

Hallmarking Act 1973

1973 CHAPTER 43

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An Act to make fresh provision for the composition, assaying, marking and description of articles of, or containing, precious metals, and as to agencies for the implementation and enforcement thereof; and for purposes connected with those matters.

[25th July 1973]

1.— Prohibited descriptions of unhallmarked articles.

- (1) Subject to the provisions of this Act, any person who, in the course of a trade or business—
- (a) applies to an unhallmarked article a description indicating that it is wholly or partly made of gold, silver [, platinum or palladium]¹, or
 - (b) supplies, or offers to supply, an unhallmarked article to which such a description is applied,

shall be guilty of an offence.

(2) Subsection (1) above shall not apply to a description which is permitted by Part I of Schedule 1 to this Act.

(3) Subsection (1) above shall not apply to an article within Part II of the said Schedule.

(4) [...]²

[(4A) Subsection (4B) applies in any case where—

- (a) the giving of a description of the fineness (whether in parts per thousand or otherwise) of any precious metal constitutes advertising within the meaning of the Business Protection from Misleading Marketing Regulations 2008, and
- (b) the description is false to any extent or degree (except by understating the fineness).

(4B) In any such case, the giving of the description is to be treated as satisfying the requirements of regulation 3(2) of those Regulations (requirements for advertising to be misleading).

(4C) Subsection (4D) applies in any case where—

- (a) the giving of a description of the fineness (whether in parts per thousand or otherwise) of any precious metal constitutes a commercial practice within the meaning of the Consumer Protection from Unfair Trading Regulations 2008, and
- (b) the description is false to any extent or degree (except by understating the fineness).

¹ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.2 (July 22, 2009)

² Repealed by Consumer Protection from Unfair Trading Regulations 2008/1277 Sch.4(1) para.1 (May 26, 2008)

(4D) In any such case, the giving of the description is to be treated as satisfying the conditions in regulation 5(2) of those Regulations (conditions for a commercial practice to be a misleading action).]³

(5) Part III of the said Schedule shall apply for construing descriptions relating to the fineness of precious metals.

(6) The provisions of this section have effect subject to Part IV of the said Schedule.

(7) For the purposes of this section—

(a) “advertisement” includes a catalogue, a circular and a price list,

(b) section 4 of the Act of 1968 (which defines “applies a trade description”) shall apply to paragraphs (a) and (b) of subsection (1), for the interpretation of references to a description being applied to any article, as it applies for the interpretation of references in that Act to applying a trade description,

(c) a person exposing articles for supply, or having articles in his possession for supply, “offers to supply” them.

(8) Where in an advertisement a description is used in relation to any class of articles, the description shall be taken as referring to all articles of the class, whether or not in existence at the time the advertisement is published—

(a) for the purpose of determining whether an offence has been committed under subsection (1)(a) above, and

(b) where articles of the class are supplied or offered to be supplied by a person publishing or displaying the advertisement, also for the purpose of determining whether an offence has been committed under subsection (1)(b) above;

and section 5(3) of the Act of 1968 (defining goods of the class in question) shall apply for determining whether any articles are of a class to which a description used in an advertisement relates.

(9) Section 39(2) of the Act of 1968 (descriptions in publications or broadcasts) shall apply for the purposes of this section.

2.— Meaning of approved hallmarks, etc.

(1) In this Act, unless the context otherwise requires, “approved hallmarks” means —

(a) marks struck by an assay office in the United Kingdom, whether before or after the commencement of this Act, under the law for the time being in force, or

(b) marks struck by the Wardens and Commonalty of Goldsmiths of the City of Dublin before 1st April 1923, or

(c) marks struck by an assay office under the law of a country outside the United Kingdom, being marks designated for the purposes of this section by order of the Secretary of State as marks recognised pursuant to any international convention or treaty to which Her Majesty's Government in the United Kingdom is a party [, or]⁴

[(d) marks struck in an EEA State other than the United Kingdom, being marks which—

³ Added by Consumer Protection from Unfair Trading Regulations 2008/1277 Sch.2(1) para.16(3) (May 26, 2008)

⁴ And the word "or" immediately preceding it by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(2) (January 1, 1999)

- (i) have been struck by an independent body in accordance with the law of that State; and
- (ii) provide information which is equivalent to the information provided by the marks mentioned in section 4(1)(a)(i) and (ii) of this Act and which is intelligible to consumers in the United Kingdom.

] ⁴

(2) Marks within subsection (1)(c) above are in this Act called “convention hallmarks” [,] ⁵ [and marks within subsection (1)(d) above are in this Act called “EEA hallmarks”.] ⁵

[(2A) In this section “EEA State” has the meaning given to it in Schedule 1 to the Interpretation Act 1978⁶ .] ⁷

(3) The Secretary of State may by order make such provision as appears to him appropriate for enabling articles submitted to an assay office in the United Kingdom to be struck with marks which, pursuant to any [convention or treaty falling within subsection (1)(c) above] ⁸ , will, or will with other marks, be accorded recognition under the law of any other country, and for making consequential or incidental provisions, including provision for excluding or modifying any of the provisions of this Act.

(4) For the purposes of this Act an article is unhallmarked—

- (a) if it does not bear the approved hallmarks and the sponsor's mark, or
- (b) if the article has been the subject of any improper alteration.

(5) In this Act “improper alteration” means an addition, alteration or repair which has been made to an article bearing approved hallmarks and—

- (a) which contravened section 5 of this Act, or
- (b) which was made before the coming into force of that section, and would have required the consent of an assay office if that section had been in force, or
- (c) in the case of an article which bears a convention hallmark [or an EEA hallmark] ⁹ , would have required that consent if the addition, alteration or repair had been made in the United Kingdom:

Provided that paragraphs (b) and (c) of this subsection shall not apply if, after the making of the addition, alteration or repair, the article has been re-assayed and struck with any further approved hallmark.

3.— Sponsors' marks.

(1) Before an article is submitted to an assay office to be struck with the approved hallmarks there shall be struck on the article a mark indicative of the manufacturer or sponsor and known as the sponsor's mark:

⁵ Words inserted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(3) (January 1, 1999)

⁶ 1978 c.30; relevant amendment was made by the Legislative and Regulatory Reform Act 2006 c.51, section 26

⁷ Substituted by Hallmarking Act 1973 (Amendment) Regulations 2007/872 reg.2(2) (April 6, 2007)

⁸ Words substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(5) (January 1, 1999)

⁹ Words inserted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(6) (January 1, 1999)

Provided that the assay office and the manufacturer or sponsor of an article may make arrangements for the sponsor's mark to be struck by that assay office upon submission of the article to be struck with the approved hallmarks.

(2) After 31st December 1975 all sponsors' marks for the time being in use shall cease to be authorised for striking on any article intended to be struck with the approved hallmarks and thenceforth a sponsor's mark shall be authorised (whether or not of the same design as any sponsor's mark which was authorised before 1st January 1976) only if it is for the time being registered under the following provisions of this section with an assay office by which the article is intended to be so struck.

(3)

(a) Any sponsor's mark which is registered under this section shall include the initial letters of the name or names of the manufacturer or sponsor and shall be of such design as may be approved by an assay office:

Provided that nothing in this paragraph shall apply to the registration on or before 31st December 1975 by a manufacturer or sponsor (or to the renewal from time to time thereafter of that registration) of the same mark as until that date has been authorised for use by him in terms of subsection (2) of this section.

(b) An assay office shall maintain a register of sponsors' marks for the time being registered and approved by that assay office under this section.

(4) Upon application for registration or renewal of the registration of any sponsor's mark under this section with an assay office, there shall be payable by the applicant such reasonable fee as for the time being is specified in regulations made by the Council and any application shall be made in such form accompanied by such particulars and exhibits as may be so specified.

(5) Registration or renewal of the registration of any sponsor's mark under this section shall be subject to the approval, provision and recording from time to time (in accordance with regulations made by the Council) of such punches or other equipment as may be specified in such regulations.

(6) Any assay office may register under this section their own sponsor's mark, being of such design as may be approved by resolution of the Council; and in any case where a person submits an article to an assay office for striking with the approved hallmarks and that assay office are of opinion that they would not be justified in requiring that person to register and strike a sponsor's mark in accordance with the foregoing provisions of this section, the sponsor's mark of that assay office may be struck on the article.

(7) The registration of a sponsor's mark under this section shall cease to have effect after the expiration of the period of ten years following registration but without prejudice to the making of any application for renewal of such registration.

(8) Any person who without authority strikes an article with a mark purporting to be a sponsor's mark authorised under this section shall be guilty of an offence.

4.— Approved hallmarks.

(1) Subject to the provisions of this section and of Schedule 2 to this Act, any article of precious metal, which is submitted to an assay office for hallmarking and which upon assay is found in all

its parts to be of a standard of fineness not less than the minimum fineness for that precious metal, shall be struck by that assay office with the approved hallmarks, namely—

(a) as respects articles comprised of a single precious metal (and governed by Part I of the said Schedule 2)—

(i) the assay office mark as specified in paragraph 1 of the said Schedule appropriate to the assay office specified in column (1) opposite to such mark;

(ii) the standard mark specified in paragraph 2 of the said Schedule as respects an article of the precious metal specified opposite thereto in column (1) of the said paragraph assaying to a standard of fineness specified in column (2) of the said paragraph and also so opposite; [...] ¹⁰

[(iii) the pictorial mark, or one of the pictorial marks, specified in paragraph 3 of the said Schedule as respects an article of the precious metal specified opposite thereto in column (1) of the said paragraph assaying to a standard of fineness specified in column (2) of the said paragraph and also so opposite;

(iv) the date letter directed pursuant to paragraph 4 of the said Schedule; and

(v) the mark (if any) directed pursuant to paragraph 5 of the said Schedule;.]¹⁰

(b) as respects articles comprised of two or more precious metals and satisfying the conditions of Part II of the said Schedule 2, marks struck in accordance with that Part; and

(c) as respects articles comprised of precious metal and other materials and satisfying the conditions of Part III of the said Schedule 2, marks struck in accordance with that Part;

and, as respects all such articles, in compliance with any directions given by the Council pursuant to Part IV of the said Schedule with respect to any shield or other border by which any approved hallmark is to be enclosed.

