 on 1 April 1974<sup>24</sup>.
- 2.22 The proposed repeals to the Agricultural Marketing Act 1983 are largely consequential upon the transfer of functions, referred to above, from the Central Council for Agricultural and Horticultural Co-operation to Food from Britain. The reference to the Eggs Authority in section 4(2) is now unnecessary following the abolition of that body in 1986<sup>25</sup> and the reference in section 9(2) to paragraph 3 of Schedule 2 to the 1983 Act is a now spent transitional provision concerning any uncompleted functions of the Central Council that were outstanding at the time of its dissolution in 1983. Accordingly paragraph 3 of Schedule 2 may itself be repealed as may the spent commencement provision in section 9(3).

#### *Farm and Garden Chemicals Act 1967*

- 2.23 Section 1 of the Farm and Garden Chemicals Act 1967 provides for the making of regulations as to the labelling and marking of farm and garden chemicals. Section 1(5), however, which provided that no such regulations were to come into force for 15 months after the passing of the 1967 Act is clearly now unnecessary<sup>26</sup>.

<sup>22</sup> The period originally permitted by section 61(6) was subsequently extended by a series of orders, the last of which (SI 1986/817) extended the time limit to 14 May 1991.

<sup>23</sup> The enactments providing for these grants have either been repealed already by the Agriculture Act 1970, s.113(3), Sch.5, Pt.1 or, in the case of the grant payable under 61 of the Agriculture Act 1967, is proposed for repeal above.

<sup>24</sup> Employment and Training Act 1973, s.14(2), Sch.4; SI 1974/398.

<sup>25</sup> Eggs Authority (Abolition) Order 1986, SI 1986/2302.

<sup>26</sup> The 15 months period expired on 14 October 1968.

#### *Horticulture (Special Payments) Act 1974*

- 2.24 The purpose of the Horticulture (Special Payments) Act 1974 was to authorise payments to be made to assist commercial growers of horticultural produce, the growing of which had become uneconomic as a result of the United Kingdom's membership of the EEC in 1972. The 1974 Act was a transitional provision to bring relief to growers of commercial horticultural produce in the years immediately following. Only one scheme was ever made under the 1974 Act (and that has long since expired<sup>27</sup>) and no more will ever be made. Accordingly the 1974 Act is now unnecessary.

#### *Agricultural Statistics Act 1979*

- 2.25 Section 2 of the Agricultural Statistics Act 1979 provides for the making of regulations requiring parties to a sale or other disposition of agricultural land to provide information as to their names and addresses and the extent of the land in question. Section 2 is a consolidated version of section 79 of the Agriculture Act 1947. No regulations have ever been made under either section 2 or section 79, possibly because of the analogous information already required by the Finance Act 1931<sup>28</sup>. Section 2 is accordingly unnecessary and may be repealed along with ancillary provisions in sections 3 and 4<sup>29</sup>. Section 8(2) is a spent commencement provision.

#### *Hops Marketing Act 1982*

- 2.26 The Hops Marketing Act 1982 was passed to revoke the Hops Marketing Scheme 1932 and to dissolve the Hops Marketing Board. The scheme was duly revoked with effect from 1 April 1982<sup>30</sup> and the Board was dissolved on 23 August 1982<sup>31</sup>. The whole of the 1982 Act is therefore now spent subject to a provision in section 1(3) relating to the previous operation of the Scheme. This latter provision may continue to be of value and it is accordingly proposed for saving by means of an amendment in *Schedule 2* to the draft Bill. The repeal of the 1982 Act will permit the consequential repeal of paragraph 17 of Schedule 1 to the Employment Rights Act 1996 (which amended section 2(7) of the 1982 Act).

#### *Agriculture (Amendment) Act 1984*

- 2.27 Two technical repeals to the Agriculture (Amendment) Act 1984 are possible. Section 2(2) is a repealing provision<sup>32</sup> and section 3(2) is the commencement

<sup>27</sup> Horticulture (Apple and Pear Growers) (Special Payments) Scheme 1974 (SI 1974/1003 as amended by SI 1975/1999) under which all claims for payment had to be made on or before 31 July 1978.

<sup>28</sup> Section 28, Sch.2.

<sup>29</sup> Section 3 also contains an unnecessary reference to the Agricultural Training Board (which was wound up in 1994: SI 1994/555).

<sup>30</sup> Hops Marketing Scheme (Revocation) Appointed Day) Order 1982, SI 1982/463.

<sup>31</sup> Hops Marketing Board (Dissolution) Order 1982, SI 1982/1120.

<sup>32</sup> The repeal was of the Agricultural Statistics Act 1979, s.1(5).

provision. Both provisions became spent when they came into force on 24 July 1984.

*Milk (Cessation of Production) Act 1985/Food and Environment Protection Act 1985*

- 2.28 The only repeals proposed to the Milk (Cessation of Production) Act 1985 and to the Food and Environment Protection Act 1985 are their respective commencement provisions. Section 7(2) of the Milk (Cessation of Production) Act 1985 became spent when that Act came into force on 11 May 1985. Section 27 of the Food and Environment Protection Act 1985 became spent when that Act came fully into force on 1 January 1986.

*Agriculture Act 1986*

- 2.29 Several provisions in the Agriculture Act 1986 are now unnecessary. Sections 4(4), 5(1), 8(5), 8(6) and 10 are repealing provisions which became spent once they came into force. Section 9 provided for the abolition of the Eggs Authority and the winding up of its affairs. The abolition took effect on 31 December 1986<sup>33</sup> and the Authority's affairs have long since been disposed of. Accordingly section 9 is unnecessary as is section 12 which, enacted to validate the Apple and Pear Development Council orders, became spent when those orders were revoked<sup>34</sup>. The repeals proposed to section 24 relate to the commencement and extent provisions of the 1986 Act and reflect events occurring since the passing of the 1986 Act.

*Agriculture Act 1993*

- 2.30 The Agriculture Act 1993 made new arrangements for the marketing of milk and potatoes. So far as milk marketing is concerned, section 21(1) provided that Part 1 of the Agricultural Marketing Act 1958 (agricultural marketing schemes) was to cease to apply to milk. The commencement arrangements for this cesser are in section 21(2) and (3) which became spent when section 21(1) came fully into force on 1 November 1994<sup>35</sup>. As regards potato marketing, Part 2 of the 1993 Act (sections 25 to 49) provides for the revocation of the Potato Marketing Scheme, the dissolution of the Potato Marketing Board and the transfer of its property, rights and liabilities to the British Potato Council. The revocation of the Scheme took effect on 1 July 1997<sup>36</sup> and the Board was dissolved on 31 July 1999<sup>37</sup>. As a result most of Part 2 of the 1993 Act is now spent and may be repealed along with sections 59, 62(5) and 64(2) and Schedule 3, all of which have become unnecessary following the revocation of the Scheme and the dissolution of the Board.

<sup>33</sup> Eggs Authority (Abolition) Order 1986, SI 1986/2302.

<sup>34</sup> Apple and Pear Development Council Order 1986, SI 1986/1372.

<sup>35</sup> Agricultural Marketing Act 1958 Part 1 (Certification of Cessation of Effect in Relation to Milk) Order 1994, SI 1994/2922.

<sup>36</sup> Potato Marketing Scheme (Certification of Revocation) Order 1997, SI 1997/3020.

<sup>37</sup> Potato Marketing Board (Dissolution) Order 1999, SI 1999/1817.

## *Group 2 - General Repeals*

### *Agricultural Wages Act 1948*

- 2.31 The Agricultural Wages Act 1948 was passed to consolidate the law relating to the remuneration of workers employed in agriculture in England and Wales. Section 20(4) to (6) contains savings provisions relating to rights and liabilities existing on 13 July 1948 which was the date the 1948 Act repealed a number of enactments establishing those rights and liabilities. The passage of time since 1948 has meant that these savings provisions are no longer necessary.

### *Agriculture (Safety, Health and Welfare Provisions) Act 1956*

- 2.32 The purposes of the Agriculture (Safety, Health and Welfare Provisions) Act 1956 included the avoidance of accidents to children arising out of agricultural vehicles and machines. Section 7(1) and (2) provided a regulation-making power for prohibiting children from riding on or driving agricultural vehicles or machines. Section 7(3) created an offence of causing or permitting a child to ride on or drive any such vehicle or machine in contravention of such regulations. However, since section 7(1) and (2) were repealed in 1975<sup>38</sup>, section 7(3) is left with nothing to do. It has therefore become unnecessary.

### *Plant Varieties and Seeds Act 1964*

- 2.33 The purposes of the Plant Varieties and Seeds Act 1964 included the regulation of transactions in seeds and the imposition of criminal sanctions for contravention of such regulation. Sections 26(10) and 31(1) contain transitional provisions relating to possible offences committed before the 1964 Act came into force. These are plainly now unnecessary, as is the commencement provision in section 41(2).

### *Agricultural Training Board Acts 1982, 1985 and 1987*

- 2.34 The purpose of the Agricultural Training Board Act 1982 was to consolidate the law relating to the Agricultural Training Board. The Board, however, now no longer exists. It was wound up in accordance with the Agricultural Training Board (Revocation) Order 1994<sup>39</sup>. The Board's assets and liabilities were transferred to ATB-Landbase (a charitable company limited by guarantee) which in 1998 was absorbed into a consortium known as Lantra.
- 2.35 The winding up of the Board and the termination of its functions means that the 1982 Act is now unnecessary. The repeal of the 1982 Act will permit the consequential repeal of a number of later provisions that amended the 1982 Act including the Agricultural Training Board Acts of 1985 and 1987.

<sup>38</sup> Agriculture (Safety, Health and Welfare Provisions) Act 1956 (Repeals and Modifications) Regulations 1975, SI 1975/46, reg.2, Sch.1. The regulations made under section 7(1) have since been revoked: Prevention of Accidents to Children in Agriculture Regulations 1998, SI 1998/3262, reg.6.

<sup>39</sup> SI 1994/555.

*Consultation on Part 2*

- 2.36 Those consulted about these repeal proposals include (as appropriate) the Department for Environment, Food and Rural Affairs, HM Treasury, the Meat and Livestock Commission, the National Hop Association of England and Wales, the Agricultural Wages Board for England and Wales, the Department for Education and Skills and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

## **PART 3**

# **ALLOTMENTS AND SMALLHOLDINGS**

### *Introduction*

- 3.1 This part of the report recommends the repeal of obsolete provisions in the enactments relating to allotments and smallholdings. Many of the repeals being recommended have become obsolete because of the gradual phasing out of cottage holdings<sup>1</sup> (which were analogous in some respects to a small version of the smallholding<sup>2</sup>) since 1970 and because of legislative changes in 1947 (Agriculture Act 1947) that repealed earlier legislation in so far as it related to smallholdings but not cottage holdings.

### *Background*

- 3.2 The origins of the law providing land for use as allotments<sup>3</sup> and smallholdings derive from Victorian measures for the relief of the poor. However, the modern law starts with the Small Holdings and Allotments Act 1908 which consolidated nearly all the existing enactments concerning smallholdings and allotments in England and Wales. Between 1908 and 1931 a series of Acts were passed amending the law in this area and these became known as the Small Holdings and Allotments Acts 1908 to 1931.<sup>4</sup>
- 3.3 The statutory position became more complicated as a result of the Agriculture Act 1947. With minor exceptions this repealed the Small Holdings and Allotments Acts 1908 to 1931 so far as they related to smallholdings but not cottage holdings<sup>5</sup>. This left the Small Holdings and Allotments Acts 1908 to 1931

<sup>1</sup> Section 20(1) of the Agricultural Land (Utilisation) Act 1931 defines a cottage holding as a holding comprising a dwelling-house, together with not less than 40 perches (i.e. 1210 square yards or ¼ acre) and not more than one acre of agricultural land which can be cultivated by the occupier of the dwelling-house and his family.

<sup>2</sup> For the purposes of the Small Holdings and Allotments Acts 1908 to 1931, “small holding” is defined as an agricultural holding which exceeds one acre but either does not exceed 50 acres or, if exceeding 50 acres, is at the date of sale or letting of an annual value for income tax purposes not exceeding £100: Small Holdings and Allotments Act 1908, s.61(1). Modern legislation (and hence this report) refers to “smallholdings” as a single word.

<sup>3</sup> There is no comprehensive statutory definition of “allotment” nor are there any general statutory limits as to the size of an allotment. However, section 1 of the Allotments Act 1925 defines “allotment” as an allotment garden as defined by section 22(1) of the Allotments Act 1922 (i.e. an allotment not exceeding a quarter of an acre which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family) or any parcel of land not exceeding 5 acres cultivated as a garden or farm (or as a garden and farm).

<sup>4</sup> By virtue of section 25(1) of the Agricultural Land (Utilisation) Act 1931 the following Acts may be cited together by this collective title: the Small Holdings and Allotments Act 1908, the Small Holdings Act 1910 (repealed), so much of the Land Settlement (Facilities) Act 1919 as amended these Acts, the Small Holdings and Allotments Act 1926, and Part 2 of the Agricultural Land (Utilisation) Act 1931.

<sup>5</sup> Section 67(2).

still applying not only to allotments but also to cottage holdings. This is because the 1908 to 1931 Acts had been applied to cottage holdings by section 12 of the Agricultural Land (Utilisation) Act 1931 which in effect provided that references in the 1908 to 1931 Acts to smallholdings were to be read as references to cottage holdings as well. Although the Agriculture Act 1947 repealed the 1908 to 1931 Acts as they related to smallholdings, the references to smallholdings in those Acts have remained and now have to be construed as references to cottage holdings.

- 3.4 Part 4 of the Agriculture Act 1947 established a new statutory regime for smallholdings which in turn was superseded by Part 3 of the Agriculture Act 1970.
- 3.5 As a result the current statute law on smallholdings is to be found in Part 3 of the Agriculture Act 1970, that on cottage holdings remains in the 1908 to 1931 Acts and that on allotments is to be found in the Allotments Acts 1908 to 1950<sup>6</sup>.
- 3.6 Much of the law so far as it relates to cottage holdings is becoming or has become obsolete because section 60(1) of the Agriculture Act 1970 provided that after the commencement of Part 3 of the Act (i.e. 1 August 1970<sup>7</sup>) no land could be sold or let by a county council, a county borough council or the Greater London Council as a cottage holding nor could any land be acquired by such a council for the purpose of being sold or let as a cottage holding. Accordingly no new cottage holdings have been created since August 1970. Once all cottage holdings that were created before August 1970 have terminated it will be possible to repeal the various legislative provisions that relate to them.
- 3.7 The following paragraphs identify the provisions relating to allotments and smallholdings that are recommended for repeal.

#### *Small Holding Colonies Act 1916*

- 3.8 According to its long title, the purposes of the Small Holding Colonies Act 1916 (“the 1916 Act”) included making provision for the acquisition and management of land by the State for experimental smallholding colonies and extending the powers of acquisition and management of land by certain government departments.
- 3.9 The 1916 Act (and the Small Holding Colonies (Amendment) Act 1918) were passed against the background of the First World War. Both Acts were designed to provide work for ex-servicemen who had served in the war and for maximising the yield from agricultural land during the war. The Acts funded an experiment to test whether by settling ex-servicemen (mostly without agricultural experience) on land in colonies and by the employment of co-operative methods, these colonies could be made an economic success and lead to greater productivity. To this end,

<sup>6</sup> By virtue of section 15(1) of the Allotments Act 1950, the term “Allotments Acts 1908 to 1950” includes so much of Part 3 of the Agricultural Land (Utilisation) Act 1931 as relates to allotments, the Allotments Acts 1908 to 1925 and the Allotments Act 1950.

<sup>7</sup> Agriculture Act 1970 (Commencement No.2) Order 1970, SI 1970/1048.

a maximum of 6000 acres of land in England and Wales, and 2000 acres in Scotland were to be acquired for the purpose of smallholdings by the Board of Agriculture and Fisheries (“the Board”) with the consent of the Treasury. The Board was given wide powers to acquire, let and manage land for the purposes of the 1916 Act. The power to acquire land, however, was limited to “the continuance of the present war, and a period of twelve months thereafter”<sup>8</sup>.

- 3.10 The experiment of the 1916 and 1918 Acts appears not to have had lasting effect. Most smallholdings granted by the legislation were soon sold as individual holdings or transferred to county councils. It is likely that the practical value of the two Acts became superseded by the subsequent legislation relating to smallholdings. The 1916 Act (other than sections 9 and 12) and the whole of the 1918 Act were repealed by the Agriculture Act 1970<sup>9</sup>. Certain provisions of the 1916 Act were repealed again by the Statute Law (Repeals) Act 1973 so far as they applied to Scotland<sup>10</sup>.
- 3.11 The only substantive provision of the 1916 Act that remains unrepealed is section 9 (provisions as to solicitor to Board) which provided for the Revenue Solicitors Act 1828 (“the 1828 Act”) to be extended and applied to the solicitor of the Board in like manner as the 1828 Act already applied to the solicitors of the Government Departments mentioned in that Act. The purpose of section 9 was to empower “the present legal adviser of the Board to act as a solicitor for the purpose of the Bill”<sup>11</sup>. By applying the 1828 Act, section 1 of which authorises the Treasury Solicitor and the solicitors to HM Customs & Excise and the Inland Revenue to practise as solicitors in the course of their office notwithstanding any law, rule or custom to the contrary, section 9 empowered the Board’s solicitor to carry out his conveyancing and litigation functions under the 1916 Act without needing to comply with the usual requirements of the Law Society in relation to persons performing such functions<sup>12</sup>.
- 3.12 It is clear that section 9 no longer serves any useful purpose given that the statutory functions for which it was enacted have since been repealed. The repeal of section 9 is accordingly recommended. Apart from section 9, the only other surviving provision of the 1916 Act is section 12(1) which provides for the short

<sup>8</sup> 1916 Act, s.1(1).

<sup>9</sup> Section 113(3), Sch.5, Pt.3.

<sup>10</sup> Section 1(1), Sch.1, Pt. 8. However, since the Agriculture Act 1970 repeals appear to have extended to Scotland as well as England and Wales, the purpose of the 1973 Act repeals is unclear.

<sup>11</sup> [10 July 1916] Hansard (H.C.), Vol.84, col.71.

<sup>12</sup> This exemption from the usual requirements of the Law Society is reflected in section 88(1) of the Solicitors Act 1974 which provides that “Nothing in this Act [i.e. the 1974 Act] shall prejudice or affect any rights or privileges of the solicitor to the Treasury, any other public department, the Church Commissioners or the Duchy of Cornwall, or require any such officer or any clerk or officer appointed to act for him to be admitted or enrolled or to hold a practising certificate in any case where it would not have been necessary for him to be admitted or enrolled or to hold such a certificate if this Act had not been passed.”

title. It follows that the repeal of section 9 will permit the repeal of the 1916 Act as a whole.

- 3.13 A consequential repeal is the proviso to section 1(1) of the Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (which provided that land given to the Board for the purposes of section 1 of that Act should not be deemed to be acquired by the Board under the 1916 Act unless the gift was expressly made for the purposes of the 1916 Act).

*Land Settlement Facilities Act 1919*

- 3.14 The purposes of the Land Settlement Facilities Act 1919 (“the 1919 Act”) included amending the existing law relating to smallholdings and allotments.
- 3.15 Section 11 relates to the duties of county councils with respect to the sale or lease of land. Subsection (1) provided that land acquired by a county council under the Small Holdings and Allotments Act 1908 should, where it is to be sold or let for small holdings, be sold or let subject to a reservation of all minerals vested in the council (unless the Board of Agriculture and Fisheries directed otherwise). As explained in paragraph 3.3 above, references in the Small Holdings and Allotments Acts 1908 to 1931 to smallholdings have to be construed as references to cottage holdings. However, as also explained in paragraph 3.6 above, since August 1970 county councils have had no power to sell or let land as a cottage holding. Accordingly subsection (1) is now unnecessary and may be repealed on that basis. Subsection (3) enabled a tenant of a small holding to purchase the holding by giving notice to the county council provided that he had been in occupation for at least 6 years. This provision was limited by section 19(1) of the Small Holdings and Allotments Act 1926 to tenants in occupation on the date of commencement of that Act (15 December 1926). As with subsection (1) this provision must now be viewed in the light of the change in the law in 1970 referred to in paragraph 3.6 above which prohibited county councils from disposing of cottage holdings. Presumably in 1970 it was considered that there were few if any tenants still in occupation who could take advantage of subsection (3). In any event, the provision is clearly now unnecessary.
- 3.16 The only other surviving provision in section 11 is subsection (4)<sup>13</sup> which contains machinery for valuing a holding being purchased under subsection (3) if the parties are unable to agree this themselves. This provision is subsidiary to subsection (3) and will fall with it. A consequential repeal is paragraph 7 of Schedule 14 to the Agricultural Holdings Act 1986 (which amended subsection (4)).
- 3.17 Schedule 2 of the 1919 Act contains provisions amending the Small Holdings and Allotments Act 1908 (“the 1908 Act”). Schedule 2 is now unnecessary so far as these provisions repealed the 1908 Act. Other provisions in Schedule 2 have become unnecessary in the light of subsequent repeals to the 1908 Act.

<sup>13</sup> Subsections (2) and (5) to (7) were repealed by the Small Holdings and Allotments Act 1926, s.22, Sch.2.

*Small Holdings and Allotments Act 1926*

- 3.18 Section 1 of the Small Holdings and Allotments Act 1926 imposed a duty on county councils to provide smallholdings if satisfied that there was a demand for smallholdings by persons wishing to buy or lease them for cultivation. However this provision has now to be viewed in the light of the subsequent changes in the law referred to in paragraphs 3.3 (references in the 1926 Act to smallholdings are now to be construed as references to cottage holdings) and 3.6 (since 1970 county councils have been unable to sell or let cottage holdings) above. In the result, section 1 no longer serves any useful purpose and may be repealed.<sup>14</sup>
- 3.19 Section 2 empowered the Minister of Agriculture, Fisheries and Food to pay contributions to smallholdings authorities in respect of losses incurred in providing smallholdings. Since no such payments are still being made, section 2 no longer serves any useful purpose and may be repealed<sup>15</sup>.
- 3.20 Section 3 empowered county councils to sell or let smallholdings to co-operative societies and associations. However, as with section 1, this provision has now to be viewed in the light of the changes in the law since 1926 referred to above. Accordingly section 3 no longer serves any useful purpose and may be repealed<sup>16</sup>. Section 4, as originally enacted, empowered county councils to purchase land (or take a lease of land) for the purpose of providing smallholdings for persons who desired to buy or lease and cultivate the holdings. On this basis, section 4 would now be viewed in the light of the changes in the law since 1926 referred to above and would accordingly (as with sections 1 and 3) be repealable as no longer serving any useful purpose. However, the re-organisation of local government in 1972 resulted in the references in section 4 to 'county councils' being replaced by references to 'district councils'<sup>17</sup>. Accordingly the power in section 4 to purchase (or take on lease) cottage holdings is now vested in district councils. It is not clear whether this result was intended by those responsible for the 1972 re-organisation. Given that the purpose of Part 3 of the Agriculture Act 1970 was not only to provide for a new statutory scheme for smallholdings but also to phase out cottage holdings, it seems that this result may not have been intended. Moreover, under Part 3 of the 1970 Act, only councils recognised as smallholdings authorities were given functions as smallholdings authorities - district councils were not included as smallholdings authorities<sup>18</sup>. Accordingly since section 4 now serves no useful purpose, both it and the references to it in

<sup>14</sup> For the modern power of county councils to create smallholdings, see section 39 of the Agriculture Act 1970.

<sup>15</sup> The repeal of section 2 will permit the consequential repeal of the entry relating to section 2 in Schedule 2 to the Agricultural Land (Utilisation) Act 1931 and the entry relating to section 2 in Schedule 8 (Part 2) to the Agriculture Act 1947.

<sup>16</sup> For the modern power of county councils to let smallholdings to co-operatives, see section 44(3) of the Agriculture Act 1970.

<sup>17</sup> Local Government Act 1972, s.251, Sch.29, Pt.2, para.11.

<sup>18</sup> Agriculture Act 1970, s.38.

paragraph 11 of Schedule 29 to the Local Government Act 1972 and in section 1(2) of the Acquisition of Land Act 1981 may also be repealed.

- 3.21 Section 13 empowered county councils to advance money to enable people to buy their smallholdings. This power no longer exists because of the changes in the law since 1926 referred to above. So the provision in subsection (3) to the effect that no advance was to be made unless the title to the holding was good, that the sale was made in good faith and that the price was reasonable is no longer necessary. And subsection (4) is also no longer necessary since it treats references to smallholdings in section 13 as if they included references to cottage holdings (which is something subsequently provided for by the Agricultural Land (Utilisation) Act 1931, s.12). However, subsections (1) and (2) are not proposed for repeal since they relate to the continuing security of advances that have already been made.
- 3.22 Section 19(1) limited the effect of section 11(3) of the 1919 Act, a provision which is proposed for repeal above. Section 19(1) will fall along with section 11(3). Section 19(2) empowered county councils to sell smallholdings to sitting tenants. As with other repeal proposals referred to earlier, this provision must now be viewed in the light of changes in the law since 1926, especially the prohibition since 1970 on county councils selling cottage holdings. Section 19(2) may accordingly be repealed along with section 19(1). Schedule 1 contains minor amendments. The amendments that it makes to sections 11 and 18 of the 1919 Act are now unnecessary since section 11 is proposed for repeal above and section 18 was repealed by Schedule 2 to the 1926 Act.

#### *Agricultural Land (Utilisation) Act 1931*

- 3.23 Schedule 2 to the Agricultural Land (Utilisation) Act 1931 contains a number of minor amendments including two amendments to the Small Holdings and Allotments Act 1908 which are now unnecessary because the provisions that they amended have since been repealed<sup>19</sup>.

#### *Agriculture Act 1947*

- 3.24 Section 58 of the Agriculture Act 1947 empowered the Minister of Agriculture, Fisheries and Food to pay contributions to smallholdings authorities in respect of losses incurred in providing smallholdings. Since no such payments are still being made section 58 may be repealed as no longer serving any useful purpose. The repeal of section 58 will permit several consequential repeals<sup>20</sup>.

<sup>19</sup> These amendments were to section 52(1) and (2) (the amended text was repealed by the Local Government Act 1933 (s.307, Sch.11, Pt.4) and by the National Loans Act 1968 (s.24(2) and (3), Sch.6, Pt. 2)); and to section 61(1) (the amendment was to the definition of "county council" and this was repealed by the Local Government Act 1972, s.272(1), Sch.30.

<sup>20</sup> Section 3 of the Agriculture (Miscellaneous Provisions) Act 1954; provisions in section 52 of the Agriculture Act 1970; and paragraph 8 of Schedule 3 to the Agriculture Act 1970.

3.25 Section 59 provided for the winding-up of the Small Holdings and Allotments Account (“the Account”). The Account was originally established as “the Small Holdings Account” by section 19 of the Small Holdings and Allotments Act 1907, a provision that was re-enacted as section 51 of the consolidating Small Holdings and Allotments Act 1908 (“the 1908 Act”). The purpose of the Account (re-named as “the Small Holdings and Allotments Account” by section 17(2) of the Agricultural Land (Utilisation) Act 1931) was to provide funding, from moneys supplied by Parliament, for the activities of the Board of Agriculture and Fisheries under the 1908 Act. The provisions of the 1908 Act relating to the Account have long since been repealed<sup>21</sup> and section 51 of that Act was repealed in 1973<sup>22</sup>. Section 59 provided that the Account should be wound up on a day to be directed by the Treasury but not later than the end of the financial year after the one in which Part 4 of the 1947 Act came into force. In the event, Part 4 came into force on 1 October 1949<sup>23</sup> which was the day on which the Account was wound up. The provisions in paragraphs (a) and (b) of section 59 (future payments and current cash) are of a transitional nature which will by now be spent. It follows that section 59 is now unnecessary.

#### *Allotments Act 1950*

3.26 Sections 1 to 5 of the Allotments Act 1950 amended the respective rights of landlords and tenants under the existing allotments law, especially the law as provided for in the Allotments Act 1922 (“the 1922 Act”). Section 6, however, disapplied the effect of sections 1 to 5 in the case of-

(a) any parcel of land attached to a cottage; and

(b) (with the exception of section 2) certain lettings entered into pursuant to Regulations 51 and 62A of the Defence (General) Regulations 1939<sup>24</sup>.

3.27 The part of section 6 relating to lettings entered into pursuant to Regulation 51 is now unnecessary. The relevant part of section 6 reads-

“and in any document embodying an arrangement for the cultivation or use of land made in pursuance of the Cultivation of Lands (Allotments) Order 1939 as originally made, or of that order as amended by the Cultivation of Lands (Allotments) Order 1941, any reference to compensation to which a person would have been entitled if the arrangement had been a letting under a contract of tenancy of the land for use as an allotment garden or for sub-letting in allotment

<sup>21</sup> For example, sections 20 and 39(8) which were both repealed by the Small Holdings and Allotments Act 1926, s.22, Sch.2.

<sup>22</sup> Statute Law (Repeals) Act 1973, s.1(1), Sch.1, Pt.8.

<sup>23</sup> Agriculture Act 1947 (Commencement) Order 1949, SI 1949/1201.

<sup>24</sup> SR & O 1939/927. These Regulations were made by Order in Council pursuant to section 1 of the Emergency Powers (Defence) Act 1939.

gardens shall be construed in like manner as if this Act apart from section two thereof had not passed.”<sup>25</sup>

3.28 It is clear that section 6, in so far as it made provision in relation to the two Cultivation of Lands (Allotments) Orders, was concerned to ensure that the more generous compensation provisions provided for by the 1950 Act should not (other than those in section 2) be applicable to any subsisting arrangement made under paragraph 9 of the 1939 Order. In other words, the level of compensation payable to a tenant at the determination of any arrangement entered into under the 1939 Order should be based on the law as it was before the amendments to the 1922 Act (other than to section 2) made by the 1950 Act took effect. Regulation 51, together with certain other provisions of the Defence (General) Regulations, was revoked by section 1 of the Land Powers (Defence) Act 1958. Section 1 provided for this in the following terms: “[I]f and so far as they remain in force on the thirty-first day of December, nineteen hundred and fifty-eight, [they] shall cease to have effect at the end of that day”. The revocation of Regulation 51 meant that both Cultivation of Lands (Allotments) Orders lapsed automatically on 31 December 1958 since no saving provision was made for them. It seems clear that any arrangement entered into under those Orders that was still subsisting on that date would also have lapsed at the same time<sup>26</sup>. It follows that the part of section 6 of the 1950 Act that relates to the Orders is now unnecessary and may be repealed.

### *Consultation on Part 3*

3.29 Those consulted about these repeal proposals include (as appropriate) the Department for Environment, Food and Rural Affairs, the Office of the Deputy Prime Minister (in relation to local government), HM Treasury, the relevant authorities in Wales, the Local Government Association, the Welsh Local

<sup>25</sup> The two Cultivation of Lands (Allotments) Orders (SR&O 1939/1316; SR&O 1941/1431) being referred to here were made pursuant to the powers conferred by Regulation 51. Regulation 51 permitted a competent authority, if it appeared to that authority to be necessary or expedient to do so in the interests of public safety, defence of the realm or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, to take possession of any land and give such directions as appeared to it to be necessary or expedient in connection with the taking of that land (para.1). Moreover, while any land was in the possession of a competent authority, the land might (notwithstanding any restriction on it) be used by or under the authority of the competent authority for such purpose and in such manner as that authority thought expedient in the interests of public safety, defence of the realm or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community (para.2). Under the Cultivation of Lands (Allotments) Order 1939, the powers given by Regulation 51 were delegated to local authorities who were permitted to make arrangements with persons and societies for the cultivation or user of land. Paragraph 9 of the Order provided that any arrangement with a person or society for the cultivation or user of land should be subject to determination by the local authority or the Minister at any time and should not provide for payment of compensation at the termination of the arrangement except as specified in the Allotments Act 1922.

<sup>26</sup> It is, however, unlikely that any such arrangement would still have been subsisting in 1958 since the power to take possession and use land pursuant to Regulation 51 had to be justified by reference to the existence of the war-time necessity factors set out in the Regulation (defence of the realm, maintaining essential supplies, etc).

Government Association, the National Association of Local Councils and the National Society of Allotment and Leisure Gardeners Ltd. No objections have been raised.

## **PART 4**

# **AVIATION**

### *Introduction*

- 4.1 The repeal candidates in this Part of the report include statutory provisions that have been enacted to give effect to international conventions binding the United Kingdom. Also included are obsolete provisions relating to civil aviation, air services and airports and the privatisation of air services and airports<sup>1</sup>.

### *Carriage by Air Act 1961/Carriage by Air (Supplementary Provisions) Act 1962*

- 4.2 The purpose of the Warsaw Convention 1929 was to unify rules relating to the international carriage by air of persons, luggage and goods. The Warsaw Convention was given effect to in United Kingdom law by the Carriage by Air Act 1932. The Warsaw Convention was amended by the Hague Protocol 1955, and the Carriage by Air Act 1961 (“the 1961 Act”) gave effect in United Kingdom law to the Warsaw Convention as amended by the Hague Protocol 1955. The 1961 Act has been amended by the Carriage by Air (Supplementary Provisions) Act 1962 (“the 1962 Act”) and by the Carriage by Air and Road Act 1979. The 1962 Act incorporated into United Kingdom law the Guadalajara Convention 1961 which provided for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier<sup>2</sup>.
- 4.3 The repeals being recommended are of provisions - mainly of a transitional nature - that have become unnecessary because of the lapse of time since they were enacted.
- 4.4 Section 14(3) of the 1961 Act provided for the repeal of the Acts specified in the Second Schedule, the repeal to take effect when section 1 came into force - 1 June 1967<sup>3</sup> - subject to any rights or liabilities arising out of an occurrence before 1 June 1967. This repealing provision became spent once it came into force, and the saving for any rights or liabilities is adequately protected by section 16(1) of the Interpretation Act 1978 (general savings).
- 4.5 Turning to the 1962 Act, section 2(1) contains a transitional definition of ‘Warsaw Convention’ in relation to rights or liabilities arising out of an occurrence before 1 June 1967 when section 1 of the 1961 Act came into force. The need for this transitional provision has now gone because the Convention extinguishes claims

<sup>1</sup> See also paragraphs 16.3 and 16.4 below relating to the Aircraft and Shipbuilding Industries Act 1977 and the British Aerospace Act 1980.

<sup>2</sup> The Carriage by Air and Road Act 1979 amended the 1961 and 1972 Acts to give effect in the United Kingdom to the provisions of certain protocols adopted at Montreal in 1975 which further amended the Warsaw Convention. The Warsaw Convention as amended at Montreal was inserted as Schedule 1A to the 1961 Act by the Carriage by Air Acts (Implementation of Protocol No.4 of Montreal, 1975) Order 1999, SI 1999/1312, art.2(6), Sch.

<sup>3</sup> Carriage by Air (Convention) Order 1967, SI 1967/479. The reference to section 1 is a reference to that section as originally enacted (before being substituted by SI 1999/1312).

for damages if not brought within 2 years<sup>4</sup>. Moreover the enforcement of any rights or liabilities arising from a pre-June 1967 situation is now long since time-barred under the Limitation Act 1980<sup>5</sup>. Similarly section 3(3) contains a now spent transitional provision relating to claims made under the Carriage by Air Act 1932. The 1932 Act was repealed by the 1961 Act<sup>6</sup> without prejudice to any rights or liabilities arising out of an occurrence before 1 June 1967<sup>7</sup>. Since all claims have long since been time-barred, this reference to the 1932 Act is now unnecessary. The passage of time has also rendered unnecessary section 4 which provides interim protection for carriers' servants and agents in relation to rights and liabilities arising out of an occurrence before 1 June 1967. The repeal of section 4 permits the consequential repeal of paragraph 5 of Schedule 2 to the Carriage by Air and Road Act 1979 (which prospectively amended section 4). A number of other unnecessary provisions in the 1962 Act are also proposed for repeal<sup>8</sup>.

*Air Corporations Acts 1966 and 1969*

- 4.6 The purposes of the Air Corporations Act 1966 included providing financial assistance to the British Overseas Airways Corporation ("BOAC") by reducing its indebtedness and transferring its stock. Most of the 1966 Act was repealed by the Air Corporations Act 1967<sup>9</sup>. The only provisions remaining are section 1(1)(b) and (4) and Schedule 1 (which provided for the transfer as from 1 April 1965 of all rights and liabilities in certain stock from BOAC to the Treasury) and section 9(1) and (3) (subsidiary provisions concerning the citation and interpretation of the 1966 Act). The provisions in section 1 and Schedule 1 are now spent since the stock transferred to the Treasury pursuant to those provisions has been redeemed or has otherwise expired. Accordingly those provisions and the subsidiary provisions in section 9 may be repealed. This will permit the repeal of the whole of the 1966 Act.
- 4.7 The purposes of the Air Corporations Act 1969 included providing financial assistance to the British European Airways Corporation ("BEA") by reducing its indebtedness and transferring its stock. The only provisions of the 1969 Act remaining in force are section 1(1)(b) and (8) and Part 2 of Schedule 1 (which provided for the transfer as from 1 April 1968 of all rights and liabilities in certain stock from BEA to the Treasury) and section 5 (subsidiary provisions concerning the 1969 Act's

<sup>4</sup> Article 29(1).

<sup>5</sup> The equivalent Act in Scotland is the Prescription and Limitation (Scotland) Act 1973.

<sup>6</sup> Sections 1, 14(3), Sch.2.

<sup>7</sup> Section 14(3).

<sup>8</sup> These are section 5(3) (a transitional provision preserving the effect of the 1932 Act pending the coming into force of section 1 of the 1961 Act on 1 June 1967); section 5(4) (which brought section 5 into force at Royal Assent - 19 July 1962 - thereupon becoming spent); section 6(2) (a spent transitional provision preventing section 6(1) having effect before 1 June 1967); section 7(2) (the commencement provision for the remainder of the 1962 Act which became spent on 1 May 1964); section 7(3) (which both prevented the 1962 Act affecting rights and liabilities arising out of any pre-1 May 1964 occurrences, and enabled the 1962 Act to operate before that date for the purpose of any order under section 5(2)).

<sup>9</sup> Section 36(1), Sch.3.

short title, citation and interpretation). These remaining provisions in section 1 and Schedule 1 are now spent since the stock transferred to the Treasury pursuant to those provisions has been redeemed or has otherwise expired. Accordingly those provisions and the subsidiary provisions in section 5 may be repealed. This will permit the repeal of the whole of the 1969 Act.

#### *Civil Aviation Act 1980*

- 4.8 The purposes of the Civil Aviation Act 1980 included the transfer of the property of the British Airways Board (“the Board”) to a successor company in the private sector<sup>10</sup>. The transfer, to British Airways plc, took effect in 1984. The 1980 Act accordingly paved the way for privatisation of the Board’s assets. Many provisions in the 1980 Act are now spent or otherwise unnecessary because they took effect “on the appointed day” - that is, on 1 April 1984 when the Board’s assets were transferred to British Airways plc<sup>11</sup>. These may now be repealed. Many other provisions will be repealable once an order is made under section 8(7) dissolving the Board.
- 4.9 Section 2 amended section 9(1) of the British Airways Board Act 1977 (limit on the Board’s borrowing powers). However, section 9(1) was repealed by the 1980 Act<sup>12</sup> with effect from 1 April 1984<sup>13</sup>. Section 2 thereupon became unnecessary. Section 3(2) provided the authority for the Secretary of State to nominate the successor company. This provision is plainly now spent. Section 3(7) prevented any rights or liabilities under any service agreement that a Board member had with the Board from vesting in the successor company. Again this provision became spent once the vesting had taken place in 1984. Section 8 provides, amongst other matters, for the Board to continue to exercise certain functions after the appointed day (i.e. 1 April 1984) pending its dissolution under subsection (7). Subsections (8) and (9) (providing for the successor company to prepare accounts and report to the Secretary of State in respect of the accounting year immediately preceding the appointed day) are self-evidently spent. Section 9 is a transitional provision whereby shares in the successor company (i.e. British Airways plc) could count as trustee investments for the purpose of the Trustee Investments Act 1961 whether or not the company had a track record of paying dividends for 5 years as required by paragraph 3(b) of Part 4 of Schedule 1 to the 1961 Act. Section 9 deems the company to have paid a dividend either during the calendar year in which the appointed day fell (i.e. 1984) or in any earlier year. This transitional provision expired at the latest 4 years after 1984 i.e. 1988. Section 10 is the interpretation provision for Part 1 of the 1980 Act. Subsection (3) permits an order made under section 3(2) (nominating the successor company) and an order made under section 10(1) (to name the appointed day) to be varied or revoked at any time before any property, rights, liabilities or obligations of the Board vest in the successor company by virtue of section 3. Since neither order was varied or revoked before the vesting took place on 1 April 1984,

<sup>10</sup> The Board was established by Part 3 of the Civil Aviation Act 1971 and exercised general control over the British Overseas Airways Corporation and the British European Airways Corporation until those Corporations were dissolved in 1973.

