

1990 No. 129

COMMUNITY CHARGES, ENGLAND AND WALES

**The Standard Community Charge (Multipliers) Order
1990**

<i>Made</i> - - - -	<i>29th January 1990</i>
<i>Laid before Parliament</i>	<i>5th February 1990</i>
<i>Coming into force</i>	<i>26th February 1990</i>

The Secretary of State for the Environment as respects England, and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by section 40(16) of the Local Government Finance Act 1988(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Standard Community Charge (Multipliers) Order 1990 and shall come into force on 26th February 1990.

Additional factors in connection with the specification of classes

2. Subsection (11) of section 40 of the Local Government Finance Act 1988 is amended by inserting at the end of the subsection the following paragraphs -

- “(g) the periods for which unoccupied properties have previously been occupied;
- (h) the period for which properties would have been unoccupied if all or some periods of occupation were treated as periods during which the properties were unoccupied;
- (i) in the case of properties comprised in a deceased’s estate, the period which has elapsed since a grant of probate or of letters of administration was made.”.

29th January 1990

Chris Patten
Secretary of State for the Environment

25th January 1990

Peter Walker
Secretary of State for Wales

(a) 1988 c.41; section 40 was amended by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraph 18.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order adds to the factors by reference to which charging authorities may specify classes of property for the purpose of determining their standard community charge multipliers. By virtue of the Order, charging authorities may have regard to the periods for which unoccupied properties have previously been occupied, the period for which properties would have been unoccupied if all or some periods of occupation were treated as periods during which the properties were unoccupied, and the period which has elapsed since a grant of probate or of letters of administration was made.

50p net

ISBN 0 11 003129 6

Printed in the United Kingdom for HMSO

850 WO167 C38 2/90 452 7102 O/N 88174

DRAFT STATUTORY INSTRUMENTS

1990 No.

SOCIAL SECURITY

**The Social Security (Industrial Injuries)
(Regular Employment) Regulations 1990**

Made - - - - 1990

Coming into force 1st April 1990

Whereas a draft of this instrument was laid before Parliament in accordance with the provisions of section 29(2)(e) of the Social Security Act 1989(a) and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the power conferred by section 59B(7) and (8) of and Schedule 20 to the Social Security Act 1975(b), and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of 6 months beginning with the coming into force of the aforesaid section 59B(7) and (8), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Industrial Injuries) (Regular Employment) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations, “the 1975 Act” means the Social Security Act 1975.

Meaning of “regular employment”

2.—(1) Subject to the following provisions of this regulation, “regular employment”, for the purposes of section 59B of the 1975 Act, means, in relation to any person and any week, gainful employment (whether or not under a contract of service) which the person undertakes for 10 hours or more in a week which forms part of a period of 5 or more consecutive weeks in which such employment is undertaken.

(2) For the purposes of section 59B of the 1975 Act, a person—

(a) if he is engaged in regular employment, shall be regarded as not having given up that employment, or

(b) if he is not so engaged, shall be regarded as having returned to regular employment,

in any week falling within a period of 5 consecutive weeks during which the total number of hours gainfully employed, when averaged over the whole of that period, amounts to 10 or more for each week within that period.

(3) A person shall be regarded for those purposes as not having given up regular employment in any week in which he has one or more days of interruption of employment.

Signed by authority of the
Secretary of State for Social Security

1990

Department of Social Security

(a) 1989 c.24.

(b) 1975 c.14; section 59B was inserted by the Social Security Act 1988 (c.7), section 2(1), and subsections (7) and (8) were added by the Social Security Act 1989 (c.24), section 7, Schedule 1, paragraph 8(6); Schedule 20 is cited because of the meaning ascribed to the words “Prescribe” and “Regulations”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument is made on 1990, which is before the end of a period of 6 months beginning with the coming into force of subsections (7) and (8) of section 59B of the Social Security Act 1975 (both subsections having been inserted in section 59B by the Social Security Act 1989 (c.24), Schedule 1, paragraph 8(6)). The Regulations contained in this instrument are therefore exempted by section 61(5) of the Social Security Act 1986 (c.50) (as amended by the Social Security Act 1989, Schedule 8, paragraph 12(3)) from the requirement under section 141 of the Social Security Act 1975 to refer proposals to the Industrial Injuries Advisory Council and are made without reference to the Council.

The Regulations make provision with respect to the meaning of "regular employment" for the purposes of section 59B of the Social Security Act 1975 (retirement allowance). They also provide that in certain circumstances a person is or is not to be regarded as having given up, or returned to, regular employment.

50p net

ISBN 0 11 005512 8

Printed in the United Kingdom by HMSO

880/WO157 C13 1/90 3194040

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

INDUSTRIAL TRAINING

**The Industrial Training Levy (Engineering Board) Order
1990**

Made - - - - - *1990*

*Coming into force on the fourteenth day after
the day on which it is made.*

Whereas proposals made by the Engineering Industry Training Board for the raising and collection of a levy have been submitted to the Secretary of State under section 11(1) of the Industrial Training Act 1982(a) ("the 1982 Act");

And whereas in pursuance of section 11(3) of the 1982 Act the said proposals include provision for the exemption from the levy of employers who, in view of the small number of their employees, ought in the opinion of the Secretary of State to be exempted from it;

And whereas the Secretary of State is satisfied that proposals made in pursuance of section 11(4)(a) of the 1982 Act and falling within section 11(5)(a) of the said Act ("the relevant proposals") are necessary as mentioned in the said section 11(5), and that the condition mentioned in section 11(6)(a) of the 1982 Act is satisfied in the case of the relevant proposals;

And whereas the Secretary of State considers that the amount which, disregarding any exemption, will be payable by virtue of the following Order by certain employers in the engineering industry and which he estimates will exceed an amount which he estimates as equal to one per cent. of relevant emoluments, is appropriate in all the circumstances, and the following Order therefore falls within section 11(7)(b) of the Act;

And whereas a draft of the following Order was laid before Parliament in accordance with section 12(6) of the 1982 Act and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 11(2), 12(3) and (4) of the 1982 Act and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Engineering Board) Order 1990 and shall come into force on the fourteenth day after the day on which it is made.

Interpretation

2.—(1) In this Order unless the context otherwise requires:—

- (a) “agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947(a) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(b);
- (b) “assessment” means an assessment of an employer to the levy;
- (c) “the Board” means the Engineering Industry Training Board;
- (d) “business” means any activities of industry or commerce;
- (e) “charity” has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988(c);
- (f) “the twenty-sixth base period” means the period of twelve months that commenced on 6th April 1989;
- (g) “the twenty-sixth levy period” means the period commencing with the day upon which this Order comes into force and ending on 31st August 1990;
- (h) “emoluments” means all emoluments assessable to income tax under Schedule E of the Income and Corporation Taxes Act 1988 (other than pensions), being emoluments from which tax under that Schedule is deductible, whether or not tax in fact falls to be deducted from any particular payment thereof and any emoluments or payments intended to be disbursed as emoluments payable under any agreement (whether or not a contract of service) for the preparation of engineering drawings in connection with engineering construction activities or under any labour-only agreement in respect of engineering construction activities;
- (i) “employer” (except in article 2(2) of this Order) means a person who is an employer in the engineering industry at any time in the twenty-sixth levy period;
- (j) “engineering establishment” means an establishment in Great Britain engaged in the twenty-sixth base period wholly or mainly in the engineering industry for a total of twenty-seven or more weeks or, being an establishment that commenced to carry on business in the twentieth-sixth base period, for a total number of weeks exceeding one half of the number of weeks in the part of the said period commencing with the day on which business was commenced and ending on the last day thereof;
- (k) “the engineering industry” does not include any activities of an establishment which have been transferred from the industry of the Board to the industry of another industrial training board by one of the transfer orders but save as aforesaid means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the industrial training order, are specified in paragraph 1 of that Schedule as activities of the engineering industry or, in relation to an establishment whose activities have been transferred to the industry of the Board by one of the transfer orders, any activities so transferred;
- (l) “engineering construction activities” means any one or more of the activities which, subject to the provisions of paragraph 2 of Schedule 1 to the industrial training order, are activities of the engineering industry by virtue of paragraph 1(j) of that Schedule and any related or administrative activities of a kind to which paragraph 1(m) of that Schedule applies undertaken in relation thereto;
- (m) “exemption certificate” means a certificate issued by the Board under section 14 of the Industrial Training Act 1982;
- (n) “the industrial training order” means the Industrial Training (Engineering Board) Order 1964(d);
- (o) “labour-only agreement” means agreement or arrangement, either written or oral, made between an employer and any other person or persons under which services (including any incidental use of tools) of each person or persons or of any other person or persons were rendered to the employer in his trade or business;

(a) 1947 c.48. (b) 1948 c.45. (c) 1988 c.1. (d) S.I. 1964/1086, amended by S.I. 1980/1273.

- (p) "the levy" means the levy imposed by the Board in respect of the twenty-sixth levy period;
- (q) "notice" means a notice in writing;
- (r) "site employee" means an employee the activities of whose employment take place wholly or mainly at a site where activities falling under paragraph 1(j) of Schedule 1 to the industrial training order are carried on;
- (s) "the transfer orders" means—
 - (i) the Industrial Training (Transfer of the Activities of Establishments) Order 1974(a);
 - (ii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1974(b);
 - (iii) the Industrial Training (Transfer of the Activities of Establishments) Order 1975(c);
 - (iv) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1975(d);
 - (v) the Industrial Training (Transfer of the Activities of Establishments) Order 1976(e);
 - (vi) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1976(f);
 - (vii) the Industrial Training (Transfer of the Activities of Establishments) Order 1977(g);
 - (viii) the Industrial Training (Transfer of the Activities of Establishments) Order 1978(h);
 - (ix) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1978(i);
 - (x) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1978(j);
 - (xi) the Industrial Training (Transfer of the Activities of Establishments) Order 1979(k);
 - (xii) the Industrial Training (Transfer of the Activities of Establishments) Order 1980(l);
 - (xiii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1980(m); and
 - (xiv) the Industrial Training (Transfer of the Activities of Establishments) Order 1981(n);

(2) In reckoning the amount of emoluments for the purpose of this Order no regard shall be had to the emoluments of any person—

- (a) undergoing a course of training as a seagoing officer or rating under an agreement in writing with an employer in the shipping industry, or with any organisation of employers in that industry or with any association of such organisations;
- (b) employed by London Regional Transport or its subsidiaries wholly in activities specified in paragraph 1(m) of Schedule 1 to the industrial training order, not being design or drawing or the training of employees or apprentices;
- (c) engaged wholly in agriculture; or
- (d) engaged wholly in the supply of food or drink for immediate consumption.

(3) Any reference in this Order to an establishment that commences to carry on business or that ceases to carry on business shall not be taken to apply where the location of the establishment is changed but its business is continued wholly or mainly at or from the new location, or where the suspension of activities is of a temporary or seasonal nature.

(a) S.I. 1974/1154. (b) S.I. 1974/1495. (c) S.I. 1975/434. (d) S.I. 1975/1157. (e) S.I. 1976/396. (f) S.I. 1976/1635. (g) S.I. 1977/1951. (h) S.I. 1978/448. (i) S.I. 1978/1225. (j) S.I. 1978/1643. (k) S.I. 1979/793. (l) S.I. 1980/586. (m) S.I. 1980/1753. (n) S.I. 1981/1041.

(4) In this Order an establishment shall be taken to be wholly or mainly engaged in engineering construction activities if it is so engaged during the twenty-sixth base period for a total of twenty-seven or more weeks, or, being an establishment that commenced to carry on business in the twenty-sixth base period, for a total number of weeks exceeding one half of the number of weeks in the part of the said period commencing with the day on which business was commenced and ending on the last day thereof.

(5) In this Order employees shall be taken to be wholly or mainly engaged in or in connection with engineering construction activities during any week in the twenty-sixth base period in which they are so engaged if but only if they are so engaged for more than half the total number of weeks in which they are employed by the employer during the twenty-sixth base period.

Imposition of the levy

3.—(1) Subject to the provisions of article 11 of this Order, the levy to be imposed by the Board on employers in respect of the twenty-sixth levy period shall be assessed in accordance with the provisions of this article.

(2) The levy shall be assessed by the Board separately in respect of each relevant establishment (that is to say, each engineering establishment other than an establishment of an employer who is exempt by virtue of the provisions of article 4 or article 5 of this Order, or, subject to the provisions of article 6, one which is an establishment in respect of which an exemption certificate has been issued to the employer) but in agreement with the employer one assessment may be made in respect of any number of establishments, in which case such establishments shall be deemed for the purposes of that assessment to constitute one establishment.

(3) The levy assessed in respect of an establishment which is not wholly or mainly engaged in engineering construction activities shall be an amount equal to 1 per cent. of the sum of the emoluments of all persons employed in the twenty-sixth base period at or from the establishment by the employer.

(4) The levy assessed in respect of an establishment wholly or mainly engaged in engineering construction activities shall be the aggregate of—

- (a) an amount equal to 1.5 per cent. of the sum of the emoluments of all site employees employed in the twenty-sixth base period at or from the establishment by the employer in so far as that sum exceeds £50,000; and
- (b) an amount equal to 1 per cent. of the sum of the emoluments of all employees other than site employees employed in the twenty-sixth base period at or from the establishment by the employer.

Exemption of charities

4. A charity shall be exempted from the levy.

Exemption of small employers

5.—(1) An employer shall be exempted from the levy in respect of any establishment of his which is not wholly or mainly engaged in engineering construction activities where the number of all the persons employed by him at or from the establishment on 6th April 1990 does not exceed 40.

(2) An employer shall be exempted from the levy in respect of any establishment of his which is wholly or mainly engaged in engineering construction activities in respect of any portion of the levy attributable to the emoluments of any employees of his, other than site employees, who were wholly or mainly engaged in engineering construction activities where the total number of such employees employed by him (including those employed under any labour-only agreement) at or from any engineering establishment or establishments of his in the twenty-sixth base period does not exceed 30.

Disapplication exemption certificate

6.—(1) An exemption certificate issued by the Board shall not exempt any employer from—

- (a) any portion of the levy which is to be assessed under article 3(4)(a) above or
- (b) that portion of the levy which is equal to 0.15 per cent. of the sum of the emoluments upon which the levy is to be assessed under article 3(4)(b) above.

(2) An exemption certificate issued by the Board shall not exempt any employer from that portion of the levy which is equal to 0.07 per cent. of the sum of the emoluments upon which the levy is to be assessed under article 3(3) above.

Assessment notices

7.—(1) The Board shall serve an assessment notice on every employer assessed to the levy, but one notice may comprise two or more assessments.

(2) The amount of any assessment payable under an assessment notice shall be rounded down to the nearest £1.

(3) An assessment notice shall state the Board's address for the service of a notice of appeal or of an application for an extension of time for appealing.

(4) An assessment notice may be served on the person assessed to the levy either by delivering it to him personally or by leaving it, or sending it to him by post, at his last known address or place of business in the United Kingdom, or if that person is a corporation, by leaving it, or sending it by post to the corporation, at such address or place of business or at its registered or principal office.

Payment of the levy

8.—(1) Subject to the following provisions of this Order, the amount of each assessment appearing in an assessment notice served by the Board (the date of which shall not be earlier than 31st August 1990) shall be due and payable by the employer to the Board one month after the date of the notice.

(2) The amount of an assessment shall not be recoverable by the Board until there has expired the time allowed for appealing against the assessment by article 10(1) of this Order and any further period or periods of time that the Board or an industrial tribunal may have allowed for appealing under paragraph (2) or (3) of that article or where an appeal is brought, until the appeal is decided or withdrawn.

Withdrawal of assessment

9.—(1) The Board may, by a notice served on the person assessed to the levy in the same manner as an assessment notice, withdraw an assessment if that person has appealed against that assessment under the provisions of article 10 of this Order and the appeal has not been entered in the Register of Appeals kept under the appropriate Regulations specified in paragraph (4) of that article.

(2) The withdrawal of an assessment shall be without prejudice to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment relates.

Appeals

10.—(1) A person assessed to the levy may appeal to an industrial tribunal against the assessment within one month from the date of the service of the assessment notice or within any further period or periods of time that may be allowed by the Board or an industrial tribunal under the following provisions of this article.

(2) The Board by notice may for good cause allow a person assessed to the levy to appeal to an industrial tribunal against the assessment at any time within the period of four months from the date of the service of the assessment notice or within such further period or periods as the Board may allow before such time as may then be limited for appealing has expired.

(3) If the Board shall not allow an application for extension of time for appealing, an industrial tribunal shall upon application made to the tribunal by the person assessed to the levy have the like powers as the Board under the last foregoing paragraph.

(4) An appeal or an application to an industrial tribunal under this article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965(a) except where the establishment to which the relevant assessment relates is wholly in Scotland in which case the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(b).

(5) The powers of an industrial tribunal under paragraph (3) of this article may be exercised by the President of the Industrial Tribunals (England and Wales) or by the President of the Industrial Tribunals (Scotland) as the case may be.

Cessation of business

11.—(1) The provisions of this article shall apply in relation to an establishment that ceases to carry on business in the twenty-sixth levy period on or before 30th August 1990.

(2) The amount of the levy imposed in respect of the establishment shall be in the same proportion to the amount that would otherwise be due under the provisions of article 3 of this Order as the number of days between the commencement of the twenty-sixth levy period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.

(3) Article 8(1) of this Order shall have effect as if the words in parenthesis were omitted.

Evidence

12.—(1) Upon the discharge by a person assessed to the levy of his liability under an assessment the Board shall if so requested issue to him a certificate to that effect.

(2) The production in any proceedings of a document purporting to be certified by the Secretary of the Board or any other person, being a member, officer or servant of the Board authorised to act in that behalf, to be a true copy of an assessment or other notice issued by the Board or purporting to be a certificate such as is mentioned in the foregoing paragraph of this article shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Signed by order of the Secretary of State.

1990

Parliamentary Under Secretary of State,
Department of Employment

(a) S.I. 1965/1101, amended by S.I. 1967/301.

(b) S.I. 1965/1157, amended by S.I. 1967/302.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to proposals of the Engineering Industry Training Board which were submitted to the Secretary of State. The proposals are for the imposition of a levy on employers in the engineering industry for the purpose of raising money towards meeting the expenses of the Board.

The levy is to be imposed in respect of the twenty-sixth levy period commencing on the day upon which this Order comes into force and ending on 31st August 1990.

The levy will be assessed by the Board and there will be a right of appeal against an assessment to an industrial tribunal.

DRAFT STATUTORY INSTRUMENTS

1990 No.

INDUSTRIAL TRAINING

**The Industrial Training Levy (Engineering Board) Order
1990**

£1.65 net

ISBN 0 11 005514 4

Printed in the United Kingdom for HMSO

831 WO161 C10 2/90 452 7102 O/N88174

DRAFT STATUTORY INSTRUMENTS

1990 No.

INDUSTRIAL TRAINING

**The Industrial Training Levy (Construction Board)
Order 1990**

Laid before Parliament in draft

Made - - - - 1990

*Coming into force on the day after the day on which it
is made*

Whereas the Construction Industry Training Board has submitted to the Secretary of State proposals for the raising and collection of a levy under section 11(1) of the Industrial Training Act 1982(a) ("the 1982 Act");

And whereas in pursuance of section 11(3) of the 1982 Act the said proposals include provision for the exemption from the levy of employers who, in view of the small number of their employees, ought in the opinion of the Secretary of State to be exempted from it;

And whereas the proposals are made in pursuance of section 11(4)(b) of the 1982 Act and the Secretary of State is satisfied that those proposals falling within section 11(5)(b) of the said Act ("the relevant proposals") are necessary as mentioned in the said section 11(5), and that the condition mentioned in section 11(6)(a) of the 1982 Act is satisfied in the case of the relevant proposals;

And whereas the following Order falls within section 11(7)(b) of the 1982 Act;

And whereas a draft of the following Order was laid before Parliament in accordance with section 12(6) of the 1982 Act and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 11(2), 12(3) and (4) of the 1982 Act and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Industrial Training Levy (Construction Board) Order 1990 and shall come into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order unless the context otherwise requires —

(a) 1982 c.10; sections 11 and 12 were amended by the Employment Act 1989 (c.38), section 22(4) and Schedule 4, paragraphs 10 and 11 respectively. [C(25)]

- (a) "assessment" means an assessment of an employer to the levy;
- (b) "the Board" means the Construction Industry Training Board;
- (c) "business" means any activities of industry or commerce;
- (d) "construction establishment" means an establishment in Great Britain engaged wholly or mainly in the construction industry for a total of twenty-seven or more weeks in the period of twelve months that commenced on 6th April 1988 or, being an establishment that commenced to carry on business in the said period, for a total number of weeks exceeding one half of the number of weeks in the part of the said period commencing with the day on which business was commenced and ending on the last day thereof;
- (e) "the construction industry" does not include any activities of an establishment which have been transferred from the industry of the Board to the industry of another industrial training board by one of the transfer orders, but save as aforesaid means any one or more of the activities which, subject to the provisions of paragraph 2 of the Schedule to the industrial training order, are specified in paragraph 1 of that Schedule as the activities of the construction industry or, in relation to an establishment whose activities have been transferred to the industry of the Board by one of the transfer orders, any activities so transferred;
- (f) "the twenty-fifth levy period" means the period commencing with the day upon which this Order comes into force and ending on 31st March 1990;
- (g) "employer" means a person who is an employer in the construction industry at any time in the twenty-fifth levy period;
- (h) "the industrial training order" means the Industrial Training (Construction Board) Order 1964(a);
- (i) "the levy" means the levy imposed by the Board in respect of the twenty-fifth levy period;
- (j) "notice" means a notice in writing;
- (k) "the transfer orders" means –
 - (i) the Industrial Training (Transfer of the Activities of Establishments) Order 1975(b);
 - (ii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1975(c);
 - (iii) the Industrial Training (Transfer of the Activities of Establishments) Order 1976(d);
 - (iv) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1976(e);
 - (v) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1976(f);
 - (vi) the Industrial Training (Transfer of the Activities of Establishments) Order 1977(g);
 - (vii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1978(h);
 - (viii) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1978(i);
 - (ix) the Industrial Training (Transfer of the Activities of Establishments) (No. 3) Order 1978(j);
 - (x) the Industrial Training (Transfer of the Activities of Establishments) Order 1979(k);
 - (xi) the Industrial Training (Transfer of the Activities of Establishments) (No. 2) Order 1980(l);
 - (xii) the Industrial Training (Transfer of the Activities of Establishments) Order 1981(m); and
 - (xiii) the Industrial Training (Transfer of the Activities of Establishments) Order 1985(n).

(a) S.I. 1964/1079, amended by S.I. 1980/1274, 1982/922. (b) S.I. 1975/434. (c) S.I. 1975/1157. (d) S.I. 1976/396. (e) S.I. 1976/1635. (f) S.I. 1976/2110. (g) S.I. 1977/1951. (h) S.I. 1978/448. (i) S.I. 1978/1225. (j) S.I. 1978/1643. (k) S.I. 1979/793. (l) S.I. 1980/1753. (m) S.I. 1981/1041. (n) S.I. 1985/1662.

(2) Any reference in this Order to an establishment that commences to carry on business or that ceases to carry on business shall not be taken to apply where the location of the establishment is changed but its business is continued wholly or mainly at or from the new location, or where the suspension of activities is of a temporary or seasonal nature.

Imposition of the levy

3.—(1) The levy to be imposed by the Board on employers in respect of the twenty-fifth period shall be assessed in accordance with the provisions of this article and of the Schedule to this Order.

(2) The levy shall be assessed by the Board separately in respect of each construction establishment of an employer, but in agreement with the employer one assessment may be made in respect of any number of such establishments, in which case those establishments shall be deemed for the purposes of that assessment to constitute one establishment.

Assessment notices

4.—(1) The Board shall serve an assessment notice on every employer assessed to the levy, but one notice may comprise two or more assessments.

(2) An assessment notice shall state the amount of the levy payable by the person assessed to the levy, and that amount shall be equal to the total amount of the levy assessed by the Board under the provisions of this Order in respect of each establishment included in the notice.

(3) An assessment notice shall state the Board's address for the service of a notice of appeal or of an application for an extension of time for appealing.

(4) An assessment notice may be served on the person assessed to the levy either by delivering it to him personally or by leaving it, or sending it to him by post, at his last known address or place of business in the United Kingdom or, if that person is a corporation, by leaving it, or sending it by post to the corporation, at such address or place of business or at its registered or principal office.

Payment of the levy

5.—(1) Subject to the provisions of this article and of articles 6 and 7 of this Order, the amount of the levy payable under an assessment notice served by the Board shall be due and payable to the Board one month after the date of the assessment notice.

(2) The amount of an assessment shall not be recoverable by the Board until there has expired the time allowed for appealing against the assessment by article 7(1) of this Order and any further period or periods of time that the Board or an industrial tribunal may have allowed for appealing under paragraph (2) or (3) of that article or, where an appeal is brought, until the appeal is decided or withdrawn.

Withdrawal of assessment

6.—(1) The Board may, by a notice served on the person assessed to the levy in the same manner as an assessment notice, withdraw an assessment if that person has appealed against that assessment under the provisions of article 7 of this Order and the appeal has not been entered in the Register of Appeals kept under the appropriate Regulations specified in paragraph (5) of that article.

(2) The withdrawal of an assessment shall be without prejudice –

- (a) to the power of the Board to serve a further assessment notice in respect of any establishment to which that assessment related; or
- (b) to any other assessment included in the original assessment notice, and such notice shall thereupon have effect as if any assessment withdrawn by the Board had not been included therein.

Appeals

7.—(1) A person assessed to the levy may appeal to an industrial tribunal against the assessment within one month from the date of the service of the assessment notice or within any further period or periods of time that may be allowed by the Board or an industrial tribunal under the following provisions of this article.

(2) The Board by notice may for good cause allow a person assessed to the levy to appeal to an industrial tribunal against an assessment at any time within the period of four months from the date of the service of the assessment notice or within such further period or periods as the Board may allow before such time as may then be limited for appealing has expired.

(3) If the Board shall not allow an application for extension of time for appealing, an industrial tribunal shall upon application made to the tribunal by the person assessed to the levy have the like powers as the Board under the last foregoing paragraph.

(4) In the case of an establishment that ceases to carry on business in the twenty-fifth levy period on any day after the date of the service of the relevant assessment notice, the foregoing provisions of this article shall have effect as if for the period of four months from the date of the service of the assessment notice mentioned in paragraph (2) of this article there were substituted the period of six months from the date of the cessation of business.

(5) An appeal or an application to an industrial tribunal under this article shall be made in accordance with the Industrial Tribunals (England and Wales) Regulations 1965(a) except where the establishment to which the relevant assessment relates is wholly in Scotland, when the appeal or application shall be made in accordance with the Industrial Tribunals (Scotland) Regulations 1965(b).

(6) The powers of an industrial tribunal under paragraph (3) or this article may be exercised by the President of the Industrial Tribunals (England and Wales) or by the President of the Industrial Tribunals (Scotland) as the case may be.

Evidence

8.—(1) Upon the discharge by a person assessed to the levy of his liability under an assessment, the Board shall if so requested issue to him a certificate to that effect.

(2) The production in any proceedings of a document purporting to be certified by the Secretary of the Board or any other person, being a member, officer or servant of the Board authorised to act in that behalf, to be a true copy of an assessment or other notice issued by the Board, or purporting to be a certificate such as is mentioned in the foregoing paragraph of this article, shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Signed by order of the Secretary of State.

1990

Parliamentary Under Secretary of State,
Department of Employment

(a) S.I. 1965/1101, amended by S.I. 1967/301. (b) S.I. 1965/1157, amended by S.I. 1967/302.

Interpretation**1. In this Schedule, unless the context otherwise requires –**

- (a) “agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947(a) or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948(b);
- (b) “average number”, in relation to any category and description of persons employed at or from a construction establishment of an employer, means the number that is equal to the average of the numbers of the persons of that category and description specified in the first and second columns of the Appendix to this Schedule employed, or treated as employed under the provisions of paragraph 2(c) of this Schedule, at or from the establishment by the employer on the relevant dates or, in the case of an establishment that commenced to carry on business after the first of the relevant dates but before the second, the number of persons of that category and description specified as aforesaid and employed by the employer at or from the establishment on the second of the relevant dates;
- (c) “charity” has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988(c);
- (d) “clerical or miscellaneous worker” includes –
 - (i) a clerk and other office staff, including those working in sales, computers and stores, and supervisors of these staff;
 - (ii) a storeman;
 - (iii) a transport worker (but not a motor mechanic);
 - (iv) an operative or conversion fitter (excluding a gas fitter, a plumber or a heating and ventilating fitter), engaged in the conversion of appliances to natural gas or in the preliminary work;
 - (v) a terrazzo worker, including a terrazzo layer;
 - (vi) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker not comprised in any other category and description of worker specified in this Schedule or the appendix thereto:
- (e) “craftsman (building)” means –
 - (i) a bricklayer, including a specialist bricklayer;
 - (ii) a carpenter joiner, including a carpenter, a joiner, a formwork carpenter, a joiner bench hand, a woodworking machinist or woodworking operative and a setter out;
 - (iii) a dry-lining partitioning operative;
 - (iv) a mason, including a monumental mason, a stone carver and a stone polisher;
 - (v) a mason pavior, including a person involved in cutting and carving stone and who is following or has completed a course of further education being the City and Guilds of London Institute Course No. 588 on Masonry at Craft Level;
 - (vi) a painter, including a painter and decorator, an industrial painter, a french polisher and a signwriter;
 - (vii) a plasterer, including a solid or fibrous plasterer or a moulder;
 - (viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
- (f) “craftsman (mechanical engineering services)” means –
 - (i) a gas fitter;
 - (ii) a heating and ventilating fitter;
 - (iii) an oil burner mechanic;
 - (iv) a pipe fitter;
 - (v) a plumber, including a chemical plumber, a plumber welder and a hot water fitter;
 - (vi) a refrigeration mechanic;
 - (vii) a welder, including an oxy-acetylene, metallic-arc or shielded-arc welder;
 - (viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;

(a) 1947 c.48. (b) 1948 c.45. (c) 1988 c.1.

- (g) "craftsman (electrical engineering services)" means –
- (i) an electrician, including a cable joiner;
 - (ii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in the trade specified in this sub-paragraph;
- (h) "craftsman (miscellaneous)" means –
- (i) a thermal insulation operative or ductwork erector;
 - (ii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in either of the trades specified in this sub-paragraph or in any other trade not specified in this Schedule or the appendix thereto;
- (i) "specialist building operative (Group A)" means –
- (i) a floor or wall tiler, including a mosaic worker and a tile fixer;
 - (ii) a ceiling fixer, including a suspended ceiling erector and a metal fixer (ceiling systems);
 - (iii) a floor coverer, including a parquet-floorer and a vinyl, linoleum or carpet layer;
 - (iv) a floorer, including a granolithic or other in situ floor finisher, a cement glazier or a composition floor layer;
 - (v) a demountable partition erector;
 - (vi) a roof sheeter and cladder, an asbestos roofer, a galvanised or protected steel sheeter or an aluminium sheeter;
 - (vii) a demolisher, including a general labourer using a compressed air drill or pneumatic punching machine or spade, a sorter, an improver, a mattockman, a topman, a burner topman, a burner groundsman, a shorer (timber) and a shorer's mate;
 - (viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
- (j) "specialist building operative (Group B)" means –
- (i) a mastic asphalter, including a mastic asphalt spreader;
 - (ii) a glazier, including a double glazier, a window fixer, a patent glazier, a leaded light worker and a glass production or processing worker;
 - (iii) a steeplejack, including a lightning conductor erector;
 - (iv) a roofing felt fixer and a roofing felt layer;
 - (v) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
- (k) "a labour-only agreement" means any agreement or arrangement, either written or oral, not being a contract of service or of apprenticeship or for provision of professional services, between an employer and any other person or persons, the purpose of which is wholly or mainly the provision of services of such person or persons or of any other person or persons to the employer in his trade or business;
- (l) "the relevant dates" means 6th October 1988 and 6th April 1989;
- (m) "a skilled building and civil engineering worker" means –
- (i) a concreter, including a bar bender and fixer, a pre-cast concrete erector and fixer, a pre-stressing or pre-tensioning operative, a concrete placer, a vibrator or finisher;
 - (ii) a diver, including a surface, demand or helmet diver and a life linesman;
 - (iii) an excavation operative, including a heading driver, a manhole builder, a pipe layer, a pipe joiner and a timberman;
 - (iv) a mechanical plant operator, including a mechanical equipment, compressor, air tool or paving machine operator, a mixerman, a potman, a banksman, a slinger, a plant driver, a dumper driver, a crane driver, an excavation plant operator, an earthmoving plant operator, a pumpman, an oiler and a greaser ;
 - (v) a piling or well drilling operative, including a borer driver, a vibrator or specialist piling operative, a well or rock driller and a shaft sinker;
 - (vi) a tunnel miner, including a soft-heading miner;
 - (vii) a blacksmith, including a marker-out;
 - (viii) a steel erector;
 - (ix) a repetitive process factory worker;
 - (x) a gas distribution mains layer, including a service layer;

- (xi) a plant mechanic, including a plant maintenance mechanic, a contractors' plant mechanic and a motor mechanic;
- (xii) a tar pavior;
- (xiii) a labourer or general operative mainly employed in any of the trades specified in this sub-paragraph or in sub-paragraph (e), (f), (g), (h), (i) or (j) of this paragraph who was entitled to extra payment for skill or responsibility under a Working Rule Agreement;
- (xiv) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades mentioned in this sub-paragraph;
- (n) "a person employed in a managerial, administrative, professional or technical capacity" includes -
 - (i) a manager, including a contracts, site, area, sales or office manager or agent;
 - (ii) an accountant or company secretary;
 - (iii) an estimator, surveyor or buyer;
 - (iv) an engineer or architect;
 - (v) a technical, planning research or laboratory assistant, a draughtsman, a tracer or a design detailer;
 - (vi) a work study officer;
 - (vii) a personnel officer, a training officer, a safety officer or an instructor;
 - (viii) a person occupying the position of foreman or of works supervisor being a person who is not mainly employed as a manual worker whether in handling materials or otherwise;
- (o) "trainee" means a person (including an apprentice) who is learning a managerial, administrative, professional, technical or manual skill and whose employer has undertaken to provide training for him in that skill for a specified period of not less than twelve months;
- (p) "Working Rule Agreement" means any agreement as to pay, being an agreement between -
 - (i) parties who are or represent employers or organisations of employers or associations of such organisations; and
 - (ii) parties who are or represent organisations of employees or associations of such organisations;
 but includes also any award modifying or supplementing such an agreement.

2. For the purposes of this Schedule the following provisions shall have effect -

- (a) no regard shall be had to any person employed wholly in the supply of food or drink for immediate consumption or in agriculture or who was normally working for an aggregate of less than 8 hours weekly;
- (b) no regard shall be had to a company director remunerated solely by fees but, save as aforesaid, the provisions of this Schedule shall apply to a company director (including a person occupying the position of director by whatever name he is called) as they apply to other persons and accordingly such a person shall be taken to be comprised in the category appropriate to the work in which he was mainly engaged;
- (c) in the case of a construction establishment that is taken over (whether directly or indirectly) by an employer in succession to, or jointly with another person, the person or persons carrying on the establishment on the day upon which this Order comes into operation shall be treated as the employer of any person who was employed on either or both of the relevant dates, or at any time in the period of twelve months that commenced on 6th April 1988 at or from the establishment under a contract of service or of apprenticeship or under a labour-only agreement, by the person then carrying on the establishment.

Basic assessment rules

3.—(1) Subject to the exemptions in paragraphs 4 and 5(1) below, the amount to be assessed by way of levy in respect of a construction establishment, other than a brick-manufacturing establishment, (being an establishment carrying on business in the twenty-fifth levy period) shall be the aggregate of the amount (if any) by which 2 per cent. of the labour-only payments exceeds 2 per cent. of labour-only receipts and the amount of the occupational levy.

(2) For the purposes of sub-paragraph (1) above -

- (a) "2 per cent. of labour-only payments" means the sum which (rounded down where necessary to the nearest £1) represents 2 per cent. of all payments (other than the

payments which are not in respect of the provision for services) made to any persons by the employer during the period of 12 months that commenced on 6th April 1988 under labour-only agreements in respect of work carried out at or from the establishment;

- (b) "2 per cent. of labour-only receipts" means the sum which (rounded down where necessary to the nearest £1) represents 2 per cent. of all payments (other than the payments which are not in respect of the provision for services) received by the employer during the period of 12 months that commenced on 6th April 1988 from any other employers in the construction industry under labour-only agreements in respect of work carried out at or from the establishment;
- (c) "the amount of the occupational levy" means the sum of the amounts (rounded down in each case where necessary to the nearest £1) produced by multiplying the appropriate amount in the third column of the appendix to this Schedule by the average number of persons employed by the employer at or from the establishment under contracts of service or apprenticeship in each relevant category and description of employment, less the amount (if any) by which 2 per cent. of labour-only receipts exceeds 2 per cent. of labour-only payments, provided that the amount of the occupational levy shall not exceed an amount equal to 1 per cent. of the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by the employer to or in respect of persons employed in the industry in respect of the period of twelve months which commenced on 6th April 1988.

(3) Subject to the exemptions in paragraphs 4 and 5(2) below, the amount to be assessed by way of levy in respect of a brick-manufacturing establishment (being an establishment carrying on business in the twenty-fifth levy period) shall be equal to 0.05 per cent. of the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by the employer to or in respect of persons employed at or from the establishment under contracts of service or apprenticeship in respect of the period of 12 months which commenced on 6th April 1988.

(4) For the purposes of this paragraph and paragraph 5 below "a brick-manufacturing establishment" means a construction establishment engaged wholly or mainly in the manufacture of bricks from clay or calcium silicate for building purposes but excluding bricks made for refractory purposes.

Exemption of charities

4. A charity shall be exempt from the levy.

Exemption of small employers

5.—(1) There shall be exempt from the levy an employer in whose case the aggregate amount of —

- (a) the sum of the emoluments of all the persons employed at or from the construction establishment or establishments of the employer (not being a brick-manufacturing establishment or brick-manufacturing establishments) in the period of 12 months that commenced on 6th April 1988, and
- (b) all such sums (if any) as were paid in the said period by the employer to any person under a labour-only agreement at or from the said establishment or establishments,

was less than £15,000.

(2) There shall be exempt from the levy, in respect of brick-manufacturing establishments, an employer in whose case the sum of the emoluments of all the persons employed at or from the brick-manufacturing establishments of the employer in the period of 12 months that commenced on 6th April 1988 was less than £100,000.