[(2) Each of the approved hallmarks mentioned in subsection (1)(a)(iii), (iv) and (v) above shall be struck by an assay office on an article only if a request to that effect is made by the person who submits the article to the assay office; but the absence of any such approved hallmark on an article by virtue of this subsection shall not in itself render the article unhallmarked for the purposes of this Act.]¹¹

(3) No article shall be struck with the approved hallmarks unless—

(a) the assay office are of opinion that the use of any solder [or adhesive]¹² is not excessive;

(b) except in a case where the assay office otherwise permit, any solder used in an article of—

(i) gold, is gold of a fineness not less than the standard of fineness of the article:

Provided that solder used in any article—

(a) of a standard of fineness of 916.6 [or above]¹³ may be of a fineness not less than 750; and

¹⁰ S.4(1)(a)(iii)-(v) substituted for s.4(1)(a)(iii) by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(7) (January 1, 1999)

¹¹ S.4(2) substituted for s.4(1A) and (2) by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(8) (January 1, 1999)

¹² Words inserted by S.I. 1986/1757, reg. 2(b)

¹³ The words "or above" shall be inserted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(9) (January 1, 1999)

(b) of filigree work or being a watch case and in either case of a standard of fineness of 750, may be of a fineness not less than 740; and

(c) of white gold of a standard of fineness of [not less than 585 and not more than 750]¹⁴, may be of a fineness not less than 500;

(ii) silver, is silver of a fineness not less than 650;

(iii) platinum, is gold, silver, platinum or palladium or a combination of two or more thereof and is of a fineness or (as the case may be) of a combined fineness not less than [the standard of fineness of the article]¹⁵; [...]¹⁶

[(iv) palladium, is gold, silver, platinum or palladium or a combination of two or more thereof and is of a fineness or (as the case may be) of a combined fineness not less than the standard of fineness of the article:

Provided that solder used in any article of a standard of fineness of 950 or above may be of a fineness not less than 700; and

]¹⁶

(c) solder of a fineness less than the standard of fineness of the article [or adhesive]¹⁷ is used in a quantity not more than is necessary for joining parts of the article and is not used for strengthening, weighting, filling or otherwise.

[(3A) An article comprised of more than one precious metal part shall be struck with the approved hallmarks only if the assay office are of the opinion that a person will be able to determine, when the article is hallmarked, which part is made of which precious metal.]¹⁸

(4) [...]¹⁹

(5) If—

(a) an assay office have refused to hallmark an article submitted to them for hallmarking under this section; and

(b) the person submitting the article has referred the matter to the Council in writing; the Council shall consider the case and, if they are of the opinion that the assay office were acting unreasonably in refusing to hallmark the article, they shall direct the assay office to strike the article with the approved hallmarks.

(6) It shall be the duty of an assay office to whom a direction has been given under subsection (5) above to comply with the direction.

(7)

(a) The Secretary of State may, after consulting the Council and such other persons as he thinks fit, make regulations wholly or partly varying, supplementing or replacing the foregoing provisions of this section and the provisions of Schedule 2 to this Act; and upon the coming into operation of regulations made under this subsection those provisions, or

¹⁴ Words substituted by S.I. 1986/1757, reg. 2(c)

¹⁵ Words substituted for the figure "950" by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(10) (January 1, 1999)

¹⁶ Added by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.3 (July 22, 2009)

¹⁷ Words inserted by S.I. 1986/1757, reg. 2(d)

¹⁸ Added by Hallmarking Act 1973 (Amendment) Regulations 2007/872 reg.2(3) (April 6, 2007)

¹⁹ Repealed by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(11) (January 1, 1999)

such of them as may be specified in such regulations together with any regulations or directions made or given under those provisions, shall have effect as so varied or supplemented or (as the case may be) shall cease to have effect.

(b) Regulations made under this subsection may contain such transitional, incidental, supplementary or consequential provision as the Secretary of State considers necessary or expedient for the purpose of the regulations, including provision applying, extending, excluding or amending, or repealing or revoking, with or without savings, any provision of this Act or an instrument under this Act.

5.— Alterations to hallmarked articles.

(1) Subject to subsections (3) to (5) below, it shall be an offence for any person to make an addition, alteration or repair to an article bearing approved hallmarks, except in accordance with the written consent of an assay office.

(2) Subject to subsection (3) below, it shall be an offence for any person to remove, alter or deface any mark struck on an article, except in accordance with the written consent of an assay office.

For the purposes of this subsection “mark” means a sponsor's mark, any approved hallmark, the word “filled”, the word “metal” or any other word for the time being prescribed by or under section 4 of, or Schedule 2 to, this Act.

(3) It shall not be an offence under subsection (1) or (2) above to batter an article so as to render it fit only for remanufacture.

(4) It shall not be an offence under subsection (1) above to make an addition to an article which is not a new ware if the character of the article, and the purposes for which it can be used, remain unaltered and—

(a) the addition is of the same precious metal as that of the article;

(b) the metal added to the article is of a fineness not less than the standard of fineness of the article; and

(c) the amount of metal added does not exceed the lesser of—

(i) 1 gram of gold, 5 grams of silver [, 0.5 grams of platinum or 1 gram of palladium,]²⁰ as the case may be; and

(ii) 50 per cent. of the weight of the article immediately before the addition was made.

(5) It shall not be an offence under subsection (1) above to add a coating, of a thickness not exceeding 2 micrometres at any point, to the whole or any part of—

(a) an article of gold, if the coating is of gold of a fineness not less than the standard of fineness of the article; or

(b) an article of silver, if the coating is of silver of a fineness not less than the standard of fineness of the article; or

(c) an article of silver, if the coating is of gold [or palladium]²¹ of not less than the minimum fineness; or

²⁰ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.4(2) (July 22, 2009)

²¹ Words inserted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.4(3)(a) (July 22, 2009)

- [(ca) an article of palladium, if the coating is of palladium of a fineness not less than the standard of fineness of the article; or
- (cb) an article of palladium, if the coating is of gold or platinum of not less than the minimum fineness; or]²²
- (d) an article of gold, silver [, platinum or palladium,]²³ if the coating is of rhodium.

(6) In giving any consent for the purposes of subsection (1) or (2) above, an assay office may make it a condition of the consent that the article concerned, or any addition made to it, be further assayed and struck with—

- (a) the sponsor's mark; and
- (b) such of the approved hallmarks as may be specified in directions issued by the Council for the purposes of this subsection or, in the absence of any such directions, such of the approved hallmarks as may be determined by the assay office.

(7) If—

- (a) an application for consent under subsection (1) or (2) above has been refused by an assay office; and
- (b) the applicant has referred the matter to the Council, in writing;

the Council shall consider the case and, if they are of the opinion that the assay office were acting unreasonably in withholding the consent applied for, they shall direct the assay office to grant the consent.

(8) Without prejudice to subsection (6) above, it shall be the duty of an assay office to whom a direction has been given under subsection (7) above to comply with the direction.

6.— Counterfeiting, etc. of dies and marks.

(1) Any person who—

- (a) with intent to defraud or deceive, makes a counterfeit of any die or mark; or
- (b) removes any mark from an article of precious metal with intent to transpose it to any other article (whether of precious metal or not) or affixes to any article (whether of precious metal or not) any mark which has been removed from an article of precious metal; or
- (c) utters any counterfeit of a die or any article bearing a counterfeit of a mark; or
- (d) without lawful authority or excuse, has in his custody or under his control anything which is, and which he knows or believes to be, a counterfeit of a die or an article (whether of precious metal or not) which bears a counterfeit of any mark,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding [the prescribed sum]²⁴, or on conviction on indictment to a fine or imprisonment for a term not exceeding ten years.

(2) In subsection (1) above—

- “die” means the whole or part of any plate, tool or instrument by means whereof any mark of the nature of a sponsor's mark or a hallmark is struck on any metal; and
- “mark” means any mark of the nature of a sponsor's mark or hallmark.

²² Added by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.4(3)(b) (July 22, 2009)

²³ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.4(3)(c) (July 22, 2009)

²⁴ Words substituted (E.W.) by Magistrates' Courts Act 1980 (c.43), s. 32(2) and (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289B(1)

(3) For the purposes of subsection (1) above, a person utters any counterfeit die or article bearing a counterfeit of a mark if, knowing or believing the die or mark, as the case may be, to be a counterfeit, he supplies, offers to supply, or delivers the die or article.

(4) Sections 5(4)(b), 8(2)(a) and 16(2)(d) of the Forgery Act 1913, and so much of section 6 of that Act as relates to any die used for the marking or stamping of gold or silver plate, or gold or silver wares, shall cease to have effect.

7.— Treatment by assay offices of unauthorised marks.

(1) Subject to subsection (2) of this section, an assay office may at their discretion cancel, or obliterate any mark of the character of a hallmark (whether appearing to be an approved hallmark or to be a mark which in the opinion of the assay office is likely to be confused with such a hallmark) which an article coming into their custody or possession bears and which the assay office are satisfied—

- (a) has not been struck thereon by an assay office according to law; or
- (b) is not a true description because the article appears to have been the subject of an improper alteration.

(2) Notwithstanding anything in any enactment, an assay office shall not, otherwise than by leave of the owner or other person appearing to have the control of any article, obliterate any ancient mark but shall cancel the same in a manner authorised under subsection (3) of this section.

(3) The Council may issue directions to assay offices as to the manner in which an ancient mark may be cancelled under the last foregoing subsection.

(4) If it be proved that an assay office have—

- (a) cancelled, or obliterated any mark (as described in subsection (1) of this section), which has been struck by an assay office according to law on an article which has not been the subject of an improper alteration; or
- (b) obliterated any ancient mark upon an article,

the assay office (but not any other person) shall be liable in damages to any person interested in the article.

