

SCHEDULES

SCHEDULE 1

Section 1.

THE NATIONAL ENTERPRISE BOARD

Appointment and tenure of members

- 1 It shall be the duty of the Secretary of State—
- (a) to satisfy himself, before he appoints a person to be a member of the Board, that he will have no such financial or other interest as is likely to affect prejudicially the performance of his functions as a member ; and
 - (b) to satisfy himself from time to time with respect to each member that he has no such interest;
- and a person who is a member or whom the Secretary of State proposes to appoint as a member shall, whenever requested by the Secretary of State to do so, furnish the Secretary of State with such information as he may specify with a view to carrying out his duty under this paragraph.
- 2 Subject to the following provisions of this Schedule, a person shall hold and vacate office as a member or the chairman or a deputy chairman of the Board in accordance with the terms of the instrument appointing him to that office.
- 3 A person may at any time resign his office as a member or the chairman or a deputy chairman by giving to the Secretary of State a signed notice in writing stating that he resigns that office.
- 4 Where a member becomes or ceases to be the chairman or a deputy chairman, the Secretary of State may vary the terms of the instrument appointing him a member so as to alter the date on which he is to vacate office as a member.
- 5 If the chairman or a deputy chairman ceases to be a member, he shall cease to be the chairman or a deputy chairman, as the case may be.
- 6 (1) If the Secretary of State is satisfied that a member—
- (a) has been absent from meetings of the Board for a period longer than three consecutive months without the permission of the Board ; or
 - (b) has become bankrupt or made an arrangement with his creditors; or
 - (c) is incapacitated by physical or mental illness ; or
 - (d) is otherwise unable or unfit to discharge the functions of a member,
- the Secretary of State may declare his office as a member vacant, and shall notify the declaration in such manner as he thinks fit; and thereupon the office shall become vacant
- (2) In the application of sub-paragraph (1) above to Scotland, for the references in paragraph (b) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively a reference to sequestration of a member's estate having been awarded and to a member's having made a trust deed for behoof of his creditors or a composition contract.

Status: This is the original version (as it was originally enacted).

Remuneration etc.

- 7 The Board shall pay to each member such remuneration as the Secretary of State may determine with the approval of the Minister for the Civil Service.
- 8 The Board shall make such provision as may be determined by the Secretary of State with the approval of the said Minister for the payment of pensions, allowances or gratuities (including refunds of contributions to any pension fund with or without interest or other additions) to or in respect of such members or past members of the Board as may be so determined.
- 9 Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State, with the approval of the said Minister, may direct the Board to make to that person a payment of such amount as the Secretary of State may determine with the approval of the said Minister.
- 10 (1) Without prejudice to section 2(3) above, the Board may, in the case of such of the persons employed by them as may be determined by the Board, pay such pensions, allowances or gratuities to or in respect of them as may be so determined, make such payments towards the provision of such pensions, allowances or gratuities (including refunds of contributions to any pension fund with or without interest or other additions) as may be so determined or provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities as may be so determined.
- (2) Where a person employed by the Board and participating in a scheme for the payment of pensions, allowances or gratuities which is applicable to such persons becomes a member of the Board, his service as a member may be treated for the purposes of the scheme as service as a person employed by the Board, whether or not provision for or in respect of him is made under paragraph 8 above.

Disqualification of members of the Board for House of Commons

- 11 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 and in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), there shall be inserted, at the appropriate place in alphabetical order:—
 “The National Enterprise Board”.

Proceedings

- 12 The quorum of the Board and the arrangements relating to meetings of the Board shall be such as the Board may determine.
- 13 (1) A member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board, or in any other matter whatsoever which falls to be considered by the Board, shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting.
- (2) The member shall not—
 (a) in the case of any such contract, take part in any deliberation or decision of the Board with respect to the contract; and

Status: This is the original version (as it was originally enacted).

- (b) in the case of any other matter, take part in any deliberation or decision of the Board with respect to the matter if the Board decide that the interest in question might prejudicially affect the member's consideration of the matter.
- (3) For the purposes of this paragraph, a notice given by a member at a meeting of the Board to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered by the Board after that date, shall be a sufficient disclosure of his interest.
- (4) A member need not attend in person at a meeting of the Board in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at such a meeting.

14 The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member or by any failure to comply with the requirements of paragraph 13 above.

