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## SCHEDULES

### SCHEDULE 12

Section 83.

#### OFFICE DEVELOPMENT IN METROPOLITAN REGION: PLANNING PERMISSION GRANTED BEFORE PASSING OF ACT OF 1965

##### *Certain planning permissions treated as of no effect*

- 1 (1) Where before 5th August 1965 an application was made to the local planning authority for planning permission for development consisting of or including the erection on land in Greater London of a building containing office premises, or consisting of or including the extension of a building on land in Greater London by the addition of office premises, and on that application planning permission for such development was granted before that date, then, unless that planning permission was granted before 5th November 1964 and either—
- (a) a building was before the said 5th November erected, or (as the case may be) the building was before the said 5th November extended, in accordance with that planning permission ; or
  - (b) a building contract was made before the said 5th November which specifically related to the land, or part of the land, in respect of which the planning permission was granted and which provided for the erection thereon of such a building, or the making of such an extension, in accordance with that planning permission,
- the provisions of sub-paragraph (4) of this paragraph shall (except where sub-paragraph (3) of this paragraph or paragraph 3 of this Schedule applies) have effect in relation to that planning permission.
- (2) Where before 5th August 1965 an application was made to the local planning authority for planning permission—
- (a) to carry out, on land in Greater London, development to which these provisions apply, other than such development as is mentioned in sub-paragraph (1) of this paragraph ; or
  - (b) to carry out any development to which these provisions apply on land within the metropolitan region but outside Greater London,
- and on that application planning permission to carry out the development in question was granted before that date, then, unless the planning permission was granted before 5th November 1964, the provisions of sub-paragraph (4) of this paragraph shall (except where sub-paragraph (3) of this paragraph applies) have effect in relation to that planning permission.
- (3) Notwithstanding anything in sub-paragraph (1) or (2) of this paragraph, the provisions of sub-paragraph (4) of this paragraph shall not have effect in relation to planning permission for any development if the office floor space to be created by that development does not exceed 3,000 square feet.
- (4) Where in accordance with sub-paragraphs (1) to (3) of this paragraph the provisions of this sub-paragraph are to have effect in relation to planning permission granted

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for carrying out development on land within the metropolitan region, then, subject to paragraph 2 of this Schedule—

- (a) the planning permission shall by virtue of this paragraph be deemed not to have effect so long as that land continues to be land within an area to which these provisions apply ;
  - (b) for the purposes of Part V of this Act anything done before the passing of this Act, as well as anything done after the passing of this Act at a time when that land continues to be land within such an area, shall, in so far as (apart from this sub-paragraph) it was development authorised by that planning permission, be deemed to have been done without the grant of planning permission ; and
  - (c) for the purposes of section 75(3)(a) of this Act that planning permission shall be disregarded.
- (5) Where in any proceedings (whether civil or criminal) it falls to be determined whether the provisions of sub-paragraph (4) of this paragraph have effect in relation to a grant of planning permission, and the question arises whether a building contract was made as mentioned in sub-paragraph (1)(b) of this paragraph, the burden of proving that a building contract was so made shall be on the party who alleges it

*Effect of grant of office development permit*

- 2 (1) Where, in accordance with the provisions of paragraph 1 of this Schedule, sub-paragraph (4)(a) and (b) of that paragraph have effect in relation to planning permission granted for carrying out development on land within the metropolitan region, and an office development permit in respect of that development is issued under these provisions, the said sub-paragraph (4)(a) and (b) shall thereupon cease to have effect in relation to that planning permission.
- (2) Where planning permission for carrying out development on land within the metropolitan region having been granted before 5th August 1965, an office development permit in respect of that development is issued in the circumstances specified in sub-paragraph (1) of this paragraph and conditions are attached to that permit, the planning permission shall be deemed to have been granted subject to the conditions attached to the office development permit, or (if any other conditions were imposed by the authority granting the permission) to have been granted subject to the conditions attached to the permit in addition to the other conditions.
- (3) Section 82 of this Act shall have effect as if in subsection (5) the reference to sections 77 to 81 of this Act included a reference to this paragraph.

