



# Reorganisation of Offices (Scotland) Act 1939

## 1939 CHAPTER 20

An Act to provide for the transference of the functions of Scottish government departments to the Secretary of State, to make provision for the reorganisation of the General Board of Control for Scotland, and for purposes connected with the aforesaid matters. [25th May 1939]

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

### **1 Transfer of Scottish Departments' functions to Secretary of State.**

- (1) On the appointed day the functions of (a) the Scottish Education Department, (6) the Department of Health for Scotland, (c) the Department of Agriculture for Scotland, (d) the Prisons Department for Scotland, and (e) the Fishery Board for Scotland, shall be transferred to and vested in one of His Majesty's Principal Secretaries of State, and the said Departments (in which expression the Fishery Board for Scotland is included) shall cease to exist.
- (2) The Secretary of State may appoint such secretaries, officers and servants as he may, with the sanction of the Treasury as to numbers, deem necessary to enable him to discharge the functions vested in him, and may from time to time give such directions as he shall think fit for the distribution of the business of his office among the persons so appointed. There shall be paid out of moneys provided by Parliament to the persons so appointed such remuneration as the Secretary of State with the consent of the Treasury may from time to time determine.
- (3) The officers and servants employed under the Secretary of State at the passing of this Act shall, as from the date thereof, and the officers and servants of or employed under any Department mentioned in subsection (1) of this section shall, as from the transfer

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of the functions of that Department under the said subsection, be deemed to have been appointed by the Secretary of State in pursuance of subsection (2) of this section :

Provided that no such officer or servant shall be in any worse position as regards tenure of office, remuneration or superannuation than he would have been if this Act had not passed.

- (4) The Secretary of State may, by order, make such incidental, consequential and supplemental provisions, and such adaptations in the enactments relating to any functions transferred to him under this section as may be necessary or expedient for the purpose of giving full effect to the transfer of such functions and of making them exercisable by him or his officers and servants.
- (5) An order made under the last foregoing subsection shall not come into force until it has lain before each House of Parliament for twenty-one days on which that House has sat, and if during that period an address is presented to His Majesty by either House praying that the order or any part thereof may be annulled, the order or the part thereof to which the address relates shall be void, but without prejudice to the making of a new order.
- (6) On any transfer under this section of the functions of a Department—
  - (a) all property belonging to or vested in or held in trust for that Department shall pass to and vest in and be held in trust for the Secretary of State for Scotland and his successors in office, subject to all debts and liabilities affecting the same, and shall be held by such Secretary of State for the purposes for which it would have been held if this Act had not passed;
  - (b) the Secretary of State shall, subject as herein before provided, be substituted for the Department in the construction and for the purposes of any Act, decree, order, byelaw, regulation, minute, contract, deed or other document passed, made or executed, or of any action or proceeding raised, before such transfer:

Provided that—

- (i) a provision in any Act, whereby the Department is required to submit a report to the Secretary of State and the report is required to be laid before or presented to Parliament, shall have effect as if it required the Secretary of State to cause the report to be prepared and to submit it to Parliament;
  - (ii) a reference in any provision contained in any Act or other such document as aforesaid to the Secretary of the Department shall be construed as a reference to an officer of the Secretary of State duly authorised for the purpose of such provision; and
  - (iii) any reference in any Act or other such document as aforesaid to the Accountant of the Scottish Education Department shall be construed as a reference to the Accountant appointed in pursuance of section fifty of the Education (Scotland) Act, 1872.
- (7) Any property heritable or moveable which is vested in the Secretary of State for Scotland by virtue of the last foregoing subsection or by acquisition in pursuance of any functions transferred to him under this section shall, unless otherwise lawfully disposed of, pass and devolve to and vest in the successors in office from time to time of the Secretary of State for Scotland in whom the property was first vested, and any instrument made by, to, or with any Secretary of State for Scotland in relation to any such property shall be deemed to have been made by, to or with him and his successors in office.

