

SCHEDULES

SCHEDULE 2

Section 48.

AMENDMENTS OF TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

- 1 In subsection (1) of section 16 (which makes supplementary provision as regards structure and local plans)—
 - (a) after the word " alteration, " where it—
 - (i) first occurs ;
 - (ii) occurs in paragraph (b); and
 - (iii) occurs in paragraph (c),there shall in each case be inserted the word " modification, "; and
 - (b) after the word " adoption", where it occurs in paragraph (d), there shall be inserted the word " , modification ".
- 2 In section 22 (which relates to the form and content of applications for planning permission)—
 - (a) at the beginning there shall be inserted the word " (1) ";
 - (b) after the word " Act" there shall be inserted the words " or by a development order ";
 - (c) for the words " by the regulations or by directions given by the planning authority thereunder." there shall be substituted the words "by—
 - (a) the regulations ; or
 - (b) the development order; or
 - (c) directions given by the planning authority under the said regulations or the said development order.";and
 - (d) at the end there shall be added the following subsection—

“(2) In subsection (1) above " planning authority" includes a regional planning authority.”.
- 3 In section 24 (which provides for notification of applications to owners and agricultural tenants)—
 - (a) in subsection (2B), for the word " granting " there shall be substituted the word " determining ";
 - (b) in subsection (4)—
 - (i) for the words " or (d) " there shall be substituted the words " , (cc) or (d) or (2C) ";
 - (ii) after the word " publication " there shall be inserted the words " or, as the case may be, posting ";
 - (c) in subsection (7), for the words " the undertaking" there shall be substituted the words " an undertaking ".
- 4 In section 25 (which relates to publicity for planning applications affecting conservation areas), after subsection (3) there shall be added the following subsection—

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“(4) Where an application for planning permission is dealt with by a regional planning authority by virtue of section 179 of the Local Government (Scotland) Act 1973, subsection (3) above shall apply as if the reference therein to " the planning authority " were a reference to the regional planning authority.”.

5 In subsection (2) of section 26 (which relates to the determination of applications) for the words from " the end" to the end there shall be substituted the words " the expiry of any period prescribed under subsection (1)(h) of that section. " .

6 In section 28 (which provides for the regulation of the manner in which planning applications are dealt with)—

(a) after paragraph (d) there shall be inserted the following paragraph—

“(dd) for requiring the planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed ;”;

(b) after subsection (1) there shall be added the following subsection—

“(2) The provisions of paragraphs (d) and (e) of subsection (1) above shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.”; and

(c) at the end there shall be added the following subsection—

“(3) In this section " planning authority " includes a regional planning authority.”.

7 In subsection (1) of section 29 (which relates to permission to retain buildings or works, or continue use of land)—

(a) after the word " whether " there shall be inserted the word “—

(a)”;

and

(b) at the end there shall be added the words “; or

(b) the application is for permission to retain the buildings or works, or continue the use of land, without complying with some condition subject to which a previous planning permission was granted.”.

8 After section 30 there shall be inserted the following section—

“30A Date of Planning permission.

The date of the granting or of the refusal of any such application as is mentioned in section 23(2) of this Act shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.”.

9 At the end of section 31 (which relates to registers of applications and decisions) there shall be added the following subsection—

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- “(5) The provisions of this section shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.”.
- 10 In section 32 (which relates to the reference of applications to the Secretary of State)
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- (a) in subsection (1), for the words from " applications " to " order " there shall be substituted the words " any such application as is mentioned in section 23(2) of this Act ";
- (b) in subsection (4)—
- (i) the words " for planning permission ", in both places where they occur, shall cease to have effect;
- (ii) for the words " (2) and (7) " there shall be substituted the words " (1)(f) and (h) ";
- (iii) after the word " 24 ", there shall be inserted the words " (2B), (2C), (2D) and (4) "; and
- (iv) the words " (1) to (3) " shall cease to have effect; and
- (c) at the end there shall be added the following subsection—
- “(7) In this section " planning authority " includes a regional planning authority.”.
- 11 In section 33 (which relates to appeals against planning decisions)—
- (a) in subsection (1), for the words from " for planning " to " permission " in the second place where it occurs, there shall be substituted the words—
- “(a) for planning permission to develop land ;
- (b) for an approval of that authority required under a development order; or
- (c) for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission,
- and that permission, consent, agreement”; and
- (b) in subsection (5), after the word " sections " there shall be inserted the words " 23, "
- 12 In section 34 (which relates to appeals in default of planning decisions) for the words from " an application " to " order ", where it first occurs, there shall be substituted the words " any such application as is mentioned in section 33(1) of this Act is made to a planning authority ".
- 13 In section 39(2)(a) (which relates to outline planning permission), for the words "not later than the expiration of three years beginning with the date of the grant of outline planning permission " there shall be substituted the words—
- “before—
- (i) the expiration of 3 years from the date of the grant of outline planning permission ; or
- (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused ; or
- (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,

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whichever is the latest :

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above”.

