

Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951

14 & 15 GEO 6. CH. 65

ARRANGEMENT OF SECTIONS

PART I

PROTECTION AGAINST CERTAIN LEGAL REMEDIES

Provisions as to England and Wales

Section

1. Application of sections two to six.
2. General restrictions on execution and other remedies.
3. Scope of protection.
4. Special provisions as to leases and hire-purchase agreements.
5. Appropriate courts and procedure.
6. Interpretation of sections two to five.

Provisions as to Scotland

7. Application of sections eight to twelve.
8. General restrictions on execution and other remedies.
9. Scope of protection.
10. Property in goods subject to hire-purchase agreement.
11. Appropriate courts and procedure.
12. Interpretation of sections eight to eleven.

Effect of failure to observe restrictions under Part I

13. Effect of failure to observe restrictions under Part I.

PART II

PROTECTION AGAINST INSECURITY OF TENURE OF PLACE OF RESIDENCE

Protection during service other than short period of training

14. Period of residence protection, and scope of three succeeding sections (protection of tenure under lettings at a rent).
15. Protection of tenure of furnished, and certain other, rented premises, by extension of the Furnished Houses (Rent Control) Act.

Section

16. Protection of tenure of rented premises not within the preceding section, by extension of the Rent Acts.
17. Provisions supplementary to section sixteen in case of rented premises which include accommodation shared otherwise than with the landlord.
18. Protection of tenure, in connection with employment, under a licence or a rent-free letting, by extension of the Rent Acts.
19. Limitation on application of Rent Acts by virtue of sections sixteen to eighteen.
20. Modifications of Rent Acts as respects occupation by employees.
21. Modifications of Agricultural Holdings Act, 1948, where tenant is a service man.
22. Facilities for action on behalf of men serving abroad in proceedings as to tenancies.
23. Interpretation of Part II.
24. Application of Part II to Scotland.

Protection during short period of training

25. Protection during short period of training.

PART III

PROTECTION AGAINST INSECURITY OF TENURE OF
BUSINESS AND PROFESSIONAL PREMISES*Provisions as to England and Wales*

26. Application of sections twenty-seven to thirty-six.
27. Renewal of tenancy expiring during period of service or within two months thereafter.
28. Premises to be comprised in new tenancy.
29. Application for grant of new tenancy.
30. Power of court to grant new tenancy.
31. Provision for further renewal of tenancy.
32. Provision for cases where landlord is a tenant.
33. Provisions as to Landlord and Tenant Act, 1927.
34. Appeals.
35. Application to Crown property.
36. Interpretation of preceding sections of Part III.

Provisions as to Scotland

37. Application of sections thirty-eight to forty.
38. Application by service man for renewal of tenancy of business premises.
39. Power of sheriff to grant new tenancy.
40. Application to Crown property.

Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951

14 & 15 GEO 6. CH. 65

ARRANGEMENT OF SECTIONS

PART I

PROTECTION AGAINST CERTAIN LEGAL REMEDIES

Provisions as to England and Wales

Section

1. Application of sections two to six.
2. General restrictions on execution and other remedies.
3. Scope of protection.
4. Special provisions as to leases and hire-purchase agreements.
5. Appropriate courts and procedure.
6. Interpretation of sections two to five.

Provisions as to Scotland

7. Application of sections eight to twelve.
8. General restrictions on execution and other remedies.
9. Scope of protection.
10. Property in goods subject to hire-purchase agreement.
11. Appropriate courts and procedure.
12. Interpretation of sections eight to eleven.

Effect of failure to observe restrictions under Part I

13. Effect of failure to observe restrictions under Part I.

PART II

PROTECTION AGAINST INSECURITY OF TENURE OF PLACE OF RESIDENCE

Protection during service other than short period of training

14. Period of residence protection, and scope of three succeeding sections (protection of tenure under lettings at a rent).
15. Protection of tenure of furnished, and certain other, rented premises, by extension of the Furnished Houses (Rent Control) Act.

Section

16. Protection of tenure of rented premises not within the preceding section, by extension of the Rent Acts.
17. Provisions supplementary to section sixteen in case of rented premises which include accommodation shared otherwise than with the landlord.
18. Protection of tenure, in connection with employment, under a licence or a rent-free letting, by extension of the Rent Acts.
19. Limitation on application of Rent Acts by virtue of sections sixteen to eighteen.
20. Modifications of Rent Acts as respects occupation by employees.
21. Modifications of Agricultural Holdings Act, 1948, where tenant is a service man.
22. Facilities for action on behalf of men serving abroad in proceedings as to tenancies.
23. Interpretation of Part II.
24. Application of Part II to Scotland.

Protection during short period of training

25. Protection during short period of training.

PART III

PROTECTION AGAINST INSECURITY OF TENURE OF
BUSINESS AND PROFESSIONAL PREMISES*Provisions as to England and Wales*

26. Application of sections twenty-seven to thirty-six.
27. Renewal of tenancy expiring during period of service or within two months thereafter.
28. Premises to be comprised in new tenancy.
29. Application for grant of new tenancy.
30. Power of court to grant new tenancy.
31. Provision for further renewal of tenancy.
32. Provision for cases where landlord is a tenant.
33. Provisions as to Landlord and Tenant Act, 1927.
34. Appeals.
35. Application to Crown property.
36. Interpretation of preceding sections of Part III.

Provisions as to Scotland

37. Application of sections thirty-eight to forty.
38. Application by service man for renewal of tenancy of business premises.
39. Power of sheriff to grant new tenancy.
40. Application to Crown property.

PART IV

PROTECTION OF SUPERANNUATION RIGHTS

Section

41. Extension of section one of Superannuation (Miscellaneous Provisions) Act, 1948.
42. Provisions as to firemen's pensions.
43. Provisions as to police pensions.
44. Retrospective effect of Part IV.
45. Financial provisions.

PART V

PAYMENTS TO MAKE UP CIVIL REMUNERATION

46. General provisions as to payments to make up civil remuneration.
47. Paying and determining authorities.
48. Recoupment of expenses incurred in connection with civil occupation while serving in the forces.
49. Special provision for probation committees.
50. Assimilation of treatment of payments under Part V and certain other payments to treatment of remuneration in civil capacity.
51. Payments out of moneys provided by Parliament.
52. Service to which Part V applies and interpretation.
53. Retrospective effect of Part V.

PART VI

PROTECTION AGAINST LOSS OF BENEFITS UNDER CONTRACTS WITH
INDUSTRIAL ASSURANCE COMPANIES AND FRIENDLY SOCIETIES

54. Protection of life policies (industrial assurance, and collecting societies).
55. Protection of life policies (friendly societies other than collecting societies).
56. Adjustment of rights under policies protected.
57. Provisions supplementary to the three preceding sections.
58. Relief against non-payment of contributions to friendly societies (other than life policy premiums).
59. Interpretation and extent of Part VI.

PART VII

MISCELLANEOUS AND GENERAL

Section

60. Evidence as to performance of relevant service.
61. Presumption of death of persons serving in the forces.
62. Pension rights of justices' clerks, collecting officers and their staff.
63. Dispensation with declaration on ending of service of constable.
64. Interpretation.
65. Provisions as to Northern Ireland.
66. Short title.

SCHEDULES:

First Schedule—Service relevant for the purposes of this Act.

Second Schedule—Capacities in respect of which payments may be made under Part V, and paying authorities.

Third Schedule—Financial provisions consequential on treating a person dying on service as alive and the converse.



CHAPTER 65

An Act to provide for protecting the interests of persons called up or volunteering for certain naval, military or air force service, or doing work or training under the National Service Act, 1948, by virtue of being conditionally registered under that Act as conscientious objectors, and of other persons consequentially affected, in respect of civil rights and liabilities of theirs.

[1st August 1951.]

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:—

PART I

PROTECTION AGAINST CERTAIN LEGAL REMEDIES

Provisions as to England and Wales

1. The five next following sections shall apply to England and Wales only.

Application of sections two to six.

2.—(1) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to proceed, except with the leave of the appropriate court, to execution on, or otherwise to the enforcement of, a judgment or order of any court other than a county court (whether given or made before or after the commencement of this Act) for the payment or recovery of a sum of money:

General restrictions on execution and other remedies.

Provided that nothing in this subsection shall apply to—

- (a) a judgment for the recovery of damages for tort;
- (b) a judgment or order for the recovery of a debt which has become due by virtue of a contract made after the relevant date;

PART I
—cont.

- (c) a judgment or order under which no sum of money is recoverable otherwise than in respect of costs ;
- (d) an order in a matter of bastardy, an order enforceable as an affiliation order, or an order for alimony, maintenance or other payments which has been made under sections nineteen to twenty-seven of the Matrimonial Causes Act, 1950, or under subsection (2) of section three or subsection (4) of section five of the Guardianship of Infants Act, 1925 ;
- (e) an order made in criminal proceedings, or an order made in proceedings for the recovery of a penalty in respect of a contravention of, or failure to comply with, any provisions of an Act ;

or to the enforcement of any other judgment or order by judgment summons.

(2) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, except with the leave of the appropriate court—

- (a) to proceed to exercise any remedy which is available to him by way of—

- the levying of distress ;
- the taking of possession of any property ;
- the appointment of a receiver of any property ;
- re-entry upon land ;
- the realisation of a security ; or
- the forfeiture of a deposit ; or

- (b) to institute proceedings for foreclosure or for sale in lieu of foreclosure, or for the recovery of possession of mortgaged property, or to take any step in any such proceedings instituted before the relevant date :

Provided that this subsection shall not apply to any remedy or proceedings available in consequence of default in the payment of a debt arising by virtue of a contract made after the relevant date or the performance of an obligation so arising ; and nothing in this subsection shall affect—

- (i) a power of sale of a mortgagee of land or an interest in land who is in possession of the mortgaged property at the relevant date, or who before that date has appointed a receiver who at that date is in possession, or in receipt of the rents and profits, of the mortgaged property ; or
- (ii) a power of sale of a mortgagee in possession of property other than land or some interest in land, where the power of sale has arisen and notice of the intended sale has been given before the relevant date ; or
- (iii) a right or power of a pawnbroker to deal with a pledge ; or

- (iv) any right or power of a person to sell goods in his custody as a bailee, being a right or power arising by reason of default in the payment of a debt ; or
- (v) the institution or prosecution of proceedings for the appointment by the court of a receiver of any property.

(3) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to proceed, except with the leave of the appropriate court, to execution on, or otherwise to the enforcement of, a judgment or order of any court (whether given or made before or after the commencement of this Act) for the recovery of possession of land in default of payment of rent or for the delivery of any property other than mortgaged property by reason of a default in the payment of money :

Provided that nothing in this subsection shall apply to a judgment given or order made in proceedings for the enforcement of a contract made after the relevant date.

(4) If, on any application for such leave as is required under this section for the exercise of any of the rights and remedies mentioned in subsections (1), (2) and (3) of this section, the appropriate court is of opinion that the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is unable immediately to do so by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service, the court may, subject to the provisions of this Part of this Act, refuse leave for the exercise of that right or remedy, or give leave therefor subject to such restrictions and conditions as the court thinks proper.

(5) The appropriate court, in determining for the purpose of the last foregoing subsection whether a person is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of any such circumstances as are mentioned in that subsection, or in determining the restrictions and conditions (if any) subject to which leave is to be given under that subsection, may take account of other liabilities, whether present or future, of his.

(6) Where—

- (a) a bankruptcy petition has been presented against a debtor, and it is shown to the satisfaction of the court having jurisdiction in the bankruptcy that his inability to pay his debts is due to circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service ; or

PART I
—cont.

- (b) a winding-up petition has been presented against an exempt private company on the ground that it is unable to pay its debts, and it is shown to the satisfaction of the court having jurisdiction in the winding up that its inability to pay its debts is due to circumstances directly or indirectly attributable to any person's performing or having performed a period of relevant service ;

the court may at any time stay the proceedings under the petition for such time and subject to such conditions as the court thinks fit.

In this subsection the expression "an exempt private company" shall be construed in accordance with subsection (4) of section one hundred and twenty-nine of the Companies Act, 1948.

Scope of
protection.

3.—(1) Subject to the following provisions of this section, the provisions of subsection (1), (2) or (3) of the last foregoing section shall apply to the exercise of a right or remedy in the following cases, and in the following cases only, that is to say :—

- (a) they shall apply (by virtue of this paragraph and without more) where the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is for the time being performing a period of relevant service ;
- (b) they shall apply (by virtue of this paragraph and without more, but subject to any order of the appropriate court directing that they shall not so apply or shall cease so to apply) where the person liable as aforesaid has been performing a period of relevant service and, while he was so doing, an application was made to the appropriate court for leave under the last foregoing section to exercise the right or remedy ;
- (c) they shall apply in a case where—

(i) the appropriate court by order so directs, on the application of the person liable as aforesaid and on being satisfied that he is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service ; or

(ii) the person liable as aforesaid has made to the appropriate court an application for an order under this paragraph and the application has not been disposed of, or not having made such an application has given to the proper person written notice of his intention to do so.

(2) A notice given for the purpose of paragraph (c) of the foregoing subsection shall expire at the expiration of fourteen days (or, if given in a class of case as to which a longer period is prescribed for the purposes of this subsection, at the expiration of that period) from the date on which it was given, and where the person giving a notice for that purpose has given a previous notice to the like effect the later notice shall have no operation unless the previous notice was withdrawn with the consent of the proper person before it expired.

(3) For the purpose of the foregoing subsections, the expression "the proper person" means the person seeking to exercise the right or remedy in question, but a notice shall be deemed to be given to the proper person if given to any person (whether the proper person or his agent or not) proceeding to the enforcement of that right or remedy.

(4) Where the appropriate court makes an order under paragraph (c) of subsection (1) of this section with respect to the exercise of a right or remedy, the powers of the court under the last foregoing section shall thereupon be exercisable as if an application for leave to exercise the right or remedy in question had been made under that section.

(5) The appropriate court, in determining for the purpose of the said paragraph (c) whether the applicant is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of any such circumstances as are mentioned in that paragraph, may take account of other liabilities, whether present or future, of his.

(6) In their application to the enforcement of a judgment or order for the recovery of possession of land in default of payment of rent, the references in subsection (4) of the last foregoing section and subsection (1) of this section to the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question shall be construed as referring only to the person or persons against whom the judgment or order was made and who is or are, or would, but for any forfeiture incurred in consequence of the default be, entitled to the benefit of the lease under which the rent was reserved.

(7) Any reference in subsection (4) of the last foregoing section or subsection (1) of this section to the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question shall in a case where it is sought to exercise a right or remedy against one such person separately from any others who are also so liable, be construed as referring to him only and not including any such other person, but, in a case where it is sought to exercise it against two or more such persons jointly, shall be construed as referring to all

PART I
—cont.

or any of the persons against whom it is sought to exercise the right or remedy; and in this subsection references to exercising a right or remedy against a person shall include exercising it against property in which he has an interest or of which he is in possession.

(8) This section, and subsection (4) of the last foregoing section, shall apply to a person affected, or claiming to be affected, by an exercise or proposed exercise by the mortgagee of any property of any of the rights or remedies mentioned in subsection (2) of the last foregoing section, being a right or remedy arising by virtue of a default in the payment of any mortgage money or a breach of any mortgage obligation, as if that person were a person liable to pay the mortgage money or to perform the mortgage obligation:

Provided that the said subsection (2) shall not apply to require leave for the exercise of the right or remedy otherwise than against the person liable as aforesaid except by virtue of paragraph (c) of subsection (1) of this section.

(9) For the purposes of the last foregoing section and of subsection (3) of this section a person shall be deemed to be proceeding to execution on, or otherwise to the enforcement of, a judgment or order if, being entitled to the benefit of the judgment or order—

- (a) he issues a bankruptcy notice or presents a bankruptcy petition or a winding-up petition founded on the non-payment of money due under the judgment or order; or
- (b) he takes out some judicial process with a view to, or in the course of, the enforcement of the judgment or order;

and, where a person has (in a case for which leave was not required under the last foregoing section) taken out any judicial process with a view to, or in the course of, the enforcement of a judgment or order, or proceeded to the exercise of any such remedy as is mentioned in subsection (2) of that section, he shall be deemed to be proceeding to the enforcement of the judgment or order or to the exercise of the remedy when any step is taken by him or on his behalf towards its completion:

Provided that—

- (i) the last foregoing section shall not apply to require leave for the taking of any such step as aforesaid except by virtue of paragraph (c) of subsection (1) of this section; and
- (ii) for the purposes of this subsection, an application for discovery in aid of execution shall not be treated as the taking out of a judicial process or as the taking of a step towards the completion of the enforcement of a judgment or order.

(10) For the purposes of the last foregoing section, the expression “the relevant date” means the date on which the service man in question began to perform the period of relevant service:

Provided that—

(a) for the purposes of any reference in the last foregoing section to a contract made after the relevant date, where a service man performs two or more periods of relevant service the said expression means the date on which he began the later or latest of those periods of service; and

(b) for the purposes of paragraph (b) of subsection (2) of the last foregoing section, and of paragraphs (i) and (ii) of the proviso to the said subsection (2)—

(i) where the said date was before the commencement of this Act, then subject to sub-paragraph (ii) of this paragraph the said expression means the date of that commencement; and

(ii) in a case to which the last foregoing section applies by virtue of paragraph (c) of subsection (1) of this section, the said expression means the date on which that section began so to apply.

4.—(1) Where under section two of this Act the appropriate court refuses, or grants subject to restrictions and conditions, leave to enforce a judgment or order for the recovery of possession in default of payment of rent of any premises, the lease shall be deemed not to have been forfeited by reason of the default so long as the judgment or order remains unenforceable; and a judgment or order shall be deemed to have remained unenforceable, notwithstanding that it has at some time been enforceable, if before it is enforced it again becomes unenforceable.

Special provisions as to leases and hire-purchase agreements.

(2) A judgment or order for the recovery of possession of a dwelling house to which the Rent Restrictions Acts apply shall be deemed for the purposes of the foregoing provisions of this Act to be a judgment or order for the recovery of possession of the dwelling house in default of payment of rent if the court in giving or making the judgment or order was exercising the power conferred by paragraph (a) of the First Schedule to the Rent Act of 1933 on the sole ground that rent lawfully due from the tenant had not been paid and was not exercising any other power conferred by that Schedule.

(3) On an application under section two of this Act for leave to enforce a judgment or order for the recovery in default of payment of rent of possession of land held in distinct parcels under one lease by two or more lessees, the court may (notwithstanding that a single rent was reserved by the lease and the proviso for re-entry in default of payment of the rent was

PART I
—cont.

not severable) order that the application shall be dealt with as if those parcels had been held under distinct leases and applications were being made for leave to enforce separate judgments or orders in relation thereto, and may make such consequential provision as seems just for the apportionment of the arrears of rent, for the relief of any lessee from forfeiture of the parcel held by him and for the adjustment of the rights and obligations under the lease of the parties to the application.

(4) Where the appropriate court refuses leave under subsection (4) of section two of this Act to take possession of goods let under a hire-purchase agreement or to execute a judgment or order for the delivery of such goods, or gives such leave subject to restrictions and conditions, and the hirer, before possession is taken or execution on the judgment or order is completed, pays the hire-purchase price, the owner's title to the goods, shall, notwithstanding any failure to pay the hire-purchase price at the times required by the agreement, vest in the hirer.

(5) Where the owner of goods let under a hire-purchase agreement has taken possession of the goods, the appropriate court on an application made under paragraph (c) of subsection (1) of section three of this Act may, if it sees fit so to do, deal with the case as if he were proceeding to take possession of them and, if it makes an order under that paragraph, may direct accordingly that the goods shall be restored to the hirer; and if, after the owner has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance thereof is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection.