<sup>11</sup> Civil Aviation Act 1980 (Appointed Day) Order 1983, SI 1983/1940.

<sup>12</sup> Section 8(1), Sch.3, Pt.1.

<sup>13</sup> Civil Aviation Act 1980 (Appointed Day) Order 1983, SI 1983/1940.

subsection (3) has become unnecessary. Section 27 is the interpretation provision for Part 2 of the 1980 Act. It defines the expressions “the Act of 1949” and “the Act of 1971” as used in Part 2. However section 27 is now unnecessary since the only other unrepealed provisions remaining in Part 2 are sections 20 and 28, and neither section contains either of these expressions. Finally section 28 repealed the enactments mentioned in Part 2 of Schedule 3. The repeals took effect at Royal Assent on 13 November 1980, with the exception of the repeal of section 24(2) of the Civil Aviation Act 1971 which took effect on 22 May 1981<sup>14</sup>. Section 28 and Part 2 of Schedule 3 thereupon became spent.

*Civil Aviation (Amendment) Act 1982/Civil Aviation Act 1982*

- 4.10 The purposes of the Civil Aviation (Amendment) Act 1982 included amending the borrowing limit of the British Airways Board and applying that limit to foreign currency borrowings. Section 1 was repealed by the Airports Act 1986<sup>15</sup>. Section 2 amended section 9(1) of the British Airways Board Act 1977 (limit on Board’s borrowing powers). However, section 9(1) was repealed by the 1980 Act<sup>16</sup> with effect from 1 April 1984<sup>17</sup>. Section 2 thereupon became unnecessary. Section 3 applied the Board’s borrowing limit to foreign currency borrowings for the purposes of section 9(1) of the British Airways Board Act 1977. As just indicated, section 9(1) has been repealed. Accordingly section 3 is now unnecessary. Section 4 and Schedules 1 and 2 were repealed by the Civil Aviation Act 1982<sup>18</sup>. Since there are no other unrepealed provisions in the 1982 Act, the whole of the 1982 Act may now be formally repealed.
- 4.11 The Civil Aviation Act 1982 contains several unnecessary technical provisions. Paragraph 12 of Schedule 14 provided that until the commencement of the British Nationality Act 1981, certain provisions in the 1982 Act should have effect subject to the British Nationality Act 1948 (and other enactments). The British Nationality Act 1981 came into force on 1 January 1983<sup>19</sup>. Thereupon paragraph 12 became spent. Paragraph 6 of Schedule 15 provided that the definition of ‘modification’ in section 7(1) of the Tokyo Convention Act 1967 should continue to have effect despite the repeal by the 1982 Act of paragraph 27 of Schedule 1 to the Civil Aviation (Amendment) Act 1982 (which inserted the definition). However this saving provision became unnecessary upon the repeal of the Tokyo Convention Act 1967 by the Merchant Shipping and Maritime Security Act 1997<sup>20</sup>. Finally, paragraph 16 of Schedule 15 amended the Air Travel Reserve Fund Act 1975. However this amendment became unnecessary when the 1975 Act was repealed by the Statute Law (Repeals) Act 1995<sup>21</sup>.

<sup>14</sup> Civil Aviation Act 1980 (Commencement) Order 1981, SI 1981/671.

<sup>15</sup> Section 83(5), Sch.6, Pt.1.

<sup>16</sup> Section 8(1), Sch.3, Pt.1.

<sup>17</sup> Civil Aviation Act 1980 (Appointed Day) Order 1983, SI 1983/1940.

<sup>18</sup> Section 109(3), Sch.16.

<sup>19</sup> British Nationality Act 1981 (Commencement) Order 1982, SI 1982/933.

<sup>20</sup> The 1997 Act, ss.26(3), 29(2), Sch.7, Pt.1.

<sup>21</sup> Section 1, Sch.1, Pt.4.

### *Aviation Security Act 1982*

- 4.12 The Aviation Security Act 1982 included provisions relating to the Aviation Security Fund which are now unnecessary. The purposes of the Fund included reimbursing aircraft and airport operators and others in respect of certain expenses including the expenses incurred by them in complying with Part 2 of the 1982 Act (protection of aircraft, aerodromes and air navigation installations against acts of violence). Section 36(1) empowered the Secretary of State by order to wind up the Fund and to return contributions to aerodrome managers. Once the winding up was complete, future reimbursement payments would be made, with Treasury consent, out of moneys provided by Parliament. The Secretary of State duly made an order under section 36(1) winding up the Fund<sup>22</sup>. A subsequent order declared the winding up to be complete on 31 October 1983<sup>23</sup>. Thereupon section 36(1) (together with the ancillary section 36(3), providing for Parliamentary scrutiny of the order-making power) became unnecessary. Finally paragraph 8 of Schedule 2 provided that, until the commencement of the British Nationality Act 1981, the definition in section 38(1) of ‘United Kingdom national’ should have effect subject to the British Nationality Act 1948 (and other enactments). The British Nationality Act 1981 came into force on 1 January 1983<sup>24</sup>. Thereupon paragraph 8 became spent.

### *Airports Act 1986*

- 4.13 The purposes of the Airports Act 1986 included the dissolution of the British Airports Authority (“the Authority”) and the divesting of its property, rights and liabilities. Once this purpose had been achieved, the relevant provisions of the 1986 Act became unnecessary.
- 4.14 Section 1 empowered the Secretary of State “before the day appointed under section 2(1)” to direct the Authority to submit proposals for the carrying on of its activities by companies nominated by it. The day appointed under section 2(1) was 1 August 1986<sup>25</sup> after which the provisions of section 1 ceased to be operable. Section 2 provided for the dissolution of the Authority and the vesting of its property, rights and liabilities in a successor company. The Secretary of State’s order (whereby the Authority ceased to exist and its property, rights and liabilities became vested) was made on the appointed day pursuant to subsection (1)<sup>26</sup>. Subsection (1) thereupon became spent<sup>27</sup>. Subsection (2) empowered the Secretary of State to nominate the successor company. This power was exercised by order on 15 July 1986 whereby BAA plc was nominated<sup>28</sup>. Subsection (2) thereupon became spent. Subsection (3) (defining property, rights and liabilities of the Authority) is ancillary to subsection (1) and falls with it. Subsection (4)

<sup>22</sup> Aviation Security Fund (Winding Up) Order 1983, SI 1983/81.

<sup>23</sup> Aviation Security Fund (Date of Completion of Winding Up) Order 1983, SI 1983/1644.

<sup>24</sup> British Nationality Act 1981 (Commencement) Order 1982, SI 1982/933.

<sup>25</sup> Airports Act 1986 (Commencement No.1 and Appointed Day) Order 1986, SI 1986/1228, art.5.

<sup>26</sup> Ibid.

<sup>27</sup> The repeal of provisions in section 2 will not prejudice their previous operation: Interpretation Act 1978, section 16(1)(b).

<sup>28</sup> Airports Act 1986 (Nominated Company) Order 1986, SI 1986/1229.

amended the House of Commons Disqualification Act 1975 and the Northern Ireland Assembly Disqualification Act 1975 to include a reference to a director of the successor company 'being a director nominated or appointed by a Minister of the Crown or by a person acting on behalf of the Crown'. This provision is now unnecessary since BAA plc is now a privatised company and Board appointments are no longer made by Government<sup>29</sup>. Subsection (5) provided that an order appointing a day under subsection (1) or nominating a company under subsection (2) could be varied or revoked at any time before any property, rights or liabilities vested in the successor company. Plainly this provision became spent once the Authority's property, rights and liabilities vested in BAA plc<sup>30</sup>.

- 4.15 Section 3 provides for the cancellation of the Authority's debts. Subsection (1) extinguished certain liabilities owed by the Authority to the Secretary of State. This took effect immediately before the appointed day (i.e. 1 August 1986) whereupon section 3(1) became spent. Subsections (2) and (3) preserved the Authority's liability in respect of certain moneys due before, or in respect of, a period before 1 August 1986. These savings provisions are no longer required. Subsection (4) is an ancillary definition provision which falls with the remainder of section 3. Section 4 is a transitional provision which operated whilst BAA plc was wholly owned by the Crown. Subsection (1) required BAA plc to issue to the Treasury or the Secretary of State (or other persons) such securities (e.g. shares) in the company as the Secretary of State might direct. Subsections (2) to (4) are ancillary to the security-issuing provisions of subsection (1). Since BAA plc ceased to be wholly owned by the Crown on 28 July 1987<sup>31</sup>, subsections (1) to (4) are spent<sup>32</sup>.
- 4.16 Section 5 empowers the Treasury and the Secretary of State to acquire securities in BAA plc. This provision is distinct from the transitional arrangements in section 4 which provided for the initial Government shareholding in BAA plc whilst it was still wholly owned by the Crown. Section 5 by contrast is directed at authorising Government investment in BAA plc once it became a privatised company. The Government agrees that this section may be repealed as unnecessary. Section 9 is a transitional provision that expired once BAA plc ceased to be wholly owned by the Crown. Section 11 is also a transitional provision to enable shares in BAA plc to count as trustee investments for the purposes of the Trustee Investments Act 1961. This transitional provision expired in 1990 and may therefore now

<sup>29</sup> Indeed the amendment made by subsection (4) to the House of Commons Disqualification Act 1975 has already been repealed: House of Commons Disqualification Order 1990, SI 1990/2585, art.2, Sch.5 (para.5). A repeal to the corresponding provision in the Northern Ireland Assembly Disqualification Act 1975 is proposed.

<sup>30</sup> The repeal of sections 1 and 2 will permit consequential repeals in sections 75, 76 and 79.

<sup>31</sup> The Explanatory Note to the Airports Act 1986 (Government Shareholding) Order 1987, SI 1987/2232 stated that BAA plc ceased to be wholly owned by the Crown on 28 July 1987.

<sup>32</sup> Since the Secretary of State still holds a number of shares issued under subsection (1), subsections (5) and (6) are not recommended for repeal.

be repealed. Finally the proposed repeals to the 1986 Act include a number of other spent or unnecessary provisions<sup>33</sup>.

*Outer Space Act 1986/Aviation and Maritime Security Act 1990*

- 4.17 Section 15 of the Outer Space Act 1986 contains commencement and transitional provisions that are now spent. Similarly the Aviation and Maritime Security Act 1990 contains a number of spent provisions including section 3(2) and paragraph 3 of Schedule 3 (both of which are repealing provisions) and section 54(2) which is a spent commencement provision.

*Consultation on Part 4*

- 4.18 Those consulted about these repeal proposals include (as appropriate) HM Treasury, the Department for Transport, the Department for Trade and Industry, the Civil Aviation Authority, British Airways plc, BAA plc and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

<sup>33</sup> These include sections 53(5) and 57(3) and paragraphs 7 to 9 of Schedule 5 (spent transitional provisions) and sections 79(5) and 85(2) to (6) (spent commencement provisions).

# **PART 5**

## **DEFUNCT BODIES**

### *Introduction*

- 5.1 Part 5 concerns provisions relating to bodies which have ceased to exist. The provisions concern either the body when it existed (for example constitution, functions) or the mechanisms for dealing with the winding up of the body (for example a dissolution order, or the transfer of certain rights or interests). The provisions proposed for repeal are no longer required as they either relate to a body which no longer exists or to powers which have been exercised.

### *Group 1 - Armed Forces*

#### *Patriotic Fund Reorganisation Act 1903*

- 5.2 The Patriotic Fund had been established after the Crimean War for the relief of widows and children of soldiers and sailors<sup>1</sup> and originally was administered by a Royal Commission<sup>2</sup>. By virtue of section 3(1) of the Patriotic Fund Reorganisation Act 1903, the Patriotic Fund Commission was dissolved on 1 January 1904 and its property etc. transferred to the Royal Patriotic Fund Corporation which had been established under the 1903 Act. Section 3(2) provided for officers and clerks of the Commission in service before 1 January 1904. There are no longer any such persons to whom section 3(2) can apply. Section 3(1) and (2) are spent and, therefore, can be repealed.

#### *The Armed Forces Act 1981*

- 5.3 The Accountant General of the Navy was responsible for the drawing and acceptance of navy payments. By virtue of section 24(1) of the Armed Forces Act 1981 the office was abolished on 1 May 1982<sup>3</sup>. Section 24(1) is no longer necessary<sup>4</sup>.

#### *Consultation on Part 5 (Group 1)*

- 5.4 Those consulted about these repeal proposals include the Ministry of Defence, HM Treasury, the Royal Patriotic Fund Corporation and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

<sup>1</sup> At a later date dependants of persons serving in the air forces could also apply for relief under the Fund.

<sup>2</sup> Various Patriotic Fund Acts from 1866 to 1899 provided for the application and administration of the Fund.

<sup>3</sup> The Armed Forces Act 1981 (Commencement No.2) Order SI 1982/497.

<sup>4</sup> As a consequence of the abolition of the office the reference to the accountant general of the navy in s.2 of the Statutory Declarations Act 1835 is obsolete and proposed for repeal.

## *Group 2 - Children*

### *Health and Social Services and Social Security Adjudications Act 1983*

- 5.5 By virtue of section 27<sup>5</sup> of the Health and Social Services and Social Security Adjudications Act 1983, the Advisory Committee on radiation hazards and the Advisory Council on Child Care were abolished on 15 August 1983<sup>6</sup> and certain repeals came into force<sup>7</sup>. Section 27 is, therefore, spent<sup>8</sup>.

### *Consultation on Part 5 (Group 2)*

- 5.6 Those consulted about this repeal proposal include the Department for Environment, Food and Rural Affairs, the Department for Constitutional Affairs and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

## *Group 3 - Civil Rights and Liberties*

### *Race Relations Act 1976*

- 5.7 The Race Relations Act 1976 established the Commission for Racial Equality. Section 43(5) of the 1976 Act provided for the Race Relations Board and the Community Relations Commission to be abolished on 13 June 1977<sup>9</sup>. Section 43(5) is, therefore, spent. Schedule 2 to the 1976 Act contains spent transitional provisions relating to the abolition<sup>10</sup>.

### *Disability Rights Commission Act 1999*

- 5.8 As a result of section 1(4) of the Disability Rights Commission Act 1999 the National Disability Council was abolished and superseded by the Disability Rights Commission on 25 April 2000<sup>11</sup>. Section 1(4) is spent.

### *Consultation on Part 5 (Group 3)*

- 5.9 Those consulted about these repeal proposals include the Department for Education and Skills, the Department for Work and Pensions, the Home Office, HM Treasury, the Commission for Racial Equality, the Disability Rights Commission and the relevant authorities in Wales and Scotland. No objections have been raised.

<sup>5</sup> S.27(b) and (c) - s.27(a) having been repealed.

<sup>6</sup> The Health and Social Services and Social Security Adjudications Act 1983 (Commencement No.1) Order 1983, SI 1983/974.

<sup>7</sup> Repeals to the Radiological Protection Act 1970 and s.71 of the Child Care Act 1980.

<sup>8</sup> S.33(1)(e) which provided for the application of s.27(b) to Northern Ireland will fall with the repeal of s.27.

<sup>9</sup> The Race Relations Act 1976 (Commencement No.2) Order 1977, SI 1977/840.

<sup>10</sup> Paras.2 to 10.

<sup>11</sup> The Disability Rights Commission Act 1999 (Commencement No.2 and Transitional Provision) Order 2000, SI 2000/880.

## *Group 4 - Education*

### *Education Reform Act 1988*

- 5.10 Section 136(1) and (2) of the Education Reform Act 1988 enabled property of the National Advisory Body for Public Sector Higher Education (“NAB”) to be transferred to the Higher Education Funding Council for England. The NAB was wound up on 28 September 1993<sup>12</sup>, and its property transferred to the Council on that date, thus enabling the repeal of section 136 (the remaining subsections having been previously repealed)<sup>13</sup>.
- 5.11 The 1988 Act established new local education authorities in Inner London and provided for the transfer of functions and property of the Inner London Education Authority (“ILEA”). By virtue of section 162, ILEA, any education committee established by ILEA and the Inner London Education Area ceased to exist on 1 April 1990. Section 162 is, therefore spent. Sections 165, 169, 171, 175, 184, 188 to 191<sup>14</sup> and 193 to 194 provided for the transfer of functions, rights and liabilities and are also spent.
- 5.12 The London Residuary Body (“the LRB”) was wound up by order<sup>15</sup> under the 1988 Act. Sections 164, 176 to 178, 182<sup>16</sup>, 183 and 186 provided for the LRB and are therefore, spent.
- 5.13 The University Commissioners were established under section 202, which also provided for its functions. Schedule 11 provided, amongst other matters, for the appointment and powers of the Commissioners. The Commissioners’ powers and duties ceased on 1 April 1996<sup>17</sup>. Section 202 and Schedule 11 are spent as well as sections 203 to 208<sup>18</sup> which, amongst other matters, provided for the powers or duties of the Commissioners or allowed for the provision of similar powers in Northern Ireland.

<sup>12</sup> Companies House Register, online version - [www.companieshouse.org.uk](http://www.companieshouse.org.uk); Company Number 01918298.

<sup>13</sup> The repeal of s.136 will permit the repeal of para.37 of Sch.8 to the Further and Higher Education Act 1992.

<sup>14</sup> The repeal of s.190 will permit the repeal of the reference to it in s.230. The repeal of s.191 will permit the repeal of para.17 of Sch.3 to the Audit Commission Act 1998.

<sup>15</sup> The London Residuary Body (Winding Up) Order 1996, SI 1996/557 made under s.187.

<sup>16</sup> The repeal of s.182 will permit the repeal of para.16 of Sch.3 to the Audit Commission Act 1998.

<sup>17</sup> The Commissioners’ powers would have ceased at the end of 3 years from the day s.202 came into force (29 July 1988) but were continued by various orders culminating in the Education (University Commissioners) Order 1995, SI 1995/604 made under para.3(2)(b) of Sch.11.

<sup>18</sup> The repeal of s.203 will permit the repeal of para.37(3) of Sch.1 to the Employment Rights Act 1996. The repeal of s.205 will permit the repeal of para.45 of Sch.8 to the Further and Higher Education Act 1992. References in s.238(4) to ss.202 to 205 and 207, and in s.238(5) to s.208 can also be repealed.

*Further and Higher Education Act 1992*

- 5.14 The Universities Funding Council and the Polytechnics and Colleges Funding Council (“the existing councils”) were dissolved on 1 April 1993<sup>19</sup>. Section 64 is a transitional provision which provided for the period from 6 May 1992 until 1 April 1993 (providing for the role of the existing councils and enabling abolition). The transitional period has ended, rendering section 64 spent.
- 5.15 The Council for National Academic Awards was dissolved by order under section 80<sup>20</sup> on 20 April 1993 and all its property, rights and liabilities transferred to the Secretary of State for Education on that date. Section 80 is spent and may be repealed.

*Consultation on Part 5 (Group 4)*

- 5.16 Those consulted about these repeal proposals include the Department for Education and Skills, the Office of the Deputy Prime Minister, the Greater London Authority, the Higher Education Funding Council for England, the Local Government Association, the National Association of Local Councils and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 5 - Electricity*

*Electricity Act 1989*

- 5.17 The Electricity Council was dissolved on 9 November 2001 by order made under section 84<sup>21</sup> of the Electricity Act 1989. The Electricity Boards<sup>22</sup> were also dissolved under section 84 by various orders with the last date of dissolution occurring on 9 November 2001<sup>23</sup>. Section 84 also made provision for transitional periods between 31 March 1990 (the date on which the Council or Boards’ property was transferred to successor companies) and the respective dissolution dates and for the transfer date itself. With the expiration of the respective transitional periods and the dissolution of the Council and the Boards section 84 is spent. Provisions relating to the transfer (section 85) and for certain payments to or by the Council or certain of the Boards (sections 86 to 89 and 91(2)) are also spent with the dissolution of such bodies. Paragraphs 29 to 31 of Schedule 17

<sup>19</sup> By virtue of s.63 and the Further and Higher Education Act 1992 (Commencement No 1 and Transitional Provisions) Order 1992, SI 1992/831.

<sup>20</sup> The Education (Dissolution of the Council for National Academic Awards) Order 1993, SI 1993/924.

<sup>21</sup> The Electricity Council (Dissolution) Order 2001, SI 2001/3420.

<sup>22</sup> Comprising an Area Board, the Generating Board and a Scottish Board (the North of Scotland Hydro-Electric Board or the South of Scotland Electricity Board).

<sup>23</sup> Dissolution occurred as follows-

Area Boards - each Board was dissolved on 10 December 1993 (The Area Boards (Dissolution) Order 1993, SI 1993/2825), Scottish Boards - each dissolved on 10 December 1993 (The Scottish Electricity Boards (Dissolution) Order 1993, SI 1993/2802), the Generating Board - dissolved on 9 November 2001 (The Central Electricity Generating Board (Dissolution) Order 2001, SI 2001/3421).

which related to certain transitional periods are also spent on the expiration of such periods.

- 5.18 The Central Guarantee Fund ceased, by virtue of section 92, to exist immediately before the 31 March 1990. On such date any sums standing to its credit were divided between certain of the Boards<sup>24</sup> (now dissolved). Section 92 is spent and may be repealed.

*Consultation on Part 5 (Group 5)*

- 5.19 Those consulted about these repeal proposals include HM Treasury, the Department of Trade and Industry and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 6 - Fisheries*

*Fisheries Act 1981*

- 5.20 By virtue of section 13(1) of the Fisheries Act 1981, the White Fish Authority and the Herring Industry Board were dissolved on 1 October 1981<sup>25</sup>. Section 13(1) is spent<sup>26</sup>. Paragraphs 4 to 7 of Schedule 3 (which contain provisions consequential on the abolition of the Authority and Board) are also spent and may be repealed.

*Consultation on Part 5 (Group 6)*

- 5.21 Those consulted about these repeal proposals include the Department for Environment, Food and Rural Affairs, the Sea Fish Industry Authority and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 7 - Gas*

*Gas Act 1986*

- 5.22 Certain provisions in the Gas Act 1986 are now spent and can be repealed. As a result of the transfer of the British Gas Corporation's British Gas Stock on 24 August 1986 to the Treasury<sup>27</sup> subsection (3) of section 50 of the 1986 Act provided for the renaming of certain stock. Such stock was redeemed before 1996. Subsections (4) and (5) provided for payment of interest on the transferred stock. The interest payable was paid before 24 August 1986. Section 50(3) to (5) are spent. The British Gas Corporation was continued in existence from 24 August 1986 until dissolved by order in accordance with section 57 on 28 February 1990<sup>28</sup>, thus rendering section 57 spent.

<sup>24</sup> The Generating Board and the Area Boards.

<sup>25</sup> The Fisheries Act 1981 (Commencement No.1) Order 1981, SI 1981/1357.

<sup>26</sup> The reference to subs. (1) in s.13(2) is also spent.

<sup>27</sup> The transfer occurred by virtue of s.50(1).

<sup>28</sup> The British Gas Corporation (Dissolution) Order 1990, SI 1990/147.

*Consultation on Part 5 (Group 7)*

- 5.23 Those consulted about these repeal proposals include HM Treasury, the Department of Trade and Industry, Centrica plc, Lattice Group plc, BG Group plc and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 8 - Mines, Minerals and Quarries*

*Coal Industry Act 1994*

- 5.24 By virtue of section 24(1) of the Coal Industry Act 1994 the Domestic Coal Consumer's Council ceased to exist on 1 March 1995<sup>29</sup>. Subsections (2) and (3) relating to payment of compensation for loss of office are no longer necessary. Section 24 can be repealed.

*Consultation on Part 5 (Group 8)*

- 5.25 Those consulted about this repeal proposal include the Department of Trade and Industry, HM Treasury and the relevant authorities in Wales and Scotland. No objections have been raised.

*Group 9 - National Health Service*

*Public Accounts and Charges Act 1891*

- 5.26 By virtue of section 1(1) of the Public Accounts and Charges Act 1891 the office of Receiver-General of Inland Revenue was abolished on 3 July 1891 (Royal Assent). On this date the subsection became spent.

*Health Services Act 1980*

- 5.27 By virtue of section 8(1) of the Health Services Act 1980 the Central Health Services Council ceased to have effect on 8 August 1980 (Royal Assent). Section 8(2) provided for the continuation and membership of the standing advisory committees constituted under section 6(3) of the National Health Service Act 1977. Subsection (2) is no longer necessary. Section 6(3) and (4) of the 1977 Act provide for these matters<sup>30</sup>. Section 8(1) and (2) are spent and can, therefore, be repealed.
- 5.28 The Health Services Board and the Scottish and Welsh Committees constituted under Part 2 of Schedule 1 to the Health Services Act 1976 ceased to have effect on 8 August 1980 by virtue of section 9(1)(b). Subsection (1)(b) of section 9 is still required for interpretation purposes. Subsections (1)(a) and (5)(a) of section 9 and Schedule 2 which provided for repeal of certain provisions on 8 August 1980 are, however, spent. Section 9(5)(b) falls with the repeal of Schedule 2.

<sup>29</sup> The Coal Industry (Abolition of Domestic Coal Consumers' Council) Order 1995, SI 1995/255.

<sup>30</sup> The National Health Service (Standing Advisory Committees) Order 1981, SI 1981/597 provides as to constitution. The National Health Service (Standing Advisory Committees) Regulations 1981, SI 1981/101 as amended by SI 1986/458 provides as to membership.

Subsections (2) to (4) of section 9 which provided for the transfer of the property, rights and liabilities and for proceedings of the Board or the Committees on 8 August 1980 are also spent.

*Health and Medicines Act 1988*

- 5.29 The General Practice Finance Corporation was dissolved on 27 February 1989 by virtue of section 1(9) of the Health and Medicines Act 1988<sup>31</sup>. All its property and rights being transferred on such date and the transfer complying with the subsections (1) to (13) of section 1, these subsections are spent. Section 3 is a transitional provision concerned with the period up to dissolution which is now unnecessary and may be repealed.

*Health Act 1999*

- 5.30 The Clinical Standards Advisory Group ceased to exist on 1 November 1999 by virtue of section 25 of the Health Act 1999<sup>32</sup>. On this date the section became spent and may be repealed.

*Consultation on Part 5 (Group 9)*

- 5.31 Those consulted about these repeal proposals include the Department of Health, HM Treasury, the Board of Inland Revenue, the General Practice Finance Corporation and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 10 - National Heritage*

*National Heritage Act 1980*

- 5.32 The National Heritage Act 1980 established the National Heritage Memorial Fund, to be a memorial to those who died for the United Kingdom in the two World Wars and in every conflict since then, in succession to the National Land Fund which had been established under the Finance Act 1946. Section 15 of the 1980 Act repealed various provisions of the 1946 Act and the Historic Buildings and Ancient Monuments Act 1953 and contained transitional provisions which are now no longer required. The repeals came into force on 31 March 1980 (Royal Assent) and resulted in the abolition of the National Land Fund on that date. Section 15 is spent and may, therefore, be repealed.

*National Heritage Act 1983*

- 5.33 By virtue of section 39 of the National Heritage Act 1983 the Historic Buildings Council for England and the Ancient Monuments Board for England were

<sup>31</sup> The General Practice Finance Corporation (Transfer of Property etc. and Abolition) Order 1989, SI 1989/110.

<sup>32</sup> The Health Act 1999 (Commencement No.5) Order 1999, SI 1999/2793.

dissolved on 1 April 1984<sup>33</sup>. On this date the section became spent and may, therefore, be repealed.

*Consultation on Part 5 (Group 10)*

- 5.34 Those consulted about these repeal proposals include the Department for Culture, Media and Sport, HM Treasury, the National Heritage Memorial Fund, English Heritage and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 11 - Northern Ireland*

*Judicature (Northern Ireland) Act 1978*

- 5.35 The Office of Clerk of the Crown and Peace<sup>34</sup> and the Office of County Court Registrar<sup>35</sup> were abolished on 18 April 1979 by virtue of section 69(5)<sup>36</sup> of the Judicature (Northern Ireland) Act 1978. Section 69(5) thereupon became spent and is proposed for repeal.

*Northern Ireland Act 1998*

- 5.36 The Standing Advisory Commission on Human Rights was abolished by virtue of section 72(1) of the Northern Ireland Act 1998<sup>37</sup>. Section 72(2) and (3) enabled an order to make supplemental, incidental or consequential provision as a result of the abolition. No such order was made as a result of the abolition and the power under subsection (2) is no longer available causing subsection (3) to fall. Section 72 can, therefore, be repealed.

*Consultation on Part 5 (Group 11)*

- 5.37 Those consulted about these repeal proposals include the Department for Constitutional Affairs, the Northern Ireland Human Rights Commission and the relevant authorities in Northern Ireland. No objections have been raised.

*Group 12 - Pensions and Superannuation*

*Superannuation Act 1972*

- 5.38 The Civil Service Committee for Northern Ireland was dissolved by virtue of section 27(1) of the Superannuation Act 1972 on 25 March 1972<sup>38</sup>. Repeals provided for by section 27(1) were also brought into force on that date.

<sup>33</sup> The National Heritage Act 1983 (Commencement No 4) Order 1984, SI 1984/208.

<sup>34</sup> This Office was mainly administrative concerning responsibility for the custody of all books and records.

<sup>35</sup> This Office had been responsible for keeping the records of the Circuit Court in each respective county.

<sup>36</sup> The Judicature (Northern Ireland) Act 1978 (Commencement No.4) Order 1979, SI 1979/422.

<sup>37</sup> The Northern Ireland Act 1998 (Commencement No.1) Order 1999, SI 1999/340.

<sup>38</sup> The Superannuation Act 1972 (Commencement No.1) Order 1972, SI 1972/325.

Amendments made by section 27(2) to sections 8(1) and 9(1) of the Northern Ireland Act 1947 are spent due to the repeal of those sections. Section 27 is accordingly spent<sup>39</sup>.

*Pensions Commutation Act 1984*

- 5.39 The Pensions Commutation Board was dissolved by virtue of section 1(1) of the Pensions Commutation Act 1984 on 20 August 1984<sup>40</sup>. On that date repeals of certain provisions of the Pensions Commutation Act 1871 provided for by section 1(8) were also brought into force. Subsections (1) and (8) of section 1 are now spent, and can, therefore, be repealed.

*Pensions Act 1995*

- 5.40 The Occupational Pensions Board was dissolved by virtue of section 150(1) of the Pensions Act 1995 on 6 April 1997<sup>41</sup>. On that date the Board's property, rights and liabilities passed to the Secretary of State by virtue of section 150(2). Section 150 has now served its purpose and may be repealed<sup>42</sup>.

*Consultation on Part 5 (Group 12)*

- 5.41 Those consulted about these repeal proposals include HM Treasury, the Ministry of Defence, the Department for Work and Pensions, the Department of Trade and Industry and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 13 - Ports and Harbours*

*Transport Act 1981*

- 5.42 The National Ports Council's functions determined on 1 October 1981<sup>43</sup> by virtue of section 15(1) of the Transport Act 1981. On that date all the Council's property transferred to the Secretary of State. The Council continued in existence, however, for a transitional period, during which time it performed residual functions as provided by paragraphs 1 to 3 of Schedule 5. On performance of these functions the Council was dissolved on 1 December 1981<sup>44</sup>. Section 15(1) and (2) is spent. Subsections (3) and (4) of section 15 provided for

<sup>39</sup> The repeal of s.27 will permit the repeal of the reference to the section in s.30(5)(f) of the 1972 Act.

<sup>40</sup> The Pensions Commutation Act 1984 (Commencement) Order 1984, SI 1984/1140.

<sup>41</sup> The Pensions Act 1995 (Commencement No.10) Order 1997, SI 1997/664.

<sup>42</sup> The repeal of s.150 will permit the consequential repeal of the reference to the section in s.178(2). The dissolution of the Occupational Pensions Board will also permit the consequential repeal of the reference to the Board in Sch.2, Parliamentary Commissioner Act 1967, and the repeal of s.7(5), Coal Industry Act 1987, and para.19, Sch.8, Pension Schemes Act 1993.

<sup>43</sup> The Transport Act 1981 (Dissolution of National Ports Council) (Appointed Day) Order 1981, SI 1981/1364.

<sup>44</sup> The Transport Act 1981 (Dissolution of National Ports Council) (Final) Order 1981, SI 1981/1665.

repayment of certain amounts by the Secretary of State. These repayments have been made<sup>45</sup>. Accordingly section 15(1) to (4) can be repealed.

- 5.43 Section 16(1) enabled the Secretary of State to levy contributions from harbour authorities in order to meet certain expenses (as defined in subsection (2)) which had been incurred in relation to the dissolution of the Council, after making allowance for certain contributions (as defined in subsection (3)). There are no longer any contributions to be made thus allowing for the partial repeal of section 16(1)<sup>46</sup> and the repeal of section 16(3). In addition most expenses have now been met thus allowing for the repeal of section 16(2)(a) and (b) and the partial repeal of section 16(2)(c)<sup>47</sup>.
- 5.44 The residual functions of the Council as provided for in paragraphs 1 to 3 of Schedule 5 have been performed. These paragraphs became spent on the dissolution of the Council. In addition the transitional provisions provided for by paragraphs 4, 6(2) and (3), 7 and 12 of Schedule 5 are spent and may be repealed.

#### *Consultation on Part 5 (Group 13)*

- 5.45 Those consulted about these repeal proposals include HM Treasury, the Department for Transport and the relevant authorities in Wales and Scotland. No objections have been raised.

#### *Group 14 - Railways*

##### *Transport Act 1980*

- 5.46 There are a number of spent provisions in the Transport Act 1980 which can be repealed. On 1 October 1980 the whole of the undertaking of the National Freight Corporation was transferred to a successor company<sup>48</sup> by virtue of section 45<sup>49</sup> of 1980 Act. In accordance with subsection (4) certain liabilities or entitlements were extinguished immediately before such date. Section 45(4) is, therefore, spent. Section 46(1) to (3), section 47 and certain paragraphs<sup>50</sup> of Schedule 6 which provide for the transfer are also spent. By virtue of subsection (1) of section 48 the Corporation ceased to exist on 1 October 1980 rendering the subsection spent. Subsections (2) to (5) are spent transitional provisions relating to the dissolution<sup>51</sup>. Section 48 can, therefore, be repealed.

<sup>45</sup> The repeal of s.15(1) to (4) permits the repeal of the words "this section and" in s.15(5).

<sup>46</sup> The words "after making" to the end.

<sup>47</sup> The words "4(3) to (5), 7,".

<sup>48</sup> The National Freight Company Limited (now trading as Excel plc).

<sup>49</sup> The National Freight Corporation (Transfer of Undertaking) Order 1980, SI 1980/1380.

<sup>50</sup> Paras.1(2), (3) (partial), 4(3) and (4).

<sup>51</sup> The repeal of ss.47 and 48 will permit the repeal of the entry in respect of the 1980 Act in Sch.2, Companies Consolidation (Consequential Provisions) Act 1985.

5.47 The Freight Integration Council was abolished on 30 June 1980<sup>52</sup> by virtue of section 66(1)<sup>53</sup>. Section 66 is, therefore, spent.

5.48 The Railways and Coastal Shipping Committee was abolished on 30 June 1980 by virtue of section 67<sup>54</sup>. The section became spent on such date and may be repealed.

*Railways Act 1993*

5.49 The Central Transport Consultative Committee for Great Britain was abolished by virtue of section 3(1) of the Railways Act 1993 on 1 April 1994<sup>55</sup>. Section 3(1) is spent and may be repealed.

*Consultation on Part 5 (Group 14)*

5.50 Those consulted about these repeal proposals include the Department for Transport, Excel plc and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 15 - Road Traffic*

*Transport Act 1985*

5.51 The National Bus Company was dissolved on 1 April 1991 following compliance with a programme of disposal of its property, rights or liabilities by virtue of section 54<sup>56</sup>. In order to dissolve the Company section 54(3)(a) to (c), and (4) provided for certain steps in respect of preparation of accounts and remuneration in respect of such work. The above mentioned subsections of section 54 have been complied with and are spent as is subsection (5) which extinguished certain rights or liabilities on 1 April 1991. Furthermore section 55 which required the assets of the National Loans Fund to be reduced in respect of certain liabilities of the Company has been complied with and is, therefore, spent.

5.52 The special panel constituted under paragraph 6 of Schedule 10 to the Transport Act 1962 and any panels of assessors appointed under section 88(2)(b) of the Transport Act 1968 were abolished on 15 September 1986 by virtue of section 117(3)<sup>57</sup>. Section 117(3) is no longer necessary and may be repealed.

<sup>52</sup> The passing of the 1980 Act - the day s.66 came into force (s.70(3)(c)).

<sup>53</sup> Subs.(2) having been repealed.

<sup>54</sup> The passing of the 1980 Act - the day s.67 came into force (section 70(3)(c)).

<sup>55</sup> The Railways Act 1993 (Commencement No 4 and Transitional Provision) Order 1994, SI 1994/571.

<sup>56</sup> The National Bus Company (Dissolution) Order 1991, SI 1991/510.

<sup>57</sup> Transport Act 1985 (Commencement No 5) Order 1986, SI 1986/1450.

*Consultation on Part 5 (Group 15)*

- 5.53 Those consulted about these repeal proposals include HM Treasury, the Department for Transport and the relevant authorities in Wales and Scotland. No objections have been raised.

*Group 16 - Savings Banks*

*Trustee Savings Banks Act 1985*

- 5.54 The Trustee Savings Banks Central Board by virtue of the Trustee Savings Banks Act 1985 facilitated the reorganisation of the existing Trustee Savings Banks institutions into a new TSB group under section 2(1) to (3) of the Trustee Savings Banks Act 1985. By virtue of section 2(4), after 21 July 1986<sup>58</sup> it ceased to exercise most functions except those which enabled it to be wound up. The Board was dissolved on 31 October 1990<sup>59</sup>. Section 2 is spent and, therefore, can be repealed.
- 5.55 The existing banks were dissolved on 31 October 1990 in accordance with section 4(1) and (2). Section 4(1) and (2) is spent as is part of section 4(6) as it relates to the definition of certain terms in section 4(2).

*Consultation on Part 5 (Group 16)*

- 5.56 Those consulted about these repeal proposals include the Department for Constitutional Affairs, HM Treasury, Lloyds TSB Group plc and the relevant authorities in Wales, Scotland, Northern Ireland and Isle of Man. No objections have been raised

*Group 17 - Shipping and Navigation*

*Pilotage Act 1987*

- 5.57 By virtue of section 24(1) of the Pilotage Act 1987 every pilotage authority was abolished on 1 October 1988<sup>60</sup>. Subsections (2) to (10) provided for proposals for a scheme or schemes to deal with the transfer of relevant property, rights etc of such authorities which was to be supervised by the Pilotage Commission. Such a scheme or schemes had to be submitted prior to 1 October 1988. Section 24(1) to (10) and (12) (which contains an obsolete reference) are spent and may be repealed.
- 5.58 By virtue of section 26 the Pilotage Commission submitted a scheme to be wound up. The scheme came into force by order on 31 July 1990<sup>61</sup> transferring property etc. of the Commission. The scheme has now been fully complied with. The

<sup>58</sup> The Trustee Savings Banks Act 1985 (Appointed Day) (No 3) Order 1986, SI 1986/1222.

<sup>59</sup> The Trustee Savings Banks Act 1985 (Appointed Day) (No 7) Order 1990, SI 1990/1982.

<sup>60</sup> The Pilotage Act 1987 (Commencement No 3) Order 1988, SI 1988/1137.

<sup>61</sup> The Pilotage Act 1987 (Pilotage Commission: Transfer of Property, Rights and Liabilities) Order 1990, SI 1990/1338.

Commission was wound up on 30 April 1991<sup>62</sup>. Section 26 is spent and may be repealed. The abolition of the Commission renders section 25(8) (power of the Commission to employ persons) spent. The Department for Transport has confirmed that there is no longer any need for the power to make pilots' compensation schemes under section 28. In addition the Department has confirmed that the scheme in respect of recovery of expenses under section 29(1) to (4) has been fully complied with. Section 28 and section 29(1) to (4) are spent and may be repealed.

*Consultation on Part 5 (Group 17)*

- 5.59 Those consulted about these repeal proposals include the Department for Transport and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 18 - Taxation*

*Finance Act 1982*

- 5.60 The Board of Referees was dissolved on 30 July 1982 by virtue of section 156(1) of the Finance Act 1982<sup>63</sup>. Section 156(2) introduced Schedule 21 to the 1982 Act which has been repealed<sup>64</sup>. Section 156<sup>65</sup> can now be repealed.

*Consultation on Part 5 (Group 18)*

- 5.61 Those consulted about this repeal proposal include HM Treasury, the Board of Inland Revenue and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 19 - Telecommunications, Broadcasting and Films*

*Telecommunications Act 1984*

- 5.62 The Advisory Committee on interference with wireless telegraphy was abolished and related provisions repealed on 16 July 1984 by virtue of section 89 of the Telecommunications Act 1984<sup>66</sup>. Having served its purpose section 89 can now be repealed.