*Mixed industrial and office development*

- 3 Where before 5th August 1965 an application was made to the local planning authority for planning permission for development consisting of or including the erection on land in Greater London of a building containing office premises or consisting of or including the extension of a building on land in Greater London by the addition of office premises together with other premises, and—
- (a) in accordance with sections 38 and 39 of the Act of 1962 an industrial development certificate was required for that development and such a certificate was issued in respect of it by the Board of Trade ; and
  - (b) planning permission for the development was granted before 5th November 1964,

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then notwithstanding that neither of the conditions specified in sub-paragraph (1) (a) and (b) of paragraph 1 of this Schedule is fulfilled, the provisions of sub-paragraph (4) of that paragraph shall not have effect in relation to that planning permission.

#### *Enforcement notices*

- 4 (1) This paragraph applies to any enforcement notice which—
- (a) relates to the carrying out of development consisting of or including the erection or extension of a building on land in Greater London ; and
  - (b) states that it is served on the grounds that, notwithstanding that planning permission for that development was granted before 5th August 1965, the development is by virtue of paragraph 1(4) of this Schedule deemed to have been carried out without the grant of planning permission.
- (2) An enforcement notice to which this paragraph applies shall not be served except by the Secretary of State or in pursuance of directions given by the Secretary of State under section 276(5) of this Act.
- (3) An enforcement notice to which this paragraph applies—
- (a) may be served on any person who, in pursuance of a building contract to which he is a party, is engaged in carrying out operations for the erection or extension of the building in question, in addition to any other persons on whom (by virtue of section 87(4) of this Act) the notice is required or authorised to be served;
  - (b) may require any such operations to be discontinued forth with, either instead of, or in addition to, any other steps which (in accordance with section 87(6) (b) and (7) of this Act) may be required by the notice to be taken.
- (4) In so far as an enforcement notice to which this paragraph applies requires any operations to be discontinued forthwith—
- (a) the notice, notwithstanding anything in section 87(8) of this Act, shall take effect immediately on its being served; and
  - (b) section 88(3) of this Act shall not apply to the notice ;
- but nothing in this sub-paragraph shall affect the operation of section 87(8) or 88(3) of this Act in relation to such a notice in so far as the notice requires any other steps to be taken.
- (5) An enforcement notice to which this paragraph applies shall specify a period (not being less than twenty-eight days after the service thereof) within which an appeal may be brought against the notice ; and in relation to such a notice section 88(1) of this Act shall have effect with the substitution, for the words " the period at the end of which it is to take effect " , of the words " the period within which an appeal may be brought against the notice."
- (6) In relation to any enforcement notice to which this section applies, the grounds on which an appeal may be brought under section 88 of this Act shall not include those specified in paragraphs (a) and (b) of subsection (1) of that section, but shall include the grounds specified in sub-paragraph (7) of this paragraph ; and the grounds specified in that sub-paragraph shall be deemed to be included among those mentioned in section 243(1)(a) of this Act.
- (7) The grounds referred to in sub-paragraph (6) of this paragraph are the following—

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- (a) that the development to which the enforcement notice relates does not consist of or include the erection on land in Greater London of a building containing office premises, or the extension of a building on land in Greater London by the addition of office premises ;
  - (b) that a building was erected before 5th November 1964, or (as the case may be) the building in question was before that date extended, in accordance with planning permission for the development to which the enforcement notice relates ;
  - (c) that a building contract was made before that date which specifically related to the land, or part of the land, in respect of which planning permission was granted for the development to which the enforcement notice relates and which provided for the erection thereon of such a building as is mentioned in paragraph (a) of this sub-paragraph, or for the making of such an extension as is mentioned in that paragraph, in accordance with that planning permission ;
  - (d) that the office floor space to be created by the development to which the enforcement notice relates does not exceed 3,000 square feet;
  - (e) that an industrial development certificate was required for development consisting of or including the development to which the enforcement notice relates and that such a certificate was issued in respect of it by the Board of Trade.
- (8) Where an enforcement notice to which this paragraph applies requires any operations to be discontinued, any person on whom the notice has been served who continues those operations, or causes or permits them to be continued, in contravention of the notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (9) If, after a person has been convicted of an offence under sub-paragraph (8) of this paragraph, he further continues the operations (whether immediately or after an interval) in contravention of the notice, or causes or permits them to be so continued, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £20 for each day on which he so continues the operations or causes or permits them to be so continued.
- (10) Where an enforcement notice to which this paragraph applies has been served, and either of the following events occurs, that is to say—
- (a) an office development permit is issued in respect of the development to which the notice relates ; or
  - (b) planning permission for any development of the land to which the notice relates is granted authorising (either unconditionally or subject to conditions) the operations to which the notice relates to be continued,
- the enforcement notice shall not have effect in so far as it would prevent or restrict the doing of anything after that event occurs.