(6) In this section the expressions "hire-purchase agreement", "hire-purchase price", "owner" and "hirer" have the meanings respectively assigned to them by section twenty-one of the Hire Purchase Act, 1938:

Provided that the expression "hire-purchase agreement" includes an agreement for the sale of goods under which the price is payable by instalments and the property in the goods remains in the seller, notwithstanding that the buyer is in possession of the goods, until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled, and the other expressions above referred to and the expression "let" shall be construed accordingly.

Appropriate
courts and
procedure.

5.—(1) The appropriate court for the purposes of any of the provisions of this Part of this Act applying to England and Wales shall be such court as may be designated by rules made by the Lord Chancellor under this section, and such rules may designate different courts in relation to different classes of proceedings

(2) The Lord Chancellor may also make rules prescribing the manner in which applications under the said provisions are to be made, and prescribing any matter which under any of those provisions is to be prescribed, and generally for regulating the conduct of proceedings under the said provisions.

(3) Rules so made may in particular make provision for enabling a court, for the purpose of hearing and determining an application under the said provisions of this Part of this Act or in exercising any discretion for the purposes of the said provisions of this Part of this Act, to admit any document as evidence of any facts stated therein.

(4) Rules so made may in particular make provision for requiring, or dispensing with, service of notice of any application under the said provisions of this Part of this Act upon persons who may be affected, whether by virtue of subsection (5) of section two or subsection (5) or (8) of section three or otherwise, and for enabling any persons to be heard at the hearing of any application under those provisions, and may also make provision for the making of applications *ex parte* in such cases as may be prescribed by the rules.

(5) Rules so made may, for the purpose of enabling a person performing relevant service to obtain the protection afforded by subsections (8) and (9) of section three of this Act, provide for enabling the appropriate court to treat as an application made by him for an order under paragraph (c) of subsection (1) of the said section three, an application for that purpose made by some other person on his behalf; and the rules may further provide that an application which the appropriate court has, under the rules, power to treat as an application by the person performing relevant service shall also be treated for the purposes of subparagraph (ii) of the said paragraph (c) as an application made by that person.

(6) The power to make rules conferred by this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

6.—(1) In the foregoing provisions of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation
of sections
two to five.

“costs” includes all charges and possession money payable to a sheriff in respect of interpleader proceedings taken by him;

“lease” includes an underlease and any contract of tenancy, and the expression “lessee” shall be construed accordingly;

PART I
—cont.

“mortgage” includes any charge, and the expressions “mortgagor” and “mortgagee” shall be construed accordingly;

“mortgage money” includes any part thereof and interest thereon;

“mortgage obligation” means any obligation arising under or by virtue of the mortgage, other than an obligation to pay the mortgage money;

“prescribed” means prescribed by rules made under the last foregoing section;

“rent” includes any sum payable by way of mesne profits;

“the relevant date” has the meaning assigned to it by subsection (10) of section three of this Act.

(2) It is hereby declared that in this Part of this Act the expression “distress” includes distress for rates.

(3) For the purposes of the foregoing provisions of this Act an execution against goods shall be deemed to be completed by seizure and sale or, where a writ or warrant of delivery is issued, by delivery of the goods, an attachment of a debt shall be deemed to be completed by the receipt of the debt, an execution against land shall be deemed to be completed by seizure or, in the case of an equitable interest, by the appointment of a receiver, and the enforcement of a judgment or order for recovery of possession of land shall be deemed to be completed by delivery of possession.

(4) References in the foregoing provisions of this Act to judgments or orders for the recovery of possession of land include references to any judgment or order the effect of which is to enable a person to obtain possession of land, and in particular includes, in relation to a mortgagee, a judgment or order for the delivery of possession of the mortgaged land.

(5) For the purposes of the foregoing provisions of this Act a mortgagee of land or any interest in land shall be treated as not being entitled to obtain possession of the mortgaged property, whether by virtue of his estate or interest as mortgagee or of any attornment or other provision contained in the mortgage or in any agreement collateral thereto, unless default has been made in payment of some mortgage money, or there has been a breach on the part of the mortgagor, or of some person concurring in the making of the mortgage of some mortgage obligation; and for this purpose default shall not be deemed to have been made in payment of any mortgage money (except in a case where the mortgage money is repayable by instalments) unless a written demand for payment has been served on the person liable, and a period of three months has elapsed since the service of the demand.

Provisions as to Scotland

PART I
— cont.

7. The five next following sections shall apply to Scotland only. Application of sections eight to twelve.

8.—(1) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to enforce, except with the leave of the appropriate court, a decree of any court (whether pronounced before or after the commencement of this Act) for the payment of a sum of money or for the recovery of possession of land: General restrictions on execution and other remedies.

Provided that nothing in this subsection shall apply to—

- (a) any decree for damages in respect of loss or damage arising from any wrongful act or omission ;
- (b) any decree based upon a contract made after the relevant date ;
- (c) any decree for expenses ;
- (d) any decree for aliment or any decree or order enforceable by virtue of any enactment in like manner as a decree for aliment, or any order for payment under subsection (2) of section three, or subsection (4) of section five, of the Guardianship of Infants Act, 1925 ; or
- (e) any order made in criminal proceedings, or an order for the recovery of a penalty due in respect of a contravention of, or failure to comply with, any Act.

(2) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, except with the leave of the appropriate court—

- (a) to do any diligence (not being diligence used only on the dependence of an action or *ad fundandam jurisdictionem*) ;
- (b) to enforce any irritancy, legal or conventional ;
- (c) to realise any security or forfeit any deposit ;
- (d) to exercise any power of sale conferred by a heritable security ;
- (e) to institute an action of maills and duties ; or
- (f) to take or resume possession of any property by reason of any default by any person in the payment of money or the performance of any obligation :

Provided that this subsection shall not apply to any remedy or proceedings available in consequence of any default in the payment of a debt arising by virtue of a contract made after the relevant date or the performance of an obligation so arising, and nothing in this subsection shall affect—

- (i) any right or power of pawnbrokers to deal with pledges ;
or

PART I
—cont.

- (ii) any remedy competent to a heritable creditor in possession of the security subjects at the relevant date ;
- (iii) any right or power of a person to sell goods in his custody arising by reason of default in the payment of a debt.

(3) If on any application for such leave as is required under this section for the enforcement of any decree or the exercise of any right or remedy mentioned in the foregoing provisions of this section, the appropriate court is of opinion that the person liable to implement such decree or perform the obligation in respect of which such right or remedy arises, is unable immediately to do so by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service, the court may, subject to the provisions of this Part of this Act, refuse leave to enforce the decree or to exercise the right or remedy or give leave therefor subject to such restrictions and conditions as the court thinks proper.

Any order pronounced under this subsection may be suspended, rescinded or varied by a subsequent order.

(4) The appropriate court, in determining for the purpose of the last foregoing subsection whether a person is unable immediately to implement the decree or perform the obligation in question by reason of any such circumstances as are mentioned in that subsection, or in determining the restrictions and conditions (if any) subject to which leave is to be given under that subsection, may take account of other liabilities, whether present or future, of that person.

(5) Where—

- (a) a petition for sequestration has been presented against any debtor, and it is shown to the satisfaction of the court before which such petition depends that his inability to pay his debts is due to circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service ; or
- (b) a winding-up petition has been presented against an exempt private company on the ground that it is unable to pay its debts, and it is shown to the satisfaction of the court before which such petition depends that its inability to pay its debts is due to circumstances directly or indirectly attributable to any person's performing or having performed a period of relevant service ;

the court may sist the proceedings in the petition for such time and subject to such conditions as the court thinks fit.

In this subsection the expression "an exempt private company" shall be construed in accordance with subsection (4) of section one hundred and twenty-nine of the Companies Act, 1948.

9.—(1) Subject to the following provisions of this section, the provisions of subsection (1) or (2) of the last foregoing section shall apply to the exercise of any right or remedy in the following cases and in the following cases only, that is to say:—

- (a) they shall apply (by virtue of this paragraph) where the person liable to implement the decree or to perform the obligation in question is for the time being performing a period of relevant service ;
- (b) they shall apply (by virtue of this paragraph but subject to any order of the appropriate court directing that they shall not so apply or shall cease so to apply) where the person liable as aforesaid has been performing a period of relevant service and while he was so doing an application was made to the appropriate court for leave under the last foregoing section to exercise the right or remedy ;
- (c) they shall apply in any case where—
 - (i) the appropriate court by order so directs, on the application of the person liable as aforesaid and on being satisfied that he is unable immediately to implement the decree or to perform the obligation in question by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service ; or
 - (ii) the person liable as aforesaid has made to the appropriate court an application for an order under this paragraph, and the application has not been disposed of, or not having made such an application has given to the proper person written notice of his intention to do so.

(2) A notice given for the purpose of paragraph (c) of the foregoing subsection shall expire at the expiration of fourteen days (or, if given in a class of case as to which a longer period is prescribed for the purposes of this subsection, at the expiration of that period) from the date on which it was given, and where the person giving a notice for that purpose has given a previous notice to the like effect the later notice shall have no operation unless the previous notice was withdrawn with the consent of the proper person before it expired.

(3) For the purpose of the foregoing subsections, the expression "the proper person" means the person seeking to exercise the right or remedy in question, but a notice shall be deemed to be given to the proper person if given to any person (whether the proper person or his agent or not) proceeding to enforce that right or remedy.

PART I
—cont.

(4) Where the appropriate court makes an order under paragraph (c) of subsection (1) of this section with respect to the exercise of any right or remedy the powers of the court under the last foregoing section shall thereupon be exercisable as if an application for leave to exercise the right or remedy in question had been made under that section.

(5) The appropriate court, in determining for the purpose of the said paragraph (c) whether the applicant is unable immediately to implement the decree or to perform the obligation in question by reason of any such circumstances as are mentioned in that paragraph, may take account of other liabilities, whether present or future, of his.

(6) Any reference in subsection (3) of the last foregoing section or subsection (1) of this section to the person liable to implement the decree or to perform the obligation in question shall in a case where it is sought to exercise a right or remedy against one such person separately from any others who are also so liable, be construed as referring to him only and not including any such other person but, in a case where it is sought to exercise it against two or more such persons jointly, shall be construed as referring to all or any of the persons against whom it is sought to exercise the right or remedy; and in this subsection references to exercising a right or a remedy against a person shall include references to exercising it against property in which he has an interest or of which he is in possession.

(7) For the purposes of the last foregoing section, a person in right of a decree who presents a petition for sequestration or a winding up petition founded on the non-payment of money due under the decree shall be deemed to be enforcing the decree.

(8) For the purposes of the last foregoing section, the expression "the relevant date" means the date on which the service man in question began to perform the period of relevant service:

Provided that—

(a) for the purposes of any reference in that section to a contract made after the relevant date where a service man performs two or more periods of relevant service the said expression means the date on which he began the later or latest of those periods of service; and

(b) for the purposes of the proviso to subsection (2) of that section—

(i) where the said date was before the commencement of this Act, then subject to sub-paragraph (ii) of this paragraph the said expression means the date of that commencement; and

(ii) in a case to which the last foregoing section applies by virtue of paragraph (c) of subsection (1) of this section, the said expression means the date on which that section began so to apply.

10.—(1) Where the appropriate court refuses leave under subsection (3) of section eight of this Act to take or resume possession of goods let under a hire-purchase agreement or to do diligence on any decree for the delivery of any such goods, or gives such leave subject to restrictions and conditions, and the hirer or purchaser, before possession is taken or resumed or diligence is done, pays to the owner a sum equal to the total of the unpaid instalments, the property in the goods shall thereupon, notwithstanding any failure to pay any such instalment at the time required by the agreement, pass to the hirer or purchaser.

PART I
—cont.
Property in
goods subject
to hire-
purchase
agreement.

(2) Where the owner of goods let under a hire-purchase agreement has taken possession of the goods, the appropriate court on an application made under paragraph (c) of subsection (1) of section nine of this Act may, if it sees fit so to do deal with the case as if he were proceeding to take possession of them and, if it makes an order under that paragraph, may direct accordingly that the goods shall be restored to the hirer; and if, after the owner has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance thereof is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection.

(3) In this section the expression “hire-purchase agreement” means any contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies or would apply if the limitation as to value contained in section one of that Act were omitted and the expressions “hirer”, “instalment”, “owner” and “purchaser” have the like meanings as in that Act.

11.—(1) The appropriate court for the purposes of any of the provisions of this Part of this Act applying to Scotland shall be such court as the Court of Session may by Act of Sederunt designate, and different courts may be designated in relation to different classes of proceedings.

Appropriate
courts and
procedure.

(2) The Court of Session may by Act of Sederunt make provision for requiring, or dispensing with, service of notice of any application under this Part of this Act upon persons who may be affected, whether by virtue of subsection (4) of section eight or subsection (5) of section nine of this Act or otherwise, and for enabling any such persons to be heard at the hearing, and may also make provision for the making of applications *ex parte* in such cases as may be prescribed by the Act of Sederunt.

(3) Any power conferred on the Court of Session by the foregoing provisions of this section shall be exercisable by statutory instrument and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing an Act of Sederunt made in the exercise of the said power in like manner as if the Act of Sederunt had been made by a Minister of the Crown.

PART I
—cont.Interpretation
of sections
eight to eleven.

12. For the purposes of sections eight to eleven of this Act the expression “heritable security” includes a security constituted by *ex facie* absolute disposition.

*Effect of failure to observe restrictions under Part I*Effect of
failure to
observe
restrictions
under Part I.

13.—(1) Omission to obtain leave required under section two of this Act, failure to observe a restriction or condition subject to which leave so required was given, or contravention of the prohibition in subsection (5) of section four of this Act against dealing with goods, shall not render invalid, or alter the effect of—

- (a) anything which would have operated as a transfer of the title to any property or of the possession of any property if leave had not been required or the restriction, condition or prohibition had not been imposed ;
- (b) any payment, receipt, appointment or other transaction ;
or
- (c) any legal proceedings.

(2) In any action for damages for conversion or other proceedings which lie by virtue of any such omission, failure or contravention, the court may take account of the conduct of the defendant with a view, if the court thinks fit, to awarding exemplary damages in respect of the wrong sustained by the plaintiff.

(3) If in any action or proceedings which lie by virtue of any such omission, failure or contravention the court is satisfied that the defendant acted honestly and reasonably, and ought fairly to be excused for it, the court may relieve the defendant from liability in respect thereof.

(4) In so far as it appears to the appropriate court to be practicable to remedy the results of any such omission, failure or contravention as aforesaid specifically without prejudice to the interests of third parties, the court may give any such directions for restoration of property, repayment of money or other measures as may appear to the court to be requisite for that purpose.

In this subsection the expression “third parties” means persons other than—

- (a) in the case of such an omission or failure in connection with the enforcement of a judgment or order or the exercise of a remedy, the person proceeding thereto and any person acting in relation thereto on his behalf ;
- (b) in the case of an omission to obtain leave for instituting such proceedings as are mentioned in paragraph (b) of subsection (2) of section two of this Act or for taking a step in such proceedings, the person instituting the proceedings or taking the step in question ;
- (c) in the case of a contravention of the prohibition in subsection (5) of section four of this Act, the owner of the goods ; and

(d) in any of the cases aforesaid, any person taking a transfer of the title to or possession of any property under a transaction in connection with which the omission, failure or contravention took place, if he took with knowledge of the circumstances which rendered what was done such an omission, failure or contravention.

(5) In relation to an action or other proceedings tried by a judge and jury—

(a) the references to the court in subsections (2) and (3) of this section shall be construed as references to the jury, but without prejudice to the power of the judge to give to the jury directions whether there is any evidence of facts justifying an award of exemplary damages on the one hand or the granting of relief on the other hand, or to give them advice as to the making of such an award or grant ;

(b) the references to the court in subsection (4) of this section shall be construed as references to the judge alone.

(6) This section shall apply to Scotland subject to the following modifications :—

(a) for references to section two or to subsection (5) of section four of this Act there shall be respectively substituted references to section eight or to subsection (2) of section ten of this Act ;

(b) paragraph (b) of subsection (4) of this section shall be omitted ;

(c) the expression “ plaintiff ” means pursuer and the expression “ defendant ” means defender and any reference to a judgment shall include a reference to a decree.

PART II

PROTECTION AGAINST INSECURITY OF TENURE OF PLACE OF RESIDENCE

Protection during service other than short period of training

14.—(1) The three next succeeding sections shall have effect, subject to subsection (2) of this section, in the case of a service man who performs a period of relevant service, other than a short period of training, either wholly after the commencement of this Act or partly theretofore and partly thereafter, for giving, during that period of service, or the residue of it if it began before the commencement of this Act, and four months from the date of the ending of it (in this Part of this Act referred to, in relation to such a service man, as his “ period of residence protection ”), security of tenure of premises which at any time during the period of protection are a rented family residence of his.

Period of residence protection, and scope of three succeeding sections (protection of tenures under lettings at a rent).

For the purposes of the operation of this Part of this Act at any time during a service man’s period of residence protection—

(a) the expression “ rented family residence ” means premises in which (or in part of which) the service man

PART II
cont.

was living immediately before the beginning of his period of service with a dependant or dependants of his in right of a tenancy at a rent of those premises being a tenancy vested in him or in that dependant or any of those dependants, and in which (or in part of which) at the time in question during the period of protection a dependant or dependants of his is or are living, whether with or without him, in right of such a tenancy of those premises being a tenancy vested in him or in that dependant or any of those dependants; and

- (b) the expression "tenancy qualifying for protection" means the tenancy of a rented family residence of the service man in right of which a dependant or dependants of his is or are living therein or in part thereof at the time in question.

(2) The three next succeeding sections shall not have effect if and so long as the rented family residence—

- (a) is such a dwelling-house as is mentioned in paragraph (a) of subsection (2) of section three of the Rent Act of 1939 (which relates to on-licensed premises); or
- (b) is bona fide let at a rent which includes payments in respect of board.

15.—(1) Subject to subsection (2) of the last preceding section, where at any time during a service man's period of residence protection—

- (a) the rented family residence is let under the tenancy qualifying for protection either on such terms as are mentioned in subsection (1) of section two of the Furnished Houses (Rent Control) Act, 1946 (which relates to premises let in consideration of a rent which includes payment for the use of furniture or for services) or on terms of sharing with the lessor, and
- (b) a notice to quit has been served by the lessor on the lessee (whether after or before the beginning of the period of protection) and the notice has not expired, but
- (c) the conditions required for the operation of section eleven of the Rent Act of 1949 (which makes provision as to security of tenure) that the contract in question should have been referred to a tribunal under the Furnished Houses (Rent Control) Act, 1946, and that the reference should not have been withdrawn, are not fulfilled,

the said section eleven shall apply in relation to the notice to quit as if those conditions had been fulfilled as to the contract under which that tenancy subsists.

(2) The reference in paragraph (a) of the preceding subsection to a letting on terms of sharing with the lessor is a reference to a letting under which—

- (a) the lessee has the exclusive occupation of some accommodation (in this subsection referred to as “the separate accommodation”);
- (b) he has the use of other accommodation in common with the lessor or with the lessor and other persons; and
- (c) the accommodation mentioned in the last preceding paragraph is or includes accommodation of such a nature that the circumstance specified in that paragraph is sufficient to prevent the separate accommodation from being a dwelling-house to which the Rent Restrictions Acts apply, whether apart from that circumstance it would be such a dwelling-house or not.