Incorporation of Board and Execution of Instruments and Contracts

15 The Board shall be a body corporate.

16 The fixing of the common seal shall be authenticated by the signature of the secretary of the Board or some other person authorised by the Board to act for that purpose.

17 A document purporting to be duly executed under the seal of the Board shall be received in evidence and shall be deemed to be so executed unless the contrary is proved.

Stamp Duty

- 18 (1) Stamp duty shall not be chargeable on any instrument which is certified to the Commissioners of Inland Revenue by the Board as having been made or executed for the purpose of the transfer to the Board of securities or other property held—
- (a) by or on behalf of the Crown ; or
 - (b) by a company all of whose shares are held by or on behalf of the Crown or by a wholly owned subsidiary of such a company.
- (2) Stamp duty shall not be chargeable on any vesting order or on any instrument for giving effect to such an order.
- (3) No such order or instrument as is mentioned in sub-paragraph (1) or (2) above shall be deemed to be duly stamped unless it is stamped with the duty for which it would but for this paragraph be liable or it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

Acquisition of holdings of minority shareholders

19 Section 209 of the Companies Act 1948 (power to acquire shares of shareholders dissenting from scheme or contract approved by majority) shall have effect in relation to the transfer of shares or any class of shares in a company to the

Status: This is the original version (as it was originally enacted).

Board ; and references to a transferee company in that section shall be construed accordingly.

Circulars

- 20 Section 14(1) of the Prevention of Fraud (Investments) Act 1958 and section 13(1) of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 (prohibition on distributing circulars relating to investments) shall not apply to documents which the Board distribute in the discharge of their functions or cause to be so distributed or have in their possession for the purposes of such distribution.

SCHEDULE 2

Section 1.

FINANCIAL AND ADMINISTRATIVE PROVISIONS RELATING TO BOARD

Borrowing Powers

- 1 (1) The Board may borrow money only—
- (a) in accordance with sub-paragraphs (2) and (3) below, or
 - (b) from their wholly-owned subsidiaries.
- (2) The Board may borrow temporarily, by way of overdraft or otherwise, such sums as they may require for meeting their obligations and discharging their functions—
- (a) in sterling from the Secretary of State, or
 - (b) with the consent of the Secretary of State and the approval of the Treasury, or in accordance with any general authority given by the Secretary of State with the approval of the Treasury, either in sterling or in a currency other than sterling from a person other than the Secretary of State.
- (3) The Board may borrow otherwise than by way of temporary loan such sums as they may require for capital purposes or for fulfilling guarantees entered into by them—
- (a) in sterling from the Secretary of State, or
 - (b) with the consent of the Secretary of State and the approval of the Treasury, in sterling from the Commission of the European Communities or the European Investment Bank, or
 - (c) with the like consent and approval, in any currency other than sterling from a person other than the Secretary of State.
- (4) References to borrowing in this paragraph do not include borrowing under section 3 above.

Government loans to the Board

- 2 (1) The Secretary of State may lend to the Board any sums which the Board have power to borrow from him under paragraph 1 above, and the Treasury may issue to the Secretary of State out of the National Loans Fund any sum necessary to enable the Secretary of State to make loans in pursuance of this sub-paragraph.
- (2) Any loans made in pursuance of sub-paragraph (1) above shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may from time to time direct;

Status: This is the original version (as it was originally enacted).

and all sums received by the Secretary of State in pursuance of this sub-paragraph shall be paid into the National Loans Fund.

- (3) The Secretary of State shall prepare in respect of each financial year an account of the sums issued to him in pursuance of sub-paragraph (1) above and the sums received by him in pursuance of sub-paragraph (2) above and of the disposal by him of those sums and shall send the account to the Comptroller and Auditor General before the end of the month of November next following the end of that year; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (4) The Secretary of State shall not make a loan or give a direction in pursuance of this paragraph except with the approval of the Treasury ; and the form of the account prepared in pursuance of sub-paragraph (3) above and the manner of preparing it shall be such as the Treasury may direct.

Borrowing by wholly owned subsidiaries

- 3 It shall be the duty of the Board to secure that no wholly owned subsidiary of theirs borrows money otherwise than from the Board or from another wholly owned subsidiary of theirs except with the consent of the Secretary of State and the approval of the Treasury.

Guarantees

- 4 (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums which the Board borrow from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this paragraph shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the Board shall make to the Treasury, at such time and in such manner as the Treasury from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rate as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Any sums received by the Treasury in pursuance of sub-paragraph (4) above shall be paid into the Consolidated Fund.

