



# New Towns (Scotland) Act 1968

## 1968 CHAPTER 16

An Act to consolidate certain enactments relating to new towns and to matters connected therewith, being those enactments in their application to Scotland; with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949. [28th March 1968]

### Modifications etc. (not altering text)

- C1** Act amended with the substitution of references to Lands Tribunal for Scotland or member of that Tribunal for references to arbiter or official arbiter and of references to [Land Compensation \(Scotland\) Act 1963](#) (c. 51, SIF 28:2), **ss. 8, 9** or 11 for references to ss. 2, 3 or 5 of that Act by s. 47(5) of this Act
- C2** Act excluded by [New Towns Act 1981](#) (c. 64, SIF 123:3), **s. 64(2)**
- C3** Act extended by [Post Office Act 1969](#) (c. 48, SIF 96), s. 76, **Sch. 4 para. 93(1)(4)**; [Civil Aviation Act 1982](#) (c. 16, SIF 9), s. 2, Sch. 2 paras. 4, 5; [Airports Act 1986](#) (c. 31, SIF 9), s. 58, **Sch. 2 para. 1(1)** and [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxi), **Sch. 8 para. 33**  
Act extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xvi)**; S.I. 1996/218, **art. 2**
- C4** Act modified by [Civil Aviation Act 1982](#) (c. 16, SIF 9), s. 2, **Sch. 2 para. 5** and [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)(d)** **Sch. 8 para. 33**  
Act modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(c)**; S.I. 1996/218, **art. 2**  
Act modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1(2)(l)** (with s. 106); S.I. 2001/869, **art. 2**
- C5** Act modified by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 3(2)(d)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
- C6** Act amended by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(2)(9)(b)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
- C7** Act applied (27.5.1997) by 1997 c. 8, **ss. 116(3)(a), 278(2)**

### *New towns and their development corporations*

#### **1 Designation of site of new town.**

- (1) If the Secretary of State is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is expedient in the national interest that any area of land should be developed as a new town by a corporation established under this Act, he may make an order designating that area as the site of the proposed new town.

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- (2) An order under this section may include in the area designated as the site of the proposed new town any existing town or other centre of population; and references in this Act to a new town or proposed new town shall be construed accordingly.
- (3) The provisions of Schedule 1 to this Act shall have effect with respect to the procedure to be followed in connection with the making of orders under this section and with respect to the validity and date of operation of such orders.
- (4) As soon as may be after an order under this section becomes operative, the Secretary of State shall record it in the Register of Sasines.
- (5) Section 10(4) of this Act applies where it is proposed to make an order under this section.
- (6) Section 46(5) of this Act applies to any order under this section which designates an area as the site of a proposed new town, and to certain orders for extending the area of a new town.

**Modifications etc. (not altering text)**

**C8** S. 1. modified by [Land Compensation \(Scotland\) Act 1973 \(c. 56, SIF 28:2\)](#), s. 47(1)

**[<sup>F1</sup>1A Reduction of designated areas.**

- (1) The Secretary of State may make an order excluding any land specified in the order from the area of a new town if, after consulting—
  - (a) the development corporation for the town, and
  - (b) [<sup>F2</sup>the local authority]in whose area the land is situated,
 he is satisfied that it is expedient to make the order.
- (2) Subject to subsections (3) and (4) below, on the coming into force of an order under subsection (1) above—
  - (a) the land specified in the order shall cease to be contained in the area of the new town; and
  - (b) the order made under section 1 above designating the land shall cease to operate as regards that land.
- (3) The Secretary of State may in an order under this section make such provision by way of savings and transitional provisions (including provisions amending provisions made by or under an enactment) as he thinks fit, and subsection (2) above applies subject to any such savings and transitional provisions.
- (4) Schedule 1A to this Act applies with respect to the effect of an order under this section.
- (5) As soon as may be after an order under this section becomes operative, the Secretary of State shall record it in the Register of Sasines or the Land Register of Scotland, as the case may be.
- (6) The power to make an order under this section shall be exercisable by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament.]

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#### Textual Amendments

- F1** S. 1A inserted by new Towns and Urban Development corporation Act 1985 (c. 5, SIF 123:3, 4), s. 10(1)
- F2** Words in s. 1A(1)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 73(2)**; S.I. 1996/323, **art. 4(1)(c)**

## 2 Establishment of development corporation for new town.

- (1) For the purposes of the development of each new town the site of which is designated under section 1 of this Act, the Secretary of State shall by order establish a corporation (in this Act called a development corporation) consisting of a chairman, a deputy chairman and such number of other members, not exceeding seven, as may be prescribed by the order; and every such corporation shall be a body corporate by such name as may be prescribed by the order, with perpetual succession and a common seal.
- (2) The provisions of Schedule 2 to this Act shall have effect with respect to the constitution and proceedings of any development corporation established under this Act.
- (3) Nothing in this Act shall be construed as exempting a development corporation from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local.

## 3 Objects and general powers of development corporation.

- (1) The objects of a development corporation established for the purposes of a new town shall be to secure the laying out and development of the new town in accordance with proposals approved in that behalf under the following provisions of this Act.
- (2) Subject to section 4 of this Act, every such corporation shall, for the purpose of securing the laying out and development of the new town as aforesaid, have power—
  - (a) to acquire, hold, manage and dispose of land and other property;
  - (b) to carry out building and other operations;
  - (c) to provide water, electricity, gas, sewerage and other services;
  - (d) to carry on any business or undertaking in or for the purposes of the new town, and generally to do anything necessary or expedient for the purposes of the new town or for purposes incidental thereto.
- (3) Without prejudice to the generality of the powers conferred on development corporations by this Act, a development corporation—
  - (a) may, with the consent of the Secretary of State, contribute such sums as the Secretary of State, with the concurrence of the Treasury, may determine towards expenditure incurred or to be incurred by any local authority or statutory undertakers in the performance, in relation to the new town, of any of their statutory functions, including expenditure so incurred in the acquisition of land; and
  - (b) may, with the like consent, contribute such sums as the Secretary of State, with the like concurrence, may determine by way of assistance towards the provision of amenities for the new town.

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- (4) For the avoidance of doubt it is hereby declared that subsection (2) above relates only to the capacity of a development corporation as a statutory corporation; and nothing in this section shall be construed as authorising the disregard by a development corporation of any enactment or rule of law.
- (5) For the avoidance of doubt it is hereby also declared—
- (a) that the power of acquiring land conferred by subsection (2) above on a development corporation established for the purposes of a new town includes power to acquire any land within the area of the new town, whether or not it is proposed to develop that particular land; and
  - (b) that the power of disposing of land conferred by that subsection on such a development corporation includes, in relation to any land within the area of the new town, power to dispose of that land whether or not the development of that particular land has been proposed or approved under section 6(1) of this Act.

#### 4 Restrictions on powers of development corporation.

- (1) A development corporation shall not have power to borrow money except [<sup>F3</sup>in accordance with sections 37 and 37A of] this Act.
- (2) Without prejudice to any provision of this Act requiring the consent of the Secretary of State to be obtained for anything to be done by a development corporation, the Secretary of State may give directions to any such corporation for restricting the exercise by them of any of their powers under this Act or for requiring them to exercise those powers in any manner specified in the directions.
- (3) Before giving any directions to a development corporation under subsection (2) above the Secretary of State shall consult with the chairman of the corporation, or, if the chairman is not available, with the deputy chairman, unless he is satisfied that, on account of urgency, such consultation is impracticable.
- (4) A transaction between a person and a development corporation acting in purported exercise of their powers under this Act shall not be void by reason only that it was carried out in contravention of a direction given by the Secretary of State under subsection (2) above unless that person had actual notice of that direction.
- (5) Without prejudice to section 3(4) of this Act, nothing in this Act shall be construed as authorising a development corporation to carry on any undertaking for the supply of water, electricity or gas, or any railway, light railway, tramway or trolley vehicle undertaking except under the authority of an enactment not contained in this Act specifically authorising them to do so or, in the case of a trolley vehicle undertaking, under the authority of such an enactment or of an order under section 32 of this Act.

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#### Textual Amendments

**F3** Words substituted by [Statutory Corporations \(Financial Provisions\) Act 1974 \(c. 8, SIF 99:6\)](#), [Sch. 3 para. 5](#)

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## **5 Allocation or transfer of new town functions to existing or new development corporation.**

- (1) If it appears to the Secretary of State, in the case of the area of any new town, that there are exceptional circumstances which render it expedient that the functions of a development corporation under this Act should be performed by the development corporation established for the purposes of any other new town instead of by a separate corporation established for the purpose, he may instead of establishing such a separate corporation, by order direct that the said functions shall be performed by the development corporation established for the said other new town.
- (2) If it appears to the Secretary of State that there are exceptional circumstances which render it expedient that the functions of a development corporation established for the purposes of a new town should be transferred to the development corporation established for the purposes of any other new town, or to a new development corporation to be established for the purposes of the first-mentioned new town, he may by order provide for the dissolution of the first-mentioned corporation and for the transfer of its functions, property, rights and liabilities to the development corporation established for the purposes of the said other new town, or, as the case may be, to a new corporation established for the purposes of the first-mentioned new town by the order.
- (3) Without prejudice to the provisions of this Act with respect to the variation of orders made thereunder, an order under this section providing for the exercise of functions in relation to a new town by the development corporation established for the purposes of another new town, or for the transfer of such functions to such a corporation, may modify the name and constitution of that corporation in such manner as appears to the Secretary of State to be expedient, and for the purposes of this Act that corporation shall be treated as having been established for the purposes of each of those new towns.
- (4) Before making an order under this section providing for the transfer of functions from or to a development corporation or for the exercise of any functions by such a corporation, the Secretary of State shall consult with that corporation.

### *Planning control in new towns*

## **6 Planning control in new town.**

- (1) The development corporation established for the purposes of a new town shall from time to time submit to the Secretary of State, in accordance with any directions given by him in that behalf, their proposals for the development of land within the area of the new town, and the Secretary of State, after consultation with the . . . <sup>F4</sup><sup>F5</sup> district planning] authority within whose district the land is situated, and with any other local authority who appear to him to be concerned, may approve any such proposals either with or without modification.
- (2) Without prejudice to the generality of the powers conferred by section 11 of the <sup>M1</sup>Town and Country Planning (Scotland) Act 1947, a special development order made by the Secretary of State under that section with respect to the area of a new town may grant permission for any development of land in accordance with proposals approved under subsection (1) above, subject to such conditions, if any (including conditions requiring details of any proposed development to be submitted to the local planning authority), as may be specified in the order.

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- (3) It shall be the duty of the Secretary of State to give to a development corporation established under this Act such directions with respect to the disposal of land acquired by them thereunder and with respect to the development by them of such land, as appear to him to be necessary or expedient for securing, so far as practicable, the preservation of any features of special architectural or historic interest, and in particular of buildings included in any list compiled or approved under section 28 of the <sup>M2</sup>Town and Country Planning (Scotland) Act 1947 (which relates to the compilation or approval by the Secretary of State of lists of buildings of special architectural or historical interest).
- (4) In the case of land which forms a frontage to a road, or abuts on or is adjacent to a road, a [<sup>F6</sup>roads authority] may enter into an agreement with any owner of the land imposing on the land, so far as that owner's interest in the land enables him to bind it, restrictions for controlling the development of the land.
- (5) Any agreement under subsection (4) above may, within three months after the date on which it was entered into [<sup>F7</sup>be registered in the Land Register of Scotland or, as the case may], be recorded in the Register of Sasines, and on being so [<sup>F8</sup>registered or] recorded shall be enforceable by the [<sup>F9</sup>roads authority] against the said owner and against any person deriving title from him.
- (6) . . . . . <sup>F10</sup>

#### Textual Amendments

- F4** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 184, **Sch. 23 para. 7**
- F5** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 172(2)
- F6** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(2)(a)**
- F7** Words inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(2)(b)(i)**
- F8** Words inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(2)(b)(ii)**
- F9** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(2)(b)(iii)**
- F10** [S. 6\(6\)](#) repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 339, [Sch. 23 para. 13\(1\)](#), **Sch. 24**

#### Marginal Citations

- M1** [1947 c. 53\(123:2\)](#).
- M2** [1947 c. 53\(123:2\)](#).

### *Acquisition of land by development corporations and highway authorities*

#### 7 Acquisition of land by development corporation.

- (1) The development corporation established for the purposes of a new town may, with the consent of the Secretary of State, acquire by agreement, or may, by means of an order made by the corporation and submitted to and confirmed by the Secretary of State in accordance with the provisions of Part I of Schedule 3 to this Act, be authorised to acquire compulsorily—
- (a) any land within the area of the new town, whether or not it is proposed to develop that particular land;
  - (b) any land adjacent to that area which they require for purposes connected with the development of the new town;

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- (c) any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town.
- (2) A compulsory purchase order under this section shall, in so far as it relates to land—
  - (a) which is the property of a local authority, or which is held inalienably by the National Trust, or
  - (b) which forms part of a common or open space,be subject to the special provisions of Part IV of the said Schedule 3.
- (3) Where a development corporation have been authorised under subsection (1) above to acquire compulsorily land forming part of a common or open space, they may be authorised under that subsection to acquire compulsorily, or may, with the consent of the Secretary of State, acquire by agreement, land for giving in exchange for the land acquired.
- (4) The provisions of Part V of the said Schedule 3 shall have effect with respect to the validity and date of operation of compulsory purchase orders under this section.
- (5) In relation to operational land of statutory undertakers the foregoing provisions of this section shall have effect subject to section 10 of this Act.

**Modifications etc. (not altering text)**

**C9** S. 7 extended by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34, SIF 2:1\), s. 14\(2\)](#)

## **8 Acquisition of land for highways in connection with new towns.**

- (1) Where the Secretary of State is satisfied that the construction or improvement of a road is needed—
  - (a) outside the area of a new town, for the purpose of securing the development of land in that area in accordance with proposals approved by the Secretary of State under section 6 of this Act, or
  - (b) for the purpose of providing proper means of access to such an area, a local [<sup>F11</sup>roads] authority may be authorised, by means of an order made by the authority and submitted to and confirmed by the Secretary of State in accordance with the provisions of Parts I and II of Schedule 3 to this Act, to acquire compulsorily any land as to which the Secretary of State is satisfied that its acquisition by the authority is requisite—
    - (i) for the construction or improvement of the road, or
    - (ii) for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting on or adjacent to the road.
- (2) Where the Secretary of State is satisfied that the construction or improvement of a road is needed to supersede a part of a [<sup>F12</sup>a road for which he is the roads authority] whose supersession appears to him to be expedient for any such purpose as is mentioned in subsection (1)(a) or (b) above, he may be authorised, by means of an order made by him in accordance with the provisions of Part III of Schedule 3 to this Act, to acquire compulsorily any land as to which he is satisfied that its acquisition by him is requisite—
  - (a) for the construction or improvement of the road, or

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- (b) for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting on or adjacent to the road.
- (3) A compulsory purchase order under this section shall, in so far as it relates to land—
  - (a) which is the property of a local authority or which is held inalienably by the National Trust, or
  - (b) which forms part of a common or open space,
 be subject to the special provisions of Part IV of the said Schedule 3.
- (4) Where an acquiring authority have been authorised under subsection (1) or subsection (2) above to acquire compulsorily land forming part of a common or open space, that authority may be authorised under the same subsection to acquire compulsorily land for giving in exchange for the land acquired.
- (5) The provisions of Part V of Schedule 3 to this Act shall have effect with respect to the validity and date of operation of compulsory purchase orders under this section.
- (6) A local [<sup>F11</sup>roads] authority may, with the consent of the Secretary of State, acquire by agreement any land which they could be authorised under subsection (1) above to acquire compulsorily.
- (7) In relation to operational land of statutory undertakers the foregoing provisions of this section shall have effect subject to section 10 of this Act.