(3) For the purposes of sub-paragraphs (1)(a) and (2) above "emoluments" means all emoluments assessable to income tax under Schedule E of the Income and Corporation Taxes Act 1988 (other than pensions), being emoluments from which tax under that Schedule is deductible, whether or not tax in fact falls to be deducted from any particular payment thereof.

(4) For the purposes of sub-paragraphs (1) and (2) above, article 3(2) of this Order shall be disregarded.

Cessation of business

6. The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the twenty-fifth levy period shall be in the same proportion to the amount that would otherwise be due in accordance with the foregoing provisions of this Schedule as the number of days between the commencement of the said levy period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.

APPENDIX

<i>Category</i>	<i>Description</i>	<i>Amount Per Capita</i>
1.	A person employed in a managerial, administrative, professional or technical capacity	£47
2.	A clerical or miscellaneous worker	NIL
3.	A craftsman (building)	£75
4.	A craftsman (mechanical engineering services)	£110
5.	A craftsman (electrical engineering services)	£100
6.	A skilled building and civil engineering worker	£25
7.	A labourer or general operative not entitled to extra payment for skill or responsibility under a Working Rule Agreement	£18
8.	A craftsman (miscellaneous)	£50
9.	A specialist building operative (Group A)	£55
10.	A specialist building operative (Group B)	£70
11.	A scaffolder	£58
12.	A cavity wall insulation operative, a fencer or fence erector	£36
13.	A trainee in any of the categories 1-6 and 8-12 above	NIL
14.	A roof slater and tiler	£75

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to proposals of the Construction Industry Training Board which were submitted to the Secretary of State. The proposals are for the imposition of a levy on employers in the construction industry for the purpose of raising money towards meeting the expenses of the Board.

A levy is to be imposed on employers limited to 1 per cent. of payroll in respect of employees employed by them under contracts of service or apprenticeship and to 2 per cent. of payments made by the employers to persons under labour-only agreements.

A levy of 0.05 per cent. of payroll is to be imposed on employers with brick-manufacturing establishments in respect of persons employed by them at or from the establishments under contracts of service or of apprenticeship.

This levy is in respect of the twenty-fifth levy period commencing with the date on which this Order comes into force and ending on 31st March 1990.

The levy will be assessed by the Board, and there will be a right of appeal against an assessment to an industrial tribunal.

DRAFT STATUTORY INSTRUMENTS

1990 No.

INDUSTRIAL TRAINING

**The Industrial Training Levy (Construction Board)
Order 1990**

£1.95 net

ISBN 0 11 005515 2

Printed in the United Kingdom for HMSO

831 WO166 C10 290 452 7102 O/N88174

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

TERMS AND CONDITIONS OF EMPLOYMENT

**The Statutory Sick Pay (Rate of Payment) Regulations
1990**

Made - - - - - 1990

Coming into force 6th April 1990

WHEREAS a draft of the following Regulations was laid before Parliament in accordance with the provisions of section 7(1B) of the Social Security and Housing Benefits Act 1982(a) and approved by resolution of each House of Parliament:

NOW, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by section 166(2) and (3) of the Social Security Act 1975(b) and sections 7(1A), 45(1) and 47 of the Social Security and Housing Benefits Act 1982(c), after reference of the proposals to make these Regulations to the Social Security Advisory Committee(d), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Statutory Sick Pay (Rate of Payment) Regulations 1990 and shall come into force on 6th April 1990, immediately following article 9 of the Social Security Benefits Up-Rating Order 1990.

(2) In these Regulations, “the 1982 Act” means the Social Security and Housing Benefits Act 1982.

Substitution of provisions in section 7(1) of the 1982 Act

2. For subsection (1)(a) to (b) of section 7 of the 1982 Act there shall be substituted the following provisions —

“(1) Statutory sick pay shall be payable by an employer at the weekly rate of —

- (a) £52.50, in a case where the employee’s normal weekly earnings under his contract of service with that employer are not less than £125; or
- (b) £39.25, in any other case.”.

(a) 1982 c.24; subsection (1A) and (1B) were inserted in section 7 by the Social Security Act 1986 (c.50). section 67(1).

(b) 1975 c.14; section 166(3) was amended by the Social Security Act 1989 (c.24), Schedule 8, paragraph 10(1).

(c) Section 47 is cited because of the meaning it ascribes to the word “regulations”.

(d) See section 10 of the Social Security Act 1980 (c.30).

Transitional Provisions

3. Where in relation to statutory sick pay a period of entitlement as between an employer and an employee is running at 6th April 1990 and the employee's normal weekly earnings under the contract of service with that employer are not less than, or are treated for the purposes of section 7(1) of the 1982 Act as not less than £84.00, they shall be treated for the purposes of that section as not less than £125.00 for the remainder of that period.

Revocation

4. The Statutory Sick Pay (Rate of Payment) Regulations 1987(a) are hereby revoked.

Signed by authority of the Security of State for Social Security.

1990

Minister of State
Department of Social Security

(a) S.I. 1987/33

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 1990, amend the rates of statutory sick pay. Regulation 2 increases the higher rate from £52.10 to £52.50 per week and the lower rate from £36.25 to £39.25 per week. In addition the earnings band is altered so that the higher rate becomes payable where the employee's earnings are normally £125 or more per week (increased from £84 or more per week).

Regulation 3 contains transitional provisions for those employees who are incapable of work at the time of the change and would otherwise move from the higher to the lower rate of statutory sick pay.

Regulation 4 contains a revocation.

The Report of the Social Security Advisory Committee dated January 1990 on the draft of these Regulations which had been referred to them, together with a statement showing why the Regulations do not give effect to the Committee's recommendation, is contained in Command Paper No. 961 published by Her Majesty's Stationery Office.

50p net

ISBN 0 11 005513 6

Printed in the United Kingdom for HMSO

880 WO159 C11 1/90 452 7102 O/N 88174

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

The British Alcan Primary and Recycling Ltd. (Rateable Values) (Scotland) Order 1990

Made - - - - - *1990*

Coming into force *1st April 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the British Alcan Primary and Recycling Ltd. (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

2—(1) In this Order, unless the context otherwise requires—

“the 1975 Act” means the Local Government (Scotland) Act 1975;

“the Company” means the Company registered at the date of this Order by the name of British Alcan Primary and Recycling Ltd.;

“financial year” means the period of twelve months beginning with 1st April;

“non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(b); and

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order.

(2) Any reference in this Order to—

(a) lands and heritages occupied by the Company includes a reference to lands and heritages which, if unoccupied, are owned by the Company; and

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

- (b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

Prescribed class of lands and heritages

3. The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in the district of Lochaber in the Highland Region which are occupied by the Company and used wholly or mainly for the purpose of generating electricity by water power wholly or mainly for the manufacture of aluminium.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91.

Aggregate amount of rateable values for financial year 1990-91

5. For the purposes of section 6(1) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 is hereby prescribed as £178,750.

Amendment of enactments

6. The following amendments shall be made to the enactments specified in articles 7 and 8 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

7. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975".

8.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the British Alcan Primary and Recycling Ltd. (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as “the 1990 Order”);”.

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words “lands and heritages” the following words:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

“(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);”.

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

“(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the aggregate amount of the rateable values prescribed by article 5 of that Order;”.

(5) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)”, insert the words “or (gg)”.

(6) In section 3(2) of that Act, after the reference to “2(1)(g)”, insert the words “or (gg)”.

(7) In section 3(4) of that Act, after the words “lands and heritages” where they appear for the first time, there shall be inserted the following:—

(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

Revocation

9. The British Alcan Aluminium Limited and Lochaber Power Company (Rateable Values) (Scotland) Order 1985(a) is hereby revoked.

St Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1985/199.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 of certain lands and heritages occupied by British Alcan Primary and Recycling Ltd. (article 3) ("the prescribed class of lands and heritages").

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for that financial year at £178,750 (article 5).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for that financial year (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 6 to 8).

The Order also revokes the British Alcan Aluminium Limited and Lochaber Power Company (Rateable Values) (Scotland) Order 1985 (S.I. 1985/199).

90p net

ISBN 0 11 005530 6

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0484 C9 3/90 452/4 19593 PS 8350958 (277785)

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The Industrial and Freight Transport (Rateable Values)
(Scotland) Order 1990**

Made - - - - - *1990*

Coming into force *1st April 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975 and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Industrial and Freight Transport (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

2. In this Order, unless the context otherwise requires—

“the 1928 Act” means the Rating and Valuation (Apportionment) Act 1928;

“the 1956 Act” means the Valuation and Rating (Scotland) Act 1956;

“the 1975 Act” means the Local Government (Scotland) Act 1975;

“financial year” means the period of twelve months beginning with 1st April;

“net annual value” has the same meaning as in section 6(8) of the 1956 Act;

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order;

and any references in this Order to “industrial lands and heritages”, “freight transport lands and heritages”, “industrial purposes” and “freight transport purposes” shall have the meanings respectively assigned to them in the 1928 Act.

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1928 c.44.

(c) 1956 c.60.

(d) Section 6(8) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6.

Prescribed class of lands and heritages

3. The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any industrial or freight transport lands and heritages in Scotland so far as occupied and used, or treated as occupied and used, for industrial or freight transport purposes.

Rateable value

4. For the purposes of section 6(1) of the 1975 Act and in respect of the financial year 1990-91, the rateable value of any lands and heritages which fall within the prescribed class of lands and heritages shall be the amount produced by deducting from the net annual value of those lands and heritages thirty five per cent of that value.

Amendment of enactments

5. The following amendments shall be made to the enactments specified in articles 6 and 7 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

6. In section 6(1) of the 1956 Act (after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975").

7.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Industrial and Freight Transport (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as “the 1990 Order”);”.

(2) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:

“(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable value thereof as ascertained in accordance with article 4 of that Order;”.

(3) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)”, insert the words “or (gg)”.

St. Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) Section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation of industrial and freight transport lands and heritages ("the prescribed class") for the financial year 1990-91.

It provides that the rateable value of any lands and heritages which fall within the prescribed class should be an amount produced by deducting from the net annual value of those lands and heritages thirty five per cent of that value.

In terms of the Rating of Industry (Scotland) Order 1984 (S.I. 1985/101), the rateable value of those lands and heritages was ascertained for the financial years 1985-86 to 1989-90 by deducting forty per cent of their net annual value.

1990 No. (S.)

RATING AND VALUATION

**The Industrial and Freight Transport (Rateable Values)
(Scotland) Order 1990**

90p net

ISBN 0 11 005531 4

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0485 C13 3/90 452/4 19593 PS 8350958 (277819)

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The Mercury Communications Ltd. (Rateable Values)
(Scotland) Order 1990**

Made - - - - 1990
Coming into force - - 1st April 1990

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Mercury Communications Ltd. (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

- 2.—(1) In this Order, unless the context otherwise requires—
“the 1975 Act” means the Local Government (Scotland) Act 1975;
“financial year” means the period of twelve months beginning with 1st April;
“Mercury” means the company registered at the date of this Order by the name of Mercury Communications Ltd.;
“non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(b); and
“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order.
- (2) Any reference in this Order to—
(a) lands and heritages occupied by Mercury includes a reference to lands and heritages which, if unoccupied, are owned by Mercury; and

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.
(b) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

- (b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

Prescribed class of lands and heritages

3. The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland occupied by any posts, wires, underground cables and ducts, telephone kiosks, towers, masts, switchgear and other equipment, or by servitudes or wayleaves, and being lands and heritages occupied by Mercury and used for the purposes of telecommunications services.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91.

Aggregate amount of rateable values for financial year 1990-91

5. For the purposes of section 6(1) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 is hereby prescribed as £294,820.

Apportionment of aggregate amount of rateable values

6. For the purposes of section 6(2) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 which is prescribed by article 5 shall be apportioned among the local authorities specified in column 1 of the Schedule to this Order in the amount shown opposite to the name of each such local authority in column 2 of that Schedule.

Amendment of enactments

7. The following amendments shall be made to the enactments specified in articles 8 and 9 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

8. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975".

9.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

"(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Mercury Communications Ltd. (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as "the 1990 Order");".

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words "lands and heritages" the following words:—

"(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)".

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

"(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);".

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

“(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable values apportioned by that Order to the local authorities whose areas comprise or form part of the valuation area;”.

(5) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)”, insert the words “or (gg)”.

(6) In section 3(2) of that Act, after the reference to “2(1)(g)”, insert the words “or (gg)”.

(7) In section 3(4) of that Act, after the words “lands and heritages” where they appear for the first time, there shall be inserted the following:-

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

St. Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

SCHEDULE

Article 6

Apportionment of aggregate amount of rateable values of prescribed class of lands and heritages for financial year 1990-91

(1) Local authority	(2) Apportioned amount
<i>District Councils:-</i>	
Berwickshire	£29,482
Annandale and Eskdale	2,948
Nithsdale	11,793
Dunfermline	23,586
North East Fife	5,896
Kincardine and Deeside	14,741
Gordon	14,741
Edinburgh City	97,291
West Lothian	5,896
Glasgow City	61,912
Monklands	8,845
Renfrew	2,948
Angus	5,896
Perth and Kinross	8,845

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 of certain lands and heritages occupied by Mercury Communications Ltd. (article 3) ("the prescribed class of lands and heritages").

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for that financial year at £294,820 (article 5). It also apportions that aggregate amount among local authorities in accordance with the Schedule to the Order (article 6).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for that financial year (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 7 to 9).

90p net

ISBN 0 11 005532 2

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No. 000

RATING AND VALUATION

**The Gas and Electricity Industries (Rateable Values)
(Amendment) Order 1990**

<i>Made - - - -</i>	<i>1990</i>
<i>Coming into force</i>	<i>1990</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 140(4), 143(1) and 146(6) of, and paragraphs 3(1) and (2) of Schedule 6 to the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Order in terms of a draft laid before, and approved by resolution of, each House of Parliament:

Citation commencement and interpretation

1.—(1) This Order may be cited as the Gas and Electricity Industries (Rateable Values) (Amendment) Order 1990 and shall come into force on the day after the day on which it is made.

(2) In this Order, any reference to a company by name is to the company bearing that name at the date of the Central Rating Lists (Amendment) Regulations 1990(b).

British Gas plc: hereditaments in Wales

2. Article 9(b) of the British Gas plc (Rateable Values) Order 1990(c) shall be amended by the substitution of the factor C for the factor U in the first place in which it occurs in formula 2.

Electricity supply industry

3.—(1) The Schedule to the Electricity Supply Industry (Rateable Values) Order 1989(d) shall be amended as provided in the Schedule to this Order.

(2) Article 13(1) of that Order shall be amended as follows:

(a) in paragraph (1), after “the Schedule” there shall be inserted “except those mentioned in paragraph (1A)”; and

(b) there shall be inserted after paragraph (1) –

“(1A) In relation to electricity hereditaments –

(i) in England and

(ii) in Wales

(a) 1988 c.41. Paragraph 3 of Schedule 6 is amended by paragraph 38(12) to (14) of Schedule 5 to the Local Government and Housing Act 1989 (c.42). (b) S.I. 1990/502. (c) S.I. 1989/2471. (d) S.I. 1989/2475.

occupied by Nuclear Electric plc, the recalculation factor in respect of any relevant year shall be the figure produced by calculating in relation to each class of hereditaments in accordance with the formula –

$$£18,100 (D - d)$$

where D and d have the meanings attributed by paragraph (1).”.

Electricity generators

4.—(1) The Electricity Generators (Rateable Values) Order 1989(a) shall be amended as provided in this article.

(2) For article 3(2) there shall be substituted:

“(2) The conditions mentioned in paragraph (1) are that –

(a) the hereditament is used or available for use for the purposes of generating electricity, where –

(i) such use is its sole or primary function; or

(ii) it is so used or available in connection with a scheme for the production for sale of both electrical power and heat; or

(iii) its primary source of energy is the burning of refuse; and

(b) the generating plant –

(i) uses wind, tidal or water power as its primary source of energy; or

(ii) if its primary source of energy is the burning of refuse, has a declared net capacity of 25 megawatts or more; or

(iii) has a declared net capacity of 500 kilowatts or more.”.

(3) In article 4(1), after “wind” there shall be inserted “or tidal”.

1990

Secretary of State for the Environment

1990

Secretary of State for Wales

(a) S.I. 1989/2474.

SCHEDULE

Amendments to the Schedule to the Electricity Supply Industry (Rateable Values) Order 1989

The Schedule shall be amended by the insertion in the places mentioned below in divisions A and C of Part I and division A of Part II entries of the following classes of electricity hereditaments and amounts:

<i>Classes of electricity hereditament</i>	<i>Column 1</i>	<i>Column 2</i>
In Part I, division A, at the beginning:		
“Hereditaments occupied by National Power plc	331.6	93.816547
Hereditaments occupied by Nuclear Electric plc	120.0	29.004852”
In Part I, division C, at the end:		
“Hereditaments occupied by Scottish Power plc	0.27	—”
In Part II, division A, at the beginning:		
“Hereditaments occupied by National Power plc	42.3	14.35739
Hereditaments occupied by Nuclear Electric plc	17.0	6.320888”.

EXPLANATORY NOTE

(This note is not part of the Order)

This order amends three orders made under the Local Government Finance Act 1988 which provide for rateable values effective on and after 1st April 1990 to be entered in local rating lists in respect of electricity generating plant, and in central rating lists in relation to certain hereditaments occupied by British Gas plc, and by companies engaged in the generation and distribution of electricity.

Article 2 amends the British Gas plc (Rateable Values) Order 1989 to correct an error in the formula by reference to which the value of gas hereditaments in Wales will be calculated in such years beginning on and after 1st April 1992.

Article 3 amends the Schedule to the Electricity Supply Industry (Rateable Values) Order 1989 to specify rateable values in relation to electricity hereditaments occupied in England and in Wales by National Power plc and Nuclear Electric plc, and in England by Scottish Power plc.

Article 4 amends the Electricity Generators (Rateable Values) Order 1989 so that generators operated by tidal power are rated on the same basis as generators operated by wind power, and generators used or available for use in connection with combined heat and power schemes, or which burn refuse as their primary source of energy, are rated by reference to their capacity.

90p net

ISBN 0 11 005539 X

Printed in the United Kingdom for HMSO

850 WO507 C12 3/90 452 7102 O/N 88174

DRAFT STATUTORY INSTRUMENTS

1990 No.

CRIMINAL LAW (ENGLAND AND WALES)

Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990

Made - - - - 1990

Coming into force - 1990

At the Court at Buckingham Palace, the day of 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 26 of the Drug Trafficking Offences Act 1986(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Title and Commencement

1. This Order may be cited as the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990 and shall come into force on the fourteenth day following the date of making this Order.

Interpretation

2. In this Order—

“the Act” means the Drug Trafficking Offences Act 1986;

“designated country” means a country or territory designated under article 3(1) of this Order;

“appropriate authority of a designated country” means an authority specified opposite that country in Schedule 1 to this Order;

“a court of a designated country” includes a court of any state or territory of a designated country.

Designation of and application of the Act to countries and territories

3.—(1) Each of the countries and territories specified in Schedule 1 to this Order is hereby designated for the purposes of sections 26 and 26A of the Act.

(2) In relation to a designated country, the Act shall apply, subject to the modifications

(a) 1986 c.32, amended by the Criminal Justice (Scotland) Act 1987 (c.41), section 70 and Schedule 2, the Criminal Justice Act 1988 (c.33), section 103 and Schedule 5, and the Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4).

specified in Schedule 2 to this Order, to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there, and, accordingly, in relation to such orders and such proceedings, the Act shall have effect as set out in Schedule 3 to this Order.

Proof of orders and judgement of court in a designated country

4.—(1) For the purposes of sections 26 and 26A of the Act, and of the other provisions of the Act as applied under article 3(2) of this Order—

- (a) any order made or judgment given by a court in a designated country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person; and
- (b) a document, duly authenticated, which purports to be a copy of any order made or judgment given by a court in a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court in a designated country is duly authenticated for the purpose of paragraph (1)(b) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by or on behalf of the appropriate authority of the designated country.

Evidence in relation to proceedings and orders in a designated country

5.—(1) For the purposes of sections 26 and 26A of the Act, and of the other provisions of the Act as applied under article 3(2) of this Order, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating

- (a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, there;
- (b) that an external confiscation order is in force and is not subject to appeal;
- (c) that all or a certain amount of the sum payable under an external confiscation order remains unpaid in the designated country, or that other property recoverable under an external confiscation order remains unrecovered there;
- (d) that any person has been notified of any proceedings in accordance with the law of the designated country; or
- (e) that an order (however described) made by a court of the designated country has the purpose of recovering payments or other rewards received in connection with drug trafficking or their value,

shall, in any proceedings in the High Court, be admissible as evidence of the facts so stated.

(2) In any such proceedings a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court in a designated country, shall be admissible as evidence of any fact stated therein.

(3) A document is duly authenticated for the purposes of paragraph (2) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in the designated country, or by or on behalf of the appropriate authority of the designated country, to have been received in evidence or to be a copy of a document so received, or, as the case may be, to be the original document containing or summarising the evidence or a true copy of that document.

(5) Nothing in this article shall prejudice the admission of any evidence, whether contained in any document or otherwise, which is admissible apart from this article.

Representation of government of a designated country

6. A request for assistance sent to the Secretary of State by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Crown Prosecution Service or the Commissioners of Customs and Excise to act on its behalf in any proceedings in the High

Court under section 26A of the Act or any other provision of the Act as applied by article 3(2) of this Order.

Satisfaction of confiscation order in a designated country

7.—(1) Where—

- (a) a confiscation order has been made under section 1 of the Act; and
- (b) a request has been sent by the Secretary of State to the appropriate authority of a designated country for assistance in enforcing that order; and
- (c) in execution of that request property is recovered in that country,

the amount payable under the confiscation order shall be treated as reduced by the value of the property so recovered.

(2) For the purposes of this article, and without prejudice to the admissibility of any evidence which may be admissible apart from this paragraph, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating that property has been recovered there in execution of a request by the Secretary of State, stating the value of the property so recovered and the date on which it was recovered shall, in any proceedings in a court in England and Wales, be admissible as evidence of the facts so stated.

Currency conversion

8.—(1) Where the value of property recovered as described in article 7(1) of this Order is expressed in a currency other than that of the United Kingdom, the extent to which the amount payable under the confiscation order is to be reduced under that paragraph shall be calculated on the basis of the exchange rate prevailing on the date on which the property was recovered in the designated country concerned.

(2) Where an amount of money payable or remaining to be paid under an external confiscation order registered in the High Court under section 26A of the Act is expressed in a currency other than that of the United Kingdom, for the purpose of any action taken in relation to that order under the Act as applied under article 3(2) of this Order the amount shall be converted into the currency of the United Kingdom on the basis of the exchange rate prevailing on the date of registration of the order.

(3) For the purposes of this article a written certificate purporting to be signed by any person acting in his capacity as an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be admissible as evidence of the facts so stated.

Revocation of Drug Trafficking Offences Act 1986 (U.S.A.) Order 1989

9. The Drug Trafficking Offences Act 1986 (United States of America) Order 1989(a) is hereby revoked.

Clerk to the Privy Council

SCHEDULE 1

<i>Designated country</i>	<i>Appropriate authority</i>
Anguilla	the Attorney-General of Anguilla
Australia	the Attorney-General's Department
the Bahamas	the Attorney-General of the Bahamas

(a) S.I. 1989/485.

SCHEDULE 1 – *continued*

<i>Designated country</i>	<i>Appropriate authority</i>
Bermuda	the Attorney-General of Bermuda
Canada	the Minister of Justice or officials designated by that Minister
Gibraltar	the Attorney-General of Gibraltar
Guernsey	Her Majesty's Attorney-General for the Bailiwick of Guernsey
Isle of Man	Her Majesty's Attorney-General for the Isle of Man
Jersey	Her Majesty's Attorney-General for the Bailiwick of Jersey
Malaysia	the Inspector-General of Police, Malaysia
Nigeria	the Attorney-General of the Federation of the Republic of Nigeria
Spain	the Ministerio de Justicia, Madrid
Sweden	the Ministry for Foreign Affairs
Switzerland	the Eidgenössisches Justiz-und Polizeidepartement
United Mexican States	the Office of the Attorney General
United States of America	the Attorney-General of the United States of America

SCHEDULE 2

Article 3(2)

MODIFICATIONS OF THE DRUG TRAFFICKING OFFENCES ACT 1986

1. For section 1 there shall be substituted the following section:

“External confiscation orders

1.—(1) An order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value is referred to in this Act as an “external confiscation order”.

(2) In subsection (1) above the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.

(3) A person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are to be, instituted in a court in a designated country, is referred to in this Act as “the defendant”.

2. Sections 2 to 4 shall be omitted.

3. In section 5–

- (a) for subsection (1) there shall be substituted the following subsection:

“(1) In this Act “realisable property” means, subject to subsection (2) below–

- (a) in relation to an external confiscation order made in respect of specified property, the property which is specified in the order; and

- (b) in any other case–

- (i) any property held by the defendant; and

- (ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.”;

- (b) subsections (3), (7) and (8) shall be omitted; and

- (c) in subsection (9) for the words “this Act” in the first place where they occur there shall be substituted the words “the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990”.

4. Section 6 shall be omitted.

5. In section 7–

- (a) for subsection (1)(a) there shall be substituted:

“(a) proceedings have been instituted against the defendant in a designated country,”;

- (b) for subsection (1)(c) there shall be substituted:

- “(c) either an external confiscation order has been made in the proceedings or it appears to the High Court that there are reasonable grounds for thinking that such an order may be made in them”;
- (c) for subsection (2) there shall be substituted the following subsection:
 “(2) Those powers are also exercisable where it appears to the High Court that proceedings are to be instituted against a defendant in a designated country and that there are reasonable grounds for believing that an external confiscation order may be made in them.”
- (d) subsection (3) shall be omitted; and
- (e) in subsection (4), for the words from “proceedings” to “otherwise”, there shall be substituted the words “the proposed proceedings are not instituted”.
6. In section 8—
- (a) for subsection (2)(a) and (b) there shall be substituted:
 “(a) where an application under subsection (4) below relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and
 (b) in any other case—
 (i) to all realisable property held by a specified person, whether the property is described in the restraint order or not, and
 (ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint order.”;
- (b) in subsection (4) for the words “the prosecutor” there shall be substituted the words “or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise”, and for paragraph (c) of that subsection there shall be substituted the following paragraph:
 “(c) notwithstanding anything in Order 11 of the Rules of the Supreme Court(a), may provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct”.
- (c) for subsection (5)(b) there shall be substituted:
 “(b) shall be discharged when the proceedings in relation to which the order was made are concluded.”;
- (d) in subsection (7)(b) and in subsection (8) for the words “Great Britain” there shall be substituted the words “England and Wales”;
- (e) in subsection (11), for the words “The prosecutor” there shall be substituted the words “A person applying for a restraint order under subsection (4)(a) above”.
7. In section 9—
- (a) for subsection (1)(a) and (b) there shall be substituted the following:
 “(a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable, and
 (b) in any other case, of an amount equal to the value from time to time of the property charged.”;
- (b) in subsection (3) for the words “the prosecutor” there shall be substituted the words “or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor, or a person authorised in that behalf by the Commissioners of Customs and Excise”, and for paragraph (c) of that subsection, there shall be substituted the following paragraph:
 “(c) notwithstanding anything in Order 11 of the Rules of the Supreme Court, shall provide for service on, or the provision of notice to persons affected by the order in such manner as the High Court may direct”; and
- (c) in subsection (7) for the words “for the offence” there shall be substituted the words “against the defendant in the designated country”.
8. In section 10, subsection (6) shall be omitted.
9. After section 10 there shall be inserted the following section:

“Applications for restraint and charging orders

10A. Notwithstanding anything in rule 3(2) of Order 115 of the Rules of the Supreme Court 1965(a), an application under section 8(4) or 9(3) of this Act shall be supported by an affidavit which shall—

- (a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;
 - (b) to the best of the deponent’s ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
 - (c) in a case to which section 7(2) of this Act applies, indicate when it is intended that proceedings should be instituted in the designated country concerned,
- and the affidavit may, unless the court otherwise directs, contain statements of information or belief with the sources and grounds thereof.”.

10. In section 11, for subsection (1) there shall be substituted the following two subsections:

“(1) Where an external confiscation order has been registered in the High Court under section 26A of this Act, the High Court may, on the application of a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise, exercise the powers conferred by subsections (1A) to (6) below.

(1A) In respect of any sum of money payable under the external confiscation order the court may make a garnishee order as if the sum were due to the Crown in pursuance of a judgment or order of the High Court, but any such order shall direct that sum payable be paid to the High Court.”.

11. In section 12—

- (a) in subsection (1), for the words from “sums”, in the last place where it occurs, to the end of the subsection, there shall be substituted the words: “be paid to the High Court and applied for the purposes specified in subsections (3) to (6) below and in the order so specified.”;
- (b) in subsection (2), for the words “If, after the amount payable under the confiscation order”, there shall be substituted the words “Where a fixed amount is payable under the confiscation order and, after that amount”;
- (c) subsection (3) shall be omitted;
- (d) in subsection (4), for the words “The justices’ clerk shall first”, there shall be substituted the words “Any sums paid to the High Court under subsection (1) above or under an order made under section 11(1A) of this Act or otherwise in satisfaction of an external confiscation order shall be first applied to”;
- (e) for subsection (5) there shall be substituted the following subsection—

“(5) If the money was paid to the High Court by a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order the receiver’s remuneration and expenses shall next be paid.”;
- (f) in subsection (6), for the words “the justices’ clerk shall reimburse any amount paid under section 18(2) of this Act” there shall be substituted the words, “any amount paid under section 18(2) of this Act shall be reimbursed.”; and
- (g) for subsection (7) there shall be substituted the following subsection—

“(7) Any sums remaining after all the payments required to be made under the foregoing provisions of this section have been made shall be paid into the Consolidated Fund.”.

12. In section 13—

- (a) in subsection (2), for the words from “making available” to the end of the subsection there shall be substituted the words “recovering property which is liable to be recovered under an external confiscation order registered in the High Court under section 26A of this Act or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under any external confiscation order which may be made in the defendant’s case.”; and
- (b) in subsection (6), after the word “the” in the fourth place where it occurs, there shall be inserted the word “external”.

(a) Order 115 was inserted by R.S.C. (Amendment No. 3) 1986 (S.I. 1986/2289), and amended by R.S.C. (Amendment No. 2) 1989 (S.I. 1989/386).

13. Section 14 shall be omitted.
14. In section 15, in subsection (7), for the words "the date on which the Insolvency Act 1986 comes into force" there shall be substituted the words "29th December 1986 (the date on which the Insolvency Act 1986 came into force)".
15. In subsection (6) of section 17, for the words "the date on which the Insolvency Act 1986 comes into force" there shall be substituted the words "29th December 1986 (the date on which the Insolvency Act 1986 came into force)".
17. In subsection (2) of section 17A, the words "or (3)(za)" shall be omitted.
18. In subsection (2) of section 18, the letter "B" and the words "by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted," shall be omitted.
19. Section 19, and sections 24 to 26 shall be omitted.
20. Sections 27 to 32 shall be omitted.
21. In section 33—
 - (a) in subsection (1), the words "(2) or", and
 - (b) subsections (2) and (3) shall be omitted.
22. Sections 34 to 37 shall be omitted.
23. In section 38—
 - (a) in subsection (1)—the definitions of "authorised government department" and "drug trafficking offence" shall be omitted;
 - (b) in subsection (2) in the list of expressions and relevant provisions the entries for "Benefited from drug trafficking", "Proceeds of drug trafficking" and "Value of proceeds of drug trafficking" shall be omitted.
 - (c) subsection (4) shall be omitted;
 - (d) at the end of subsection (5) the fullstop shall be omitted and there shall be added the words ", and whether received before or after the commencement of the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990 and whether received in connection with drug trafficking carried on by the recipient or some other person.";
 - (e) for subsection (11), there shall be substituted the following:

“(11) Proceedings for an offence are instituted in a designated country when—

 - (a) under the law of the designated country concerned one of the steps specified in relation to that country in column 2 of the Appendix hereto has been taken there in respect of alleged drug trafficking by the defendant; or
 - (b) an application has been made to a court in a designated country for an external confiscation order,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.”.
 - (f) in subsection (12)(b), for the words from "payment" to the end of the subsection there shall be substituted the words "the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise).”.
24. In section 39—
 - (a) in subsection (1) before "confiscation" there shall be inserted the word "external",
 - (b) subsections (2) to (4) shall be omitted, and
 - (c) in subsections (5) and (6), for the words "confiscation" in each place where they occur, there shall be substituted the words "an external confiscation".
25. After section 39 there shall be inserted the Appendix set out at the end of Schedule 3 to this Order.
26. Section 40 shall be omitted.

THE DRUG TRAFFICKING OFFENCES ACT 1986 AS MODIFIED

External confiscation orders

1.—(1) An order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value is referred to in this Act as an “external confiscation order”.

(2) In subsection (1) above the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.

(3) A person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are to be, instituted in a court in a designated country, is referred to in this Act as “the defendant”.

Definition of principal terms used

5.—(1) In this Act “realisable property” means, subject to subsection (2) below—

- (a) in relation to a confiscation order made in respect of specified property, the property which is specified in the order; and
- (b) in any other case—
 - (i) any property held by the defendant; and
 - (ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.

(2) Property is not realisable property if—

- (a) an order under section 43 of the Powers of Criminal Courts Act 1973(a) (deprivation orders),
- (b) an order under section 27 of the Misuse of Drugs Act 1971(b) (forfeiture orders),
- (c) an order under section 223 or 436 of the Criminal Procedure (Scotland) Act 1975(c) (forfeiture of property), or
- (d) an order under section 13(2), (3) or (4) of the Prevention of Terrorism (Temporary Provisions) Act 1989(d) (forfeiture orders)

is in force in respect of the property.

(4) Subject to the following provisions of this section, for the purposes of this Act the value of property (other than cash) in relation to any person holding the property—

- (a) where any other person holds an interest in the property, is—
 - (i) the market value of the first mentioned person’s beneficial interest in the property, less
 - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest, and
- (b) in any other case, is its market value.

(5) Subject to subsection (10) below, references in this Act to the value at any time (referred to in subsection (6) below as “the material time”) of a gift caught by this Act are references to—

- (a) the value of the gift to the recipient when he received it adjusted to take account of subsequent changes in the value of money, or
- (b) where subsection (6) below applies, the value there mentioned,

whichever is the greater.

(6) Subject to subsection (10) below, if at the material time the recipient holds—

- (a) the property which he received (not being cash), or
- (b) the property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (5)(b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding in either case any charging order.

(a) 1973 c.62. Section 43 was amended by the Criminal Justice Act 1988, s.69.

(b) 1971 c.38.

(c) 1975 c.21.

(d) 1989 c.4.

(9) A gift (including a gift made before the commencement of the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990) is caught by this Act if—

- (a) it was made by the defendant at any time since the beginning of the period of six years ending when the proceedings were instituted against him, or
- (b) it was made by the defendant at any time and was a gift of property—
 - (i) received by the defendant in connection with drug trafficking carried on by him or another, or
 - (ii) which in whole or part directly or indirectly represented in the defendant's hands property received by him in that connection.

(10) For the purposes of this Act—

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant, and
- (b) in those circumstances, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

Cases in which restraint orders and charging orders may be made

7.—(1) The powers conferred on the High Court by sections 8(1) and 9(1) of this Act are exercisable where—

- (a) proceedings have been instituted against the defendant in a designated country,
- (b) the proceedings have not been concluded, and
- (c) either an external confiscation order has been made in the proceedings or appears to the High Court that there are reasonable grounds for believing that such an order may be made in them.

(2) Those powers are also exercisable where it appears to the High Court that proceedings are to be instituted against the defendant in a designated country and that there are reasonable grounds for believing that an external confiscation order may be made in them.

(4) Where the court has made an order under section 8(1) or 9(1) of this Act by virtue of subsection (2) above, the court shall discharge the order if the proposed proceedings are not instituted within such time as the court considers reasonable.

Restraint orders

8.—(1) The High Court may by order (in this Act referred to as a “restraint order”) prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply—

- (a) where an application under subsection (4) below relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and
- (b) in any other case—
 - (i) to all realisable property held by a specified person, whether the property is described in the restraint order or not, and
 - (ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 9 of this Act.

(4) A restraint order—

- (a) may be made only on an application by or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor, or a person authorised in that behalf by the Commissioners of Customs and Excise;
- (b) may be made on an ex parte application to a judge in chambers, and
- (c) notwithstanding anything in Order 11 of the Rules of the Supreme Court, may

provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct.

(5) A restraint order—

- (a) may be discharged or varied in relation to any property, and
- (b) shall be discharged when the proceedings in relation to which the order was made are concluded.

(5A) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(6) Where the High Court has made a restraint order, the court may at any time appoint a receiver—

- (a) to take possession of any realisable property, and
- (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(7) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression)—

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt, and
- (b) removing the property from England and Wales.

(8) Where the High Court has made a restraint order, a constable may for the purpose of preventing any realisable property being moved from England and Wales, seize the property.

(9) Property seized under subsection (8) above shall be dealt with in accordance with the court's directions.

(10) The Land Charges Act 1972(a) and the Land Registration Act 1925(b) shall apply—

- (a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purposes of enforcing judgments or recognisances; and
- (b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.

(11) A person applying for a restraint order under subsection (4)(a) above shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.

Charging orders in respect of land, securities etc.

9.—(1) The High Court may make a charging order on realisable property for securing the payment to the Crown—

- (a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable, and
- (b) in any other case, of an amount equal to the value from time to time of the property charged.

(2) For the purposes of this Act, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.

(3) A charging order—

- (a) may be made only on an application by or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor, or a person authorised in that behalf by the Commissioners of Customs and Excise;
- (b) may be made on an ex parte application to a judge in chambers;
- (c) notwithstanding anything in Order 11 of the Rules of the Supreme Court, shall provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct; and
- (d) may be made subject to such conditions as the court thinks fit and, without prejudice to

(a) 1972 c.61.

