# CHAPTER 30.

An Act to make further provision with respect to maternity services in Scotland, to amend the Midwives (Scotland) Act, 1915, and to provide for the combination of local authorities for certain purposes under the Notification of Births (Extension) Act, 1915. [6th May 1937.]

A.D. 1937.

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

Provision of maternity services.

**1.**—(1) It shall be the duty of every local authority to make adequate arrangements for the provision to women, by whom or on whose behalf application is made, of the services in their own homes of certified midwives before and during childbirth and from time to time thereafter during a period not less than the lying-in period, and for that purpose the authority may arrange with voluntary associations employing midwives or with midwives in private practice, or they may themselves employ midwives.

(2) Every local authority shall as and when required by the Department of Health for Scotland (in this Act referred to as "the Department") make adequate arrangements to secure that there are available for every woman (not being an in-patient in a hospital),

A.D. 1937. by whom or on whose behalf application is made, facilities for—

(*a*) medical examination and treatment during pregnancy;

(*b*) medical supervision during childbirth and from time to time thereafter during a period not less than the lying-in period;

(*c*) medical examination at least once after the expiry of one month after childbirth;

(*d*) the services of an anæsthetist when recommended by the medical practitioner; and

(*e*) the services of an obstetrician to advise and assist where necessary and practicable.

(3) Within six months from the commencement of this Act, or such longer period as the Department may in any particular case allow, every local authority shall submit to the Department their proposals for carrying out their duties under subsection (1) of this section, after consultation—

(*a*) with any voluntary organisation which, to the knowledge of the authority, employs or undertakes to employ domiciliary midwives in their area; and

(*b*) with such local organisation (if any) of midwives as appears to the authority effectively to represent the opinions of midwives practising in their area:

Provided that, where a voluntary organisation has been established for the purpose of co-ordinating the services provided by other organisations referred to in sub-paragraph (*a*) of this subsection, the authority may consult the organisation so established instead of consulting those other organisations.

(4) The proposals submitted by a local authority under the last foregoing subsection shall secure co-ordination of the arrangements made under subsection (1) of this section with arrangements made under subsection (2) of this section and shall include particulars of—

(*a*) the arrangements of the authority for exercising supervision over midwives practising in their area; and

(*b*) the arrangements (if any) proposed to be made between the authority and voluntary organisations.

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(5) Within six months after intimation to a local authority of any requirement by the Department under subsection (2) of this section or such longer period as the Department may allow, such local authority shall, after consultation with such local organisation (if any) of registered medical practitioners as appears to the authority effectively to represent the opinions of such practitioners practising in their area, submit to the Department their proposals for carrying out such requirement.

(6) Every local authority shall, not later than the date on which their proposals are submitted to the Department as aforesaid, deliver a copy thereof to every organisation which they have consulted in pursuance of subsection (3) or subsection (5) of this section and to every recognised medical school and institution or other organisation engaged in the training of midwives within the area of the authority and if any such organisation, school or institution is dissatisfied with the arrangements proposed to be made, the organisation, school or institution may, within two months after the proposals of the authority are submitted to the Department, make representations to the Department, and shall, as soon as may be after making any such representations, send a copy thereof to the local authority.

(7) The Department may approve the proposals of a local authority either as submitted, or with such modifications and amendments as the Department, after consultation with the local authority, think proper, and it shall be the duty of the authority to carry their proposals as so approved into effect within the period of six months after the date of the approval or such longer period as the Department may allow.

(8) The Department, before approving proposals under this section, shall satisfy themselves that, so far as reasonably practicable, the proposals make provision for co-operation between the local authority and recognised medical schools and institutions or other organisations engaged in the training of midwives and for reasonable facilities for the teaching of midwifery.

(9) A local authority and the Department in exercising their functions under this section shall have regard to any special circumstances affecting the area including, in particular, difficulties of communication and sparseness of population.

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(10) Every local authority may at any time, and shall if and when required by the Department, prepare and submit for the approval of the Department proposals for the revision of any arrangements made and approved under this section, and the foregoing provisions of this section shall apply as regards such proposals for the revision of arrangements in like manner in all respects as those provisions apply as regards the original proposals.

(11) Any services which, after the commencement of this Act, could be provided either by way of poor relief or under this section, shall be provided exclusively by virtue of this section and not by way of poor relief.

Fees for services provided.