Other Government investment in the Board

- 5 (1) The Secretary of State may pay to the Board out of money provided by Parliament such sums (in this Schedule referred to as " public dividend capital") as the Secretary of State thinks fit.

Status: This is the original version (as it was originally enacted).

- (2) The Secretary of State may direct that so much of the debt assumed by the Board under paragraph 6 below as he may, with the approval of the Treasury, determine shall be treated as an addition to that capital.
- (3) In consideration of receiving public dividend capital the Board shall make to the Secretary of State, as respects each accounting year (except such a year as respects which the Board satisfy the Secretary of State that it is inappropriate to make a payment in pursuance of this sub-paragraph), payments of such amounts as may be proposed by the Board and agreed by the Secretary of State or such Other amounts as the Secretary of State may determine, after consultation with the Board ; and any sums received by the Secretary of State in pursuance of this sub-paragraph shall be paid into the Consolidated Fund.
- (4) The account prepared in respect of any financial year in pursuance of paragraph 2(3) above shall include particulars of the sums which in that year are paid to the Board or are paid into the Consolidated Fund in pursuance of this paragraph.
- (5) The Secretary of State shall not make a payment, signify agreement or make a determination in pursuance of this paragraph except with the approval of the Treasury.

The Boards Capital Debt

- 6 (1) Upon any acquisition to which this paragraph applies, the Board shall assume a debt to the Secretary of State of such amount as may be notified to the Board in writing by him, with the approval of the Treasury.
- (2) This paragraph applies to any acquisition by the Board—
 - (a) of securities or other property held—
 - (i) by or on behalf of the Crown ; or
 - (ii) by a company all of whose shares are held by or on behalf of the Crown or by a wholly owned subsidiary of such a company ; or
 - (b) under section 3 above ; or
 - (c) under a vesting order.
- (3) Subject to sub-paragraph (4) below, in a case to which sub-paragraph (2)(a) above applies the amount to be notified is the aggregate of the following, namely—
 - (a) the consideration given when the property was first brought into public ownership, and
 - (b) the costs and expenses of and incidental to it being brought into public ownership.
- (4) If it appears to the Secretary of State in any such case that there has been such a change in circumstances since the property was first brought into public ownership that its true value would not be reflected by reference to the consideration mentioned in sub-paragraph (3) above, the Secretary of State, with the approval of the Treasury, shall determine the amount to be notified.
- (5) In a case to which sub-paragraph (2)(b) above applies, the amount to be notified is the aggregate of the consideration for the acquisition and the costs and expenses of and incidental to it.

Status: This is the original version (as it was originally enacted).

- (6) In a case to which sub-paragraph (2)(c) above applies, the amount is the aggregate of the compensation under the relevant compensation order and the costs and expenses of and incidental to the acquisition.
- (7) The rate of interest payable on so much of the Board's capital debt as the Secretary of State does not direct to be treated as an addition to the Board's public dividend capital, and the date from which interest is to begin to accrue, the arrangements for paying off the principal, and the other terms of the debt shall be such as the Secretary of State, with the approval of the Treasury, may from time to time determine; and different rates and dates may be determined under this sub-paragraph with respect to different portions of the debt.
- (8) Any sums received by the Secretary of State under sub-paragraph (7) above shall be paid into the National Loans Fund.

Accounts and audit

- 7 (1) The Board shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State, with the approval of the Treasury, may direct, being a form which shall conform to the best commercial standards.
- (2) The accounts and statements of accounts of the Board (other than interim statements under sub-paragraph (4) below) shall be audited by auditors appointed by the Board after consultation with the Secretary of State, and a person shall not be qualified to be so appointed unless he is a member of one or more of the following bodies:—
 - The Institute of Chartered Accountants in England and Wales ;
 - The Institute of Chartered Accountants of Scotland ;
 - The Association of Certified Accountants ;
 - The Institute of Chartered Accountants in Ireland;
 - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 or section : 155(1)(a) of the Companies Act (Northern Ireland) 1960 ; :but a Scottish firm may be so appointed if each of the partners is qualified to be appointed.
- (3) As soon as the accounts and statement of accounts of the Board for any accounting year have been audited under sub-paragraph (2) above, the Board shall send to the Secretary of State a copy of the statement together with a copy of any report made by the auditor on that statement or on the accounts of the Board.
- (4) The Board shall also prepare in respect of the first six months of each accounting year an interim statement of accounts in such form as the Secretary of State, with the approval of the Treasury, may direct, and shall do so as soon as practicable after the end of the period to which the statement relates.
- (5) As soon as an interim statement of accounts has been prepared, the Board shall send a copy of the statement to the Secretary of State.
- (6) It shall be the duty of the Secretary of State to lay before each House of Parliament a copy of every statement and report of which a copy is received by him under this paragraph.