#### Textual Amendments

- F11** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(3\)](#)
- F12** Words in s. 8(2) substituted (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 108\)](#), s. 168(1), [Sch. 8](#), Pt. IV, para.102; S.I. 1991/2286, art. 2(2), [Sch.2](#)

## 9 Recording of compulsory purchase orders.

As soon as may be after a compulsory purchase order under section 7 or 8 of this Act becomes operative, the acquiring authority shall [<sup>F13</sup>register it in the Land Register of Scotland or as the case may be] record it in the Register of Sasines.

#### Textual Amendments

- F13** Words inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(4\)](#)

## 10 Special procedure for acquisition of statutory undertakers' operational land.

- (1) In the case of operational land of statutory undertakers—
  - (a) an order under section 7(1) of this Act authorising the compulsory acquisition of that land by a development corporation, or an order under section 8(1) of this Act authorising its compulsory acquisition by a local [<sup>F14</sup>roads] authority, may, instead of being made and confirmed as provided in the said section 7(1) or 8(1), as the case may be, be made by the Secretary of State and the appropriate Minister in accordance with the provisions of Part I of Schedule 4 to this Act on the application of that development corporation or local [<sup>F14</sup>roads] authority;



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- (b) an order under section 8(2) of this Act authorising the compulsory acquisition of that land by the Secretary of State may, instead of being made as provided in the said section 8(2), be made by the Secretary of State and the appropriate Minister in accordance with the provisions of Part II of the said Schedule 4; and in relation to a compulsory purchase order made as provided in paragraph (a) or (b) above the provisions of Parts IV and V of Schedule 3 to this Act shall apply accordingly subject, in the case of the said Part V, to the modifications set out in Part III of Schedule 4 to this Act.
- (2) If any objection to an application for a compulsory purchase order to be made in accordance with subsection (1)(a) above, or to a proposal to make such an order in accordance with subsection (1)(b) above, is duly made by any statutory undertakers, and any of the land to which the application or proposal relates is operational land of those undertakers, then, unless that objection is withdrawn, any order made on the application or proposal shall be subject to special parliamentary procedure.
- (3) Where a compulsory purchase order under section 7 or 8 of this Act, not being an order made as provided in subsection (1)(a) or (b) above, is submitted, or is proposed to be made, in accordance with Schedule 3 to this Act, and with respect to any land (being the whole or part of the land to which the order relates) statutory undertakers make to the appropriate Minister, in the prescribed manner and within the time within which objections to the order may be made—
- (a) a representation that the first-mentioned land is operational land, and
  - (b) a request for that land to be excluded from the order,
- and it is determined that that land is operational land, then, subject to the following provisions of this section—
- (i) if that land constitutes the whole of the land to which the order relates, the order shall not be confirmed or not be made, as the case may be, and
  - (ii) if that land forms part only of the land to which the order relates, the order shall be modified so as to exclude that land.
- (4) Where it is proposed to make an order under section 1 of this Act, any statutory undertakers may, with respect to any land within the area to be designated by the order as the site of the proposed new town, make to the appropriate Minister, in the prescribed form and within the time allowed for making objections to the order, a representation that that land is operational land.
- (5) Where a representation is made under subsection (4) above with respect to any land, the Secretary of State and the appropriate Minister may make an order, which shall be subject to special parliamentary procedure, declaring that it is expedient that that land should be subject to compulsory acquisition.
- (6) Where, in the case of a compulsory purchase order under section 7 of this Act, any land to which the order relates is within the area of a new town and is land in relation to which, apart from this subsection, subsection (3) above would apply, the said subsection (3) shall not apply in relation to that land—
- (a) if no representation was made under subsection (4) above with respect thereto, or
  - (b) if an order under subsection (5) above has come into force with respect thereto.

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#### Textual Amendments

**F14** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(5\)](#)

#### 11 ..... <sup>F15</sup>

#### Textual Amendments

**F15** [S. 11](#) repealed with saving by [Land Corporation Act 1973 \(c. 26, SIF 28:1\)](#), [Sch. 3](#)

#### 12 **Application of Lands Clauses Acts etc. and modification of Land Compensation (Scotland) Act 1963, for purposes of this Act.**

- (1) The Lands Clauses Acts and section 6 of the <sup>M3</sup>Railways Clauses Consolidation (Scotland) Act 1845 are hereby incorporated with this Act subject to any necessary adaptations and to the provisions of Part I of Schedule 6 to this Act.
- (2) The <sup>M4</sup>Land Compensation (Scotland) Act 1963 shall, in its application for the purposes of this Act, have effect subject to any necessary adaptations and to the provisions of Part II of Schedule 6 to this Act.
- (3) A compulsory purchase order may make provision for the incorporation with this Act of section 70 of the <sup>M5</sup>Railways Clauses Consolidation (Scotland) Act 1845 (which relates to the exception of minerals from purchases) and sections 71 to 78 of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section 15 of the <sup>M6</sup>Mines (Working Facilities and Support) Act 1923, or of the said section 70 only.

Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order; and for the purposes of any such incorporation of those sections, this Act and the compulsory purchase order shall be deemed to be the special Act.

#### Marginal Citations

**M3** 1845 c. 33(102).

**M4** 1963 c. 51(28:2).

**M5** 1845 c. 33(102).

**M6** 1923 c. 20(102).

#### 13 **Measure of compensation for acquisition of statutory undertakers' operational land.**

- (1) Where statutory undertakers are entitled to compensation in respect of a compulsory acquisition under this Act of operational land, the provisions of Schedule 5 to this Act shall have effect as regards the assessment of the amount of that compensation.
- (2) In this section “compensation in respect of a compulsory acquisition” includes compensation payable in connection with the acquisition for damage sustained by

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reason of the severing of the land acquired from other land held therewith or otherwise injuriously affecting such other land, and compensation payable for disturbance or any other matter not directly based on the value of the land.

#### 14 Extinguishment of rights over land compulsorily acquired.

- (1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land and all other rights or servitudes in or relating to that land shall be extinguished, and any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) above shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking [<sup>F16</sup>or to any right conferred by or in accordance with [<sup>F17</sup>the electronic communications code]on the operator of [<sup>F18</sup>an electronic communications code network]or to any [<sup>F19</sup>electronic communications apparatus]kept installed for the purposes of any [<sup>F20</sup>such network].]
- (3) In respect of any right or apparatus not falling within subsection (2) above, subsection (1) above shall have effect subject—
  - (a) to any direction given by the acquiring authority before the completion of the acquisition that the said subsection (1) shall not apply to any right or apparatus specified in the direction, and
  - (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or servitude or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.
- (5) Any compensation payable under this section shall be determined in accordance with the <sup>M7</sup>Land Compensation (Scotland) Act 1963.

#### Textual Amendments

- F16** Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 47(2), **Sch. 5 para. 45**
- F17** Words in s. 14(2) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(a)(2)(a)
- F18** Words in s. 14(2) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(a)(2)(b)
- F19** Words in s. 14(2) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(a)(2)(e)
- F20** Words in s. 14(2) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(a)(2)(f)

#### Marginal Citations

- M7** 1963 c. 51(28:2).

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*Changes to legislation:* There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)

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*Expedited completion of compulsory acquisition*

15— ..... F21  
17.

**Textual Amendments**

**F21** Ss. 15–17 repealed by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30, SIF 123:2\)](#), [Sch. 11](#)

*Disposal of land by development corporations*

**18 Disposal of land by development corporation.**

- (1) Subject to this section and to any directions given by the Secretary of State under this Act, the development corporation established for the purposes of a new town may dispose of any land acquired by them (whether or not, in the case of land within the area of the new town, the development of that particular land has been proposed or approved under section 6(1) of this Act) to such persons, in such manner, and subject to such covenants or conditions, as they consider expedient for securing the development of the new town in accordance with proposals approved by the Secretary of State under the said section 6(1), or for purposes connected with the development of the new town.
- (2) The powers of a development corporation with respect to the disposal of land acquired by them under this Act shall be so exercised as to secure, so far as practicable, that persons who were living or carrying on business or other activities on land so acquired shall, if they desire to obtain accommodation on land belonging to the corporation, and are willing to comply with any requirements of the corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them:  
Provided that a development corporation shall not have any duty to afford to a person who was carrying on a business of selling [<sup>F22</sup>alcohol] by retail on land acquired by them an opportunity of obtaining alternative accommodation for such a business.
- (3) Where land is disposed of under this section by a development corporation to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.
- (4) Nothing in this Act shall be construed as enabling a development corporation to dispose of land by way of gift or in security, but subject as aforesaid references in this Act to the disposal of land by a development corporation shall be construed as references to the disposal thereof by way of [<sup>F23</sup>sale] feu, excambion or lease, by the creation of any servitude, right or privilege, or otherwise.
- (5) Subject to the provisions of subsection (2) of this section, a development corporation shall not, except with the consent of the Secretary of State, dispose of land otherwise than on the best terms that can reasonably be obtained.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

#### Textual Amendments

- F22** Word in s. 18(2) substituted (1.9.2009) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), s. 150(2), [Sch. 6 para. 3\(2\)](#) (with [s. 143](#)); [S.S.I. 2007/472](#), art. 3
- F23** Word inserted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:3, 4\)](#), s. 133, [Sch. 25 para. 7](#)

#### [<sup>F24</sup>**18AA** Power of development corporation to dispose of housing land.

- (1) Notwithstanding the provisions of sections 3 and 18 of this Act, a development corporation may sell their whole interest in any land (within or outside the area of the new town) held for housing purposes.
- (2) A development corporation shall not sell their interest in any land under this section without the consent of the Secretary of State, which may be given—
  - (a) subject to conditions;
  - (b) either generally to all development corporations or to a particular development corporation;
  - (c) in relation either to particular land or to land of a particular description.
- (3) A development corporation shall not, except with the consent of the Secretary of State, sell their interest in any land under this section otherwise than on the best terms that can be reasonably obtained.]

#### Textual Amendments

- F24** [S. 18AA](#) inserted as provided by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), [s. 71](#)

#### [<sup>F25</sup>**18A** Secretary of State's general power.

- (1) The Secretary of State may direct a development corporation to pay to him, on the date specified in the direction, such sum as is so specified, and any sum so received by him shall, subject to section 18C(2) below, be paid into the Consolidated Fund.
- (2) Before giving a direction under this section the Secretary of State shall consult the corporation.
- (3) The debt shall carry interest at the rate for the time being in force under section 40 of the <sup>M8</sup>Land Compensation (Scotland) Act 1963 from the date specified in the direction until payment.]

#### Textual Amendments

- F25** [Ss. 18A–C](#) inserted by [New Towns and Urban Development Corporations Act 1985 \(c. 5, SIF 123:3, 4\)](#), s. 14(1), [Sch. 3 para. 1](#)

#### Marginal Citations

- M8** [1963 c. 51\(28:2\)](#).

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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### **18B Disposal of land to comply with direction under s. 18A.**

- (1) Where, in order to comply with a direction under section 18A above, the corporation considers it desirable to dispose of any land, it may do so by virtue of this section.
- (2) The power of disposal by virtue of this section may be exercised notwithstanding anything in this Act but must be exercised in accordance with subsections (3) and (4) below.
- (3) The power shall not be exercised so as to dispose of land by way of standard security or charge.
- (4) In exercising the power a corporation shall comply with such directions as the Secretary of State may give to it—
  - (a) for restricting the exercise of the power; or
  - (b) for requiring the power to be exercised in any manner specified in the directions.
- (5) Before giving a direction under subsection (4) above the Secretary of State shall consult the corporation unless he is satisfied that because of urgency consultation is impracticable.
- (6) Where a corporation purports to dispose of land by virtue of this section, then—
  - (a) in favour of a person claiming under the corporation, the disposal so purporting to be made shall not be invalid by reason that any direction of the Secretary of State given under this section has not been complied with; and
  - (b) a person dealing with or claiming under the corporation shall not be concerned to see or enquire whether any direction has been given or complied with.
- (7) References in this section to disposing of land include references to granting an interest in or over land.

### **18C Payments under s. 18A treated as repayments.**

- (1) The whole or part of any payment made to the Secretary of State under section 18A above shall, if the Secretary of State with the Treasury's approval so determines, be treated—
  - (a) as made by way of repayment of such part of the principal of advances under section 37(1) of this Act, and
  - (b) as made in respect of the repayments due at such times, as may be so determined.
- (2) Any sum treated under subsection (1) as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.

*Powers exercisable in relation to land acquired by development corporations or highway authorities*

### **19 Power to override servitudes and other rights.**

- (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired by a development corporation or local [<sup>F26</sup>roads] authority for the purposes of this Act, whether done by the corporation or authority or

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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by any other person, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the use of land arising by virtue of any deed or contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking [<sup>F27</sup>or a right conferred by or in accordance with [<sup>F28</sup>the electronic communications code]on the operator [<sup>F29</sup>an electronic communications code network].]

- (2) This section applies to the following interests and rights, that is to say, any servitude, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (3) In respect of any interference or breach in pursuance of subsection (1) above, compensation shall be payable under section 61 of the <sup>M9</sup>Lands Clauses Consolidation (Scotland) Act 1845 or section 6 of the <sup>M10</sup>Railways Clauses Consolidation (Scotland) Act 1845, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with an acquisition by a development corporation or local [<sup>F26</sup>roads] authority or the injury arises from the execution of works on land acquired by such a corporation or authority.
- (4) Where a person other than the development corporation or local [<sup>F26</sup>roads] authority by whom the land in question was acquired is liable to pay compensation by virtue of subsection (3) above, and fails to discharge that liability, the liability shall be enforceable against that corporation or authority:  
Provided that nothing in this subsection shall be construed as affecting any agreement between that corporation or authority and any other person for indemnifying the corporation or authority against any liability under this subsection.
- (5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than such an interference or breach as is mentioned in subsection (1) above.
- (6) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local [<sup>F26</sup>roads] authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.