- (8) In any instrument in connection with the acquisition, management, or disposal of any property, heritable or moveable, and in any legal proceedings to which the Secretary of State for Scotland is a party, it shall be sufficient to describe him by the title " the Secretary of State for Scotland" without naming him, and any such instrument shall, without prejudice to any other method of execution, be deemed to be validly executed by him if it is executed on his behalf by any officer authorised by him for the purpose. Any such instrument purporting to have been executed as aforesaid on behalf of the Secretary of State for Scotland shall, until the contrary is proved, be deemed to have been so executed on his behalf.
- (9) The Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, shall, in its application to the Secretary of State for Scotland, have effect as if, in addition to a Secretary or Under Secretary of State, an officer of the Secretary of State duly authorised by him were mentioned in the second column of the Schedule to the first-mentioned Act.

## **2 Reorganisation of the General Board of Control.**

- (1) As from the appointed day the General Board of Control for Scotland shall consist of a Chairman and not more than seven other Commissioners, of whom at least two shall be medical Commissioners and one shall be a legal Commissioner.
- (2) No person shall be appointed a medical Commissioner unless he is a duly qualified medical practitioner, and no person shall be appointed legal Commissioner unless he is, and has been for a period of at least five years, either a member of the Faculty of Advocates or a solicitor.
- (3) The Commissioners shall be appointed by His Majesty on the recommendation of the Secretary of State and shall hold office during His Majesty's pleasure.
- (4) The Chairman, and the medical and legal Commissioners shall receive out of moneys provided by Parliament such remuneration as the Secretary of State with the consent of the Treasury may from time to time determine.
- (5) The Commissioners (including the Chairman) holding office on the appointed day shall cease to be members of the Board, provided that the paid Commissioners holding office on the said day shall be deemed to have been appointed as medical Commissioners in pursuance of this section, but shall not be in any worse position as regards tenure of office, remuneration or superannuation than they would have been if this Act had not passed.
- (6) References in any enactment passed before this Act to a paid Commissioner and to the two paid Commissioners shall be construed respectively as references to a medical Commissioner and to the medical Commissioners.
- (7) It shall be lawful for the Secretary of State to regulate the duties of the Commissioners or any of them.
- (8) Sections thirteen and sixteen of the Lunacy (Scotland) Act, 1857, (which relate respectively to the appointment of the secretary and of a clerk to the Board), shall cease to have effect, and the powers conferred by section one of the Lunacy Board (Scotland) Salaries and Clerks Act, 1900, with regard to the appointment of clerks shall extend to the appointment of the secretary.

### **3 Fisheries Advisory Council.**

- (1) For the purpose of giving advice and assistance and making recommendations to the Secretary of State in the discharge of the functions transferred to him from the Fishery Board for Scotland, there shall, as soon as may be after the transfer of such functions, be constituted a Council to be called the Scottish Fisheries Advisory Council (hereinafter referred to as " the Council").
- (2) The Council shall consist of not more than twelve members who shall be appointed by the Secretary of State, after consultation with such bodies representing the interests of the various sections of the fishing industry as the Secretary of State shall think fit. The Secretary of State shall appoint one of the members to be Chairman of the Council.
- (3) Every member of the Council shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but, notwithstanding anything in such an instrument, any such member of the Council may resign his office by a written notice given under his hand to the Secretary of State, and a member of the Council who ceases to hold office shall be eligible for re-appointment.
- (4) Unless and until the Council otherwise determines, the quorum of the Council shall be such number as may be fixed by the Secretary of State, and the Council shall have power to act notwithstanding any vacancy among the members thereof.
- (5) Subject to any directions which may be given by the Secretary of State, the Council shall have power to regulate its own procedure.
- (6) The Secretary of State shall appoint a person to act as secretary to the Council.
- (7) The Secretary of State may, out of moneys provided by Parliament, make such payments in respect of the expenses of the Council as the Treasury may approve.

### **4 Registrar General's staff.**

- (1) The Secretary of State may appoint such officers and servants in the office of the Registrar General of Births, Deaths and Marriages in Scotland, as the Secretary of State may, with the sanction of the Treasury as to numbers, determine to be necessary.
- (2) Any secretary, officer or servant employed in the aforesaid office at the commencement of this Act shall be deemed to have been appointed in pursuance of the power conferred by the foregoing subsection.

### **5 Repeal.**

The enactments set forth in the Schedule to this Act shall, as from the appointed day, be repealed to the extent specified in the third column of that Schedule.

