



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

An Act to make fresh provision with respect to Scotland for planning the development and use of land for the grant of permission to develop land and for other powers of control over the use of land ; to confer on public authorities additional powers in respect of the acquisition and development of land for planning and other purposes, and to amend the law relating to compensation in respect of the compulsory acquisition of land; to provide for payments out of central funds in respect of depreciation occasioned by planning restrictions; to secure the recovery for the benefit of the community of development charges in respect of certain new development;/to provide for the payment of grants out of central funds in respect of expenses of local planning authorities in connection with the matters aforesaid; and for purposes connected with the matters aforesaid. [13th August 1947]

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

PART I

CENTRAL AND LOCAL ADMINISTRATION.

1 The Central Land Board.

- (1) In this Act the expression " Central Land Board " means the Board established under the Town and Country Planning Act, 1947.
- (2) The Board shall have an office in Scotland and shall maintain there such staff as may be necessary for the proper performance of their functions under this Act.

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- (3) The Board shall, in the performance of their functions under this Act, comply with such directions as may be given to them by the Secretary of State.
- (4) The report made by the Board for any year under section two of the Town and Country Planning Act, 1947, shall set out any direction given by the Secretary of State to the Board during that year unless the Secretary of State has notified to the Board his opinion that it is against the interests of national security so to do.
- (5) The functions under this Act of the Board, and of their officers and servants, shall be (exercised on behalf of the Crown).
- (6) Regulations made for the purposes of section two of the Town and Country Planning Act, 1947, shall provide for requiring members of the Board who are interested in any land which is the subject of a claim or application made to the Board under this Act to disclose to the Board the nature of their interest, and may for that purpose apply any of the provisions of section one hundred and forty-nine of the Companies Act, 1929, subject to such modifications as may be prescribed by the regulations.
- (7) Any administrative expenses incurred for the purposes of this Act by the Board with the approval of the Secretary of State shall, to such extent as may be sanctioned by the Treasury, be defrayed out of moneys provided by Parliament.

2 Local planning authorities.

- (1) Subject to the provisions of this section the local planning authority for the purposes of this Act shall be—
 - (a) in the case of a large burgh, the town council;
 - (b) in the case of a county (including, subject as after-mentioned, any small burghs therein), the county council or, in the case of a county combined with another county for the purposes mentioned in subsection (1) of section one hundred and eighteen of the Local Government (Scotland) Act, 1947, the joint county council of the combined county; and
 - (c) in the case of a small burgh, to the town council of which powers and duties have been transferred under subsection (2) of section two of the Act of 1932, the town council,

and the district of the local planning authority shall be the burgh or the county or the combined county, as the case may be.
- (2) Two or more local planning authorities may, with the consent of the Secretary of State, combine for any of the purposes of any provision of this Act on such terms and conditions as may be agreed between them and approved by the Secretary of State.
- (3) If it appears to the Secretary of State that the combination of any local planning authority with any other local planning authority or authorities for any of the purposes of any provision of this Act would be of public or local advantage he may make an order combining those authorities as respects their districts or parts thereof for such of the purposes aforesaid as are specified in the order:

Provided that the Secretary of State shall not make such an order except after holding a local inquiry unless all the authorities concerned have consented to the making of the order.

- (4) Any such order shall be laid before Parliament and if either House within a period of forty days after the order is so laid before it resolves that the order be annulled,

the order shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

In reckoning for the purposes of this subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days,

- (5) The provisions of Part I and Part II of the First Schedule to this Act shall have effect with respect to the combination of authorities under subsection (2) and subsection (3) respectively of this section; the provisions of Part III and Part IV of that Schedule shall have effect with respect to the establishment and functions of joint advisory committees and of planning committees respectively of local planning authorities; and the provisions of Part V of that Schedule shall have effect with respect to the establishment and functions of sub-committees of joint planning committees appointed in pursuance of any combination of local planning authorities under subsection (2) or subsection (3) of this section, of joint advisory committees and of planning committees of local planning authorities.

PART II

PLANNING AND CONTROL OF DEVELOPMENT, &c.

Development plans.

3 Surveys of planning districts and preparation of development plans.

- (1) As soon as may be after the appointed day, every local planning authority shall carry out a survey of their district, and shall, not later than three years after the appointed day, or within such extended period as the Secretary of State may in any particular case allow, submit to the Secretary of State a report of the survey together with a plan (hereinafter called a "development plan") indicating the manner in which they propose that land in that district should be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development should be carried out.
- (2) Subject to the provisions of any regulations made under this Act for regulating the form and content of development plans, any such plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate to different parts of the district; and any such plan may in particular—
- (a) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the plan;
 - (b) designate as land subject to compulsory acquisition by any Minister, local authority or statutory undertakers any land allocated by the plan for the purposes of any of their functions (including any land which that Minister or authority or those undertakers are or could be authorised to acquire compulsorily under any enactment other than this Act);
 - (c) designate as land subject to compulsory acquisition by the appropriate local authority—

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- (i) any land comprised in "fin area denned by the plan as an area of comprehensive development (including any land therein which is allocated by the plan for any such purpose as is mentioned in paragraph (b) of this subsection);
 - (ii) any other land which, in the opinion of the local planning authority, ought to be subject to compulsory acquisition for the purpose of securing its use in the manner proposed by the plan.
- (3) For the purposes of this section a development plan may define as an area of comprehensive development any area which in the opinion of the local planning authority should be developed or-redeveloped as a whole for any one or more of the following purposes, that is to say, for the purpose of dealing satisfactorily with extensive war damage or conditions of bad layout or obsolete development, or for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the development or redevelopment of any other area, or for any other purpose specified in the plan; and land may be included in any area so defined, and designated as subject to compulsory acquisition in accordance with the provisions of subsection (2) of this section, whether or not provision is made by the plan for the development or redevelopment of that particular land.
- (4) The Secretary of State may approve any development plan submitted to him under this section either without modification or subject to such modifications as he considers expedient:
Provided that—
 - (a) he shall not approve a development plan which designates any land as subject to compulsory acquisition as aforesaid if it appears to him that the acquisition is not likely to take place within ten years from the date on which the plan is approved, or in the case of agricultural land as defined in subsection (4) of section forty-nine of this Act within seven years from that date;
 - (b) he shall not, except with the consent of all persons interested, approve a development plan subject to a modification designating as subject to compulsory acquisition any land not so designated in the plan as submitted to him;
 - (c) where a development plan as submitted to the Secretary of State designates as subject to compulsory acquisition any such land as is mentioned in paragraph 9 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which relates to land of local authorities and statutory undertakers and inalienable land of the National Trust for Scotland) then, if objection to the proposed designation is duly made by the local authority or statutory undertakers or the National Trust for Scotland, as the case may be, and is not withdrawn, the land shall not be so designated except in pursuance of an order made by the Secretary of State (or, in the case of land being operational land of statutory undertakers, by the Secretary of State and the appropriate Minister) and any such order shall be subject to special parliamentary procedure.
- (5) At any time before a development plan with respect to the whole of the district of a local planning authority has been approved under this section, that authority may, with the consent of the Secretary of State, and shall if so required by directions of the Secretary of State, prepare and submit to him a development plan relating to any part of that district, and the foregoing provisions of this section shall apply in relation to any such plan as they apply in relation to a plan relating to the whole of that district.

4 Amendment of development plans.

- (1) At least once in every five years after the date on which a development plan for any district is approved by the Secretary of State, the local planning authority shall carry out a fresh survey of that district, and submit to the Secretary of State a report of the survey, together with proposals for any alterations or additions to the plan which appear to them to be required having regard thereto.
- (2) Without prejudice to the provisions of the foregoing subsection, a local planning authority may at any time, and shall if so required by directions of the Secretary of State, submit to the Secretary of State proposals for such alterations or additions to the development plan relating to their district as appear to them to be expedient or as may be required by those directions, as the case may be.
- (3) Where proposals for alterations or additions to a development plan are submitted to the Secretary of State under this section, he may amend that plan to such extent as he considers expedient having regard to those proposals and to any other material considerations:

Provided that the proviso to subsection (4) of the last foregoing section shall apply in relation to the amendment of a development plan by the Secretary of State as it applies in relation to the approval of such a plan by him, and for that purpose shall have effect—

- (a) as if for the reference in paragraph (a) to the date on which the plan is approved there were substituted a reference to the date on which the amendment is effected; and
 - (b) as if for the references in paragraphs (b) and (c) to the plan as submitted to the Secretary of State there were substituted references to the proposals submitted to him under this section.
- (4) Where, under subsection (5) of the last foregoing section, a development plan is approved with respect to a part of the district of a local planning authority, the periods of five years mentioned in subsection (1) of this section shall run from the date on which development plans in respect of the whole of the district of the local planning authority have been approved by the Secretary of State.
 - (5) Any proposal submitted to the Secretary of State under this section for any alteration or addition to a development plan and any amendment made by the Secretary of State under this section to a development plan may provide for securing that any land previously designated by the plan as subject to compulsory acquisition shall cease to be so designated, or that any land not previously so designated shall be so designated.

5 Additional powers of the Secretary of State with respect to development plans.

- (1) Where, by virtue of any of the foregoing provisions of this Part of this Act, or of any directions of the Secretary of State thereunder, any development plan, or any report or proposals for alterations or additions to a development plan, are required to be submitted to the Secretary of State, then—
 - (a) if within the period prescribed in that behalf by those provisions or directions no such plan or report or proposals, or no such plan or proposals satisfactory to the Secretary of State, have been so submitted; or
 - (b) if at any time it appears to the Secretary of State that the local planning Authority are not taking the Steps necessary to enable them to submit such a plan or report or proposals within that period,

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the Secretary of State may, after carrying out any survey which appears to him to be expedient for the purpose, make such a development plan, or, as the case may be amend the development plan to such extent, as he considers expedient.

- (2) Where, under the foregoing provisions of this section, the Secretary of State has power to make or amend a development plan, he may, if he thinks fit, authorise the local planning authority for any neighbouring district or any other local planning authority who appear to the Secretary of State to have an interest in the proper planning of the district concerned to submit such a plan to him for his approval, or, as the case may be, to submit to him proposals for the amendment of the plan, and to carry out any survey of the land which appears to him to be expedient for the purpose, and may approve any plan so submitted either without modification or subject to such modifications as he considers expedient, or, as the case may be, may amend the plan to such extent as he considers expedient having regard to the proposals so submitted and to any other material considerations.
- (3) The foregoing provisions of this Part of this Act shall, so far as applicable, apply to the making, approval or amendment of development plans under this section, and to such plans so made, approved or amended, as they apply to the approval or amendment of development plans under those provisions, and to plans approved or amended thereunder.
- (4) Any expenses incurred by the Secretary of State under this section in connection with the making or amendment of a development plan with respect to the district, or any part of the district, of a local planning authority shall be paid in the first instance out of moneys provided by Parliament, but so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.
- (5) Where, under this section, a development plan, or proposals for the amendment of such a plan are authorised to be submitted to the Secretary of State by the local planning authority for any district other than the district in which the land is situated, any expenses reasonably incurred in that behalf by the said authority, as certified by the Secretary of State, shall be repaid to that authority by the local planning authority for the district in which the land is situated.

6 Incorporation in development plans of orders relating to trunk roads and new towns.

- (1) Where an order is made by the Minister of Transport in accordance with the Second Schedule to the Trunk Roads Act, 1946, directing that any road proposed to be constructed by him shall become a trunk road, or authorising him to construct or improve an road under section four of that Act, any development plan which relates to land on which a road is to be constructed or improved in accordance with that order shall have effect as if the provisions of that order were included in the plan.
- (2) Where an order is made by the Secretary of State under section one of the New Towns Act, 1946, designating any area as the site of a new town under that Act, any development plan which relates to land in that area shall have effect as if the provisions of that order were included in the plan.
- (3) Nothing in this section shall be construed as prohibiting the inclusion in a development plan of provisions defining the line of roads proposed to be constructed by the Minister of Transport in accordance with any such order as is mentioned in subsection (1) of

this section, or areas designated as the sites of new towns by any such order as is mentioned in subsection (2) of this section, or of provisions defining land as likely to be made the subject of any such order as aforesaid.

- (4) Provision may be made by regulations under this Act for enabling any, proceedings preliminary to the making of any such order as is mentioned in subsection (1) or subsection (2) of this section to be taken concurrently with proceedings required under this Act to be taken in connection with the approval or making of a development plan relating to land to which any such order applies or in connection with any amendment of a development plan rendered necessary or desirable in consequence of any such order.

7 Modification of development plans in relation to land designated as subject to compulsory acquisition.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition, then if at the expiration of twelve years from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any of that land has not been acquired by a Minister, local authority or statutory undertakers who could be authorised to acquire it compulsorily under the provisions of this Act, any owner of the land may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority a notice requiring his interest in the land to be so acquired.

- (2) Where any such notice is served as aforesaid, then unless within six months after the service of the notice either—

- (a) notice to treat in respect of the interest to which the notice relates has been served by any such Minister, authority or undertakers as aforesaid; or
- (b) an offer has been made to the owner of the said interest by any such Minister, local authority or undertakers to acquire it on terms that the price payable therefor shall be equal to (and shall be determined, in default of agreement, in like manner as) the compensation which would be payable in respect of that interest if it were acquired compulsorily,

the development plan shall have effect, after the expiration of the said six months, as if the land were not designated as subject to compulsory acquisition.

- (3) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is served as mentioned in paragraph (a) of the last foregoing subsection.

- (4) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority (not being land comprised in an area defined by the plan as an area of comprehensive development) then if planning permission is granted for any development of the land so designated, or any part thereof, and that development is carried out in accordance with the permission so granted, the development plan shall have effect as if the land to which the permission relates were not designated as subject to compulsory acquisition:

Provided that where any such permission as aforesaid is granted for a limited period only, the provisions of this subsection shall cease to have effect in relation to the land at the expiration of that period.

- (5) In relation to land being agricultural land as defined in subsection (4) of section forty-nine of this Act subsection (1) of this section shall have effect as if for the words "twelve years "there were substituted the words " eight years. "

8 Supplementary provisions as to development plans.

- (1) Before preparing a development plan which relates to any land comprised in a small burgh in their district, or proposals for alterations or additions to any such plan, the local planning authority shall consult with the town council of that burgh, and shall, before submitting any such plan or proposal to the Secretary of State, give to such town council an opportunity to make representations with respect thereto and consider any representations so made.
- (2) Provision may be made by regulations under this Act with respect to the form and content of development plans, and with respect to the procedure to be followed in connection with the preparation, submission, approval, making and amendment of such plans, and such regulations shall in particular make provision for securing—
- (a) that before preparing a development plan or proposals for alterations or additions to any such plan the local planning authority shall consult with such bodies or persons as may be prescribed by the regulations, and in particular, but without prejudice to the generality of this provision, with the appropriate agricultural executive committee;
 - (b) that notice shall be given by advertisement in one or more newspapers circulating in the area concerned of the submission to the Secretary of State of any such plan or of proposals for the amendment of any such plan, and of any proposal by the Secretary of State to make or amend such a plan and of the place or places where copies of the plan or proposals as so submitted, or of any such proposal of the Secretary of State, may be inspected;
 - (c) that objections and representations duly made in accordance with the regulations shall be considered, and that such local inquiries or other hearings as may be prescribed by the regulations shall be held, before such a plan is approved, made or amended by the Secretary of State; and
 - (d) that copies of any such plan as approved or made by the Secretary of State, including any amendments thereof, shall be available for inspection by the public, and that copies thereof (including reproductions on such scale as may be appropriate of any relevant maps) shall be available on sale to the public at a reasonable cost.
- (3) If as the result of any objections or representations considered, or of any local inquiry or other hearing held, in connection with a development plan or proposals for amendment of such a plan submitted to or prepared by the Secretary of State under this Part of this Act, the Secretary of State is of opinion that the local planning authority or any other authority or person ought to be consulted before he decides whether to approve or make the plan either with or without modifications, or to amend the plan, as the case may be, he shall consult that authority or person, but shall not be under any obligation to consult any other authority or person, or to afford any opportunity for further objections or representations or to cause any further local inquiry or other hearing to be held.
- (4) Subject to the foregoing provisions of this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—

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- (a) for formulating the procedure for the carrying out of their functions under the foregoing provisions of this Part of this Act;
 - (b) for requiring them to furnish to him such information as he may require for the purpose of the exercise of any of his functions under those provisions.
- (5) The provisions of the Statutory Orders (Special Procedure) Act, 1945, with regard to the publication of notices in the Edinburgh Gazette and in a newspaper, shall, notwithstanding anything in that Act contained, not apply to any order made in pursuance of paragraph (c) of the proviso to subsection (4) of section three of this Act if the requirements imposed by regulations under this section with respect to the publication of notices in relation to the development plan have been complied with.

9 Validity and date of operation of development plans.

- (1) Immediately after a development plan has been approved or made or amended by the Secretary of State under this Part of this Act, the local planning authority shall publish in such manner as may be prescribed by regulations under this Act a notice stating that the plan has been approved, made, or amended, as the case may be, and naming a place where a copy of the plan or of the plan, as amended, may be seen at all reasonable hours, and shall serve a like notice on any person by whom an objection or representation was duly made to the proposed plan or amendment, and who has sent to the authority a request in writing to serve him with the notice required by this subsection, specifying an address for service, and on such other persons, if any, as may be required by general or special directions given by the Secretary of State.
- (2) If any person aggrieved by the plan or by the amendment, as the case may be, 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 on the ground that any requirement of this Act or any regulation made thereunder has not been complied with in relation to the approval or making of the plan, or, as the case may be, in relation to the making of the amendment, he may, within six weeks from the date on which the notice required by the last foregoing subsection is first published, 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 plan or amendment, as the case may be, or of 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 plan or amendment, 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 a failure to comply with any such requirement as aforesaid, may quash the plan or amendment or any provision contained therein either generally or in so far as it affects any property of the applicant.
- (3) Subject to the provisions of the last foregoing subsection, a development plan or an amendment of a development plan shall not, either before or after it has been approved or made, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which the notice required by this section is first published.
- (4) Except by leave of the Court of Session, no appeal shall lie to the House of Lords from a decision of the Court of Session under this section.

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- (5) Where under paragraph (c) of the proviso to subsection (4) of section three of this Act any land to which a development plan relates is designated as subject to compulsory acquisition in pursuance of an order to which the Statutory Orders (Special Procedure) Act, 1945, applies, then—
- (a) if the order is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, subsections (2) and (3) of this section shall not apply to the plan so far as it designates that land; and
 - (b) in any other case this section shall have effect in relation to the plan so far as it so designates that land, as if in subsection (2) for the reference to the date on which the notice required by subsection (1) is first published there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (3) the words from " and shall become operative "to the end of the subsection were omitted.

Permission to develop land.

10 Obligation to obtain permission for development.

- (1) Subject to the provisions of this section and to the following provisions of this Act, permission shall be required under this Part of this Act in respect of any development of land which is carried out after the appointed day.
- (2) In this Act, except where the context otherwise requires, the expression " development " means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land:

Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to involve development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
 - (b) the carrying out by a local highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
 - (c) the carrying out by any local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
 - (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
 - (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
 - (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use thereof for any other purpose of the same class.
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section—

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- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;
- (b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if the superficial area or the height of the deposit is thereby extended:

Provided that nothing in paragraph (b) of this subsection shall be deemed to require permission in respect of the deposit of refuse or waste materials on a site already used for that purpose if the height of the deposit does not exceed the level of the land adjoining such site, and the superficial area of the deposit is not thereby extended.

- (4) Without prejudice to the provisions of any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.
- (5) Notwithstanding anything in this section, planning permission shall not be required—
 - (a) in the case of land which, on the appointed day, is being used temporarily for a purpose other than the purpose for which it is normally used, in respect of the resumption of the use of the land for the last-mentioned purpose;
 - (b) in the case of land which, on the appointed day, is normally used for one purpose and is also used on occasions, whether at regular intervals or not, for any other purpose, in respect of the use of the land for that other purpose on similar occasions after the appointed day;
 - (c) in the case of land which on the appointed day is unoccupied, in respect of the use of the land for : the purpose for which it was last used:

Provided that—

- (i) in determining for the purposes of paragraph (a) of this subsection the purposes for which land was normally used and in determining for the purposes of paragraph (c) of this subsection the purposes for which land was last used, no account shall be taken of any use of the land begun in contravention of previous planning control within the meaning of section seventy-two of this Act;
- (ii) paragraph (c) of this subsection shall not apply to land which was unoccupied on the seventh day of January, nineteen hundred and thirty-seven, and has not been occupied since that date.

11 Development orders.

- (1) The Secretary of State shall by order provide for the grant of planning permission, and such permission may be granted—
 - (a) in the case of any development specified in any such order, or in the case of development of any class so specified, by that order itself;
 - (b) in any other case, by the local planning authority (or, in the cases hereinafter provided, by the Secretary of State) on an application in that behalf made to the local planning authority in accordance with the provisions of the order.
- (2) An order under subsection (1) of this section (hereinafter called a " development order ") may be made either as a general order applicable (subject to such exceptions as

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may be specified therein) to all land, or as a special order applicable only to such land as may be so specified, and the permission granted by any such order may be granted either unconditionally or subject to such conditions or limitations as may be so specified.

- (3) Without prejudice to the generality of the last foregoing subsection, a development order which grants permission for any development may—
- (a) where permission is thereby granted for the erection, extension or alteration of any buildings, require the approval of the local planning authority to be obtained with respect to the design or external appearance thereof;
 - (b) where permission is thereby granted for development of any specified class, enable the Secretary of State or the local planning authority to direct that that permission shall not apply either in relation to development in any particular area or in relation to any particular development.
- (4) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment passed before the passing of this Act, or any regulations, orders or bye-laws made (whether before or after the passing of this Act) under any such enactment shall not apply to any development specified in the order or shall apply thereto subject to any such modifications as may be so specified.
- (5) Every development order shall be laid before Parliament immediately after it is made, and if either House within the period of forty days after the order is so laid before it resolves that the order be annulled, the order shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new order:

Provided that, without prejudice to the foregoing provision, where any such order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the excepted enactments specified in the Second Schedule to this Act) the order shall be of no effect until that provision is approved by resolution of each House of Parliament.

- (6) In reckoning for the purpose of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

12 Applications to local planning authorities for planning permission.

- (1) Subject to the provisions of this and the next following section, where application is made to the local planning authority for planning permission, that authority may grant permission either unconditionally or subject to such conditions as they think fit, or may refuse permission; and in dealing with any such application the local planning authority shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations.
- (2) Without prejudice to the generality of the foregoing subsection, conditions may be imposed on the grant of planning permission thereunder—
- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as

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appears to the local planning authority to be expedient for the purposes of, or in connection with, the development authorised ' by the permission; .

- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance : of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period;

and any planning permission granted subject to any such condition as is mentioned in paragraph (b) of this subsection is in this Act referred to as planning permission granted for a limited period only:

Provided that conditions may not be imposed by a local planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another local planning authority except with the consent of that authority.

- (3) Provision may be made by a development order for regulating the manner in which applications for planning permission are to be dealt with by local planning authorities and in particular—

- (a) for enabling the Secretary of State (or, in the case of development affecting trunk roads, the Minister of Transport) to give directions restricting the grant of planning permission by the local planning authority, during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan ;
- (c) for requiring the local planning authority, before granting or refusing planning permission, to consult with such authorities or persons as may be prescribed by the order or by directions given by the Secretary of State thereunder;
- (d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (e) for requiring the local planning authority to furnish to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to them, including information as to the manner in which any such application has been dealt with.

- (4) Without prejudice to any provisions included in the development order by virtue of the last foregoing subsection for restricting the grant of planning permission by local planning authorities, an application to the local planning authority for permission to develop land by the erection thereon of an industrial building of any class prescribed by regulations made for the purposes of this subsection by the Board of Trade shall be of no effect unless it is certified by the Board that the development in question can be carried out consistently with the proper distribution of industry, and a copy of the certificate is furnished to the local planning authority together with the application:

Provided that—

- (a) no such certificate as aforesaid shall be required in respect of the erection of any industrial building if the building does not cover an area of more than five thousand square feet; and

- (b) the regulations made by the Board for the purposes of this subsection may direct that no such certificate as aforesaid shall be required in respect of the erection, in any area prescribed by or under the regulations, of industrial buildings of any such class as may be so prescribed. ,
- (5) Every local planning authority shall keep, in such manner as. may be prescribed by the development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with; and every such register shall be available for inspection by the public at all reasonable hours.

13 Reference of applications to Secretary of State.

- (1) The Secretary of State may give directions to any local planning authority, or to local planning authorities generally, requiring that any application for planning permission, or all such applications of any class specified in the directions, shall be referred to the Secretary of State instead of being dealt with by the local planning authority, and any such application shall be so referred accordingly.
- (2) Where an application for planning permission is referred to the Secretary of State under this section, the provisions of subsection (1) and of subsection (2) other than the proviso thereto of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of the application by the Secretary of State as they apply in relation to the determination of such an application by the local planning authority:

Provided that before determining any such application the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) The decision of the Secretary of State on any application referred to him under this section shall be final.

14 Appeals to the Secretary of State.

- (1) Where application is made to a local planning authority for planning permission, or for any approval of that authority required under a development order, and that permission or approval is refused by that authority, or is granted by them subject to conditions, then, if the applicant is aggrieved by their decision, he may, by notice served within the time (not being less than twenty-eight days from the receipt of notification of their decision) and in the manner prescribed by the development order, appeal to the Secretary of State:

Provided that the Secretary of State shall not be required to entertain an appeal under this subsection in respect of the determination of an application for planning permission if it appears to him that that planning permission could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of section twelve of this Act and of the development order, and to any directions given under that order.

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- (2) Where an appeal is brought under this section from a decision of the local planning authority the Secretary of State may allow or dismiss the appeal or may reverse or vary any part of the decision of the local planning authority, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance; and the provisions of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of an application by the Secretary of State on appeal under this section as they apply in relation to the determination by the Secretary of State of an application referred to him under that section:

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the local planning authority to which the appeal does not relate, he shall give notice of his intention to the local planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.

- (3) Unless within such period as may be prescribed by the development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the local planning authority either—
- (a) give notice to the applicant of their decision on any application made to them for planning permission, or for any approval required under a development order, or
 - (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given by him under the last foregoing section,

the provisions of subsection (1) of this section shall apply in relation to the application as if the permission or approval to which it relates had been refused by the local planning authority, and as if notification of their decision had been received by the applicant at the expiration of the period prescribed by the development order or the extended period agreed upon as aforesaid, as the case may be.

- (4) Provision may be made by a development order for securing that in the case of decisions by a local planning authority of such classes as may be prescribed by the order (being decisions relating to the design or external appearance of buildings or other similar matters) any appeal under this section shall lie to an independent tribunal established in accordance with the provisions of that order instead of to the Secretary of State; and in relation to any such appeal the foregoing provisions of this section shall apply, subject to such adaptations and modifications as may be specified in the order, as they apply in relation to appeals to the Secretary of State thereunder.

15 Applications to determine whether planning permission required.

- (1) If any person who proposes to carry out any operations on land or make any change in the use of land wishes to have it determined whether those operations or the making of that change in the use of land would constitute or involve development of the land within the meaning of this Act, he may either as part of an application for permission to carry out those operations or to institute that use, or without any such application, apply to the local planning authority to determine that question.
- (2) The foregoing provisions of this Part of this Act shall, subject to any necessary modifications, apply in relation to any application under this section and to the determination thereof as they apply in relation to applications for planning permission and to the determination of such applications:

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Provided that where it is decided by the Secretary of State under any of the said provisions that any operations or use to which an application under this section relates would constitute or involve development, that decision shall not be final for the purposes of any appeal to the sheriff under the provisions of this Part of this Act relating to the enforcement of planning control, in relation to those Operations or that use.

16 Supplementary provisions as to grant of planning permission.

- (1) The power to grant planning permission shall include power to grant permission for the retention on land of any buildings or works constructed, or carried out thereon before the date of the application, or for the continuance of any use of land instituted before that date (whether without planning permission or in accordance with such permission granted for a limited period only); and references in this Part of this Act to planning permission and to applications for such permission shall be construed accordingly.
- (2) Any such permission as is mentioned in the foregoing subsection may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or from the expiration of the said period, as the case may be.
- (3) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.
- (4) Where planning permission is granted for any development, then, except as may be otherwise provided by the permission, the grant of permission shall enure for the benefit of the land to which the permission relates and of all persons for the time being interested therein, but without prejudice to the provisions of this Part of this Act with respect to the revocation and modification of planning permission.
- (5) Where planning permission is granted for a limited period only, nothing in this Part of this Act shall be construed as requiring planning permission to be obtained for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted:

Provided that in determining for the purposes of this subsection the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act, or begun before the appointed day in contravention of previous planning control within the meaning of section seventy-two of this Act.

17 Obligation to purchase land on refusal of planning permission in certain cases.

- (1) Where planning permission is refused, whether by the local planning authority or by the Secretary of State, or is granted by that authority or by the Secretary of State subject to conditions, then if any owner or lessee of the land concerned claims—
 - (a) that the land has become incapable of reasonably beneficial use in its existing state; and
 - (b) in a case where planning permission was granted as aforesaid subject to conditions, that the land cannot be rendered capable of reasonably beneficial

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used by the carrying out of the permitted development in accordance with those conditions;

- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been or is deemed to be granted or for which the local planning authority or the Secretary of State have undertaken to grant such permission,

he may, within the time and in the manner prescribed by regulations made under this Act, serve on the local planning authority in whose district the land is situated a notice (hereinafter referred to as a " purchase notice ") requiring that authority to purchase his interest in the land in accordance with the provisions of this section.

- (2) Where a purchase notice is served on any local planning authority under this section that authority shall forthwith transmit a copy of the notice to the Secretary of State, and subject to the following provisions of this section the Secretary of State shall, if he is satisfied that the conditions specified in the foregoing subsection are fulfilled, confirm the notice, and thereupon the authority shall be deemed to be authorised to acquire the interest of that person compulsorily in accordance with the provisions of Part III of this Act, and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct;

Provided that—

- (a) if it appears to the Secretary of State to be expedient so to do, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development;
- (b) if it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which permission ought to be granted, he may, in lieu of confirming the notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that such permission shall be so granted in the event of an application being made in that behalf;
- (c) if it appears to the Secretary of State to be expedient that another local authority should acquire the interest for the purpose of any of their functions, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land to which it relates by substituting that other authority for the local planning authority on whom the notice is served, and in any such case the foregoing provisions of this subsection shall have effect accordingly.

- (3) If within the period of six months from the date on which a purchase notice is served under this section the Secretary of State has neither confirmed the notice nor taken any such other action as is mentioned in paragraph (a) or paragraph (b) of the proviso to the last foregoing subsection, nor notified the owner or lessee, as the case may be, by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the authority on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of Part III of this Act, and to have served notice to treat in respect thereof at the expiration of the said period.

- (4) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.
- (5) Before confirming a purchase notice, or taking any other action in lieu thereof, under this section, the Secretary of State shall give notice of his proposed action—
- (a) to the person by whom the notice was served;
 - (b) to the local planning authority, on whom the notice was served; and
 - (c) to any other local authority whom the Secretary of State proposes, under subsection (2) of this section, to substitute for the said local planning authority;

and if within the period prescribed by the notice under this subsection (not being less than twenty-eight days from the service thereof) any person or authority on whom that notice is served so requires, the Secretary of State shall, before confirming the purchase notice or taking any such other action as aforesaid, afford to those persons and authorities an opportunity of appearing before and being heard by a person appointed by him for the purpose.

18 Compensation for refusal of planning permission in certain cases.

- (1) Where, on application for planning permission to carry out development of any class specified in Part II of the Third Schedule to this Act, permission for that development is refused by the Secretary of State, either on appeal or on the reference of the application to him for determination, or is so granted by the Secretary of State subject to conditions, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation (to be assessed in accordance with the provisions of the Fourth Schedule to this Act) equal to the difference.
- (2) In determining for the purposes of the foregoing subsection whether and to what extent the value of any interest in land is less than it would have been if the permission had been granted or had been granted unconditionally, as the case may be, it shall be assumed that any subsequent application for the like permission would be determined in the same way:

Provided that if, on the refusal of planning permission for the development in respect of which the application is made, the Secretary of State undertakes to grant planning permission for any other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking in determining the matters aforesaid.

- (3) Where a purchase notice served under the last foregoing section in respect of any interest in land does not take effect, or does not take effect in relation to any part of the land, by reason of any such direction as is mentioned in paragraph (b) of the proviso to subsection (2) of that section, then if it is shown, on a claim made to the local planning authority, within the time and in the manner prescribed by regulations under this Act that the permitted development value of that interest or, as the case may be, of that interest so far as it relates to that part of the land, is less than its compulsory purchase value, the local planning authority shall pay to the person entitled to that

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interest compensation (to be assessed in accordance with the provisions of the Fourth Schedule to this Act) equal to the difference.

- (4) For the purposes of the last foregoing subsection the expression "permitted development value," in relation to an interest in land in respect of which any such direction as is mentioned in that subsection has been given, means the value of that interest calculated with regard to the direction and to any determination of the Central Land Board under subsection (4) of section sixty-seven of this Act, but on the assumption that no permission would be granted under this Part of this Act otherwise than in accordance with the direction; and the expression "compulsory purchase value," in relation to any such interest means the value of that interest as it would be assessed in accordance with the provisions of section forty-eight of this Act for the purpose of ascertaining the compensation payable on a purchase thereof in pursuance of the purchase notice.
- (5) Where any such permission as is mentioned in subsection (1) of this section is granted by the Secretary of State subject to conditions, or where any permission required to be granted by any such direction as is mentioned in subsection (3) of this section would be so granted subject to conditions, being in either case conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or, in the case of permission to be granted in accordance with any such direction as aforesaid, for regulating the number of buildings to be erected on the land, then if it appears to the Secretary of State that it is reasonable, having regard to the local circumstances, so to do, he may direct that those conditions shall be disregarded, either altogether, or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under the said subsection (1) or under the said subsection (3), as the case may be.
- (6) Except as provided by subsection (3) of this section, no compensation shall be payable under this section in respect of any interest in land in respect of which a purchase notice is served under section seventeen of this Act.

19 Revocation and modification of planning permission.

- (1) Subject to the provisions of this section, if it appears to the local planning authority that it is expedient, having regard to the development plan and to any other material considerations, that any planning permission granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the permission to such extent as appears to them to be expedient as aforesaid:

Provided that no such order shall take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

- (2) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within such period as may be prescribed in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State shall, before confirming the order, afford to him, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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- (3) The power conferred by this section to revoke or modify planning permission may be exercised—
- (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed ;
 - (b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for 'the carrying out of building or other operations shall not 'affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

20 Supplementary provisions as to revocation and modification of planning permission.

- (1) Where planning permission is revoked or modified by an order made under the last foregoing section, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person interested in the land concerned has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that authority shall pay to that person compensation in respect of that expenditure, loss or damage:

Provided that unless either—

- (a) any sum has been paid under Part VI of this Act by way of development charge in respect of the development to which the permission relates; or
- (b) no such charge is payable in respect of that development by virtue of any of the provisions of Part VII of this Act;

no compensation shall be payable under this subsection in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

- (2) For the purposes of this section any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out .before the grant of the planning permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.
- (3) Where planning permission granted by a development order has been withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order, then if, on an application made in that behalf, planning permission is refused or is granted subject to conditions other than those previously imposed by the development order, the foregoing provisions of this section shall apply as if the planning permission granted by the development order had been granted by the local planning authority and had been revoked or modified by an order under the last foregoing section.
- (4) The provisions of section seventeen of this Act shall apply in relation to an order made under the last foregoing section revoking planning permission or modifying any such permission by the imposition of conditions, as they apply in relation to the refusal

of an application for such permission or the grant of such an application subject to conditions, and in any such case the said section seventeen shall have effect subject to the following modifications:—

- (a) in paragraph (b) of subsection (1), for the words "in a case where planning permission was granted as aforesaid subject to conditions " there shall be substituted the words " in a case where the planning permission was modified by the imposition of conditions "; and
 - (b) for paragraph (a) of the, proviso to subsection (2) there shall be substituted the following paragraph:—
 - “(a) if it appears to the Secretary of State to be expedient so to do he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted”;
- (5) Where the planning permission which is revoked or modified by an order under the last foregoing section is permission of any such class as is mentioned in subsection (1) of section eighteen of this Act, the provisions of that section shall apply as if for references therein to the refusal of the permission or the imposition of conditions on the grant thereof there were substituted references to the revocation of permission or the modification thereof by the imposition of conditions, and subsection (1) of that section shall have effect as if for the words " if the permission had been granted or had been granted unconditionally " there were substituted the words " if the permission had not been revoked or had not been modified. "
- (6) Where, by virtue of the foregoing provisions of this section, compensation is payable in respect of expenditure incurred in carrying out any work on land, then if a purchase notice is served under section seventeen of this Act in respect of any interest in that land, or a claim for compensation is made in respect of any such interest under subsection (1) of section eighteen of this Act, any compensation payable in respect of the acquisition of that interest under the said section seventeen or, as the case may be, any compensation payable in respect of that interest under the said section eighteen, shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under this section.
- (7) Any compensation payable under this section in respect of loss or damage consisting of depreciation in value of an interest in land shall be assessed in accordance with the provisions of the Fourth Schedule to this Act; and in calculating the amount of any such depreciation it shall be assumed that permission would be granted under this Part of this Act for development of the land of any class specified in the Third Schedule to this Act.

21 Enforcement of planning control.

- (1) If it appears to the local planning authority that any development of land has been carried out after the appointed day without the grant of planning permission in that behalf, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then, subject to any directions given by the Secretary of State, the local planning authority may, within two years after it

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has come to their knowledge that such development has been so carried out or that such conditions have not been complied with, if they consider it expedient so to do having regard to the provisions of the development plan and to any other material considerations, serve on the owner, on the lessee and on the occupier of the land a notice under this section.

- (2) Any notice served under this section (hereinafter called an "enforcement notice") shall specify the development which is alleged to have been carried out without the grant of planning permission or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period after the date on which the notice takes effect as may be so specified for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.
- (3) Subject to the provisions of the next following subsection, an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein:

Provided that if within the period aforesaid an application is made to the local planning authority under this Part of this Act for permission for the retention on the land of any buildings or works, or for the continuance of any use of the land, to which the enforcement notice relates, the notice shall not take effect until the expiry of the like period after the final determination of that application, and if such permission as aforesaid is granted on that application, the notice shall not take effect.