- 14 At the end of section 50 (which provides for agreements for the purpose of restricting or regulating the development or use of land), there shall be added the following subsection—

“(4) In this section " planning authority " includes a regional planning authority.”.

- 15 In section 54 (which relates to the control of works in regard to listed buildings)—

(a) in subsection (3),

(i) for the words "consists in or includes works for the alteration or extension of a listed building " there shall be substituted the words " affects a listed building or its setting "; and

(ii) after the words "preserving the building" there shall be inserted the words " or its setting ";

(b) in subsection (4), for the words from the beginning to " subsection (2) of this section," there shall be substituted the words—

“(4) Listed building consent may be granted subject to conditions ; and, without prejudice to the generality of the foregoing provisions of this subsection, the conditions may”; and

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

“(5) In granting a listed building consent a planning authority may attach to the consent a condition that no demolition of the listed building shall take place until either or both of the following requirements have been met—

(a) an agreement for the regulation of the development of the site of the listed building has been made and recorded under section 50 of this Act;

(b) the planning authority are satisfied that contracts have been placed either—

(i) for the redevelopment of the site; or

(ii) for its conversion to an acceptable open space, in accordance with a current planning permission.”.

- 16 After the said section 54 there shall be inserted the following sections—

“54A Limit on duration of listed building consent.

(1) Any listed building consent granted after the commencement of this section shall be granted subject to a condition that works permitted by that consent shall be commenced within such period as the planning authority may specify in the consent.

(2) If no time limit is specified in any grant of listed building consent under subsection (1) above, the grant shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced within 5 years from the date of the grant.

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- (3) Any grant of listed building consent made prior to 1st January 1980 which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been granted subject to a condition that works in terms thereof shall be commenced within 3 years of the commencement of this section.
- (4) Any grant of listed building consent made on or after 1st January 1980 but before the commencement of this section which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced within 5 years of the commencement of this section.

54B Date of listed building consent.

The date of the granting or of the refusal of an application for listed building consent shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.”.

- 17 In section 63 (which relates to the proper maintenance of waste land)—
- (a) for subsection (1) there shall be substituted the following subsections—
- “(1) If it appears to a planning authority that the amenity of any part of their district, or of any adjoining district, is seriously injured by reason of—
- (a) the ruinous or dilapidated condition of any building in their district; or
- (b) the derelict, waste or neglected condition of any other land in their district,
- the authority may serve on the owner, lessee and occupier of the building or land a notice (in this and the following section referred to as a " waste land 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.
- (1A) Service under subsection (1) above shall be effected by the service of a copy of the notice ; and references in this Act to service of waste land notices shall be so construed.
- (1B) Subject to section 63A of this Act, a waste land notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1) above.
- (1C) The planning authority may withdraw a waste land notice (without prejudice to their power to serve another) at any time before it takes effect; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.”;
- and
- (b) in subsection (3), for the words " sections 85 and 88" there shall be substituted the words " section 88 ".
- 18 After section 63 there shall be inserted the following section—

“63A Appeals Against waste land notices.

- (1) A person on whom a waste land notice is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Secretary of State against the notice, on any of the following grounds—
 - (a) that there is no serious injury to the amenity of any part of the planning authority's district or of any adjoining district;
 - (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such injury;
 - (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed ;
 - (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
 - (e) that the notice was served other than in accordance with section 63 of this Act.
- (2) An appeal under this section shall be made by notice in writing to the Secretary of State.
- (3) The provisions of subsections (2A) to (2D) of section 85 of this Act shall apply to appeals under this section as they apply to appeals under that section.
- (4) On an appeal under this section the Secretary of State—
 - (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material; and
 - (b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.
- (5) Where an appeal is brought under this section, the waste land notice shall be of no effect pending the final determination, or the withdrawal, of the appeal.
- (6) In determining an appeal under this section the Secretary of State shall give such directions as seem to him appropriate ; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.”.