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#### Textual Amendments

- F26** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 61(6)**
- F27** Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 47(3), **sch. 5 para. 45**
- F28** Words in s. 19(1) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(b)(2)(a)
- F29** Words in s. 19(1) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(b)(2)(b)
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#### Marginal Citations

- M9** 1845 c. 33(102).
- M10** 1845 c. 19(28:2)

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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## 20 Use and development of churches and burial grounds.

(1) Any land consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground or part of a burial ground, which has been acquired for the purposes of this Act by a development corporation or [<sup>F30</sup>roads authority], may—

- (a) in the case of land acquired by [<sup>F31</sup>a development corporation or local roads] authority, be used by them, or by any other person, in any manner in accordance with planning permission, and
- (b) in the case of land acquired by the Secretary of State, be used in any manner by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to churches or such other buildings as aforesaid or to burial grounds or any obligation or restriction imposed under any deed or agreement or otherwise in respect of that church or other building or burial ground or part thereof:

Provided that this subsection shall not have effect in respect of any such land as aforesaid until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, in or upon the land have been complied with.

(2) Provision shall be made by any regulations made for the purposes of the proviso to subsection (1) above—

- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed;
- (c) for requiring compliance with any directions given in any case by the Secretary of State, after consultation with the church authorities in the case of a church or churchyard, with respect to the manner of removal, and the place and manner of reinterment of any human remains, and the disposal of any monuments; and
- (d) with regard to such incidental and consequential matters (including the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.

(3) Subject to the provisions of any such regulations, no authority shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments.

(4) Any power conferred by this section to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.

(5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) above.



*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

- (6) Subsection (6) of section 19 of this Act shall apply in relation to this section as it applies in relation to that section.
- (7) In this section “burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and “monument” includes a tombstone or other memorial and any fixture or furnishing.

**Textual Amendments**

- F30** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(7\)\(a\)](#)  
**F31** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(7\)\(b\)](#)

**21 Use and development of open spaces.**

- (1) Any land being, or forming part of, a common or open space, which has been acquired for the purposes of this Act by a development corporation or [<sup>F32</sup>roads authority], may—
  - (a) in the case of land acquired by [<sup>F33</sup>a development corporation or local roads] authority, be used by them, or by any other person, in any manner in accordance with planning permission, and
  - (b) in the case of land acquired by the Secretary of State, be used in any manner by him or on his behalf for any purpose for which he acquired the land, notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.
- (2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) above.
- (3) Subsection (6) of section 19 and subsection (4) of section 20 of this Act shall apply in relation to this section as those subsections apply respectively in relation to those sections.

**Textual Amendments**

- F32** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(8\)\(a\)](#)  
**F33** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(8\)\(b\)](#)

**22 Displacement of persons from land acquired.**

- (1) ..... <sup>F34</sup>
- (3) If the Secretary of State certifies that possession of a house which has been acquired for the purposes of this Act by a development corporation or local [<sup>F35</sup>roads] authority and is for the time being held by that corporation or authority for the purposes for which it was acquired, is immediately required for those purposes, nothing in [<sup>F36</sup>Part II of the <sup>M11</sup>Rent (Scotland) Act 1971] shall prevent that corporation or authority from obtaining possession of the house.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

- (4) Where any land has been acquired for the purposes of this Act by a development corporation or [<sup>F37</sup>roads authority], and the acquiring authority require possession of a building on the land, or of part of such a building, for the purposes for which the land was acquired, then at any time after the tenancy of the occupier has expired or has been determined the acquiring authority may serve a notice on the occupier of the building or part of the building requiring him to remove therefrom within 21 days; and, in the event of that period having expired without the notice to remove having been complied with, a certified copy of the notice shall be sufficient warrant for ejection against the occupier or any party in his right.

Nothing in this subsection shall affect the operation of [<sup>F36</sup>section [<sup>F38</sup>112] of the Rent (Scotland) Act [<sup>F38</sup>1984]] (which lays down the minimum length of notice to quit premises let as a dwelling) in cases to which that section applies.

- (5) . . . . . <sup>F34</sup>

#### Textual Amendments

- F34** S. 22(1), (2), (5), (6) repealed by Land Compensation Act 1973 (c. 26, SIF 28:1), Sch. 3  
**F35** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 61(9)(a)  
**F36** Words substituted by Rent (Scotland) Act 1971 (c. 28, SIF 75:4), Sch. 18 Pt. II  
**F37** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 61(9)(b)  
**F38** Words substituted by Rent (Scotland) Act 1984 (c. 58, SIF 75:4), s. ;117(1), Sch. 8 Pt II.

#### Marginal Citations

- M11** 1971 c. 28(75:4).

## 23 Extinguishment of public rights of way over land acquired.

- (1) Where any land—
- (a) has been acquired for the purposes of this Act by a development corporation or local [<sup>F39</sup>roads] authority and is for the time being held by that corporation or authority for those purposes, or
  - (b) has been acquired under this Act by the Secretary of State and is for the time being held for the purposes for which he acquired it,
- the Secretary of State may by order extinguish any public right of way over the land.
- (2) Where the Secretary of State proposes to make an order under this section, he shall publish in such manner as appears to him to be requisite a notice—
- (a) stating the effect of the order, and
  - (b) specifying the time (not being less than 28 days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made,
- and shall serve a like notice—
- (i) on the . . . <sup>F40</sup>[<sup>F41</sup>district planning] authority in whose district the land is situated [<sup>F42</sup>and on any other local authority who appear to him to be concerned], and [<sup>F43</sup>(ii) on the local roads authority, unless they applied for the order to be made.]
- (3) Where an objection to a proposal to make an order under this section is duly made and is not withdrawn, the provisions of Schedule 8 to this Act shall have effect in relation to the proposal.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

- (4) For the purposes of this section an objection to such a proposal shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by this section, and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (5) Where it is proposed to make an order under this section extinguishing a public right of way over a road on land acquired for the purposes of this Act by a development corporation, and compensation in respect of restrictions imposed under section 1 or section 2 of the <sup>M12</sup>Restriction of Ribbon Development Act 1935 in respect of that road has been paid by the [<sup>F44</sup>road] authority (or, in the case of a trunk road, by the authority who, when the compensation was paid, were the authority for the purposes of section 4 of the <sup>M13</sup>Trunk Roads Act 1936), the order may provide for the payment by the development corporation to that authority, in respect of the compensation so paid, of such sums as the Secretary of State, with the consent of the Treasury, may determine.
- (6) Where the Secretary of State is satisfied that the construction or improvement of a road is or will be needed in consequence of the extinguishment under this section of a public right of way, section 8 of this Act shall apply as it applies where the Secretary of State is satisfied that the construction or improvement of a road is needed as mentioned in subsection (1) of that section.

#### Textual Amendments

- F39** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 61(10)(a)**
- F40** Word repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 172(2)
- F41** Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 238(2), **Sch. 23 para. 8**
- F42** Words inserted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 238(2), **Sch. 23 para. 8**
- F43** S. 23(2)(ii) substituted (for previous s. 23(2)(ii) and the words following it in s. 23(2)) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 61(10)(b)**
- F44** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 61(10)(c)**

#### Modifications etc. (not altering text)

- C10** S. 23 amended by Post Office Act 1969 (c. 48, SIF 96), s. 76, **Sch. 4 para. 86(1)**

#### Marginal Citations

- M12** 1935 c. 47(108).
- M13** 1936 c. 5 (1 Edw. 8 & 1 Geo. 6).

#### [<sup>F45</sup>24] Provisions as to telegraphic lines.

- (1) Where an order under section 23 of this Act extinguishing a public right of way is made on the application of a development corporation or local [<sup>F46</sup>roads] authority, and at the time of the publication of the notice required by subsection (2) of that section any [<sup>F47</sup>electronic communications apparatus] was kept installed for the purposes of [<sup>F48</sup>an electronic communications code network] under, in, on, over, along or across the land over which the right of way subsisted—

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- (a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished, and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the corporation or authority of his intention to remove the apparatus or that part of it, as the case may be;
  - (b) the operator of the system may by notice given in that behalf to the corporation or authority not later than the end of the said period of three months abandon the [<sup>F47</sup>electronic communications apparatus] or any part of it;
  - (c) subject to paragraph (b) above, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus which he has then neither removed nor given notice of his intention to remove;
  - (d) the operator of the system shall be entitled to recover from the corporation or authority the expense of providing, in substitution for the apparatus and any other [<sup>F47</sup>electronic communications apparatus] connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any [<sup>F47</sup>electronic communications apparatus] in such other place as the operator may require;
  - (e) where under the foregoing provisions of this subsection the operator of the system has abandoned the whole or any part of any [<sup>F47</sup>electronic communications apparatus], that apparatus or that part of it shall vest in the corporation or authority and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of [<sup>F48</sup>an electronic communications code network].
- (2) Where the Secretary of State makes an order under section 23 of this Act in relation to a right of way in circumstances in which subsection (1) of this section applies in relation to the operator of [<sup>F48</sup>an electronic communications code network], the Secretary of State shall send a copy of the order to the operator.]

#### Textual Amendments

- F45** S. 24 substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 47(4)(5), **Sch. 6 para. 45**
- F46** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(11)**
- F47** Words in s. 24 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 6(1)(c)(2)(e)
- F48** Words in s. 24 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 6(1)(c)(2)(b)

#### Textual Amendments

- F49** S. 25 repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), **Sch. 11**

*Statutory undertakers*

**26 Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers.**

- (1) This section applies to land—
  - (a) which has been acquired for the purposes of this Act by a development corporation or local [<sup>F50</sup>roads] authority and is for the time being held by that corporation or authority for those purposes, or
  - (b) which has been acquired under this Act by the Secretary of State and is for the time being held for the purposes for which he acquired it.
- (2) Where, in the case of any land to which this section applies—
  - (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, or
  - (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,

the acquiring authority may serve on the statutory undertakers a notice stating that, at the end of such period as may be specified in the notice, the right will be extinguished, or requiring that, before the end of such period as may be so specified, the apparatus shall be removed.
- (3) The statutory undertakers on whom a notice is served under subsection (2) above may, before the end of the period of 28 days from the service of the notice, serve a counter-notice on the acquiring authority stating that they object to all or any of the provisions of the notice, and specifying the grounds of their objection.
- (4) If no counter-notice is served under subsection (3) above—
  - (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and
  - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the acquiring authority may remove the apparatus and dispose of it in any way the authority may think fit.
- (5) If a counter-notice is served under subsection (3) above on a development corporation or local [<sup>F50</sup>roads] authority, the corporation or authority may either withdraw the notice (without prejudice to the service of a further notice) or may apply to the Secretary of State and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification; and if such an application is made, the Secretary of State and the appropriate Minister may make an order under this section accordingly.
- (6) If a counter-notice is served under subsection (3) above on the Secretary of State, he may withdraw the notice (without prejudice to the service of a further notice) or he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.
- (7) Where, by virtue of this section, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring authority

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at whose instance the right was extinguished or the requirement imposed; and the provisions of Schedule 5 to this Act shall have effect as regards the assessment of the amount of that compensation.

[<sup>F51</sup>(8) Except in a case in which section 24 above has effect—

- (a) the reference in paragraph (a) of subsection (2) above to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with [<sup>F52</sup>the electronic communications code] on the operator of [<sup>F53</sup>an electronic communications code network]; and
- (b) the reference in paragraph (b) of that subsection to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to [<sup>F54</sup>electronic communications apparatus] kept installed for the purposes of any [<sup>F55</sup>such network];

and for the purposes of this subsection, in this section (except in the said paragraphs (a) and (b)) and in Schedule 5 to this Act and section 27 below, references to statutory undertakers shall have effect as references to the operator of any [<sup>F55</sup>such network], references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to [<sup>F56</sup>the provision of the electronic communications code network] in question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.]

#### Textual Amendments

- F50** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 61(12)**
- F51** S. 24 substituted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 47(6), **Sch. 5 para. 45**
- F52** Words in s. 26(8) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(d)(2)(a)
- F53** Words in s. 26(8) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(d)(2)(b)
- F54** Words in s. 26(8) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(d)(2)(e)
- F55** Words in s. 26(8) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(d)(2)(f)
- F56** Words in s. 26(8) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 6(1)(d)(2)(c)

#### Modifications etc. (not altering text)

- C11** S. 26 restricted by Post Office Act 1969 (c. 48, SIF 96), s. 76, **Sch. 4 para. 86(3)**

## 27 Orders under s. 26.

- (1) Where the Secretary of State and the appropriate Minister propose to make an order under section 26(6) of this Act, they shall prepare a draft of the order.
- (2) Before making an order under section 26(5) or (6) of this Act, the Ministers proposing to make the order—
  - (a) shall afford to the statutory undertakers on whom notice was served under subsection (2) of that section an opportunity of objecting to the application for, or proposal to make, the order, and

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- (b) if any objection is made, shall cause an inquiry to be held, and may then, if they think fit, make the order in accordance with the application or in accordance with the draft order, as the case may be, either with or without modification.
- (3) Where an objection to an order under the said section 26 is duly made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.
- (4) Subject to subsection (3) above, where an order is made under section 26 of this Act—
  - (a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order, and
  - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring authority may remove the apparatus and dispose of it in any way the authority may think fit.

## **28 Extension or modification of functions of statutory undertakers.**

- (1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—
  - (a) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for the purposes of a new town under this Act, or
  - (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in subsection (2) below.
- (2) The said acts and events are—
  - (a) the acquisition under this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking;
  - (b) the extinguishment of a right or the imposition of any requirement by virtue of section 26 of this Act.
- (3) The powers conferred by this section shall also be exercisable where, on a representation made by a development corporation, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for the purposes of a new town under this Act.
- (4) Where the powers conferred by this section are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the provision of the services in question, as mentioned in subsection (1)(a) or (3) above, or to facilitate the adjustment in question, as mentioned in subsection (1)(b) above, as the case may be.
- (5) Without prejudice to the generality of subsection (4) above, an order under this section may make provision—
  - (a) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any building or works so specified;

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- (b) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works;
- (c) where it has been represented that the making of the order is expedient for the purposes mentioned in subsection (1)(a) or (3) above, for giving effect to such financial arrangements between the development corporation and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order;
- (d) for such incidental and supplemental matters (including the amendment or repeal of any provision in any local enactment) as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

## **29 Procedure in relation to orders under s. 28.**

- (1) As soon as may be after making such a representation as is mentioned in section 28(1) or (3) of this Act—
  - (a) the statutory undertakers, in a case falling within subsection (1) of that section, or
  - (b) the development corporation, in a case falling within subsection (3) thereof, shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time (not being less than 28 days) within which, and the manner in which, objection to the making of an order on the representation may be made, and shall serve a like notice on any persons appearing from the valuation roll to have an interest in any land to which the representation relates, and shall also, if it is so directed by the Secretary of State and the appropriate Minister, serve a like notice on such other persons, or persons of such classes, as may be so directed.
- (2) Orders under the said section 28 shall be subject to special parliamentary procedure.

