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SCHEDULES

THIRTEENTH SCHEDULE

Section 223.

SAVINGS AND TRANSITIONAL PROVISIONS RELATING TO ENACTMENTS PREVIOUSLY REPEALED

Schemes and agreements

- 1 (1) The repeal shall not affect the operation of—
 - (a) any such scheme as was mentioned in paragraph 7 of the Tenth Schedule to the Act of 1947 (which related to certain schemes made under the Town and Country Planning Act, 1932, and the Town Planning Act, 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act, or
 - (b) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.
- (2) Any power to make orders under paragraph 7 of that Schedule shall continue to be exercisable notwithstanding the repeal.
- 2 (1) The repeal shall not affect the operation of any such agreement as was mentioned in paragraph 10 of the Tenth Schedule to the Act of 1947 (which related to certain agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.
- (2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Minister as mentioned in section two hundred and ten, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.
- (3) If the Minister is satisfied, on application made to him by any person being a party to any such agreement, or a person entitled to land affected thereby, or by the local planning authority, that any restriction on the development or use of the land imposed by the agreement is inconsistent with the proper planning or development of the area comprising the land, he may by order discharge or modify that restriction so far as appears to him to be expedient.
- (4) Without prejudice to the last preceding sub-paragraph, if any person being a party to any such agreement (whether as originally made or as modified under the last preceding sub-paragraph), or a person entitled to land affected thereby, claims that

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the agreement ought to be modified or rescinded, having regard to the provisions of this Act or to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbitrator may make such award as appears to him to be just having regard to all the circumstances.

Land declared subject to compulsory purchase

- 3 (1) The provisions of this paragraph shall have effect in relation to land which, by an order under section one of the Act of 1944, was declared to be subject to compulsory purchase.
- (2) Subject to the following provisions of this paragraph—
- (a) subsections (3) and (4) of section six and subsection (1) of section nine shall apply in relation to the land as if it were designated by a development plan as subject to compulsory acquisition ;
 - (b) Part V of this Act shall apply in relation to the land as if it were comprised in an area defined by a development plan as an area of comprehensive "development and were designated as subject to compulsory acquisition under this Act by the appropriate local authority ;
 - (c) sections one hundred and thirty-eight to one hundred and fifty shall apply in relation to the land as if it were designated by a development plan as subject to compulsory acquisition ;
 - (d) subsection (1) of section one hundred and seventy-six shall apply in relation to the order as if it were a development plan.
- (3) For the purposes of the application to any land, by virtue of the last preceding subparagraph, of subsection (1) of section nine, the reference in that subsection to the date therein mentioned shall be construed as a reference to the date of the coming into operation of the order under section one of the Act of 1944 whereby the land was declared to be subject to compulsory purchase.
- (4) In relation to any land to which subsection (1) of section nine applies by virtue of this paragraph, subsections (2) and (3) of that section shall have effect with the substitution, in subsection (2) thereof, for the words “the development plan shall have effect, after the end of that period, as if the land were not designated as subject to compulsory acquisition ”, of the words “paragraph 3 of the Thirteenth Schedule to this Act shall cease to apply to the land at the end of that period ”.
- (5) Part V of this Act shall not apply by virtue of this paragraph to any operational land of statutory undertakers, unless an order made under paragraph (b) of subsection (5) of section thirteen of the Act of 1944, declaring that it is expedient that the land should be subject to compulsory purchase, has taken effect.
- (6) Any reference in this paragraph to subsection (1) of section nine shall be construed as including a reference to that subsection as modified by subsection (5) of that section.

Compulsory purchase orders under Act of 1944

- 4 Any compulsory purchase order made or confirmed under Part I of the Act of 1944 (whether before or after the appointed day) shall, if in force immediately before the commencement of this Act, continue in force and shall have effect as if it had been made under the Acquisition of Land (Authorisation Procedure) Act, 1946, as applied by Part V of this Act.

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Land acquired under Act of 1944

- 5 For the purposes of Part V of this Act—
- (a) any land acquired by a Minister in pursuance of a compulsory purchase order under Part I of the Act of 1944 shall be deemed to have been acquired under section sixty-seven ;
 - (b) any land acquired by a local authority in pursuance of any such order shall be deemed to have been acquired under section sixty-eight;
 - (c) any land acquired by a local authority by agreement under the Act of 1944 shall be deemed to have been acquired under section seventy-one.

Development authorised under enactments previously repealed

- 6 (1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a planning scheme or an interim development order, the provisions of Parts III and IV of this Act, the provisions of Part VIII of this Act relating to Eurchase notices, and the provisions of sections one hundred and fty-nine to one 'hundred and sixty-two, shall apply in relation to those works or that use as if the conditions had been imposed on the grant of planning permission.
- (2) Without prejudice to the generality of the preceding sub-paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that period, the provisions of Part IV of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.
- (3) The power of a local planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in the last preceding sub-paragraph.
- (4) Where at any time before the appointed day it was determined under the Building Restrictions (War-Time Contraventions) Act, 1946, that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order.
- (5) Provision may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning ; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section one of the Restriction of Ribbon Development (Temporary Development) Act, 1943, or was deemed by virtue of subsection (4) of that section

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to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use might be continued on the land.

- 7 (1) Where permission for any development of land was granted, at any time after the twenty-first day of July, nineteen hundred and forty-three and before the appointed day, on an application in that behalf made under an interim development order, then, if and so far as that development was not carried out before the appointed day and the permission was in force immediately before that day, planning permission shall be deemed to have been granted in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as it had effect immediately before the appointed day:

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the Restriction of Ribbon Development Act, 1935, unless that permission was also granted.