(3) Subject to subsection (2) of the last preceding section, where at any time during a service man’s period of residence protection the rented family residence is let as mentioned in paragraph (a) of subsection (1) of this section and a notice to quit has been served as aforesaid and has not expired, the subsistence of a Crown interest in the premises shall not affect the application of section eleven of the Rent Act of 1949 (or of that section as extended by subsection (1) of this section) in relation to the notice to quit, if the reversion immediately expectant on the tenancy in question is not a Crown interest.

(4) References in the said section eleven to that section shall be construed as including references to the preceding provisions of this section and to the said section eleven as extended by those provisions.

(5) Nothing in the preceding provisions of this section shall be construed as rendering the said section eleven applicable in a case in which the contract under which the tenancy in question subsists is excluded from the operation of the Furnished Houses (Rent Control) Act, 1946, by subsection (4) of section twelve of that Act (which relates to accommodation let under Regulation sixty-eight CB of the Defence (General) Regulations, 1939).

16.—(1) Subject to subsection (2) of section fourteen of this Act, if at any time during a service man’s period of residence protection—

- (a) a tenancy qualifying for protection ends without being continued or renewed by agreement (whether on the same or on different terms and conditions), and

Protection of
tenure of
rented
premises not
within the
preceding
section, by
extension of
the Rent Acts.

PART II
—cont.

- (b) by reason only of such circumstances as are mentioned in the next succeeding subsection no statutory tenancy arises (apart from the provisions of this section) on the ending of the tenancy qualifying for protection,

the Rent Restrictions Acts shall during the remainder of the period of protection apply in relation to the rented family residence as if those circumstances did not exist, and had not existed immediately before the ending of that tenancy, but shall so apply subject to the modifications provided for by this section as to standard rent.

(2) The circumstances referred to in the last preceding subsection are any one or more of the following, that is to say—

- (a) that the rateable value on the appropriate day (as defined for the purposes of the Rent Act of 1939) of the premises which are the rented family residence, or of a property of which at the ending of the tenancy qualifying for protection those premises form part, exceeded the relevant limit specified in subsection (1) of section three of that Act ;
- (b) that those premises are such a dwelling-house as is mentioned in paragraph (c) of subsection (2) of the said section three (which relates to local authorities' houses) ;
- (c) that there is a Crown interest in those premises, not being the reversion immediately expectant on the tenancy qualifying for protection ;
- (d) that immediately before the ending of the tenancy qualifying for protection those premises were let together with agricultural land exceeding two acres in extent but were not such a dwelling-house as is mentioned in paragraph 1 of the Seventh Schedule to the Agricultural Holdings Act, 1948 (which excludes from the Rent Restrictions Acts any dwelling-house which is comprised in an agricultural holding and is occupied by the person responsible for the control, whether as tenant or as servant or agent of the tenant, of the farming of the holding) ;
- (e) that immediately before the ending of the tenancy qualifying for protection the circumstances mentioned in subsection (7) of section twelve of the Rent Act of 1920 (which relates to tenancies where the rent is less than two-thirds of the rateable value) applied as respects that tenancy or applied as respects a tenancy having effect subject to that tenancy.

(3) As regards any period during which the Rent Restrictions Acts apply in relation to a rented family residence as mentioned

in subsection (1) of this section, the succeeding provisions of this section shall have effect as to the standard rent of any premises (hereafter in this section referred to as "the protected premises") of which a statutory tenancy arises by virtue of the said subsection (1) on the ending of the tenancy qualifying for protection.

(4) If the circumstances referred to in paragraph (b) of subsection (1) of this section do not include the circumstances mentioned in paragraph (e) of subsection (2) of this section—

- (a) the standard rent of the protected premises shall be the rent payable in respect of the tenancy qualifying for protection immediately before its ending or, if the protected premises are only part of the property comprised in that tenancy, an amount to be ascertained by apportionment of the rent so payable ;
- (b) section one of the Rent Act of 1949 (which provides for varying a standard rent in certain cases) shall not apply ; and
- (c) any apportionment required for the purposes of paragraph (a) of this subsection shall, in default of agreement, be made by the county court, and the decision of the county court on the apportionment shall be final and conclusive.

(5) If the circumstances referred to in paragraph (b) of subsection (1) of this section do include the circumstances mentioned in paragraph (e) of subsection (2) of this section, the standard rent of the protected premises shall be such amount as may be agreed between the parties or, in default of agreement, as may be determined in accordance with the following provisions, that is to say—

- (a) subject to the succeeding paragraphs, the standard rent shall be ascertained in accordance with paragraph (a) of the last preceding subsection ;
- (b) if at any time, whether before or after the ending of the tenancy qualifying for protection, the landlord serves on the tenant a notice (in such form as may be prescribed by the Minister of Local Government and Planning by statutory instrument) specifying the amount which is to be the standard rent, then as from the service of the notice or from the ending of the tenancy qualifying for protection (whichever is the later) that amount shall, subject to the succeeding paragraphs, be the standard rent ;
- (c) at any time after the service of a notice under the last preceding paragraph the tenant may apply to the tribunal to determine what rent is reasonable for the

PART II
—cont.

protected premises and on any such application the tribunal shall determine that rent and shall notify the parties of their determination ; and

- (d) the rent determined by the tribunal under the last preceding paragraph shall as from the date of the determination be the standard rent of the protected premises :

Provided that, if the tribunal so determine, the rent determined by the tribunal shall be the standard rent as from such earlier date as they may direct, being a date not earlier than the serving of the notice under paragraph (b) of this subsection nor earlier than the ending of the tenancy qualifying for protection.

(6) In determining under paragraph (c) of the last preceding subsection what rent is reasonable for the protected premises the tribunal shall have regard to the terms and conditions (other than terms and conditions fixing the amount of the rent) of the statutory tenancy to which, by virtue of subsection (1) of this section, the premises are for the time being subject or will become subject on the ending of the tenancy qualifying for protection, as the case may be, but save as aforesaid shall disregard any considerations arising from the personal circumstances of any of the parties.

(7) For the purposes of the said paragraph (c) the tribunal shall be the tribunal which, if the application were an application under section one of the Rent Act of 1949, would be the tribunal for the purposes of that section, and paragraph (b) of section eight of the Furnished Houses (Rent Control) Act, 1946 (under which the Minister of Local Government and Planning has power to make regulations with regard to proceedings before tribunals for the purposes of the said section one) shall apply.

(8) Section one hundred and ninety-six of the Law of Property Act, 1925 (which relates to service of notices) shall apply to notices for the purposes of this section.

Provisions supplementary to section sixteen in case of rented premises which include accommodation shared otherwise than with the landlord.

17.—(1) Where at any time during a service man's period of residence protection a tenancy qualifying for protection ends as mentioned in paragraph (a) of subsection (1) of the last preceding section, and immediately before the ending of the tenancy—

- (a) the tenant under the terms of the tenancy had the exclusive occupation of some accommodation (in this section referred to as "the separate accommodation") and had the use of other accommodation in common with another person or other persons, not being or including the landlord, but
- (b) by reason only of such circumstances as are mentioned in subsection (2) of the last preceding section subsection (1) of section eight of the Rent Act of 1949

(which applies the Rent Restrictions Acts to accommodation of which a tenant has the exclusive occupation where under the terms of the tenancy he shares other accommodation with other persons but not with his landlord) did not have effect as respects the separate accommodation,

then subject to the next succeeding subsection the said section eight shall during the remainder of the period of protection apply in relation to the separate accommodation as if the circumstances referred to in paragraph (b) of this subsection did not exist, and had not existed immediately before the ending of the tenancy.

(2) As regards any period during which the said section eight applies as mentioned in the last preceding subsection—

(a) if the said circumstances did not include the circumstances mentioned in paragraph (e) of subsection (2) of the last preceding section, the standard rent of the separate accommodation shall be the rent payable in respect of the tenancy immediately before its ending, and section one of the Rent Act of 1949 shall not apply ;

(b) if the said circumstances did include the circumstances mentioned in the said paragraph (e), then for ascertaining the standard rent of the separate accommodation the provisions of subsections (5) to (8) of the last preceding section shall apply with the necessary modifications.

18.—(1) Where—

(a) a service man begins a period of relevant service, other than a short period of training, after the commencement of this Act, and immediately before beginning it he was living, together with a dependant or dependants of his, in any premises by virtue of a licence in that behalf granted to him by his employer in consequence of his employment, or by virtue of a tenancy so granted otherwise than at a rent (in this section referred to as a 'rent-free tenancy'), or

(b) a service man is performing a period of relevant service, other than a short period of training, at the commencement of this Act, and immediately before beginning it he was living as aforesaid, and a dependant or dependants of his is or are living in the premises or in part thereof, otherwise than in right of a tenancy at a rent, at the commencement of this Act,

Protection of tenure, in connection with employment, under a licence or a rent-free letting, by extension of the Rent Acts.

then during the service man's period of residence protection as defined in section fourteen of this Act the Rent Restrictions Acts shall, subject to the provisions of this section, apply in relation to those premises as if instead of the licence, or of the

PART II
—cont.

rent-free tenancy, as the case may be, there had been granted to the service man a tenancy at a rent—

- (i) for a term of years certain expiring at the beginning of the period of service, or at the commencement of this Act if the period of service began theretofore, and
- (ii) in other respects on the same terms and conditions (excluding any terms or conditions relating to the employment) as those on which the licence, or the rent-free tenancy, as the case may be, was granted ;

and those premises shall be deemed to be during the period of protection a dwelling-house to which those Acts apply if apart from this section they would not have been so.

(2) As regards any period during which the Rent Restrictions Acts apply in relation to premises as mentioned in the preceding subsection—

- (a) if the grant in question was of a licence and a rent not less than two-thirds of the rateable value of the premises was payable in respect thereof immediately before the beginning of the period of service, the standard rent of the premises shall be that rent, and section one of the Rent Act of 1949 shall not apply ;

- (b) if the grant in question was of a licence and no such rent as aforesaid was payable as aforesaid, or if the grant in question was of a rent-free tenancy, then for ascertaining the standard rent of the premises the provisions of subsections (5) to (8) of section sixteen of this Act shall apply with the necessary modifications ;

and where paragraph (b) of this subsection applies, subsection (7) of section twelve of the Rent Act of 1920 shall be treated as not having applied as respects the tenancy assumed for the purposes of subsection (1) of this section.

In this subsection the expression “rateable value”, in relation to any premises, means the value shown for the time being in the valuation list then in force as the rateable value thereof or, where the net annual value differs from the rateable value, as the net annual value thereof:

Provided that, where the premises are not separately shown in the valuation list, the rateable value thereof shall be taken to be an apportioned part of the rateable value of the hereditament shown in the valuation list which comprises the premises, and any apportionment required for the purposes of this proviso shall, in default of agreement, be made by the county court.

(3) Subsection (1) of this section shall not have effect—

- (a) where the licence, or the rent-free tenancy, as the case may be, was granted in connection with the management of premises licensed for the sale of intoxicating liquor for consumption thereon, or

(b) where the licence, or the rent-free tenancy, as the case may be, was granted pursuant to a contract which imposed on the grantor thereof an obligation to provide board for the service man and the dependant or dependants.

(4) As regards the assumption of the granting of a tenancy which is to be made for the purposes of subsection (1) of this section in a case where the grant in question was of a licence, if the granting of such a tenancy would have been a subletting of the premises it shall not be treated for any purpose as constituting a breach of any covenant or agreement prohibiting or restricting subletting.

(5) The subsistence of a Crown interest in the premises shall not affect the application of this section if the interest of the grantor of the licence, or the rent-free tenancy, as the case may be, is not a Crown interest.

(6) In relation to a policeman service man this section shall have effect with the substitution of a reference to a grant to him, either by the relevant police authority or by another person under arrangements made by that authority with that person, in consequence of the service man's membership of the relevant police force, for the reference in subsection (1) to a grant to a service man by his employer in consequence of his employment.

19.—(1) Where by virtue of any of the three last preceding sections, or by virtue of the succeeding provisions of this section, the operation of the Rent Restrictions Acts in relation to any premises is extended or modified, the extension or modification shall not affect any tenancy of those premises other than—

Limitation on application of Rent Acts by virtue of sections sixteen to eighteen.

(a) the statutory tenancy arising by virtue of section sixteen or seventeen of this Act on the ending of a tenancy qualifying for protection (as defined in section fourteen of this Act), or arising by virtue of the last preceding section at the beginning of a period of relevant service or at the commencement of this Act, and

(b) any subsequent statutory tenancy arising on the ending of a statutory tenancy that falls within the preceding paragraph, or within this paragraph,

and shall not affect rent payable in respect of any period before the beginning of the statutory tenancy arising as mentioned in paragraph (a) of this subsection or anything done or omitted theretofore.

(2) In relation to premises to which the Rent Restrictions Acts apply as mentioned in subsection (1) of either section sixteen or section eighteen of this Act, or apply by virtue of section seventeen of this Act, paragraph (h) of the First Schedule to the Rent

PART II
—cont.

Act of 1933 (which excepts a landlord who purchased after the date therein mentioned from provisions as to possession for occupation for himself or certain relatives of his) shall have effect with the substitution of references to the seventeenth day of April, nineteen hundred and fifty-one for references to the date therein mentioned.

(3) In the application to any premises of the Rent Restrictions Acts as mentioned in the last preceding subsection—

(a) they shall have effect subject to the modifications set out in the first column of the First Schedule to the Rent Act of 1939 (being modifications subject to which, by virtue of section three of that Act, they apply in relation to dwelling-houses brought within them by that section) if apart from this subsection they would not so have effect, but

(b) whether apart from this subsection they would so have effect or not, those modifications shall apply (except as provided by the last preceding subsection) with the substitution, for references to the passing or the commencement of the Rent Act of 1939, of references to the beginning of the statutory tenancy referred to in paragraph (a) of subsection (1) of this section.

(4) Subsection (6) of section twelve of the Rent Act of 1920 (which provides that that Act shall continue to apply to premises to which it has once become applicable) shall not apply as respects any premises to which the Rent Restrictions Acts apply as mentioned in subsection (2) of this section.

(5) A mortgage which, if the three last preceding sections had not been enacted, would not be a mortgage to which the Rent Restrictions Acts apply shall be deemed not to be such a mortgage.

In this subsection the expression “ mortgage ” has the same meaning as in the Rent Act of 1920.

(6) References in this section to premises to which the Rent Restrictions Acts apply by virtue of section seventeen of this Act are references to premises to which those Acts apply in accordance with the provisions of section eight of the Rent Act of 1949, in a case where the said section eight applies as mentioned in subsection (1) of the said section seventeen.

Modifications
of Rent Acts
as respects
occupation by
employees.

20.—(1) Where the carrying out of duties connected with an employment which a service man had before beginning a period of relevant service (or, in the case of a policeman service man, the carrying out of his police duties) constitutes an obligation of a tenancy, and his performing that service prevents his carrying out those duties, the fact that he does not carry them

out shall not be treated for the purposes of paragraph (a) of the First Schedule to the Rent Act of 1933 (which relates to recovery of possession where an obligation of a tenancy has been broken or not performed) as a breach or non-performance of the obligation.

(2) Paragraph (g) of the said First Schedule (which relates to recovery of possession, without proof of suitable alternative accommodation, in circumstances connected with occupation by employees) shall not apply for the purposes of the proceedings on an application for possession of premises made at any time during a service man's period of residence protection (as defined in section fourteen of this Act) if either—

- (a) the premises are a rented family residence of his as defined in that section ; or
- (b) the Rent Restrictions Acts apply to the premises as mentioned in subsection (1) of section eighteen of this Act, and a dependant or dependants of the service man is or are living in the premises or in part thereof in right of a statutory tenancy that falls within paragraph (a) or (b) of subsection (1) of the last preceding section.

(3) Where the last preceding subsection has effect as to an application for possession, the circumstances specified in the said First Schedule in which the court has power to make or give an order or judgment for the recovery of possession without proof of suitable alternative accommodation shall include the circumstances specified in either of the following paragraphs, that is to say—

- (a) that the landlord is a body who are statutory undertakers or a local authority or development corporation having public utility functions, and that the premises are required by that body in the public interest for occupation as a residence for some person who is engaged in their whole-time employment in connection with their public utility functions or with whom, conditional on housing accommodation being provided, a contract for such employment has been entered into ;
- (b) where the last preceding subsection has effect by virtue of paragraph (b) thereof and the service man in question is a policeman service man, that the premises are required by the relevant police authority for occupation as a residence by a member of the police force in question :

Provided that, where the court is satisfied that circumstances exist such as are specified in paragraph (a) of this subsection, the matters relevant for the court in determining under subsection (1) of section three of the Rent Act of 1933 whether it is

PART II
—cont.

reasonable to make or give such an order or judgment shall (without prejudice to the generality of that subsection) include the question whether the body seeking the order or judgment have at their disposal any vacant accommodation which would be suitable alternative accommodation for the tenant, or will have such accommodation at their disposal at or before the time when it is proposed that the order or judgment should take effect.

(4) In the last preceding subsection the expressions “statutory undertakers” and “local authority” have the same meanings as in the Town and Country Planning Act, 1947, the expression “development corporation” has the same meaning as in the New Towns Act, 1946, and the expression “public utility functions” means powers or duties conferred or imposed by or under any enactment, being powers or duties to carry on a statutory undertaking (as defined in the said Act of 1947) or to provide public sewers or provide for the disposal of sewage, or being powers or duties of a river board or other drainage authority (as defined respectively in the River Boards Act, 1948, and the Land Drainage Act, 1930).

Modifications
of Agricultural
Holdings Act,
1948, where
tenant is a
service man.

21.—(1) The three next succeeding subsections shall have effect where the tenant of an agricultural holding to which this section applies performs a period of relevant service, other than a short period of training, either wholly after the commencement of this Act or partly theretofore and partly thereafter, and after the commencement of this Act, at a time during his period of residence protection, there is given to him notice to quit the holding, or notice to quit a part of the holding, being a part to which this section applies.

This section applies to any agricultural holding which comprises such a dwelling-house as is mentioned in paragraph 1 of the Seventh Schedule to the Agricultural Holdings Act, 1948, and applies to any part of an agricultural holding being a part which consists of or comprises such a dwelling-house.

(2) Subsection (1) of section twenty-four of the said Act of 1948 (which restricts the operation of notices to quit) shall apply notwithstanding the existence of any such circumstances as are mentioned in subsection (2) or subsection (3) of that section; but where the Minister is satisfied that such circumstances exist then (subject to the next succeeding subsection) the Minister shall not be required to withhold his consent to the operation of the notice to quit by reason only that he is not satisfied that circumstances exist such as are mentioned in paragraphs (a) to (e) of subsection (1) of section twenty-five of that Act.

(3) In determining whether to give or withhold his consent under the said section twenty-four the Minister—

(a) if satisfied that circumstances exist such as are mentioned in subsection (2) or subsection (3) of the said section

twenty-four or in subsection (1) of the said section twenty-five, shall consider to what extent (if at all) the existence of those circumstances is directly or indirectly attributable to the service man's performing or having performed the period of service in question, and

- (b) in any case, shall consider to what extent (if at all) the giving of such consent at a time during the period of protection would cause special hardship in view of circumstances directly or indirectly attributable to the service man's performing or having performed that period of service;

and the Minister shall withhold his consent to the operation of the notice to quit unless in all the circumstances he considers it reasonable to give his consent thereto.

(4) The two last preceding subsections shall apply in relation to the giving or withholding of consent by the Agricultural Land Tribunal, on a reference to that Tribunal under subsection (4) of the said section twenty-five, as they apply in relation to the giving or withholding of consent by the Minister.