**2.** A local authority shall recover from any woman to whom they have provided services under section one of this Act, or from the husband or other person liable to maintain such woman, such fees as are appropriate, in accordance with a scale of fees approved by the Department, in respect of the expenses incurred by the authority in providing such services, or, if the authority are satisfied that the person from whom the fees are recoverable is unable by reason of his financial circumstances to pay the whole of such fees, such part thereof, if any, as he is in the opinion of the authority able to pay.

Financial provisions. 19 & 20 Geo. 5. c. 25.

**3.**—(1) The following provisions of this section shall have effect with a view to fulfilling the intention of the Local Government (Scotland) Act, 1929, as declared by section seventy-eight thereof, namely, that in the event of material additional expenditure being imposed on any class of local authorities by reason of the institution of a new service after the commencement of that Act provision should be made for increased contributions out of moneys provided by Parliament.

(2) In respect of each year in the third fixed grant period, a grant calculated in accordance with the First Schedule to this Act shall be paid out of moneys provided by Parliament to every local authority on whom additional expenditure is imposed by section one of this Act in respect of that year.

(3) For the fourth and every subsequent fixed grant period, the General Exchequer Contribution shall include such increased contribution by reason of the additional expenditure imposed on local authorities by

section one of this Act as Parliament may hereafter determine. A.D. 1937.

(4) For the purpose of this section, expenditure imposed as aforesaid on a local authority in respect of any year shall be deemed to be additional if, and to the extent that, it is estimated to exceed the expenditure incurred by that authority in providing in the financial year ended on the fifteenth day of May, nineteen hundred and thirty-six, such services as are specified in or required to be provided under the said section one.

(5) Any such estimate as aforesaid made for the purpose of subsection (2) of this section shall be subject to the approval of the Department, and shall be made in accordance with directions given by them after consultation with such associations of local authorities as appear to the Department to be concerned and with any local authority with which consultation appears to them to be desirable, and in giving such directions the Department shall, so far as reasonably practicable, require that the amount of the expenditure imposed as aforesaid on a local authority in making arrangements for providing any service under subsection (1) or under paragraphs (*a*) (*b*) or (*c*) of subsection (2) of section one of this Act (other than arrangements with voluntary organisations employing midwives or by means of clinics) shall be estimated by reference to the estimated average net annual cost incurred by local authorities in making arrangements of the like nature for providing that service, such cost being calculated on the basis of each birth in respect of which the service is provided or on such other basis as the Department, after such consultation as aforesaid, may with the approval of the Treasury decide to be more appropriate in the circumstances.

(6) In this section the expression "fixed grant period" and "General Exchequer Contribution" have the same meanings as in the Local Government (Scotland) Act, 1929.

(7) For the purpose of section sixty-six of the Local Government (Scotland) Act, 1929 (which empowers the Secretary of State to reduce grants payable under Part III of that Act to a local authority which fails to maintain an efficient service) grants payable under this section shall be deemed to be payable under the said Part III.

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(8) Grants payable under this section shall be payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise, as the Department may, with the approval of the Treasury, impose.

(9) Expenses incurred by a local authority under this Act in so far as not defrayed out of grants payable under this section may be defrayed in like manner as expenses under the Notification of Births Acts, 1907 and 1915.

Compensation to midwives ceasing or required to cease practice.

**4.**—(1) Any certified midwife who, on or after the first day of January, nineteen hundred and thirty-six, and before the fifteenth day of March, nineteen hundred and thirty-seven, has given notice to a local authority of intention to practise and has, before the expiration of three years from the commencement of this Act, surrendered her certificate to the local authority in whose area she is practising at the time of the surrender, shall be entitled to be paid by the last-mentioned authority by way of compensation a sum equal to three times the average net annual emoluments derived from her practice as a midwife or maternity nurse during whichever of the following periods is the shorter, that is to say :—

(*a*) the period of three years next before the date on which she surrendered her certificate; or

(*b*) the period during which she has practised as a midwife or maternity nurse :

Provided that, where at the date upon which she surrenders her certificate a midwife is practising in the area of more than one local authority, the provisions of this subsection shall have effect subject to the modifications set out in Part I of the Second Schedule to this Act.