- (2) The provisions of section twenty-seven shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in subsection (3) of section one hundred and eighteen to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.
- (3) Where permission for any development of land was granted as mentioned in subparagraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act, 1935, then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.
- 8 (1) Where any works for the erection or alteration of a building had been begun but not completed before the appointed day, then if—
- (a) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order, and
 - (b) where any permission was required under the Restriction of Ribbon Development Act, 1935, for the carrying out of those works, that permission was granted,

planning permission shall be deemed to have been granted in respect of the completion of those works.

- (2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any) granted under the Restriction of Ribbon Development Act, 1935, and shall include permission to use the building, when erected or altered.—
- (a) where the purpose for which it could be so used was prescribed by or under the planning scheme, or by the permission granted by or under the interim development order, as the case may be, for that purpose;

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- (b) in any other case, for the purpose for which the building, or the building as altered, was designed.
- (3) In relation to any such works as are mentioned in sub-paragraph (1) of this paragraph, being works in respect of which permission was granted after the twenty-first day of July, nineteen hundred and forty-three, on an application in that behalf made under an interim development order, the provisions of this paragraph shall have effect in substitution for the provisions of the last preceding paragraph.
- 9 Where in pursuance of sub-paragraph (3) of paragraph 6 of this Schedule permission is granted for the retention on land of works authorised as mentioned in that sub-paragraph, sub-paragraph (1) of paragraph 11 of the Tenth Schedule to this Act shall apply in relation to the retention of those works as if they had been erected or carried out in accordance with planning permission granted for a 'limited period.
- 10 (1) Any reference in Part VI of this Act, or in the Fifth Schedule thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 7 or paragraph 8 of this Schedule.
- (2) The preceding sub-paragraph shall have effect without prejudice to the provisions of Part I of the Fourteenth Schedule to this Act as read with paragraph 18 of this Schedule.

Development contravening planning control under enactments previously repealed

- 11 (1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section seventy-five 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 shall not invalidate any enforcement notice to which this paragraph applies.
- (3) In relation to any such notice which was served before the twenty-ninth day of August, nineteen hundred and sixty, on the owner and occupier of the land to which it related—
- (a) sections forty-five to forty-nine shall not apply;
- (b) section fifty shall not apply if the planning permission in question was granted before the said twenty-ninth day of August; and
- (c) sections twenty-three and twenty-four of the Act of 1947, as applied by section seventy-five of that Act, shall have effect as they would have had effect in relation to the notice if this Act had not been passed.
- (4) In relation to any enforcement notice to which this paragraph applies, not being a notice falling within the last preceding sub-paragraph, subsections (3) and (5) of section forty-five and (subject to paragraphs 13 to 16 of this Schedule) sections forty-six to fifty-one shall have effect as they have effect in relation to an enforcement notice served under section forty-five.
- 12 (1) In so far as an enforcement notice could, of this Act had not been passed, have been served by virtue of section seventy-five 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

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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) Subsections (3) and (5) of section forty-five and (subject to paragraphs 13 to 16 of this Schedule) sections forty-six to fifty-one 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 forty-five.
- 13 (1) Where an enforcement notice falling within sub-paragraph (4) of paragraph 11 of this Schedule, or an enforcement notice served by virtue of the last preceding paragraph, 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;
 - (b) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section forty-eight, to recover the expenses incurred by them in that behalf.
- (2) Where, under paragraph (b) of subsection (1) of section two 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, the preceding sub-paragraph shall not apply.
- (3) Where compensation has been paid in respect of the land, being either compensation under the said paragraph (b) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under subsection (4) of section three 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.
- 14 In the application of section forty-six to an enforcement notice by virtue of paragraph 11 or paragraph 12 of this Schedule, subsection (1) of that section shall have effect as if for paragraphs (b) and (c) of that subsection there were substituted the following paragraph:—
- “(b) that the works or use to which the enforcement notice related were not works or a use to which section seventy-five of the Act of 1947 applied”.
- 15 (1) The power of the local planning authority under Part III of this Act to grant 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 12 of this Schedule.
- (2) Where permission is so granted, paragraphs 11 to 13 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 IV of this Act with respect to the contravention of conditions subject to which planning permission has been granted.
- 16 Where in pursuance of sub-paragraph (3) of paragraph 6 of this Schedule permission is granted for the retention on land of works, or the continuance of

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a use, authorised as mentioned in that sub-paragraph, such of the provisions of paragraphs 11 to 15 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 IV of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

- 17 The repeal shall not affect the operation of any regulations made under subsection (8) of section seventy-five of the Act of 1947 (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.

General and supplementary provisions

- 18 (1) Where by virtue of any of the provisions of the Tenth Schedule to the Act of 1947, or of any regulations made thereunder, an application, decision, appeal or order made, direction given, or list compiled or approved, under an enactment repealed by that Act fell to be treated as if it had been an application, decision or appeal made, direction given, or list compiled or approved, or (in the case of an order) had been made, or had been included in an order made, under that Act, it shall be treated for the purposes of the Fourteenth Schedule to this Act as if it had been an application, decision or appeal made, direction given, or list compiled or approved, or had been made, or included in an order made, under that Act in accordance with the provisions or regulations in question.
- (2) References in this paragraph to any of the provisions of the Tenth Schedule to the Act of 1947 shall be construed as including references to any such provisions as modified by subsection (2) of section one hundred and fourteen of that Act (which related to London).
- 19 Any reference in this Schedule to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in this Act.
- 20 In this Schedule “planning scheme ” means a scheme under the Town and Country Planning Act, 1932, or under an enactment repealed by that Act, “interim development order” means an order made under subsection (1) of section ten of the said Act of 1932 and “the repeal” means the repeal effected by section two hundred and twenty-three.