## **30 Relief of statutory undertakers from obligations rendered impracticable.**

- (1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.
- (2) Subsection (1) above applies to the following acts and events, that is to say—
  - (a) the compulsory acquisition under this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking;
  - (b) the extinguishment of a right or the imposition of any requirement by virtue of section 26 of this Act.
- (3) As soon as may be after making a representation to the appropriate Minister under subsection (1) above, the statutory undertakers shall, as may be directed by the appropriate Minister, either—



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- (a) publish (in such form and manner as may be so directed) a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time (not being less than 28 days) within which, and the manner in which, objections to the making of an order on the representation may be made, or
  - (b) serve such a notice on such persons, or persons of such classes, as may be so directed, or
  - (c) both publish and serve such notices.
- (4) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.
- (5) As soon as may be after an order has been made under this section the appropriate Minister shall publish in such form and manner as he thinks fit a notice stating that the order has been made.
- (6) The provisions of Part V of Schedule 3 to this Act as to the validity and date of operation of compulsory purchase orders shall have effect in relation to an order under this section with the substitution for references to a compulsory purchase order and to publication in accordance with the provisions of that Schedule in that behalf of references to an order under this section and to publication in accordance with subsection (5) above.

### **31 Objections to orders under ss. 28 and 30.**

- (1) For the purposes of sections 28 and 30 of this Act an objection to the making of an order thereunder shall not be treated as duly made unless—
- (a) the objection is made within the time and in the manner specified in the notice required by the section under which the order is proposed to be made, and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Where an objection to the making of such an order is duly made in accordance with subsection (1) above and is not withdrawn, the provisions of Schedule 8 to this Act shall have effect in relation thereto.

#### *Provision of trolley vehicle services by development corporations*

### **32 Power to authorise provision of trolley vehicle services by development corporation.**

- (1) The development corporation established for the purposes of a new town may by means of an order made by the Minister of Transport be authorised to operate trolley vehicle services for the purposes of the new town.
- (2) An order under this section may impose such conditions as appear to the Minister of Transport to be required in the interests of the public safety, and may contain such incidental and consequential provisions as appear to that Minister to be necessary or expedient for the purposes of the order, including provisions—
- (a) authorising the construction and maintenance in [<sup>F57</sup>roads] of any works or equipment required in connection with the services;

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- (b) providing for the making and enforcement of regulations and byelaws with respect to the construction and operation of any vehicles or equipment used for the purposes of the services, and with respect to the conduct of passengers on, and of the drivers and conductors of, any such vehicles.
- (3) An order under this section shall be subject to special parliamentary procedure.

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**Textual Amendments**

**F57** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(13)**

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**Modifications etc. (not altering text)**

**C12** Functions of Minister of Transport under this Act now exercisable by Secretary of State: [S.I. 1970/1681](#)

*Public services*

**33** ..... <sup>F58</sup>

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**Textual Amendments**

**F58** [S. 33](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 29**

**34 Power to authorise provision of services by development corporation.**

- (1) If, after consultation with—
- (a) the local authority . . . <sup>F59</sup> who are responsible for the provision of <sup>F60</sup> . . . services for an area designated by an order under section 1 of this Act as the site of a new town or any part of that area, and
  - (b) the development corporation established for the purpose of that order,
- the Secretary of State is satisfied that it is expedient so to do, he may by an order made under this subsection authorise the development corporation to exercise, for the purpose of providing and maintaining any such service, such powers (other than a power to raise money by rate or loan) as may be specified in the order, being powers which the local authority . . . <sup>F59</sup> could, or could be authorised to, exercise for that purpose under any enactment.
- (2) The Secretary of State may from time to time, after consultation with the local authority . . . <sup>F59</sup> direct that the expenditure incurred by the development corporation in the exercise of the powers conferred on them by an order under subsection (1) above, or such part of that expenditure as he may determine, shall be repaid by the local authority . . . <sup>F59</sup> to the corporation on such terms and over such period as he may specify, and any sum directed to be paid under this subsection shall be recoverable by the corporation from the authority . . . <sup>F59</sup> accordingly.
- (3) Any expenditure incurred by the local authority . . . <sup>F59</sup> in making any payment under this section to the development corporation, representing the cost or part of the cost of the provision and maintenance of any service, shall be defrayed in like manner, and

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the local authority . . . <sup>F59</sup> shall have the like power to borrow money for the purpose, as if the service had been provided by them.

#### Textual Amendments

- F59** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), [Sch. 29](#)
- F60** Words in [s.34\(1\)\(a\)](#) repealed (1.4.1996) by [1994 c. 39, s. 180\(2\)](#), [Sch. 14](#); [S.I. 1996/323](#), art. 4(1)(d), [Sch. 2](#)

### *Transfer of property and undertakings of development corporations, and their dissolution*

#### **35 Power of development corporation to transfer their undertakings.**

- (1) Subject to the provisions of this section, a development corporation may, by an agreement made with any local authority or any statutory undertakers and approved by the Secretary of State with the concurrence of the Treasury—
- (a) transfer to that local authority any part of the undertaking of the corporation, or
  - (b) transfer to those statutory undertakers any part of the undertaking of the corporation which consists of a statutory undertaking,
- upon such terms as may be prescribed by the agreement.

The foregoing provision is without prejudice to the powers of development corporations under this Act to dispose of any of their property, including any trade or business carried on by them.

- (2) Before approving an agreement under this section the Secretary of State shall consult with the [<sup>F61</sup>local authority in whose area] the whole or any part of the area of the new town is situated, except where the agreement is made with that [<sup>F62</sup>local authority].
- (3) Before approving an agreement under this section for the transfer of a statutory undertaking, the Secretary of State shall publish in the Edinburgh Gazette, and in one or more newspapers circulating in the area in which the new town is situated, a notice stating that the agreement has been submitted for approval, and describing the general effect of the agreement.
- (4) If, within 28 days from the publication of the notice in the Edinburgh Gazette in accordance with subsection (3) above, any objection to the agreement is made by any statutory undertakers who, within the area in which the new town is situated or any area adjacent thereto, are carrying on, or are authorised to carry on, a statutory undertaking of a character similar to the statutory undertaking proposed to be transferred by the agreement, subsection (1) above shall apply in relation to the agreement as if for the reference to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.
- (5) If the Secretary of State is satisfied that it is expedient, having regard to any agreement made or proposed to be made under this section, that the liability of the development corporation in respect of advances made to them under the following provisions of this Act should be reduced, he may, by an order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order.

Section 46(6) of this Act applies to orders under this subsection.

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- (6) The payment of any sums payable by a local authority for the purposes of an agreement under this section shall be a purpose for which that authority may borrow money.

#### Textual Amendments

- F61** Words in s. 35(2) substituted (1.4.1996) by virtue of 1994 c. 39, s. 180(1), **Sch. 13 para. 73(3)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F62** Words in s. 35(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 73(3)(b)**; S.I. 1996/323, **art. 4(1)(c)**

### [<sup>F63</sup>36 Winding up of development corporation.

- (1) Where the Secretary of State is satisfied that the purposes for which a development corporation were established under this Act have been substantially achieved he may by order (a “winding up order”) provide for the winding up of the corporation.
- (2) Before making a winding up order the Secretary of State shall consult—
- (a) the development corporation to which the order will relate,
  - (b) the [<sup>F64</sup>local authority in whose area]any part of the new town is situated, and
  - (c) such other person or body as he thinks appropriate.
- (3) A winding up order shall name the day on which the winding up of the corporation is to commence and the day by which it is to be completed and may—
- (a) stipulate a timetable for the winding up,
  - (b) require the corporation to make interim reports to the Secretary of State,
  - (c) require the corporation to comply with any directions made by the Secretary of State under section 36C of this Act,
  - (d) impose such duties, or confer such additional powers, in relation to the winding up as the Secretary of State thinks appropriate,
  - (e) revoke any order relating to the development corporation,
  - (f) contain such incidental, consequential, supplementary, transitional or ancillary provisions (including provision modifying the effect of any enactment as it relates to the corporation) as the Secretary of State thinks necessary or expedient.
- (4) The Secretary of State may, after such consultation as is mentioned in subsection (2) above, by order vary any of the terms of a winding up order.
- (5) An order under this section shall be made by statutory instrument which shall, if it contains provision modifying the effect of any enactment as it relates to the corporation, be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F63** Ss. 36–36H substituted for sections 36 and 36A by **Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 33**
- F64** Words in s.36(2)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 73(3)(b)**; S.I. 1996/323, **art. 4(1)(c)**

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**[<sup>F65</sup>36A Application of sections 35 etc. to operators of telecommunication systems.**

Sections 35, 36B and 36D of this Act shall have effect as if references to statutory undertakers included references to operators of [<sup>F66</sup>an electronic communications code network] and as if for this purpose—

- (a) references to a statutory undertaking were references to [<sup>F67</sup>the provision of such a network], and
- (b) references to the appropriate Minister were references to the Secretary of State for Trade and Industry.]

**Textual Amendments**

- F65** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\), s. 33](#)
- F66** Words in s. 36A substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\), art. 1\(1\), Sch. 1 para. 6\(1\)\(e\)\(2\)\(b\)](#)
- F67** Words in s. 36A substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\), art. 1\(1\), Sch. 1 para. 6\(1\)\(e\)\(2\)\(d\)](#)

**[<sup>F68</sup>36B Additional power to dispose of property etc.**

- (1) Subject to the conditions set out in subsection (2) below and without prejudice to the powers contained in section 3, 18, 18AA or 18B of this Act, a development corporation may dispose of any of their property, rights or liabilities on such terms (including by way of gift) as they think fit to any person, including (without prejudice to this generality) Scottish Enterprise, . . . <sup>F69F70</sup> . . . a local authority or a statutory undertaker.
- (2) The conditions relating to the power conferred by subsection (1) above are that the power may be exercised only—
  - (a) with the consent (which may be general or specific) of the Secretary of State, and
  - (b) during the period from the date of coming into force of the winding up order until the date of dissolution of the corporation.]

**Textual Amendments**

- F68** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\), s. 33](#)
- F69** Words repealed by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\), s. 38\(2\), Sch. 5 Pt. I](#)
- F70** Words in s. 36B(1) repealed (1.11.2001) by [2001 asp 10, s. 112, Sch. 10 para. 1\(a\); S.S.I. 2001/397, art. 2\(2\)](#) (subject to transitional provisions in arts. 3-7)

**[<sup>F71</sup>36C Direction and order making powers of Secretary of State.**

- (1) Without prejudice to the power contained in section 4(2) of this Act the Secretary of State may, in relation to a development corporation who are subject to a winding up order—
  - (a) during the period from the date of coming into force of the order until the date named in the order as the date by which the corporation are to be wound up

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (the “winding up date”), give directions (which may be general or specific) to the corporation in relation to the winding up; and
- (b) during the period from the winding up date until the date of dissolution of the corporation, give directions (which may be general or specific) to the corporation.
- (2) In the case of a development corporation who are subject to a winding up order the Secretary of State may exercise the power conferred by section 5(2) of this Act without its having to appear to him that there are exceptional circumstances rendering such exercise expedient.]

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**Textual Amendments**

**F71** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

[<sup>F72</sup>**36D** **Transfer orders.**

- (1) At any time after a winding up order has been made the Secretary of State may by order (a “transfer order”), made by statutory instrument and subject to annulment in pursuance of a resolution by either House of Parliament, provide for the transfer of any property, rights and liabilities of a development corporation to any person, including (without prejudice to this generality) Scottish Enterprise, . . . <sup>F73F74</sup> . . . a local authority or a statutory undertaker.
- (2) A transfer order may#
- (a) transfer the property, rights and liabilities on such terms (which may include transfer either with or without consideration) as the Secretary of State may provide in the order,
- (b) include provisions amending any enactment relating to Scottish Enterprise, . . . <sup>F73F74</sup> . . . a local authority or a statutory undertaker for the purpose, or in consequence, of any transfer made to any such body by virtue of subsection (1) above, and
- (c) contain any such incidental, consequential, supplementary or ancillary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order.
- (3) Any property, right or liability transferred to any person by a transfer order shall vest in that person on such date as may be specified in the order.
- (4) If a person to whom any land is transferred by a transfer order wishes to complete his title to the land by expediting a notarial instrument or notice of title or otherwise, the order shall be deemed to be and may be used as a general disposition or assignation of the land in his favour.]

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**Textual Amendments**

**F72** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

**F73** Words repealed by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 38(2), **Sch. 5 Pt. I**

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**F74** Words in s. 36D(1)(2)(b) repealed (1.11.2001) by 2001 asp 10, s. 112, **Sch. 10 para. 1(b)**; S.S.I. 2001/397, **art. 2(2)** (subject to transitional provisions in arts. 3-7)

[<sup>F75</sup>**36E Reduction of liability of development corporation.**

(1) If the Secretary of State is satisfied that it is expedient, having regard to the provisions of any transfer order or proposed transfer order, that the liability of a development corporation in respect of advances made to them under this Act should be reduced he may, by order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order.

(2) Section 46(6) of this Act applies to orders under this section.]

**Textual Amendments**

**F75** Ss. 36–36H substituted for sections 36 and 36A by **Enterprise and New Towns (Scotland) Act 1990** (c. 35, SIF 64), **s. 33**

[<sup>F76</sup>**36F Grants by Secretary of State.**

(1) Where the Secretary of State is satisfied that a disposal of land by a development corporation or any transfer of land under a transfer order imposes or will impose a financial burden on the donee or transferee he may make grants to the donee or transferee of amounts to be determined by him with the consent of the Treasury.

(2) Where a development corporation are satisfied as mentioned in subsection (1) above they may make grants of amounts to be determined by them with the approval of the Secretary of State and the consent of the Treasury.

(3) Any grant made under this section may be given subject to such conditions as the granter thinks appropriate including (without prejudice to this generality) conditions requiring repayment of all or any part of a grant in the event of non-compliance with any other condition; and any consent given under this section may be general or specific.]

**Textual Amendments**

**F76** Ss. 36–36H substituted for sections 36 and 36A by **Enterprise and New Towns (Scotland) Act 1990** (c. 35, SIF 64), **s. 33**

[<sup>F77</sup>**36G Dissolution of development corporation.**

(1) A development corporation shall, after the making of a winding up order relating to them, remain in existence until such date as the Secretary of State, after consultation with the corporation, appoints for their dissolution by order made by statutory instrument.

(2) The date appointed under subsection (1) above shall not be earlier than the date provided for in the winding up order for the completion of the winding up of the corporation.]

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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**Textual Amendments**

**F77** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

**[<sup>F78</sup>36H Financial consequences of winding up.**

Any surplus arising from the winding up of a development corporation shall be paid into the Exchequer and any deficit shall be defrayed out of money provided by Parliament.]