### **6 Interpretation and citation.**

- (1) In this Act—
  - the expression " functions " includes powers and duties;
  - the expression " appointed day " means such day as the Secretary of State may appoint, and the Secretary of State may appoint different days for different purposes or different provisions of this Act, and, without prejudice to the foregoing generality, may appoint different days for the transfer

of the functions and the abolition of the several departments specified in subsection (1) of section one of this Act.

(2) This Act may be cited as the Reorganisation of Offices (Scotland) Act, 1939.

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SCHEDULE

Section 5.

ENACTMENTS REPEALED

Session and chapter.	Short title.	Extent of repeal.
8 & 9 Vict. c. 83.	The Poor Law (Scotland) Act, 1845.	<p>Section five.</p> <p>In section eleven, the words from " with the consent " to " or her Majesty's said advocate "; the words from " and every such appointment " to " her Majesty's said advocate"; and the words " and approved of by " her Majesty's said secretary " of state or advocate."</p> <p>In section thirteen, the words "or committee thereof" and the words " or committee " wherever occurring.</p> <p>Section fourteen.</p> <p>In section sixty-three, from the words " and signed " to the end of the section.</p>
17 & 18 Vict. c. 80.	The Registration of Births, Deaths and Marriages (Scotland) Act, 1854.	Sections three and four.
19 & 20 Vict. c. 117.	The Poor Law (Scotland) Act, 1856.	In section one, the words " with " the consent of Her Majesty's " Principal Secretary of State " for the Home Department," the words " with the consent of the Secretary of State," the words " with such consent as aforesaid," and the words " with such consent."
20 & 21 Vict. c. 71.	The Lunacy (Scotland) Act, 1857.	<p>In section three, the definitions of " the Board " and " secretary."</p> <p>Sections four, thirteen and sixteen.</p>
23 & 24 Vict. c. 85.	The Registration of Births, Deaths and Marriages (Scotland) Act, 1860.	Section four.
26 & 27 Vict. c. 108.	The Vaccination (Scotland) Act, 1863.	In section twelve, the words " when approved of by the "

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Session and chapter.	Short title.	Extent of repeal.
35 & 36 Vict. c. 62.	The Education (Scotland) Act, 1872.	Lord Advocate for the time "being." In section one, the definition of "Scotch Education Department." Sections two and sixty-five.
40 & 41 Vict. c. 53.	The Prisons (Scotland) Act, 1877.	In section ten, the words "subject to the control of the "Secretary of State" in both places where those words occur. Section eleven except in so far as it requires a report to be made with respect to every prison and to be laid before both Houses of Parliament. In section sixty-six, all the words from "the Secretary of State" to the end of the section.
42 & 43 Vict. c. 44.	The Lord Clerk Register (Scotland) Act, 1879.	Section eight, so far as relating to the right of appointment vested in the Registrar General.
45 & 46 Vict. c. 78.	The Fishery Board (Scotland) Act, 1882.	Section four. In subsection (3) of section five, the words from "shall comply" to "Department, and" and the words "to him." Section eight.
48 & 49 Vict. c. 61.	The Secretary for Scotland Act, 1885.	Section six.
49 & 50 Vict. c. 29.	The Crofters Holdings (Scotland) Act, 1886.	In section thirty-two, the words with the consent of the Secretary for Scotland."
49 & 50 Vict. c. 49.	The Peterhead Harbour of Refuge Act, 1886.	In section twenty-three, the words "except any powers as to the appointment of officers."
52 & 53 Vict. c. 23.	The Herring Fishery (Scotland) Act, 1889.	In subsection (2) of section six, all the words after "this section."

