

Reorganisation of Offices (Scotland) Act, 1928.

[18 & 19 GEO. 5. CH. 34.]



ARRANGEMENT OF SECTIONS.

A.D. 1928.

Section.

1. Substitution of Departments for Boards of Health and Agriculture and Prison Commissioners for Scotland.
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SCHEDULE.



CHAPTER 34.

An Act to provide for the transference of the respective powers and duties of the Scottish Board of Health, the Board of Agriculture for Scotland, and the Prison Commissioners for Scotland, to Departments of Health and Agriculture and a Prisons Department for Scotland, and to make further provision with regard to the office of Chairman of the Fishery Board for Scotland and other offices in Scotland, and with regard to the Public Registers, Records and Rolls of Scotland. [3rd August 1928.]

A.D. 1928.

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

1.—(1) On the appointed day, the Scottish Board of Health, the Board of Agriculture for Scotland, and the Prison Commissioners for Scotland shall cease to exist, and the powers and duties of the said Boards (in which expression the Prison Commissioners for Scotland are included) shall be respectively transferred to and vested in a Department of Health for Scotland, a Department of Agriculture for Scotland, and a Prisons Department for Scotland, acting under the control and direction of one of His Majesty's Principal Secretaries of State, and

Substitution of Departments for Boards of Health and Agriculture and Prison Commissioners for Scotland.

A.D. 1928. — consisting of a secretary and such other officers and servants as the Secretary of State with the consent of the Treasury may determine. The offices of the said Departments shall be situated in Edinburgh.

(2) On any transfer under this section of the powers and duties of a Board to a Department the appointed members of and the persons employed under the Board shall be transferred and attached to the Department, and shall perform such duties in relation to the business of the Department as the Secretary of State may direct, provided that such members and persons shall be in no worse position as regards tenure of office, salary or superannuation allowance than they would have been if this Act had not passed.

(3) His Majesty may by Order in Council make such incidental, consequential and supplemental provisions, and such adaptations in the enactments relating to any powers and duties transferred to a Department under this section, as may be necessary or expedient for the purpose of giving full effect to the transfer of such powers and duties, and of making them exercisable by the Department and the officers thereof.

(4) On any transfer of powers and duties to a Department under this subsection—

(a) the Department shall, subject as aforesaid, be substituted for the Board in the construction and for the purposes of any Act of Parliament, decree, order, byelaw, regulation, contract, deed, or other document passed, made or executed, or of any action or proceeding raised before such transfer :

Provided that, in any enactment relating to the appointment by the Board of secretaries, officers, inspectors, clerks, servants or other persons, a reference to the Board shall be construed as a reference to the Secretary of State; and

(b) all property belonging to or vested in or held in trust for the Board shall pass to and vest in and be held in trust for the Department, subject to all debts and liabilities affecting the same.

(5) The following provisions shall apply to each of the Departments mentioned in subsection (1) of this section :— A.D. 1928. —

- (a) The Department shall be a body corporate with power to hold land so far as may be necessary for the purposes of the powers and duties transferred to or conferred or imposed on them by this or any Act, and shall have an official seal which shall be officially and judicially noticed and which shall be authenticated by the signature of the secretary or other officer of the Department authorised by the Secretary of State to act in that behalf :
- (b) The Department may sue and be sued in the name by which it is referred to in the first subsection of this section, and may for all purposes be described by that name, and service on the Department of all legal proceedings and notices shall be effected by service on the secretary of the Department :
- (c) Any act to be done or deed to be signed or instrument to be executed by or on behalf of the Department may be done, signed or executed in the name of the Department by the secretary or other officer of the Department authorised by the Secretary of State to act in that behalf :
- (d) Every document purporting to be an order or other instrument issued by the Department and to be sealed with the seal of the Department authenticated in the manner provided by this section or to be signed as aforesaid shall be received in evidence and be deemed to be such order or other instrument without further proof unless the contrary is shown :
- (e) The Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, shall apply to the Department as if the Department were mentioned in the first column of the Schedule to the first-mentioned Act, and as if the secretary or any officer of the Department authorised by the Secretary of State to act in that behalf were mentioned in the second column of that Schedule. 31 & 32 Vict. c. 37. 45 & 46 Vict. c. 9.