(b) 1925 c.21.

the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

- (4) Subject to subsection (6) below, a charge may be imposed by a charging order only on—
- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Act—
 - (i) in any asset of a kind mentioned in subsection (5) below, or
 - (ii) under any trust, or
 - (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) above be imposed by charging order on the whole beneficial interest under the first-mentioned trust.
- (5) The assets referred to in subsection (4) above are—
- (a) land in England and Wales, or
 - (b) securities of any of the following kinds—
 - (i) government stock,
 - (ii) stock of any body (other than a building society) incorporated within England and Wales,
 - (iii) stock of any body incorporated outside England and Wales or of any country or territory outside the United Kingdom, being stock registered in a register kept at any place within England and Wales,
 - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within England and Wales.
- (6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.
- (7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings against the defendant in the designated country are concluded or the amount payment of which is secured by the charge is paid into court.
- (8) An application for the discharge or variation of a charging order may be made by any person affected by it.

Charging orders – supplementary provisions

10.—(2) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply in relation to charging orders as they apply in relation to orders or writs issued or made for the purpose of enforcing judgments.

(3) Where a charging order has been registered under section 6 of the Land Charges Act 1972, subsection (4) of that section (effect of non-registration of writs and orders registrable under that section) shall not apply to an order appointing a receiver made in pursuance of the charging order.

(4) Subject to any provisions made under section 11 of this Act or by rules of court, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge by the person holding the beneficial interest or, as the case may be, the trustees by writing under their hand.

(5) Where a charging order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, an order under section 9(7) of this Act discharging the charging order may direct that the entry be cancelled.

(7) In this section and section 9 of this Act, “building society”, “dividend”, “government stock”, “stock” and “unit trust” have the same meaning as in the Charging Orders Act 1979(a).

Applications for restraint and charging orders

10A. Notwithstanding anything in rule 3(2) of Order 115 of the Rules of the Supreme Court 1965, an application under section 8(4) or 9(3) of this Act shall be supported by an affidavit which shall—

- (a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;

(a) 1979 c.53.

- (b) to the best of the deponent's ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
 - (c) in a case to which section 7(2) of this Act applies, indicate when it is intended that proceedings should be instituted in the designated country concerned,
- and the affidavit may, unless the court otherwise directs, contain statements of information or belief with the sources and grounds thereof.

Realisation of property

11.—(1) Where an external confiscation order has been registered in the High Court under section 26A of this Act, the High Court may, on the application of a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise, exercise the powers conferred by subsections (1A) to (6) below.

(1A) In respect of any sum of money payable under the external confiscation order the court may make a garnishee order as if the sum were due to the Crown in pursuance of a judgment or order of the High Court, but any such order shall direct that the sum payable be paid to the High Court.

(2) The court may appoint a receiver in respect of realisable property.

(3) The court may empower a receiver appointed under subsection (2) above, under section 8 of this Act or in pursuance of a charging order—

- (a) to enforce any charge imposed under section 9 of this Act on realisable property or on interest or dividends payable in respect of such property, and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 9 of this Act, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Act as the court may direct and the court may, on the payment being made, by order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 9 of this Act.

(8) The court shall not in respect of any property exercise the powers conferred by subsections (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

Application of proceeds of realisation and other sums

12.—(1) Subject to subsection (2) below, the following sums in the hands of a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order, that is—

- (a) the proceeds of the enforcement of any charge imposed under section 9 of this Act,
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 8 or 11 of this Act, and
- (c) any other sums, being property held by the defendant,

shall first be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under section 17A(2) of this Act and then shall, after such payments (if any) as the High Court may direct have been made out of those sums, be paid to the High Court and applied for the purposes specified in subsections (3) to (6) below, and in the order so specified.

(2) Where a fixed amount is payable under the external confiscation order and, after that amount has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums—

- (a) among such of those who held property which has been realised under this Act, and
- (b) in such proportions,

as the High Court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(4) Any sums paid to the High Court under subsection (1) above or under an order made under section 11(1A) of this Act or otherwise in satisfaction of an external confiscation order shall first be

applied to pay any expenses incurred by a person acting as an insolvency practitioner and payable under section 17A(2) of this Act but not already paid under subsection (1) above.

(5) If the money was paid to the High Court by a receiver appointed under section 8 or 11 of this Act, or in pursuance of a charging order the receiver's remuneration and expenses shall next be paid.

(6) After making—

(a) any payment required by subsection (4) above; and

(b) in a case to which subsection (5) above applies, any payment required by that subsection, any amount paid under section 18(2) of this Act shall be reimbursed.

(7) Any sums remaining after all the payments required to be made under the foregoing provisions of this section have been made shall be paid into the Consolidated Fund.

Exercise of powers by High Court or receiver

13.—(1) The following provisions apply to the powers conferred on the High Court by sections 8 to 12 of this Act, or on a receiver appointed under section 8 to 11 of this Act or in pursuance of a charging order.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered in the High Court under section 26A of this Act or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under any external confiscation order which may be made in the defendant's case.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Crown.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or the recipient of any such gift which conflict with the obligation to satisfy the external confiscation order.

Bankruptcy of defendant etc.

15.—(1) Where a person who holds realisable property is adjudged bankrupt—

(a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and

(b) any proceeds of property realised by virtue of section 8(6) or 11(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 8 or 11 of this Act, is excluded from the bankrupt's estate for the purpose of Part IX of the Insolvency Act 1986(a).

(2) Where a person has been adjudged bankrupt, the powers conferred on the High Court by sections 8 to 12 of this Act or on a receiver so appointed shall not be exercised in relation to—

(a) property for the time being comprised in the bankrupt's estate for the purposes of that Part,

(b) property in respect of which his trustee in bankruptcy may (without leave of court) serve a notice under section 307 or 308 of that Act (after-acquired property and tools, clothes etc. exceeding value of reasonable replacement), and

(c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of that Act.

(3) Nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order—

(a) made before the order adjudging the person bankrupt, or

(b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of that Act and any property of the debtor is subject to a restraint order, the powers conferred on the

(a) 1986 c.45.

receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Act—

- (a) no order shall be made under section 339 or 423 of that Act (avoidance of certain transactions) in respect of the making of the gift at any time when proceedings for a drug trafficking offence have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order or charging order, and
- (b) any order made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Act of property held by the person to whom the gift was made.

(7) In any case in which a petition in bankruptcy is presented, or a receiving order or adjudication in bankruptcy is made, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force) this section has effect with the following modifications—

- (a) for references to the bankrupt's estate for the purposes of Part IX of that Act there are substituted references to the property of the bankrupt for the purposes of the Bankruptcy Act 1914(a),
- (b) for references to the Act of 1986 and sections 280(2)(c), 286, 339 and 423 of that Act there are respectively substituted references to the Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act,
- (c) the references in subsection (5) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to the receiver constituted by virtue of section 7 of the Act of 1914, and
- (d) subsection (2)(b) is omitted.

Sequestration in Scotland of defendant, etc.

16.—(1) Where the estate of a person who holds realisable property is sequestrated—

- (a) property for the time being subject to a restraint order made before the award of sequestration, and
 - (b) any proceeds of property realised by virtue of section 8(6) or 11(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 8 or 11 of this Act,
- is excluded from the above debtor's estate for the purposes of the Bankruptcy (Scotland) Act 1985(b).

(2) Where an award of sequestration has been made, the powers conferred on the High Court by sections 8 to 12 of this Act or on a receiver so appointed shall not be exercised in relation to—

- (a) property comprised in the whole estate of the debtor within the meaning of section 31(8) of that Act,
- (b) any income of the debtor which has been ordered, under subsection (2) of section 32 of that Act, to be paid to the permanent trustee or any estate which, under subsection (6) of that section, vests in the permanent trustee,

and it shall not be competent to submit a claim in relation to the confiscation order to the permanent trustee in accordance with section 48 of that Act.

(3) Nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order—

- (a) made before the award of sequestration, or
- (b) on property which was subject to a restraint order when the award of sequestration was made.

(5) Where, during the period before sequestration is awarded, an interim trustee stands appointed under the proviso to section 13(1) of that Act and any property in the debtor's estate is subject to a restraint order, the powers conferred on the trustee by virtue of that Act do not apply to property for the time being subject to the restraint order.

(6) Where the estate of a person is sequestrated and he has directly or indirectly made a gift caught by this Act—

- (a) no decree shall be granted under section 34 or 36 of that Act (gratuitious alienations and unfair preferences) in respect of the making of a gift at any time when proceedings for a

(a) 1914 c.59.
(b) 1985 c.66.

drug trafficking offence have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order or charging order, and

- (b) any decree made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Act of property held by the person to whom the gift was made.

(7) In any case in which, notwithstanding the coming into force of the Bankruptcy (Scotland) Act 1985 the Bankruptcy (Scotland) Act 1913 applies to a sequestration, subsection (2) above shall have effect as if for paragraph (a) and (b) thereof there were substituted the following paragraphs—

- “(a) property comprised in the whole property of the debtor which vests in the trustee under section 97 of the Bankruptcy (Scotland) Act 1913,
- (b) any income of the bankrupt which has been ordered under subsection (2) of section 98 of that Act, to be paid to the trustee or any estate which, under subsection (1) of that section, vests in the trustee”;

and subsection (3) above shall have effect as if for the reference therein to the Act of 1985 there were substituted a reference to the Act of 1913.

Winding up of company holding realisable property

17.—(1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—

- (a) property for the time being subject to a restraint order made before the relevant time, and
- (b) any proceeds of property realised by virtue of section 8(6) or 11(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 8 or 11 of this Act.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the High Court by sections 8 to 12 of this Act or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable—

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors, or
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.

(3) Nothing in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section—

“company” means any company which may be wound up under the Insolvency Act 1986; and

“the relevant time” means—

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up,
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the court, such a resolution has been passed by the company, the time of the passing of the resolution, and
- (c) in any other case where such an order has been made, the time of the making of the order.

(6) In any case in which a winding up of a company has commenced, or is treated as having commenced, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force) this section has effect with the substitution for references to that Act of references to the Companies Act 1985.

Insolvency officers dealing with property subject to restraint order

17A.—(1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in any other Act, where—

- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and

- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as an insolvency practitioner, incurs expenses—

- (a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 12(1) of this Act.

(3) In this Act, the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986 except that for the purposes of such construction the reference in subsection (2)(a) of that section to a permanent or interim trustee in sequestration shall be taken to include a reference to a trustee in sequestration and subsection (5) of that section (which provides that nothing in the section is to apply to anything done by the official receiver) shall be disregarded; and the expression shall also comprehend the official receiver acting as receiver or manager of the property.”.

Receivers: supplementary provisions

18.—(1) Where a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order takes any action—

- (a) in relation to property which is not realisable property, being action which he would not be entitled to take if it were such property,
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 12(3) of this Act, be paid by the person on whose application the receiver was appointed.

Registration of confiscation order

26A.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external confiscation order made there if—

- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
- (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
- (c) it is of the opinion that enforcing the order in England and Wales would not be contrary to the interests of justice.

(2) In subsection (1) above “appeal” includes—

- (a) any proceedings by way of discharging or setting aside a judgment; and
- (b) an application for a new trial or a stay of execution.

(3) The High Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

Miscellaneous and Supplemental

33.—(1) The Chief Land Registrar (in this section referred to as “the registrar”) shall, on an application under subsection (4) below made in relation to a person specified in the application or to property so specified, provide the applicant with any information kept by the registrar under the Land Registration Act 1925 which relates to the person or property so specified.

(4) An application may be made by a receiver appointed under section 8 or 11 of this Act and on an application under this subsection there shall be given to the registrar—

- (a) a document certified by the proper officer of the court to be a true copy of the order appointing the receiver, and
- (b) a certificate that there are reasonable grounds for suspecting that there is information kept by the registrar which is likely to facilitate the exercise of the powers conferred on the receiver in respect of the person or property specified in the application.

(5) The reference in subsection (1) above to the provision of information is a reference to its provision in documentary form.

General interpretation

38.—(1) In this Act—

“constable” includes a person commissioned by the Commissioners of Customs and Excise;

“corresponding law” has the same meaning as in the Misuse of Drugs Act 1971;

“drug trafficking” means doing or being concerned in any of the following, whether in England and Wales or elsewhere—

- (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;
- (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;
- (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;

and includes a person doing the following, whether in England and Wales or elsewhere, that is entering into or being otherwise concerned in an arrangement whereby—

- (i) the retention or control by or on behalf of another person of the other person’s proceeds of drug trafficking is facilitated, or
- (ii) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person’s disposal or are used for the other person’s benefit to acquire property by way of investment;

“interest”, in relation to property, includes right;

“property” includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

(2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Act listed in the right hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
Charging order	Section 9(2)
Confiscation order	Section 1
Dealing with property	Section 8(7)
Defendant	Section 1
Gift caught by this Act	Section 5(9)
Making a gift	Section 5(10)
Realisable property	Section 5(1)
Restraint order	Section 8(1)
Value of gift, payment or reward	Section 5
Value of property	Section 5(4)

(3) This Act applies to property whether it is situated in England and Wales or elsewhere.

(5) References in this Act to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection, and whether received before or after the commencement of the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990 and whether received in connection with drug trafficking carried on by the recipient or some other person.

(6) The following provisions shall have effect for the interpretation of this Act.

(7) Property is held by any person if he holds any interest in it.

(8) References to property held by a person include a reference to property vested in his trustee in bankruptcy, permanent or interim trustee within the meaning of the Bankruptcy (Scotland) Act 1985 or liquidator.

(9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.

(10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(11) Proceedings are instituted in a designated country when

(a) under the law of the designated country concerned one of the steps specified in relation to that country in column 2 of the Appendix hereto has been taken there in respect of alleged drug trafficking by the defendant, or

(b) an application has been made to a court in a designated country for an external confiscation order,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(12) Proceedings for an offence are concluded—

(a) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of a confiscation order being made in the proceedings;

(b) on the satisfaction of a confiscation order made in the proceedings (whether by the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise).

(13) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

39.—(1) Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) shall have effect as if amounts payable under external confiscation orders were debts excepted under subsection (1)(a) of that section.

(5) Section 281(4) of the Insolvency Act 1986 (discharge of bankrupt not to release him from liabilities in respect of fines, etc.) shall have effect as if the reference to a fine included a reference to an external confiscation order.

(6) Section 55(2) of the Bankruptcy (Scotland) Act 1985 (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to an external confiscation order.

APPENDIX

Section 38(11)

INSTITUTION OF PROCEEDINGS

<i>Designated country</i>	<i>Point at which proceedings are instituted</i>
Anguilla	(a) where a summons or warrant is issued in respect of an offence; (b) when a person is charged with an offence after being taken into custody without a warrant; (c) when a bill of indictment is preferred
Australia the Bahamas	(a) when an information has been laid before a justice of the peace; (b) when a person is charged with an offence after having been taken into custody without a warrant; (c) when a bill of indictment is preferred
Bermuda	when an information is laid charging a person with an offence
Gibraltar	when a person is charged with an offence, whether by the laying of an information or otherwise
Guernsey	when a person is charged with an offence

<i>Designated country</i>	<i>Point at which proceedings are instituted</i>
Isle of Man	<ul style="list-style-type: none"> (a) where a justice of the peace issues a summons under section 13 of the Petty Sessions and Summary Jurisdiction Act 1927, when the complaint in relation to the offence is made to him; (b) where a justice of the peace issues a warrant for the arrest of any person under that section, when the complaint in relation to the offence is made to him; (c) where a person is charged with the offence after being taken into custody without a warrant, when he is taken into custody; (d) where an information is preferred by the Attorney General in a case where there have been no committal proceedings, when the information is lodged in the General Registry in accordance with section 4(1) of the Criminal Code Amendment Act 1917
Jersey	<ul style="list-style-type: none"> (a) when the Bailiff issues a warrant in respect of an offence for the arrest of a person who is out of the island; (b) when a person is arrested and charged with an offence; (c) when a summons in respect of an offence is served on a person at the instance of the Attorney General; (d) when a summons in respect of the offence is served on a person in accordance with the provisions of Article 8 of the Police Court (Miscellaneous Provisions) (Jersey) Law, 1949
Malaysia	when a person is charged with an offence
Spain	when by virtue of a judicial resolution it is decided to proceed against a person for an offence
Sweden	when a public prosecutor has established that there are reasonable grounds to suspect that a person has committed an offence and accordingly is obliged under the Code of Judicial Procedure to notify the person of the suspicion
Switzerland	when proceedings for an offence are brought before an examining magistrate
United Mexican States	When criminal proceedings are instituted by a judicial authority
United States of America	when an indictment, information or complaint has been filed against a person in respect of an offence

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that, subject to certain modifications, the Drug Trafficking Offences Act 1986 applies to an order made by a court in a designated country or territory for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value, and to proceedings which have been or are to be instituted in a designated country or territory and may result in such an order being made there. It also provides, in *Article 7*, that the value of any property recovered in a designated country or territory in response to a request by the government of the United Kingdom for assistance in the enforcement of an order is to be treated as reducing the amount payable in England and Wales under a confiscation order made by the Crown Court.

Article 3 of the Order designates the countries and territories listed in *Schedule 1* for the purposes of enforcement of confiscation orders, and applies the provisions of the Drug Trafficking Offences Act, with modifications, to confiscation orders of courts in those countries and territories and proceedings which may lead to such an order being made. The modifications to the Act are set out in *Schedule 2* to the Order, and *Schedule 3* sets out in full that Act as so modified.

Article 9 revokes the Drug Trafficking Offences Act 1986 (United States of America) Order 1989; the United States of America is designated anew under this Order.

£3.00 net

ISBN 0 11 005548 9

Printed in the United Kingdom for HMSO

790 WO728 C10 4/90 452/3 4235 46378 900723

*This Draft Statutory Instrument supersedes the earlier draft of the instrument published on 28th November 1990 and is to be issued free of charge to all known recipients of that instrument.
Draft Order laid before Parliament under section 49(3) of the Merchant Shipping Act 1979 for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

1991 No.

MERCHANT SHIPPING

The General Lighthouse Authorities (Beacons :
Hyperbolic Systems) Order 1990

Made - - - - - 1991

Coming into force- 1991

Whereas a draft of this Order has been approved by resolution of each House of Parliament;

Now therefore, the Secretary of State for Transport, in exercise of the powers conferred on him by section 34(3) of the Merchant Shipping Act 1979(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

1. This Order may be cited as the General Lighthouse Authorities (Beacons : Hyperbolic Systems) Order 1991 and shall come into force on the fourteenth day after the day on which it is made.

2.—(1) In the circumstances specified in paragraph (2) below, all references to a beacon in Part XI of the Merchant Shipping Act 1894(b) shall be construed as including equipment and support facilities provided for broadcasts in the frequency range 90kHz – 100 kHz from any transmitters situate in the United Kingdom which forms part of a position fixing system known as the Loran C system.

(2) The circumstances are that the United Kingdom is party to an international agreement concerning the establishment and operation of the Loran C system.

Signed by authority of
the Secretary of State for Transport
1991

Parliamentary Under Secretary of State,
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the references to a beacon in Part XI of the Merchant Shipping Act 1894 to include equipment and facilities in the United Kingdom which form part of a position fixing system known as the Loran C system so long as the United Kingdom is party to an international agreement concerning the establishment and operation of the system. The equipment and facilities would thus become subject to the superintendence and management of the General Lighthouse Authorities if the system were introduced into the United Kingdom.

55p net

ISBN 0 11 005596 9

Printed in the United Kingdom for HMSO

850 WO2166 C11 12/90 452 7102 O/N 88174

DRAFT STATUTORY INSTRUMENTS

1990 No.

NATIONAL DEBT

The Government Stock (Amendment)
Regulations 1990

Laid before Parliament in draft

<i>Made - - - -</i>	<i>1990</i>
<i>Coming into force</i>	<i>1990</i>

Whereas a draft of these Regulations has been laid before Parliament in accordance with section 6(1) of the Statutory Instruments Act 1946(a) (which by virtue of section 6(2) of that Act replaced section 47(3) of the Finance Act 1942(b)) and a period of forty days beginning with the day of laying has expired and neither House has resolved that the Regulations be not made:

Now, therefore, the Treasury, in exercise of the powers conferred on them by section 47(1) of the Finance Act 1942, and of all other powers enabling them in that behalf, hereby make the following Regulations:—

1. These Regulations may be cited as the Government Stock (Amendment) Regulations 1990 and shall come into force on the day after the day on which they are made.

2. The Government Stock Regulations 1965(c) shall be amended as follows:

(1) By the insertion after regulation 3A of the following new regulation—

“Redemption of stock by the Bank of England

3B—(1) The provisions of this regulation shall have effect for the purpose of prescribing the procedure to be followed by the Bank of England when carrying out the redemption of any stock.

(2) Not less than eight weeks before the redemption date of stock of a particular description the Bank shall, subject to paragraph (5) below, send to each person who is for the time being registered as a holder of stock of that description at his address for the time being recorded on the register (“his registered address”) a notice in writing containing the particulars set out in paragraph (3) below.

(a) 1946 c.36.

(b) 1942 c.21; section 47 was amended by the National Debt Act 1958 (7 & 8 Eliz. 2 c.6), the Schedule, by the Finance Act 1964 (c.49), sections 24 and Schedule 8, paragraphs 1 and 2 and Schedule 9, by the Post Office Act 1969 (c.48), section 108(1)(d), and by the Finance Act 1989 (c.26) section 183(1), and extended by the Bank of England Act 1946 (c.27), section 1(5) and Schedule 1, paragraph 6, by the Coal Industry Nationalisation Act 1946 (c.59), section 33(6), by the Iron and Steel Act 1975 (c.64), Schedule 6, paragraph 14(3), by the Stock Transfer Act 1982 (c.41), section 3 and Schedule 2, paragraph 2, and by the Finance Act 1989 (c.26), section 183(1).

(c) S.I. 1965/1420, amended by the Iron and Steel Act 1975 (c.64), section 38(1) and Schedule 6, Part II, paragraph 14(3), by the Family Law Reform Act 1969 (c.46), section 1(3) and Schedule 1, Part II, by the Age of Majority (Scotland) Act 1969 (c.39), section 1(3) and Schedule 1, Part II, by the Decimal Currency Act 1969 (c.19), section 10(1), and by S.I. 1981/1004, 1982/670, 1985/1146.

(3) Those particulars are—

- (a) the redemption date of the stock; and
- (b) notice that, unless a request to the contrary in writing signed by the holder is received by the Bank on or before a date specified in the notice, a warrant in respect of the redemption monies drawn in favour of the holder will be sent to him by post at his registered address.

(4) The date referred to in paragraph (3)(b) above shall in no case be more than four weeks before the redemption date.

(5) Where any stock falling to be redeemed is registered in the names of more than one person, being joint holders of the stock, the notice referred to in paragraph (2) above—

- (a) shall be sent to all such persons; and
- (b) shall state that the warrant referred to in paragraph (3)(b) above will be drawn in favour of the first named such person;

and any such request as is referred to in paragraph (3)(b) shall be signed by each person registered as a joint holder of the stock.

(6) Nothing in paragraphs (2) or (5) above shall affect the right of the Bank in any case to require the consent in writing of the holder or holders of any stock before making any payment in respect of the redemption of the stock.”.

(2) By the insertion after regulation 6(3) of the following new paragraph—

“ (4) Where the total value of all holdings of stock entered in the English register in the name of a deceased person at the time of his death does not exceed £5,000, and probate of his will, or letters of administration to his estate, or confirmation as executor to the estate is not or are not produced to the Bank of England within such time as the Bank of England thinks reasonable in the circumstances of the case, the Bank may, if it thinks fit transfer the stock or any part of it—

- (a) to a person appearing to the Bank to be entitled to take out such probate, letters of administration or confirmation; or
- (b) to any other person appearing to the Bank to be a fit and proper person to receive it.”.

(3) By the insertion after regulation 22 of the following new regulations—

“ Indemnity for the Bank of England

22A—(1) The Bank of England shall not be liable in respect of any payment duly made or act duly done in accordance with these Regulations, and any such payment shall, subject to the provisions of these Regulations for saving the rights of third parties, be deemed to have been a valid payment, and the receipt of the person to whom the money was paid shall be a full discharge to the Bank for the amount of the payment.

(2) Where a warrant for payment of any amount payable in respect of any stock is sent by post in accordance with regulation 3B above, the posting of the letter containing the warrant shall, as respects the liability of the Bank, be equivalent to the delivery of the warrant to the person entitled to receive it.

Saving for rights of third parties

22B Nothing in these Regulations for the protection of the Bank of England in respect of any act done or any money paid shall operate to prevent the recovery by any person or his representative of any stock or money lawfully due to him from the person to whom that stock was transferred or that money was paid by or under the direction of the Bank of England, or from the representatives of that person, or affect the right which any person or his representatives may have in respect of any stock against a third party.”.

Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make three groups of amendments to the Government Stock Transfer Regulations 1965 (S.I. 1965/1420—"the principal Regulations"). First, they insert a new regulation 3B, which deals with the procedure to be followed by the Bank of England when redeeming stock. A notice is to be sent to the registered holder of stock which is to be redeemed, not later than eight weeks before the redemption date (regulation 3B(2)). This notice must contain particulars of the redemption date and inform the holder that, unless a request to the contrary signed by the holder is received by the Bank by a date specified in the notice (which date cannot be more than four weeks before the redemption date) a warrant in respect of the redemption monies drawn in favour of the holder will be sent to him at the address recorded on the register (regulation 3B(3)). Where any stock which is to be redeemed is registered in the names of more than one person as joint holders, the notice is to be addressed to all joint holders, and is to state that, unless a request to the contrary signed by each registered joint holder is received by the Bank, the warrant in respect of the redemption monies will be drawn in favour of, and sent to, the first named holder. The right of the Bank of England to require the written consent of the stockholder in any case where it considers it appropriate is, however, preserved.

Secondly, these Regulations amend the principal Regulations by inserting a new regulation 6(4). This enables the Bank of England to transfer stock registered in the name of a deceased person without the production of a grant of probate, letters of administration or confirmation if the total value of all holdings of stock registered in the name of the deceased does not exceed £5,000. The Bank may transfer the stock to anyone appearing to be entitled to take out such a grant, letters, or confirmation or to anyone else whom the Bank consider a fit and proper person to receive it.

Finally, the principal Regulations are amended by the insertion of new regulations 22A and 22B. Regulation 22A provides an indemnity for the Bank of England in respect of any payment duly made or act duly done according to the Regulations, and further provides for warrants posted to the person entitled to receive payments to be deemed to have been delivered to that person. This regulation is subject to regulation 22B which contains a saving for the right of third parties.

1990 No.

NATIONAL DEBT

**The Government Stock (Amendment)
Regulations 1990**

95p net

ISBN 0 11 005584 5

Printed in the UK by HMSO

730/WO1614 C10 9/90 3200264 19542

DRAFT STATUTORY INSTRUMENTS

1990 No.

**INDUSTRIAL ORGANISATION AND
DEVELOPMENT**

**The Horticultural Development Council (Amendment)
Order 1990**

Made - - - - - *1990*

Coming into force in accordance with article 1

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by section 8(1) of the Industrial Organisation and Development Act 1947(a), and now vested in them(b), and of all other powers enabling them in that behalf, after consultation with the Horticultural Development Council (established under the said Act by the Horticultural Development Council Order 1986(c)) with the organisations appearing to them to be representative of substantial numbers of persons carrying on business in the industry and with the organisation representative of persons employed in the industry appearing to them to be appropriate, hereby make the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament—

Title and commencement

1. This Order may be cited as the Horticultural Development Council (Amendment) Order 1990 and shall come into force on the day immediately following the day on which it is made.

Amendment of the Horticultural Development Council Order 1986

2. The Horticultural Development Council Order 1986 (hereinafter called “the principal Order”) shall be amended in accordance with the following provisions of this Order.

3. In article 2(1) of the principal Order—

(a) there shall be inserted before the definition of “the Council” the following definition:

“‘compost’ means any growing medium used in the production of mushrooms;”

(a) 1947 c.40; which is to be read, as regards England and Wales, with section 40 of the Criminal Justice Act 1982 (c.48) and S.I. 1984/447; and as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c.21), as inserted by section 54 of the Criminal Justice Act 1982 (c.48), and S.I. 1984/526.

(b) By virtue of S.I. 1978/272.

(c) S.I. 1986/1110.

- (b) there shall be substituted for the definition of "grower" the following definition:
 "grower" means a mushroom grower or a person who grows horticultural produce other than mushrooms for sale, whose sales of such produce (excluding Value Added Tax and the cost of haulage and packing materials, and in those cases where the produce is prepared for market in rateable packhouses costs associated with such preparation) were not less than £25000 during his relevant accounting year;';
- (c) there shall be inserted after the definition of "the Ministers" the following definition:
 "mushroom grower" means a person who purchases mushroom spawn for use in compost whose purchases of such spawn exceeded 700 litres—
 (i) during the period of 12 months ending on 30th September 1989; or
 (ii) thereafter during any relevant accounting year;';
- (d) there shall be substituted for the definition of "relevant accounting year" the following definition:
 "relevant accounting year" means:—
 (a) in the case of a grower, other than a mushroom grower, in respect of the levy period specified in column (1) of part A of the table in paragraph (2) of this article, the accounting year specified in respect thereof in column (2) of that part, and
 (b) in the case of a mushroom grower in respect of the levy period specified in column (1) of part B of the table in paragraph (2) of this article, the accounting year specified in respect thereof in column (2) of that part.'

4. For article 2(2) of the principal Order there shall be substituted the following paragraph:

"(2)

Part A

<i>Column 1</i>	<i>Column 2</i>
The period of 12 months commencement on 1st October in any year.	the accounting year ending in the calendar year preceding the end of the levy period.

Part B

<i>Column 1</i>	<i>Column 2</i>
(a) the period starting on the commencement day of this Order and ending on 30th September 1990.	(a) the period of 6 months ending on 30th September 1989.
(b) any subsequent period of 12 months commencing on 1st October in any year.	(b) the period of 12 months ending on 30th September preceding the commencement of the levy period.

5. In article 4 of the principal Order there shall be substituted for sub-paragraph (1) the following sub-paragraph:

"(1) sixteen persons capable of representing the interests of growers;".

6. For article 7 of the principal Order there shall be substituted the following article:

“Registration of growers

7.—(1) Every person who is a mushroom grower on the day on which the Horticultural Development Council (Amendment) Order 1990 comes into force shall within two months thereafter apply in writing to the Council to be registered and any other person who on or after that day becomes a grower shall so apply within two months of the day on which he became a grower.

(2) Where two or more persons jointly carry on business in the industry they shall, for the purpose of registration, be treated as constituting a single person.”.

7. For paragraphs (1), (2) and (3) of article 9 of the principal Order there shall be substituted the following paragraphs:

“(1) For the purposes of enabling them to meet their expenses in the exercise of their functions and their administrative expenses the Council may with the approval of the Ministers and subject to paragraphs (2) and (3) of this article impose:-

- (a) on each grower, other than a mushroom grower, a charge for any levy period at a rate not exceeding 0.5% of the value (excluding Value Added Tax) of his sales of horticultural produce during his relevant accounting year; and
- (b) on each mushroom grower a charge for any levy period at a rate not exceeding 7 pence per litre of spawn purchased for use in compost during his relevant accounting year.

(2) For the purpose of calculating a charge imposed under paragraph (1)(a) above for any levy period, there shall be deducted from the value of a grower’s sales during his relevant accounting year-

- (a) the cost to the grower of any horticultural produce which he had bought in, grown on and resold;
- (b) the cost of haulage and packing materials and, in those cases where the produce is prepared for market in rateable packhouses, costs associated with such preparation; and
- (c) the value added to horticultural produce by any processing carried out by or on behalf of the grower.

(3) A grower shall be exempt from a charge imposed under paragraph (1)(a) above for any levy period if a deduction made under paragraph (2) above reduces the value of the grower’s sales during his relevant accounting year to less than £25000 (excluding Value Added Tax).”.

8. For the references to “a fine not exceeding £400” in article 12(1), (2) and (3) of the principal Order there shall be substituted references to “a fine not exceeding level 3 on the standard scale”.

9. For Schedule 1 to the principal Order there shall be substituted the Schedule to this Order.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 1990.



Minister of Agriculture, Fisheries and Food

Secretary of State for Scotland

Secretary of State for Wales

SCHEDULE

“

SCHEDULE 1

Article 2

VEGETABLES GROWN IN THE OPEN

All vegetables sold for human consumption including herbs and watercress, but excluding potatoes.

FRUIT

All soft fruit and orchard fruit including nuts but excluding all types of apples and pears. Hops and grapes are not included.

FLOWERS AND BULBS

All flowers whether cut or in pot, foliage, flower bulbs, corms, tubers and rhizomes.

HARDY AND OTHER NURSERY STOCK

All hardy nursery stock including

- fruit trees (including apples and pears), bushes and canes, strawberries for runner production and other fruit stock for transplanting
- roses (including stock for budding)
- shrubs and hedging plants
- ornamental trees and trees for sale for amenity purposes
- perennial herbaceous plants

All other nursery stock, seedlings and cuttings for propagation.

PROTECTED CROPS

All crops grown in glasshouses and other forms of protection including pot plants, bedding plants and plants being propagated for growing elsewhere.

MUSHROOMS

All species of mushrooms.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1990, amends the Horticultural Development Council Order 1986.

The principal changes are that the Order—

- (a) includes mushrooms and trees for sale for amenity purposes in the list of products defined as being horticultural produce for the purposes of the industry and excludes grapes from that list;
- (b) extends the definition of “grower” to include mushroom growers and extends the definition of “relevant accounting year” to make provision for an assessment period for the annual charge imposed on mushroom growers;
- (c) raises the maximum rate of charge on growers, other than mushroom growers, to 0.5% from 0.25% of the value of his sales and imposes a charge on mushroom growers at a maximum rate of 7 pence per litre of mushroom spawn purchased;
- (d) increases the number of members of the Council capable of representing the interests of growers from 14 to 16; and
- (e) removes conifers and Christmas trees from the list of products defined as being horticultural produce.

90p net

ISBN 0 11 005518 7

Printed in the United Kingdom for HMSO

845 WO202 C10 2/90 452/3 4235 46378 900234

STATUTORY INSTRUMENTS

1990 No.

AGRICULTURE

The Hill Livestock (Compensatory Allowances)
(Amendment) Regulations 1990

Made - - - - 1990

Coming into force in accordance with regulation 1

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Economic Community, in exercise of the powers conferred upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has been approved by each House of Parliament:

Extent, citation and commencement

1. These Regulations, which extend to Great Britain, may be cited as the Hill Livestock (Compensatory Allowances) (Amendment) Regulations 1990 and shall come into force on the day after the day on which they are made.

Amendment of the Hill Livestock (Compensatory Allowances) Regulations 1984

2. The Hill Livestock (Compensatory Allowances) Regulations 1984(c) shall be further amended in accordance with regulation 3 below.

3. In paragraph (3)(a) of regulation 3 (compensatory allowances), for the figure "£6.75" there shall be substituted the figure "£7.50".

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 1990.

Minister of Agriculture, Fisheries and Food

Minister of State, Scottish Office

(a) S.I. 1972/1811.

(b) 1972 c. 68; section 2 is subject to Schedule 2 to the Act, which is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48) and S.I. 1984/447, and as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21) as inserted by section 54 of the Criminal Justice Act 1982, and with S.I. 1984/526.

(c) S.I. 1984/2024, amended by S.I. 1985/2075, 1987/2129, and revoked, insofar as they applied to Northern Ireland, by S.R. (N.I.) 1987, No. 92.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Great Britain, further amend the Hill Livestock (Compensatory Allowances) Regulations 1984 ("the principal Regulations"), which implemented part of Council Directive No. 75/268/EEC (O.J. No. L128, 19.5.75, p. 1) on mountain and hill farming and farming in certain less-favoured areas, and comply with Articles 13 to 15 of Council Regulation (EEC) No. 797/85 (O.J. No. L93, 30.3.85, p. 1), on improving the efficiency of agricultural structures, as amended.

The Regulations increase the compensatory allowances payable under the principal Regulations in respect of ewes of an approved breed in specially qualified flocks.

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845 WO 224 C13 2/90 452/4 19593 PS 8350958 (276401)

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

PREVENTION AND SUPPRESSION OF TERRORISM

**The Prevention of Terrorism (Temporary Provisions) Act
1989 (Continuance) Order 1990**

Made - - - - - 1990

Coming into force 22nd March 1990

Whereas a draft of this Order has been approved by resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred upon me by section 27(6)(a) of the Prevention of Terrorism (Temporary Provisions) Act 1989(a), I hereby make the following Order:

1.—(1) This Order may be cited as the Prevention of Terrorism (Temporary Provisions) Act 1989 (Continuance) Order 1990 and shall come into force on 22nd March 1990.

(2) In this Order “the 1989 Act” means the Prevention of Terrorism (Temporary Provisions) Act 1989.

2. This Order applies to the provisions of Parts I to V and section 27(6)(c) of the 1989 Act except the provisions of Parts III and V so far as they have effect in Northern Ireland and relate to proscribed organisations for the purposes of section 21 of the Northern Ireland (Emergency Provisions) Act 1978(b) or offences or orders under that section.

3. The provisions of the 1989 Act to which this Order applies shall continue in force for a period of twelve months beginning with 22nd March 1990.

Home Office

1990

One of Her Majesty’s Principal Secretaries of State

(a) 1989 c.4.
(b) 1978 c.5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order continues in force, with exceptions, the provisions of Parts I to V and section 27(6)(c) of the Prevention of Terrorism (Temporary Provisions) Act 1989 ("the 1989 Act") for a period of 12 months from 22nd March 1990. The exceptions are the provisions of Parts III and V of the 1989 Act so far as they have effect in Northern Ireland and relate to proscribed organisations for the purposes of section 21 of the Northern Ireland (Emergency Provisions) Act 1978 ("the 1978 Act") or offences or orders under that section. Separate provision is made for the continuance in force of those provisions under section 33(3) of the 1978 Act by virtue of section 27(11) of the 1989 Act.

50p net

ISBN 0 11 005521 7

Printed in the United Kingdom for HMSO

790/WO 0239 C10 2/90 452/1 9385/8793/6989 88352

Draft Order laid before Parliament under section 19(2) of the Charities Act 1960, on 19th February 1990; draft to lie for forty days, pursuant to section 6(1) of the Statutory Instruments Act 1946, during which period either House of Parliament may resolve that the Order be not made.