(2) If it appears to a local authority that any midwife who, on or at any time after the first day of January, nineteen hundred and thirty-seven, has given notice to that authority of intention to practise is incapable, by reason of age or infirmity of mind or body, of efficiently performing her duties as a midwife, the authority may, by a direction in writing given at any time before the expiration of three years from the commencement of this Act, require her to surrender her certificate to the

authority, and thereupon the following provisions shall have effect :— A.D. 1937.

(*a*) the midwife may within one month from the date of the direction appeal to the Department, who may allow or dismiss the appeal as they think fit;

(*b*) if the midwife does not appeal as aforesaid or if her appeal is dismissed, she shall surrender her certificate in accordance with the direction within one month from the date of the direction or from the date on which the appeal is dismissed, as the case may be, and if she fails to do so the authority shall report the matter to the Board, who shall thereupon remove her name from the roll of midwives;

(*c*) on surrendering her certificate to the authority the midwife shall be entitled to be paid by the authority by way of compensation a sum equal to five times the average net annual emoluments derived from her practice as a midwife or maternity nurse during whichever of the following periods is the shorter, that is to say :—

(i) the period of three years next before the date on which the direction was given by the authority; or

(ii) the period during which the midwife has practised as a midwife or maternity nurse.

(3) Where on or at any time after the first day of January, nineteen hundred and thirty-seven, a midwife has given notice of intention to practise to two or more local authorities, the last foregoing subsection shall have effect subject to the modifications set out in Part II of the Second Schedule to this Act.

(4) The whole or any part of any sum payable by a local authority to a midwife by way of compensation under this section may, if the authority decide that it is in the interests of the midwife so to do, instead of being paid in a lump sum, be laid out by the authority in the purchase of an annuity terminable on the midwife attaining the age of seventy or dying before attaining that age and payable to her at such intervals as the authority may determine.

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(5) Any question arising as to the payment of compensation under this section or as to the amount of compensation to be paid or as to the laying out of the whole or any part of the sum payable to a midwife by way of compensation in the purchase of an annuity under the immediately preceding subsection shall be referred to the arbitration of such person as may be agreed upon or, in default of agreement, appointed by the Sheriff.

(6) There shall be paid to every local authority in respect of each financial year out of moneys provided by Parliament a sum equal to one-half of the aggregate amount paid to midwives, or laid out as aforesaid, by the authority in that year by way of compensation under this section.

(7) A local authority shall forward any certificate surrendered to it under this section to the Board, and thereupon the Board shall cancel the certificate by endorsement thereon and return it so endorsed to the midwife to whom it relates and remove the name of that midwife from the roll of midwives.

(8) If any woman whose name has been removed from the roll of midwives under this section receives any remuneration for attending as a nurse on a woman in childbirth or at any time during the fourteen days immediately after childbirth, she shall be liable on summary conviction to a fine not exceeding ten pounds.

(9) Where the name of a midwife is removed from the roll of midwives under this section, her name shall not be restored to the roll.

Combination of local authorities.

5 & 6 Geo. 5. c. 64.

**5.** Two or more local authorities shall, if required by the Department, act together for the purpose of making any arrangements under the Notification of Births (Extension) Act, 1915, or under this Act, for attending to the health of expectant mothers, nursing mothers and of children under five years of age, and that on terms to be determined, failing agreement, by the Department.

Prohibition of unqualified persons acting as

**6.**—(1) If, on or after the date on which this section is applied to the area of any local authority any person who is neither certified under the Midwives (Scotland) Act, 1915, nor registered in the general part of the register

of nurses required to be kept under the Nurses Registration (Scotland) Act, 1919, receives any remuneration for attending in that area as a nurse on a woman in childbirth or at any time during the fourteen days immediately after childbirth, that person shall be liable on summary conviction to a fine not exceeding ten pounds :

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maternity nurses for gain.
5 & 6 Geo. 5. c. 91.
9 & 10 Geo. 5. c. 95.

Provided that the provisions of this subsection shall not apply in the case of—

(*a*) any person who, while undergoing training with a view to becoming a duly qualified medical practitioner or a certified midwife, attends on a woman as aforesaid as part of a course of practical instruction in midwifery recognised by the General Medical Council or by the Board; or

(*b*) any person who attends on a woman as aforesaid—

(i) in any maternity home which is registered under the Midwives and Maternity Homes (Scotland) Act, 1927, or exempt from the operation of that Act under section fifteen thereof; or

17 & 18 Geo. 5. c. 17.