**Textual Amendments**

**F78** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

*Financial and related provisions*

**37 Advances and grants by Secretary of State to development corporation.**

- (1) For the purpose of enabling a development corporation to meet expenditure properly chargeable to capital account (including the provision of working capital), the Secretary of State may, subject to [<sup>F79</sup>section 60 of the<sup>M14</sup>New Towns Act 1981], make to the corporation advances repayable over such periods and on such terms as may be approved by the Treasury.
- (2) For the purpose of enabling a development corporation to meet any other expenditure, the Secretary of State may, out of moneys provided by Parliament, make grants to the corporation of such amount as may be approved by the Treasury.
- (3) It shall be a condition of the making of advances to a development corporation under subsection (1) above that the proposals for development submitted to the Secretary of State under section 6 of this Act shall be approved by the Secretary of State with the concurrence of the Treasury as being likely to secure for the corporation a return which is reasonable, having regard to all the circumstances, when compared with the cost of carrying out those proposals.

**Textual Amendments**

**F79** Words substituted by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. 81, **Sch. 12 para. 3(a)**

**Modifications etc. (not altering text)**

**C13** S. 37(1) amended by S.I. 1969/453

**C14** S. 37(1) extended by [New Towns Act 1981](#) (c. 64, SIF 123:3), s. 66(1)

**Marginal Citations**

**M14** 1981 c. 64(123:3).



*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

**[<sup>F80</sup>37AA Grants by Secretary of State to development corporation.**

- (1) For the purpose of enabling a development corporation—
- (a) to meet expenditure properly chargeable to capital account and incurred or to be incurred in providing, or in making contributions towards the cost to others of providing, any of the facilities specified in subsection (2) below, or
  - (b) to make good to revenue account sums applied in meeting liabilities so chargeable and arising out of the provision of any of those facilities,
- the Secretary of State may, out of money provided by Parliament, make grants to the corporation of such amount as may be approved by the Treasury.
- (2) The facilities referred to in subsection (1) above are—
- (a) roads, paths, bridges and car parks;
  - (b) public open spaces, recreation grounds, playgrounds and landscaping;
  - (c) meeting halls and assembly rooms; and
  - (d) any other facilities similar to those specified in paragraph (a), (b) or (c) above.]

**Textual Amendments**

**F80** S. 37AA inserted as provided by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 34

**[<sup>F81</sup>37A Other borrowing powers of development corporations.**

- (1) Subject to [<sup>F82</sup> section 60 of the <sup>M15</sup>New Towns Act 1981 ], a development corporation may borrow temporarily, by way of overdraft or otherwise, either—
- (a) in sterling from the Secretary of State, or
  - (b) with the consent of the Secretary of State and the approval of the Treasury, or in accordance with any general authority given by the Secretary of State with the approval of the Treasury, in any currency from any other person,
- such sums as the development corporation may require for meeting their obligations or performing their functions.
- (2) With the consent of the Secretary of State and the approval of the Treasury, a development corporation may, subject to [<sup>F82</sup> section 60 of the <sup>M16</sup>New Towns Act 1981 ], borrow, otherwise than by way of temporary loan,—
- (a) in any currency from the commission of the [<sup>F83</sup>European Union] or from the European Investment Bank, or
  - (b) in any currency other than sterling from any person, other than the Secretary of State and the bodies mentioned in the preceding paragraph,
- such sums as they may require for enabling them to meet expenditure properly chargeable to capital account (including the provision of working capital), or to make good to revenue account sums applied in meeting liabilities so chargeable.]

**Textual Amendments**

**F81** S. 37A added by [Statutory Corporation \(Financial Provisions\) Act 1974 \(c. 8, SIF 99\)](#), [Sch. 3 para. 6](#)

**F82** Words substituted by [New Towns Act 1981 \(c. 64, SIF 123:3\)](#), s. 81, [Sch. 12 para. 3\(b\)](#)

**F83** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with art. 3(2)(3), 4(2), 6(4)(5))

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

#### Marginal Citations

M15 1981 c. 64(123:3).

M16 1981 c. 64(123:3).

### 38 Provisions supplementary to s. 37.

- (1) The Treasury may issue to the Secretary of State out of the [<sup>F84</sup>National Loans Fund] such sums as are necessary to enable him to make advances to a development corporation under section 37(1) of this Act.
- (2) ..... <sup>F85</sup>
- (3) Any sums received by the Secretary of State by way of repayment of or interest on advances under section 37(1) of this Act shall be paid into the [<sup>F84</sup>National Loans Fund]; and the Secretary of State shall lay before each House of Parliament a statement of any sums payable to him by way of repayment of or interest on any such advances and not duly received by him.
- (4) ..... <sup>F85</sup>

#### Textual Amendments

F84 Words substituted by S.I. 1969/453

F85 S. 38(2), (4) repealed by S.I. 1969/453

### [<sup>F86</sup>38A Treasury guarantees.

- (1) The Treasury may guarantee, in such manner and on such conditions as they may think fit, the repayment of the principal of, [<sup>F87</sup>the payment of interest on and the discharge of any other financial obligation in connection with] any sums which a development corporation borrow under this Act from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given the Treasury shall, as soon as possible after the end of each financial year, beginning with that in which the sum is issued, and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this section shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this section in respect of money borrowed by a development corporation, the development corporation shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury may so direct, in or towards repayment of the sums so issued and payments of interest on what is outstanding for the time being in respect of amounts so issued at such rate as the Treasury may so direct.
- (5) Any sums received under subsection (4) of this section by the Treasury shall be paid into the Consolidated Fund.]

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

#### Textual Amendments

- F86** S. 38A added by [Statutory Corporations \(Financial Provisions\) Act 1974 \(c. 8, SIF 99\)](#), [Sch. 3 para. 7](#)  
**F87** Words substituted by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#), s. 4(1), [Sch. 2](#)

*[<sup>F88</sup> Financial reconstruction*

#### Textual Amendments

- F88** S. 38AB inserted as provided by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 35

### **38AB Power to extinguish loan obligations of development corporation.**

- (1) The Secretary of State may, with the consent of the Treasury, by order extinguish to such extent as may be specified in the order any liabilities of a development corporation in respect of advances made by him to the corporation under section 37(1) of this Act or section 12(1) of the New Towns Act 1946.
- (2) Where liabilities are extinguished under this section the assets of the National Loans Fund shall be reduced by amounts corresponding to the liabilities so extinguished.
- (3) No order shall be made under this section unless a draft of it has been laid before, and approved by, the Commons House of Parliament.]

### **[<sup>F89</sup>38B Disposal of surplus funds of development corporations.**

- (1) Where it appears to the Secretary of State, after consultation with the Treasury and the development corporation, that a development corporation have a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for their future requirements, the development corporation shall, if the Secretary of State after such consultation as aforesaid so directs, pay to the Secretary of State such sum not exceeding the amount of that surplus as may be specified in the direction; and any sum received by the Secretary of State under this section shall, subject to subsection (3) of this section, be paid into the Consolidated Fund.
- (2) The whole or part of any payment made to the Secretary of State by a development corporation under subsection (1) above shall, if the Secretary of State with the approval of the Treasury so determines, be treated as made by way of repayment of such part of the principal of advances under section 37(1) of this Act, and as made in respect of the repayments due at such times, as may be so determined.
- (3) Any sum treated under subsection (2) above as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund.]

#### Textual Amendments

- F89** S. 38B inserted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 339, [Sch. 23 para. 13\(2\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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### 39 Accounts, audit, annual reports etc.

- (1) Every development corporation shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year annual accounts in such form as the Secretary of State may with the approval of the Treasury direct.
- (2) The accounts of every development corporation shall be audited by an auditor to be appointed annually by the Secretary of State.
- <sup>F90</sup>(3) No person shall be so appointed unless he is eligible for appointment as a <sup>F91</sup>statutory auditor under Part 42 of the Companies Act 2006].]
- (4) As soon as the annual accounts of a development corporation for any financial year have been audited, the corporation shall send to the Secretary of State a copy of the accounts prepared by them for that year in accordance with this section, together with a copy of any report made by the auditor thereon.
- (5) The Secretary of State shall prepare in respect of each financial year, in such form and manner and at such times as the Treasury may direct, an account of the sums issued to him . . . <sup>F92</sup> and advanced to a development corporation under this Act and of sums received by him from that development corporation and paid into the <sup>F93</sup>National Loans Fund] in respect of the principal of and interest on sums so advanced.
- (6) On or before 30th November in each year, the Secretary of State shall transmit to the Comptroller and Auditor General the account prepared by him under subsection (5) above in respect of the last foregoing financial year; and the Comptroller and Auditor General shall examine and certify the account prepared by the Secretary of State and lay before each House of Parliament copies of that account together with his report thereon.
- (7) As soon as possible after the end of each financial year every development corporation shall make to the Secretary of State a report dealing generally with the operations of the corporation during that year, and shall include in the report a copy of their audited accounts for that year; and the Secretary of State shall lay a copy of every such report before each House of Parliament.
- (8) Without prejudice to the requirement imposed by subsection (7) above, every development corporation shall provide the Secretary of State with such information relating to their undertaking as the Secretary of State may from time to time require, and for that purpose shall permit any person authorised by the Secretary of State in that behalf to inspect and make copies of the accounts, books, documents or papers of the corporation and shall afford such explanation thereof as that person or the Secretary of State may reasonably require.
- (9) The financial year of every development corporation shall begin with 1st April, and references to a financial year in relation to a development corporation shall be construed accordingly.

#### Textual Amendments

**F90** S. 39(3) substituted (1.10.1991) by S.I. 1991/1997, regs. 1(1), 2, **Sch. para.18**

**F91** Words in s. 39(3) substituted (6.4.2008) by **The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948)**, art. 2(2), **Sch. 1 para. 1(i)** (with arts. 6, 11, 12)

**F92** Words repealed by S.I. 1969/453

**F93** Words substituted by S.I. 1969/453

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

**Modifications etc. (not altering text)**

C15 S. 39 extended by [New Towns \(Scotland\) Act 1977 \(c. 16, SIF 123:4\)](#), s. 5(1)

**40 General provision as to expenses.**

There shall be paid out of money provided by Parliament (in addition to any sums authorised or required by virtue of any other provision of this Act to be so paid)—

- (a) any expenses incurred by the Secretary of State in payment of compensation under section 14(4) or 26(7) of this Act;
- (b) any expenses incurred by the Secretary of State under section 20(2)(b) of this Act;
- (c) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

*Miscellaneous and supplementary*

**41 Application of certain enactments.**

- (1) ..... F94
- (2) ..... F95
- (3) For the purposes of section 7(3) of the <sup>M17</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which relates to the acquisition of inalienable land) this Act shall be deemed to have been passed before the commencement of that Act.

**Textual Amendments**

F94 S. 41(1) repealed by [Superannuation Act 1972 \(c. 11, SIF 101A:1\)](#), s. 29(4), **Sch. 8**

F95 S. 41(2) repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), **Sch. 11**

**Marginal Citations**

M17 1947 c. 42(28:2).

**42 Rights of entry.**

- (1) Where an authority, being either a development corporation or a local [<sup>F96</sup>roads] authority or the Secretary of State, are authorised to acquire any land compulsorily under this Act or have under consideration the acquisition of any land compulsorily thereunder, any person, being an officer of the Valuation Office or a person authorised in writing by the said authority, may at any reasonable time enter upon the land for the purpose of surveying it or estimating its value.
- (2) Any person, being an officer of the Valuation Office or a person authorised in writing by the Secretary of State, may at any reasonable time enter upon any land for the purpose of surveying it or estimating its value in connection with any proposals relating to the land submitted or to be submitted under section 6(1) of this Act.
- (3) A person authorised under the foregoing provisions of this section to enter upon any land shall, if so required, produce evidence of his authority before entering, and shall

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

- (4) Any person who obstructs a person acting in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding [<sup>F97</sup>level 2 on the standard scale].

#### Textual Amendments

- F96** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(14)**
- F97** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289C, 289G**

### 43 Local inquiries.

- (1) Subject to the following provisions of this section, the Minister may, for the purposes of the exercise of any of his functions under this Act, cause to be held such local inquiries as are directed by this Act and such other local inquiries as he may think fit.
- (2) The Minister shall appoint a person to hold the inquiry and to report thereon to him.
- (3) The person appointed to hold the inquiry shall notify any person who has lodged, and has not withdrawn, objections in relation to any matter in question at the inquiry, and shall publish in such newspaper or newspapers as the Minister may direct a notice, of the time when and the place where the inquiry is to be held.
- (4) The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry.
- Provided that—
- (i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides, unless the necessary expenses are paid or tendered to him; and
  - (ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- (5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
- (6) Any person who refuses or wilfully neglects to attend in obedience to a notice under subsection (4) of this section or to give evidence, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice, shall be liable on summary conviction to a fine not exceeding [<sup>F98</sup>level 2 on the standard scale] or to imprisonment for a period not exceeding three months.
- (7) The Minister may make orders as to the expenses incurred by the parties to the inquiry and, where the inquiry arises out of a proposed acquisition of land by a development corporation or the proposed extinction of a right of way over land acquired or proposed

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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to be acquired by a development corporation, as to the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry), and as to the parties by whom such expenses shall be paid.

- (8) Any order of the Minister under subsection (7) of this section requiring any party to pay expenses may be enforced in like manner as a recorded decree arbitral.
- (9) In this section the expression “Minister” means the Secretary of State, or any other Minister authorised under this Act to hold a local inquiry.

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**Textual Amendments**

**F98** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289C, 289G**

**44 Inquiries under Private Legislation Procedure (Scotland) Act 1936.**

- (1) Where the Ministers concerned so direct—
- (a) any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and
  - (b) any hearing in connection with—
    - (i) an appeal against the refusal, or the grant, subject to conditions, of an application by statutory undertakers for planning permission to develop operational land, or
    - (ii) such an application made by statutory undertakers and referred to the Secretary of State, or
    - (iii) the revocation or modification of planning permission to develop operational land granted to statutory undertakers,
- shall be held by Commissioners under the <sup>M18</sup>Private Legislation Procedure (Scotland) Act 1936.
- (2) Any such direction shall be deemed to have been given under section 2, as read with section 10, of the <sup>M19</sup>Statutory Orders (Special Procedure) Act 1945.
- (3) Paragraphs 4 and 5 of Schedule 8 to this Act shall not apply to an order such as is mentioned in subsection (1)(a) above.
- (4) Nothing in subsections (2) to (9) of the last foregoing section shall apply to any inquiry to which subsection (1)(a) above applies.
- (5) The provisions of the said Act of 1945 in relation to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything contained in that Act, not apply to any order under this Act which is subject to special parliamentary procedure.