Status: This is the original version (as it was originally enacted).

Annual report

- 8 (1) It shall be the duty of the Board to make to the Secretary of State as soon as possible after the end of each accounting year, a report dealing with the operations of the Board during that year.
- (2) It shall be the duty of the Secretary of State to lay before each House of Parliament a copy of each report received by him under this paragraph.
- (3) A copy of the register under section 1(8) above, as amended from time to time, shall be annexed to each such report.
- (4) If a report laid before Parliament under sub-paragraph (2) above sets out a direction under section 7 above a copy of which has not been laid in accordance with subsection (3) of that section, a statement of the reason why the copy was not so laid shall be annexed to the report by the Secretary of State, and the said subsection (3) shall not apply to the direction.

SCHEDULE 3

Section 20.

ARBITRATION

PART I

GENERAL

Establishment of Tribunal

- 1 If a party to a dispute such as is mentioned in subsection (1) of section 20 above serves on the other party or parties to the dispute, at a time when no proceedings relating to it have been commenced in any court, a notice that he wishes the dispute to be determined by arbitration, the Secretary of State shall by order establish a tribunal to determine the dispute and any other dispute such as is mentioned in subsection (2) of that section.
- 2 An order under paragraph 1 above shall be laid before each House of Parliament.
- 3 A tribunal shall be a court of record and shall have an official seal which shall be judicially noticed.
- 4 A tribunal shall, as the Lord Chancellor may direct, either sit as a single tribunal or sit in two or more divisions and, subject to paragraph 5 below, shall, for the hearing of any proceedings, consist of—
- (a) a president who shall be a barrister or solicitor of at least seven years standing appointed by the Lord Chancellor, and
 - (b) two other members appointed by the Secretary of State, one being a person of experience in business and the other being a person of experience in finance.
- 5 In its application to proceedings which, by virtue of paragraph 18 below, are to be treated as Scottish proceedings, paragraph 4 above shall have effect with the substitution, for sub-paragraph (a) thereof, of the following sub-paragraph:—

Status: This is the original version (as it was originally enacted).

- “(a) a president who shall be an advocate or solicitor who has practised in Scotland and who shall be appointed by the Lord President of the Court of Session”.
- 6 The members of a tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment but, notwithstanding that the period for which a member was appointed has not expired.—
- (a) a member may, at any time by not less than one month's notice in writing to his appointor, resign his office ;
- (b) the appointor of a member may declare the office of that member vacant on the ground that he is unfit to continue in his office ; and
- (c) if any member becomes bankrupt or makes a composition with creditors or, in Scotland, if sequestration of a member's estate is awarded or a member makes a trust deed for behoof of his creditors or a composition contract, his office shall thereupon become vacant.
- 7 If any member of a tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, his appointor shall appoint some other fit person to discharge his duties for any period not exceeding 6 months at any one time, and the person so appointed shall during that period have the same powers as the person in whose place he was appointed.
- 8 In this Part of this Schedule, "appointor", in relation to a member of a tribunal means—
- (a) in the case of a member appointed under sub-paragraph (a) of paragraph 4 above, the Lord Chancellor or, if paragraph 5 above applies, the Lord President of the Court of Session ; and
- (b) in the case of any other member, the Secretary of State.
- 9 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 and in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), there shall be inserted, at the appropriate place in alphabetical order:—
- “An Arbitration Tribunal established under Schedule 3 to the Industry Act 1975”.
- 10 In Part I of Schedule 1 to the Tribunals and Inquiries Act 1971 (Tribunals under direct supervision of Council on Tribunals) after the entry the first column of which reads " Indemnification of justices and clerks " there shall be inserted the following entry:—

“Industry.

9A. An arbitration tribunal established under Schedule 3 to the Industry Act 1975.”.

Staff and expenses

- 11 A tribunal may appoint such officers as they consider necessary for assisting them in the proper execution of their duties.
- 12 (1) There shall be paid to members of a tribunal such remuneration (whether by way of salaries or fees) and such allowances as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

Status: This is the original version (as it was originally enacted).