- (4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period specified in the notice as the period at the expiration of which the notice will take effect or, where an application has been made under the proviso to the last foregoing subsection, within the like period after the final determination of that application, appeal against the notice to the sheriff; and on any such appeal the sheriff—
- (a) if satisfied that planning permission was granted for the development to which the notice relates, or that no such permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the notice to which the appeal relates;
 - (b) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly;
 - (c) in any other case shall dismiss the appeal:

Provided that—

- (i) at any stage of the proceedings on such an appeal to him the sheriff may, and shall if so directed by the Court of Session, state a case for the opinion of the Court of Session on any question of law arising in connection with the appeal; and
- (ii) where the enforcement notice is varied or the appeal is dismissed, then, without prejudice to the provisions of the proviso to subsection (3) of this section, the sheriff may, if he thinks fit, direct that the enforcement notice

shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as he thinks fit.

22 Supplementary provisions as to enforcement.

- (1) If within the period specified in an enforcement notice, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the local planning authority may enter on the land and take those steps, and may recover as a civil debt from the person who is then the owner or the lessee of the land any expenses reasonably incurred by them in that behalf; and if that person, having been entitled to appeal to the sheriff under the last foregoing section, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken in accordance with the notice by the local planning authority.
- (2) Any expenses incurred by the owner, the lessee or the occupier of any land for the purpose of complying with an enforcement notice served under the last foregoing section in respect of any development, and any sums paid by the owner or by the lessee of any land under the foregoing subsection in respect of the expenses of the local planning authority in taking steps required to be taken by such a notice, shall be recoverable as a civil debt from the person by whom the development was carried out.
- (3) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, then if any person, without the grant of planning permission, uses the land or causes or permits the land to be used, or carries out or causes or permits to be carried out those operations, in contravention of the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (4) Nothing in this Part of this Act shall be construed as requiring planning permission to be obtained for the use of any land for the purpose for which it could lawfully have been used under this Part of this Act if the development in respect of which an enforcement notice is served under the last foregoing section had not been carried out.
- (5) Provision may be made by regulations under this Act for applying in relation to steps required to be taken by an enforcement notice under the last foregoing section either or both of the following provisions of the Water (Scotland) Act, 1946, that is to say—
 - (a) section fifty-seven (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under Part III of that Act); and
 - (b) section sixty-eight (which confers power to require the occupier of premises to permit works to be executed by the owner of the premises);

subject to such adaptations and modifications as may be specified in the regulations.

23 Agreements regulating development or use of land.

- (1) A local planning authority may, with the approval of the Secretary of State, enter into an agreement with any person interested in land in their area (in so far as the interest of that person enables him to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may

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be prescribed by the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement.

- (2) An agreement made under this section with any person interested in land, may, if the agreement shall have been recorded in the appropriate Register of Sasines, be enforceable at the instance of the authority against persons deriving title to the land from the person with whom the agreement was entered into:

Provided that no such agreement shall at any time be enforceable against a third party who shall have in bona fide onerously acquired right (whether completed by infetment or not) to the land prior to the agreement being recorded as aforesaid or against any person deriving title from such third party.

- (3) Nothing in this section or in any agreement made thereunder shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, 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 Secretary of State under section thirty-three of this Act, or as requiring the exercise of any such powers otherwise than as aforesaid.

Additional powers of control.

24 Powers relating to authorised uses.

- (1) Without prejudice to the provisions of this Part of this Act with respect to the service of enforcement notices, if it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity), regard being had to the development plan and to any other material considerations—
- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance thereof, or
 - (b) that any buildings or works should be altered or removed,

they may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be;

Provided that no such order shall take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

- (2) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State shall, before confirming the order, afford to that person, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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- (3) Where an order under this section has been confirmed by the Secretary of State, a copy of the order shall be served by the local planning authority on the owner, on the lessee and on the occupier of the land to which the order relates.
- (4) Where, by virtue of an order made under this section, the use of any land for any purpose is required to be discontinued, or any conditions are imposed on the continuance thereof, then if any person, without the grant of permission in that behalf under this Part of this Act, uses the land for that purpose or, as the case may be, uses the land for that purpose in contravention of those conditions, or causes or permits the land to be so used, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if the use is continued after conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (5) If within the period prescribed in that behalf by an order under this section any steps required by that order to be taken for the alteration or removal of any buildings or works have not been taken, the local planning authority may, and shall if so required by directions of the Secretary of State, enter on the land and take those steps.
- (6) An order under this section may grant permission for any development of the land to which the order relates subject to such conditions as may be specified in the order; and the provisions of this Part of this Act shall apply in relation to any permission so granted as they apply in relation to permission granted by the local planning authority on an application in that behalf made thereunder.
- (7) Where the requirements of any order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is not other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.

25 Provisions supplementary to s. 24.

- (1) Where an order is made under the last foregoing section requiring any use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage; and any compensation payable under this subsection in respect of the depreciation in the value of an interest in the land shall be assessed in accordance with the provisions of the Fourth Schedule to this Act.
- (2) Without prejudice to the foregoing provisions of this section and subject to the provisions of paragraph 4 of the Fourth Schedule to this Act, any person who carries out any works in compliance with an order under the last foregoing section shall be entitled, on a claim made as aforesaid, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.
- (3) If any person entitled to an interest in land in respect of which an order is made under the last foregoing section claims that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which

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planning permission has been granted, whether by that order or otherwise, he may serve a purchase notice in respect of his interest in accordance with the provisions of subsection (1) of section seventeen of this Act; and in relation to a purchase notice so served the provisions of the said section seventeen shall apply as they apply in relation to a notice served under subsection (1) of that section, subject to the following modifications :—

- (a) in subsection (2), for the words " the conditions specified in the foregoing subsection " there shall be substituted the words " the conditions specified in subsection (3) of section twenty-five of this Act ";
 - (b) for paragraph (a) of the.; proviso to the said subsection (2) there shall be substituted the following paragraph:—
 - “(a) if it appears to the Secretary of State to be expedient so to do he may, in lieu of confirming the purchase notice, revoke the order under section twenty-four of this Act or, as the case may be, amend that order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order.”
- (4) Where a purchase notice in respect of any interest in land is served under the said section seventeen in consequence of an order made in relation to the land under the last foregoing section, then if that interest is purchased in accordance with the said section seventeen, or if compensation is payable in respect thereof under subsection (3) of section eighteen of this Act, no compensation shall be payable under this section in respect of that order.
- (5) Except as provided by this section, no purchase notice shall be served under the said section seventeen in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of an order made under the last foregoing section.

26 Orders for preservation of and woodlands.

- (1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order (in this Act referred to as a " tree preservation order ") with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—
- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;
 - (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
 - (c) for applying, in relation to any consent under the order, and to applications therefor, any of the provisions of this Part of this Act relating to planning permission, and to applications for such permission, subject to such adaptations and modifications as may be specified in the order.
- (2) An order made under the last- foregoing subsection may provide for the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or

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incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.

- (3) A tree preservation order shall not be made in respect of woodlands which are the subject of a forestry dedication agreement under the Forestry Act, 1947, or in respect of which advances have been made by the Forestry Commissioners under the Forestry Acts, 1919 to 1947.
- (4) A tree preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient. As soon as may be after a tree preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the local planning authority.
- (5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders and the procedure to be followed in connection with the submission and confirmation of such orders, and such regulations shall, in particular, make provision for securing—
 - (a) that notice shall be given to the owners, lessees and occupiers of land affected by any such order of the submission to the Secretary, of State of the order;
 - (b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Secretary of State; and
 - (c) that copies of the order when confirmed by the Secretary of State shall be served on the owners, lessees and occupiers of the land to which it relates:

Provided that where it appears to the Secretary of State that any such order should take effect immediately, he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of objections and representations, but any order so confirmed shall cease to have effect upon the expiration of two months from the date on which it is so confirmed unless within that period it has again been confirmed, with or without modifications, after compliance with those requirements.

- (6) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if, in the case of a continuing offence, the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued:

Provided that nothing in a tree preservation order shall prohibit the felling or lopping of any tree if such felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the local planning authority as soon as may be after the necessity for the operations arises, or if such felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.

27 Orders for the preservation of buildings of special architectural or historic interest.

- (1) If it appears to a local planning authority that it is expedient to make provision for the preservation of any building of special architectural or historic interest iii their

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district, they may for that purpose make an order (in this Act referred to as a " building preservation order ") restricting the demolition, alteration or extension of the building:

Provided that no such order shall be made in relation to a building being—

- (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes;
- (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or
- (c) a building for the time being included in a list of monuments published by the Minister of Works under any such enactment as aforesaid;

and no such order shall be made so as to affect the powers of the Minister of Works under any such enactment as aforesaid.

- (2) Provision may be made by a building preservation order for requiring the consent of the local planning authority to be obtained for the execution of works of any description specified in the order, and for applying, in relation to such consent and to applications therefor, any of the provisions of this Part of this Act relating to planning permission and to applications for such permission, subject to such adaptations and modifications as may be specified in the order; and provision may be made by such an order for the payment by that authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or the grant of any such consent subject to conditions.
- (3) A building preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient:

Provided that such an order requiring the consent of the local planning authority to be obtained for the execution of any works shall not be made by the authority or confirmed by the Secretary of State, unless the authority or the Secretary of State is satisfied that the execution of the works would seriously affect the character of the building.

As soon as may be after a building preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the local planning authority.

- (4) Provision may be made by regulations under this Act with respect to the form of building preservation orders and the procedure to be followed in connection with the submission and confirmation of such orders, and such regulations shall, in particular, make provision for securing—
- (a) that notice shall be given to the owner, to the lessee and to any occupier of the building affected by any such order of the submission to the Secretary of State of the order;
 - (b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Secretary of State; and
 - (c) that a copy of the order when confirmed by the Secretary of State shall be served on the owner, on the lessee and on any occupier of the building to which it relates:

Provided that where it appears to the Secretary of State that any such order should take effect immediately, he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of

objections and representations, but any order so confirmed shall cease to have effect upon the expiration of two months from the date on which it is so confirmed unless within that period it has again been confirmed, with or without modifications, after compliance with those requirements.

- (5) If any person, being the owner of a building in relation to which a building preservation order is in force or a person upon whom a copy of such an order has been served, executes or causes or permits to be executed any works in contravention of the order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds; and the court by whom he is convicted may require him within such period as they think proper to take such steps as they may specify for restoring the building, so far as may be, to its former state; and if within that period such steps have not been taken the court may authorise the local planning authority to enter on the land and take those steps, and to recover from him as a civil debt any expenses reasonably incurred by them in that behalf:

Provided that nothing in this subsection shall render unlawful the execution of any such works as aforesaid which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is given to the local planning authority as soon as may be after the necessity for the works arises.

28 Lists of buildings of special architectural or historic interest.

- (1) With a view to the guidance of local planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, either with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) Before compiling or approving, either with or without modifications, any list under this section, or amending any list thereunder, the Secretary of State shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of or interest in buildings of architectural or historic interest.
- (3) As soon as may be after any list has been compiled or approved under this section, or any amendments of such a list have been made, a copy of so much of the list as relates to the district of any local authority being the local planning authority or the local authority for the purposes of the Housing (Scotland) Acts, 1925 to 1946, or of so much of the amendments as relate thereto, as the case may be, certified by or on behalf of the Secretary of State to be a true copy thereof, shall be deposited with the clerk of that authority.
- (4) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the Secretary of State shall serve a notice on every owner, lessee and occupier of the building stating that the building has been included in, or excluded from, the list, as the case may be.
- (5) Any list compiled by the Secretary of State, and any instrument of the Secretary of State approving or amending any list under this section, shall, as soon as may be after such list or instrument is compiled or made, be recorded by him in the appropriate Register of Sasines.

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- (6) So long as any building (not being a building to which an order under the last foregoing section applies or a building of any description specified in the proviso to subsection (1) of that section) is included in any list compiled or approved under this section no person shall execute or cause or permit to be executed any works for the demolition of the building or for its alteration or extension in any manner which would seriously affect its character, unless at least two months before the works are executed notice in writing of the proposed works has been given to the local planning authority:

Provided that nothing in this subsection shall render unlawful the execution of any such works as aforesaid which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice is given as aforesaid as soon as may be after the necessity for the works arises.

- (7) Where a local planning authority- receive notice of any proposed works under the last foregoing subsection, they shall as soon as may be send a copy of the notice to the Secretary of State and to such other persons or bodies of persons as may be specified by directions of the Secretary of State either generally or as respects the building in question.
- (8) If any person contravenes the provisions of subsection (6) of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and the court by whom he is convicted may require him, within such period as they may fix, to take such steps as they think fit for so restoring the building. If, within such period or within such extended period as the court may allow, any steps required by them to be taken for restoring the building, so far as may be, to its former state, have not been taken by him, the local planning authority may enter on the land and take those steps, and may recover from him as a civil debt any expenses reasonably incurred by them in that behalf.

29 Control of advertisements.

- (1) Subject to the provisions of this section, provision may be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety, and, without prejudice to the generality of the foregoing provision, any such regulations may provide—
- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which such advertisements may be displayed, and the manner in which, they are to be affixed to land;
 - (b) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;
 - (c) for applying, in relation to any such consent and to applications therefor, any of the provisions of this Part of this Act relating to planning permission and to applications for such permission, subject to such adaptations and modifications as may be specified in the regulations;
 - (d) for enabling the local planning authority to require the removal of any advertisement which is being displayed in contravention of the regulations or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the regulations, and for that purpose for applying any of the provisions of this Part of this Act with

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respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations;

- (e) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.
- (2) Without prejudice to the generality of the powers conferred by paragraph (c) of the foregoing subsection, regulations made for the purposes of this section may provide that any appeal from the decision of the local planning authority on an application for their consent under the regulations shall lie to an independent tribunal constituted in accordance with the regulations instead of to the Secretary of State.
- (3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision with respect to areas defined for the purposes of the regulations as areas of special control (being either rural areas or areas other than rural areas which appear to the Secretary of State to require special protection on grounds of amenity); and without prejudice to the generality of the foregoing provision may prohibit the display in any such area of all advertisements, except advertisements of such classes, if any, as may be specified in the regulations.
- (4) Areas of special control for the purposes of regulations under this section may be defined either by reference to provisions included in that behalf in development plans or by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations:

Provided that where the Secretary of State is authorised by the regulations to make or approve any such order as aforesaid, the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed by the regulations, for the consideration of objections duly made thereto, and for the holding of such inquiries or other hearings as may be so prescribed, before the order is made or approved.

- (5) Subject as hereinafter provided, regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site which was being used for that purpose on that date:

Provided that any such regulations shall provide for exempting therefrom—

- (a) the continued display of any such advertisement as aforesaid, and
- (b) the continued use for the display of advertisements of any such site as aforesaid,

during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

- (6) Nothing in this section or in any regulations made thereunder shall be construed as authorising the restriction, or regulation of the display of any advertisement by reason only of the subject matter or wording thereof.

30 Provisions supplementary to s. 29.

- (1) Where the display of advertisements in accordance with regulations made under the last foregoing section involves the development of land within the meaning of this Act, planning permission for that development shall be deemed to be granted by virtue

of this section, and no application shall be necessary in that behalf under the foregoing provisions of this Part of this Act.

- (2) Where for the purpose of complying with any such regulations as aforesaid, works are carried out by any person for the removal of advertisements being displayed on the date on which the regulations come into force or the discontinuance of the use for the display of advertisements of any site used for that purpose on that date, that person shall be entitled, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, to recover from that authority compensation in respect of any expenses reasonably incurred by him in that behalf:

Provided that no compensation shall be payable under this subsection in respect of the removal of any advertisement which was not being displayed on the seventh day of January, nineteen hundred and forty-seven.

- (3) Without prejudice to any provisions included in regulations made under the last foregoing section by virtue of paragraph (d) of subsection (1) of that section, if any person displays an advertisement in contravention of the provisions of the regulations, he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding fifty pounds and, in the case of a continuing offence, forty shillings for each day during which the offence continues after conviction.
- (4) For the purposes of the last foregoing subsection and without prejudice to the generality thereof a person shall be deemed to display an advertisement if—
- (a) the advertisement is displayed on land of which he is the owner or occupier; or
 - (b) the advertisement gives publicity to his goods, trade, business or other concerns:

Provided that a person shall not be guilty of an offence under the said subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

31 Powers relating to ruinous or dilapidated buildings, waste land, etc.

- (1) Where it appears to the local planning authority that the amenity of any land is seriously injured by reason of the ruinous or dilapidated condition of any building in their district or by the condition of any derelict, waste, neglected or other land in their district, then, subject to any directions given by the Secretary of State, the authority may serve on the owner, on the lessee and on the occupier of the building or land a notice requiring such steps for abating the injury as may be specified in the notice to be taken within such period as may be so specified:

Provided that no such notice may be served with reference to any building which is—

- (a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or
 - (b) a building for the time being included in a list of monuments published by the Minister of Works under any such enactment as aforesaid.
- (2) In relation to any notice served under this section the provisions of subsections (3) and (4) of section twenty-one of this Act, and of subsections (1), (2) and (5) of section twenty-two of this Act shall, subject to any necessary modifications, apply as those

provisions apply in relation to an enforcement notice served under the said section twenty-one.

Supplemental.

32 Application to local authorities and statutory undertakers.

- (1) Where the sanction of a government department other than the Secretary of State is required by virtue of any enactment in respect of development to be carried out by any local authority or by any statutory undertakers not being a local authority, that department may, upon granting that sanction, direct that planning permission for that development shall be deemed to be granted subject to such conditions (if any) as may be specified in the directions: and the provisions of this Part of this Act shall apply in relation to any permission deemed to be granted by virtue of such directions as if the application for that permission had been granted by the Secretary of State on an application referred to him under section thirteen of this Act.
- (2) Without prejudice to the provisions of the foregoing subsection, the provisions set out in the Fifth Schedule to this Act (being provisions re-enacting with additions and modifications sections thirty-four and thirty-five of the Act of 1945) shall have effect for the purposes of the application of this Part of this Act to land of statutory undertakers being operational land as defined by this Act, and to the development of such land by such undertakers:

Provided that the provisions of the said Schedule shall not apply in relation to the display of advertisements on. operational land.
- (3) In relation to land of local planning authorities and to the development by local authorities of land in respect of which they are the local planning authority, the provisions of this Part of this Act (including, in the case of a local planning authority who carry on a statutory undertaking, the last foregoing subsection and the Fifth Schedule to this Act) shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act, and in particular such regulations may (subject to the provisions of subsection (1) of this section) provide for securing—
 - (a) that any application by such an authority for planning permission to develop such land, or for any other consent required in relation to such land under this Part of this Act, shall be made to the Secretary of State instead of to the local planning authority;
 - (b) that any notice or order authorised to be served or made under this Part of this Act in relation to such land shall be served or made by the Secretary of State instead of by that authority.
- (4) For the purposes of this section and of the Fifth Schedule to this Act development by a local authority or by statutory undertakers shall be deemed to be sanctioned by a government department if—
 - (a) any consent, authority or approval to or for the development is granted by the department in pursuance of any enactment;
 - (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;
 - (c) consent is granted by the department to the appropriation of land for the purpose of the development, or the acquisition of land by agreement for that purpose;

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- (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or
- (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with any enactment authorising the payment of such grants,

and references in this section and in the said Fifth Schedule to the sanction of a government department shall be construed accordingly.

33 Temporary provisions pending approval of plans.

Where, under the foregoing provisions of this Part of this Act, a local planning authority are required to have regard to the provisions of the development plan in relation to the exercise of any of their functions, then, in relation to the exercise of those functions during any period "before such a plan has become operative with respect to the district of that authority, that authority shall have regard to any directions which may be given to them by the Secretary of State as to the provisions to be included in such a plan, and subject to any such directions shall have regard to the provisions which in their opinion will be required to be so included for securing the proper planning of the said district.

PART III

ACQUISITION OF LAND, ETC.

Acquisition and disposal of land for planning purposes.

34 Compulsory acquisition by Ministers, local authorities and statutory undertakers.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition by any Minister, local authority or statutory undertakers, that Minister or authority or those undertakers may be authorised to acquire that land compulsorily in accordance with the provisions of this section.
- (2) If, during the period before a development plan has become operative under this Act with respect to any district—
 - (a) the Secretary of State and the Minister of Works are satisfied that the acquisition of any land in that district is necessary for the public service or otherwise for the purposes of any of the functions of the Minister of Works; or
 - (b) the Secretary of State and the Postmaster-General are satisfied that the acquisition of any such land is necessary for the purposes of the Post Office,
 the Minister of Works or the Postmaster-General, as the case may be, may be authorised to purchase that land compulsorily in accordance with the provisions of this section.
- (3) The compulsory acquisition of land under this section may be authorised—
 - (a) in the case of land designated by a development plan as subject to acquisition by a Minister, by that Minister;

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- (b) in the case of land so designated as subject to acquisition by a local authority, by the Minister concerned with the function in question;
 - (c) in the case of land so designated as subject to acquisition by any statutory undertakers, by the Minister who is the appropriate Minister for the purposes of those undertakers;
 - (d) in the case of such land as is mentioned in subsection (2) of this section, by the Minister of Works or the Postmaster-General, as the case may be.
- (4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—
- (a) as if this section had been in force immediately before the commencement of that Act;
 - (b) as if any reference in that Act to a local authority (except the references thereto in subsection (2) of section one and in paragraph 9 of the First Schedule) included a reference to statutory undertakers; and
 - (c) as if references therein to the Minister of Transport and to the enactments specified in paragraph (b) of subsection (1) of section one of that Act included respectively references to any Minister and to the provisions of this section.
- (5) Any expenses incurred by the Minister of Transport in the acquisition of land under this section for the purpose of the construction or improvement of a road shall be defrayed out of the Road Fund.

35 Compulsory acquisition by local planning authorities of land for development.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority, then if the Secretary of State is satisfied—
- (a) in the case of land comprised in an area defined by the plan as an area of comprehensive development, that the land is required in order to secure the development or redevelopment of the said area or that it is expedient in the public interest that the land should be held together with land so required;
 - (b) in any other case, that it is necessary that the land should be acquired under this section for the purpose of securing its use in the manner proposed by the plan,
- he may authorise the local planning authority to acquire the land compulsorily in accordance with the provisions of this section.
- (2) If, during the period before a development plan has become operative under this Act with respect to any area, the Secretary of State is satisfied that the acquisition of any land under this section is expedient
- (a) for any purpose which appears to him to be immediately necessary in the interests of the proper planning of that area (not being a purpose for which a local authority could be authorised to acquire the land compulsorily under any other enactment);
 - (b) for any other purpose for which, by virtue of paragraph (c) or (d.) of subsection (1) of section ten of the Act of 1945 a local planning authority could be authorised to acquire land before the appointed day,
- he may authorise the local planning authority to acquire the land compulsorily in accordance with the provisions of this section.

Status: This is the original version (as it was originally enacted).

- (3) Where, under the foregoing provisions of this section, the Secretary of State has power to authorise the local planning authority to acquire any land compulsorily, he may, if he thinks fit after consultation with the local planning authorities concerned, authorise the land to be so acquired by any other local planning authority instead of by that authority.
- (4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the compulsory acquisition of land under this section.

36 Power to expedite completion of purchase under s. 35.

- (1) If the Secretary of State is satisfied, in the case of a compulsory purchase order submitted to him under the last foregoing section by a local planning authority, that it is urgently necessary in the public interest to empower that authority to enter on the whole or any part of the land to which the order relates and secure its vesting in them before the expiration of the time which would be required for the service of notices to treat, he may include in the order as confirmed by him a direction that the provisions of the Sixth Schedule to the Act of 1945 shall apply to the order so far as it relates to that land :

Provided that no such direction shall be so included in a compulsory purchase order unless application in that behalf is included in the order as submitted to the Secretary of State.

- (2) A compulsory purchase order which contains any such direction as aforesaid shall, as soon as may be after the order becomes operative, be recorded in the appropriate Register of Sasines by the local planning authority.
- (3) Where a compulsory purchase order containing any such direction as aforesaid is made in respect of any interest in land which has sustained war damage, then, if any of that damage has not been made good at the date on which notice to treat is deemed to have been served, the local planning authority shall, when they record the order in the appropriate Register of Sasines, notify the War Damage Commission of that action having been taken.
- (4) Any reference in the Sixth Schedule to the Act of 1945 to a purchase order providing for expedited completion, or to the purchasing authority, shall be construed as a reference to a compulsory purchase order containing any such direction as aforesaid, and to the local planning authority authorised to acquire land by that order, as the case may be.
- (5) Paragraph 3 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which provides for entry on land before the purchase money has been paid, notwithstanding the provisions of sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845) and paragraph 4 of that Schedule (which makes special provision, in substitution for section ninety of the said Lands Clauses Consolidation (Scotland) Act, 1845, with respect to the sale

of parts of houses and other premises) shall not apply to a compulsory purchase order containing any such direction as aforesaid.

37 Acquisition of land by agreement for development.

- (1) A local planning authority may, with the consent of the Secretary of State, acquire by agreement any land (whether or not being land designated by a development plan as subject to compulsory acquisition) which they require for any purpose for which a local planning authority may be authorised to acquire land compulsorily under section thirty-five of this Act.
- (2) The Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections one hundred and twenty to one hundred and twenty-five of the Lands Clauses Consolidation (Scotland) Act, 1845) and sections six and seventy of the Railways Clauses Consolidation (Scotland) Act, 1845, and sections seventy-one to seventy-eight of that Act, as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking or to the company shall be construed as references to the authority authorised to acquire the land under this section.

38 Power to acquire buildings of special architectural or historic interest.

- (1) Where a building preservation order is in force as respects any building and it appears to the Secretary of State that reasonable steps are not being taken for properly preserving the building, the Secretary of State may authorise the local planning authority to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access thereto, or for the proper control or management thereof.
- (2) Where a building preservation order is in force as respects any building and it appears to the Minister of Works that reasonable steps are not being taken for properly preserving the building, that Minister may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required as mentioned in the foregoing subsection.
- (3) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—
 - (a) as if this section had been in force immediately before the commencement of that Act;
 - (b) as if references therein to the Minister of Transport and to the enactments specified in paragraph (b) of subsection (1) of section one of that Act included respectively references to the Minister of Works and to the provisions of this section:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the compulsory acquisition of land under this section.

Status: This is the original version (as it was originally enacted).

- (4) Any person having an interest in any building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order, and if the sheriff is satisfied that reasonable steps are being taken for properly preserving the building, he shall make an order accordingly.
- (5) Without prejudice to the generality of the powers conferred by the foregoing provisions of this Part of this Act, any power of a local planning authority to acquire land by agreement there under shall include power to acquire by agreement any building as respects which a building preservation order is in force or could be made, and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for the purposes specified in subsection (1) of this section.
- (6) Where any building as respects which a building preservation order is in force is acquired by a local planning authority under the provisions of this section the authority shall observe the provisions of that order.

39 Power of local authorities to appropriate certain land for planning purposes.

- (1) Any local authority may be authorised, by order made by that authority and confirmed by the Secretary of State, to appropriate for any purpose specified in a development plan (being a purpose for which that authority can be authorised to acquire land under any enactment) any land for the time being held by them for other purposes, being land which is or forms part of a common or open space (including any such land which is specially regulated by any enactment, whether public general or local or private).
- (2) Paragraph 11 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which makes special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common or open space) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act.
- (3) Without prejudice to the generality of the powers conferred by the foregoing provisions of this Part of this Act, any power of a local authority to acquire land (whether compulsorily or by agreement) thereunder shall include power to acquire land required for giving in exchange for land appropriated under this section for any purpose specified in a development plan.
- (4) Section one hundred and sixty-three of the Local Government (Scotland) Act, 1947 (which empowers local authorities to appropriate land belonging to them) shall not apply to land which a local authority have power to appropriate under subsection (1) of this section.
- (5) Where any land appropriated under this section was acquired under any enactment incorporating the Lands Clauses Acts, any work executed on the land after the appropriation has been effected shall, for the purposes of section six of the Railways Clauses Consolidation (Scotland) Act, 1845, be deemed to have been authorised by the enactment under which the land was acquired.

40 Acquisition of land by Central Land Board.

- (1) The Central Land Board may, with the approval of the Secretary of State, by agreement acquire land for any purpose connected with the performance of their functions under the following provisions of this Act, and in particular may so acquire any land for the purpose of disposing of it for development for which planning permission has been granted on terms inclusive of any development charge payable under those provisions in respect of that development.
- (2) If the Secretary of State is satisfied that it is expedient in the public interest that the Board should acquire any land for any such purpose as aforesaid, and that the Board are unable to acquire the land by agreement on reasonable terms, he may authorise the Board to acquire the land compulsorily in accordance with the provisions of this section.
- (3) Subsection (4) of section thirty-five and section thirty-six of this Act shall apply to the compulsory acquisition of land by the Central Land Board under this section as they apply to the compulsory acquisition of land by local planning authorities under the said section thirty-five; and for the purposes of this section the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall have effect as if any reference therein to a local authority (except the references thereto in subsection (2) of section one and in paragraph 9 of the First Schedule) included a reference to the Board.
- (4) Any land acquired by the Central Land Board under the provisions of this section shall be disposed of by them by way of sale, feu or lease in accordance with such directions as may be given to them in that behalf by the Secretary of State, and until the land is so disposed of the Board shall manage it in accordance with such directions:

Provided that nothing in this section shall be construed as authorising the Board to carry out any development of land acquired by them thereunder.
- (5) Any expenses incurred by the Central Land Board in the acquisition of land under this section shall be paid out of moneys provided by Parliament; and any sums received by the Board in respect of the disposal of any such land shall be paid into the Exchequer.
- (6) Provision may be made by regulations under this Act for requiring the Central Land Board to keep a register in Scotland containing such particulars as may be prescribed by the regulations of land acquired and disposed of under this section, and for the inspection of any such register by the public on payment of such reasonable fee, if any, as may be so prescribed.

41 Incorporation of certain provisions of Act of 1945.

- (1) Sections eighteen to twenty-nine of the Act of 1945 (which provide for the disposal and appropriation by local planning authorities of land acquired or appropriated under Part I of that Act, for the carrying out by such authorities of development of such land, and for other matters arising in relation to the acquisition of land under that Part) shall, except so far as repealed by this Act, be incorporated with this Part of this Act, subject to the amendments specified in the second column of the Eighth Schedule to this Act and to the following provisions of this section.
- (2) Subsection (3) of section nineteen of the Act of 1945 (which provides that in certain cases the Secretary of State shall not give his consent to the carrying out of any operation by the local planning authority under that section if a person other than that authority is able and willing to carry out the operation) shall cease to have effect.

- (3) Paragraph 8 of the Fifth Schedule to the Act of 1945 (which relates to the assessment of compensation in respect of the compulsory acquisition of certain dwelling houses unfit for human habitation) shall apply in relation to the compulsory acquisition of land under this Part of this Act subject to the amendments specified in the second column of the Eighth Schedule to this Act.

42 Amendment of 10 & 11 Geo. 6. c. 42, in relation to acquisition of land under Part III.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition for any purpose, then, if a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part I of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, or, as the case may be, is made in draft by a Minister in accordance with Part II of that Schedule, the confirming authority or that Minister, as the case may be, may disregard for the purposes of that Schedule any objection to the order or draft which, in the opinion of that authority or Minister, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.
- (2) Where a compulsory purchase order authorising the acquisition of any land under section thirty-five of this Act is submitted to the Secretary of State in accordance with Part I of the said First Schedule, then if he is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised therein, but has not for the time being determined whether or not it ought to be confirmed so far as it relates to any other such land, he may confirm the order so far as it relates to the first-mentioned land and give directions postponing consideration of the order so far as it relates to any other land specified in the directions until such time as may be so specified; and in any such case the notices required by paragraph 6 of the said First Schedule to be published and served shall include a statement of the effect of the directions.
- (3) Paragraph 9 of the said First Schedule (which makes special provision in relation to the compulsory acquisition of land of local authorities and statutory undertakers and inalienable land of the National Trust for Scotland) shall not apply to land which is designated by a development plan as subject to compulsory acquisition.
- (4) Notwithstanding anything in paragraph 10 of the said First Schedule, a compulsory purchase order may be confirmed or made under this Act authorising the acquisition of land which has been acquired by statutory undertakers for the purposes of their undertaking (whether or not the land is designated as mentioned in the last foregoing subsection) without any such certificate as is mentioned in the said paragraph 10:

Provided that except where such a certificate is given as aforesaid, or the land is designated as mentioned in the last foregoing subsection.—

- (a) the order shall be of no effect unless it is confirmed or made by the appropriate Minister jointly with the Minister or Ministers who would apart from this provision have power to make or confirm it; and
- (b) if any objection to the order is duly made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.
- (5) Where any such land as is mentioned in the last foregoing subsection is compulsorily acquired without any such certificate as is therein referred to, any compensation payable to the statutory undertakers in respect of the purchase shall be assessed in accordance with the provisions of the Fourth Schedule to the Act of 1945.

- (6) Regulations made under this Act may provide for securing that any proceedings required by the said First Schedule to be taken for the purposes of the compulsory acquisition of any land under this Act may be taken concurrently with any proceedings required by or under this Act to be taken in connection with the approval, making or amendment of a development plan designating that land as subject to compulsory acquisition.
- (7) In construing the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, 1845, as incorporated by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, with Part III of this Act—
- (a) 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 section twenty-one of the Act of 1945 (as incorporated with this Part of this Act by virtue of section forty-one of this Act), and in relation to any such erection, construction or carrying out any reference in section six of the Railways Clauses Consolidation (Scotland) Act, 1845, to the company shall notwithstanding anything in subparagraph (b) of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, be construed as a reference to the person by whom the buildings or works in question are erected, constructed or carried out;
 - (b) 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 a Minister, or by or on behalf of statutory undertakers, on land acquired by that Minister or those undertakers, for the purposes for which the land was acquired.

43 Acquisition of land by Development Corporations under New Towns Act, 1946.

- (1) For the avoidance of doubt it is hereby declared that the powers of acquiring land conferred by the New Towns Act, 1946, on a development corporation established for the purposes of a new town include power to acquire any land within the area designated under that Act as the site of the new town whether or not it is proposed to develop or redevelop that particular land.
- (2) Section five of the said Act (which regulates the disposal of land by development corporations) shall have effect as if in subsection (1), after the words " this Act " in the second place where those words occur, there were inserted the words " or for purposes connected therewith. "

Powers relating to highways.

44 Construction of highways on land acquired under Part III.

- (1) Section ten of the Development and Road Improvement Funds Act, 1909 (which enables the Minister of Transport to authorise the construction of new roads in respect of which advances are made under that Act and provides for the expenses of the construction, and for the maintenance, of such roads) shall apply in relation to the construction of a new road by a local highway authority on land defined by a development plan as the site of a proposed road or on any other land acquired by of

disposed of to them under this Part of this Act as if the road were a road in respect of the construction of which an advance were made to that authority under that section.

- (2) Without prejudice to the provisions of subsection (8) of section six of the Trunk Roads Act, 1936 (which provide for contributions by local authorities towards expenses incurred by the Minister of Transport under that Act) any local authority may contribute towards any expenses incurred by a local highway authority or by the Minister of Transport in the acquisition of land under this Part of this Act or in the construction or improvement of roads on land so acquired or in connection with any development required in the interests of the proper planning of the district of the local authority.

45 Construction and improvement of private streets, etc.

- (1) The provisions of this section shall apply in relation to any land defined by a development plan as the site of a proposed road or as land required for the widening of an existing road.
- (2) In relation to any such land as aforesaid situated in the landward area of a county the provisions of sections one hundred and thirty-three to one hundred and thirty-five, sections one hundred and thirty-seven to one hundred and forty-three, sections one hundred and fifty, one hundred and fifty-one and one hundred and fifty-four of the Burgh Police (Scotland) Act, 1892, and the provisions of sections sixteen to twenty-two of the Burgh Police (Scotland) Act, 1903 (which relate to private streets, the laying out of new streets and the improvement of streets), shall apply, subject to such adaptations and modifications as may be necessary, as if the land were a street to which those provisions apply.
- (3) In relation to any such land as aforesaid situated in a burgh to which the provisions of the Burgh Police (Scotland) Acts, 1892 to 1903, apply, the provisions of sections one hundred and fifty-one and one hundred and fifty-four of the Burgh Police (Scotland) Act, 1892 (which relate to the laying out and improvement of streets) shall have effect, subject to such adaptations and modifications as may be necessary, as if the land were a street to which those provisions apply, and in relation to any such land as aforesaid situated in any other burgh, the corresponding provisions of any local enactments shall have effect, subject to such adaptations and modifications as may be necessary, as if the land were a street to which the provisions of those enactments apply.
- (4) Regulations may be made under this section for the purpose of securing—
- (a) that the amount of the expenses incurred by a local highway authority and charged by them on the owners of land, frontagers or other persons under the provisions of the enactments referred to in the last foregoing subsection shall not exceed the amount which would at the date of the commencement of the works have been the cost of the execution of street works in the course of the construction, widening or improvement if it had been carried out so as to comply with any enactments, byelaws, or regulations in operation in the area and, as respects matters for which no provision is made in any such enactments, byelaws or regulations, so as to comply with such specification as the local highway authority would at the date of the commencement of the works have required as a condition of taking over the street as a street maintainable by that authority;
 - (b) that as soon as the street has been made up or widened by or to the satisfaction of the local highway authority it shall become a street maintainable by that authority;

- (c) that no expenses incurred in the execution of any street works shall be recoverable against agricultural land or buildings until the land or buildings cease to be agricultural land or buildings;
 - (d) that no expenses incurred in the execution of street works for the purpose of making a new street shall be recoverable in respect of any land (whether the site of a building or not) unless and until access is provided for and used by persons or vehicles from that land to the new street.
- (5) Regulations made under this section may also provide—
- (a) for the inclusion in the expenses recoverable as aforesaid in respect of street works carried out by the local highway authority of any expenses incurred by a local authority, after the date on which the land is defined and designated as mentioned in subsection (1) of this section, and before a street is constructed on the land, in the construction of sewers in or under the land; and
 - (b) for authorising the local highway authority to enter on any land adjoining the street for the purpose of executing street works on land comprised in the street.
- (6) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say—
- " agricultural land " has the like meaning as is assigned ' to the expression " agricultural lands and heritages " by section nine of the Rating and Valuation (Apportionment) Act, 1928, and " agricultural buildings " means buildings (other than dwelling houses) occupied together with agricultural land and used solely in connection with agricultural operations thereon;
 - " construction " and " improvement ", in relation to a street, include the planting, laying out, maintenance and protection of trees, shrubs and grass margins in and beside the street;
 - " street works " means the sewerage, levelling, paving, metalling, flagging, channelling and making good a street or part of a street and providing proper means of lighting therefor.