19 In section 84 (which relates to the power to serve enforcement notices)—

- (a) after paragraph (c) of subsection (3) there shall be inserted the words—

“; or

 - (d) the failure to comply with a condition which prohibits, or has the effect of preventing, a change of use of a building to use as a single dwelling-house,”;
- (b) after subsection (5) there shall be inserted the following subsection—

“(5A) Service under subsection (5) above shall be effected by the service of a copy of the notice ; and references in this Act to service of enforcement notices shall be so construed.”;
- (c) for subsection (7) there shall be substituted the following subsections—

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“(7) In an enforcement notice the planning authority shall specify the matters alleged to constitute a breach of planning control and the steps required to be taken to restore the land to its condition before the breach took place; but may in addition specify, as an alternative, the steps required to be taken to bring the land to a condition acceptable to the planning authority, having regard to the development plan and any other material consideration.

(7A) The planning authority shall also specify in the enforcement notice—

- (a) the period or periods within which any steps specified under subsection (7) above are to be carried out; and any such period shall begin with the date when the notice is to take effect; and
- (b) such additional matters as may be prescribed under subsection (12) of this section.

(7B) Where a development in respect of which an enforcement notice has been served is altered in accordance with steps required by virtue of subsection (7) above, planning permission shall be deemed to have been granted in respect of the development as so altered.”;

(d) for subsection (9) there shall be substituted the following subsection—

“(9) Subject to section 85 of this Act, an enforcement notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (5) above.”; and

(e) at the end there shall be added the following subsection—

“(12) The Secretary of State may prescribe matters, additional to those mentioned in subsections (7) and (7A) above, to be specified by planning authorities in enforcement notices ; and without prejudice to the generality of the foregoing provisions of this subsection may require a planning authority to include in an enforcement notice—

- (a) a note, in such terms as may be prescribed, explaining the rights of persons to appeal against the notice ; and
- (b) a note of the planning authority's reasons for serving the notice.”.

20 In section 85 (which relates to appeals against enforcement notices)—

(a) in subsection (1)—

(i) for the words " within the period specified in the notice as the period at the end of " there shall be substituted the words " before the date specified in the notice as the date on "; and

(ii) after paragraph (b) there shall be inserted the following paragraph—

“(bb) that the breach of planning control alleged in the notice has not taken place ;”;

(b) for subsection (2) there shall be substituted the following subsections—

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- “(2) An appeal under this section shall be made by notice in writing to the Secretary of State.
- (2A) A person who gives notice under subsection (2) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed under subsection (2B) of this section, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice ; and
 - (b) giving such further information as may be so prescribed.
- (2B) The Secretary of State may prescribe the procedure to be followed on appeals under this section, and (without prejudice to the generality of the foregoing provisions of this subsection) in so prescribing—
- (a) may specify the time within which an appellant is to submit a statement under subsection (2A) of this section and the matters on which information is to be given in such a statement;
 - (b) may require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal;
 - (c) may specify the matters to be included in such a statement;
 - (d) may require the authority or the appellant to give such notice of an appeal under this section as may be specified, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated ;
 - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be specified, a copy of the enforcement notice and a list of the persons on whom the notice has been served.
- (2C) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (2A) above within the time prescribed under subsection (2B)(a) above ; and
 - (b) may allow an appeal and quash the enforcement notice if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of subsection (2B) above.
- (2D) Subject to subsection (2C) above, the Secretary of State shall, if either the planning authority or the appellant so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.”; and
- (c) in subsection (5), after paragraph (a) there shall be added the following paragraph—