DRAFT STATUTORY INSTRUMENTS

1990 No.

CHARITIES

**Charities (Borough Lands Charity, Chippenham) Order
1990**

<i>Made - - - -</i>	<i>1990</i>
<i>Coming into force</i>	<i>1990</i>

Whereas the Charity Commissioners for England and Wales have, in pursuance of subsection (1) of section 19 of the Charities Act 1960(a), settled the Scheme set out in the Appendix to this Order with a view to its being given effect under that section:

And Whereas the said Scheme does not alter any statutory provision contained in or having effect under any public general Act of Parliament:

And Whereas a draft of this Order has been laid before Parliament and the period of forty days mentioned in section 6(1) of the Statutory Instruments Act 1946(b) has expired, and neither House of Parliament has within that period resolved that the Order be not made:

Now, therefore, in pursuance of section 19(2) of the Charities Act 1960, I hereby make the following Order:-

1. This Order may be cited as the Charities (Borough Lands Charity, Chippenham) Order 1990 and shall come into force on the fourteenth day after the day on which it is made.
2. The Scheme set out in the Appendix to this Order shall have effect.

Home Office 1990

One of Her Majesty's Principal Secretaries of State

(a) 1960 c.58.
(b) 1946 c.36.

APPENDIX

SCHEME FOR THE ADMINISTRATION OF THE CHARITY KNOWN AS THE BOROUGH LANDS CHARITY, IN THE FORMER BOROUGH OF CHIPPENHAM, IN THE COUNTY OF WILTSHIRE

Whereas the Charity known as the Borough Lands Charity, in the former Borough of Chippenham, in the County of Wiltshire, is now regulated by:-

- (1) Letters Patent of the 2nd May 1554;
- (2) Letters Patent of the 29th January 1560;
- (3) Letters Patent of the 20th March 1604;
- (4) Letters Patent of the 21st November 1607;
- (5) Letters Patent of the 13th March 1685:

And Whereas the Trustee of the Charity has made application on behalf of the Charity to the Charity Commissioners for a Scheme for the administration thereof:

And Whereas it appears to the Charity Commissioners that a Scheme should be established for the administration of the Charity but that it is necessary for the Scheme to make provision which goes beyond the powers exercisable by them apart from section 19 of the Charities Act 1960:

And Whereas in pursuance of section 21 of the Charities Act 1960 public notice of the Charity Commissioners' proposals for this Scheme has been given and no representations have been received by the Charity Commissioners in respect thereof:

Now, therefore, the Charity Commissioners for England and Wales, in pursuance of section 19(1) of the Charities Act 1960, hereby settle the following Scheme:-

SCHEME

1. *Administration of Charity.* The above-mentioned Charity and all the property thereof shall be administered and managed subject to and in conformity with the provisions of this Scheme, in substitution for the provisions now regulating the Charity, by the body of Trustees hereinafter constituted.

2. *Vesting.* The land specified in the schedule hereto is hereby vested in the Official Custodian for Charities for all the estate and interest therein belonging to or held in trust for the Charity.

3. *Holding of investments.* The Trustees may-

- (a) make such arrangements as they think fit for any investments of the Charity, or income from those investments, to be held by a corporate body as the Trustees' nominee; and
- (b) pay reasonable and proper remuneration to any corporate body acting as the Trustees' nominee in pursuance of this clause.

TRUSTEES

4. *Trustees.* The body of Trustees shall consist when complete of twelve competent persons being-

Ten Nominative Trustees and
Two Co-optative Trustees.

5. *Nominative Trustees.*-(1) Except at first as hereinafter provided the Nominative Trustees shall be appointed as follows:-

Five by North Wiltshire District Council,
Four by Chippenham Town Council, and
One by Chippenham Burgesses Guild.

Except at first as hereinafter provided each appointment shall be made for a term of four years at a meeting convened and held according to the ordinary practice of the appointing body.

(2) The Nominative Trustees shall be persons who through residence, occupation or employment, or otherwise have special knowledge of the Parish of Chippenham.

(3) No member of North Wiltshire District Council may be appointed by the Council as a Trustee unless the number of Trustees appointed by the Council being members of the Council is less than three.

(4) No member of Chippenham Town Council may be appointed by the Council as a Trustee unless the number of Trustees appointed by the Council being members of the Council is less than three.

6. *First Nominative Trustees.* The following persons shall be the first Nominative Trustees and subject to the provisions hereinafter contained for determination of trusteeship shall hold office as if they had been appointed by the respective appointing bodies under this Scheme, for the following periods respectively:-

As appointees of North Wiltshire District Council-

Douglas Joseph William Cleverly, of 41 The Paddocks, Chippenham, in the County of Wiltshire

David Christopher Hartley, of The Close, Biddestone, Chippenham, and

Eric John Hughes, of 111 Malmesbury Road, Chippenham,

all for four years from the date on which this Scheme takes effect; and

Michael Edward Flintoff, of Morley House, Bath Road, Chippenham, and

Robert Andrew Raymond Syms, of Broadacres, Charlcutt, Calne,

both for two years from the said date;

As appointees of Chippenham Town Council-

David Philip Little, of 68 Marshfield Road, Chippenham, and

Michael John May, of 37 Rowden Hill, Chippenham,

both for four years from the said date; and

June Margaret Wood, of Monkton Cottage, Monkton Hill, Chippenham, and

Sally Christine Jefferies, of 44 The Butts, Chippenham,

both for two years from the said date;

As appointee of Chippenham Burgesses Guild-

Richard Searight, of 19 St. Mary Street, Chippenham,

for two years from the said date.

7. *Co-optative Trustees.* The Co-optative Trustees shall be persons who through residence, occupation or employment, or otherwise have special knowledge of the Parish of Chippenham.

8. *First Co-optative Trustees.* The first Co-optative Trustees shall be appointed by the Nominative Trustees at a special meeting to be held as soon as possible after the date on which this Scheme takes effect and shall hold office for the period of three years from the date of their appointment.

9. *Future Co-optative Trustees.* Every future Co-optative Trustee shall be appointed for a term of five years by a resolution of the Trustees passed at a special meeting of which not less than 21 days' notice has been given and may be so appointed not more than one month before the term of an existing Co-optative Trustee expires with effect from the date of expiry but so that the latter shall not vote on the matter.

10. *Declaration by Trustees.* No person shall be entitled to act as a Trustee whether on a first or on any subsequent entry into office until after signing in the minute book of the Trustees a declaration of acceptance and of willingness to act in the trusts of the Charity.

11. *Determination of trusteeship.* Any Trustee who is absent from all meetings of the Trustees during a period of one year or who is adjudged bankrupt or makes a composition or arrangement with his or her creditors or who is incapacitated from acting or who communicates in writing to the Trustees a wish to resign shall cease thereupon to be a Trustee.

12. *Vacancies.* Upon the occurrence of a vacancy the Trustees shall cause a note thereof to be entered in their minute book at their next meeting and in the case of a vacancy in the office of Nominative Trustee shall cause notice thereof to be given as soon as possible to the proper appointing body. Any competent Trustee may be re-appointed. The Trustees or their clerk shall request the secretary or clerk of the appointing body to notify them or him of the name of each person appointed.

MEETINGS AND PROCEEDINGS OF TRUSTEES

13. *Ordinary meetings.* The Trustees shall hold at least two ordinary meetings in each year.
14. *First meeting.* The first meeting of the Trustees shall be summoned by the said Douglas Joseph William Cleverly or, if he fails for three calendar months after the date on which this Scheme takes effect to summon a meeting, by any two of the Trustees.
15. *Chairman.* The Trustees at their first ordinary meeting in each year shall elect one of their number to be chairman of their meetings until the commencement of the first ordinary meeting in the following year. The chairman shall always be eligible for re-election. If at any meeting the chairman is not present within ten minutes after the time appointed for holding the same or there is no chairman the Trustees present shall choose one of their number to be chairman of the meeting.
16. *Special meeting.* A special meeting may be summoned at any time by the chairman or any two Trustees upon not less than four days' notice being given to the other Trustees of the matters to be discussed, but if the matters include an appointment of a Co-optative Trustee then upon not less than 21 days' notice being so given. A special meeting may be summoned to take place immediately after an ordinary meeting.
17. *Quorum.* There shall be a quorum when five Trustees are present at a meeting.
18. *Voting.* Every matter shall be determined by the majority of votes of the Trustees present and voting on the question. In case of equality of votes the chairman of the meeting shall have a casting vote whether he or she has or has not voted previously on the same question but no Trustee in any other circumstances shall give more than one vote.
19. *Minutes and accounts.* A minute book and books of account shall be provided and kept by the Trustees. Statements of account in relation to the Charity shall be prepared and transmitted to the Charity Commissioners in accordance with the provisions of the Charities Act 1960, except if and in so far as the Charity is excepted by order or regulations.
20. *General power to make regulations.* Within the limits prescribed by this Scheme the Trustees shall have full power from time to time to make regulations for the management of the Charity and for the conduct of their business including the summoning of meetings, the appointment of a clerk, the deposit of money at a proper bank and the custody of documents.

PROPERTY

21. *Grazing land.*—(1) The Trustees shall appropriate 50 acres or thereabouts of the land specified in the said schedule for use as follows, that is to say, each relevant occupier may, subject to sub-clause (3) below and to any bye-laws for the time being in force under sub-clause (4) below, graze on the land so appropriated six cows or heifers and two geldings or mares.
 - (2) For the purposes of this clause, a relevant occupier is the occupier for the time being of any residential premises situated on land upon which in 1604 there was a burgage dwelling of which an occupant was entitled to exercise grazing rights in accordance with the above-mentioned Letters Patent of 1604.
 - (3) The Trustees shall maintain a register of relevant occupiers, and a relevant occupier shall only be entitled to exercise the rights conferred by sub-clause (1) above if he has registered with the Trustees.
 - (4) The Trustees may make such bye-laws (if any) as they think fit for the management of the land appropriated as aforesaid in the interests of good husbandry.
 - (5) The Trustees may make such charge (if any) as they think fit for the right to graze and shall apply any income arising therefrom for the upkeep and maintenance of that land.
 - (6) The Trustees may at any time, if they obtain the approval of the Charity Commissioners, appropriate other land belonging to the Charity of suitable quality and location and of at least equal acreage in place of the land appropriated in accordance with the provisions of sub-clause (1) above.

22. Management and letting of lands. Subject as aforesaid the Trustees shall let and otherwise manage all the lands belonging to the Charity. The Trustees shall not without the sanction of the Charity Commissioners or a competent court create any tenancy wholly or partly in consideration of a fine or for a term ending more than 22 years after it is granted or for less than the best rent obtainable.

23. Leases. The Trustees shall provide that on the grant by them of any lease the lessee shall execute a counterpart thereof. Every lease shall contain covenants on the part of the lessee for the payment of rent, the proper cultivation of land let for agricultural or horticultural purposes and all other usual and proper covenants applicable to the property comprised therein and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.

24. Repair and insurance. The Trustees shall keep in repair and insure to the full value thereof against fire and other usual risks all the buildings of the Charity not required to be kept in repair and insured by the lessees or tenants thereof and shall suitably insure in respect of public liability and employer's liability.

25. Sale. Subject as aforesaid and to the authority of a further Order or Orders of the Charity Commissioners the Trustees may sell the whole or any part of the said land and may do and execute all proper acts and assurances for carrying any such sale into effect.

POWERS OF INVESTMENT

26. Powers of investment.—(1) Subject to the provisions hereinafter contained, property now or hereafter belonging to the Charity may be invested in or upon any of the following investments:

- (a) any investments which are for the time being narrower-range or wider-range investments within the meaning of the Trustee Investments Act 1961(a);
- (b) any shares, stocks or other securities quoted on the International Stock Exchange or stock exchanges of New York, Tokyo or Frankfurt.

(2) The Trustees shall not invest property in any shares, stocks or other securities of any company or corporation (other than a company incorporated in the United Kingdom carrying on banking or insurance business in the United Kingdom) which by reason of not being fully paid up or otherwise carry a liability to contribute by way of calls in the event of a winding up or otherwise; but this provision shall not prevent the acquisition of newly issued securities which would otherwise be permitted hereby and of which the capital is by virtue of the terms of the issue thereof to be paid by instalments of which the last is to be payable not later than one year from the date of issue.

(3) The Trustees shall not invest property in any shares, stocks or other securities of any company or corporation unless at the time of investment such company shall have a paid up capital of at least £750,000 or its equivalent at the current rate of exchange and so that as regards any securities having no par value the paid-up capital of the company concerned shall be deemed to include the capital sum (other than capital surplus) appearing in the company's published accounts in respect of such securities.

27. Investment adviser. The Trustees shall employ and may remunerate an investment adviser (being either a company or firm of repute in the field of investment advice or an individual having not less than 15 years' experience of one or more of the following businesses in the City of London, that is to say, the businesses of stockbrokers, merchant bankers and finance houses) to keep the investments of the Charity under review and recommend any changes in those investments which the adviser considers desirable.

28. Investment managers.—(1) The Trustees may employ and remunerate as professional investment managers a company or firm of repute in the field of investment management (whether or not that company or firm or one of its members or employees is also employed as investment adviser under clause 27 above) and subject to the provisions of this clause may delegate to a company or firm so employed (hereinafter referred to as the managers) all or any of the Trustees' powers of investment for such period and upon such terms and conditions as the Trustees think fit.

(2) The Trustees shall, at the time of making any delegation under sub-clause (1) above and at such time or times thereafter as they think fit, give to the managers instructions as to investment policy.

(a) 1961 c.62.

(3) The terms and conditions of any delegation under sub-clause (1) above shall include the requirements that—

- (a) any exercise by the managers of powers thereby delegated shall be subject to and in accordance with the Trustees' instructions as to investment policy;
- (b) the managers shall inform the Trustees of each act done in exercise of powers so delegated as soon as reasonably possible;
- (c) the Trustees may without notice revoke the delegation or alter any of its terms and conditions (other than the requirements included in pursuance of this sub-clause) notwithstanding that the period of the delegation has not expired.

(4) Any delegation under sub-clause (1) above shall be for a period not exceeding 12 months, but may from time to time be renewed for a further period not exceeding 12 months.

(5) The Trustees shall be liable for any loss to the Charity due to any act or default of the managers as if it had been the act or default of the Trustees, except that no Trustee shall be so liable in pursuance of this sub-clause for any loss arising without fraud, wrongdoing, neglect or wrongful omission on his part.

APPLICATION OF INCOME

29. Expenses of management. The Trustees shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

30. Application of income.—(1) Subject to the payments aforesaid the Trustees shall apply the income of the Charity in any or all of the following ways:—

- (a) the relief of the aged, sick, disabled or poor inhabitants of the Parish of Chippenham;
- (b) the provision or assistance in the provision, for the benefit of the inhabitants of the Parish of Chippenham and its neighbourhood or any section of those inhabitants, of facilities for recreation or other leisure-time occupation where that provision is charitable by virtue of section 1 of the Recreational Charities Act 1958^(a) (facilities provided in the interests of social welfare);
- (c) the advancement of education for the benefit of the inhabitants of the Parish of Chippenham;
- (d) the promotion of any other charitable purpose (whether or not of a nature similar to any purpose specified in paragraphs (a), (b) and (c) above) for the benefit of the inhabitants of the parish of Chippenham:

Provided that the Trustees shall not apply income of the Charity directly in relief of rates, taxes or other public funds but may apply income in supplementing provision made out of public funds.

(2) In this clause, "the Parish of Chippenham" means that Parish as delimited at the date of this Scheme, but shall include any area that may at any time after that date be incorporated within that Parish.

31. Appropriation of benefits. The appropriation of the benefits of the Charity shall be made by the Trustees at meetings of their body and not separately by any individual Trustee or Trustees: Provided that the Trustees from time to time may appoint two or more members of their body to be a committee for dealing with any cases of emergency but all acts and proceedings of committees shall be reported in due course to the Trustees.

32. Trustees' interests.—(1) Subject to the provisions of this clause, no person shall be disqualified from being a Trustee by reason only of being for the time being entitled to grazing rights in accordance with the provisions of clause 21 above.

(2) No Trustee who is for the time being entitled to grazing rights in accordance with the provisions of clause 21 above shall attend any meeting of the Trustees at which matters concerning such rights are considered or vote on any resolution concerning such rights.

(3) No Trustee shall take or hold any interest in property belonging to the Charity (other than such grazing rights) otherwise than as a Trustee for the purposes thereof.

(4) No Trustee shall receive remuneration, or be interested in the supply of work or goods, at the cost of the Charity.

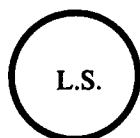
(a) 1958 c.17.

33. *Questions of construction.* Any question as to the construction of this Scheme may be referred to the Charity Commissioners for their opinion or advice in accordance with the provisions of section 24 of the Charities Act 1960.

SCHEDULE

Land containing 106 acres or thereabouts situate at Chippenham, in the County of Wiltshire, being the land known as Englands, Little Englands, Westmead, Little Blackwell, Hams and Mortimers Wood.

Sealed by Order of the Commissioners this 8th day of February 1990.



EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a Scheme of the Charity Commissioners for the regulation of the Borough Lands Charity, Chippenham. The Charity is established for certain purposes in connection with the former Borough of Chippenham under Letters Patent of 1554 and subsequent dates.

The Scheme reconstitutes the Charity. A new body of Trustees is created, and provision is made for the application of the Charity's income for various charitable purposes for the benefit of the Parish of Chippenham. Those purposes include the relief of aged, sick, disabled and poor people, the promotion of recreational facilities and the advancement of education. The Scheme also extends the Charity's powers of investment, and contains provision corresponding to the previous provision for the occupiers of certain dwellings to exercise grazing rights for animals on land belonging to the Charity.

Draft Order laid before Parliament under section 19(2) of the Charities Act 1960, on 19th February 1990; draft to lie for forty days, pursuant to section 6(1) of the Statutory Instruments Act 1946, during which period either House of Parliament may resolve that the Order be not made.

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

CHARITIES

**Charities (Borough Lands Charity, Chippenham) Order
1990**

£1.65 net

ISBN 0 11 005520 9

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

HOUSING, ENGLAND AND WALES

**The Housing Corporation Advances (Increase of Limit)
Order 1990**

<i>Made - - - -</i>	<i>1990</i>
<i>Coming into force</i>	<i>1990</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 93(2A)(a) of the Housing Association Act 1985(a), and of all other powers enabling him in that behalf, and with the consent of the Treasury, hereby makes the following Order, a draft of which has been laid before, and has been approved by resolution of, the House of Commons:

Citation and commencement

1. This Order may be cited as the Housing Corporation Advances (Increase of Limit) Order 1990 and shall come into force on the day after the day on which it is made.

Increase of limit on advances

2. For the purposes of subsection (2A)(a) of section 93 of the Housing Associations Act 1985, £2,300 million is hereby specified in relation to the Housing Corporation as the limit referred to in subsection (2) of that section.

1990

Secretary of State for the Environment

We consent to the making of this Order.

1990

Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1985 c.69 subsection (2A) was inserted by paragraph 35(2) of Schedule 6 to the Housing Act 1988 (c.50).

EXPLANATORY NOTE

(This note is not part of the Order)

The Housing Corporation's powers of borrowing are subject to a limit under section 93 of the Housing Associations Act 1985. This Order increases that limit from £2,000 million to £2,300 million.

50p net

ISBN 0 11 005524 1

Printed in the United Kingdom for HMSO

850/W0 0292 C18 2/90 452/1 9385/8565/6836 88352

DRAFT STATUTORY INSTRUMENTS

1990 No.

SOCIAL SECURITY

**The Pneumoconiosis etc. (Workers' Compensation)
(Payment of Claims) (Amendment) Regulations 1990**

Made - - - - - 1990
Coming into force - - - - - 1st April 1990

The Secretary of State in exercise of the powers conferred on him by sections 1 and 7 of the Pneumoconiosis etc. (Workers' Compensation) Act 1979(a) ("the Act") and of all other powers enabling him in that behalf hereby makes the following Regulations, of which a draft has been approved by resolution of each House of Parliament:-

Citation and commencement

1. These Regulations may be cited as the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 1990 and shall come into force on 1st April 1990 in relation to any case in which a person first satisfies the conditions of entitlement to a payment under the Act on or after that date.

Interpretation

2. In these Regulations the "principal Regulations" means the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988(b).

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with the following provisions of this Regulation.

- (2)(a) the Schedule to these Regulations shall be substituted for the Schedule to those Regulations, and
- (b) the amount of £1,473 shall be substituted for the amount of £1,364 in Regulations 5(1) and 8 of those Regulations, and the amount of £3,048 shall be substituted for the amount of £2,822 in regulation 6(1) of those Regulations,

Signed by order of the Secretary of State.

1990

Parliamentary Under Secretary of State,
Department of Employment

(a) 1979 c.41; sections 1 and 4 of the Act were amended by section 24 of the Social Security Act 1985 (c.53) and section 2 was amended by section 39 of and Section 3 to the Social Security Act 1986 (c.50).
(b) S.I. 1988/668.

TABLE 1

(1) Table 1 is for the determination of payments to disabled persons under regulation 3 (or regulation 6), and for the determination of payments to dependants of deceased sufferers under regulation 4(1).

(2) The relevant period is the period specified in regulation 3(2) or 3(3) or, in the case of a disabled person to whom regulation 6 applies (Payment where pneumoconiosis is accompanied by tuberculosis), the period specified in paragraph (1)(b) of that regulation.

(3) The age to be taken for the purpose of determining the amount payable to a disabled person is his age on the date specified in regulation 3(2) or 3(3) or, in the case of a disabled person to whom regulation 6 applies (Payment where pneumoconiosis is accompanied by tuberculosis) his age on the date specified in paragraph (1) of that regulation. With a view to determining the amount payable to a dependant of a disabled person under regulation 4(1), the age to be taken for the purpose of calculating the sum to be deducted from the amount which would have been payable to the disabled person had he still been alive is the age of the deceased at his last birthday preceding his death.

PART A

PAYMENTS TO DISABLED PERSONS TO WHOM IS PAYABLE DISABLEMENT BENEFIT UNDER SECTION 76 OF THE SOCIAL SECURITY ACT 1975 OR UNDER ANY CORRESPONDING PROVISION OF THE FORMER INDUSTRIAL INJURIES ACTS, OR WOULD BE PAYABLE BUT FOR THE DISABLEMENT AMOUNTING TO LESS THAN THE APPROPRIATE PERCENTAGE.

Age of disabled person	Percentage assessment for the relevant period									
	10% or less	11-20%	21-30%	40%	50%	60%	70%	80%	90%	100%
	£	£	£	£	£	£	£	£	£	£
37 and under	17,065	30,473	35,754	36,770	37,787	38,598	39,412	40,224	41,037	41,849
38	16,577	29,254	34,678	35,919	36,973	37,787	38,598	39,412	40,224	41,037
39	16,089	28,034	33,601	35,063	36,162	36,973	37,787	38,598	39,412	40,224
40	15,603	26,816	32,524	34,210	35,348	36,162	36,973	37,787	38,598	39,412
41	15,114	25,597	31,448	33,356	34,537	35,348	36,162	36,973	37,787	38,598
42	14,626	24,378	30,372	32,504	33,723	34,537	35,348	36,162	36,973	37,787
43	13,896	22,956	29,294	31,855	33,155	34,129	34,942	35,754	36,567	37,380
44	13,164	21,533	28,218	31,203	32,585	33,723	34,537	35,348	36,162	36,973
45	12,433	20,112	27,141	30,554	32,017	33,317	34,129	34,942	35,754	36,567
46	11,701	18,690	26,064	29,904	31,448	32,910	33,723	34,537	35,348	36,162
47	10,971	17,268	24,987	29,254	30,879	32,504	33,317	34,129	34,942	35,754
48	10,339	16,698	24,135	27,953	29,904	31,367	32,179	32,991	33,804	34,618
49	9,711	16,131	23,281	26,652	28,929	30,229	31,041	31,855	32,667	33,480
50	9,082	15,561	22,428	25,354	27,953	29,091	29,904	30,716	31,528	32,341
51	8,451	14,993	21,574	24,053	26,979	27,953	28,766	29,578	30,392	31,203
52	7,821	14,423	20,722	22,753	26,003	26,816	27,629	28,441	29,254	30,066
53	7,231	13,408	19,421	21,615	25,027	26,003	26,816	27,629	28,441	29,254
54	6,643	12,392	18,120	20,479	24,053	25,191	26,003	26,816	27,629	28,441
55	6,054	11,376	16,822	19,340	23,077	24,378	25,191	26,003	26,816	27,629
56	5,465	10,361	15,521	18,202	22,104	23,566	24,378	25,191	26,003	26,816
57	4,875	9,345	14,221	17,065	21,128	22,753	23,566	24,378	25,191	26,003
58	4,490	8,493	12,698	15,317	19,014	20,518	21,391	22,246	23,077	23,890
59	4,103	7,638	11,172	13,572	16,901	18,283	19,217	20,112	20,965	21,776
60	3,718	6,785	9,650	11,823	14,790	16,050	17,043	17,980	18,853	19,665
61	3,331	5,932	8,126	10,076	12,677	13,815	14,870	15,846	16,741	17,552
62	2,946	5,079	6,602	8,329	10,565	11,580	12,698	13,713	14,626	15,440
63	2,742	4,591	5,932	7,446	9,397	10,400	11,458	12,433	13,326	14,139
64	2,541	4,103	5,261	6,562	8,229	9,223	10,219	11,153	12,026	12,839
65	2,337	3,617	4,591	5,678	7,059	8,045	8,979	9,874	10,727	11,539
66	2,134	3,130	3,921	4,794	5,892	6,867	7,740	8,593	9,427	10,238
67	1,931	2,640	3,250	3,911	4,724	5,689	6,501	7,314	8,126	8,939
68	1,879	2,559	3,139	3,747	4,561	5,465	6,247	7,090	7,872	8,674
69	1,829	2,478	3,027	3,587	4,399	5,242	5,994	6,867	7,620	8,410
70	1,777	2,397	2,915	3,423	4,236	5,018	5,739	6,643	7,364	8,148
71	1,727	2,316	2,804	3,260	4,073	4,794	5,485	6,420	7,111	7,883
72	1,677	2,235	2,692	3,099	3,911	4,571	5,230	6,196	6,855	7,620
73	1,635	2,196	2,651	3,037	3,850	4,469	5,129	6,034	6,653	7,395
74	1,595	2,153	2,611	2,977	3,790	4,367	5,028	5,871	6,450	7,172
75	1,555	2,113	2,570	2,915	3,727	4,266	4,927	5,709	6,247	6,947
76	1,514	2,072	2,529	2,854	3,666	4,166	4,826	5,547	6,043	6,725
77 and over	1,473	2,031	2,489	2,793	3,606	4,064	4,724	5,385	5,840	6,501

PART B

PAYMENTS TO DISABLED PERSONS TO WHOM IS PAYABLE AN ALLOWANCE UNDER A SCHEME MADE OR HAVING EFFECT AS IF MADE UNDER SECTION 5 OF THE INDUSTRIAL INJURIES AND DISEASES (OLD CASES) ACT 1975 OR UNDER ANY CORRESPONDING PROVISION OF THE FORMER OLD CASES ACTS.

Age of disabled person	<i>Extent of incapacity for the relevant period</i>	
	<i>Partial</i>	<i>Total</i>
	£	£
37 and under	30,473	41,849
38	29,254	41,037
39	28,034	40,224
40	26,816	39,412
41	25,597	38,598
42	24,378	37,787
43	22,956	37,380
44	21,533	36,973
45	20,112	36,567
46	18,690	36,162
47	17,268	35,754
48	16,698	34,618
49	16,131	33,480
50	15,561	32,341
51	14,993	31,203
52	14,423	30,066
53	13,408	29,254
54	12,392	28,441
55	11,376	27,629
56	10,361	26,816
57	9,345	26,003
58	8,493	23,890
59	7,638	21,776
60	6,785	19,665
61	5,932	17,552
62	5,079	15,440
63	4,591	14,139
64	4,103	12,839
65	3,617	11,539
66	3,130	10,238
67	2,640	8,939
68	2,559	8,674
69	2,478	8,410
70	2,397	8,148
71	2,316	7,883
72	2,235	7,620
73	2,196	7,395
74	2,153	7,172
75	2,113	6,947
76	2072	6725
77 and over	2031	6501

TABLE 2

(1) Table 2 is for the determination of payments to dependants of deceased sufferers who died as a result of the disease under regulation 4(2) or regulation 4(6).

(2) The relevant period is the period specified in regulation 3(2) or 3(3) or, in the case of a disabled person to whom regulation 6 applies (Payment where pneumoconiosis is accompanied by tuberculosis), the period specified in paragraph (1)(b) of that regulation.

PART A

PAYMENTS TO DEPENDANTS TO WHOM DEATH BENEFIT UNDER SECTION 76 OF THE SOCIAL SECURITY ACT 1975 IS PAYABLE, OR TO DEPENDANTS OF PERSONS TO WHOM DISABLEMENT BENEFIT UNDER THAT SECTION OR UNDER ANY CORRESPONDING PROVISION OF THE FORMER INDUSTRIAL INJURIES ACTS WAS PAYABLE, OR TO DEPENDANTS OF A PERSON TO WHOM DISABLEMENT BENEFIT WOULD HAVE BEEN PAYABLE IMMEDIATELY BEFORE HE DIED BUT FOR THE OCCURRENCE OF ONE OF THE CIRCUMSTANCES LISTED IN REGULATION 5(I)(a)(III) OR BUT FOR THIS DISPLACEMENT AMOUNTING TO LESS THAN THE APPROPRIATE PERCENTAGE, IN CIRCUMSTANCES WHERE THE DISABLED PERSON DIED AS A RESULT OF A DISEASE OTHER THAN DIFFUSE MESOTHELIOMA.

Age of disabled person at his last birthday preceding death	Percentage assessment for the relevant period				
	10% or less	11%–20%	21%–30%	40%	50% and over
	£	£	£	£	£
37 and under	8,025	15,643	17,877	18,487	18,996
38	7,781	14,952	17,268	17,877	18,526
39	7,538	14,261	16,658	17,268	18,061
40	7,292	13,572	16,050	16,658	17,592
41	7,049	12,881	15,440	16,050	17,125
42	6,806	12,190	14,830	15,440	16,658
43	6,368	11,295	14,280	14,890	16,212
44	5,932	10,400	13,732	14,342	15,760
45	5,495	9,508	13,184	13,793	15,317
46	5,057	8,613	12,635	13,244	14,870
47	4,622	7,719	12,088	12,698	14,423
48	4,286	7,476	11,682	12,271	13,875
49	3,951	7,231	11,275	11,844	13,326
50	3,617	6,988	10,870	11,416	12,778
51	3,280	6,744	10,464	10,991	12,229
52	2,946	6,501	10,056	10,565	11,682
53	2,793	5,932	9,284	9,975	11,234
54	2,640	5,363	8,511	9,385	10,787
55	2,489	4,794	7,740	8,797	10,339
56	2,337	4,226	6,968	8,208	9,893
57	2,183	3,657	6,196	7,620	9,446
58	2,041	3,250	5,313	6,583	8,208
59	1,898	2,844	4,429	5,547	6,968
60	1,758	2,439	3,545	4,510	5,729
61	1,616	2,031	2,661	3,475	4,490
62	1,473	1,625	1,777	2,439	3,250
63	1,473	1,595	1,717	2,244	2,896
64	1,473	1,564	1,655	2,051	2,541
65	1,473	1,534	1,595	1,859	2,183
66	1,473	1,505	1,534	1,665	1,829
67 and over	1,473	1,473	1,473	1,473	1,473

PART B

PAYMENTS TO DEPENDANTS TO WHOM DEATH BENEFIT UNDER A SCHEME MADE OR HAVING EFFECT AS IF MADE UNDER SECTION 5 OF THE INDUSTRIAL INJURIES AND DISEASES (OLD CASES) ACT 1975 HAS BEEN PAID, OR TO DEPENDANTS OF PERSONS TO WHOM AN ALLOWANCE UNDER SUCH A SCHEME OR UNDER A SCHEME MADE OR HAVING EFFECT AS IF MADE UNDER ANY CORRESPONDING PROVISION OF THE FORMER OLD CASES ACTS WAS PAYABLE, IN CIRCUMSTANCES WHERE THE DISABLED PERSON DIED AS A RESULT OF A DISEASE OTHER THAN DIFFUSE MESOTHELIOMA.

<i>Age of disabled person at his last birthday preceding death</i>	<i>Extent of incapacity for the relevant period</i>	
	<i>Partial</i>	<i>Total</i>
	£	£
37 and under	15,643	18,996
38	14,952	18,526
39	14,261	18,061
40	13,572	17,592
41	12,881	17,125
42	12,190	16,658
43	11,295	16,212
44	10,400	15,760
45	9,508	15,317
46	8,613	14,870
47	7,719	14,423
48	7,476	13,875
49	7,231	13,326
50	6,988	12,778
51	6,744	12,229
52	6,501	11,682
53	5,932	11,234
54	5,363	10,787
55	4,794	10,339
56	4,226	9,893
57	3,657	9,446
58	3,250	8,208
59	2,844	6,968
60	2,439	5,729
61	2,031	4,490
62	1,625	3,250
63	1,595	2,896
64	1,564	2,541
65	1,534	2,183
66	1,505	1,829
67 and over	1,473	1,473

PART C

PAYMENTS TO DEPENDANTS OF PERSONS WHO DIED AS A RESULT OF DIFFUSE MESOTHELIOMA.

<i>Age of disabled person at his last birthday preceding death</i>	<i>Payment</i>
	£
37 and under	18,996
38	18,526
39	18,061
40	17,592
41	17,125
42	16,658
43	16,212
44	15,760
45	15,317
46	14,870
47	14,423
48	13,875
49	13,326
50	12,778
51	12,229
52	11,682
53	11,234
54	10,787
55	10,339
56	9,893
57	9,446
58	8,208
59	6,968
60	5,729
61	4,490
62	3,250
63	2,896
64	2,541
65	2,183
66	1,829
67 and over	1,473

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988 (the 1988 Regulations), as amended by the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 1989, prescribe the amount of payments to be made under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 ("the Act"), as amended by the Social Security Act 1985 and the Social Security Act 1986, to persons disabled by a disease to which the Act applies, or to dependants of persons who immediately before they died were disabled by such a disease. The diseases to which the Act applies are pneumoconiosis, byssinosis, diffuse mesothelioma, primary carcinoma of the lung (where accompanied by asbestosis or bilateral diffuse pleural thickening) and bilateral diffuse pleural thickening.

These Regulations further amend the 1988 Regulations by increasing the amount of payments in any case in which a person first becomes entitled to a payment on or after the date when these Regulations come into force. The increase in each case is 8% rounded up or down to the nearest £1 as appropriate.

£1.65 net

ISBN 0 11 005522 5

Printed in the United Kingdom for HMSO

833 WO254 C13 2/90 452/3 4235 46378 900410

DRAFT STATUTORY INSTRUMENTS

1990 No.

TERMS AND CONDITIONS OF EMPLOYMENT

**The Redundancy Payments (Local Government)
(Modification) (Amendment) Order 1990**

Made - - - - - 1990
Coming into force - - - - - 1st April 1990

Whereas a draft of the following Order was laid before Parliament in accordance with section 149(4) of the Employment Protection (Consolidation) Act 1978(a) ("the 1978 Act") and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 149(1)(b) and section 154(3) and (4) of the 1978 Act and of all other powers enabling him in that behalf hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Redundancy Payments (Local Government) (Modification) (Amendment) Order 1990 and shall come into force on 1st April 1990.

(2) In this Order the "principal Order" means the Redundancy Payments (Local Government) (Modification) Order 1983(b).

Amendments to the principal Order

2. The principal Order shall be amended as follows:—

(a) In Article 1(2)(a) after the fourth reference to "the 1978 Act" add— "or, in relation to any person to whom this Order applies by reason of an amendment contained in the Redundancy Payments (Local Government) (Modification) (Amendment) Order 1990, any event occurring on or after the coming into force of that Order on the happening of which an employee may become entitled to a redundancy payment in accordance with the provisions of the 1978 Act".

(b) In article 4(3) after "paragraph (4) (5)" delete "and (6)" and substitute "(6) and (7)".

(c) After article 4(6) add—

"(7) Where a period of employment of a person to whom this Order applies by reason of an amendment contained in the Redundancy Payments (Local Government) (Modification) (Amendment) Order 1990 falls to be computed in accordance with the provisions of the 1978 Act as modified by this Order, the provisions of this Order shall have effect in relation to any

(a) 1978 c.44.

(b) S.I. 1983/1160, amended by S.I. 1985/1872, 1988/907, 1989/532.

period whether falling wholly or partly before or after the coming into force of that Order”.

(d) In Schedule 1 after entry 78 there shall be added—

- “79. Scottish Homes, established under the Housing (Scotland) Act 1988(a).
80. The Edinburgh New Town Conservation Committee.
81. Corporate Colleges established under the Self-Governing Schools etc. (Scotland) Act 1989(b).
82. The London Pensions Fund Authority.
83. The Board of Management of a Self-Governing School as defined in section 80(1) of the Self-Governing Schools etc. (Scotland) Act 1989.
84. The Horniman Public Museum and Public Park Trust.
85. The Geffrye Museum Trust.”

Signed by order of the Secretary of State.

1990

Parliamentary Under Secretary of State,
Department of Employment

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st April 1990, amends the Redundancy Payments (Local Government) (Modification) Order 1983 as amended by the Redundancy Payments (Local Government) (Modification) (Amendment) Order 1985, the Redundancy Payments (Local Government) (Modification) (Amendment) Order 1988 and the Redundancy Payments (Local Government) (Modification) (Amendment) Order 1989. Those Orders modified certain redundancy payments provisions of the Employment Protection (Consolidation) Act 1978 in their application to persons employed in relevant local government service so that their employment in the service is to be treated as if it were continuous for the purposes of those provisions. This Order adds to the list of employers to whose employees the 1983 Order as amended applies.

(a) 1988 c.43.

(b) 1989 c.39.

50p net

ISBN 0 11 005523 3

Printed in the United Kingdom for HMSO

831 WO233 C11 2/90 452/3 4235 46378 900325

This draft supersedes the one laid on 12th March 1990 and should be issued free of charge to all known recipients of the Statutory Instrument

Draft Order laid before Parliament under section 143(8) of the Local Government Finance Act 1988, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No. 000

RATING AND VALUATION

**The Gas and Electricity Industries (Rateable Values)
(Amendment) Order 1990**

Made - - - -

1990

Coming into force

1st April 1990

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 140(4), 143(1) and 146(6) of, and paragraphs 3(1) and (2) of Schedule 6 to the Local Government Finance Act 1988(a), and of all other powers enabling them in that behalf, hereby make the following Order in terms of a draft laid before, and approved by resolution of, each House of Parliament:

Citation commencement and interpretation

1.—(1) This Order may be cited as the Gas and Electricity Industries (Rateable Values) (Amendment) Order 1990 and shall come into force on 1st April 1990.