46 Power to stop up and divert highways, etc.

- (1) Without prejudice to the provisions of section twenty-two of the Act of 1945, as incorporated with this Act, or section three of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, the Minister of Transport may, if he is satisfied that it is necessary so to do in order to enable development to be carried out in accordance with planning permission or to be carried out by a government department, by order made in accordance with the provisions of the Sixth Schedule to this Act authorise the stopping up or diversion of any highway.
- (2) Any order made under the foregoing subsection may make such provision as appears to the Minister of Transport to be necessary or expedient for the provision or improvement of any other highway, and may direct—
 - (a) that any highway so provided or improved shall be maintained and managed by the highway authority;
 - (b) that the said Minister, or any local authority specified in that behalf in the order, shall be the highway authority therefor;
 - (c) in the case of a highway for which the said Minister is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Trunk Roads Acts, 1936 and 1946.

Status: This is the original version (as it was originally enacted).

- (3) The Minister of Transport or a local highway authority may be authorised to acquire land compulsorily for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order made under this section or for any other purpose for which land is required in connection with such an order; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—
- (a) as if this section had been in force immediately before the commencement of that Act; and
 - (b) as if this section were included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act:

Provided that section two of the said Act (which confers temporary powers for the speedy acquisition of land in urgent cases) shall not apply to the compulsory acquisition of land under this section.

- (4) Any order made under this section may contain such incidental and consequential provisions as appear to the Minister of Transport to be necessary or expedient, including in particular provision for authorising that Minister, or requiring any other authority or person specified in the order—
- (a) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work; or
 - (b) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act, 1935, as respects any highway stopped up or diverted under the order:

Provided that if objection to any such provision is duly made in accordance with the Sixth Schedule to this Act by any authority or person who would be required thereby to make any such payment, repayment or contribution as aforesaid, and is not withdrawn, the order shall be subject to special parliamentary procedure.

- (5) Regulations made under this Act by the Minister of Transport may provide for securing that any proceedings required to be taken for the purposes of the acquisition of land under subsection (3) of this section may be taken concurrently with any proceedings required to be taken for the purposes of the order under this section.
- (6) Section twenty-four of the Act of 1945 (which provides for the extinguishment of rights of way, and rights as to apparatus, of statutory undertakers over land acquired under this Part of this Act) shall, subject to any necessary modifications, apply in relation to any highway to which an order under this section relates as it applies in relation to land acquired by a Minister under this Part of this Act, and sections twenty-five and twenty-six of that Act shall have effect accordingly.
- (7) The powers of the Minister of Transport under subsection (1) of this section shall include power to make an order authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment; and the provisions of this section shall not prejudice any power conferred upon the Minister of Transport by any other enactment to authorise the stopping up or diversion of a highway.
- (8) Section three of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which enables the Secretary of State to extinguish certain public rights of way

over land acquired under that Act), shall apply in relation to land acquired before the commencement of that Act by a local authority, being—

- (a) land acquired compulsorily under any such enactment as is specified in paragraph (a) of subsection (1) of section one of that Act, or
 - (b) land acquired by agreement for a purpose such that the land could have been so acquired compulsorily.
- (9) Any expenses incurred by the Minister of Transport in the construction or improvement of roads under this section shall be defrayed out of the Road Fund, and any other expenses of that Minister under this section shall be defrayed out of moneys provided by Parliament.

PART IV

AMENDMENTS OF LAW RELATING TO COMPENSATION ON COMPULSORY ACQUISITION OF LAND.

47 Abolition of the 1939 standard of compensation on compulsory acquisition;

- (1) Section fifty-three of the Act of 1945 (which provides for the assessment by reference to the prices current in 1939 of the value of interests in land which are compulsorily acquired) shall not apply to compensation in respect of a compulsory acquisition of land in pursuance of a notice to treat served after the passing of this Act.
- (2) The provisions of the Seventh Schedule to this Act shall have effect and shall be deemed always to have had effect in relation to land compulsorily acquired in pursuance of a notice to treat served after the seventeenth day of November nineteen hundred and forty-four and before the passing of this Act, and in relation to land acquired by agreement during that period by an authority authorised to acquire it compulsorily.

48 Compensation for compulsory acquisition after appointed day.

- (1) Any compensation payable in respect of the compulsory acquisition of an interest in land by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, in pursuance of a notice to treat served on or after the appointed day (not being compensation which falls to be assessed in accordance with Rule (5) of the rules set out in section two of that Act) shall be assessed in accordance with the provisions of that Act as modified by the provisions of this and the three next, following sections.
- (2) The value of any such interest shall be ascertained on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to this Act, but would not be so granted for any other development :

Provided that—

- (a) where at any time before the date of the notice to treat permission for development of the land of any class specified in Part II of the said Third Schedule has been refused or granted subject to conditions, or, having been granted, has been revoked or modified by the imposition of conditions, and compensation has become payable in respect of the refusal, revocation, or conditions, as the case may be, under section eighteen of this Act, it shall be

Status: This is the original version (as it was originally enacted).

assumed for the purposes of the ascertainment of the value of the interest in question that such permission would not be granted, or, as the case may be, would not be granted otherwise than subject to those conditions;

- (b) where at any time before the said date an order has been made under section twenty-four of this Act requiring the removal of any building or the discontinuance of any use, and compensation has become payable in respect of that order under section twenty-five of this Act, it shall be assumed for the purposes aforesaid that planning permission would not be granted for the rebuilding of that building or the resumption of that use.
- (3) Without prejudice to any rule of law affecting the assessment of compensation in respect of the compulsory acquisition of land in pursuance of any enactment, no account shall be taken in calculating the value of an interest in land designated by a development plan under this Act as subject to compulsory acquisition of any depreciation in the value of that interest which is attributable to the designation.
- (4) Where, at any time before the date of the notice to treat, planning permission has been granted for any development of the land, other than development of any class specified in the Third Schedule to this Act, or is deemed to have been so granted, then except where either—
- (a) any sum has been paid under Part VI of this Act by way of development charge in respect of that development; or
 - (b) no such charge is payable in respect of that development by virtue of any of the provisions of Part VII of this Act;
- the value of the interest to which the notice to treat relates shall be calculated as if that permission had not been granted.
- (5) Where the interest is acquired in pursuance of a purchase notice served under section seventeen of this Act, and it is certified by the Secretary of State, on confirming the notice, that any building comprised in the land has become incapable of reasonably beneficial use, then, if the purchase notice was served in consequence of the refusal of permission for development which would have involved the demolition of the whole or substantially the whole of the building, or in consequence of the revocation or modification of such permission, no account shall be taken for the purposes of this section of the value of the building except in so far as the value of any materials therein would exceed the cost of demolition.
- (6) Where the interest is acquired in pursuance of a purchase notice served under the said section seventeen, and directions have been given under paragraph (b) of subsection (2) of that section requiring that planning permission shall be granted for any development of other land to which the purchase notice relates-, no account shall be taken for the purposes of this section of any increase or diminution in the value of the said interest which is attributable to the direction or to any permission granted in pursuance thereof.

49 Temporary provisions for eliminating special value attributable to vacant possession.

- (1) Where the notice to treat giving rise to the claim for compensation is served at any time before the first day of January, nineteen hundred and fifty-four, and the interest in land in respect of which the compensation is payable carries the right to vacant possession of the land or any part thereof, or the right to obtain such possession at any time before that date, then, unless the land is agricultural property (that is to say,

agricultural land or agricultural buildings or a farmhouse as defined in this section) the value of that interest shall be calculated as if the land, or that part thereof, as the case may be, were subject to a lease for the term, subject to the conditions and at the rent specified in this section.

- (2) The term of any such lease as aforesaid shall be deemed to be a term beginning on the date of the "notice to treat and ending on the first day of January, nineteen hundred and fifty-four:

Provided that—

- (a) where the interest in question is subject to an actual lease on the date of the service of the notice to treat, the said term shall be deemed to begin on the first date thereafter on which the owner of the said interest would be lawfully entitled to obtain vacant possession of the land; and
- (b) where the interest in question is the interest of a tenant under a lease which is limited to expire at any time before the first day of January, nineteen hundred and fifty-four, the said term shall be deemed to end on the day before the expiration of that interest.
- (3) The conditions of (any such lease as aforesaid shall be deemed to be conditions by virtue of which the tenant would be liable to pay all usual tenant's rates and taxes and to bear the cost of repairs and insurance and other expenses, if any, necessary to maintain the land in the state in which it was on the date of the notice to treat, and the rent payable thereunder shall be deemed to be either a sum equal to five per cent. of the capital value of the premises together with such additional sum as might reasonably be expected to be payable annually by way of owner's rates during the term of such lease, or a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the premises, under a lease for the term and subject to the conditions aforesaid, whichever is the less.
- (4) In this section the following expressions have the meanings hereby assigned to them respectively, that is to say—

" agricultural land " means any land used for agricultural or pastoral purposes only, or as woodlands, market gardens, orchards, allotments, or allotment gardens, any garden exceeding one-quarter acre occupied together with a house and used mainly or wholly as an allotment garden, and any land exceeding one-quarter acre used for the purpose of poultry farming, but does not include any land occupied together with a house as a park, garden or pleasure ground, or any land kept or preserved mainly or exclusively for sporting purposes; and the expression " agricultural purposes " shall be construed accordingly;

" agricultural buildings " means buildings (other than dwelling-houses) occupied together with agricultural land, or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon;

" farmhouse " means a house used as the dwelling-house of a person who is primarily engaged in carrying out or directing agricultural operations on land in the neighbourhood of the house;

and for the purposes of this section the capital value of any premises shall be deemed to be the value of the interest of the proprietor of the *dominium utile*, free from incumbrances but subject to any servitude or other restrictions affecting the land on the date of the notice to treat, or, in the case of land other than feudal land, of the owner thereof, calculated in accordance with the provisions of any enactment other than

this section which would apply to the assessment of compensation on a compulsory acquisition thereof by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919.

- (5) For the purposes of this section, an interest in land shall not be deemed to carry the right to obtain vacant possession of the land or any part thereof if at the time of the service of the notice to treat the land or that part thereof consists of a dwelling-house which is subject to the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, or any future enactment amending or extending those Acts, and any person other than the person entitled to that interest is for the time being in possession thereof either by virtue of a tenancy or by virtue of the provisions of the said Acts.
- (6) Compensation for disturbance in respect of an interest in land the value of which is calculated in accordance with the provisions of this section shall not be assessed at any greater or less amount than that at which it would have been assessed apart from the provisions of this section.

50 Compensation for compulsory acquisition of land attracting converted value payments.

- (1) Where an interest in land the value of which is to be ascertained in accordance with the provisions of section forty-eight of this Act is an interest in a hereditament or part of a hereditament which has sustained war damage, and any of that damage has not been made good at the date of the notice to treat, then if the appropriate payment under the War Damage Act, 1943, would, apart from the compulsory purchase or apart from any direction given by the Treasury under paragraph (b) of subsection (2) of section twenty of that Act, be a payment of cost of works—
 - (a) the value of the interest for the purposes of the compensation payable in respect of the compulsory purchase shall, subject to the provisions of this section, be taken to be the value which it would have if the whole of the damage had been made good before the date of the notice to treat; and
 - (b) the right to receive any value payment or share of a value payment which, under the War Damage Act, 1943, is payable in respect of the interest which is compulsorily acquired (including any interest payable thereon) shall, notwithstanding anything in that Act, vest in the person by whom the interest is so acquired.
- (2) Where, under subsection (1) of this section, the value of any interest in land comprised in a hereditament is required to be taken to be the value which that interest would have if war damage sustained by that hereditament had been made good before the date of the notice to treat, and any works, other than works for making good the war damage, have been carried out on the land since the occurrence of the war damage, then, if the making good of the war damage would involve the removal of those works, the value of the said interest shall be taken to be—
 - (a) the value which it would have if the war damage had been made good and those works had been removed, or
 - (b) the value which it would have if the war damage had not been made good so far as the making good would have involved the removal of those works,
 whichever is the higher.
- (3) Where an interest in land is acquired by agreement in pursuance of a contract made after the appointed day by a person authorised by virtue of any enactment to acquire it compulsorily, being an interest in a hereditament or part of a hereditament which

has sustained war damage any of which has not been made good before the date of the contract, then, if the appropriate payment under the War Damage Act, 1943, would, apart from the acquisition or apart from any "direction given by the Treasury under paragraph (b) of subsection (2) of section twenty of that Act, be a payment of cost of works, the right to receive any value payment or share of the value payment which, under that Act, is payable in respect of the interest so acquired (including any interest payable thereon) shall, notwithstanding anything in that Act, vest in the person by whom the interest is acquired as aforesaid.

- (4) Where, by virtue of paragraph (b) of subsection (1) of this section or of the last foregoing subsection, the right to receive a value payment or share of a value payment becomes vested in the person by whom an interest in land is acquired, whether Compulsorily or by agreement, the amount of that payment or share (including any interest thereon) shall not exceed the sum paid by that person by way of compensation or consideration in respect of the interest so acquired.
- (5) Subsection (4) of section sixty-nine of the War Damage Act, 1943 (which makes special provision with respect to payments under that Act in respect of war damage sustained by hereditaments held for charitable purposes) shall not apply to any payment which, by virtue of this section, vests in the person by whom an interest in the land is acquired.

51 Compensation for compulsory acquisition of requisitioned land.

- (1) Except as otherwise provided by this section and Part VIII of the Requisitioned Land and War Works Act, 1945, the value of any interest in requisitioned land shall be assessed in accordance with the foregoing provisions of this Part of this Act as if the land were not requisitioned land; and in particular an interest in such land shall be deemed for the purposes of section forty-nine of this Act to carry the right to vacant possession of the land or the right to obtain such possession before the first day of January, nineteen hundred and fifty-four, if it would carry that right if the land were not requisitioned land.
- (2) Where an interest in land the value of which falls to be ascertained in accordance with the foregoing provisions of this Part of this Act is acquired compulsorily in such circumstances that Part VIII of the Requisitioned Land and War Works Act, 1945, applies to the acquisition, then,—
 - (a) if the land is requisitioned land and the period of requisition had begun before, the appointed day, subsection (2) of section forty-eight of this Act shall have effect as if for any reference to the appointed day in the Third Schedule to this Act there were substituted a reference to the beginning of the period of requisition;
 - (b) where section fifty applies, the provisions of that section shall have effect in substitution for the provisions of section forty-one of the Requisitioned Land and War Works Act, 1945, so far as it relates to the war damage and to any work done for the making good of the war damage:

Provided that for the purposes of subsection (2) of the said section fifty no account shall be taken of any such works as are mentioned in paragraph (b) of subsection (1) of the said section forty-one.

- (3) Where, by virtue of paragraph (a) of the last foregoing subsection, the Third Schedule to this Act applies in relation to the assessment of compensation for the compulsory acquisition of an interest in land being requisitioned land as if the beginning of

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the period of requisition were substituted therein for the appointed day, then, if any buildings or Works have been erected or constructed on the land during the period of requisition, and either—

- (a) a payment in respect of the value of those buildings or work-s has been made by any person interested in the land to a Minister under Part II of the Requisitioned Land and War Works Act, 1945, in pursuance of a report of the War Works Commission thereunder, or
- (b) any such payment or other consideration has been or is required to be made or given by any such person to a Minister in pursuance of an agreement between them, or
- (c) the buildings or works were otherwise erected or constructed wholly or partly at the expense of any such person,

those buildings or works shall be treated for the purposes of the said Third Schedule as having been erected or constructed immediately before the beginning of the period of requisition.

52 Compensation for compulsory acquisition after passing of this Act and before the appointed day.

- (1) Subject to the provisions of this section, the foregoing provisions of this Part of this Act shall apply in relation to land compulsorily acquired in pursuance of a notice to treat served after the passing of this Act and before the appointed day as they apply in relation to land compulsorily acquired in pursuance of a notice to treat served after the appointed day; and subsections (3) and (4) of section fifty of this Act shall apply in relation to land acquired by agreement in pursuance of a contract made after the passing of this Act as they apply in relation to land acquired by agreement in pursuance of a contract made after the appointed day.
- (2) The value of any interest in land which is compulsorily acquired as aforesaid shall be ascertained by reference to prices current immediately before the seventh day of January, nineteen hundred and forty-seven, and for that purpose the interest shall be deemed to have been subsisting immediately before that day subject to all incidents to which it is subject on the date of the notice to treat, and the land shall be deemed to have been immediately before the said seventh day of January in the same state as it is at the date of the notice to treat.
- (3) Subsections (2) to (6) of section forty-eight of this Act shall not apply to any interest in land which is compulsorily acquired as aforesaid, but in calculating the value of any such interest it shall be assumed that the land was, at the time of the notice to treat, subject to a permanent restriction prohibiting the carrying out thereon of any development other than development of the classes specified in the Third Schedule to this Act; and for the purposes of this provision, section ten of this Act and the said Third Schedule shall have effect as if for the references therein to the appointed day there were substituted references to the date of the notice to treat.
- (4) Nothing in subsection (2) of this section shall be construed as affecting the operation of Part VIII of the Requisitioned Land and War Works Act, 1945, in any case to which that Part applies; and where any land the value of an interest in which falls to be ascertained in accordance with the provisions of subsection (3) of this section is requisitioned land—
 - (a) the Third Schedule to this Act, as applied for the purposes of the said subsection (3), shall have effect as if for references therein to the appointed

day there were substituted references to the beginning of : the period of requisition instead of references to the date of the notice to treat; and

- (b) subsection (3) of section fifty-one of this Act shall apply as it applies in relation to the assessment of compensation in accordance with paragraph (a) of subsection (2) of that section.

53 Special provisions as to war-damaged land where compensation assessed by reference to cost of equivalent reinstatement.

- (1) Where an interest in land which is compulsorily acquired in pursuance of a notice to treat served after the passing of this Act is an interest in a hereditament or part of a hereditament which has sustained war damage, any of which has not been made good at the date of the notice to treat then if—
 - (a) the appropriate payment under the War Damage Act, 1943, would, apart from the compulsory acquisition or apart from any direction given by the Treasury under paragraph (b) of subsection (2) of section twenty of that Act, be a payment of cost of works; and
 - (b) the land would, but for the occurrence of the war damage, be devoted to any such purpose as is mentioned in Rule (5) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, the provisions of the said Rule (5) shall have effect for the purposes of the assessment of compensation payable in respect of the compulsory acquisition as if the land were so devoted as aforesaid.
- (2) Where any such interest in land as is mentioned in the foregoing subsection is compulsorily acquired as therein mentioned, then, if the conditions specified in paragraph (a) of that subsection are satisfied, and the compensation payable in respect of the acquisition falls (whether by virtue of that subsection or otherwise) to be assessed in accordance with the said Rule (5), the reasonable cost of equivalent reinstatement shall be ascertained for the purposes of the said Rule (5) by reference to the state of the land immediately before the occurrence of the war damage, and the right to receive any value payment or share of a value payment which, under the War Damage Act, 1943, is payable in respect of the interest which is compulsorily acquired (including interest thereon) shall, notwithstanding anything in that Act, vest in the person by whom the interest is so acquired.
- (3) Where any such interest in land as aforesaid is acquired by agreement in pursuance of a contract made after the passing of this Act by a person authorised by virtue of any enactment to acquire it compulsorily, then if the conditions specified in paragraph (a) of subsection (1) of this section are satisfied in relation to the land, and the compensation which would be payable in respect of the acquisition, if the acquisition were compulsory, would fall (whether by virtue of the said subsection (1) or otherwise) to be assessed in accordance with the said Rule (5), the right to receive any value payment or share of a value payment which, under the War Damage Act, 1943, is payable in respect of the interest acquired (including interest thereon) shall vest in the person by whom the interest is so acquired.
- (4) Subsection (4) of section sixty-nine of the War Damage Act, 1943 (which makes special provision with respect to payments under that Act in respect of war damage sustained by hereditaments held for charitable purposes) shall not apply to any - payment which by virtue of this section vests in the person by whom an interest in land is acquired.

54 Amendments of 9 & 10 Geo. 5. c. 57, etc.

- (1) The Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to the compulsory acquisition of land under this or any other Act by the Central Land Board or any statutory undertakers as it applies in relation to the compulsory acquisition of land by a government department or a local or public authority, and references in this Act to any such department or authority shall be construed accordingly.
- (2) The rate of interest for any period after the passing of this Act on compensation which fell or falls, in default of agreement, to be ascertained in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (whether as originally enacted or as amended by any subsequent enactment including this Act), in respect of land compulsorily purchased on which entry has been made before the payment of the compensation shall, in lieu of being the rate of five per cent. specified under section eighty-four of the Lands Clauses Consolidation (Scotland) Act, 1845, be such other rate as may from time to time be prescribed by regulations made by the Treasury under this Act.
- (3) Any regulations made by the Treasury under section fifty-eight of the Act of 1945 which are in force at the date of the passing of this Act shall continue in force and have effect as if they had been made under this Act and shall accordingly apply to any compensation which falls, in default of agreement, to be ascertained in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by this Act.

PART V

PAYMENTS OUT OF CENTRAL FUNDS IN RESPECT OF DEPRECIATION OF LAND VALUES.

Payments for depreciation.

55 Payments for depreciation of land values.

- (1) Subject to the provisions of this Part of this Act, payments shall be made in accordance with a scheme to be made by the Treasury under this section, in respect of interests in land which are depreciated in value by virtue of the provisions of this Act. " " :
- (2) The aggregate amount of the payments to be made by virtue of this section shall be the amount apportioned to land in Scotland by order made by the Treasury under the Town and Country Planning Act, 1947, out of the sum of three hundred million pounds provided by that Act for making payments in respect of interests in land in Scotland and in England and Wales which are depreciated in value by virtue of the provisions of this Act or of that Act.
- (3) As soon as may be after they are sufficiently informed as to the development values of interests in land in respect of which claims are made for payments under this Part of this Act, the Treasury shall make a scheme providing for the distribution, as between those interests or such of them as may be prescribed by the scheme, of the sum apportioned as aforesaid to land in Scotland.
- (4) Without prejudice to the generality of the last foregoing subsection, any scheme made by the Treasury thereunder may provide for the ascertainment of the amount of

the payments to be made under the scheme in respect of particular interests in land either by reference to the development values of those interests respectively or by reference to such other circumstances affecting those interests as may be prescribed by the scheme, or partly in the one way and partly in the other, and may contain such incidental and consequential provisions as appear to the Treasury to be necessary or expedient, including provision—

- (a) for applying, in relation to any payment made in accordance with the scheme, all or any of the provisions of sections twenty-four to twenty-six and twenty-eight to thirty of the War Damage Act, 1943 (which relate to the rights of heritable creditors and certain other persons as to payments for war damage) subject to such adaptations and modifications as may be prescribed by the scheme;
 - (b) for enabling any such payment falling to be made in respect of the interest of a vassal, or of an owner of land subject to a ground annual, or of a lessee under a lease, or any part of such a payment, to be made, in such cases and subject to such conditions as may be prescribed by the scheme, to the superior instead of to the vassal, or to the creditor in the ground annual instead of to the owner, or to the lessor instead of to the lessee, as the case may be, and for any consequential modifications of the liabilities of the vassal, the owner or the lessee, under the feu charter, the contract of ground annual or the lease, as the case may be;
 - (c) for the determination of questions arising under the scheme as to the right of any person to receive a payment, or any part of a payment, thereunder.
- (5) The power of the Treasury to make a scheme under this section shall include power to amend any such scheme by a subsequent scheme made thereunder.
- (6) A scheme made by the Treasury under this section shall be of no effect unless it is approved by resolution of each House of Parliament.

56 Additional payments in respect of certain war-damaged land.

- (1) Without prejudice to the provisions of the last foregoing section, the Treasury may make a scheme under this section providing for the making of payments of such amounts, in such cases, and subject to such conditions, as may be prescribed by the scheme, in respect of interests in land which are depreciated in value by virtue of the provisions of this Act, being land in the case of which it is shown—
- (a) that the land sustained war damage in such circumstances that the appropriate payment under the War Damage Act, 1943, in respect of a hereditament within the meaning of that Act which consists of or includes the whole or any part of the land is a value payment;
 - (b) that by reason of the prospects of development other than the making good of the war damage, the value of the hereditament in the state in which it was immediately after the occurrence of the damage is higher, and the amount of the value payment is accordingly lower, than it would be apart from the prospect of such development.
- (2) For the purposes of this section, a value payment shall be deemed to be the appropriate payment under the War Damage Act, 1943, in respect of a hereditament—
- (a) where such a payment would be appropriate thereunder, but no payment falls to be made because the value of the hereditament in the state in which it was immediately after the occurrence of the war damage is equal to or greater than

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its value in the state in which it was immediately before the occurrence of the damage; and

- (b) where a value payment falls to be made under any provision of the said Act in substitution for a payment of cost of works which, but for that provision, would be the appropriate payment.
- (3) Any scheme made under this section may contain such incidental and consequential provisions as appear to the Treasury to be necessary or expedient, including provision for the matters specified in paragraphs (a) to (c) of subsection (4) of the last foregoing section.
- (4) Any scheme made under this section shall be laid before Parliament immediately after it is made, and if either House within the period of forty days after the scheme is so laid before it, resolves that the scheme be annulled, it shall thereupon cease to have effect, but Without prejudice to the validity of anything previously done thereunder or to the making of a new scheme.
- (5) In reckoning for the purposes of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

57 Establishment of claims for payments.

- (1) Any claim for a payment under a scheme made under this Part of this Act shall be made to the Central Land Board in such manner, within such period, and accompanied by such particulars and verified by such evidence, as may be prescribed by regulations made for the purposes of this section, or as may be required by the Board in accordance with such regulations.
- (2) Provision may be made by regulations under this Act for regulating the making of claims for payments under a scheme made under this Part of this Act and for the ascertainment, in the case of interests in land in respect of which claims are so made, of the development values of those interests and of such other particulars as may be required for the purposes of the preparation of a scheme under section fifty-five of this Act or for the purposes of a scheme made under the last foregoing section; and without prejudice to the generality of the foregoing provision, such regulations may provide—
- (a) for requiring the development values of interests in land to be determined by such authority, in such manner and within such period as may be prescribed by the regulations, and for the settlement of any dispute arising in relation to such determinations by an arbiter appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, or by a special tribunal constituted in accordance with the regulations;
 - (b) for regulating the practice and procedure to be followed in connection with the making of any such determination and the settlement of any such dispute, and the time within which, and the manner in which proceedings may be taken in respect of any alleged irregularity in-connection therewith;
 - (c) for rendering the right torn payment under this Part of this Act conditional upon compliance with the provisions of the regulations with respect to the making of claims;
 - (d) for any matters incidental to or consequential on the matters aforesaid.
- (3) A claim for a payment under a scheme made under this Part of this Act may be made in respect of any interest in land being the interest of the superior, or of the creditor

in a ground annual, or of the person who is the proprietor of the *dominium utile* or, in the case of land other than feudal land, is the owner of the land, or of the lessee under a lease.

- (4) Subject as hereinafter provided, a claim for a payment Under a scheme made under this Part of this Act may be made in respect of such land as the claimant thinks fit, and different claims may be made in respect of the interest of the same person in different parcels of land:

Provided that the Central Land Board may direct that any two or more claims in respect of the interest of the same person in different parcels of land shall be dealt with together and treated as if they were one claim in respect of the interest of that person in the whole of the land included in the claims.

58 Ascertainment of development values of land.

- (1) For the purposes of this Part of this Act and of any scheme made thereunder, an interest in land shall be deemed to be depreciated in value by virtue of the provisions of this Act if the restricted value of that interest on the appointed day, calculated in accordance with the provisions of this and the next following section, is less than the unrestricted value of that interest on that day as so calculated; and references in this Part of this Act to the development value of an interest in land shall be construed as references to the difference between those values.
- (2) Subject to the following provisions of this section—
- (a) the restricted value of an interest in land on the appointed day shall be taken to be the value of that interest as it subsists on that day, calculated on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to this Act, but would not be so granted for any other development; and
 - (b) the unrestricted value of an interest in land on the appointed day shall be taken to be the value which that interest would have had as it subsists on that day if the provisions of this Act (other than this and the next following section) had not passed.
- (3) Where land is used on the appointed day for the display of advertisements, no account shall be taken, in calculating the restricted value of any interest therein, of any power to require the discontinuance of that use by virtue of regulations made under the provisions of Part II of this Act with respect to the control of advertisements.
- (4) Where any permission to develop land granted on an application made in that behalf under an interim development order has been revoked or modified before the appointed day under section four of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, the unrestricted value of any interest in that land shall be calculated without regard to the revocation or modification of that permission:

Provided that—

- (a) in calculating the unrestricted value of the interest no account shall be taken of any works in respect of which any compensation has been paid under subsection (2) of section seven of the said Act; and
- (b) if any contribution has been paid under subsection (4) of the said section four to the owner of the interest or his predecessor in title, the amount of that contribution shall be deducted from the unrestricted value of the interest.

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- (5) For the purposes of this section, the restricted and the unrestricted values of interests in land shall be calculated by reference to prices current immediately before the seventh day of January, nineteen hundred and forty-seven, and for that purpose any such interest shall be treated as if it had been subsisting immediately before that date with all incidents to which it is subject on the appointed day (being incidents which are relevant to the calculation of the restricted or unrestricted value of that interest, as the case may be), and the land shall be treated as having been immediately before that date in the same state as it is on the appointed day:

Provided that in computing the restricted value of an interest in land, no account shall be taken of the provisions of this Act except in their application to that land.

- (6) In computing the unrestricted value of the interest of any person in land which, on the appointed day, was held by him with other land, there shall be deducted—
- (a) an amount equal to the compensation (if any) to which that person would be entitled for the severance of the land from that other land if the first-mentioned land were compulsorily acquired by a government department in pursuance of a notice to treat given on the appointed day; and
 - (b) in so far as the unrestricted value of the land depends on the prospect of development which would injuriously affect that other land, an amount equal to the compensation (if any) to which that person would be entitled for such injurious affection if the first-mentioned land were compulsorily acquired as aforesaid for the purpose of that development.
- (7) In so far as the unrestricted value of an interest in land depends upon the prospect of any development which, if carried out by the owner of that interest, would necessarily involve a loss to him in the nature of disturbance in respect of the purposes for which the land is being used on the appointed day, the amount of that loss shall be deducted from the unrestricted value of that interest.

59 Supplementary provisions as to development values.

- (1) Rules (2), (3) and (4) of the Rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in computing the restricted and the unrestricted values of interests in land for the purposes of this Part of this Act as they apply in relation to the compulsory purchase of interests in land.
- (2) The restricted and the unrestricted values of an interest in land being the interest of a superior shall be computed on the assumption that the vassal will at all times be able to pay the feu duty and perform his other obligations under the feu charter.
- (3) The restricted and the unrestricted values of an interest in land being the interest of a creditor in a ground annual shall be computed on the assumption that the owner of the land subject to the ground annual will at all times be able to pay the ground annual and perform his other obligations under the contract of ground annual.
- (4) The restricted and the unrestricted values of an interest in land being the interest of a landlord in land subject to a lease shall be computed on the assumption that the lessee will at all times be able to pay the rent and perform his other obligations under the lease; and the restricted and the unrestricted values of an interest being the interest of a lessee under a lease or of an interest being the interest of a landlord in land subject to a lease shall be computed as aforesaid on the assumption that any option exercisable by either party to determine or to renew the lease will be exercised by that party if it is in his interest so to do and not otherwise.

- (5) The restricted and the unrestricted values of an interest in land which is subject to a heritable security shall be computed as if the security had been discharged.
- (6) It is hereby declared that the restricted or the unrestricted value, or both the restricted and the unrestricted values, of an interest in land may be a minus quantity.

60 Exclusion of small claims.

- (1) Without prejudice to any provisions which may be included in a scheme made under section fifty-five of this Act for prescribing the cases in which payments are to be made thereunder, no such payment shall be made in respect of an interest in land in respect of which a claim is made unless—
 - (a) the development value of that interest, when averaged over the area of the land, exceeds the rate of twenty pounds per acre; and
 - (b) the development value of that interest also exceeds one tenth of its restricted value.
- (2) In determining for the purposes of paragraph (b) of the foregoing subsection whether the development value of an interest in land exceeds one tenth of its restricted value, those values shall be calculated—
 - (a) in the case of an interest of a lessee under a lease, as if the rent payable under the lease were a rent of one penny if asked;
 - (b) in the case of an interest which is subject to a feu duty or ground annual as if the interest were not subject thereto.

61 Vesting and assignation of right to payments under Part V.

- (1) Subject to the provisions of any scheme made under this Part of this Act with respect to the disposal of payments made thereunder, the right to receive any such payment in respect of an interest in land shall vest in the person who is on the appointed day the owner of that interest.
- (2) The right to receive a payment under any scheme made under this Part of this Act, or a part of such a payment, shall be transmissible by assignation or by operation of law as moveable property:

Provided that regulations made under this Act may direct that any such assignation shall be of no effect for the purposes of any such scheme as aforesaid unless notice thereof has been given to the Central Land Board, in the manner prescribed by the regulations, within such period as may be so prescribed.

Satisfaction of Payments.

62 Satisfaction of payments under Part V.

- (1) All payments falling to be made in accordance with a scheme made under section fifty-five of this Act shall be satisfied by the issue of government stock, that is to say stock the principal of which and the interest on which shall be charged on the Consolidated Fund; and all payments falling to be made in accordance with a scheme made under section fifty-six of this Act shall be made in cash by the Central Land Board.

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- (2) Any such stock shall be issued on such date as maybe fixed by the Treasury, being a date not later than five years after the appointed day:

Provided that if the amount of any payment required by this section to be satisfied by the issue of stock has not been finally determined on the date so fixed, the stock to be issued in satisfaction of the payment shall be issued on such date, not being later than three months after the amount thereof has been so determined, as the Treasury may direct.

- (3) Interest on the amount of any payment falling to be made in accordance with a scheme made under this Part of this Act shall accrue, at such rate as may from time to time be determined by the Treasury, from the appointed day until the payment is satisfied in accordance with the provisions of this section, and shall be paid in cash by the Central Land Board at the time when the payment is so satisfied.
- (4) The amount of the stock to be issued in satisfaction of any payment under this Part of this Act shall be such as, in the opinion of the Treasury, is of a value equal on the date of the issue to the amount of the payment, having due regard to the market values of other government securities existing on that date.
- (5) The Treasury may by regulations make provision as to the procedure for the issue of stock in satisfaction of payments under this Part of this Act including provision as to evidence of the amount of stock to be issued in any case, and the person to whom it is to be issued, on which the Banks of England and Ireland respectively are to be authorised or required to act.

63 General provisions as to stock.

- (1) Any stock issued in accordance with the last foregoing section (in this section referred to as "the stock") shall bear such rate of interest, and shall be subject to such conditions as to repayment, redemption and other matters (including provision for a sinking fund), as the Treasury may determine.
- (2) Any expenses incurred in connection with the issue or repayment of the stock shall be charged on and issued out of the Consolidated Fund.
- (3) The Treasury may, for the purpose of providing any sums required by them in order to redeem the stock, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act.
- (4) Interest on the stock shall be paid out of the permanent annual charge for the national debt.
- (5) There shall be paid to the Banks of England and Ireland respectively, out of the Consolidated Fund, such sum in respect of the management of the stock in any financial year as may be agreed upon between the Treasury and those banks respectively.
- (6) Section forty-seven of the Finance Act, 1942 (which empowers the Treasury to make regulations as respects the transfer and registration of stock and registered bonds of the descriptions specified in Part I of the Eleventh Schedule to that Act) and any regulations made under that section which are in force immediately before the passing

of this Act, shall have effect as if the stock were included among the stocks mentioned in the said Part I and among the stocks to which the said regulations apply.

- (7) The stock shall be subject to the provisions of the National Debt Act, 1870, so far as is consistent with the tenor of this Act.
- (8) Paragraphs 3, 4 and 5 of the Second Schedule to the National Loans Act, 1939 (which applies certain enactments to securities issued under that Act) shall have effect as if references to securities so issued included references to the stock.

64 Provision for payments in cash.

- (1) The Treasury may issue to the Central Land Board out of the Consolidated Fund such sums as are necessary to enable the Board to make any payments which under this Part of this Act are payable by the Board in cash.
- (2) For the purpose of providing sums to be issued under the last foregoing subsection, or of providing for the replacement of sums so issued, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this section shall be deemed for all purposes to have been created and issued under that Act. .

65 Payments by Central Land Board into Exchequer.

- (1) The Central Land Board shall, out of moneys provided by Parliament, pay into the Exchequer in accordance with the following provisions of this section sums equal to the aggregate amount of—
 - (a) the amount of any payments satisfied by the issue of stock under the foregoing provisions of this Part of this Act; and
 - (b) the amount of any sums issued to the Board out of the Consolidated Fund under the last foregoing section in respect of interest on such payments,together with interest on the said aggregate amount at such rate as the Treasury may direct from the date of the issue.
- (2) The sums required by the foregoing subsection to be paid into the Exchequer by the Central Land Board shall be paid by twenty equal instalments of principal and interest, of which the first shall be paid one year after the date fixed by the Treasury for the issue of the stock, and the remainder annually thereafter:

Provided that where any payment made under this Part of this Act is satisfied, in accordance with the proviso to subsection (2) of section sixty-two of this Act, by the issue of stock at any time after the date fixed as aforesaid, the sums required to be paid into the Exchequer under this section in respect of that payment, and in respect of sums issued to the Board under the last foregoing section in respect of interest thereon, shall be so paid by such number of equal annual instalments of principal and interest as will complete the instalments on the same date as the instalments in respect of payments which are satisfied on the date fixed as aforesaid.

- (3) Any sums paid into the Exchequer under the foregoing provisions of this section shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say—
 - (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit;

- (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this provision, have fallen to be paid out of the permanent annual charge for the national debt.

PART VI

DEVELOPMENT CHARGES.

66 Levy of development charge in respect of certain development.

- (1) Subject to the provisions of this Act, there shall be paid to the Central Land Board in respect of the carrying out of any operations to which this Part of this Act applies, and in respect of any use of land to which this Part of this Act applies, a, development charge of such amount, if any, as the Board may determine, and accordingly no such operations shall be carried out, and no such use shall be instituted or continued, except with the consent in writing of the Central Land Board, until the amount of the charge, if any, to be paid in respect of those operations or that use has been determined by the Board, and the Board have certified that the amount so determined has been paid or secured to the satisfaction of the Board in accordance with the following provisions of this Part of this Act.
- (2) This Part of this Act applies to all operations for the carrying out of which planning permission is required, and to all uses of land for the institution or continuance of which such permission is required:
- Provided that—
- (a) this Part of this Act does not (except as hereinafter provided) apply to operations of any description specified in the Third Schedule to this Act or to any use of land so specified;
- (b) regulations made under this Act with the consent of the Treasury may provide for exempting from the provisions of this Part of this Act operations or uses of any description specified in the regulations.
- (3) Notwithstanding anything in paragraph (a) of the proviso to the last foregoing subsection, where planning permission is granted for the carrying out of operations of any class specified in the Third Schedule to this Act, or for the institution of any use so specified, then if—
- (a) compensation has been paid under section eighteen of this Act in consequence of a previous refusal of permission for those operations or that use or of the grant of such permission subject to conditions, or in consequence of the revocation or modification of permission so granted; or
- (b) compensation has been paid under section twenty-five of this Act in consequence of an order requiring the removal of any building or the discontinuance of any use of land, and the planning permission authorises the rebuilding of that building or the resumption of that use;

this Part of this Act shall apply to those operations, or to that use, as the case may be, and where the amount of the development charge to be paid in respect of those operations or that use has been determined by the Central Land Board in accordance with the provisions of this Part of this Act, the Board may pay to any local planning authority by whom any such compensation as aforesaid has been paid a contribution towards that compensation not exceeding the said amount.