*Films Act 1985*

- 5.63 The Films Act 1985 contains a number of spent provisions. The Cinematograph Films Council ceased to exist on 23 May 1985 (Royal Assent) by virtue of section 1(2) of the 1985 Act. On that date the repeal of the Films Acts 1960 to 1980 was

<sup>62</sup> The Pilotage Act 1987 (Abolition of Pilotage Commission: Appointed Day) Order 1991, SI 1991/1028.

<sup>63</sup> Royal Assent.

<sup>64</sup> Capital Allowances Act 1990, s.164(4), Sch.2.

<sup>65</sup> The abolition of the Board of Referees permits the repeal of s.182(3)(c) of the Finance Act 1989.

<sup>66</sup> The Telecommunications Act 1984 (Appointed Day) (No 2) Order 1984, SI 1984/876.

brought into force under section 1(1). Section 1(1) and (2) became spent on that date.

- 5.64 The National Film Finance Corporation was dissolved on 30 December 1985 in accordance with section 3(1)<sup>67</sup>. On this date section 3(1) became spent.

*Broadcasting Act 1990*

- 5.65 Section 128(1) of the Broadcasting Act 1990 provided for the transfer of the Cable Authority's property, rights and liabilities to the Independent Television Commission. By virtue of subsections (2) to (5) of section 128 the Authority continued in existence after the transfer (1 January 1991<sup>68</sup>) until it was dissolved on 10 September 1998<sup>69</sup> having complied with certain requirements as to final accounts as provided by paragraph 4 of Schedule 10. Section 128(2) to (5) and paragraph 4 of Schedule 10 are spent and can be repealed.

*Consultation on Part 5 (Group 19)*

- 5.66 Those consulted about these repeal proposals include HM Treasury, the Department of Trade and Industry, the Department for Culture, Media and Sport, the Broadcasting Standards Commission, British Telecommunications plc, the Independent Television Commission and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 20 - Weights and Measures*

*Weights and Measures Act 1985*

- 5.67 The National Metrological Co-ordinating Unit was abolished on 1 January 1988 and its functions transferred to the Secretary of State on that date<sup>70</sup> by virtue of section 62 of the Weights and Measures Act 1985. Subsections (1) and (2)(c) of section 62 are spent as is section 55(5)<sup>71</sup> which provided for expenses of the Unit. Sections 62(1) and (2)(c) and section 55 are spent.

<sup>67</sup> The National Film Finance Corporation (Dissolution) Order 1985, SI 1985/1943.

<sup>68</sup> The Broadcasting (Transfer Date and Nominated Company) Order 1990, SI 1990/2540.

<sup>69</sup> The Dissolution of the Cable Authority Order 1998, SI 1998/2237.

<sup>70</sup> The National Metrological Co-ordinating Unit (Transfer of Functions and Abolition) Order 1987, SI 1987/2187.

<sup>71</sup> Subss.(1) to (4) and (6) having previously been repealed.

*Consultation on Part 5 (Group 20)*

- 5.68 Those consulted about these repeal proposals include the Department of Trade and Industry and the relevant authorities in Wales and Scotland. No objections have been raised.

# **PART 6**

## **ECCLESIASTICAL**

### *Introduction*

- 6.1 The repeal proposals in this part of the report relate to the law as it concerns the Church of England and the Church in Wales. For convenience the proposals have been put together into several groups according to whether they relate to the clergy and clerical offices, church property and tithes or the Church in Wales. There are also a number of other repeals which have been grouped under a general heading.

### *Group 1 - Clergy, Benefices and Pastoral Schemes*

#### *Clergy Ordination Act 1804*

- 6.2 The purpose of the Clergy Ordination Act 1804 was to ensure that no-one under the age of 23 could be admitted in the Church of England as a deacon - and that no one under the age of 24 could be admitted as a priest. Although this purpose is fully achieved by section 1 of the 1804 Act, the lengthy preamble to the Act recites the fact that these age limits were already part of canon law but were sometimes disregarded in Ireland “to the great scandal and detriment of the church, and to the prejudice of religion”. This preamble is now wholly unnecessary and may be repealed on that basis.

#### *Pluralities Act 1838*

- 6.3 Sections 28 to 31 of the Pluralities Act 1838 reflected the philosophy that a priest or deacon should devote his life to the service of God and should not spend time on activities inconsistent with that service. Thus section 28 prohibited spiritual holders of ecclesiastical offices from farming any land exceeding 80 acres without consent from the bishop; whilst section 29 prohibited such persons from engaging in or carrying on any trade or dealing in any goods, wares or merchandise. Section 30 disapplied these prohibitions in certain instances. Section 31 set out the sanctions to be imposed for failing to comply with these prohibitions.
- 6.4 Sections 28 to 31 no longer serve any useful purpose. This is partly because they have been disapplied by subsequent legislation which permits a minister to engage in trades and occupations prohibited by sections 28 to 31 if he obtains a licence from his bishop<sup>1</sup>. Moreover sections 28 to 31 have been effectively superseded by modern church law which prohibits a minister from engaging in trade or any other occupation in such manner as to affect the performance of his duties<sup>2</sup>. In the result sections 28 to 31 are no longer of practical utility and may be repealed on that basis. The repeal of sections 28 to 31 will permit the consequential repeal of

<sup>1</sup> In particular the Clergy (Ordination and Miscellaneous Provisions) Measure 1964, s.11.

<sup>2</sup> See Canons of the Church of England, especially Canons 26(2) and 28(1).

the Trading Partnerships Act 1841<sup>3</sup> and of provisions in the Ecclesiastical Jurisdiction Measure 1963<sup>4</sup> and in the Clergy (Ordination and Miscellaneous Provisions) Measure 1964<sup>5</sup>.

*Sequestration Act 1871*

- 6.5 The repeal proposed to section 2 of the Sequestration Act 1871 is purely technical. It would remove the expression “as if they were here re-enacted” which reflects a Victorian drafting practice which is today considered unnecessary.

*City of London (Guild Churches) Acts 1952 and 1960*

- 6.6 The City of London (Guild Churches) Act 1952 is a local Act passed to enable the Bishop of London to designate and establish certain churches in the City of London as ‘guild churches’ to serve the non-resident population of the City. The 1952 Act was also designed to enable reorganisation schemes made under the Reorganisation Areas Measure 1944 to extend to guild churches<sup>6</sup>. The repeals proposed are of provisions in the 1952 Act that have become spent following the repeal of the 1944 Measure by the Pastoral Measure 1968. The City of London (Guild Churches) Act 1960, which supplements the 1952 Act, also contains a number of spent provisions.

*Church of England (Miscellaneous Provisions) Measure 1976*

- 6.7 The Church of England (Miscellaneous Provisions) Measure 1976 contains a number of spent provisions including sections 1(5) and 2(3) which permitted certain powers to be exercised before 15 December 1976. Section 7 contains spent enabling provisions relating to the Rectory of Burnley in the diocese of Blackburn. Section 8(3) is a spent commencement provision.

*Pastoral Measure 1983*

- 6.8 The Pastoral Measure 1983 consolidated the Pastoral Measure 1968, the Pastoral (Amendment) Measure 1982 and related enactments. Schedule 8 to the 1983 Measure contains transitional provisions some of which have now become spent. Accordingly paragraphs 1, 2, 4 to 8 and 11 of Schedule 8 are proposed for repeal<sup>7</sup>.

<sup>3</sup> Section 1 of the Trading Partnerships Act 1841 provided that no association was to be deemed illegal or void by virtue of any spiritual person being a member, partner or shareholder of such a body. The 1841 Act becomes unnecessary with the repeal of section 29 since it was the prohibition on trading and dealing contained in section 29 that cast doubt on the legality of associations that included spiritual persons as members.

<sup>4</sup> Text in section 6(1)(d) and entries in Schedule 4.

<sup>5</sup> Sections 1(2), 11 and 12.

<sup>6</sup> The Reorganisation Areas Measure 1944 authorised arrangements for the pastoral supervision of areas that had suffered damage arising out of the 1939-45 War. No proposals for a reorganisation scheme under the Measure could be made after 21 March 1951.

<sup>7</sup> These repeals will not extend to the Isle of Man where Schedule 8 operates in a modified form.

*Church of England (Miscellaneous Provisions) Measure 1983*

- 6.9 Section 12 of the Church of England (Miscellaneous Provisions) Measure 1983 relates to a house and muniment room in Lichfield that was vested in the Registrar of the diocese of Lichfield by a private Act of 1797<sup>8</sup>. Section 12 provided for the vesting of the house and muniment room in the Board of Finance of the diocese of Lichfield once the current Registrar had left office. Since the then Registrar left office in 1987, section 12 is now spent except for a provision whereby the house and muniment room may be disposed of in accordance with the Pastoral Measure 1983. Accordingly section 12 may now be repealed subject to a saving for that provision. The saving appears in *Schedule 2* to the draft Bill<sup>9</sup>.

*Group 2 - Property*

*(1) Endowments and administration of property*

- 6.10 The repeals proposed under this heading concern the statutory provisions relating to Queen Anne's Bounty, the Ecclesiastical Commissioners and the Church Commissioners.

*Background*

- 6.11 *Queen Anne's Bounty.* After the Reformation the Crown became entitled to first fruits and tenths<sup>10</sup>. In 1704 Queen Anne granted all her revenue from this income to a corporation established with the name of 'the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy'. Queen Anne's Bounty (as this corporation became known) also received income from other sources. The primary object of Queen Anne's Bounty was the augmentation of the maintenance of parsons, vicars, curates and ministers officiating in any church or chapel in England where the liturgy and rites of the Church of England were used and observed.
- 6.12 *The Ecclesiastical Commissioners.* In 1835 two Royal Commissions were appointed to consider the state of all dioceses in England and Wales with reference to the amount of their revenues and the more equal distribution of episcopal duties, and the state of the cathedral and collegiate churches in England and Wales. Their reports made extensive recommendations. In 1836 a body corporate called the Ecclesiastical Commissioners was constituted to 'lay before His Majesty in Council, such Schemes as shall appear to the said Commissioners to be best adapted for carrying into effect the herein-before recited Recommendations ...'<sup>11</sup>.

<sup>8</sup> 37 Geo.3 c.20.

<sup>9</sup> The 1983 Measure also contains a number of other spent provisions: section 8(11), 8(12) and 13(3).

<sup>10</sup> First fruits were the first year's whole profits of a spiritual preferment. Tenths were the tenth part of the annual profit of each living. The payments were originally made to the Pope. In 1852 first fruits and tenths were commuted for annual payments. The payments were virtually extinguished by the First Fruits and Tenths Measure 1926.

<sup>11</sup> Ecclesiastical Commissioners Act 1836, s.10.

- 6.13 *The Church Commissioners.* A body corporate having perpetual succession called the Church Commissioners was established by the Church Commissioners Measure 1947 for the purpose of uniting Queen Anne's Bounty with the Ecclesiastical Commissioners. Pursuant to section 2 of the 1947 Measure, Queen Anne's Bounty and the Ecclesiastical Commissioners were dissolved and all the property, functions, rights and privileges of the two bodies were transferred to the Church Commissioners on 1 April 1948.

*Proposed repeals*

*Queen Anne's Bounty Act 1838*

- 6.14 Only two sections of the Queen Anne's Bounty Act 1838 remain in force. Section 20 prescribed a short form of conveyancing deed for transfers of land made to, or at the direction of, the Governors of Queen Anne's Bounty. This form, which predates the 1925 property legislation of England and Wales, is no longer used. Accordingly section 20 is now unnecessary<sup>12</sup>. Section 22 implies covenants for title in certain conveyances and grants. These covenants are broadly similar to those provided for under the general law<sup>13</sup>. Accordingly section 22 is also unnecessary. As a result the 1838 Act as a whole may now be repealed.

*Ecclesiastical Commissioners Acts 1836 to 1866*

- 6.15 Much of the Ecclesiastical Commissioners Act 1836 was concerned with the early work of the Ecclesiastical Commissioners in carrying out the recommendations of the 1835 Royal Commissions. Accordingly these provisions are now long since spent<sup>14</sup> as is the lengthy preamble to the 1836 Act. Similarly sections 83 and 87 of the Ecclesiastical Commissioners Act 1840, which related to specific recommendations of the Royal Commissions, are now spent. Section 89 of the 1840 Act, which provides for a fee to be payable to a diocesan registrar when searching for or copying an Order in Council, is now unnecessary because diocesan registrars are now paid an annual fee in respect of such transactions<sup>15</sup>. Section 90 of the 1840 Act will become unnecessary in the light of repeals to the 1836 Act, including those proposed above.
- 6.16 The Ecclesiastical Commissioners Act 1841 amended the 1836 and 1840 Acts. Section 1, which related to the power of the Ecclesiastical Commissioners to continue and adjourn their meetings, is clearly spent as is section 30 which relates to the preparation and laying of schemes for implementation by Order in Council. Sections 24 and 28 of the Ecclesiastical Commissioners Act 1850 relates to powers in earlier enactments which have either ceased to exist or are now

<sup>12</sup> The repeal of section 12 will permit the consequential repeal of text in section 4 of the Parsonages Act 1865.

<sup>13</sup> See Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 for dispositions made on or after 1 July 1995.

<sup>14</sup> 1836 Act, ss.9, 10, 12 to 17.

<sup>15</sup> Legal Officers (Annual Fees) Order 1999, SI 1999/2108, art.4, Appendix, para.1E.

unnecessary. Finally section 1 of the Ecclesiastical Commissioners Act 1866 contains a now spent reference to the Church Estate Commissioners.

*Ecclesiastical Commissioners (Powers) Measures 1936 and 1942*

- 6.17 The Ecclesiastical Commissioners (Powers) Measures 1936 and 1942 were passed by the National Assembly of the Church of England to increase the powers of the Ecclesiastical Commissioners. The 1936 Measure, in section 2(3), contains a now obsolete reference to the Cathedral Commissioners<sup>16</sup>. The 1942 Measure extended to the Isle of Man and was superseded, and repealed, by the Church Property (Miscellaneous Provisions) Measure 1960<sup>17</sup>. Since however the 1960 Measure did not extend to the Isle of Man, the 1942 Measure technically remains in force there. Because the 1942 Measure serves no useful purpose on the Isle of Man, its final repeal is now long overdue.

*Episcopal Endowments and Stipends Measure 1943*

- 6.18 The Episcopal Endowments and Stipends Measure 1943 contains provisions empowering the Ecclesiastical Commissioners to take over the endowments and property of any see and to provide bishops with a stipend and place of residence. Section 1(1) contains a proviso restricting the power to make certain schemes under the Measure in relation to a see in cases where the bishop of that see was in occupation on the date when the Measure was passed (4 February 1943). The passage of time since 1943 means that this proviso is now spent. Its repeal will involve a consequential repeal in section 8(1).

*Church Commissioners Measure 1947*

- 6.19 The Church Commissioners Measure 1947 contains a number of transitional and savings provisions to facilitate the vesting of the assets and functions of Queen Anne's Bounty and the Ecclesiastical Commissioners in the Church Commissioners. Section 15 provided for the transfer of staff to the Church Commissioners and for their terms and conditions. After more than 50 years this provision is now unnecessary. Also unnecessary is the reference in section 17(1) to a number of repealed statutes.

*New Housing Areas (Church Buildings) Measure 1954*

- 6.20 The purpose of the New Housing Areas (Church Buildings) Measure 1954 was to make grants or loans in respect of church buildings in certain areas. Section 2 is a repealing provision which became spent on 18 March 1954 when the relevant repeal<sup>18</sup> took effect.

<sup>16</sup> The Cathedral Commissioners were established by section 1 of the Cathedrals Measure 1931. However, by virtue of section 4(3) of the 1931 Measure, their powers were to expire on or before 8 July 1943.

<sup>17</sup> The 1960 Measure, s.12(1), (2).

<sup>18</sup> Ecclesiastical Commissioners (Powers) Measure 1936, s.1.

*Church Commissioners Measure 1964/Church Commissioners (Miscellaneous Provisions) Measure 1975*

- 6.21 Both the Church Commissioners Measure 1964 and the Church Commissioners (Miscellaneous Provisions) Measure 1975 contain provisions that are now technically spent. Section 2(3) of the 1964 Measure is a repealing provision whilst section 3 has become unnecessary because the enactment that it amended<sup>19</sup> has since been repealed. Section 1(2) of the 1975 Measure is a straightforward repealing provision which became spent when the repeal took effect on 1 August 1975.

*(2) General*

*Parsonages Measure 1938/New Parishes Measure 1943/Diocesan Stipends Funds Measure 1953*

- 6.22 The purpose of the Parsonages Measure 1938 was to consolidate and amend the law relating to the sale, purchase and improvement of parsonage houses and other property. Section 21 provides for the commencement of the 1938 Measure on the appointed day (15 July 1938) and for publication of that date in the London Gazette. This provision is clearly now spent.
- 6.23 Section 17 of the New Parishes Measure 1943 facilitates the disposal of land acquired by the Church Commissioners if the land is no longer required. Section 17(2) is a transitional provision that applied in cases where the land was acquired before 4 February 1943 and had been held for less than 20 years. Clearly section 17(2) became spent by 2 February 1963 at the latest.
- 6.24 Sections 10 and 11(2) of the Diocesan Stipends Funds Measure 1953 are, respectively, repealing and commencement provisions. They became spent when the 1953 Measure came into force on 1 April 1953.

*Church Property (Miscellaneous Provisions) Measure 1960*

- 6.25 The Church Property (Miscellaneous Provisions) Measure 1960 also contains a number of spent provisions. Sections 15 and 22 are repealing provisions which became spent when the 1960 Measure came into force on 13 April 1960. Sections 18 and 24(1) contain text which has become unnecessary with the passage of time.

*Redundant Churches and other Religious Buildings Act 1969*

- 6.26 The amendment made to section 66 of the Pastoral Measure 1968 by section 3 of the Redundant Churches and other Religious Buildings Act 1969 became unnecessary when the 1968 Measure was repealed<sup>20</sup>. Section 7(3) of the 1969 Act is a repealing provision which became spent when the 1969 Act came into force on 16 May 1969.

<sup>19</sup> Church Property (Miscellaneous Provisions) Measure 1960, s.20.

<sup>20</sup> Pastoral Measure 1983, s.93, Sch.9.

*Repair of Benefice Buildings Measure 1972*

- 6.27 The Repair of Benefice Buildings Measure 1972 was passed to provide for the repair of parsonage houses by Parsonages Boards and for the repair of other buildings belonging to benefices. Section 32 contains interim and commencement provisions and is now spent. Also spent are most of the transitional provisions contained in Schedule 1 to the 1972 Measure.

*Endowments and Glebe Measure 1976/Church of England (Miscellaneous Provisions) Measure 1978*

- 6.28 The purposes of the Endowments and Glebe Measure 1976 included providing for the payment of certain stipends to clergy and the extinguishment of certain charges and trusts. Several of the provisions are now unnecessary including section 6(2) which guaranteed the payment of an annual grant to any archdeacon holding office immediately before April 1978 'so long as he continues in that office'. There is now no archdeacon still in office who is entitled to this annual grant. The passage of time has also meant that other provisions in the 1976 Measure can be repealed as spent<sup>21</sup>. Similarly the Church of England (Miscellaneous Provisions) Measure 1978 contains a number of transitory provisions<sup>22</sup> which became unnecessary when the Measure came into force on 30 July 1978 or soon afterwards.

*Group 3 - Tithes*

*Background*

- 6.29 Many of the existing statutory provisions relating to tithes and tithe rentcharges have become unnecessary because of the extinguishment of tithe rentcharges by the Tithe Act 1936 with effect from 2 October 1936.
- 6.30 The tithe rentcharges extinguished by the 1936 Act were originally established by the Tithe Act 1836 (and later Tithe Acts) as a means of commuting into cash outstanding obligations to pay tithes<sup>23</sup>. Compensation was paid to the persons having an interest in the tithe rentcharge extinguished by the 1936 Act. This compensation took the form of redemption stock redeemable no later than 1996. At the same time, the owner of the land now freed from the tithe rentcharge had to pay a redemption annuity - payable for 60 years from 1936 - to the Crown. Such annuities were redeemable. In the event all existing annuities were extinguished on 21 October 1977<sup>24</sup>.

<sup>21</sup> Sections 10(1), 10(2), 13, 38(1), 49(2), Sch.6, paragraphs 2, 3(1).

<sup>22</sup> Sections 3(2), 12, 13(4).

<sup>23</sup> The tithe was imposed by the medieval church to maintain the parish priest. Tithes commonly took the form of wheat or other cereal and represented a tenth part of the produce from a plot of land.

<sup>24</sup> Finance Act 1977, s.56.

*Proposed repeals*

*Tithe Annuities Apportionment Act 1921*

- 6.31 The Tithe Annuities Apportionment Act 1921 was passed to provide for the apportionment of annuities created by the redemption of tithe rentcharges. Section 1 is the only substantive provision remaining in force. It provides for orders of apportionment of annuities charged on land under section 4 of the Tithe Act 1918, which section enabled tithe rentcharge redemption monies to be paid for a period not exceeding 60 years. Since section 1 of the Tithe Act 1936 extinguished all subsisting tithe rentcharges on 20 October 1936, no further annuities could be set up under the 1918 Act thereafter. Any annuities that were in existence before that date must have expired no later than 1996. Accordingly the 1921 Act is now unnecessary<sup>25</sup>.

*Tithe Acts 1936 and 1951*

- 6.32 The main purposes of the Tithe Act 1936 were to extinguish tithe rentcharge and to provide for the compensation of persons having an interest in any tithe rentcharge being extinguished. Both those purposes have now been achieved with the result that much of the Act is spent. This includes the provisions for establishing the Tithe Redemption Commission and its functions<sup>26</sup>. Similarly the Tithe Act 1951, which amended aspects of the 1936 Act, contains a number of provisions that are now unnecessary including provisions relating to the Tithe Redemption Commission<sup>27</sup>.

*Agriculture (Miscellaneous Provisions) Act 1963/Corn Rents Act 1963*

- 6.33 Section 16 of the Agriculture (Miscellaneous Provisions) Act 1963 provided for the charging of fees arising in connection with the Tithe Acts 1836 to 1925. No fee orders were ever made under section 16(2) and the power is now obsolete. Section 16(2) may therefore be repealed together with a number of unnecessary provisions in section 29. The purpose of the Corn Rents Act 1963 was to provide for the apportionment and redemption of corn rents and other payments by means of schemes to be made by the Commissioners of Inland Revenue. In the years since the passage of the 1963 Act no schemes have been made although a number of provisions in section 3 of, and the Schedule to, the 1963 Act have become unnecessary and may now be repealed.

<sup>25</sup> The Tithe Act 1918 has itself now been repealed: Statute Law (Repeals) Act 1998, s.1, Sch.1, Pt.2.

<sup>26</sup> The 1936 Act, ss.4, 6, 32, 36(1), 39 to 42, 44, Sch.2. Other provisions proposed for repeal include sections 1, 21, 33, and 47 (part) and the Arbitration Act 1996, Sch.3, para.3. The functions of the Tithe Redemption Commission were transferred to the Commissioners of Inland Revenue with effect from 1 April 1960 and the Commission was then dissolved: Tithe Redemption Commission (Transfer of Functions and Dissolution) Order 1959, SI 1959/1971.

<sup>27</sup> The 1951 Act, ss.8, 10 (part), 12(3), Sch.2.

*Finance Acts 1977 and 1989*

- 6.34 Section 56 of the Finance Act 1977 contains spent provisions relating to tithe redemption annuity as does Part 5 of Schedule 9 to the 1977 Act. Section 185 of the Finance Act 1989 provided for the winding up of the Redemption Annuities Account which became redundant when all remaining stock issued pursuant to the Tithe Act 1936 was redeemed on 1 October 1988. The Account was duly wound up on 29 September 1989. All these spent provisions may now be repealed.

*Group 4 - The Church in Wales*

*Background*

- 6.35 The repeal proposals here are of spent or unnecessary provisions in the Welsh Church Act 1914 and the Welsh Church (Temporalities) Act 1919. These Acts gave effect or otherwise relate to the disestablishment of the Church of England in Wales and Monmouthshire on 31 March 1920<sup>28</sup>. The disestablished church became known as the Church in Wales. Disestablishment has meant that as from 31 March 1920 no person may be appointed or nominated by the Crown (or by anyone pursuant to an existing right of patronage) to any ecclesiastical office in the Church in Wales.
- 6.36 Many of the repeal proposals relate to the functions of the Welsh Commissioners, a body corporate established under section 10 of the Welsh Church Act 1914 and empowered under section 11(1) “to decide all questions, whether of fact or of law, which it may be necessary to decide for the purposes of this Act...”. The Welsh Commissioners were finally dissolved in 1947<sup>29</sup> once their functions had ceased to be exercisable and when all property vested in them pursuant to the 1914 Act had been disposed of. Most of the provisions in the Welsh Church Act 1914 and in the Welsh Church (Temporalities) Act 1919 relating to the functions of the Welsh Commissioners are now spent and may be repealed. In the 1914 Act these include sections 10 to 12 which provided for their appointment, powers and procedures and for appeals from their decisions, sections 16 and 17 which related to their powers to pay compensation, section 18 (and Schedules 4 and 5) which provided for other payments to be made by them, sections 30 and 31 relating to their borrowing powers, accounts and audit, and section 34 which empowered them to decide questions arising under the 1914 Act. In the 1919 Act, provisions relating to the Welsh Commissioners which are now spent include section 4 which related to the Commissioners’ powers concerning the disposition of Welsh ecclesiastical property<sup>30</sup>.

<sup>28</sup> 31 March 1920 was the date of disestablishment as provided by the Welsh Church (Temporalities) Act 1919, s.2.

<sup>29</sup> The Welsh Commissioners were dissolved by order made under section 1 of the Welsh Church (Temporalities) Act 1919: SR&O 1946/2081.

<sup>30</sup> Other provisions relating to the Welsh Commissioners which are also recommended for repeal are sections 7, 22(1), 27(1) (part only), 27(3), 29(1) to (3), 32 and 35(1) (part only) of the 1914 Act and sections 1 and 3 of the 1919 Act.

- 6.37 Other provisions have become unnecessary because of the passage of time. Section 14 of the 1914 Act preserved the employment rights of persons who in 1914 held certain ecclesiastical offices affected by that Act. There is now no-one capable of benefiting from this saving provision. Section 15 provided compensation rights for loss of tithe rentcharge moneys. However, these rights terminated no later than 1996<sup>31</sup>, whereupon section 15 became spent. Section 20 abolished as from 31 March 1920 the payment of first fruits (that is, the first year's profits of a spiritual preferment) and of tenths (that is, a tenth part of the annual profit of a living) but preserved the liability to pay tenths that existed on 18 September 1914 whilst a person continued to have an interest in the emoluments of an ecclesiastical office. No such person now exists. All these provisions may now be repealed<sup>32</sup>.

*Group 5 - General repeals*

*Parochial Libraries Act 1708*

- 6.38 The purpose of the Parochial Libraries Act 1708 was to preserve libraries donated to assist the parish clergy in their studies. Part of the underlying purpose of the 1708 Act has become obsolete because of the establishment of theological colleges and other institutions to instruct and train the modern clergy.
- 6.39 Section 2 requires every incumbent minister of a parish, before being permitted to use a parochial library, to enter into a bond or provide some other security to ensure the preservation of the library and due observance of its rules. This requirement has long been considered unnecessary and may be repealed. Also repealable is a spent transitional provision in section 5 requiring (in relation to a parochial library that was in existence at the commencement of the 1708 Act) a catalogue of its books to be drawn up and produced on or before 29 September 1709. Sections 6 and 7 are unnecessary provisions relating to the locking-up of a parochial library during a period when there is no incumbent. Finally section 10 contains an obsolete power whereby a justice of the peace might grant a warrant for the search and return of a missing parochial library book. There are no reported instances of this power ever having been exercised<sup>33</sup>.

*Parish Notices Act 1837*

- 6.40 According to its long title, the purpose of the Parish Notices Act 1837 was to 'alter the Mode of giving Notices for the holding of Vestries, of making Proclamations in Cases of Outlawry, and of giving Notices on Sundays with respect to various matters'. The effect of the 1837 Act was to prohibit the giving of certain official notices or the making of proclamations during or after the

<sup>31</sup> Tithe rentcharges were extinguished by the Tithe Act 1936 with effect from 2 October 1936 and government stock redeemable in 1996 was issued by way of compensation for the loss of the tithe rentcharge.

<sup>32</sup> Also recommended for repeal are sections 4(1) (part), 4(2), 6(part), 8(3), 24(1), 26, 33(3) and (4) and 38 (part) of the 1914 Act, and section 5 of the 1919 Act.

<sup>33</sup> The repeal of this power in section 10 will permit the consequential repeal of the Access to Justice Act 1999, Sch.10, para.1.

Sunday service. Instead they were to be given or made in the form of written notices, attached to or near the church door, and put in place before the service.

- 6.41 The notices and proclamations covered by the 1837 Act are now obsolete with the result that the Act is itself obsolete. The Act was last invoked in relation to section 2 to affix notice of rates under the General Rate Act 1967 to church doors. However, the relevant provision in the General Rate Act 1967<sup>34</sup> has been repealed with the result that the 1837 Act as a whole is now obsolete.

*Places of Worship Sites Act 1873*

- 6.42 The Places of Worship Sites Act 1873 was passed to afford further facilities for the conveyance of land for sites for places of religious worship and for burial places. Section 3 contains special provision for the conveyance of such land by people unable to convey the land themselves. Such persons included married women who at common law had only limited rights to hold and dispose of land. Changes in the law since 1873 have put married women in the same position as unmarried women so far as rights over land are concerned<sup>35</sup>. Accordingly the special provision in section 3 for conveyances by married women is unnecessary.

*Interpretation Measure 1925*

- 6.43 Section 4 of the Interpretation Measure 1925 provided a definition of 'Diocesan Conference' for the purposes of construing the constitution of the Church Assembly<sup>36</sup>. However, the Constitution of the Church Assembly was replaced by the Constitution of the General Synod in accordance with the Synodical Measure 1969 which also provided for Diocesan Conferences to be superseded by Diocesan Synods<sup>37</sup>. Section 2(2) of the 1969 Measure provides that definitions in the 1925 Measure that relate to the former Constitution are to cease to apply. Accordingly section 4 is spent.

*Ecclesiastical Jurisdiction Measure 1963/Church of England Convocations Act 1966*

- 6.44 Section 82 of the Ecclesiastical Jurisdiction Measure 1963 abolished a number of ancient provisions relating to ecclesiastical jurisdiction and discipline. These included abolition of the power of the Archbishop of Canterbury to cite a person for heresy, abolition of the Courts of Audience and archdeacons courts, and abolition of the penalty of imprisonment in consequence of being excommunicated. These abolitions took effect on 1 March 1965 whereupon section 82 became spent. Section 88, which provided for the commencement of the 1963 Measure, also became spent on that day.

<sup>34</sup> General Rate Act 1967, s.4(2) which was repealed by Local Government Finance Act 1988, ss.117(1), 149, Sch.13, Pt.1.

<sup>35</sup> Law Reform (Married Women and Tortfeasors) Act 1935, s.1; Married Women (Restraint upon Anticipation) Act 1949.

<sup>36</sup> The Constitution was defined in the Church of England Assembly (Powers) Act 1919.

<sup>37</sup> The 1969 Measure, s.4(7).

- 6.45 The repeal of text in section 1(2) of the Church of England Convocations Act 1966 will remove a transitional provision that permitted the Convocations of Canterbury or York that existed when the 1966 Act was passed in February 1966 to last for a maximum of six years. This provision meant that the existing Convocations, which had been called together in 1964, could continue until 1970. Thereafter the provision became spent.

*Synodical Government Measure 1969*

- 6.46 The Synodical Government Measure 1969 was passed to provide, amongst other matters, for the establishment of the General Synod of the Church of England. A number of provisions in this Measure are now unnecessary including section 3(8) (which brought section 3 into force on 4 November 1970), section 7(3) (a transitional savings provision which is now spent<sup>38</sup>), section 9(2) (which relates to section 3(8)), text in section 9(2) and most of Schedule 4 (which relates to spent transitional provisions).

*Dioceses Measure 1978/Parochial Registers and Records Measure 1978*

- 6.47 The purposes of the Dioceses Measure 1978 included provision to abolish the bishop's power to commission suffragan bishops. This was provided for by section 15(1). The abolition, having taken effect, is now spent<sup>39</sup>.
- 6.48 Section 23 of the Parochial Registers and Records Measure 1978 provided for section 3 of the Church of England (Miscellaneous Provisions) Measure 1976 to be applied for certain purposes. However, since section 3 has since been repealed<sup>40</sup>, section 23 is now spent. Section 27(2) is also spent. It provided for the commencement of the Parochial Registers and Records Measure 1978, and it became spent when the Measure came into force on 1 January 1979.

*Consultation on Part 6*

- 6.49 Those consulted about these repeal proposals include (as appropriate) the General Synod of the Church of England, the Representative Body of the Church in Wales, the Church Commissioners, the Department for Constitutional Affairs, HM Treasury, the Inland Revenue, the National Debt Office and the relevant authorities in the Isle of Man. No objections have been raised.

<sup>38</sup> The repeal of section 7(3) will not, however, extend to the Isle of Man because a different version of section 7(3) is in force there.

<sup>39</sup> Other spent provisions in the 1978 Measure are sections 9(8), 15(2) and 25(2).

<sup>40</sup> Church of England (Miscellaneous Provisions) Measure 1983, s.8(11).

# **PART 7**

## **EDUCATION**

### *Introduction*

- 7.1 The repeal proposals in this Part of the report focus on obsolete provisions in nineteenth century enactments relating to the Universities of Oxford and Cambridge and to certain public schools. A number of more recent enactments in the field of education also contain spent provisions which are proposed for repeal.

### *Oxford University Act 1854*

- 7.2 By virtue of section 5 of the Oxford University Act 1854, the Hebdomadal Council was elected on 15th day of Michaelmas term 1854 and all powers, privileges and functions of the hebdomadal board of Oxford University were transferred to the Council on that date. Section 5 thereupon became spent and can, therefore, be repealed<sup>1</sup>. The term “Scholarship” in section 48 (interpretation of terms) is no longer provided for in the 1854 Act enabling a partial repeal of section 48<sup>2</sup>.

### *Cambridge University Act 1856*

- 7.3 Various provisions of the Cambridge University Act 1856 are spent. By virtue of section 5 the Council of the Senate was elected on a date in 1856, thus enabling the partial repeal of that section<sup>3</sup>. Section 17 contains an obsolete reference to regulations<sup>4</sup> in relation to the Council or the Senate, enabling the partial repeal of that section<sup>5</sup>.

### *Public Schools Act 1868*

- 7.4 The Public Schools Act 1868 which provides for certain public schools in England<sup>6</sup> contains various provisions which are spent and can, therefore, be repealed. Section 20 provides for payments and transfers to and by Westminster School. Annual payments payable by the Ecclesiastical Commissioners<sup>7</sup> to the school have ceased upon the transfer of certain of their estates in accordance with subsections (1) to (4) as has the payment of £15,000. Subsection (9) provided for the transfer of three houses to Westminster school. In respect of such transfer the

<sup>1</sup> The repeal will not affect the previous operation of s.5 by virtue of s.16(1)(b) of the Interpretation Act 1978.

<sup>2</sup> The words from “the Word “Scholarship”” to “appropriated to any College in Scotland; and”.

<sup>3</sup> The words from the beginning of s.5 to “shall be called” and the words “ , and which”.

<sup>4</sup> Regulations “herein-before directed to be made by the Vice-Chancellor, or, in the case of his failing to do so, by the Commissioners” refers to regulations made under s.16 (repealed).

<sup>5</sup> The words from “and to revise” to “the Commissioners,”.

<sup>6</sup> Charterhouse, Eton, Harrow, Rugby, Shrewsbury, Westminster and Winchester.

<sup>7</sup> Now the Church Commissioners.

payments which were made to the Commissioners have been applied in accordance with subsections (11) and (12)<sup>8</sup>, thus allowing for the repeal of subsections (11) and (12). Subsection (14) (scheme for subsection (3) transfer) and subsection (15) (sums payable after 29 September 1868) have also been complied with or are no longer relevant and can also be repealed.

- 7.5 Section 21 enabled the new governing body of any of the schools to which the 1868 Act applied to submit a scheme to the Special Commissioners for additions or alterations to school buildings. The Commissioners' powers continued in force until 25 March 1874<sup>9</sup> after which section 21 became spent.

*Universities of Oxford and Cambridge Act 1877*

- 7.6 Various provisions of the Universities of Oxford and Cambridge Act 1877 are spent and can, therefore, be repealed. Section 2 (interpretation) is mostly spent as the terms it defines no longer are provided for by the 1877 Act<sup>10</sup>. Section 24 provided that no statutes or ordinances under the 1877 Act should affect certain trusts or schemes. As there is no longer any power to make such statutes<sup>11</sup> section 24 is spent<sup>12</sup>.

- 7.7 Section 57 provided that nothing in the 1877 Act should be construed to repeal any provisions of the Universities Tests Act 1871. The remaining provisions of the 1877 Act<sup>13</sup> do not affect the 1871 Act, thus section 57 is spent.

*Universities of Oxford and Cambridge Act 1923*

- 7.8 By virtue of section 5 of the Universities of Oxford and Cambridge Act 1923 the powers of the Oxford University Commissioners<sup>14</sup> were extended until 31 December 1926<sup>15</sup> and those of the Cambridge University Commissioners to 31 December 1927<sup>16</sup>. The powers of the Commissioners having expired results in section 5 being spent.

<sup>8</sup> To be held on trust for the dean and chapter of Westminster, to provide new residences.

<sup>9</sup> S.3 Public Schools Act 1872 (repealed) - originally provided for by s.16 of the 1868 Act (repealed).

<sup>10</sup> All the terms except "College" and "Office" which are provided by section 58 are proposed for repeal.

<sup>11</sup> Ss.11 and 12 (both repealed).

<sup>12</sup> The saving provided by s.24 will fall.

<sup>13</sup> Ss.44 and 61.

<sup>14</sup> Established under s.1(1).

<sup>15</sup> SR & O 1925/607.

<sup>16</sup> SR & O 1925/630.

*Universities and College Estates Act 1925*

- 7.9 Section 32 of the Universities and College Estates Act 1925<sup>17</sup> provides for the discharge of money borrowed on a mortgage. Subsection (2)(a) provided for a maximum period of thirty years from the date of borrowing for repayment of a loan borrowed prior to 12 October 1898. Such period has long since expired rendering section 32(2)(a) spent.

*Polish Resettlement Act 1947*

- 7.10 Section 6 of the Polish Resettlement Act 1947 enabled the Secretary of State to provide certain services<sup>18</sup> for the purpose of meeting the educational needs of persons for whom he had power to provide accommodation under section 3 (certain Polish forces and their dependants). The power is no longer required and can, therefore, be repealed<sup>19</sup>.

*Education Reform Act 1988*

- 7.11 By virtue of section 121(1) of the Education Reform Act 1988 all higher education institutions which fell within subsection (2) were specified by order<sup>20</sup> resulting in the establishment of a body corporate in relation to each such institution<sup>21</sup>. Section 121(1), (2) and (3) (which provided further as to the type of institution) are spent and can be repealed.
- 7.12 Section 137 provided for control over certain disposals of land. The Department for Education and Skills has confirmed that there are no longer any disposals to which section 137 can apply thus rendering section 137 spent<sup>22</sup>. Subsections (1), (4) and (5) of section 236 (commencement) are spent and can be repealed. In addition various paragraphs of Schedule 12<sup>23</sup> are spent as the provisions which they amended have either been repealed or substituted.

*Education Act 1997*

- 7.13 Various provisions of the Education Act 1997 are spent and can, therefore, be repealed. By virtue of section 33 the National Council for Vocational Qualifications and the School Curriculum and Assessment Authority were

<sup>17</sup> The 1925 Act applied to the Universities of Oxford, Cambridge and Durham and the Colleges of St. Mary of Winchester and King Henry VI at Eton.

<sup>18</sup> To provide any such services and to do such things as a local education authority or the Secretary of State would have been authorised or required to do under the Education Acts 1944 and 1946.

<sup>19</sup> The repeal of s.6 will permit the repeal of the reference to it in para.1(2), Sch.4, Social Security Act 1980.

<sup>20</sup> The Education (Higher Education Corporations) Order 1988, SI 1988/1799.

<sup>21</sup> On 21 November 1988 for all institutions except Southampton Institute of Higher Education which was incorporated on 1 February 1989.

<sup>22</sup> S.138(1)(c) (construction of s.137 reference) and s.201 (disposals to which s.137 applied) can, therefore, be repealed as well.

