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SCHEDULES

SCHEDULE 22

TRANSITIONAL PROVISIONS AND SAVINGS

PART XVI

MISCELLANEOUS AND SUPPLEMENTARY

Rights and liabilities in respect of certain payments

- 66 (1) The repeals effected by this Act shall not affect any right to, or claim for, or any liability in respect of, any payment under an enactment to which this paragraph applies; and any such right, claim or liability shall have effect and may be enforced, and moneys in respect of any such payment shall be applicable or may be raised, in accordance with the provisions of the enactment in question (including the provisions of any other enactment which, immediately before the commencement of this Act, had effect for the purposes of that enactment) as if this Act had not been passed, and any direction or proceedings relating thereto may be given, brought or continued accordingly.
- (2) This paragraph applies to the following enactments, that is to say—
- (a) Parts I and V of the Act of 1954;
 - (b) section 54(1) to (5) of that Act;
 - (c) the scheme made under section 56 of the Act of 1947;
 - (d) any other enactment which (if contained in an Act) was not repealed by, and re-enacted (with or without modifications) in this Act or (if not contained in an Act) has effect otherwise than by virtue of an enactment so repealed and re-enacted.
- (3) Without prejudice to the preceding provisions of this paragraph, any proceedings relating to any such claim as is mentioned in section 124(1) of this Act may be brought or continued, and shall be determined in accordance with the relevant provisions (that is to say, the provisions of the Act of 1947 and of Schedule 1 to the Act of 1954 and any other enactment having effect for the purposes thereof) as if this Act had not been passed.
- (4) Sub-paragraph (1) of this paragraph shall have effect in relation to any such right, claim or liability as is therein mentioned notwithstanding that, immediately before the commencement of this Act, the right, claim or liability had not yet accrued or been made or become enforceable, as the case may be.

Provided that, in relation to any such claim which had not been made before the commencement of this Act, so much of that sub-paragraph as provides that the claim shall have effect in accordance with the provisions therein mentioned shall

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be construed as providing that the claim may be made in accordance with those provisions, and, when made, shall have effect accordingly.

Registration of payments under s. 58 of Act of 1954

- 67 (1) The repeals effected by this Act shall not affect the operation of subsection (1) of section 58 of the Act of 1954, in so far as that subsection would have continued to have effect if this Act had not been passed.
- (2) In subsection (1) of the said section 58, the references to subsection (7) of section 54 of that Act and to paragraph (a) of the proviso to that subsection shall be construed as including references respectively to subsection (1) and to subsection (2) of section 245 of this Act.

Entitlement to, and amount of, compensation etc. in cases arising before 25th February 1963

- 68 Notwithstanding Part I of this Schedule, the following provisions of this Act, that is to say, sections 157(4), 158(3)(c) and (6), in section 169(2) the words “or which would contravene the condition set out in Schedule 16 to this Act”, section 169(3), section 263(1) to (4), paragraph 14 of Schedule 6 and Schedule 16 do not affect—
 - (a) any determination arising out of a notice to treat served before 25th February 1963, or served at any time in respect of a purchase notice or notice under section 38(2) of the Act of 1959 (or any corresponding enactment previously in force) which was served before that date;
 - (b) any other determination under the Act of 1947 in respect of or arising out of a purchase notice served before that date;
 - (c) any claim for compensation under section 18(1) or 20 of the Act of 1947 (or any corresponding enactment previously in force) which arose before that date.

F1

69

<p>Textual Amendments</p> <p>F1 Sch. 22 Pt. XVI para. 69 repealed by Local Government (Scotland) Act 1973 (c. 65), Sch. 29</p>
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F2

70

<p>Textual Amendments</p> <p>F2 Sch. 22 para. 70 repealed by S.I. 1985/1014, art. 3</p>

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Saving in respect of works below high-water mark

- 71 Nothing in the provisions of this Act specified in Part I of Schedule 19 to this Act shall authorise the execution of any works (whether of construction, demolition or alteration) on, over or under tidal lands below high-water of ordinary spring tides, except—
- (a) with the consent of any persons whose consent would have been required if this Act had not been passed; and
 - (b) in accordance with such plans and sections, and subject to such restrictions and conditions as may be approved by the Board of Trade or the Secretary of State before the works are begun.

Land Compensation (Scotland) Act 1963 s. 39

- 72 Any reference in this Act to the power conferred by section 39 of the ^{M1}Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall, in relation to any notice to treat falling within section 48 of that Act, be construed as a reference to the corresponding power conferred by section 5(2) of the ^{M2}Acquisition of Land (Assessment of Compensation) Act 1919.