- (2) There shall be paid to any officer appointed under paragraph 11 above and any person to whom proceedings are referred by the tribunal under paragraph 27 below for inquiry and report such remuneration (whether by way of salary or fees) and such allowances as the tribunal may, with the approval of the Secretary of State given with the consent of the Minister for the Civil Service, determine.
- (3) The Secretary of State shall pay any such remuneration and allowances and any other expenses of a tribunal shall be defrayed by the Secretary of State out of money provided by Parliament.

PART II

PROCEEDINGS

Proceedings other than Scottish proceedings

- 13 Paragraphs 14 to 17 below shall have effect with respect to proceedings of a tribunal other than those which, by virtue of paragraph 18 below, are to be treated as Scottish proceedings.
- 14 The provisions of the Arbitration Act 1950 or, in Northern Ireland, the Arbitration Act (Northern Ireland) 1937 with respect to—
- (a) the administration of oaths and the taking of affirmations,
 - (b) the correction in awards of mistakes and errors,
 - (c) the summoning, attendance and examination of witnesses and the production of documents, and
 - (d) the costs of the reference and award,
- shall, with any necessary modifications, apply in respect of such proceedings but, except as provided by this paragraph, the provisions of that Act shall not apply to any such proceedings.
- 15 A tribunal may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise in such proceedings.
- 16 An appeal shall lie to the Court of Appeal on any question of law or fact from any determination or order of the tribunal with respect to compensation under section 16(6) above.
- 17 (1) Subject to the provisions of this Schedule, the procedure in or in connection with any such proceedings shall be such as may be determined by rules made by the Lord Chancellor by statutory instrument.
- (2) A statutory instrument containing rules made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Scottish proceedings

- 18 Where a dispute submitted to a tribunal relates to capital of a body corporate whose principal place of business is situated in Scotland, or assets which are situated in Scotland, then, subject to paragraph 20 below, the proceedings before the tribunal in respect of the dispute shall be treated as Scottish proceedings.

- 19 If, at any stage in any proceedings before a tribunal which would not otherwise fall to be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of Scottish law arise or for any other reason, the proceedings ought thereafter to be treated as Scottish proceedings, the tribunal may order that they shall thereafter be so treated and the provisions of this Schedule shall have effect accordingly.
- 20 If, at any stage in any proceedings before a tribunal which would otherwise be treated as Scottish proceedings, the tribunal are satisfied that, by reason of the fact that questions of English law arise or for any other reason, the proceedings ought not to be treated as Scottish proceedings, they may make an order that the proceedings shall thereafter not be treated as Scottish proceedings and the provisions of this Schedule shall have effect accordingly.
- 21 In Scottish proceedings a tribunal shall have the like powers for securing the attendance of witnesses and the production of documents and with regard to the examination of witnesses on oath and the awarding of expenses as if the tribunal were an arbiter under a submission.
- 22 A tribunal may and if so directed by the Court of Session shall state a case for the opinion of that Court on any question of law arising in Scottish proceedings.
- 23 (1) An appeal shall lie to the Court of Session on any question of law or fact from any determination or order of the tribunal with respect to compensation under section 16(6) above.
- (2) An appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this paragraph, and such leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine.
- 24 (1) Subject to the provisions of this Schedule, the procedure in or in connection with Scottish proceedings shall be such as may be determined by rules made by the Lord Advocate by statutory instrument.
- (2) A statutory instrument containing rules made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 25 Unless the tribunal consider that there are special reasons for not doing so, they shall sit in Scotland for the hearing and determination of any Scottish proceedings.

All proceedings

- 26 Every order of a tribunal—
- (a) shall be enforceable in England and Wales and Northern Ireland as if it were an order of the High Court; and
 - (b) may be recorded for execution in the books of Council and Session and may be enforced accordingly.
- 27 A tribunal may, at any stage in any proceedings before them, refer to a person or persons appointed by them for the purpose any question arising in the proceedings, other than a question which in their opinion is primarily one of law, for inquiry and report, and the report of any such person or persons may be adopted wholly or partly by the tribunal and, if so adopted, may be incorporated in an order of the tribunal.

Status: This is the original version (as it was originally enacted).

SCHEDULE 4

Section 22.