- (4) Where, by virtue of any provision of this Act, planning permission is granted in respect of the retention on land of any buildings or works erected or carried out in accordance with planning permission granted for a limited period only, this Part of this Act shall apply to the retention of buildings or works as it applies to operations for which planning permission is required and references in this Part of this Act to the carrying out of such operations shall be construed accordingly.
- (5) Regulations made for the purposes of paragraph (b) of the proviso to subsection (2) of this section shall be of no effect unless they are approved by resolution of each House of Parliament.
- (6) Any sums required by the Central Land Board for the making of contributions under this section shall be defrayed out of moneys provided by Parliament.

67 Determination of development charge by Central Land Board.

- (1) Subject as hereinafter provided, the Central Land Board shall, as soon as may be after an application has been made to them in the manner prescribed by regulations under this Act by a person having an interest in land sufficient to enable him to carry out any such operations as aforesaid or to make any such use" as aforesaid, or by a person who satisfies them that he is able to obtain such an interest, determine whether any and if so what development charge is to be paid in respect of those operations or that use:

Provided that—

- (a) where planning permission has not been granted for the carrying out of the said operations or for the institution or continuance of the said use, the Board may postpone the determination of the development charge to be paid in respect thereof until such permission has been granted;
 - (b) where the application relates to the carrying out of any operations, the Board may refuse to determine the development charge payable in respect thereof unless they are satisfied, after consultation with the local planning authority, that the applicant is able to carry out those operations, and that he will do so within such period as the Board consider appropriate;
 - (c) where the application relates to the institution of any use of land, the Board may refuse to determine the amount of the charge in respect thereof unless they are satisfied, after consultation with the local planning authority, that the use will be instituted within such period as the Board consider appropriate.
- (2) In determining whether any and if so what development charge is to be paid in respect of any operations or any use of land, the Board—
 - (a) " shall have regard to the amount by which the value of the land with the benefit of planning permission for those operations or that use (calculated without regard to any charge payable in respect thereof under this Part of this Act and on the assumption that the operation or use can lawfully be carried out or made apart from the provisions of this Act) exceeds the value which it would have without the benefit of such permission; and
 - (b) shall not give undue or unreasonable preference or advantage to one applicant over another.
 - (3) Subject to the provisions of the last foregoing subsection, regulations made under this Act with the consent of the Treasury may prescribe general principles to be followed by the Central Land Board in determining under this Part of this Act whether any and if so what development charge is to be paid thereunder in respect of any operations or

use of land; and, without prejudice to the generality of the foregoing provision, such regulations may in particular provide for securing that the amount of the said charge shall be determined on different principles in relation to operations or uses of different classes, or in relation to operations or uses carried out or begun at different periods.

- (4) Where planning permission for any operations, or for any use of land, is granted under subsection (6) of section twenty-four of this Act, or directions are given under paragraph (b) of the proviso to subsection (2) of section seventeen of this Act requiring such permission to be granted on application made in that behalf, the Board may determine the amount of the development charge (if any) which would be payable in respect of those operations or that use, notwithstanding that no such application as is mentioned in this section has been made to them in that behalf.
- (5) Regulations made for the purposes of subsection (3) of this section shall be of no effect unless they are approved by resolution of each House of Parliament.

68 Payment and security for payment of development charges.

- (1) The amount of the development charge payable in respect of the carrying out of any operations or in respect of any use of land may be determined either as a single capital payment or as a series of instalments of capital, or of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Central Land Board may determine after taking into account any representations made by the applicant.
- (2) Except where the development charge is determined as aforesaid as a single capital payment which is then discharged, the Central Land Board may require the applicant to enter into such agreement as they may direct for the payment of any sums payable by virtue of the determination (whether with or without interest in default of due payment), or to give such security as they may direct for the payment of any such sums as aforesaid, or may require the applicant both to enter into such agreement and to give such security:

Provided that, notwithstanding anything in this section or in any requirement of the Board thereunder, any person for the time being interested in the land may at any time discharge any outstanding liability for sums payable by virtue of the determination by the payment of such amount as may be determined by the Board to represent the value of those sums subject to such discount as they consider appropriate.

- (3) Where the amount of a development charge as determined by the Board has been discharged or any such requirement as aforesaid has been complied with, or where the Board determine that no such charge is to be paid, the Board shall if so required by the applicant, issue their certificate to that effect.
- (4) Any sums received by the Central Land Board in respect of the payment of a development charge shall be paid" into the Exchequer.

69 Scope and effect of determinations of Central Land Board.

- (1) Subject as hereinafter provided, a determination of the Central Land Board under this Part of this Act in respect of any operations or use of land shall have effect in relation to the carrying out of those operations, or, as the case may be, in relation to that use of the land, by any person for the time being interested therein, and the question whether

any and if so what development charge is to be paid in respect of any such operations or use shall be determined accordingly:

Provided that the Board may, if they think fit, direct that any such determination as aforesaid shall cease to have effect if, before the operations to which the determination relates are carried out or completed, or, as the case may be, before the use to which it relates is instituted, any interest in the land is transferred or created (otherwise than by operation of law), unless the determination is confirmed by the Board with or without modifications, on a subsequent application made to them in that behalf.

- (2) Notwithstanding anything in the foregoing subsection, the amount of the development charge payable in respect of the use of land for any purpose may be determined in respect of the use of the land for that purpose during such period as may be specified in the determination:

Provided that—

- (a) where planning permission for the institution or continuance of the use of land for any purpose has been granted for a limited period only, the amount of the said charge shall not be determined in respect, of the use of the land for that purpose for any longer period; and
 - (b) where application is made to the Central Land Board to determine the amount of the said charge in respect of the use of the land for any purpose for any period specified in the application, the said amount shall not be so determined in respect of the use of the land for that purpose for any period longer than the period so specified.
- (3) Where a determination of the Central Land Board is made, under the last foregoing subsection, in respect of the use of land for any purpose for a period specified in the determination, the provisions of this Part of this Act shall apply in relation to the use of the land for that purpose by any person after the expiration of that period as if the determination had not been made.

70 Variation of determinations and repayment of development charges in certain cases.

- (1) The Central Land Board may at any time, on application made to them in that behalf in accordance with regulations under this Act by the person entitled to an interest in land to which a determination under this Part of this Act relates, vary their determination in such manner as appears to them to be appropriate having regard to any change of circumstances since the determination was made, including the development, after the determination, of adjacent land in accordance with planning permission granted otherwise than in accordance with the provisions of the development plan, and may amend, discharge, modify or release any agreements or securities made or given in respect of the determination, or repay any sums previously paid thereunder, so far as may be required in order to give effect to the variation:

Provided that, except in a case where application is made to them to confirm a previous determination on the transfer or creation of any interest in land, the Board shall not have power to vary any determination under this Part of this Act so as to increase the amount of the development charge payable thereunder.

- (2) Where, after the amount of the development charge has been determined under this Part of this Act in respect of any operations or in respect of any use of land, and before the amount so determined has been fully discharged—

Status: This is the original version (as it was originally enacted).

- (a) planning permission for the carrying out of those operations or for the institution or continuance of that use is revoked by an order made under section nineteen of this Act; or
- (b) an order is made under section twenty-four of this Act requiring the removal of any buildings or works erected or constructed in carrying out those operations, or requiring the discontinuance of that use; or
- (c) the whole of the land to which the determination relates is compulsorily acquired under this or any other Act,

the determination, and any agreements or charges made, of given in respect thereof, shall thereupon cease to have effect but without prejudice to the validity of anything previously done thereunder, and the Board shall on application being made to them discharge or release any agreements or securities given in respect thereof.

- (3) Where, after the amount of the development charge has been determined as aforesaid, and before the amount so determined has been fully discharged,—
 - (a) planning permission for the carrying out of the operations, or for the institution or continuance of the use, to which the determination relates, is modified by an order made under the said section nineteen; or
 - (b) an order is made under the said section twenty-four requiring the alteration of any buildings or works erected or constructed in the carrying out of those operations, or imposing conditions on the continuance of that use; or
 - (c) any part of the land to which the determination relates is compulsorily acquired under this or any other Act,

the Board shall, on application made to them in accordance with regulations under this Act, vary the determination and amend, discharge, modify or release any agreements or securities made or given in respect thereof, so far as may be just in consequence of the modification, order or purchase, as the case may be.

- (4) Where compensation is payable under Part II of this Act in consequence of any such order as mentioned in paragraph (a) or paragraph (b) of subsection (2) or subsection (3) of this section, then, in calculating for the purposes of the compensation any depreciation in the value of the land to which the order relates, or any other loss or damage sustained by a person interested in that land, regard shall be had to the foregoing provisions of this section and to anything done by the Board thereunder.
- (5) Where compensation is payable under the said Part II in consequence of any such order as aforesaid, or where land is compulsorily acquired as mentioned in paragraph (c) of subsection (2) or subsection (3) of this section, then, if any sums have been paid to the Central Land Board by way of development charge in accordance with the determination referred to in those subsections, the Board shall pay to the authority or person by whom compensation is payable in consequence of the order or, as the case may be, in respect of the compulsory acquisition, a contribution towards that compensation representing such proportion of the sums so paid by way of development charge as may be agreed between the Board and that authority or person, or, failing agreement, as may be determined by the Secretary of State, to be appropriate in all the circumstances of the case.
- (6) Subsection (3) of section twenty of this Act shall apply for the purposes of this section as it applies for the purposes of that section, and shall accordingly have effect as if the reference therein to the foregoing provisions of that section included a reference to the foregoing provisions of this section; and any reference in this section to the compulsory acquisition of land shall be construed as including a reference to the

acquisition of land by agreement by any authority or person who has power or can be authorised to acquire it compulsorily.

- (7) Any sums required by the Central Land Board for the payment of sums under this section, or for the making of contributions thereunder, shall be defrayed out of moneys provided by Parliament.
- (8) Where in consequence of the revocation or modification of planning permission or of the making of an order under section twenty-four of this Act a determination of the Central Land Board ceases to have effect or is varied, and the Board amend, discharge, modify or release any agreement or security -made or given in respect thereof, the local planning authority shall pay to the owner of the interest which is the subject of the agreement or security compensation of such amount as may be determined by agreement between the authority and the owner or, in default of agreement, by the Auditor of the Court of Session, to represent the amount of any legal expenses incurred by the owner or any of his predecessors in title which have been rendered abortive or which have become necessary in consequence of the revocation or modification of the permission or the making of the order.

In this subsection the expression " legal expenses " means any legal expenses (including stamp duties, search fees and recording dues) reasonably and necessarily incurred in connection with an agreement or security required by the Board to be made or given in respect of the determination or in connection with the amendment, discharge, modification or release of any such agreement or security.

71 Powers of Central Land Board as to development carried out in contravention of Part VI.

- (1) If any operations to which this Part of this Act applies are carried out, or any use of land to which this Part of this Act applies is instituted or continued, in contravention of the foregoing provisions of this Part of this Act, the Central Land Board may, without any application being made to them in that behalf, by order determine whether any and if so what development charge is to be paid in respect of those operations or in respect of that use:

Provided that, subject to the following provisions of this section, the amount of the development charge so determined shall not exceed the amount which, in the opinion of the Board, would have been so determined if application had been duly made to them in that behalf under this Part of this Act.

- (2) Any order made under this section may require the payment to the Board, by such person as may be specified in the order (being the person by whom the operations were carried out or by whom the use was instituted or continued, as the case may be) of such sums in respect of the charge and interest thereon as may be so specified; and if they think fit so to do, the Board may, in the manner specified in subsection (6) of this section, create a charge on the land, or, where the land is held under a lease recorded under the Registration of Leases (Scotland) Act, 1857, create a charge on the lease, for the payment of any sums payable under this section by the owner of the land or the tenant under the lease, as the case may be, or by any predecessor in title of the owner or tenant.
- (3) A copy of any order made under this section shall be served by the Central Land Board on the person required by the order to make any payment to the Board and on the owner and the tenant of the land.

- (4) Subject as hereinafter provided, the Central Land Board may, if it appears to them to be just so to do, include in the amount of the development charge determined by an order under this section such additional sum by way of penalty as they consider appropriate, not exceeding twice the amount of the development charge determined as aforesaid, and the provisions of subsection (2) of this section shall apply in relation to any such penalty as they apply in relation to the amount determined as aforesaid;

Provided that any person who is aggrieved by the inclusion of any such penalty in an order under this section may, within twenty-eight days from the date on which a copy of the order is served on him, appeal to the appropriate court, and that court may, if they think fit, modify the order by omitting the penalty or by reducing the amount thereof to such extent as they think just; and the decision of that court shall be final.

- (5) The provisions of this section shall apply in relation to any such operations or uses of land as are mentioned in subsection (1) of this section whether or not planning permission was granted in respect thereof; but where proceedings are taken under section twenty-one of this Act for the enforcement of planning control in relation to any such operations or use, regard shall be had to those proceedings in determining the amount of the development charge under this section.
- (6) For the purpose of creating a charge under this section for the payment of any sums payable thereunder, the Board may make in favour of themselves a charging order charging and burdening the land or the lease, as the case may be, with an annuity to repay the sums so payable together with the expenses of making the charging order and recording it in the appropriate Register of Sasines; and the provisions of subsection (2) and subsections (4) to (10) of section fifty-five of the Water (Scotland) Act, 1946, shall, with the following and any other necessary modifications, apply to any such charging order:—
- (a) for references to the local authority there shall be substituted references to the Board; and
 - (b) for references to Part III of the said Act of 1946 there shall be substituted references to Part VI of this Act.
- (7) For the purposes of subsection (4) of this section the expression " the appropriate court " means, in relation to a penalty not exceeding five hundred pounds, the sheriff having jurisdiction in the place in which the land or any part thereof is situated, and, in relation to a penalty exceeding five hundred pounds, the sheriff having jurisdiction as aforesaid or the Court of Session.

PART VII

APPLICATION TO SPECIAL CASES.

72 Existing development contravening previous planning control.

- (1) Where any works on land existing at the appointed day were carried out, or any use to which land is put on that day was begun, in contravention of previous planning control, then, subject to the provisions of this section, the provisions of Part II of this Act with respect to enforcement notices shall apply in relation thereto as they apply in relation to development carried out after the appointed day without the grant of planning permission in that behalf:

Provided that an enforcement notice shall not be served by virtue of the provisions of this section in respect of any works or use (not being works or a use carried out or begun during the war period as defined by the Building Restriction (War-Time Contraventions) Act, 1946) at any time after three years from the appointed day.

- (2) Where any such works as aforesaid were carried out, or any such use as aforesaid was begun, during the war period as defined by the Building Restrictions (War-Time Contraventions) Act, 1946, then—
- (a) if, by virtue of the provisions of that Act or of any determination effected thereunder (whether before or after the appointed day), the works or use are deemed to comply with planning control within the meaning of that Act, the provisions of this section shall not apply, or, as the case may be, shall cease to apply to those works or that use; and
 - (b) if it has been determined under that Act (whether before or after the appointed day) that the works or use shall not be deemed to comply with planning control within the meaning of that Act, subsection (3) of section twenty-one of this Act shall have effect, in relation to any enforcement notice served in respect of the works or use by virtue of the provisions of this section, as if the proviso to that subsection were omitted.
- (3) Where, by virtue of this section, an enforcement notice 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 as hereinafter provided—
- (a) if the steps required by the notice are taken by the owner, the lessee or the occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served;
 - (b) if the steps required by the notice are taken by the said authority, that authority shall not be entitled, under section twenty-two of this Act, to recover the expenses incurred by them in that behalf.

Provided that 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 foregoing provisions of this subsection shall not apply; and where compensation has been paid under the said paragraph (b) (otherwise than as aforesaid), or under subsection (4) of section three of the said Act, in respect of the land, the amount which, by virtue of this subsection, 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.

- (4) The power of the local planning authority 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 any 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 the provisions of this section; and where permission is so granted, the foregoing provisions of this section 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 II of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

Status: This is the original version (as it was originally enacted).

- (5) In relation to an enforcement notice served by virtue of this section, subsection (4) of section twenty-one of this Act shall have effect as if for paragraph (a) thereof there were substituted the following paragraph:—
- “(a) if satisfied that the works or use to which the notice relates are not works or a use to which section seventy-two of this Act applies, shall quash the notice to which the appeal relates”.
- (6) Where an enforcement notice served by virtue of this section in relation to any land takes effect—
- (a) the value of any interest therein for the purposes of the assessment of the compensation payable under Part IV of this Act on the compulsory acquisition thereof; and
- (b) the development value of any interest therein for the purposes of Part V of this Act shall be calculated having regard to the requirements of the notice, and the assumptions required to be made for those purposes shall be modified accordingly.
- (7) Where planning permission is granted for the continuance of any such use as is mentioned in subsection (1) of this section, then, notwithstanding anything in subsection (2) of section sixty-six of this Act, no development charge shall be payable in respect of the continued use of the land in accordance with permission so granted.
- (8) Provision may be made by regulations under this Act for applying the foregoing provisions of this section, 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 contravention of any restriction in force under any enactment repealed by this Act (other than the enactments relating to town and country planning); and any such regulations may make such consequential provisions as the Secretary of State considers expedient, including provision for amending the Building Restrictions (War-Time Contraventions) Act, 1946 in its application to any such restriction as aforesaid:
- Provided that where provision is made by such regulation for amending the said Act of 1946, the regulations shall be of no effect unless they are approved by resolution of each House of Parliament.
- (9) For the purposes of this section works on land shall be deemed to have been carried out, and uses of land to have been begun, in contravention of previous planning control—
- (a) where at the material time the land was subject to a resolution to prepare a planning scheme, if they were carried out or begun otherwise than in accordance with permission granted in that behalf by or under the interim development order;
- (b) where at the material time the land was subject to a planning scheme, if they were carried out or begun otherwise than in conformity with the provisions of the scheme or of permission granted thereunder;
- and where permission for any works or use was granted as aforesaid subject to conditions (in whatever form) restricting the period during which the works or use could be continued on the land, and that period has expired before the appointed day, the provisions of this section shall apply as if the works or use had been carried out or begun in contravention of previous planning control.

73 Existing development authorised subject to conditions.

- (1) Where any works on land existing at the appointed day or any use to which land is put on that day, has been authorised by a permission granted subject to conditions under a planning scheme or under an interim development order, the provisions of Part II of this Act 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 foregoing subsection, where any such permission as aforesaid was granted subject to conditions (in whatever form) restricting the period for which the works or use may be continued on the, land, then, if that period has not expired at the appointed day and the works are not removed, or the use discontinued, at the expiration of that period, the provisions of Part II of this Act with respect 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 expiration of that period and without the grant of planning permission in that behalf.
- (3) The power of a local planning authority to grant planning 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 of use authorised by a permission granted subject to any such conditions as are mentioned in the last foregoing subsection; and where permission is so granted—
 - (a) the last foregoing subsection 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 the said Part II with respect to the contravention of conditions subject to which planning permission has been granted;
 - (b) in a case where the permission authorises the retention of any works, subsection (4) of section sixty-six of 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 only.
- (4) The value of any interest in land to which any such permission as is mentioned in subsection (1) of this section relates for the purposes of the assessment of compensation payable under Part IV of this Act on the compulsory acquisition thereof and the development value of any such interest for the purposes of Part V of this Act shall be calculated having regard to the conditions subject to which the permission was granted and to the provisions of this section, and the assumptions required to be made for those purposes shall be modified accordingly.
- (5) Where at any time before the appointed day it has been determined under the Building Restrictions (War-Time Contraventions) Act, 1946, that any works on land or any use of land shall 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 section shall apply in relation to those works or that use, and in relation to any interest in the land in question, as if the said conditions had been imposed on the grant of permission under a planning scheme or under an interim development order; and, notwithstanding any breach of those conditions, the provisions of the last foregoing section shall not apply thereto.
- (6) Provision may be made by regulations under this Act for applying the foregoing provisions of this section, 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 this Act (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 has been served under subsection (1) of section one of the Restriction of Ribbon Development (Temporary Development) Act, 1943, or is deemed by virtue of subsection (4) of that section 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 may be continued on the land.

74 General provisions as to development authorised under interim development orders on or after nth November, 1943.

- (1) Where permission for any development of land has been granted, at any time on or after the eleventh day of November, 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 has not been carried out before the appointed day and the permission granted as aforesaid is in force immediately before that day, planning permission shall be deemed by virtue of this section to be granted, in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as in force as aforesaid:

Provided that this subsection 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 has also been granted.

- (2) Subject to the provisions of the next following section in any case to which those provisions apply, no account shall be taken of the provisions of this section in calculating for the purposes of Part V of this Act the development value of any interest in land for the development of which permission is deemed to be granted by virtue of this section; and nothing in this section shall be construed as affecting the operation of Part VI of this Act in relation to any development in respect of which permission is deemed to be so granted.
- (3) The provisions of section nineteen of this Act shall apply in relation to planning permission which is deemed to be granted by virtue of this section as if it had been granted on an application made in that behalf under Part II 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 (2) of section twenty of this Act to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.
- (4) Where permission for any development of land has been granted as mentioned in subsection (1) of this section, and permission for that development has also been 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 section as conditions imposed by the permission granted under the interim development order.

75 Unfinished buildings.

- (1) Subject to the provisions of this section, where any works for the erection or alteration of a building have been begun but not completed before the appointed day, then, if 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 if any permission required under the Restriction of Ribbon Development Act, 1935, for the carrying out of those works was granted, planning permission shall, by virtue of this section, be deemed to be granted in respect of the completion of those works.

- (2) The permission deemed to be granted by virtue of this section shall be deemed to be so granted subject to any conditions applicable thereto, by or 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 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;
 - (b) in any other case, for the purpose for which the building, or the building as altered, is designed.
- (3) The development value of land for the development of which permission is deemed to be granted by virtue of this section shall be calculated for the purposes of Part V of this Act as if that development had been completed immediately before the appointed day, and no development charge shall be payable in connection with that development.
- (4) In relation to any such works as are mentioned in subsection (1) of this section, being works in respect of which permission was granted on or after the eleventh day of November, nineteen hundred and forty-three, on an application in that behalf made under an interim development order, the provisions of this section shall have effect in substitution for the provisions of the last foregoing section.

76 Compensation for abortive expenditure on refusal of planning permission for other development authorised before appointed day.

- (1) Where an application is made within six months after the appointed day for planning permission to complete or carry out any buildings or works begun or contracted for before that day, and that permission is refused by the Secretary of State, either on appeal or on the reference of the application to him for determination, or is so granted by him subject to conditions, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act it is shown—
 - (a) that the buildings or works in question were begun or contracted for in conformity with the provisions of a planning scheme, or of permission granted thereunder, or in accordance with permission granted, at any time before the eleventh day of November, nineteen hundred and forty-three, by or under an interim development order; or
 - (b) that the buildings or works in question were begun or contracted for at a time when no resolution to prepare or adopt such a scheme had taken effect; and
 - (c) that the applicant has incurred expenditure in carrying out work which is rendered abortive by the refusal or conditions, or has entered into a contract for any work which is abandoned in consequence thereof,

that authority shall pay to the applicant compensation equal to the expenditure so incurred or, as the case may be, to any sum reasonably paid by him in the discharge of any liability arising- under the contract in respect of the abandonment of the work.

- (2) For the purposes of the last foregoing subsection, any expenditure incurred in the preparation of plans for the purposes of any work or upon any similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under the said subsection in respect of anything done for the purposes of any such buildings or works as are mentioned in paragraph (a) of subsection (1) of this section if it was done before the following date, that is to say—
- (a) where the building or work was authorised by permission granted under a planning scheme or by or under an interim development order, the date on which permission was so granted;
 - (b) where the building or work was otherwise begun or contracted for in conformity with a planning scheme, the date on which that scheme came into force.
- (3) Any compensation payable under this section in respect of an interest in land shall be payable in addition to any compensation payable under Part II of this Act in respect of that interest in consequence of the refusal of the permission or the grant thereof subject to conditions:

Provided that no account shall be taken, in assessing the compensation payable as aforesaid under the said Part II (whether in respect of the compulsory acquisition of the said interest or otherwise), of the value of any works in respect of which compensation is payable under this section.

77 Land ripe for development before the appointed day.

- (1) Where planning permission is granted in respect of any development consisting of the erection, extension or alteration of buildings, or is deemed by virtue of section seventy-four of this Act to be so granted, then if the Secretary of State is satisfied, on application made to him within one year after the appointed day or within such extended period as the Secretary of State may in any particular case allow—
- (a) that the development values of interests in the land, as required to be ascertained in accordance with the provisions of Part V of this Act and without regard to the provisions of this section would be wholly or mainly attributable to the prospects of that development at the appointed day, and
 - (b) that a building contract made in relation to that development within the period of ten years before the seventh day of January, nineteen hundred and forty-seven, was in force on the appointed day, or that an application for permission to build had been made in respect thereof within that period,

he shall certify accordingly:

Provided that if it appears to the Secretary of State that proceedings should be taken with a view to the revocation of the permission granted or deemed to be granted as aforesaid, he may postpone the issue of a certificate pending the taking of such proceedings, and if the permission is revoked he shall not be required to issue the certificate.

- (2) Where a certificate is issued under this section, then—
- (a) in calculating for the purpose of Part V of this Act the development value of any interest in the land to which the certificate relates, no account shall be taken of any value attributable to the prospects of the development specified in the certificate; and

- (b) no development charge shall be payable under Part VI of this Act in respect of that development if carried out within such period, if any, as may be prescribed by the certificate.
- (3) For the purposes of this section—
- (a) the expression " building contract ", in relation to any development, means a contract made between a person for the time being interested in the land and any other person, under which that other person undertakes to carry out the whole or substantially the whole of the building operations to be carried out in the course of that development; and
 - (b) the expression " application for permission to build ", in relation to any development, means the submission by a person for the time being interested in the land of plans of the buildings proposed to be erected, extended or altered in the course of the development to the proper local or other authority, in order to comply with the requirements of any enactment, byelaws, rules, regulations or other provisions under whatever authority made requiring plans to be so submitted or the consent of such authority to be obtained for the erection, extension or alteration of buildings.

78 Mineral workings.

- (1) In relation to development consisting of the winning and working of minerals, the provisions of this Act shall have effect subject to such adaptations and modifications as may be prescribed by regulations made under this Act with the consent of the Treasury.
- (2) Without prejudice to the generality of the foregoing provision, any such regulations as aforesaid may provide for securing—
 - (a) that in the case of such land as may be prescribed by or under the regulations, no development charge shall be payable in respect of the winning and working of any minerals in the land during a period of three years after the appointed day;
 - (b) that the restricted and the unrestricted values of any interest in such land as is mentioned in the foregoing paragraph shall be calculated for the purposes of Part V of this Act as if any operations carried out for the winning and working of minerals during the said period of three years had been carried out before the appointed day;
 - (c) that the amount of any development charge payable in respect of the winning and working of minerals in accordance with planning permission granted or deemed to have been granted shall be calculated by reference to the amount of minerals got from time to time in accordance with such permission.
- (3) Regulations made for the purpose of this section shall provide for securing—
 - (a) that where a development charge is payable in respect of the winning and working of minerals comprised in a mining lease which was in force on the appointed day, the terms of the lease may be varied, by such tribunal as may be prescribed by the regulations, so far as may be just having regard to the amount of the charge;
 - (b) that where a development charge is payable in respect of the winning and working of minerals authorised by an Order made under Part I of the Mines (Working Facilities and Support) Act, 1923, the provisions of the Order may be varied by the Railway and Canal Commission so far as may be just having regard to the amount of the charge.

Status: This is the original version (as it was originally enacted).

- (4) Where a development plan provides that any land is to be used for the purpose of securing the winning and working of any minerals comprised therein, then, without prejudice to the powers conferred by Part III of this Act in relation to land designated by such a plan as subject to compulsory acquisition, the provisions of the Mines (Working Facilities and Support) Act, 1923, shall have effect in relation to the land subject to such modifications as may be prescribed by regulations made under this Act by the Secretary of State and the Minister of Fuel and Power, and such regulations may in particular provide for securing—
- (a) that a right to work any minerals in the land may be granted by the Railway and Canal Commission under the said Act to any person who is desirous of working them, either by himself or through his lessees, and who is unable to obtain the necessary rights by agreement on reasonable terms;
 - (b) that for the purposes of the determination by the Commission of an application for any such right, it shall be assumed that the winning and working of the minerals is expedient in the national interest; and
 - (c) that the compensation or consideration in respect of any such right which is granted by the Commission shall be assessed having regard to the amount of the compensation which would be payable in respect of a compulsory acquisition of the minerals under Part III of this Act.
- (5) Regulations made for the purposes of this section shall be of no effect unless they are approved by resolution of each House of Parliament.
- (6) The provisions of this section and of any regulations made thereunder shall not apply to the winning and working of any such minerals as are mentioned in paragraph 3 or paragraph 4 of Part II of the Third Schedule to this Act, or to the winning and working of any minerals vested in the National Coal Board, and nothing in this section shall be construed as affecting the prerogative right of His Majesty to any gold or silver mine.

79 Land held by local authorities for general statutory purposes.

- (1) This section applies to land for the time being held by a local authority for the purposes of any of their functions as such, not being—
- (a) land to which the next following section applies;
 - (b) land held by the local authority for the purpose of any statutory undertaking carried on by them; or
 - (c) land of any class excepted from the provisions of this section by regulations made under this Act.
- (2) No payment shall be made under Part V of this Act to a local authority in respect of any interest in land which, on the appointed day, is land to which this section applies.
- (3) In the case of land which, on the appointed day, was land to which this section applies, no development charge shall be payable in respect of any operations carried out on the land, or in respect of any use of the land, while the land remains land to which this section applies.
- (4) If by reason of an appropriation, sale, feu or lease, any land which on the appointed day was land to which this section applies ceases to be such land, no development charge shall be payable in respect of any development of the land for which planning permission had been granted at the time of the appropriation, sale, feu or lease.

- (5) Where any land to which this section applies is compulsorily acquired under this or any other Act, in pursuance of a notice to treat served on or after the appointed day, then, in assessing the compensation payable in respect of the acquisition, it shall be assumed—
- (a) that planning permission would be granted for any development by virtue of which the use of the land would be made to correspond with the use which prevails generally in the case of contiguous or adjacent land; and
 - (b) that no development charge would be payable in respect of any such development.

80 Land acquired by local planning authorities and development corporations for comprehensive development or re-development.

- (1) No payment shall be made under Part V of this Act in respect of any interest in land, being—
- (a) the interest of a local planning authority in land acquired or appropriated by that authority under Part I of the Act of 1945 for the purposes of the development or redevelopment of any area as a whole; or
 - (b) the interest of a development corporation in land acquired by the corporation under the New Towns Act, 1946,

and where a local planning authority or a development corporation have before the appointed day disposed of an interest in any such land, no payment shall, be made under the said Part V in respect of that interest.

- (2) No development charge shall be payable in respect of the following operations or uses of land, that is to say:—
- (a) any operations carried out by a local authority, being a local planning authority, on any such land as is mentioned in paragraph (a) of the foregoing subsection or on any land acquired or appropriated by that authority under Part III of this Act for the purposes of the development or redevelopment of any area as a whole, or any use by that authority of any such land as aforesaid;
 - (b) any operations carried out by a development corporation on land acquired by the corporation under the New Towns Act, 1946, whether before or after the appointed day, or any use by a development corporation of any such land;

and where any such land as aforesaid has been disposed of by the local planning authority or development corporation, whether before or after the appointed day, no development charge shall be payable as aforesaid in respect of the carrying out of any operations on the land or the institution of any use of the land, for which planning permission had been granted at the time of the disposal, or, in the case of land disposed of before the appointed day, in respect of the carrying out of any operations on the land or the institution of any use of the land carried out or instituted in accordance with the terms of the deed by which the land was disposed of.

- (3) In respect of any such operations or uses of land as are mentioned in the last foregoing subsection, the local planning authority or development corporation shall from time to time pay to the Central Land Board such sums, if any, in lieu of development charges, as the Secretary of State may, with the consent of the Treasury, determine:

Provided that the Secretary of State may, with the like consent, direct the Board to repay from time to time the whole or any part of any sums so paid.

- (4) Any sums received by the Central Land Board under the last foregoing subsection shall be paid into the Exchequer, and any sums required by the Central Land Board for the repayment of sums so received shall be defrayed out of moneys provided by Parliament.

81 Operational land of statutory undertakers.

- (1) No payment shall be made under Part V of this Act in respect of the interest of any statutory undertakers in land which, on the appointed day, is operational land.
- (2) In the case of land which, on the appointed day, was operational land, no development charge shall be payable in respect of any operations carried out on the land by the statutory undertakers, or in respect of any use of the land by them, while the land remains operational land.
- (3) Where any land which, on the appointed day, was operational land ceases at any time thereafter to be operational land, no development charge shall be payable in respect of—
- (a) the use of that land for the purpose which prevails generally in the case of contiguous or adjacent land,
 - (b) the carrying out of any operations necessary for the purpose of making that use of that land,
- if the use is instituted, or the operations carried out, as the case may be, within such period after the cessation as may be prescribed by regulations under this Act.
- (4) Where any operational land of statutory undertakers is compulsorily acquired, under this or any other Act, in pursuance of a notice to treat served on or after the appointed day, then if the compensation payable in respect of the acquisition is assessed in accordance with section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, it shall be assumed—
- (a) that planning permission would be granted for any development by virtue of which the use of the land would be made to correspond with the use which prevails generally in the case of contiguous or adjacent land; and
 - (b) (whether or not the provisions of the last foregoing subsection are applicable to the land in question) that no development charge would be payable in respect of any such development.

82 Land held for charitable purposes.

- (1) This section applies to land an interest in which is held for charitable or ecclesiastical purposes of any description if the land, as distinct from the rents and profits thereof is used in any manner (including use in a manner involving the beneficial occupation of the land by any person) for or in connection with the purposes for which the said interest is held, and not otherwise, or if the land would be so used but for the occurrence of war damage or but for the fact that the land is for the time being requisitioned land.
- (2) No payment shall be made under Part V of this Act in respect of any such interest as aforesaid in land which, on the appointed day, is land to which this section applies; and no development charge shall be payable under Part VI of this Act in respect of any operations carried out on such land by the person entitled to any such interest for or in connection with the purposes for which that interest is held or in respect of any use of the land by that person for those purposes.

- (3) Where any land which, on the appointed day, was land to which this section applies ceases at any time thereafter to be such land, no development charge shall be payable under Part VI of this Act in respect of any development by virtue of which the use of the land is made to correspond with the use which prevails generally in the case of contiguous or adjacent land, if planning permission for that development has been granted under Part II of this Act before the land ceases to be land to which this section applies.
- (4) Where any Such interest as is mentioned in subsection (1) of this section in land to which this section applies is compulsorily acquired under this or any other Act in pursuance of a notice to treat served on or after the appointed day, then if—
- (a) the land was land to which this section applies on the appointed day; or
 - (b) the land is being used at the time of the notice to treat for a purpose of such a nature that there is no general demand or-market for land for that purpose,
- it shall be assumed, in assessing the compensation payable in respect of the acquisition of the said interest, that planning permission would be granted under Part II of this Act for any development by virtue of which the use of the land would be made to correspond with the use which prevails generally in the case of contiguous or adjacent land, and that no development charge would be payable under Part VI of this Act in respect of any such development.
- (5) If, upon application made to him at any time within three years after the appointed day, the Secretary of State is satisfied—
- (a) that any interest in land was held on that day for charitable or ecclesiastical purposes of any description, but that the land was not then used in any such manner as is mentioned in subsection (1) of this section; and
 - (b) that it is reasonable, having regard to any proposals for its future use, that the land should be treated for the purposes of this section as if it had been so used,
- he may, if he thinks fit, direct that the foregoing provisions of this section shall have effect in relation to the land, so long as that interest is so held, as if the land were land to which this section applies and had been such land on the appointed day:
- Provided that subsection (3) of this section shall not apply by virtue of any such direction if the interest in question ceases to be held for charitable or ecclesiastical purposes before the land has been actually used in the manner aforesaid.
- (6) For the purposes of subsection (1) of this section any interest in land which is held by the National Trust for Scotland shall be deemed to be used for the purposes for which that interest is held, and not otherwise, if, and only if, that interest is held by the Trust inalienably.