(5) Where the tenant of an agricultural holding to which this section applies performs such a period of service as is mentioned in subsection (1) of this section and—

- (a) a notice to quit the holding or a part thereof to which this section applies was given to him before the commencement of this Act or is given to him thereafter but before the beginning of his period of residence protection, and
- (b) the tenant duly serves or has served a counter-notice under subsection (1) of the said section twenty-four, and
- (c) either the Minister has not consented to the operation of the notice to quit or the matter of his consent thereto is or has been duly referred to the Agricultural Land Tribunal and the Tribunal has not determined the matter so referred,

the two last preceding subsections shall (with the necessary modifications) apply in relation to the giving or withholding of consent to the operation of the notice to quit as they apply in relation to the giving or withholding of consent to the operation of a notice to quit given in the circumstances mentioned in subsection (1) of this section.

(6) Section twenty-six of the said Act of 1948 (which authorises the Minister to make regulations as to matters arising out of sections twenty-four and twenty-five of that Act) shall apply

PART II
—cont.

in relation to the provisions of those sections as modified by the preceding provisions of this section as it applies in relation to the provisions of those sections apart from this section.

(7) For the avoidance of doubt it is hereby declared that the power of the Minister under section seventy-two of the Agriculture Act, 1947, to make regulations providing for the delegation of functions to a County Agricultural Executive Committee extends to the making of regulations providing for the delegation to such a committee of any functions of his under section twenty-four or section twenty-five of the said Act of 1948 as modified by the preceding provisions of this section.

(8) In this section the expression “agricultural holding” has the same meaning as in the said Act of 1948 and the expression “the Minister” means the Minister of Agriculture and Fisheries.

Facilities for
action on
behalf of
men serving
abroad in
proceedings
as to
tenancies.

22.—(1) Where in the course of any proceedings brought before a court under the Rent Restrictions Acts, or of any proceedings consequential upon the making of a reference or application to a rent tribunal under the Furnished Houses (Rent Control) Act, 1946, or under this Part of this Act, it appears to the court or tribunal—

- (a) that the proceedings relate to a tenancy vested in a service man;
- (b) that a person other than the service man desires to take a step in the proceedings on behalf of the service man at a time when he is serving abroad, or has purported to take a step in the proceedings on his behalf at a time when he was so serving; and
- (c) that the said person, in seeking or purporting to take that step, is or was acting in good faith in the interests of the service man, and is or was a fit person to take that step on his behalf, but is or was not duly authorised to do so,

the court or tribunal may direct that the said person shall be deemed to be, or to have been, duly authorised to take that step on behalf of the service man.

(2) The provisions of the preceding subsection apply in relation to the institution of proceedings before a court as they apply in relation to the taking of a step in such proceedings, and apply in relation to the making of a reference or application to a rent tribunal as they apply in relation to the taking of a step in proceedings consequential upon the making of such a reference or application; and references in that subsection to proceedings brought or a reference or application made as therein mentioned include references to proceedings which purport to be so brought or to a reference or application which purports to be so made, as the case may be.

(3) Where in the course of any proceedings a court or tribunal gives a direction under subsection (1) of this section, the person to whom the direction relates shall have the like right of audience in those proceedings as the service man himself would have.

(4) The Minister of Agriculture and Fisheries may make regulations—

(a) for enabling a counter-notice under subsection (1) of section twenty-four of the Agricultural Holdings Act, 1948, to be served on behalf of a service man at a time when he is serving abroad, in a case where a notice to quit is given to him as mentioned in subsection (1) of section twenty-one of this Act ; and

(b) for enabling any act or proceedings consequential upon the service of a counter-notice under subsection (1) of the said section twenty-four to be performed or conducted on behalf of a service man at a time when he is serving abroad, either in such a case as is mentioned in the preceding paragraph or in a case where subsection (5) of section twenty-one of this Act applies in relation to the service man.

(5) Regulations made under the last preceding subsection may contain such incidental and consequential provisions as may appear to the said Minister to be necessary or expedient for the purposes of the regulations.

(6) The power to make regulations under subsection (4) of this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) References in this section to a time when a service man is serving abroad are references to a time when he is performing a period of relevant service and is outside the United Kingdom.

23.—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“ agricultural land ” has the same meaning as in the Rent Act of 1939 ;

“ Crown interest ” means an interest belonging to His Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or to a Government department, or held on behalf of His Majesty for the purposes of a Government department ;

“ dependant ”, in relation to a service man, means—

(a) his wife, and

(b) any other member of his family who was wholly or mainly maintained by him immediately before the beginning of the period of service in question ;

PART II
—cont.

- “landlord” and “tenant” have the same meanings as in the Rent Restrictions Acts ;
- “policeman service man” means a service man who, immediately before beginning the period of relevant service in question, was a member of a police force ;
- “police force” means a police force maintained by virtue of a scheme under the Police Act, 1946, or maintained for a police area mentioned in the Third Schedule to the Police Pensions Act, 1921 ;
- “relevant police authority” means, in relation to a police force maintained by virtue of a scheme under the Police Act, 1946, the authority responsible under the scheme for the maintenance of that force, and, in relation to any other police force, the police authority (within the meaning of the Police Pensions Act, 1921) responsible for the maintenance of that force ;
- “statutory tenancy” means a right to retain possession of premises after the ending of a tenancy thereof, being a right arising on the ending of that tenancy from the operation of the Rent Restrictions Acts (or of those Acts as extended by this Part of this Act) in relation to a person as being, or being the widow of or otherwise related to, the former owner of the tenancy, or a right to retain possession of premises arising by virtue of subsection (1) of section eighteen of this Act ;
- “tenancy” includes a statutory tenancy, and, apart from a statutory tenancy, means a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or underlease or by a tenancy agreement, but does not include any relationship between a mortgagor and a mortgagee as such.

(2) In this Part of this Act—

- (a) references to the ending of a tenancy are references to the coming to an end thereof however brought about, whether by effluxion of time, notice to quit or otherwise, and in particular, as respects a statutory tenancy, include references to the coming to an end thereof as between the tenant and a landlord who is himself a tenant by reason of the ending of the tenancy of the landlord ;
- (b) references to a tenancy vested in any person include references to a tenancy vested in trustees, or held as part of the estate of a deceased person, where the first-mentioned person has a right or permission to occupy the premises arising by reason of a beneficial interest (whether direct or derivative) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee.

(3) In this Part of this Act, and in the Rent Restrictions Acts as applied by any provision thereof, references to rent shall be construed as including references to any sum in the nature of rent payable in respect of such a licence as is mentioned in section eighteen of this Act.

PART II
—cont.

24. In the application of the preceding sections of this Part of this Act to Scotland—

Application
of Part II to
Scotland.

- (a) for any reference to the Minister of Local Government and Planning or to the Minister of Agriculture and Fisheries there shall be substituted a reference to the Secretary of State; and for any reference to the county court there shall be substituted a reference to the sheriff;
- (b) for references to the Agricultural Holdings Act, 1948, and to sections twenty-four, twenty-five and twenty-six thereof, there shall be respectively substituted references to the Agricultural Holdings (Scotland) Act, 1949, and to sections twenty-five, twenty-six and twenty-seven thereof; for references to the Agricultural Land Tribunal and to references thereto there shall be respectively substituted references to the Scottish Land Court and to appeals thereto; and for any reference to such a dwelling-house as is mentioned in paragraph 1 of the Seventh Schedule to the Agricultural Holdings Act, 1948, there shall be substituted a reference to a dwelling-house comprised in an agricultural holding and occupied by the person responsible for the control (whether as tenant or as servant or agent of the tenant) of the farming of the holding;
- (c) for references to the Agriculture Act, 1947, and to section seventy-two thereof there shall be respectively substituted references to the Agriculture (Scotland) Act, 1948, and to section sixty-nine thereof; and for any reference to a County Agricultural Executive Committee there shall be substituted a reference to an Agricultural Executive Committee;
- (d) for any reference to the Town and Country Planning Act, 1947, there shall be substituted a reference to the Town and Country Planning (Scotland) Act, 1947, and for references to the Furnished Houses (Rent Control) Act, 1946, and to section eight thereof, there shall be respectively substituted references to the Rent of Furnished Houses Control (Scotland) Act, 1943, and to section six thereof;
- (e) for any reference to a valuation list there shall be substituted a reference to a valuation roll; for any reference to a hereditament there shall be substituted a

PART II
—cont.

reference to lands and heritages; and for any reference to intoxicating liquor there shall be substituted a reference to exciseable liquor;

- (f) the expression "licence" means a right or permission derived otherwise than under a lease; and any reference to the reversion immediately expectant on a tenancy shall be construed as a reference to the interest of the immediate landlord of the tenant under the tenancy;
- (g) for references to the Police Act, 1946, and to an authority responsible under a scheme for the maintenance of a police force there shall be respectively substituted references to the Police (Scotland) Act, 1946, and to a joint police committee to whom the functions of constituent authorities have been delegated;
- (h) section sixteen of this Act shall have effect as if for subsection (8) there were substituted the following subsection—

"(8) A notice for the purposes of this section may be served in like manner as a notice under section three hundred and forty-nine of the Local Government (Scotland) Act, 1947."

Protection during short period of training

25.—(1) Where a service man who has been living with a dependant or dependants of his in any premises in right of a tenancy, or of a licence in that behalf granted by his employer in consequence of his employment, performs a short period of training, then, for so long during that period and within fourteen days from the ending of it as the dependant or dependants and the service man or any of them is or are still living in the premises or any part thereof, no person shall be entitled, except with the leave of the appropriate court, to proceed—

- (a) to execution on, or otherwise to the enforcement of, any judgment or order given or made against any of them for the recovery of possession of any part of the premises in which any of them is or are living, or
- (b) to exercise against any of them any right to take possession of, or to re-enter upon, any such part thereof.

(2) If, on any application for such leave as is required by the preceding subsection, the court is of opinion that, by reason of circumstances directly or indirectly attributable to the service man's performing or having performed the period of service in question, the judgment, order or right ought not to be immediately executed, enforced or exercised, the court may refuse leave or give leave subject to such restrictions and conditions as the court thinks proper.

(3) References in this section to a judgment or order for the recovery of possession of premises include references to any judgment or order the effect of which is to enable a person to obtain possession of the premises, and in particular includes, in relation to a mortgagee, a judgment or order for the delivery of possession of the premises.

(4) For the purposes of this section a person shall be deemed to be proceeding to execution on, or otherwise to the enforcement of, a judgment or order in the circumstances in which, by virtue of subsection (9) of section three of this Act, he would be deemed to be so proceeding for the purposes of section two of this Act, and, where a person has, in a case for which leave was not required under this section, taken out any judicial process with a view to, or in the course of, the enforcement of a judgment or order or proceeded to the exercise of a right to take possession of or to re-enter upon premises, he shall be deemed to be proceeding to the enforcement of the judgment or order or to the exercise of the right when any step is taken by him or on his behalf towards its completion.

(5) The references in section five and subsection (1) of section eleven of this Act to the provisions of Part I of this Act shall include references to the provisions of this section, and the provisions of section thirteen of this Act which relate to omission to obtain leave required under section two of this Act shall have effect in relation to omission to obtain leave required under this section.

(6) In this section the expression “dependant”, in relation to a service man, means—

- (a) his wife, and
- (b) any other member of his family wholly or mainly maintained by him.

(7) In the application of this section to Scotland—

- (a) the expression “licence” has the meaning assigned to it by paragraph (f) of section twenty-four of this Act;
- (b) a reference to proceeding to execution on or otherwise to the enforcement of a judgment or order shall be construed as a reference to the enforcement of a decree, and any reference to a mortgagee shall be omitted;
- (c) for the references to section two and to subsection (9) of section three of this Act there shall be respectively substituted references to section eight and to subsection (7) of section nine of this Act.

PART III

PROTECTION AGAINST INSECURITY OF TENURE OF
BUSINESS AND PROFESSIONAL PREMISES*Provisions as to England and Wales*

Application of sections twenty-seven to thirty-six.

26. The ten next following sections shall apply to England and Wales only.

Renewal of tenancy expiring during period of service or within two months thereafter.

27.—(1) The provisions of this Part of this Act shall have effect for empowering the court to order the grant of new tenancies in cases where—

- (a) immediately before beginning (whether after or before the commencement of this Act) a period of relevant service, other than a short period of training, a service man was the working proprietor of a business or professional practice carried on in the premises, or part of the premises, comprised in a tenancy vested in him, and
- (b) the tenancy (in this Part of this Act referred to as “the expiring tenancy”) would apart from the provisions of this Part of this Act come to an end after the commencement of this Act and before the date of the ending of that period of service or before the expiration of two months from that date, and would so come to an end by effluxion of time or by the expiration of a notice to quit given by the landlord, whether after or before the commencement of this Act, and
- (c) at the time when an application for the grant of a new tenancy is made under this Part of this Act the service man is still the proprietor of the business or practice and it is still being carried on in the premises, or part of the premises, comprised in the expiring tenancy:

Provided that the said provisions shall not have effect if at the time when the application might otherwise be made the premises comprised in the expiring tenancy are an agricultural holding (within the meaning of the Agricultural Holdings Act, 1948), or consist of or comprise premises (other than premises excepted from this provision) licensed for the sale of intoxicating liquor for consumption on the premises, or if the expiring tenancy was granted in pursuance of subsection (2) of section four of the War Damaged Sites Act, 1949.

(2) For the purposes of paragraph (a) of the last preceding subsection a service man shall be deemed to have been at any time the working proprietor of a business or professional practice

carried on as mentioned in that paragraph if, and only if, he was the proprietor of the business or practice during the whole of the period of one year immediately preceding that time and, during more than one-half of that period, either—

- (a) he worked whole-time in the actual management or conduct of that business or practice, or
- (b) he worked whole-time in the actual management or conduct of a business or professional practice of which that business or practice was a branch and was mainly engaged in the management or conduct of that branch.

(3) In the preceding provisions of this section the expression “proprietor” means, in the case of a business or practice carried on by a partnership firm, a partner in the firm on terms and conditions entitling him to not less than one half of the profits of the firm, and, in the case of a business or practice carried on by a company, a person holding shares in the company amounting in nominal value to not less than one half of the issued share capital of the company; and, in relation to a business or practice carried on by a partnership firm or by a company, references in those provisions to the proprietor of the business or practice include references to a person being one of two such partners in the firm or, as the case may be, being one of two persons each holding such shares in the company, and references to the working proprietor of the business or practice shall be construed accordingly.

(4) In relation to a business or practice carried on by a partnership firm or by a company, references in the preceding provisions of this section to a tenancy vested in the service man include references to a tenancy vested in one or more partners of the firm, or vested in the company, as the case may be; and for the purposes of those provisions and of this subsection a tenancy shall be treated as having been vested at any time in a person if it was then vested in trustees, or held as part of the estate of a deceased person, and the first-mentioned person then had a right or permission to occupy the premises comprised in the tenancy, or the part of those premises in which the business or practice was being carried on, being a right or permission arising by reason of a beneficial interest (whether direct or derivative) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee.

(5) In this section—

- (a) the expression “profits” in relation to a firm means such profits of the firm as are from time to time distributable among the partners therein;

PART III
—cont.

- (b) the expression “ company ” has the same meaning as in the Companies Act, 1948 ;
- (c) the expression “ share ” includes stock and the expression “ share capital ” shall be construed accordingly ;

and for the purposes of this section shares held by a person’s wife, or held by him jointly with his wife, shall be treated as shares held by that person.

(6) In the proviso to subsection (1) of this section the reference to premises excepted from the provision as to premises licensed for the sale of intoxicating liquor is a reference to premises in respect of which—

- (a) the excise licence for the time being in force is a licence the duty in respect of which is the reduced duty payable under section forty-five of the Finance (1909-10) Act, 1910, or a licence granted in pursuance of regulations under subsection (5) of the said section forty-five (which relates to the granting of licences on the provisional payment of reduced duty), or
- (b) the Commissioners of Customs and Excise certify that no application under the said section forty-five has been made in respect of the period for which the excise licence for the time being in force was granted, but that if such an application had been made such a licence could properly have been granted as is mentioned in the preceding paragraph.

Premises to be comprised in new tenancy.

28.—(1) Any new tenancy granted under this Part of this Act shall, subject to the next succeeding subsection, be a tenancy of the whole of the premises comprised in the expiring tenancy.

(2) If at the time of the application for a new tenancy the business or practice is being carried on in a separate part of the premises comprised in the expiring tenancy (whether that part is used exclusively for the purposes of the business or practice or not) any new tenancy granted as aforesaid shall, if the landlord so requires, be a tenancy of the whole of the premises comprised in the expiring tenancy, but otherwise shall be a tenancy of that separate part:

Provided that where in such a case the landlord does not require the new tenancy to be a tenancy of the whole of the premises comprised in the expiring tenancy and—

- (a) those premises include such a separate part as aforesaid and also another separate part consisting of living accommodation occupied wholly or mainly by one or

more dependants of the service man, or by a person who is employed for the purposes of the business or practice carried on as aforesaid, and

(b) an application is made in that behalf,

the new tenancy shall, unless the court in its discretion otherwise determines, be a tenancy of the separate part in which the business or practice is carried on and also of the separate part consisting of the living accommodation.

(3) Any question arising under the last preceding subsection whether a part of premises should be treated as a separate part for the purposes of the grant of a new tenancy shall be determined by the court on the hearing of the application.

(4) In this section the expression “dependant” has the meaning assigned to it by subsection (1) of section twenty-three of this Act.

29.—(1) An order for the grant of a new tenancy under this Part of this Act shall not be made except upon an application to the county court made by the tenant under the expiring tenancy; and, subject to subsection (3) of this section, any such application shall—

Application
for grant of
new tenancy.

(a) if apart from this section the expiring tenancy would expire by effluxion of time, not be made later than one month before the date on which that tenancy would so expire;

(b) if apart from this section the expiring tenancy would come to an end by notice to quit given by the landlord, be made after the giving of the notice to quit and not later than one month before the notice is due to expire:

Provided that—

(i) in a case falling within paragraph (b) of this subsection an application may be made at any time not later than one month after the giving of the notice to quit, if the latest time limited by that paragraph would fall before the end of that month; and

(ii) where the latest time limited by the preceding provisions of this subsection would fall before the end of one month beginning with the commencement of this Act, an application may be made not later than the end of that month.

(2) Where apart from this section the expiring tenancy would come to an end—

(a) by effluxion of time, or

(b) by notice to quit given by the landlord so as to expire not less than four months after the giving of the notice,

the landlord may at any time not earlier than the beginning of the service man's period of service in question nor earlier than four months before the date on which that tenancy would so come to an end serve on the tenant notice, in such form and containing such particulars as to the provisions of this Part of this Act as may be prescribed by regulations made by the Lord Chancellor by statutory instrument, requiring the tenant within the period of one month from the date of the service of the notice to elect whether or not to make an application under the preceding subsection; and, subject to the next succeeding subsection, where a notice under this subsection is served no such application shall be made in relation to the expiring tenancy after the end of the said period of one month.

(3) The court to which an application under subsection (1) of this section could be made within the time limited by the preceding subsections shall have power, on an application made in that behalf either before or after the expiration of that time, to extend the time limited by those subsections for making the application under the said subsection (1) if the court is satisfied that there are or were adequate reasons for not making that application within the time so limited and that in all the circumstances of the case it is reasonable to extend the time.

(4) Where an application is duly made under subsection (1) of this section and the expiring tenancy would apart from this section come to an end before the relevant date, then—

- (a) if the expiring tenancy would so come to an end after the application is made, it shall be treated as continuing until the relevant date;
- (b) if the expiring tenancy would have so come to an end at a time before the application is made, it shall be treated as having continued since that time until the application is made and as continuing thereafter until the relevant date.

(5) The relevant date for the purposes of the last preceding subsection, in relation to an application—

- (a) unless the application is withdrawn, is the date falling one month after the date on which the proceedings on the application (including any proceedings on or in consequence of an appeal) are finally determined;
- (b) if the application is withdrawn, is the date falling one month after the withdrawal of the application.