<sup>23</sup> Paras.52, 65 and 90.

dissolved on 1 March 1998<sup>24</sup>, thereupon causing section 33 to become spent. The property etc. of such bodies was transferred to the Qualifications, Curriculum and Assessment Authority for Wales in accordance with section 34<sup>25</sup> causing such section to become spent. In addition the repeals provided for by section 37(5) came into force on 1 September 2001<sup>26</sup>, rendering subsection (5) (the only remaining subsection) spent. Section 37 can, therefore, be repealed.

#### *School Standards and Framework Act 1998*

- 7.14 The repeals provided for by sections 122(2), 131(2) and 133 have all come into force<sup>27</sup> enabling such provisions to be repealed. Section 132(2) to (4) provided for the period prior to the dissolution of the Funding Agency for Schools (1 November 1999) and became spent on the dissolution. In addition section 132(6) is spent as there are no longer any proceedings to which it can apply (proceedings before 1 November 1999). The amendment made by section 134(2) (which was never brought into force) is spent since the provision it amended<sup>28</sup> has been repealed.

#### *Consultation on Part 7*

- 7.15 Those consulted about the repeal proposals include, as appropriate, the Department for Education and Skills, the Ministry of Defence, the relevant authorities in Wales, Scotland and Northern Ireland, the Universities of Durham, Cambridge, Oxford and Glasgow, the Schools of Charterhouse, Eton, Harrow, Rugby, Shrewsbury, Westminster, Winchester, the General Synod of the Church of England, the Church Commissioners, the Dean and Chapter of Westminster, the Collegiate Church of Westminster, the Privy Council Office, the Qualifications and Curriculum Authority and the Qualifications, Curriculum and Assessment Authority for Wales. No objections have been raised.

<sup>24</sup> The Education Act 1997 (Commencement No.3 and Transitional Provisions) Order 1998, SI 1998/386.

<sup>25</sup> The Education (Qualifications and Curriculum Authority and Qualifications, Curriculum and Assessment Authority for Wales) (Transfer of Property and Designation of Staff) Order 1997, SI 1997/2172.

<sup>26</sup> The Education Act 1997 (Commencement No.4) Order 2001, SI 2001/1215.

<sup>27</sup> S.122(2) on 1 October 1998, s.131(2) on 1 September 1999 and s.133 on 1 April 1999.

<sup>28</sup> Para.13(3), Sch.1, Nursery Act 1996.

# PART 8

## EMPLOYMENT

### *Introduction*

- 8.1 Changes in employment law and industrial relations over the past 30 years have given rise to most of the obsolete law proposed for repeal in this part of the report. They cover a wide range of themes including employment rights, wage support and regulation and the provision of employment training schemes.

### *Apprentices Act 1814*

- 8.2 The Apprentices Act 1814 was passed to amend an Act passed in the fifth year of the reign of Queen Elizabeth 1 (1562). Sections 2 to 4 remain technically in force<sup>1</sup>.
- 8.3 The effect of section 2<sup>2</sup> was to-
- ◆ repeal outdated provisions about apprentices in the 1562 Act;
  - ◆ state that (as a result of this repeal) future apprenticeships could be created even though not complying with the repealed 1562 Act provisions;
  - ◆ protect the legal validity of apprenticeships already entered into (under the repealed 1562 Act provisions) as at the date the repeals came into force (18 July 1814).
- 8.4 The repeal of the 1562 Act provisions became spent when the 1814 Act came into force. The statement that future apprenticeships could be created regardless of the repeal was a self-evident statement of the repeal's effect<sup>3</sup>. The protection given to existing apprenticeships would have become unnecessary once all apprenticeships that were in force on 18 July 1814 had run their course<sup>4</sup>. Accordingly section 2 has been obsolete for nearly two centuries.

<sup>1</sup> Section 1 repealed.

<sup>2</sup> Section 2, after reciting the effect of various sections in the 1562 Act, provided for the repeal of the 1562 Act as so recited. S.2 further provided that it would be lawful for any person to take or retain or become an apprentice even though not in accordance with the 1562 Act, adding that indentures, deeds and agreements in writing entered into for that purpose which would otherwise be valid and effectual - that is, valid and effectual under the provisions of the 1562 Act repealed by s.2 - would be valid and effectual notwithstanding the repeal.

<sup>3</sup> Section 2 has sometimes been construed as replacing a requirement in the 1562 Act that apprenticeship contracts must be by indenture or deed with a requirement that such contracts must be in writing: see *Kirkby v Taylor* [1910] 1 KB 529; *McDonald v John Twiname Ltd* [1953] 2 QB 304. However, the 1562 Act never contained a general requirement that apprenticeship contracts should be in writing, still less that they should be by deed and there is nothing in section 2 to that effect. The modern requirement that apprenticeships be evidenced in writing is provided by the Employment Rights Act 1996, s.1(1).

<sup>4</sup> The 1562 Act commonly provided for apprenticeships to run for a period of at least 7 years.

- 8.5 Section 3 provided for justices of the peace to hear and determine any complaint that might arise as to apprenticeship. This jurisdiction has been superseded by alternative avenues for considering such complaints<sup>5</sup>. Section 3 is no longer required. Section 4 is a savings provision and falls with the repeal of the 1814 Act. The 1814 Act, therefore, may be repealed in its entirety.

*Holidays with Pay Act 1938*

- 8.6 Section 4 of the Holidays with Pay Act 1938 provided the then Minister of Labour with power to assist voluntary schemes for securing holidays with pay for workers in any industry. Section 4(1) enabled the Minister to assist schemes, with respect to which he had received an application from employers' and workers' organisations to approve and assist in the administration of such a scheme. Subsections (2) to (3) provided for holiday payments and for reimbursement of such sums and expenses. The power in section 4 has fallen into disuse. The modern employment contract will generally make specific provision for paid annual leave. Moreover the Working Time Regulations 1998 provide workers with an entitlement to a period of leave amounting to four weeks. A worker is entitled to be paid in respect of any period of annual leave to which he is entitled at the rate of a week's pay in respect of each week of leave<sup>6</sup>. Accordingly section 4 is spent and section 6 (the only remaining section) will fall with the repeal of section 4. The 1938 Act can, therefore, be repealed in its entirety.

*Employment and Training Act 1973*

- 8.7 Section 12(6) of the Employment and Training Act 1973 is a transitional provision which extended the term of office of any person who was a member of a Youth Employment Committee to 1 April 1974<sup>7</sup> (the date such Committees were abolished) if the term of office would otherwise have expired during a transitional period<sup>8</sup>. 1 April 1974 has long since passed and section 12(6) is, therefore, spent. By virtue of section 15(2) the 1973 Act has been fully brought into force. Section 15(3) is spent in so far as it provides for certain repeals which have all come into force, as are paragraphs 1, 2, 8 and 11(1) of Schedule 3. Section 15(2), (3) (in part) and the above paragraphs of Schedule 3 can be repealed.

*Employment Protection Act 1975*

- 8.8 Various provisions of the Employment Protection Act 1975 are spent and, therefore, may be repealed. Section 124(5) of the 1975 Act required any sums

<sup>5</sup> In civil claims an apprenticeship agreement is treated as a contract of employment in various statutes e.g. Employment Tribunals Act 1996, s.42(1) (claim for breach of contract or sums due) and the National Minimum Wage Act 1998, s.54(2) (complaint in respect of employers failure to access records). In criminal law, offences arising out of a contract of employment routinely include apprenticeships e.g. Employers' Liability (Compulsory Insurance) Act 1969, s.2.

<sup>6</sup> Reg.16(1).

<sup>7</sup> The Employment and Training Act 1973 (Commencement No.2) Order 1974, SI 1974/398.

<sup>8</sup> The transitional period commenced on 1 January 1974 (the date s.12(6) came into force) and expired on 1 April 1974 (abolition date).

received by the Minister of the Crown by virtue of the 1975 Act to be paid into certain funds including the Maternity Pay Fund. Since such fund has been wound up<sup>9</sup>, the reference to the fund in section 124(5) is spent. Section 111(1), and various provisions of Schedules 13, 14 and 15<sup>10</sup> provided for the repeal of certain provisions. All such repeals have come into force. Accordingly, the above mentioned provisions of the 1975 Act are spent.

#### *Job Release Act 1977*

- 8.9 Section 1 of the Job Release Act 1977 is a financial authorisation power which enabled sums to be paid out of voted money, as required, for the payment of temporary allowances to persons approaching pensionable age under schemes for the creation of job vacancies and mitigation of the effects of high unemployment. Such sums were to be payable during an effective period which ended on 29 September 1988<sup>11</sup>. Section 1 is spent, and section 2 (citation and extent) being the only other section of the 1977 Act will fall with the repeal of section 1. The 1977 Act may, therefore, be repealed.

#### *Employment Subsidies Act 1978*

- 8.10 Section 1 of the Employment Subsidies Act 1978 enabled payments to employers to be made to retain employees (who would otherwise be unemployed) and to take on new employees. The power in section 1 lapsed on 31 December 1991<sup>12</sup> and can no longer be exercised. Section 1 and section 3(2) to (4) (which provided for the period of exercise) are, therefore, spent. Section 2 which provided for Parliamentary control of expenditure, the remainder of section 3 (supplemental provisions)<sup>13</sup>, and section 4 (citation) will fall with the repeal of section 1. The 1978 Act may, therefore, be repealed<sup>14</sup>.

#### *Employment and Training Act 1981*

- 8.11 Various provisions of the Employment and Training Act 1981 are spent and can, therefore, be repealed. By virtue of section 9(1) of the 1981 Act the Employment Service Agency and the Training Services Agency ceased to exist on 31 July 1981 (the passing of the 1981 Act). On that date section 9(1) became spent. Certain

<sup>9</sup> The Social Security Act 1986, s.49(3), Sch.4, Pt.3, paras.16, 17 (repealed).

<sup>10</sup> Sch.13, paras.5 and 7; Sch.14, para.6; Sch.15, paras.1, 4, 5, 7, 8, 10, 11, 14, 16(4), 18, 20 and 21.

<sup>11</sup> The period provided for by s.1(4)(a) was extended by order under s 1(4)(b), the last such being the Job Release Act 1977 (Continuation) Order 1987, SI 1987/1339. Section 1(3) enabled payment after the effective period where approved during such period. Any allowances payable after 29 September 1988 will long since have been paid.

<sup>12</sup> The Employment Subsidies (Renewal) Order (Northern Ireland) 1990 SR 1990/174; the Employment Subsidies Act 1978 (Renewal) (Great Britain) Order 1990, SI 1990/1313.

<sup>13</sup> The repeals provided for by s.3(7) came into force on 23 March 1978 (Royal Assent).

<sup>14</sup> The repeal of the 1978 Act permits the repeal of s.8(1)(c) of the Employment Act 1989.

paragraphs of Schedule 2<sup>15</sup> repealed provisions of various statutes on 31 July 1981 thereupon becoming spent.

*Industrial Training Act 1982*

- 8.12 Section 20(2) of the Industrial Training Act 1982 provided that certain sections of the 1982 Act should not have effect in relation to or include reference to the Agricultural Training Board. The Board has since been wound up<sup>16</sup>. Section 20(2) is spent as are paragraphs 1 to 5 of Schedule 2 (transitional and savings provisions). Such provisions may, therefore, be repealed.

*Employment Act 1982*

- 8.13 Most of the Employment Act 1982 has already been repealed. Paragraph 14 of Schedule 3 amended the Aircraft and Shipbuilding Industries Act 1977. These amendments have been superseded and, accordingly, paragraph 14 is spent. Paragraph 8(5) of Schedule 2 and paragraph 27 of Schedule 3 have been rendered meaningless due to repeals to those paragraphs and are, therefore, spent. The remaining provisions of the 1982 Act will fall in consequence<sup>17</sup>. The 1982 Act may, therefore, be repealed.

*Dock Work Act 1989*

- 8.14 By virtue of section 1(1) and (2) of the Dock Work Act 1989, the Dock Workers Employment Scheme 1967 and the Dock Workers (Regulation of Employment) Act 1946 ceased to have effect on 3 July 1989. Section 1(3) to (4) enabled the National Dock Labour Board to continue during a transitional period beginning on 3 July 1989 and ending on 30 June 1990 when it was dissolved by order under section 2<sup>18</sup>. Section 1 and section 2 are spent as are various transitional provisions, and provisions relating to the winding up of the Board<sup>19</sup>. In addition section 5 which provided for compensation for former registered dock workers who became redundant is no longer required as all such claims have long since been dealt with. Section 5 may, therefore, also be repealed.

*Employment Act 1989*

- 8.15 The Employment Act 1989 was passed for a variety of purposes including repealing section 7(2)(f) of the Sex Discrimination Act 1975 (section 3(2)) and section 1(1)(a) of the Celluloid and Cinematograph Film Act 1922 (section 21). Also certain prohibitions or requirements relating to the employment of young persons and other categories of employees were also repealed by various

<sup>15</sup> Paras.5, 10 (all except 10(a)(iv) whose amendments have been superseded), 11, 13 and 16. The repeal of para.16 of Sch.2 permits the repeal of the reference to it in s.11(4).

<sup>16</sup> The Agricultural Training Board (Revocation) Order 1994, SI 1994/555.

<sup>17</sup> Sections 21(2), 22(1) to (3) (subss.(2) to (3) provided for commencement: the 1982 Act has been brought fully into force).

<sup>18</sup> The National Dock Labour Board (Date of Dissolution) Order 1990, SI 1990/1158.

<sup>19</sup> Ss.3, 4 and paras.1, 3, 4(4), 4(5), 8 and 9 of Sch.2. In addition the repeals provided for by s.7(2) have come into force rendering this subsection spent.

provisions and paragraphs of Schedules 2 , 3 and 4<sup>20</sup>. The repeals have all come into force<sup>21</sup>. The above mentioned provisions are, therefore, spent and may be repealed. In addition the 1989 Act has fully commenced thus enabling the repeal of section 30(2) to (4).

- 8.16 Schedule 5 of the 1989 Act provides supplementary provisions in relation to the dissolution of the Training Commission on 16 November 1989 by virtue of section 22. Paragraphs 4(1), 6, and 10 of Schedule 5 are transitional provisions or provisions relating to the dissolution which are now spent and may, therefore, be repealed.

*Trade Union Reform and Employment Rights Act 1993*

- 8.17 The Trade Union Reform and Employment Rights Act 1993 was passed, amongst other matters, to reform the law relating to trade unions and industrial relations, and to amend employment rights. Section 34(3) and (6) repealed various provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 and section 35 repealed Part 2 of the Wages Act 1986. The repeals came into force on 30 August 1993<sup>22</sup>. Section 34(3) and (6) and section 35 are spent and may, therefore, be repealed. Paragraph 2 of Schedule 9 is a spent transitional provision which provided for a deduction for trade union subscriptions during a period (one year from 30 August 1993) which has long since passed.

*Employment Rights Act 1996*

- 8.18 Paragraph 15 of Schedule 2 to the Employment Rights Act 1996 provided for a transitional period (22 August 1996 to 6 October 1996) during which certain provisions of the 1996 Act did not have effect. The transitional period has ended.

*Employment Rights (Dispute Resolution) Act 1998*

- 8.19 Section 17(4) of the Employment Rights (Dispute Resolution) Act 1998 is a transitional provision which enabled certain appeals, which had been brought before the High Court or the Court of Session not later than 8 April 1998, to be brought before the Employment Appeal Tribunal within a specified period (by 19 May 1998 or as specified by order). The specified period has expired and there are no remaining claims to which section 17(4) can apply. Section 17(4) is spent and can, therefore, be repealed.

*National Minimum Wage Act 1998*

- 8.20 Section 8(1) and (2) of the National Minimum Wage Act 1998 provided for the non-statutory Low Pay Commission. The non-statutory Low Pay Commission

<sup>20</sup> S.9(1) to (6)(a), Sch.2 Pt.1, Pt.2 paras.1 and 2, Sch.3 Pts.1 and 2, Sch.4, paras 1(2), 1(3), 5, 6(4), 8, 9, 10(2)(b), 12(3), 13(4), 14 and 16(2).

<sup>21</sup> The above mentioned repeals came into force on a variety of dates commencing 16 November 1987, the last date being 3 March 1997.

<sup>22</sup> The Trade Union Reform and Employment Rights Act 1993 (Commencement No 1 and Transitional Provisions) Order 1993, SI 1993/1908.

was superseded by the Low Pay Commission on 1 November 1998<sup>23</sup>. Section 8(1) to (8) and (12) to (14) which provided as to the non-statutory Low Pay Commission are spent and can, therefore, be repealed. The repeals provided by paragraphs 4(1), 6 and 7(2) of Schedule 2 came into force on 1 April 1999<sup>24</sup> thus rendering these paragraphs spent.

#### *Employment Relations Act 1999*

- 8.21 By virtue of section 28(1) of the Employment Relations Act 1999 the office of Commissioner for the Rights of Trade Union Members and the office of Commissioner for Protection Against Unlawful Industrial Action ceased to exist on 25 October 1999<sup>25</sup>. Section 28(1) is spent. Various sections and paragraphs of Schedules 4, 6 and 8<sup>26</sup> provided for the repeal of certain enactments. The repeals have all been brought into force. The above mentioned provisions are spent and can, therefore, be repealed.

#### *Consultation on Part 8*

- 8.22 Those who have been consulted about these repeal proposals include (as appropriate) the Department for Work and Pensions, the Department of Trade and Industry, the Department for Education and Skills, HM Treasury, the Ministry of Defence, the Department for Constitutional Affairs, the Board of Inland Revenue, the Department for Transport, the Health and Safety Executive, the relevant authorities in Wales, Scotland and Northern Ireland, the Justices' Clerks' Society, the Magistrates' Association, the Corporation of London, the Employment Tribunals Service, the Employment Appeal Tribunal and the Low Pay Commission. No objections have been raised.

<sup>23</sup> S.8(9).

<sup>24</sup> The National Minimum Wage Act 1998 (Commencement No.2 and Transitional Provisions) Order 1999, SI 1999/685.

<sup>25</sup> Employment Relations Act 1999 (Commencement No.2 and Transitional and Saving Provisions) Order 1999, SI 1999/2830.

<sup>26</sup> Ss.28(2), 33(1), (2) (partially), (3)(a), 37(2); Sch.4 paras.4, 6, 7, 13, 14, 15(a), 17 to 30, 37, 40, 41; Sch.6 paras.2, 3, 5(2), 7(3), (4), 9, 10(2), 11(2), 14, 15(2), 16(2); Sch.8, paras.2, 4, 7.

# **PART 9**

## **FINANCE**

### *Introduction*

- 9.1 This Part concerns provisions relating to finance.

### *Group 1 - Consolidated Fund*

#### *Public Revenue and Consolidated Fund Charges Act 1854*

- 9.2 Most of Schedule A to the Public Revenue and Consolidated Fund Charges Act 1854, which provided for certain public salaries, pensions, compensations and other payments to be charged on the Consolidated Fund, has been repealed. The only remaining entry in Schedule A is in respect of compensation under the Court of Session (No.2) Act 1838 which is spent upon the repeal of sections 31 and 32 of the 1838 Act which provided as to compensation. In consequence Schedule A and the reference to that Schedule in section 1 can both be repealed.

#### *Consolidated Fund (Permanent Charges Redemption) Act 1873*

- 9.3 Section 2 of the Consolidated Fund (Permanent Charges Redemption) Act 1873 enabled the Treasury to contract for the redemption of certain annuities<sup>1</sup> which were charged on or payable out of the Consolidated Fund or moneys provided by Parliament. Sections 3 to 5 provided for the method of redemption. The power to contract to redeem was last exercised in the period from 1 December 1915 to 17 November 1925<sup>2</sup>. By virtue of section 6, annual accounts of all annuities redeemed under the 1873 Act were last laid on 17 November 1925<sup>3</sup>. It appears that any remaining annuities to which section 2 applied have long since been redeemed by agreement or by virtue of section 6 of the Miscellaneous Financial Provisions Act 1983. Sections 2 to 6 are, therefore, spent. Section 1 (citation), section 7 (definitions), section 8 (application to Ireland) and section 9 (application to the Isle of Man) will fall due to the repeal of the remainder of the 1873 Act<sup>4</sup>. The 1873 Act can, therefore, be repealed.

#### *Consolidated Fund (Permanent Charges Redemption) Act 1883*

- 9.4 The Consolidated Fund (Permanent Charges Redemption) Act 1883 was passed to amend the Consolidated Fund (Permanent Charges Redemption) Act 1873. Section 2 of the 1883 Act enabled the Treasury to borrow from the National Debt

<sup>1</sup> Those annuities which were either in perpetuity or for a period not determinable with the life of the individual to whom the annuity was for the time being payable.

<sup>2</sup> House of Commons Sessional Paper 180; Permanent Charges Commutation; Return - 17 November 1925.

<sup>3</sup> Ibid.

<sup>4</sup> The repeal of the 1873 Act will permit the repeal of the entries relating to it in Sch.1 to the Administration of Justice Act 1965 and in Sch.5 of the Judicature (Northern Ireland) Act 1978.

Commissioners in order to effect a contract under the 1873 Act to redeem an annuity and also provided for repayment of the loan. No loans have been taken out by the Treasury for at least the last 30 years. Any loans which have been taken out have been repaid. With the repeal of the 1873 Act there is no longer any need for section 2 which is, therefore, spent. Section 1 (citation etc.), the only other section, will fall in consequence, thus enabling the repeal of the 1883 Act<sup>5</sup>.

#### *Revenue Act 1883*

- 9.5 Section 18 of the Revenue Act 1883 enabled the Treasury to contract with the Charity Commissioners in pursuance of the Consolidated Fund (Permanent Charges Redemption) Act 1873 to redeem all or any of the annuities under that Act which were payable for charitable purposes in England and Wales. There are no longer any such annuities chargeable on the Consolidated Fund to which the 1883 Act can apply. Section 18 is, therefore, spent. Section 1 (citation), the only other remaining section, will fall in consequence, thus enabling the repeal of the 1883 Act.

#### *Miscellaneous Financial Provisions Act 1983*

- 9.6 By 1983 there remained only a limited number of annuities which had not been redeemed under the Consolidated Fund (Permanent Charges Redemption) Act 1873. Section 6 (other than subsection (5)) of the Miscellaneous Financial Provisions Act 1983 enabled the Treasury to require redemption of any annuity not exceeding £2,000 a year for the redemption of which the Treasury might contract under section 2 of the 1873 Act (but not to an annuity first payable after the passing of that Act - 28 July 1873). Subsection (5) enabled certain specified annuities to be redeemed<sup>6</sup>. All the annuities specified in subsection (5) have ceased to be payable. The other annuities to which section 6 applied have also been redeemed. The final redemptions occurred in 1984<sup>7</sup>. Section 6 can, therefore, be repealed.

#### *Group 2 - Public Revenue and Expenditure*

##### *Exchequer and Audit Departments Act 1866*

- 9.7 Section 2 of the Exchequer and Audit Departments Act 1866 defines certain terms in that Act. The references in section 2 to “sub-accountants” and “the

<sup>5</sup> The repeal of s.2 of the 1883 Act will permit the repeal of the entry in Pt.3 of Sch.6 to the Post Office Act 1969.

<sup>6</sup> The annuities to the following persons were specified-

- ◆ to the Receiver General of the Duchy of Lancaster (section 1 of the Prilage and Butlerage Act 1803),
- ◆ to the Receiver General of the Duchy of Cornwall (section 3 of the Tin Duties Act 1838),
- ◆ to the Secretary of State (section 9 of the Greenwich Hospital Act 1869).

<sup>7</sup> Para.11 of the foreword to the Consolidated Fund and National Loans Funds Accounts 1983-84.

Secretaries of the Treasury” are spent as there are no longer any such references in the 1866 Act<sup>8</sup>.

*Revenue Act 1884*

- 9.8 Section 14 of the Revenue Act 1884 allowed for certain payments for army or navy services to be made and witnessed in a prescribed manner. That part of section 14<sup>9</sup> which provided for certain documentation showing such payments and attestation to be a voucher or proof of payment for the purposes of section 27 of the Exchequer and Audit Departments Act 1866 is spent due to the repeal of section 27 of the 1866 Act<sup>10</sup>.

*Revenue Act 1898*

- 9.9 Section 9 of the Revenue Act 1898 provides for the collection of fees under certain statutes. The reference in section 9 to the Courts of Law Fees (Scotland) Act 1868 is spent, the 1868 Act having been repealed<sup>11</sup>.

*Exchequer and Audit Departments Act 1921*

- 9.10 Section 9(1) and (5) provide for amendments to sections 23 and 39 of the Exchequer and Audit Departments Act 1866. These amendments are now spent due to the repeal of these provisions.

*Exchequer and Audit Departments Act 1957*

- 9.11 Section 1(2) of the Exchequer and Audit Departments Act 1957 is a spent transitional provision which provided for the salary of the Comptroller and Auditor General in the period before a resolution of the House of Commons under section 1(1) took effect. Such resolution took effect on 1 February 1959<sup>12</sup>. Section 2(1) provided for the substitution of certain sections<sup>13</sup> which have now been repealed<sup>14</sup>. Section 2(1) is, therefore, spent.

*Public Expenditure and Receipts Act 1968*

- 9.12 Section 5 of the Public Expenditure and Receipts Act 1968 enabled fees to be amended in statutes specified in Schedule 3. Certain entries in Schedule 3 are

<sup>8</sup> The term “sub-accountants” in s.9 has been repealed, and the term “the Secretaries of the Treasury” in ss.13, 15 and 20 has been substituted.

<sup>9</sup> The words from “; and any pay” to “section twenty-seven of the Exchequer and Audit Departments Act 1866”.

<sup>10</sup> S.27 of the 1866 Act was repealed and substituted by s.21 of the Exchequer and Audit Departments Act 1921, such substitution having also been since repealed.

<sup>11</sup> The 1868 Act was repealed prior to the 1898 Act being enacted.

<sup>12</sup> 12 May 1959 Hansard (HC), vol.605, col 1384.

<sup>13</sup> S.8(3) of the Exchequer and Audit Departments Act 1921 and s.45 of the Finance Act 1925.

<sup>14</sup> S.3(2) of the 1957 Act, such repeals coming into force on 17 July 1957.

spent as they specify enactments or provisions which no longer require the payment of fees<sup>15</sup>.

### *Group 3 - Public Works*

#### *Public Works Loans Act 1875*

- 9.13 Section 33 of the Public Works Loans Act 1875 provides for the recovery of sums payable under any security made under that Act as a specialty debt. The words from “, in like manner” to “pay” are spent as they provide for the manner of recovery under the Crown Debts Act 1541 which has been repealed and superseded by the Crown Proceedings Act 1947. In addition the method of enforcement of payment of the debt as provided for by section 33 is now spent<sup>16</sup> as such matters are now governed by the 1947 Act. The words from “The Loan Commissioners may issue” to the end of the section can, therefore, also be repealed.
- 9.14 All that remains of the proviso to section 57 is paragraph (1)(b) which provided that the repeal of any enactment by the 1875 Act should not affect certain of the Commissioners’ powers in relation to loans granted before the commencement of the 1875 Act (13 August 1875). The proviso to section 57 can be repealed as there are no longer any loans to which it can apply.

#### *Public Works Loans Act 1882*

- 9.15 Section 7 of the Public Works Loans Act 1882 enabled a rating authority to charge a fund or rate in order to aid a public authority to raise a loan where a provisional order (authorising certain works) had been made under the General Pier and Harbour Act 1861. With the repeal of the 1861 Act<sup>17</sup> section 7 is spent and can be repealed<sup>18</sup>.
- 9.16 Section 10 related to Northern Ireland only and amended repayment of certain advances<sup>19</sup>. Section 10 has been unnecessary since the 1882 Act was repealed as to Northern Ireland by the Public Works etc., Loans Act (Northern Ireland) 1953<sup>20</sup>.

<sup>15</sup> The Friendly Societies Act 1974 (the repeal of which permits the repeal of para.21, Sch.9 to the 1974 Act), the Shops Act 1950, the Fees (Increase) Act 1923 and the Sea Fisheries Regulation Act 1966.

<sup>16</sup> S.33 enabled the Public Works Loans Commissioners to issue a warrant, to enter satisfaction and to control enforcement. The 1947 Act governs civil proceedings by or against the Crown in the High Court and the County Court and enables the Public Works Loan Board to institute proceedings. The writs referred to in s.33 have also been abolished by the 1947 Act.

<sup>17</sup> The 1861 Act was finally repealed by the Transport and Works Act 1992 on 15 July 1992.

<sup>18</sup> The repeal of s.7 permits the repeal of the Public Works Loans Act 1887.

<sup>19</sup> An annuity under s.28 of the Land Law (Ireland) Act 1881 either before or after 18 August 1882 (Royal Assent) such having been secured as provided by Pt.3 of the Landlord and Tenant (Ireland) Act 1870 (as amended by the Landlord and Tenant (Ireland) Act 1872). The Acts of 1870, 1872 and 1881 have all been repealed.

<sup>20</sup> Section 4, Sch.

The remaining sections (section 1 - short title, section 2 - citation) will fall with the repeal of sections 7 and 10, thus enabling the repeal of the 1882 Act.

#### *Group 4 - Finance Acts*

##### *Finance Act 1949*

- 9.17 Section 47 of the Finance Act 1949 provided for the National Debt Commissioners' account of unclaimed dividends under Part 7 of the National Debt Act 1870. Subsection (2) provided for certain sums to stand to the credit of that account and for section 54 to cease to have effect (in so far as it required investment). Such sums have been so dealt with and section 54 ceased to have effect on 30 July 1949. Subsection (4) (the only other remaining subsection) enabled Schedule 3 of the Finance Act 1921 to apply to the manner of dealing with certain funds. With the repeal of Schedule 3 to the 1921 Act, subsection (4) and, therefore, section 47 can be repealed.

##### *Finance Act 1954*

- 9.18 In section 34(3) of the Finance Act 1954 there is a spent reference to the Exchequer and Audit Departments Act 1866 due to the repeal of the 1866 Act<sup>21</sup>. In addition section 34(4) which provides Schedule 5 should have effect is spent due to the repeal of the Schedule. Section 35(6) which provided for excess profits levy is spent as such levy is no longer payable.

##### *Finance Act 1991*

- 9.19 Section 120 of the Finance Act 1991 is a transitional provision which had been enacted to correct some defects in the difference between practice and regulations governing certain national savings products. Section 120 deemed certain amounts to have been properly calculated<sup>22</sup>. Due to the passage of time this transitional provision is now unnecessary. Section 120 is spent and can be repealed.

#### *Group 5 - Car Tax*

##### *Isle of Man Act 1979*

- 9.20 Car Tax under the law of the United Kingdom was also a chargeable tax under the law of the Isle of Man. The Isle of Man Act 1979 amended, amongst other matters, the law relating to car tax to give effect to an Agreement made between the governments of the United Kingdom and the Isle of Man and signed on 15 October 1979. Section 1(1)(e) of the 1979 Act classified car tax to be one of the common duties under that Act. Section 7 allowed for an Order in Council to modify the law relating to car tax in the United Kingdom. With the abolition of

<sup>21</sup> The words from "and shall be payable" to the end of s.34(3) can be repealed.

<sup>22</sup> Subss.(1) to (3) applied to amounts in respect of payments made concerning national savings certificates and war savings certificates where a warrant had been posted before 11 February 1991; subss.(4) and (5) to amounts reinvested in such certificates; subs.(6) to the amount of the prize fund for any month before December 1989 in respect of the premium savings bond draw; subs.(7) to the amount of interest payments on repayment warrants posted before 11 February 1991 and paid before 25 July 1991 (subs.(7)) or on or after such date (subs.(8)).

Car Tax<sup>23</sup> and the repeal of the Car Tax Act 1983 (see below) section 1(1)(e) and section 7 of the 1979 Act are no longer needed and can be repealed.

### *Car Tax Act 1983*

- 9.21 The Car Tax Act 1983 was passed to consolidate enactments relating to car tax. Car tax had been introduced in 1973 mainly to compensate for revenue which would otherwise have been lost from cars when purchase tax was replaced by the standard rate of VAT. The Car Tax (Abolition) Act 1992 provided for the abolition of car tax in order to stimulate the home car market by lowering the price of new cars.
- 9.22 The 1983 Act was not itself repealed by the 1992 Act. Instead the 1983 Act was further amended by the 1992 Act in order not only to provide for abolition but to enable car tax to be collected for the period on and after 13 November 1992 where car tax became due before such date (and was not exempted by the 1983 Act<sup>24</sup>). Due to the passage of time it is no longer necessary to keep the provisions of the 1983 Act in place. Any car tax which was due on or before 13 November 1992, which was capable of being recovered, will by now have been recovered<sup>25</sup>. The repeal of the 1983 Act will not affect the debt itself nor the ability of the Commissioners of Customs and Excise<sup>26</sup> to pursue an action for such debt where there has been fraud, concealment or mistake<sup>27</sup>. The 1983 Act is spent and can be repealed<sup>28</sup>.

<sup>23</sup> Car Tax (Abolition) Act 1992.

<sup>24</sup> S.7A.

<sup>25</sup> By virtue of s.4(3A) the registration of persons liable to car tax has been cancelled. The time limits for assessments under Sch.1 have passed.

<sup>26</sup> Sch.1 provided for the administration and collection of car tax to be under the care and management of the Commissioners of Customs and Excise.

<sup>27</sup> S.16 of the Interpretation Act 1978. The period prescribed in s.9 of the Limitation Act 1980 under which any action to recover a sum due to the Crown must not be brought after the expiration of 6 years from the date on which the cause of action accrued (the date a return was made: S.I. 1985/1737) is postponed by s.32 of the 1980 Act whereby the period begins to run from the discovery of the fraud etc., or from when such could, with reasonable diligence, have been discovered.

<sup>28</sup> The repeal of the 1983 Act permits the repeal of the following-

- ◆ Finance Act 1984, s.16(1);
- ◆ Car Tax (Vehicles for the Handicapped) Order 1984 (S.I. 1984 No 488);
- ◆ Police and Criminal Evidence Act 1984, Sch.6, para.40;
- ◆ Companies Consolidation (Consequential Provisions) Act 1985, entry in Sch.2;
- ◆ Finance Act 1985, s.10(6)(h);
- ◆ Debtors (Scotland) Act 1987, Sch.4, para.3;
- ◆ Finance Act 1988, s.12(1)(d) and (5);
- ◆ Finance Act 1989, s.27;
- ◆ Finance Act 1991, ss.19 and 20;

*Car Tax (Abolition) Act 1992*

- 9.23 Sections 1 to 3 of the Car Tax (Abolition) Act 1992 which amended, inserted or repealed provisions of the Car Tax Act 1983 are spent upon the repeal of the 1983 Act. Section 4 which provided for certain provisions of the Finance (No 2) Act 1992<sup>29</sup> to be deemed never to have been enacted came into force on 13 November 1992 and is now spent. With the repeal of sections 1 to 4, section 5 (commencement) and section 6 (citation) will fall thus enabling the repeal of the 1992 Act.

*Group 6 - General Repeals*

*Forged Transfers Act 1891*

- 9.24 Section 1 of the Forged Transfers Act 1891 provides for the power to make compensation by a cash payment for losses from forged transfers. That part of subsection (1) which provided as to the power arising in respect of losses and or forgery which occurred before or after the passing of the 1891 Act (5 August 1891)<sup>30</sup> was inserted to remove doubts as to the application of the 1891 Act and is no longer necessary due to the passage of time<sup>31</sup>. In section 3 the words “, or loan” can be repealed as they refer to Loan Societies established under the Loan Societies Act 1840 which has now been repealed.

*Government Annuities Act 1929*

- 9.25 The proviso to section 36(2) (a savings provision) of the Government Annuities Act 1929 is now spent. Paragraph (a) of the proviso applied to a deferred life annuity granted before 14 July 1864 and paragraph (b) to an annuity granted before 28 July 1888. Similarly part of proviso (a)<sup>32</sup> to section 66(2) applied to any deferred savings bank annuities granted before 14 July 1864. There are no longer any of the above mentioned annuities thus enabling the repeal of the proviso to section 36(2) and part of proviso (a) to section 66(2). Part 1 of Schedule 3 falls with the repeal of section 36(2)(b).

*Finance Act 1937*

- 9.26 Section 5(1) of the Finance Act 1937 abolished the duty known as male servant duty which had been chargeable under the Revenue Act 1869 and removed the need for a licence under that Act for the employment of such a servant. These provisions are now obsolete and may be repealed. An amendment to the 1937 Act

- ◆ Finance Act 1992, s.8;
- ◆ Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, Sch.4, para.47.

<sup>29</sup> S.18, Sch.4 and Pt 6 of Sch.18.

<sup>30</sup> The words from “whether such loss arises” to “passing of this Act, and”.

<sup>31</sup> The repeal of part of s.1(1) will permit the repeal of part of s.2 of the Forged Transfers Act 1892 and para.1(1)(c) of Sch.2 to the Stock Transfer Act 1982.

<sup>32</sup> The words from “and any deferred” to the end of proviso (a).

will be needed to give effect to this repeal. The amendment appears in *Schedule 2* to the draft Bill (schedule of consequential and connected provisions).

*National Loans Act 1968*

- 9.27 Section 18(1) of the National Loans Act 1968 provided that at the commencement of business on 1 April 1968 the Treasury should pay any balance in the Consolidated Fund at the close of business on the last previous working day into the National Loans Fund. Any such balance was duly paid enabling the repeal of section 18(1). The repeals provided for by section 17(1) came into force on 1 April 1968 causing section 17(1) to become spent. In addition certain entries in Schedule 1<sup>33</sup> and Schedule 5<sup>34</sup> are spent as the provisions which they amended have been repealed.

*Post Office Act 1969*

- 9.28 Section 108(1)(d) of the Post Office Act 1969 amended section 47(4)(c) of the Finance Act 1942 which has been repealed. Section 108(1)(d) is, therefore, spent and can be repealed.

*Statutory Corporations (Financial Provisions) Act 1974*

- 9.29 The amendment made by paragraph 3 of Schedule 2 to the Statutory Corporations (Financial Provisions) Act 1974 to section 17(3) of the Gas Act 1972 became spent on the repeal of that subsection.

*Statutory Corporations (Financial Provisions) Act 1975*

- 9.30 The amendment by paragraph 4 of Schedule 4 to the Statutory Corporations (Financial Provisions) Act 1975 to section 2(1) and (3) of the Gas and Electricity Act 1968 became spent on the repeal of the 1968 Act.

*National Audit Act 1983*

- 9.31 Various provisions of the National Audit Act 1983 are spent and can, therefore, be repealed. The repeal provided for by section 10 of the National Audit Act 1983 came into force on 1 January 1984<sup>35</sup> causing section 10 to become spent. Section 11 amended (and partly repealed) section 1 of the Exchequer and Audit Departments Act 1921. With the repeal of section 1 of the 1921 Act section 11 is spent. Section 15(3) is a spent transitional provision which provided that during a transitional period the repeal of section 8(2) of the 1921 Act did not come into force. The transitional period (nine months from 1 January 1984) has ended, the

<sup>33</sup> In Sch.1, the entries relating to the New Towns Act 1946, the Miscellaneous Financial Provisions Act 1950, the Finance Act 1956, s.20(6) of the Transport Act 1962, the Housing Act 1964 and the Air Corporations Act 1967.

<sup>34</sup> In Sch.5, the entries relating to s.21(1) of the Coal Industry Nationalisation Act 1946 and the Cable and Wireless Act 1946.

<sup>35</sup> S.15(2).

repeal came into force on 1 October 1984, and thus section 15(3) became spent on that date<sup>36</sup>.

*Government Resources and Accounts Act 2000*

- 9.32 The repeal of certain enactments by sections 1(2), 2(6), 3(4), 5(9), 6(5), 7(6), 8(3), 21(4), 26(3) and paragraphs 9, 12 and 13 of Schedule 1 to the Government Resources and Accounts Act 2000 came into force on 1 April 2001<sup>37</sup>. The above mentioned provisions are spent and can be repealed.

*Consultation on Part 9*

- 9.33 Those who have been consulted about these repeal proposals include (as appropriate) Her Majesty's Treasury, Her Majesty's Customs and Excise, the Department for Environment, Food and Rural Affairs, the Board of Inland Revenue, the Department for Constitutional Affairs, the Department of Trade and Industry, the Office of the Deputy Prime Minister, the Ministry of Defence, the relevant authorities in Wales, Scotland, Northern Ireland and the Isle of Man, the Charity Commission, the Commissioners for the Reduction of the National Debt, the Duchy of Cornwall, the Duchy of Lancaster, the Local Government Association, the National Association of Local Councils, the National Audit Office, National Savings and Investments, the Public Works Loan Board and the Welsh Local Government Association. No objections have been raised.

<sup>36</sup> Thus allowing for the repeal of part of s.15(2).

<sup>37</sup> The Government Resources and Accounts Act 2000 (Commencement No.1 and Transitional Provision) Order 2000, S.I. 2000/3349, art.3. The repeals do not have effect in relation to the business of any financial year ending with or before 31 March 2001.