(2) In this Order, any reference to a company by name is to the company bearing that name at the date of the Central Rating Lists (Amendment) Regulations 1990(b).

British Gas plc: hereditaments in Wales

2. Article 9(b) of the British Gas plc (Rateable Values) Order 1989(c) shall be amended by the substitution of the factor C for the factor U in the first place in which it occurs in formula 2.

Electricity supply industry

3.—(1) The Schedule to the Electricity Supply Industry (Rateable Values) Order 1989(d) shall be amended as provided in the Schedule to this Order.

(2) Article 13 of that Order shall be amended as follows:

(a) in paragraph (1), after “the Schedule” there shall be inserted “except those mentioned in paragraph (1A)”; and

(b) there shall be inserted after paragraph (1) –

“(1A) In relation to electricity hereditaments –

(i) in England and

(ii) in Wales

(a) 1988 c.41. Paragraph 3 of Schedule 6 is amended by paragraph 38(12) to (14) of Schedule 5 to the Local Government and Housing Act 1989 (c.42). (b) S.I. 1990/502. (c) S.I. 1989/2471. (d) S.I. 1989/2475.

occupied by Nuclear Electric plc, the recalculation factor in respect of any relevant year shall be the figure produced by calculating in relation to each class of hereditaments in accordance with the formula –

$$£18,100 (D - d)$$

where D and d have the meanings attributed by paragraph (1).”.

Electricity generators

4.—(1) The Electricity Generators (Rateable Values) Order 1989(a) shall be amended as provided in this article.

(2) For article 3(2) there shall be substituted:

“(2) The conditions mentioned in paragraph (1) are that –

(a) the hereditament is used or available for use for the purposes of generating electricity, where –

(i) such use is its sole or primary function; or

(ii) it is so used or available in connection with a scheme for the production for sale of both electrical power and heat; or

(iii) its primary source of energy is the burning of refuse; and

(b) the generating plant –

(i) uses wind, tidal or water power as its primary source of energy; or

(ii) if its primary source of energy is the burning of refuse, has a declared net capacity of 25 megawatts or more; or

(iii) has a declared net capacity of 500 kilowatts or more.”.

(3) In article 4(1), after “wind” there shall be inserted “or tidal”.

1990

Secretary of State for the Environment

1990

Secretary of State for Wales

(a) S.I. 1989/2474.

SCHEDULE

Amendments to the Schedule to the Electricity Supply Industry (Rateable Values) Order 1989

The Schedule shall be amended by the insertion in the places mentioned below in divisions A and C of Part I and division A of Part II of entries of the following classes of electricity hereditaments and amounts:

<i>Classes of electricity hereditament</i>	<i>Column 1</i>	<i>Column 2</i>
In Part I, division A, at the beginning:		
“Hereditaments occupied by National Power plc	331.6	93.816547
Hereditaments occupied by Nuclear Electric plc	120.0	29.004852”
In Part I, division C, at the end:		
“Hereditaments occupied by Scottish Power plc	0.27	—”
In Part II, division A, at the beginning:		
“Hereditaments occupied by National Power plc	42.3	14.35739
Hereditaments occupied by Nuclear Electric plc	17.0	6.320888”.

EXPLANATORY NOTE

(This note is not part of the Order)

This order amends three orders made under the Local Government Finance Act 1988 which provide for rateable values effective on and after 1st April 1990 to be entered in local rating lists in respect of electricity generating plant, and in central rating lists in relation to certain hereditaments occupied by British Gas plc, and by companies engaged in the generation and distribution of electricity.

Article 2 amends the British Gas plc (Rateable Values) Order 1989 to correct an error in the formula by reference to which the value of gas hereditaments in Wales will be calculated in such years beginning on and after 1st April 1992.

Article 3 amends the Schedule to the Electricity Supply Industry (Rateable Values) Order 1989 to specify rateable values in relation to electricity hereditaments occupied in England and in Wales by National Power plc and Nuclear Electric plc, and in England by Scottish Power plc.

Article 4 amends the Electricity Generators (Rateable Values) Order 1989 so that generators operated by tidal power are rated on the same basis as generators operated by wind power, and generators used or available for use in connection with combined heat and power schemes, or which burn refuse as their primary source of energy, are rated by reference to their capacity.

90p net

ISBN 0 11 005547 0

Printed in the United Kingdom for HMSO

850 WO675 C12 3 90 452 7102 O/N 88174

Draft Order laid before Parliament under section 32(3)(a) of the Northern Ireland (Emergency Provisions) Act 1978, section 26(5)(a) of the Northern Ireland (Emergency Provisions) Act 1987, and section 32(3)(a) of the Northern Ireland (Emergency Provisions) Act 1978 as it has effect by virtue of section 27(11)(a) of the Prevention of Terrorism (Temporary Provisions) Act 1989, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1990 No.

NORTHERN IRELAND

Northern Ireland (Emergency and Prevention of
Terrorism Provisions) (Continuance) Order 1990

Made - - - - 1990
Coming into force - 22nd March 1990

Whereas a draft of this Order has been approved by resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred upon me by section 33(3)(a) of the Northern Ireland (Emergency Provisions) Act 1978(a), section 26(4)(a) of the Northern Ireland (Emergency Provisions) Act 1987(b) and section 27(11)(a) of the Prevention of Terrorism (Temporary Provisions) Act 1989(c), I hereby make the following Order:

1. This Order may be cited as the Northern Ireland (Emergency and Prevention of Terrorism Provisions) (Continuance) Order 1990 and shall come into force on 22nd March 1990.

2. In this Order—

- (a) “the temporary provisions of the 1978 Act”(d) means all the provisions of the Northern Ireland (Emergency Provisions) Act 1978, except sections 5 and 28 to 36, Part III of Schedule 4, Schedules 5 and 6 and, so far as they relate to offences which are scheduled offences by virtue of the said Part III, sections 2, 6 and 7;
- (b) “the temporary provisions of the 1987 Act” means Parts II and III of the Northern Ireland (Emergency Provisions) Act 1987(e); and
- (c) “the 1989 Act provisions” means the provisions referred to in section 27(11) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (“the 1989 Act”), that is to say—
 - (i) Parts III and V of the 1989 Act so far as they have effect in Northern Ireland and relate to proscribed organisations for the purposes of section 21 of the Northern Ireland (Emergency Provisions) Act 1978 or offences or orders under that section, and
 - (ii) sections 21 to 24 of the 1989 Act.

(a) 1978 c.5. Section 33 is amended by section 13 of the Northern Ireland (Emergency Provisions) Act 1987.
(b) 1987 c.30.
(c) 1989 c.4.
(d) Some of the temporary provisions of the 1978 Act are amended by Part I and section 25 of 1987 c.30, and by S.I. 1989/1501.
(e) Section 16(1) is amended by 1989 c.4, Schedule 8, paragraph 8.

3. The temporary provisions of the 1978 Act except section 12, Schedule 1 and section 24, the temporary provisions of the 1987 Act, and the 1989 Act provisions, shall continue in force for a period of twelve months beginning with 22nd March 1990.

Northern Ireland Office
1990

One of Her Majesty's Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Order)

Apart from this Order, the temporary provisions of the Northern Ireland (Emergency Provisions) Acts 1978 and 1987 would expire with 21st March 1990. They are currently in force by virtue of the Northern Ireland (Emergency Provisions) Acts 1978 and 1987 (Continuance) Order 1989 (S.I. 1989/509). This Order continues in force the temporary provisions of the 1978 and 1987 Acts for a period of twelve months beginning with 22nd March 1990, except for certain provisions of the 1978 Act. These are section 12 and Schedule 1 (which relate to the detention of terrorists) and section 24 (which makes it an offence to fail to disperse when required to do so by a commissioned officer of HM forces or an officer not below the rank of Chief Inspector of the Royal Ulster Constabulary).

The Order also continues in force for the same period the provisions referred to in section 27(11) of the Prevention of Terrorism (Temporary Provisions) Act 1989, which likewise would but for this Order expire with 21st March 1990.

50p net

ISBN 0 11 005526 8

Printed in the United Kingdom for HMSO

990 WOZ012 C10 2/90 452/3 4235 46378 900574E

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

DATA PROTECTION

**Data Protection (Regulation of Financial Services etc.)
(Subject Access Exemption) (Amendment) Order 1990**

Made - - - - - 1990

Coming into force in accordance with article 1(2)

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament:

Now, therefore, in exercise of the powers conferred upon me by section 30(2) of the Data Protection Act 1984(a) and after consultation with the Data Protection Registrar in accordance with section 40(3) of the Act of 1984, I hereby make the following Order:

1.—(1) This Order may be cited as the Data Protection (Regulation of Financial Services etc.) (Subject Access Exemption) (Amendment) Order 1990.

(2) This Order shall come into force –

- (a)** on 21st February 1990 for the purposes of article 2 insofar as it relates to Part I of the Schedule to this Order;
- (b)** on 15th March 1990 for the purposes of article 2 insofar as it relates to Part II of that Schedule.

2. Schedule 1 to the Data Protection (Regulation of Financial Services etc.) (Subject Access Exemption) Order 1987(b) (functions designated for the purposes of section 30 of the Data Protection Act 1984 which are conferred by or under any enactment) shall have effect subject to the amendments specified in Parts I and II of the Schedule to this Order.

Home Office
1990

One of Her Majesty's Principal Secretaries of State

PART I

AMENDMENTS TO SCHEDULE 1 TO THE DATA PROTECTION
(REGULATION OF FINANCIAL SERVICES ETC.) (SUBJECT ACCESS
EXEMPTION) ORDER 1987 COMING INTO FORCE ON 21ST FEBRUARY
1990

1. In the entry relating to the functions under Part XIV of the Companies Act 1985(a), for "or officer authorised by him under section 447" substitute ", officer or other competent person authorised by the Secretary of State under section 447".

2. At the end of the Schedule insert –

"Companies Act 1989(b)	Functions of following persons in assisting overseas regulatory authorities –
	Secretary of State under section 83 to require information, documents or other assistance;
	officer or other competent person authorised by Secretary of State under section 84 to exercise powers conferred by section 83;
	Department of Economic Development authorised by Secretary of State under section 88 to exercise powers conferred by section 83 in Northern Ireland."

PART II

AMENDMENTS TO SCHEDULE 1 TO THE DATA PROTECTION
(REGULATION OF FINANCIAL SERVICES ETC.) (SUBJECT ACCESS
EXEMPTION) ORDER 1987 COMING INTO FORCE ON 15TH MARCH 1990

1. At the end of the entry relating to the functions under Chapter V of Part I of the Financial Services Act 1986(e) insert –

"(l) statements of principle issued under section 47A;
(m) codes of practice issued under section 63C."

2. In the entry relating to the functions under section 107 of that Act for "section 107" substitute "sections 107 and 107A".

3. In the entry relating to the functions under Chapter XIV of Part I of that Act for "rules, guidance, arrangements or restrictions" substitute "rules, statements of principle, regulations, codes of practice, guidance, arrangements or practices".

4. After the entry relating to the functions under Chapter XIV of Part I of that Act insert –
"Functions of Secretary of State or designated agency under Chapter XV of Part I."

5. For the entry relating to the functions under section 160 of that Act substitute –

"Functions of Secretary of State under section 160A in relation to exemption of advertisements from provisions of sections 159 and 160."

(a) 1985 c. 6. (b) 1989 c. 40. (c) 1986 c. 60.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 30 of the Data Protection Act 1984 provides that personal data held for the purpose of discharging statutory functions which are designated by the Secretary of State by an order made under that section shall be exempt from the subject access provisions of the Act in any case in which the application of those provisions to the data would be likely to prejudice the proper discharge of those functions. The functions which may be designated include those conferred by or under any enactment appearing to the Secretary of State to be designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or in the management of companies or to the conduct of discharged or undischarged bankrupts.

Schedule 1 to the Data Protection (Regulation of Financial Services etc.) (Subject Access Exemption) Order 1987 ("the 1987 Order") designates functions for the purposes of section 30. The Schedule to this Order contains amendments to the 1987 Order which are consequential upon the implementation of the Companies Act 1989 ("the 1989 Act"). Part I of the Schedule, which comes into force on 21st February 1990, amends the entry relating to section 447 of the Companies Act 1985 (Secretary of State's powers to require production of documents) and designates functions under sections 83, 84 and 88 of the 1989 Act (powers exercisable to assist overseas regulatory authorities). Part II of the Schedule to this Order, which comes into force on 15th March 1990, contains amendments relating to functions under the Financial Services Act 1986.

1990 No.

DATA PROTECTION

**Data Protection (Regulation of Financial Services etc.)
(Subject Access Exemption) (Amendment) Order 1990**

90p net

ISBN 0 11 005511 X

Printed in the United Kingdom for HMSO

790 WO151 C13 1/90 452 7102 O/N88174

Regulations made by the Secretary of State for the Environment and the Secretary of State for Wales, laid before Parliament under section 178A(10) of the Town and Country Planning Act 1971 for approval by resolution of each House of Parliament.

STATUTORY INSTRUMENTS

1990 No. 000

**TOWN AND COUNTRY PLANNING, ENGLAND
AND WALES**

**The Town and Country Planning (Compensation for
Restrictions on Mineral Working) (Amendment)
Regulations 1990**

Made - - - -	22nd February 1990
Laid before Parliament	1st March 1990
Coming into force	1st April 1990

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by section 178A of the Town and Country Planning Act 1971(a) and all other powers enabling them in that behalf, with the consent of the Treasury and after consulting persons and bodies appearing to them to be representative of persons carrying out mining operations, of owners of interests in land containing minerals and of mineral planning authorities, hereby make the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Compensation for Restrictions on Mineral Working) (Amendment) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations “the principal Regulations” means the Town and Country Planning (Compensation for Restrictions on Mineral Working) Regulations 1985(b).

Amendment of principal Regulations

2. For paragraph 1 of regulation 2 of the principal Regulations (interpretation) substitute—

“(1) In these regulations, unless the context otherwise requires:—

“the 1971 Act” means the Town and Country Planning Act 1971;

“the 1988 Act” means the Local Government Finance Act 1988(c);

“the 1989 Regulations” means the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989(d);

(a) 1971 c. 78; section 178A was inserted by section 16 of the Town and Country Planning (Minerals) Act 1981 (c. 36). (b) S.I. 1985/698, amended by S.I. 1988/726. (c) 1988 c. 41. (d) S.I. 1989/1060, amended by S.I. 1989/2303.

“the appropriate portion” has the meaning assigned to it by regulation 7;

“hereditament” has the meaning assigned to it by section 64(1) of the 1988 Act;

“local non-domestic rating list” means the list maintained under Part III of the 1988 Act for the charging authority in whose area the site is situated, or is treated as being situated by virtue of regulation 6 of the 1989 Regulations;

“order” means an order made under section 45 or section 51 of the 1971 Act in relation to development consisting of the winning and working of minerals, or an order made under section 51A or 51B of that Act;

“retail prices index” means the general index of retail prices (for all items) published by the Department of Employment;

“site” means the area of land to which an order relates;

“valuation officer” means the officer appointed under section 61 of the 1988 Act for the charging authority in whose area the site is situated, or is treated as being situated by virtue of regulation 6 of the 1989 Regulations.”

3. In paragraph (2) of regulation 3 of the principal Regulations (modifications of section 164 of the 1971 Act) for the proviso substitute –

“Provided that this paragraph shall not apply to expenditure which has, by virtue of this regulation or regulation 4, been treated as constituting loss or damage directly attributable to an order for the purposes of a previous claim for compensation under section 164 or section 170.”

4. In paragraph (3) of regulation 4 of the principal Regulations (modification of section 170 of the 1971 Act) for the proviso substitute–

“Provided that this paragraph shall not apply to expenditure which has, by virtue of this regulation or regulation 3, been treated as constituting loss or damage directly attributable to an order for the purposes of a previous claim for compensation under section 164 or section 170.”

5. In regulation 5 of the principal Regulations (assessment of compensation in relation to an order made under section 51A or section 51B of the 1971 Act) for “£5,000” substitute “£6,400”.

6. In regulation 6 of the principal Regulations (assessment of compensation in relation to an order made under section 45 or section 51 of the 1971 Act)–

(a) for “£2,500” in paragraph (1)(b)(i) substitute “£3,200”;

(b) for “£100,000” in paragraph 1(b)(ii) substitute “£128,000”.

7. In paragraph (4) of regulation 7 of the principal Regulations (meaning of “the appropriate portion”)–

(a) for “£5,000” in sub-paragraph (a) substitute “£6,400”;

(b) for “£2,500” in sub-paragraph (b) substitute “£3,200”;

(c) for “£100,000” in sub-paragraph (d) substitute “£128,000”.

8. In Schedule 1 to the principal Regulations (calculation of the annual value of the right to win and work minerals)–

(a) for paragraph 3(1) substitute–

“(1) deducting from the net annual value of the site the figure shown in the local non-domestic rating list as its rateable value;”;

(b) in paragraphs 4(1), 5(2), 6(1) and 6(2) for “specified in the valuation list” substitute “shown in the local non-domestic rating list” and in paragraph 4(1) for “specified in that list” substitute “shown in that list”;

(c) in paragraph 5(1) omit “(as specified in the valuation list)”;

(d) in paragraph 6(1) for “net annual value” substitute “rateable value”;

(e) for paragraph 7 substitute–

“7. For the purposes of paragraphs 3 to 6 of this Schedule—

(1) the appropriate factor is the sum ascertained by multiplying the retail prices index for the month in which the order took effect by the figure of 0.0094518 and rounding up the figure resulting from that calculation to the nearest two decimal places;

(2) the net annual value of a site is the sum certified by the valuation officer as the sum which would have been the rateable value of the site if no account had been taken of regulation 5 of the 1989 Regulations and, in the case of a site to which paragraph 8 applies, if the site had formed one hereditament.”;

(f) in paragraph 8 for “valuation list” substitute “local non-domestic rating list” and for “valuation lists” substitute “local non-domestic rating lists” wherever those expressions occur and omit “the net annual value of the site and”;

(g) for paragraph 9 substitute—

“9.—(1) Subject to sub-paragraph (2), reference to the rateable value of the site shall be taken to refer to the rateable value shown for the site in the local non-domestic rating list on the day on which the claim for compensation is made in relation to the order.

(2) Where, at the date when a claim for compensation is made in relation to the order—

(i) a proposal has been made under regulations made under section 55 of the 1988 Act for the alteration of the local non-domestic rating list in relation to a hereditament which consists of, includes, or forms part of the site to which the order relates;

(ii) that proposal relates to an alteration which would take effect from a date which is on or before the date when the order takes effect;

(iii) that proposal has not been withdrawn; and

(iv) no alteration has been made to the local non-domestic rating list as a result of that proposal and no final decision on the proposal has been issued,

reference to the rateable value of the site shall be taken to refer to the value which results from the final determination of that proposal.”

9. In Schedule 2 to the principal Regulations (multiplier appropriate to the estimated life of site or mineral)—

(a) in paragraphs 2(2) and 3(2) omit “net annual value of the site and the” and for “valuation list” substitute “local non-domestic rating list”;

(b) in paragraph 5 for “valuation list” substitute “local non-domestic rating list” and for “valuation lists” substitute “local non-domestic rating lists” wherever those expressions occur and omit “the net annual value of the site and”.

Revocation and transitional provisions

10.—(1) The Town and Country Planning (Compensation for Restrictions on Mineral Working) (Amendment) Regulations 1988(a) are hereby revoked.

(2) These Regulations do not apply to a claim for compensation in relation to an order made before the date of coming into force of these regulations, and for the purpose of such a claim "valuation list", "net annual value" and "rateable value" in Schedules 1 and 2 to the principal Regulations shall be taken to refer to the list and values to which those terms referred immediately before April 1st, 1990.

20th February 1990

Chris Patten
Secretary of State for the
Environment

21st February 1990

Peter Walker
Secretary of State for Wales

We consent,

22nd February 1990

John Taylor
Kenneth Carlise
Two of the Lords Commissioners of
Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Compensation for Restrictions on Mineral Working) Regulations 1985. The amendments are—

- (a) amendments to regulations 3 and 4 (modifications to sections 164 and 170 of the Town and Country Planning Act 1971) to ensure that claimants are not able to include expenditure incurred by voluntary agreement in more than one compensation claim (regulations 3 and 4);
- (b) the substitution in consequence of the revised valuation date for rateable values of 0.0094518 for 0.0428339 as the multiplier to be used in the calculation of the annual value of the right to win and work minerals (regulation 8(e));
- (c) a revision of the figures of £2,500, £5,000 and £100,000 in regulations 5, 6 and 7 of the 1985 Regulations to £3,200, £6,400 and £128,000 respectively (regulations 5, 6, and 7);
- (d) the replacement of references in Schedules 1 and 2 to the 1985 regulations to factors connected with the rating system under the General Rate Act 1967 by reference to corresponding factors connected with the new rating system under the Local Government Finance Act 1988 and some consequential redrafting (regulations 8 and 9).

90p net

ISBN 0 11 005525 X

Printed in the United Kingdom for HMSO

850 WO340 C20 3/90 452 7102 O/N 88174

Order made by the Secretary of State for Scotland and laid before the House of Commons under paragraph 2(3) of Schedule 4 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987, as amended, for approval by resolution of that House.

STATUTORY INSTRUMENTS

1990 No. (S.)

LOCAL GOVERNMENT, SCOTLAND

The Revenue Support Grant (Scotland) Order 1990

Made - - - - 8th January 1990

Laid before the House of
Commons 9th January 1990

Coming into force 1990

The Secretary of State, in exercise of the powers conferred upon him by paragraph 1(1) and (2) of Schedule 4 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities as appear to him to be appropriate in accordance with paragraph 2(2) of the said Schedule(a), and with the consent of the Treasury, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Revenue Support Grant (Scotland) Order 1990 and shall come into force on the day after the day on which it is approved by a resolution of the House of Commons.

Revenue support grants for 1990-91

2.—(1) The local authorities to which revenue support grant is payable in respect of the financial year 1990-91 are specified in column 1 of the Schedule to this Order.

(2) The amount of the revenue support grant payable to each local authority specified in column 1 of the Schedule to this Order in respect of the financial year 1990-91 shall be the amount determined in relation to that local authority set out in column 2 of that Schedule opposite the name of that local authority.

St. Andrew's House, Edinburgh
4th January 1990

Malcolm Rifkind
One of Her Majesty's
Principal Secretaries of State

We consent,

8th January 1990

Stephen Dorrell
Kenneth Carlisle
Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1987 c.47; paragraphs 1 and 2 of Schedule 4 were replaced by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 29. This amendment has effect only for the purposes of and in relation to the financial year 1990-91 and any subsequent financial year, as provided for in the Local Government and Housing Act 1989 (Commencement No. 1) Order 1989 (S.I. 1989/2180), Schedule 1.

SCHEDULE

Article 2

Revenue Support Grant 1990-91

Column 1 <i>Specified authority</i>	Column 2 <i>Amount £</i>
Borders	57,380,000
Central	104,139,000
Dumfries & Galloway	75,390,000
Fife	128,971,000
Grampian	219,148,000
Highland	123,822,000
Lothian	234,110,000
Strathclyde	1,041,618,000
Tayside	174,987,000
Berwickshire	905,000
Ettrick & Lauderdale	1,335,000
Roxburgh	1,947,000
Tweeddale	715,000
Clackmannan	1,659,000
Falkirk	3,866,000
Stirling	2,842,000
Annandale & Eskdale	1,200,000
Nithsdale	1,765,000
Stewartry	843,000
Wigtown	1,527,000
Dunfermline	3,225,000
Kirkcaldy	2,719,000
North East Fife	3,366,000
Aberdeen City	7,491,000
Banff & Buchan	3,068,000
Gordon	3,687,000
Kincardine & Deeside	2,460,000
Moray	3,712,000
Badenoch & Strathspey	437,000
Caithness	1,154,000
Inverness	1,833,000
Lochaber	737,000
Nairn	589,000
Ross & Cromarty	2,994,000
Skye & Lochalsh	838,000
Sutherland	1,355,000
East Lothian	1,904,000
Edinburgh City	18,006,000
Midlothian	4,435,000
West Lothian	5,851,000
Argyll & Bute	3,880,000
Bearsden & Milngavie	2,294,000
Clydebank	4,510,000
Clydesdale	2,752,000
Cumbernauld & Kilsyth	2,309,000
Cumnock & Doon Valley	2,465,000
Cunninghame	1,664,000
Dumbarton	2,744,000
East Kilbride	1,535,000
Eastwood	2,786,000
Glasgow City	53,590,000

Column 1	Column 2
<i>Specified authority</i>	<i>Amount £</i>
Hamilton	4,751,000
Inverclyde	6,634,000
Kilmarnock & Loudoun	3,378,000
Kyle & Carrick	4,340,000
Monklands	6,637,000
Motherwell	8,243,000
Renfrew	8,442,000
Strathkelvin	5,778,000
Angus	4,093,000
Dundee City	8,209,000
Perth & Kinross	5,566,000
Orkney	14,813,000
Shetland	30,670,000
Western Isles	39,187,000

EXPLANATORY NOTE

(This note is not part of the Order)

This Order determines the amount of the revenue support grant payable to each local authority specified in the Schedule to the Order in respect of the financial year 1990-91.

90p net

ISBN 0 11 005510 1

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0080 C9 1/90 452/4 19593 PS 8350958 (275794)

This draft Order supersedes the draft Order of the same title published on 15th March 1990 and is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Order laid before Parliament under section 6(7) of the Local Government (Scotland) Act 1975, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The Industrial and Freight Transport (Rateable Values)
(Scotland) Order 1990**

Made - - - - - 1990

Coming into force 1st April 1990

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Industrial and Freight Transport (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

2. In this Order, unless the context otherwise requires—

“the 1928 Act” means the Rating and Valuation (Apportionment) Act 1928(b);

“the 1956 Act” means the Valuation and Rating (Scotland) Act 1956(c);

“the 1975 Act” means the Local Government (Scotland) Act 1975;

“financial year” means the period of twelve months beginning with 1st April;

“net annual value” has the same meaning as in section 6(8) of the 1956 Act(d);

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order;

and any references in this Order to “industrial lands and heritages”, “freight transport lands and heritages”, “industrial purposes” and “freight transport purposes” shall have the meanings respectively assigned to them in the 1928 Act.

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1928 c.44.

(c) 1956 c.60.

(d) Section 6(8) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6.

Prescribed class of lands and heritages

3. The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any industrial or freight transport lands and heritages in Scotland so far as occupied and used, or treated as occupied and used, for industrial or freight transport purposes.

Rateable value

4. For the purposes of section 6(1) of the 1975 Act and in respect of the financial year 1990-91, the rateable value of any lands and heritages which fall within the prescribed class of lands and heritages shall be the amount produced by deducting from the net annual value of those lands and heritages thirty five per cent of that value.

Amendment of enactments

5. The following amendments shall be made to the enactments specified in articles 6 and 7 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

6. In section 6(1) of the 1956 Act^(a), after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975".

7.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

"(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Industrial and Freight Transport (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as "the 1990 Order");".

(2) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

"(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable value thereof as ascertained in accordance with article 4 of that Order;".

(3) In section 2(2)(a) of that Act, after the reference to "subsection (1)(a)", insert the words "or (gg)".

St. Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) Section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation of industrial and freight transport lands and heritages ("the prescribed class") for the financial year 1990-91.

It provides that the rateable value of any lands and heritages which fall within the prescribed class should be an amount produced by deducting from the net annual value of those lands and heritages thirty five per cent of that value.

In terms of the Rating of Industry (Scotland) Order 1984 (S.I. 1985/101), the rateable value of those lands and heritages was ascertained for the financial years 1985-86 to 1989-90 by deducting forty per cent of their net annual value.

1990 No. (S.)

RATING AND VALUATION

**The Industrial and Freight Transport (Rateable Values)
(Scotland) Order 1990**

90p net

ISBN 0 11 005545 4

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0622 C11 3/90 452/4 19593 PS 8350958 (278375)

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The Water Undertakings (Rateable Values) (Scotland)
Order 1990**

Made - - - - - 1990
Coming into force 1st April 1990

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Water Undertakings (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—
“the 1975 Act” means the Local Government (Scotland) Act 1975;
“financial year” means the period of twelve months beginning with 1st April;
“non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(b);
“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order;
“water authority” means—
(a) a water authority within the meaning of section 109(1) of the Water (Scotland) Act 1980; and
(b) a water development board within the meaning of that section; and
“water undertaking” means an undertaking for the supply of water carried on by a water authority.

(2) Any reference in this Order to—

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.
(b) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

- (a) lands and heritages occupied by a water authority includes a reference to lands and heritages which, if unoccupied, are owned by that authority; and
- (b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

Prescribed class of lands and heritages

3. The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland occupied by a water authority and used wholly or mainly for the purposes of the water undertaking carried on by that authority.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91.

Aggregate amount and apportionment of rateable values for the financial year 1990-91

5. For the purposes of section 6(1) and (2) of the 1975 Act, in relation to the financial year 1990-91—

- (a) the aggregate amount of the rateable values of the prescribed class of lands and heritages occupied by each water authority specified in column 1 of the Schedule to this Order is prescribed as the amount specified in column 2 of that Schedule opposite to the name of that water authority; and
- (b) the aggregate amount of the rateable values prescribed in relation to each water authority specified in column 1 of that Schedule is apportioned among the local authorities specified in column 3 of that Schedule opposite to the name of that water authority in the amount shown opposite to the name of each such local authority in column 4 of that Schedule.

Amendment of enactments

6. The following amendments shall be made to the enactments specified in Articles 7 and 8 below in their relation to the valuation of the prescribed lands and heritages for the financial year 1990-91.

7. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words “this Act”, there shall be inserted the words “and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975”.

8.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Water Undertakings (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as “the 1990 Order”);”.

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words “lands and heritages” the following words:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

“(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);”.

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

“(gg) by entering therein, in relation to each water authority as defined in the 1990 Order, any lands and heritages within the class of lands and heritages prescribed in that Order together with the rateable values apportioned by that Order to the local authorities whose areas comprise or form part of the valuation area;”.

(5) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)” insert the words “or (gg)”.

(6) In section 3(2) of that Act, after the reference to “(2)(1)(g)”, there shall be inserted the words “or (gg)”.

(7) In section 3(4) of that Act, after the words “lands and heritages” where they appear for the first time, there shall be inserted the following:-

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

Revocation

9. The Water Undertakings (Rateable Values) (Scotland) Order 1985(a) is hereby revoked.

St. Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1985/197.

SCHEDULE

Article 5

Aggregate amount and apportionment of rateable values of prescribed class of lands and heritages of water undertakings for financial year 1990-91

(1) Water authority	(2) Aggregate amount of rateable values	(3) Local authorities	(4) Apportioned amounts
Central Scotland Water Development Board	£ 1,164,640	Falkirk	£ 10,788
		Stirling	54,436
		West Lothian	1,599
		Clydebank	995
		Cumbernauld & Kilsyth	13,033
		Dumbarton	521,883
		Monklands	26,345
		Strathkelvin	315,040
		Perth and Kinross	220,521
Borders Region	£ 535,687	Berwickshire	£ 102,712
		Ettrick and Lauderdale	189,408
		Roxburgh	184,549
		Tweeddale	58,849
		East Lothian	169
Central Region	£ 2,809,167	Clackmannan	£ 248,657
		Falkirk	1,575,325
		Stirling	628,956
		Bearsden and Milngavie	252
		Cumbernauld & Kilsyth	238,653
Dumfries and Galloway Region	£ 982,800	Annandale and Eskdale	£ 262,783
		Nithsdale	352,919
		Stewartry	154,520
		Wigtown	212,578
Fife Region	£1,988,213	Clackmannan	£ 204,189
		Dunfermline	542,691
		Kirkcaldy	487,041
		North East Fife	291,831
		Perth and Kinross	462,461
Grampian Region	£ 2,369,440	Banff and Buchan	£ 519,006
		Aberdeen City	915,243
		Gordon	183,650
		Kincardine and Deeside	403,483
		Moray	348,058
Highland Region	£ 1,284,220	Badenoch and Strathspey	£ 79,818
		Caithness	181,240
		Inverness	406,401
		Lochaber	108,518
		Nairn	55,139
		Ross and Cromarty	332,898
		Skye and Lochalsh	56,860
		Sutherland	63,346

(1) Water authority	(2) Aggregate amount of rateable values	(3) Local authorities	(4) Apportioned amounts
Lothian Region	£ 3,896,680	Ettrick and Lauderdale	£ 110,689
		Tweeddale	354,266
		Edinburgh City	2,093,628
		East Lothian	460,708
		Midlothian	373,442
		West Lothian	492,664
		Clydesdale	11,283
Strathclyde	£14,918,340	Tweeddale	£ 88
		Stirling	1,525,449
		Argyll and Bute	375,709
		Bearsden	892,607
		Clydebank	243,049
		Clydesdale	840,513
		Cumnock and Doon Valley	255,804
		Cunninghame	1,159,344
		Dumbarton	542,109
		East Kilbride	397,870
		Eastwood	392,168
		Glasgow City	3,322,101
		Hamilton	419,705
		Inverclyde	593,657
		Kilmarnock	413,039
		Kyle and Carrick	1,032,474
		Monklands	405,999
Motherwell	780,404		
Renfrew	1,055,529		
Strathkelvin	270,722		
Tayside Region	£ 1,860,387	Angus	£ 729,218
		Dundee City	696,768
		Perth and Kinross	434,401
Orkney Islands Area	£ 127,800	Orkney Islands	£ 127,800
Western Isles Area	£ 182,200	Western Isles	£ 182,200
Shetland Islands Area	£ 187,640	Shetland Islands	£ 187,640

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 of certain lands and heritages ("the prescribed class of lands and heritages") occupied by water authorities specified in column 1 of the Schedule to this Order ("the authorities") and used wholly or mainly for the purposes of water undertakings carried on by the authorities.

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for that financial year in the case of each authority specified in the Schedule. It also apportions that aggregate amount among local authorities in accordance with columns 3 and 4 of the Schedule to the Order (article 5).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for that financial year (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 6 to 8).

The Order also revokes the Water Undertakings (Rateable Values) (Scotland) Order 1985 (S.I. 1985/197).

£1.35 net

ISBN 0 11 005536 5

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0503 C9 3/90 452/4 19593 PS 8350958 (277929)

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The British Railways Board (Rateable Values)
(Scotland) Order 1990**

Made - - - - - *1990*

Coming into force *1st April 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the British Railways Board (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

- 2.—(1) In this Order, unless the context otherwise requires—
- “the 1975 Act” means the Local Government (Scotland) Act 1975;
 - “the Board” means the British Railways Board;
 - “clerical work” includes writing, book-keeping, typing, filing, duplicating, sorting papers or information or calculating (whether by manual, mechanical or electronic means), drawing, and the editorial preparation of matter for publication;
 - “financial year” means the period of twelve months beginning with 1st April;
 - “non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(b);
 - “office premises” means any lands and heritages constructed or adapted as offices or for office purposes, or used wholly or mainly for such purposes;
 - “office purposes” includes the purposes of administration and clerical work and handling money;

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

“operational land”, in relation to the Board, means land which is used for the purposes of carrying on the Board’s undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purposes of carrying on of statutory undertakings (within the meaning of the Town and Country Planning (Scotland) Act 1972(a); and

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order.

(2) Any reference in this Order to—

- (a) lands and heritages occupied by the Board includes a reference to lands and heritages which, if unoccupied, are owned by the Board; and
- (b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

Prescribed class of lands and heritages

3.—(1) The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act namely any lands and heritages in Scotland (other than the lands and heritages mentioned in paragraph (2) below) occupied by the Board and used wholly or mainly for the purposes of the parts of the Board’s undertaking which are concerned with the carriage of goods and passengers by rail, or for purposes ancillary to those purposes.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising—

- (a) premises used as a shop, hotel, museum or place of public refreshment;
- (b) premises used wholly or mainly as office premises occupied by the Board which are not situated on operational land of the Board;
- (c) premises or rights so let out as to be capable of separate assessment;
- (d) premises (other than premises used in connection with the collection and delivery of parcels, goods or merchandise conveyed or to be conveyed by rail) used wholly or in part for purposes concerned with the carriage of goods or passengers by road transport or sea transport or with harbours, or for purposes incidental to such purposes; or
- (e) for more than one of the foregoing purposes.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91.

Aggregate amount of rateable values for financial year 1990-91

5. For the purposes of section 6(1) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 is hereby prescribed as £6,933,000.

Apportionment of aggregate amount of rateable values

6. For the purposes of section 6(2) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 which is prescribed by article 5 shall be apportioned among the local authorities specified in column 1 of the Schedule to this Order in the amount shown opposite to the name of each such local authority in column 2 of that Schedule.

Amendment of enactments

7. The following amendments shall be made to the enactments specified in articles 8 and 9 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

(a) 1972 c.52.

8. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975".

9.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the British Railways Board (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as “the 1990 Order”);”.

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words “lands and heritages” the following words:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

“(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);”.

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

“(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable values apportioned by that Order to the local authorities whose areas comprise or form part of the valuation area;”.

(5) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)”, insert the words “or (gg)”.

(6) In section 3(2) of that Act, after the reference to “2(1)(g)”, insert the words “or (gg)”.

(7) In section 3(4) of that Act, after the words “lands and heritages” where they appear for the first time, there shall be inserted the following:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

Revocation

10. The British Railways Board (Rateable Values) (Scotland) Order 1985(b) is hereby revoked.

St. Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47).
Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

(b) S.I. 1985/196.

SCHEDULE

Article 6

Apportionment of aggregate amount of rateable values of prescribed class of lands
and heritages for financial year 1990-91

(1) Local authority	(2) Apportioned amount
<i>District Councils:-</i>	
Berwickshire	£ 7,076
Clackmannan	8,724
Falkirk	122,859
Stirling	135,702
Annandale and Eskdale	43,376
Nithsdale	28,562
Wigtown	6,737
Dunfermline	100,484
Kirkcaldy	148,303
North East Fife	71,728
Aberdeen	211,792
Gordon	32,108
Kincardine and Deeside	33,804
Moray	46,769
Badenoch and Strathspey	6,616
Caithness	11,470
Inverness	93,093
Lochaber	42,569
Ross and Cromarty	10,178
Skye and Lochalsh	1,389
Sutherland	7,141
East Lothian	122,132
Edinburgh City	924,511
Midlothian	77,383
West Lothian	182,107
Argyll and Bute	7,658
Bearsden and Milngavie	12,843
Clydebank	25,808
Clydesdale	25,250
Cumbernauld and Kilsyth	6,010
Cumnock and Doon Valley	23,263
Cunninghame	197,980
Dumbarton	133,400
East Kilbride	7,512
Eastwood	10,541
Glasgow City	2,466,024
Hamilton	31,381
Inverclyde	65,064
Kilmarnock and Loudon	64,297
Kyle and Carrick	363,165
Monklands	88,126
Motherwell	178,351
Renfrew	185,379
Strathkelvin	46,042
Angus	47,011
Dundee City	65,064
Perth and Kinross	401,856

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 of certain lands and heritages occupied by British Railways Board (article 3) ("the prescribed class of lands and heritages").