*Power to require information as to building contracts*

- 5 (1) Where it appears to the Secretary of State that, in accordance with planning permission granted before 5th November 1964, operations for the erection on land in Greater London of a building containing office premises, or for the extension of a building on land in Greater London by the addition of office premises, have been begun on or after that date (whether before or after the passing of this Act) or had been begun but not completed before that date or are about to begin, and no office

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development permit in respect of the erection or extension of that building has been issued, the Secretary of State may serve on any person who is—

- (a) the applicant on whose application the planning permission was granted; or
- (b) the owner of the land ; or
- (c) the person carrying out or about to carry out the operations,

a notice under this paragraph requiring him to furnish to the Secretary of State such information, and to produce for examination on behalf of the Secretary of State documents in that person's custody or under his control of any such description, as may be specified in the notice for the purpose of enabling the Secretary of State to ascertain whether a building contract for the erection or extension of the building was made before 5th November 1964 and who is the owner of the land.

- (2) A notice under this paragraph may require the information to which it relates to be furnished within such time as may be specified in the notice, and may require the documents to which it relates to be produced at such time and place as may be so specified:

Provided that the time specified in such a notice for furnishing any information or producing, any document shall not be earlier than the end of the period of twenty-eight days- after the service of the notice.

- (3) If any person on whom a notice is served under this paragraph fails without reasonable excuse to comply with a requirement imposed by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 ; and if any such person—

- (a) in furnishing any information required by the notice, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular ; or
- (b) produces for examination in accordance with the notice a document which to his knowledge has been wilfully falsified,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 or imprisonment for a term not exceeding three months or both, or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both.

#### *Planning permission to retain buildings or continue use of land*

- 6 (1) In relation to any planning permission granted before 5th August 1965 in accordance with section 32(2) of this Act (in this section referred to as a " section 32 permission ") relating to land within the metropolitan region, where the circumstances are such that any of the provisions specified in sub-paragraph (2) of this paragraph would have had effect in relation thereto if it had been a corresponding grant of planning permission for development, those provisions shall have effect as if it had been a corresponding grant of planning permission for development.
- (2) The provisions referred to in sub-paragraph (1) of this paragraph are paragraphs 1, 2(1), 4 and 5 of this Schedule ; and in that sub-paragraph "corresponding grant of planning permission for development", in relation to a section 32 permission, means a grant of planning permission to construct or carry out the building or works, or to institute the use of land, of which the section 32 permission authorises the retention or continuance or (as the case may be) authorises the retention or continuance without complying with a condition previously imposed.

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*Planning permission where no office development permit required*

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- (1) This paragraph applies to any planning permission granted on or after 5th November 1964 but before 5th August 1965 for the erection of a building on land within the metropolitan region where either the erection of that building is not development to which these provisions apply or it is such development but no office development permit is required for it
  - (2) Any planning permission to which this paragraph applies shall be deemed to have been granted subject to the following condition (in addition to any other conditions imposed by the authority granting the permission), that is to say, that the use of the building, whether as originally erected or as subsequently extended or altered, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds 3,000 square feet.
  - (3) Section 82 of this Act shall have effect as if in subsection (5) the reference to sections 77 to 81 of this Act included a reference to this paragraph.
  - (4) For the purposes of this paragraph " office premises " has the meaning assigned by section 73(4) of this Act.