(6) Section one hundred and ninety-six of the Law of Property Act, 1925 (which relates to service of notices) shall apply to notices for the purposes of this section.

30.—(1) Subject to the provisions of this Part of this Act, on an application under this Part of this Act duly made the court may, if in all the circumstances of the case it appears reasonable to do so, order that there shall be granted to the tenant a tenancy for such period, at such rent and on such terms and conditions as the court in all the circumstances thinks reasonable, and thereafter the parties shall be deemed to have entered into a lease of the premises or part of premises (as the case may be) creating such a tenancy:

Provided that in fixing the rent under this subsection the court shall disregard any consideration arising from the personal circumstances of any of the parties.

(2) Any period for which under the last preceding subsection a tenancy is ordered to be granted shall begin with the end of the expiring tenancy, whether it ends in accordance with the terms thereof or after being continued by subsection (4) of the last preceding section.

(3) In ordering the grant of a new tenancy under this section the court shall so limit the period of the tenancy, or shall order the grant subject to such terms and conditions, as in the opinion of the court may be most suitable for securing that the tenancy shall not extend beyond, or may be terminated by the landlord at a time not later than, the expiration of four months from the end of the period of service in consequence of which the application was made:

Provided that nothing in this subsection shall be construed as restricting the discretion of the court in a case where the court thinks it reasonable that the tenancy should come to an end, or be capable of being terminated by the landlord, at any earlier time.

(4) The court shall not order the grant of a new tenancy if it is satisfied—

- (a) that the tenant has broken any of the terms or conditions of the expiring tenancy, and that in view of the nature and circumstances of the breach a new tenancy ought not to be granted; or
- (b) that the landlord has offered to afford to the tenant, on terms and conditions which in the opinion of the court are reasonable, alternative accommodation which, in the opinion of the court, is suitable for the purposes of the business or professional practice carried on under the expiring tenancy; or
- (c) that the landlord reasonably requires possession in order that the premises the subject of the expiring tenancy, or a substantial part of those premises, may be demolished or reconstructed; or

PART III
—cont.

- (d) where there subsists in the premises an interest belonging to a public authority, that in the public interest a new tenancy ought not to be granted; or
- (e) that having regard to all the circumstances of the case greater hardship would be caused by ordering the grant of a new tenancy than by refusing to do so.

The reference in paragraph (d) of this subsection to an interest belonging to a public authority is a reference to an interest belonging to a Government department or held on behalf of His Majesty for the purposes of a Government department, or held by a local authority (as defined in the Town and Country Planning Act, 1947), by statutory undertakers (as so defined) or by a development corporation (as defined in the New Towns Act, 1946).

(5) Where at the commencement of this Act any authority is empowered by any enactment or order to purchase compulsorily land specifically described in that enactment or order, there shall, for the purposes of the last preceding subsection, be deemed, during a period of six months from the commencement of this Act or during such period as the authority remains so empowered as aforesaid (whichever period first expires), to be subsisting in that land an interest belonging to that authority.

(6) A tenancy ordered to be granted under this section shall, where the reversion is subject to a mortgage, be deemed to be a tenancy created by a lease authorised by section ninety-nine of the Law of Property Act, 1925.

31. Where the grant of a new tenancy has been ordered under this Part of this Act, the provisions of this Part of this Act shall thereafter apply in relation to the new tenancy as if the conditions specified in paragraph (a) of subsection (1) of section twenty-seven of this Act were fulfilled in relation to the new tenancy and the new tenancy were the tenancy referred to in those provisions as the expiring tenancy.

32.—(1) Where in the case of a tenancy the reversion is itself a tenancy, and the period for which in accordance with the preceding provisions of this Part of this Act the court proposes to order the grant of a new tenancy will extend beyond the date on which the reversion will come to an end, the power of the court under those provisions shall include power to order such a grant until the end of the reversion and also to order the grant of such a reversionary tenancy or reversionary tenancies as may be required to secure that the combined effect of those grants will be equivalent to the grant of a tenancy for

Provision for further renewal of tenancy.

Provision for cases where landlord is a tenant.

the said period; and the provisions of this Part of this Act shall, subject to the necessary modifications, apply to the grant of a tenancy and of one or more reversionary tenancies.

(2) Where by virtue of any of the provisions of this Part of this Act a tenancy (in this subsection referred to as “the inferior tenancy”) is continued or granted for a period such as to extend to or beyond the end of the term of a superior tenancy, the superior tenancy shall, for the purposes of this Part of this Act and of any other enactment and of any rule of law, be deemed so long as it subsists to be an interest in reversion expectant upon the termination of the inferior tenancy and, if there is no intermediate tenancy, to be the interest in reversion immediately expectant upon the termination thereof.

(3) In the case of a tenancy continuing by virtue of subsection (4) of section twenty-nine of this Act after the coming to an end of the reversion, subsection (1) of section one hundred and thirty-nine of the Law of Property Act, 1925 (which relates to the effect of the extinguishment of a reversion) shall apply as if references in the said subsection (1) to the surrender or merger of the reversion included references to the determination of the reversion for any reason other than surrender or merger.

33.—(1) In relation to the granting of tenancies under this Part of this Act, the following provisions shall have effect as respects the Landlord and Tenant Act, 1927.

Provisions as to Landlord and Tenant Act, 1927.

(2) The provisions of Part I of the said Act of 1927 shall not apply in relation to tenancies granted under this Part of this Act.

(3) Nothing in this Part of this Act shall affect the time at which a tenancy is to be treated as terminating for the purposes of the said Part I; and a tenant who by virtue of this Part of this Act remains in occupation of any premises or part of premises after the expiring tenancy would apart from this Part of this Act have come to an end shall be treated for those purposes as having quitted his holding on the termination of that tenancy.

(4) In considering, for the purposes of section four of the said Act of 1927, whether the tenant or his predecessors in title has or have carried on a trade or business at any premises for the period of five years specified in subsection (1) of that section, a period of occupation of the premises by virtue of this Part of this Act shall not count towards completion of the said five years, but shall notwithstanding anything in the last preceding subsection be treated as not breaking the continuity of immediately preceding and succeeding periods of occupation of the premises.

(5) Notwithstanding anything in this Part of this Act, the following provisions shall have effect, as respects claims by the

PART III
—cont.

tenant for compensation under Part I of the said Act of 1927, and notices by the landlord under paragraph (d) of subsection (1) of section two of that Act or paragraph (b) of the proviso to subsection (1) of section four thereof (which paragraphs exclude compensation where within the specified period of two months the landlord serves on the tenant such a notice for the renewal of the tenancy as is therein mentioned)—

- (a) no application shall be made under this Part of this Act for the grant of a new tenancy if the tenant has duly claimed such compensation as aforesaid and the landlord has within the said period of two months served such a notice as aforesaid ;
- (b) where an application is made under this Part of this Act at a time when the tenant has duly claimed such compensation and when the landlord has not served such a notice as aforesaid but the said period of two months has not expired, the application shall not be heard until that period has expired, and, if within that period the landlord serves such a notice, the application shall be dismissed ;
- (c) where at the time such an application is made the tenant has not duly claimed such compensation but the time for claiming it has not expired the application shall not be heard before the expiration of that time, and if before the expiration thereof the tenant duly makes a claim the last foregoing paragraph shall apply as it applies where the application under this Part of this Act is made after the making of a claim for compensation.

(6) Where the tribunal under the said Act of 1927 has made an interim order under subsection (13) of section five of that Act and subsequently determines not to order the grant of a new tenancy under subsection (2) of that section, the said tribunal may if it thinks fit direct that the possession of the tenant under the interim order shall be treated as if it were a tenancy granted under this Part of this Act, and where it so directs the time within which an application for the grant of a further new tenancy may be made under this Part of this Act shall be such as the tribunal may direct.

Appeals.

34.—(1) No appeal shall be brought from any determination or order of the court under this Part of this Act except with the leave of the court or of the Court of Appeal.

(2) Notwithstanding anything in subsection (4) of section twenty-nine of this Act, the court granting leave to appeal may direct that during the period beginning with the granting of leave to appeal and ending with the date to which a tenancy is

continued by the said subsection (4) the tenancy shall have effect subject to such modifications, terms or conditions as that court may specify.

PART III
—cont.

35.—(1) Except in so far as it is otherwise expressly provided, this Part of this Act shall apply where there is an interest belonging to His Majesty in right of the Crown or to a Government department, or held on behalf of His Majesty for the purposes of a Government department, in like manner as where no such interest subsists.

Application to
Crown
property.

(2) Where an interest in any land belongs to a Government department, or is held on behalf of His Majesty for the purposes of a Government department, and the Minister or Board in charge of any Government department is satisfied that for reasons of national security it is necessary that the use or occupation of the land should be discontinued or changed, the Minister or Board may certify that this subsection applies to the land; and where such a certificate is given no order shall be made under this Part of this Act for the grant of a new tenancy comprising that land or any part thereof.

36.—(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say:—

Interpretation
of preceding
sections of
Part III.

“the landlord”, in relation to a tenancy, means the person for the time being entitled to the reversion and, where the reversion is subject to a mortgage and the mortgagee is in possession or he or a receiver appointed by him or by the court is in receipt of the rents and profits, includes that mortgagee and any such receiver as aforesaid;

“mortgage” includes any charge, and the expressions “mortgagor” and “mortgagee” shall be construed accordingly;

“notice to quit” includes a notice to determine a term of years certain, but does not include a notice requiring possession where section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845, applies;

“the reversion”, in relation to a tenancy, means the interest which, not being a mortgage term and apart from any such term, is for the time being in reversion immediately expectant upon the termination of the tenancy; and

“tenancy” means a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or underlease or by a tenancy agreement, but does not include any relationship between a mortgagor and a mortgagee as such, and “tenant” shall be construed accordingly.

PART III
—cont.

(2) References in this Part of this Act to the premises comprised in a tenancy are references to the aggregate of the land comprised in the tenancy.

Provisions as to Scotland

37. The three next following sections shall apply to Scotland only.

38.—(1) Where—

- (a) immediately before beginning (whether before or after the commencement of this Act) a period of relevant service other than a short period of training, a service man was the working proprietor of a business or a professional practice carried on in the premises or part of the premises comprised in a tenancy vested in him, and
- (b) the landlord gives or has given to the service man notice of termination of tenancy taking effect after the commencement of this Act, and before the date of the ending of that period of service or before the expiration of two months from that date, and
- (c) at the time when an application for renewal of the tenancy is made in pursuance of the provisions hereinafter contained the service man is still the proprietor of the business or practice and the business or practice is still being carried on in the premises comprised in the tenancy,

the service man may, at any time before the notice of termination of tenancy takes effect and not later than the expiry of twenty-one days after the service of the notice or after the commencement of this Act, whichever is the later, apply to the sheriff for a renewal of his tenancy.

(2) For the purposes of paragraph (a) of the last preceding subsection a service man shall be deemed to have been at any time the working proprietor of a business or professional practice carried on as mentioned in that paragraph if, and only if, he was the proprietor of the business or practice during the whole of the period of one year immediately preceding that time and, during more than one-half of that period, either—

- (a) he worked whole-time in the actual management or conduct of that business or practice, or
- (b) he worked whole-time in the actual management or conduct of a business or professional practice of which that business or practice was a branch and was mainly engaged in the management or conduct of that branch.

Application of sections thirty-eight to forty.

Application by service man for renewal of tenancy of business premises.

(3) In the preceding provisions of this section the expression “proprietor” means, in the case of a business or practice carried on by a firm, a partner in the firm on terms and conditions entitling him to not less than one half of the profits of the firm and, in the case of a business or practice carried on by a company, a person holding shares in the company amounting in nominal value to not less than one half of the issued share capital of the company; and, in relation to a business or practice carried on by a partnership firm or by a company, references in those provisions to the proprietor of the business or practice include references to a person being one of two such partners in the firm or, as the case may be, being one of two persons each holding such shares in the company, and references to the working proprietor of the business or practice shall be construed accordingly.

(4) In relation to a business or practice carried on by a firm or by a company, references in the preceding provisions of this section to a tenancy vested in the service man include references to a tenancy vested in one or more partners in the firm, or vested in the company, as the case may be; and for the purposes of those provisions and of this subsection a tenancy shall be treated as having been vested at any time in a person if it was then vested in trustees, or held as part of the estate of a deceased person, and the first-mentioned person then had a right or permission to occupy the premises comprised in the tenancy, or the part of those premises in which the business or practice was being carried on, being a right or permission arising by reason of a beneficial interest (whether direct or derivative) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee.

(5) In this section—

- (a) the expression “profits” in relation to a firm means such profits of the firm as are from time to time distributable among the partners therein;
- (b) the expression “company” has the same meaning as in the Companies Act, 1948;
- (c) the expression “share” includes stock and the expression “share capital” shall be construed accordingly;

and for the purposes of this section shares held by a person's wife, or held by him jointly with his wife, shall be treated as shares held by that person.

(6) The foregoing provisions of this section shall not have effect if at the time when an application for renewal of the tenancy might otherwise be made—

(a) the premises comprised in the tenancy—

- (i) are an agricultural holding within the meaning of the Agricultural Holdings (Scotland) Act, 1949, or

PART III
—cont.

- (ii) consist of or comprise premises (other than premises excepted from this provision) licensed for the sale of exciseable liquor for consumption on the premises, or
- (b) the tenancy of the premises was granted in pursuance of subsection (2) of section four of the War Damaged Sites Act, 1949.

In this subsection the reference to premises excepted from the provision as to premises licensed for the sale of exciseable liquor is a reference to premises in respect of which—

- (i) the excise licence for the time being in force is a licence the duty in respect of which is the reduced duty payable under section forty-five of the Finance (1909-10) Act, 1910, or a licence granted in pursuance of regulations under subsection (5) of the said section forty-five (which relates to the granting of licences on the provisional payment of reduced duty); or
- (ii) the Commissioners of Customs and Excise certify that no application under the said section forty-five has been made in respect of the period for which the excise licence for the time being in force was granted, but that if such an application had been made such a licence could properly have been granted as is mentioned in the preceding paragraph.

Power of
sheriff to
grant new
tenancy.

39.—(1) On any application under subsection (1) of the last foregoing section the sheriff may, subject as hereinafter provided, determine that the tenancy shall be renewed for such period, at such rent, and on such terms and conditions as he shall, in all the circumstances, think reasonable, and thereafter the parties shall be deemed to have entered into a new lease of the premises for that period, at that rent and on those terms and conditions.

(2) The period for which a tenancy may be renewed under the last foregoing subsection shall not extend beyond the expiry of four months from the end of the period of service in consequence of which the application was made.

(3) Notwithstanding anything in subsection (1) of this section, the sheriff may, if in all the circumstances he thinks it reasonable to do so, dismiss any application under subsection (1) of the last foregoing section, and shall not determine that a tenancy shall be renewed, if he is satisfied—

- (a) that the tenant is in breach of any condition of his tenancy which in the opinion of the sheriff is material; or
- (b) that the tenant is notour bankrupt or is divested of his estate by virtue of a trust deed for behoof of creditors, or, being a company, is unable to pay its debts; or
- (c) that the landlord has offered to sell the premises to the tenant at such price as may, failing agreement, be fixed

by a single arbiter agreed on by the parties or appointed, failing such agreement, by the sheriff ; or

- (d) that the landlord has offered to afford to the tenant, on terms and conditions which in the opinion of the sheriff are reasonable, alternative accommodation which, in the opinion of the sheriff, is suitable for the purposes of the business carried on by the tenant in the premises ; or
- (e) that the tenant has given notice of termination of tenancy and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps as a result of which he would in the opinion of the sheriff be seriously prejudiced if he could not obtain possession of the premises ; or
- (f) that, having regard to all the circumstances of the case, greater hardship would be caused by determining that the tenancy shall be renewed than by refusing so to do.

(4) Where a tenancy has been renewed under subsection (1) of this section, the tenant shall have the like right to apply for further renewals as if the tenancy had been renewed by agreement between the landlord and the tenant, and accordingly the foregoing provisions of this section and the immediately preceding section shall, with any necessary modifications, apply to a tenancy which has been renewed under the said subsection (1) or under this subsection.

(5) If on any application under this section the sheriff is satisfied that it will not be possible to dispose finally of the application before the notice of termination of tenancy takes effect, he may make an interim order authorising the tenant to continue in occupation of the premises at such rent, for such period (which shall not exceed three months) and on such terms and conditions as the sheriff may think fit.

(6) Applications under subsection (1) of the last foregoing section shall be conducted and disposed of in the summary manner in which proceedings are conducted and disposed of under the Small Debt (Scotland) Acts, 1837 to 1889, and the decision of the sheriff in any such application shall be final and not subject to review.

40.—(1) The last two foregoing sections shall apply to any such premises as are mentioned therein in which the interest of the immediate landlord of the tenant belongs to His Majesty in right of the Crown or to a government department or is held on behalf of His Majesty for the purposes of a government department, in like manner as the said section applies to any other such premises. Application to Crown property.

(2) Where the Minister or Board in charge of any Government Department is satisfied that for reasons of national security it is necessary that the use or occupation of any such premises

PART III
—cont.

in which the interest aforesaid belongs to a Government Department or is held on behalf of His Majesty for the purposes of a Government Department should be discontinued or changed, the Minister or Board may certify that this subsection applies to the premises ; and where such a certificate is given the sheriff shall not determine that the tenancy shall be renewed.

PART IV

PROTECTION OF SUPERANNUATION RIGHTS

Extension of
section one
of Super-
annuation
(Miscellaneous
Provisions)
Act, 1948.

41.—(1) Section one of the Superannuation (Miscellaneous Provisions) Act, 1948 (which relates to the treatment for civil service, local government, teachers' and other superannuation purposes of persons called up for service under the National Service Act, 1948) shall, subject to the provisions of this Part of this Act, apply in relation to persons who enter upon service of a description specified in the First Schedule to this Act other than compulsory national service, as it applies in relation to persons who enter upon compulsory national service.

(2) In the definition of the expression " compulsory national service " in subsection (7) of the said section one, for the words " work or training in pursuance of an order of a tribunal under section five of the National Service (Armed Forces) Act, 1939 (which relates to conscientious objectors) ", there shall be substituted the words " work or training in pursuance of an order made or direction given under Part I of the National Service Act, 1948, as respects a conditionally registered conscientious objector."

(3) Subsection (2) of the said section one (which enables rules to be made providing that, where a person who has been successful in a competitive examination for posts in the permanent civil service of the state open to persons under the age of eighteen enters upon compulsory national service before becoming a civil servant, so much of the period of his service as falls after the issue to him by the Civil Service Commissioners of their certificate of qualification may be reckoned as service as a civil servant for superannuation purposes) shall, in relation to persons who enter upon service of a description specified in the First Schedule to this Act other than compulsory national service, have effect—

- (a) as if after the word " State " there were inserted the words " or who has been nominated by a Government department with the approval of the Treasury for appointment to such a post ", and
- (b) as if the words " and that examination, or any subsequent examination, for persons desiring to obtain similar posts, was one in which persons below the age of eighteen years were allowed to compete " were omitted.

(4) Rules made under the said section one may make provision for securing that, where a person undertakes service of a description specified in the First Schedule to this Act other than compulsory national service—

- (a) the same period of time shall not be reckoned both for the purposes of any superannuation benefits which may become payable to or in respect of him by virtue of the rules and also for the purposes of naval, military or air force service retired pay, service pension, or service gratuity; and
- (b) for the purpose of computing any superannuation benefits which may become payable as aforesaid, that person shall be treated as having received during the period of that service the remuneration which he would have received if he had remained in the employment in which he was engaged immediately before he undertook that service.