83 Crown Land.

- (1) In this and the next following section the expression " Crown land " means land an interest in which belongs to His Majesty in right of the Crown and land an interest in which belongs to a government department or is held in trust for His Majesty for the purposes of a government department.
- (2) Notwithstanding any interest of the Crown in land being Crown land as defined by this section but subject to the following provisions of this section.—
- (a) a development plan may include proposals relating to the use of the land and may designate the land as subject to compulsory acquisition, and any power

- to acquire land compulsorily under Part III of this Act may be exercised in relation to any interest therein which is for the time being held otherwise than by or on behalf of the Crown;
- (b) any restrictions and powers imposed and conferred by Part II of this Act shall apply and be exercisable in relation to the land, to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown, and the provisions of that Part, and of Parts V, VI and VII of this Act shall have effect accordingly.
- (3) Except with the consent of the appropriate authority as denned by this section—
- (a) no notice or order shall be served or made under section twenty-one, twenty-four, twenty-six, twenty-seven or thirty-one of this Act (or under any of those provisions as applied by any order or regulations made under Part II of this Act) in relation to land which for the time being is Crown land;
- (b) no building which is for the time being Crown land shall be included in any list compiled or approved under section twenty-eight of this Act;
- (c) no interest in land which is for the time being Crown land shall be acquired compulsorily under Part III of this Act.
- (4) No purchase notice shall be served under section seventeen of this Act in relation to any interest in Crown land unless an offer has been previously made by the owner of that interest to dispose thereof to the appropriate authority on terms that the price payable therefor shall be equal to and shall be determined, in default of agreement, in like manner as the compensation which would be payable in respect of that interest if it were acquired in pursuance of such a notice, and that offer has been refused by that authority.
- (5) No notice shall at any time be served under section twenty-one of this Act in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.
- (6) For the purposes of this and the next following section, the expression " the appropriate authority ", in relation to any land, means—
- (a) in the case of land belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other government department having the management of the land in question; and
- (b) in the case of land belonging to a government department or held in trust for His Majesty for the purposes of a government department, that department;
- and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

84 Agreements and arrangements relating to Crown land.

—The appropriate authority and the local planning authority for the district in which any Crown land is situated may make agreements for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable thereto (or, during any period before such a plan has become operative with respect to the land, in conformity with the requirements of the proper planning of that district), and any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement:

Provided that—

- (a) an agreement made under this section by the Commissioners of Crown Lands or by any government department shall be of no effect unless it is approved by the Treasury; and
- (b) in considering whether to make or approve an agreement under this section relating to land belonging to a government department, or held in trust for His Majesty for the purposes of a government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

85 Requisitioned land.

- (1) For the purposes of Part V of this Act, the development value of any interest in land which is requisitioned land on the appointed day shall be calculated as if the land had been on that day in the state in which it was immediately before the beginning of the period of requisition, and accordingly, in relation to any such interest, the second reference to the appointed day in subsection (5) of section fifty-eight of this Act, and any reference to that day in the Third Schedule to this Act, shall be construed as a reference to the beginning of the period of requisition:

Provided that—

- (a) where a payment in respect of the value of any buildings or works erected or constructed on the land during the period of requisition has been or is required to be made to a Minister by any person interested in the land in pursuance of an agreement made between them or where any such buildings or works were otherwise erected or constructed wholly or partly at the expense of any such person, those buildings or works shall be treated for the purposes of this subsection as having been erected or constructed immediately before the beginning of the period of requisition; and
 - (b) in calculating the development value of any interest in the land, such adjustments as may be appropriate shall be made in respect of any development carried out during the period of requisition, being development in respect of which compensation is payable under the Compensation (Defence) Act, 1939, or under regulations made under the Emergency Powers (Defence) Act, 1939.
- (2) Where any payment falls to be made under section fifty-five of this Act in respect of any interest in land which is requisitioned land on the appointed day, any payment in respect of the value of any works on the land made to a Minister under Part II of the Requisitioned Land and War Works Act, 1945, in pursuance of a report of the War Works Commission, may include such sum as that Commission may think just, not exceeding the amount of the payment to be made under the said section fifty-five, in respect of any increase in the value of the interest in the land which is attributable to the carrying out of the works.
- (3) In this section the expression " requisitioned land " means land of which possession has been taken on behalf of His Majesty in the exercise or purported exercise of emergency powers (that is to say powers conferred by regulations made under the Emergency Powers (Defence) Act, 1939, by section fifty-two of the Telegraph Act, 1863, or by section seven of the Air Navigation Act, 1920, or exercisable by virtue of the prerogative of the Crown); and the expression " period of requisition " in relation to requisitioned land means the period during which possession of the land under such powers taken as aforesaid continues.

86 Property of National Coal Board.

- (1) Regulations made under this Act by the Secretary of State and the Minister of Fuel and Power with the consent of the Treasury may direct that any of the provisions of this Act relating to statutory undertakers and to land of such undertakers shall apply, subject to such adaptations, modifications and exceptions as may be specified in the regulations, in relation to the National Coal Board, and in relation to land (including mines) of that Board of any such class as may be specified in the regulations, as if the Board were statutory undertakers and as if the land of any class so specified were operational land within the meaning of this Act.
- (2) Without prejudice to the generality of the foregoing subsection, any regulations made for the purposes of that subsection may in particular provide that any compensation payable to the National Coal Board by virtue of any of the provisions applied by those regulations, being compensation which, in the case of statutory undertakers, would be assessable in accordance with the provisions of the Fourth Schedule to the Act of 1945, shall, in lieu of being so assessed, be assessed in accordance with the provisions of the regulations.

87 Land acquired by notice to treat served before appointed day.

- (1) Where any interest in land is compulsorily acquired on or after the appointed day by any authority or person in pursuance of a notice to treat served before the passing of this Act, the provisions of this Act and of any scheme made under Part V of this Act shall apply in relation to that interest as if the purchase had been completed immediately before the appointed day.
- (2) Where any interest in land is compulsorily acquired before the appointed day by any government department or local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, in pursuance of a notice to treat served after the passing of this Act, then—
 - (a) the provisions of Part V of this Act and of any scheme made thereunder shall have effect in relation to the land as if that interest had been subsisting on the appointed day with all incidents to which it was subject immediately before the date of the notice to treat, as if the land had been on the appointed day in the same state as it was immediately before the date of the notice to treat, and as if the person who was entitled thereto immediately before the date of the notice to treat had been entitled thereto on the appointed day; and
 - (b) except as aforesaid, no payment shall be made under the said Part V in respect of the interest so acquired, or in respect of any interest derived therefrom; and
 - (c) subject as hereinafter provided, nothing in this Part of this Act shall be construed as exempting from the payment of a development charge any operations carried out on the land by the person entitled to any such interest, or any use of the land by any such person:

Provided that paragraph (c) of this subsection shall not apply to any operations or uses of land which are exempted from the payment of a development charge by virtue of any of the provisions of section eighty of this Act.

- (3) Where any interest in land is compulsorily acquired (whether before, on or after the appointed day) in pursuance of a notice to treat served after the passing of this Act, then—
 - (a) where the compensation payable in respect thereof falls to be calculated in accordance with any of the provisions of sections forty-nine to fifty-one of

this Act, that provision shall apply, subject to any necessary modifications, for the purpose of calculating under Part V of this Act the restricted and the unrestricted values of that interest,

- (b) where the compensation so payable falls to be assessed in accordance with Rule (5) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by subsection (2) of section fifty-three of this Act, the provisions of the said Rule (5), as so amended, shall apply, subject to any necessary modifications, for the purpose of calculating under the said Part V the restricted value of that interest;

and any calculation of those values previously made under the said Part V shall be adjusted accordingly.

- (4) Subject as hereinafter provided, the foregoing provisions of this section shall apply where an interest in land is acquired by agreement by any authority or person who have power or could be authorised to acquire that interest compulsorily under any enactment, as they apply where an interest in land is compulsorily acquired, and in relation to any such acquisition any reference in those provisions to the service of notice to treat shall be construed as a reference to the making of the contract, and the reference in the last foregoing subsection to compensation payable in respect of the compulsory acquisition shall be construed as a reference to the compensation which would be so payable if the land were compulsorily acquired:

Provided that—

- (a) the provisions of section fifty of this Act shall not apply for the purpose of calculating the restricted and the unrestricted values of any interest acquired as aforesaid except in the cases provided by subsection (2) of that section, or by that section as extended by subsection (1) of section fifty-two of this Act;
- (b) the provisions of Rule (5) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by subsection (2) of section fifty-three of this Act, shall not apply for the purpose of calculating the restricted value of any interest acquired as aforesaid except in the cases provided by subsection (3) of the said section fifty-three; and
- (c) where any interest in land is acquired as aforesaid before the appointed day in pursuance of a contract made after the passing of this act the contract may provide that subsections (2) and (3) of this section shall not apply.

88 Determination of questions under Part VII.

Any question whether land is land to which section seventy-nine, eighty of eighty-two of this Act applies shall be determined by the Secretary of State:

Provided that, before determining under this section any question whether any land is land to which section eighty-two of this Act applies, the Secretary of State may, and shall if the Court of Session so requires, state a case for the opinion of the Court of Session on the question whether an interest in that land is held for ecclesiastical or charitable purposes.

PART VIII

FINANCES OF LOCAL PLANNING AUTHORITIES.

89 Exchequer grants to local planning authorities in respect of acquisition and clearance of land in re-development areas.

- (1) Provision may be made by regulations made under this Act with the consent of the Treasury for the payment by the Secretary of State to local planning authorities of grants of such amounts, and payable over such periods and subject to such conditions, as may be determined by or under the regulations in respect of expenditure incurred by those authorities, in the exercise of powers conferred in that behalf by this Act, in connection with the acquisition and clearing of land approved by the Secretary of State for the purposes of the regulations, being land acquired for the re-development as a whole of areas of extensive war damage or areas of bad layout or obsolete development, or for the relocation of population or industry, or the replacement of open space, in the course of such re-development, or derelict land acquired for the purpose of bringing it into use.
- (2) For the purposes of this section, any expenditure incurred by a local planning authority before the passing of this Act, under powers in that behalf conferred by the Act of 1945, in the acquisition or clearing of any such land as is mentioned in the foregoing subsection shall be treated as incurred in the exercise of the corresponding powers conferred in that behalf by this Act, and no grant shall be payable under the Act of 1945 in respect of the acquisition or clearing of any such land.
- (3) Regulations made under this section may provide for the payment of grants thereunder, in such cases and subject to such conditions as may be prescribed by or under the regulations, in respect of land appropriated by local planning authorities (whether before or after the passing of this Act) for any of the purposes specified in subsection (1) of this section as if the land had been acquired for those purposes at a cost of such amount, and defrayed in such manner, as may be determined by or under the regulations.
- (4) Without prejudice to the generality of the foregoing provisions of this section, any regulations made thereunder may provide—
 - (a) for the inclusion in the expenditure incurred by local planning authorities in the acquisition of land for any of the purposes specified in subsection (1) of this section of any sums, or any part of sums, paid by those authorities in connection with any restriction imposed on the development or use of the land by or under any enactment (whether by way of compensation or by way of contribution towards damage or expense incurred in consequence of the restriction);
 - (b) for the calculation of grants payable under the regulations by reference to the amount of the annual costs incurred or treated as being incurred by local planning authorities in respect of the borrowing of money to defray expenditure in respect of which the grants are made;
 - (c) for the payment of such grants at different rates in respect of different parts of the period during which they are payable;
 - (d) for the payment of such grants at different rates to different local planning authorities according to the general financial position of those authorities respectively, and to the financial burdens assumed by them respectively in respect of the matters specified in subsection (1) of this section.

- (5) Grants payable under regulations made for the purposes of this section shall not exceed the following amounts:—
- (a) in the case of land acquired or appropriated for the re-development as a whole of areas of extensive war damage, or for the relocation of population or industry or the replacement of open space in the course of such re-development, an amount equal to ninety per cent. of the annual costs incurred or treated as being incurred by local planning authorities in respect of the borrowing of money to defray expenditure in respect of which the grants are made;
 - (b) in the case of any other land, an amount equal to eighty per cent. of the said annual costs.
- (6) Any expenses incurred by the Secretary of State in the making of grants in accordance with regulations made for the purposes of this section shall be defrayed out of moneys provided by Parliament.

90 Other Exchequer grants to local planning authorities.

- (1) Provision may be made by regulations made under this 'Act with the consent of the Treasury for the payment by the Secretary of State to local planning authorities of grants of such amounts, and payable in such cases and subject to such conditions, as may be determined by or under the regulations—
- (a) in respect of expenditure incurred by those authorities in the payment of compensation under Part II, Part VI or Part VII of this Act, other than compensation payable in respect of land compulsorily acquired by virtue of section seventeen of this Act or in taking any action under section twenty-four of this Act;
 - (b) in respect of loss incurred by those authorities in connection with the acquisition and clearing of land approved by the Secretary of State for the purposes of the regulations, including land compulsorily acquired by virtue of the said section seventeen, but excluding any such land as is mentioned in subsection (1) of the last foregoing section.
- (2) Paragraphs (a), (b) and (d) of subsection (4) and subsection (6) of the last foregoing section shall apply in relation to regulations made under this section and to expenses incurred by the Secretary of State in the making of grants under such regulations as they apply in relation to regulations made under the last foregoing section and to expenses incurred by the Secretary of State in the making of grants under those regulations.
- (3) Grants payable under regulations made for the purposes of this section shall not exceed an amount equal to fifty per cent. of the amount of the expenditure or loss in respect of which the grants are made.

91 General provisions as to Exchequer grants to local planning authorities.

- (1) It shall be a condition of the making of grants under regulations made for the purposes of section eighty-nine of this Act, in respect of expenditure incurred by a local planning authority in connection with the acquisition and clearing of any land—
- (a) that there shall have been submitted to the Secretary of State such information as to the proposals of the local planning authority for the lay-out and redevelopment of the land as the Secretary of State may require in order to

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enable a comparison to be made between the, annual return to the authority from the carrying out of the redevelopment and the annual equivalent of the cost thereof; and

- (b) that those proposals shall have been approved by the Secretary of State with the consent of the Treasury as being likely to result in an annual return and an annual equivalent such as are mentioned in the foregoing paragraph which are reasonable in relation to one another having regard to the circumstances of the land and the requirements of a proper lay-out and redevelopment.
- (2) Any approval of the Secretary of State required for the purposes of the payment of grant under section eighty-nine or section ninety of this Act in connection with the acquisition of land may be given subject to compliance with requirements imposed by the Secretary of State for securing that any negotiations for the acquisition of the land by the local planning authority will be carried out by the Valuation Office, and that any valuation of such land for the purposes of such acquisition, or for any purposes of the regulations, will be made by that Office.
- (3) Subject to the foregoing provisions of this section any regulations made for the purposes of either of the two last foregoing sections may make provision whereby the payment of grants in pursuance of the regulations is dependent upon the fulfilment of such conditions as may be determined by or in accordance with the regulations, and may also make provision for requiring local planning authorities to whom grants have been so made to comply with such requirements as may be so determined.

92 Grants in respect of certain compensation paid before the appointed day.

- (1) Provision may be made by regulations made under this Act with the consent of the Treasury for the payment by the Secretary of State to local authorities who were interim development authorities for the purposes of the Act of 1932 of grants of such amounts, and payable in such cases, as may be determined by or under the regulations in respect of expenditure incurred by those authorities—
- (a) in the payment of contributions under subsection (4) of section ten of the Act of 1932 in connection with applications for permission to develop land dealt with after the eleventh day of May, nineteen hundred and forty-three,
 - (b) in the payment of contributions under the said subsection (4) as applied by section four of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, or of compensation under subsection (2) of section seven of that Act, in respect of the revocation or modification, after the date aforesaid, of any permission to develop land, whether granted before or after that date,

being contributions or compensation payable in respect of loss or damage which operated to reduce the development value on the appointed day of any interest in the land.

- (2) The reference in the foregoing subsection to local authorities who were interim development authorities for the purposes of the Act of 1932 shall be construed as including a reference to local authorities being the constituent authorities of a joint committee who were such an interim development authority, and in relation to any such local authority the reference in that subsection to expenditure incurred by that authority shall be construed as a reference to expenditure incurred by the joint committee.

- (3) Any expenses incurred by the Secretary of State in the making of grants in accordance with regulations made for the purposes of this section shall be defrayed out of moneys provided by Parliament.

93 Power of Ministers to', contribute towards compensation paid by local authorities.

Where compensation is payable by a local authority under this Act in consequence of any decision or order given or made under Part II of this Act (including compensation payable in respect of land compulsorily acquired by virtue of section seventeen of this Act) then, if that decision or order was given or made wholly or partly in the interest of any service which is provided by a government department and the cost of which is defrayed out of moneys provided by Parliament or out of the Road Fund, the Minister responsible for the administration of that service may pay to that authority, out of moneys so provided, a contribution of such amount as he may, with the consent of the Treasury, determine.

94 Power of local authorities and statutory undertakers to contribute towards expenses of local planning authorities, etc.

- (1) Any local authority and any statutory undertakers may contribute towards—
- (a) any expenses incurred by a local planning authority in or in connection with the carrying out of a survey or the preparation of a development plan under Part II of this Act;
 - (b) any expenses incurred by a local planning authority in or in connection with the performance of any of their other functions under Part II or Part III of this Act.
- (2) For the purposes of this section, contributions made by a local planning authority towards the expenditure of a joint planning committee or joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

95 Expenses of, and borrowing by, local authorities.

- (1) Any expenses incurred by a local highway authority under this Act shall be defrayed in like manner as expenses incurred by the authority on highways.
- (2) Any expenses incurred by a local authority in pursuance of a purchase notice served under section seventeen of this Act or in the acquisition of land under section thirty-four of this Act, for the purposes of any function of that authority, shall be defrayed in like manner as other expenses incurred by that authority for the purposes of that function.
- (3) A local authority may borrow for the purposes of this Act in accordance with the provisions of Part XII of the Local Government (Scotland) Act, 1947.
- (4) Nothing in this section shall authorise the exercise of the power of borrowing money thereby conferred otherwise than in compliance with the provisions of the Local Authorities Loans Act, 1945, of any Defence Regulation within the meaning of the Supplies and Services (Transitional Powers) Act, 1945, for the time being having effect by virtue of that Act, and of any orders for the time being in force, made by the Treasury under section one of the Borrowing (Control and Guarantees) Act, 1946.

PART IX

SUPPLEMENTAL.

*Supplementary provisions as to local planning authorities.***96 Default powers of Secretary of State.**

- (1) If it appears to the Secretary of State after consultation with the local planning authority to be expedient that an enforcement notice should be served under section twenty-one of this Act, or under that section as applied by any order or regulations under Part II of this Act, or that a notice should be served under section thirty-one of this Act, in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice, and any notice so served by the Secretary of State shall have the like effect as a notice served by the local planning authority:

Provided that in relation to an enforcement notice so served by the Secretary of State, section twenty-two of this Act shall have effect as if for any reference therein to the local planning authority there were substituted a reference to the Secretary of State.

- (2) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that any of the following orders should be made under Part II of this Act, that is to say:—
- (a) an order under section nineteen of this Act revoking or modifying any permission to develop land,
 - (b) an order under the said section nineteen as applied by any order or regulations under Part II of this Act,
 - (c) an order under section twenty-four of this Act requiring any use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed,
 - (d) a tree preservation order, or an order amending or revoking a tree preservation order, or
 - (e) a building preservation order, or an order amending or revoking a building preservation order,

he may give directions to the local planning authority requiring them to submit to him such an order for his confirmation, or may himself make such an order, and any order so made by the Secretary of State shall have the like effect as if it had been made by the local planning authority and confirmed by the Secretary of State under Part II of this Act.

- (3) In relation to the making by the Secretary of State of any order under the last foregoing subsection, the provisions of Part II of this Act, and of any regulations made thereunder, with respect to the procedure to be followed in connection with the submission of such an order by the local planning authority, the confirmation thereof by the Secretary of State, and the service of copies thereof as so confirmed, shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make the order, to the making thereof by the Secretary of State and to the service of copies thereof as so made.
- (4) If the Secretary of State is satisfied, after holding a local inquiry—

- (a) that a local planning authority have failed to take steps for the acquisition of any land which in the opinion of the Secretary of State ought to be acquired by them under section thirty-five of this Act for the purpose of securing its use in the manner proposed by the development plan or, during the period before a development plan has become operative under this Act with respect to the district of that authority, for the purpose of securing the proper planning of that district, or
- (b) that any local planning authority have failed to carry out, on land acquired by them under the said section thirty-five, or appropriated by them under section thirty-nine of this Act, any development which in the opinion of the Secretary of State ought to be carried out,

the Secretary of State may by order require the authority to take such steps as may be specified in the order for acquiring the land or carrying out the development, as the case may be.

- (5) Any order under the last foregoing subsection shall be enforceable, on the application of the Secretary of State, by proceedings under section ninety-one of the Court of Session Act, 1868.

97 Power to transfer planning functions of town councils of small burghs to county councils.

- (1) If at any time the Secretary of State considers it expedient in the public interest that the functions under this Act of a local planning authority being the town council of a small burgh should be transferred to the county council of the county within which that burgh is situated, he may by order transfer those functions to the county council, and where any such functions are so transferred any reference in this Act to the local planning authority shall in relation to the district of the small burgh be construed as a reference to the county council.
- (2) An order under the foregoing subsection may make provision for such incidental and consequential matters as the Secretary of State may think fit, including the transfer to the county council of officers, property, rights and liabilities of the town council and the compensation of officers.

98 Applications for planning permission, determination of development charges, etc.

- (1) An application to a local planning authority for planning permission under Part II of this Act, and an application to the Central Land Board for the making or confirmation of any determination under Part VI of this Act, shall be made in such manner as may be prescribed by regulations under this Act and shall include such particulars and shall be verified by such evidence as may be required by the regulations or by any directions given by the local planning authority or the Board thereunder.
- (2) Subject to the following provisions of this section, regulations made under this Act may provide for the combination in one document of—
 - (a) an application for planning permission in respect of any development;
 - (b) an application for a determination of the Central Land Board in respect of that development;
 - (c) any application or submission required to be made to a local authority in respect of that development under any enactment specified in the regulations;

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and for the making of any such combined application in such form and manner and to such authority as may be prescribed by the regulations, and for the transmission of copies of the application by that authority to such other authorities or persons as may be so prescribed.

- (3) Any regulations made for the purposes of the last foregoing subsection shall be made by the Secretary of State after consultation with such associations of local authorities as appear to him to be concerned; and different provision may be made by such regulations in relation to areas in which different enactments are in force.
- (4) An application or submission required to be made to a local authority under any enactment specified in regulations made under subsection (2) of this section shall, if made in accordance with the provisions of the regulations, be deemed to be valid notwithstanding anything in that enactment, prescribing or enabling any authority to prescribe the form in which or the manner in which such an application or submission is to be made, but without prejudice to the validity of any application or submission made in accordance with that enactment, and without prejudice to any provision of that enactment enabling any such authority to require further particulars of the matters to which the application or submission relates.

General Provisions.

99 Powers of entry.

- (1) Any person duly authorised in writing by the Secretary of State or by a local planning authority may, at any reasonable time, enter upon any land for the purpose of surveying it in connection with—
 - (a) the preparation, approval, making or amendment of a development plan relating to the land, including the carrying out of any survey under Part II of this Act;
 - (b) any application under the said Part II, or under any order or regulations made thereunder, for any permission, consent or determination to be given or effected in relation to that or any other land under the said Part II or under any such order or regulations ;
 - (c) any proposal by the local planning authority or by the Secretary of State to serve or make any notice or order under the said Part II or under any such order or regulations as aforesaid;

and any person being an officer of the Valuation Office or a person duly authorised in writing by a local planning authority may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with any claim for compensation payable by that authority in respect of that or any other land under Part II or Part VII of this Act.

- (2) Any officer of the Valuation Office, or any person duly authorised in writing by a Minister having power to acquire land designated by a development plan under this Act as subject to compulsory acquisition or to authorise the acquisition of land so designated, and any person being an officer of the Central Land Board or a person duly authorised in writing by a local authority having power to acquire land under Part III of this Act, may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with any proposal to acquire that or any other land or in connection with any claim for compensation in respect of any such acquisition.

- (3) Any officer of the Valuation Office or of the Central Land Board may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with—
 - (a) any claim for a payment in respect of that or any other land under Part V of this Act;
 - (b) any determination of the Board in respect of that or any other land under Part VI of this Act.
- (4) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall 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.
- (5) Any person who wilfully obstructs a person acting in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (6) If any person who, in compliance with the provisions of this section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of his duty in connection with the survey or estimate for which he was authorised to enter the premises, be liable on summary conviction to, a fine not exceeding one hundred pounds or to imprisonment' for a term not exceeding three months.
- (7) Where any land is damaged in the exercise of a power of entry conferred under this section or in the making of any survey for the purpose of which any such power of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Minister, Board or authority on whose behalf the entry was effected.
- (8) Any expenses incurred by a Minister or the Central Land Board under the last foregoing subsection shall be defrayed out of moneys provided by Parliament.
- (9) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein:

Provided that a person shall not carry out any works authorised by this subsection unless notice of his intention so to do has been included in the notice required by subsection (4) of this section, and if the land in question is held by any statutory undertakers and those undertakers object to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

100 Local inquiries, etc.

- (1) The provisions of section fifty of the Act of 1945 (which relate to local inquiries) shall be incorporated with this Act, subject to the amendments specified in the second column of the Eighth Schedule to this Act.
- (2) Any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and any hearing in connection with an

appeal against the refusal, or the grant subject to conditions, of an application by statutory undertakers for permission to develop operational land, or with any such application made by such undertakers and referred to the Secretary of State, or with the revocation or modification of permission to develop operational land granted to such undertakers, shall, if the Ministers concerned so direct, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936; and any direction so given shall be deemed to have been given under section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945.

- (3) Paragraphs 4 and 5 of the First Schedule to the Act of 1945 shall not apply in relation to any order under this Act which in certain events becomes subject to special parliamentary procedure.
- (4) Nothing in subsections (2) to (9) of section fifty of the Act of 1945 shall apply to any inquiry under this section by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936.

101 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 in which an address for service has been furnished by that person, at that address; or
 - (c) by sending it in a registered letter addressed to that person at his usual or last known place of abode, or in a case in which an address for service has been furnished by that person, at that address; or
 - (d) in the case of a person on whom the notice is required to be served as being a person appearing from the valuation roll to have an interest in land, by sending it in a registered letter 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 registered letter 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 any person as having an interest in premises, and the name 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 shall be deemed to be duly served if—
 - (a) being addressed to him either by name or by the description of " the owner ", "the lessee " or "the occupier ", as the case may be, of the premises (describing them) it is delivered or sent in the manner prescribed by paragraph (a), (b) or (c) of the last foregoing subsection; or
 - (b) being addressed as aforesaid and marked in such manner as may be prescribed by regulations under this Act for securing that it shall be plainly identifiable as a communication of importance, it is sent in a registered letter to the premises 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 or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice 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 a person who has furnished that authority with an address for the service of the notice on him) if it is addressed to " the owners and any lessees and occupiers " of that part of the land (describing it), and is affixed conspicuously to some object on the land.

102 Power to require information as to ownership of land.

The Secretary of State, the Central Land Board or a local authority may, for the purpose of enabling them to make any order or serve any notice or other document which they are by this Act authorised or required to make or serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as superior, owner, heritable creditor, lessee or otherwise; and any person who, having been required in pursuance of this section to give any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding five pounds.

103 Expenses of tribunals, etc.

- (1) The Secretary of State may pay to the chairman and members of any tribunal established for the purposes of this Act, or of regulations made thereunder, such remuneration (whether by way of salaries or by way of fees) and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as the Treasury may determine.
- (2) Any expenditure incurred by the Secretary of State under the last foregoing subsection, or in the payment of the expenses of any committee established under section twenty-nine of this Act, shall be defrayed out of moneys provided by Parliament.

104 Expenses of Ministers.

There shall be paid out of moneys provided by Parliament—

- (a) any expenses incurred by a Minister in the acquisition of land under Part III of this Act, other than expenses so incurred which are required to be defrayed out of the Road Fund;
- (b) any sums payable into the Road Fund for the purpose of defraying expenses of the Minister of Transport under this Act;
- (c) any sums authorised or required to be paid out of moneys provided by Parliament by virtue of any of the provisions of the Act of 1945 incorporated with Part III of this Act;
- (d) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

105 Determination of disputes as to compensation, etc.

- (1) Except so far as may be otherwise provided by or under this Act, any question of disputed compensation under this Act (other than compensation payable in respect of the compulsory acquisition of land) shall be determined in the same manner as compensation on the acquisition of land falls to be determined under the Acquisition of Land (Assessment of Compensation) Act, 1919, and sections one, three, five, six and eight of that Act shall accordingly have effect subject to any necessary modifications.
- (2) Any dispute arising under any provisions of this Act in relation to any land as to what is the use which prevails generally in the case of contiguous or adjacent land shall, if application in that behalf is made by any party to the dispute within such time and in such manner as may be prescribed, by regulations made under this Act, be referred to and determined by the Central Land Board.
- (3) Any party to any such dispute "as aforesaid who is dissatisfied with the determination of the Central Land Board may, within such time and in such manner as may be prescribed by regulations made under this Act, appeal to the Secretary of State, whose decision shall be final.

106 Appointment of arbiters under 9 & 10 Geo. 5. c. 57.

On appointing a person to be a member of the panel of official arbiters formed under section one of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Reference Committee may make it a condition of his appointment that while holding office he shall not himself engage, or be a partner of any other person who engages, in private practice or business.

107 Regulations and orders.

- (1) The Secretary of State may make regulations under this Act—
 - (a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by any local authority;
 - (b) for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which such regulations are authorised or required to be made by any other Minister, and in particular for prescribing anything which by this Act is required or authorised to be prescribed by regulations.
- (2) Any regulations made under this Act (other than regulations which, by virtue of any provision of this Act, are of no effect unless they are approved by resolution of each House of Parliament) shall be laid before Parliament immediately after they are made, and if either House, within the period of forty days after the regulations are so laid before it, resolves that the regulations be annulled, the regulations shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.
- (3) In reckoning for the purposes of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (4) Any power to make an order conferred by the foregoing provisions of this Act shall include power to amend or revoke that order by a subsequent order made in like manner:

Provided that an order made by the Secretary of State for the purposes of paragraph 5 of Part II of the Third Schedule to this Act shall not be amended or revoked at any time after the appointed day.

108 Assumptions as to planning permission.

- (1) For the avoidance of doubt it is hereby declared that where, under any provision of this Act, the value of any interest in land is required to be assessed on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to this Act, that assumption is to be made on the footing that any such development must comply with the provisions of any enactment, other than this Act, which would be applicable thereto.
- (2) For the purposes of paragraph 1 of Part II of the said Third Schedule, the erection on land within the curtilage of any such building as is mentioned in that paragraph of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building; and where on the appointed day any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the reference in the said paragraph 1 to the cubic content of the original building shall be construed as a reference to the aggregate cubic content of those buildings.
- (3) Any reference in the said Third Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.

109 Amendments and repeals.

- (1) Subject to the provisions of this section, the enactments specified in the first column of the Eighth Schedule to this Act shall have effect, on and after the appointed day, subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the provisions of this Act.
- (2) Subject to the provisions of this section, the enactments specified in the Ninth Schedule to this Act are hereby repealed, in the case of enactments specified in Part I of that Schedule as from the passing of this Act, and in the case of the enactments specified in Part II of that Schedule as from the appointed day, to the extent specified in relation thereto in the third column of that Schedule:

Provided that the repeal by virtue of this subsection of any enactment specified in Part I of the said Ninth Schedule shall not affect the operation of that enactment in its application to compensation in respect of land, compulsorily acquired in pursuance of a notice to treat served before the date of the passing of this Act or compensation in respect of any order or direction made or given before that date.

- (3) The repeal or amendment by virtue of this Act of any enactment contained in Part I or Part III of the Act of 1945, other than an enactment specified in Part I of the Ninth Schedule to this Act, shall not affect the operation of that enactment as applied by the New Towns Act, 1946, but without prejudice to any amendment of the last mentioned Act effected by this Act.
- (4) His Majesty may by Order in Council repeal or modify so much of any local enactment in force on the appointed day as confers any such powers or imposes any such prohibitions or restrictions as could be conferred or imposed by regulations made under section twenty-nine of this Act:

Provided that any Order in Council made under this subsection shall be subject to special parliamentary procedure.

- (5) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), the provisions of the Tenth Schedule to this Act (being transitory and consequential provisions) shall have effect in relation to the repeals effected by this section.
- (6) In accordance with the foregoing provisions of this section the Act of 1945 shall have effect on and after the appointed day as set out in the Eleventh Schedule to this Act.

110 Exercise of functions of Board of Trade.

Anything required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, undersecretary or assistant secretary of the Board or any person authorised in that behalf by the President of the Board.

111 Saving for Postmaster General.

- (1) Subject to the provisions of this section, and to the provisions of subsection (4) of section twenty-two of the Act of 1945 as incorporated with this Act, nothing in this Act or in any order or regulations made thereunder shall affect any powers or duties of the Postmaster General under the provisions of the Telegraph Acts, 1863 to 1943, or apply to any telegraphic lines placed or maintained by virtue of any of those provisions.
- (2) Where in pursuance of an order made by the Minister of Transport under section forty-six of this Act any highway is stopped up or diverted and, immediately before the date on which the order became operative, there was under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster General, the Postmaster General shall have the same powers in respect of that line as if the order had not become operative:

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line should be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

- (3) Where any order made under the said section forty-six provides for the improvement of any highway, not being a trunk road, and, immediately before the date on which the order became operative, there was under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster General; then if the local highway authority require that that line should be altered, paragraphs (1) to (8) of the said section seven shall apply to the alteration and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the local highway authority.
- (4) In this section the expressions "alter" and "telegraphic line" have the same meanings as in the Telegraph Act, 1878.

112 Application to land regulated by special enactments.

- (1) For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of this Act, or by any local Act passed at any time during the present Session of Parliament, for authorising or regulating any development of the land.
- (2) Without prejudice to the generality of the foregoing provision, references in any enactment contained in a local Act (including any such Act passed as aforesaid) to Part II of the Act of 1945 shall be construed—
 - (a) in relation to compensation payable on a compulsory acquisition of land thereunder in pursuance of a notice to treat served before the passing of this Act, as a reference to the said Part II as amended by this Act;
 - (b) in relation to compensation payable on a compulsory acquisition of land thereunder in pursuance of a notice to treat served after the passing of this Act, as a reference to Part IV of this Act:

Provided that no such enactment shall, by virtue of this subsection, be construed as excluding the application of the said Part IV in relation to compensation payable in respect of any compulsory acquisition of land.

113 Interpretation.

- (1) In this Act, except so far as the contrary is provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
 - " Act of 1932 " means the Town and Country Planning (Scotland) Act, 1932;
 - " Act of 1945 " means the Town and Country Planning (Scotland) Act, 1945;
 - " advertisement " means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction, and without prejudice to the foregoing provision includes any hoarding or similar structure used or adapted for use for the display of advertisements, and references to the display of advertisements shall be construed accordingly;
 - " agriculture " includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " shall be construed accordingly;
 - " appointed day " means such day as the Secretary of State may by order appoint;
 - " appropriate Minister " means—
 - (a) in relation to statutory undertakers carrying, on an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power;

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- (b) in relation to the undertaking of the North of Scotland Hydro-Electricity Board, the Secretary of State;
- (c) in relation to statutory undertakers carrying on an undertaking for the supply of water, the Secretary of State; and
- (d) in relation to any other statutory undertakers as defined by this Act, the Minister of Transport;

" area of extensive war damage " and " area of bad lay-out or obsolete development " mean an area consisting of land shown to the satisfaction of the Secretary of State to have sustained war damage of, as the case may be, to be badly laid out or of : obsolete development, or consisting of such land together with other land, contiguous or adjacent thereto, being in each case land comprised in an area which is defined by a development plan as an area of comprehensive development;

" building " includes any, structure or erection and any part of a building as so defined, but does not include plant or machinery comprised in a building;

" buildings or works " includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

" building operations " includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

" building preservation order " has the meaning assigned to it by section twenty-seven of this Act;

" clearing ", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed by regulations made for the purposes of this Act;

" common " includes any town or village green and " open space " means any land laid out as a public garden or used for the purposes of public recreation or land being a disused burial ground;

" Consolidated Fund " means the Consolidated Fund of the United Kingdom, and includes the growing produce thereof;

" development " has the meaning assigned to it by section ten of this Act, and " develop " shall be construed accordingly;

" development charge " means the development charge payable under Part VI of this Act;

" development order " has the meaning assigned to it by section eleven of this Act;

" development plan " has the meaning assigned to it by section three of this Act, and includes a plan made under subsection (5) of that section;

" enactment " includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament, including an order or scheme confirmed by . Parliament;

" engineering operations " includes the formation or laying out of means of access to highways;

" erection " in relation to buildings includes extension, alteration and re-erection;

" feu charter " includes a feu contract and any other instrument by which land is feued;

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- " functions " includes powers and duties;
- " government department " includes the Electricity Commissioners;
- " heritable security " means—
 - (a) a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a security by way of ground annual and a real burden *ad factum praestandum* but inclusive of a security constituted by way of *ex facie* absolute disposition; or
 - (b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act, 1857; and the expression " heritable creditor " shall be construed accordingly;
- " improvement " in relation to a highway has the same meaning as the expression " improvement of roads " has in Part II of the Development and Road Improvement Funds Act, 1909;
- " industrial building " has the same meaning as in the Distribution of Industry Act, 1945;
- " interim development authority " means a local authority or joint committee empowered by an interim development order to permit the development of land;
- " interim development order " means an order made under subsection (1) of section ten of the Act of 1932;
- " land " includes land covered with water and any building as defined by this section, and, in relation to the acquisition of land under Part III of this Act, includes any interest or right in or over land;
- " large burgh " has the meaning assigned to it in the Local Government (Scotland) Act, 1947;
- " lease " includes a sub-lease, but does not include an option to take a lease;
- " local authority " means a county council, town council or district council, or any other authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, and includes any joint board or joint committee of which all the constituent authorities are such local authorities as aforesaid;
- " local highway authority " means a highway authority other than the Minister of Transport;
- " local planning authority " has the meaning assigned to it by section two of this Act;
- " means of access " includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;
- " minerals " includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or by surface working;
- " mining lease " means a lease, sub-lease, tenancy or licence conferring a right to win or work minerals;
- " Minister " includes the Treasury, the Admiralty, the Board of Trade and any other government department;
- " National Coal Board " means the National Coal Board established under the Coal Industry Nationalisation Act, 1946;
- " National Trust for Scotland " 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;
- " operational land ", in relation to any statutory undertakers, means land which is used for the purpose of carrying on the undertakings of those

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undertakers 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 land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking;

" planning permission " means the permission for development of land which is required by virtue of section ten of this Act;

" planning permission granted for a limited period only " has the meaning assigned to it by section twelve of this Act;

" planning scheme " means a scheme under the Act of ' 1932 or any enactment repealed by that Act;

" purchase notice " has the meaning assigned to it by section seventeen of this Act;

" relocation of population or industry " means, in relation to an area of extensive war damage or an area of bad lay-out or obsolete development, the rendering available elsewhere than in that area, whether in an existing community or a community to be newly established, of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and v; other requirements, being accommodation to be : rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose continued or resumed location ;j in that area would be inconsistent with the proper planning thereof;

" replacement of open space " means, in relation to an area of extensive war damage or an area of bad layout or obsolete development, the rendering of land available for use as an open space or otherwise in an undeveloped state in substitution for land in that area which is so used;

" requisitioned land, " and " period of requisition, " have the meanings assigned to them by section eighty-five of this Act;

" small burgh " has the meaning assigned to it in the Local Government (Scotland) Act, 1947;

" statutory Undertakers " means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse v undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and , " statutory undertaking " shall be construed accordingly;

" tree preservation order " has the meaning assigned to it by section twenty-six of this Act;

" use ", in relation to land, does not include the use of land by the carrying out of any building or other operations thereon;

" Valuation Office " means the Valuation Office of the Inland Revenue Department;

" war damage " has the same meaning as in the War Damage Act, 1943.

- (2) If any question arises, in relation to anything required or authorised to be done under this Act, which Minister was or is the appropriate Minister as defined by this section in relation to any statutory undertakers, that question shall be determined by the Treasury,

and if any question so arises whether land of statutory undertakers is operational land as defined by this section, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

- (3) 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 the Sixth Schedule to the Act of 1945, or of any other enactment, is to be deemed to be served.
- (4) Any reference in this Act to the compensation payable in respect of the compulsory acquisition of land shall be construed as including a reference to compensation to be estimated, in connection with the acquisition, for damage sustained by reason of the severing of the land from other land held therewith or otherwise injuriously affecting such other land, and compensation to be so estimated for disturbance or any other matter not directly based on the value Of the land.
- (5) References in this Act to any enactment shall- be construed as references to that enactment as amended by any subsequent enactment including, except where the context otherwise requires, this Act.