(5) In any action brought against an assay office in pursuance of subsection (4) of this section it shall be a defence for them to prove that they had reasonable cause to believe that the circumstances specified respectively in paragraphs (a) or (b) of that subsection did not exist.

(6) It shall be an offence for any person knowingly or any dealer to supply or offer to supply any article bearing any mark of the character of a hallmark and which under subsection (1) of this section may, if the article is in the possession of an assay office, be cancelled, obliterated or defaced, unless the article has been first submitted to an assay office to enable them at their discretion so to cancel, obliterate or deface that mark.

(7) In this section “ancient mark” means a mark of the character of a hallmark appearing to an assay office to have been struck or incorporated before 22nd December 1854 (whether or not by an assay office according to law at the time of its marking or incorporation) upon or into an article which has not since been the subject of any improper alteration.

8. Offences.

The provisions of Schedule 3 to this Act shall have effect in relation to offences under this Act.

9.— Enforcement of Act.

(1) It shall be the duty of every local weights and measures authority to enforce the provisions of this Act within their area; and section 26 of the Act of 1968 (enforcing authorities) shall apply in relation to the enforcement of this Act, by such an authority, as it applies in relation to the enforcement of that Act.

(2) The Council and the assay offices may also enforce the provisions of this Act.

(3) Subject to subsection (7) below, the following provisions of the Act of 1968 shall apply in relation to the enforcement of this Act as they apply in relation to the enforcement of the Act of 1968, that is to say—

- section 27 (power to make test purchases);
- section 28 (power to enter premises and inspect and seize goods and documents);
- section 29 (obstruction of authorised officers);
- section 30 (notice of test and intended prosecution);
- section 31 (evidence by certificate); and
- section 33 (compensation for loss, etc. of goods seized).

(4) Any reference, in the provisions of the Act of 1968 mentioned in subsection (3) above (other than those of subsections (2) to (4) of the said section 30), to a local weights and measures authority and a duly authorised officer of such an authority shall be construed, in relation to the enforcement of this Act, as including respectively a reference to the Council and an assay office and a duly authorised officer of the Council and of an assay office.

(5) Nothing in this section shall be taken as authorising the Council or an assay office to institute proceedings in Scotland for an offence.

(6) Subsection (1) above shall not apply in relation to the enforcement of this Act in Northern Ireland but, in addition to the power given by subsection (2) above, it shall be the duty of the Ministry of Commerce for Northern Ireland to enforce this Act in Northern Ireland.

(7) For the purposes of the enforcement of this Act in Northern Ireland by the said Ministry, sections 27 to 29 and 33 of the Act of 1968 shall apply as if for references to a local weights and measures authority and any officer of such an authority there were substituted respectively references to the Ministry and any of its officers.

10.— Treatment of articles following convictions.

(1) Upon the conviction of any person of an offence under this Act the court may order any article the subject of the proceedings to be delivered to an assay office who (subject to the order) may exercise the like powers under this Act in relation to the article as if it had been submitted to them for hallmarking.

(2) Any article delivered to an assay office pursuant to such an order as is mentioned in subsection (1) of this section shall be returned to the person entitled thereto.

11.— Dealers to exhibit notices as to hallmarks.

(1) Any dealer shall keep exhibited at all times, in a conspicuous position in a part of his premises to which those with whom he deals are commonly admitted, a notice in terms approved and in a form supplied by the Council describing such approved hallmarks and including such explanatory matter as the Council think fit; and it shall be an offence for any dealer to fail to exhibit or keep exhibited a notice required to be exhibited under this subsection.

(2) The Council may make a reasonable charge for the supply of any copy of a notice required to be exhibited under this section.

12.— Charges for assaying and hallmarking, etc.

(1) Every assay office shall have power to make charges for assaying and hallmarking articles of precious metals not exceeding (in the case of articles manufactured in, or intended for sale or supply in, the United Kingdom) such charges as are for the time being directed in writing by the Council:

Provided that the Secretary of State may from time to time give to the Council and to assay offices such directions as he considers expedient in relation to charges made under this subsection.

(2) Subject to subsection (1) of this section, every assay office shall have power to make for services and facilities provided by them such charges as they from time to time think fit.

13.— The British Hallmarking Council.

(1)

(a) There shall be constituted a body, to be called the British Hallmarking Council, who shall be charged with the duty of ensuring that adequate facilities for the assaying and hallmarking of articles of precious metal are available as from time to time required in the United Kingdom, of supervising the activities of assay offices in that behalf, of taking all steps appearing to be open to them for ensuring the enforcement of the law with respect to hallmarking and of advising the Secretary of State with respect to all matters concerning the due execution of this Act including any matter which may be referred to the Council by the Secretary of State.

(b) The Council shall come into existence on 1st January 1974 and on and after 1st January 1975 shall perform the functions assigned to them by or under this Act.

(c) Schedule 4 to this Act shall have effect with respect to the Council.

(2) Without prejudice to the last preceding subsection, the Council shall, in addition to the functions specifically conferred on them by or under any other provisions of this Act, have the following functions—

(a) to advise the Secretary of State as they think fit with respect to the making of orders and regulations under this Act, and with respect to the amendment of the law as it affects, whether directly or indirectly, the hallmarking of articles of precious metal, including advice as to the application of some or all of the provisions of this Act to any metal other than gold, silver and platinum;

(b) subject to any directions in that behalf given by the Secretary of State, to fix the maximum charges for the time being to be charged by assay offices for assaying and

hallmarking articles of precious metal manufactured in or intended for sale in the United Kingdom;

(c) to advise the Secretary of State upon any need appearing to the Council from time to time for the establishment of any further assay office or for the closure of any assay office or for their amalgamation with another assay office;

(d) to assist, by the provision of such technical and other services of the Council as may be available, all authorities and persons concerned in the enforcement of this Act, to appoint such officers as the Council consider appropriate to act as inspectors and otherwise for the detecting of offences and enforcing this Act by or on behalf of the Council, and, otherwise than in Scotland, to institute proceedings in that behalf;

(e) to authorise any assay office to carry on their business in whole or in part (subject to any conditions which may be specified by the Council in so authorising) in such place as may be specified by the Council additional to the place at which the assay office are otherwise authorised;

(f) to make temporary or permanent arrangements by directions, or to authorise the making of such arrangements between assay offices, whereby (notwithstanding anything in any enactment) facilities specified in any case by the Council need not be afforded at an assay office but are afforded at another or others;

(g) to issue directions or regulations to all assay offices or, as the case may require, to any assay office in particular, as to the equipment and procedures to be provided and adopted by them in the assaying and hallmarking of precious metals and as to all other matters upon which such directions or regulations may be issued by the Council under the provisions of this Act; and

(h) subject to such provisions of this Act as confer powers in particular on the Council, to do anything which in their opinion is calculated to facilitate the proper discharge of any or all of their functions.

(3) It shall be the duty of an assay office to comply with directions and regulations issued by the Council pursuant to paragraph (f) or paragraph (g) of subsection (2) of this section:

Provided that any assay office who are aggrieved by any such direction or regulation may make written representation in that behalf to the Secretary of State who may determine all issues which may be raised upon any such representation; and it shall be the duty of the Council to comply with any determination so made by the Secretary of State.

(4) All directions, regulations, authorities, notices or other instruments given or made by the Council under or in pursuance of any provision of this Act shall be in writing and may be so given or made under the hand of the secretary or other officer of the Council authorised in that behalf.

14.— Power to alter, etc., constitution of Council.

(1) If the Council consider, after consulting all the assay offices, that having regard to—

(a) the establishment of a new assay office, the dissolution of any assay office or their amalgamation with another assay office; or

(b) other substantial charges which have taken place or are to take place in the functions, administration or activities of any assay office; or

(c) any other considerations (whether or not of a like character to those above-mentioned) appearing to the Council sufficient,

any or all of the provisions of Schedule 4 to this Act are no longer appropriate and that alterations, additions or omissions thereto or therefrom should be made, the Council may make representation in that behalf to the Secretary of State, specifying the alterations, additions or omissions to or from the said Schedule which they consider should be made.

(2) If the Secretary of State agrees with any representation so made to him, or if, having regard to the matters mentioned in the foregoing subsection, he considers it expedient to do so after consultation with the Council and despite the absence of any such representation, he may, subject to subsection (3) of this section, by order provide that there be made such alterations, additions or omissions to or from the said Schedule (whether or not the same as those specified in a representation where one has been made to him) as may be specified in the order.

(3) An order made under this section may contain such transitional, incidental and supplementary provisions (including in a case falling within paragraph (a) or paragraph (b) of subsection (1) of this section provision for the winding up of any existing assay office and for the repeal of any local statutory provision relating to that assay office) as the Secretary of State considers expedient.

15.— Functions of assay offices, etc.

(1) The provisions of Schedule 5 to this Act shall have effect with respect to the powers and duties of assay offices.

(2) Without prejudice to the provisions of section 7 of and of Schedule 5 to this Act, nothing contained in this Act shall render any assay office liable as respects any damage caused by them to any article in the reasonable exercise or (as the case may be) discharge of any of the powers and duties conferred or imposed upon them by this Act.

16.— Orders constituting, dissolving, etc., or conferring powers on assay offices.

(1) The Secretary of State may at any time by order—

- (a) on the application of the Council, provide for the constitution of an assay office at such place as may be specified in the order; or
- (b) on the application of the Council, provide for the closure and dissolution of any assay office or their amalgamation with another assay office; or
- (c) on the application of an assay office, confer, vary or abolish duties or powers imposed or conferred on the assay office under any local statutory provision affecting their undertaking and for that purpose repeal or amend any such provision.

(2) The Secretary of State may, without such application to him as aforesaid, if he thinks fit and after consultation with the Council and any assay office appearing to him to be concerned, make an order for any of the purposes mentioned in subsection (1) of this section.

(3) Any order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, including provisions for the amendment, adaptation or repeal of any local statutory provision.