42.—(1) Subsection (2) of section twenty-six of the Fire Services Act, 1947 (which relates to the provisions which may be included in the Firemen's Pension Scheme brought into operation under that section) shall have effect as if after paragraph (a) thereof there were inserted the following paragraph:—

Provisions as to firemen's pensions.

“(aa) where a person immediately before he undertakes service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, or attends for hourly instruction as defined in section forty-two of that Act, either—

- (i) is a member of a fire brigade maintained in pursuance of this Act, or
- (ii) is employed in employment on duties connected with the provision of fire services which is treated for the purposes of the Scheme as if it were employment as a member of such a fire brigade, for treating employment during the period of his service or instruction, and during such further period, if any, as may be specified in the Scheme, as employment as a member of such a fire brigade.”

(2) In this section the expression “hourly instruction” means—

- (a) part-time service under the National Service Act, 1948, otherwise than pursuant to a training notice under that Act; and
- (b) service for the purposes of training only performed by a person mentioned in paragraph 7 of the First Schedule to this Act for a period shorter than that mentioned in that paragraph.

PART IV

—cont.

Provisions
as to police
pensions.

43.—(1) Subsection (2) of section one of the Police Pensions Act, 1948 (which enables regulations made under that section to provide that where a person ceases to be a member of a police force in order to undertake service under the National Service Act, 1948, the period of his service thereunder, and such further period, if any, as may be specified in the regulations, may be treated as a period of service as a member of a police force) shall have effect as if for the words “where a person ceases to be a member of a police force in order to undertake compulsory national service” there were substituted the words “where a person immediately before he undertakes compulsory national service is a member of a police force”.

(2) The said subsection (2), as amended by the last preceding subsection, shall apply in relation to persons who undertake service of a description specified in the First Schedule to this Act other than compulsory national service, or attend for hourly instruction as defined in the last preceding section, as it applies in relation to persons who undertake compulsory national service.

(3) In the definition of the expression “compulsory national service” in subsection (1) of section eight of the Police Pensions Act, 1948, for the words “work or training in pursuance of an order of a tribunal under section five of the National Service (Armed Forces) Act, 1939 (which relates to conscientious objectors)”, there shall be substituted the words “work or training in pursuance of an order made or direction given under Part I of the National Service Act, 1948, as respects a conditionally registered conscientious objector.”

Retrospective
effect of
Part IV.

44.—(1) Any rules made under section one of the Superannuation (Miscellaneous Provisions) Act, 1948, in relation to persons in relation to whom that section applies by virtue of section forty-one of this Act, any order made for the purposes of section forty-two of this Act, and any regulations made under the Police Pensions Act, 1948, for the purpose of treating a period of compulsory national service, of service of a description specified in the First Schedule to this Act other than compulsory national service, or of hourly instruction as defined in section forty-two of this Act, and any further period specified in the regulations, as a period of service as a member of a police force, may be framed so as to have effect as from the fifteenth day of July, nineteen hundred and fifty.

(2) Subsection (4) of section one of the Superannuation (Miscellaneous Provisions) Act, 1948 (which relates to the retrospective effect of certain rules made under that section) shall not apply in relation to persons in relation to whom the said section one applies by virtue of section forty-one of this Act.

45.—(1) There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Part of this Act in any sums payable under any other enactment out of moneys so provided. PART IV
—cont.
Financial provisions.

(2) There shall be paid into the Exchequer any increase attributable to the provisions of this Part of this Act in any sums required under any other enactment to be so paid.

PART V

PAYMENTS TO MAKE UP CIVIL REMUNERATION

46.—(1) Where a person occupied in any capacity specified in the first column of Part I or Part II of the Second Schedule to this Act ceases to be so occupied in order to perform relevant service to which this Part of this Act applies, there may, subject to the provisions of this Part of this Act, be made to or in respect of him such payments as are hereafter in this section provided. General provisions as to payments to make up civil remuneration.

(2) While any such person is performing relevant service to which this Part of this Act applies, there may be paid to him, or to or for the benefit of his wife or other dependants nominated by him, a sum which shall not exceed the remuneration which he would have received if he had continued to be occupied in the said capacity, after deducting therefrom the amount of his service pay:

Provided that, in applying this subsection in the case of a person occupied in several capacities specified as aforesaid, account shall be taken, in relation to any one of those capacities, of the appropriate proportion only of his service pay, and not of the whole.

(3) In the event of the death of any such person while performing relevant service to which this Part of this Act applies, then, unless that person leaves a widow entitled to a widow's pension by virtue of—

- (i) the Local Government Superannuation Acts, 1937 and 1939, or the Local Government Superannuation (Scotland) Acts, 1937 and 1939, or any local Act scheme ;
or
- (ii) subsection (1) of section sixty-seven of the National Health Service Act, 1946, or subsection (1) of section sixty-six of the National Health Service (Scotland) Act, 1947 ; or
- (iii) the Fire Services Act, 1947 ; or
- (iv) the Police Pensions Act, 1948 ;

there may, during a period not exceeding twenty-six weeks from the date of the death, be paid to or for the benefit of his widow

PART V
—cont.

or other dependants such sum as might have been paid to him under the last foregoing subsection if he had been performing such service during that period.

(4) In determining for the purposes of this section the remuneration which a justices' clerk or employee of a justices' clerk who is performing relevant service to which this Part of this Act applies when section nineteen of the Justices of the Peace Act, 1949, comes into force would have received if he had continued to be occupied in that capacity, the consequences which would have ensued in his case upon the coming into force of that section shall be left out of account.

Paying and
determining
authorities.

47.—(1) Where the capacity in which the person in question was occupied is a capacity specified in Part I of the Second Schedule to this Act, the power of making payments under the last foregoing section shall be exercisable by the authority specified as respects that capacity in the second column of the said Part I.

(2) Where the capacity is a capacity specified in Part II of the said Schedule, the determination as to the payments to be made under the last foregoing section shall be made by the authority specified as respects that capacity in the second column of the said Part II (hereafter in this Part of this Act referred to as the "determining authority"), and it shall be the duty of the authority specified as respects that capacity in the third column of the said Part II (hereafter in this Part of this Act referred to as the "paying authority") to make any payment in accordance with the determination of the determining authority.

(3) A paying authority aggrieved by a determination under the last foregoing subsection of a determining authority who is not the Secretary of State may, within one month from the receipt by them of written notice of the determination, appeal to the Secretary of State, and where such an appeal is brought the said subsection shall have effect as if the Secretary of State were the determining authority:

Provided that in the cases as to which it is so directed in the third column of the said Part II the right of appeal shall be exercisable by the authority therein specified instead of by the paying authority.

Recoupment
of expenses
incurred in
connection
with civil
occupation
while serving
in the forces.

48. Where a person to whom subsection (1) of section forty-six of this Act applies by virtue of his having been occupied in the capacity of coroner, or clerk of the peace, or justices' clerk, incurs expenses in the payment of salaries or other sums to persons employed by him in connection with his duties in that capacity, or office expenses in connection with those duties, and those expenses are in respect of the period during which he is performing relevant service to which this Part of this Act applies

and would otherwise have had to be borne by him, those expenses shall be recouped to him by the paying authority.

PART V
—cont.

49. Where a power of making a payment under this Part of this Act is exercisable by several probation committees acting jointly and those committees cannot agree as to how that power is to be exercised, it shall be their duty to pay such amount, if any, as the Secretary of State may determine.

Special
provision for
probation
committees.

50.—(1) Where any enactment (whether contained in or having effect under any Act) relating to the manner in which any expenses are to be paid or borne, or to the making of grants towards any expenses, would have applied as respects the remuneration which any such person as is mentioned in subsection (1) of section forty-six of this Act would have received if he had continued to be occupied in the capacity in question, that enactment shall apply in like manner as respects any payment under the foregoing provisions of this Part of this Act.

Assimilation
of treatment
of payments
under Part V
and certain
other payments
to treatment of
remuneration
in civil
capacity.

(2) In relation to the following enactments (which relate to contributions towards the cost of salaries of medical officers of health and sanitary inspectors), that is to say—

(a) section one hundred and nine of the Local Government Act, 1933,

(b) paragraph 3 of the First Schedule to the Public Health Act, 1936,

(c) section eighty of the London Government Act, 1939, and

(d) subsection (7) of section eighty-seven of the Local Government (Scotland) Act, 1947,

the reference in the foregoing subsection to any payment under the foregoing provisions of this Part of this Act shall include a reference to the remuneration of another person acting temporarily in the absence of the medical officer of health or, as the case may be, of the sanitary inspector.

(3) Subsections (1) and (2) of this section shall apply in relation to any agreement between the town council of a small burgh within the meaning of the Local Government (Scotland) Act, 1947, and the county council relating to contributions by the town council towards the remuneration of a medical officer of health or sanitary inspector as they apply in relation to the enactments therein mentioned.

51. There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Part of this Act in any sums payable under any other enactment out of moneys so provided.

Payments out
of moneys
provided by
Parliament.

PART V
—cont.

Service to which Part V applies and interpretation.

52.—(1) The relevant service to which this Part of this Act applies is any relevant service except—

- (a) compulsory national service, or service of a description specified in sub-paragraph (vi), (vii) or (viii) of paragraph 1 of the First Schedule to this Act; or
- (b) service of a description specified in paragraph 2 of the said First Schedule to which a maximum period of fifteen days is attached, or service of a description specified in paragraph 7 of the said First Schedule performed under an obligation or voluntary arrangements under which its continuous duration is limited to fifteen days or less.

(2) In this Part of this Act—

- (a) the expression “service pay” means pay for performing relevant service to which this Part of this Act applies, and includes marriage, family and other similar allowances, and
- (b) the reference to the appropriate proportion of the service pay of a person previously occupied in several capacities specified in the Second Schedule to this Act shall, in relation to any one of those capacities, be construed as a reference to the proportion which the rate at which he was last remunerated in that capacity bears to that rate plus the rate at which he was last remunerated in each of the other capacities.

(3) In this Part of this Act the expression “remuneration” means salaries, wages and emoluments, but any reference to the remuneration which a person received or would receive shall be construed as a reference to the net remuneration after deducting any expenses which he incurred or would have incurred in the payment of salaries or other sums to persons employed by him in connection with the duties in respect of which he received or would receive the remuneration and any office expenses in connection with those duties.

Retrospective effect of Part V.

53. The provisions of this Part of this Act shall be deemed to have had effect from the fifteenth day of July, nineteen hundred and fifty.

PART VI

PROTECTION AGAINST LOSS OF BENEFITS UNDER CONTRACTS WITH INDUSTRIAL ASSURANCE COMPANIES AND FRIENDLY SOCIETIES

Protection of life policies (industrial assurance, and collecting societies).

54.—(1) This section applies to—

- (a) policies of industrial assurance; and
- (b) policies of assurance upon human life effected with collecting societies other than policies of industrial assurance.

(2) In this Part of this Act the expression “relevant premium”, used in relation to a given period of relevant service, means an unpaid premium as to which the following conditions are fulfilled, that is to say, that it fell due either—

- (a) during that period of service or within the following additional period from the ending thereof, that is to say, three months or twice the duration of the period of service, whichever is the shorter, or
- (b) before the beginning of that period of service on a policy which was in force immediately before the beginning thereof,

and that at the beginning of the period of service one year’s premiums or more had been paid on the policy on which it fell due.

(3) A policy to which this section applies shall not be forfeited after the commencement of this Act by reason of non-payment of any premium if either—

- (a) on an application for relief duly made under subsection (4) of this section after the non-payment occurred, relief from forfeiture in respect of the non-payment of it is granted thereunder ; or
- (b) it falls due whilst a period of protection for the policy under this section is current.

(4) Where under section twenty-three of the Industrial Assurance Act, 1923 (which requires notice before forfeiture by reason of non-payment of premium) a notice relating to a relevant premium or premiums either—

- (a) is served after the commencement of this Act, or
- (b) has been served before the commencement of this Act but the policy has not been forfeited at the commencement thereof,

if the owner of the policy or any other person on his behalf duly makes an application to the company or society for relief under this subsection and it appears on such an application that the owner of the policy, whether the service man or another, is unable to pay the amount stated in the notice as due by reason of circumstances directly or indirectly attributable to the service man’s performing the period of relevant service, or, if it has ended, to his having performed it, the company or society shall grant relief in respect of the non-payment of the premium or premiums to which the notice relates, and, if the relief is granted after the ending of the additional period referred to in subsection (2) of this section, in respect of any other

PART VI
—cont.

relevant premium or premiums fallen due on the policy since the notice was served :

Provided that if the notice, being served after the ending of the said additional period, relates to any premium not being a relevant premium as well as to the relevant premium or premiums, relief shall be granted in respect only of the relevant premium or premiums, but in a case in which relief is granted and this proviso takes effect a further notice shall be required under and by virtue of the said section twenty-three before forfeiture of the policy by reason of default in payment of any premium excluded from the relief by this proviso.

An application for relief under this subsection must be made within twenty-eight days from the date of the serving of the notice if served after the commencement of this Act or within three months from such commencement if it was served theretofore, so however that, if the date of the serving of the notice was before the beginning of the period of relevant service, an application under this subsection shall be deemed to be made in due time if it is made within twenty-eight days from the beginning of that period.

(5) Where such a notice has been served before the commencement of this Act and the policy has been forfeited at the commencement thereof, if the owner of the policy or any other person on his behalf within three months from the commencement of this Act duly makes an application to the company or society for reinstatement of the policy and it appears on such an application that there was at the expiration of the time for payment limited by the notice the like inability to pay as is mentioned in the last preceding subsection, the company or society shall grant the application :

Provided that if the notice, having been served after the ending of the additional period referred to in subsection (2) of this section, related to any premium not being a relevant premium as well as to the relevant premium or premiums, the company or society shall not be under obligation to reinstate the policy unless the premium or premiums other than relevant premiums are paid within twenty-eight days from the time when the granting of the application is notified.

(6) Where under the preceding provisions relief from forfeiture is granted, or a policy is reinstated, during the period of relevant service in question or the additional period referred to in subsection (2) of this section, the company or society shall fix a period of protection for the policy.

(7) Where a period of protection for a policy has been fixed the company or society shall extend it from time to time on application being duly made by or on behalf of the owner of the policy if it appears that the period of service in question or the additional

period referred to in subsection (2) of this section has not ended, subject however to the next succeeding subsection.

PART VI
—cont.

(8) The company or society may at any time terminate a period of protection which is then current, or may refuse an application made at any time for extension of such a period, if it appears that the owner of the policy for which the period was fixed is no longer unable to pay the premiums thereon by reason of such circumstances as are mentioned in subsection (4) of this section, and they may at any time shorten a period of protection which is then current if it then appears that it will extend beyond the ending of the additional period referred to in subsection (2) of this section, and may terminate a period of protection which remains current after the ending of the said additional period.

(9) An appeal shall lie to the Commissioner from any refusal by a company or society to grant under this section relief from forfeiture, or an application for reinstatement, and from any termination or shortening by them of a period of protection and from any decision of theirs as to the length of time for which a period of protection is to be fixed or extended; and, where the Commissioner allows an appeal in circumstances in which a period of protection is required to be fixed or extended, the length of it shall be determined by him instead of by the company or society.

An appeal to the Commissioner under this subsection shall be dealt with as if it were a dispute referred to him under section sixty-eight of the Friendly Societies Act, 1896.

55.—(1) This section applies to policies of assurance upon human life, in respect of which there are separate premiums, effected with a friendly society (whether registered or not) which is not a collecting society.

Protection of
life policies
(friendly
societies other
than
collecting
societies).

(2) Where a policy to which this section applies has been forfeited, whether before or after the commencement of this Act, by reason of non-payment of a relevant premium or premiums (as defined in the last preceding section), if the owner of the policy or any other person on his behalf at any time before the expiration of six months from the date of the ending of the period of relevant service in question (or, if later, the expiration of three months from the commencement of this Act) duly makes an application to the society for reinstatement of the policy, and it appears on such an application that there was at the time when the forfeiture took place the like inability to pay as is mentioned in subsection (4) of the last preceding section, the society shall grant the application:

Provided that, if at the time when the forfeiture took place the society was entitled to forfeit the policy by reason of non-payment of any premium not being a relevant premium as well

PART VI
—cont.

as by reason of non-payment of the relevant premium or premiums, the society shall not be under obligation to reinstate the policy unless the premium or premiums other than relevant premiums are paid within twenty-eight days from the time when the granting of the application is notified.

(3) Subsection (9) of the last preceding section shall apply to a refusal of an application under this section as it applies to a refusal of an application under subsection (5) of that section.

Adjustment of
rights under
policies
protected.

56.—(1) Where relief from forfeiture of a policy is granted, or a policy is reinstated, under either of the two last preceding sections on an application made in connection with any period of service, the amount or aggregate amount of any relevant premium or premiums thereon remaining unpaid at the time for writing-off hereinafter defined, or on the arising of a claim under the policy before that time, shall be dealt with in accordance with subsection (3) or (4) of this section :

Provided that, in the case of a policy for which a period of protection has been fixed under section fifty-four of this Act, the premiums to be dealt with as aforesaid (in this section referred to as the relevant arrears) shall include all premiums remaining unpaid as aforesaid which fell due thereon during that period and shall exclude any premium falling due thereon after the ending of that period.

(2) In this section the expression “time for writing-off” means the expiration of twenty-eight days from—

- (a) in the case of a policy to which section fifty-four of this Act applies, if a period of protection has been fixed therefor under that section, the ending of that period, or, if no period of protection therefor has been so fixed, the date on which the decision for relief or reinstatement is notified ;
- (b) in the case of a policy to which section fifty-five of this Act applies, if it was reinstated before the ending of the additional period referred to in subsection (2) of section fifty-four of this Act, the date of the ending of that period, or, if it is reinstated after the ending of that period, the date on which the decision for reinstatement is notified.

(3) Where at the time for writing-off there are relevant arrears on a policy as to which relief from forfeiture has been granted, or which has been reinstated, under either of the two last preceding sections, and the policy is then in force and a claim has not arisen thereunder, the terms of the policy shall be varied in accordance with the following provisions of this subsection.

If the policy is a policy for the whole term of life, the relevant arrears shall be extinguished by a reduction of the sum assured under the policy, the amount of the reduction being the amount of those arrears multiplied by the factor shown in

the following table which is appropriate to the age next birthday of the person whose life is assured:—

PART VI
—cont.

<i>Age next Birthday</i>	<i>Factor</i>	<i>Age next Birthday</i>	<i>Factor</i>
1 to 5 ...	6	36 to 40 ...	2½
6 to 10 ...	5½	41 to 45 ...	2¼
11 to 15 ...	5	46 to 50 ...	2
16 to 20 ...	4½	51 to 55 ...	1¾
21 to 25 ...	4	56 to 65 ...	1½
26 to 30 ...	3½	66 to 75 ...	1¼
31 to 35 ...	3	76 and over ...	1

If the policy is an endowment policy, the date of maturity of the policy shall be postponed by a period equal to that in respect of which the premium or premiums comprised in the relevant arrears were payable, and the period during which premiums under the policy remain payable after that time shall be correspondingly extended.

(4) Where a claim arises under such a policy (or, in the case of a policy reinstated, is to be deemed by virtue of subsection (3) of the next succeeding section to have arisen thereunder) before the time for writing-off and there are or were relevant arrears thereon at the time when the claim arises or is to be deemed to have arisen, the amount payable in respect of the claim shall be reduced by the amount of those arrears together with compound interest thereon at the rate of three per cent. per annum with half-yearly rests.