## **PART 10**

# **LOCAL GOVERNMENT**

- 10.1 The candidates for repeal in the local government part of the report fall into three groups. First there are repeals relating to the Local Government Act 1972. This is followed by a group of repeals arising out of the now defunct rate support grant legislation. The final group comprises repeals relating to local government generally.

### *Group 1 - Local Government Act 1972*

- 10.2 Local government is largely the product of legislation enacted since the late nineteenth century. The structure of local government was completely reorganised by the Local Government Act 1972 which established the modern structure of local government in England and Wales. A number of provisions in the 1972 Act, mainly of a transitional nature, are now unnecessary and may be repealed.
- 10.3 Section 64<sup>1</sup> required the Local Government Boundary Commission for Wales to review the electoral arrangements in Welsh counties or county boroughs. Section 64 became spent when the Commission completed this task on 23 March 2001.
- 10.4 Section 169 is a transitory provision requiring existing rating authorities to contribute towards the initial expenses of the counties and districts newly created by the 1972 Act. Section 169 became spent once these initial payments were made in the early 1970s.
- 10.5 Section 190 made a number of amendments to sections 6 and 12 of the Caravans Sites Act 1968. However, now that those sections of the 1968 Act have been repealed<sup>2</sup>, section 190 is spent.
- 10.6 Section 221 abolished a large number of inferior local courts of record. These courts, which exercised a civil jurisdiction, operated by reference to cities or boroughs which, after 1 April 1974, no longer existed in that form as a unit of local government. The courts are listed in Schedule 28. Following the abolition, both section 221 and Schedule 28 became merely of historical interest and may now be repealed.
- 10.7 Sections 257 and 258 required the Secretary of State to establish a staff commission for, respectively, England and Wales to consider and advise on local government recruitment and staffing issues, particularly with reference to matters arising under the 1972 Act. Since both staff commissions have now been wound up following the completion of their work, sections 257 and 258 have become unnecessary. Similarly unnecessary is section 261 which is a transitional provision

<sup>1</sup> Section 64 was substituted by the Local Government (Wales) Act 1994, s.6, which provision may also be repealed consequentially upon the repeal of section 64.

<sup>2</sup> Criminal Justice and Public Order Act 1994, ss.80(1), 168(3), Sch.11.

designed to regulate the remuneration of local authority employees in the period of reorganisation following the commencement of the 1972 Act<sup>3</sup>.

- 10.8 The 1972 Act contains a number of other provisions, mainly of a transitory nature, which have become unnecessary over the past 30 years<sup>4</sup>.

#### *Group 2 - Rate Support Grant*

##### *Introduction*

- 10.9 The repeals proposed in this group relate to the systems of rate support grant ("RSG") established by the Local Government Act 1974 and by Part 6 of the Local Government Planning and Land Act 1980. The RSG systems have now been superseded by a system of revenue support grants established by the Local Government Finance Act 1988 with effect from April 1990. Like the revenue support grant, the RSG represented the principal form of grant made by central government to local authorities.
- 10.10 The following paragraphs describe the statutory provisions which are now unnecessary following the abolition of the RSG systems.

##### *Local Government Act 1974*

- 10.11 Sections 1 to 5 of, and Schedule 2 to, the Local Government Act 1974 established a system of RSG for the year 1974/75 until its replacement in April 1981 by the system established by the Local Government, Planning and Land Act 1980. These provisions are now unnecessary and may be repealed along with ancillary provisions in section 10<sup>5</sup>.

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

- 10.12 Accordingly the RSG system established by Part 6 of the Local Government, Planning and Land Act 1980 replaced the RSG system of the 1974 Act with a new RSG system with effect from 1 April 1981. By section 53 of the 1980 Act, the new system comprised domestic rate relief grant and block grant and was the subject of widespread criticism because of its complexities. It was amended by a whole series of later enactments<sup>6</sup> before being replaced with effect from April 1990 by a new system of revenue support grants by Part 5 of the Local

<sup>3</sup> A consequential repeal is the Health Authorities Act 1995, Sch.1, paragraph 97(3) (which amended the 1972 Act, s.261(7)).

<sup>4</sup> These provisions include text in sections 74, 78, 90, 191, 197, 213, 219, 254, 270, 271, 273 and 274; and in Schedules 3, 5, 23, 24 and 29. Section 2(3) of the Charlwood and Horley Act 1974 may also be repealed, in consequence of the proposed repeal of paragraph 12(7) of Schedule 3 to the 1972 Act.

<sup>5</sup> Consequential upon the repeal of section 1 of the 1974 Act are the repeals of the Lotteries and Amusements Act 1976, Sch.4, para.9; Local Government, Planning and Land Act 1980, s.69(3), Sch.32, para.31; and Greater London Authority Act 1999, Sch.27, para.38.

<sup>6</sup> Local Government Finance Act 1982, Pt.2; Education Act 1986, ss.2 to 4; Rate Support Grants Acts 1986 and 1987; Local Government Finance Act 1987, Pt.1; Local Government Act 1987; and Rate Support Grants Act 1988.

Government Finance Act 1988. In the result the whole of Part 6 of the 1980 Act (i.e. sections 48 to 68 together with Schedules 8 to 10) may now be repealed.

*Consequential repeals*

- 10.13 The replacement of the RSG system by a new system of revenue support grant has also rendered unnecessary a large number of statutory provisions that were enacted for the purpose of amending the RSG system as provided for in Part 6 of the Local Government, Planning and Land Act 1980.
- 10.14 These consequential repeals include the whole of the Rate Support Grants Act 1986<sup>7</sup>, the Rate Support Grants Act 1987<sup>8</sup>, the Local Government Finance Act 1987<sup>9</sup>, the Local Government Act 1987<sup>10</sup> and the Rate Support Grants Act 1988<sup>11</sup>. There are also a number of other more minor provisions which may also be repealed consequentially<sup>12</sup>.

*Group 3 - General Repeals*

*Local Government Acts 1888, 1894, 1929, 1958 and 1966*

- 10.15 Section 69 of the Local Government Act 1888 provided county councils with borrowing powers that were exercisable with the consent of the Local Government Board. The only substantive provision in section 69 that still survives is subsection (1)(d) which enabled county councils to borrow in order to assist people to take up permanent residence overseas. At the time England and Wales was perceived to be overcrowded with large numbers of unemployed adults and pauper children. By contrast the colonies were under-populated and could provide employment prospects for potential emigrants from England and Wales. It is clear that section 69(1)(d) has long fallen into disuse and may now be regarded as obsolete. Section

<sup>7</sup> The Rate Support Grants Act 1986 was passed to overturn the effect of a court decision in which it was held that an aspect of the block grant system had been operated unlawfully.

<sup>8</sup> The Rate Support Grants Act 1987 amended provisions in the existing legislation relating to RSG.

<sup>9</sup> The Local Government Finance Act 1987 was passed to address problems encountered in the calculation of block grant entitlements under the Local Government, Planning and Land Act 1980.

<sup>10</sup> The only substantive provision surviving in the Local Government Act 1987 is section 3 which related to the payment of block grant to English local education authorities in 1987/88.

<sup>11</sup> The Rate Support Grants Act 1988 provided for the transition between the superseded system of RSG under the Local Government, Planning and Land Act 1980 and the new system of revenue support grant established by the Local Government Finance Act 1988.

<sup>12</sup> These other consequential provisions include Local Government Finance Act 1982, Part 2; Local Government Act 1985, ss.69, 80, 81, 83, Sch.16, para.9; Social Security Act 1986, s.30, Sch.10, para.52; Local Government Finance Act 1988, s.126; Local Government and Housing Act 1989, ss.147, 148, Sch.11, para.92; Education Act 1996, Sch.37, para.49; Audit Commission Act 1998, Sch.3, para.6; Greater London Authority Act 1999, Sch.27, para.43, Sch.29, para.47.

87 may be repealed consequentially upon the repeal of section 69. Finally section 78(3) contains an obsolete reference to grand juries<sup>13</sup>.

- 10.16 The Local Government Acts of 1894 and 1929 both contain references that are now obsolete. In the 1894 Act the references to sections 8 and 9 of the Commons Act 1876 became unnecessary when those sections were repealed<sup>14</sup>. In section 131(3) of the 1929 Act, the references to section 130 of, and Part 4 to, that Act became unnecessary when section 130 and Part 4 were repealed<sup>15</sup>.
- 10.17 Section 63 of the Local Government Act 1958 empowers a Minister to cause a local inquiry to be held for the purpose of any Ministerial functions under that Act. Since there are now no relevant Ministerial functions surviving in the 1958 Act, section 63 is unnecessary.
- 10.18 The Local Government Act 1966 was passed to make further changes to local government law in England and Wales. Section 43(1) of, and Schedule 5 to, the 1966 Act provided for consequential amendments to earlier enactments. However, since all these amendments have either already been repealed or else have been overtaken by events, section 43(1) and Schedule 5 have become unnecessary<sup>16</sup>.

*Compensation of Displaced Officers (War Service) Act 1945*

- 10.19 The purpose of the Compensation of Displaced Officers (War Service) Act 1945 was to provide compensation to certain public sector workers in respect of any loss of employment or benefits suffered by them following their discharge from war service during the 1939-45 War. The public sector workers covered by the 1945 Act were mainly local government employees, teachers and officials employed by public authorities and public utilities. The need for compensation arose because of changes in the functions of local and public authorities and utilities during and just after the 1939-45 War. The purpose of the 1945 Act was to ensure that an employee's compensation rights were not prejudiced in any way as a result of his or her war service.
- 10.20 The only substantive provision surviving in the 1945 Act is section 6(1) which ensured that an employee's compensation was not reduced as a result either of the period spent in war service or because his or her income was lower during that period. All calculations of compensation made pursuant to section 6(1) would have been made by 1950 at the latest even though compensation payments may have continued beyond that date. Accordingly section 6(1) is now unnecessary.

<sup>13</sup> Grand juries were abolished by Administration of Justice (Miscellaneous Provisions) Act 1933, s.1.

<sup>14</sup> Section 8 of the Commons Act 1876 was repealed by the Local Government, Planning and Land Act 1980, ss.1(3), 194, Sch.3, para.1, Sch.34, Pt.3. Section 9 of the 1876 Act was repealed by the Statute Law (Repeals) Act 1998, s.1, Sch.1, Pt.6.

<sup>15</sup> Section 130 of the Local Government Act 1929 was repealed by the Statute Law Revision Act 1950, s.1(1), Sch.1. Part 4 of the 1929 Act has been repealed by several enactments including Local Government Act 1933, ss.307, 308, Sch.11, Pt.4.

<sup>16</sup> Since subsection (1) is the only surviving provision in section 43, section 43 as a whole may now be repealed.

The repeal of section 6(1) will permit the repeal of the remaining provisions of the 1945 Act since they are ancillary to section 6(1).

*Eisteddfod Act 1959/Llangollen International Musical Eisteddfod Act 1967/Welsh National Opera Company Act 1971*

10.21 The Eisteddfod Act 1959, the Llangollen International Musical Eisteddfod Act 1967 and the Welsh National Opera Company Act 1971 have all become unnecessary because of a change in the law since they were enacted.

10.22 The origins of the three Acts lie in section 132(1) of the Local Government Act 1948 which, amongst other matters, empowered each local authority in Great Britain to contribute towards the expenses of providing entertainment inside the area of that local authority. However section 132(1) also provided that this power was not exercisable by a local authority in relation to the provision of entertainment held in any place *outside* the area of that authority unless that place was convenient for residents in the area of that authority<sup>17</sup>. This restriction created difficulties in Wales as was illustrated by Viscount Tenby during Lords Second Reading of the Eisteddfod Bill:

“As I have already explained to your Lordships, this festival [the Eisteddfod] is held in alternate years in North and in South Wales. If, for example, it was held, as it will be, in a town in Caernarvonshire in North Wales, the first proviso would prohibit a contribution from a local authority, shall we say, in Monmouthshire; for no one who knows Wales would claim that Caernarvon was convenient to Monmouth.”<sup>18</sup>

10.23 Accordingly the purpose of the three Acts was to remove the restriction in section 132(1) of the Local Government Act 1948, thereby enabling a local authority in Wales to contribute towards the expenses of the Eisteddfod and the Welsh National Opera Company regardless of the place where the relevant event was to be held and irrespective of whether that place was convenient for residents in its area.

10.24 However the need for the three Acts vanished when section 132 of the Local Government Act 1948 was repealed by the Local Government Act 1972<sup>19</sup>, section 145 of which re-enacted section 132 but without the geographical restriction. Accordingly as from 1 April 1974 (when section 145 came into force), a local authority in England and Wales has been able to contribute towards the expenses of any entertainment whether inside or outside their area and irrespective of whether the place it is to be held is convenient for residents of that local authority area. It follows that the provisions of the three Acts relating to the lifting of the restrictions in section 132 are now unnecessary and may be repealed. The repeal will in no way diminish the powers of local authorities to contribute towards the

<sup>17</sup> Furthermore consent was also needed by the local authority for the area within which that place was situated.

<sup>18</sup> 9 April 1959 Hansard (HL), vol.215, col.564.

<sup>19</sup> Section 272(1), Sch.30.

expenses of the Eisteddfod or the Welsh National Opera Company. The National Eisteddfod of Wales, the Llangollen International Musical Eisteddfod and the Welsh National Opera Company have been consulted about these repeal proposals. No objections have been raised.

*Town and Country Planning Act 1959*

- 10.25 The Town and Country Planning Act 1959 contains two unnecessary provisions. Section 23(4) is a repealing provision and became spent when the repeal took effect on 16 August 1959<sup>20</sup>. Section 57(1), in defining 'grant-aided function' includes a reference to the now obsolete rate support grants under section 1 of the Local Government Act 1966<sup>21</sup>. Both these spent provisions may now be repealed.

*Local Authority Social Services Act 1970*

- 10.26 The purposes of the Local Authority Social Services Act 1970 included making further provision with respect to the organisation, management and administration of local authority social services. Several provisions in the 1970 Act are now technically spent. These include section 14(4) which is a savings provision relating to delegation schemes made under section 46 of the Local Government Act 1958 whereby county councils could delegate the exercise of functions to councils of county districts. Section 10(1) of the 1970 Act prohibited the making of any more delegation schemes after 1 September 1970. Section 14(4) preserved any subsisting scheme until it had been revoked in accordance with section 10(2). Section 14(4) is now unnecessary because any delegation scheme still in force immediately before 1 April 1974 ceased to have effect on that day<sup>22</sup>. Accordingly section 14(4) and other spent provisions in the 1970 Act may be repealed<sup>23</sup>.

*Local Government, Planning and Land Act 1980*

- 10.27 The purposes of the Local Government, Planning and Land Act 1980 include the relaxing of Ministerial control over local and other authorities. Section 1(4) and (5) provided, respectively, for the statutory amendments in Schedules 4 and 5 which were intended to limit the Secretary of State's powers to supervise local authorities in the discharge of particular functions. All the amendments in both schedules are now spent or otherwise unnecessary. Accordingly both schedules and sections 1(4) and (5) may be repealed. Also now unnecessary is section 2(7)(a) which contains an obsolete reference to the General Rate Act 1967<sup>24</sup>.

<sup>20</sup> 16 August 1959 was the date when the 1959 Act came into force.

<sup>21</sup> Section 1 of the 1966 Act was repealed by Local Government Act 1974, s.42(2), Sch.8.

<sup>22</sup> By virtue of Local Government Act 1972, ss.195(4), 273(1) and (3).

<sup>23</sup> The other spent provisions are sections 2(7), 6(8), 15(4) and (5) and part of Schedule 1.

<sup>24</sup> The General Rate Act 1967 was repealed by the Local Government Finance Act 1988, ss.117(1), 149, Sch.13, Pt.1.

*Local Government (Miscellaneous Provisions) Act 1982*

- 10.28 Sections 11 and 27(2) of the Local Government (Miscellaneous Provisions) Act 1982 are repealing provisions which became spent when the 1982 Act came into force. Section 39(3) is similarly spent because the amendment that it made to Schedule 2 to the Insurance Companies Act 1981 has since been repealed<sup>25</sup>. Finally section 46 extended for two years to 1986 the powers in certain local Acts that would otherwise have expired in 1984. Clearly section 46 is now spent.

*Local Government (Interim Provisions) Act 1984/Local Government Act 1985*

- 10.29 The Local Government (Interim Provisions) Act 1984 was an interim measure to provide for the composition of the Greater London Council and the metropolitan county councils (“the relevant councils”) pending their final abolition by the Local Government Act 1985. Much of the 1984 Act has already been repealed by the 1985 Act<sup>26</sup>. The only remaining substantive provisions of the 1984 Act are sections 4, 6(3), 10 and 11.
- 10.30 Section 4 of the 1984 Act established a staff commission to advise the Secretary of State about staffing matters in the relevant councils in the light of the proposed changes. This commission has now ceased to exist. Section 6(3) is a spent commencement provision relating to section 29 of the Reservoirs Act 1975. Section 10 provides for the disqualification from office of anyone contravening sections 8 or 9 of the 1984 Act. The passage of time since 1984 means that section 10 is now unnecessary<sup>27</sup>. Indeed sections 8 and 9 have already been repealed<sup>28</sup>. Section 11 related to accounts and financial consultation concerning the relevant councils. Again, the passage of time since 1984 has rendered section 11 unnecessary<sup>29</sup>.
- 10.31 There being no other substantive unrepealed provisions, the whole of the 1984 Act may now be repealed as being unnecessary.
- 10.32 The main purpose of the Local Government Act 1985 was to abolish the relevant councils<sup>30</sup> and to transfer their functions to the local authorities in their area and, in some cases, to other bodies. In the result the relevant councils were abolished on 1 April 1986. Local government functions were transferred principally to the metropolitan district councils and the London borough councils. The passage of time since 1985 has meant that several provisions in the 1985 Act have ceased to serve any useful purpose.

<sup>25</sup> Insurance Companies Act 1982, s.99(3), Sch.6.

<sup>26</sup> The 1985 Act, s.102(2), Sch.17.

<sup>27</sup> A consequential repeal is Audit Commission Act 1998, Sch.3, para.8(1) (which amended section 10(2)).

<sup>28</sup> Local Government Act 1985, s.102(2), Sch.17.

<sup>29</sup> A consequential repeal is Audit Commission Act 1998, Sch.3, para.8(2) (which amended section 11(1)).

<sup>30</sup> That is, the Greater London Council and the metropolitan county councils.

- 10.33 Provisions in the 1985 Act that are now unnecessary include section 7(2) (report on countryside functions to be laid before Parliament before 1 April 1986), section 11(1) and Schedule 7 (spent land drainage provisions), section 14 (obsolete references to local valuation panels), section 30 (council appointments to be made before 15 September 1985), section 38 (spent civil defence provisions), section 48(13) (relating to pre - 1 April 1986 expenditure), section 49 (obsolete provision relating to residuary bodies), sections 50, 51, 55 and 56 (transitory provisions relating to pay and remuneration of local government employees) and section 59 (spent redundancy provision).
- 10.34 Other provisions in the 1985 Act that are now unnecessary relate to the residuary bodies that were established under Part 7. All these bodies have since been wound up and many of the references to them may now be repealed. These include section 63 (preparation of final accounts), section 64 (commutation of smallholdings and housing payments), section 65 (directions to residuary bodies) and sections 78 and 79 (accounts and audit).
- 10.35 Finally the 1985 Act contained many provisions that had temporary effect and were intended to ensure an orderly transfer of functions by the relevant councils to the successor councils. These include section 82 (transitional provision for interim authorities), section 85 (exercise of functions by new authorities in initial period), section 86 (first meetings of new authorities), section 87(6) (prohibition on relevant councils promoting or opposing Bills), sections 91 to 93 (limiting powers of relevant councils pending abolition)<sup>31</sup>, section 95 (co-ordinating committees of successor councils), section 96 (information) and section 97 (other provisions for implementing the Act).

#### *Housing Act 1988*

- 10.36 The only repeal candidate in the Housing Act 1988 is paragraph 79 of Schedule 17. Schedule 17 contains minor and consequential amendments and paragraph 79 amended a tenant's 'right to buy' provision in an earlier Act<sup>32</sup>. However paragraph 79, which applies only to Scotland, was never brought into force because it became superseded by the Housing (Scotland) Act 1988. The paragraph thereupon became unnecessary and may now be repealed.

#### *Community Charges (General Reduction) Act 1991*

- 10.37 The purpose of the Community Charges (General Reduction) Act 1991 was to secure a reduction in the amount of community charges payable throughout Great Britain for the financial year commencing 1 April 1991 (community charges were subsequently replaced by the council tax<sup>33</sup>). The 1991 Act also provided for grants to be made to charging authorities to compensate for this community charge

<sup>31</sup> The repeal of section 91 will permit the consequential repeal of Schedule 15; the repeal of section 92 will permit the consequential repeal of Audit Commission Act 1998, Sch.3, para.11(4).

<sup>32</sup> Housing (Scotland) Act 1987, s.61(4)(b).

<sup>33</sup> With effect from 1 April 1993.

reduction. Since the 1991 Act related only to the financial year 1991/92, its effect is now spent. Accordingly the Act as a whole may be repealed.

*Local Government Act 1992*

10.38 Section 23 of the Local Government Act 1992 empowered the Secretary of State to establish a staff commission to consider certain staffing matters arising out of Part 2 of that Act. Section 23 also provided for the winding up of the staff commission. The Secretary of State has since exercised these powers by establishing the Local Government Staff Commission (England) on 13 May 1993<sup>34</sup> and by winding it up on 12 May 1998<sup>35</sup>. Section 23 thereupon became spent.

10.39 Section 24 of the 1992 Act provided for the abolition of the Local Government Boundary Commission for England on 31 October 1992 and for the Commission's property, rights or liabilities to vest in the Local Government Commission for England. The abolition and vesting having now taken place, section 24 is spent.

*Local Government (Wales) Act 1994*

10.40 The provisions proposed for repeal in the Local Government (Wales) Act 1994 were of a temporary nature and are now spent. Section 26 required each new principal council in Wales to publish a service delivery plan before 1 February 1996. Section 32 empowered the Secretary of State to give certain directions to such councils before 31 March 1999. Section 40 (and Schedule 14) provided for the establishment of the Staff Commission for Wales, such Commission to be wound up automatically 3 years after its establishment<sup>36</sup>. All these provisions may now safely be repealed.

*Consultation on Part 10*

10.41 Those consulted about these repeal proposals include (as appropriate) the Office of the Deputy Prime Minister, the Department for Environment, Food and Rural Affairs, the Department for Culture, Media and Sport, the Corporation of London, the Local Government Association, the Welsh Local Government Association, the National Association of Local Councils and the relevant authorities in Wales and Scotland. No objections have been raised.

<sup>34</sup> Local Government Staff Commission (England) Order 1993, SI 1993/1098.

<sup>35</sup> Local Government Staff Commission (England) (Winding Up) Order 1998, SI 1998/898.

<sup>36</sup> The Commission was established on 5 July 1994.

# PART 11

## PENSIONS

### *Introduction*

- 11.1 Most of the repeal proposals in this part of the report concern spent enactments that were designed to provide pension benefits for a defined group of beneficiaries rather than pension benefits for the population at large. The passage of time since their enactment has meant that these provisions have become unnecessary.

### *Superannuation (Various Services) Act 1938*

- 11.2 One of the purposes of the Superannuation (Various Services) Act 1938 was to confer on certain public service employees, who were not civil servants, one of the superannuation benefits available to the estates of deceased civil servants. The benefit in question is the payment to the estate of any salary or superannuation moneys due without the need for proof of title (such as a grant of probate)<sup>1</sup>.
- 11.3 There are two groups of public service employees listed in the Schedule to the 1938 Act who no longer require to be covered by the Act.
- 11.4 The first group are officers of the Development Commissioners and the Road Board. In the Schedule to the 1938 Act they are covered by the entry relating to the Development and Road Improvement Funds Act 1910. The Road Board has long ceased to exist. Its powers were transferred to the Minister of Transport on 23 September 1919<sup>2</sup>. The Development Commissioners became a corporate body known as the Development Commission<sup>3</sup>, the functions of which were subsequently transferred to the Countryside Agency<sup>4</sup>. Members of the relevant Development Commission superannuation scheme were thereupon brought within section 1 of the Superannuation Act 1972 (superannuation schemes as respects civil servants) and a reference to the Development Commission was inserted in Schedule 1 to the 1972 Act<sup>5</sup>. This in turn gave these members the benefits of section 4 of the 1972 Act which provides for payments of salary and other moneys without proof of title along the lines of the provisions of the 1938 Act. Accordingly the entry in the Schedule to that Act relating to the Development Commissioners and the Road Board is now unnecessary.
- 11.5 The second group is the Electricity Commissioners and their officers and staff. They are covered in the Schedule to the 1938 Act by reference to the Electricity

<sup>1</sup> The maximum sum that can be paid in this way is £5000: Administration of Estates (Small Payments) (Increase of Limit) Order 1984, SI 1984/539, art 2.

<sup>2</sup> Ministry of Transport (Road Board Transfer of Powers) Order 1919, SR&O 1919 No 1442.

<sup>3</sup> Pursuant to the Miscellaneous Financial Provisions Act 1983, s 1(1).

<sup>4</sup> Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999, SI 1999/416, art 4.

<sup>5</sup> Development Commission (Dissolution) Order 2000, SI 2000/1505, art 4(2).

(Supply) Act 1919. However this reference has long been obsolete since the Electricity Commissioners ceased to exist in 1948<sup>6</sup>.

*Personal Injuries (Emergency Provisions) Act 1939/Pensions Appeal Tribunals Act 1943/Child Support, Pensions and Social Security Act 2000*

- 11.6 The purpose of the Personal Injuries (Emergency Provisions) Act 1939 was to provide allowances and pensions in respect of certain personal injuries sustained during the Second World War. Section 8(1) provides a definition of 'enactment' which was a term required to qualify a provision in section 3. However, section 3 was repealed in 1953<sup>7</sup> with the result that the definition is now obsolete.
- 11.7 The principal purpose of the Pensions Appeal Tribunals Act 1943 was to provide a system of appeals against decisions concerning the award of war-related pensions or their assessment. Several provisions in this Act are now technically unnecessary. Thus section 1(3A) contains a surplus 'the'<sup>8</sup>, whilst both section 10(3) and the Schedule prescribe the Parliamentary procedure for Orders in Council under the 1943 Act in such a way as to overlap with the identical procedure prescribed in the Statutory Instruments Act 1946<sup>9</sup>.
- 11.8 The final repeal proposed under this heading is section 57(4) of the Child Support, Pensions and Social Security Act 2000 which repealed section 1(2) of the Pensions Appeal Tribunals Act 1949 and which became spent when it came fully into force on 9 April 2001<sup>10</sup>.

*Judges Pensions (India and Burma) Act 1948*

- 11.9 The main purpose of the Judges Pensions (India and Burma) Act 1948 was to provide pensions for persons who were serving as judges in India before 15 August 1947 or as judges in Burma before 4 January 1948. The 1948 Act was a direct result of both countries gaining independence from the United Kingdom<sup>11</sup>.
- 11.10 There were three main categories of judge entitled to a pension under the 1948 Act. The first were barristers from England or Northern Ireland (or advocates from Scotland) of at least 10 years' standing who were appointed to serve as judges of a High Court in India or Burma. Some had already held judicial office in the United Kingdom. A maximum of ten barristers fell into this category. All those who are identifiable from the instructions to the draftsman of the 1948 Act

<sup>6</sup> Electricity Commissioners (Dissolution) Order 1948, SI 1948/1769, art 6, Sch.

<sup>7</sup> Statute Law Revision Act 1953, s 1, Sch 1.

<sup>8</sup> This appears to be a drafting slip when section 1(3A) was amended by the Pensions Appeal Tribunals Act 1949, s 1(1).

<sup>9</sup> The 1946 Act, s 7(1).

<sup>10</sup> Child Support, Pensions and Social Security Act 2000 (Commencement No 3) Order 2000, SI 2000/2994.

<sup>11</sup> 15 August 1947 was when power was transferred to the Government of India and Pakistan by the Indian Independence Act 1947, s 1; 4 January 1948 was when Burma became an independent country pursuant to the Burma Independence Act 1947, s 1.

are known to be dead. The second category of judge were European members of the Indian Civil Service who served in certain High Courts in India immediately before 15 August 1947. A maximum of thirteen judges fell into this category. The third category of judge was the last person to hold the office of Chief Justice of India before 15 August 1947. This office-holder was Sir Patrick Spens (later Lord Spens) who died in 1973.

- 11.11 A maximum of 24 judges received pensions under the 1948 Act. Of those judges who can be identified from the instructions to the draftsman of the Act, all are now dead<sup>12</sup>. Indeed the records held by the relevant Department<sup>13</sup> indicate that all pension payments under the 1948 Act have now ceased. On this basis the 1948 Act may be repealed as unnecessary. The repeal of the Act will permit the consequential repeal of paragraph 28 of Schedule 2 to the Pensions (Increase) Act 1971<sup>14</sup>.

*USA Veterans' Pensions (Administration) Act 1949*

- 11.12 The purpose of the U.S.A. Veterans' Pensions (Administration) Act 1949 was to enable the Minister of Pensions to administer, for the benefit of certain United States ex-servicemen and their dependants in the United Kingdom, pensions and other sums which were payable by the Administrator of Veterans' Affairs in the United States. Accordingly the Act in effect enabled the United Kingdom Government to act on behalf of the United States Government in managing funds<sup>15</sup> for former members of the American armed forces and their dependants. Although the 1949 Act does not say so expressly, the funds arose from the service (principally during the Second World War) of veterans who had been killed or disabled. The Funds comprised regular periodical payments arising from service pensions, compensation and insurance. Most of the beneficiaries were minors though a few were adults with mental incapacity.
- 11.13 The arrangements established by the 1949 Act have now fallen into disuse, principally because there no longer remain any beneficiaries who are entitled to benefit from the Act. The last payment made under the Act was in 1992<sup>16</sup>. On that basis the Act may be repealed as unnecessary. Repeal of the 1949 Act will permit the consequential repeal of a reference to the Act contained in the Administration

<sup>12</sup> The 1948 Act did not provide benefits for a judge's surviving spouse or children. As a result all pension rights terminated with the death of each judge.

<sup>13</sup> The Department for International Development.

<sup>14</sup> This provision treated a pension payable under the 1948 Act as an official pension for the purposes of the Pensions (Increase) Act 1971.

<sup>15</sup> The funds were provided almost entirely from money provided by the United States Government.

<sup>16</sup> Responsibility for the administration of the 1949 Act now vests in the Veterans Agency, an Executive Agency of the Ministry of Defence.

of Estates (Small Payments) Act 1965<sup>17</sup> and of an amendment of the Act made by the Mental Health Act 1983<sup>18</sup>.

*Honourable Lady Hylton-Foster's Annuity Act 1965*

- 11.14 The purpose of the Honourable Lady Hylton-Foster's Annuity Act 1965 was to settle and secure an annuity upon Lady Hylton-Foster in consideration of the eminent services of her late husband Sir Harry Hylton-Foster who was Speaker of the House of Commons from October 1959 until his death in September 1965. The annuity provided to Lady Hylton-Foster was payable for life and was increased periodically in accordance with the Pensions (Increase) Act 1971. Following Lady Hylton-Foster's death on 31 October 2002 the 1965 Act became spent. A consequential repeal is the reference to that Act in the 1971 Act.

*Parliamentary and other Pensions Act 1972/Ministerial and other Pensions and Salaries Act 1991*

- 11.15 Section 32 of the Parliamentary and other Pensions Act 1972 (which related to annuity premiums of Ministers and other office-holders) substituted a new section 229(1) of the Income and Corporation Taxes Act 1970. However, section 229 was repealed by the Income and Corporation Taxes Act 1988<sup>19</sup> which consolidated into section 629 of that Act the provisions that were previously contained in section 229. Section 32 thereupon became spent.
- 11.16 Sections 1(3) and 7(2) of the Ministerial and other Pensions and Salaries Act 1991 were repealing provisions and became spent when they came into force on 28 February 1991.

*Social Security Pensions Act 1975*

- 11.17 Several provisions in the Social Security Pensions Act 1975 are now unnecessary. Section 61 related to the need for the Secretary of State to consult in respect of regulations made by him. However, because of changes in the law since 1975, there is now nothing on which section 61 can operate. Section 67 is the commencement provision which became spent on 28 November 1979 when the whole of the 1975 Act had been brought into force. Section 68 extends certain provisions of the 1975 Act to Northern Ireland. However, because of repeals over the years, some of those provisions can no longer be extended with the result that part of section 68 is now unnecessary<sup>20</sup>. Finally a number of amendments made by Schedule 4<sup>21</sup> are now unnecessary because the enactments that they amended have been repealed or superseded.

<sup>17</sup> The 1965 Act, Sch.1.

<sup>18</sup> The 1983 Act, Sch 4, para 9.

<sup>19</sup> The 1988 Act, s 844(4), Sch 31.

<sup>20</sup> The 1975 Act, s 68(4)(f) and (g).

<sup>21</sup> Sch 4, paras 4, 21, 34 and 65.

*Hong Kong (Overseas Public Servants) Act 1996*

- 11.18 The purposes of the Hong Kong (Overseas Public Servants) Act 1996 included making compensation payments to members of Her Majesty's Overseas Civil Service (HMOCS) and Her Majesty's Overseas Judiciary (HMOJ) in Hong Kong after the devolution of power under the Sino-British joint declaration of 1984. British sovereignty over Hong Kong was finally terminated on 1 July 1997.
- 11.19 Sections 2 and 3 provided for members of HMOCS and HMOJ to receive compensation payments. These payments would be made either in a single lump sum or by annual instalments spread over a four year period. The detailed arrangements for payment of this compensation are set out in two Orders<sup>22</sup> under which all compensation had to be paid no later than the end of the four year period. This period expired at the end of June 2001 whereupon sections 2 and 3 became unnecessary. The repeals of sections 2 and 3 will permit the consequential repeal of sections 5(5) and 6(2).

*Consultation on Part 11*

- 11.20 Those consulted about these repeal proposals include (as appropriate) HM Treasury, the Privy Council Office, the Cabinet Office, the Inland Revenue, the Department for Work and Pensions, the Department for Environment, Food and Rural Affairs, the Department of Trade and Industry, the Ministry of Defence, the Foreign and Commonwealth Office, the Department for Constitutional Affairs, the Department for International Development, the Veterans' Agency, the Countryside Agency, the Pensions Appeal Tribunals for England and Wales, the United States Department of Veterans Affairs and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

<sup>22</sup> Hong Kong (Overseas Public Servants) (Continuing Service: Compensation) Order 1996, SI 1996/1139; Hong Kong (Overseas Public Servants) (Retirement and Compensation) Order 1996, SI 1996/1138.

# **PART 12**

## **PROPERTY**

### *Introduction*

- 12.1 This part of the report contains proposals for a number of mainly technical repeals to the property legislation of England and Wales. These include provisions in the 1925 property law reform which, designed to introduce property lawyers to the new land law regime, are now wholly unnecessary.

### *Settled Land Act 1925*

- 12.2 Schedule 1 to the Settled Land Act 1925 provides examples of instruments<sup>1</sup> framed in accordance with the provisions of the 1925 Act. These examples were intended as a guide to property lawyers faced with new requirements in the 1925 Act about strict settlements. The guidance is unnecessary, as there are now modern precedents in relation to the dwindling number of strict settlements in existence<sup>2</sup>. Schedule 1 can, therefore, be repealed<sup>3</sup>. Section 15 which introduces Schedule 1 will fall as a result.
- 12.3 Schedule 4 contains a series of deeming provisions which retrospectively amended certain provisions in the Settled Land Acts 1882 to 1890<sup>4</sup>. The purpose of these amendments was to remove doubts as to the construction and operation of those Acts and to validate past transactions. The amendments have no continuing effect and may be repealed in their entirety<sup>5</sup>. Section 118 which introduces Schedule 4 will fall as a result.

### *Law of Property Act 1925*

- 12.4 Various provisions of the Law of Property Act 1925 are spent and can be repealed. By virtue of section 39(6) and Part 6 of Schedule 1 tenancies by entireties<sup>6</sup> were converted into joint tenancies on 1 January 1926. Section 39(6) and Part 6 of Schedule 1 are thus spent. Section 112 became spent following the abolition of stamp duty chargeable on the transfer of a mortgage under the Stamp

<sup>1</sup> Two vesting deeds, a trust instrument, a subsidiary vesting deed and a vesting assent.

<sup>2</sup> No new settlements under the Settled Land Act 1925 can now be created: Trusts of Land and Appointment of Trustees Act 1996, s.2(1).

<sup>3</sup> The repeal of Sch.1 permits the repeal of the reference to it in s.9(2) Law of Property (Miscellaneous Provisions) Act 1994.

<sup>4</sup> These Acts comprised the Settled Land Acts 1882, 1884, 1889 and 1890 and the Settled Land Acts (Amendment) Act 1887. All have now been repealed in respect of England and Wales, other than s.30 of the 1882 Act.

<sup>5</sup> The repeal will not affect the previous operation of the amendments: Interpretation Act 1978, s.16(1).

<sup>6</sup> A tenancy by entireties could be created before 1883 by a conveyance to a husband and wife (who were treated at common law as one person). Neither could deal with the estate apart from the other (though the husband could receive rents). Such tenancies could not be created after 1882 by virtue of the Married Women's Property Act 1882.

Act 1891<sup>7</sup>. The proviso to section 153(4) is a transitional provision which enabled reversioners a period of time after 1 January 1926 and until 1 January 1931 to collect certain rent. The proviso became spent at the end of this transitional period.

- 12.5 Schedules 5 and 6 provide examples of the workings of the 1925 Act which are, due to the passage of time, neither necessary nor useful. Schedules 5<sup>8</sup>, 6 and section 206 (which introduces both Schedules) can, therefore, be repealed.

*Law of Property Act 1969*

- 12.6 Section 16 of the Law of Property Act 1969 provided for the closure of the Yorkshire deeds registry<sup>9</sup>, (which comprised three registries, one for each of the three ridings - East, North and West). The registry was closed in two stages. The final stage of closure occurred on 1 April 1976<sup>10</sup>. Section 16 is spent and can be repealed<sup>11</sup>.
- 12.7 By virtue of section 17(2) the register of land charges maintained in the Yorkshire deeds registry was to be transferred to the Land Charges Department of Her Majesty's Land Registry as soon as section 17(1) had come into force in relation to a Yorkshire deeds registry. Section 17(1) came into force in stages (linked to the closures under section 16) the last date being 1 April 1976. The transfer having taken place, section 17(2) can, therefore, be repealed.
- 12.8 Section 28(11) provided as to the application of the section. Paragraph (a) is a spent transitional provision providing that the section should not affect proceedings pending on 1 January 1970. Any such proceedings will long since have been disposed of. Paragraph (b) provided for the coming into force of subsection (6) and became spent when subsection (6) came into force on 1 July 1970<sup>12</sup>.

<sup>7</sup> On 1 August 1971, Finance Act 1971, s.64, Sch.14 Pt.6.

<sup>8</sup> The repeal of Sch.5 permits the repeal of the reference to it in s.9(2), Law of Property (Miscellaneous Provisions) Act 1994.

<sup>9</sup> The Yorkshire deeds registry was concerned with the registration of deeds. Such registration supplied little evidence of title.

<sup>10</sup> The Yorkshire deeds registry was closed as to the registration of instruments made on or after the relevant date for each registry as follows-

- ◆ 1 September 1970 - North Riding
- ◆ 1 October 1970 - West Riding
- ◆ 1 April 1974 - East Riding.

Each registry closed for all purposes at the expiration of two years beginning with the respective relevant date.

<sup>11</sup> S.16(2) also provided for the repeal upon closure of certain provisions as set out and to the extent provided by Pt.1 of Sch.2. The repeals having taken effect s.16(2) is spent.

<sup>12</sup> The Law of Property Act 1969 (Commencement) Order 1970 SI 1970/922.

*Administration of Justice Act 1970*

- 12.9 Section 36(5) of the Administration of Justice Act 1970 is a spent transitional provision which provided for the section to have effect in relation to certain actions for possession<sup>13</sup> which had been begun before 1 February 1971. There are no longer any such actions to which subsection (5) can apply. Section 36(5) can, therefore, be repealed.

*Land Charges Act 1972*

- 12.10 Section 18(4) of the Land Charges Act 1972 revoked the Land Charges Rules 1972<sup>14</sup> with effect from 29 January 1973 thereby becoming spent.

*Administration of Justice Act 1973*

- 12.11 Section 8(5) of the Administration of Justice Act 1973 is a spent transitional provision that provided which actions<sup>15</sup> begun before 18 May 1973 section 8 should apply to. All such actions begun before such date will have been disposed of long ago. Section 8(5) is spent and can, therefore, be repealed.