(4) The provisions of Part I of Schedule 6 to this Act shall have effect with respect to orders under subsection (1) of this section upon application therefor to the Secretary of State; and the provisions of the said Part I shall, subject to the modifications specified in Part II of the said Schedule, have

effect with respect to orders under subsection (2) of this section by the Secretary of State without such application being made to him.

17.— Application of Act to other metals by order.

(1) The Secretary of State may at any time by order, either on the application of the Council or, if the Secretary of State thinks fit, of his own volition after consultation with the Council, apply the provisions of this Act (or such of them as may be specified in any such order) to any other metal than gold, silver and platinum and subject to such amendments and adaptations as in the order may be specified.

(2) Any order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, including provisions applying, extending, excluding or amending, or repealing or revoking, with or without savings, any provisions of this Act or an instrument under this Act.

18.— Local Acts and instruments.

(1) Any local statutory provision which is inconsistent with any provision of this Act shall cease to have effect.

(2) The Secretary of State may on the application of an assay office, or, if he thinks fit, of his own volition, but in either case subject to the provisions of this section, by order repeal or amend any local statutory provision where it appears to him that that provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.

(3) Before making an order under this section the Secretary of State shall consult with any person or body representative of persons who appear to him to be concerned.

(4) An order under this section may contain such transitional, supplemental or incidental provisions as appear to the Secretary of State to be expedient.

19.— Reports and accounts.

(1) The Council shall, as soon as practicable after 31st December in each year, make to the Secretary of State a report on the performance by them of their functions during the period of twelve months ending with that date.

(2) The report of the Council for any period under the last preceding subsection shall include a record of all questions with which the Council have been concerned during that period and which appear to the Council to be of general interest.

(3) As soon as the accounts of the Council have been audited, the Council shall send a copy of the accounts to the Secretary of State; and a copy of the accounts shall be kept at the office of the Council and any person interested shall be entitled, free of charge, to inspect and to take copies of, or extracts from, the copy of the accounts.

(4) Any person, on application to the Council, shall be entitled to be furnished with copies of reports of the Council under this section and of statements summarising the accounts of the Council, on payment of such reasonable sums as the Council may determine.

20.— Local inquiries.

(1) The Secretary of State may cause a local inquiry to be held in connection with the discharge of any of his functions under this Act or in any case where it appears to the Secretary of State to be expedient to do so in connection with any matter arising under this Act or otherwise in connection with any of the functions of assay offices or the Council, and—

(a) in relation to any inquiry held in England or Wales, subsections (2) to (5) of section 250 of the Local Government Act 1972 (evidence and costs at local inquiries), but subsection (4) (costs of department) only in a case where the Secretary of State so directs, shall apply as if the inquiry were held in pursuance of subsection (1) of that section;

(b) in relation to any inquiry held in Scotland, [subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973]²⁵ (provisions as to local inquiries) shall apply as if the inquiry were held in pursuance of subsection (1) of that section; and

(c) in relation to any inquiry held in Northern Ireland, section 23 of the Interpretation Act (Northern Ireland) 1954 (inquiries and investigations) shall apply as if this Act were an enactment, and the Secretary of State were a Minister, within the meaning of that Act.

(2) The person appointed to hold an inquiry under the preceding subsection shall report the results thereof in writing to the Secretary of State, who shall publish the report together with such observations, if any, as he thinks fit to make thereon.

21.— Regulations and orders.

(1) The Secretary of State may make regulations under this Act for any purpose for which regulations are authorised or required to be made by him under this Act.

(2) Any such power to make regulations under this Act shall be exercisable by statutory instrument; and any instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by this Act to make an order shall include a power to vary or revoke the order by a subsequent order.

(4) Any power to make orders under this Act shall be exercisable by statutory instrument.

(5) An order shall not be made under section 17 of this Act unless a draft of the order has been approved by a resolution of each House of Parliament.

(6) Any statutory instrument containing an order under section 14 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

22.— Interpretation.

(1) In this Act, unless the subject or context otherwise requires—

“the Act of 1968” means the Trade Descriptions Act 1968;

“approved hallmarks” has the meaning given by section 2 of this Act.;

“assay office” means (subject to subsection (2) of this section) each of the following bodies—
The Wardens and Commonalty of the Mystery of Goldsmiths of the City of London (in this Act referred to as “the London Assay Office”); The Incorporation of Goldsmiths of the City

²⁵ Words substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 209

of Edinburgh (in this Act referred to as “the Edinburgh Assay Office”); The Guardians of the Standard of Wrought Plate in Birmingham (in this Act referred to as “the Birmingham Assay Office”); The Guardians of the Standard of Wrought Plate within the town of Sheffield (in this Act referred to as “the Sheffield Assay Office”); and any other body duly authorised under any enactment, order, charter or franchise for the assaying and hallmarking of precious metals, and includes—

- (a) a body for the time being established under section 16(1)(a) of this Act, and
- (b) (where the context so admits) a body which, whilst it has been so authorised at any time before or after the passing of this Act, has since being so authorised been dissolved or has ceased business in such assaying and hallmarking;

“convention hallmark” has the meaning given by section 2 of this Act;

“the Council” means the British Hallmarking Council constituted under section 13 of this Act;

“dealer” means a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging articles of precious metal or in other dealings in such articles;

[“EEA hallmark” has the meaning given by section 2 of this Act;]²⁶

“enactment” includes an enactment of the Parliament of Northern Ireland, and (without prejudice to subsection (3) of this section) any reference in this Act to an enactment shall include a reference to any enactment re-enacting it with or without modifications;

“fineness” in relation to any precious metal means the number of parts by weight of that fine metal in one thousand parts by weight of alloy;

“standard of fineness” means any one of the standards of fineness specified in column (2) of paragraph 2 of Schedule 2 to this Act and reference to an article as being of one of those standards means that the article is of a fineness in all its parts of not less than that standard; and “minimum fineness” in relation to any precious metal means the lowest standard of fineness therefor so specified, namely, for gold the standard of 375, for silver the standard of [800]²⁷ , [...] ²⁸ for platinum the standard of [850]²⁷ [, and for palladium the standard of 500]²⁹ ;

“functions” includes powers and duties;

“improper alteration” has the meaning given by section 2 of this Act;

“local statutory provision” means a provision of a local Act (including an Act confirming a provisional order), or a provision of a public general Act passed with respect only to any particular locality, or a provision of an instrument made under any such local or public general Act or of an instrument in the nature of a local enactment made under any other Act, or a provision of a charter or franchise;

“new ware” means —

- (a) any article which is a substantially complete manufacture and which has not as such been supplied on a sale by retail; and

²⁶ Added by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(12) (January 1, 1999)

²⁷ Figures substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(13) (January 1, 1999)

²⁸ Word repealed by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.5(a) (July 22, 2009)

²⁹ Words inserted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.5(b) (July 22, 2009)

(b) any article which has been the subject of any improper alteration;
 “precious metal” in relation to any article means gold, silver or platinum, or any other metal to which by an order under section 17 of this Act the provisions of this Act are applied;

“sponsor's mark” means —

(a) a sponsor's mark applied under section 3 of this Act, or under the corresponding provisions of the law in force in the United Kingdom before section 3 of this Act came into force; or

(b) a mark designated by order of the Secretary of State—

(i) as a mark recognised pursuant to any international convention or treaty to which Her Majesty's Government in the United Kingdom is a party; and

(ii) as a sponsor's mark for the purposes of this Act [; or]³⁰

[(c) a mark struck on an article in an EEA State which indicates the manufacturer or sponsor of the article;]³⁰

“unhallmarked” has the meaning given by section 2(4) of this Act.

(2) References in this Act to an assay office shall, as respects an assay office who are engaged in the business of an assay office and who carry on any other activity, include reference to so much only of the undertaking of that assay office as relates wholly to their business as such an assay office and as may be certified in that behalf by that assay office.

(3) References in this Act to any enactment shall be construed as references to that enactment as amended or extended by or under any other enactment including this Act.

23. [...] ³¹

24.— Short title, commencement and extent.

(1) This Act may be cited as the Hallmarking Act 1973.

(2) Section 13 of and Schedule 4 to this Act shall come into operation on 1st January 1974 and the remainder of this Act shall come into operation on 1st January 1975.

(3) This Act extends to Northern Ireland [...] ³² .

³⁰ And the word immediately preceding it by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(14) (January 1, 1999)

³¹ Repeals enactments specified in Sch. 7

³² Words repealed by Statute Law (Repeals) Act 1977 (c. 18), Sch. 1 Pt. XIII

SCHEDULE 1

UNHALLMARKED ARTICLES

Section 1

PART I

PERMISSIBLE DESCRIPTIONS

1.—

(1) Subject to the provisions of this paragraph—

- (a) “gold” is permissible if qualified by the word “plated” or “rolled”;
- (b) “silver” is permissible if qualified by the word “plated”;
- (c) “platinum” is permissible if qualified by the word “plated” [;]³³
- [(d) “palladium” is permissible if qualified by the word “plated”.]³³

(2) If the description is in writing the lettering of “plated” or “rolled” is to be at least as large as any other lettering in the description.

(3) This paragraph does not apply if the description is false or is applied to an article for which the description is inappropriate.

2.

A description is permissible if it is implicitly or in express terms confined to the colour of the article.

PART II

EXEMPTED ARTICLES

1.

An article which is intended for despatch to a destination outside the United Kingdom.

2.

An article which is outside the United Kingdom, or which is in course of consignment from outside the United Kingdom to an assay office in the United Kingdom.

3.

Any coin which is, or was formerly at any time, current coin of the United Kingdom or any other territory.

4.

Any article which has been used, or is intended to be used, for medical, dental, veterinary, scientific or industrial purposes.

³³ Added by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.6(2) (July 22, 2009)

[5.

Any battered article fit only to be remanufactured.

] ³⁴

6.

Any article of gold [, silver, or palladium] ³⁵ thread.

7.

Any raw material (including any bar, plate, sheet, foil, rod, wire, strip or tube) or bullion.

8.

Any manufactured article which is not substantially complete, and which is intended for further manufacture.

9.

Any article which is wholly or mainly of platinum, and which was manufactured before 1st January 1975.