114 Short title, commencement and extent.

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act, 1947.
- (2) This Act shall come into force on the appointed day:

Provided that—

- (a) section one of this Act, and
- (b) subsection (2) of section thirty-four of this Act and subsection (2) of section thirty-five of this Act and any other provisions in Part III of this Act which relate to the acquisition of land under either of those subsections, and
- (c) Part IV of this Act, so much of section eighty-seven of this Act as relates to land acquired before the appointed day, subsection (2) of section one hundred and nine of this Act so far as it relates to Part I of the Ninth Schedule to this Act, and Part I of the said Ninth Schedule, and
- (d) sections ninety-five, one hundred and two, one hundred and four, one hundred and six and one hundred and eleven,

shall come into force on the date of the passing of this Act.

- (3) This Act shall extend to Scotland only.

SCHEDULES.

FIRST SCHEDULE

Section 2.

LOCAL ADMINISTRATION.

PART I

Voluntary Combination of Authorities.

- 1 An agreement entered into under subsection (2) of section two Of this Act shall provide for the appointment of a joint planning committee, which shall consist of representatives of the local planning authorities concerned, and for the delegation to the joint planning committee of all or some of the functions (other than the power to borrow money or to levy a rate) relating to the purposes for which the combination has effect, and the agreement may make provision; for the transfer of property and liabilities, the adjustment of liabilities between the authorities, the transfer and compensation of officers, the settlement of differences and for such other matters as appear to be necessary or expedient for the purpose of carrying the combination into effect.
- 2 The expenses of the joint planning committee shall be defrayed by the constituent authorities in the proportions specified or provided for in the agreement, and the proportion of expenses falling to be defrayed by a local planning authority shall be defrayed by that authority in like manner as if the expenses had been incurred by that authority for the purposes for which the combination has effect.
- 3 The Secretary of State may, on the application of the local planning authorities concerned, make an order for the purpose of giving effect to any of the foregoing provisions of this Part of this Schedule.
- 4 The Secretary of State may by order constitute the joint planning committee a body corporate.
- 5 The Secretary of State may, if it appears to him expedient so to do, make an order withdrawing the consent given by him to the combination under subsection (2) of section two of this Act of any two or more local planning authorities and dissolving the combination; and any such order may contain provisions regulating the rights and liabilities of the authorities concerned and such other provisions (including provision for the transfer and compensation of officers), as appear to the Secretary of State to be necessary or proper in the circumstances:

Provided that the Secretary of State shall not make such an order except after holding a local inquiry unless all the authorities concerned have consented to the making of the order.

PART II

Combination of Authorities by Order.

- 1 An order made under subsection (3) of section two of this Act shall provide for the constitution of a joint planning committee consisting of such number of members as may be determined by the order to be appointed- by the constituent authorities and for the delegation to the committee of such of the functions (other than the power to borrow money or to levy a rate) of the constituent authorities as may be specified in the order.
- 2 An order made under the said subsection (3)—
 - (a) may provide for regulating the appointment, tenure of office and vacation of office, of members of the committee, for regulating the meetings and proceedings of the committee and for the payment of the expenses of the committee by the constituent authorities;
 - (b) may provide that a committee constituted thereby shall be a body corporate;
 - (c) may provide for the transfer and compensation of officers, the transfer of property and liabilities and the adjustment of accounts and apportionment of liabilities; and
 - (d) may contain such other provisions as appear to the Secretary of State to be necessary or expedient for enabling the committee to exercise their functions.
- 3 The Secretary of State may, if it appears to him expedient so to do, make an order dissolving, or altering the constitution of, such a joint planning committee or varying the delegation to the committee; and any such order may contain provisions regulating the rights and liabilities of the authorities concerned and such other provisions (including provisions for the transfer and compensation of officers) as appear to the Secretary of State to be necessary or proper in the circumstances.

PART III

Joint Advisory Committees.

- 1 Any two or more local planning authorities may, with the approval of the Secretary of State, concur in establishing a joint advisory committee for the purpose of advising those authorities as to the preparation of development plans and generally as to the planning of development in their districts; and any such committee shall be constituted in such manner as may be determined by the authorities by whom it is established:

Provided that a majority of the members of any such committee shall be members of one or other of those authorities.
- 2 If it appears to the Secretary of State to be expedient that a joint advisory committee of any two or more local planning authorities should be established in accordance with the last foregoing paragraph he may, after consultation with those authorities, by order establish such a committee, and any such order may—
 - (a) provide for the reference to the committee of such matters as may be specified in the order;
 - (b) make such incidental and consequential provisions (including provision for the payment of expenses of the committee and the transfer and

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compensation of officers), as appear to the Secretary of State to be expedient.

- 3 Any power conferred by this Part of this Schedule to establish and constitute a joint advisory committee shall include power to dissolve or alter the constitution of such committee and to vary the reference to the committee.

PART IV

Planning Committees.

- 1 A local planning authority shall establish a planning committee for the discharge of their functions under this Act.
- 2 Every such planning committee shall be constituted in such manner as the local-planning authority may determine, but not less than three-fourths of the members of the committee shall be members of the local planning authority.
- 3 A planning committee established as aforesaid may be required by the local planning authority to advise that authority or to report +0 that authority in respect of the exercise by that authority of any of their functions under this Act, or to exercise on behalf of that authority any of those functions, except the power to borrow money or levy a rate.
- 4 The minutes of proceedings of a planning committee established as aforesaid shall be open to the inspection of any local government elector for the district on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or extract therefrom.
- 5 Any power conferred by this Part of this Schedule to establish and, constitute a planning committee shall include power to alter the constitution of the committee and to vary any functions of the committee.

PART V

Sub-Committees.

- 1 The planning committee of a local planning authority may, subject to any restrictions imposed by that authority, and shall if so required by that authority—
- (a) establish such sub-committees as the committee or the local, planning authority may determine; and
 - (b) authorise any such sub-committee to exercise on their behalf' any functions of the planning committee,
- and any such sub-committee shall be constituted in such manner as may be determined (subject to any such restrictions as aforesaid) by the planning committee or by the local planning: authority but not less than three-fourths of the members of any such sub-committee which- consists of more than three persons, shall be members of the local planning authority or of a local authority for any area forming part of the district of the local planning authority.
- 2 The power conferred by the last foregoing paragraph to establish and constitute sub-committees or to authorise such sub-committees to exercise any functions shall

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include power to dissolve or alter the constitution of such sub-committees and to vary, any such authorisation.

- 3 The provisions of this Part of this Schedule shall, with any necessary modifications, apply' in relation to a joint planning committee appointed in pursuance of a combination of local planning authorities under subsection (2) or subsection (3) of section two of this Act or a joint advisory committee as they apply in relation to a planning committee established under Part IV of this Schedule." s.

SECOND SCHEDULE

Section 11.

EXCEPTED ENACTMENTS FOR THE PURPOSES OF S. 11.

Subsection (1) of section thirty-two of the Public Health (Scotland) Act, 1897;
Section one hundred and fifty-eight of the Burgh Police (Scotland) Act, 1892, as extended by subsection (2) (h) of section one hundred and four of the Burgh Police (Scotland) Act, 1903;
Section five of the Roads Improvement Act, 1925, as applied to Scotland by section twelve of that Act;
Any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the order applies by means of a bye-law, order or regulation not requiring confirmation by Parliament;
Any enactment which has been previously excluded or modified by any development order, and any enactment having substantially the same effect as any such enactment.

THIRD SCHEDULE

Sections 18, 20, 48, 51, 66, 78, 85 and
107.

EXCEPTED CLASSES OF DEVELOPMENT.

PART I

Development Included in Existing Use for Purposes other than Compensation under s.18.

- 1 The rebuilding, as often as the person having the right to rebuild may desire, of any building which was in existence on the appointed day and of any building which was in existence before-that day but has been destroyed or demolished since the seventh day of January, nineteen hundred and thirty-seven (including the making good of war damage which has been sustained by any such building), so long as, the cubic content of the original building is not exceeded, in the case of a dwellinghouse, by more than one-tenth or seventeen hundred and fifty cubic feet, whichever is the greater, and in any other case by more than one-tenth.
- 2 The use as two or more separate dwellinghouses of any building which on the appointed day was used as a single dwellinghouse.

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PART II

Development Included in Existing Use for All Purposes.

- 1 The enlargement, improvement or other alteration, as often as the person having the right to carry out such operations may desire, of any such building as is mentioned in paragraph 1 of Part I of this Schedule, or any building substituted therefor by the carrying out of any such operations as are mentioned in that paragraph, so long as the cubic content of the original building is not increased or exceeded, in the case of a dwellinghouse, by more than one-tenth or seventeen hundred and fifty cubic feet, whichever is the greater, and in any other case by more than one-tenth.
- 2 The carrying out, on land which was used for the purposes of agriculture or forestry on the appointed day, of any building or other operations required for the purposes of that use, other than operations for the erection, enlargement, improvement or alteration of dwelling-houses or of buildings used for the purposes of market gardens, nursery grounds or timber yards or for other purposes not connected with general farming operations, or with the cultivation or felling of trees.
- 3 The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for the purposes aforesaid.
- 4 The winning and working of peat by any person for the domestic requirements of that person.
- 5 In the case of a building or other land which, on the appointed day, was used for a purpose falling within any general class specified in an order made by the Secretary of State for the purposes of this paragraph, or which, being unoccupied on the appointed day, was last used (otherwise than before the seventh day of January, nineteen hundred and thirty-seven) for any such purpose, the use of that building or land for any other purpose falling within the same general class.
- 6 In the case of any building or other land which, on the appointed day, was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose on the appointed day or, as the case may be, one-tenth of the area of the land so used on that day.
- 7 The deposit of waste materials or refuse in connection with the working of minerals on any land comprised, in a site which, on the appointed day, was being used for that purpose, so far as may be reasonably required in connection with the working of those minerals.

FOURTH SCHEDULE

Sections 18, 20 and 25.

PROVISIONS RELATING TO COMPENSATION UNDER PART II.

- 1 For the purpose of assessing any compensation payable under section eighteen, section twenty or section twenty-five of this Act, being compensation in respect of the depreciation in value of any interest in land, section two of the Acquisition

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of Land (Assessment of Compensation) Act, 1919, (which prescribes rules for the assessment of compensation by an official arbiter) shall, so far as applicable and subject to any necessary modifications, have effect as it has effect for the purpose of assessing compensation for the compulsory acquisition of land.

- 2 Where any compensation is payable as aforesaid by virtue of any decision or order given or made before the expiration of two years from the end of the war period as defined for the purposes of section forty of the Requisitioned Land and War Works Act, 1945, Part VIII of that Act (which provides for adjustments of compensation for the purpose of eliminating changes in value due to the exercise of emergency powers) shall apply in relation to any such compensation as aforesaid as it applies in relation to compensation payable on the acquisition of a servitude over land by virtue of Part II of the said Act:

Provided that for the purposes of this paragraph subsection (5) of section forty-one of the said Act shall have effect as if paragraph (a) thereof were omitted.

- 3 Where any interest in land is subject to a heritable security—
- (a) any compensation as aforesaid which is payable in respect of the depreciation in the value of that interest shall be assessed as if the interest were not subject to the security;
 - (b) a claim for any such compensation may be made by any person having a heritable security over the interest, but without prejudice to the making of a claim by the person entitled to the interest;
 - (c) a heritable creditor shall not be entitled to claim any such compensation in respect of his interest as such; and
 - (d) the compensation payable in respect of the interest subject to the security shall be paid by the local planning authority to the heritable creditor, or where there is more than one heritable creditor to the heritable creditor whose security ranks first, and shall in either case be applied by him as if it were the proceeds of a sale by him under the powers competent to heritable creditors.

- 4 Any compensation payable to any person, by virtue of any order made under section twenty-four of this Act, shall be reduced by the value to him of any timber, apparatus or other materials removed for the purposes of complying with that order.

FIFTH SCHEDULE

Section 32.

SPECIAL PROVISIONS RELATING TO DEVELOPMENT BY STATUTORY UNDERTAKERS.

Applications for planning permission.

- 1 (1) Subject to the provisions of this Schedule, where an application for planning permission to develop operational land, made by the person carrying on a statutory undertaking, is referred to the Secretary of State under Part II of this Act in pursuance of directions given by him, or where an appeal is made to him under that Part from the decision of the local planning authority on such an application, the application or appeal shall be dealt with by the Secretary of State and the appropriate Minister.
- (2) Where, upon any such application or appeal, the Secretary of State and the appropriate Minister propose to refuse permission or to grant permission subject to

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conditions, they shall notify to the person carrying on the undertaking the decision which they propose to give, and if within twenty-eight days from the date on which he receives the notification that person makes application to the appropriate Minister in that behalf, the decision shall be embodied- in an order made by the Secretary of State and the appropriate Minister, and any such order shall be subject to special parliamentary procedure.

- (3) In respect of any decision given under this paragraph refusing planning permission to develop operational land, or granting such permission subject to conditions, the person carrying on the statutory undertaking shall be entitled to recover compensation from the local planning authority in accordance with the Fourth Schedule to the Act of 1945:

Provided that if the Secretary of State and the appropriate Minister -are satisfied, in the case of land acquired by the undertakers after the seventh day of January, nineteen hundred and forty-seven, that it is unreasonable,- having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that compensation should be so recovered in respect of the decision, they may include therein a direction that the foregoing provisions of this sub-paragraph shall not apply in relation to that decision.

- (4) Notwithstanding anything in Part II of this Act, planning permission to, develop operational land shall not except with the consent of the undertakers be granted subject to conditions requiring that any buildings or works authorised by the permission shall be removed, or that any use of the land so authorised shall be discontinued, at the expiration of a specified period.
- (5) The provisions of this Act shall apply to an application which is dealt with under this paragraph by the Secretary of State and the appropriate Minister as if it had been dealt with by the Secretary of State.

Special provisions as to development requiring government sanction.

- 2 (1) Where, under the enactments regulating the carrying on of a statutory undertaking, the sanction of any government department other than the Secretary of State is required in respect of any development of operational land, then—
- (a) if that department decides to refuse that sanction on the ground only that planning permission ought not to be granted for' the development, or to grant that sanction and direct that such permission shall be deemed to be granted subject to conditions other than conditions imposed as part of the sanction, sub-paragraphs (2) and (3) of paragraph r of this Schedule shall apply, subject to any necessary modifications, in relation to that decision and to any proposal by the department to give that decision as they apply in relation to a decision, or a proposed decision, of the Secretary of State and the appropriate Minister under that paragraph;
 - (b) except where that sanction has been granted without any direction as to the grant of planning permission, the Secretary of State and the appropriate Minister shall not be required to deal with an application for such permission under sub-paragraph (1) of the said paragraph 1.
- (2) Notwithstanding anything in the proviso to sub-paragraph (3) of the said paragraph r, no direction shall be given thereunder for the exclusion of the payment of compensation in respect of a decision relating to the development of land of any statutory undertakers if the land was acquired by those undertakers for the purposes

of that development (whether by agreement or compulsorily) with the consent or authority of a government department.

Revocation and modification of planning permission.

- 3
- (1) The provisions of Part II of this Act with respect to the revocation and modification of planning permission shall have effect, in relation to any permission granted, on an application made by the person carrying on a statutory undertaking, for the development of operational land, as if for any reference therein to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.
 - (2) Where the Secretary of State and the appropriate Minister propose to confirm or make an order under section nineteen of this Act, as modified by this paragraph, they shall notify to the person carrying on the statutory undertaking the fact that they so propose, and shall afford him an opportunity of objecting to the proposal; and if any objection is so made by that person and is not withdrawn, the order shall be subject to special parliamentary procedure.
 - (3) In relation to any order made by the Secretary of State and the appropriate Minister under the said section nineteen as modified by this paragraph, sub-paragraph (3) of paragraph 1 of this Schedule shall apply as it applies to a decision given under that paragraph refusing permission to develop operational land, or granting such permission subject to conditions, and references in the said sub-paragraph (3) to a decision under that paragraph shall accordingly include references to any such order as aforesaid.

Orders relating to authorised uses.

- 4
- (1) The provisions of Part II of this Act with respect to the making of orders requiring the discontinuance of any use of land or imposing conditions on the continuance thereof, or requiring buildings or works on land to be altered or removed, shall have effect, in relation to operational land of the person carrying on any statutory undertaking, as if for any reference therein to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.
 - (2) Where the Secretary of State and the appropriate Minister propose to confirm or make an order under section twenty-four of this Act as modified by this paragraph, they shall notify to the person carrying on the statutory undertaking the fact that they so propose, and shall afford him an opportunity of objecting to the proposal; and if any objection is so made by that person and is not withdrawn, the order shall be subject to special parliamentary procedure.
 - (3) Any compensation payable under section twenty-five of this Act in consequence of an order made under the said section twenty-four as modified by this paragraph shall be assessed in accordance with the provisions of the Fourth Schedule to the Act of 1945.

Provisions as to orders subject to special parliamentary procedure.

- 5
- The provisions of the Statutory Orders (Special Procedure) Act, 1945, with regard to the publication of notices in the Edinburgh Gazette and in a newspaper, shall, notwithstanding anything in that Act contained, not apply to any order under

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paragraphs 1, 3 or 4 of this Schedule, which is subject to special parliamentary procedure.

SIXTH SCHEDULE

Section 46.

PROCEDURE FOR MAKING ORDERS UNDER S. 46.

- 1 Before making an order under section forty-six of this Act the Minister of Transport shall publish in at least one local newspaper circulating in the area in which any highway to which the order relates is situated and in the Edinburgh Gazette a notice—
 - (a) stating the general effect of the order;
 - (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice; and
 - (c) stating that, within the said period, any person may by notice to that Minister object to the making of the order.

- 2 Not later than the date on which the said notice is published as aforesaid, the Minister of Transport shall serve a copy thereof (together with a copy of the draft order and of any relevant map or plan)—
 - (a) on every local authority in whose area any highway to which the order relates is situated;
 - (b) on any water, hydraulic power, gas or electricity undertakers, having any cables, mains, pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.

- 3 Not later than the date on which the said notice is published as aforesaid, the Minister of Transport shall cause a copy thereof to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order.

- 4 If before the expiration of the said period of three -months an objection is received by the Minister of Transport from any local authority or undertakers on whom a notice is required to be served under this Schedule, or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the Minister shall cause a local inquiry to be held:

Provided that except where the objection is made by any such authority or undertakers as aforesaid, the Minister may dispense with such an inquiry if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.

- 5 After considering any objections to the order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Minister may make the order either without modification or subject to such modifications as he thinks fit.

- 6 Immediately after the order has been made, the Minister of Transport shall publish in the manner prescribed by paragraph 1 of this Schedule a notice stating that the order has been made, and naming a place where a copy of the order may be seen at

all reasonable hours, and paragraphs 2 and 3 of this Schedule shall apply to any such notice as they apply to the notice required to be published by the said paragraph I.

- 7 Subsections (2) to (4) of section nine of this Act shall apply to any order under section forty-six of this Act as they apply to a development plan approved or made under Part II of this Act, and as if for references therein to the notice required by subsection (1) of that section there were substituted references to the notice required by the last foregoing paragraph:

Provided that where any such order is subject to special parliamentary procedure, then—

- (a) if the order is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, subsections (2) and (3) of the said section nine shall not apply;
 - (b) in any other case the said subsections shall have effect as if in subsection (2) for the reference to the date on which the notice required by the last foregoing paragraph is first published there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (3) the words from and shall become operative," to the end of the subsection were omitted.
- 8 In this Schedule the expression " local authority " means a County council, town council or district council.

SEVENTH SCHEDULE

Section 47.

MODIFICATIONS OF PART II OF TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945.

*Elimination of overlap between owner-occupier
supplement and increase of converted value payment.*

- 1 (1) Where an interest in land the value of which falls to be ascertained in accordance with the provisions of Part II of the Act of 1945 for the purposes of the compensation payable on a compulsory acquisition thereof is an interest in a hereditament or part of a hereditament which has sustained war damage, then if—
- (a) by virtue of section fourteen of the War Damage Act, 1943, or of any direction given by the Treasury under paragraph (b) of subsection (2) of section twenty of that Act, a value payment falls to be made in respect of the damage so far , as not made good before the date of the acquisition; and
 - (b) the amount of that payment falls to be increased by virtue of the War Damage (Increase of Value Payments) Order, 1947, or any subsequent order made by the Treasury under section eleven of the said Act; and
 - (c) the person entitled to the compensation payable in respect of the compulsory acquisition of the interest in question is also entitled by virtue of section fifty-four of the Act of 1945 either as originally enacted or as amended by the Acquisition of Land (Increase of Supplement) (Scotland) Order, 1946, or any subsequent order made by the Treasury under section fifty-six of that Act, to receive a supplement to that compensation,
- the amount of the compensation payable in respect of the compulsory acquisition shall be reduced in the manner provided by this paragraph by such sum as may be

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appropriate, not exceeding the amount by which the value payment is increased as aforesaid, or the amount of the supplement payable as aforesaid, whichever is the less.

- (2) Any reduction required by virtue of this paragraph to be made in the compensation payable in respect of the compulsory acquisition of an interest in land shall be effected as follows, that is to say, the War Damage Commission shall, on a claim made to the Commission in that behalf within the time and in the manner prescribed by regulations made by the Treasury under this Act, pay to the Minister or authority by whom that interest is compulsorily acquired a sum equal to the amount of the reduction, together with interest thereon at the rate of two and a half per cent. per annum from the date of the acquisition, and shall deduct that amount (including interest thereon as aforesaid) from the amount of any value payment or share of the value payment (including interest on any such payment or share) payable by the Commission under the War Damage Act, 1943, to the person from whom that interest is acquired.
- (3) Any sum payable by the War Damage Commission to a Minister or authority by virtue of the provisions of this paragraph in respect of the compulsory acquisition of any interest in land shall be paid at the time when the value payment or share of a value payment payable to the owner of that interest under the War Damage Act, 1943, is discharged.
- (4) Any question arising under this paragraph as to what reduction is appropriate in the compensation payable in respect of the compulsory acquisition of an interest in land shall, in default of agreement, be referred to and determined by the War Damage Commission, whose decision shall be final; and paragraph 6 of the First Schedule to the War Damage Act, 1943 (which enables the Commission to regulate the procedure for the determination of questions subject to determination by them under that Act), shall have effect as if any question falling to be determined by the Commission under this paragraph were a question subject to determination by them under that Act.
- (5) Where an interest in land which has been acquired by agreement before the commencement of this Act by a person authorised by virtue of any enactment to acquire it compulsorily is an interest in a hereditament or part of a hereditament which has sustained war damage then if—
 - (a) the conditions specified in sub-paragraphs (1) (a) and (1) (b) of this paragraph are satisfied in relation thereto ; and
 - (b) the person to whom the purchase price is payable in respect of the acquisition of the interest in question would, if the interest had been acquired compulsorily, have been entitled to any such supplement as is mentioned in sub-paragraph (1) (c) of this paragraph ;

the amount of the purchase price payable in respect of the acquisition shall be reduced by such sum as may be appropriate, not exceeding the amount by which the value payment is increased as is mentioned in sub-paragraph (1) (b) of this paragraph, or the amount of the supplement which would have been payable as aforesaid, whichever is the less ; and sub-paragraphs (2), (3) and (4) of this paragraph shall apply in relation to the reduction required by virtue of this sub-paragraph to be made in the purchase price as if for any reference in those sub-paragraphs to the compulsory acquisition of an interest in land or to the amount of the compensation payable in respect of that acquisition there were substituted respectively a reference to the acquisition of an interest in land by agreement, and to the purchase price payable in respect of that acquisition.

- (6) The reference in sub-paragraph (2) of this paragraph to the date of acquisition of an interest in land shall be construed as a reference to the date of the completion of the acquisition or, if interest on the compensation, or on the purchase price, as the case may be, becomes payable before that date (whether by virtue of entry on the land or otherwise), as a reference to the date from which the interest becomes payable.

Assessment of compensation in case of certain agricultural land.

- 2 In subsection (2) of section fifty-three of the Act of 1945, and paragraph 4 of the Seventh Schedule to that Act, references to agricultural holdings and to holdings as defined for the purposes of the Agricultural Holdings (Scotland) Act, 1923, shall be construed as including references to any land which, if it were held by a tenant, would be a holding as so defined.

Assessment of compensation by reference to after-damage value.

- 3 (1) Where under section fifty-seven of the Act of 1945, the value of any land in a hereditament which has sustained war damage is for the purpose of a compulsory acquisition required to be ascertained, in accordance with the provisions of the Eighth Schedule to that Act, by reference to the certified after-damage value of the hereditament, then if—

- (a) the hereditament consists of premises in respect of which a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903, was in force or in suspense at the time when the war damage occurred; and
- (b) between that time and the time when the notice to treat was served there had been any change in the circumstances of the certificate, whether by extinction, removal or suspension by virtue of section ten of the Finance Act, 1942, or section thirteen of the Finance Act, 1946,

sub-paragraph (3) of paragraph (1) of the said Eighth Schedule shall have effect as if the change constituted a material difference in the state of the premises, and the change shall be taken into account under the said sub-paragraph in determining the value of the premises under the War Damage Act, 1943, by reference to the state of the premises at the time when the notice to treat is served.

- (2) The right to receive payment of stipend or of the standard charge in lieu of stipend constituted under the Church of Scotland (Property and Endowments) Act, 1925, in respect of any land shall not be taken into account as an interest in land under paragraph 2 of the Eighth Schedule to the Act of 1945, but such adjustments of the certified after-damage value of the hereditament shall be made for the purposes of that Schedule as are necessary to produce for those purposes the result which would have been produced therefor if liability to pay stipend or such charge as aforesaid had been included among the burdens referred to in paragraph 1 (1) (c) of the Second Schedule to the War Damage Act, 1943.

Extension of Owner-occupier Supplement to Certain Subsidiary Companies.

- 4 (1) Where an interest in land the value of which falls to be ascertained in accordance with the provisions of Part II of the Act of 1945 for the purposes of the compensation payable on a compulsory acquisition thereof is an interest held by a company having among its objects the holding of land, and being related (as hereinafter defined) to another company which carries on business on land so held, then, without prejudice to the provisions of paragraph (a) of subsection (6) of section fifty-four of the said

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Act, or of any regulation made thereunder, subsection (5) of that section shall have effect in relation to that interest as if references in paragraphs (a) to (d) of that subsection to the person entitled to compensation for the purchase of that interest included references to the last mentioned company

- (2) For the purposes of this paragraph a company shall be deemed to be related to another company if either of those companies is a subsidiary of the other (as defined by the Companies Act, 1947) or if both of them are subsidiaries (as so defined) of a third company.

EIGHTH SCHEDULE

Sections 41, 100 and 109.

ENACTMENTS AMENDED.

<i>Enactments amended.</i>	<i>Amendments.</i>
<p>The Electricity (Supply) Act, 1919, 9 & to Geo. 5. c. 100.</p>	<p>In section twenty-one, after the words " local authority " in the second place Where those words occur, there shall be inserted the words " and the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947 " and after the words " county council ", in the second place where those words occur, there shall be inserted the words " not being the local planning authority ".</p>
<p>The Betting and Lotteries Act, 1934, 24 & 25 Geo. 5. c. 58.</p>	<p>In section seven, in subsection (1) the words from " where the track or any part thereof " to the words " no such scheme is in force " shall be omitted; and for the words " their consent in writing to the licensing authority, " there shall be substituted the words " the licensing authority, that any planning permission required as aforesaid has been so granted or is deemed to be so granted. "</p> <p>In section twenty the definition of " planning scheme " shall be omitted.</p> <p>In section thirty-one, in paragraph (2) the words from " and for references " to the end of the paragraph shall be omitted; in paragraph (3) for the words " the responsible authority under a planning scheme in force in any area " there shall be substituted the words " the planning authority for any area " ; after paragraph (4) there shall be inserted the following paragraph—</p> <p>“(4A) In section seven, in subsection (1) for the words from ' satisfied that,' in the second place where</p>

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Enactments amended.

Amendments.

[The Housing \(Scotland\) Act, 1935, 25 & 26
Geo. 5. c. 41.](#)

those words occur to ' or shall grant,' there shall be substituted the words ' satisfied that any planning permission required under the Town and Country Planning (Scotland) Act, 1947, for the establishment of the track, or for the continuance of the track during the period for which the licence would be in force, has been granted thereunder or is deemed to be so granted, or shall grant ”; and after paragraph (8) there shall be added the following paragraph—

“(9) In subsection (1) of section twenty for the definition of 'planning authority' there shall be substituted the following definition—

“" planning authority " means the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947.””

[The Restriction of Ribbon Development Act,
1935, 25 & 26 Geo. 5. c. 47.](#)

In section fourteen, in subsection (2) for the words " any planning scheme or proposed planning scheme " there shall be substituted the words " any development plan within the meaning of the Town and Country Planning (Scotland) Act, 1947 ".

In section four, the words "Where restrictions are in force under the foregoing provisions of this Act " and the words " except at such places as may be permitted by them " shall be omitted.

In section twenty-five, in paragraph (2) for the words from the beginning of the paragraph to " Lands Clauses (Consolidation) (Scotland) Act, 1845 " there shall be substituted the words " for references to the Local Government Act, 1929, there shall be substituted references to the Local Government (Scotland) Act, 1929 "; for paragraph (4) there shall be substituted the following paragraph—

“(4) Section four shall have effect as if in the proviso for the words from ' any means of access ' to the end of the proviso there were substituted

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Enactments amended.

The Trunk Roads Act, 1936, 1 Edw. 8 and 1
 Geo. 6. c. 5.

Amendments.

the words ' any means of access for the construction, formation or laying out of which planning permission has been granted under the Town and Country Planning (Scotland) Act, 1947, or which was constructed, formed or laid out before the appointed day within the meaning of the said Act, unless it was constructed, formed or laid out in contravention of restrictions in force under the foregoing provisions of this Act ”;

in paragraph (5) the words " subsection (1) of section eleven and" shall be omitted ; paragraph (6) shall be omitted ; in paragraph (11) for the words " subsections (1) and (2)" there shall be substituted the words " subsection (1) " ; and paragraphs (13) and (14) shall be omitted.

In section twelve, for subsection (4) there shall be substituted the following subsection :—

“(4) In the proviso directed by the Second Schedule to this Act to be substituted for provisos (a) and (b) to subsection (1) of section five of the Roads Improvement Act, 1925, for the words from ' the local authority ' to the words ' interim development of that land' there shall be substituted the words ' the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947 ”

In section twelve, for subsection (9) there shall be substituted the following subsection :

“(9) For subsection (1) of section four of this Act the following subsection shall be substituted :—

“(1) In this section and in the Fourth Schedule to this Act, the expression ' the authority ' means, in relation to a trunk road, the council of the county or large burgh in which the road

Enactments amended.

Amendments.

is situated : Provided that where the road is situated within a small burgh, and immediately before the road became a trunk road it was an unclassified road, the said expression means:—

- (a) in any case where the council of the small burgh was charged with the maintenance and management of the road, that council; and
- (b) in any other case, the county council.”””

[The Camps Act, 1939, 2 & 3 Geo.: 6. c. 22.](#)

In the Fourth Schedule, in paragraphs 6 and 7 for-the words "sections thirteen to fifteen " there shall be substituted the words " sections thirteen and fourteen ".

In section two, in subsection (1) the words " by means of a compulsory purchase order made by the company and confirmed " shall be omitted.

In section seven, for paragraphs (b) and (c) there shall be substituted the following paragraph—

- “(b) section two of this Act shall have effect as if for subsections (2) and (3) thereof the following subsection were substituted :
—

- “(2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall have effect as if any reference therein to a local authority (except the references thereto in subsection (2) of section one, in section two and in paragraph 9 of the First Schedule)

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Enactments amended.

The Town and Country Planning (Scotland) Act, 1945, 8 & 9 Geo. 6. c. 33.

Amendments.

included a reference to a recognised company.””

In section eighteen, in subsection (1) for the words from " or appropriated," to the end of the subsection there shall be substituted the words " under section thirty-five or section thirty-seven of the Town and Country Planning (Scotland) Act, 1947, or appropriated for purposes for which land can be acquired under those sections, and is for the time being held by the authority for the purposes for which it was acquired or appropriated " ; in subsection (3) for the words " this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " ; in subsection (5) after the word " shall" there shall be inserted the words " in the case of land comprised in an area defined by a development plan as an area of comprehensive development " ; for the words " land which the authority have acquired for the purposes of this Part of this Act " there shall be substituted the words " any such land which the authority have acquired as mentioned in subsection (1) of this section " ; and for the words " accommodation thereon " there shall be substituted the words " thereon accommodation suitable to their reasonable requirements " ; in subsection (8) for the words "section forty-one of this Act" there shall be substituted the words " section twenty-eight of the Town and Country Planning (Scotland) Act, 1947 " ; and in subsection (10) for the words from " land which " to " this Part of this Act ", where those words first occur, there shall be substituted the words " any such land as is mentioned in subsection (1) of this section " ; for the words " this Part of this Act", in the second place where those words occur, there shall be substituted " Part III of the Town and Country Planning (Scotland) Act, 1947. "

In section nineteen, in subsection (1) for the words from " land which," to " purposes of this Part of this Act," there shall be substituted the words " any such land as is mentioned in subsection (1) of section eighteen of this Act " ; and for the words

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Enactments amended.

Amendments.

" this Part of this Act," in the second and third places where those words occur, there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " ; and in subsection (4) for the words " the two last preceding subsections " there shall be substituted the words " subsection (2) of this section " .

In section twenty-one, in subsection (1) for the words from " or a local highway," to " authorised by this Part of this Act," there shall be substituted the words " as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board under section forty of the Town and Country Planning (Scotland) Act, 1947, whether done by the local planning authority or by any person deriving title from the local planning authority or from the Board, as the case may be, shall be deemed to be authorised by this section, " ; for the words " by such an authority " , in both places where those words occur, there shall be substituted the words " under those Acts " ; in subsection (2), for the words " other than the local planning or highway authority," there shall be substituted the words " deriving title from the local planning authority " , after the word " appropriated" there shall be inserted the words " or from the Central Land Board " , after the word " authority," in the second place where that word occurs, there shall be inserted the words " or against the Board, as the case may be " , and after the word " authority," in the third and fourth places where that word occurs, there shall be inserted the words " or Board " ; in subsection (3) for the words from " the terms of an interim development order " to the end of the subsection there shall be substituted the words " planning permission granted under the Town and Country Planning (Scotland) Act, 1947, and not otherwise " ; and in subsection (4) the words " or local highway authority " shall be omitted.

In section twenty-two, in subsection (1) for the words from " land which has " to the end of the subsection there shall be substituted the words " any such land as is mentioned

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Enactments amended.

Amendments.

in subsection (1) of section eighteen of this Act if he is satisfied that a suitable alternative right of way has been or will be provided or that the provision thereof is not required " ; for subsections (2) and (3) there shall be substituted the following subsections :—

“(2) The Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947, shall apply to an order under this section as it applies to an order under section forty-six of that Act, and the said Schedule shall, in its application to an order under this section have effect as if for any reference therein to the Minister of Transport there were substituted a reference to the Secretary of State.

(3) The Minister of Transport or a local highway authority may be "authorised to acquire land compulsorily for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under this section ; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this subsection, and accordingly shall have effect—

(a) as if this subsection had been in force immediately before the commencement of that Act;

(b) as if this subsection were-included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act:

Provided that section two of the said Act shall not apply to the compulsory acquisition of land under this subsection.”;

in subsection (4) the words " or local highway authority", wherever those words occur, shall be omitted, and for the words " subsection (2) of this section " there shall be substituted the words " paragraph r of

Enactments amended.

Amendments.

the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947 " ; and at the end of the section there shall be added the following subsection :—

“(5) Regulations made under the Town and Country Planning (Scotland) Act, 1947, may provide for securing that any proceedings required to be taken for the purposes of an order under this section may be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished, or for securing that any proceedings required to be taken for the purpose of the acquisition of any other land under subsection (3) of this section may be taken concurrently with either or both of the said proceedings.”

In section twenty-three, in subsection (1) for the words "this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " , and in subsection (3) after the word " Minister " there shall be inserted the words " or the Central Land Board " .

In section twenty-four, in subsection (1) for the words from " or appropriated " to " acquired the land " there shall be substituted the words " by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act," and for the words " the authority or the Minister " there shall be substituted the words " the purchasing or appropriating authority " ; in subsections (2) and (3) for the words " authority or the Minister", in both places where those words occur, there shall be substituted the words " purchasing or appropriating authority " ; in subsection (4) the words "or a local highway authority" shall be omitted; for the words " the authority " there shall be substituted the words " or on statutory undertakers, the authority or undertakers " , and after " undertaking " there shall be inserted the

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*Enactments amended.**Amendments.*

words " on whom the notice was served under subsection (1) of this section " ; in subsection (5), after the words " a Minister", where they first occur, there shall be inserted the words " or the Central Land Board " , after the word "he" in both places where it occurs there shall be inserted the words " or they " , and after the words " a Minister and the appropriate Minister " there shall be inserted the words " or the Central Land Board and the appropriate Minister "; in subsection (8), for the words " authority or Minister " there shall be substituted the words " purchasing or appropriating authority " ; and in subsection (9), after the word " Minister" there shall be inserted the words " or the Central Land Board " .

In section twenty-five, for the words " this Part of this Act " , wherever those words occur, there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " ; in subsection (1), in paragraph (a) after the words " local planning authority " there shall be inserted the words " or a Minister " , and for the words from " an interim development application " to the end of paragraph (b) there shall be substituted the words " an application made under the Town and Country Planning (Scotland) Act, 1947, by a person carrying on the undertaking for permission to develop any such land, or by the revocation or modification of permission granted on such an application, or by the making of an order under section twenty-four of that Act in relation to any such land " ; in subsection (2) after the words " local planning authority" in paragraph (c) there shall be inserted the words " or the Minister " ; and in subsection (5) after the words " local planning authority " , in both places where those words occur, and after the words " the authority " , there shall be inserted the words " or Minister " .

In section twenty-six, in subsection (1), after the word " that," in the second place where that word occurs there shall be inserted " (a) " ; for the words " this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " , and for the words " or the

Enactments amended.