Marginal Citations

- M1** 1963 c. 51.
M2 1919 c. 57.

References to Ministers: previous Transfer of Functions Orders

- 73 (1) Where the functions of a Minister under any enactment re-enacted or referred to in this Act have at any time been exercisable by another Minister or other Ministers, references in the relevant provision of this Act shall, as respects any such time, be construed as references to the other Minister or Ministers. (2) In this paragraph “Minister” includes the Board of Trade and the Treasury.

Schemes and agreements under enactments repealed by Act of 1947

- 74 (1) The repeal effected by this Act shall not affect the operation of—
- (a) any such scheme as was mentioned in paragraph 6 of Schedule 10 to the Act of 1947 (which related to certain schemes made under the ^{M3}Town and Country Planning (Scotland) Act 1932 and the ^{M4}Town Planning (Scotland) Act 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act; or
 - (b) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.

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- (2) Any power to make orders under paragraph 6 of that Schedule shall continue to be exercisable notwithstanding the said repeal.

Marginal Citations

M3 1932 c. 49.

M4 1925 c. 17.

- 75 (1) The repeal effected by this Act shall not affect the operation of any such agreement as was mentioned in paragraph 10 of Schedule 10 to the Act of 1947 (which related to certain agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.
- (2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State by virtue of paragraph 5 of Schedule 4 to this Act, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.
- (3) 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.
- (4) Without prejudice to sub-paragraph (3) of this paragraph, 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 to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbiter may make such award as appears to him to be just having regard to all the circumstances.

Development authorised under enactments repealed by Act of 1947

- 76 (1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a scheme under the ^{M5}Town and Country Planning (Scotland) Act 1932 (or under an enactment repealed by that Act) or under an order made under section 10(1) of that Act (in the subsequent provisions of this Schedule referred to as “a planning scheme” and “an interim development order”) the provisions of Parts III and V of this Act, the provisions of Part IX of this Act relating to purchase notices, and the

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provisions of sections 214 to 217 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 sub-paragraph (1) of this paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that period, the provisions of Part V of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.
- (3) The power of a ^{F3} planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in sub-paragraph (2) of this paragraph.
- (4) Where at any time before the appointed day it was determined under the ^{M6}Building Restrictions (War-Time Contraventions) Act 1946 that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order.
- (5) Provisions may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section 1 of the ^{M7}Restriction of Ribbon Development (Temporary Development) Act 1943 or was 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 might be continued on the land.

Textual Amendments

F3 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

Marginal Citations

M5 1932 c. 49.

M6 1946 c. 35.

M7 1943 c. 34.

- 77 (1) Where permission for any development of land was granted, at any time after 10th November 1943 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

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was not carried out before the appointed day and the permission was in force immediately before that day, planning permission shall be deemed to have been granted in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as it had effect immediately before the appointed day:

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the ^{M8}Restriction of Ribbon Development Act 1935 unless that permission was also granted.

- (2) The provisions of section 42 of this Act shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in section 153(3) 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.
- (3) Where permission for any development of land was granted as mentioned in sub-paragraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act 1935 then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.

Marginal Citations

M8 1935 c. 47.

- 78 (1) Where any works for the erection or alteration of a building had been begun but not completed before the appointed day, then if—
- (a) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order; and
 - (b) where any permission was required under the Restriction of Ribbon Development Act 1935 for the carrying out of those works, that permission was granted,
- planning permission shall be deemed to have been granted in respect of the completion of those works.
- (2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any) granted under the ^{M9}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, was designed.

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- (3) In relation to any such works as are mentioned in sub-paragraph (1) of this paragraph, being works in respect of which permission was granted after 10th November 1943, on an application in that behalf made under an interim development order, the provisions of this paragraph shall have effect in substitution for the provisions of paragraph 77 of this Schedule.

Marginal Citations

M9 1935 c. 47.

- 79 (1) Any reference in Part VII of this Act, or in Schedule 13 thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 77 or paragraph 78 of this Schedule.
- (2) Sub-paragraph (1) of this paragraph shall have effect without prejudice to the provisions of Part I of this Schedule.

Supplementary

- 80 (1) Where in this Act (including this Schedule except Part I thereof) express provision is made in respect of any matter, the provisions of Part I of this Schedule, in so far as they are applicable to that matter, shall have effect subject to that express provision.
- (2) Except as provided by sub-paragraph (1) of this paragraph, the mention in any provisions of this Act (including this Schedule except Part I thereof) of any matter to which Part I of this Schedule is applicable shall not be construed as affecting the generality of the provisions of Part I of this Schedule.

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