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for that financial year at £6,933,000 (article 5). It also apportions that aggregate amount among local authorities in accordance with the Schedule to the Order (article 6).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for that financial year (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 7 to 9).

The Order also revokes the British Railways Board (Rateable Values) (Scotland) Order 1985 (S.I. 1985/196).

Draft Order laid before Parliament under section 6(7) of the Local Government (Scotland) Act 1975, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The British Railways Board (Rateable Values)
(Scotland) Order 1990**

£1.35p net

ISBN 0 11 005537 3

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0505 C10 3/90 452/4 19593 PS 8350958 (277888)

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The British Gas plc. (Rateable Values) (Scotland) Order
1990**

Made - - - - - 1990

Coming into force 1st April 1990

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the British Gas plc. (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

- 2—(1) In this Order, unless the context otherwise requires—
- “the 1975 Act” means the Local Government (Scotland) Act 1975;
 - “the Company” means the Company registered at the date of this Order by the name of British Gas plc.;
 - “financial year” means the period of twelve months beginning with 1st April;
 - “gas” means any substance which is, or if it were in a gaseous state would be, gas within the meaning of Part I of the Gas Act 1986(b);
 - “non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(c);
 - “prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order; and
 - “services” means the pipe and other apparatus installed for each consumer between the distribution mains and the consumer’s gas meter.

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1986 c.44.

(c) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

(2) Any reference in this Order to—

- (a) lands and heritages occupied by the Company includes a reference to lands and heritages which, if unoccupied, are owned by the Company; and
- (b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

Prescribed class of lands and heritages

3. The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland occupied by the Company and used for any of the purposes of production, treatment, transmission, distribution or storage of gas, including plant and equipment installed therein or thereon and, without prejudice to the foregoing generality, gas terminals, gas research stations, pressure reduction stations, governor stations, holder stations, mains, services and radio stations, insofar as any of them is used for any of the foregoing purposes.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91.

Aggregate amount of rateable values for financial year 1990-91

5. For the purposes of section 6(1) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 is hereby prescribed as £31,180,000.

Apportionment of aggregate amount of rateable values

6. For the purposes of section 6(2) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 which is prescribed by article 5 shall be apportioned among the local authorities specified in column 1 of the Schedule to this Order in the amount shown opposite to the name of each such local authority in column 2 of that Schedule.

Amendment of enactments

7. The following amendments shall be made to the enactments specified in articles 8 and 9 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

8. In section 6(1) of the Valuation and Rating (Scotland) Act 1956^(a), after the words “this Act”, there shall be inserted the words “and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975”.

9—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

“(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the British Gas plc. (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as “the 1990 Order”);”.

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words “lands and heritages” the following words:—

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

“(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);”.

^(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:-

“(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable values apportioned by that Order to the local authorities whose areas comprise or form part of the valuation area;”.

(5) In section 2(2)(a) of that Act, after the reference to “subsection (1)(a)”, insert the words “or (gg)”.

(6) In section 3(2) of that Act, after the reference to “2(1)(g)”, insert the words “or (gg)”.

(7) In section 3(4) of that Act, after the words “lands and heritages” where they appear for the first time, there shall be inserted the following:-

“(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)”.

Revocation

10. The British Gas Corporation (Rateable Values) (Scotland) Order 1985(a) is hereby revoked.

St Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1985/198.

SCHEDULE

Article 6

Apportionment of aggregate amount of rateable values of prescribed class of lands
and heritages for financial year 1990-91

(1) Local authority	(2) Apportioned amount
<i>District Councils:-</i>	
Berwickshire	£ 441,709
Ettrick and Lauderdale	285,623
Roxburgh	77,116
Tweeddale	50,914
Clackmannan	164,679
Falkirk	967,268
Stirling	581,985
Annandale and Eskdale	1,393,440
Nithsdale	158,546
Stewartry	25,338
Wigtown	25,286
Dunfermline	515,853
Kirkcaldy	619,931
North East Fife	642,115
Aberdeen City	1,100,463
Banff and Buchan	2,832,867
Gordon	1,595,716
Kincardine and Deeside	1,420,866
Moray	200,418
Caithness	16,066
Inverness	134,878
Nairn	18,193
Ross and Cromarty	5,859
East Lothian	506,436
Edinburgh City	1,695,121
Midlothian	358,014
West Lothian	1,670,477
Argyll and Bute	72,202
Bearsden and Milngavie	148,609
Clydebank	106,223
Clydesdale	894,914
Cumbernauld and Kilsyth	151,717
Cumnock and Doon Valley	40,444
Cunninghame	578,044
Dumbarton	292,618
East Kilbride	283,110
Eastwood	241,707
Glasgow City	2,180,613
Hamilton	386,362
Inverclyde	258,501
Kilmarnock and Loudon	276,065
Kyle and Carrick	345,975
Monklands	992,072
Motherwell	1,000,097
Renfrew	657,092
Strathkelvin	283,823
Angus	2,191,905
Dundee City	646,258
Perth and Kinross	1,639,264
<i>Islands Council</i>	
Western Isles	7,208

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 of certain lands and heritages occupied by British Gas plc. (article 3) ("the prescribed class of lands and heritages").

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for that financial year at £31,180,000 (article 5). It also apportions that aggregate amount among local authorities in accordance with the Schedule to the Order (article 6).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for that financial year (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 7 to 9).

The Order also revokes the British Gas Corporation (Rateable Values) (Scotland) Order 1985 (S.I. 1985/198).

Draft Order laid before Parliament under section 6(7) of the Local Government (Scotland) Act 1975, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The British Gas plc. (Rateable Values) (Scotland) Order
1990**

£1.35 net

ISBN 0 11 005543 8

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0533 C14 3/90 452/4 19593 PS 8350958 (277905)

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The British Waterways Board (Rateable Values)
(Scotland) Order 1990**

Made - - - - - *1990*

Coming into force *1st April 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the British Waterways Board (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1975 Act” means the Local Government (Scotland) Act 1975;

“the Board” means the British Waterways Board;

“clerical work” includes writing, book-keeping, typing, filing, duplicating, sorting papers or information or calculating (whether by manual, mechanical or electronic means), drawing, and the editorial preparation of matter for publication;

“financial year” means the period of twelve months beginning with 1st April;

“non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(b);

“office premises” means any lands and heritages constructed or adapted as offices or for office purposes, or used wholly or mainly for such purposes;

“office purposes” includes the purposes of administration and clerical work and handling money; and

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order.

- (2) Any reference in this Order to—
- (a) lands and heritages occupied by the Board includes a reference to lands and heritages which, if unoccupied, are owned by the Board; and
 - (b) lands and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

Prescribed class of lands and heritages

3.—(1) The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland (other than the lands and heritages mentioned in paragraph (2) below) occupied by the Board and consisting of or comprising—

- (a) waterways (including cuts and culverts, locks, gates, sluices, pumps, feeder conduits and weirs);
- (b) aqueducts, basins, bridges, embankments, reservoirs and tunnels;
- (c) lighthouses, beacons, buoys, breakwaters, boat lifts and other structures designed to aid navigation;
- (d) docks, wharves, piers, jetties, pontoons, moorings, slipways and buildings used for the floating storage of craft;
- (e) dredging and other waste disposal tips; and
- (f) other land, buildings or parts of buildings and structures used for the provision of facilities for traffic by inland waterways or in harbours, or for ancillary purposes.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising—

- (a) a dock or harbour undertaking carried on under authority conferred by or under any enactment;
- (b) premises so let out as to be capable of separate assessment;
- (c) premises used wholly or mainly as a shop, museum, car park, warehouse, place of public refreshment or as a workshop or premises for maintenance or repair or for the hiring or storage of craft;
- (d) premises used wholly or mainly as office premises; or
- (e) premises used wholly or mainly for more than one of the foregoing purposes.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91 or any subsequent financial year.

Aggregate amount of rateable values for financial year 1990-91 and subsequent financial years

5. For the purposes of section 6(1) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 and for each subsequent financial year is hereby prescribed as £12,000.

Apportionment of aggregate amount of rateable values

6. For the purposes of section 6(2) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 and for each subsequent financial year which is prescribed by article 5 shall be apportioned among the local authorities specified in column 1 of the Schedule to this Order in the amount shown opposite to the name of each such local authority in column 2 of that Schedule.

Amendment of enactments

7. The following amendments shall be made to the enactments specified in articles 8 and 9 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91 and for each subsequent financial year.

8. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975".

9.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

"(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the British Waterways Board (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as "the 1990 Order");".

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words "lands and heritages" the following words:—

"(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)".

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

"(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);".

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

"(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable values apportioned by that Order to the local authorities whose areas comprise or form part of the valuation area;".

(5) In section 2(2)(a) of that Act, after the reference to "subsection (1)(a)", insert the words "or (gg)".

(6) In section 3(2) of that Act, after the reference to "2(1)(g)", insert the words "or (gg)".

(7) In section 3(4) of that Act, after the words "lands and heritages" where they appear for the first time, there shall be inserted the following:—

"(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)".

Revocation

10. The British Waterways Board (Rateable Values) (Scotland) Order 1985(b) and the British Waterways Board (Rateable Values) (Scotland) Amendment Order 1988(c) are hereby revoked.

St. Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

(b) S.I. 1985/194.

(c) S.I. 1988/1219.

SCHEDULE

Article 6

Apportionment of aggregate amount of rateable values of prescribed lands and heritages for financial year 1990-91 and each subsequent financial year

(1) Local authority	(2) Apportioned amount
<i>District Councils:-</i>	
Argyll and Bute	£1,913
Bearsden	79
Clydebank	376
Cumbernauld	384
Dumbarton	26
Edinburgh City	610
Falkirk	1,312
Glasgow City	676
Inverness	2,752
Lochaber	2,080
Strathkelvin	774
West Lothian	1,018

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 and subsequent financial years of certain lands and heritages occupied by the British Waterways Board (article 3) ("the prescribed class of lands and heritages").

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for those financial years at £12,000 (article 5). It also apportions that aggregate amount among local authorities in accordance with the Schedule to the Order (article 6).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for those financial years (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 7 to 9).

The Order also revokes the British Waterways Board (Rateable Values) (Scotland) Order 1985 and the British Waterways Board (Rateable Values) (Scotland) Amendment Order 1988 (S.I. 1985/194 and 1988/1219).

90p net

ISBN 0 11 005544 6

DRAFT STATUTORY INSTRUMENTS

1990 No. (S.)

RATING AND VALUATION

**The Caledonian MacBrayne Limited (Rateable Values)
(Scotland) Order 1990**

Made - - - - - 1990
Coming into force 1st April 1990

The Secretary of State, in exercise of the powers conferred on him by sections 6, 35 and 37(1) of the Local Government (Scotland) Act 1975(a) and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities, and of persons carrying on undertakings, as appeared to him to be concerned, and with such local authorities, persons, or associations of persons with whom consultation appeared to him to be desirable, all in accordance with section 6(4) of the said Act, hereby makes the following Order, a draft of which has been laid before and has been approved by resolution of each House of Parliament:

Citation and commencement

1. This Order may be cited as the Caledonian MacBrayne Limited (Rateable Values) (Scotland) Order 1990 and shall come into force on 1st April 1990.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1975 Act” means the Local Government (Scotland) Act 1975;

“associated body” means an associated body of the Company and shall be construed in accordance with paragraph (3) below;

“the Company” means the Company registered at the date of this Order by the name of Caledonian MacBrayne Limited;

“financial year” means the period of twelve months beginning with 1st April;

“non-domestic water rate” shall be construed in accordance with the provisions of section 40 of the Water (Scotland) Act 1980(b);

“operational land”, in relation to the Company, means land which is used for the purposes of carrying on the Company’s undertaking, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used for the purposes of carrying on of statutory undertakings (within the meaning of the Town and Country Planning (Scotland) Act 1972(c));

(a) 1975 c.30; section 6(1) to (7) was substituted by the Local Government (Scotland) Act 1978 (c.4), section 1, and section 6(1) subsequently amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 11 which comes into force on 1st April 1990; section 6(1A) was inserted by the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 18 which also comes into force on 1st April 1990; section 37(1) contains a definition of “prescribed” which is relevant to the exercise of the powers under which this Order is made.

(b) 1980 c.45; section 40 was substituted by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 5, paragraph 29.

(c) 1972 c.52.

“prescribed class of lands and heritages” means the class of lands and heritages prescribed for the purposes of section 6(1) of the 1975 Act in article 3 of this Order; and
“undertaking” means the dock or harbour undertaking carried on, under authority conferred by or under any enactment, by the Company.

(2) Any reference in this Order to—

- (a) lands and heritages occupied by the Company includes a reference to lands and heritages which, if unoccupied, are owned by the Company; and
- (b) land and heritages used for any purpose includes a reference to lands and heritages which are unused but in relation to which it appears that, when next in use, they will be used for such a purpose.

(3) For the purposes of this Order a body shall be treated as an associated body of the Company if—

- (a) it is a body corporate in relation to which the Company directly or indirectly own or control not less than 51 per cent of its issued share capital; or
- (b) it is a body corporate in relation to which the Company and any other associated body or bodies of the Company directly or indirectly own or control not less than 51 per cent of its issued share capital.

Prescribed class of lands and heritages

3.—(1) The following class of lands and heritages is hereby prescribed for the purposes of section 6(1) of the 1975 Act, namely any lands and heritages in Scotland (other than the lands and heritages mentioned in paragraph (2) below) occupied by the Company for the purposes of the undertaking carried on by the Company.

(2) The lands and heritages mentioned in this paragraph are lands and heritages consisting of or comprising—

- (a) a dock or harbour used by the Company exclusively or mainly for the purpose of bringing or receiving goods of any one or more of the following descriptions:—
 - (i) goods which have been manufactured or produced by the Company;
 - (ii) goods which are to be used by the Company for the manufacture or production of goods or electricity;
 - (iii) goods which are to be sold by the Company;
 - (iv) goods which have been manufactured or produced by an associated body, and are to be sold by that body; or
- (b) premises occupied by the Company which are not situated on operational land of the Company.

Non-domestic water rate

4. The non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages in respect of the financial year 1990-91.

Aggregate amount of rateable values for financial year 1990-91

5. For the purposes of section 6(1) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 is hereby prescribed as £69,997.

Apportionment of aggregate amount of rateable values

6. For the purposes of section 6(2) of the 1975 Act, the aggregate amount of the rateable values of the prescribed class of lands and heritages for the financial year 1990-91 which is prescribed by article 5 shall be apportioned among the local authorities specified in column 1 of the Schedule to this Order in the amount shown opposite to the name of each such local authority in column 2 of that Schedule.

Amendment of enactments

7. The following amendments shall be made to the enactments specified in articles 8 and 9 below in their relation to the valuation of the prescribed class of lands and heritages for the financial year 1990-91.

8. In section 6(1) of the Valuation and Rating (Scotland) Act 1956(a), after the words "this Act", there shall be inserted the words "and to any Order made by the Secretary of State under section 6 of the Local Government (Scotland) Act 1975".

9.—(1) Section 2(1)(c) of the 1975 Act shall be amended by inserting at the end the following:—

"(iii) upon their ceasing to be lands and heritages within the class of lands and heritages prescribed in the Caledonian MacBrayne Limited (Rateable Values) (Scotland) Order 1990 (hereinafter referred to as "the 1990 Order");".

(2) Section 2(1)(d) of that Act shall be amended by inserting after the words "lands and heritages" the following words:—

"(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)".

(3) Section 2(1)(f) of that Act shall be amended by inserting at the end the following:—

"(other than an entry relating to lands and heritages within the class of lands and heritages prescribed in the 1990 Order);".

(4) Section 2(1)(g) of that Act shall be amended by adding at the end the following paragraph:—

"(gg) by entering therein any lands and heritages within the class of lands and heritages prescribed in the 1990 Order together with the rateable values apportioned by that Order to the local authorities whose areas comprise or form part of the valuation area;".

(5) In section 2(2)(a) of that Act, after the reference to "subsection (1)(a)", insert the words "or (gg)".

(6) In section 3(2) of that Act, after the reference to "2(1)(g)", insert the words "or (gg)".

(7) In section 3(4) of that Act, after the words "lands and heritages" where they appear for the first time, there shall be inserted the following:—

"(other than lands and heritages within the class of lands and heritages prescribed in the 1990 Order)".

St Andrew's House, Edinburgh
1990

Parliamentary Under Secretary of State,
Scottish Office

(a) 1956 c.60; section 6(1) was amended by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47), Schedule 6 and the Local Government and Housing Act 1989 (c.42), Schedule 6, paragraph 3.

SCHEDULE

Article 6

Apportionment of aggregate amount of rateable values of prescribed class of lands and heritages for financial year 1990-91

(1) Local authority	(2) Apportioned amount
<i>District Councils:-</i>	
Argyll and Bute	£16,783
Cunninghame	£22,597
Inverclyde	£25,235
<i>Islands:-</i>	
Western Isles	£5,382

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the valuation for the financial year 1990-91 of certain lands and heritages occupied by Caledonian MacBrayne Limited (article 3) ("the prescribed class of lands and heritages").

The Order prescribes the aggregate amount of the rateable values of the prescribed class of lands and heritages for that financial year at £69,997 (article 5). It also apportions that aggregate amount among local authorities in accordance with the Schedule to the Order (article 6).

The Order provides that the non-domestic water rate shall not be leviable in respect of the prescribed class of lands and heritages for that financial year (article 4).

The Order amends certain enactments relating to the valuation of the prescribed class of lands and heritages (articles 7 to 9).

90p net

ISBN 0 11 005538 1

STATUTORY INSTRUMENTS

1990 No. (S.)

LOCAL GOVERNMENT, SCOTLAND

The Rate Support Grant (Scotland) Order 1990

Made - - - - 26th February 1990

Laid before the House of
Commons 27th February 1990

Coming into force 1990

The Secretary of State, in exercise of the powers conferred upon him by the enactments set out in Schedule 1 to this Order and of all other powers enabling him in that behalf, and after consultation with such associations of local authorities as appear to him to be concerned and with the consent of the Treasury, hereby makes the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Rate Support Grant (Scotland) Order 1990 and shall come into force on the day after the day on which it is approved by a resolution of the House of Commons.

(2) In this Order—

“the 1966 Act” means the Local Government (Scotland) Act 1966(a);

“the 1973 Act” means the Local Government (Scotland) Act 1973(b);

“the 1975 Act” means the Local Government (Scotland) Act 1975(c);

“the 1982 Act” means the Local Government and Planning (Scotland) Act 1982(d);

“the 1984 Act” means the Rating and Valuation (Amendment) (Scotland) Act 1984(e);

“the 1987 (No. 3) Order” means the Rate Support Grant (Scotland) (No. 3) Order 1987(f); and

“the 1989 Order” means the Rate Support Grant (Scotland) Order 1989(g)

Redetermined estimated aggregate grants for 1988-89

2. The estimated aggregate amount of the rate support grants for the year 1988-89 (which was fixed as £1,967,474,316 by article 2 of the 1989 Order), as redetermined in accordance with the provisions of section 2(2) of the 1966 Act, is hereby fixed and prescribed as £1,997,684,313.

(a) 1966 c.51.
(b) 1973 c.65.
(c) 1975 c.30.
(d) 1982 c.43.
(e) 1984 c.31.
(f) S.I. 1987/2279.
(g) S.I. 1989/1234.

Variation of needs element for 1988-89 and its apportionment

3. The amount of the needs element for the year 1988-89, which was varied to £1,659,774,316 by article 3 of the 1989 Order, is hereby further varied to £1,689,984,313.

4. After deduction of the amounts of needs element for the year 1988-89 apportioned to local authorities under article 3(1) of, and Schedule 2 to, the 1987 (No. 3) Order (grant totalling £3,200,000 for rate relief given to certain recreational clubs), there shall be apportioned to each local authority set out in column 1 of the table in Schedule 2 to this Order the amount of the remaining part of the needs element for the year 1988-89 set out in column 2 of that table opposite to the name of that authority.

Redetermined estimated aggregate grants for 1987-88

5. The estimated aggregate amount of the rate support grants for the year 1987-88 (which was fixed as £1,796,574,459 by article 5 of the 1989 Order), as redetermined in accordance with the provisions of section 2(2) of the 1966 Act, is hereby fixed and prescribed as £1,796,439,198.

Variation of needs element for 1987-88 and its apportionment

6. The amount of the needs element for the year 1987-88, which was varied to £1,509,574,459 by article 6 of the 1989 Order, is hereby further varied to £1,509,439,198.

7. There shall be apportioned to each local authority set out in column 1 of the table in Schedule 3 to this Order the amount of the needs element for the year 1987-88 set out in column 2 of that table opposite to the name of that authority.

Redetermined estimated aggregate grants for 1986-87

8. The estimated aggregate amount of the rate support grants for the year 1986-87 (which was fixed as £1,656,386,123 by article 8 of the 1989 Order), as redetermined in accordance with the provisions of section 2(2) of the 1966 Act, is hereby fixed and prescribed as £1,656,246,401.

Variation of needs element for 1986-87 and its apportionment

9. The amount of the needs element for the year 1986-87, which was varied to £1,380,886,123 by article 9 of the 1989 Order, is hereby further varied to £1,380,746,401.

10. There shall be apportioned to each local authority set out in column 1 of the table in Schedule 4 to this Order the amount of the needs element for the year 1986-87 set out in column 2 of that table opposite to the name of that authority.

Revocation

11. There are hereby revoked the following provisions of the 1989 Order—
- (a) article 4 and Schedule 2 (apportionment of remaining part of needs element for 1988-89);
 - (b) article 7 and Schedule 3 (apportionment of needs element for 1987-88); and
 - (c) article 10 and Schedule 4 (apportionment of needs element for 1986-87).

St. Andrew's House, Edinburgh
22nd February 1990

Malcolm Rifkind
One of Her Majesty's Principal
Secretaries of State

We consent,

26th February 1990

Stephen Dorrell
David Lightbown
Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

<i>Column 1</i> <i>Relevant enactment</i> <i>conferring power</i>	<i>Column 2</i> <i>Relevant amending</i> <i>enactment</i>	<i>Column 3</i> <i>Relevant provision</i> <i>of this Order</i>
Section 3 of the 1966 Act.	Section 120(1)(a) of the 1973 Act. Paragraph 2 of Schedule 2 to the 1975 Act. Paragraph 6 of Schedule 3 to the 1982 Act.	Articles 2, 5 and 8.
Sections 4 and 45(2) of the 1966 Act.	Section 3 of, and paragraph 7 of Schedule 3 to, the 1982 Act.	Articles 3, 6, 9, and 11.
Paragraph 3, as read with paragraph 3A, of Part I of Schedule 1 to the 1966 Act.	Paragraph 5(b) of Schedule 2 to the 1975 Act. Section 1(1) of the 1984 Act.	Articles 4, 7 and 10.

SCHEDULE 2

Article 4

APPORTIONMENT OF REMAINING PART OF NEEDS ELEMENT 1988-89

Column 1 <i>Authority</i>	Column 2 <i>Amount</i> £
<i>Regional Councils</i>	
Borders	34,805,055
Central	70,305,038
Dumfries and Galloway	46,132,434
Fife	99,334,891
Grampian	149,630,376
Highland	88,074,796
Lothian	171,089,492
Strathclyde	742,973,621
Tayside	115,463,049
<i>District Councils</i>	
Berwickshire	222,388
Ettrick and Lauderdale	398,339
Roxburgh	923,063
Tweeddale	173,564
Clackmannan	571,267
Falkirk	1,815,514
Stirling	0
Annandale and Eskdale	430,047
Nithsdale	683,455
Stewartry	275,841
Wigtown	363,698
Dunfermline	1,544,632
Kirkcaldy	2,031,657
North East Fife	758,721
Aberdeen City	4,347,741
Banff and Buchan	997,062
Gordon	839,249
Kincardine and Deeside	559,420
Moray	1,016,473
Badenoch and Strathspey	124,930
Caithness	497,510
Inverness	703,531
Lochaber	295,427
Nairn	128,778
Ross and Cromarty	1,069,752
Skye and Lochalsh	246,853
Sutherland	422,102
East Lothian	982,692
Edinburgh City	13,579,437
Midlothian	974,008
West Lothian	1,696,999
Argyll and Bute	2,736,179
Bearsden and Milngavie	581,547
Clydebank	3,198,046
Clydesdale	400,830

Column 1	Column 2
<i>Authority</i>	<i>Amount</i>
	£
Cumbernauld and Kilsyth	606,092
Cumnock and Doon Valley	877,066
Cunninghame	2,108,690
Dumbarton	889,099
East Kilbride	979,688
Eastwood	664,063
Glasgow City	46,777,906
Hamilton	1,286,925
Inverclyde	2,551,436
Kilmarnock and Loudoun	1,049,495
Kyle and Carrick	694,302
Monklands	2,569,379
Motherwell	2,535,751
Renfrew	4,836,079
Strathkelvin	1,003,743
Angus	1,128,054
Dundee City	5,971,292
Perth and Kinross	1,463,638
<i>Islands Councils</i>	
Orkney	10,172,399
Shetland	11,723,274
Western Isles	23,496,438

SCHEDULE 3

Article 7

APPORTIONMENT OF NEEDS ELEMENT 1987-88

Column 1 <i>Authority</i>	Column 2 <i>Amount</i> £
<i>Regional Councils</i>	
Borders	32,019,330
Central	67,905,065
Dumfries and Galloway	44,062,290
Fife	74,011,483
Grampian	136,710,042
Highland	79,732,620
Lothian	162,105,482
Strathclyde	657,423,859
Tayside	102,773,813
<i>District Councils</i>	
Berwickshire	199,889
Ettrick and Lauderdale	373,018
Roxburgh	874,561
Tweeddale	164,888
Clackmannan	0
Falkirk	1,615,467
Stirling	0
Annandale and Eskdale	280,507
Nithsdale	649,168
Stewartry	261,232
Wigtown	332,504
Dunfermline	1,466,223
Kirkcaldy	1,921,516
North East Fife	582,019
Aberdeen City	2,440,520
Banff and Buchan	939,713
Gordon	793,970
Kincardine and Deeside	531,904
Moray	960,378
Badenoch and Strathspey	118,125
Caithness	459,375
Inverness	664,472
Lochaber	261,721
Nairn	115,071
Ross and Cromarty	999,758
Skye and Lochalsh	223,881
Sutherland	397,867
East Lothian	907,117
Edinburgh City	12,473,104
Midlothian	912,460
West Lothian	1,600,730
Argyll and Bute	2,580,941
Bearsden and Milngavie	548,180
Clydebank	3,034,044
Clydesdale	655,933

Column 1	Column 2
<i>Authority</i>	<i>Amount</i>
	£
Cumbernauld and Kilsyth	664,164
Cumnock and Doon Valley	889,034
Cunninghame	1,183,367
Dumbarton	873,324
East Kilbride	930,090
Eastwood	631,522
Glasgow City	40,893,573
Hamilton	1,211,428
Inverclyde	2,398,304
Kilmarnock and Loudoun	990,858
Kyle and Carrick	1,049,155
Monklands	2,435,557
Motherwell	2,312,567
Renfrew	4,337,435
Strathkelvin	831,189
Angus	1,068,667
Dundee City	5,642,682
Perth and Kinross	1,369,344
<i>Islands Councils</i>	
Orkney	9,242,635
Shetland	10,839,602
Western Isles	22,560,461

SCHEDULE 4

Article 10

APPORTIONMENT OF NEEDS ELEMENT 1986-87

Column 1 <i>Authority</i>	Column 2 <i>Amount</i> £
<i>Regional Councils</i>	
Borders	29,312,460
Central	62,898,821
Dumfries and Galloway	40,253,188
Fife	78,335,446
Grampian	126,134,289
Highland	75,919,444
Lothian	146,585,294
Strathclyde	590,482,714
Tayside	97,265,065
<i>District Councils</i>	
Berwickshire	195,102
Ettrick and Lauderdale	354,197
Roxburgh	868,256
Tweeddale	154,899
Clackmannan	515,272
Falkirk	1,536,142
Stirling	0
Annandale and Eskdale	385,314
Nithsdale	617,009
Stewartry	247,486
Wigtown	323,058
Dunfermline	1,393,986
Kirkcaldy	1,914,137
North East Fife	704,828
Aberdeen City	2,733,534
Banff and Buchan	893,015
Gordon	737,830
Kincardine and Deeside	412,066
Moray	797,546
Badenoch and Strathspey	109,680
Caithness	453,505
Inverness	627,653
Lochaber	277,710
Nairn	108,435
Ross and Cromarty	996,806
Skye and Lochalsh	229,325
Sutherland	396,902
East Lothian	859,349
Edinburgh City	6,253,718
Midlothian	559,235
West Lothian	1,273,946
Argyll and Bute	2,577,882
Bearsden and Milngavie	545,056
Clydebank	2,708,905
Clydesdale	596,637

Column 1	Column 2
<i>Authority</i>	<i>Amount</i>
	£
Cumbernauld and Kilsyth	637,696
Cumnock and Doon Valley	856,160
Cunninghame	1,681,619
Dumbarton	889,413
East Kilbride	891,977
Eastwood	596,329
Glasgow City	33,752,848
Hamilton	1,156,928
Inverclyde	2,373,476
Kilmarnock and Loudoun	985,256
Kyle and Carrick	1,192,981
Monklands	2,250,690
Motherwell	2,302,054
Renfrew	3,854,864
Strathkelvin	1,041,011
Angus	1,012,095
Dundee City	5,006,476
Perth and Kinross	1,289,729
<i>Islands Councils</i>	
Orkney	7,592,059
Shetland	10,032,447
Western Isles	20,805,151

EXPLANATORY NOTE

(This note is not part of the Order)

This Order—

- (a) In relation to the year 1988-89—
 - (i) redetermines the estimated aggregate amount of the rate support grants as £1,997,684,313 (previously it was £1,967,474,316) (article 2);
 - (ii) varies the amount of the needs element from £1,659,774,316 to £1,689,984,313 (article 3);
 - (iii) apportions part of the needs element as varied to each local authority (article 4 and Schedule 2); and
 - (iv) revokes article 4 of, and Schedule 2 to, the Rate Support Grant (Scotland) Order 1989 (article 11).
- (b) In relation to the year 1987-88—
 - (i) redetermines the estimated aggregate amount of the rate support grants as £1,796,439,198 (previously it was £1,796,574,459) (article 5);
 - (ii) varies the amount of the needs element from £1,509,574,459 to £1,509,439,198 (article 6);
 - (iii) apportions the needs element as varied to each local authority (article 7 and Schedule 3); and
 - (iv) revokes article 7 of, and Schedule 3 to, the Rate Support Grant (Scotland) Order 1989 (article 11).
- (c) In relation to the year 1986-87—
 - (i) redetermines the estimated aggregate amount of the rate support grants as £1,656,246,401 (previously it was £1,656,386,123) (article 8);
 - (ii) varies the amount of the needs element from £1,380,886,123 to £1,380,746,401 (article 9);
 - (iii) apportions the needs element as varied to each local authority (article 10 and Schedule 4); and
 - (iv) revokes article 10 of, and Schedule 4 to, the Rate Support Grant (Scotland) Order 1989 (article 11).

£1.95 net

ISBN 0 11 005529 2

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 0430 C11 3/90 452/4 19593 PS 8350958 (277709)

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

REPRESENTATION OF THE PEOPLE

REDISTRIBUTION OF SEATS

**Parliamentary Constituencies (England) (Miscellaneous
Changes) Order 1990**

Made - - - - - 1990

Coming into force in accordance with article 1(2) and (3)

At the Court at _____, the _____ day of _____ 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas in pursuance of section 3(3) of the Parliamentary Constituencies Act 1986^(a) the Boundary Commission for England have submitted to the Secretary of State a report dated 28th February 1990 with respect to the areas comprised in certain constituencies in England and showing the constituencies into which they recommend, in accordance with the Parliamentary Constituencies Act 1986, that the areas should be divided;

And whereas the Secretary of State has laid that report before Parliament together with the draft of this Order in Council to give effect to the recommendations contained in the report and each House of Parliament has by resolution approved the said draft;

Now, therefore, Her Majesty, in pursuance of section 4 of the Parliamentary Constituencies Act 1986, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Parliamentary Constituencies (England) (Miscellaneous Changes) Order 1990.

(2) Subject to section 4(6) of the Parliamentary Constituencies Act 1986, this Order shall come into force on the fourteenth day after the day on which it is made.

2. For the county constituencies of Buckingham and Milton Keynes as constituted by the Schedule to the Parliamentary Constituencies (England) Order 1983^(b), there shall be substituted the constituencies which are named in the Schedule to this Order and comprise the areas set out in that Schedule, which areas are local government areas as they existed on 28th February 1990.

^(a) 1986 c.56.

^(b) S.I. 1983/417.

3. Each electoral registration officer shall make such re-arrangement or adaptation of the registers of parliamentary electors as may be necessary to give effect to this Order.

Clerk of the Privy Council

SCHEDULE

NEW CONSTITUENCIES

Buckingham (*county constituency*)

The following wards of the district of Aylesbury Vale, namely, Bierton, Brill, Buckingham North, Buckingham South, Cheddington, Eddlesborough, Great Brickhill, Great Horwood, Grendon Underwood, Haddenham, Hogshaw, Long Crendon, Luffield Abbey, Marsh Gibbon, Newton Longville, Oakley, Pitstone, Quainton, Steeple Claydon, Stewkley, Stone, Tingewick, Waddesdon, Wing, Wingrave and Winslow.

Milton Keynes South West (*borough constituency*)

The following wards of the Borough of Milton Keynes, namely, Church Green, Denbigh, Eaton, Fenny Stratford, Loughton, Manor Farm, Newton, Stony Stratford, Whaddon, Wolverton, Wolverton Stacey Bushes and Woughton.

North East Milton Keynes (*county constituency*)

The following wards of the Borough of Milton Keynes, namely, Bradwell, Danesborough, Lavendon, Linford, Newport Pagnell, Olney, Pineham, Sherington, Stantonbury and Woburn Sands.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect without modification to the recommendations contained in the report of the Boundary Commission for England dated 28th February 1990. The report contains proposals to substitute the three parliamentary constituencies described in the Schedule to the Order for the two existing constituencies of Buckingham and Milton Keynes. By virtue of section 4(6) of the Parliamentary Constituencies Act 1986 the coming into force of this Order does not affect any parliamentary election until a proclamation is issued by Her Majesty summoning a new Parliament.

55p net

ISBN 0 11 005549 7

Printed in the United Kingdom for HMSO

790/WO 0799 C10 4/90 452/1 9385/8951/7117 88352

Supersedes draft published on 4th April 1990

Draft Order in Council laid before Parliament under section 26(5) of the Drug Trafficking Offences Act 1986, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1990 No.

CRIMINAL LAW (ENGLAND AND WALES)

Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990

<i>Made</i>	- - - -	1990
<i>Coming into force</i>	-	1990

At the Court at Buckingham Palace, the day of 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 26 of the Drug Trafficking Offences Act 1986(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Title, Commencement and Extent

1.—(1) This Order may be cited as the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990 and shall come into force on the fourteenth day following the date of making this Order.

(2) This Order extends to England and Wales only.

Interpretation

2. In this Order—

“the Act” means the Drug Trafficking Offences Act 1986;

“designated country” means a country or territory designated under article 3(1) of this Order;

“appropriate authority of a designated country” means an authority specified opposite that country in Schedule 1 to this Order;

“a court of a designated country” includes a court of any state or territory of a designated country.

Designation of and application of the Act to countries and territories

3.—(1) Each of the countries and territories specified in Schedule 1 to this Order is hereby designated for the purposes of sections 26 and 26A of the Act.

(a) 1986 c.32, amended by the Criminal Justice (Scotland) Act 1987 (c.41), section 70 and Schedule 2, the Criminal Justice Act 1988 (c.33), section 103 and Schedule 5, and the Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4), section 25(1) and Schedule 8.

(2) In relation to a designated country, the Act shall apply, subject to the modifications specified in Schedule 2 to this Order, to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there, and, accordingly, in relation to such orders and such proceedings, the Act shall have effect as set out in Schedule 3 to this Order.

Proof of orders and judgement of court in a designated country

4.—(1) For the purposes of sections 26 and 26A of the Act, and of the other provisions of the Act as applied under article 3(2) of this Order—

- (a) any order made or judgment given by a court in a designated country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person; and
- (b) a document, duly authenticated, which purports to be a copy of any order made or judgment given by a court in a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court in a designated country is duly authenticated for the purpose of paragraph (1)(b) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by or on behalf of the appropriate authority of the designated country.

Evidence in relation to proceedings and orders in a designated country

5.—(1) For the purposes of sections 26 and 26A of the Act, and of the other provisions of the Act as applied under article 3(2) of this Order, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating

- (a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, there;
- (b) that an external confiscation order is in force and is not subject to appeal;
- (c) that all or a certain amount of the sum payable under an external confiscation order remains unpaid in the designated country, or that other property recoverable under an external confiscation order remains unrecovered there;
- (d) that any person has been notified of any proceedings in accordance with the law of the designated country; or
- (e) that an order (however described) made by a court of the designated country has the purpose of recovering payments or other rewards received in connection with drug trafficking or their value,

shall, in any proceedings in the High Court, be admissible as evidence of the facts so stated.

(2) In any such proceedings a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court in a designated country, shall be admissible as evidence of any fact stated therein.

(3) A document is duly authenticated for the purposes of paragraph (2) above if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in the designated country, or by or on behalf of the appropriate authority of the designated country, to have been received in evidence or to be a copy of a document so received, or, as the case may be, to be the original document containing or summarising the evidence or a true copy of that document.

(5) Nothing in this article shall prejudice the admission of any evidence, whether contained in any document or otherwise, which is admissible apart from this article.

Representation of government of a designated country

6. A request for assistance sent to the Secretary of State by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Crown Prosecution Service or the

Commissioners of Customs and Excise to act on its behalf in any proceedings in the High Court under section 26A of the Act or any other provision of the Act as applied by article 3(2) of this Order.