[9A.

Any article which is wholly or partly of palladium, and which was manufactured before 1st January 2010.

] ³⁶

Articles exempt if of minimum fineness

[10.

Any article which—

(a) is wholly or mainly of gold or of silver or of gold and silver assaying in all its gold parts not less than 375 parts per thousand and in all its silver parts less than 800 parts per thousand; and

(b) was manufactured before the year [1950] ³⁷ and has not since the beginning of the year [1950] ³⁷ been the subject of any alteration which would be an improper alteration if the article had previously borne approved hallmarks.

] ³⁸

11.

[Subject to paragraph 14AA below,] ³⁹ Any musical instrument, where the description is applied to the mouthpiece, and the mouthpiece is of minimum fineness.

³⁴ Para. 5 substituted by S.I. 1975/1883, Sch. para. 1

³⁵ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.6(3) (July 22, 2009)

³⁶ Added by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.6(4) (July 22, 2009)

³⁷ Word substituted by Hallmarking Act 1973 (Exemption) (Amendment) Order 2007/880 art.2(2) (April 6, 2007)

³⁸ Para. 10 substituted by S.I. 1975/1883, Sch. para. 2

³⁹ Words inserted by S.I. 1986/1758, art. 2(a)

[12.—

(1) [Subject to paragraph 14AA and]⁴⁰ Subject to the provisions of this paragraph, any article[, except an article made of chainwork,]⁴⁰ containing only one precious metal, being a metal of minimum fineness and of a weight less than that specified in the following table:

gold	1 gram
silver	7.78 grams
platinum	0.5 gram.
[palladium	1 gram.] ⁴¹

[(2) This paragraph does not apply—

- (a) to an article which is manufactured on or after 1st January 2008, or
- (b) to an article containing materials other than precious metal, unless the article satisfies the conditions for hallmarking of Part 3 of Schedule 2 to this Act as they had effect immediately before 6th April 2007 (the date of the coming into force of the Hallmarking Act 1973 (Amendment) Regulations 2007).

]⁴²

(3) [...]⁴³

]⁴⁴

[12A.—

(1) Subject to paragraph 14AA, any article—

- (a) which contains silver of minimum fineness, and
- (b) in which the total weight of the metal is less than 7.78 grams.

(2) This paragraph does not apply to any article—

- (a) which contains gold, [platinum or palladium]⁴⁵, of the minimum fineness,
- (b) which contains any precious metal that is not of the minimum fineness, or
- (c) which contains materials other than precious metal, unless the article satisfies the conditions for hallmarking of Part 3 of Schedule 2 to this Act.

]⁴⁶

[12B.—

(1) Subject to paragraph 14AA, any article—

- (a) which contains gold of minimum fineness, and

⁴⁰ Words inserted by S.I. 1986/1758, art. 2(b)

⁴¹ Entry inserted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.6(5) (July 22, 2009)

⁴² Substituted by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(2) (October 1, 2007)

⁴³ Repealed by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(3) (October 1, 2007)

⁴⁴ Para. 12 substituted by S.I. 1982/256, art. 2

⁴⁵ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.6(6) (July 22, 2009)

⁴⁶ Added by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(4) (October 1, 2007)

(b) in which the total weight of the metal is less than 1 gram.

(2) This paragraph does not apply to any article—

- (a) which contains platinum of the minimum fineness, or
- (b) which contains any precious metal that is not of the minimum fineness, or
- (c) which contains materials other than precious metal, unless the article satisfies the conditions for hallmarking of Part 3 of Schedule 2 to this Act.

] ⁴⁷

[12C.—

(1) Subject to paragraph 14AA, any article—

- (a) which contains platinum of minimum fineness, and
- (b) in which the total weight of the metal is less than 0.5 gram.

(2) This paragraph does not apply to any article—

- (a) which contains any precious metal that is not of the minimum fineness, or
- (b) which contains materials other than precious metal, unless the article satisfies the conditions for hallmarking of Part 3 of Schedule 2 to this Act.

] ⁴⁸

[12D.—

(1) Subject to paragraph 14AA, any article—

- (a) which contains palladium of minimum fineness, and
- (b) in which the total weight of the metal is less than 1 gram.

(2) This paragraph does not apply to any article—

- (a) which contains gold, or platinum, of the minimum fineness,
- (b) which contains any precious metal that is not of the minimum fineness, or
- (c) which contains materials other than precious metal, unless the article satisfies the conditions for hallmarking of Part 3 of Schedule 2 to this Act.

] ⁴⁹

[13.

[Subject to paragraph 14AA below,]⁵⁰ Any article[, except an article made of chainwork,]⁵⁰ which is wholly of one or more precious metals of minimum fineness and which is so small or thin that it cannot be hallmarked.

] ⁵¹

⁴⁷ Added by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(4) (October 1, 2007)

⁴⁸ Added by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(4) (October 1, 2007)

⁴⁹ Added by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.6(7) (July 22, 2009)

⁵⁰ Words inserted by S.I. 1986/1758, art. 2(a) (c)

⁵¹ Para. 13 substituted by S.I. 1975/1883, Sch. para. 4

14.

[Subject to paragraph 14AA below,]⁵² Any article which is of minimum fineness and which is imported temporarily (whether as a trade sample, or as intended for exhibition or otherwise) and for the time being remains under the control of the Commissioners of Customs and Excise.

[14A.—

(1) [Subject to paragraph 14AA and]⁵³ Subject to the provisions of this paragraph, any article, any precious metal in which is of minimum fineness, and which either—

(a) contains gold and platinum but not silver, and the weight of the gold parts of which exceeds 50 per cent. of the total weight of the precious metals in the article, that total weight being less than 1 gram; or

(b) contains silver and either gold or platinum or both gold and platinum, and the weight of the silver parts of which exceeds 50 per cent. of the total weight of the precious metals in the article, that total weight being less than 7.78 grams.

[(2) This paragraph does not apply—

(a) to an article which is manufactured on or after 1st January 2008, or

(b) to an article containing materials other than precious metal, unless the article satisfies the conditions for hallmarking of Part 3 of Schedule 2 to this Act as they had effect immediately before 6th April 2007 (the date of the coming into force of the Hallmarking Act 1973 (Amendment) Regulations 2007).

]⁵⁴

(3) [...]⁵⁵

]⁵⁶

[14AA.

Paragraphs 11 to 14A above do not apply to any article in which solder containing precious metal is used unless the solder is of a standard of fineness equivalent to that which would be required under section 4(3) of this Act if the article were submitted to an assay office for hallmarking.

]⁵⁷

14B. [...]⁵⁸

⁵² Words inserted by S.I. 1986/1758, art. 2(a)

⁵³ Words inserted by S.I. 1986/1758, art. 2(b)

⁵⁴ Substituted by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(5) (October 1, 2007)

⁵⁵ Repealed by Hallmarking Act 1973 (Exemption) (Amendment No. 2) Order 2007/2493 art.2(6) (October 1, 2007)

⁵⁶ Para. 14A substituted by S.I. 1982/256, art. 2

⁵⁷ Para. 14AA inserted by S.I. 1986/1758, art. 2(d)

⁵⁸ Repealed by S.I. 1982/256, art. 3

*Existing exemptions***15.**

The following articles of gold, if manufactured before 1st January 1975, and (except in the case of articles mentioned in sub-paragraph (d) below) of minimum fineness—

- (a) rings, except wedding rings, pencil cases, lockets, watch chains and thimbles,
- (b) articles consisting entirely of filigree work,
- (c) articles so heavily engraved or set with stones that it is impossible to mark them without damage,
- (d) jewellers works, that is the actual setting only in which stones or other jewels are set, and jointed sleeper earrings.

16.—

(1) Subject to the exceptions below, the following articles of silver, if manufactured before 1st January 1975, and (except in the case of articles mentioned in paragraph (e) below) of minimum fineness:

- (a) lockets, watch chains and stamped medals,
- (b) mounts the weight of which is less than 15.55 grams.,
- (c) articles consisting entirely of filigree work,
- (d) silver articles the weight of which is less than 7.78 grams.,
- (e) jewellers works, that is the actual setting only in which stones or other jewels are set.

(2) The following articles are not exempt under sub-paragraph (1) above—

- (a) necks and collars for bottles on cruet stands,
- (b) buttons and studs, seals, wine labels, shoe clasps, buckles, or patch boxes,
- (c) salt spoons, shovels or ladles, teaspoons, tea strainers, caddy ladles or spoons,
- (d) ornaments for cabinets, knife cases, tea caddies, bridles, stands or frames.

17.

Articles of gold or silver manufactured before 1st January 1975, other than articles mentioned in paragraphs 15 or 16 above, and being of such descriptions as, under any enactment in force immediately before the passing of this Act, to be specifically exempt from hallmarking.

*Articles manufactured before a given date***18.**

Where under this Part of this Schedule an exemption depends on the date of manufacture, or the date of any alteration, the manufacture or alteration shall be presumed to be after that date until the contrary is proved.

PART III

USE OF THE WORDS 'CARATS', 'STERLING' AND 'BRITANNIA'

1.

This Part of this Schedule applies for the purposes of section 1 of this Act, this Schedule [, the Business Protection from Misleading Marketing Regulations 2008 and the Consumer Protection from Unfair Trading Regulations 2008]⁵⁹ .

2.—

(1) A description indicating that an article, or the metal in an article, is of so many carats is to be presumed to be an indication that the article or metal is of gold, and that its fineness is that specified in the following table for that number of carats.

(2) This paragraph shall not apply if (as in a case where the article is a precious stone) the word 'carat' is used as a measure of weight for precious stones, and not as a measure of fineness.

TABLE

<i>Number of carats</i>	<i>indicates gold of a standard of fineness of</i>
9	375 parts per thousand
12	500 parts per thousand
14	585 parts per thousand
15	625 parts per thousand
18	750 parts per thousand
22	916.6 parts per thousand

and so in proportion for any other number of carats.