A.D. 1928.

(6) The appointed day for the transfer of the powers and duties and the abolition of any of the Boards under subsection (1) of this section shall be such day as the Secretary of State may appoint as regards that Board, and the enactments respecting that Board set forth in the first part of the Schedule to this Act shall be repealed as from that day to the extent specified in the third column of that Schedule.

Vacancies in membership of Boards of Health and Agriculture and in office of Prison Commissioner not to be filled. 9 & 10 Geo. 5. c. 20.

2. No vacancy in the office of member of the Scottish Board of Health, or of the Board of Agriculture for Scotland, or in the office of Prison Commissioner for Scotland existing at the passing of this Act or occurring thereafter, shall be filled, and so much of subsection (2) of section three of the Scottish Board of Health Act, 1919, as requires that the first-mentioned Board shall at all times include certain members having the qualifications therein set forth shall cease to have effect.

Limitation of office in Fishery Board to five years not to apply to chairman. 58 & 59 Vict. c. 42.

3. So much of subsection (1) of section four of the Sea Fisheries Regulation (Scotland) Act, 1895, as provides that the members of the Fishery Board for Scotland shall hold office for five years, unless they sooner die or resign office, shall cease to apply to the chairman of the Board, and accordingly it shall be lawful for His Majesty from time to time, on the recommendation of the Secretary of State, to appoint a person to hold office as a member and chairman of the Board during His Majesty's pleasure.

Office of Deputy Clerk Register to cease.

4. The present vacancy in the office of Deputy Clerk Register shall not be supplied, and that office shall cease to exist.

Keeper of the Registers and Records of Scotland.

5.—(1) It shall be lawful for the Secretary of State with the consent of the Lord President of the Court of Session to appoint a Keeper of the Registers and Records of Scotland, who shall receive out of moneys to be provided by Parliament such salary as the Treasury may fix, and on such appointment being made there shall be transferred to and vested in such Keeper the whole powers and duties of the Deputy Clerk Register, and the whole powers and duties of the Keeper of the General Register of Sasines, the Register of Hornings, the Register of Inhibitions and Adjudications and the Register of Entails (hereinafter referred

to as the Keeper of the General Register of Sasines), and of the Keeper of the Register of Deeds. A.D. 1928.

(2) In the event of a vacancy in the office of Keeper of the Registers and Records of Scotland, or in his absence from any cause, the Secretary of State, may authorise a member of the staff of any office the duties whereof are vested by this Act in the said Keeper or any other fit person to discharge the duties of the officer for the time being.

(3) On the appointment of a Keeper of the Registers and Records of Scotland, the offices of Keeper of the General Register of Sasines and Keeper of the Register of Deeds shall cease to exist, and the persons discharging the duties of these offices and all persons employed under them and in the Record Department at the date of such appointment as aforesaid, shall be transferred and attached to the office of the Keeper of the Registers and Records of Scotland, and shall perform such duties in relation to the duties of the said office as the Secretary of State may direct: Provided that such keepers and persons shall be in no worse position as regards tenure of office, salary or superannuation allowance than they would have been if this Act had not passed and the vacancy in the office of Deputy Clerk Register had been filled.

6. In the event of a vacancy in the office of Lord Clerk Register, or in his absence from any cause, the Principal Clerk of Session, or in the event of a vacancy in that office, or in his absence from any cause, such person as the Secretary of State may designate for the purpose, shall have and may exercise all the powers and duties at or in connection with the election of representative peers of Scotland heretofore belonging to or exercised or exercisable by the Lord Clerk Register: Provided that the duties heretofore discharged by the staff of the Record Department in connection with such election shall continue so to be discharged.

