

## SCHEDULES

### SCHEDULE 2

#### RELAXATION OF CONTROLS OVER LOCAL AND OTHER AUTHORITIES

##### *The Town and Country Planning (Scotland) Act 1972 (c. 52)*

- 16 In section 4—
- (a) in subsection (2) (planning authority's fresh survey of their district), the words " and shall, if directed to do so by the Secretary of State, " ;
  - (b) in subsection (3)(e) (certain matters to be kept under review by planning authority), the words " or as the Secretary of State may in a particular case direct" ; and
  - (c) in subsection (5) (construction), the words ", and for the Secretary of State to direct them to institute,"
- shall cease to have effect.
- 17 In section 5—
- (a) in subsection (2) (estimate of certain changes to be included in report of planning authority's survey of their district), for the words from " during" to the end there shall be substituted the words " , during such period as the planning authority consider appropriate, in the matters mentioned in section 4(3) of this Act. ";
  - (b) in subsection (3)(c) (content of structure plan), the words " or as the Secretary of State may in any particular case direct" shall cease to have effect;
  - (c) in subsection (4) (planning authority to have regard to certain matters in formulating policy etc. in structure plan), paragraph (c) shall cease to have effect; and
  - (d) in subsection (6) (explanation and illustration of structure plan), the words " , or as may in any particular case be specified in directions given by the Secretary of State" shall cease to have effect.
- 18 In section 9—
- (a) in subsection (3)(b) (requirement as regards local plan) the words " or as the Secretary of State may in any particular case direct" shall cease to have effect;
  - (b) in subsection (5) (explanation and illustration of local plan), the words " , or as may in any particular case be specified in directions given by the Secretary of State" shall cease to have effect;
  - (c) in subsection (8) (time for Secretary of State to give any directions as regards local plan)—
    - (i) for the words " either before or after " there shall be substituted the words " only before " ; and

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- (ii) the words "; but no such directions shall require a planning authority to take any steps to comply therewith until the structure plan has been approved by him " shall cease to have effect; and
- (d) in subsection (9) (planning authority to have regard to certain matters in formulating proposals in local plan), the words ", or which the Secretary of State may in any particular case direct them to take into account" shall cease to have effect.
- 19 In section 10—
- (a) in subsection (2) (places where local plan may be inspected), for the words " as may be prescribed " there shall be substituted the words " as appear to them to be appropriate "; and
- (b) subsections (4) and (5) (power of Secretary of State to direct planning authority not to take steps to adopt local plan) shall cease to have effect.
- 20 In section 13(2) (power of Secretary of State to require proposals for alteration, repeal or replacement of local plan)—
- (a) after the word " if " there shall be inserted the word " before ";
- (b) after the word " State " there shall be inserted the words " approves the structure plan for their district he "; and
- (c) after the words " of the " there shall be inserted the word " local ".
- 21 Section 48 (appeal to independent tribunal as regards decision relating to design or external appearance of building etc.) shall cease to have effect.
- 22 (1) In section 58 (planning authority may make tree preservation order)—
- (a) in subsection (4) for the words from " Except" to " expedient " there shall be substituted the following words—
- “Subject to section 59 of this Act, a tree preservation order shall not take effect until it is confirmed by the planning authority; and the planning authority may confirm any such order either without modification or subject to such modification as they consider expedient”; and
- (b) in subsection (5), in paragraph (a) for the words " submitted to the Secretary of State for confirmation " there shall be substituted the words " confirmed by the planning authority " ; in paragraph (b) for the words " Secretary of State " there shall be substituted the words " planning authority " ; and paragraph (c), and the words " the Secretary of State or " in paragraph (d), shall cease to have effect.
- (2) Sub-paragraph (1) above and, in so far as relating to section 58(5); Schedule 4 to this Act have no effect as regards a tree preservation order made before the coming into force of this paragraph.
- 23 (1) In section 59—
- (a) in paragraph (b) of subsection (2) (date until which provisional tree preservation order has effect) the words from " or " to the end of the paragraph ; and
- (b) paragraph (b) of subsection (3) (regulations to be made as regards tree preservation orders),
- shall cease to have effect.

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- (2) Sub-paragraph (1) above and, in so far as relating to the provisions mentioned in that sub-paragraph, Schedule 4 to this Act have no effect as regards a tree preservation order made before the coming into force of this paragraph.

24 In section 91—

- (a) subsection (1) (Secretary of State may direct that application for established use certificate be referred to him);
- (b) in subsection (3) (power of Secretary of State to deal with application or appeal to him as regards established use certificate), the words " an application referred to him under subsection (1) of this section or on ";
- (c) in subsection (4) (opportunity to appear at hearing in respect of such application or appeal), the words " application or ", " applicant or " and " (as the case may be) " ; and
- (d) in subsection (5) (power of Secretary of State to grant applicant or appellant as regards established use certificate planning permission in respect of such use), the words " applicant or ",

shall cease to have effect.