For the purposes of this subsection any sums paid or tendered in respect of any premiums shall be treated as satisfying them in the order in which they fell due.

(5) Where the amount of a free policy or of a surrender value is required to be ascertained in relation to such a policy and at the date when the ascertainment is made there is or are remaining unpaid any premium or premiums on the policy which either—

- (a) if the time for writing-off has come, have been dealt with, or are to be dealt with, as relevant arrears under subsection (3) of this section, or
- (b) if that time has not come, will fall to be so dealt with if not paid before that time,

the provisions of the policy, of any guarantee given in relation thereto, and of the Industrial Assurance Acts, 1923 to 1948, relating to free policies and surrender values shall have effect subject to such modifications as appear to the Commissioner to be necessary having regard to the non-payment of the premium or premiums aforesaid and to the actual or prospective variation of the terms of the policy under subsection (3) of this section.

PART VI
—cont.

(6) In this section the expression “endowment policy” means a policy insuring money to be paid on the duration for a specified period of the life of the person assured, either with or without provision for the payment of money in the event of the death of that person before the expiration of that period.

Provisions
supplementary
to the three
preceding
sections.

57.—(1) An industrial assurance company, and a collecting society, shall as soon after the commencement of this Act as facilities therefor can be obtained publish by advertisement in one or more newspapers in general circulation in every county where the company or society carries on business a statement approved by the Commissioner as sufficiently notifying the rights to make applications conferred by section fifty-four of this Act:

Provided that such a company or society shall not be under obligation to publish as aforesaid in any county if arrangements are made between the Commissioner and such companies and societies generally for the general publication by newspaper advertisement of such a statement, and such a statement is in accordance with those arrangements published during such period from the commencement of this Act as the Commissioner may allow in manner approved by him as satisfying the purposes of this subsection as respects that county.

(2) A notice under section twenty-three of the Industrial Assurance Act, 1923, served after the expiration of six months from the commencement of this Act as to a policy on which one year's premiums or more have been paid shall be of no effect unless, in addition to the matters required by that section to be stated, it contains a statement in such form as may be prescribed by regulations under this section of the effect of subsection (4) of section fifty-four of this Act.

(3) Subject to the provisions of the last preceding section a policy reinstated under section fifty-four or fifty-five of this Act after a forfeiture shall have effect, and be deemed always to have had effect, as if the forfeiture had not taken place:

Provided that nothing in this subsection shall be construed as authorising a company or society again to forfeit such a policy by reason of any non-payment of a relevant premium that occurred before the forfeiture.

(4) Regulations may be made by the Commissioner with the consent of the Treasury, by statutory instrument—

(a) as to procedure in connection with the making of applications under this Part of this Act, with the fixing, extending, terminating and shortening of periods of protection, and with appeals, including provision as to information to be furnished and the manner of verification thereof;

(b) for fixing limits of time for appeals;

- (c) as to the form and manner in which decisions of companies or societies, and of the Commissioner on appeals, are to be expressed and notified ;
- (d) for requiring notice to be given of the termination or shortening of periods of protection and shortly before such periods are about to end, and for extending such periods in cases in which there is default in giving such notice ;
- (e) for preventing forfeiture of a policy at a time when a right to make an application or appeal which would be prejudiced thereby is subsisting, or when such an application or appeal has been made and is pending ;
- (f) for enabling relief (including relief by way of reinstatement of a policy after forfeiture) to be granted in cases in which there has been failure to make an application or appeal within due time and there were good reasons for the failure ;
- (g) for other purposes for which provision is required for giving full effect to the preceding provisions of this Part of this Act.

(5) An industrial assurance company or a registered friendly society which contravenes or fails to comply with provisions of regulations under this section shall be guilty of an offence under the Industrial Assurance Act, 1923 (in the case of such a company or of such a society being a collecting society), or under the Friendly Societies Act, 1896 (in the case of such a society not being a collecting society).

(6) The Statutory Instruments Act, 1946, shall apply to a statutory instrument containing regulations under this section in like manner as if it had been made by a Minister of the Crown.

(7) No regulations under this section shall be made unless a draft thereof has been approved by resolution of each House of Parliament :

Provided that regulations may be made under this section within three months from the date of the passing of this Act without a draft thereof having been approved as aforesaid, but regulations so made shall be laid before Parliament after being made and shall cease to have effect on the expiration of a period of twenty-eight days from the date on which they were made unless at some time before the expiration of that period they have been approved by a resolution of each House of Parliament, without prejudice however to anything previously done thereunder or to the making of new regulations.

In reckoning any such period of twenty-eight days no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

PART VI

—cont.

Relief against non-payment of contributions to friendly societies (other than life policy premiums).

58.—(1) Where any person performing a period of relevant service was at the beginning of that period a member of a friendly society, having paid contributions to the society for a period up to that time of one year or longer, and thereafter ceases to pay contributions to the society, he shall not for that reason cease to be a member but no further contributions shall be paid by him until the ending of that period, and his rights to any benefits provided by the society shall be suspended until he subsequently resumes payment of contributions, and he shall thereupon, as respects any benefits accruing in the future, be in the same position as he would have been if he had not ceased to pay contributions:

Provided that, if any such person fails to resume payment of contributions before the expiration of three months from the ending of that period, he shall cease to be a member of the society and this subsection shall cease to apply to him.

(2) The preceding subsection shall not affect any policy to which section fifty-four or fifty-five of this Act applies.

(3) Nothing in this section shall be taken to prevent a friendly society providing by its rules for the continuance of the membership of persons performing relevant service upon terms more favourable than those provided by this section.

(4) This section shall be deemed to have had effect from the fifteenth day of July, nineteen hundred and fifty.

Interpretation and extent of Part VI.

59.—(1) This Part of this Act shall be construed—

(a) in its application to industrial assurance companies and collecting societies, as one with the Industrial Assurance Acts, 1923 to 1948; and

(b) in its application to friendly societies which are not collecting societies, as one with the Friendly Societies Acts, 1896 to 1948.

(2) In this Part of this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“the Commissioner” means the authority designated in relation to collecting societies as the Industrial Assurance Commissioner, and, in relation to friendly societies which are not collecting societies, as the Chief Registrar of Friendly Societies;

“owner” means, in relation to a policy effected with a friendly society other than a collecting society, the person who is for the time being the person entitled to receive the sums payable under the policy on maturity, and means, in relation to a policy which has been forfeited, the person who would be so entitled if the policy were still in force;

“ policy ” includes a contract of assurance in respect of which no specific document constituting the contract is issued ;

references to a registered friendly society include references to a branch of such a society ;

references to forfeiture of a policy shall be construed, in a case where the policy provides that on a default in the payment of premiums the policy shall be converted into a free policy for a reduced amount, as including references to such a conversion.

(3) His Majesty may by Order in Council direct that this Part of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to the Isle of Man or any of the Channel Islands.

PART VII

MISCELLANEOUS AND GENERAL

60.—(1) A certificate stating that a person has performed or is performing or is to perform a period of relevant service or of relevant service of any particular description, or the duration or the date of the beginning or ending of such a period, or whether such a period which has been or is being or is to be performed by any person is or is not a short period of training, being a certificate which is signed by a person authorised in that behalf—

Evidence as to performance of relevant service.

(a) by the Admiralty, the Army Council or the Air Council (except in the case of such service being work or training in pursuance of an order made or direction given under Part I of the National Service Act, 1948, as respects a conditionally registered conscientious objector), or

(b) in the case of such work or training, by the Minister of Labour and National Service,

shall in all legal proceedings be sufficient evidence of the facts stated therein for the purposes of this Act except to any extent to which it is shown to be incorrect.

(2) A certificate signed by a person authorised in that behalf by the Admiralty, the Army Council or the Air Council stating that a person is not performing, and has not within a specified previous time performed, a period of relevant service in a specified force or forces (being a force or forces in respect of which the Admiralty, the Army Council or the Air Council, as the case may be, keep records), and any like certificate signed by a person authorised in that behalf by the Minister of Labour and National Service in relation to such work or training as is mentioned in the preceding subsection, shall in all legal proceedings

PART VII
—cont.

be sufficient evidence of the facts stated therein for the purposes of this Act except to any extent to which it is shown to be incorrect.

(3) A certificate signed by a person authorised in that behalf by the Admiralty, the Army Council, the Air Council or the Minister of Labour and National Service, referring to an inquiry as to a person therein described and being to the effect that no person answering to that description is identifiable in the relevant records kept by the authority on whose behalf the certificate is signed, shall be sufficient evidence for the purposes of this Act that no such person is so identifiable.

(4) A certificate signed as aforesaid stating any matter as a matter appearing from records shall be treated for the purposes of subsection (1), and of subsection (2), of this section as stating it as a fact.

(5) A document purporting to be a certificate signed as aforesaid shall be deemed to be such unless the contrary is proved.

(6) The Admiralty, the Army Council, the Air Council and the Minister of Labour and National Service shall respectively be under obligation to secure that, on inquiry made to them for the purposes of this Act as to a person therein described, if the information appearing from records kept by them is such as to enable a certificate falling within subsection (1) or subsection (2) of this section to be given as to a person appearing to answer that description, or is such as to justify the giving of a certificate falling within subsection (3) of this section, such a certificate shall be given:

Provided that no certificate the giving of which would in the opinion of the authority to whom the inquiry is made be against the interests of national security shall be given.

Presumption
of death of
persons serving
in the forces.

61.—(1) The question whether any person has died while performing relevant service in His Majesty's forces shall, for the purposes of—

- (a) Part V of this Act;
- (b) the Local Government Superannuation Acts, 1937 and 1939, and the Local Government Superannuation (Scotland) Acts, 1937 and 1939, or any local Act scheme;
- (c) any regulations made under subsection (1) of section sixty-seven of the National Health Service Act, 1946, or subsection (1) of section sixty-six of the National Health Service (Scotland) Act, 1947 (which relate to the superannuation of National Health Service officers);
- (d) the Firemen's Pension Scheme made under the Fire Services Act, 1947;
- (e) any regulations made under the Police Pensions Act, 1948;

be determined in accordance with the rules set out in the next following subsection.

(2) The said rules are—

- (i) no person shall be treated as having died while performing relevant service in His Majesty's forces unless and until the appropriate authority are satisfied that he has been officially reported as dead, or as missing ;
- (ii) where the appropriate authority are satisfied that a person has been officially reported as dead, or as missing and presumed dead, he shall be treated as having died while performing relevant service in His Majesty's forces unless and until the authority are satisfied that he has subsequently been officially reported as alive ;
- (iii) subject to the last foregoing paragraph, where the appropriate authority are satisfied that a person has been officially reported as missing, the authority may, if they think fit, treat him as having died while performing relevant service in His Majesty's forces unless and until they are satisfied that he has subsequently been officially reported as alive.

(3) Where the appropriate authority determine in accordance with the rules set out in subsection (2) of this section that a person is to be treated as having died, the date of his death shall be taken to be such date as the authority may fix on the evidence available to them.

(4) The Third Schedule to this Act shall have effect as respects the financial provisions consequent on the adoption of the rules set out in subsection (2) of this section.

(5) In this section and in the said Schedule the expression "the appropriate authority" means the authority specified in subsection (1) or, as the case may be, subsection (2) of section forty-seven of this Act as the authority having power to determine whether any, and if so what, payment is to be made under section forty-six of this Act, or, in a case where the service pay of the person in question is of such amount that no payment is permissible under the said section forty-six, the authority who would have that power if that person's service pay were of such smaller amount as would permit of a payment being made under that section ; and where, in the case of any person, there are several such authorities, the expression "the appropriate authority" means all those authorities acting jointly :

Provided that where the person in question was immediately before entering on his relevant service an officer of a Regional Hospital Board, Board of Governors of a teaching hospital, Executive Council or other body constituted under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, the appropriate authority shall be the Minister of Health or, as respects Scotland, the Secretary of State, and not the Board, Council or other body.

PART VII
—cont.

(6) In this section the expression “officially reported” means reported (whether before or after the passing of this Act) by or on behalf of the Admiralty, the Army Council or the Air Council.

Pension rights
of justices’
clerks,
collecting
officers and
their staff.

62.—(1) Subsections (2) and (3) of this section shall apply to a person who at the date of the coming into force of section nineteen of the Justices of the Peace Act, 1949 (which relates to justices of the peace, collecting officers and their staffs), is performing relevant service and who, on the termination of that service, or within six months thereafter, becomes superannuable in accordance with section twenty-two of the said Act, and subsection (4) of this section shall apply both to such a person as aforesaid and to a person who has completed a period of relevant service before the said date and who at the said date becomes superannuable as aforesaid by virtue of section twenty-three of the said Act.

(2) The reference in paragraph (b) of subsection (8) of the said section twenty-three to a person who at the said date is transferred to the employment of a magistrates’ courts committee by subsection (5) or (6) of the said section twenty-three shall include a reference to a person to whom this subsection applies and who, if he had continued to be occupied as he was occupied immediately before entering on relevant service, would at that date have been so transferred; and the said Act, and, in particular, subsection (10) of the said section twenty-three and the definition of “existing or former clerk or employee” in paragraph 18 of Part II of the Fifth Schedule to that Act, shall be construed accordingly.

(3) The reference in proviso (ii) to sub-paragraph (1) of paragraph 13 of the said Part II to an existing clerk or employee shall include a reference to a person to whom this subsection applies and who, immediately before entering on relevant service, was occupied in a transferable capacity.

(4) Where a person to whom this subsection applies was, immediately before entering on relevant service, occupied in a transferable capacity under such conditions that rules under section one of the Superannuation (Miscellaneous Provisions) Act, 1948, could not be made to apply as respects his relevant service, the Local Government Superannuation Act, 1937, and any local Act scheme shall apply in relation to him as if during the period of his relevant service he had continued to be occupied in the capacity in which he was occupied immediately before entering on relevant service and had been entitled to remuneration in that capacity.

(5) For the purposes of this section a person shall be treated as occupied in a transferable capacity at any time if he would

then have been transferred to the employment of, or deemed to be appointed by, a magistrates' courts committee by virtue of subsection (1), (5) or (6) of the said section twenty-three if the said section nineteen had then come into force.

PART VII
—cont.

63. Where a person, having ceased to serve as a constable in order to undertake service of a description specified in the First Schedule to this Act, resumes service as a constable during any period which, by virtue of any regulations made under section one of the Police Pensions Act, 1948, as extended by section forty-three of this Act, is to be treated in his case as a period of service as a member of a police force, it shall not be necessary for him, notwithstanding anything in any enactment, to make any declaration required to be made by him on accepting office as a constable.

Dispensation
with
declaration
on ending of
service of
constables.

64.—(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them respectively, that is to say,—

Interpretation.

“compulsory national service” means service undertaken by virtue of an enlistment notice or a training notice served under Part I of the National Service Act, 1948, or work or training in pursuance of an order made or direction given under the said Part I as respects a conditionally registered conscientious objector ;

“local authority” and “local Act scheme” have the same meanings as in the Local Government Superannuation Act, 1937, or, as respects Scotland, the Local Government Superannuation (Scotland) Act, 1937 ;

“relevant service” means service after the fifteenth day of July, nineteen hundred and fifty, of a description specified in the First Schedule to this Act ;

“Rent Restrictions Acts” means the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925 ; and references to the Rent Acts of 1920, 1933, 1939 and 1949 are respectively to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, to the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, to the Rent and Mortgage Interest Restrictions Act, 1939, and to the Landlord and Tenant (Rent Control) Act, 1949 ;

“service” means the discharge of naval, military or air force duties, and includes training for the discharge of such duties, and includes also work or training in pursuance of an order made or direction given under Part I of the National Service Act, 1948, as respects a conditionally registered conscientious objector ;

PART VII
—cont.

“service man” means a man who performs a period of relevant service;

“short period of training” means a period of relevant service of a description specified in paragraph 2 of the First Schedule to this Act to which a maximum period of fifteen days is attached, of a description specified in paragraph 6 thereof, or of a description specified in paragraph 7 thereof performed under an obligation or voluntary arrangements under which its continuous duration is limited to less than three months.

(2) In this Act references to a service man include references to a woman who performs a period of relevant service, references to an officer of any reserve or force include references to a woman who is a member of that reserve or force as an officer and references to a man of any reserve or force include references to a woman who is a member of that reserve or force otherwise than as an officer, and any reference to a service man’s wife includes a reference to the husband of a woman who performs a period of relevant service.

(3) If any Order in Council is made under section fourteen of the Reserve and Auxiliary Forces (Training) Act, 1951, directing that Part I of that Act shall apply in relation to all or any of the years nineteen hundred and fifty-two, nineteen hundred and fifty-three and nineteen hundred and fifty-four, any reference in this Act to section one of that Act shall include a reference to that section as extended by the Order.

(4) In this Act, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

Provisions as
to Northern
Ireland.

65.—(1) The preceding provisions of this Act shall not extend to Northern Ireland.

(2) His Majesty may by Order in Council provide for extending this Act to Northern Ireland with such additions, exceptions and modifications as appear to His Majesty to be expedient.

(3) An Order in Council under this section—

(a) may be varied or revoked by a further Order in Council made thereunder;

(b) may include such incidental, consequential and supplemental provisions as appear to His Majesty to be expedient.

(4) Provision made by an Order in Council under this section may be made so as to have effect from the time (whether before, at or after the commencement of this Act) from which any corresponding provision made by this Act has effect.

(5) So far as any provision contained in an Order in Council under this section deals with a matter with respect to which the Parliament of Northern Ireland has power to make laws it shall, for the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of that Parliament), be deemed to be a provision of an Act passed before the appointed day.

(6) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

66. This Act may be cited as the Reserve and Auxiliary Short title.
Forces (Protection of Civil Interests) Act, 1951.

SCHEDULES

FIRST SCHEDULE

SERVICE RELEVANT FOR THE PURPOSES OF THIS ACT

1. (i) Service in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment, of any reserve or auxiliary force, or members thereof, or for the recall of service pensioners within the meaning of the Reinstatement in Civil Employment Act, 1950.
- (ii) Service, other than for the purposes of training only, in pursuance of any obligation or undertaking, whether legally enforceable or not, to serve when called upon as a commissioned officer, not being an obligation or undertaking to accept a permanent or short-service commission.
- (iii) Service in pursuance of any directions given under subsection (5) of section three, subsection (5) of section four, subsection (3) of section five, or subsection (3) of section six, of the Armed Forces (Conditions of Service) Act, 1939, or subsection (2) of section one of the Naval and Marine Forces (Temporary Release from Service) Act, 1940 (as amended by the Naval Forces (Extension of Service) Act, 1944).
- (iv) Service in pursuance of any enlistment for a period not exceeding eighteen months with a view to service in the Korean operations continuing at the passing of this Act or in other operations designated for the purposes of this subparagraph by His Majesty by Order in Council.
- (v) Service, other than for the purposes of training only, in response to any notice or request made or given by the competent naval, military or air force authority, to members of any reserve of the Women's Royal Naval Service, members of Queen Alexandra's Royal Naval Nursing Service Reserve or the Naval Voluntary Aid Detachment Reserve, persons who have served in the Auxiliary Territorial Service, members of the Princess Mary's Royal Air Force Nursing Service Reserve, or persons who have served in the Women's Auxiliary Air Force, whether or not there is any legal obligation to comply with the notice or request.
- (vi) In the case of a person who, during his whole-time service under Part I of the National Service Act, 1948, has accepted a commission in any of the armed forces of the Crown under arrangements made by the competent naval, military or air force authority for treating commissioned service as equivalent to whole-time service under Part I of that Act, his service as a commissioned officer under those arrangements.
- (vii) In the case of a person who, being liable under Part I of the National Service Act, 1948, to be called up for whole-time service, has accepted a commission in any of the armed forces of the Crown under any such arrangements as are mentioned in sub-paragraph (vi) of this paragraph and has served whole-time as a commissioned officer under those

Sections 41 to 44
and sections, 52,
63, 64.

arrangements without having been called up under the said Part I, his service as a commissioned officer in the circumstances mentioned in this sub-paragraph.