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- “(aa) grant planning permission for such other development on the land to which the enforcement notice relates as appears to him to be appropriate ;”.
- 21 In section 86 (which relates to the continuing contravention of an enforcement notice), for the words " £50 " there shall be substituted the words " £100 ".
- 22 In section 87(8)(b) (which relates to the continuing contravention of a stop notice), for the words " £50 " there shall be substituted the words " £100 ".
- 23 In section 88 (which relates to the execution and cost of works required by an enforcement notice)—
- (a) after subsection (1) there shall be added the following subsection—
- “(1A) In computing the amount of the expenses which may be recovered by them under subsection (1) above, a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.”; and
- (b) for subsections (3) and (4) there shall be substituted the following subsections—
- “(3) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.
- (4) A planning authority taking steps under subsection (1) above may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal by the planning authority and where such materials have been sold the planning authority shall, after deducting therefrom any expenses recoverable by them from the owner, pay him the proceeds of such sale.
- (5) Where a planning authority seek, under subsection (1) above, to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—
- (a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person ; and
- (b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,
- his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid ; but a planning authority who by reason of the foregoing provisions of this subsection have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.”.
- 24 In section 89(4) (which relates to the reinstatement of buildings or works which have been demolished or altered in compliance with an enforcement notice), for the words " £100 " there shall be substituted the words " £1,000 ".

25 After section 89 (which provides for the continuation in force of enforcement notices) there shall be added the following section—

“89A Effect of subsequent planning permission on enforcement notice.

—Notwithstanding subsections (1) to (3) of section 89 of this Act, an enforcement notice shall cease to have effect to the extent that its terms are inconsistent with the terms of any planning permission granted, or deemed to have been granted, subsequent to the service of the notice.”.

26 In section 92 (which relates to the power to serve listed building enforcement notices)—

(a) for paragraph (b) of subsection (1) there shall be substituted the following paragraphs—

“(b) specifying one of the following sets of steps—

(i) the steps required to restore the building to its former state ;

(ii) the steps required to bring the building to the state it would have been in if the terms and conditions of any listed building consent for the works had been complied with ;

(iii) subject to subsection (1A) below, the steps required to alleviate, in a manner acceptable to the planning authority, the effects of works executed without listed building consent; and

(c) specifying the period within which steps specified under paragraph (b) above are to be taken.”;

(b) after subsection (1) there shall be inserted the following subsection—

“(1A) A planning authority may specify steps under sub-paragraph (iii) of paragraph (b) of subsection (1) above, if, but only if, it appears to them either—

(a) that complete restoration of the building to its former state is not reasonably practicable ; or

(b) that such restoration is undesirable, having regard to the desirability of preserving—

(i) the character of the building ; or

(ii) its features of architectural or historical interest”;

(c) after subsection (2) there shall be inserted the following subsection—

“(2A) Where such steps as are mentioned in subsection (1)(b)(iii) above have been taken in relation to works carried out on a building, listed building consent shall be deemed to have been granted in respect of those works as alleviated.”;

(d) after subsection (3) there shall be inserted the following subsection—

“(3A) Service under subsection (3) above shall be effected by the service of a copy of the notice ; and references in this Act to service of listed building enforcement notices shall be so construed.”; and

(e) for subsection (4) there shall be substituted the following subsection—

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“(4) Subject to section 93 of this Act, a listed building enforcement notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (3) above.”.

27 In section 93 (which relates to appeals against listed building enforcement notices)

(a) in subsection (1)—

(i) for the words from " within the" to " end of" there shall be substituted the words—

“before the date specified in the notice as the date on”and;

(ii) after paragraph (h) there shall be added the following paragraphs—

“(i) that the steps specified under sub-paragraph (ii) of section 92(1)(b) of this Act exceed what is necessary to bring the building to the state mentioned in that sub-paragraph ;

(j) that the steps specified under sub-paragraph (iii) of the said section 92(1)(b) exceed what may reasonably be required in terms of that sub-paragraph ;

(k) that the breach of listed building control alleged in the notice has not taken place.”;

(b) for subsection (2) there shall be substituted the following subsections—

“(2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(2A) The provisions of subsections (2A) to (2D) of section 85 of this Act (which relates to appeals against enforcement notices) shall apply to appeals under this section as they apply to appeals under that section.”; and

(c) for subsection (6) there shall be substituted the following subsection—

“(6) Any listed building consent granted by the Secretary of State under subsection (5) above shall be treated as granted on an application for such consent made under Part I of Schedule 10 to this Act.”.

28 In section 94(2) (which relates to the continuing contravention of a listed building enforcement notice), for the words " £50 " there shall be substituted the words " £100 ".

29 In section 98(3) (which relates to the continuing contravention of a tree preservation order), for the words " £5 " there shall be substituted the words " £50 ".

30 In section 100(1) (which relates to the continuing contravention of a discontinuance of use order), for the words " £50 " there shall be substituted the words " £100 ".