(ii) in any hospital maintained or controlled by a Government Department or local authority; or

(*c*) a woman who, before the first day of January, nineteen hundred and thirty-eight, has been certified by the authorities of a hospital or other institution, to which the Department have by order applied this proviso, to have been trained in obstetric nursing, and who has given notice in writing to the local authority of the area that she has been so certified.

(2) The Department may by order apply this section to the area of any local authority when they are satisfied that the arrangements made by the authority under subsection (1) of section one of this Act and approved by the Department are in full operation.

(3) An order under the last foregoing subsection shall not come into force until such date after the expiry

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of one month after the making of the order, as may be specified therein, and notice of the making of the order shall be given by advertisement in each of two successive weeks during the said month in one or more newspapers circulating in the area to which the order applies.

(4) The provisions of this section shall be in addition to, and not in derogation of, the provisions of subsection (2) of section one of the Midwives (Scotland) Act, 1915.

Attendance of midwives at courses of instruction.

**7.**—(1) The power of the Board to frame rules under section five of the Midwives (Scotland) Act, 1915, shall include a power to frame rules requiring midwives to attend from time to time, in accordance with the provision of the rules, a course of instruction approved by the Board.

(2) Every local authority shall provide or arrange for the provision of such courses of instruction for midwives practising in its area as may be necessary to enable those midwives to comply with the rules made under subsection (1) of this section, and may make payments to midwives not employed by the authority to enable such midwives to attend the courses so provided.

Miscellaneous amendments of Midwives (Scotland) Act, 1915.

**8.**—(1) The scale of fees payable to registered medical practitioners to be fixed by the Department under subsection (1) of section twenty-two of the Midwives (Scotland) Act, 1915, shall be fixed by regulations, and the power to fix the said scale shall include power to prescribe by the regulations conditions subject to which the fees are to be payable.

(2) The Department may make regulations prescribing the qualifications of persons appointed by a local authority to exercise supervision over midwives practising within their area, and such qualifications shall include practical experience in midwifery subsequent to training, and, except where owing to the special circumstances of any particular area the Department otherwise agree, no person shall be so appointed whose qualifications are not in accordance with the regulations.

(3) Section thirteen of the Midwives (Scotland) Act, 1915 (which provides for the payment of a fee not exceeding one guinea by women presenting themselves for examination or certificate) shall be amended by

inserting after the words "one guinea" the words "for each examination or certificate." A.D. 1937.

(4) The power of the Board to frame rules under section five of the Midwives (Scotland) Act, 1915, shall include power to frame rules—

(*a*) regulating the grant by the Board of diplomas, being diplomas in the teaching of midwifery, to midwives presenting themselves for examination for such diplomas; and

(*b*) providing, in relation to proceedings before the Board for the removal of the name of a midwife from the roll of midwives, for the summoning, attendance and examination of witnesses, the production of documents, the administration of oaths and the taking of affirmations.

Interpretation.

**9.**—(1) In this Act the following expressions have the meanings hereby respectively assigned to them :—

"the Board" means the Central Midwives Board for Scotland;

"certified midwife" means a woman certified under the Midwives (Scotland) Act, 1915;

"county" means a county inclusive of any small burgh within the meaning of the Local Government (Scotland) Act, 1929, situate in the county;

"domiciliary midwife" means a certified midwife who is available for attendance on women in their own homes as a midwife or a maternity nurse;

"local authority" means—

(*a*) in the case of a large burgh within the meaning of the Local Government (Scotland) Act, 1929, the town council;

(*b*) in the case of counties combined for the purposes mentioned in subsection (7) of section ten of the last mentioned Act, the joint county council; and

(*c*) in the case of any other county, the county council;

"lying-in period" means the period defined as the lying-in period by any rule for the time being in force under section five of the Midwives (Scotland) Act, 1915;

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"obstetrician" means a medical practitioner whose practice is confined to obstetrics or obstetrics and gynecology or who is a fellow or member of the British College of Obstetricians and Gynecologists;

"voluntary organisation" means an organisation which is substantially supported by voluntary contributions.

(2) Unless the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to the enactment as amended or extended or applied by any subsequent Act, including this Act.

Short title, construction and extent.

**10.**—(1) This Act may be cited as the Maternity Services (Scotland) Act, 1937, and shall come into operation on the sixteenth day of May, nineteen hundred and thirty-seven.

8 & 9 Geo. 5. c. 29.