7. It shall be lawful for the Secretary of State by order to direct that the office of Director of Chancery shall be discontinued, and to provide for the exercise and performance of any powers and duties of the said Director by the Keeper of the Registers and Records of Scotland, the Principal Extractor of the Court of Session, Provision for discontinuance of the office of Director of Chancery.

A.D. 1928. — the Sheriff Clerk of Chancery, or the sheriff clerks of counties in such manner as may seem expedient to him after consultation with the Lord President of the Court of Session.

Office of
Keeper of
the Minute
Book and of
his clerk to
be dis-
continued.

8. It shall be lawful for the Secretary of State by order to provide for the transfer of the powers and duties of the office of Keeper of the Minute Book and Record of Edictal Citations to the Principal Extractor of the Court of Session, and upon such order taking effect the said office and the office of clerk to the said keeper shall be discontinued.

Consequen-
tial pro-
visions.

9. Any order made under either of the two immediately preceding sections may make provision for any matter incidental to or consequential on any transfer of rights, authorities or duties thereby directed, including any incidental or consequential adaptation or modification of the provisions of any Act of Parliament.

Appoint-
ment of
Assistant
Extractor
and Clerks.
1 & 2 Vict.
c. 118.

10. Sections eighteen and twenty of the Court of Session (No. 2) Act, 1838, in so far as they relate to the appointment or employment by the Principal Extractor of the Acts and Decrees of the Court of Session of an Assistant and of Clerks are hereby repealed, and the right of appointing the said Assistant shall be vested in the Secretary of State, who may also appoint, with the consent of the Treasury as to numbers and salaries, such clerks in the office of the said principal extractor, as may be deemed necessary. The salaries payable to any clerks so appointed shall be paid out of moneys to be provided by Parliament.

Amendment
of 6 Edw. 7.
c. 50, s. 4.

11. Section four of the National Galleries of Scotland Act, 1906 (which section relates to the constitution of the Board of Trustees for the National Galleries of Scotland), shall in so far as it requires certain members of the Board to have the qualification therein set forth cease to have effect.

Savings.

12. Nothing in this Act contained or done in pursuance thereof shall affect any power or duty in regard to the public registers, records and rolls of Scotland, and the keepers and other officers thereof at present vested in or exercised or exercisable by the Treasury or the Court of Session.

13. In this Act, unless the context otherwise requires— A.D. 1928.

The expression “ powers ” includes rights, authorities and privileges: Interpretation.

The expression “ the Register of Deeds ” means the Register of Deeds, Probative Writings, Protests and Certificates of Judgment in the Books of the Lords of Council and Session.

14. The enactments specified in the second part of the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

15. This Act may be cited as the Reorganisation of Offices (Scotland) Act, 1928. Short title.

SCHEDULE.

PART I.

Section 1.

Session and Chapter.	Short Title.	Extent of Repeal.
40 & 41 Vict. c. 53.	The Prisons (Scotland) Act, 1877.	Section seven; section nine so far as relating to salaries of the Prison Commissioners, and in section ten the last paragraph.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act, 1911.	Subsection (1) of section four; subsection (2) of section four so far as relating to the issue of instructions or regulations by the Secretary of State; subsections (8) and (9) of section four so far as relating to members of the Board.
9 & 10 Geo. 5. c. 20.	The Scottish Board of Health Act, 1919.	Section one; section three so far as unrepealed, and section seven.

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(*Scotland*) Act, 1928.

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PART II.

Section 14.

Session and Chapter.	Short Title.	Extent of Repeal.
31 & 32 Vict. c. 64.	The Land Registers (Scotland) Act, 1868.	In section twenty-five the words "Lord Clerk Registrar."
42 & 43 Vict. c. 44.	The Lord Clerk Register (Scotland), Act, 1879.	In section four, the proviso and section five.
6 Edw. 7. c. 50.	The National Galleries of Scotland Act, 1906.	In section four the words from "three of whom" to "in Scotland."
9 & 10 Geo. 5. c. 20.	The Scottish Board of Health Act, 1919.	In section three the words from "and shall at all times" to "years' standing."

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