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**Marginal Citations**

**M18** 1936 c. 52(89).

**M19** 1945 c. 18. (9 & 10 Geo. 6)(89)

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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#### 45 Service of notices.

- (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given either—
  - (a) by delivering it to the person on whom it is to be served or to whom it is to be given, or
  - (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given, at that address, or
  - (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given, at that address, or
  - (d) in the case of a person on whom service is required by this Act to be made as being a person appearing from the valuation roll to have an interest in land, by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his address as entered in the valuation roll, or
  - (e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) Where the notice or document is required or authorised to be served on or given to any person as having an interest in premises, and the name, or, as the case may be, the address, of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be deemed to be duly served if—
  - (a) being addressed to him by the description of “the owner” or “the occupier”, as the case may be, of the premises (describing them), it is delivered, left or sent in the manner specified in subsection (1)(a), (b) or (c) above, or
  - (b) being addressed to him either by name or in accordance with paragraph (a) of this subsection, and marked in such manner as may be prescribed for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.
- (3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the authority required to serve or give the notice or other document that any part of that land is unoccupied, the notice or documents shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than an owner who in accordance with the provisions of this Act in that behalf has given to that authority an address for the service of the notice on him) if, being addressed to “the owners and any occupiers” of that part of the land (describing it) and marked as mentioned in subsection (2)(b) above, it is affixed conspicuously to some object on the land.
- (4) Where a notice or other document has been served or given in accordance with the foregoing provisions of this section, it shall be deemed to have been served or given—
  - (a) in the case of delivery, at the time of such delivery,
  - (b) in any other case, on the expiry of 48 hours after the time when it was actually served or given.



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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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#### 46 Regulations and orders.

- (1) The Secretary of State may make regulations for the purpose of prescribing anything which is authorised or required to be prescribed under this Act.
- (2) The power to make regulations under this Act shall be exercisable by statutory instrument; and any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power to make an order conferred by any of the provisions of this Act shall include a power, exercisable in the like manner and subject to the like conditions, to vary or revoke the order.
- (4) The power to make an order conferred by section 1 of this Act shall be exercisable by statutory instrument.
- (5) A statutory instrument containing an order under section 1 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament if—
  - (a) the order is one designating an area as the site of a proposed new town, or designating an additional area of not less than 500 acres which would extend the area of a new town by not less than ten per cent; and
  - (b) an objection to the order was duly made by a local planning authority and had not been withdrawn at the time the order was made.
- (6) An order under section 35(5) or [F9936E] of this Act shall be of no effect until it is approved by a resolution of the Commons House of Parliament.

#### Textual Amendments

F99 “36E” substituted by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\), s. 38\(1\), Sch. 4 para. 1\(a\)](#)

#### 47 Interpretation.

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—
  - “acquiring authority”, in relation to the acquisition under or for the purposes of this Act of any land (whether compulsorily or by agreement) or to a proposal so to acquire any land, means the development corporation, local [F100roads] authority or Minister of the Crown by whom the land is, or is proposed to be, acquired;
  - “the Act of 1845” means the <sup>M20</sup>Lands Clauses Consolidation (Scotland) Act 1845;
  - [F101“alcohol” has the meaning given by section 2 of the Licensing (Scotland) Act 2005 (asp 16);]
  - [F102 “ the appropriate Minister ” means—
    - (a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport;
    - (b) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, the Secretary of State for Energy;

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (c) in relation to the British Airports Authority or the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;
- (d) <sup>F103</sup> .....
- (e) in relation to statutory undertakers carrying on an undertaking for the supply of . . . <sup>F104</sup> water, the Secretary of State for Scotland; and
- (f) in relation to any other statutory undertakers, the Secretary of State for the Environment.]

F105

“the arbiter” or “the official arbiter” means the official arbiter appointed under section 2 of the <sup>M21</sup>Land Compensation (Scotland) Act 1963;

“common” includes any town or village green;

“compulsory purchase order” means an order under section 7(1), 8(1) or 8(2) of this Act;

“development” includes re-development and “develop” shall be construed accordingly;

“development corporation” has the meaning assigned by section 2 of this Act;

“enactment” includes an enactment in any local or private Act of Parliament, and an order, byelaw or scheme made under an Act of Parliament;

F106

“held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 22 of the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935;

“land” includes land covered with water and any interest in land and any servitude or right in or over land;

“local authority” means a [<sup>F107</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

[<sup>F108</sup> “ local roads authority ” has the same meaning as in the <sup>M22</sup> Roads (Scotland) Act 1984; ]

“. . . planning authority” means the . . . <sup>F109</sup> planning authority for the purposes of the <sup>M23</sup>Town and Country Planning (Scotland) Act [<sup>F110</sup>1972];

“National Trust” means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935;

“open space” means any land laid out as a public garden, or used for purposes of public recreation, or any disused burial ground;

“operational land”, in relation to statutory undertakers, means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings;

“owner”, in relation to any buildings or land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the building or land to the promoters of an undertaking, and includes also a lessee under a lease or agreement the unexpired period of which exceeds three years;

“planning permission” means planning permission under [<sup>F111</sup>Part III of the Town and Country Planning (Scotland) Act 1972];

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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“prescribed” (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

[<sup>F112</sup> “ regional planning authority ” and “ district planning authority ” have the meanings assigned to them by Part IX of the <sup>M24</sup> Local Government (Scotland) Act 1973; ]

[<sup>F113</sup> “ roads authority ” has the same meaning as in the Roads (Scotland) Act 1984; ]

..... <sup>F114</sup>  
“statutory undertakers” means persons authorised by any enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F115</sup>, . . . <sup>F116</sup>, hydraulic power or water, and “statutory undertaking” shall be construed accordingly;

[<sup>F117</sup> “ transfer order ” means an order under section 36D(1) of this Act; ]

“trolley vehicle” means a mechanically propelled vehicle adapted for use on roads without rails and moved by power transmitted to it from some external source;

“Valuation Office” means the Valuation Office of the Inland Revenue Department;

“valuation roll” means the valuation roll for the year current at the time when the notice is served, or, if the notice is served after 15th May and before 1st October in any year, the valuation roll for the preceding year.

[<sup>F118</sup> “ winding up order ” means an order under section 36(1) of this Act; ]

- (2) Any reference in this Act to the area of a new town is a reference to the area designated as the site of that new town by an order under section 1 of this Act.
- [<sup>F119</sup>(3) Any reference in this Act to the Secretary of State and the appropriate Minister shall, in a case where the Secretary of State for Scotland is the appropriate Minister, be construed as a reference to that Secretary of State and, in any other case, be construed as a reference to the Secretary of State for Scotland and the appropriate Minister.]
- (4) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury; and if, in relation to the authorisation under this act of a compulsory acquisition of land, any question arises whether land of statutory undertakers is operational land, that question shall be determined by the Secretary of State and the appropriate Minister.
- (5) As from the coming into operation of Part II of the Land Compensation (Scotland) Act 1963,—
  - (a) for any reference in this Act to the arbiter or the official arbiter there shall be substituted a reference to the Lands Tribunal for Scotland or, as the case may require, a member of that Tribunal; and
  - (b) for any reference in this Act to any provision contained in section 2, 3 or 5 of the said Act of 1963 there shall be substituted a reference to the corresponding provision contained respectively in section 8, 9 or 11 of that Act.
- (6) A development corporation established for the purposes of an order under section 1 of this Act shall have power to act as the agents of a local authority . . . <sup>F120</sup> to carry out any function relating to the provision of water, sewerage or other services for the area

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designated by that order; and a local authority shall have power to act as the agents of a development corporation to carry out any of the functions of the corporation.

- (7) ..... F121
- (8) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.
- (9) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

### Textual Amendments

- F100** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(15)(a)**
- F101** Words in s. 47(1) substituted (1.9.2009) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), s. 150(2), **Sch. 6 para. 3(3)** (with s. 143); S.S.I. 2007/472, art. 3
- F102** Definition inserted by [S.I. 1976/1775](#), art. 6(1), **Sch. 3 para. 3(2)**
- F103** S. 47(1): paragraph (d) in the definition of “the appropriate Minister” repealed (26.3.2001) by [S.I. 2001/1149](#), art. 3(2), **Sch. 2** (with art. 4(11))
- F104** Words repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18** (with s. 112(3), Sch. 17 para. 35(1))
- F105** Definition repealed by [S.I. 1970/1681](#)
- F106** Definition repealed by [Licensing \(Scotland\) Act 1976 \(c. 66, SIF 68A:2\)](#), s. 136(1), **Sch. 8**
- F107** S. 47(1): words in definition of “local authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 73(5)**; [S.I. 1996/323](#), art. 4(1)(c)
- F108** Definition substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(15)(b)**
- F109** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 172(2)
- F110** Word substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 23 para. 12**
- F111** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(15)(c)**
- F112** Definition inserted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 23 para. 12**
- F113** Definition inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(15)(d)**
- F114** Definition of “regional water board” repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 29**
- F115** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18** (with s. 112(3), Sch. 17 para. 35(1))
- F116** Word repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(4), **Sch. 9 Pt. I**
- F117** Definition inserted by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4(1)(b)**
- F118** Definition inserted by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4(1)(b)**
- F119** S. 47(3) substituted by [S.I. 1970/1681](#)
- F120** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 29**
- F121** S. 47(7) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 238(2), **Sch. 29**

### Marginal Citations

- M20** 1845 c. 33(102).
- M21** 1963 c. 51(28:2).

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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**M22** 1984 c. 54(108).  
**M23** 1972 c. 52(123:2).  
**M24** 1973 c. 65(81:2).

**48 Saving and transitional provisions, consequential amendments and repeals.**

- (1) The saving and transitional provisions contained in Schedule 9 to this Act shall have effect.
- (2) The enactments specified in Schedule 10 to this Act shall have effect subject to the amendments therein specified, being amendments consequential on the repeals specified in Schedule 11 to this Act.
- (3) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**Modifications etc. (not altering text)**

**C16** The text of s. 48(2)(3), Schs. 10, 11 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**49 Short title, commencement and extent.**

- (1) This Act may be cited as the New Towns (Scotland) Act 1968.
- (2) This Act shall come into operation on 1st April 1968.
- (3) This Act shall extend to Scotland only.

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### PROCEDURE FOR DESIGNATING SITE OF NEW TOWN

##### *Making of orders under section 1*

- 1 (1) Where the Secretary of State proposes to make an order under section 1 of this Act, he shall prepare a draft of the order, describing the area to be designated as the site of the proposed new town by reference to a map, either with or without descriptive matter, together with such statement as he considers necessary for indicating the size and general character of the proposed new town.
- (2) In the case of any discrepancy between the map and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the draft order.

- 2 Before making the order the Secretary of State shall publish in the Edinburgh Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice—

- (a) describing the area to be designated as the site of the proposed new town;
- (b) stating that the draft of an order under section 1 of this Act has been prepared by the Secretary of State in relation to that area and is about to be considered by him;
- (c) naming a place within that area where a copy of the draft order (including any map or descriptive matter annexed thereto) and of the statement required by paragraph 1 above may be seen at any reasonable hour; and
- (d) specifying the time (not being less than 28 days from the publication of the notice in the Gazette) within which, and the manner in which, objections to the proposed order may be made;

and shall, not later than the date on which the notice is published in the Gazette, serve a like notice on the [<sup>F122</sup>local authority in whose area] the land, or any part of the land, to which the order relates is situated, and on any other local authority who appear to him to be concerned with the order.

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#### **Textual Amendments**

**F122** Words in Sch. 1 para. 2 substituted (1.4.1996) by virtue of 1994 c. 39, s. 180(1), Sch. 13 para. 73(6); S.I. 1996/323, art. 4(1)(c)

- 3 If any objection is duly made to the proposed order and is not withdrawn, the Secretary of State shall, before making the order, cause a public local inquiry to be held with respect to the objection, and shall consider the report of the person by whom the inquiry was held.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- 4 Subject to the provisions of paragraph 3 above, the Secretary of State may make the order either in terms of the draft or subject to such modifications as he thinks fit: Provided that, except with the consent of all persons interested, the Secretary of State shall not make the order subject to a modification including in the area designated as the site of the proposed new town any land not so designated in the draft order.
- 5 As soon as may be after an order has been made as aforesaid, the Secretary of State shall publish in the Edinburgh Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice stating that the order has been made and naming a place within the area designated by the order as the site of the proposed new town where a copy of the order may be seen at any reasonable hour, and shall serve a like notice—
- (a) on any local authority on whom notice of the proposed order was served under paragraph 2 above; and
  - (b) on any other person who has duly made an objection to the proposed order and, at the time of making it or thereafter, has sent to the Secretary of State a request in writing to serve him with the notice required by this paragraph, giving an address for service.

*Validity and date of operation of orders under section 1*

- 6 If any person aggrieved by an order under section 1 of this Act desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with in relation to the order, he may, within six weeks from the date on which notice of the making of the order is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session: and on any such application the Court—
- (a) may by interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the order or any provision contained therein is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.
- 7 Subject to the provisions of paragraph 6 above, an order under section 1 of this Act shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in that paragraph.

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*Changes to legislation: There are currently no known outstanding effects  
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## [<sup>F123</sup>SCHEDULE 1A

### EFFECT OF ORDER FOR REDUCTION OF DESIGNATED AREA

#### **Textual Amendments**

**F123** *Sch. 1A* inserted by New Towns and Urban Development Corporations act 1985 (c. 5, SIF 123:4), s. 10(2), Sch. 1

#### *Disposal of Land*

- 1 (1) Subject to sub-paragraphs (2) to (4) below, and without prejudice to any other power it may have to dispose of land under this Act, the development corporation shall dispose of any land which it has acquired—
- (a) which falls within the excluded land; and
  - (b) which is not required for purposes connected with the development of the new town or for the provision of services for the purposes of the new town.
- (2) Subsection (4) of section 18 applies to disposals under this Schedule as it applies to disposals under that section.
- (3) A corporation shall comply with such directions as the Secretary of State may give—
- (a) for preventing the duty mentioned in sub-paragraph (1) above from being performed; or
  - (b) for restricting the duty; or
  - (c) for requiring it to be performed in a manner specified in the directions.
- (4) The development corporation shall not, except with the consent of the Secretary of State, dispose of any excluded land otherwise than on the best terms that can reasonably be obtained.
- (5) Before giving a direction under sub-paragraph (3) above, the Secretary of State shall consult with the chairman of the corporation, or, if the chairman is not available, with the deputy chairman, unless he is satisfied that because of urgency consultation is impracticable.
- (6) A transaction between a person and a development corporation acting in purported exercise of their powers under this Schedule shall not be void by reason only that it was carried out either—
- (a) in contravention of a direction given by the Secretary of State under sub-paragraph (3) above, or
  - (b) without the consent mentioned in sub-paragraph (4) above having been obtained.]



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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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## SCHEDULE 2

Section 2.