Amendments.

extinguishment thereunder," there shall be substituted the words:—

- “(b) a decision on an application under Part II of the said Act by a person carrying on the undertaking for permission to develop any such land or the revocation or modification of planning permission granted on such an application or the making of an order under section twenty-four of that Act in relation to any such lands ;
or

- (c) the extinguishment under Part III of that Act;”

and for subsection (5) there shall be substituted the following subsection :—

- “(5) In relation to an order made under this section, subsections (1) to (4) of section nine of the Town and Country Planning (Scotland) Act, 1947, shall apply, subject to any necessary modifications, as they apply in relation to a development plan approved by the Secretary of State under that Act, and accordingly the said subsection (1) shall have effect as if for the reference therein to the local planning authority there were substituted a reference to the appropriate Minister:

Provided that where any such order is subject to special parliamentary procedure, then—

- (a) if the order is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, subsections (2) and (3) of the said section nine shall not apply;
- (b) in any other case those subsections shall have effect in relation to the order as if in subsection (2) for the

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

reference to the date on which the notice required by subsection (1) of the said section nine is first published there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (3) the words from ' and shall become operative ' to the end of the subsection were omitted.”

In section twenty-seven, in subsection (1) for the words from " or appropriated," to " Minister thereunder," there shall be substituted the words " by a purchasing authority, under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act, " and for paragraph (a) there shall be substituted the following paragraph :—

- “(a) in the case of land acquired by a purchasing authority other than a Minister, or of land appropriated by a local planning authority as aforesaid by that authority or by any other person if that use conforms with planning control,”;

in subsection (2), after the words " a Minister" there shall be inserted the words " or the Central Land Board " ; and in subsection (5) the words " or local highway authority" shall be omitted.

In Section twenty-eight, in subsection (1) for the words from " or appropriated " to the words " Minister thereunder" there shall be substituted the words " by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act " and for paragraph (a) there shall be substituted the following paragraph :—

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

- “(a) in the case of land acquired by a purchasing authority other than a Minister or of land appropriated by a local planning authority as aforesaid by that authority or by any other person, if that use conforms with planning control.”;

in subsection (2), for the words " have the meanings assigned to them respectively by section fourteen of this Act " there shall be substituted the words " have the same meanings as in the Town and Country Planning (Scotland) Act, 1947 " , and in subsection (3) the words " or local highway authority," shall be omitted."

In section twenty-nine, in subsection (1) for the words from " land acquired," to " this Part of this Act " there shall be substituted the words " any such land as is mentioned in subsection (1) of section eighteen of this Act, " and after the word " accommodation ", in the first place where that word occurs, there shall be inserted the words " suitable to the reasonable requirements of those persons, " ; in subsection (2) for the words " under this Part of. this Act " there shall be substituted the words " by a local planning authority under section thirty-five of the Town and Country Planning (Scotland) Act, 1947 " ; in subsection (3) for the words from " or a local highway " to 'this Part of this Act " there shall be substituted the words " as is mentioned in subsection (1) of section eighteen of this Act " ; in subsection (4) for the words from " which has been acquired by" to " Minister thereunder," there shall be substituted the words " on land which has been acquired or appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board or a Minister under Part III of the Town and Country Planning (Scotland) Act, 1947," and for the words " or the Minister " there shall be substituted the words " Board or Minister " ; and in subsection (5) the words "or a local highway authority " shall be omitted, for the words " or a Minister " there shall be substituted the

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

words " the Central Land Board or a Minister " , and for the words from " or appropriated " to " this Part of this Act," there shall be substituted the words " by the local planning authority, Board or Minister under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by the local planning authority as mentioned in subsection (1) of section eighteen of this Act. "

In section forty-six, the words "or a local highway authority " shall be omitted, and for the words " this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 ".

In section forty-eight, for the words " this "Act", in both places in which those words occur, there shall be substituted the words " the Town and Country Planning (Scotland) Act, 1947 ".

In section fifty, for the words " this Act ", wherever they occur, there shall be substituted the words " the Town and Country Planning (Scotland) Act, 1947 " ; for subsection (3) there shall be substituted the following subsection :—

“(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not, withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct”;

and in subsection (7) after the word " orders " there shall be inserted the words " 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 ".

In section sixty-two, in subsection (1) for the definition of " appropriate Minister " there shall be substituted the following definition :

—
 “‘ appropriate Minister ’, in relation to a statutory undertaking,

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

has the same meaning as in the Town and Country Planning (Scotland) Act, 1947;”

for the definition of " local planning authority " there shall be substituted the following definition :—

“ local planning authority ' means the local planning authority for the purposes of the Town and Country Planning (Scotland). Act, 1947 ;”

for the definition of " purchasing authority " there shall be substituted the following definition :—

“ purchasing authority ' , means a Minister, the Central Land Board, a local planning authority or any statutory undertakers purchasing under Part III of the Town and Country Planning (Scotland) Act; 1947 ;”

for the definition of " statutory undertaking " there shall be substituted the following definition :—

“ statutory undertaking ' has the same meaning as in the Town and Country Planning (Scotland) Act, 1947;”

and the following definition shall be added :

—

“ Central Land Board ' mean's the Central Land Board established under the Town and Country Planning Act, 1947.”

and after subsection (3) there shall be added the following subsection :—

“(4) Any reference in this Act to the Town and Country Planning (Scotland) Act, 1947, or to Part III of that Act shall be construed as including a reference to any provisions of this Act incorporated with the said Part III.”

In the First Schedule, in sub-paragraph (c) of paragraph 1 lor the word " thereof " there shall be substituted the words " of this Act. "

In the Fourth Schedule, for sub-paragraphs (a), (b) and (c).of paragraph 1, there shall be substituted the following sub-paragraphs :—

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

- “(a) in respect of any decision given under paragraph 1 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947, refusing permission to develop operational land or granting such permission subject to conditions ;
- (b) in respect of any decision given by a government department under paragraph 2 of that Schedule refusing the sanction of that department in respect of any development of such land, or directing that permission to develop such land shall be deemed to be granted subject to conditions ;
- (c) in respect of any order made under paragraph 3 of that Schedule revoking or modifying permission to develop such land ;
- (d) in respect of any order made under paragraph 4 of that Schedule in relation to such land ;
- (e) in respect of the extinguishment of any right, or the imposition of any requirement, under section twenty-four of this Act as applied for the purposes of Part III of the said Act ;
- (f) in respect of any such compulsory purchase as is mentioned in subsection (5) of section forty-two of the said Act”;

in sub-paragraph (4) of paragraph 2 after the words " modification of permission " there shall be , inserted the words " or order under paragraph 4 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947 " ; and in sub-paragraph (3) of paragraph 3 for the words " authority or Minister " there shall be substituted the word " person. "

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

In the Fifth Schedule, in paragraph 8, for heads (a) and (b) of sub-paragraph (1) there shall be substituted the words—

“in land designated by a development plan under the Town and Country Planning (Scotland) Act, 1947, as subject to compulsory acquisition or land which is proposed to be acquired compulsorily under subsection (2) of section thirty-four or subsection (2) of section thirty-five of that Act”;

for the words "by an order under any enactment in Part I of this Act confirmed or made" there shall be substituted the words "under Part III of the Town and Country Planning (Scotland) Act, 1947 "; and for the words " Part I of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 "; and in sub-paragraph (4) for the words " Part I of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 ".

In the Sixth Schedule, in sub-paragraph (2) of paragraph 1, and in sub-paragraph (2) of paragraph 3, for the words " section sixteen of this Act " there shall be substituted the words " subsection (2) of section thirty-six of the Town and Country Planning (Scotland) Act, 1947 "; and in sub-paragraph (4) of paragraph 1, after the word " modified " there shall be inserted the words " by the Second . Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 " ; in paragraph 2, and in sub-paragraph (6) of paragraph 3, for the words " this Act " there shall be substituted the words " the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 " ; and in sub-paragraph (2) of the said paragraph 3 the words " or the draft of the order or the application therefor as the case may be " shall be omitted; in paragraph 8, for the words " Part I of this Act " there shall be substituted the words " the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 " ; and in paragraph 12, the words from " and references to the confirmation " to the end of the paragraph shall be omitted.

Status: This is the original version (as it was originally enacted).

<i>Enactments amended.</i>	<i>Amendments.</i>
<p>The Distribution of Industry Act, 1945, 8 & 9 Geo. 6. c. 36.</p>	<p>In the Second Schedule, for sub-paragraph (e) of paragraph 18 of Part V there shall be substituted the following paragraph :—</p> <p>“(e) in paragraph 8 for the words from " a list compiled or approved ' to the end of the paragraph, there shall be substituted the words ' a list compiled or approved under the provisions of section twenty-eight of the Town and Country Planning (Scotland) Act, 1947;”</p> <p>and in sub-paragraph (g) of the said paragraph for the words " paragraph 14 " there shall be substituted the words " paragraph 15 ".</p>
<p>The Requisitioned Land and War Works Act, 1945, 8 & 9 Geo. 6. c. 43.</p>	<p>In section sixty, in subsection (3) for the words from " for any reference to the Town and Country Planning (Interim Development) Act, 1943," to the words " Town and Country Planning (Interim Development) (Scotland) Act, 1943 " there shall be substituted the words " for references to the Town and Country Planning Act, 1944, there shall be substituted references to the Town and Country Planning (Scotland) Act, 1945 " , and in subsection (12) after the words " county or town council" there shall , be inserted the words " and for the definition of ' local planning authority ' there shall be substituted the following definition :—</p> <p>“‘ local planning authority ' means the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947.”</p>
<p>The Trunk Roads Act, 1946, 9 & 10 Geo. 6. c. 30.</p>	<p>In section five, in subsection (1), for the words " by whom functions are exercisable under section one and section two of the said Act " there shall be substituted the words " within the meaning of section four of the principal Act ".</p>
<p>The Building Restrictions (War-Time Contraventions) Act, 1946, 9 & 10 Geo. 6. c. 35.</p>	<p>In section eight, in subsection (2), the words from " for references to the Town and Country Planning Act, 1932," to the end of the subsection shall be omitted ; and in</p>

Enactments amended.

Amendments.

The New Towns Act, 1946, 9 & 10 Geo. 6.
c. 68.

subsection (5) after paragraph (b) there shall be inserted the following paragraphs:—

- “(c) for the definition of ' authority responsible for enforcing planning control ' there were substituted the following definition :—
“' authority responsible for enforcing planning control " means, in relation to any works on land or use of land, the authority empowered by virtue of section seventy-two of the Town and Country Planning (Scotland) Act, 1947, to serve an enforcement notice in respect thereof under Part II of that Act, or the authority who would be so empowered if the works had been carried out or the use begun otherwise than in compliance with planning control”;
- (d) in subsection (5) for the words from ' conferred by ' to the end of the subsection there were substituted the words ' conferred by section seventy-two of the Town and Country Planning (Scotland) Act, 1947 '.”

In section twenty-five, in subsection (5) for paragraph (a) there shall be substituted the following paragraph :—

- “(a) in subsection (2) for the words from ' conferred by ' to ' development order ' there shall be substituted the . words ' conferred by section eleven of the Town and Country Planning (Scotland) Act, 1947, a special development order ' ;”

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

and paragraphs (b) and (d) shall be omitted; and in subsection (8), for paragraph (c) there shall be substituted the following paragraph :

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- “(c) in subsection (3) for the words from ' compiled or approved ' to ' which relates ' there shall be substituted the words ' compiled or approved under section twenty-eight of the Town and Country Planning (Scotland) Act, 1947, which relates ””.

In the Fifth Schedule, at the end of the modification of section twenty-one of the said Act there shall be added the words " and in subsection (3) for the words ' the terms of an interim development order ' to the end of the subsection there shall be substituted the words ' planning permission granted under the Town and Country Planning (Scotland) Act, 1947 ; and in the modification of ' section sixty-two of the said Act for the words " and 'loan charges' shall not apply" there shall be substituted the words " 'interim development application,' ' interim development authority,' ' loan charges,' and ' planning scheme,' shall not apply, " and for the definition of " local planning authority" there shall be substituted the following definition " ' local planning authority ' means the local planning authority for the purposes of the Town and Country Planning (Scotland) Act, 1947. "

[The Civil Aviation Act, 1946, 9 & 10 Geo. 6. c. 70.](#)

In section fifty-two, in paragraph (e) for the words from " for the reference" to " 1945 " there shall be substituted the words " for the words from the beginning of the subsection to ' effect ' there shall be substituted the words ' section twenty-seven of the Town and Country Planning (Scotland) Act, 1945 (which relates to consecrated land and burial grounds) shall, as amended by the Town and Country Planning (Scotland) Act, 1947, have effect ' and for the words ' Part I of that Act' there shall be substituted the words ' Part III of the last mentioned Act'. "

Status: This is the original version (as it was originally enacted).

<i>Enactments amended.</i>	<i>Amendments.</i>
The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, 10 & 11 Geo. 6. c. 42.	<p>In section two, in subsection (6) for the words " that Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 ".</p> <p>In section three, in subsection (2) for the words " 1945, for the area " there shall be substituted the words " '1947, for the district ".</p>

NINTH SCHEDULE

Section 109.

ENACTMENTS REPEALED.

PART I

ENACTMENTS REPEALED AS FROM PASSING OF THIS ACT.

Session and Chapter.	Enactment repealed.	Extent of Repeal.
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act, 1945.	In section twenty-three, in subsection (2) the words from and section fifty-three " to the end of the subsection ; in section twenty-five, in paragraph (b) of subsection (2), the words from "including," to the end of the paragraph; sections fifty-three to fifty-eight; in section sixty-one, the words " except in so far as is otherwise provided by this Act " ; in the Sixth Schedule, in sub-paragraph (4) of paragraph 1, the words " (and as amended by Part II of this Act)", and in sub-paragraph (1) of paragraph 5 the words " or the amount of any sum payable as a supplement thereto " and the words " together, if any sum is payable as a supplement thereto, with the amount of that sum " ; and the Seventh and Eighth Schedules.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of Repeal.
8 & 9 Geo. 6. c. 43.	The Requisitioned Land and War Works Act, 1945.	In section forty-one, subsection (7), and paragraph (c) of subsection (8).
9 & 10 Geo. 6. c. 68.	The New Towns Act, 1946.	In section four, in subsection (7) the words from " and that Part II " to the end of the subsection, and in section twenty-five, paragraph (d) of subsection (6).
9 & 10 Geo. 6. c. 70.	The Civil Aviation Act, 1946.	In the Third Schedule, paragraph 10, and subparagraph (c) of paragraph 14 ; in the Fourth Schedule, paragraphs 4 and 5, paragraph (b) of the proviso to paragraph 6, and subparagraphs (b) to (d) of paragraph 14 ; and in the Sixth Schedule, paragraphs 2 and 3, paragraph (b) of the proviso to paragraph 4, and subparagraphs (a) to (c) of paragraph 8.

PART II

ENACTMENTS REPEALED AS FROM APPOINTED DAY.

Session and Chapter.	Enactment repealed.	Extent of repeal.
53 & 53 Vict. c. 27.	The Advertising Stations (Rating) Act, 1889.	Section five.
3 Edw. 7. c. 33	The Burgh Police (Scotland) Act, 1903.	Sections seventy-six, seventy-seven and seventy-eight, and paragraph (b) of section ninety-three.
7 Edw. 7. c. 27	The Advertisements Regulation Act, 1907.	The whole Act.
15 & 16 Geo. 5. c. 52.	The Advertisements Regulation Act, 1925.	The whole Act.
15 & 16 Geo. 5. c. 68.	The Roads Improvement Act, 1925.	In section five, the proviso to subsection (7), and in section twelve, in paragraph (a) the words from "and a reference " to the end of the paragraph.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
18 & 19 Geo. 5. c. 32.	The Petroleum (Consolidation) Act, 1928.	Section eleven and paragraph (2) of section twenty-four.
20 & 21 Geo. 5. c. 40.	The Housing (Scotland) Act, 1930.	In section twelve, in subsection (2), the words " and of any planning scheme in operation in the area." In section eighteen, in subsection (2), and in section twenty-one, in subsection (3), the words " and of any town planning scheme in operation in the area." In section forty-nine, in subsection (1), the definition of " town planning scheme ".
21 & 22 Geo. 5. c. 16.	The Ancient Monuments Act, 1931.	Section two and in section sixteen, in subsection (1), the words from " the Town Planning (Scotland) Act, 1925 " to the words " the Town Planning Act, 1925 ", and subsection (4).
22 & 23 Geo. 5. c. 49.	The Town and Country Planning (Scotland) Act, 1932.	The whole Act.
25 & 26 Geo. 5. c. 41.	The Housing (Scotland) Act, 1935.	In section seventeen, in subsection (3), the words " and of any planning scheme in operation in the area." In the Fifth Schedule, in Part I, in the subsection substituted for subsection (2) of section twelve of the Housing (Scotland) Act, 1930, the words " and of any planning scheme in operation in the area. " Part II of the Fifth Schedule so Act, far as relating to section forty-nine of the Housing (Scotland) Act, 1930.
25 & 26 Geo. 5. c. 47.	The Restriction of Ribbon Development Act, 1935.	Sections one to three; sections five to twelve; in paragraph (a) of subsection (3) of section

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
1 Edw. 8 & 1 Geo. 6. c. 5.	The Trunk Roads Act, 1936.	<p>thirteen the words from " or which is for the time being " to the end of that paragraph, section fifteen ; subsection (2) of section nineteen, subsection (1) of section twenty-three ; subsection (1) of section twenty-four except the definitions of " building", " chief officer of police", " land ", "middle of the road ", " Minister ", " owner ", " place of public resort ", " proposed road ", " road ", and " statutory undertakers," . and subsection (2) of that section, and the First, Second and Third Schedules.</p>
2 & 3 Geo. 6. c. 22.	The Camps Act, 1939.	<p>Subsections (2) to (5) of section four, and in the Fourth Schedule, paragraphs 1 to 4, and in paragraph 5, the words from " subject to restrictions in force " to the words " expenses incurred in so doing ", and the proviso to that paragraph</p>
2 & 3 Geo. 6. c. 31.	The Civil Defence Act, 1939.	<p>Subsection (2) of section three; in section seven, in paragraph (a), the words from " for references to the Town and Country Planning Act, 1925," to the words " Town and Country Planning (Scotland) Act, 1932."</p>
6 & 7 Geo. 6. c. 34.	The Restriction of Ribbon Development (Temporary Development) Act, 1943.	<p>Section seventy, and in section ninety-one, in subsection (17), the words from "and for any reference to the Town and Country Planning Act, 1932," to the words " the Town and Country Planning (Scotland) Act, 1932."</p>
		The whole Act.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
6 & 7 Geo. 6. c. 43.	The Town and Country Planning (Interim Development) (Scotland) Act, 1943.	The whole Act except section thirteen.
9 & 10 Geo. 6. c. 18.	The Statutory. Orders (Special Procedure) Act, 1945.	The Second Schedule so far as relating to sections thirteen to fifteen, thirty-four and thirty-five of, and the Second and Third Schedules to, the Town and Country Planning (Scotland) Act, 1945.
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act, 1945.	Sections one to seventeen; subsections (3) and (7) of section nineteen; section twenty; sections thirty to forty-five ; section forty-seven; section forty-nine; section fifty A. . except subsection (4); sections fifty-one and fifty-two; section sixty; in subsection (1) of section sixty-two the definitions of " clearing " first local advertisement ", " interim development application ", " interim development authority ", " loan charges ", " local highway authority ", " planning scheme ", " purchase order providing for expedited completion ", " Valuation Office ", " valuation roll "and "war damage "; sub-paragraphs (1) (a), (1) (6) and (1) (d) of paragraph 1 and the word " or," at the end of sub-paragraph (a) and sub-paragraph (b) of paragraph 3 of , the First Schedule; the Second and Third Schedules; the Fifth Schedule except paragraph 8, and in paragraph 12 of the Sixth Schedule the words from " and references to the confirmation," to the end of the paragraph.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
8 & 9 Geo. 6. c. 36.	The Distribution of Industry Act, 1945.	Sections six, nine and ten.
9 & 10 Geo. 6. c. 30.	The Trunk Roads Act, 1946.	In section three, the proviso to subsection (2), and subsection (3) ; in section four, in subsection (2), the words from " and without prejudice " to the end of the subsection ; in section eight, subsection (5) ; in section twelve subsection (2); in section fourteen, subsection (2) ; and in the Third Schedule, in the amendment of section four of the Trunk Roads Act, 1936, the words from the beginning to " as the case may be."
9 & 10 Geo. 6. c. 35.	The Building Restrictions (War-Time Contraventions) Act, 1946.	Subsection (2) of section four.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act, 1946.	The Fourth Schedule so far as relating to the Town and Country Planning (Scotland) Act, 1932.
9 & 10 Geo. 6. c. 68.	The New Towns Act, 1946.	Subsections (3) and (4) of section three, and" the Third Schedule.
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.	Paragraph (f) of subsection (4) of section one ; in section two in subsection (1), the words "or of the Town and. Country Planning (Scotland) Act, 1945 " ; and in subsection (4) the words " the Town and Country Planning (Scotland) Act, 1945 " ; and in the Second Schedule, in paragraph 8, the words "or in subsection (4) of section seventeen of the Town and Country Planning (Scotland) Act, 1945 " .

TENTH SCHEDULE

Section 109.

TRANSITORY PROVISIONS AND PROVISIONS CONSEQUENTIAL ON REPEALS.

- 1 Any application for permission to develop land made to the interim development authority before the appointed day under section ten of the Act of 1932, and any application for permission to develop land made to the responsible authority under a planning scheme, being in either case an application which has not been determined by that authority before that day, shall be treated for the purposes of this Act as an application made thereunder to the local planning authority for planning permission for the like development, and shall be treated as having been so made on the appointed day.
- 2 Where an application for any such permission as aforesaid, made to the interim development authority or the responsible authority before the appointed day, has been determined by that authority before that day and no appeal has been brought against the decision, then if the period during which such an appeal could have been brought before the appointed day has not expired, the decision of the interim development authority or the responsible authority, as the case may be, shall be treated for the purposes of section fourteen of this Act- as the decision of the local planning authority on an application for planning permission.
- 3 Any appeal to the Secretary of State from the decision of the interim development authority, or the responsible authority on any such application as aforesaid which is pending on the appointed day shall be treated as an appeal to the Secretary of State under section fourteen of this Act:

Provided that where under subsection (5) of section ten of the Act of 1932, any such hearing as is required by that subsection has been held before the appointed day, the proviso to subsection (2) of section thirteen of this Act shall not apply in relation to the appeal.
- 4 Any direction given before the appointed day under section six of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, requiring any such application as aforesaid to be referred to the Secretary of State shall be treated as a direction given by the Secretary of State to the local planning authority under section thirteen of this Act:

Provided that where, under subsection (1) of section six of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, any such hearing as is required by that subsection has been held before the appointed day, the proviso to subsection (2) of section thirteen of this Act shall not apply in relation to the application.
- 5 Any order made before the appointed day by an authority empowered in that behalf by an interim development order in pursuance of subsection (8) of section ten of the Act of 1932 and any order made before that day by the Secretary of State under subsection (2) of section thirty-eight of the Act of 1945, shall continue in force after that day and have effect as if it were included in a development order in pursuance of subsection (4) of section eleven of this Act.
- 6 Notwithstanding the repeal by this Act of the Act of 1932 any scheme made under that Act and any such scheme as is mentioned in section fifty-three of that Act, being a scheme which is in force immediately before the appointed day, shall, so far as it relates to the following matters, that is to say—
 - (a) the designation of responsible authorities ;

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- (b) the preservation of trees and the protection of woodlands ;
- (c) the execution of street works, and the recovery of charges in respect thereof, by the responsible authority; and
- (d) the suspension of any enactment contained in a local Act or of any byelaws, orders or regulations ;

continue in force until it is determined, in relation to any such matter as aforesaid, by an order made by the Secretary of State, and the provisions of that Act, or of the Town Planning (Scotland) Act, 1925, as the case may be, shall have effect in relation to any such scheme accordingly.

7 Any order made by the Secretary of State under the last foregoing paragraph may make such provision as the Secretary of State considers expedient for winding up the scheme.

8 Any order made under subsection (2) of section two of the Act of 1932, transferring powers and duties to the town council of a small burgh, being an order which is in force immediately before the appointed day, shall continue in force and have effect notwithstanding the repeal by this Act of the Act of 1932.

9 Notwithstanding the repeal by this Act of section seventeen of the Act of 1932 and sections forty-one and forty-two of the Act of 1945—

- (a) any order made by a local authority under the said section seventeen which is in force immediately before the appointed day shall, so far as is consistent with the provisions of section twenty-seven of this Act, continue in force and have effect as if it had been made, by the local planning authority under that section ; and any such order may be amended or revoked under this Act accordingly ;
- (b) any list compiled or approved by the Secretary of State under the said section forty-one before the appointed day shall continue in force and have effect as if it had been compiled or approved by him under section twenty-eight of this Act, and may be amended under that section accordingly, and subsection (5) of the said section twenty-eight shall apply to any copy of any such list or of amendments thereto deposited before the appointed day with the clerk of the local planning authority.

10 Subject as hereinafter provided, any agreement for restricting the development or use of land made under section thirty-three of the Act of 1932 with any such authority as is mentioned in subsection (2) of that section, or made or having effect as if made under any provision of a planning scheme with the responsible authority for the purposes of the scheme, shall, if in force on the appointed day, continue in force in accordance with the terms thereof and may be enforced under the said section thirty-three or under the scheme as the case may be :

Provided that—

- (a) nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which any such 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 Secretary of State under section thirty-three of this Act or as requiring the exercise of any such powers otherwise than as aforesaid ;
- (b) if the Secretary of State 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, 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;

- (c) without prejudice to the provisions of sub-paragraph (b) of this proviso, if any person, being a party to any such agreement (whether as originally made or as modified under that sub-paragraph), or a person entitled to land affected thereby, claims that the agreement ought to be modified or rescinded having regard to the provisions of this Act or anything done thereunder, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbiter may make such award as appears to him to be just having regard to all the circumstances.

11 Where any such agreement as is mentioned in the last foregoing paragraph is modified or rescinded (whether by agreement or by virtue of the exercise of any powers conferred by sub-paragraph (b) or (c) of the proviso to that paragraph) at any time within three years after the appointed day, then if it appears to the Secretary of State that it is reasonable so to do having regard to the terms on which the agreement was made and to any loss or damage sustained by any person having an interest in land affected by the agreement by reason of the provisions of this Act or of anything done thereunder, he may direct that the development value of that interest in the land, or in any part thereof, shall be calculated for the purposes of Part V of this Act as if the agreement had been so modified or rescinded immediately before the appointed day.

12 The repeal of section fifty of the Act of 1932 shall not affect the rights of any person arising under that section in consequence of any event occurring before the appointed day.

13 Provision may be made by regulations under this Act for securing—

- (a) that any application to a highway authority under the Restriction of Ribbon Development Act, 1935, for any consent which that authority have power to give under section one or section two of that Act, being an application which has not been determined by that authority before the appointed day, shall be treated for the purposes of this Act as an application made thereunder to the local planning authority for planning permission, and shall be treated as having been so made on the appointed day ;
- (b) that any decision of a highway authority on an application for such a consent under the Restriction of Ribbon Development Act, 1935, shall, unless the applicant has appealed against that decision under section seven of that Act before the appointed day, be treated for the purposes of section fourteen of this Act as if it were the decision of a local planning authority on an application for planning permission, and as if notification of it had been received by the applicant on the appointed day ; and
- (c) that any appeal taken to the Minister of Transport under section seven of that Act which is pending on the appointed day shall be treated as an appeal to the Secretary of State under section fourteen of this Act:

Provided that where under the said section seven any such local inquiry as is required by that section has been held before the appointed day, the proviso to subsection (2) of section thirteen of this Act shall not apply in relation to the appeal.

14 Notwithstanding the repeal by this Act of the Restriction of Ribbon Development (Temporary Development) Act, 1943, an Order in Council may be made under

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subsection (6) of section one of that Act for appointing the date on which the present war period within the meaning of that Act is to end.

15 Notwithstanding the repeal by this Act of section eight of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, any order made by an interim development authority under that section for the preservation of trees and woodlands pending the coming into operation of a scheme under the Act of 1932, being an order which is in force immediately before the appointed day, shall, so far as is consistent with the provisions of section twenty-six of this Act, continue in force and have effect as if it had been made by the local planning authority under that section, and as if for references therein to the interim development authority there were substituted references to the local planning authority; and any such order may be amended or revoked under this Act accordingly.

16 Where, at any time before the appointed day, application has been made to the Secretary of State for an order under section one of the Act of 1945 declaring any land to be subject to compulsory purchase under Part I of that Act, the Secretary of State may, if he thinks fit, direct that proceedings on the application shall be continued under that Act after that day; and where any such direction is given, section one of the Act of 1945 and section thirteen of that Act and the First Schedule to that Act so far as they relate to an order under the said section one shall continue to apply in relation to the application and an order may be made thereon accordingly.

17 Where any order has been made before the appointed day under section one of the Act of 1945 declaring any land to be subject to compulsory purchase under Part I of that Act, or where any such order has been made after the appointed day by virtue of the last foregoing paragraph, the provisions of Part III of this Act shall apply as if the land were comprised in an area defined by the development plan as an area of comprehensive development, and were designated in the said plan as subject to compulsory acquisition under this Act, and section fifteen of the Act of 1945 (which relates to the validity and date of operation of such orders) shall, notwithstanding the repeal of that section, apply in relation to any such, order :

Provided that—

- (a) this paragraph shall not apply to any operational land of statutory undertakers unless an order made under paragraph (b) of subsection (5) of section thirteen of the Act of 1945 declaring that it is expedient that the land should be subject to compulsory acquisition has taken effect;
- (b) nothing in this paragraph shall be construed as restricting the power of the Minister of Works or the Postmaster General . to acquire any land to which this paragraph applies under subsection (2) of section thirty-four of this Act.

18 Any compulsory purchase order made or prepared in draft under Part I of the Act of 1945 before the appointed day may be confirmed or made in accordance with the provisions of that Part after that day, and any such order, and any compulsory purchase order confirmed or made under that Part before the appointed day, shall continue in force and have effect as if it had been made under the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, as applied by Part III of this Act.

19 For the purposes of the Act of 1945 as amended by this Act—

- (a) any land acquired by a Minister in pursuance of any such order as is mentioned in the last foregoing paragraph shall be deemed to have been acquired under section thirty-four of this Act ;

- (b) any land acquired by a local planning authority in pursuance of any such order as aforesaid shall be deemed to have been acquired under section thirty-five of this Act;
 - (c) any land acquired by a local planning authority by agreement under the Act of 1945 shall be deemed to have been acquired under section thirty-seven of this Act.
- 20 Any question relating to the development of land referred to the Secretary of State before the appointed day in pursuance of directions given under section thirty-one of the Act of 1945 which has not been decided before that day shall be treated as an application made to him for planning permission for such development in pursuance of regulations made under section thirty-two of this Act :

Provided that, where any such hearing as is required by subsection (1) of the said Section thirty-one has been held before the appointed day, any provision of Part II of this Act, as applied by the said regulations, requiring a hearing shall not apply in relation to that question.

ELEVENTH SCHEDULE

Section 109.

UNREPEALED PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945, REPRINTED AS AMENDED BY THIS ACT.

“18 Disposal or appropriation by local planning authority of land held by them for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) The following provisions of this section shall have effect with respect to the disposal or appropriation by a local planning authority of land which has been acquired under section thirty-five or thirty-seven of the Town and Country Planning (Scotland) Act, 1947, or appropriated for purposes for which land can be acquired under those sections, and is for the time being held by the authority for the purposes for which it was acquired or appropriated.
- (2) Subject to the provisions of subsection (4) of this section, the authority may dispose of any such land to such person, in such manner and subject to such conditions as may appear to them to be expedient in order to secure the best use of that or other land and airy buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority; and subject to the provisions of subsection (5) of this section any land so disposed of shall not, except with the consent of the Secretary of State, be disposed of otherwise than at the best price or on the best terms that can reasonably be obtained. '
- (3) Subject to the provisions of subsection (4) of, this section, the authority may appropriate any such land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment other than Part III of the Town and Country Planning (Scotland) Act, 1947.
- (4) The consent of the Secretary of State shall be requisite to any disposal or appropriation of land by a local planning authority under this section, and may be given as respects

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either a particular disposal or appropriation or disposals or appropriations of any class, and either subject to or free from any conditions or limitations.

- (5) The powers conferred by this section on a local planning authority in respect of the disposal of land thereunder, and on the Secretary of State in respect of, consent to such disposal, shall in the case of land comprised in an area defined by a development plan as an area of comprehensive development be so exercised as "to secure so far as may be practicable to persons who were living, or carrying on business or other activities, on any such land which the authority have acquired as mentioned in subsection (1) of this section, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, 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.
- (6) Where land is disposed of Under this section by a local planning authority 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.
- (7) Where representations are made to the Secretary of State—
- (a) that a local planning authority have refused to dispose of any land under this section to any person or to agree with him as to the manner in which, or the terms or conditions on or subject to which, it is to be disposed of to him; and
 - (b) that the refusal constitutes unfair discrimination against that person or is otherwise oppressive,

the Secretary of State may cause the representations to be intimated to the authority; and after considering any statement in writing made to him by the authority, the Secretary of State may, if he thinks fit, cause a public local inquiry to be held and after considering the report of the person appointed to hold the inquiry (if any), may, if it appears to him that the representations are well founded and that it is expedient as mentioned in subsection (2) of this section that the authority should dispose of the land under this section to that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him.

- (8) In the exercise of the powers conferred by this section, a local planning authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular buildings included in any list compiled or approved under the provisions of section twenty-eight of the Town and Country Planning (Scotland) Act, 1947, and the Secretary of State shall not give his consent to the disposal or appropriation under this section of any land comprising a building included in such a list unless either—
- (a) the consent is given subject to such conditions or limitations as in the opinion of the Secretary of State will secure the preservation of the building; or
 - (b) the Secretary of State is satisfied, after causing such particulars as appear to him requisite of the disposal or appropriation for which his consent is sought to be published by Gazette and local advertisement not less than twenty-eight days before he gives his decision on the application for his consent, that the purpose which the local planning authority seek to ' achieve by the proposed exercise of their powers under this section is one which ought in the public interest to be carried out, and either that the preservation of the building would prevent the carrying out of that purpose, whether by the use of the land in question or otherwise, or that the effect of preserving the building on the

carrying out as aforesaid of the said purpose would be such that notwithstanding the desirability of preserving the building it is inexpedient so to do.

In this subsection the expression " preservation, " in relation to a building, means the preservation thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

- (9) In this section (except in subsection (6)) references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation) whether by way of sale, feu, excambion or lease, by the creation of any servitude, right or privilege, or in any other manner, except disposal by way of gift or in security.
- (10) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of any enactment, other than Part III of the Town and Country Planning (Scotland) Act, 1947, by virtue of or under which the authority are or may be authorised to dispose of or appropriate land held by them.

19 Power of local planning authority to carry out development of land held by them for purposes of Part III of the Town and Country (Scotland) Act, 1947.

- (1) The functions of a local planning authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of such a body by virtue of its constitution, to erect, construct or carry out on any such land as is mentioned in subsection (1) of section eighteen of the Act any building or work not being a building or work for the erection, construction or carrying out of which, whether by them or by any other person, statutory power already exists by virtue of or under an enactment other than Part III of the Town and Country Planning (Scotland) Act, 1947, or could be conferred under an enactment other than Part III of the Town and Country Planning (Scotland) Act, 1947.
- (2) The consent of the Secretary of State shall be requisite to any exercise by a local planning authority of the power conferred on them by the preceding subsection, and may be given as respects either a particular operation or operations of any class, and either subject to or free from any conditions or limitations.
- (4) Where a local planning authority propose to carry out any operation "which they would have power to carry out by virtue only of subsection (1) of this section, they shall notify the Secretary of State of their proposal, and the Secretary of State may direct such advertisement by the authority as appears to him to be requisite for the purposes of subsection (2) of this section.
- (5) The functions of a local planning authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to 'repair, -maintain and insure any buildings or works on such land as is mentioned in the said subsection (1), and generally to deal therewith in a proper course of management.
- (6) Subsection (8) of the last preceding section shall apply to the power conferred on a local planning authority by subsection (1) of this section as it applies to the powers conferred by that section, with the substitution for references to the disposal or appropriation of land of references to the carrying out of any such operation as is mentioned in subsection (1) of this section.
- (8) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority which is actionable at the instance of any person on any ground other than such limitation as is mentioned, in subsection (1) of this section."

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“21 Authorisation of development on land acquired for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947, notwithstanding interference with servitudes, etc.

- (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board under section forty of the Town and Country Planning (Scotland) Act, 1947, whether done by the local planning authority or by any person deriving title from the local planning authority or from the Board, as the case may be, shall be deemed to be authorised by this section if it conforms with planning control notwithstanding that it involves interference with any servitude or any right over land or any breach of any restriction as to the use of land arising by virtue of any deed or contract, but subject to payment of compensation under section sixty-one of the Lands Clauses Consolidation (Scotland) Act, 1845, or under section six of the 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 a purchase under those Acts or the injury arises from the execution of works on land acquired under those Acts:

Provided that nothing in this subsection shall authorise interference with any such right as is mentioned in section twenty-four of this Act.

- (2) Any liability of a person deriving title from the local planning authority by whom the land in question was acquired or appropriated or from the Central Land Board to pay such compensation as aforesaid which that person fails to discharge shall be enforceable against that authority or against the Board, as the case may be:

Provided that nothing in this subsection shall be construed as affecting any agreement between the authority or Board and any other person for indemnifying the authority or Board against any liability under this subsection.

- (3) For the purposes of subsection (1) of this section, the erection, construction or carrying out, or maintenance, of any building or work shall be treated as conforming with planning control if it is done in accordance with planning permission granted under the Town and Country Planning (Scotland) Act, 1947, and not otherwise.
- (4) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or 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 interference or breach as is mentioned in subsection (1) of this section.
- (5) In this section the expression " right over land " means any liberty, privilege, right or advantage annexed to land and adversely affecting other land, and includes a natural right of support.

22 Power to extinguish highways over land acquired for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) The Secretary of State may by order extinguish any public right of way over any such land as is mentioned in subsection (1) of section eighteen of this Act, if he is satisfied that a suitable alternative right of way has been or will be provided or that the provision thereof is not required.

- (2) The Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947, shall apply to an order under this section as it applies to an order under section forty-six of that Act, and the said Schedule shall, in its application to an order under this section, have effect as if for any reference therein to the Minister of Transport there were substituted, a reference to the Secretary of State.
- (3) The Minister of Transport or a local highway authority may be authorised to acquire land compulsorily for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under this section; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this subsection, and accordingly shall have effect—
- (a) as if this subsection had been in force immediately 'before the commencement of that Act;
 - (b) as if this subsection were included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act:

Provided that section two of the said Act shall not apply to. the compulsory acquisition of land under this subsection.