3.—

(1) A description of an article, or of the metal in an article, as “sterling” or (except in the phrase 'Britannia metal') “Britannia” is to be presumed to be an indication that the article, or the metal, is of silver.

(2) If “sterling” is the word used, the description is to be presumed to be an indication that the silver is of a standard of fineness of 925.

(3) If the word used is “Britannia” the description is to be presumed to be an indication that the silver is of a standard of fineness of 958.4.

PART IV

POWER TO AMEND

1.—

(1) The Secretary of State may by order—

⁵⁹ Words substituted by Consumer Protection from Unfair Trading Regulations 2008/1277 Sch.2(1) para.16(4) (May 26, 2008)

- (a) prescribe any cases or circumstances in which subsection (1) of section 1 of this Act is, or is not, to apply, and
- (b) add to, amend or repeal all or any of the provisions of Part I, Part II or Part III of this Schedule, and
- (c) make any consequential amendments in section 1 of this Act.
- (2) An order under this paragraph—
- (a) may contain such supplemental or incidental provisions as appear to the Secretary of State to be expedient or necessary, and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

SCHEDULE 2

APPROVED HALLMARKS

Section 4

PART I

ARTICLES COMPRISED OF A SINGLE PRECIOUS METAL

[1.

Assay office mark

<i>Assay office</i> (1)	<i>Assay office mark</i> (2)
London	A leopard's head
Edinburgh	A castle
Birmingham	An anchor
Sheffield	A rose

]⁶⁰

[2.

Standard mark

<i>Precious metal</i> (1)	<i>Standard of fineness</i> (2)	<i>Standard mark</i> (3)
Gold	375	The figures 375
Gold	585	The figures 585
Gold	750	The figures 750
Gold	916.6	The figures 916
Gold	990	The figures 990

⁶⁰ Possible drafting error - Sch.2 Part I paras.1-5 substituted for existing Part I paras.1-3. Sch.2 Part II also contains paras.4-5. Part I substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(15) (January 1, 1999)

<i>Precious metal</i> (1)	<i>Standard of fineness</i> (2)	<i>Standard mark</i> (3)
Gold	999	The figures 999
Silver	800	The figures 800
Silver	925	The figures 925
Silver	958.4	The figures 958
Silver	999	The figures 999
Platinum	850	The figures 850
Platinum	900	The figures 900
Platinum	950	The figures 950
Platinum	999	The figures 999
[Palladium	500	The figures 500
Palladium	950	The figures 950
Palladium	999	The figures 999] ⁶¹

]⁶²

[3. Optional pictorial mark

<i>Precious metal</i> (1)	<i>Standard of fineness</i> (2)	<i>Pictorial mark</i> (3)
Gold	A crown	
Gold	585	A crown
Gold	750	A crown
Gold	916.6	A crown
Gold	990	A crown
Gold	999	A crown
Silver	925	A lion passant. In the case of an article struck by the Edinburgh Assay Office, the reference to a lion passant shall be treated as a reference to a lion rampant.
Silver	958.4	The figure of Britannia or a lion passant. In the case of an article struck by the Edinburgh Assay Office, the reference to a lion passant shall be treated as a reference to a lion rampant.
Silver	999	The figure of Britannia or a lion passant. In the case of an article struck by the Edinburgh Assay Office, the reference to a lion passant shall be treated as a reference to a lion rampant.
Platinum	950	An orb surmounted by a cross
Platinum	999	An orb surmounted by a cross

⁶¹ Entries inserted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.7(2) (July 22, 2009)

⁶² Possible drafting error - Sch.2 Part I paras.1-5 substituted for existing Part I paras.1-3. Sch.2 Part II also contains paras.4-5. Part I substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(15) (January 1, 1999)

<i>Precious metal</i> (1)	<i>Standard of fineness</i> (2)	<i>Pictorial mark</i> (3)
Palladium	500	The head of Pallas Athene
Palladium	950	The head of Pallas Athene
Palladium	999	The head of Pallas Athene] ⁶³

]⁶⁴

[4.

Optional date letter

Such distinct variable letter of the alphabet to denote the year in which the article is marked as may be for the time being directed in writing by the Council.

]⁶⁵

[5.

Optional additional mark

Such mark (if any) as may be for the time being directed in writing by the Council.

]⁶⁶

PART II

ARTICLES COMPRISED OF TWO OR MORE PRECIOUS METALS

4.

[Existing Sch.2 Part 2 para.4 is not repealed but was moved into Sch.2 Part 1 as part of an earlier amendment.]⁶⁷

5.

[Existing Sch.2 Part 2 para.5 is not repealed but was moved into Sch.2 Part 1 as part of an earlier amendment.]⁶⁸

⁶³ Entries inserted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.7(3) (July 22, 2009)

⁶⁴ Possible drafting error - Sch.2 Part I paras.1-5 substituted for existing Part I paras.1-3. Sch.2 Part II also contains paras.4-5. Part I substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(15) (January 1, 1999)

⁶⁵ Possible drafting error - Sch.2 Part I paras.1-5 substituted for existing Part I paras.1-3. Sch.2 Part II also contains paras.4-5. Part I substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(15) (January 1, 1999)

⁶⁶ Possible drafting error - Sch.2 Part I paras.1-5 substituted for existing Part I paras.1-3. Sch.2 Part II also contains paras.4-5. Part I substituted by Hallmarking (Hallmarking Act Amendment) Regulations 1998/2978 reg.2(15) (January 1, 1999)

⁶⁷ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁶⁸ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

[6.

An article comprised of two or more precious metals shall not be hallmarked unless, upon assay, each precious metal is of a standard of fineness not less than the minimum fineness for that precious metal.

] ⁶⁹**[7.**

The article shall be struck with—

- (a) the assay office mark, and
- (b) the appropriate standard mark for each precious metal.

] ⁷⁰**[8.—**

(1) The person who submits the article to an assay office may request the assay office to strike the marks mentioned in paragraph 7 on a particular precious metal part.

(2) The assay office must comply with such a request unless they think that, in consequence of doing so, it would not be clear which part of the article is made of which precious metal.

] ⁷¹**[9.—**

(1) This paragraph applies if—

- (a) an assay office have refused to hallmark an article in accordance with a request under paragraph 8(1), and
- (b) the person making the request refers the matter in writing to the Council.

(2) The Council may direct the assay office to comply with the request.

(3) The assay office must comply with the direction.

] ⁷²**[10.—**

(1) This paragraph applies to the striking of hallmarks other than in accordance with a request under paragraph 8.

(2) Each standard mark must be struck on the precious metal part to which it relates.

(3) The assay office mark must be struck together with the standard mark for the least precious metal.

(4) If it is not practical to strike the marks in accordance with sub-paragraphs (2) and (3) they must be struck as follows—

⁶⁹ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷⁰ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷¹ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷² Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

- (a) they must be struck together on the least precious metal part,
- (b) if sub-paragraph (a) is not practical, they must be struck together on another precious metal part, or
- (c) if neither sub-paragraph (a) nor (b) is practical, the assay office mark and the standard mark for the least precious metal must be struck on the least precious metal part and all other hallmarks must be omitted.

] ⁷³

[11.—

(1) If the person who submits the article to the assay office so requests, the assay office must, if it is practical to do so—

- (a) strike the marks set out in section 4(1)(a)(iii) for the least precious metal part, and
- (b) strike the marks set out in section 4(1)(a)(iv) and (v).

(2) The absence of an approved hallmark as mentioned in sub-paragraph (1) does not render the article unhallmarked for the purposes of this Act.

] ⁷⁴

[12.

Any small working parts contained within an article which for technical reasons are of a lower standard of fineness or of a less precious metal than the remainder of the article shall, if it is practicable to strike a mark on those parts, be struck with the standard mark only but shall otherwise be ignored for the purpose of determining which hallmarks are to be struck on the remainder of the article.

] ⁷⁵

[13.

Where any article of gold, silver [, platinum or palladium] ⁷⁶ is coated in whole or in part with rhodium the rhodium shall be ignored for the purpose of determining which hallmarks are to be struck.

] ⁷⁷

[14.

Where any article of silver [, platinum or palladium] ⁷⁸ is coated in whole or in part with gold the gold coating shall be ignored for the purpose of determining which hallmarks are to be struck.

⁷³ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷⁴ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷⁵ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷⁶ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.7(4) (July 22, 2009)

⁷⁷ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁷⁸ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.7(5) (July 22, 2009)

] ⁷⁹**[15.**

For the purposes of this Part and Part 3—

[(a) the ranking of precious metals (with platinum being the most precious and silver the least precious) is—

platinum
gold
palladium
silver,

and “least precious” and “less precious” shall be construed accordingly,] ⁸⁰

(b) “assay office mark” means the mark determined in accordance with section 4(1)(a)(i), and

(c) “standard mark” means the mark determined in accordance with section 4(1)(a)(ii) as if the precious metal part comprised a single article.

] ⁸¹**PART III****ARTICLES COMPRISED OF PRECIOUS METAL AND OTHER MATERIALS****6.**

[Existing Sch.2 Part 3 para.6 is not repealed but has been moved into Sch.2 Part 2 as part of the amendment substituting Sch.2 Parts 2 and 3.] ⁸²

[16.—

(1) A mixed material article shall not be hallmarked unless, upon assay, each precious metal is of a standard of fineness not less than the minimum fineness for that precious metal and sub-paragraph (2) or (3) applies.

(2) If the article includes base metal the base metal part must be clearly distinguishable in appearance (either by the colour of that part or by having struck on it the name of that metal, or the word “metal”, in a manner which complies with any regulations made by the Council) from any precious metal.

(3) If the article does not include base metal the condition in sub-paragraph (4) or (5) must apply.

(4) The condition in this sub-paragraph is that—

- (a) the other materials must be clearly distinguishable from any precious metal part,
- (b) they must not be plated so as to resemble any precious metal or be of a colour which resembles any precious metal,

⁷⁹ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁸⁰ Substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.7(6) (July 22, 2009)

⁸¹ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁸² Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

- (c) their extent must be clearly visible, and
- (d) the precious metal part must be of a thickness of not less than 100 micrometres.