### CONSTITUTION AND PROCEEDINGS OF DEVELOPMENT CORPORATIONS

#### *Appointment of members and tenure of office*

- 1 (1) The members of a development corporation (in this Schedule referred to as “the corporation”) shall be appointed by the Secretary of State after consultation with such local authorities as appear to him to be concerned with the development of the new town, and in appointing members of the corporation the Secretary of State shall have regard to the desirability of securing the services of one or more persons resident in or having special knowledge of the locality in which the new town will be situated.
- (2) The Secretary of State shall appoint two of the members to be respectively chairman and deputy chairman of the corporation.
- 2 Subject to the following provisions of this Schedule, a member of the corporation, and the chairman and deputy chairman of the corporation, shall hold and vacate office as such in accordance with the terms of the instrument by which they are respectively appointed.
- 3 If the chairman or deputy chairman of the corporation ceases to be a member of the corporation, he shall also cease to be chairman or deputy chairman, as the case may be.
- 4 Any member of the corporation may, by notice in writing addressed to the Secretary of State, resign his membership: and the chairman or deputy chairman may, by the like notice, resign his office as such.
- 5 If the Secretary of State is satisfied that a member of the corporation—
- (a) has become bankrupt or made an arrangement with his creditors; or
  - (b) is incapacitated by physical or mental illness; or
  - (c) has been absent from meetings of the corporation for a period longer than three consecutive months without the permission of the corporation; or
  - (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.
- the Secretary of State may remove him from his office as a member of the corporation.
- 6 A member of the corporation who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for reappointment.

#### *Remuneration*

- 7 The corporation shall pay to their members, in respect of their office as such, such remuneration and such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Secretary of State with the consent of the Treasury, and shall pay to the chairman and deputy chairman, in respect of their office as such, such additional remuneration as may be so determined.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

*[<sup>F124</sup> Pension benefits for chairmen*

**Textual Amendments**

**F124** Para. 7A inserted by [New Towns Act 1975 \(c. 42\)](#), s. 2(3)

- 7A In the case of any such person, who is or has been the chairman of the corporation, as the Secretary of State may with the consent of the Minister for the Civil Service determine, the Secretary of State may direct the corporation—
  - (a) to pay to or in respect of that person on his retirement or death such pension, allowance or gratuity as may be so determined, or
  - (b) to make payments towards the provision of such a pension, allowance or gratuity.]

*Meetings and proceedings*

- 8 The quorum of the corporation and the arrangements relating to their meetings shall, subject to any directions given by the Secretary of State, be such as the corporation may determine.
- 9 The validity of any proceeding of the corporation shall not be affected by any vacancy among their members or by any defect in the appointment of any of their members.

*Instruments, etc.*

<sup>F125</sup>10 .....

**Textual Amendments**

**F125** [Sch. 2 paras. 10, 11](#) repealed (1.8.1995) by [1995 c.7, ss. 14\(2\), 15\(2\)](#), [Sch. 5](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#))

<sup>F126</sup>11 .....

**Textual Amendments**

**F126** [Sch. 2 paras. 10, 11](#) repealed (1.8.1995) by [1995 c.7, ss. 14\(2\), 15\(2\)](#), [Sch. 5](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#))

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

## SCHEDULE 3

Sections 7, 8, 10.

### PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITIONS

#### PART I

##### *Acquisitions by development corporations and local highway authorities*

- 1 (1) A compulsory purchase order made under this Act by a development corporation or local [<sup>F127</sup>roads] authority—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
  - (b) subject to that, shall be in such form as may be prescribed.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.

#### Textual Amendments

**F127** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(a\)](#)

- 2 (1) After submitting the order to the Secretary of State, the acquiring authority—
- (a) shall publish a notice in the prescribed form describing the land, stating that an order authorising the compulsory acquisition thereof has been submitted to the Secretary of State, naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the first local advertisement) within which, and the manner in which, objections to the order may be made; and
  - (b) shall serve on every person appearing from the valuation roll to have an interest in any of the land to which the order relates and on such other persons as the Secretary of State may specify, whether individually or as members of a class of persons, a notice to the like effect as the notice required to be published under head (a) above;
- Provided that head (b) above shall not apply if the order relates only to land within the area of a new town.
- (2) The notice required to be published by sub-paragraph (1)(a) above shall be published in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land to which the order relates is situated, and by affixing a copy of the notice, addressed to “the owners and any occupiers” of the land (describing it), to some conspicuous object or objects on the land.
- (3) Publication and, if applicable, service in accordance with the foregoing provisions of this paragraph shall be effected—
- (a) in the case of an order relating only to land within the area of a new town, as soon as may be after the order has been submitted;
  - (b) in any other case, as soon as may be after the order has been submitted and service as aforesaid has been effected.

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (4) In this paragraph “the first local advertisement”, in relation to a notice, means the first publication of the notice in a newspaper circulating in the locality where the land to which the notice relates is situated, and includes, in relation to a notice so published once only, the publication thereof.
- 3 Subject to the provisions of paragraph 4 below in any case in which those provisions have effect, the Secretary of State may confirm the order with or without modification, but shall not, unless all persons interested consent, so modify it as to extend it to any land which was not designated by the order as submitted.
- 4 (1) If any objection is duly made to the order and is not withdrawn, the following provisions of this paragraph shall have effect.
- For the purposes of this Schedule an objection shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by paragraph 2 above, and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Unless the Secretary of State decides apart from the objection not to confirm the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and any such further statement, is satisfied—
- (a) that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, or
  - (b) in the case of an order relating to land within the area of a new town, that the objection is made on the ground that the acquisition is unnecessary or inexpedient,
- the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.
- (4) If, after considering the grounds of the objection as set out in the original statement and any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.
- (5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before and being heard by a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the acquiring authority and to any other persons to whom it appears to the Secretary of State to be expedient to afford it.
- (6) Notwithstanding anything in the foregoing provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as

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*Changes to legislation:* There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)

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to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time when he so determines shall be dispensed with.

- (7) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to confirm the order or what modification, if any, ought to be made.

5 As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more newspapers circulating in the locality in which the land thereby designated is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and shall serve a like notice on—

- (a) any owner or occupier of any of the land thereby designated who, at any time after the publication of the notice of the order as submitted, has sent to the acquiring authority a request in writing to serve him with the notice required by this paragraph giving an address for service and the prescribed particulars of his interest;
- (b) any person who has duly made an objection to the order and at the time of making it or thereafter has sent to the acquiring authority such a request as aforesaid; and
- (c) such other persons, if any, as the Secretary of State may specify, whether individually or as members of a class of persons.

6 The Secretary of State may by regulations make provisions for enabling proceedings required to be taken for the purposes of paragraphs 1, 2 and 4 above in relation to an order authorising a compulsory acquisition of land in an area proposed to be designated as the site of a new town by an order a draft of which has been published in accordance with Schedule 1 to this Act, to be taken, so far as may be practicable, contemporaneously with the proceedings on the last-mentioned order.

## PART II

### *Special provisions applying to acquisitions by local highway authorities*

7 (1) Subject to this paragraph, where a compulsory purchase order under section 8(1) of this Act is submitted to the Secretary of State, the notice required to be published under paragraph 2 above shall be published not only as mentioned in that paragraph but also by being exhibited at such places in the locality to which the order relates as appear to the acquiring authority to be suitable for bringing it to the attention of all persons concerned.

(2) Sub-paragraph (1) above shall not apply in any case where the Secretary of State is satisfied that the land to which the compulsory purchase order relates is required for the purpose of a project—

- (a) which was adequately set out in a statement prepared for the purposes of an order under section 1 of this Act which has been made, or
- (b) which has been the subject of an inquiry for the purposes of [F128] section 5 or 15 of the M25 Roads (Scotland) Act 1984, or of either of the following enactments no longer in force—

*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

- (i) section 1 of the <sup>M26</sup>Trunk Roads Act 1946 (additional trunk roads and reorganisation of trunk road system);
- (ii) section 14(1) of the <sup>M27</sup>Special Roads Act 1949 (amendments of law relating to trunk roads).]

**Textual Amendments**

**F128** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(16)(b)**

**Marginal Citations**

**M25** [1984 c. 54\(108\)](#).

**M26** [1946 c. 30](#).

**M27** [1949 c. 32](#).

- 8           Where there is submitted to the Secretary of State a compulsory purchase order under section 8(1) of this Act authorising the acquisition of any land forming a frontage to, or abutting on or adjacent to, a road, and the Secretary of State is satisfied as respects the whole or any part of the land—
- (a) that the acquisition would be requisite only for the purpose of controlling development, and
  - (b) that every owner has entered, or is willing to enter, into such an agreement with the local [<sup>F129</sup>roads] authority or the Secretary of State as is provided for by section 6(4) of this Act, or is bound by such an agreement, and that the agreement or proposed agreement is satisfactory for the said purpose.
- the order shall not be confirmed so as to authorise the acquisition of any part of the land as to which the Secretary of State is satisfied as aforesaid.

**Textual Amendments**

**F129** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 61(16)(c)**

**PART III**

*Acquisitions by Secretary of State*

- 9           (1) A compulsory purchase order made under section 8(2) of this Act by the Secretary of State—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
  - (b) subject to that, shall be in such form as the Secretary of State may determine.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.
- 10          Where the Secretary of State proposes to make such an order, he shall prepare a draft thereof, and as soon as may be thereafter shall—
- (a) publish in the manner mentioned in paragraph 2 above, and

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (b) serve on every person appearing from the valuation roll to have an interest in any of the land to which the draft relates and on any other persons on whom he may think it proper to effect such service,
- a notice, in such form as he may determine, similar, with requisite adaptations, to the notice mentioned in paragraph 2(1) above.
- 11 Paragraphs 3, 4, 5, 7 and 8 above shall have effect in relation to such an order—
- (a) with the substitution, for references to the acquiring authority, of references to the Secretary of State;
  - (b) with the substitution, for references to an order as submitted and to the confirmation of an order, of references respectively to an order as prepared in draft and to the making of an order;
  - (c) with the omission, in paragraph 4(5), of the reference to the acquiring authority;
  - (d) with the substitution, for the references to a compulsory purchase order under section 8(1) of this Act and to the notice required by paragraph 2 above, of references respectively to a compulsory purchase order under section 8(2) of this Act and to the notice required by paragraph 10 above; and
  - (e) with the substitution, in paragraph 8, of the words “the Secretary of State proposes to make” for the words “there is submitted to the Secretary of State”.

#### PART IV

##### *Special provisions as to certain descriptions of land*

- 12 In so far as a compulsory purchase order authorises the acquisition of land which is the property of a local authority, or of land belonging to the National Trust which is held by the Trust inalienably, the order shall be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or the National Trust, as the case may be, and has not been withdrawn.
- 13 (1) In so far as a compulsory purchase order authorises the acquisition of any land forming part of any common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree), and being equally advantageous to the persons (if any) entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land acquired was vested, and subject to the like rights, trusts and incidents as attached to the land acquired; or
  - (b) that the land is required for the widening of an existing [<sup>F130</sup>road] and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,
- and certifies accordingly.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall give public notice of his intention so to do, and—
- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
  - (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,
- the Secretary of State may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who made the inquiry, give the certificate.
- (3) As soon as may be after the giving of a certificate under this paragraph the acquiring authority shall publish in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land designated by the order is situated, a notice in the prescribed form stating that the certificate has been given.

**Textual Amendments**

**F130** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(d\)](#)

**PART V**

*Validity and date of operation of compulsory purchase orders and certificates*

- 14 If any person aggrieved by a compulsory purchase order, or by a certificate under paragraph 13 above, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session; and on any such application the Court—
- (a) may by interim order suspend the operation of the order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the order or any provision contained therein, or the certificate, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.
- 15 Subject to the provisions of paragraph 14 above, a compulsory purchase order or a certificate under paragraph 13 above shall not, either before or after it has been made or confirmed or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the said paragraph 14.



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*Changes to legislation:* There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)

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- 16 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section 2(4) or 6 of the <sup>M28</sup>Statutory Orders (Special Procedure) Act 1945 but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in paragraph 14 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the said Act of 1945, and as if in paragraph 15 the words from “and shall become operative” to the end were omitted.

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**Marginal Citations**

**M28** 1945 c. 18 (9 & 10 Geo. 6)(89).

SCHEDULE 4

Section 10.

PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITION  
OF STATUTORY UNDERTAKERS' OPERATIONAL LAND

**PART I**

*Acquisitions by development corporations and local highway authorities*

- 1 An application by a development corporation or local [<sup>F131</sup>roads] authority for the purposes of section 10(1)(a) of this Act shall be in such form as may be prescribed, and shall describe by reference to a map the land to which the application relates.

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**Textual Amendments**

**F131** Words substituted by virtue of [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(17\)](#) (where the substitution is expressed to be in Sch. 4(1))

- 2 As soon as may be after submitting the application to the Secretary of State and the appropriate Minister the acquiring authority shall serve on every owner, lessee and occupier of any land to which the application relates a notice in the prescribed form describing the land, stating that an application under the said section 10(1) (a) has been submitted in relation to the land and is about to be considered by the Secretary of State and the appropriate Minister, naming a place where a copy of the application and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the service of the notice) within which, and the manner in which, objections to the application may be made.
- 3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State and the appropriate Minister may, if they think fit, make a compulsory purchase order in accordance with the application, with or without modification, but shall not, unless all persons interested consent, make the order with any modification which would extend it to any land to which the application did not relate.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (2) If any objection is duly made by any of the persons on whom notices are required to be served and is not withdrawn, the Secretary of State and the appropriate Minister shall, before making an order on the application, consider the objection and shall, if either the objector or the acquiring authority so desire, cause an inquiry to be held, and may then, if they think fit, make an order as aforesaid.
- (3) An objection shall not be deemed for the purposes of section 10 of this Act or this Schedule to be duly made unless—
- (a) it is made within the time and in the manner specified in the notice in that behalf, and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- 4 A compulsory purchase order made on such an application shall be in such form as the Secretary of State and the appropriate Minister may determine, and shall describe by reference to a map the land to which the order relates.
- 5 As soon as may be after a compulsory purchase order has been made on such an application the acquiring authority shall serve on every owner, lessee and occupier of any land to which the order relates a notice in the prescribed form stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at any reasonable hour.