*Local Land Charges Act 1975*

- 12.12 Certain amendments provided for by entries in Schedule 1 to the Local Land Charges Act 1975 are now spent upon the repeal of the provision or enactment which was being amended. This allows for the repeal of those entries in Schedule 1<sup>16</sup>. Section 20(3) (commencement) became spent on the 1975 Act being fully commenced on 1 August 1977.

*Rentcharges Act 1977*

- 12.13 Various provisions of the Rentcharges Act 1977 are spent and can be repealed. Section 17(4) is a transitional provision which applied to applications for apportionment or redemption of certain rentcharges made before 1 February 1978<sup>17</sup>. All such applications have been disposed of rendering section 17(4) spent. Section 17(5) applied to conditional apportionment orders made prior to 1 February 1978<sup>18</sup> under section 20 providing for applications to redeem. All such applications will now have been satisfied allowing for the repeal of section 17(5). Section 18(2) (commencement) became spent on the bringing into force of the 1977 Act finally on 1 February 1978<sup>19</sup>.

<sup>13</sup> An action for possession of a dwelling-house by a mortgagee (not foreclosure).

<sup>14</sup> SI 1972/50.

<sup>15</sup> An action by a mortgagee for possession of a dwelling-house (not foreclosure).

<sup>16</sup> The entries relating to the Ancient Monuments Act 1931, the Public Utilities Street Works Act 1950, the Housing Act 1964, the Field Monuments Act 1972, s.24(3) and (4) of the Land Compensation Act 1973 and the Pastoral Measure 1968.

<sup>17</sup> The Rentcharges Act 1977 (Commencement) Order 1978, SI 1978/15.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

*Consultation on Part 12*

- 12.14 Those consulted about these repeal proposals include (as appropriate) Her Majesty's Land Registry, the Department for Constitutional Affairs, the Office of the Deputy Prime Minister, the Department for Environment, Food and Rural Affairs, the President of the Lands Tribunal, the Society of Trust and Estate Practitioners, the Conveyancing and Land Law Committee of the Law Society, the Local Government Association, the Chancery Bar Association and the relevant authorities in Wales and Northern Ireland. No objections have been raised.

# **PART 13**

## **PUBLIC HEALTH**

### *Introduction*

- 13.1 The repeal proposals in this part of the report relate to statutes covering public health matters as diverse as the prevention and control of disease, pollution control, air quality, the destruction of pests, building regulations, fire precautions and the safety of sport venues.

### *Public Health Acts Amendment Act 1890*

- 13.2 The Public Health Acts Amendment Act 1890 contains two unnecessary provisions. Section 9 refers to byelaws made under Part 2 of the 1890 Act whereas Part 2 has long since been repealed<sup>1</sup>. Section 12 makes an equally unnecessary reference to sections 5 and 41 of the 1890 Act. Both those provisions have already been repealed<sup>2</sup>.

### *Public Health Acts 1936 and 1961*

- 13.3 A number of unnecessary provisions may be repealed in the Public Health Act 1936. Section 205 imposes penalties on factory occupiers who allow women to be employed in factories within four weeks after giving birth. Separate penalties are prescribed depending on whether the occupier has previously been convicted of the offence. However, since the penalty in either case is identical, the repeat penalty provision is superfluous<sup>3</sup>. Sections 263(1) and 264 contain words limiting the effect of those two provisions to certain local authority areas. However these words became unnecessary when the Local Government Act 1972<sup>4</sup> extended the effect of the sections throughout local authority districts in England and Wales. Section 309 contains an obsolete reference to section 13 of the Rating and Valuation Act 1925<sup>5</sup>. Finally section 86(2) of the Public Health Act 1961 (which brought that Act into force) is now spent and may be repealed.

### *Physical Training and Recreation Act 1937*

- 13.4 Section 7 empowered the Board of Education to provide, maintain and aid a National College of Physical Training for England and Wales. However, section 7 was overtaken by events. No such college was established. Instead the Sports

<sup>1</sup> Highways Act 1959, s.312(2), Sch.25; Roads Improvement Act (Northern Ireland) 1928, s.9(4).

<sup>2</sup> Local Government Act 1972, s.272(1), Sch.30; Highways Act 1959, s.312(2), Sch.25.

<sup>3</sup> The fines were originally £5 for a first offence and £10 for subsequent offences. However both fines are now limited to level 1 on the standard scale by virtue of the Criminal Justice Act 1982, s.46.

<sup>4</sup> Section 180(2), Sch.14, para.4.

<sup>5</sup> Section 13 was repealed by General Rate Act 1967, s.117, Sch.14, Pt.1 and replaced by section 15 of the 1967 Act. However, section 15 has since been repealed: Local Government Finance Act 1988, s.117, Sch.13, Pt.1.

Council<sup>6</sup> and the Sports Council for Wales were established in 1972 with the responsibility for developing sport and physical recreation. The English Sports Council (now known as Sport England) provides services at six national centres of sporting excellence. Accordingly the purpose for which section 7 was enacted has been fulfilled and overtaken by the functions of Sport England and by the Sports Council for Wales.

*Prevention of Damage by Pests Act 1949*

- 13.5 The purposes of the Prevention of Damage by Pests Act 1949 included preventing the loss of food by infestation by rats and mice. Several provisions in the 1949 Act are now unnecessary. These include a number of order and regulation-making powers which have never been exercised<sup>7</sup>. Section 25 enabled compensation to be paid to local government employees who suffered loss of employment or earnings arising out of the 1949 Act coming into force or from any order made under section 12(2) (whereby exercise of local authority functions under Part 1 of the 1949 Act could be transferred elsewhere). The powers in section 25 have now fallen into disuse. Sections 27 and 30 contain now-obsolete financial, repealing and commencement provisions<sup>8</sup>. All these provisions may now be repealed.

*Local Government (Miscellaneous Provisions) Acts 1953 and 1976/Local Government Act 1972*

- 13.6 The Local Government (Miscellaneous Provisions) Act 1953 contains two spent provisions. Section 18(3) was inserted by the Police Act 1964<sup>9</sup> for the purpose of interpreting provisions in sections 1 and 2 of the 1953 Act. Section 18(3) became spent when sections 1 and 2 were repealed<sup>10</sup>. Section 19(2) is a spent commencement provision. Schedules 14 and 15 to the Local Government Act 1972 contained many amendments to the Public Health Act 1936 and other enactments. Some of these amendments are now spent and may be repealed. Indeed this will permit the whole of Schedule 15 to be repealed. The repeals proposed for the Local Government (Miscellaneous Provisions) Act 1976 are spent repealing and commencement provisions.

*Fire Precautions Act 1971/Fire Safety and Safety of Places of Sport Act 1987*

- 13.7 Section 33 of the Fire Precautions Act 1971 amended provisions in the Offices, Shops and Railway Premises Act 1963 which were repealed in 1977<sup>11</sup>. Section 33 thereupon became unnecessary. Section 34, as originally enacted, modified the

<sup>6</sup> The Sports Council has since been re-organised into the English Sports Council (Sport England) and the UK Sports Council (UK Sport).

<sup>7</sup> These powers are in sections 3(2), 8, 18 and 19.

<sup>8</sup> The repeals proposed to the 1949 Act will not affect the operation of that Act in Scotland.

<sup>9</sup> 1964 Act, s.63, Sch.9.

<sup>10</sup> Local Government Act 1972, s.272, Sch.30.

<sup>11</sup> Offices, Shops and Railway Premises Act 1963, ss.29 and 83(3) were repealed by Offices, Shops and Railway Premises Act 1963 etc (Repeal) Regulations 1976, SI 1976/2005, reg.2, Sch.

Rent Act 1968 and corresponding Scottish Acts. These modifications were set out in the Schedule to the 1971 Act. In its present form section 34 (and the Schedule) apply only to Scotland. Neither section 34 nor the Schedule<sup>12</sup> have ever been brought into force and the Scottish Executive have confirmed that there is no prospect that they ever will be commenced. Accordingly they may be repealed as unnecessary. Also repealable as unnecessary are a number of repealing provisions in the Fire Safety and Safety of Places of Sport Act 1987 which became spent when the repeals that they effected came into force at various times between January 1988 and August 1993.

*Control of Pollution Act 1974/Control of Pollution (Amendment) Act 1989*

- 13.8 The repeals proposed for these two Acts are purely technical. In the Control of Pollution Act 1974, section 109(3) contains a reference to section 100 of that Act which has since been repealed<sup>13</sup>. Schedules 2 and 3 to the 1974 Act contain spent amendments to earlier enactments. The repeal proposed for the Control of Pollution (Amendment) Act 1989 is section 11(2) which provided for the commencement of that Act and became spent once the whole of that Act had been brought into force in 1991<sup>14</sup>.

*Disabled Persons Act 1981*

- 13.9 The purpose of section 6 of the Disabled Persons Act 1981 was to amend the Chronically Sick and Disabled Persons Act 1970 which imposed duties on persons responsible for the provision of public buildings as regards the needs of disabled persons. Section 6 was never brought into force because it became substantially superseded by regulations made under section 1 of the Building Act 1984 which effectively implemented the changes provided for by section 6<sup>15</sup>. Accordingly section 6 is unnecessary. A consequential repeal will be section 9(2) of the 1981 Act.

*Public Health (Control of Disease) Act 1984*

- 13.10 The purpose of the Public Health (Control of Disease) Act 1984 was to consolidate enactments relating to the control of disease and to the establishment and functions of port health authorities. There are three proposals here. Section 5(4) contains an obsolete reference to section 15 of the General Rate Act 1967<sup>16</sup>. Section 79(2) is a spent commencement provision. Finally Schedule 1 contains a spent transitional provision relating to the accounts of a local authority or port health authority for any period before 1 April 1983.

<sup>12</sup> The Schedule has been re-numbered as Schedule 1: Fire Safety and Safety of Places of Sport Act 1987, s.16(2). Only Parts 3 and 4 of Schedule 1 remain unrepealed.

<sup>13</sup> Environmental Protection Act 1990, s.162(2) and (5), Sch.16, Pt.9.

<sup>14</sup> Control of Pollution (Amendment) Act 1989 (Commencement) Order 1991, SI 1991/1618.

<sup>15</sup> Building Regulations 2000, SI 2000/2531.

<sup>16</sup> Section 15 was repealed by the Local Government Finance Act 1988, s.117, Sch.13, Pt.1.

*Building Act 1984*

- 13.11 Sections 11 and 12 of the Building Act 1984 contain obsolete references to building notices served pursuant to section 83 of the London Building Acts (Amendment) Act 1939. Section 83 was repealed by the Building (Inner London) Regulations 1985<sup>17</sup>. Schedules 5 and 6 contain, respectively, a number of transitional and consequential provisions that are now spent.

*Environmental Protection Act 1990/Clean Air Act 1993/Environment Act 1995*

- 13.12 The purposes of the Environmental Protection Act 1990 included making provisions concerning the collection, treatment and disposal of waste. Section 77(3) is a spent transitional provision relating to land occupied by certain waste disposal authorities in existence before 31 May 1991. Schedules 13 and 15 of the 1990 Act contain minor repealing provisions that are now spent. Similarly, in the Clean Air Act 1993, sections 30 and 68 contain minor provisions that are now spent.
- 13.13 The purposes of the Environment Act 1995 included the establishment of the Environment Agency (“the Agency”) and the Scottish Environment Protection Agency (“SEPA”). A number of provisions in the 1995 Act are now unnecessary, particularly in relation to the transfer of property and functions to the Agency and to SEPA. These include section 2(3) (which abolished the National Rivers Authority and the London Waste Regulation Authority), section 3(2) to (7) (which transferred to the Agency the property, rights and liabilities of those two Authorities), section 21(3) (which dissolved river purification boards) and section 22(2) to (8) (which transferred to SEPA the property, rights and liabilities of those boards). Sections 111(1) and 118(2) are spent repealing provisions. Schedules 22 and 23 contain, respectively, a number of spent consequential and transitional provisions.

*Consultation on Part 13*

- 13.14 Those consulted about these repeal proposals include (as appropriate) the Department for Environment, Food and Rural Affairs, the Office of the Deputy Prime Minister, the Department of Health, the Department for Education and Skills, the Food Standards Agency, the Home Office, the Health and Safety Executive, the National Disability Council, the Department for Work and Pensions, the Department for Culture, Media and Sport, the Environment Agency and the relevant authorities in Wales and Scotland. No objections have been raised.

<sup>17</sup> SI 1985/1936, reg.3(2), Sch.4.

# **PART 14**

## **ROAD TRAFFIC**

### *Introduction*

- 14.1 The proposals for repeal under the heading of *road traffic* range from obsolete provisions from the nineteenth century relating to hackney carriages and early horse-less carriages to more modern provisions relating to the setting of taxi fares and the licensing of heavy goods vehicles.

### *London Hackney Carriage Acts*

- 14.2 The statute law concerning cabs in London reaches back to 1831, although the principal statute is now the Metropolitan Public Carriage Act 1869, section 9 of which confers wide powers on Transport for London to regulate London cabs by order<sup>1</sup>. Several provisions in the London Hackney Carriage legislation are now obsolete.
- 14.3 Section 56 of the London Hackney Carriage Act 1831 includes a prohibition on assaulting or obstructing “any Officer of Police, Constable, or Peace Officer ... in the Execution of his Duty”. The reference here to ‘peace officer’ is now obsolete. At common law a peace officer was a generic term describing persons<sup>2</sup> who were specifically employed in the preservation of the peace. Today the concept of peace officer has fallen into disuse<sup>3</sup>. Section 56 also contains a provision whereby the Commissioner of Stamps<sup>4</sup> could revoke the licence of any hackney carriage proprietor who was convicted of an offence under that section. This provision, however, is obsolete because the function of licensing hackney carriages now vests in Transport for London.
- 14.4 In the London Hackney Carriages Act 1843, section 18 also contains a reference to the obsolete term ‘peace officer’ which, as in the case of the London Hackney Carriage Act 1831, may now be repealed. Section 47 of the 1843 Act provided for the administrative arrangements for court proceedings under that Act. Although provisions such as these were expressed to be repealed by section 2 of the Public Authorities Protection Act 1893, the effect of that Act on section 47 has given rise to uncertainty. The formal repeal of section 47 will now put the matter beyond further doubt.
- 14.5 The main purpose of the London Hackney Carriages Act 1850 was to consolidate the office of the registrar of metropolitan public carriages with the office of

<sup>1</sup> These powers were transferred to Transport for London by the Greater London Authority Act 1999, s.253, Sch.20, Pt.1, paras.5(1), (6).

<sup>2</sup> Including constables, coroners, justices and sheriffs.

<sup>3</sup> For example, the reference to peace officer in section 38 of the Offences Against the Person Act 1861 has been repealed: Police Act 1964, s.64(3), Sch.10, Pt.1.

<sup>4</sup> The functions of the amalgamated offices of the Board of Stamps and the Board of Taxes are now vested in the Commissioners of Customs and Excise.

Commissioners of Police of the Metropolis. Indeed section 2 of the 1850 Act transferred the functions of the registrar of metropolitan public carriages to the Commissioners of Police of the Metropolis. However, by virtue of the Greater London Authority Act 1999<sup>5</sup>, all the functions vested in the Commissioners by section 2 of the 1850 Act were transferred to Transport for London. Accordingly section 2 now serves no useful purpose and may be repealed.

- 14.6 The purposes of the London Hackney Carriage (No 2) Act 1853 included providing for the charging of fares for the hire of hackney carriages. The only unrepealed sections of the 1853 Act are sections 16 and 17. Section 16 penalises any proprietor of a licensed hackney carriage who ‘without just cause’ withdraw his carriage from service for two consecutive days or two days in the same week<sup>6</sup>. This provision was inserted in the Bill during Commons Third Reading<sup>7</sup> in response to a strike by cab proprietors that had caused particular inconvenience to persons arriving by railway from the country. Today, however, this section no longer serves any useful purpose. There is no limitation on the number of cabs which may be licensed and, under modern conditions, economic factors will usually determine the availability of cabs. Should such a provision along these lines ever prove desirable in the future, it is open to Transport for London to provide for it by means of an appropriate condition on the granting of a hackney carriage licence under section 8 of the Metropolitan Public Carriage Act 1869. The repeal of section 16 will permit the consequential repeal of section 17 and two provisions in the Greater London Authority Act 1999 (which relate to section 16)<sup>8</sup>.
- 14.7 The purposes of the London Cab Act 1968 include changing the law so as to relax restrictions on the parking of cabs in London. Sections 3(1) and 5(2) of the 1968 Act were repealing provisions and became spent when the Act came into force on 15 February 1968. They may now be repealed themselves.

*Locomotive Act 1861/Road Traffic Act 1960/Road Traffic Regulation Act 1967*

- 14.8 The Locomotive Act 1861 was passed to regulate the use of locomotives on the road<sup>9</sup>. It was an early attempt to regulate horse-less traffic on the public highway. It was accepted at that time that the existing statute law, designed as it was for carriages and wagons drawn by animals, was inadequate to regulate the use of locomotives. A matter of particular concern at that time was the size, weight and speed of locomotives which threatened to damage the highway.

<sup>5</sup> The 1999 Act, Sch.20, para.1(1).

<sup>6</sup> The penalty is not to exceed level 1 on the standard scale (i.e. £200) for each day the carriage is withdrawn from service. The proprietor’s licence may also be suspended or withdrawn.

<sup>7</sup> 9 August 1853 Hansard (HC), vol.129, cols.1593-1595.

<sup>8</sup> The 1999 Act, Sch.20, paras.4, 13.

<sup>9</sup> The term ‘locomotive’ referred not to railway vehicles but to road vehicles propelled by their own power which, in 1861, meant steam power.

14.9 Section 7 of the 1861 Act was enacted to ensure that liability for repairing damage caused to a bridge spanning a river, canal or railway by a locomotive passing over it rested with the person in charge of the locomotive. By 1930 this provision was considered to be obsolete and section 7 was prospectively repealed by the Road Traffic Act 1930<sup>10</sup>. For reasons that are not entirely clear this repeal was never brought into force and the repealing provisions of the 1930 Act were carried forward into the Road Traffic Act 1960<sup>11</sup>. However, the Department for Transport has now confirmed that the long-delayed repeal of section 7 may now proceed. The repeal of section 7 will permit the consequential repeal of ancillary provisions in the 1960 Act (sections 266 and 270 and Schedule 20) together with the Road Traffic Regulation Act 1967 (the whole of which has been repealed already except a provision in Schedule 6 amending Schedule 20 to the 1960 Act).

*Metropolitan Streets Act 1867*

14.10 According to its long title, the purpose of the Metropolitan Streets Act 1867 was to regulate the traffic in the metropolis and provide for the greater security of persons passing through the streets.

14.11 Sections 19 and 20 contain obsolete provisions relating to shoeblacks, commissionaires and messengers. Section 19 empowers the Metropolitan Police Commissioner to license shoeblacks, commissionaires and messengers whilst section 20 prohibits unauthorised shoeblacks, commissionaires and messengers. Anyone fraudulently impersonating a shoeblack or commissionaire was liable to a penalty. According to the Parliamentary debates<sup>12</sup> the purpose of these provisions was to protect 'regular' shoeblacks and commissionaires from interference by unauthorised persons and to ensure that their work was properly authorised. Clearly the need for these provisions has long since passed.

*Road Act 1920/Miscellaneous Financial Provisions Act 1955*

14.12 The purposes of the Roads Act 1920 included the establishment of a Road Fund. Section 3, which established the Road Fund, became largely obsolete when the Road Fund was wound up in 1956<sup>13</sup>. The only remaining provision in section 3 is subsection (6) which required the making of an annual report to Parliament of proceedings under Part 2 of the Development and Road Improvement Funds Act 1909. Following the repeal of the 1909 Act in 1989<sup>14</sup>, subsection (6) became unnecessary. The only other substantive provision surviving in the 1920 Act is section 14(3) which relates to an obsolete right of appeal concerning licences to operate non-motorised omnibuses. The repeal of sections 3(6) and 14(3) will permit the repeal of the 1920 Act as a whole. A consequential repeal is a provision

<sup>10</sup> The 1930 Act, s.122, Sch.5.

<sup>11</sup> The 1960 Act, s.266(b).

<sup>12</sup> 15 March 1867 Hansard (HL) vol.185, cols.1910-1913.

<sup>13</sup> Miscellaneous Financial Provisions Act 1955, s.4.

<sup>14</sup> Statute Law (Repeals) Act 1989, s.1(1), Sch.1, Pt.2.

in the Roads (Scotland) Act 1984<sup>15</sup> which amended the 1920 Act in relation to Scotland.

- 14.13 Section 4(1) of the Miscellaneous Financial Provisions Act 1955 provided for the winding up of the Road Fund on 1 April 1956 and for sums in the Fund to be paid into the Exchequer. This provision is clearly now spent as is the transitory provision in section 4(3) relating to accounts for the financial year ending on 31 March 1956.

*London Passenger Transport Act 1933*

- 14.14 The London Passenger Transport Act 1933 was enacted to establish the Passenger Transport Board (“the Board”) as a public authority and to secure the transfer to the Board of various passenger transport undertakings and interests.
- 14.15 Section 5 provided for the transfer to the Board of a large number of passenger undertakings. Section 5(3) provided for any question arising about these transfers to be referred to the arbitration tribunal constituted by section 12 of the 1933 Act. However, that tribunal has long ceased to exist and section 12 has been repealed<sup>16</sup>. Accordingly section 5(3) is unnecessary as is section 89(23) which provided for certain matters to be referred to the tribunal. Section 19(8) is a spent provision relating to the commencement of powers in section 19 whilst section 81 is an obsolete provision exempting transfers to the Board from stamp duty.

*Transport Charges etc (Miscellaneous Provisions) Act 1954*

- 14.16 Section 11 of the Transport Charges etc (Miscellaneous Provisions) Act 1954 repealed the Railway Freight Rebates Enactments 1929 to 1943<sup>17</sup> “without prejudice, however, to any relief from rates provided for by any Act”. As a repealing provision, section 11 would have become spent on 25 November 1954 (when the 1954 Act came into force) were it not for the ‘without prejudice’ saving provision at the end. The saving provision referred to the relief from rates provided by section 68 of the Local Government Act 1929 (in England and Wales) and by section 45 of the Local Government (Scotland) Act 1929 (in Scotland). Both those provisions have long since been repealed<sup>18</sup> with the result that the saving provision in section 11 is now spent. Accordingly the whole of section 11 is now spent.

*Road Traffic Acts 1960 and 1962*

- 14.17 The Road Traffic Act 1960 was the first consolidation of road traffic law to be undertaken after the Second World War, though it has now been largely superseded by subsequent consolidations. Several provisions in the 1960 Act are

<sup>15</sup> The 1984 Act, Sch.9, para.24.

<sup>16</sup> Statute Law Revision Act 1960, s.1(1), Sch.

<sup>17</sup> These enactments were the Local Government Act 1929, s.136, Sch.11; and the Railway Freight Rebates Acts 1936 and 1943.

<sup>18</sup> Rating and Valuation Act 1961, ss.1, 29(2), Sch.5, Pt.1; Local Government (Financial Provisions) (Scotland) Act 1963, s.27(6), Sch.3, Pt.2.

now unnecessary. Section 232(2) contains an obsolete reference to persons riding unmotorised bicycles or tricycles. Sections 248 and 249 relate to the holding of inquiries for the purposes of the 1960 Act. However, because of repeals to the 1960 Act down the years, there are no longer any matters in the Act in respect of which powers under sections 248 or 249 could be exercised. The repeal of these sections will permit a number of consequential repeals<sup>19</sup>.

- 14.18 Over the past 40 years the Road Traffic Act 1962 has been whittled away by successive repealing enactments. Indeed there are now only two provisions of substance left and these do no more than amend the Road Traffic Act 1960<sup>20</sup>. In the result the 1962 Act is obsolete except in relation to those two provisions. Accordingly, the 1962 Act may now conveniently be repealed subject to a saving for the two provisions, which appears by appropriate entries in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions).

#### *Transport Act 1968*

- 14.19 Section 32 of the Transport Act 1968 is an obsolete provision relating to grants for new buses in Great Britain. The grant provisions were gradually phased out with a cut-off point of 1 April 1984. The repeal of section 32 will permit the consequential repeal of Schedule 8 to the 1968 Act and section 62(2) of the Transport Act 1980. Section 139 is also unnecessary. Repeals to it in 1980 confined its application to Scotland<sup>21</sup>, and it was repealed as to Scotland in 1984<sup>22</sup>. Finally sections 145, 157 and 161 all contain unnecessary material which may now be safely repealed<sup>23</sup>.

#### *Finance Act 1974*

- 14.20 Section 55 of the Finance Act 1974 empowered the Secretary of State by order to authorise a local authority having power to amend any taxi fare byelaws to pass a resolution amending those byelaws so as to increase or reduce taxi fares with a view to offsetting any change in operating costs that was attributable to any tax or duty. Section 55 has now been superseded by later legislation. One purpose of section 55 was to speed up the sometimes protracted procedure whereby local authorities had to make a byelaw in order to adjust fares. Now, however, section 65 of the Local Government (Miscellaneous Provisions) Act 1976 enables local

<sup>19</sup> These consequential repeals are the reference to section 249(1)(d) in the Public Expenditure and Receipts Act 1968, Sch.3; Transport Act 1980, Sch.4; Goods Vehicles (Licensing of Operators) Act 1995, s.56.

<sup>20</sup> The 1960 Act, Sch.1, Pt.3, para.48; Sch.4, Pt.1 (entry relating to section 242(1)).

<sup>21</sup> Highways Act 1980, s.343(3), Sch.25.

<sup>22</sup> Roads (Scotland) Act 1984, s.156(3), Sch.11.

<sup>23</sup> A consequential repeal is the Transport Act 1980, s.62(2).

authorities to fix these fares not by byelaw but by passing a resolution to that effect. Accordingly section 55 is now unnecessary<sup>24</sup>.

*Carriage of Passengers by Road Act 1974*

- 14.21 The purpose of the Carriage of Passengers by Road Act 1974 was to give effect to the 1973 UN Convention on the Contract for the International Carriage of Passengers and Luggage by Road<sup>25</sup>. The intention was to standardise the contractual conditions governing the international carriage of passengers by road. In the event only a handful of (mainly) Eastern European States decided to give effect to the Convention. No European Union State, including the United Kingdom, decided to do so (apparently because States believed that there was no advantage in doing so). On that basis the 1974 Act now has no practical utility and may be repealed along with the provisions in the Carriage by Air and Road Act 1979 and in the International Transport Conventions Act 1983 that amended the 1974 Act. Finally the references to section 5 of the 1974 Act in the Civil Jurisdiction and Judgments Act 1982<sup>26</sup> may also be repealed as unnecessary.

*Road Traffic Act 1974/Road Traffic (Drivers' Ages and Hours of Work) Act 1976/ Public Passenger Vehicles Act 1981/Transport Act 1983*

- 14.22 As a result of earlier repeals to the Road Traffic Act 1974, the interpretation provision in section 23(1) is now unnecessary. In the Road Traffic (Drivers' Ages and Hours of Work) Act 1976, sections 2(4) and 4(2) to (4) are, respectively, spent repealing and commencement provisions. Sections 69(3) and 89(3) of the Public Passenger Vehicles Act 1981 refer to statutory provisions<sup>27</sup> that have since been repealed. Accordingly those subsections are now repealable themselves. Finally section 10 of the Transport Act 1983 is a commencement and transitional provision which has long ceased to have any practical utility.

*Road Traffic Regulation Act 1984*

- 14.23 Section 145 provides for the commencement of the 1984 Act and for temporary provisions. The commencement provisions are in subsections (1) to (4) and are entirely spent except in relation to paragraph 3 of Schedule 8 which has never been brought into force. Paragraph 3 provides a definition of the term 'statutory statement of facts' for the purposes of sections 107 to 109 (which relate to the enforcement of excess parking charges). Pending the commencement of paragraph 3, a slightly different definition of 'statutory statement of facts' has been supplied by paragraph 20 of Schedule 10. However because this temporary definition in

<sup>24</sup> Section 55 has no relevance to taxi fares in London because these are set by London cab order pursuant to section 9 of the Metropolitan Public Carriage Act 1869. These orders are made by Transport for London: see para.14.2 above.

<sup>25</sup> Geneva, 1 March 1973: Treaty series Misc.17 (1974); Cmnd 5622.

<sup>26</sup> The 1982 Act, ss.31(3), 32(4)(b).

<sup>27</sup> Section 69(3) refers to section 27 of the 1981 Act which was repealed by the Deregulation and Contracting Out Act 1994, ss.64, 81(1), Sch.17; section 89(3) refers to section 25(2) of the 1981 Act which was repealed by the Police and Criminal Evidence Act 1984, ss.26(1), 119(2), Sch.7, Pt.1.

paragraph 20 of Schedule 10 is believed to be working satisfactorily, the Department for Transport has agreed to it being made permanent. This can be achieved by an amendment in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions) whereby the temporary definition is substituted for the replacement definition in paragraph 3 of Schedule 8. This will permit the repeal not only of paragraph 20 of Schedule 10 but also of section 145(1) to (4). The final provision in section 145 is subsection (5) which introduced temporary provisions in Schedule 12. However, since Schedule 12 has been repealed<sup>28</sup>, subsection (5) is now spent. Accordingly the whole of section 145 may now be repealed.

- 14.24 Schedule 2 to the 1984 Act lists matters as to which regulations could be made under section 12 of the Act. However section 12 has now been repealed with the result that Schedule 2 is effectively spent<sup>29</sup>. Also spent are a savings provision in Schedule 10<sup>30</sup> and several consequential amendments in Schedule 13<sup>31</sup>.

*Transport Act 1985*

- 14.25 The Transport Act 1985 amended the law relating to road passenger transport. Several of its provisions are now unnecessary, mostly on technical grounds<sup>32</sup>.

*Road Traffic Act 1988/Road Traffic Offenders Act 1988/Road Traffic (Driver Licensing and Information Systems) Act 1989*

- 14.26 The Road Traffic Act 1988 consolidated existing road traffic legislation. Sections 67A and 67B were inserted by the Road Traffic (Consequential Provisions) Act 1988<sup>33</sup>. However the inserting provisions were repealed by the Road Traffic Act 1991<sup>34</sup> without sections 67A and 67B ever being brought into force. Accordingly sections 67A and 67B are now ineffective and may be formally repealed.
- 14.27 The Road Traffic Offenders Act 1988 consolidated existing legislation relating to the prosecution and punishment of road traffic offences. Section 59 provides for a person who is given a fixed penalty notice under section 54 of the 1988 Act to be given written notification specifying the magistrates' court by which and the date on which the relevant offence is to be tried. Section 59 derives from the Transport

<sup>28</sup> Statute Law (Repeals) Act 1998, s.1(1), Sch.1, Pt.1.

<sup>29</sup> Section 12 was repealed by the Greater London Authority Act 1999, ss.294(1)(a), 423, Sch.34, Pt.6.

<sup>30</sup> Sch.10, para.18 which related to offences committed before 27 October 1981.

<sup>31</sup> Sch.13, paras.2, 5 and 39.

<sup>32</sup> Thus sections 32, 114(3), 117(3), 135(1) (part), 139(5), Schedule 1 (paras.6, 7, 9, 10, 12, 14), Schedule 3 (paras.1, 5, 9-11, 14, 24-28, 32) and Schedule 7 (paras.4, 5, 11, 16, 26) are repealing or abolishing provisions which became spent when they took effect. Schedule 6 contains transitional and savings provisions of which those in paras.1-5, 6 (part), 8-12, 14, 16-18, 20, 22 and 24 are now spent.

<sup>33</sup> Sch.2, Pt.3, para.25.

<sup>34</sup> The 1991 Act, s.83, Sch.8.

Act 1982<sup>35</sup> but has never been brought into force since then. The relevant Departments have agreed that section 59 has no practical utility and that the section may be repealed on that basis<sup>36</sup>. So far as Scotland is concerned, several provisions in the 1988 Act relating mainly to penalty points and fixed penalty notices have never been brought into force and are considered superfluous by the relevant transport authorities in Scotland. Accordingly the provisions may be repealed as unnecessary<sup>37</sup>.

- 14.28 The purposes of the Road Traffic (Driver Licensing and Information Systems) Act 1989 included the abolition on 1 April 1991 of special licences for driving heavy goods vehicles (HGVs) and public service vehicles (PSVs). These licences were replaced by large goods vehicle and passenger-carrying vehicle licences. The 1989 Act contained transitional provisions<sup>38</sup> to preserve the rights of persons who held HGV and PSV licences on 1 April 1991. The need for these transitional provisions expired on 31 March 1996 at the latest. Schedule 3 to the 1989 Act amended the existing law on driving licences and several of these amendments are now spent or otherwise unnecessary<sup>39</sup>.

*Road Traffic Act 1991*

- 14.29 Section 31 was a temporary provision to give effect for a limited period to the powers in section 34A of the Road Traffic Offenders Act 1988 which was inserted by section 30 of the 1991 Act. Section 31 became unnecessary when the powers in section 34A became permanent<sup>40</sup>. Section 49 is a repealing provision which became spent when it came into force on 1 July 1992.

*Goods Vehicles (Licensing of Operators) Act 1995*

- 14.30 The Goods Vehicles (Licensing of Operators) Act 1995 consolidated existing legislation about the licensing of operators of certain goods vehicles. Section 56 (Secretary of State's power to hold inquiries) is now unnecessary because there are no functions in the 1995 Act capable of attracting this power to hold inquiries. Schedules 6 and 7 contain transitional and consequential provisions which are now spent.

<sup>35</sup> The 1982 Act, s.39.

<sup>36</sup> A consequential repeal is section 99(5) (the commencement provision for section 59).

<sup>37</sup> These provisions are sections 27(4), 30 and 52(4) of the Road Traffic Offenders Act 1988. These repeals have effect only in Scotland.

<sup>38</sup> The 1989 Act, s.1(2) to (7) (part), Sch.1 The repeal of Schedule 1 to the 1989 Act will permit the consequential repeal of text in the Road Traffic Act 1988, s.172(1)(c).

<sup>39</sup> The 1989 Act, Sch.3, paras.1, 7, 10, 13, 17, 25, 27(a) to (c), 29, 30(d). The repeal of paragraphs 27(a) to (c), 29 and 30(d) will also permit the consequential repeal of the provisions in the Road Traffic Offenders Act 1988 that these paragraphs amended.

<sup>40</sup> SI 1999/3130.

*Road Traffic (Vehicle Testing) Act 1999/Transport Act 2000*

- 14.31 Section 6 of the Road Traffic (Vehicle Testing) Act 1999 was a temporary provision permitting the making of certain orders no later than 30 June 2000. No such orders were made and section 6 no longer serves any useful purpose.
- 14.32 Section 269 of the Transport Act 2000 required the Secretary of State to review the operation of certain speed limits in relation to rural roads and to publish a report of the review before 1 December 2001. Since the Secretary of State duly complied with his obligations under section 269, that section is now spent. Equally spent is section 275(3) which provided for the commencement of section 151. Once section 151 came into force on 1 April 2001, section 275(3) became unnecessary.

*Consultation on Part 14*

- 14.33 Those consulted about these repeal provisions include (as appropriate) the Department for Transport, HM Treasury, the Inland Revenue, the Home Office, the Foreign and Commonwealth Office, the Department for Constitutional Affairs, the Crown Prosecution Service, the Office of the Deputy Prime Minister, Railtrack plc, Railtrack Group plc, the Greater London Authority, Transport for London, London Regional Transport, the Public Carriage Office, the City of London Police, the Licensed Taxi Drivers Association, the Local Government Association, the Welsh Local Government Association, the National Association of Local Councils and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

## **PART 15**

### **SCOTTISH ACTS**

#### *Introduction*

- 15.1 The repeals in this part of the report relate to obsolete Scottish Acts (mostly local Acts) on matters that are reserved under Schedule 5 to the Scotland Act 1998. They include repeals relating to legislation concerning banks and financial institutions.

#### *Shotts Iron Company's Acts 1871 and 1877*

- 15.2 The Shotts Iron Company was founded in 1802 by Hugh and Robert Baird. The business proved very successful. By the beginning of the 1870s the work of the Company had expanded further, mainly due to the discovery of coal in Midlothian. The 1871 Act incorporated the Company as a Joint Stock Company, while the 1877 Act sanctioned an increase in the Company's share capital and borrowing powers. The Company was dissolved in 1900 rendering the 1871 and 1877 Acts obsolete.

#### *Bank of Scotland Act 1873*

- 15.3 The Bank of Scotland was incorporated by an Act of the Parliament of Scotland in 1695. The 1873 Act authorised the Bank to raise a capital stock of £1,000,000 sterling. By 1873 the business of the Bank had greatly increased and the 1873 Act was passed in order to authorise an increase in capital stock. The provisions recommended for repeal (sections 4 to 9) relate mainly to matters concerning the Bank's additional stock and are now obsolete. The provisions have been superseded by provisions in the Bank's regulations dealing with the issue of new stock.

#### *Western Bank of Scotland (Liquidation) Act 1876*

- 15.4 The purpose of the Western Bank of Scotland Act 1876 was to promote the winding up of the Western Bank of Scotland and to provide for the disposal and discharge of its remaining assets and liabilities. The Western Bank was one of the first major banks in Glasgow and became one of Scotland's largest banks. However, in 1857 three firms that owed the bank substantial sums defaulted and the bank was forced to close.
- 15.5 By virtue of transfers dated 10 and 13 April 1877, the liquidators completed the transfer of the bank's remaining assets and liabilities to the National Bank of Scotland (the "National Bank"). In 1959 the National Bank became the National Commercial Bank, which was acquired by the Royal Bank of Scotland plc in 1969. With the transfer of the assets long since completed the 1876 Act has become obsolete.

*Scottish American Mortgage Company Limited Act 1903*

- 15.6 The Scottish American Mortgage Company was incorporated in 1874. The purpose of the 1903 Act was to confer a number of powers on the company, including the power to increase its share capital, to borrow money, and to enable the company to amalgamate with another company.
- 15.7 The Company was dissolved on 13 October 1966<sup>1</sup>. The 1903 Act is therefore spent.

*Scottish United Investors Limited Order Confirmation Act 1931*

- 15.8 Scottish United Investors Limited was incorporated in 1924 to "undertake and carry on the business of an investment, lending and agency company". The 1931 Act was passed to enable the company to convert additional share capital into preference shares and to create and issue similar preference shares in the future. The company was dissolved on 25 July 1989 after a members' voluntary winding-up and, as a consequence, the 1931 Act became spent.

*Fort William Pulp and Paper Mills Act 1963*

- 15.9 The Fort William Pulp and Paper Mills Act 1963 was passed to authorise the Board of Trade to lend money to Wiggins Teape & Co Ltd (now known as Arjo Wiggins Ltd) in connection with the construction and equipment of pulp and paper mills at Fort William. The power to lend money ceased on 1 January 1973 and all loans made before then have now been cleared. The 1963 Act has accordingly become spent.

*Consultation on Part 15*

- 15.10 Those consulted about these repeal proposals include (as appropriate) HM Treasury, the Department of Trade and Industry, the Registrar of Companies, the Financial Services Authority, the Bank of Scotland, the Royal Bank of Scotland and the Clydesdale Bank. No objections have been raised.

<sup>1</sup> By Interlocutor of the Court of Session dated 8 July 1966. The Interlocutor provided that the Company would be dissolved three months from the date of the Interlocutor being delivered to the Registrar of Companies. The date of receipt and registration by the Registrar was 13 July 1966.

## **PART 16**

# **TRADE AND INDUSTRY**

### *Introduction*

- 16.1 The repeals in this part of the report are divided into two groups. First there are repeals relating to specific industries such as aircraft and shipbuilding, atomic energy and hairdressing. This is followed by a more general group of repeals relating to the topic of trade and industry.

### *Group 1 - Specific Industries*

#### *(a) Aircraft and shipbuilding*

- 16.2 The repeals recommended for aircraft and shipbuilding relate chiefly to the Aircraft and Shipbuilding Industries Act 1977, the British Aerospace Act 1980 and the British Shipbuilders Act 1983<sup>1</sup>.

#### *Aircraft and Shipbuilding Industries Act 1977*

- 16.3 The Aircraft and Shipbuilding Industries Act 1977 was enacted to establish two corporate bodies known as British Aerospace and British Shipbuilders and to bring the aircraft and shipbuilding industries into public ownership. Much of Part 2 of the 1977 Act, dealing with the detailed arrangements whereby privately-owned companies were to be acquired by British Aerospace and British Shipbuilders, became spent once the acquisitions were complete in 1977<sup>2</sup>. These arrangements included provisions to protect the assets of the company from being dissipated or disposed of pending the completion of the acquisitions, as well as provisions for paying compensation for the assets being acquired. In addition to Part 2 of the 1977 Act, other provisions in the Act relating to the acquisition of the aircraft and shipbuilding assets have also ceased to be of any practical utility in the years since 1977<sup>3</sup>.