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Session and chapter.	Short title.	Extent of repeal.
58 & 59 Vict. c. 42.	The Sea Fisheries Regulation (Scotland) Act, 1895.	<p>In subsection (1) of section seven, all the words after "this section."</p> <p>Section four from the beginning to the end of paragraph (1), and paragraph (3).</p> <p>In section sixteen the words " with the approval of the Secretary of Scotland."</p> <p>In section twenty the words " of the Secretary for Scotland and."</p> <p>Subsection (1) of section twenty-two except in so far as relating to byelaws made by fishery district committees.</p>
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	<p>Section eleven.</p> <p>Section seventy-nine from the words " The Board may with the consent " to the end of the section.</p> <p>In section one hundred and forty-seven, the words " with " the approval of the Lord " Advocate."</p>
60 & 61 Vict. c. 53.	The Congested Districts (Scotland) Act, 1897.	<p>In subsection (2) of section four, the words from " and the consent " to the end of the subsection.</p>
7 Edw. 7. c. 41.	The Whale Fisheries (Scotland) Act, 1907.	<p>In subsection (1) of section four, the words " with the consent " of the Secretary for Scot-" land."</p>
7 Edw. 7. c. 42.	The Sea Fisheries (Scotland) Application of Penalties Act, 1907.	<p>In section one, the words " with " the consent of the Secretary " for Scotland."</p>
8 Edw. 7. c. 63.	The Education (Scotland) Act, 1908.	<p>In subsection (4) of section ten, the words " of the Department for the Board and "; in subsection (3) of section twenty-two, the words from " with the substitution " to the end of the subsection; and in section thirty-four, in</p>



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Session and chapter.	Short title.	Extent of repeal.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act, 1911.	<p>the definition of " provincial committee," the words " of the Department."</p> <p>In section six, the words " in " accordance with schemes to " be approved by the Secretary for Scotland."</p> <p>In subsection (10) of section seven, the words " with the consent of the Secretary for " Scotland."</p>
3 & 4 Geo. 5. c. 26.	The Highlands and Islands (Medical Service) Grant Act, 1913.	<p>In subsection (2) of section one, the words " and approved by the Secretary for Scotland."</p> <p>Subsections (1) to (4) of section two.</p>
3 & 4 Geo. 5. c. 38.	The Mental Deficiency and Lunacy (Scotland) Act, 1913.	<p>In section nineteen, subsection (2) and the words " to the paid Commissioners and" in subsection (4).</p>
4 & 5 Geo. 5. c. 46.	The Milk and Dairies (Scotland) Act, 1914.	<p>In subsection (2) of section eight, paragraph (a).</p> <p>In section ten, the words " with the approval of the Lord " Advocate."</p> <p>In subsection (2) of section twelve, the words " with the " concurrence of the Board " of Agriculture for Scotland."</p>
8 & 9 Geo. 5. c. 48.	The Education (Scotland) Act, 1918.	<p>In subsection (3) of section eleven, the words " of the " Department for the Local " Government Board for " Scotland."</p>
9 & 10 Geo 5. c. 20.	The Scottish Board of Health Act, 1919.	<p>In subsection (1) of section four, the proviso.</p> <p>In subsection (2) of the said section, paragraph (a).</p> <p>Subsections (1) and (2) of section six.</p>
9 & 10 Geo. 5. c. 97.	The Land Settlement (Scotland) Act, 1919.	<p>In subsection (1) of section one and in section two, the words " the Secretary for Scotland and ".</p>

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Session and chapter.	Short title.	Extent of repeal.
12 & 13 Geo. 5. c. 34.	The Whale Fisheries (Scotland) (Amendment) Act, 1922,	<p>In section sixteen, the words " the Secretary for Scotland and ".</p> <p>In subsection (3) of section eighteen the words " with the " approval of the Secretary for " Scotland."</p> <p>In paragraph (5) of the First Schedule the words " subject " to the approval of the Secretary for Scotland," and the words " subject to the approval aforesaid," and in paragraph (7) of the said schedule, the words " with " the approval of the Secretary for Scotland."</p>
12 & 13 Geo. 5. c. 52.	The Allotments (Scotland) Act, 1922.	<p>In section one, the words " by " the Fishery Board for Scot-" land."</p> <p>In subsection (2) of section sixteen, the words " in the case of a town council " and the words " and in the case of " a parish council the Scottish " Board of Health."</p>
15 & 16 Geo.5. c. 15.	The Housing (Scotland) Act, 1925.	<p>In subsection (2) of section eighty-three, the words " on " the application of the Board " of Agriculture for Scotland."</p> <p>In section eighty-four, paragraph (a) of the proviso.</p> <p>In subsection (1) of section eighty-six, the words " after " consultation with the " Board of Agriculture for " Scotland."</p> <p>In paragraph 8 of the Fifth Schedule, the words " (with the " substitution of the Board for " the Secretary for Scotland). "</p>
18 & 19 Geo. 5. c. 30.	The Educational Endowments (Scotland) Act, 1928.	Section thirty-six.