Satisfaction of confiscation order in a designated country

7.—(1) Where—

- (a) a confiscation order has been made under section 1 of the Act; and
- (b) a request has been sent by the Secretary of State to the appropriate authority of a designated country for assistance in enforcing that order; and
- (c) in execution of that request property is recovered in that country,

the amount payable under the confiscation order shall be treated as reduced by the value of the property so recovered.

(2) For the purposes of this article, and without prejudice to the admissibility of any evidence which may be admissible apart from this paragraph, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating that property has been recovered there in execution of a request by the Secretary of State, stating the value of the property so recovered and the date on which it was recovered shall, in any proceedings in a court in England and Wales, be admissible as evidence of the facts so stated.

Currency conversion

8.—(1) Where the value of property recovered as described in article 7(1) of this Order is expressed in a currency other than that of the United Kingdom, the extent to which the amount payable under the confiscation order is to be reduced under that paragraph shall be calculated on the basis of the exchange rate prevailing on the date on which the property was recovered in the designated country concerned.

(2) Where an amount of money payable or remaining to be paid under an external confiscation order registered in the High Court under section 26A of the Act is expressed in a currency other than that of the United Kingdom, for the purpose of any action taken in relation to that order under the Act as applied under article 3(2) of this Order the amount shall be converted into the currency of the United Kingdom on the basis of the exchange rate prevailing on the date of registration of the order.

(3) For the purposes of this article a written certificate purporting to be signed by any person acting in his capacity as an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be admissible as evidence of the facts so stated.

Revocation

9. The Drug Trafficking Offences Act 1986 (United States of America) Order 1989(a) is hereby revoked.

Clerk of the Privy Council

SCHEDULE 1

<i>Designated country</i>	<i>Appropriate authority</i>
Anguilla	the Attorney-General of Anguilla
Australia	the Attorney-General's Department
the Bahamas	the Attorney-General of the Bahamas

(a) S.I. 1989/485.

SCHEDULE 1 – *continued*

<i>Designated country</i>	<i>Appropriate authority</i>
Bermuda	the Attorney-General of Bermuda
Canada	the Minister of Justice or officials designated by that Minister
Gibraltar	the Attorney-General of Gibraltar
Guernsey	Her Majesty's Attorney-General for the Bailiwick of Guernsey
Isle of Man	Her Majesty's Attorney-General for the Isle of Man
Jersey	Her Majesty's Attorney-General for the Bailiwick of Jersey
Malaysia	the Inspector-General of Police, Malaysia
Nigeria	the Attorney-General of the Federation of the Republic of Nigeria
Spain	the Ministerio de Justicia, Madrid
Sweden	the Ministry for Foreign Affairs
Switzerland	the Eidgenössisches Justiz-und Polizeidepartement
United Mexican States	the Office of the Attorney General
United States of America	the Attorney-General of the United States of America

SCHEDULE 2

Article 3(2)

MODIFICATIONS OF THE DRUG TRAFFICKING OFFENCES ACT 1986

1. For section 1 there shall be substituted the following section:

“External confiscation orders

1.—(1) An order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value is referred to in this Act as an “external confiscation order”.

(2) In subsection (1) above the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.

(3) A person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are to be, instituted in a court in a designated country, is referred to in this Act as “the defendant”.

2. Sections 2 to 4 shall be omitted.

3. In section 5—

- (a) for subsection (1) there shall be substituted the following subsection:

“(1) In this Act “realisable property” means, subject to subsection (2) below—

(a) in relation to an external confiscation order made in respect of specified property, the property which is specified in the order; and

(b) in any other case—

(i) any property held by the defendant; and

(ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.”;

- (b) subsections (3), (7) and (8) shall be omitted; and

- (c) in subsection (9) for the words “section 1 of this Act” there shall be substituted the words “the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990”.

4. Section 6 shall be omitted.

5. In section 7—

- (a) for subsection (1)(a) there shall be substituted:

“(a) proceedings have been instituted against the defendant in a designated country,”;

- (b) for subsection (1)(c) there shall be substituted:

- “(c) either an external confiscation order has been made in the proceedings or it appears to the High Court that there are reasonable grounds for believing that such an order may be made in them”;
- (c) for subsection (2) there shall be substituted the following subsection:
 “(2) Those powers are also exercisable where it appears to the High Court that proceedings are to be instituted against the defendant in a designated country and that there are reasonable grounds for believing that an external confiscation order may be made in them.”
- (d) subsection (3) shall be omitted; and
- (e) in subsection (4), for the words from “proceedings” to “otherwise)”, there shall be substituted the words “the proposed proceedings are not instituted”.
6. In section 8—
- (a) for subsection (2)(a) and (b) there shall be substituted:
 “(a) where an application under subsection (4) below relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and
 (b) in any other case—
 (i) to all realisable property held by a specified person, whether the property is described in the restraint order or not, and
 (ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint order.”;
- (b) in subsection (4)(a) for the words “the prosecutor” there shall be substituted the words “or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise”, and for paragraph (c) of that subsection there shall be substituted the following paragraph:
 “(c) notwithstanding anything in Order 11 of the Rules of the Supreme Court(a), may provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct”.
- (c) for subsection (5)(b) there shall be substituted:
 “(b) shall be discharged when the proceedings in relation to which the order was made are concluded.”;
- (d) in subsection (7)(b) and in subsection (8) for the words “Great Britain” there shall be substituted the words “England and Wales”;
- (e) in subsection (11), for the words “The prosecutor” there shall be substituted the words “A person applying for a restraint order under subsection (4)(a) above”.
7. In section 9—
- (a) for subsection (1)(a) and (b) there shall be substituted the following:
 “(a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable, and
 (b) in any other case, of an amount equal to the value from time to time of the property charged.”;
- (b) in subsection (3)(a) for the words “the prosecutor” there shall be substituted the words “or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor, or a person authorised in that behalf by the Commissioners of Customs and Excise”, and for paragraph (c) of that subsection, there shall be substituted the following paragraph:
 “(c) notwithstanding anything in Order 11 of the Rules of the Supreme Court, shall provide for service on, or the provision of notice to persons affected by the order in such manner as the High Court may direct”; and
- (c) in subsection (7) for the words “for the offence” there shall be substituted the words “against the defendant in the designated country”.
8. In section 10, subsection (6) shall be omitted.
9. After section 10 there shall be inserted the following section:

“Applications for restraint and charging orders

10A. Notwithstanding anything in rule 3(2) of Order 115 of the Rules of the Supreme Court 1965(a), an application under section 8(4) or 9(3) of this Act shall be supported by an affidavit which shall—

- (a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;
- (b) to the best of the deponent’s ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
- (c) in a case to which section 7(2) of this Act applies, indicate when it is intended that proceedings should be instituted in the designated country concerned,

and the affidavit may, unless the court otherwise directs, contain statements of information or belief with the sources and grounds thereof.”.

10. In section 11, for subsection (1) there shall be substituted the following two subsections:

“(1) Where an external confiscation order has been registered in the High Court under section 26A of this Act, the High Court may, on the application of a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise, exercise the powers conferred by subsections (1A) to (6) below.

(1A) In respect of any sum of money payable under the external confiscation order the court may make a garnishee order as if the sum were due to the Crown in pursuance of a judgment or order of the High Court, but any such order shall direct that the sum payable be paid to the High Court.”.

11. In section 12—

- (a) in subsection (1), for the words from “sums”, in the last place where it occurs, to the end of the subsection, there shall be substituted the words: “be paid to the High Court and applied for the purposes specified in subsections (3) to (6) below and in the order so specified.”;
- (b) in subsection (2), for the words “If, after the amount payable under the confiscation order”, there shall be substituted the words “Where a fixed amount is payable under the external confiscation order and, after that amount”;
- (c) subsection (3) shall be omitted;
- (d) in subsection (4), for the words “The justices’ clerk shall first”, there shall be substituted the words “Any sums paid to the High Court under subsection (1) above or under an order made under section 11(1A) of this Act or otherwise in satisfaction of an external confiscation order shall be first applied to”;
- (e) for subsection (5) there shall be substituted the following subsection—

“(5) If the money was paid to the High Court by a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order the receiver’s remuneration and expenses shall next be paid.”;
- (f) in subsection (6), for the words “After making” there shall be substituted the words “After there has been made”, and for the words “the justices’ clerk shall reimburse any amount paid under section 18(2) of this Act” there shall be substituted the words, “any amount paid under section 18(2) of this Act shall be reimbursed.”; and
- (g) for subsection (7) there shall be substituted the following subsection—

“(7) Any sums remaining after all the payments required to be made under the foregoing provisions of this section have been made shall be paid into the Consolidated Fund.”.

12. In section 13—

- (a) in subsection (2), for the words from “making available” to the end of the subsection there shall be substituted the words “recovering property which is liable to be recovered under an external confiscation order registered in the High Court under section 26A of this Act or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under any external confiscation order which may be made in the defendant’s case.”; and
- (b) in subsection (6), after the word “the” in the fourth place where it occurs, there shall be inserted the word “external”.

(a) Order 115 was inserted by R.S.C. (Amendment No. 3) 1986 (S.I. 1986/2289), and amended by R.S.C. (Amendment No. 2) 1989 (S.I. 1989/386).

13. Section 14 shall be omitted.

14. In section 15-

- (a) in subsection (6)(a), the words "proceedings for a drug trafficking offence have been instituted against him and have not been concluded or when" shall be omitted;
- (b) in subsection (6)(b), for the words "conclusion of the proceedings" there shall be substituted the words "discharge of the restraint or charging order"; and
- (c) for subsection (7) there shall be substituted the following subsection:

"In any case in which a petition in bankruptcy was presented, or a receiving order or an adjudication in bankruptcy was made, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force), subsection (2) above shall have effect as if-

- (a) for the reference to the bankrupt's estate for the purposes of Part IX of the Insolvency Act 1986 there were substituted a reference to the property of the bankrupt for the purposes of the Bankruptcy Act 1914(a);
- (b) for the reference to section 280(2)(c) of the Act of 1986 there were substituted a reference to section 26(2) of that Act; and
- (c) subsection (2)(b) were omitted."

15. In section 16-

- (a) in subsection (6)(a), the words "proceedings for a drug trafficking offence have been instituted against him and have not been concluded or when" shall be omitted; and
- (b) in subsection (6)(b), for the words "conclusion of the proceedings" there shall be substituted the words "discharge of the restraint or charging order".

16. In subsection (6) of section 17, the word "has" shall be omitted in the first place where it occurs, and for the words "the date on which the Insolvency Act 1986 comes into force" there shall be substituted the words "29th December 1986 (the date on which the Insolvency Act 1986 came into force)".

17. In subsection (2) of section 17A, the words "or (3)(za)" shall be omitted.

18. In subsection (2) of section 18, for the words "12(3B)" there shall be substituted the words "12(5)", and the words "by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted," shall be omitted.

19. Section 19, and sections 24 to 26 shall be omitted.

20. Sections 27 to 32 shall be omitted.

21. In section 33-

- (a) in subsection (1), the words "(2) or", and
- (b) subsections (2) and (3) shall be omitted.

22. Sections 34 to 37 shall be omitted.

23. In section 38-

- (a) in subsection (1)-the definitions of "authorised government department" and "drug trafficking offence" shall be omitted;
- (b) in subsection (2) in the list of expressions and relevant provisions the entries for "Benefited from drug trafficking", "Proceeds of drug trafficking" and "Value of proceeds of drug trafficking" shall be omitted, and for the words "Confiscation order" there shall be substituted the words "External confiscation order";
- (c) subsection (4) shall be omitted;
- (d) at the end of subsection (5) the fullstop shall be omitted and there shall be added the words ", and whether received before or after the commencement of the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990 and whether received in connection with drug trafficking carried on by the recipient or some other person.";
- (e) for subsection (11), there shall be substituted the following:

"(11) Proceedings are instituted in a designated country when-

- (a) under the law of the designated country concerned one of the steps specified in relation to that country in column 2 of the Appendix hereto

has been taken there in respect of alleged drug trafficking by the defendant; or

- (b) an application has been made to a court in a designated country for an external confiscation order,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.”

- (f) in subsection (12)(b), for the words from “payment” to the end of the subsection there shall be substituted the words “the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise.”; and

24. In section 39—

- (a) in subsection (1) before “confiscation” there shall be inserted the word “external”,
(b) subsections (2) to (4) shall be omitted, and
(c) in subsections (5) and (6), for the words “confiscation” in each place where they occur, there shall be substituted the words “an external confiscation”.

25. After section 39 there shall be inserted the Appendix set out at the end of Schedule 3 to this Order.

26. Section 40 shall be omitted.

SCHEDULE 3

Article 3(2)

THE DRUG TRAFFICKING OFFENCES ACT 1986 AS MODIFIED

External confiscation orders

1.—(1) An order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value is referred to in this Act as an “external confiscation order”.

(2) In subsection (1) above the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.

(3) A person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are to be, instituted in a court in a designated country, is referred to in this Act as “the defendant”.

Definition of principal terms used

5.—(1) In this Act “realisable property” means, subject to subsection (2) below—

- (a) in relation to an external confiscation order made in respect of specified property, the property which is specified in the order; and
(b) in any other case—
(i) any property held by the defendant; and
(ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.

(2) Property is not realisable property if—

- (a) an order under section 43 of the Powers of Criminal Courts Act 1973(a) (deprivation orders),
(b) an order under section 27 of the Misuse of Drugs Act 1971(b) (forfeiture orders),
(c) an order under section 223 or 436 of the Criminal Procedure (Scotland) Act 1975(c) (forfeiture of property), or
(d) an order under section 13(2), (3) or (4) of the Prevention of Terrorism (Temporary Provisions) Act 1989(d) (forfeiture orders)

is in force in respect of the property.

(a) 1973 c.62. Section 43 was amended by the Criminal Justice Act 1988, s.69.

(b) 1971 c.38.

(c) 1975 c.21.

(d) 1989 c.4.

(4) Subject to the following provisions of this section, for the purposes of this Act the value of property (other than cash) in relation to any person holding the property—

- (a) where any other person holds an interest in the property, is—
 - (i) the market value of the first mentioned person's beneficial interest in the property, less
 - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest, and
- (b) in any other case, is its market value.

(5) Subject to subsection (10) below, references in this Act to the value at any time (referred to in subsection (6) below as "the material time") of a gift caught by this Act or of any payment or reward are references to—

- (a) the value of the gift, payment or reward to the recipient when he received it adjusted to take account of subsequent changes in the value of money, or
- (b) where subsection (6) below applies, the value there mentioned, whichever is the greater.

(6) Subject to subsection (10) below, if at the material time the recipient holds—

- (a) the property which he received (not being cash), or
- (b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (5)(b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding in either case any charging order.

(9) A gift (including a gift made before the commencement of the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990) is caught by this Act if—

- (a) it was made by the defendant at any time since the beginning of the period of six years ending when the proceedings were instituted against him, or
- (b) it was made by the defendant at any time and was a gift of property—
 - (i) received by the defendant in connection with drug trafficking carried on by him or another, or
 - (ii) which in whole or part directly or indirectly represented in the defendant's hands property received by him in that connection.

(10) For the purposes of this Act—

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant, and
- (b) in those circumstances, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

Cases in which restraint orders and charging orders may be made

7.—(1) The powers conferred on the High Court by sections 8(1) and 9(1) of this Act are exercisable where—

- (a) proceedings have been instituted against the defendant in a designated country,
- (b) the proceedings have not been concluded, and
- (c) either an external confiscation order has been made in the proceedings or it appears to the High Court that there are reasonable grounds for believing that such an order may be made in them.

(2) Those powers are also exercisable where it appears to the High Court that proceedings are to be instituted against the defendant in a designated country and that there are reasonable grounds for believing that an external confiscation order may be made in them.

(4) Where the court has made an order under section 8(1) or 9(1) of this Act by virtue of subsection (2) above, the court shall discharge the order if the proposed proceedings are not instituted within such time as the court considers reasonable.

Restraint orders

8.—(1) The High Court may by order (in this Act referred to as a "restraint order") prohibit any

person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply—

- (a) where an application under subsection (4) below relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and
- (b) in any other case—
 - (i) to all realisable property held by a specified person, whether the property is described in the restraint order or not, and
 - (ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 9 of this Act.

(4) A restraint order—

- (a) may be made only on an application by or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor, or a person authorised in that behalf by the Commissioners of Customs and Excise;
- (b) may be made on an ex parte application to a judge in chambers, and
- (c) notwithstanding anything in Order 11 of the Rules of the Supreme Court, may provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct.

(5) A restraint order—

- (a) may be discharged or varied in relation to any property, and
- (b) shall be discharged when the proceedings in relation to which the order was made are concluded.

(5A) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(6) Where the High Court has made a restraint order, the court may at any time appoint a receiver—

- (a) to take possession of any realisable property, and
- (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(7) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression)—

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt, and
- (b) removing the property from England and Wales.

(8) Where the High Court has made a restraint order, a constable may for the purpose of preventing any realisable property being moved from England and Wales, seize the property.

(9) Property seized under subsection (8) above shall be dealt with in accordance with the court's directions.

(10) The Land Charges Act 1972(a) and the Land Registration Act 1925(b) shall apply—

- (a) in relation to restraint orders, as they apply in relation to orders affecting land made by the court for the purposes of enforcing judgments or recognisances; and
- (b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.

(11) A person applying for a restraint order under subsection (4)(a) above shall be treated for the purposes of section 57 of the Land Registration Act 1925 (inhibitions) as a person interested in relation to any registered land to which a restraint order or an application for such an order relates.

(a) 1972 c.61.
(b) 1925 c.21.

Charging orders in respect of land, securities etc.

9.—(1) The High Court may make a charging order on realisable property for securing the payment to the Crown—

- (a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable, and
- (b) in any other case, of an amount equal to the value from time to time of the property charged.

(2) For the purposes of this Act, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.

(3) A charging order—

- (a) may be made only on an application by or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 26A of this Act, by a receiver appointed under section 11 of this Act, a Crown Prosecutor, or a person authorised in that behalf by the Commissioners of Customs and Excise;
- (b) may be made on an ex parte application to a judge in chambers;
- (c) notwithstanding anything in Order 11 of the Rules of the Supreme Court, shall provide for service on, or the provision of notice to, persons affected by the order in such manner as the High Court may direct; and
- (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

(4) Subject to subsection (6) below, a charge may be imposed by a charging order only on—

- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Act—
 - (i) in any asset of a kind mentioned in subsection (5) below, or
 - (ii) under any trust, or
- (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) above be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.

(5) The assets referred to in subsection (4) above are—

- (a) land in England and Wales, or
- (b) securities of any of the following kinds—
 - (i) government stock,
 - (ii) stock of any body (other than a building society) incorporated within England and Wales,
 - (iii) stock of any body incorporated outside England and Wales or of any country or territory outside the United Kingdom, being stock registered in a register kept at any place within England and Wales,
 - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within England and Wales.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings against the defendant in the designated country are concluded or the amount payment of which is secured by the charge is paid into court.

(8) An application for the discharge or variation of a charging order may be made by any person affected by it.

Charging orders – supplementary provisions

10.—(2) The Land Charges Act 1972 and the Land Registration Act 1925 shall apply in relation to charging orders as they apply in relation to orders or writs issued or made for the purpose of enforcing judgments.

(3) Where a charging order has been registered under section 6 of the Land Charges Act 1972, subsection (4) of that section (effect of non-registration of writs and orders registrable under that section) shall not apply to an order appointing a receiver made in pursuance of the charging order.

(4) Subject to any provisions made under section 11 of this Act or by rules of court, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge by the person holding the beneficial interest or, as the case may be, the trustees by writing under their hand.

(5) Where a charging order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925, an order under section 9(7) of this Act discharging the charging order may direct that the entry be cancelled.

(7) In this section and section 9 of this Act, "building society", "dividend", "government stock", "stock" and "unit trust" have the same meaning as in the Charging Orders Act 1979(a).

Applications for restraint and charging orders

10A. Notwithstanding anything in rule 3(2) of Order 115 of the Rules of the Supreme Court 1965, an application under section 8(4) or 9(3) of this Act shall be supported by an affidavit which shall—

- (a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;
- (b) to the best of the deponent's ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
- (c) in a case to which section 7(2) of this Act applies, indicate when it is intended that proceedings should be instituted in the designated country concerned,

and the affidavit may, unless the court otherwise directs, contain statements of information or belief with the sources and grounds thereof.

Realisation of property

11.—(1) Where an external confiscation order has been registered in the High Court under section 26A of this Act, the High Court may, on the application of a Crown Prosecutor or a person authorised in that behalf by the Commissioners of Customs and Excise, exercise the powers conferred by subsections (1A) to (6) below.

(1A) In respect of any sum of money payable under the external confiscation order the court may make a garnishee order as if the sum were due to the Crown in pursuance of a judgment or order of the High Court, but any such order shall direct that the sum payable be paid to the High Court.

(2) The court may appoint a receiver in respect of realisable property.

(3) The court may empower a receiver appointed under subsection (2) above, under section 8 of this Act or in pursuance of a charging order—

- (a) to enforce any charge imposed under section 9 of this Act on realisable property or on interest or dividends payable in respect of such property, and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 9 of this Act, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Act as the court may direct and the court may, on the payment being made, by order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 9 of this Act.

(8) The court shall not in respect of any property exercise the powers conferred by subsections (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

(a) 1979 c.53.

Application of proceeds of realisation and other sums

12.—(1) Subject to subsection (2) below, the following sums in the hands of a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order, that is—

- (a) the proceeds of the enforcement of any charge imposed under section 9 of this Act,
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 8 or 11 of this Act, and
- (c) any other sums, being property held by the defendant,

shall first be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under section 17A(2) of this Act and then shall, after such payments (if any) as the High Court may direct have been made out of those sums, be paid to the High Court and applied for the purposes specified in subsections (3) to (6) below, and in the order so specified.

(2) Where a fixed amount is payable under the external confiscation order and, after that amount has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums—

- (a) among such of those who held property which has been realised under this Act, and
- (b) in such proportions,

as the High Court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(4) Any sums paid to the High Court under subsection (1) above or under an order made under section 11(1A) of this Act or otherwise in satisfaction of an external confiscation order shall be first applied to pay any expenses incurred by a person acting as an insolvency practitioner and payable under section 17A(2) of this Act but not already paid under subsection (1) above.

(5) If the money was paid to the High Court by a receiver appointed under section 8 or 11 of this Act, or in pursuance of a charging order the receiver's remuneration and expenses shall next be paid.

(6) After there has been made—

- (a) any payment required by subsection (4) above; and
 - (b) in a case to which subsection (5) above applies, any payment required by that subsection,
- any amount paid under section 18(2) of this Act shall be reimbursed.

(7) Any sums remaining after all the payments required to be made under the foregoing provisions of this section have been made shall be paid into the Consolidated Fund.

Exercise of powers by High Court or receiver

13.—(1) The following provisions apply to the powers conferred on the High Court by sections 8 to 12 of this Act, or on a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered in the High Court under section 26A of this Act or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under any external confiscation order which may be made in the defendant's case.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Crown.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the external confiscation order.

Bankruptcy of defendant etc.

15.—(1) Where a person who holds realisable property is adjudged bankrupt—

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and

(b) any proceeds of property realised by virtue of section 8(6) or 11(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 8 or 11 of this Act, is excluded from the bankrupt's estate for the purposes of Part IX of the Insolvency Act 1986(a).

(2) Where a person has been adjudged bankrupt, the powers conferred on the High Court by sections 8 to 12 of this Act or on a receiver so appointed shall not be exercised in relation to—

- (a) property for the time being comprised in the bankrupt's estate for the purposes of that Part,
- (b) property in respect of which his trustee in bankruptcy may (without leave of court) serve a notice under section 307 or 308 of that Act (after-acquired property and tools, clothes etc. exceeding value of reasonable replacement), and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of that Act.

(3) Nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order—

- (a) made before the order adjudging the person bankrupt, or
- (b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of that Act and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Act—

- (a) no order shall be made under section 339 or 423 of that Act (avoidance of certain transactions) in respect of the making of the gift at any time when property of the person to whom the gift was made is subject to a restraint order or charging order, and
- (b) any order made under either of those sections after the discharge of the restraint or charging order shall take into account any realisation under this Act of property held by the person to whom the gift was made.

(7) In any case in which a petition in bankruptcy was presented, or a receiving order or an adjudication in bankruptcy was made, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force), subsection (2) above shall have effect as if—

- (a) for the reference to the bankrupt's estate for the purposes of Part IX of the Insolvency Act 1986 there were substituted a reference to the property of the bankrupt for the purposes of the Bankruptcy Act 1914(b);
- (b) for the reference to section 280(2)(c) of the Act of 1986 there were substituted a reference to section 26(2) of that Act; and
- (c) subsection (2)(c) were omitted.

Sequestration in Scotland of defendant, etc.

16.—(1) Where the estate of a person who holds realisable property is sequestrated—

- (a) property for the time being subject to a restraint order made before the award of sequestration, and
- (b) any proceeds of property realised by virtue of section 8(6) or 11(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 8 or 11 of this Act, is excluded from the debtor's estate for the purposes of the Bankruptcy (Scotland) Act 1985(c).

(2) Where an award of sequestration has been made, the powers conferred on the High Court by sections 8 to 12 of this Act or on a receiver so appointed shall not be exercised in relation to—

- (a) property comprised in the whole estate of the debtor within the meaning of section 31(8) of that Act,
- (b) any income of the debtor which has been ordered, under subsection (2) of section 32 of that Act, to be paid to the permanent trustee or any estate which, under subsection (6) of that section, vests in the permanent trustee,

and it shall not be competent to submit a claim in relation to the confiscation order to the permanent trustee in accordance with section 48 of that Act.

(a) 1986 c.45.
(b) 1914 c.59.
(c) 1985 c.66.

(3) Nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order—

- (a) made before the award of sequestration, or
- (b) on property which was subject to a restraint order when the award of sequestration was made.

(5) Where, during the period before sequestration is awarded, an interim trustee stands appointed under the proviso to section 13(1) of that Act and any property in the debtor's estate is subject to a restraint order, the powers conferred on the trustee by virtue of that Act do not apply to property for the time being subject to the restraint order.

(6) Where the estate of a person is sequestrated and he has directly or indirectly made a gift caught by this Act—

- (a) no decree shall be granted under section 34 or 36 of that Act (gratuitous alienations and unfair preferences) in respect of the making of the gift at any time when property of the person to whom the gift was made is subject to a restraint order or charging order, and
- (b) any decree made under either of those sections after the discharge of the restraint or charging order shall take into account any realisation under this Act of property held by the person to whom the gift was made.

(7) In any case in which, notwithstanding the coming into force of the Bankruptcy (Scotland) Act 1985 the Bankruptcy (Scotland) Act 1913 applies to a sequestration, subsection (2) above shall have effect as if for paragraphs (a) and (b) thereof there were substituted the following paragraphs—

- “(a) property comprised in the whole property of the debtor which vests in the trustee under section 97 of the Bankruptcy (Scotland) Act 1913,
- (b) any income of the bankrupt which has been ordered under subsection (2) of section 98 of that Act, to be paid to the trustee or any estate which, under subsection (1) of that section, vests in the trustee”;

and subsection (3) above shall have effect as if for the reference therein to the Act of 1985 there were substituted a reference to the Act of 1913.

Winding up of company holding realisable property

17.—(1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—

- (a) property for the time being subject to a restraint order made before the relevant time, and
- (b) any proceeds of property realised by virtue of section 8(6) or 11(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 8 or 11 of this Act.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the High Court by sections 8 to 12 of this Act or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable—

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors, or
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.

(3) Nothing in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section—

“company” means any company which may be wound up under the Insolvency Act 1986; and
“the relevant time” means—

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up,
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the court, such a resolution has been passed by the company, the time of the passing of the resolution, and
- (c) in any other case where such an order has been made, the time of the making of the order.

(6) In any case in which a winding up of a company commenced, or is treated as having commenced, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force) this section has effect with the substitution for references to that Act of references to the Companies Act 1985.

Insolvency officers dealing with property subject to restraint order

17A.—(1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in any other Act, where—

- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as an insolvency practitioner, incurs expenses—

- (a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 12(1) of this Act.

(3) In this Act, the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986 except that for the purposes of such construction the reference in subsection (2)(a) of that section to a permanent or interim trustee in sequestration shall be taken to include a reference to a trustee in sequestration and subsection (5) of that section (which provides that nothing in the section is to apply to anything done by the official receiver) shall be disregarded; and the expression shall also comprehend the official receiver acting as receiver or manager of the property.”.

Receivers: supplementary provisions

18.—(1) Where a receiver appointed under section 8 or 11 of this Act or in pursuance of a charging order takes any action—

- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property,
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 12(5) of this Act, be paid by the person on whose application the receiver was appointed.

Registration of external confiscation order

26A.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external confiscation order made there if—

- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
- (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
- (c) it is of the opinion that enforcing the order in England and Wales would not be contrary to the interests of justice.

(2) In subsection (1) above “appeal” includes—

- (a) any proceedings by way of discharging or setting aside a judgment; and
- (b) an application for a new trial or a stay of execution.

(3) The High Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

Power to inspect Land Register

33.—(1) The Chief Land Registrar (in this section referred to as “the registrar”) shall, on an application under subsection (4) below made in relation to a person specified in the application or to property so specified, provide the applicant with any information kept by the registrar under the Land Registration Act 1925 which relates to the person or property so specified.

(4) An application may be made by a receiver appointed under section 8 or 11 of this Act and on an application under this subsection there shall be given to the registrar—

- (a) a document certified by the proper officer of the court to be a true copy of the order appointing the receiver, and
- (b) a certificate that there are reasonable grounds for suspecting that there is information kept by the registrar which is likely to facilitate the exercise of the powers conferred on the receiver in respect of the person or property specified in the application.

(5) The reference in subsection (1) above to the provision of information is a reference to its provision in documentary form.

General interpretation

38.—(1) In this Act—

“constable” includes a person commissioned by the Commissioners of Customs and Excise;

“corresponding law” has the same meaning as in the Misuse of Drugs Act 1971;

“drug trafficking” means doing or being concerned in any of the following, whether in England and Wales or elsewhere—

- (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;
- (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;
- (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;

and includes a person doing the following, whether in England and Wales or elsewhere, that is entering into or being otherwise concerned in an arrangement whereby—

- (i) the retention or control by or on behalf of another person of the other person’s proceeds of drug trafficking is facilitated, or
- (ii) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person’s disposal or are used for the other person’s benefit to acquire property by way of investment;

“interest”, in relation to property, includes right;

“property” includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

(2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Act listed in the right hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
Charging order	Section 9(2)
External confiscation order	Section 1
Dealing with property	Section 8(7)
Defendant	Section 1
Gift caught by this Act	Section 5(9)
Making a gift	Section 5(10)
Realisable property	Section 5(1)
Restraint order	Section 8(1)
Value of gift, payment or reward	Section 5
Value of property	Section 5(4)

(3) This Act applies to property whether it is situated in England and Wales or elsewhere.

(5) References in this Act to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection, and whether received before or after the commencement of the Drug Trafficking Offences Act 1986 (Designated Countries and Territories) Order 1990 and whether received in connection with drug trafficking carried on by the recipient or some other person.

(6) The following provisions shall have effect for the interpretation of this Act.

(7) Property is held by any person if he holds any interest in it.

(8) References to property held by a person include a reference to property vested in his trustee in bankruptcy, permanent or interim trustee within the meaning of the Bankruptcy (Scotland) Act 1985 or liquidator.

(9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.

(10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(11) Proceedings are instituted in a designated country when

(a) under the law of the designated country concerned one of the steps specified in relation to that country in column 2 of the Appendix hereto has been taken there in respect of alleged drug trafficking by the defendant, or

(b) an application has been made to a court in a designated country for an external confiscation order,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(12) Proceedings for an offence are concluded—

(a) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of a confiscation order being made in the proceedings;

(b) on the satisfaction of a confiscation order made in the proceedings (whether by the recovery of all property liable to be recovered, or the payment of any amount due, or otherwise).

(13) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

39.—(1) Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) shall have effect as if amounts payable under external confiscation orders were debts excepted under subsection (1)(a) of that section.

(5) Section 281(4) of the Insolvency Act 1986 (discharge of bankrupt not to release him from liabilities in respect of fines, etc.) shall have effect as if the reference to a fine included a reference to an external confiscation order.

(6) Section 55(2) of the Bankruptcy (Scotland) Act 1985 (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to an external confiscation order.

INSTITUTION OF PROCEEDINGS

<i>Designated country</i>	<i>Point at which proceedings are instituted</i>
Anguilla	(a) when a summons or warrant is issued in respect of an offence; (b) when a person is charged with an offence after being taken into custody without a warrant; (c) when a bill of indictment is preferred
Australia	(a) when an information has been laid before a justice of the peace; (b) when a person is charged with an offence after having been taken into custody without a warrant; (c) when a bill of indictment is preferred
the Bahamas	(a) when an information has been laid before a justice of the peace; (b) when a person is charged with an offence after having been taken into custody without a warrant; (c) when a bill of indictment is preferred
Bermuda	when an information is laid charging a person with an offence
Gibraltar	when a person is charged with an offence, whether by the laying of an information or otherwise
Guernsey	when a person is charged with an offence
Isle of Man	(a) where a justice of the peace issues a summons under section 13 of the Petty Sessions and Summary Jurisdiction Act 1927, when the complaint in relation to the offence is made to him; (b) where a justice of the peace issues a warrant for the arrest of any person under that section, when the complaint in relation to the offence is made to him; (c) where a person is charged with the offence after being taken into custody without a warrant, when he is taken into custody; (d) where an information is preferred by the Attorney General in a case where there have been no committal proceedings, when the information is lodged in the General Registry in accordance with section 4(1) of the Criminal Code Amendment Act 1917
Jersey	(a) when the Bailiff issues a warrant in respect of an offence for the arrest of a person who is out of the island; (b) when a person is arrested and charged with an offence; (c) when a summons in respect of an offence is served on a person at the instance of the Attorney General; (d) when a summons in respect of the offence is served on a person in accordance with the provisions of Article 8 of the Police Court (Miscellaneous Provisions) (Jersey) Law, 1949
Malaysia	when a person is charged with an offence
Spain	when by virtue of a judicial resolution it is decided to proceed against a person for an offence
Sweden	when a public prosecutor has established that there are reasonable grounds to suspect that a person has committed an offence and accordingly is obliged under the Code of Judicial Procedure to notify the person of the suspicion
Switzerland	when proceedings for an offence are brought before an examining magistrate
United Mexican States	When criminal proceedings are instituted by a judicial authority
United States of America	when an indictment, information or complaint has been filed against a person in respect of an offence

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that, subject to certain modifications, the Drug Trafficking Offences Act 1986 applies to an order made by a court in a designated country or territory for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value, and to proceedings which have been or are to be instituted in a designated country or territory and may result in such an order being made there. It also provides, in *Article 7*, that the value of any property recovered in a designated country or territory in response to a request by the government of the United Kingdom for assistance in the enforcement of an order is to be treated as reducing the amount payable in England and Wales under a confiscation order made by the Crown Court.

Article 3 of the Order designates the countries and territories listed in *Schedule 1* for the purposes of enforcement of confiscation orders, and applies the provisions of the Drug Trafficking Offences Act, with modifications, to confiscation orders of courts in those countries and territories and proceedings which may lead to such an order being made. The modifications to the Act are set out in *Schedule 2* to the Order, and *Schedule 3* sets out in full that Act as so modified.

Article 9 revokes the Drug Trafficking Offences Act 1986 (United States of America) Order 1989; the United States of America is designated anew under this Order.

£3.10 net

ISBN 0 11 005550 0

Printed in the United Kingdom for HMSO

790 WO896 C10 4/90 452/3 4235 46378 901352

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

REPRESENTATION OF THE PEOPLE

**European Parliamentary Elections (Amendment)
Regulations 1990**

Made - - - -

Coming into force in accordance with regulation 2

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred upon me by paragraph 2 of Schedule 1 to the European Parliamentary Elections Act 1978(a), I hereby make the following Regulations:

1.—(1) These Regulations may be cited as the European Parliamentary Elections (Amendment) Regulations 1990.

(2) These Regulations do not extend to Northern Ireland.

2. These Regulations shall come into force forthwith except that regulation 8(1) shall come into force on 1st April 1990.

3. In these Regulations “the European Regulations of 1986” mean the European Parliamentary Elections Regulations 1986(b).

4.—(1) At the end of paragraph (1) of regulation 5 of the European Regulations of 1986 (application of certain provisions for European Parliamentary elections) there shall be added the following:

“The entry in that Schedule in respect of section 95 of, and Schedule 5 to, the Act of 1983 is to those provisions as amended by paragraphs 30 and 32 of Schedule 12 to the Education Reform Act 1988(c).”.

(2) At the end of paragraph (2) of that regulation, there shall be added the following:

(a) 1978 c.10; the citation of this Act has been amended by section 3(1)(b) and (2)(b) of the European Communities (Amendment) Act 1986 (c.58) on the coming into force of the Single European Act (Cmnd. 9758) on 1st July 1987.

(b) S.I. 1986/2209; the citation of this instrument has been amended by the provisions referred to in the first footnote to these Regulations; it has also been amended by regulations which are not relevant in the present context.

(c) 1988 c.40.

“The entries in that Schedule in respect of –

- (a) regulations 4(1), 8, 12, 54, 55, 56, 66, 69, 73, 79, 92 and 96 of, and forms E, H, J and K in Schedule 2 to, the Regulations of 1986(a) are to those regulations and forms as amended by the Representation of the People (Amendment) Regulations 1990(b), and
- (b) regulations 4(1), 7, 11, 52, 53, 54, 64, 67, 71, 77, 90 and 94 of, and forms D, G, H and J in Schedule 2 to, the Regulations (Scotland) of 1986(c) are to those regulations and forms as amended by the Representation of the People (Scotland) Amendment Regulations 1990(d);

except that any such amendment shall have effect for the purposes of the application of those amended provisions by virtue of this paragraph only to the extent that it is in force under regulation 2 of the Representation of the People (Amendment) Regulations 1990 and regulation 2 of the Representation of the People (Scotland) Amendment Regulations 1990.”.

5. In Schedule 1 to the European Regulations of 1986 (application with modifications of provisions of the Representation of the People Acts of 1983 and 1985) –

- (a) for the words added by the modification in the right-hand column of that Schedule to section 7(4) of the Representation of the People Act 1985(e), there shall be substituted the words “and shall forthwith supply to the returning officer a copy of those lists on completion of the compilation of them”; and
- (b) for the words added by the modification in that right-hand column to section 9(9) of the said Act of 1985, there shall be substituted the words “and shall forthwith supply to the returning officer a copy of that list on completion of the compilation of it.”.