25 After section 198 (Secretary of State may authorise stopping up or diversion of highway if satisfied it is necessary to do so to enable development to be carried out) there shall be inserted the following section—

**“198A Highways affected by development: orders by planning authorities.**

- (1) Subject to section 206 of this Act and to subsection (5) below, a planning authority may by order authorise the stopping up or diversion of any highway which is not—

- (a) a trunk road within the meaning of section 50 of the Roads (Scotland) Act 1970 ; or
- (b) a special road provided by the Secretary of State in pursuance of a scheme under section 1 of the Special Roads Act 1949,

if they are satisfied as mentioned in section 198(1) of this Act.

- (2) An order under this section—

- (a) may make such provision as appears to the planning authority to be necessary or expedient for the provision or improvement of any other highway (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of subsection (1) above) and may direct that any highway so provided or improved shall be maintained and managed by the highway authority;
- (b) may contain such incidental and consequential provisions as appear to the planning authority to be necessary or expedient, including in particular—

- (i) provision for authorising the planning authority, or requiring any other authority or person specified in the order, to make such payments, repayments or contributions as are mentioned in sub-paragraphs (i) and (ii) of paragraph (a) of subsection (3) of section 198 of this Act;
- (ii) such provision as is mentioned in paragraph (b) of that subsection.

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- (3) An order may be made under this section authorising the stopping up or diversion of any highway (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of subsection (1) above) which is temporarily stopped up or diverted under any other enactment.
- (4) The provisions of this section shall have effect without prejudice to any power conferred on the planning authority by any other enactment to authorise the stopping up or diversion of a highway.
- (5) The planning authority shall not make an order under this section without consulting the highway authority (in a case where they are themselves not that authority).”.

26 In section 200 (Secretary of State may authorise the stopping up or diversion of highway crossing or entering route of proposed new highway)—

- (a) in subsection (1), after the words " Secretary of State" where they occur for the second time there shall be inserted the words " or, subject to section 206 of this Act, the highway authority ";
- (b) after the words " Secretary of State " where they occur for the third time there shall be inserted the words " , or as the case may be to them, "; and
- (c) at the end there shall be added the following proviso—

“: Provided that a highway authority shall not, under this subsection, authorise the stopping up or diversion of—

- (i) a trunk road such as is mentioned in paragraph (a) of subsection (1) of section 198A of this Act; or
- (ii) a special road such as is mentioned in paragraph (b) of that subsection.”;
- (d) in subsection (2), after the word " section " where it occurs for the second time there shall be inserted the words " by the Secretary of State "; and
- (e) after subsection (2) there shall be added the following subsection—

“(3) Subsections (2) to (4) of section 198A of this Act shall apply to an order under this section by the highway authority as those subsections apply to an order, as respects a highway, under that section by a planning authority.”.

27 (1) In section 201 (power of Secretary of State to make order extinguishing right to use vehicles on a highway)—

- (a) in subsection (2), for the words " The Secretary of State may, on an application made by a competent authority," there shall be substituted the words " Subject to section 206 of this Act and to subsection (9) of this section, the competent authority may ";
- (b) in subsection (3), for the words " Secretary of State " there shall be substituted the words " competent authority ";
- (c) in subsection (8)—
  - (i) for the words "Secretary of State may, on an application made by a competent authority," there shall be substituted the words " competent authority may, subject to section 206 of this Act and to subsection (9) of this section "; and
  - (ii) for the word " him " there shall be substituted the word " them ";

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- (d) in subsection (9), for the words from " before " to the end there shall be substituted the words “a competent authority shall not make an order under subsection (2) or (8) of this section—
  - (a) if they are not the authority exercising district planning functions, without consulting that authority ; and
  - (b) if they are not the highway authority, without obtaining the consent of that authority.”; and
- (e) for subsection (10) there shall be substituted the following subsections—

“(10) An order under this section—

- (a) may make such provision as appears to the competent authority to be necessary or expedient for the provision or improvement of any other highway (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of section 198A(1) of this Act), and may direct that any highway so provided or improved shall be maintained and managed by the highway authority;
- (b) may contain such incidental and consequential provisions as appear to the competent authority to be necessary or expedient, including in particular—
  - (i) provision for authorising the competent authority, or requiring any other authority or person specified in the order, to make such payments, repayments or contributions as are mentioned in sub-paragraphs (i) and (ii) of paragraph (a) of subsection (3) of section 198 of this Act;
  - (ii) such provision as is mentioned in paragraph (b) of that subsection.

(11) The provisions of this section shall have effect without prejudice to—

- (a) any power conferred on the competent authority by any other enactment to authorise the stopping up or diversion of a highway; or
- (b) the provisions of section 203(1)(b) of this Act.”.

(2) Sub-paragraph (1) above has no effect as regards the operation of section 201 in relation to an extinguishment for which application was, before the coming into force of this paragraph, made to the Secretary of State, under subsection (2) of that section.

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In section 203(1)(b) (power of local authority to extinguish a public right of way over land held for planning purposes if that right of way is a footpath or bridleway) the words “, being a footpath or bridleway,” shall cease to have effect.