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SCHEDULES

SCHEDULE 24

TRANSITIONAL PROVISIONS AND SAVINGS

PART VI

ENFORCEMENT OF CONTROL

Enforcement notices under enactments in force before 1st April 1969

- 31 (1) This paragraph applies to any enforcement notice which was served before 1st April 1969 on the owner and occupier of the land to which it related under section 45 of the Act of 1962 or which has effect by virtue of paragraph 1 of Schedule 14 to that Act or to which paragraph 32, 33 or 34 of this Schedule applies.
- (2) In relation to any such notice—
- (a) the provisions of this Act (other than this Schedule) shall not apply ;
 - (b) notwithstanding their repeal or amendment by the Act of 1968, the provisions of the Act of 1962 and of any other Act passed before the Act of 1968 shall, subject to the subsequent provisions of this Schedule, have effect as they would have had effect in relation to the notice if the Act of 1968 and this Act had not been passed.
- (3) In relation to an enforcement notice served before 1st April 1969, paragraph 4 of Schedule 12 to this Act shall have effect as if the references to provisions of this Act were references to the corresponding provisions of the Act of 1962.
- (4) Nothing in this paragraph shall prevent the withdrawal, on or after 1st April 1969, of an enforcement notice so served or the service thereafter of an enforcement notice under Part V of this Act.

Enforcement notices served before 29th August 1960

- 32 (1) This paragraph applies to any enforcement notice served before 29th August 1960 on the owner and occupier of the land to which it related other than a notice to which paragraph 33 of this Schedule applies.
- (2) In relation to any such notice—
- (a) sections 45 to 49 and section 177(1) of the Act of 1962 shall not apply ;
 - (b) notwithstanding their repeal by the Act of 1962, sections 23 and 24 of the Act of 1947 shall have effect as they would have had effect in relation to the notice if the Act of 1962 had not been passed ;
 - (c) section 50 of the Act of 1962 shall not apply if the planning permission in question was granted before the said 29th August;

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- (d) for the references in section 51(3) and (4) of the Act of 1962 to section 48 of that Act, there shall be substituted references to section 24(1) of the Act of 1947 and in section 51(5) of the Act of 1962 the words from " and no person " onwards shall be omitted.

Enforcement notices served by virtue of section 75 of Act of 1947

- 33 (1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section 75 of the Act of 1947 (which related to development contravening planning control under the enactments repealed by that Act), being a notice which had not ceased for all purposes to have effect before the commencement of this Act.
- (2) The repeal by the Act of 1962 of the said section 75 shall not invalidate any enforcement notice to which this paragraph applies.
- (3) In relation to any such notice which was served before 29th August 1960 on the owner and occupier of the land to which it related—
- (a) sections 45 to 49 of the Act of 1962 shall not apply ;
 - (b) sections 23 and 24 of the Act of 1947, as applied by section 75 of that Act, shall have effect as they would have had effect in relation to the notice if the Act of 1962 had not been passed; and
 - (c) section 50 of that Act shall not apply if the planning permission in question was granted before the said 29th August.
- (4) In relation to any enforcement notice to which this paragraph applies, not being a notice falling with sub-paragraph (3) of this paragraph, section 45(3) and (5) and (subject to paragraphs 35 to 38 of this Schedule) sections 46 to 51 of the Act of 1962 shall have effect as they have effect in relation to an enforcement notice served under section 45 of that Act.
- 34 (1) In so far as an enforcement notice could, if the Act of 1962 and this Act had not been passed, have been served by virtue of section 75 of the Act of 1947 at a time on or after the date of the commencement of this Act, in respect of any works or use of land of a description to which that section applied, there shall subsist by virtue of this paragraph a corresponding power in the like circumstances to serve an enforcement notice (to the like effect as that which could have been so served) in respect of those works or that use of land.
- (2) Section 45(3) and (5) and (subject to paragraphs 35 to 38 of this Schedule) sections 46 to 51 of the Act of 1962 shall have effect in relation to an enforcement notice served by virtue of this paragraph as they have effect in relation to an enforcement notice served under section 45 of that Act.
- 35 (1) Where an enforcement notice falling within paragraph 33(4) of this Schedule, or an enforcement notice served by virtue of paragraph 34 of this Schedule, was or is served in respect of any works being government war works within the meaning of the Requisitioned Land and War Works Act 1945, then, subject to the following provisions of this paragraph—
- (a) if the steps required by the notice have been taken by the owner or occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served ;

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- (b) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section 48 of the Act of 1962, to recover the expenses incurred by them in that behalf.
- (2) Where under section 2(1)(b) of the Compensation (Defence) Act 1939 compensation has been paid equal to the full cost (as estimated for the purposes of that compensation) of taking the steps required by the enforcement notice, sub-paragraph (1) of this paragraph shall not apply.
- (3) Where compensation has been paid in respect of the land, being either compensation under the said section 2(1)(b) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under section 3(4) of that Act, the amount which by virtue of sub-paragraph (1) of this paragraph is recoverable from the authority by whom the enforcement notice was served, or, as the case may be, is not recoverable by that authority, shall be reduced so far as may be just having regard to the compensation so paid.
- 36 In the application of section 46 of the Act of 1962 to an enforcement notice by virtue of paragraph 33 or 34 of this Schedule, subsection (1) of that section shall have effect as if for paragraphs (b) and (c) there were substituted the following paragraph—
- “(b) that the works or use to which the enforcement notice relates are not works or a use to which section 75 of the Act of 1947 applies ””
- 37 (1) The power of a local planning authority under Part III of this Act to grant planning permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of a use of land instituted before that date, shall include power to grant such permission in respect of any buildings or other works, or use of land, in respect of which that authority are empowered to serve an enforcement notice by virtue of paragraph 34 of this Schedule.
- (2) Where permission is so granted, paragraphs 33 to 35 of this Schedule shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.
- 38 Where in pursuance of paragraph 89(3) of this Schedule permission is granted for the retention on land of works, or the continuance of a use, authorised as mentioned in the said paragraph 89(3), such of the provisions of paragraphs 33 to 37 of this Schedule as (apart from this paragraph) would be applicable thereto shall cease to apply to those works or that use, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.
- 39 The repeal by the Act of 1962 of section 75 of the Act of 1947 shall not affect the operation of any regulations made under subsection (8) of that section (which enabled provision to be made by regulations for applying the provisions of that section to contraventions, committed before the appointed day, of restrictions under enactments other than those relating to town and country planning) or of the provisions of that section as applied by any such regulations.

Enforcement of building preservation orders

- 40 The repeal by the Act of 1968 of section 30 of the Act of 1962 shall not prevent a council from taking such proceedings as could have been taken but for the repeal to

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enforce any building preservation order made under that section and for securing the restoration of a building to its former state; and in relation to any such proceedings the provisions of the order, and of any provisions of the Act of 1962 incorporated therein, shall continue to have the same effect as if the Act of 1968 had not been passed.

Enforcement of duties as to trees

- 41 Subsection (3) of section 103 of this Act shall have effect in relation to a notice served under that section before 1st April 1969 with the substitution for the words from " section 88(2) " to " directions " of the words " subsections (2) to (5) of section 46 of the Act of 1962 ".