AMENDMENTS TO PART II OF INDUSTRY ACT 1972

PART I

AMENDMENTS EXTENDING POWERS TO GIVE SELECTIVE FINANCIAL ASSISTANCE UNDER INDUSTRY ACT 1972

- 1 The following provisions of section 7 (selective financial assistance for industry in assisted areas) of the Industry Act 1972 are repealed, namely—
- (a) the words in subsection (4) from the beginning to "and" (which restrict the power to give assistance by means of investment by acquisition of loan or share capital to cases where the Secretary of State is satisfied that financial assistance cannot, or cannot appropriately, be given in any other way); and
 - (b) subsection (5) (which requires the Secretary of State to dispose of shares or stock as soon as, in his opinion, it is reasonably practicable to do so).
- 2 The following provisions of section 8 of that Act (general powers of selective financial assistance) are repealed, namely—
- (a) subsection (1)(c) (which prevents the exercise of the powers conferred by the section unless financial assistance cannot, or cannot appropriately, be provided otherwise than by the Secretary of State);
 - (b) in subsection (3)—
 - (i) the words from the beginning to " and ", in the first place where it occurs, (which correspond to the words in section 7(4) repealed by paragraph 1(a) above); and
 - (ii) paragraph (b) (which prevents the Secretary of State, in exercise of his powers under the section, acquiring more than half, by nominal value, of the equity share capital of any company);
 - (c) subsection (4) (which corresponds to section 7(5)); and
 - (d) subsection (5) (which limits the duration of the Secretary of State's powers' under the section, except so far as relates to the making of a payment in pursuance of an undertaking previously given, to the period ending 31st December 1977).

Minor and consequential amendments to Part II of Industry Act 1972

- 3 In section 7(4) of that Act (selective financial assistance for industry in assisted areas), for the words " so described" there shall be substituted the words " described in subsection (3)(a) above ".
- 4 In section 8(3) of that Act (selective financial assistance: general powers), for the words " so described " there shall be substituted the words " described in subsection (3)(a) of the last preceding section ".
- 5 The following subsection shall be added at the end of section 9 of that Act (Industrial Development Advisory Board):—
- “(5) Any reference in this section to the Secretary of State's functions under sections 7 and 8 of this Act includes a reference to his functions under section 3 of the Industry Act 1975.”

PART II

PART II OF INDUSTRY ACT 1972 AS AMENDED BY THIS ACT

“PART II

FINANCIAL ASSISTANCE FOR INDUSTRY

7 Selective financial assistance for industry in assisted areas.

- (1) For the purposes set out in the following provisions of this section the Secretary of State may, with the consent of the Treasury, provide financial assistance where, in his-opinion—
 - (a) the financial assistance is likely to provide, maintain or safeguard employment in any part of the assisted areas, and
 - (b) the undertakings for which the assistance is provided are or will be wholly or mainly in the assisted areas.
- (2) The purposes mentioned in subsection (1) of this section are—
 - (a) to promote the development or modernisation of an industry,
 - (b) to promote the efficiency of an industry,
 - (c) to create, expand or sustain productive capacity in an industry, or in undertakings in an industry,
 - (d) to promote the reconstruction, reorganisation or conversion of an industry or of undertakings in an industry,
 - (e) to encourage the growth of, or the proper distribution of undertakings in, an industry,
 - (f) to encourage arrangements for ensuring that any contraction of an industry proceeds in an orderly way.
- (3) Subject to the following provisions of this section, financial assistance under this section may be given on any terms or conditions, and by any description of investment or lending or guarantee, or by making grants, and may, in particular, be—
 - (a) investment by acquisition of loan or share capital in any company, including an acquisition effected by the Secretary of State through another company, being a company formed for the purpose of giving financial assistance under this Part of this Act,
 - (b) investment by the acquisition of any undertaking or of any assets,
 - (c) a loan, whether secured or unsecured, and whether or not carrying interest, or interest at a commercial rate,
 - (d) any form of insurance or guarantee to meet any contingency, and in particular to meet default on payment of a loan, or of interest on a loan, or non-fulfilment of a contract.
- (4) . . . The Secretary of State, in giving financial assistance in the way described in subsection (3)(a) above shall not acquire any shares or stock in a company without the consent of that company.
- (5) . . .

Status: This is the original version (as it was originally enacted).

- (6) In this section " industry", unless the context otherwise requires, includes any description of commercial activity, and references to an industry include references to any section of an industry.
- (7) In this section "the assisted areas" means the development areas, the intermediate areas and Northern Ireland.