6.—(1) Part I of Schedule 2 to the European Regulations of 1986 (application and modification of provisions of the Representation of the People Regulations 1986) shall be amended as follows.

(2) In the modification in the right-hand column of that Schedule to regulation 4(1) of the Representation of the People Regulations 1986, the words “overseas attesting officer” shall be omitted.

(3) In the modification in that right-hand column to regulation 54 of those Regulations, there shall be added the words “Paragraph (4) shall be omitted”.

(4) In the modification in that right-hand column to regulation 73(1)(b) of those Regulations, for the words “(c), (f) or (g)” there shall be substituted the words “(c) or (g)”.

(5) In the modification in that right-hand column to regulation 73(2)(b) of those Regulations, for the words “(b)(i), (f) or (g)” there shall be substituted the words “(b)(i) or (g)”.

7.—(1) Part II of Schedule 2 to the European Regulations of 1986 (application and modification of provisions of the Representation of the People (Scotland) Regulations 1986) shall be amended as follows.

(2) In the modification in the right-hand column of that Schedule to regulation 4(1) of the Representation of the People (Scotland) Regulations 1986, the words “overseas attesting officer” shall be omitted.

(3) In the modification in that right-hand column to regulation 52 of those Regulations, there shall be added the words “Paragraph (4) shall be omitted.”.

(a) S.I. 1986/1081. (b) S.I. 1990/ (c) S.I. 1986/1111. (d) S.I. 1990/ (e) 1985 c.50.

(4) In the modification in that right-hand column to regulation 71(1)(b) of those Regulations for the words “(c), (f) or (g)” there shall be substituted the words “(c) or (g)”.

(5) In the modification in that right-hand column to regulation 71(2)(b) of those Regulations, for the words “(b) (i), (f) or (g)” there shall be substituted the words “(b) (i) or (g)”.

8.—(1) In the provision substituted by paragraph 7 of Part I of Schedule 3 to the European Regulations of 1986 (modification of European Parliamentary elections rules as respects England and Wales) the words “*or in the case of the Inner London Education Authority, that Authority*” shall be omitted.

(2) In the provision added by paragraph 12 of that Part, after the words “paragraph (1)(d) above” there shall be inserted the words “or in the list of proxies under paragraph (1)(e) above” and before the words “so as to identify” there shall be inserted the words “or, as the case may be, list”.

(3) In paragraph (1)(a) of the provisions substituted by paragraph 20 of that Part, before the word “open each” there shall be inserted the words “in the presence of the counting agents”.

9.—(1) In the provision added by paragraph 12 of Part II of Schedule 3 to the European Regulations of 1986 (modification of European Parliamentary elections rules as respects Scotland), after the words “paragraph (1)(d) above” there shall be inserted the words “or in the list of proxies under paragraph (1)(e) above” and before the words “so as to identify” there shall be inserted the words “or, as the case may be, list”.

(2) In paragraph (1)(a) of the provisions substituted by paragraph 20 of that Part, before the words “open each” there shall be inserted the words “in the presence of the counting agents”.

(3) In the form of directions for the guidance of the voters in voting substituted by paragraph 24 of that Part, in paragraph 3 for the words “Vote only for the number of candidates specified” there shall be substituted the words “Vote for one candidate only”.

Home Office
1990

One of Her Majesty's Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the European Parliamentary Elections Regulations 1986 which apply in Great Britain only.

Regulation 4(1) has the effect of adding references to grant-maintained schools to the list of schools which may be used for European Parliamentary election meetings in England and Wales.

Regulation 4(2) of these Regulations applies certain amendments that are made to the Representation of the People Regulations 1986 and the Representation of the People (Scotland) Regulations 1986 by the Representation of the People (Amendment) Regulations 1990 and the Representation of the People (Scotland) Amendment Regulations 1990 respectively for the purposes of European Parliamentary elections. Regulations 6 and 7 of these Regulations make consequential textual amendments to the European Parliamentary Elections Regulations 1986.

Regulation 5 of these Regulations amends sections 7(4) and 9(9) of the Representation of the People Act 1985, as applied for the purposes of European Parliamentary elections, to specify the time at which the lists prepared by a registration officer under those sections as applied must be forwarded to the returning officer.

Regulation 8(1) omits a provision about the notice in polling station compartments at a combined poll which will be spent on the abolition of the Inner London Education Authority.

Regulations 8(2) and (3) and 9 of these Regulations correct Schedule 3 to the European Parliamentary Elections Regulations 1986.

90p net

ISBN 0 11 005503 9

DRAFT STATUTORY INSTRUMENTS

1990 No.

PARLIAMENT

The Ministerial and other Salaries Order 1990

Made - - - - - December 1990

Coming into force 1st January 1991

At the Court at Buckingham Palace, the day of 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in pursuance of section 1(4) of the Ministerial and other Salaries Act 1975(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and revocation

- 1.—(1) This Order may be cited as the Ministerial and other Salaries Order 1990.
- (2) This Order shall come into force on 1st January 1991.
- (3) The Ministerial and other Salaries Order 1989(b) is hereby revoked.

Increase of Ministerial salaries

2. For the annual amount, or the maximum or minimum annual amount, of salary specified in Parts I, II, III, and IV of Schedule 1 to the Ministerial and other Salaries Act 1975 ("the 1975 Act") in relation to each of the offices specified in the first column of Schedule 1 to this Order there shall be substituted the amount, or the maximum or minimum amount, of salary specified in relation to that office in the second column of that Schedule.

Increase of salaries of Opposition Leaders and Whips

3. For the annual amount of salary specified in Part I of Schedule 2 to the 1975 Act in relation to each of the positions specified in the first column of Schedule 2 to this Order there shall be substituted the amount specified in relation to that position in the second column of that Schedule.

Increase of the Speaker's salary

4. For the annual amount specified in section 1(3) of the 1975 Act as the salary of the Speaker of the House of Commons there shall be substituted £39,982.

Clerk of the Privy Council

MINISTERIAL SALARIES

PART I

<i>Office</i>	<i>Salary £</i>
Prime Minister and First Lord of the Treasury	50,724
Chancellor of the Exchequer	} 48,381
Secretary of State	
Minister of Agriculture, Fisheries and Food	
Any of the following offices for so long as the holder is a member of the Cabinet	
(a) Lord President of the Council; (b) Lord Privy Seal; (c) Chancellor of the Duchy of Lancaster; (d) Paymaster General; (e) Chief Secretary to the Treasury; (f) Parliamentary Secretary to the Treasury; (g) Minister of State.	

PART II

<i>Office</i>	<i>Salary £</i>
1. Any of the offices listed at (a) to (g) in Part I above for so long as the holder is not a member of the Cabinet	} 26,962—43,010
2. Minister in charge of a public department of Her Majesty's Government in the United Kingdom who is not a member of the Cabinet, and whose office is not specified elsewhere in this Schedule	
3. Financial Secretary to the Treasury	

PART III

<i>Office</i>	<i>Salary £</i>
Attorney General	40,492
Lord Advocate	48,457
Solicitor General	33,201
Solicitor General for Scotland	42,433

PART IV

<i>Office</i>	<i>Salary £</i>
Captain of the Honourable Corps of Gentlemen-at-Arms	43,010
Treasurer of Her Majesty's Household... ..	26,962
Parliamentary Secretary other than Parliamentary Secretary to the Treasury	36,066
Captain of the Queen's Bodyguard of the Yeomen of the Guard	36,066
Lord in Waiting	32,519
Comptroller of Her Majesty's Household	} 17,349
Vice-Chamberlain of Her Majesty's Household	
Junior Lord of the Treasury	
Assistant Whip, House of Commons	

SCHEDULE 2

Article 3

OPPOSITION LEADERS AND WHIPS

<i>Position</i>	<i>Salary £</i>
In the House of Commons—	
Leader of the Opposition	34,937
Chief Opposition Whip	26,962
Assistant Opposition Whip	17,349
In the House of Lords—	
Leader of the Opposition	36,066
Chief Opposition Whip	32,519

EXPLANATORY NOTE

(This note is not part of the Order)

This Order increases salaries payable under the Ministerial and other Salaries Act 1975 to Ministers, to salaried Members of the Opposition, to the Speaker of the House of Commons and to other paid office holders. The amounts specified in this Order are the maximum salaries payable. The actual salaries in payment may therefore be below these levels.

DRAFT STATUTORY INSTRUMENTS

1990 No.

PARLIAMENT

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95p net

ISBN 0 11 005589 6

Printed in the UK by HMSO

730/WO1899 C20 452/4 11/90 3203326 19542

D R A F T S T A T U T O R Y I N S T R U M E N T S

1990 No.

DANGEROUS DRUGS

**Misuse of Drugs Act 1971 (Modification)
Order 1990**

Made - - - - - 1990
Coming into force 1st February 1991

At the Court at Buckingham Palace, the day of 1990
Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament on the recommendation of the Advisory Council on the Misuse of Drugs and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in pursuance of section 2(2) of the Misuse of Drugs Act 1971(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Misuse of Drugs Act 1971 (Modification) Order 1990 and shall come into force on 1st February 1991.
2. Schedule 2 to the Misuse of Drugs Act 1971 (which, as amended (b), specifies the drugs which are subject to control under that Act) shall be amended by the insertion –
 - (a) in paragraph 1 of Part I of that Schedule –
 - (i) after the word “2,5-Dimethoxy- α ,4-dimethylphenethylamine”, of the word “N-Hydroxy-tenamphetamine”, and
 - (ii) after the word “2-Methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid”, of the word “4-Methyl-aminorex”;
 - (b) in paragraph 1 of Part III of that Schedule, after the word “Methyprylone”, of the word “Midazolam”.

Clerk of the Privy Council

(a) 1971 c.38.

(b) S.I. 1973/771, 1975/421, 1977/1243, 1979/299, 1983/765, 1984/859, 1985/1995, 1986/2230, 1989/1340.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order adds to Part I of Schedule 2 to the Misuse of Drugs Act 1971 (which specifies the Class A drugs which are subject to control under the Act) *N*-Hydroxy-tenamphetamine and 4-Methyl-aminorex. The Order also adds to Part III of that Schedule (which specifies the Class C drugs which are subject to such control) Midazolam.

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Printed in the United Kingdom for HMSO

790 WO1941 C11 11/90 452 7102 O/N 88174

PARLIAMENTARY DEBATES

HOUSE OF COMMONS

OFFICIAL REPORT

Second Standing Committee
on Statutory Instruments, &c.

DRAFT CODE OF AUDIT PRACTICE FOR ENGLAND AND WALES

Wednesday 21 November 1990

LONDON: HMSO

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Chairman: Mr. Geraint Howells

Amess, Mr. David (*Basildon*)
Blunkett, Mr. David (*Sheffield, Brightside*)
Boswell, Mr. Tim (*Daventry*)
Campbell-Savours, Mr. D. N. (*Workington*)
Cummings, Mr. John (*Easington*)
Fearn, Mr. Ronnie (*Southport*)
Key, Mr. Robert (*The Parliamentary Under-Secretary of
State for the Environment*)
Martin, Mr. David (*Portsmouth, South*)
Mills, Mr. Iain (*Meriden*)

Nelson, Mr. Anthony (*Chichester*)
Parry, Mr. Robert (*Liverpool, Riverside*)
Pawsey, Mr. James (*Rugby and Kenilworth*)
Raffan, Mr. Keith (*Delyn*)
Rathbone, Mr. Tim (*Lewes*)
Rowlands, Mr. Ted (*Merthyr Tydfil and Rhymney*)
Sayeed, Mr. Jonathan (*Bristol, East*)
Shaw, Mr. David (*Dover*)
Smith, Mr. John P. (*Vale of Glamorgan*)

Mr. B. M. Hutton, *Committee Clerk*

Second Standing Committee on Statutory Instruments, &c.

Wednesday 21 November 1990

[MR. GERAINT HOWELLS *in the Chair*]

DRAFT CODE OF AUDIT PRACTICE FOR ENGLAND AND WALES

10.30 am

The Parliamentary Under-Secretary of State for the Environment (Mr. Robert Key): I beg to move,

That the Committee has considered the draft Code of Audit Practice for England and Wales.

The Local Government Finance Act 1982 established the Audit Commission as an independent body both to appoint external auditors for local authorities and to help those authorities secure value for money in the services that they provided. Section 14 of the 1982 Act requires the Audit Commission to prepare, and to keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions under part III of the Act. The National Health Service and Community Care Act 1990 amended the 1982 Act by extending the functions of the commission to cover health authorities.

The commission believes that the code should be a single document covering the audit of both local and health authorities, so it has revised and extended the existing version. The code must receive parliamentary approval at least every five years, although the commission can make alterations to the code in the intervals between its being approved. The present code came into effect on 9 February 1988. It was revised by the commission on 7 July 1988 to deal with the new powers on prohibition orders and judicial review introduced by the Local Government Act 1988. The Audit Commission has now prepared the revised code, which is before the Committee. The commission considered that as this revision deals with health service bodies for the first time, the code should be brought before Parliament for approval, even though fewer than five years have elapsed since the code was last approved.

The code is the commission's code, prepared by the commission. Its members represent a wide range of interests in the public and private sectors, and reflect wide experience of financial management relevant to auditing local government and national health service bodies. As required by the 1982 Act, the commission has consulted the bodies most directly concerned—local authority associations, the accountancy profession and, for the first time, organisations connected with the health service. It has also been the subject of consultation with the commission's own auditors—the National Audit Office—the district audit service and the private accountancy firms.

I believe that the existing code has helped to ensure that auditors' functions under part III of the 1982 Act have been carried out effectively. It is right that the commission should, from time to time, reconsider the code to determine whether it needs to be updated or improved in the light of experience and of developments in professional audit practice. It is especially appropriate for the commission to revise the code to take account of the extension of the

commission's remit to health service bodies consequent on the National Health Service and Community Care Act 1990, and to seek parliamentary approval for its revised code.

My role in this matter is limited to bringing the code to the Committee for consideration and, I hope, approval. It might be helpful, however, if I remind the Committee of the main features of the code and outline the principal changes from the existing code, especially those features that the commission regards as important.

The first point to note is that, in essence, the code that applied to local authorities has now been extended to cover the national health service, except for those matters where such extension is simply not possible. That is an important point. The commission believes that the principles of local authority audit have been well established, and the code is well regarded. When the Government extended the remit of the commission and of the auditors it appoints to cover health service bodies, the commission decided that the successful code for local authorities should be transferred to health service bodies to strengthen their accountability. I am sure that the commission is right to stick to a proven formula.

The introduction provides a general explanation of the reasons why the commission has framed the code as it has done, pointing out that not all aspects of the code will be appropriate for the audit of what the code calls "non-principal" authorities—such as parish and community councils and, in the health service, general practice fund holders. The main body of the code has been considerably rearranged, compared with the existing code, but incorporates much of it effectively unchanged, except for those changes necessitated by the national health service.

The code is now divided into five parts. The first sets out the general duties of the auditor. Paragraphs 13 and 14 are new and cover audit objectives. The second part contains new matter in paragraphs 17 to 23 inclusive, which cover planning the audit, controlling and recording the audit, accounting systems and internal controls, and audit evidence. The second part also prescribes the procedures that the auditor should observe in conducting the audit and identifies matters to which the auditor should pay particularly close attention—fraud, corruption and value for money. Paragraphs 24 to 39 of the second part and the whole of the third part, which brings together the auditor's reporting responsibilities, are, for all practical purposes, an unchanged rearrangement of the existing code. Part 4 is specific to the audit of local authorities and is merely a rearrangement of the existing code. Part 5 relates to the audit of health service bodies, and is therefore entirely new.

Part I of the code is headed "Duties of an Auditor". The commission has retained the material dealing with factors that it believes should characterise the work of an auditor in local government, in particular independence and due professional care and responsibility to the public. As before, the commission considers those specific aspects in detail against the background of the commission's basic approach, which is set out in paragraph (8).

That basic approach is, as the words imply, fundamental to the code, so it may be helpful if I highlight what the code says. First, it stresses that special care and consideration apply to the audit of public funds. The auditor must satisfy

himself that such funds have been legally spent and accounted for and, echoing the words of both the 1982 Act and the Local Govt Finance Act 1987,

"that proper practices have been observed". He must also consider whether arrangements have been made to ensure value for money. The auditor's work must be characterised by a common sense, general appreciation of the subject matter and a constructive and co-operative approach, although the auditor must not hesitate to pursue conclusions to the point of public criticism if necessary. The auditor is also required to co-operate in the transfer of the knowledge of good practice from one authority to another.

I come now to the new material in the code, which has not been previously considered in Committee. The commission may make alterations to the code in the interval after it has been approved by Parliament. Since the Committee last considered the code on 20 January 1988, the commission has amended it to reflect new powers given to auditors to issue a prohibition order or to apply to the courts for a judicial review of a decision taken by a local authority. Those powers were conferred in the Local Government Act 1988. The revised code sets out the way in which auditors should use those powers. I stress that, in both cases, the auditor has a power, not a duty, and that the auditor's discretion must be exercised in accordance with normal administrative law principles.

Part 5, is headed

"Audit of Health Service Bodies".

The commission stresses that auditors of health service bodies have particular responsibilities in addition to those that are common to both local government and the health service. The auditor has a duty under section 20(3) of the National Health Service and Community Care Act 1990 to report to the Secretary of State if it is believed that an authority's or officer's decision would involve unlawful expenditure, or that the authority's or officer's action would be unlawful and cause a loss or deficiency.

The Commission does not perceive it to be the auditor's duty to seek out such matters for refusal to the Secretary of State for Health, but when a matter is either brought to the auditor's attention by members, by officers of the authority, or by others, or arises as part of normal audit duties, the auditor is required to give such matters proper consideration. Particular attention should be given to any report made by an officer of the authority drawing attention to possible unlawful expenditure, courses of action leading to a loss or deficiency, or entry of an item of account or a likelihood of expenditure exceeding resources.

In so far as it is consistent with the prompt exercise of these powers, the auditor is required, where appropriate, to give the body under audit or officer involved an opportunity to respond to the matters giving cause for concern. That is not a statutory requirement and, in some circumstances, it may not be appropriate to hold such a consultation before referring the matter to the Secretary of State for Health. The referral of such matters to the Secretary of State for Health contrasts with the procedure in local government where the auditor, faced with similar matters, has to decide whether to issue a prohibition order or apply to the court for a judicial review of the decision taken. The commission assumed responsibility for the audit of the health service on 1 October, and work upon the first year's audit has now begun. The commission's first national study on day-case surgery has recently been published and has been well received by both clinicians and managers.

In conclusion, I stress again that the code of audit practice is the work of the commission. I hope that the Committee will agree that the commission has fulfilled its task in a thorough and highly professional manner; and produced a code that charts a sensible and practical approach for auditors to follow. I commend it to the Committee.

10.40 am

Mr David Blunkett (Sheffield, Brightside): After yesterday's events in Committee Room 12, I am afraid that this is an anti-climax, but given the numbers on my side I shall make no jokes about the Prime Minister.

I congratulate the Minister on what I believe is his maiden speech in Committee in his new role, and I echo his words about commending the commission for the drafting of the report and the time and energy that it obviously took.

There has been no conflict between the Government and the Opposition about the role of the audit service. There is no contention between us. I wish to make that clear because there was a planted question at Prime Minister's Questions yesterday, which was answered by the Leader of the House. It related to remarks of mine that I shall clarify during my very short speech.

It has never been an issue between the Government and ourselves that the audit service is a vital part of the propriety that we expect from local government, but we regret that, occasionally, there has been a politicisation of a function that should not be the subject of controversy or surrounded by any form of public dispute. I shall not dwell on the matter, but in the past problems arose over rate capping, which created difficulties between local auditors and their local authorities with regard to the role of the Audit Commission—which was then under a flamboyant controller, who is now the director-general of the Confederation of British Industry. He has lost none of his flamboyance in that job. Some of Audit Commission's public statements, as opposed to its detailed work, cause controversy. As with the code of practice, much of its day-to-day work is highly appreciated as it is vital for the protection of our democracy. It prevents people, whether inadvertently or otherwise, stepping outside acceptable audit and accountancy practice.

The document that we are considering must be viewed in that light. We have no difficulties with the bulk of its contents, but some small items invite comment. The Association of District Councils is concerned about paragraph 58, and the question of when reporting a public interest would be triggered and whether that trigger should be automatic if there were any qualification of the opinion being offered. Discretion will be needed to ensure that small matters do not undermine the significance of reports on those issues, which concern all of us, and I do not doubt that auditors will use their common sense. They have a good record of dealing with problems before they occur, and when they can be remedied quickly. I believe that all Members of the Committee accept that view.

Unfortunately, when some matters are revealed publicly there are two dangers. First, there can be unnecessary criticism of local government, which undermines the democratic process and discredits the level of propriety practised by the vast majority of local authorities, their officers and councillors—something that is unequalled in the rest of the world. Secondly, people are reluctant to take action at an early stage. I mention that because some of us

[Mr David Blunkett.]

wished that action had been taken earlier in the case of the West Wiltshire district council. In the end, the local audit service did a good job by revealing the facts.

I understand that it is difficult to obtain information through either the Audit Commission or the Director of Public Prosecutions. The case is still under consideration by the DPP, so I shall not go into it, other than to say that this is action that all of us, whatever the political control of the council involved, would wish to be taken at an early stage. If that action has been taken with other councils, police investigations might not now be necessary, several years after the event. There is unanimity between us, but a problem arises when ill-judged criticisms lead to statements that undermine or even discredit the worth while and agreed role of the commission and the audit service at district level.

I am worried at the press release issued last week by the Audit Commission on London direct labour organisations. That report dealt with important and worrying matters and revealed inefficiencies—levels of sickness and absenteeism; productivity compared with that in the private sector and even the conditions, such as holidays, offered by local councils that might be viewed as over-generous in the present state of the construction industry. I have no quarrel with those findings, and believe that such comparisons are vital for the stimulation of improvement and better management.

That is the role of the audit service. It does not exist merely to check the accountancy regulations after the event, but the practice can be carried to extremes. For example, the audit service commented on the monitoring and sampling used to measure the satisfaction of the consumer. It was suggested that something must be wrong because only 50 per cent. of councils undertake such work. It is a pity that 100 per cent. do not, but a comparison has to be made with private-sector competitors. If a clear comparison had been made available, the remarks of the audit service might have been justified. However, I do not believe that there is any justification for saying that direct labour organisations are the major reason behind London's decaying fabric. Even Conservative Members must admit that he was stretching a point in terms of the problems of the capital, its infrastructure, its transport, the state of its roads, the shoddiness of many public places, major capital investment in both basic fabric and housing stock and the need for to which the Audit Commission in the mid 1980s under its previous controller, had drawn attention. The Audit Commission does itself no good by putting out statements that most people would view with incredulity.

How can we improve matters? First, we are in favour of a change in the direction that the Audit Commission and, therefore, the district audit service are expected to take. We believe that quality, efficiency and effectiveness should replace economy, efficiency and effectiveness, as quality rather than cheapness should be the benchmark by which we judge what we are getting for our money. Value-for-money statements have often proved beneficial.

The emphasis on quality leads us to believe that under our proposed new quality commission, about which we shall be consulting early in the new year, the present Audit Commission should be subsumed into a new body so that the quality, the accountancy and the audit services will work closely in tandem, continuing the work of the present

district audit service. That would provide better service, with the emphasis on the long-term improvement of service to the customer rather than on the short-term cheapness of what people buy, which they often regret at considerable length.

Although the code is acceptable, there is considerable room for improvement to stimulate enterprise and initiative in local government in the way that created the local authority municipal scene in the late 19th century and the early part of this century. Much of what we have taken for granted until recent years was established by authorities using their initiative, and by the enterprise of their officers as well as that of the politicians. That is why some of us regret the statement issued by the Audit Commission about cross-boundary tendering.

Any tender drawn-up by a local authority should be on the basis of propriety. Loss leaders are not acceptable to local authorities. The disciplines that exist in the private sector through bankruptcy are not available to them, and we all accept that. However, if legal judgments by such a respected and important body as the Audit Commission relate to the tendering by one authority for another authority's activities in a way that discourages people from maximising the income of those authorities and their ability to use their work force to provide a public service, that is not an issue between our parties.

I am talking about Conservative-controlled councils taking on work for Conservative-controlled councils. If such comments and legal advice have not been thoroughly discussed and tested with local authority associations and other professional bodies, they can do enormous harm by entrenching local government in sterile and stagnant positions. Instead of using the initiatives of people at local level, it would confine them within agreed boxes, and I do not believe that that should be the role of the commission or the audit service. Their role is to protect us from wrong doing and to ensure that there is adequate practice and that professionalism is paramount.

Following the 1988 and 1989 Acts, there are whistleblowers and regulations to ensure that people do not step over the boundaries of the law. I shall not vote against the code, but it was important to put those views on record so that no one is in any doubt about the Opposition's position. We can work with the Government on those matters on which we all agree and which, should not be disputed.

10.53 am

Mr. David Shaw (Dover): Can my hon. Friend the Minister clarify two points about the code? First, paragraph 64 deals with management letters—which, in my past auditing experience, I found extremely useful and helpful. I hope that my hon. Friend's Department and other Departments that receive them, as well as the members of councils, are treating them seriously. I also hope that the Departments will encourage a good, tough procedure for going through management letters, as they are valuable in ensuring efficiency and effectiveness.

The audit opinions and the standard audit reports that are mentioned leave out the word "true", which is the commercial requirement. They refer solely to the fact that accounts for local authorities and other public bodies tend to be required to represent the position fairly. The

Government should reflect on whether future audit opinions should move towards the true and fair opinion required in the commercial sector.

If my hon. Friend the Minister cannot answer immediately, perhaps he will reply to me in detail in a letter. I should be happy to accept that.

10.54 am

Mr. Key: I thank the hon. Member for Sheffield, Brightside (Mr. Blunkett) for his generous welcome. This is an interesting time in which to take up my job. In spite of our wide political differences, I have warm respect for the hon. Gentleman and I discovered that that was not misplaced when I visited Sheffield recently and met its civic leaders. Having already met representatives from local authorities in the north—from Barnsley, Sheffield, Manchester, Liverpool and Birmingham—I know that it is possible for us all to agree on the highest standards of local authority performance in the interests of the people whom we all serve.

As the hon. Gentleman said the Audit Commission is a vital part of the propriety that we expect from local government. I share his wish that there should be no controversy or public dispute between us on that. He referred to paragraph 58 of the code, which makes it clear that it is for the auditor to decide whether, in a particular case, he should make a report in the public interest. The code lists some circumstances that may call for a report, and uses the term "if significant". I am sure that the auditors will use their discretion when deciding how to use their powers.

The hon. Gentleman spoke of unnecessary criticism of local government—a system which, he said, had a quality unequalled in the rest of the world. The best of our local authorities are, indeed, unrivalled in the rest of the world, as I know from my experience as a Member of Parliament and my dealings with authorities during recent weeks. I often feel sad that local authorities are sometimes condemned by Members of Parliament for decisions with which we disagree. The quality of the officials working in local government is often extremely high, and I am quick to pay tribute to them—for example, there are people working in housing departments, who have unparalleled experience. However, a problem exists with career structures in local government, with the status of local government officers, and so on. I shall consider such matters, and there is no difference between the hon. Gentleman and I on that.

The hon. Gentleman referred to reports in the press at the end of last week about his alleged remarks. *The Independent* said that he had attacked the Commission's "single-minded concentration on local authority accounting at the expense of effectiveness and quality".

I draw the Committee's attention to paragraph 12 of the code, which is headed "Professional Care." I read the draft code carefully, and paragraph 12 with satisfaction—especially subparagraph (f) which recommends that the auditor keeps

"Up to date with developments in professional matters"

and subparagraph (g), which recommends that he ensures "that the audit is staffed with sufficient suitably qualified and experienced personnel and that the work of the staff is properly reviewed."

I was pleased to read in section 13—"Audit Objectives"—that under subparagraph (e) the commission should be concerned with

"the performance of particular services"

and that under subparagraph (f), it should be concerned with

"the effectiveness of management arrangements."

Under paragraph 14(d), the auditor will discharge his responsibilities by providing

"where appropriate, a report dealing with matters considered by the auditor to be of public interest."

Clearly, the Audit Commission realises the need for the highest professional standards and care.

My hon. Friend the Member for Dover (Mr. Shaw) drew attention to paragraph 64, which covers management letters. I assure him that they will be treated with the seriousness that they deserve.

It is important to emphasise that public sector accounts are drawn up not on the same basis as company accounts, but on the basis of presenting fairly the position of the authority. That form of words works well in the public sector. The form of accounts in the private sector is different, and I understand that the private sector is reconsidering the standard form of words for auditors' opinions. I shall seek further advice on the matter and will write to my hon. Friend about that.

We all agree that there is always room for improvement in auditing, as with everything else. That is why the commission has returned to the Committee after only two years, when it could have waited for five years. I hope that the Committee will agree to the code.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Code of Audit Practice for England and Wales.

Committee rose at Eleven o'clock.

THE FOLLOWING MEMBERS ATTENDED THE COMMITTEE:

Howells, Mr Geraint (*Chairman*)
Amess, Mr.
Blunkett, Mr.
Boswell, Mr.
Key, Mr.
Martin, Mr. David

Mills, Mr.
Pawsey, Mr.
Raffan, Mr.
Rathbone, Mr.
Sayeed, Mr.
Shaw, Mr. David

DRAFT STATUTORY INSTRUMENTS

1990 No.

MARINE POLLUTION

The Merchant Shipping
(Prevention and Control of Pollution) Order 1990

Made - - - - 1990

Coming into force 1990

At the Court at Buckingham Palace, the day of 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas by virtue of section 20(1)(a) and (d) and (2) of the Merchant Shipping Act 1979(a) ("the Act of 1979") Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to—

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973 ("the Convention")(b), and
- (b) any international agreement, not mentioned in paragraphs (a) to (c) of the said section 20(1), which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships including an agreement which provides for modification of, *inter alia*, the Convention;

And whereas the said section 20(2) provides that the powers conferred by section 20(1) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force;

And whereas the Merchant Shipping (Prevention and Control of Pollution) Order 1987(c) enables effect to be given to Annex II and Protocol 1 to the Convention, as amended;

And whereas the Marine Environment Protection Committee of the International Maritime Organization on 17th March 1989 by Resolution MEPC 32(27) and 34(27) adopted, in accordance with Article 16(2)(d) of the Convention, amendments relating to Annex II and Protocol 1 to the Convention;

And whereas the said amendments came into force internationally on 13th October 1990;

And whereas Annex III to the Convention, which relates to pollution by harmful substances in packaged form was ratified by the United Kingdom on 27th May 1986;

And whereas the said Annex III has not yet come into force internationally but it is desired to give effect to the provisions of the said Annex III from 1st January 1991;

And whereas a draft of this Order has been approved by a resolution of each House of Parliament;

(a) 1979 c.39.

(b) Cmnd. 5748.

(c) S.I. 1987/470.

Now, therefore, Her Majesty, in exercise of the powers conferred by section 20(1)(a) and (d), (2), (3), (4) and (5) of the Act of 1979 and of all other powers enabling Her in that behalf is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Merchant Shipping (Prevention and Control of Pollution) Order 1990 and shall come into force on 1st January 1991.

2. The Merchant Shipping (Prevention and Control of Pollution) Order 1987 is hereby amended by adding to article 3(1)(a), after "as amended" the words "and as further amended by the Marine Environment Protection Committee of the International Maritime Organization on 17th March 1989".

3.—(1) The Secretary of State may make regulations for the prevention of pollution by harmful substances carried by sea in packaged form for the purpose of giving effect to the provisions of Annex III to the Convention.

(2) Such regulations may in particular include provisions—

- (a) with respect to the approval of documents and carrying out of surveys and inspections, and for the issue, duration and recognition of certificates and the payment in connection with such a survey, inspection or certificate of fees of amounts determined with the approval of the Treasury;
- (b) with respect to the application of the regulations to the Crown and the extra-territorial operation of the regulations;
- (c) for the extension of any provision of this Order or of the regulations, with or without modification, to any of the Channel Islands, the Isle of Man, any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom;
- (d) that specified contraventions of the regulations shall be offences punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (e) that specified contraventions shall be offences punishable only on summary conviction by a maximum fine not exceeding level 5 on the standard scale or such less amount as is prescribed by the regulations;
- (f) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship for applying section 692 of the Merchant Shipping Act 1894(a) (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the regulations.

(3) Such regulations may—

- (a) make different provisions for different circumstances;
- (b) provide for exemptions from any provisions of the regulations;
- (c) provide for the delegation of functions exercisable by virtue of the regulations; and
- (d) include such incidental, supplemental and transitional provisions as appear to the Secretary of State to be expedient for the purposes of the regulations.

(4) The Statutory Instruments Act 1946(b) shall apply to regulations made under this Order, and shall so apply as if such regulations were a statutory instrument.

Clerk of the Privy Council

(a) 1894 c.60.

(b) 1946 c.36.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables effect to be given to

- (i) amendments agreed by the Marine Environment Protection Committee of the International Maritime Organization on 17th March 1989 relating to Annex II to the International Convention for the Prevention of Pollution from Ship 1973 ("MARPOL");
- (ii) Annex III to MARPOL, which was ratified by the United Kingdom on 27th May 1986 but which is not in force internationally.

Annex II to MARPOL relates to pollution by noxious liquid substances in bulk. Annex III contains regulations for the prevention of pollution by harmful substances carried by sea in packaged forms, and in particular requires Governments to issue, or caused to be issued, detailed requirements on packaging, marking and labelling, documentation, stowage, quantity limitations, exceptions and notification, for preventing or minimizing pollution of the marine environment by harmful substances.

The Order amends the Merchant Shipping (Prevention and Control of Pollution) Order 1987, which enables regulations to be made giving effect to Annex II. It also empowers the Secretary of State to make regulations for the purpose of giving effect to the provisions of Annex III. In particular, such regulations may include provisions with respect to the carrying out of surveys, the issue of certificates, the application of the regulations to the Crown, the extension of the Order or regulations to dependent territories, the imposition of penalties and the detention of ships.

Copies of the Convention, the Annexes, and amendments are obtainable from the International Maritime Organization, 4 Albert Embankment, London SE1 7SR.

1990 No.

MARINE POLLUTION

**The Merchant Shipping
(Prevention and Control of Pollution) Order 1990**

<i>Made</i> - - - -	1990
<i>Coming into force</i>	1990

95p net

ISBN 0 11 005592 6

Printed in the UK by HMSO

850/WO1926 C15 452/4 11/90 3203443 19542

*Order made by the Secretary of State, laid before Parliament under section 67(5) of the Police and Criminal Evidence Act 1984, for approval by resolution of each House of Parliament.
This Order supersedes one laid before Parliament on 16th July 1990 and withdrawn before being approved by either House of Parliament and is being issued free of charge to all known recipients of that Order.*

STATUTORY INSTRUMENTS

1990 No.

POLICE

The Police and Criminal Evidence Act 1984 (Codes of Practice) (No. 2) Order 1990

<i>Made - - - -</i>	<i>8th November 1990</i>
<i>Laid before Parliament</i>	<i>19th November 1990</i>
<i>Coming into force</i>	<i>1st April 1991</i>

Whereas—

(1) In pursuance of section 66 of the Police and Criminal Evidence Act 1984(a) the Secretary of State issued codes of practice(b) in connection with the following matters:

- (a) the exercise by police officers of statutory powers—
 - (i) to search a person without first arresting him; or
 - (ii) to search a vehicle without making an arrest;
- (b) the detention, treatment, questioning and identification of persons by police officers;
- (c) searches of premises by police officers; and
- (d) the seizure of property found by police officers on persons or premises,

and may in pursuance of section 67(7) of that Act revise the whole or part of such a code of practice and issue a revised code:

(2) in pursuance of section 67(1) of that Act the Secretary of State has prepared and published draft revised codes of practice in connection with the said matters and has considered representations made to him thereon and modified the draft revised codes of practice accordingly:

(3) in pursuance of section 67(3) of that Act the Secretary of State has laid a draft of each revised code of practice before both Houses of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 67 of the said Act of 1984, hereby orders as follows:

1. This Order may be cited as the Police and Criminal Evidence Act 1984 (Codes of Practice) (No. 2) Order 1990 and shall come into force on 1st April 1991.

2. Subject to article 3 of this Order, the revised codes of practice laid in draft before Parliament on 8th November 1990 in connection with the matters referred to in section 66 of the Police and Criminal Evidence Act 1984 shall come into operation on 1st April 1991.

(a) 1984 c.60.

(b) The codes of practice were brought into operation by S.I. 1985/1937.

3.—(1) The revised code of practice for the exercise by police officers of statutory powers of stop and search shall apply to any search by a police officer which commences after midnight on 31st March 1991, notwithstanding that the person or vehicle in question may have been detained by him in that behalf before that time.

(2) The revised code of practice for the searching of premises by police officers and the seizure of property found by police officers on persons or premises shall apply—

(a) to any application for a warrant to search premises made after 31st March 1991; and

(b) to any search of premises or seizure of property taking place after midnight on 31st March 1991, notwithstanding that the search or seizure in question may have taken place in the pursuance of a warrant granted or applied for before that time.

(3) The revised code of practice for the detention, treatment and questioning of persons by police officers shall apply to persons in police detention after midnight on 31st March 1991, notwithstanding that their period of detention may have commenced before that time.

(4) The revised code of practice for the identification of persons by police officers shall apply to any procedures to which the code relates which are carried out after 31st March 1991.

4. The Police and Criminal Evidence Act 1984 (Codes of Practice) (No. 1) Order 1985(a) is hereby revoked.

Home Office
8th November 1990

David Waddington
One of Her Majesty's Principal Secretaries of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st April 1991 as the date on which revised codes of practice under section 66 of the Police and Criminal Evidence Act 1984 will come into operation, superseding codes of practice which have been in operation since 1st January 1986.

The revised codes of practice are—

- (a) Code of Practice for the Exercise by Police Officers of Statutory Powers of Stop and Search;
- (b) Code of Practice for the Searching of Premises by Police Officers and the Seizure of Property found by Police Officers on Persons or Premises;
- (c) Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers;
- (d) Code of Practice for Identification of Persons by Police Officers.

The codes of practice will be published by Her Majesty's Stationery Office: copies may be obtained from Government bookshops.

(a) S.I. 1985/1937.

55p net

ISBN 0 11 005593 4

Printed in the United Kingdom for HMSO

790/WO 1930 C15 11/90 452/1 9385/1235/8654 88352