#### *British Aerospace Act 1980*

- 16.4 The British Aerospace Act 1980 was passed to facilitate the privatisation of British Aerospace. The privatisation took effect by the property, rights, liabilities and obligations of the former state-owned corporation known as British Aerospace

<sup>1</sup> See also the repeals in Part 4 above relating to *aviation*.

<sup>2</sup> 29 April 1977 in the case of aircraft assets and 1 July 1977 in the case of shipbuilding assets: Aircraft and Shipbuilding Industries (Aircraft Industry Vesting Date) Order 1977, SI 1977/539; Aircraft and Shipbuilding Industries (Shipbuilding Industry Vesting Date) Order 1977, SI 1977/540.

<sup>3</sup> The provisions in Part 2 of the 1977 Act that are proposed for repeal are sections 21 to 39 and 41, and Schedules 4 to 6. Other spent provisions in the 1977 Act that may now be repealed include text in sections 1, 10, 12 and 18, sections 50 and 51, and text in sections 54 and 56. A consequential repeal is to part of Schedule 2 to the Companies Consolidation (Consequential Provisions) Act 1985 (which amended section 23(8) of the 1977 Act).

vesting in British Aerospace Ltd<sup>4</sup>. Much of the 1980 Act has become spent in the years since privatisation including provisions relating to the vesting of assets (section 1(2) and (4)), the cancellation of certain Government investment in British Aerospace (section 2) and to Government shareholdings in the new company (sections 3, 5, 6 and 7)<sup>5</sup>.

*British Shipbuilders Act 1983*

- 16.5 The British Shipbuilders Act 1983 was passed to amend the functions and activities of British Shipbuilders. Sections 1 to 3 of the Act contain spent repealing and commencement provisions. Similarly the British Shipbuilders (Borrowing Powers) Acts 1983 and 1987 (which were passed to increase the borrowing powers of British Shipbuilders) contain repealing provisions which now serve no useful purpose<sup>6</sup>.

*(b) Atomic energy*

- 16.6 A number of statutory provisions relating to atomic energy and radioactive substances are now unnecessary.

*Atomic Energy Act 1946*

- 16.7 Section 20(3) of the Atomic Energy Act 1946 provides that section 1(4) and (5) of the Irish Land Act 1907 is not to apply to certain dispositions of mining rights to the Secretary of State. However, since section 1 of the Irish Land Act 1907 has now been repealed<sup>7</sup>, section 20(3) has become unnecessary.

*Atomic Energy Authority Acts 1954 and 1971*

- 16.8 The Atomic Energy Authority Act 1954 provided for the setting up of the United Kingdom Atomic Energy Authority ("the Authority"). Section 6(5) contains obsolete references to the Public Authorities Protection Act 1893 and to section 21 of the Limitation Act 1939<sup>8</sup>. Similarly section 9(5) contains an obsolete reference to section 5(4) of the 1954 Act<sup>9</sup>. Finally Schedule 2 contains a transitional provision which is now long spent.

<sup>4</sup> British Aerospace Ltd later became British Aerospace plc. The company is now called BAE Systems plc.

<sup>5</sup> Other spent provisions in the 1980 Act include sections 8, 9(2) (part), 10(2) to (10), 11, 14(2) and (3) and section 15(2) (part). Schedule 2 is similarly spent and part of Schedule 2 to the Companies Consolidation (Consequential Provisions) Act 1985 may be repealed in consequence of the proposed repeal of section 3 of the 1980 Act.

<sup>6</sup> These spent provisions are British Shipbuilders (Borrowing Powers) Act 1983, s.1(2) and British Shipbuilders (Borrowing Powers) Act 1987, s.1(2).

<sup>7</sup> Minerals (Miscellaneous Provisions) Act 1959, s.23(1), Sch.4.

<sup>8</sup> Both the 1893 Act and section 21 of the 1939 Act have been repealed: Law Reform (Limitation of Actions etc) Act 1954, ss.1, 8(3), Sch.

<sup>9</sup> Section 5(4) of the 1954 Act has been repealed: Radioactive Substances Act 1960, s.17(1).

- 16.9 The Atomic Energy Authority Act 1971 provided for the transfer of part of the Authority's undertaking to British Nuclear Fuels Ltd and to the Radiochemical Centre Ltd<sup>10</sup>. Sections 1 and 2 provide for this transfer to take place on the appointed day (1 April 1971<sup>11</sup>). Section 5, however, contains provisions whereby the Secretary of State might give directions extending or restricting the operation of sections 1 and 2. These provisions are now spent because, by virtue of section 5(8), no directions could be given later than two years after the appointed day. Sections 6 to 9, 11, 17 and 24 also contain a number of provisions (mostly of a transitional nature) which are now spent.

*Atomic Energy Authority (Weapons Group) Act 1973/Radioactive Substances Act 1993*

- 16.10 The primary purpose of the Atomic Energy Authority (Weapons Group) Act 1973 was to transfer to the Secretary of State the undertaking of the United Kingdom Atomic Energy Authority known as the Weapons Group. Section 1 provides for this transfer to take place on the appointed day (1 April 1973)<sup>12</sup>. Section 3, however, contains provisions whereby the Secretary of State might give directions extending or restricting the operation of section 1. These provisions are now spent because, by virtue of section 3(3), no directions could be given later than two years after the appointed day. Section 4(2) contains a spent savings provisions relating to legal proceedings that were pending immediately before 1 April 1973.
- 16.11 Paragraph 8 of Schedule 5 to the Radioactive Substances Act 1993 is a transitory provision which was to have effect if the date proposed for commencement of that Act preceded the date on which a provision in Schedule 15 to the Environmental Protection Act 1990<sup>13</sup> came into force. In the event the 1990 Act provision came into force on 1 January 1991 whereas the 1993 Act came into force on 27 August 1993. Paragraph 8 is accordingly unnecessary.

*(c) British Steel*

- 16.12 The purpose of the British Steel Act 1988 was to facilitate the privatisation of the British Steel Corporation ("the Corporation").
- 16.13 Several provisions in the 1988 Act have become unnecessary since the time of the privatisation. These include provisions relating to the nomination of the new privatised company (section 1(2) and (5)), to the reduction and extinguishment of the Corporation's public dividend capital (section 2), to the Government's initial shareholding in the privatised company (section 3(1) to (4)) and to the status of shares in the privatised company for trustee investment purposes (section 12). Finally the entry in the Northern Ireland Assembly Disqualification Act 1975 precluding a director of the privatised company being a member of the Northern

<sup>10</sup> Now called Nycomed Amersham plc.

<sup>11</sup> Atomic Energy Act 1971 (Appointed Day) Order 1971, SI 1971/478.

<sup>12</sup> Atomic Energy Authority (Weapons Group) Act 1973 (Appointed Day) Order 1973, SI 1973/463.

<sup>13</sup> The provision was the 1990 Act, Sch.15, paragraph 8.

Ireland Assembly became unnecessary once the privatised company ceased to be Government owned.

*(d) Scrap metal*

- 16.14 The Scrap Metal Dealers Act 1964 was passed to amend the law relating to dealers in scrap metal and similar goods. Section 8 is now unnecessary because it relates to the now obsolete system of rate-deficiency grants and exchequer equalisation grants<sup>14</sup>. Section 10 contains descriptive text which now serves no useful purpose. Section 11(2) is a spent commencement provision.

*(e) Hairdressing*

- 16.15 The Hairdressers (Registration) Act 1964 was enacted to establish the Hairdressing Council to provide a voluntary system of registration of hairdressers and to deal with matters relating to training, examinations and discipline. The provisions proposed for repeal - which appear in sections 2, 3, 7 and 15 and in Schedule 1 - concern transitional provisions in the 1964 Act which were necessary to enable the Council to commence its statutory functions but which are now spent or otherwise unnecessary.

*Consultation on Part 16 (Group 1)*

- 16.16 Those consulted about the repeal proposals in Group 1 of this part of the report include (as appropriate) HM Treasury, the Department of Trade and Industry, the Department for Constitutional Affairs, the Office of the Deputy Prime Minister, the Bank of England, the Council on Tribunals, BAE Systems plc (formerly British Aerospace plc), British Shipbuilders, the United Kingdom Atomic Energy Authority, British Nuclear Fuels plc, Nycomed Amersham plc, Corus UK Ltd (as successor to British Steel plc), the Hairdressing Council and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 2 - General repeals*

*Trading Stamps Act 1964/Trading Representations (Disabled Persons) Amendment Act 1972*

- 16.17 Section 2 of the Trading Stamps Act 1964 contains a reference to the Registration of Business Names Act 1916, a reference that became unnecessary when the 1916 Act was repealed<sup>15</sup>. Section 3 contains some transitional provisions about the redemption of trading stamps for cash. These provisions have long been unnecessary. Also unnecessary is section 9 which provides for the commencement of summary proceedings under the 1964 Act. Such matters are now provided for

<sup>14</sup> Rate-deficiency grants were discontinued as from the financial year 1967/68: Local Government Act 1966, s.12. Exchequer equalisation grants were provided for by sections 1 to 9 of the Local Government (Financial Provisions) (Scotland) Act 1954, an Act which expired on 15 May 1959: the 1954 Act, s.14(2).

<sup>15</sup> Companies Act 1981, s.119(5), Sch.4.

by the Magistrates' Courts Act 1980<sup>16</sup>. Finally the commencement provision in section 11(3) became spent during 1965 once the whole of the 1964 Act was in force.

- 16.18 The Trading Representations (Disabled Persons) Amendment Act 1972 was enacted to amend the Trading Representations (Disabled Persons) Act 1958 which regulates the making of representations by traders that their goods were made by, or sold for the benefit of, disabled persons. The repealing provisions in the 1972 Act, together with its commencement provision, are now spent and may be repealed.

*Fair Trading Act 1973*

- 16.19 The purposes of the Fair Trading Act 1973 included the appointment of a Director General of Fair Trading and the abolition of the office of Registrar of Restrictive Trading Agreements. The provisions proposed for repeal<sup>17</sup> relate chiefly to the abolition of this office and to the transfer of functions from the Registrar to the Director General.

*Prices Act 1974*

- 16.20 One of the main purpose of the Prices Act 1974 was to regulate the price of food and other goods. Such regulation was a response to the prevailing high rate of inflation in the early 1970s. Moving the Second Reading of the Bill in the Commons, the Secretary of State for Prices and Consumer Protection stated-

“We live in a period of disturbing inflation. Prices are rising at a rate which may reach 12 to 15 per cent or even more by the end of the year. Some of the most reliable estimates given by independent economic sources suggest possible rates of inflation as high as 18 or 19 per cent by the end of this year. Since 1970, all prices have risen by 39.2 per cent and food prices by 54.4 per cent .... It is not in the interests of industry for inflation to reach those levels and therefore the Government believes that it must be of the highest possible priority to take whatever action is open to them to attempt to modify the present terrifying rates of inflation.”<sup>18</sup>

- 16.21 Section 2 empowered the Secretary of State by order to regulate the price of food such as milk, butter, cheese, flour and bread. Section 5 empowered the Secretary of State by order to require persons selling food and other goods to display information about the range of prices at which such food or other goods were commonly sold by retail at a particular date or during a particular period. In the event no orders were ever made under these provisions, partly because of the existing powers in section 4 of the 1974 Act relating to price-marking and partly because of the increased competition in the domestic retail market, particularly from overseas, which have helped to keep down prices. Accordingly neither

<sup>16</sup> The 1980 Act, ss.1, 2.

<sup>17</sup> Sections 94(1) (part) and 140(3).

<sup>18</sup> 9 April 1974 Hansard (H.C.), Vol 872, col. 256.

section 2 nor section 5 now serve any useful purpose. The repeal of these two sections will permit the consequential repeal of a number of further provisions in the 1974 Act<sup>19</sup> as well as the wholesale repeal of the Prices Act 1975 (which amended the 1974 Act). Because section 4(3) of the 1974 Act refers to the consultation provision in section 2(6), an amendment to the 1974 Act will be necessary to insert the substance of section 2(6) into section 4. The necessary amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions).

*Unsolicited Goods and Services (Amendment) Act 1975*

- 16.22 Section 2(1) of the Unsolicited Goods and Services Act 1975 sought to amend the provisions of section 3(3) of the Unsolicited Goods and Services Act 1971 relating to a person's liability to pay for the entry of his business in a directory. This amendment has never been brought into force and the relevant Department has agreed that the amendment would now serve no useful purpose. The repeal of section 2(1) will permit the consequential repeal of section 4(2) to (4). Finally section 3(2) is a spent transitional provision which may also be safely repealed.

*Welsh Development Agency Act 1975*

- 16.23 The Welsh Development Agency Act 1975 established the Welsh Development Agency and the Welsh Industrial Development Advisory Board. Section 27(1) contains text that related to the Welsh Development Agency's first accounting year (that ended in 1977). Section 29(2) is the 1975 Act's commencement provision. Both provisions are now spent.

*Industrial Common Ownership Act 1976*

- 16.24 According to its long title, the purposes of the Industrial Common Ownership Act 1976 included furthering the development of enterprises controlled by people working in them. Section 1 of the Act empowered the Secretary of State to make grants and loans in support of the purposes of the Act. These powers were time-limited and expired no later than 1981. Accordingly section 1 is now spent.

*Industry Acts 1980 and 1981*

- 16.25 The Industry Act 1980 is an amending enactment and its provisions include amendments to the National Enterprise Board, the Scottish Development Agency, the Welsh Development Agency and the English Industrial Estates Corporation. The repeals proposed<sup>20</sup> are of spent repealing provisions which ceased to serve any purpose once they came into force.
- 16.26 The purposes of the Industry Act 1981 included reducing the public dividend capital of the National Enterprise Board. The Board was dissolved on 1 July 1996 by order made under section 11(2) of the British Technology Group Act 1991<sup>21</sup>.

<sup>19</sup> The 1974 Act, sections 7 (part) and 9(4) and Schedule (part).

<sup>20</sup> Sections 6(4), 8(2), 9, 19, 20 and 22(3) (part).

<sup>21</sup> SI 1996/1448.

After that date, the references in section 3 of the 1981 Act to the public dividend capital became unnecessary and may be repealed. An amendment to section 3 will be needed to give effect to such repeal. The amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions). The 1981 Act also contains a number of other provisions<sup>22</sup> which are unnecessary because they are spent repealing, commencement or extent provisions.

#### *Energy Conservation Act 1981*

- 16.27 According to its long title the purpose of the Energy Conservation Act 1981 was to make provision for regulating the design, construction and operation of certain energy-consuming appliances. Although the 1981 Act came into force automatically at Royal Assent (21 May 1981), none of the order-making powers required to trigger the practical operation of the Act have ever been exercised. The reason for this appears to have been, in part at least, because the purpose of the Act has since been given effect to by subordinate legislation including regulations made under the Building Act 1984<sup>23</sup>. On this basis the 1981 Act has been superseded and may be repealed accordingly.

#### *Industrial Development Act 1982/Regional Development Grants (Termination) Act 1988*

- 16.28 The repeals proposed under this heading are of spent provisions in the Industrial Development Act 1982 and in the Regional Development Grants (Termination) Act 1988.
- 16.29 The repeals arise primarily out of the repeal by the Regional Development Grants (Termination) Act 1988 of the system of regional development grants established under Part 2 of the Industrial Development Act 1982. The 1988 Act abolished the power of the Secretary of State to make such grants with effect from 1 April 1988. This was subject to transitional arrangements which are now spent. In the result the whole of the 1988 Act and Part 2 of the 1982 Act are now spent and may be repealed<sup>24</sup>.
- 16.30 Several other provisions in the 1982 Act are now unnecessary. These include section 11(3) (a spent transitional provision relating to the Secretary of State's

<sup>22</sup> Sections 2(4) and 7 (part).

<sup>23</sup> The current regulations are the Building Regulations 2000, SI 2000/2531. Schedule 1 to these regulations contains requirements, so far as buildings in England and Wales are concerned, to ensure that water in hot water systems is stored and conveyed safely and that fuel and power is conserved in the operation of these systems. Similar regulations exist for Scotland and Northern Ireland.

<sup>24</sup> The repeal of the 1988 Act and of Part 2 of the 1982 Act will permit a number of consequential repeals. These repeals are in sections 1, 15 and 18 of, and Schedules 1 and 2 to, the 1982 Act; in sections 5 and 7 of, and Schedule 1 to, the Co-operative Development Agency and Industrial Development Act 1984; and in Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995. An amendment to section 15(1)(a) of the 1982 Act is needed to remove an unnecessary reference to Part 2 of that Act. This amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions).

powers to give advice to businesses), section 15(4) (a spent transitional provision relating to the Secretary of State's duty to produce certain annual reports) and section 16(4) (a spent transitional provision relating to the Secretary of State's duty to prepare certain accounts).

*Co-operative Development Agency and Industrial Development Act 1984*

- 16.31 The purposes of the Co-operative Development Agency and Industrial Development Act 1984 included the dissolution of the Co-operative Development Agency. Section 3 provided for the dissolution of the Agency which took effect on 31 December 1990<sup>25</sup>. Section 3 thereupon became spent. The repeal of section 3 will permit the consequential repeals of text in sections 6 and 8. Section 7 is a spent commencement provision and may be repealed along with ancillary provisions in Schedule 2.

*British Technology Group Act 1991*

- 16.32 The British Technology Group Act 1991 was a paving measure to provide for the privatisation in early 1992 of the British Technology Group, a body formed in 1981 by an amalgamation of the two public bodies known as the National Research Development Corporation and the National Enterprise Board.
- 16.33 Several of the provisions of the 1991 Act dealing with the nomination of the new privatised company<sup>26</sup> and the arrangements whereby the Government would acquire a shareholding in that company are now spent<sup>27</sup>. Also spent are provisions for extinguishing certain outstanding reserves and liabilities of the two public bodies<sup>28</sup>, financial provisions relating to the new company<sup>29</sup>, a provision as to the status of shares in the new company for trustee investment purposes<sup>30</sup> and a provision relating to Parliamentary scrutiny of orders made by the Secretary of State<sup>31</sup>.

*Export and Investment Guarantees Act 1991/Deregulation and Contracting Out Act 1994*

- 16.34 The Export and Investment Guarantees Act 1991 was enacted to amend the powers of the Export Credits Guarantee Department. Section 7(4) of the 1991 Act is a transitory provision relating to the preparation of the first annual return concerning the discharge of functions under the Act. Section 15(6) is a spent commencement provision. Both provisions may be repealed.

<sup>25</sup> Co-operative Development Agency (Winding-Up and Dissolution) Order 1990, SI 1990/279.

<sup>26</sup> The 1991 Act, section 1(2) and (5), Sch.1, para.1.

<sup>27</sup> The 1991 Act, sections 3 to 7.

<sup>28</sup> The 1991 Act, section 2.

<sup>29</sup> The 1991 Act, sections 8(2) (part), 8(3) and 9.

<sup>30</sup> The 1991 Act, section 13.

<sup>31</sup> The 1991 Act, section 14(2) (reference to the spent order-making power in section 6).

16.35 The main purpose of the Deregulation and Contracting Out Act 1994 was to amend the law in order to remove or reduce burdens affecting the carrying on of trades, businesses or professions. The Act contained many provisions<sup>32</sup> repealing existing legislation. Such provisions became spent once they had taken effect and may now be repealed themselves. Also repealable is section 82(2) to (7) which, providing for commencement of the 1994 Act, became spent on 1 January 1996 when the whole of the Act had been brought into force. Finally paragraphs 5 to 8 of Schedule 4, which were transitional provisions arising out of the repeal by the 1994 Act of provisions in section 3 of the Competition Act 1980, have now ceased to serve any useful purpose and may therefore be repealed.

*Consultation on Part 16 (Group 2)*

16.36 Those consulted about the repeal proposals in Group 2 of this part of the report include (as appropriate) HM Treasury, the Department of Trade and Industry, the Department for Constitutional Affairs, the Department for Environment, Food and Rural Affairs, the Office of the Deputy Prime Minister, the Export Credits Guarantee Department, the Director General of Fair Trading, BTG plc and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

<sup>32</sup> Sections 14, 23, 24, 62(2), 64 and parts of Schedules 10, 11 and 16.

# **PART 17**

## **MISCELLANEOUS**

### *Introduction*

- 17.1 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 and are too disparate in nature to justify any other description.

### *Group 1 - Animals*

#### *Customs and Inland Revenue Act 1893*

- 17.2 The Customs and Inland Revenue Act 1893 was enacted for a variety of tax purposes including levying customs duty on tea and stamp duty on contract notes. The only surviving substantive provision in the 1893 Act is section 2 which relates to the need for excise licences in respect of game imported from overseas. For that purpose, the 1893 Act amends the Game Licences Act 1860. Not only are parts of section 2 now unnecessary<sup>1</sup> but, since the 1893 Act now applies only to excise duty in relation to game, it would be more logical to insert section 2 into the enactment which it amends. This can be achieved by an appropriate amendment to the Game Licences Act 1860. The amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions). The 1893 Act may then be formally repealed.

#### *Dogs Act 1906/Docking and Nicking of Horses Act 1949*

- 17.3 Section 9 of the Dogs Act 1906 applied the Act to Northern Ireland subject to modifications. However, section 9 became unnecessary when the 1906 Act was repealed as to Northern Ireland in 1983<sup>2</sup>.
- 17.4 The two provisions in the Docking and Nicking of Horses Act 1949 that are proposed for repeal are both commencement provisions which are long since spent.

#### *Game Laws (Amendment) Act 1960/Agriculture (Miscellaneous Provisions) Act 1968/Farriers (Registration) (Amendment) Act 1977*

- 17.5 The Game Laws (Amendment) Act 1960 was passed to discourage poaching of game. Section 3 contains a spent provision repealing an earlier provision. Section 5, which increased levels of fines that could be imposed for certain offences, has

<sup>1</sup> These are the references to the Revenue (No.2) Act 1861 (repealed by the Statute Law (Repeals) Act 1977, s.1, Sch.1, Pt.10) and the reference to Ireland (which became unnecessary when the 1893 Act was repealed as to Northern Ireland by the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1953, s.80, Sch.4).

<sup>2</sup> Dogs (Northern Ireland) Order 1983, SI 1983/764, art.56(2), Sch.2; Dogs (1983 Order) (Commencement No.2) Order (N.I.) 1983, SI 1983/376.

been superseded by later amendments<sup>3</sup>. Section 6(4) is the commencement provision which became unnecessary when the 1960 Act came into force on 2 June 1960.

- 17.6 Section 6(4) of the Agriculture (Miscellaneous Provisions) Act 1968 contains a reference to the Agriculture (Poisonous Substances) Act 1952 which became obsolete when the whole of the 1952 Act was repealed on 1 January 1997<sup>4</sup>. Section 54(2) is a spent commencement provision.
- 17.7 The provisions in the Farriers (Registration) (Amendment) Act 1977 that have been identified for repeal are spent repealing and commencement provisions<sup>5</sup>.

*Animal Health Act 1981/Zoo Licensing Act 1981*

- 17.8 The Animal Health Act 1981 consolidated enactments relating to animal health. Section 77 contains a transitory provision which was operable until the coming into force of the Magistrates' Courts Act 1980. Accordingly the provision became spent when that Act came into force on 6 July 1981<sup>6</sup>. The 1981 Act also contains spent transitional and amending provisions.<sup>7</sup>
- 17.9 The purpose of the Zoo Licensing Act 1981 was to regulate by licence the conduct of zoos. Section 20 is a transitory provision whereby anyone operating a zoo before the 1981 Act came into force was given a maximum of 12 months to obtain a licence. This provision is clearly now spent along with other transitory provisions in section 20<sup>8</sup>. Sections 22 and 23 contain spent repealing and commencement provisions.

*Animal Health and Welfare Act 1984/Protection of Animals (Penalties) Act 1987/Local Government Act 1988*

- 17.10 The purposes of the Animal Health and Welfare Act 1984 included the amendment of the Animal Health Act 1981 and the repeal of the Improvement of Live Stock (Licensing of Bulls) Act 1931 and of the Horse Breeding Act 1958. Section 4 repealed section 17(4) of the 1981 Act and section 12 repealed the 1931 and 1958 Acts. Both sections are accordingly now spent as are the commencement provisions of section 17(2) and (3).
- 17.11 Section 1(1) of the Protection of Animals (Penalties) Act 1987 increased the existing penalties for certain offences against animals. Section 1(2) limited the effect of section 1(1) to offences committed after the commencement of the 1987 Act. As a transitory provision, section 1(2) no longer serves any useful purpose.

<sup>3</sup> These amendments were made by virtue of the Criminal Justice Act 1982, ss.38, 46. Section 5 of the 1960 Act also contains a spent saving provision.

<sup>4</sup> Health and Safety (Repeals and Revocations) Regulations 1996, SI 1996/3022.

<sup>5</sup> The 1977 Act, ss.1(2), 2(2), 2(3).

<sup>6</sup> Magistrates' Courts Act 1980 (Commencement) Order 1981, SI 1981/457.

<sup>7</sup> The 1981 Act, s.94(1), Sch.5, para.4.

<sup>8</sup> The repeal of section 20 will permit the consequential repeal of section 1(4).

Similarly spent are sections 2(2) and (3) which are, respectively, repealing and commencement provisions.

- 17.12 The final repeal candidate in this Group is section 38 of the Local Government Act 1988. Section 38(1) abolished the duty charged under the Dog Licences Act 1959 on dog licences. Section 38(2) and (3) amended statutory provisions that have since been repealed<sup>9</sup>. Section 38(4) is the commencement provision for section 38. Since all four provisions are now spent, section 38 may safely be repealed.

*Consultation on Part 17 (Group 1)*

- 17.13 Those consulted about the repeal proposals in this Group include (as appropriate) HM Treasury, HM Customs and Excise, the Inland Revenue, the Office of the Deputy Prime Minister, the Home Office, the Department for Environment, Food and Rural Affairs and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 2 - Banks and Building Societies*

*Banks*

- 17.14 The purposes of the Bank Charter Act 1844 included the giving of certain privileges to the Bank of England for a limited period. Section 27 provided that these privileges were to last pending redemption of the public debt owed to the Bank. When this debt was repaid on 27 July 1994<sup>10</sup> section 27 ceased to serve any useful purpose.
- 17.15 Section 5 of the Bank Act 1892 was concerned with the rate of interest on Government debt to be paid to the Banks of England and Ireland. This debt has long since been repaid with the result that section 5 is now unnecessary.
- 17.16 The main purpose of the Bank of England Act 1946 was to bring the Bank of England into public ownership. Government stock was issued to shareholders by way of compensation and Schedule 1 to the 1946 Act contains a transitional provision<sup>11</sup> relating to the first interest payment on that stock on 5 April 1946. After that date the transitional provision became spent.
- 17.17 The Currency and Bank Notes Act 1954 and the Banking Act 1979 contain a number of provisions that are now spent. In the 1954 Act, section 4(3) was the commencement provision that became unnecessary when the 1954 Act came into force on 22 February 1954. In the 1979 Act, sections 51(2) and 52(3) are spent repealing and commencement provisions.

<sup>9</sup> Section 38(2) and (3) amended, respectively, Protection of Animals (Cruelty to Dogs) Act 1933, s.1, and Protection of Animals (Cruelty to Dogs) (Scotland) Act 1934, s.1. Both the 1933 and 1934 Acts were repealed by Protection of Animals (Amendment) Act 1988, s.3(2), Sch.

<sup>10</sup> The Bank of England's tercentenary.

<sup>11</sup> Schedule 1, para.4.

- 17.18 Section 2 of the Currency Act 1983 set a limit on the amount of the Bank of England fiduciary note issue. Section 2(8) is a transitional provision which related to this limit and which expired on 28 March 1985. Section 2(9) is a spent repealing provision as is section 3(5).

#### *Building Societies*

- 17.19 According to its long title, the purpose of the Building Societies Act 1986 was to make fresh provision with respect to building societies and further provision with respect to conveyancing services. Section 124 and Schedule 21 were intended to facilitate the provision of conveyancing services in England and Wales by building societies and other institutions and individuals. In the event these provisions were felt to be unnecessarily elaborate and were never utilised. Indeed they were overtaken by a new conveyancing regime contained in the Courts and Legal Services Act 1990, which prospectively repealed the 1986 provisions (although the repeal was never activated by the necessary commencement order). Accordingly section 124 and Schedule 21 may be repealed as being superseded. This will permit a number of consequential repeals to the 1986 Act<sup>12</sup>. A consequential amendment will be needed to the definition of 'conveyancing services' in section 69(17) and an appropriate amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions).

#### *Consultation on Part 17 (Group 2)*

- 17.20 Those consulted about the repeal proposals in this Group include (as appropriate) HM Treasury, the Bank of England, the Department for Constitutional Affairs, the Bank of Ireland, the Financial Services Authority, the Building Societies Association, the Building Societies Commission and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

#### *Group 3 - Betting, Gaming and Lotteries*

##### *Art Unions Act 1846*

- 17.21 Art Unions were associations first established in the early part of the nineteenth century to foster and promote the production of works of art by both struggling and thriving artists. Art Unions assisted artists by holding exhibitions and sales of their work. Their work, mainly but not exclusively pictures, would be put up for sale by means of a lottery during exhibitions organised by an Art Union. Union members would buy tickets which, if successful in the draw, would win as the prize either a work of art or else a cash sum which would be spent on one of the exhibits.
- 17.22 Because these lotteries appeared to constitute private lotteries which were unlawful at the time<sup>13</sup>, an Act of 1844<sup>14</sup> was passed exempting Art Unions from

<sup>12</sup> The 1986 Act, ss.119(5), 122(1), 126(3), 126(4). Other obsolete provisions in the 1986 Act are paras.3 and 19(2) of Schedule 18 which are spent amending provisions.

<sup>13</sup> The first statute to outlaw lotteries was an Act of 1698 entitled "An Act for suppressing of Lotteries". Later Acts prohibiting private lotteries were passed in 1710, 1721, 1722, 1732, 1738, 1787, 1802, 1806, 1823, 1836 and 1845. All these prohibitions have now been lifted,

the laws prohibiting lotteries and gaming. This Act was superseded by an Act of 1845<sup>15</sup> which in turn was replaced by the Art Unions Act 1846.

- 17.23 The effect of the 1846 Act, section 1 of which remains in force, was to exempt Art Unions from the normal legal prohibitions concerning the holding of private lotteries. To gain this exemption an Art Union would either have to be incorporated by Royal Charter or else have its constitution and rules approved by the Privy Council.
- 17.24 The exact number of Art Unions established since 1846 is not known. A memorandum produced by the Board of Trade in 1908 stated that there were at the time 49 authorised Art Unions in existence. Public Record Office files show that Art Unions continued to be established at least until the late 1920s. In all perhaps 80 or 90 were established, most of which were local in nature. Many large cities including London, Manchester, Bristol, Edinburgh, Glasgow and Belfast had at least one Art Union.
- 17.25 The significance of the 1846 Act had greatly diminished by the 1930s. This was no doubt due largely to the relaxation of lottery law brought about by the Betting and Lotteries Act 1934 which legalised the holding of private lotteries and small public lotteries. Another factor was probably the increased regulation over the conduct of Art Union lotteries. Not only did the constitution of each Union have to be approved by the Board of Trade, a certificate was needed from three magistrates as to the bona fide character of the operation of the Union and the results of each draw had to be published in the local newspaper, a copy being sent to the Board of Trade. According to Board of Trade records, only six Art Unions were still active in 1962. By 1970 that number had reduced to three, all based in Scotland. The last record of an Art Union draw being sent to the Department of Trade and Industry (as successor to the Board of Trade) was in 1975.
- 17.26 Extensive research carried out with the assistance of the Privy Council Office, the Public Record Office and the Department of Trade and Industry indicates that the 1846 Act has fallen into disuse. Consultation with a wide range of organisations throughout the United Kingdom who would be likely to know of the continuing existence of any Art Union points to the same conclusion. Any association who today wished to conduct a lottery to support the work of artists would be able to do so in accordance with section 5 of the Lotteries and Amusements Act 1976<sup>16</sup>. Accordingly the repeal of the 1846 Act is proposed on the basis that it is obsolete and unnecessary. Repeal of the 1846 Act will permit the consequential repeal of the Betting and Lotteries Act 1934 (the only surviving

the modern law on private lotteries being mostly contained in the Lotteries and Amusements Act 1976.

<sup>14</sup> 7 & 8 Vict. c.109.

<sup>15</sup> 8 & 9 Vict. c.57.

<sup>16</sup> Section 5 provides for registration of “societies’ lotteries” either with a local authority or with the Gaming Board.

provisions of which relate to Art Unions) and provisions in the Lotteries and Amusements Act 1976 and in the Finance Act 1993<sup>17</sup>.

#### *Other repeals*

##### *Finance Act 1967/Gaming Act 1968*

- 17.27 In the Finance Act 1967, section 45(2) provides a now unnecessary definition of the term “the Board”, whilst section 45(3)(f) contains a now obsolete reference to Part 4 of the 1967 Act (Part 4 having already being repealed<sup>18</sup>). In the Gaming Act 1968, sections 44 and 54 contain spent repealing and commencement provisions<sup>19</sup>. All these provisions may now be repealed.

##### *Lotteries and Amusements Act 1976/Gaming (Amendment) Acts 1982 and 1987/Bingo Act 1992*

- 17.28 The Lotteries and Amusements Act 1976 consolidated existing enactments relating to lotteries, prize competitions and amusements with prizes. Paragraph 7 of Schedule 4 to the 1976 Act amended the Pool Competitions Act 1971 and this amendment became unnecessary in July 1987 when the 1971 Act ceased to have effect.
- 17.29 The repeals proposed in respect of the Gaming (Amendment) Acts 1982 and 1987 and the Bingo Act 1992 are of spent repealing or commencement provisions.

##### *Consultation on Part 17 (Group 3)*

- 17.30 Those consulted about the repeal proposals in this Group include (as appropriate) HM Treasury, the Inland Revenue, the Department of Trade and Industry, the Department for Culture, Media and Sport, the Office of the Deputy Prime Minister, the Privy Council Office, the Gaming Board for Great Britain, the Charity Commission, the Arts Council, the Scottish Arts Council, the Arts Council of Northern Ireland, the Royal Society of Arts, the Royal Academy, the National Art Collections Fund and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

#### *Group 4 - Charities*

##### *Charitable Trusts (Validation) Act 1954*

- 17.31 The principle purpose of the Charitable Trusts (Validation) Act 1954 was to validate trust provisions contained in instruments taking effect before 16 December 1952<sup>20</sup> so as to ensure that the trusts were not disqualified from being

<sup>17</sup> The 1976 Act, s.25(6); the 1993 Act, s.24(4)(e).

<sup>18</sup> Finance Act 1972, ss.122(5), 134(7), Sch.28 Pt.9.

<sup>19</sup> Other consequential repeals in the 1968 Act are in section 51(5) and in Schedule 3.

<sup>20</sup> This was the date of publication of the report of the Committee on the Law and Practice relating to Charitable Trusts (Cmd 8710). The 1954 Act reflects some of the recommendations of this report.

charitable merely because the trust property could be used for purposes that were not exclusively charitable. Section 4(1) to (3) are transitional provisions in respect of legal proceedings that were either pending when the 1954 Act came into force on 30 July 1954 or, if already disposed of by that date, had been commenced after 15 December 1952. The purpose of section 4(1) to (3) was to enable a court to take into account the validating effects of the 1954 Act. These transitional provisions are clearly now spent.

#### *Recreational Charities Act 1958*

- 17.32 One of the purposes of the Recreational Charities Act 1958 was to deem charitable the provision of facilities for recreation or other leisure-time occupation, if the facilities are provided in the interests of social welfare. Section 3(4) allows income tax adjustments to be made resulting from any retrospective conferment of charitable status. However since any claims for tax refunds had to be made by 12 March 1960, section 3(4) has long been spent. Also spent is section 3(5) which allowed stamp duty refunds provided that any application for refund was made by 12 March 1960<sup>21</sup>.

#### *Charities Acts 1960 and 1993*

- 17.33 Section 28(9) of the Charities Act 1960 provides for the repeal of the Charities Procedure Act 1812 and other enactments. The reference to the 1812 Act became spent when the repeal took effect on 1 January 1961<sup>22</sup>. Section 48(5) is a spent saving provision relating to legal proceedings that were pending when the 1960 Act came into force on 1 January 1961, and Schedule 6 contains a number of consequential amendments that are now unnecessary because the enactments which they amended have since been repealed.
- 17.34 The only candidates for repeal in the Charities Act 1993 are the commencement provisions in section 99(1) and (2) and the spent transitional provisions in section 99(3) and (4) and in Schedule 8.

#### *Consultation on Part 17 (Group 4)*

- 17.35 Those consulted about the repeal proposals in this Group include (as appropriate) the Charity Commission, the Home Office, HM Treasury, the Inland Revenue and the relevant authorities in Wales. No objections have been raised.

#### *Group 5 - Companies*

##### *Companies Clauses Consolidation Act 1845*

- 17.36 Section 33 of the Companies Clauses Consolidation Act 1845 (which relates to evidence as to forfeiture of shares) provides for a declaration in writing to be made “before any Justice or before any Master or Master Extraordinary of the High Court of Chancery”. This reference to master extraordinary has long been

<sup>21</sup> The repeal of section 3(4) and (5) will permit the consequential repeal of text in section 3(3) of the 1958 Act.

<sup>22</sup> The 1960 Act, ss.48(2), 49(3), Sch.7, Pt.1.

obsolete. By virtue of an Act of 1853<sup>23</sup> such masters became known as 'Commissioners to administer oaths in Chancery in England'. However, such Commissioners ceased to exist when the Commissioners for Oaths Act 1889 established a new system whereby practising solicitors and others were appointed commissioners for oaths. Accordingly the reference to master extraordinary is now obsolete and may be repealed on that basis.

*Companies Acts 1985 and 1989*

- 17.37 The Companies Act 1985 contains a number of obsolete references to the Chartered Companies Act 1837. The purpose of the 1837 Act was to facilitate the formation and regulation of companies or bodies of persons so as to enable them to trade with limited liability. However the 1837 Act proved to be unsatisfactory and a new system of incorporation was established by the Joint Stock Companies Act 1844. The 1837 Act ceased to be used and no existing registrations under that Act have been identified in the archives of Companies House. Accordingly the references to the 1837 Act in sections 44, 103 and 718 of the Companies Act 1985 are obsolete and may be repealed<sup>24</sup>.
- 17.38 The purpose of the Companies Act 1989 was to amend the existing law on companies. Several of these amendments are now spent or otherwise unnecessary, mostly because they are either repealing provisions or else because the statutory provision amended has since been repealed<sup>25</sup>.

*Companies Consolidation (Consequential Provisions) Act 1985*

- 17.39 The Companies Consolidation (Consequential Provisions) Act 1985 contains a number of saving and amending provisions which are now unnecessary.
- 17.40 Section 21 of the 1985 Act is a saving provision to preserve the effect of aspects of section 319 of the Companies Act 1948. Section 319 was concerned with preferential payments and provided that, in a winding up of a company, certain debts should be paid off in priority to other debts. Section 21 preserved any priority to which anyone may have been entitled on 1 July 1985 in respect of certain obsolete taxes and obsolete workmen's compensation liabilities (arising before 1949). However, since the Inland Revenue have confirmed that the taxes saving is no longer required and since the passage of time means that any outstanding workmen's compensation claims will long ago have been disposed of, section 21 may now be repealed as unnecessary.
- 17.41 Section 27 amended the Companies (Alteration of Table A etc.) Regulations 1984 but became spent when those regulations were revoked with effect from 1 July 1985<sup>26</sup>. Section 28, which repealed provisions in the Companies Act 1948, became

<sup>23</sup> 16 & 17 Vict. c.78, s.1.

<sup>24</sup> The 1837 Act was finally repealed by the Statute Law (Repeals) Act 1993, s.1, Sch.1, Pt.5.

<sup>25</sup> The candidates for repeal in the 1989 Act are sections 120(4), 127(2)(b), 127(3), 137(2), Schedule 4 (paras.4(3), 7), Schedule 5 (para.2(1)), Schedule 18 (paras.2, 11, 19, 26), Schedule 20 (paras.1, 2(2), 13(2), 20).

<sup>26</sup> Companies (Tables A to F) Regulations 1985, SI 1985/805.

similarly spent when the repeals took effect when the 1985 Act came into force on 1 July 1985. Finally Schedule 2 to the 1985 Act, which provided for consequential amendments to existing enactments, contains many provisions which are now unnecessary either because the enactment being amended has since been repealed or because the amendment has been superseded by a later amendment.