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Session and chapter.	Short title.	Extent of repeal.
<a href="#">18 &amp; 19 Geo. 5. c. 34.</a>	The Reorganisation of Offices (Scotland) Act, 1928.	In section one, the proviso to paragraph (a) of subsection (4) and subsection (5). Section three.
<a href="#">19 &amp; 20 Geo. 5. c. 25.</a>	The Local Government (Scotland) Act, 1929.	In subsection (1) of section twelve, the words " of the " Scottish Education Department for the Secretary of " State and ". In section seventy-seven, paragraphs (a) and (b) of the definition of " Central Department ". In the Third Schedule, subparagraph (a) of paragraph 14.
<a href="#">20 &amp; 21 Geo.5. c. 36.</a>	The Education (Scotland) Act, 1930.	In section one, the words " and " the Department of Health " for Scotland."
<a href="#">21 &amp; 22 Geo. 5. c. 40.</a>	The Agricultural Produce (Grading and Marketing) Amendment Act, 1931.	Subsection (2) of section one.
<a href="#">21 &amp; 22 Geo. 5. c. 41.</a>	The Agricultural Land (Utilisation) Act, 1931.	In section twenty-four, the words in paragraph (a) from " provided that " to " Secretary of State."
<a href="#">21 &amp; 22 Geo. 5. c. 42.</a>	The Agricultural Marketing Act, 1931.	In subsection (1) of section eleven, the words " acting under " the control and direction of " the Secretary of State for " Scotland."
<a href="#">22 &amp; 23 Geo. 5. c. 12.</a>	The Destructive Imported Animals Act, 1932.	In section nine, the words " the Secretary of State."
<a href="#">22 &amp; 23 Geo.5. c. 49.</a>	The Town and Country Planning (Scotland) Act, 1932.	In subsection (1) of section thirty-four, the words " the " Department of Agriculture " for Scotland." In subsection (4) of section thirty-five, the words " with " the approval of the Lord " Advocate." In paragraph 4 of Part II of the Third Schedule, the words " after consultation

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Session and chapter.	Short title.	Extent of repeal.
24 & 25 Geo. 5. c. 18.	The Illegal Trawling (Scotland) Act, 1934.	with the " Department of Agriculture " for Scotland " in both places where those words occur.
26 Geo. 5. & 1 Edw. 8. c. 18.	The Sugar Industry (Reorganization) Act, 1936.	In section six, the words " of the Fishery Board for Scotland."
26 Geo. 5. & 1 Edw. 8. c. 33.	The Widows', Orphans' and Old Age Contributory Pensions Act, 1936.	In subsection (3) of section eighteen, the words " the Secretary of State."
1 Edw. 8. & 1 Geo. 6. c. 28.	The Harbours, Piers and Ferries (Scotland) Act, 1937.	In section forty-four, in paragraph . (1) the words from " except in section " to " Secretary of State " and the words " the said."
1 Edw. 8. & 1 Geo. 6. c. 33.	The Diseases of Fish Act, 1937.	In paragraph (d) of section nine, the words "or of the Fishery " Board for Scotland or of the " Department of Agriculture " for Scotland."
1 Edw. 8. & 1 Geo. 6. c. 35.	The Statutory Salaries Act, 1937.	In section eleven, paragraph (d).
1 Edw. 8. & 1 Geo. 6. c. 37.	The Children and Young Persons (Scotland) Act, 1937.	Section two, so far as relating to the Secretary to the Registrar General. The Second Schedule, so far as relating to the Registration of Births, Deaths, and Marriages (Scotland) Act, 1860.
		In section seventy-seven, the words from, " in the case " to " any other case."
		In subsection (1) of section ninety-three the words from " not being" to "of an education authority."
		In subsection (6) of section one hundred and one, the words from " with the substitution " to the end of the subsection.
		In subsection (1) of section one hundred and seven, the words " or the Scottish Education Department."

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Session and chapter.	Short title.	Extent of repeal.
1 & 2 Geo. 6. c. 38.	The Housing (Agricultural Population) (Scotland) Act, 1938.	Section one hundred and eight.  In subsection (1) of section one hundred and ten, in the definition of " Approved School," the words " by the Scottish Education Department"; and in the definition of " Prescribed " the words from " or by the Scottish Education Department " to the end of the definition.  In section eighteen, subsection (5).