8 Selective financial assistance: general powers.

- (1) For the purposes set out in subsection (2) of the last preceding section the Secretary of State may, with the consent of the Treasury, provide financial assistance where, in his opinion—
 - (a) the financial assistance is likely to benefit the economy of the United Kingdom, or of any part or area of the United Kingdom, and
 - (b) it is in the national interest that the financial assistance should be provided on the scale, and in the form and manner, proposed,
 - (c) . . .
- (2) Financial assistance under this section may, subject to the following provisions of this section, be given in any of the ways set out in subsection (3) of the last preceding section.
- (3) . . . The Secretary of State, in giving financial assistance in the way described in subsection (3)(a) of the last preceding section—
 - (a) shall not acquire any shares or stock in a company without the consent of that company,
 - (b) . . .
- (4) . . .
- (5) . . .
- (6) The aggregate of—
 - (a) the sums paid by the Secretary of State under this section, plus
 - (b) the liabilities of the Secretary of State under any guarantees given by him under this section (exclusive of any liability in respect of interest on a principal sum so guaranteed),
 less any sum received by the Secretary of State by way of repayment of loans under this section, or repayment of principal sums paid to meet a guarantee under this section, shall not at any time exceed the limit specified in subsection (7) below.
- (7) The said limit shall be £150 million, but the Secretary of State may, on not more than four occasions, by order made with the consent of the Treasury increase or further increase that limit by a sum specified in the order, being a sum not exceeding £100 million.

An order under this subsection shall be contained in a statutory instrument, and such an order shall not be made unless a draft of the order has been approved by a resolution of the Commons House of Parliament.
- (8) The sums which the Secretary of State pays or undertakes to pay by way of financial assistance under this section in respect of any one project shall not exceed £5 million, except so far as any excess over the said sum of £5 million has been authorised by a resolution of the Commons House of Parliament:

Provided that this subsection shall not apply where the Secretary of State is satisfied that the payment or undertaking is urgently needed at a time when it is impracticable to obtain the approval of the Commons House of Parliament; and in that case the Secretary of State shall lay a statement concerning the financial assistance before each House of Parliament.

9 Industrial Development Advisory Board.

- (1) The Secretary of State shall appoint a board, which shall be called the Industrial Development Advisory Board, to advise him with respect to the exercise of his functions under sections 7 and 8 of this Act.
- (2) The Board shall consist of a chairman and not less than six nor more than twelve other members.
- (3) The members of the Board shall include persons who appear to the Secretary of State to have wide experience of, and to have shown capacity in, industry, banking, accounting and finance.
- (4) If the Board make a recommendation with respect to any matter at the request of the Secretary of State and the Secretary of State exercises his functions under sections 7 and 8 of this Act contrary to their recommendation, he shall, if the Board so request, lay a statement as to the matter before Parliament.
- (5) Any reference in this section to the Secretary of State's functions under sections 7 and 8 of this Act includes a reference to his functions under section 3 of the Industry Act 1975.”

SCHEDULE 5

Section 27.

DISCLOSURE OF INFORMATION BY GOVERNMENT

- 1 For the purposes of this Schedule the Treasury shall keep a macro-economic model suitable for demonstrating the likely effects on economic events in the United Kingdom of different assumptions about the following matters, namely—
 - (a) government economic policies ;
 - (b) economic events outside the United Kingdom ; and
 - (c) such (if any) other matters as appear to the Treasury from time to time likely to have a substantial effect on economic events in the United Kingdom.
- 2 The model shall enable forecasts to be made—
 - (a) of any of the following, namely—
 - (i) the level of gross domestic product;
 - (ii) unemployment;
 - (iii) the balance of payments on current account;
 - (iv) the general index of retail prices ; and
 - (v) average earnings ; and
 - (b) of such (if any) other economic variables as are appropriate in the opinion of the Treasury from time to time.

Status: This is the original version (as it was originally enacted).