*Consultation on Part 17 (Group 5)*

- 17.42 Those consulted about the repeal proposals in this Group include (as appropriate) the Department of Trade and Industry, the Inland Revenue, the Privy Council Office, the Department for Constitutional Affairs, the Insolvency Service, the Director General of Fair Trading, the Competition Commission and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 6 - Debt and Insolvency*

*Debtors Acts 1869 and 1878*

- 17.43 The Debtors Acts 1869 and 1878 contain the now very limited powers of imprisonment for non-payment of civil debts. Section 5 of the 1869 Act preserves the right of the court to commit a person who defaults on a judgment debt, subject to certain provisos. Paragraph 5 of the second proviso is based on the writ of *capias ad satisfaciendum*. Since, however, this ancient writ was abolished by the Supreme Court Act 1981<sup>27</sup>, paragraph 5 now serves no useful purpose. In the Debtors Act 1878, section 1 contains references to the writ of attachment. Since writs of attachment became obsolete in 1965<sup>28</sup>, these references may be repealed as being obsolete.

*Insolvency Act 1976*

- 17.44 The Insolvency Act 1976 amended the law relating to insolvency in Great Britain, but a series of repeals since 1976 have left the Act virtually spent. The only provisions in the 1976 Act that are unrepealed are sections 12 to 14 and Schedule 2.
- 17.45 Section 12 provides that the power to make rules under section 75 of the County Courts Act 1984 shall include power to make rules for the purposes of Part 6 of that Act and section 4 of the Attachment of Earnings Act 1971. Section 75 of the 1984 Act was in fact repealed by the Civil Procedure Act 1997<sup>29</sup>, section 1 of which provided for rules of court (known as Civil Procedure Rules) to govern the practice and procedure to be followed in the civil division of the Court of Appeal, the High Court and County Courts. Although the 1997 Act preserves the power in section 12 of the 1976 Act for the making of rules under section 75 of the 1984

<sup>27</sup> The 1981 Act, s.141. The writ of *capias ad satisfaciendum* was the standard procedure for arresting debtors before the Debtors Act 1869. Thereafter the writ gradually fell into disuse.

<sup>28</sup> New Rules of the Supreme Court were issued in 1965 which omitted reference to the writ of attachment.

<sup>29</sup> The 1997 Act, s.10, Sch.2, para.2(6).

Act<sup>30</sup>, the reference to the repealed section 75 rather than to the Civil Procedure Rules is apt to mislead. Accordingly it is proposed that section 12 should be replaced by provisions that both preserve the effect of section 12 and update the text by referring to the Civil Procedure Rules. Two appropriate amendments appear in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions) which ensure that Civil Procedure Rules may continue to be made for the purposes of Part 6 of the County Courts Act 1984 and section 4 of the Attachment of Earnings Act 1971. Section 12 of the 1976 Act will then be unnecessary.

- 17.46 Section 13(1) of the 1976 Act is a repealing provision that became spent when it took effect on 20 December 1976. Section 13(2) makes a minor amendment to section 4 of the Attachment of Earnings Act 1971. As with section 12 above, it is proposed that section 13(2) be replaced by a provision that preserves the effect of that subsection. An appropriate amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions). On that basis section 13 will be unnecessary.
- 17.47 Schedule 2 to the 1976 Act contains amendments to other enactments. These amendments, however, are now spent because the enactments they amended have already been repealed<sup>31</sup>. Schedule 2 is accordingly unnecessary as is section 14 which relates to a number of spent provisions and the short title.
- 17.48 There being no other substantive provisions, the 1976 Act as a whole may now be repealed. Also repealable, consequentially, are two amendments made to the 1976 Act by the County Courts Act 1984<sup>32</sup>.

#### *Insolvency Act 1985*

- 17.49 The Insolvency Act 1985 made changes to the existing law concerning the insolvency of individuals and companies. Several provisions in the 1985 Act are now unnecessary. Section 219 amended sections 18 and 19 of the Banking Act 1979, both of which have since been repealed<sup>33</sup> leaving section 219 unnecessary. Section 236(2) is the commencement provision which became unnecessary on 29 December 1986 when the whole of the Act had been brought into force. Schedule 6 contains amendments to the Companies Act 1985. The amendment made to that Act by paragraph 8 of Schedule 6 became spent when it was superseded by a further amendment made by the Insolvency Act 1986<sup>34</sup>. Finally several amendments made by Schedule 8<sup>35</sup> are now spent because the enactments which they amended have either been repealed or else further amended in such a way as to supersede the Schedule 8 amendment.

<sup>30</sup> The 1997 Act, Sch.1, para.1.

<sup>31</sup> Insolvency Act 1985, s.235(3), Sch.10; Insolvency Act 1986, s.438, Sch.12.

<sup>32</sup> The 1984 Act, Sch.2, paras.59 and 60.

<sup>33</sup> Banking Act 1987, s.108(2), Sch.7, Pt.1.

<sup>34</sup> The 1986 Act, s.439(1), Sch.13, Pt.1.

<sup>35</sup> Sch.8, paras.10, 14, 17, 20, 32, 35, 37(2), 38(4).

*Consultation on Part 17 (Group 6)*

- 17.50 Those consulted about the repeal proposals in this Group include (as appropriate) the Department of Trade and Industry, the Inland Revenue, the Department for Constitutional Affairs, the Home Office, the Insolvency Service and the relevant authorities in Wales and Scotland. No objections have been raised.

*Group 7 - Medicine*

*Veterinary Surgeons Act 1966*

- 17.51 The Veterinary Surgeons Act 1966 made fresh provision for the management and regulation of the veterinary profession. Section 28(6) is a transitional provision relating to the tenure of office of members of the Council of the Royal College of Veterinary Surgeons before 15 March 1967. Section 28(7) is a saving provision relating to offences committed before that date. Both provisions are now unnecessary as are the transitional provisions in Schedule 1 concerning the election of members of the Royal College in 1968 and their subsequent retirement. Finally the commencement provisions in section 29 are now spent since the whole of the Act has been in force since 1973.

*Medicines Act 1968*

- 17.52 Part 2 of the Medicines Act 1968 is concerned with licences and certificates relating to medicinal products. The requirements of Part 2 that certain activities should be carried out subject to licence or certificate was subject to transitional arrangements in respect of persons carrying out those activities before the requirements came into force. Some of these transitional arrangements are now unnecessary.
- 17.53 Section 25 contained one such transitional arrangement. It allowed a person carrying out prescribed activities before 1 September 1971 to apply for a 'licence of right'. However since any such licence of right had to be applied for before 1 July 1972<sup>36</sup>, this transitional arrangement has ceased to exist. As a result sections 25(1) to (3) and 26 are spent. Also spent are transitional provisions in section 37 concerning clinical trials and medicinal tests on animals.
- 17.54 Other provisions in the 1968 Act that are now unnecessary are section 99(6) (which prohibited the publication of a new edition of *British Pharmacopoeia* before 1 February 1978), section 120 (an unused regulation-making power to compensate anyone for employment losses arising from the 1968 Act) and the proviso to section 135(2) (repeal of section 47 of the Medical Act 1956 not to take effect before 1 February 1978). Finally paragraph 1 of Schedule 5, which amended the Venereal Disease Act 1917, became spent once the 1917 Act had been repealed<sup>37</sup>.

<sup>36</sup> The 1968 Act, s.25(1); Medicines (Closing Date for Applications for Licences of Right) Order 1972, SI 1972/717.

<sup>37</sup> Statute Law (Repeals) Act 1998, s.1, Sch.1, Pt.10.

*Misuse of Drugs Act 1971/Controlled Drugs (Penalties) Act 1985*

- 17.55 Section 37(5) of the Misuse of Drugs Act 1971 is a transitional provision which operated pending the repeal of provisions in the Pharmacy and Poisons Act 1933 and in the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945. The relevant provisions in the 1933 Act were repealed by the Medicines Act 1968<sup>38</sup> and the words in section 37(5) relating to the 1945 Act were repealed on 1 February 1978<sup>39</sup>. Accordingly section 37(5) is spent as are the words in section 37(1) referring to section 37(5). Section 40(3) is the commencement provision which became unnecessary on 1 July 1973 once the whole of the 1971 Act had been brought into force.
- 17.56 In the Controlled Drugs (Penalties) Act 1985, section 2 contains the commencement provision (which became unnecessary on 16 September 1985 when the whole of the Act came into force) and a spent saving provision relating to offences committed before that date.

*Biological Standards Act 1975*

- 17.57 Section 6 of the Biological Standards Act 1975 empowered Ministers to make orders modifying the provisions of licences under Part 2 of the Medicines Act 1968. No such orders have been made and, since this power could be exercised only until 30 June 1977, section 6 is now spent. Section 8 contains a transitory provision covering the period between 1 July 1976 and 31 March 1977 and is accordingly now spent. Equally spent is section 9(2) which is the commencement provision and which became unnecessary once the whole of the 1975 Act came into force on 1 July 1976.

*Consultation on Part 17 (Group 7)*

- 17.58 Those consulted about the repeal proposals in this Group include (as appropriate) the Department of Health, the Home Office, the Department for Environment, Food and Rural Affairs, the National Biological Standards Board, the Royal College of Veterinary Surgeons and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 8 - Mental Health*

*Mental Health Act 1959/Mental Health (Amendment) Act 1982*

- 17.59 Schedule 7 to the Mental Health Act 1959 made minor and consequential amendments to existing enactments. Certain entries in Schedule 7 are now unnecessary because the enactments that they amended have since been repealed<sup>40</sup>.

<sup>38</sup> The 1968 Act, Sch.6 (repealing the 1933 Act, ss.8 to 10).

<sup>39</sup> Pharmacy (Northern Ireland) Order 1976, SI 1976/1213, art.26(c), Sch.6.

<sup>40</sup> These enactments are Children and Young Persons Act 1933, s.92, Sch.4, para.4; Local Government Act 1958, s.46(1), Sch.1, Pt.3, para.4; Adoption Act 1958, s.37(3).

- 17.60 The Mental Health (Amendment) Act 1982 amended the Mental Health Act 1959 in anticipation of the consolidating Mental Health Act 1983. The opening words of section 34(5), which refer to the powers of the Crown Court under section 3 of the Costs in Criminal Cases Act 1973, became unnecessary with the repeal of the 1973 Act<sup>41</sup>. Schedule 3 to the 1982 Act made consequential amendments to existing enactments. Several of these entries are now unnecessary because the enactments that they amended have since been repealed<sup>42</sup>.

*Mental Health Act 1983*

- 17.61 The Mental Health Act 1983 consolidated most of the existing statute law relating to mentally disordered persons. Section 48 concerns the powers of the Secretary of State to remove to hospital prisoners who are suffering from mental illness or impairment. Section 48(2), in listing the persons to whom this provision applies, refers to persons committed to prison in pursuance of a writ of attachment. Writs of attachment provided an alternative to committal as a means of punishing contempt of court. However since the writ of attachment has not been available since 1965<sup>43</sup>, the reference to it in section 48(2) is obsolete. Section 149(3) provided for the commencement by order of sections 35, 36, 38 and 40(3). Since the necessary order has been made (bringing the sections into force on 1 October 1984)<sup>44</sup>, section 149(3) is now spent.

- 17.62 Schedules 3 and 4 contain statutory references that are no longer required, in most cases because the enactments being referred to have been repealed. Thus in Schedule 3 there are three such references<sup>45</sup> and in Schedule 4 there are seven<sup>46</sup>. Schedule 5 contains a large number of transitional and saving provisions<sup>47</sup>. Again the passage of time since 1983 has meant that many of these provisions are now spent.

*Public Trustee and Administration of Funds Act 1986/Mental Health (Amendment) Act 1994*

- 17.63 In the Public Trustee and Administration of Funds Act 1986, sections 4 and 6(2) are, respectively, repealing and commencement provisions that became spent when the whole of the Act came into force on 2 January 1987.

<sup>41</sup> Prosecution of Offences Act 1985, s.31(6), Sch.2.

<sup>42</sup> These enactments are Criminal Procedure (Insanity) Act 1964, Sch.1; Children and Young Persons Act 1969, s.2(10); Costs in Criminal Cases Act 1973, s.18(1)(c); Criminal Procedure (Scotland) Act 1975, ss.13, 322.

<sup>43</sup> New Rules of the Supreme Court were issued in 1965 altering existing procedures.

<sup>44</sup> SI 1984/1357.

<sup>45</sup> Inclosure Act 1845, ss.133, 134, 137; Tithe Act 1846, ss.5, 9, 10; Merchant Shipping Act 1894, s.55(1).

<sup>46</sup> Administration of Justice Act 1985, s.18; Immigration Act 1971, s.30(2); Costs in Criminal Cases Act 1973, ss.3(7), 18(1)(c); Powers of Criminal Courts Act 1973, s.3; Residential Homes Act 1980, ss.1(3)(a), 10(1); Reserve Forces Act 1980, Sch.2, para.2(a); Transport Act 1980, s.31(2)(c).

<sup>47</sup> These provisions are in Sch.5, paras.4(1), 4(2), 5, 7, 8, 9(1), 9(3), 10 to 14, 18, 19, 22, 26.

- 17.64 The sole purpose of the Mental Health (Amendment) Act 1994 was to amend the Mental Health Act 1983 by repealing text in section 145(1) of that Act. Accordingly when the repeal took effect on 14 April 1994 the Act as a whole became spent.

*Consultation on Part 17 (Group 8)*

- 17.65 Those consulted about the repeal proposals in this Group include (as appropriate) the Department of Health, the Home Office, the Department for Constitutional Affairs and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 9*

*National Trust*

- 17.66 This group is concerned with repeals to the National Trust Acts of 1907, 1937, 1939, 1953 and 1971. In relation to each of the above mentioned Acts those provisions<sup>48</sup> which required the National Trust to pay the costs, charges and expenses relating to the passing of each Act have been complied with and can be repealed. Also this group concerns the National Trust Charity Scheme Confirmation Act 1919.

*National Trust Act 1907*

- 17.67 Various provisions of the National Trust Act 1907 are spent and can, therefore, be repealed. Section 10 is a transitional provision which applied to actions or proceedings pending immediately before 21 August 1907. Such actions will by now have been disposed of rendering section 10 spent. In accordance with section 38 the National Trust registered a copy of the 1907 Act thus causing section 38 to become spent. Further the whole of the 1907 Act can be repealed in so far as it extends to the Isle of Man (see para.17.69 below).

*National Trust Act 1937*

- 17.68 Section 6(1) of the National Trust Act 1937, which provided for the application of certain provisions of the Mortmain and Charitable Uses Acts of 1888 and 1891, became spent on the repeal of the 1888 and 1891 Acts. The repeal and annulment provided for by section 12(2) and section 13 became spent on their coming into force on 1 July 1937 (the passing of the 1937 Act), thus allowing for the repeal of sections 12(2) and 13. In addition the whole of the 1937 Act can be repealed in so far as it extends to the Isle of Man (see para.17.69 below).

*National Trust Act 1939*

- 17.69 Section 16(1) of the National Trust Act 1939 provides as to the extent of the National Trust Acts 1907, 1937 and 1939, and the National Trust Charity Scheme Confirmation Act 1919 by extending such Acts (subject to limited

<sup>48</sup> S.39 of the 1907 Act, s.16 of the 1937 Act, s.17 of the 1939 Act, s.5 of the 1953 Act and s.34 of the 1971 Act.

exceptions) to the Isle of Man. Such extension is no longer required. The National Trust no longer holds any property in the Isle of Man<sup>49</sup>. Further, the Manx Museum and National Trust has corresponding powers and duties within the Isle of Man<sup>50</sup>. This allows for the repeal of the Acts of 1907, 1919, 1937 and 1939 in so far as they extend to the Isle of Man. As a result section 16(1) is spent. Subsection (3) of section 16 became spent on 28 July 1939, the date of the coming into force of the repeal for which it provided.

*National Trust Act 1953*

- 17.70 The repeal provided for by section 3(3) of the National Trust Act 1953 came into force on 6 May 1953 rendering the subsection spent.

*National Trust Act 1971*

- 17.71 Various provisions of the National Trust Act 1971 provide for membership of the “existing council” constituted under the 1907 Act. By virtue of section 7(1) and (2) retirement of elected members of “the existing council” and certain other members would have occurred at annual general meetings, the latest one occurring in 1973, thus rendering section 7(1) and (2) spent. Section 8(4) made similar provision for retirement of appointed members on 17 February 1971 (Royal Assent) rendering section 8(4) spent. Section 12(7) is a spent transitional provision providing for the powers of an executive committee until the date of appointment of members under section 12(1). Such appointment has now occurred rendering section 12(7) spent.
- 17.72 By virtue of section 28 the disposal of Kanturk Castle by the National Trust has occurred. Section 28 is spent and can, therefore, be repealed. The repeals provided for by section 32 came into force on 17 February 1971. Section 32 thereupon became spent and can also be repealed.

*Consultation on Part 17 (Group 9)*

- 17.73 Those consulted about the repeal proposals in this Group include the Department for Culture, Media and Sport, the Department for Constitutional Affairs, the relevant authorities in Wales, Northern Ireland and the Isle of Man, the National Trust and the Charity Commission. No objections have been raised.

*Group 10 - Registration Concerning the Individual*

*Non-Parochial Registers Act 1840*

- 17.74 The purpose of the Non-Parochial Registers Act 1840 was to admit certain non-parochial registers (births, baptisms, marriages, deaths, burials) as evidence in

<sup>49</sup> The National Trust conveyed the only property it has ever held in the Isle of Man (the Calf of Man) to the Manx Museum and National Trust in 1986.

<sup>50</sup> By virtue of ss.24 to 28, Manx Museum and National Trust Act 1959 (of Tynwald).

court following a recommendation by Commissioners<sup>51</sup>. Section 1 required the Registrar General for England to receive and deposit in the General Register Office certain registers<sup>52</sup>. Such deposits have long since taken place. Section 4 which placed a duty on the Commissioners to deliver from time to time a descriptive list of certain registers is spent upon the Commissioners ceasing to exist on or before 10 August 1841<sup>53</sup>.

#### *Marriage and Registration Act 1856*

- 17.75 Section 24 of the Marriage and Registration Act 1856 recites the title and explains the effect and result of an Act to “amend the Law relating to the certifying and registering Places of Religious Worship of Protestant Dissenters”<sup>54</sup> (“the 1852 Act”). This part of section 24 is unnecessary and of historical importance only. Section 24 then goes on to enable the Registrar General to allow searches to be made in respect of returns made under the 1852 Act in that year<sup>55</sup> and to issue certified copies which would be admissible as evidence in court. The substance of section 24 is preserved by section 11<sup>56</sup> of the Places of Worship Registration Act 1855, allowing for section 24 to be repealed<sup>57</sup>.
- 17.76 Section 25 (the only other remaining section) provides that the 1856 Act only applies to Ireland or Scotland, if expressly provided. This section is no longer necessary. The 1856 Act does not apply to Northern Ireland<sup>58</sup> and section 24 only applies to England and Wales. Section 25 and thus the 1856 Act can be repealed.

#### *Births and Deaths Registration Act 1858*

- 17.77 Section 1 of the Births and Deaths Registration Act 1858 placed the Registrar General in England under a duty to receive and deposit in the General Register

<sup>51</sup> The Commissioners were appointed on 13 September 1836. Their powers and duties were continued by a further Commission in 1837. They reported on 18 June 1838 and were continued in office by virtue of s.2 (repealed) of the 1840 Act until 10 August 1841.

<sup>52</sup> The requirement applied to the following registers-

All the registers and records of births, baptisms, deaths, burials and marriages then in the custody of the Commissioners (or sent to the Commissioners before 11 November 1840 - proviso to s.1 (repealed)); the registers and records in Schedules (H), (I), (P) and (Q) to 18 June 1838 report of the Commissioners; “such other Registers as are herein-after directed to be deposited with him” - this appears to refer to the registers and records in s.20 (Fleet and May Fair Registers, etc.).

<sup>53</sup> S.2 (repealed).

<sup>54</sup> 15 & 16 Vict. c.36 (repealed).

<sup>55</sup> In 1852, 54,804 returns were made to the Registrar General of places certified as being places of meeting for religious worship.

<sup>56</sup> S.11 of the 1855 Act enables the Registrar General to issue certificates in respect of places certified to him as a place of meeting for religious worship, such certificates to be sufficient evidence in judicial proceedings.

<sup>57</sup> The repeal of s.24 will permit the repeal of the entry relating to it in Public Expenditure and Receipts Act 1968, Sch.3.

<sup>58</sup> Statute Law Revision Act 1953, s.1 and Sch.1.

Office certain registers that were in the custody of the Commissioners and recommended by them for deposit<sup>59</sup>. This one-off duty has long since been complied with rendering section 1 spent. Section 2 enabled registers sent to the Commissioners prior to 31 December 1857 (but too late for inclusion in their report) or during the period immediately following to be deposited also. There is no longer any need for this provision thus allowing for the repeal of section 2. Section 3 (provisions of the Non-Parochial Registers Act 1840 to extend to registers deposited under the 1858 Act) will be preserved by an amendment to the 1840 Act thus enabling the repeal of the 1858 Act. This amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions).

*Registration Service Act 1953*

- 17.78 Various provisions of the Registration Service Act 1953 are spent enabling their repeal. Section 18 is a transitional provision which applied to any superintendent registrar or registrar of births and deaths who held office on 1 October 1953<sup>60</sup> and who was not then a salaried officer. The section continued to apply until such person became salaried in respect of such office. There are no longer any such officers rendering section 18 spent<sup>61</sup>.
- 17.79 Section 22(1) enabled appointments made under enactments repealed by the 1953 Act, and having effect immediately before 1 October 1953, to be continued under the corresponding provision of the 1953 Act. There are no longer any such appointments to which section 22(1) can apply. Section 22(1) is, therefore, spent. Various paragraphs of Schedule 1<sup>62</sup> are spent as they either amended statutes which have been repealed or provided for amendments which have been superseded.

*Registration of Births, Deaths and Marriages (Special Provisions) Act 1957*

- 17.80 Section 7(2) of the Births, Deaths and Marriages (Special Provisions) Act 1957 repealed provisions of certain enactments on 1 April 1959 thereupon becoming spent. Section 7(4) (commencement by Order in Council) became spent on the 1957 Act coming into force on 1 April 1959<sup>63</sup>.

*Population (Statistics) Act 1960*

- 17.81 Section 1(1) of the Population (Statistics) Act 1960 provided for the Population (Statistics) Act 1938 (as amended) to have permanent effect<sup>64</sup>. Section 7(4) of the

<sup>59</sup> The Commissioners were appointed on 1 January 1857 and reported on 31 December 1857.

<sup>60</sup> S.24(3) commencement of the 1953 Act.

<sup>61</sup> The repeal of s.18 permits the repeal of the entry relating to it in Sch.3 of the Public Expenditure and Receipts Act 1968 and the reference to it in Sch.29 of the Local Government Act 1972.

<sup>62</sup> Paras.1, 4, 5, 7, 8, 10 to 13, para.14(b) to (d) and para.15(b) to (d).

<sup>63</sup> Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (Commencement) Order 1959, SI 1959/405.

<sup>64</sup> The 1938 Act had originally been passed for a period of ten years and had then been renewed on a yearly basis.

1938 Act (which provided for the 1938 Act to be of temporary effect) was repealed by section 1(1) of the 1960 Act on 1 January 1961. Section 1(1) thereupon became spent. Section 5(3) of the 1960 Act provided for commencement of certain provisions. These provisions came into force on 1 October 1960 and 1 January 1961 rendering section 5(3) spent.

*Still-Birth (Definition) Act 1992*

- 17.82 Section 2(2) of the Still-Birth (Definition) Act 1992 only applied if the Social Security Contributions and Benefits Act 1992 (“the Benefits Act 1992”) was not in force on 1 October 1992<sup>65</sup>. The Benefits Act 1992 was in force on such date, thus section 2(2) never applied and is spent.

*Consultation on Part 17 (Group 10)*

- 17.83 Those consulted about the repeal proposals in this Group include the General Register Office, the Department for Work and Pensions, the Ministry of Defence, HM Treasury and the relevant authorities in Wales, Scotland and Northern Ireland. No objections have been raised.

*Group 11 - General repeals*

*Powers of Attorney Act 1971*

- 17.84 There are two technical repeal proposals in relation to the Powers of Attorney Act 1971. Section 8 is a repealing provision which became spent when the repeal took effect when section 8 came into force on 1 October 1971. Also spent is section 11(4) which is the commencement provision which ceased to serve any useful purpose when the whole of the 1971 Act came into force on that date. The Department of Trade and Industry, the Department for Constitutional Affairs and the relevant authorities in Wales have been consulted about these repeal proposals. No objections have been raised.

*Auctions (Bidding Agreements) Acts 1927 and 1969*

- 17.85 The purpose of the Auctions (Bidding Agreements) Act 1927 was to render illegal certain agreements and transactions affecting bidding at auctions. Section 2 gave rights to a seller to repudiate a sale contract as against a purchaser who was party to an agreement prohibited by section 1. However section 2 has been superseded by section 3 of the Auctions (Bidding Agreements) Act 1969 which provides the seller with remedies that are equivalent to or better than those available under section 2. Indeed section 2 was virtually repealed by section 3(4) of the 1969 Act which provided that section 2 of the 1927 Act was not to apply to sale contracts made after 22 November 1969<sup>66</sup>. On this basis section 2 of the 1927 Act may be repealed as no longer serving any useful purpose.

<sup>65</sup> S.4(2) - commencement of s.2.

<sup>66</sup> The date on which the 1969 Act came into force.

- 17.86 Three provisions in the Auctions (Bidding Agreements) Act 1969 are now spent. Section 3(3) is a transitional provision to the effect that the seller's remedy (to avoid the sale contract) contained in section 3(1) applies even if the illegal agreement giving rise to the remedy was made before the 1969 Act came into force on 22 November 1969. Thirty years on this transitional provision is long since spent. Equally spent is the transitional provision in section 3(4) which, as stated above, provided that section 2 of the 1927 Act was not to apply to sale contracts made after 22 November 1969. Finally section 5(2) is the commencement provision which became spent when the 1969 Act came into force on that date.
- 17.87 The Department of Trade and Industry and the relevant authorities in Wales and Scotland have been consulted about these repeal proposals. No objections have been raised.

*Battersea Park Act 1853*

- 17.88 The Battersea Park Act 1853 provided for the purchase and extinguishment of all rights of common and other common rights over the site of Battersea Park. The 1853 Act was passed as a consequence of an Act of 1846<sup>67</sup> whereby approval was given for the Commissioners of Her Majesty's Woods to establish a Royal Park in Battersea Fields in the Parish of St Mary, Battersea (then in the county of Surrey). The park is known as Battersea Park and is today owned by the London Borough of Wandsworth.
- 17.89 The 1853 Act resulted from a meeting of the inhabitants of the Parish of St Mary, Battersea held on 8 July 1852 which resolved that the Churchwardens should be authorised to accept £1500 by way of compensation for the extinguishment of their rights. An Act of Parliament was considered necessary to give effect to this agreement because of doubts as to the extent of the common rights and as to how the compensation money should be applied. Upon payment of the £1500 in accordance with the Act, the relevant rights were automatically extinguished with the result that the Act became spent. It may now be repealed on that basis.
- 17.90 The Department for Environment, Food and Rural Affairs, the London Borough of Wandsworth, the Church Commissioners and the Parochial Church Council and Church Wardens of St Mary's, Battersea have been consulted about this repeal proposal. No objections have been raised.

*Wimbledon and Putney Commons Act 1871*

- 17.91 The Wimbledon and Putney Commons Act 1871 vested Wimbledon and Putney Commons in a body of Conservators with a view to preserving the Commons for public exercise and recreation. Section 79 enabled the conservators to redeem an annuity secured by the 1871 Act. This annuity was duly redeemed in 1958 whereupon section 79 became unnecessary.

<sup>67</sup> 9 & 10 Vict. c.38.

- 17.92 The Department for Environment, Food and Rural Affairs and the Wimbledon and Putney Commons Conservators have been consulted about this repeal proposal. No objections have been raised.

*Carriers Act 1830/Carriers Act Amendment Act 1865*

- 17.93 The purpose of the Carriers Act 1830 was to amend the common law position as to the rights and obligations of common carriers when carrying valuable parcels by land. The Act limited the liability of common carriers for the loss of, or damage to, a wide range of valuable goods including precious metals, jewellery, paintings, glass and china<sup>68</sup>.
- 17.94 Section 3 of the 1830 Act provides for the carrier to give a receipt for a package or parcel 'which receipt shall not be liable to any stamp duty'. Stamp duty was chargeable on receipts by virtue of Schedule 1 to the Stamp Act 1891 until the duty was abolished by the Finance Act 1970 as from 1 February 1971<sup>69</sup>. Accordingly the reference to stamp duty in section 3 is now obsolete. Section 11 is also unnecessary. The current version of section 11 was added by the Railways Act 1921<sup>70</sup> to amend the 1830 Act as it applied to railway companies. However this amendment became spent when the amending provision in the 1921 Act was repealed by the Transport Act 1962<sup>71</sup>.
- 17.95 The sole purpose of the Carriers Act Amendment Act 1865 was to amend the Carriers Act 1830 by providing that the term 'lace' in the 1830 Act is not to be construed as including machine-made lace<sup>72</sup>. This is the only purpose of the 1865 Act and its effect may conveniently be incorporated into the 1830 Act by amendment to section 1 of that Act. This amendment appears in *Schedule 2* to the draft Bill (Schedule of consequential and connected provisions) and will permit the repeal of the 1865 Act as being unnecessary.
- 17.96 The Department of Trade and Industry, the Department for Transport, the Inland Revenue and the relevant authorities in Wales, Scotland and Northern Ireland have been consulted about these repeal proposals. No objections have been raised.

*Isle of Man*

- 17.97 The repeal proposals under this heading are of United Kingdom Acts which extended to the Isle of Man and which remain in force in the Island.

<sup>68</sup> Section 1 of the 1830 Act provides that the carrier is not to be liable for loss or damage to the valuables if that value exceeds £10 (unless their value is declared to the carrier when handed over for despatch).

<sup>69</sup> The 1970 Act, s.32, Sch.7, para.2.

<sup>70</sup> The 1921 Act, s.56(1), Sch.6.

<sup>71</sup> The 1962 Act, s.95(1), Sch.12, Pt.1.

<sup>72</sup> The effect of excluding machine-made lace from the 1830 Act was to restore a carrier's liability in the event of the lace being lost or damaged even if its value exceeded £10. The reason for this exclusion seems to have been that, by 1865, machine-made lace was not sufficiently precious a commodity to warrant its inclusion in the 1830 Act.

- 17.98 Most of the Acts in question have already been repealed so far as the United Kingdom is concerned. In most cases the relevant repealing enactment did not extend to the Isle of Man so that these Acts remain in force in the Isle of Man simply because of the technical scope of the repealing enactment. The Acts now proposed for repeal which remain unrepealed for this reason are the Naval Pay and Prize Act 1854<sup>73</sup>, the Convict Prisons Abroad Act 1859<sup>74</sup>, the Extradition Act 1895<sup>75</sup>, the Munitions of War Act 1915<sup>76</sup>, the Coroners (Emergency Provisions) Act 1917<sup>77</sup>, the Increase of Rent etc. (Amendment) Act 1918<sup>78</sup>, the Increase of Rent and Mortgage Interest (Restrictions) Act 1919<sup>79</sup>, the Forestry (Transfer of Woods) Act 1923<sup>80</sup>, the Criminal Justice Act 1925<sup>81</sup>, the Savings Banks Act 1929<sup>82</sup> and the Expiring Laws Act 1969<sup>83</sup>.
- 17.99 The remaining candidates for repeal as to the Isle of Man continue in force to some extent within the United Kingdom.
- 17.100 Section 87(3) and (4) of the Children and Young Persons (Scotland) Act 1937 (power for a court to send children and young persons from the Isle of Man and Channel Islands to approved schools in Scotland) remains in force in Scotland in an amended form but has been repealed as to England by the Children and Young Persons Act 1969<sup>84</sup>. However this repeal did not extend to the Isle of Man. Accordingly section 87(3) and (4) remain in force in the Isle of Man even though the Manx court no longer has any power to send a child or young person to Scotland. These provisions may therefore be repealed as unnecessary.
- 17.101 The Post Office Act 1969 and the British Telecommunications Act 1981 may now be repealed in relation to the Isle of Man because the Post Office no longer

<sup>73</sup> Repealed for the United Kingdom by Exchequer and Audit Departments Act 1866, s.46, Sch.C.

<sup>74</sup> Repealed for the United Kingdom by Administration of Justice Act 1965, s.34(1), Sch.2

<sup>75</sup> Repealed for the United Kingdom by Extradition Act 1989, s.37, Sch.2.

<sup>76</sup> Repealed for the United Kingdom by Munitions of War (Amendment) Act 1916, ss.9(2), 13, 26; Wages (Temporary Regulation) Act 1918, s.6; Restoration of Pre-War Practices Act 1919 s.6(2).

<sup>77</sup> Repealed for the United Kingdom by Coroners (Amendment) Act 1926, s.31, Sch.3.

<sup>78</sup> Repealed for the United Kingdom by Increase of Rent etc. (Amendment) Act 1919, s.2(2), Sch.

<sup>79</sup> Repealed for the United Kingdom by Increase of Rent and Mortgage Interest (Restrictions) Act 1920, s.19(3), Sch.2.

<sup>80</sup> Repealed for the United Kingdom by Forestry Act 1967, s.50, Sch.7.

<sup>81</sup> Although parts of the Criminal Justice Act 1925 remain in force within England and Wales, section 46(2) (which extended to the Isle of Man) was repealed for England and Wales by Criminal Justice Act 1948, s.83, Sch.10, Pt.1.

<sup>82</sup> Repealed for the United Kingdom by a succession of enactments ending up with Finance Act 1962, s.34(7), Sch.11. Pt.6.

<sup>83</sup> Repealed as to the United Kingdom by Statute Law (Repeals) Act 1975, s.1(1), Sch.1, Pt.13.

<sup>84</sup> The 1969 Act, s.72(4), Sch.6.

exercises any functions on the Island<sup>85</sup>. A number of provisions in the 1969 Act will, however, be retained since they still have practical utility.

- 17.102 Those consulted about these repeal proposals relating to the Isle of Man include (as appropriate) the authorities in the Isle of Man, HM Treasury, the Inland Revenue, the Department for Constitutional Affairs (in relation to the Isle of Man), the Ministry of Defence, the Office of the Deputy Prime Minister, the Crown Estate, the Department of Trade and Industry, the Post Office, British Telecommunications plc and the Scottish Executive Education Department. No objections have been raised.

<sup>85</sup> In 1973 the Post Office surrendered its rights over postal services on the Island, with the result that postal services became administered by or under the authority of the Island's Government. This arrangement was given effect to by the Postal Services (Isle of Man) Order 1973, SI 1973/959.

## **SCHEDULE 2**

### **Consequential and Connected Provisions**

#### *Carriers Act 1830*

1. This amendment is consequential upon the proposal to repeal the whole of the Carriers Act Amendment Act 1865. The 1865 Act amended the Carriers Act 1830, and the effect of the amendment is to save the substance of the 1865 Act and insert it into the 1830 Act. See paragraph 17.95.

#### *Judicial Committee Act 1833*

2. This amendment inserts into the Judicial Committee Act 1833 the only remaining provision of the Court of Chancery Act 1851 which is section 16 (quorum of the Judicial Committee). Section 16 sits in isolation from the main statutory provisions concerning the Judicial Committee. A more logical place for it would be in the 1833 Act which already includes a provision as to quorum (section 5). This amendment will also permit the repeal of the 1851 Act as a whole. See paragraph 1.7.

#### *Non-Parochial Registers Act 1840*

3. This amendment is consequential upon the proposal to repeal the whole of the Births and Deaths Registration Act 1858. The only provision of substance remaining in the 1858 Act is section 3 which amended the effect of the Non-Parochial Registers Act 1840 in relation to the 1858 Act. The effect of the amendment is to save section 3 and insert it into the 1840 Act. See paragraph 17.77.

#### *Game Licences Act 1860*

4. This amendment is consequential upon the proposal to repeal the whole of the Customs and Inland Revenue Act 1893. The only provision of substance remaining in the 1893 Act is section 2 which amends the Game Licences Act 1860. The effect of the amendment is to save the necessary parts of that section and insert them into the 1860 Act as section 16A of that Act. See paragraph 17.2.

#### *Finance Act 1937*

5. This amendment is consequential upon the repeal of obsolete text in section 5(1) of the Finance Act 1937 and is necessary to assist the interpretation of the remainder of section 5(1). See paragraph 9.26.

#### *Public Records Act 1958*

6. This amendment saves provisions currently in Schedule 5 to the Courts Act 1971. Schedule 5 is proposed for repeal since it contains spent transitional provisions that were consequential upon the merger or abolition by the 1971 Act of certain ancient courts. However, Schedule 5 also contains provisions that treat the records of abolished courts as being within the scope of the Public Records Act 1958.

These provisions continue to have effect and will be saved by the amendment. See paragraph 1.13.

*Road Traffic Act 1960*

- 7-8. These two amendments save provisions in sections 232(3) and 242(1) of the Road Traffic Act 1960 and are consequential upon the proposed repeal of the whole of the Road Traffic Act 1962. The only provisions of substance remaining in the 1962 Act amend sections 232(3) and 242(1) and the effect of the two amendments now proposed would be to preserve the effect of the 1962 Act amendments to those sections. See paragraph 14.18.

*Attachment of Earnings Act 1971*

9. The first of the two amendments relating to the Attachment of Earnings Act 1971 is consequential upon the proposal to repeal section 12 of the Insolvency Act 1976. Section 12 amended the rule-making power in section 75 of the County Courts Act 1984 so as to extend it to the making of rules for the purposes of section 4 of the 1971 Act. The amendment will preserve the effect of section 12 in relation to the making of rules for the purposes of section 4 whilst substituting for the repealed section 75 of the 1984 Act a reference to the Civil Procedure Rules (which replaced rules made under section 75). See paragraph 17.45.
10. The second amendment relating to the 1971 Act is consequential upon the proposal to repeal section 13(2) of the Insolvency Act 1976. Section 13(2) amended section 4 of the 1971 Act, and the second amendment will preserve the effect of section 13(2). See paragraph 17.46.

*Prices Act 1974*

11. This amendment to substitute a new section 4(3) of the Prices Act 1974 is consequential upon the proposed repeal of section 2 of that Act. Section 2(6) contains a provision which is referred to in the current version of section 4(3). The amendment will insert the substance of section 2(6) into the new section 4(3). See paragraph 16.21.

*Industry Act 1981*

12. This amendment is consequential upon the proposal to repeal words in section 3(1) of the Industry Act 1981 referring to the public dividend capital of the former National Enterprise Board. This repeal can best be achieved by re-drafting section 3(1) as set out in the amendment in a form that omits reference to the Board. See paragraph 16.26.

*Hops Marketing Act 1982*

13. This savings provision preserves the operation of section 1(3) of the Hops Marketing Act 1982 relating to the previous operation of the Hops Marketing Scheme 1932. The saving is needed because, in all other respects, the 1982 Act is spent and is proposed for repeal. See paragraph 2.26.

*Industrial Development Act 1982*

14. This amendment is consequential upon the proposal to repeal Part 2 of the Industrial Development Act 1982. The reference to Part 2 in section 15(1) of the 1982 Act can best be repealed by re-drafting section 15(1) in a form that omits reference to Part 2. See paragraph 16.29 and footnote 24.

*Church of England (Miscellaneous Provisions) Measure 1983*

15. This savings provision preserves the effect of section 12 of the Church of England (Miscellaneous Provisions) Measure 1983 to the extent that section 12 currently enables the house of residence in Lichfield referred to in that section to be disposed of in accordance with the Pastoral Measure 1983 as if it had been transferred to the Board of Finance of the diocese of Lichfield by a pastoral scheme within the meaning of that Measure. The saving is needed because, in all other respects, section 12 is spent and is proposed for repeal. See paragraph 6.9.

*Road Traffic Regulation Act 1984*

16. This amendment substitutes the definition of the term ‘statutory statement of facts’ that is currently in force in the Road Traffic Regulation Act 1984 (paragraph 20 of Schedule 10) for the version of that definition in the 1984 Act (paragraph 3 of Schedule 8) which has never been brought into force and which now serves no useful purpose. See paragraph 14.23.

*County Courts Act 1984*

17. This amendment is consequential upon the proposal to repeal section 12 of the Insolvency Act 1976. Section 12 amended the rule-making power in section 75 of the County Courts Act 1984 so as to extend it to the making of rules for the purposes of Part 6 of that Act. The amendment will preserve the effect of section 12 in relation to the making of rules for the purpose of Part 6 whilst substituting for the repealed section 75 of the 1984 Act a reference to the Civil Procedure Rules (which replaced rules made under section 75). See paragraph 17.45.

*Building Societies Act 1986*

18. This amendment is consequential upon the proposal to repeal Schedule 21 to the Building Societies Act 1986. Schedule 21 contains a definition of “conveyancing services” which is relied upon by section 69(17) of the 1986 Act. Accordingly the amendment in effect saves that definition by substituting a new definition of “conveyancing services”. See paragraph 17.19.