(5) The condition in this sub-paragraph is that in respect of any article in which the other materials are wholly or mainly enclosed by precious metal—

- (a) the article has been so manufactured as to be capable of being hallmarked before it is filled, and
- (b) there has been struck on the article the word “filled” in a manner which complies with any regulations made by the Council.

(6) Paragraph (b) of sub-paragraph (5) does not apply in the case of the handle to a knife, fork or spoon if the quantity of filling in the handle is not more than is necessary for joining.

] ⁸³

[17.

A mixed material article with only a single precious metal part shall be hallmarked on the precious metal part as if it were a separate article.

] ⁸⁴

[18.

A mixed material article comprised of two or more precious metal parts shall be hallmarked on a precious metal part in accordance with Part 2.

] ⁸⁵

[19.

For the purposes of this Part—

- (a) “base metal” means any metal other than gold, silver [, platinum or palladium]⁸⁶, and
- (b) “mixed material article” means an article comprised of one or more precious metal parts and one or more other materials.

] ⁸⁷

⁸³ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁸⁴ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁸⁵ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

⁸⁶ Words substituted by Hallmarking Act 1973 (Application to Palladium) Order 2009/2040 Sch.1 para.7(7) (July 22, 2009)

⁸⁷ Existing Sch.2 Parts 2 and 3 are substituted for a new Sch.2 Part 2 consisting of paras.6-15 and Part 3 consisting of paras.16-19 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 Sch.1 para.1 (April 6, 2007)

PART IV
GENERAL

7.
[Existing Sch.2 para.7 renumbered as para.20]⁸⁸

[20.
Each of the marks comprising the approved hallmarks shall be enclosed by such shield or other border as the Council may (if they see fit) for the time being specify by directions to the assay offices.
]⁸⁹

SCHEDULE 3
PROVISIONS AS TO OFFENCES

Section 8

Penalties for offences

1.
A person guilty of an offence under this Act for which no other penalty is specified shall be liable—
(a) on summary conviction, to a fine not exceeding [the prescribed sum]⁹⁰; and
(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

Time limit for prosecutions

2.—
(1) No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor whichever is the earlier.
(2) [...] ⁹¹
(3) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this Act may be commenced at any time within twelve months from the time when

⁸⁸ Sch.2 Part 4 para.7 renumbered as Sch.2 Part 4 para.20 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 reg.2(7) (April 6, 2007)

⁸⁹ Sch.2 Part 4 para.7 renumbered as Sch.2 Part 4 para.20 by Hallmarking Act 1973 (Amendment) Regulations 2007/872 reg.2(7) (April 6, 2007)

⁹⁰ Words substituted (E.W.) by Magistrates' Courts Act 1980 (c.43), s. 32(2) and (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289B(1)

⁹¹ Para. 2(2) repealed by Criminal Law Act 1977 (c. 45), s. 65, Sch. 13

the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this sub-paragraph as it applies for the purposes of that section.

(4) [...] ⁹²

(5) Sub-paragraphs (3) above do not apply where—

(a) the offence was one under section 1(1)(a) of this Act and was committed by the making of an oral statement; or

(b) the offence was one under section 1(1)(b) of this Act and—

(i) the description was applied by an oral statement;

or

(ii) the description is deemed to have been applied to the article concerned by virtue of subsection (7)(b) of the said section 1 and the article was supplied in pursuance of an oral request.

Offences by corporations

3.—

(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In this paragraph “director” in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

Offences due to fault of other person

4.

Where the commission by any person of an offence under this Act is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

Innocent publication of advertisement

5.

In proceedings for an offence under this Act committed by the publication of an advertisement it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this Act.

⁹² Repealed by S.I. 1980/704 (N.I. 6), Sch. 2

*Defence in proceedings under section 1***6.**

In any proceedings for an offence under section 1 of this Act, it shall be a defence for the person charged to prove that—

- (a) in reliance on information supplied by another person, he believed that the article concerned was one which was exempt from hallmarking by virtue of Part II of Schedule 1 to this Act; and
- (b) that he could not with reasonable diligence have ascertained that it was not such an article.

SCHEDULE 4**THE BRITISH HALLMARKING COUNCIL****Section 13***Constitution***1.**

The Council shall consist of not less than sixteen nor more than nineteen members.

2.—

- (1) Ten of the members of the Council shall be appointed by the Secretary of State.
- (2) Three of the members appointed by the Secretary of State shall be persons appearing to him to be suitably qualified by virtue of their knowledge of, and experience in, organisations established, or activities carried on, for the protection of the consumer.
- (3) Four of the members appointed by the Secretary of State, but not more than four, shall be persons appearing to him to be suitably qualified by virtue of their engagement wholly or mainly in trading in, or manufacture of, articles of precious metal.
- (4) Before making any appointment under sub-paragraph (3) of this paragraph the Secretary of State shall consult the assay offices and such bodies representing persons engaged wholly or mainly in trading in, or manufacture of, articles of precious metal as he thinks appropriate.

3.—

- (1) Six of the members of the Council shall be appointed by the assay offices as follows, that is to say—
 - (a) two of those members shall be appointed by the London Assay Office;
 - (b) one of those members shall be appointed by the Edinburgh Assay Office;
 - (c) two of those members shall be appointed by the Birmingham Assay Office; and
 - (d) one of those members shall be appointed by the Sheffield Assay Office.
- (2) Any person appointed under this paragraph shall be a person appearing to the assay office appointing him to be suitably qualified by virtue of his knowledge and experience of hallmarking.

(3) A person engaged wholly or mainly in trading in, or in articles manufactured of, precious metal shall not be appointed under this paragraph.

4.

Members shall be appointed under the preceding provisions of this Schedule to take office on 1st January in the year 1974, and in each third succeeding year, and members so appointed shall hold office for a term of three years.

5.—

(1) Not more than two members of the Council may be persons appointed by the Council as co-opted members.

(2) A co-opted member shall hold office in accordance with the terms of his appointment.

6.

A person wholly or mainly employed by an assay office, other than the clerk to an assay office, shall not be eligible for membership of the Council.

7.

The first meeting of the Council shall be held on such day and at such time and place as may be appointed by the Clerk to the Birmingham Assay Office and the said Clerk shall make arrangements for notice of the meeting to be sent by post to each member of the Council not less than fourteen days before the day so appointed.

8.—

(1) A member of the Council may at any time, by notice in writing to the secretary of the Council, resign his office.

(2) When a member of the Council other than a co-opted member ceases to hold office otherwise than upon expiration of his period of office, his place shall be taken by a person appointed in the same manner as the member in question.

(3) A person taking office by virtue of sub-paragraph (2) above shall retire when the person whose place he takes would normally have retired.

9.—

(1) The Council shall elect a person to serve as chairman from among the members of the Council and notice of his election shall, as soon as is reasonably practicable, be given in writing to the Secretary of State by the secretary or other person for the time being authorised by the Council in that behalf.

(2) The chairman of the Council shall hold office as such until the expiration of the period of his office as a member current at his election as chairman or until he resigns office as chairman or until he ceases to be a member of the Council, whichever first occurs.

(3) If any member appointed by an assay office is elected as chairman of the Council, paragraph 8(2) of this Schedule shall have effect as if that member had ceased to hold office otherwise than upon the expiration of his period of office.

10.

A person retiring from or resigning office as the chairman or as a member of the Council shall be eligible to hold that office again.

11.

The powers of the Council or any committee thereof may be exercised notwithstanding any vacancy in its membership, and no proceedings of such a body shall be invalidated by any defect in the selection of a person to be a member of that body.

12.

Questions arising at any meeting of the Council or of any committee thereof shall be determined by a majority of votes of the members present in person or by proxy:

Provided that in the event of an equality of votes the chairman, or in his absence the person acting as chairman, shall have a second or casting vote.

13.

The chief executive of an assay office and any other employee authorised by them in that behalf may attend and speak at meetings of the Council.

14.—

(1) The Council may in any standing orders made by them pursuant to paragraph 16 of this Schedule make such provision as they think fit as to the giving of votes by proxy at meetings of the Council, including provision as to the form of appointment of any proxy, the submission of any completed proxy in due time before any meeting and as to all matters related to voting by proxy.

(2) A proxy for a member of the Council or of any committee of the Council need not be a member of the Council or that committee as the case may be.

*Committees***15.**

The Council may appoint a technical committee and one or more other committees to carry out on their behalf such of the functions of the Council as they may determine, and any such committee shall be comprised of such persons appointed on such terms as the Council may determine.

*Standing Orders***16.**

The Council may make standing orders for regulating the proceedings (including quorum) of the Council or any committee thereof, as the Council from time to time think fit.

*Incorporation, etc.***17.—**

(1) The Council shall be a body corporate with perpetual succession and a common seal and with power to hold and dispose of land.

(2) Every instrument to which the common seal is affixed shall be signed by a member and counter-signed by the secretary of the Council or by a second such member.

Expenses and Accounts

18.—

(1) The expenses of the Council (which may include reasonable provision for reserves) for the year then current shall, unless otherwise resolved by the Council, be estimated and determined upon at the first meeting of the Council in any year and shall be defrayed out of contributions paid in accordance with this paragraph by each of the assay offices.

(2) The contribution so to be paid by any assay office shall be ascertained by applying to the amount of the said expenses of the Council that percentage (which for purposes of practical calculation may be adjusted by the Council by not more than one half of one per cent. or by any greater percentage with the agreement of that assay office) of the aggregate of the gross revenues of all the assay offices from charges for assaying and hallmarking precious metals under this Act (being revenue ascertained in manner for the time being determined by the Council), which is represented by the like gross revenue of that assay office alone and so ascertained.

(3) Unless otherwise determined by the Council, every contribution payable under this paragraph shall be paid within three months after any such meeting of the Council as is referred to in sub-paragraph (1) of this paragraph.

19.—

(1) The Council shall keep proper accounts of all sums received or paid by them [...] ⁹³ .

[(1A) Their accounts for each year ending on or before 31st December 2002 shall be audited by the auditors appointed by the Council.