(viii) In the case of a person serving whole-time as a commissioned officer under any such arrangements as aforesaid who has undertaken, with a view to service in such operations as are mentioned in sub-paragraph (iv) of this paragraph, to serve whole-time as a commissioned officer for a further period not exceeding twelve months immediately after the time when his service under the said arrangements would have ended, any further period of such service in pursuance of that undertaking.

2. Service in consequence of being called up under section one of the Reserve and Auxiliary Forces (Training) Act, 1951.

3. Service of any of the descriptions specified in paragraphs 3, 4 and 5 of the table set out in subsection (1) of section one of the Reserve and Auxiliary Forces (Training) Act, 1951, entered on by a person of any of the descriptions specified in those paragraphs as a volunteer.

4. Service for a period of eighteen months for which an officer of any reserve force of the Royal Navy or of the Royal Marines, or an officer of reserve to, or on the retired or emergency list of, or holding a temporary commission in, the Royal Navy or the Royal Marines, volunteers.

5. The following compulsory national service, that is to say—

- (a) whole-time service undertaken by virtue of an enlistment notice served under Part I of the National Service Act, 1948; or
- (b) work or training in pursuance of an order made or direction given under the said Part I as respects a conditionally registered conscientious objector.

6. The following compulsory national service, that is to say, service undertaken by virtue of a training notice served under Part I of the National Service Act, 1948.

7. Service, for the purposes of training only, for a continuous period of seven days or longer performed, whether under an obligation or under voluntary arrangements, by,—

- (a) an officer or man of any reserve force of the Royal Navy or of the Royal Marines, or an officer of reserve to, or on the retired or emergency list of, or holding a temporary commission in, the Royal Navy or the Royal Marines;
- (b) an officer of any army reserve of officers, a man of any army reserve force, an officer or man of the Territorial Army, or an officer of the Territorial Army Reserve of Officers;
- (c) an officer of the Royal Air Force Volunteer Reserve or of any air force reserve of officers or on the retired list of the Royal Air Force, a man of any air force reserve force, or an officer or man of the Royal Auxiliary Air Force or the Royal Auxiliary Air Force Reserve;
- (d) a member of any reserve of the Women's Royal Naval Service or a member of the Naval Voluntary Aid Detachment Reserve,

not being service of a description specified in any of the preceding paragraphs of this Schedule.

Sections 46, 52.

SECOND SCHEDULE

CAPACITIES IN RESPECT OF WHICH PAYMENTS MAY BE MADE UNDER
PART V, AND PAYING AUTHORITIES

PART I

GENERAL

<i>Capacity</i>	<i>Paying Authority</i>
1. Clerk of the peace or deputy clerk of the peace of a borough in England or Wales.	The borough council.
2. Coroner in England or Wales ...	The council by whom the coroner's salary is paid immediately before he begins to perform relevant service to which Part V of this Act applies.
3. Employee of a local authority ...	The local authority.
4. Member of a police force ...	In the case of a police force maintained by virtue of a scheme under the Police Act, 1946, or of an amalgamation scheme under the Police (Scotland) Act, 1946, the authority responsible under the scheme for the maintenance of that force, and, in the case of any other police force, the police authority (within the meaning of the Police Pensions Act, 1921), responsible for the maintenance of that force.
5. Member of a fire brigade maintained in pursuance of the Fire Services Act, 1947	The fire authority, within the meaning of the Fire Services Act, 1947, by whom the fire brigade is maintained.
6. Probation officer appointed for a probation area other than the metropolitan police court area, or for two or more such probation areas	The probation committee for the area, or, as the case may be, the probation committees for the areas acting jointly.
7. Clerk appointed to give full-time assistance to a probation officer and remunerated by the probation committee or several probation committees acting jointly	The probation committee or committees.

Capacity

Paying Authority

- | | |
|--|--|
| 8. Registration officer within the meaning of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937 | The local authority in whose employment he is or is deemed for the purposes of either of those Acts to be. |
| 9. Teacher appointed by a local education authority for service in a maintained school or institution in England or Wales | } The local education authority. |
| 10. Teacher, officer or servant appointed by the managers or governors of an aided or special agreement school in England or Wales | |
| 11. Teacher, officer or servant of an institution in England or Wales assisted by a local education authority out of the proceeds of any rate | |
| 12. Teacher employed by an education authority in Scotland | } The education authority. |
| 13. Teacher, officer or servant of the managers or governing body of a school or educational establishment to the maintenance of which an education authority contributes under s. 25 of the Education (Scotland) Act, 1946 | |
| 14. Teacher, officer or servant of an educational institution as to which it is certified by the Minister of Education or, as respects Scotland, the Secretary of State, that it is expedient that the provisions of Part V of this Act should apply notwithstanding any trust affecting the institution | The managers or other governing body of the institution. |
| 15. Officer of a Regional Hospital Board, Board of Governors of a teaching hospital, Executive Council or other body constituted under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947 | The Board, Council or other body. |

2ND. SCH.
—cont.

<i>Capacity</i>	<i>Paying Authority</i>
16. Dental practitioner providing general dental service under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, at a health centre who is remunerated by annual salary	The Executive Council for the area for which the services are provided.
17. Employee of a development corporation established under the New Towns Act, 1946	The development corporation.
18. Clerk to the stipendiary magistrate under the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895	The Staffordshire Potteries Stipendiary Justice Commissioners.
19. Clerk to the stipendiary magistrate under the South Staffordshire Stipendiary Justice Act, 1899	The South Staffordshire Stipendiary Justice Commissioners.

..III

PART II

ALLOCATION OF FUNCTIONS AS TO PAYMENTS UNDER PART V BETWEEN DIFFERENT AUTHORITIES IN CERTAIN CASES

Capacity	Determining authority	Paying authority and authority entitled to appeal against determination
1. Clerk of the peace of the County of London or his deputy.	The Secretary of State on the recommendation of the standing joint committee.	The London County Council.
2. Clerk of the peace of any other county in England or Wales or his deputy.	The court of quarter sessions for the county.	The county council.
3. Person employed by a standing joint committee or a court of quarter sessions to assist the clerk of the peace of a county in England or Wales.	The committee or court employing that person.	The county council.
4. Clerk to county justices in England or Wales— (a) entering on relevant service before the coming into force of s. 19 of the Justices of the Peace Act, 1949;	The standing joint committee of the county. (Subject to Note below.)	The county council are the paying authority and the county justices for whom the clerk acts are the authority entitled to appeal against a determination.

Capacity	Determining authority	Paying authority and authority entitled to appeal against determination
<p>(b) appointed, or deemed for the purposes of the said Act to be appointed, by a magistrates' courts committee.</p>	<p>The magistrates' courts committee. (Subject to Note below.)</p>	<p>The county council.</p>
<p>5. Clerk to borough justices in England or Wales— (a) entering on relevant service before the coming into force of s. 19 of the Justices of the Peace Act, 1949;</p>	<p>The justices of the borough. (Subject to Note below.)</p>	<p>The borough council.</p>
<p>(b) appointed, or deemed for the purpose of the said Act to be appointed, by a magistrates' courts committee.</p>	<p>The magistrates' courts committee. (Subject to Note below.)</p>	<p>The borough council.</p>
<p>6. (a) Employee of a justices' clerk being an employee who by virtue of s. 20(2) of the Local Government Superannuation Act, 1937, is deemed to be a contributory employee of a local authority, or to whom a local Act scheme applies; (b) Employee of a magistrates' courts committee on the staff of a justices' clerk.</p>	<p>The same as in the case of the justices' clerk.</p>	<p>The same, both as respects paying authority and authority entitled to appeal, as in the case of the justices' clerk and where there are several paying authorities the proportions in which they contribute to give effect to any determination shall be such as they may agree, or, in default of agreement, as may be determined by the Secretary of State.</p>

Note:—In a case where a justices' clerk holds several clerkships and where several authorities would otherwise be concerned as determining authorities, the determining authority as respects each clerkship shall be all those authorities acting jointly, or, in default of agreement, the Secretary of State after consulting the authority entitled to appeal against determinations.

Section 61.

THIRD SCHEDULE

FINANCIAL PROVISIONS CONSEQUENTIAL ON TREATING A PERSON DYING
ON SERVICE AS ALIVE AND THE CONVERSE

1.—(1) This paragraph shall have effect where by virtue of the rules set out in subsection (2) of section sixty-one of this Act the appropriate authority determine that a person is to be treated as having died.

(2) No sums paid under Part V of this Act shall be recoverable on the ground that they were paid on the footing that that person was alive at a time after the date fixed by the appropriate authority by virtue of the said section as the date of his death.

(3) Where any sums have been paid under subsection (2) of section forty-six of this Act for a period after the said date, any payments in respect of that period to which that person's widow or other dependant is entitled by way of pension under any Act, scheme or regulation mentioned in paragraph (b), (c), (d) or (e) of subsection (1) of section sixty-one of this Act shall only be made if and to the extent that the appropriate authority so direct.

2.—(1) This paragraph shall have effect where by virtue of the rules set out in subsection (2) of section sixty-one of this Act the appropriate authority determine that a person is to be treated as having died and subsequently determine that he is to be treated as alive.

(2) Any payment made by virtue of the first determination under subsection (3) of section forty-six of this Act or under any Act, scheme or regulations mentioned in paragraph (b), (c), (d) or (e) of subsection (1) of section sixty-one of this Act shall be irrecoverable.

(3) Where any such payments as are mentioned in sub-paragraph (2) of this paragraph have been made, the aggregate of those payments shall be compared with the greatest amount which might have been paid under subsection (2) of section forty-six of this Act if the person to whom the two determinations relate had been treated as alive during the period between those determinations and—

(a) if the first amount equals or exceeds the second, no payment shall be made to or in respect of that person for that period under the said subsection (2), and

(b) if the second amount exceeds the first, payments shall not be made under the said subsection (2) to or in respect of that person for that period amounting to more than the excess.

(4) Where any such payment as is mentioned in sub-paragraph (2) of this paragraph is a gratuity paid to the wife or other dependant of the said person then, notwithstanding that it is irrecoverable, the gratuity may in whole or in part be treated as having been paid on account of any benefit that may subsequently become payable to that wife or other dependant in respect of the death of the said person.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Lands Clauses Consolidation Act, 1845	8 & 9 Vict. c. 18.
Friendly Societies Act, 1896	59 & 60 Vict. c. 25.
South Staffordshire Stipendiary Justice Act, 1899	62 & 63 Vict. c. xc.
Finance (1909-10) Act, 1910	10 Edw. 7. & 1 Geo. 5. c. 8.
Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.	10 & 11 Geo. 5. c. 17.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Police Pensions Act, 1921	11 & 12 Geo. 5. c. 31.
Industrial Assurance Act, 1923	13 & 14 Geo. 5. c. 8.
Rent and Mortgage Interest Restrictions Act, 1923	13 & 14 Geo. 5. c. 32.
Law of Property Act, 1925	15 & 16 Geo. 5. c. 20.
Guardianship of Infants Act, 1925	15 & 16 Geo. 5. c. 45.
Landlord and Tenant Act, 1927	17 & 18 Geo. 5. c. 36.
Land Drainage Act, 1930	20 & 21 Geo. 5. c. 44.
Hire Purchase and Small Debt (Scotland) Act, 1932	22 & 23 Geo. 5. c. 38.
Rent and Mortgage Interest Restrictions (Amendment) Act, 1933	23 & 24 Geo. 5. c. 32.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
Public Health Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Local Government Superannuation Act, 1937 ...	1 Edw. 8. & 1 Geo. 6. c. 68.
Local Government Superannuation (Scotland) Act, 1937	1 Edw. 8. & 1 Geo. 6. c. 69.
Hire-Purchase Act, 1938	1 & 2 Geo. 6. c. 53.
London Government Act, 1939	2 & 3 Geo. 6. c. 40.
Armed Forces (Conditions of Service) Act, 1939	2 & 3 Geo. 6. c. 68.
Rent and Mortgage Interest Restrictions Act, 1939	2 & 3 Geo. 6. c. 71.
National Service (Armed Forces) Act, 1939 ...	3 & 4 Geo. 6. c. 22.
Naval and Marine Forces (Temporary Release from Service) Act, 1940	4 & 5 Geo. 6. c. 4.
Rent of Furnished Houses Control (Scotland) Act, 1943	6 & 7 Geo. 6. c. 44.
Naval Forces (Extension of Service) Act, 1944 ...	7 & 8 Geo. 6. c. 13.
Furnished Houses (Rent Control) Act, 1946 ...	9 & 10 Geo. 6. c. 34.
Statutory Instruments Act, 1946	9 & 10 Geo. 6. c. 36.
Police Act, 1946	9 & 10 Geo. 6. c. 46.
Acquisition of Land (Authorisation Procedure) Act, 1946	9 & 10 Geo. 6. c. 49.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
Police (Scotland) Act, 1946	9 & 10 Geo. 6. c. 71.
Education (Scotland) Act, 1946	9 & 10 Geo. 6. c. 72.
National Health Service Act, 1946	9 & 10 Geo. 6. c. 81.
National Health Service (Scotland) Act, 1947 ...	10 & 11 Geo. 6. c. 27.
Fire Services Act, 1947	10 & 11 Geo. 6. c. 41.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
Agriculture Act, 1947	10 & 11 Geo. 6. c. 48.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.

Table of Statutes referred to in this Act—continued

Short Title	Session and Chapter
Police Pensions Act, 1948	11 & 12 Geo. 6. c. 24.
River Boards Act, 1948	11 & 12 Geo. 6. c. 32.
Superannuation (Miscellaneous Provisions) Act, 1948	11 & 12 Geo. 6. c. 33.
Companies Act, 1948	11 & 12 Geo. 6. c. 38.
Agriculture (Scotland) Act, 1948	11 & 12 Geo. 6. c. 45.
Agricultural Holdings Act, 1948	11 & 12 Geo. 6. c. 63.
National Service Act, 1948	11 & 12 Geo. 6. c. 64.
Landlord and Tenant (Rent Control) Act, 1949	12, 13 & 14 Geo. 6. c. 40.
Agricultural Holdings (Scotland) Act, 1949 ...	12, 13 & 14 Geo. 6. c. 75.
War Damaged Sites Act, 1949	12, 13 & 14 Geo. 6. c. 84.
Justices of the Peace Act, 1949	12, 13 & 14 Geo. 6. c. 101.
Matrimonial Causes Act, 1950	14 Geo. 6. c. 25.
Reinstatement in Civil Employment Act, 1950 ...	14 & 15 Geo. 6. c. 10.
Reserve and Auxiliary Forces (Training) Act, 1951	14 & 15 Geo. 6. c. 23.

PRINTED BY COLORPRINT, LIMITED, FOR
JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 2s. 6d. net

PRINTED IN GREAT BRITAIN

(76551)

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Lands Clauses Consolidation Act, 1845	8 & 9 Vict. c. 18.
Friendly Societies Act, 1896	59 & 60 Vict. c. 25.
South Staffordshire Stipendiary Justice Act, 1899	62 & 63 Vict. c. xc.
Finance (1909-10) Act, 1910	10 Edw. 7. & 1 Geo. 5. c. 8.
Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.	10 & 11 Geo. 5. c. 17.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Police Pensions Act, 1921	11 & 12 Geo. 5. c. 31.
Industrial Assurance Act, 1923	13 & 14 Geo. 5. c. 8.
Rent and Mortgage Interest Restrictions Act, 1923	13 & 14 Geo. 5. c. 32.
Law of Property Act, 1925	15 & 16 Geo. 5. c. 20.
Guardianship of Infants Act, 1925	15 & 16 Geo. 5. c. 45.
Landlord and Tenant Act, 1927	17 & 18 Geo. 5. c. 36.
Land Drainage Act, 1930	20 & 21 Geo. 5. c. 44.
Hire Purchase and Small Debt (Scotland) Act, 1932	22 & 23 Geo. 5. c. 38.
Rent and Mortgage Interest Restrictions (Amendment) Act, 1933	23 & 24 Geo. 5. c. 32.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
Public Health Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Local Government Superannuation Act, 1937 ...	1 Edw. 8. & 1 Geo. 6. c. 68.
Local Government Superannuation (Scotland) Act, 1937	1 Edw. 8. & 1 Geo. 6. c. 69.
Hire-Purchase Act, 1938	1 & 2 Geo. 6. c. 53.
London Government Act, 1939	2 & 3 Geo. 6. c. 40.
Armed Forces (Conditions of Service) Act, 1939	2 & 3 Geo. 6. c. 68.
Rent and Mortgage Interest Restrictions Act, 1939	2 & 3 Geo. 6. c. 71.
National Service (Armed Forces) Act, 1939 ...	3 & 4 Geo. 6. c. 22.
Naval and Marine Forces (Temporary Release from Service) Act, 1940	4 & 5 Geo. 6. c. 4.
Rent of Furnished Houses Control (Scotland) Act, 1943	6 & 7 Geo. 6. c. 44.
Naval Forces (Extension of Service) Act, 1944 ...	7 & 8 Geo. 6. c. 13.
Furnished Houses (Rent Control) Act, 1946 ...	9 & 10 Geo. 6. c. 34.
Statutory Instruments Act, 1946	9 & 10 Geo. 6. c. 36.
Police Act, 1946	9 & 10 Geo. 6. c. 46.
Acquisition of Land (Authorisation Procedure) Act, 1946	9 & 10 Geo. 6. c. 49.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
Police (Scotland) Act, 1946	9 & 10 Geo. 6. c. 71.
Education (Scotland) Act, 1946	9 & 10 Geo. 6. c. 72.
National Health Service Act, 1946	9 & 10 Geo. 6. c. 81.
National Health Service (Scotland) Act, 1947 ...	10 & 11 Geo. 6. c. 27.
Fire Services Act, 1947	10 & 11 Geo. 6. c. 41.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
Agriculture Act, 1947	10 & 11 Geo. 6. c. 48.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.

Table of Statutes referred to in this Act—continued

Short Title	Session and Chapter
Police Pensions Act, 1948	11 & 12 Geo. 6. c. 24.
River Boards Act, 1948	11 & 12 Geo. 6. c. 32.
Superannuation (Miscellaneous Provisions) Act, 1948	11 & 12 Geo. 6. c. 33.
Companies Act, 1948	11 & 12 Geo. 6. c. 38.
Agriculture (Scotland) Act, 1948	11 & 12 Geo. 6. c. 45.
Agricultural Holdings Act, 1948	11 & 12 Geo. 6. c. 63.
National Service Act, 1948	11 & 12 Geo. 6. c. 64.
Landlord and Tenant (Rent Control) Act, 1949	12, 13 & 14 Geo. 6. c. 40.
Agricultural Holdings (Scotland) Act, 1949 ...	12, 13 & 14 Geo. 6. c. 75.
War Damaged Sites Act, 1949	12, 13 & 14 Geo. 6. c. 84.
Justices of the Peace Act, 1949	12, 13 & 14 Geo. 6. c. 101.
Matrimonial Causes Act, 1950	14 Geo. 6. c. 25.
Reinstatement in Civil Employment Act, 1950 ...	14 & 15 Geo. 6. c. 10.
Reserve and Auxiliary Forces (Training) Act, 1951	14 & 15 Geo. 6. c. 23.

PRINTED BY COLORPRINT, LIMITED, FOR
JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 2s. 6d. net

PRINTED IN GREAT BRITAIN

(76551)