- 3 The references to forecasts in paragraph 2 above are references to forecasts relating to successive periods of three months and not to shorter periods.
- 4 The model shall be maintained on a computer.
- 5 The model shall be available to members of the public to make forecasts based on their own assumptions, using the computer during office hours upon payment of such reasonable fee as the Treasury may determine.
- 6 Not less than twice in each year commencing with a date not later than one year from the coming into force of this Act, the Treasury shall publish forecasts produced with the aid of the model as to such matters and based on such alternative assumptions as appear to them to be appropriate.
- 7 Any forecast under this Schedule shall indicate, where possible, the margin of error attaching to it.
- 8 The Treasury shall from time to time publish an analysis of errors in such forecasts that would have remained even if the assumptions set out in the forecasts and on which they were based had been correct.
- 9 It shall be the duty of a Minister of the Crown who proposes to enter into, or has entered into a planning agreement with a body corporate to participate with that body in demonstrating so far as possible, upon the application of that body, the relationship between the undertaking to which the agreement relates and the national economy.

SCHEDULE 6

Section 32.

ADVISORY COMMITTEES

- 1 The Secretary of State, with the consent of the Ministry of Agriculture, Fisheries and Food, shall draw up and from time to time revise—
- (a) a panel of persons who have experience in industrial affairs as employers or managers ;
 - (b) a panel of persons who have experience in industrial affairs as representatives of workers ;
 - (c) a panel of persons who are barristers or solicitors ; and
 - (d) a panel of persons who are advocates or solicitors who have practised in Scotland.
- 2 Of the panels—
- (a) that mentioned in paragraph 1(c) above shall be appointed with the consent of the Lord Chancellor, and
 - (b) that mentioned in paragraph 1(d) above shall be appointed with the consent of Lord President of the Court of Session.
- 3 When either of the Ministers is required to make a reference under section 32 above or makes such a reference himself, he shall constitute, for the purpose of advising him, a committee consisting of three persons, namely—
- (a) one from the panel mentioned in paragraph 1(a) above,
 - (b) one from the panel mentioned in paragraph 1(b) above, and
 - (c) one from the relevant panel of lawyers ;
- and for the purposes of this Schedule, " the relevant panel of lawyers " means—

Status: This is the original version (as it was originally enacted).

- (i) the panel mentioned in paragraph 1(d) above, if the Minister constituting the committee considers, having regard to any representations made by the company or companies concerned or by the authorised representative of a relevant trade union, that this is appropriate, and
 - (ii) in any other case, the panel mentioned in paragraph 1(c) above.
- 4 The Minister constituting a committee shall appoint as the committee's chairman the member of the committee appointed to it from the relevant panel of lawyers.
- 5 A committee may, at the discretion of the chairman, where it appears expedient to do so, call in the aid of one or more persons who appear to the committee to be specially qualified for the purpose, and may settle its advice wholly or partly with the assistance of that person or persons.
- 6 A committee shall sit in private.
- 7 The Minister appointing a committee shall pay its expenses, including such (if any) fees for its members and for any person called in under paragraph 5 above as he may, with the approval of the Minister for the Civil Service, determine.
- 8 Any such Minister may make arrangements for securing that such of his officers as he considers are required are available to assist a committee.
- 9 (1) The Secretary of State may make regulations as to the procedure for or in connection with references to advisory committees and the making by such committees of reports to the Minister concerning such references.
 - (2) Without-prejudice to the generality of sub-paragraph (1) above, the regulations may prescribe the time within which representations are to be made.
 - (3) Regulations under this paragraph shall be made by statutory instrument.
 - (4) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

SCHEDULE 7

Section 39.

MINOR AND CONSEQUENTIAL AMENDMENTS OF INDUSTRY ACT 1972

- 1 In section 6(2) of the Industry Act 1972 (interpretation of Part I) the words " or a pipe-line " shall be omitted from the definitions of " machinery or plant " and " works " (where their inclusion has the effect of making capital expenditure on machinery or plant consisting of a pipe-line ineligible for regional development grant).
- 2 At the end of section 16(1)(a) of that Act (annual reports of Secretary of State) there shall be added the words " and section 3 of the Industry Act 1975 ".

Status: This is the original version (as it was originally enacted).

SCHEDULE 8

Section 38.

REPEALS

Chapter	Short Title	Extent of Repeal
1972 c. 63.	The Industry Act 1972.	<p>In section 6(2), in the definition of " machinery or plant" the words " or a pipe-line "; the definition of " pipe-line " and in the definition of " works " the words " or a pipe-line ".</p> <p>In section 7, in subsection (4), the words from the beginning to " and " and subsection (5).</p> <p>In section 8, in subsection (1) paragraph (c) and the word " and " immediately preceding it, in subsection (3) the words from the beginning to " and " in the first place where it occurs and paragraph (b) and the word " and" immediately preceding it, and subsections (4) and (5).</p>