(1B) The Council shall send their accounts for each subsequent year to the Comptroller and Auditor General as soon as reasonably practicable after the end of the year to which the accounts relate.

(1C) The Comptroller and Auditor General shall examine, certify and report on any accounts sent to him under sub-paragraph (1B).

(1D) The Comptroller and Auditor General shall lay before each House of Parliament a copy of any accounts sent to him under sub-paragraph (1B), together with his report on them.] ⁹⁴

[(2) No person shall be appointed as auditor under this paragraph unless he is eligible for appointment as a [statutory auditor under Part 42 of the Companies Act 2006] ⁹⁵ .] ⁹⁶

⁹³ Word repealed by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003/1326 art.8(2) (May 23, 2003)

⁹⁴ Added by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003/1326 art.8(3) (May 23, 2003)

⁹⁵ Words substituted subject to savings specified in SI 2008/948 arts 11 and 12 by Companies Act 2006 (Consequential Amendments etc) Order 2008/948 Sch.1(1) para.1 (April 6, 2008)

⁹⁶ Substituted by Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991/1997 Sch.1 para.22 (October 1, 1991)

20.

The Council may pay to the chairman of the Council such remuneration and expenses as they see fit and to any other of their members, or to any member of a committee appointed by them, travelling, subsistence or other allowances.

*Officers and Servants***21.**

The Council shall appoint a secretary and such other officers and servants on such terms as to remuneration, pensions or otherwise as the Council may determine.

SCHEDULE 5**POWERS AND DUTIES OF ASSAY OFFICES****Section 15***Submission of new wares for assaying and hallmarking***1.**

An assay office may refuse to assay or mark any new ware if it is submitted at a stage of its manufacture which is unreasonable for assaying of and striking of marks on the new ware.

*Assaying and hallmarking***2.—**

(1) Upon receipt of any article submitted to an assay office for assay and hallmarking, the assay office shall examine the same to ascertain whether it is in their opinion sufficiently advanced in workmanship and, if composed of one or more parts, whether all the parts are present, and also whether the article complies with the conditions of this Act so as to permit it to be struck with the approved hallmarks; and, if the assay office are dissatisfied as respects any of the foregoing matters, they shall return the article without making an assay thereof.

(2) If upon receipt and view of any article submitted to an assay office for assay and hallmarking, the assay office shall suspect that other materials than precious metal of not less than the minimum fineness therefor have been introduced or concealed in any such article, the assay office may cause the same to be cut; and if upon cutting—

(a) any such other materials shall be found therein, the said article shall be broken and defaced and it (or the value thereof) shall be forfeited to the assay office and applied towards their general expenses;

(b) no such other materials are found therein, the assay office (but not any other person) shall be liable in damages to any person interested in the article.

(3) Subject to sub-paragraphs (1), (2) and (5) of this paragraph, the assay office may cause to be drawn, scraped, cut or otherwise removed from the article such quantity of precious metal or take such other sample or do such other thing as may be necessary to enable an accurate assay to be

made of the article and may retain the quantity so removed and apply it (or the value thereof) towards their general expenses.

(4) In the event of any part of any article or any sample from any article being found to be of a fineness—

(a) less than the minimum fineness for the precious metal of that article, the article the subject of the assay shall be returned to the person submitting the same after payment of the prescribed charge, and if the article is a new ware the assay office shall have power before so returning the article, to break it and any other articles which were submitted with it in the same parcel of work;

(b) not less than such minimum fineness, the said article shall be struck with the approved hallmarks and delivered to the person submitting the same after payment of the prescribed charge.

(5) If an assay office are satisfied where two or more articles being new wares are submitted to them in one parcel of work for assay and hallmarking that all the articles so submitted are intended to assay to a single standard of fineness, the assay office may, notwithstanding anything in sub-paragraph (3) of this paragraph, carry out a single assay in respect of some or all of the articles contained in such parcel.

Inspections by H.M. Mint

3.—

(1) Her Majesty's Mint may at any time and from time to time as thought fit in normal office hours visit any assay office for the purpose of inspecting the assay department of that office and of ascertaining and assessing the accuracy and efficiency of their methods and procedures of assay; and a report on the assay department of each assay office shall be prepared once in every period of fourteen months by the Queen's Assay Master and presented to the Deputy Master of Her Majesty's Mint, copies of such reports having first been sent to the Council and the assay office concerned.

(2) If such assay methods, in the opinion of Her Majesty's Mint, are not of such a standard as will enable that assay office to report accurately on the fineness of any article, or articles, of precious metal, then Her Majesty's Mint shall notify the Council and the assay office forthwith and make to each of them such recommendations as appear requisite in relation to such assay methods; and the Council shall consult with the assay office as to the action to be taken upon such recommendations.

(3) Her Majesty's Mint shall be entitled to make a reasonable charge to each assay office in respect of the performance of their functions under this paragraph.

Safe custody of marks

4.—

(1) Each assay office shall be responsible both for the safe custody of the dies to be used by that assay office for the purpose of striking articles with the approved hallmarks and other marks and for the disposal of such dies as and when the same are no longer required.

(2) The Council may after consultation with all the assay offices make regulations in or in connection with the discharge by assay offices of the duty imposed upon them by sub-paragraph (1) of this paragraph and as to the manner in which any such die is to be made or used and generally in relation thereto.

SCHEDULE 6

PROCEDURES FOR ORDERS

Section 16

PART I

ORDERS UNDER SECTION 16(1) ON APPLICATION

1.

Before making application for an order under subsection (1)(b) of section 16 of this Act, the applicants shall consult the assay office the subject of the proposed order and, if so requested by the assay office, shall submit to the Secretary of State a draft of the proposed order and such written observations as the assay office may make to the applicants within the period of forty-two days after being so consulted; and, following the submission of such a draft and observations, the applicants shall take no further steps in connection with the proposed application pending a decision of the Secretary of State, who shall give written notice to the applicants and the assay office either that he refuses to consider such an application or that it is (without prejudice, however, to subsequent refusal thereof) to be allowed to proceed.

2.

On application for any order to which this Part of this Schedule applies the applicants shall submit to the Secretary of State a draft of the order which they desire him to make and shall publish once at least in each of two successive weeks in one or more newspapers circulating in the locality wherein the assay office the subject of the order carries on or is intended to carry on business (as the case may be) a notice—

- (a) stating the general effect of the order;
- (b) specifying a place in the said area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the first publication of the notice; and
- (c) stating that, within the said period, any person may by notice to the Secretary of State object to the application.

3.

Not later than the date on which the said notice is first published, the applicants shall, if the Secretary of State so requires, serve a copy of the notice and of the draft order on any person specified by the Secretary of State.

4.

The applicants shall also publish in the Gazette a notice stating that they are about to apply for an order under section 16 of this Act, naming the county and district in the locality wherein the assay

office the subject of the order carries on or is intended to carry on business (as the case may be), specifying a place where a copy of the draft order may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.

5.

The applicants shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge as they think reasonable not exceeding fifty pence, or such higher sum as the Secretary of State may from time to time authorise in writing.

6.

The Secretary of State may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit, but where he proposes to make any modification which appears to him substantially to affect the character of the order as applied for, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing the applicants and other persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modification as he thinks reasonable has elapsed.

7.

If, before the expiration of the twenty-eight days referred to in paragraph 2 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from any person appearing to him to be affected by the application, or as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State, before making any order on the application, shall (unless he is of opinion that the objection is frivolous or too trivial to warrant the holding of an inquiry or hearing with respect to it) either—

- (a) cause a local inquiry to be held; or
- (b) afford to the objector and to the applicants, as well as to any other persons to whom it appears to the Secretary of State expedient to afford it, an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

8.

On the making of an order to which this Part of this Schedule applies, the Secretary of State shall give notice of the making of the order and the effect thereof to any person who has objected thereto under the foregoing provisions of this Part of this Schedule, and has not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such person gives notice to the Secretary of State that he objects to the order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

9.

The costs incurred by the Secretary of State in connection with the making and notification of an order under this Part of this Schedule, including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act 1945, shall be paid by the applicants.

10.

In this Part of this Schedule “the Gazette” means in relation to publication of a notice as respects an order concerning an assay office carrying on or intended to carry on business—

- (a) in England and Wales, the London Gazette;
- (b) in Scotland, the Edinburgh Gazette; and
- (c) in Northern Ireland, the Belfast Gazette.

PART II

**MODIFICATIONS OF PART I OF THIS SCHEDULE FOR PURPOSES OF ORDERS
UNDER SECTION 16(2) WHERE NO APPLICATION**

11.

In relation to any order under section 16(2) of this Act the provisions of Part I of this Schedule shall have effect subject to the following modifications—

- (a) For paragraph 1 and for the words in paragraph 2 before “shall publish” there shall be substituted—

“1.

Before making an order under subsection (2) of section 16 of this Act the Secretary of State—

- (1) shall in the case of an order under paragraphs (a) or (b) of that subsection consult the Council and shall, in the case of an order under paragraph (c) of that subsection, consult the assay office the subject of the proposed order;

- (2) ”;

- (b) Paragraphs 3 and 9 shall be omitted;
- (c) In paragraphs 4 and 5 for reference to the applicants there shall be substituted reference to the Secretary of State;
- (d) For paragraph 6 there shall be substituted the following paragraph—

“6.

The Secretary of State may make an order in the terms of the draft or in those terms as modified in such manner as he thinks fit, but where he proposes to make any modification which appears to him substantially to affect the character of the order he shall take such steps as appear to him to be sufficient and reasonably practicable for informing persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modification as he thinks reasonable has elapsed”;

- (e) in paragraph 7—
 - (i) for the word “application” where it first occurs there shall be substituted the word “order”;
 - (ii) the words “on the application” shall be omitted;
 - (iii) in paragraph (b) for the words “the applicants” there shall be substituted the words “such of them the Council and any assay office as might have been applicants for such an order under section 16(1) of this Act”.

SCHEDULE 7 [...]⁹⁷

⁹⁷ Specifies enactments repealed by s. 23