(2) The Notification of Births Acts, 1907 and 1915, and the Maternity and Child Welfare Act, 1918, so far as these Acts apply to Scotland, and this Act may be cited together as the Maternity and Child Welfare (Scotland) Acts, 1907 to 1937.

(3) This Act shall extend to Scotland only.

# SCHEDULES.



## FIRST SCHEDULE.

### RULES FOR CALCULATING THE AMOUNT OF THE GRANTS PAYABLE TO LOCAL AUTHORITIES.

Section 3(2).

1. The grant to a local authority under subsection (2) of section three of this Act in respect of any financial year shall be calculated as follows :—

(*a*) the amount of the additional expenditure imposed on the authority in respect of that year by section one of this Act as estimated in accordance with the provisions of subsections (4) and (5) of the said section three shall be halved;

(*b*) the weighted population of the area of the authority shall be divided by the estimated population of the area;

(*c*) the aggregate weighted population of the areas of all the local authorities shall be divided by the aggregate estimated population of those areas;

(*d*) the amount ascertained under sub-paragraph (*a*) of this paragraph shall be multiplied by the amount ascertained under sub-paragraph (*b*) of this paragraph, and shall be divided by the amount ascertained under sub-paragraph (*c*) of this paragraph;

and the amount of the grant payable to the authority shall be the amount ascertained under sub-paragraph (*d*) of this paragraph, calculated to the nearest pound, but shall in no case exceed the amount of the said expenditure.

2. In the foregoing paragraph the expressions "weighted population" and "estimated population" mean respectively the weighted population and the estimated population as determined at the date of the commencement of this Act for the purpose of the apportionment of the General Exchequer Contribution under the Local Government (Scotland) Act, 1929.

# SECOND SCHEDULE.

## PART I.

Section 4.

### MODIFICATIONS OF SUBSECTION (1) OF SECTION FOUR IN A CASE WHERE A MIDWIFE IS PRACTISING IN THE AREA OF MORE THAN ONE LOCAL AUTHORITY.

1. The midwife may surrender her certificate to any one of the local authorities in whose areas she is practising on the date of the surrender, and upon surrendering her certificate to any such authority she shall be entitled to be paid by that authority such compensation as is provided by the said subsection (1).

2. The authority by whom the compensation is so paid shall be entitled to recover from any other such authority as aforesaid a sum equal to a proportionate amount of the compensation so paid calculated as hereinafter provided.

3. The sum recoverable from such an authority as aforesaid shall be an amount bearing the same proportion to half the amount of the compensation paid to the midwife as the amount of the average net annual emoluments derived by the midwife from her practice as a midwife or maternity nurse in the area of that authority bears to the total of the amounts of the average net annual emoluments derived by the midwife from her practice in the areas of all the authorities in whose area she is practising on the said date.

4. For the purposes of the foregoing paragraph the average net annual emoluments derived by a midwife from her practice as a midwife or maternity nurse in the area of any authority shall be calculated by reference to whichever of the following periods is the shorter, that is to say :—

(*a*) the period of three years next before the said date; or

(*b*) the period during which she has practised in the area of that authority.

5. In the event of any disagreement between any authorities as to the sum recoverable from an authority under the provisions of this Part of this Schedule, the question may be referred by any of the authorities concerned to the Department and the decision of the Department shall be final.

## PART II.

### MODIFICATIONS OF SUBSECTION (2) OF SECTION FOUR IN A CASE WHERE A MIDWIFE HAS GIVEN NOTICE OF INTENTION TO PRACTISE TO MORE THAN ONE LOCAL AUTHORITY.

1. The direction mentioned in subsection (2) of section four may be given jointly by any two or more of the local authorities to which the midwife on or at any time after the first day of January, nineteen hundred and thirty-seven, has given notice of intention to practise, as well as by any one of those authorities.

2. Where the direction is given jointly by two or more of the said authorities—

(*a*) the direction shall require the midwife to surrender her certificate to such one of those authorities as may be specified in the direction; and

(*b*) the midwife shall be entitled, on surrendering her certificate to the authority so specified, to be paid by that authority such compensation as is provided by the said subsection; and

(*c*) the authority by whom the compensation is paid to the midwife as aforesaid shall be entitled to recover from any other authority which joined in giving the direction a sum equal to such proportion of the compensation so paid as may be fixed by agreement between the authorities which gave the direction or, in default of such agreement, by the Department.

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