- (4) Where on the application of a local planning authority an order is made under this section extinguishing a public right of Way, and at the time of publication of the notice required by paragraph 1 of the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947, there was under, in, upon, over, along or across the land over which the right of way subsisted any telegraphic line belonging to or used by the Postmaster-General.—
- (a) the power of the Postmaster General to remove the line shall be exercisable notwithstanding the making of the order, so, however, that the said power shall not be exercisable, as respects the whole or any part of the line, after the expiration of a period of three months from the date on which the right of way is extinguished unless before the expiration of that period the Postmaster General has given notice to the local planning authority of his intention to remove the line or that part thereof, as the case may be;
 - (b) the Postmaster-General may by notice to the local planning authority in that behalf abandon the said line or any part thereof, and shall be deemed, as respects the line or any part thereof, to have abandoned it at the expiration of the said: period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
 - (c) the Postmaster-General shall be entitled to recover from the local planning authority the expense of providing, in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line, a telegraphic line in such other place as the Postmaster-General may require;
 - (d) where under paragraph (b) of this subsection the Postmaster General has abandoned the whole or any part of a telegraphic line, it shall vest in the local planning authority, and the provisions of the Telegraph Acts, 1863 to 1943, shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

In this subsection the expression " telegraphic line " has the same meaning as in the Telegraph Act, 1878.

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- (5) Regulations made under the Town and Country Planning (Scotland) Act, 1947, may provide for securing that any proceedings required to be taken for the purposes of an order under this section may; be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished,- or for securing that any proceedings required to be taken for the purpose of the acquisition of any other land under subsection (3) of this section may be taken concurrently with either or both of the said proceedings.

23 Extinguishment of private ways, servitudes, and rights as to apparatus, over or in land purchased for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) Upon the completion by the purchasing authority of a compulsory purchase under Part III of the Town and Country Planning (Scotland) Act, 1947, of any land, 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 purchasing authority:

Provided that this section shall not apply to any right vested in, or any apparatus belonging to, the person carrying on a statutory undertaking for the purpose, of the carrying, on thereof, and shall have effect as respects other matters subject to any direction given by the purchasing authority before the completion of the purchase that this section shall not apply to any right or apparatus specified in the direction and subject to any agreement which may be made (whether before or after the completion, of the purchase) between the purchasing authority and the person in or to whom the right or apparatus in question is vested or belongs.

- (2) Any person who suffers loss by the extinguishment of any right or servitude or the vesting of any apparatus under this section shall be entitled to be paid by the purchasing authority compensation, to be determined under and in accordance with the Acquisition of Land (Assessment of '(Compensation) Act, 1919.
- (3) Expenses incurred by-a Minister or the Central Land Board in the payment of compensation under the last preceding subsection shall be defrayed out of moneys provided by Parliament.

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

- (1) Where there subsists over land which has been acquired by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act any right of way or any right of laying down, erecting, continuing or maintaining any apparatus oh: under or over the land, or there is on under or over any such land any apparatus, vested in or belonging to the person carrying on a statutory undertaking for the purpose of the carrying on thereof, the purchasing or appropriating authority may serve on the said person a notice that at the, expiration of such period as may be specified in the notice the right will be extinguished, or requiring that before the expiration of such period as may be so specified the apparatus shall be removed.
- (2) A person on whom a notice is served under the preceding subsection may before the expiration of twenty-eight days from the service of the notice serve a counter-notice

on the purchasing or approbating authority stating that he objects to all or any of the provisions of the notice and specifying the grounds of his objection.

- (3) If no counter-notice is served, under the last preceding subsection, any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and 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 purchasing or appropriating authority may remove the apparatus and dispose thereof in any way they or he may think fit.
- (4) If a counter-notice is Served under subsection (2) of this section on a local planning authority, or on statutory undertakers, the authority or undertakers may either withdraw the notice (without prejudice, however, to the service of a further notice) or apply to the Secretary of State and the appropriate Minister for an order embodying, either with or without modification, the provisions of the notice, and the Secretary of State and the appropriate Minister may if they think fit, after affording to the person carrying on the undertaking on whom the notice was served under subsection (1) of this section an opportunity of objecting to the application and, if any objection is made, after causing an inquiry to be held, make an order in accordance with the application, either with or without modification.
- (5) If a counter-notice is served under subsection (2) of this section on a 'Minister or the Central Land Board, either he or they may withdraw the notice, (without prejudice, however, to the service of a further notice) or he or they and the appropriate Minister may make an order embodying, either with or without modification, the provisions of the notice.

Where a Minister and the appropriate Minister or the Central Land Board and the appropriate Minister propose to make an order under this subsection, they shall prepare a draft of the order and shall afford to the person carrying on the undertaking an opportunity of objecting to the proposal and, if any objection is made, shall cause an inquiry to be held, and may then make an order in accordance with the draft, either with or without modification.

- (6) Subsection (3) of this section shall apply to an order made under either of the two last preceding subsections as it applies to a notice in respect of which no counter-notice is served, but with the substitution for references to a notice of references to an order.
- (7) Where an objection to an order under subsection (4) or (5) of this section is duly made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.
- (8) In respect of the extinguishment of any right, or the imposition of any requirement, under this section, the person carrying on a statutory undertaking shall be entitled to recover from the purchasing or appropriating authority at whose instance the right was extinguished or the requirement was imposed compensation in accordance with Part I of the Fourth Schedule to this Act.
- (9) Expenses incurred by a Minister or the Central Land Board in the payment of compensation under the last preceding subsection shall be defrayed out of moneys provided by Parliament.

25 Extension and modification of powers and duties of statutory undertakers.

- (1) Where it appears to the Secretary of State and the appropriate Minister, on a representation made by the person carrying on a statutory undertaking, that—
- (a) in order to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local planning authority or a Minister may be authorised under Part III of the Town and Country Planning (Scotland) Act, 1947, to acquire land, or
 - (b) in order to facilitate any adjustment of the carrying on of the undertaking necessitated by the acquisition under Part III of the Town and Country Planning (Scotland) Act, 1947, of any land an interest in which was held, or which was used, for the purpose of the carrying on of the undertaking, or necessitated by the extinguishment of any right, or the imposition of any requirement, under the last preceding section, or necessitated by a decision on an application made under the Town and Country Planning (Scotland) Act, 1947, by a person carrying on the undertaking for permission to develop any such land, or by the revocation or modification of permission granted on such an application, or by the making of an order under section twenty-four of that Act in relation to any such land,

it is expedient that the powers and duties of the said person in relation to the carrying on of the undertaking should be extended or modified, the Secretary of State and the appropriate Minister may by order provide for such extension or modification of the said powers and duties as appears to them to be requisite in order to secure the provision of services as mentioned in paragraph (a) of this subsection, or to facilitate the adjustment of the undertaking as mentioned in paragraph (b) of this subsection, as the case may be.

- (2) Without prejudice to the generality of the provisions of the preceding subsection, an order under the preceding subsection may provide—
- (a) for empowering the person carrying on the undertaking to acquire, whether compulsorily or by agreement, any land specified in the order and to erect or construct any buildings or works so specified;
 - (b) for applying in relation to the acquisition of such land and the construction of such works enactments relating to the acquisition of land and the construction of works;
 - (c) for giving effect, where it has been represented that the making of the order is expedient for the purposes of paragraph (a) of the preceding subsection, to such financial arrangements between the local planning authority or the Minister and the person carrying on the undertaking as they may agree or, in default of agreement, as may be determined to be equitable in such manner and by such tribunal as may be specified in the order;

and 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.

- (3) As soon as may be after making a representation under subsection (1) of this section, the person carrying on the undertaking in question 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 twenty-eight 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 if it is so directed

by the Secretary of State and the appropriate Minister, shall also serve a like notice on such other persons, or persons of such classes, as may be so directed.

- (4) The provisions of the First Schedule to this Act shall have effect in relation to the making of an order on the representation if any objection thereto is duly made, and, subject to those provisions in a case in which they have effect, the Secretary of State and the appropriate Minister may, if they think fit, make an order,
- (5) A local planning authority or Minister may represent to the Secretary of State and the appropriate Minister that the making of an order under subsection (1) of this section as respects any statutory undertaking is expedient for the purpose of securing the provision of new services, or the extension of existing services, for any purpose in connection with which the authority or Minister may be authorised under Part III of the Town and Country Planning (Scotland) Act, 1947, to acquire land, and where such a representation is made the preceding provisions of this section shall have effect as if the representation had been made by the person carrying on the undertaking in question, but with the substitution in subsection (3) for the reference to the person carrying on the undertaking of a reference to the local planning authority or Minister,
- (6) An order under this section shall be subject to special parliamentary procedure.

26 Relief of statutory undertakers from obligations rendered impracticable by exercise of powers of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) Where on a representation in that behalf made by the person carrying on a statutory undertaking the appropriate Minister is satisfied that—
 - (a) the compulsory purchase under Part III of the Town and Country Planning (Scotland) Act, 1947, of any land an interest in which was held, or which was used, for the purpose of the carrying on of the undertaking;
 - (b) a decision on an application under Part II of the said Act by a person carrying on the undertaking for permission to develop any such land or the revocation or modification of planning permission granted on such an application or the making of an order under section twenty-four of that Act in relation to any such lands; or
 - (c) the extinguishment under Part III of that Act of any right, or the imposition of any requirement as to the removal of apparatus, vested in or belonging to the said person,
 has rendered impracticable the fulfilment of any obligation of the said person incurred in connection with the carrying on of the undertaking, the appropriate Minister may by order direct that the said person shall be relieved of the fulfilment of the obligation either absolutely or to such extent as may be specified in the order.
- (2) As soon as may be after making a representation to the appropriate Minister under the preceding subsection, the person carrying on the undertaking in question shall, as may be so directed by the appropriate Minister, either publish in such form and manner as may be so directed a notice giving such particulars as may be directed of the matters to which the representation relates and specifying the time (not being less than twenty-eight days) within which and the manner in which objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices.
- (3) The provisions of the First Schedule to this Act shall have effect in relation to the making of an order on the representation if any objection thereto is duly made, and, subject to

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those provisions in a case in which they have effect, the appropriate Minister may, if he thinks fit, make an order.

- (4) If any objection to the making of an order under this section is made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.
- (5) In relation to an order made under this section, subsections (1) to (4) of section nine of the Town and Country Planning (Scotland) Act, 1947, shall apply, subject to any necessary modifications, as they apply in relation to a development plan approved by the Secretary of State under that Act, and accordingly the said subsection (1) shall have effect as if for the reference therein to the local planning authority there were substituted a reference to the appropriate Minister :

Provided that where any such order is subject to special parliamentary procedure, then—

- (a) if the order is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, subsections (2) and (3) of the said section nine shall not apply;
- (b) in any other case those subsections shall have effect in relation to the order as if in subsection (2) for the reference to the date on which the notice required by subsection (1) of the said section nine is first published there were substituted a reference to the date on which the order becomes-operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (3) the words from " and shall become operative " to the end of the subsection were omitted.

27 Provisions as to 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 by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act, may be used in any manner whether or not involving the erection, construction or carrying out, or maintenance, of any building or work,—
- (a) in the case of land acquired by a purchasing authority other than a Minister, or of land appropriated by a local planning authority as aforesaid, by that authority or by any other person if that use conforms with planning control; or
- (b) in the case of land acquired by a Minister, 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 as respects that church or other building or burial ground or part thereof:

Provided that this subsection shall not have effect as respects any such land as aforesaid until the prescribed requirements with respect to the removal and re-interment of human remains and the disposal of tombstones, monuments or other memorials, and fixtures and furnishings 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 the preceding subsection—

- (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 tombstones, monuments or other memorials, or fixtures or furnishings;
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and re-interment of the remains of the deceased and the disposal of any tombstone, monument or other memorial commemorating the deceased;
- (c) for requiring the persons in whom the land is vested to defray the expenses of such removal, re-interment and disposal not exceeding such amount as may be prescribed;
- (d) 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 tombstones, monuments or other memorials, and fixtures and furnishings; and
- (e) with regard to such incidental and consequential matters (including the closing of registers) as may appear to the Secretary of State to be expedient for the purposes of the regulations.

Any expense incurred by a Minister or the Central Land Board under paragraph (c) of this subsection shall be defrayed out of moneys provided by Parliament.

- (3) Subject to the provisions of any such regulations as aforesaid, no authority shall be required for the removal and re-interment in accordance with the regulations of any human remains, or for the removal and disposal of any tombstones, monuments or other memorials, or fixtures or furnishings.
- (4) In this section—
 - (a) the expression " burial ground " includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purpose of interment;
 - (b) the reference to conformity with planning control shall be construed in accordance with subsection (3) of section twenty-one of this Act, with the substitution for references therein to anything done as therein mentioned of references to any use of land, whether or not involving the doing of any such thing.
- (5) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person that 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) of this section.

28 Authorisation of use and development of open spaces, etc., notwithstanding restrictions.

- (1) Any land being, or, forming part of, a common or open space, which has been acquired by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act, may be used in any manner, whether or

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not involving the erection, construction or carrying out, or maintenance, of any building or work.—

- (a) in the case of land acquired by a purchasing authority other than a Minister or of land appropriated by a local planning authority as aforesaid, by that authority or by any other person, if that use conforms with planning control, or
- (b) in the case of land acquired by a Minister, 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, including any public general or local enactment, by which any such land is specially regulated.

(2) In this section—

- (a) the expressions " common " and " open space " have the same meanings as in the Town and Country Planning (Scotland) Act, 1947;
- (b) the reference to conformity with planning control shall be construed in accordance with , subsection (3) of section twenty-one of this Act, with the substitution for references therein to anything done as therein mentioned of references to any use of land, whether or not involving the doing of any such thing

(3) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person that is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) of this section.

29 Provisions as to displacements from land acquired for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) Where the carrying out of redevelopment on any such land as is mentioned in subsection (1) of section eighteen of this Act will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is not other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.
- (2) Section seventy-nine of the Housing (Scotland) Act, 1925 (which imposes obligations as to the provision of housing accommodation where land is acquired under statutory powers) shall not have effect in relation to an acquisition by a local planning authority under section thirty-five of the Town and Country Planning (Scotland) Act, 1947.
- (3) If the Secretary of State certifies that possession of any house which has been acquired or appropriated and is for the time being held by a local planning authority as is mentioned in subsection (1) of section eighteen of this Act, is immediately required for the purposes for which it was acquired or appropriated, nothing in the Rent and Mortgage Interest, Restrictions Acts, 1920 to 1939, shall prevent the acquiring or appropriating authority from obtaining possession of the house.
- (4) Where possession of any building, or any part of a building, on land, which has been acquired or appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board or a Minister under Part III of the Town and Country Planning (Scotland) Act, 1947, is required by them or him for the purposes for which it was acquired or appropriated,

then, at any time after the tenancy of the occupier has expired or has been determined, the authority, Board or Minister may serve a notice on the occupier of the building or part of the building requiring him to remove therefrom within a period of twenty-one days; and on the expiry of that period a certified copy of the notice to remove shall be sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with the notice.

- (5) A local planning authority, the Central Land Board or a Minister may pay to any person who is displaced in the carrying out of redevelopment on land which has been acquired by the local planning authority, Board, or Minister under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by the local planning authority as mentioned in subsection (1) of Section eighteen of this Act, such reasonable allowance as they think fit towards his expenses in removing, and to a person carrying on any business in a building from which he is so displaced they may pay also such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance to his business consequent on his having to quit the building, and in estimating that loss they shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his business and the availability of other premises suitable for that purpose.”

“46 Provision as to loans by the Public Works Loan Commissioners.

The power of the Public Works Loan Commissioners to make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to a local planning authority for the purpose of the discharge by them of any of their functions under Part III of the Town and Country Planning (Scotland) Act, 1947.”

“48 Works below high-water mark.

Nothing in the Town and Country Planning (Scotland) Act, 1947, shall authorise the execution of any works whether of construction, demolition or alteration on, over or under tidal lands below high-water mark of ordinary spring tides, except with the consent of any persons whose consent would have been required if the Town and Country Planning (Scotland) Act, 1947, had not been passed, and except in accordance with such plans and sections and subject to such restrictions and conditions as, previous to such works being commenced, have been approved by the Minister of Transport.”

“50 Provisions as to local inquiries.

- (1) For the purposes of the execution of his powers and duties under the Town and Country Planning (Scotland) Act, 1947; a Minister may cause to be held such local inquiries as are directed by the Town and Country Planning (Scotland) Act, 1947, and such other local inquiries as he may think fit; and the provisions of this section shall apply to any inquiry so held.
- (2) The Minister shall appoint a person to hold the inquiry and to report thereon to him.
- (3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct.
- (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

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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 twenty pounds or to imprisonment for a period not exceeding three months.
 - (7) The Minister may make orders 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 expenses incurred by the parties to 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.”
- “~~50A~~4) The provisions of the Statutory Orders (Special Procedure) Act, 1945, with regard to the publication of notices in the Edinburgh Gazette and in a newspaper, shall, notwithstanding anything in that Act contained, not apply to any order under this Act which is subject to special parliamentary procedure.”

“59 Regulations.

- (1) In this Act, except where the context otherwise requires, the expression " prescribed " means prescribed by regulations made by the Secretary of State.
- (2) Any regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which the regulations are laid before that House resolves that; the regulations be annulled the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.”

“61 Powers of official arbiter on references to him.

An official arbiter appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, to whose determination any matter is referred under this Act shall have the like powers with respect to procedure, costs and the statement of special cases as he has under that Act.

62 Interpretation.

- (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—
- " appropriate Minister, " in relation to a statutory undertaking, has the same meaning as in the Town and Country Planning (Scotland) Act, 1947;
 - " Central Land Board " means the Central Land Board established under the Town and Country Planning Act, 1947;
 - " development " includes re-development;
 - " Gazette and local advertisement " means, in relation to an application, order or certificate relating to any land, publication in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality; in which the land is situated;
 - " land " includes land covered with water and any interest in land and any servitude or right in or over land;
 - " local enactment " means an enactment in any local or private Act of Parliament and a provision in a statutory order;
 - " local planning authority " means the local planning authority for the purposes of the Town and Country Planning (Scotland) Act, 1947;
 - " owner, " in relation to any building 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;
 - " purchasing authority " means a Minister, the Central Land Board, a local planning authority or any statutory undertakers, purchasing under Part III of the Town and Country Planning (Scotland) Act, 1947;
 - " statutory order " means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;
 - " statutory undertaking " has the same meaning as in the Town and Country Planning (Scotland) Act, 1947.
- (2) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by this Act or by or under any other enactment.
- (3) 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 the Sixth Schedule to this Act or of any other enactment, is to be deemed to be served.
- (4) Any reference in this Act to the Town and Country Planning (Scotland) Act, 1947, or to Part III of that Act shall be construed as including a reference to any provisions of this Act incorporated with the said Part III.

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63 Short title and extent.

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act, 1945.
- (2) This Act shall extend to Scotland only.”

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945.

“FIRST SCHEDULE

PROCEDURE FOR DEALING WITH OBJECTIONS.

- 1 (1) The following provisions of this Schedule shall have effect where an objection is duly made to the making of an order under section twenty-five or twenty-six of this Act and is not withdrawn.
- (2) An objection shall not be deemed for the purposes of any of the said enactments or of this Schedule to be duly made unless—
 - (a) it is made within the time and in the manner specified in the notice required by the relevant enactment referred to in the preceding sub-paragraph, and
 - (b) the objection comprises, or there is submitted therewith, a statement in writing of the grounds thereof.
- (3) In this Schedule, the expression " the Minister " means the Minister or Ministers having jurisdiction to make or confirm the order in question.
- 2 Unless the Minister decides apart from the objection not to make or confirm the order, or decides to make a modification agreed to by the person making the objection as meeting the objection, the Minister shall, before deciding whether to make or confirm the order, or what modification if any ought to be made, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the person making the objection 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 Minister is satisfied, after considering the grounds of the objection as set out in the original statement and any such further statement, that the objection relates to a matter which can be dealt with by an arbiter by whom compensation is to be assessed, the Minister may treat the objection as irrelevant for the purpose of his deciding as aforesaid.
- 4 If after considering the grounds of the objection as set out in the original statement and any such further statement, the Minister is satisfied that he is sufficiently informed, for the purpose of his' deciding as aforesaid, 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 Minister may -decide as aforesaid without further investigation as to those matters.
- 5 Subject as mentioned in the two last preceding paragraphs, the Minister shall, before deciding as aforesaid, afford to the person making the objection an opportunity of appearing before and being heard by a person appointed for the purpose by the Minister, and if he avails himself thereof the Minister shall afford an opportunity of appearing and being heard on the same occasion to the authority or other person (if any) making the application or representation or submitting the order in question and to any other persons to whom it appears to the Minister to be expedient to afford it.

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- 6 Notwithstanding anything in paragraphs 2 to 5 of this Schedule, if it appears to the Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he decides as aforesaid, 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 paragraphs to which effect has not been given at the time when he so determines shall be dispensed with.”

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945.

“FOURTH SCHEDULE

ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS.

PART I

Amount of Compensation.

- 1 The compensation to be paid—
- (a) in respect of any decision given under paragraph 1 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947, refusing permission to develop operational land or granting such permission subject to conditions;
 - (b) in respect of any decision given by a government department under paragraph 2 of that Schedule refusing the sanction of that department in respect of any development of such - land, or directing that permission to develop such land shall be deemed to be granted subject to conditions;
 - (c) in respect Of any order made under paragraph 3 of that Schedule revoking or modifying permission to develop such land;
 - (d) in respect of any order made under paragraph 4 of that Schedule in relation to such land;
 - (e) in respect of the extinguishment of any right or the imposition of any requirement under section twenty-four of this Act as applied for the purposes of Part III of the said Act;
 - (f) in respect of any such compulsory purchase as is mentioned in subsection (5) of section forty-two of the said Act;

shall in default of agreement be assessed -by the arbitration of the tribunal constituted in accordance with the provisions of Part II of this Schedule, and the amount of the compensation shall be an amount calculated in" accordance with the provisions of the next following paragraph:

Provided that, as respects compensation in respect of a compulsory purchase, if, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried oh, that person gives notice in writing to the purchasing authority that he elects that as respects all or any of the land comprised in the purchase the compensation shall be, ascertained in accordance with the enactments, other than rule (5) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, which would be applicable apart from the provisions of this Schedule, the compensation shall be so ascertained.

- 2 (1) The amount of the said compensation shall, subject to the provisions of this paragraph, be the aggregate of the following amounts, that is to say.—

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- (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, and
 - (b) when any such 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 said proceeding 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
 - (c) 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; and
 - (d) in the case of compensation in respect of the imposition of a requirement under section twenty-four of this Act to remove any apparatus, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirements reduced by the value after removal of the apparatus removed.
- (2) The amount of any compensation assessed in accordance with the preceding 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 person carrying on the statutory undertaking in question and used for the carrying on thereof which as the result of any such adjustment as is mentioned in the preceding sub-paragraph cease to be so used, in so far as the value of the property has not been taken into account under head (d) of the preceding sub-paragraph; and
 - (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after any such adjustment has been completed, in so far as that amount has not been taken into account under head (b) of the preceding sub-paragraph 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 person carrying on the statutory undertaking in question which is directly attributable to any such adjustment as aforesaid, allowance being made for any reduction made under head (b) of this sub-paragraph.
- (3) 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 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.
- (4) In this paragraph the expression " proceeding giving rise to compensation " means the particular action (that is to say, purchase, extinguishment of a right, imposition of a requirement, refusal of permission, grant of permission subject to conditions, or revocation or modification of permission or order under paragraph 4 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947) in respect

of which compensation falls to be assessed, as distinct from any development or project in connection with which the action in question may have been taken.

PART II

Tribunal for assessment of compensation to statutory undertakers.

- 3 (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) The provisions of sections three, five and six of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to the tribunal and proceedings before the tribunal as they apply in relation to an official arbiter and proceedings before an official arbiter, with the substitution for references in the said section five to the acquiring authority of references to the person from whom compensation is claimed.”

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945

“FIFTH SCHEDULE

MODIFICATIONS OF ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.

- 8 (1) As respects any dwelling-house in the district of a local authority for the purposes of the Housing (Scotland) Acts, 1925 to 1944, which in their opinion is unfit for human habitation and not capable at reasonable expense of being rendered so fit, and which is comprised in land designated by a development plan under the Town and Country Planning (Scotland) Act, 1947, as subject to compulsory acquisition or land which is proposed to be acquired compulsorily under subsection (2) of section thirty-four or subsection (2) of section thirty-five of that Act, the local authority for the purposes of the said Acts may make and submit to the Secretary of State an order in such form as may be prescribed by regulations made by him under section forty-four of the Housing (Scotland) Act, 1930, declaring the house to be in that state, and, if the order is confirmed by him, the compensation to be paid for the house on a compulsory purchase thereof pursuant to any authorisation given under Part III of the Town and Country Planning (Scotland) Act, 1947, by the Minister having jurisdiction to give such authorisation either before or within two years after the confirmation by the Secretary of State of the order submitted

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under this paragraph, shall be assessed in like manner as if it had been a dwelling-house specified in a compulsory purchase order as unfit for human habitation and purchased compulsorily under Part I of the Housing (Scotland) Act, 1930, and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall accordingly have effect, in its application for the purposes of Part III of the Town and Country Planning (Scotland) Act, 1947, subject to this provision.

- (2) Before submitting an order under this paragraph to the Secretary of State, the local authority shall serve on the owner of arid, so far as it is reasonably practicable to ascertain such persons, on the superior of, and on every holder of a heritable security over, the dwelling-house or of any part thereof, a notice in such form as may be prescribed as mentioned in the preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which and the manner in which objection thereto can be made.
- (3) 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 may, if he thinks fit, confirm the order, but in any other case he shall before confirming the order consider any objection not being withdrawn and shall, if either the person by whom the objection was made or the local authority so desire, afford that person and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and may then, if he thinks fit, confirm the order.
- (4) Where the provisions of sub-paragraph (1) of this paragraph have effect as to the compensation to be paid for a dwelling-house on a compulsory purchase thereof under any enactment in Part III of the Town and Country Planning (Scotland) Act, 1947, the provisions of section fifty-eight of the Housing (Scotland) Act, 1935 (which relate to payments in respect of well-maintained houses) shall have effect, as they have effect where a dwelling-house is made the subject of a compulsory purchase order under Part I of the Housing (Scotland) Act, 1930, as being unfit for human habitation, if the Secretary of State is satisfied as mentioned in that section on a representation made to him by a person who would be entitled to any payment under that section or to a share thereof within three months from his first becoming aware that a notice to treat for the purchase of any interest in the house has been served:

Provided that, in the application of that section for the purposes of this sub-paragraph, there shall be substituted, for references therein to the local authority therein mentioned and to the order therein mentioned, references, respectively to the purchasing authority and to the order by which the purchase of the house is authorised.

- (5) In this paragraph the expression " dwelling-house " has the same meaning as in the Housing (Scotland) Act, 1925; and in determining for the purposes of this paragraph whether a dwelling-house is fit for human habitation regard shall be had to the matters to which regard is required by section forty-nine of the Housing (Scotland) Act, 1930, to be had in determining that question for the purposes of that Act, and sections one hundred and four and one hundred and nine of the Housing (Scotland) Act, 1925 (which relate to the surveying and examination of land) shall have effect as if the powers conferred by this paragraph were powers under that Act."

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945

“SIXTH SCHEDULE

PROCEDURE FOR COMPLETION OF COMPULSORY PURCHASE UNDER ORDERS PROVIDING FOR EXPEDITED COMPLETION.

PART I

Procedure for expedited completion.

- 1 (1) Except as provided by sub-paragraph (3) of this paragraph, when a purchase order providing for expedited completion has come into operation" the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect as if a notice to treat (that is to say, such a notice as is mentioned in section seventeen of the Lands Clauses Consolidation (Scotland) Act, 1845) had been served on all the parties interested in the land as respects which this Schedule applies by virtue of the order or the parties enabled by the said Act of 1845 to sell and convey the same or their rights and interests therein.
- (2) The date on which a notice to treat is to be deemed by virtue of the preceding sub-paragraph to have been served: on any party shall be the date on which the order is recorded in the appropriate Register of Sasines in pursuance of subsection (a) of section thirty-six of the Town and Country Planning (Scotland) Act, 1947.
- (3) Notwithstanding anything in sub-paragraph (1) of this paragraph, no notice to treat shall be deemed to be served on any person in respect of an interest being either—
- (a) a short tenancy (that is to say a tenancy for a year or from year to year or any less interest); or
 - (b) a long tenancy which is about to expire (that is to say, a tenancy granted for a period longer than a year or from year, to year which at the date when apart from this provision notice to treat would be deemed by virtue of the said sub-paragraph (1) to be served on the owner of the tenancy, has still to run only such period longer than a year as may be specified in the order for the purposes of the operation of this provision in relation to the land in which the tenancy subsists, the period which the tenancy has then still to run being ascertained on the assumption that the tenant will exercise any option to renew the tenancy and will not exercise any option to determine the tenancy, then or thereafter available to him and that the landlord will exercise any option to determine the tenancy then or thereafter available to him).
- (4) The reference in sub-paragraph (1) of this paragraph to the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, is to those enactments as modified by the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, by the Fifth Schedule to this Act, and by paragraph 3 and Part IF of this Schedule.
- 2 The notice of the confirmation of an order authorising compulsory purchase required by the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, to be published shall, in the case of a purchase order providing for expedited completion, include; a notification to the effect that every person entitled to claim compensation in respect of any of the land as respects which this Schedule applies by virtue of the order, or in respect of any interest in any such land, is invited to

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give information to the purchasing authority in such form as may be prescribed of his name and address and of the land and interest in question.

- 3 (1) At any time or from time to time after the coming into operation of a purchase order providing for expedited completion but not earlier than such time as is mentioned in sub-paragraph (2) of this paragraph, the purchasing authority may execute, as respects an area consisting either of the whole or a part of the land as respects which this Schedule applies by virtue of the order, a declaration designating that area and stating—
- (a) their intention to enter on the land in the designated area and take possession thereof at the expiration of such period (not being less than twenty-eight days) as may be specified therein from the date on which the service of notices on occupiers required by sub-paragraph (3) of this paragraph is completed; and
 - (b) that at the expiration of that period the purchasing authority will expedite a notice of title which, on being recorded in the appropriate Register Of Sasines, will vest the land in the designated area in the authority.
- (2) The earliest time at which such a declaration may be executed shall be the expiration of two months from the date of the recording of the order in pursuance of subsection (2) of section thirty-six of the Town and Country Planning (Scotland) Act, 1947:
- Provided that the order may provide for the substitution of a period shorter than two months for the purposes of the operation of this sub-paragraph as respects any land, so however that provision for the substitution of a shorter period shall not be so made in relation to any land unless the order as submitted made such provision in relation thereto.
- (3) As soon as may be after executing such a declaration, the purchasing authority shall serve upon every occupier of any of the land in the area designated thereby (other than any of the land therein in which a short tenancy, or a long tenancy which is about to expire, is subsisting), and on every other person who has given information to the authority in relation to any of the land therein pursuant to such invitation as is mentioned in paragraph 2 of this Schedule, a notice describing that area and stating the effect of the declaration.
- (4) At the expiration of the period specified in such a declaration from the date on which the service of notices on occupiers required by the last preceding sub-paragraph is complete (as to which date a certificate given by the purchasing authority shall be conclusive)—
- (a) the purchasing authority shall be entitled to enter on and take possession of the land in the area designated by the declaration or any of it without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845; and
 - (b) the purchasing authority shall expedite a notice of title containing a description of the land in the area designated by the declaration and narrating the circumstances under which the land has been purchased, and on such notice of title being recorded in the appropriate Register of Sasines in accordance with section eighty. of the Lands Clauses Consolidation (Scotland) Act, 1845, the land shall vest in the purchasing authority absolutely and free of any heritable security or charge as if the circumstances in which under that Act the promoters of an undertaking have powers to expedite a notarial instrument for vesting in them lands or

any estate or interest in lands (including the estate, right and interest of any holder of a heritable security), or for the extinguishment of, or of a portion of, any charge, had arisen as regards all the said land and, subject to the next succeeding sub-paragraph, as regards all interests therein, and the authority had duly exercised those powers accordingly at the expiration of the said period;

but the purchasing authority shall be liable to pay the like compensation, and interest on the compensation agreed or awarded, as they would have been required to pay if the provisions of sections eighty-three to eighty-eight of the said Act, and the provisions thereof compliance with which would have been requisite in order to render the said powers exercisable by them, had been complied with.

- (5) Notwithstanding anything in sub-paragraph (1) or (4) of this paragraph, the following provisions, shall have effect as respects land in an area designated by a declaration executed under sub-paragraph (1) of this paragraph in which a short tenancy, or -a long tenancy which is about to expire, is subsisting, that is to say—
- (a) in the case of a short tenancy, the right of entry conferred by sub-paragraph (4) of this paragraph shall not be exercisable, and the vesting of the land in the purchasing authority shall be subject to the tenancy during its subsistence, but without prejudice to any power to require a tenant to give up possession exercisable by the purchasing authority by virtue of the Lands Clauses Acts;
 - (b) in the case of a long tenancy which is about to expire, the right of entry conferred by sub-paragraph (4) of this paragraph shall not be exercisable unless or until the purchasing authority have served notice to treat in respect of the tenancy and they have thereafter served a notice upon every occupier of any of the land in which the tenancy subsists describing the land to which the notice relates and stating their intention to enter on and to take possession thereof at the expiration of such period (not being less than twenty-eight days) from the date on which the notice is served as may be therein specified, and that period has expired, and the vesting of the land in the authority shall be subject to the tenancy until the expiration of that period or the expiration of the tenancy whichever first occurs.
- (6) Every notice of the confirmation of a purchase order providing for expedited completion required by the Acquisition of Land Authorisation Procedure) (Scotland) Act, 1947, to be published, shall refer to the provisions as to entry and vesting contained in sub-paragraph (4) of this paragraph.

4 Where the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion comprises part only of any house, building or manufactory, or of a park or garden belonging to a house, then, if at any time after the coming into operation of the order and before the execution of a declaration under the last preceding paragraph as respects the said part, the owner of any interest therein gives notice to the purchasing authority in that behalf, no notice to treat shall be deemed by virtue of this Schedule to have been served in respect of any interest in the said part, and as from the giving of the notice the order shall have effect in relation to the said part as if this Schedule had not been applied thereto.

5 (1) Where the compensation payable in respect of the interests in land in respect of which a purchasing authority have expedite a notice of title under sub-paragraph (4) of paragraph 3 of this Schedule is not finally ascertained at the time when such notice of title is presented for recording, then, if the notice of title is accompanied by a certificate by the purchasing authority to that effect, it may lawfully be recorded

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in the appropriate Register of Sasines notwithstanding that it is not stamped; and section twelve of the Finance Act, 1895 which provides for the collection of stamp duty, where property is vested by way of sale by virtue of an Act, within three months of the date of vesting) shall have effect as respects the vesting of those interests with the substitution for the reference therein to the date of vesting of a reference to the date on which the compensation has been finally ascertained.

- (2) Where after vesting of any land in a purchasing authority under paragraph 3 of this Schedule a person retains possession of any writ relating to the land, he shall be deemed to have given to the authority an undertaking to produce that writ to the authority on all necessary occasions.

PART II

Adjustments where provision for expedited completion made.

- 6 (1) The time within which a question of disputed compensation arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of this Schedule may be referred to arbitration shall be the period of six years from the date at which the person claiming compensation or a person from whom he derives title first knew, or could reasonably be expected to have known, of the vesting of the interest under paragraph 3 of this Schedule.
- (2) In reckoning the period of six years referred to in sub-paragraph (1) of this paragraph, no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was in minority or less age or was under legal disability.
- 7 The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, or that subsection as applied by paragraph 3 of the Fourth Schedule to this Act to withdraw a notice to treat shall not be exercisable, in the case of a notice to treat which is deemed to have been served by virtue of this Schedule in respect of the interest of an occupier, at any time after the service on that occupier of the notice referred to in sub-paragraph (3) of paragraph 3 of this Schedule, and, in the case of a notice to treat so deemed to have been served in respect of any other interest, at any time after the vesting of that interest in the purchasing authority under paragraph 3 of this Schedule.
- 8 In relation to a compulsory purchase authorised by a purchase order providing for expedited completion, being a purchase of an interest in respect of which a notice to treat is deemed to have been served by virtue of this Schedule, the following sections of the Lands Clauses Consolidation (Scotland) Act, 1845, shall be excepted from the incorporation of that Act with the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947: that is to say, sections fifty-six to sixty and sixty-three to sixty-six (which relate to the mode of ascertaining compensation to absent parties), section ninety (which relates to sales of parts of buildings) and sections one hundred and seventeen to one hundred and nineteen (which relate to interests which have by mistake been omitted to be purchased).
- 9 (1) Where any of the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion constitutes a part only of land burdened with a charge, the following provisions of this paragraph shall have effect.

- (2) Any question as to the apportionment mentioned in section one hundred and nine of the Lands Clauses Consolidation (Scotland) Act, 1845, shall be referred and determined as mentioned in section one of the Acquisition of Land (Assessment of Compensation) Act, 1919.
- (3) Such portion of the charge as may be apportioned under the said section one hundred and nine to the land as respects which this Schedule applies by virtue of the order shall be treated as having been extinguished on the vesting of that land in the purchasing authority under paragraph 3 of this Schedule, and sections one hundred and eight to one hundred and eleven of the Lands Clauses Consolidation (Scotland) Act, 1845, shall have effect as if the extinguishment had taken place under section one hundred and ten thereof:

Provided that if the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections one hundred and eight to one hundred and eleven shall have effect as if the person entitled to the charge had discharged therefrom the land as respects which this Schedule applies by virtue of the order, on the condition mentioned in the said section one hundred and nine, at the time of the vesting of that land in the purchasing authority under paragraph 3 of this Schedule, and in that case none of the charge shall be treated as having been extinguished by virtue of that paragraph so far as regards the remaining part of the land charged therewith.

- 10 Where any land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion constitutes a part only of land comprised in a lease for a term of years unexpired, section one hundred and twelve of the Lands Clauses Consolidation (Scotland) Act, 1845, shall have effect subject to the modification that, for references therein to the time of the apportionment of rent therein mentioned, there shall be substituted references to the time of the vesting of the first-mentioned land in the purchasing authority under paragraph 3 of this Schedule.
- 11 Any person who in consequence of the vesting of any land in the purchasing authority under paragraph 3 of this Schedule is relieved from any liability, whether in respect of a charge, rent under a lease, interest due on' any heritable security or any other matter, and who makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constitute the cause of his being so relieved or of some one or more of them, be entitled to recover the sum paid from the person to whom it was paid.

PART III

Interpretation.

- 12 In this Schedule—
- references to a heritable security include references to any such security as is mentioned in the words introductory to sections ninety-nine to one hundred and six of the Lands Clauses Consolidation (Scotland) Act, 1845;
- references to a charge include references to any such feu duty, ground annual, or rent or other payment or incumbrance as is mentioned in the words introductory to sections one hundred and seven to one hundred and eleven of the last mentioned Act.”