## PART II

### *Acquisitions by Secretary of State and appropriate Minister*

- 6 A compulsory purchase order made by the Secretary of State and the appropriate Minister in pursuance of section 10(1)(b) of this Act shall be in such form as they may determine, and shall describe by reference to a map and land to which the order relates.
- 7 Where the Secretary of State and the appropriate Minister propose to make such an order they shall prepare a draft thereof, and shall as soon as may be thereafter serve on every owner, lessee and occupier of any land to which the draft relates a notice in such form as they may determine describing the land, stating that the making of the order is proposed, naming a place where a copy of the draft and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the service of the notice) within which, and the manner in which, objections to the proposal may be made.
- 8 Paragraphs 3 and 5 of this Schedule shall have effect in relation to such an order—
- (a) with the substitution, for references to an application and to the making of a compulsory purchase order thereon, of references to such an order as prepared in draft and to the making of such an order, and
  - (b) with the omission of the references in paragraph 3(2) to the acquiring authority.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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### PART III

#### *Modification of Schedule 3, Part V in relation to compulsory purchase orders made in pursuance of s. 10*

- 9 Part V of Schedule 3 to this Act shall have effect in relation to a compulsory purchase order made in pursuance of section 10(1) of this Act with the substitution, for the references to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of that Schedule in that behalf, of references to the date on which the service of notices required by paragraph 5 above is completed.

### SCHEDULE 5

Sections 13, 26.

#### ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS

### PART I

#### *Measure of compensation*

- 1 (1) Where statutory undertakers are entitled to compensation as mentioned in section 13 or section 26(7) of this Act, the amount of the compensation shall (subject to paragraph 2 below) be an amount calculated in accordance with the following provisions of this paragraph.
- (2) The said amount, subject to sub-paragraph (3) below, shall be the aggregate of the following amounts, that is to say—
- (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation;
  - (b) whichever of the following is applicable, namely—
    - (i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment, or
    - (ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;
  - (c) where the compensation is under section 26(7) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (3) Where any such adjustment as is mentioned in sub-paragraph (2)(a) above is made, the aggregate amount mentioned in that sub-paragraph shall be reduced by such amount (if any) as appears to the tribunal to be appropriate to offset—
- (a) the estimated value of any property (whether moveable or heritable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under sub-paragraph (2)(c) above, and
  - (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under sub-paragraph (2) (b) above and is directly attributable to the adjustment.
- and by any further amount which appears to the tribunal to be appropriate having regard to any increase in the capital value of heritable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under head (b) of this sub-paragraph.
- (4) References in this paragraph to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.
- (5) In this paragraph “proceeding giving rise to compensation” means the particular action (that is to say, the acquisition, the extinguishment of a right or the imposition of a requirement) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken.

*Exclusion of paragraph 1 at option of statutory undertakers*

- 2 (1) Where statutory undertakers are entitled to compensation in respect of a compulsory acquisition, the statutory undertakers may by notice in writing under this paragraph elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 12 of the <sup>M29</sup>Land Compensation (Scotland) Act 1963) which would be applicable apart from paragraph 1 above, and if the undertakers so elect the compensation shall be ascertained accordingly.
- (2) An election under this paragraph may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of any part of that land.
- (3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

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**Marginal Citations**

**M29** 1963 c. 51(28:2).

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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*Procedure for assessing compensation where paragraph 1 applies*

- 3 Where the amount of any such compensation as is mentioned in paragraph 1(1) above falls to be ascertained in accordance with the provisions of the said paragraph 1, the compensation shall, in default of agreement, be assessed by the arbitration of the tribunal.
- 4 In this Part of this Schedule, “the tribunal” means the tribunal constituted in accordance with the provisions of Part II of this Schedule.

**PART II**

*Tribunal for assessment of compensation*

- 5 (1) The tribunal for the assessment of compensation referred to in Part I of this Schedule shall consist of four persons, namely—
- (a) an advocate or solicitor of not less than seven years’ standing appointed by the Lord President of the Court of Session to act as chairman;
  - (b) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively; and
  - (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members of a panel appointed by appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.
- (2) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.
- (3) For the purposes of any proceedings arising before the tribunal the provisions of sections 3, 5 and 39 of the Land Compensation (Scotland) Act 1963 shall apply as they apply to proceedings on a question referred to the official arbiter under section 2 of that Act, but with the substitution, in sections 5 and 39 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

SCHEDULE 6

Section 12.

MODIFICATIONS OF ENACTMENTS FOR PURPOSES OF THIS ACT

**PART I**

*The Lands Clauses Acts*

- 1 (1) The following sections of the <sup>M30</sup>Lands Clauses Consolidation (Scotland) Act 1845 (hereafter in this Schedule referred to as “the Act of 1845”) shall be excepted from incorporation with this Act, that is to say—
- (a) sections 120 to 124 (sale of superfluous land);

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (b) section 127 (promoters to make good deficiencies in land tax and rates); and
  - (c) sections 142 and 143 (access to the special Act).
- (2) In construing the Lands Clauses Acts and the <sup>M31</sup>Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act—
- (a) this Act or, in relation to a compulsory acquisition, this Act and the compulsory purchase order, shall be deemed to be the special Act;
  - (b) in relation to a compulsory acquisition, references to the promoters of the undertaking or to the railway company shall be construed as references to the acquiring authority;
  - (c) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by this Act;
  - (d) in relation to any erection, construction or carrying out of any building or works so authorised, references in section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (compensation for injurious affection) to the railway company shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and
  - (e) references to the execution of the works or to the construction of the railway shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of the Secretary of State on land acquired by him under section 8 of this Act, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

**Marginal Citations**

**M30** 1845 c. 19(28:2).

**M31** 1845 c. 33(102).

- 2 For the purposes of section 116 of the Act of 1845 (powers of compulsory purchase not to be exercised after the expiration of the prescribed period) the prescribed period shall, in relation to any acquisition, be three years from the coming into operation of the compulsory purchase order.
- 3 The acquiring authority shall, without prejudice to any power in that behalf exercisable by them apart from this paragraph, be entitled, notwithstanding anything in section 17 of the Act of 1845 or in any other provision of the Lands Clauses Acts, to acquire one or some of two or more interests subsisting in the land without acquiring the other interest or interests subsisting therein.
- 4 (1) If the acquiring authority have, in respect of any of the land, served notice to treat on every owner of that land, they may at any time thereafter serve a notice—
- (a) on every occupier of any of that land, and
  - (b) on every person (other than such an occupier) who, having been served with a notice to treat in respect of that land, has requested the acquiring authority in writing to serve him with any notice under this sub-paragraph and has furnished them with an address for service thereof,
- describing the land to which the notice relates and stating their intention to enter on and take possession thereof at the expiration of such period (not being less than 28 days from the date on which the notice is served) as may be specified in the notice.

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- (2) At the expiration of the period specified in such a notice (or, where two or more such notices are required, and the periods specified in the several notices do not expire at the same time, of the last of those periods to expire), or at any time thereafter, the acquiring authority may enter on and take possession of the land to which the notice or notices relate without previous consent or compliance with sections 83 to 88 of the Act of 1845, but subject to payment of the like compensation for the land of which possession is taken, and interest on the compensation agreed or awarded, as they would have been required to pay if those provisions had been complied with.

**Modifications etc. (not altering text)**

- C17** Para. 4 modified by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34, SIF 2:1), s. 14(3), Sch. 4 paras. 4, 5 and Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2), s. 53(2)
- C18** Sch. 6, para. 4 modified (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 57(4), 89(2), **Sch. 8 para. 6(d)**(with s. 45(3), Sch. 12 para. 3)

- 5 (1) The provisions of this paragraph shall have effect in substitution for the provisions of section 90 of the Act of 1845.
- (2) No person shall be required to sell a part only—
- (a) of any house, building or manufactory, or
- (b) of a park or garden belonging to a house,
- if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the arbiter determines that—
- (i) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory, or
- (ii) in the case of a park or garden, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house,
- and, if he so determines, he shall award compensation in respect of any loss due to the severance of the part proposed to be acquired, in addition to its value: and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.
- 6 Notices required to be served by the acquiring authority may, notwithstanding anything in section 18 of the Act of 1845, be served and addressed in the manner specified in section 45 of this Act in relation to notices required to be served under this Act.

## PART II

### *The Land Compensation (Scotland) Act 1963*

- 7 The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

8 ..... F132

**Textual Amendments**

**F132** Sch. 6 para. 8 repealed with saving by Land Compensation Act 1973 (c. 26, SIF 28:1), Sch. 3

F133F133 SCHEDULE 7

**Textual Amendments**

**F133** Sch. 7 repealed by Town and Country Planning (Scotland) Act 1969 (c. 30, SIF 123:2), Sch. 11

..... F133

SCHEDULE 8

Sections 23, 28, 30.

PROCEDURE FOR DEALING WITH OBJECTIONS TO ORDERS UNDER SS 23, 28 AND 30

- 1 (1) In this Schedule “the relevant Minister” means—
- (a) in relation to an order under section 23 of this Act, the Secretary of State;
  - (b) in relation to an order under section 28 of this Act, the Secretary of State and the appropriate Minister;
  - (c) in relation to an order under section 30 of this Act, the appropriate Minister.
- (2) In this Schedule any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.
- 2 Unless the relevant Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the relevant Minister shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- 3 In so far as the relevant Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, the relevant Minister may treat the objection as irrelevant for the purpose of making a final decision.
- 4 If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the relevant Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is



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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- not submitted within the specified period, the relevant Minister may make a final decision without further investigation as to those matters.
- 5 Subject to paragraphs 3 and 4 above, the relevant Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the relevant Minister; and if the objector avails himself of that opportunity, the relevant Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, development corporation or other person, if any, on whose representation the order is proposed to be made, and to any other persons to whom it appears to the relevant Minister to be expedient to afford such an opportunity.
- 6 Notwithstanding anything in the foregoing provisions of this Schedule, if it appears to the relevant Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

## SCHEDULE 9

Section 48.

### SAVING AND TRANSITIONAL PROVISIONS

- 1 In so far as any order, regulation, certificate, declaration or other instrument made, given or executed under any enactment repealed by this Act, or any other thing done under or by virtue of any such enactment, could have been made, given, executed or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by the repeals effected by section 48 of this Act but, subject to paragraph 3 below, shall have effect as if made, given, executed or done under or by virtue of that corresponding provision.
- 2 Without prejudice to paragraph 1 above, any provision of this Act relating to anything done or required or authorised to be done under, or by reference to, that provision or any other provision of this Act shall, subject to paragraph 3 below, have effect as if any reference to that provision or that other provision, as the case may be, included a reference to the corresponding provision of the enactments repealed by this Act.
- 3 Notwithstanding anything in paragraph 1 or 2 above, any advance made to a development corporation before the commencement of this Act under section 12(1) of the <sup>M32</sup>New Towns act 1946 shall be regarded for the purpose of section 43 of the <sup>M33</sup>New Towns Act 1965 as having been made under the said section 12(1) and not under section 37(1) (the corresponding provision) of this Act.

#### Marginal Citations

**M32** 1946 c. 68.

**M33** 1965 c. 59.

- 4 Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- 5           Where any Act (whether passed before, or in the same Session as, this Act) or any document refers, either expressly or by implication, to an enactment (including an enactment as applied by the <sup>M34</sup>New Towns Act 1946) repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

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**Marginal Citations**

**M34** 1946 c. 68.

- 6           (1) Notwithstanding section 8(3) of this Act, paragraph 12 of Schedule 3 to this Act shall not apply to a compulsory purchase order under section 8 of this Act in the case of which any of the following things is done before the commencement of this Act, that is to say—
- (a) the order is submitted to the Secretary of State under Part I of Schedule 3 to this Act or an application for the order is submitted to the Secretary of State and the appropriate Minister under Part I of Schedule 4 to this Act;
- (b) a notice relating to a draft of the order is published under Part III of the said Schedule 3 or served under Part II of the said Schedule 4.
- (2) Notwithstanding the said section 8(3), paragraph 13 of Schedule 3 to this Act shall not apply to a compulsory purchase order under section 8(2) of this Act in the case of which either of the things mentioned in sub-paragraph (1)(b) above is done before the commencement of this Act.
- 7           Without prejudice to paragraph 5 above, the reference to section 51 of the <sup>M35</sup>Town and Country Planning (Scotland) Act 1945 as applied by the <sup>M36</sup>New Towns Act 1946 contained in Part II of Schedule 3 to the <sup>M37</sup>War Damage Act 1964 (which lists enactments repealed as from 1st October 1968) shall be construed as a reference to section 15(2) of this Act.

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**Marginal Citations**

**M35** 1945 c. 33.

**M36** 1946 c. 68.

**M37** 1964 c. 25.

- 8           Nothing in this Schedule shall be taken as prejudicing the operation of section 38 of the <sup>M38</sup>Interpretation Act 1889 (which relates to the effect of repeals).

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**Marginal Citations**

**M38** 1889 c. 63.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

## SCHEDULE 10

Section 48

### CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

#### Modifications etc. (not altering text)

- C19** The text of s. 48(2)(3), Schs. 10, 11 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *M39* Rivers (Prevention of Pollution) (Scotland) Act 1951

#### Marginal Citations

- M39** 1951 c. 66.

In section 35(1), in the definition of “local authority”, for the words “Act, 1946” there shall be substituted the words “(Scotland) Act 1968”, and for the words from “subsection (2)” to “Act, 1897,” there shall be substituted the words “section 34(1) of that Act entitled to exercise any powers”.

#### *M40* New Towns Act 1965

#### Marginal Citations

- M40** 1965 c. 59.

In section 43(b), for the words from “whether” to the end of the paragraph, there shall be substituted the words “before the commencement of the New Towns (Scotland) Act 1968 under section 12(1) of the <sup>M41</sup>New Towns (Scotland) Act 1946 in its application to Scotland (to which section 37(1) of the said Act of 1968 corresponds), and after the commencement of the said Act of 1968 under the said section 37(1); and”.

#### Marginal Citations

- M41** 1946 c. 68.

## SCHEDULE 11

Section 48.

### REPEALS

#### Modifications etc. (not altering text)

- C20** The text of s. 48(2)(3), Schs. 10, 11 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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<b>Chapter</b>	<b>Short Title</b>	<b>Extent of Repeal</b>
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	The whole Act as applied by the New Towns Act 1946.
9 & 10 Geo. 6. c. 18.	The Statutory Orders (Special Procedure) Act 1945.	In Schedule 2, the entries relating to the Town and Country Planning (Scotland) Act 1945.
9 & 10 Geo. 6. c. 68.	The New Towns Act 1946.	The whole Act.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Section 43.  In Schedule 8, the entry relating to the New Towns Act 1946.
12 & 13 Geo. 6. c. 59.	The Licensing Act 1949.	Section 4(1).
6 & 7 Eliz. 2. c. 12.	The New Towns Act 1958.	The whole Act.
7 & 8 Eliz. 2. c. 62.	The New Towns Act 1959.	The whole Act, except— in section 14(1), the words from the beginning to “the New Towns Act 1959”; paragraph 1(10) of Schedule 1.
1964 c. 8.	The New Towns Act 1964.	The whole Act.
1964 c. 68.	The New Towns (No. 2) Act 1964.	The whole Act.
1966 c. 44.	The New Towns Act 1966.	Section 3.

**Changes to legislation:**

There are currently no known outstanding effects for the New Towns (Scotland) Act 1968.