31 In section 101(2) (which relates to the continuing contravention of advertisement control regulations), for the words " £5 " there shall be substituted the words " £20 ".

32 In the proviso to subsection (4) of section 136 (which subsection relates to the exclusion of compensation for refusal of planning permission etc. where development is premature by reference to the order of priority in the development plan or any existing deficiency in the provision of water supplies or sewerage

services), after the word " if" there shall be inserted the words " the reason or one of the reasons so stated is that that development would be premature by reference to the matters mentioned in paragraph (a) of this subsection and ".

- 33 At the end of section 169 (which relates to the right of an owner or lessee of land to serve a purchase notice following the refusal of planning permission or the imposition of conditions on its being granted), there shall be added the following subsection—

“(8) The words " planning authority " in subsection (1) above shall in a case where a regional planning authority have dealt with an application by virtue of section 179 of the Local Government (Scotland) Act 1973 (which enables a regional planning authority to have an application for planning permission which has been made to a district planning authority referred to themselves) be construed as meaning that regional planning authority.”.

- 34 After section 229 there shall be inserted the following section—

“229A Application of sections 219 to 229 in relation to regional planning authorities.

Where a regional planning authority have exercised any power, either under Part VI of this Act or under any other enactment, compulsorily to purchase land, the provisions of sections 219 to 229 of this Act shall apply in relation to that exercise of power as they apply in relation to such an exercise by a district planning authority.”

- 35 In section 231(3) (which relates to the validity of certain actions taken by the Secretary of State)—

(a) for paragraph (g) there shall be substituted the following paragraph—

“(g) any decision of the Secretary of State on an appeal under section 91(2) of this Act against the refusal or partial refusal of an application for an established use certificate ;” ; and

(b) in paragraph (k), for the word " 8 " there shall be substituted the word " 7 ".

- 36 In section 232 (which relates to the procedure for questioning the validity of structure plans etc.), after subsection (2) there shall be inserted the following subsection—

“(3) The preceding provisions of this section shall apply, subject to any necessary modifications—

(a) to an order under section 198, under section 200 by the Secretary of State, under section 203(1)(a) or under section 224 of this Act as they apply to a structure plan, and as if, in subsection (1) of this section, for the reference to the notice therein mentioned there were substituted a reference either, in the case of sections 198, 200, and 203(1)(a), to the notice required by section 204(6) of this Act, or, in the case of section 224, to the notice required by subsection (5) of that section ; and

(b) to an order under section 198A, under section 199, under section 200 by a highway authority, under section 201, or under section 203(1) (b) of this Act as they apply to a structure plan, and as if, in subsection (1) of this section, for the reference to the date on which the notice therein mentioned is first published there were substituted

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a reference to the date on which the notice required by paragraph 6 of Schedule 18 to this Act is first published in accordance with that paragraph.”.

37 At the end of section 254 (which relates to agreements relating to Crown land), there shall be added the following subsection—

“(4) In this section " planning authority " includes a regional planning authority.”.

38 In subsection (8) of section 262A (the which section relates to the control of demolition in conservation areas)—

(a) after the words " section 54(3)," there shall be inserted the word " (4), "; and

(b) after the words " (5) and (6)," there shall be inserted the words " section 54A, section 54B, section 54C, ".

39 In section 262B(1) (which relates to proposals for the preservation and enhancement of conservation areas), for the words " within such period as may from time to time be directed by the Secretary of State " there shall be substituted the words " from time to time ".

40 In section 265—

(a) in subsection (1)—

(i) in paragraph (b), for the words " 60 or 63 " there shall be substituted the words " 58 or 61 "; and

(ii) in paragraph (c), for the word " 44 " there shall be substituted the word " 41 "; and

(b) at the end there shall be added the following subsection—

“(9) In subsection (1) (except as regards paragraph (a)) and in subsection (6) of this section " planning authority " includes a regional planning authority.”.

41 In section 266(2) (which relates to the wilful obstruction of persons entitled to enter land), for the words " £20 " there shall be substituted the words " £200 ".

42 At the end of section 272 (which relates to combined applications) there shall be added the following subsection—

“(7) The provisions of subsection (1) of this section shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.”.

43 In sub-paragraph (2) of paragraph 5 of Schedule 10 (which relates to the time required by the Secretary of State to consider an application for listed building consent referred to him), for the word " or " there shall be substituted the word " of ".